

Alcohol "Structures" Study- Council Directive 92/83/EEC

Consultation Strategy

1. Background of the initiative

Introduction and context

The Commission is consulting on an evaluation of the Directive 1992/83/EEC on the structures of excise duties on alcohol and alcoholic beverages. The objective of this evaluation is firstly, to provide the Commission with the information and evidence whether the Directive's provisions are still fit for purpose, and secondly, to identify areas needing improvements and possible ways to achieve them. In this respect the evaluation will:

- assess the extent to which Directive 92/83/EEC meets its objectives in terms of securing the revenues of tax administrations and ensuring / supporting the proper functioning of the internal market and reducing the opportunities for evasion, avoidance and abuse;
- identify issues that have the highest potential for efficiency gains in terms of securing the revenues of tax administrations and reducing administrative and compliance costs, while meeting the requirements for a proper functioning of the internal market;
- formulate recommendations, possibly based on collected evidence, on how best to address identified issues.

Scope

Regarding the structures of taxation, it was understood that it was essential for the proper functioning of the internal market to lay down a framework that provided common definitions of the different categories of alcoholic beverages, in order to ensure uniform categorization of identical products throughout the Member States. The product categories decided upon in Council Directive 92/83/EEC, based on the families of alcoholic beverages which are to be evaluated are:

- Beer
- Wine
- Fermented Beverages other than Wine and Beer (e.g. Cider etc.)
- Intermediate Product (e.g. fortified wines such as Port & Sherry)
- Ethyl Alcohol (Spirits and other miscellaneous alcohol)

The entire Directive will be looked at during the evaluation, but with particular focus on:

- Classification of alcohol and alcoholic beverages

- Exemptions and reduced rates
- Derogations
- Private production and own consumption

In terms of which Member States should be involved in the study, it will be difficult to select only a few because some have problems in one area but not another. Therefore, the study should initially scope in all EU 28 MS and then identify the priority areas and those MS most affected by them

The timeframe for the study is 13 months starting in Q1/2015 and ending in Q1/2016 and the detail is contained at the end of this consultation strategy.

Context

The current arrangements of Council Directive 92/83/EEC also leave a large degree of discretion to Member States concerning the details of how structures of alcohol are implemented. This might lead to barriers to trade between Member States and 3rd countries, increasing the difficulty of assuring compliance with national excise legislation. The problems are further exacerbated because imported goods rely on classification under the CN and TARIC codes in the Combined Nomenclature which have changed since 1992, whereas the structures Directive remains unchanged. The existing arrangements might also involve too high compliance costs for traders, increasing the possibility that some traders might try to evade these arrangements.

Since the adoption of Council Directive 92/83/EEC in October 1992, there have been no significant changes or proposals made on this subject. The Council in 2005 called upon the Commission to modernize the existing legal framework with the aim of resolving problems related to the categorisation of alcoholic beverages. Council Directive 92/83/EEC also deals with a range of matters including drinks classification, reduced rates for SME's, exemptions, a number of derogations, as well as the methods for establishing and charging the duty and miscellaneous other technical issues.

The decision to perform and evaluation is based on that evidence dating back to 2005, the expansion of the Single Market since 1992 and the expansion of the issues in the market for alcohol and alcoholic beverages since then, which provides a good argument that a number of the existing provisions could be improved and also provide an additional challenge as to whether a broader modernization could be attempted.

Purpose

Before deciding on whether any action is required and before making concrete proposals for change it is important to capture effectively the current state of play in these areas.

For this reason the evaluation will examine:

- effectiveness (direct results and broader impacts);

- efficiency (the costs to both administrations and traders of the current arrangements);
- coherence (the harmonized application of common rules and procedures throughout the internal market);
- and continuous relevance of the current arrangements related to classification, reduced rates, exemptions and the various derogations between Member States

Such evaluation should also help to establish a baseline against which to measure the effects of potential legal and procedural changes, particularly in the area of harmonisation of procedures (EU added value). Ultimately, the results of this evaluation may eventually feed into a subsequent impact assessment and subsequent proposal to amend the Directive.

2. Stakeholder Management

Stakeholder mapping

Consumer groups, alcohol producers, retailers and wholesalers of alcohol, manufacturers of products using alcohol, health and civil society organisations, academia and citizens.

These stakeholders include first of all the directly impacted parties, i.e. national tax administrations and businesses in the alcohol and/or alcohol-related sectors) as well as stakeholders who may be impacted indirectly (e.g. other businesses, other administrations, etc.) and/or are not typically targeted by the evaluation (e.g. consumers, citizens) but may shed some light on the functioning of certain specific provisions of the Directive (e.g. classification problems, exemptions, etc.).

Consultation methods

Previous consultations

There was no previous consultation done.

There will be a simultaneous targeted and open consultation conducted within the scope of this evaluation. They will be coordinated by the external contractors supporting the evaluation. The table below presents the overall indicative planning of the consultations, combined with some data collection, which in many cases will be happening at the same time.

Stakeholder	Method of consultation	Consultation period	Content
Commission	Initial interviews, data collection, Steering Group	Ongoing for the life of the study	Descriptions of / data of the current arrangements on excise duties for alcoholic beverages that are in operation

Administrations in the Member States	<p>Fiscalis Working Group</p> <p>Web-based comprehensive questionnaire in EN, with the possibility to answer in EN, DE and FR), to all 28 national tax administrations and follow up by telephone as appropriate (Pilot questionnaire in 2 MS)</p> <p>In-depth interviews (face-to-face or by telephone) of relevant personnel of Member States administrations, (customs and excise administrations; customs laboratories)</p>	<p>19-21 May 2015</p> <p>28/8/2015 – 27/11/2015</p> <p>During November and December 2015</p>	<p>Launch of the evaluation, initial data gathering, and proposals for draft questionnaire</p> <p>The implementation, in practice, of the provisions of the Directive</p> <p>Detailed focus at interview of the most important issues identified from the 1st phase (questionnaire and desk research)</p>
Industry operators	On-line survey via a distribution link to a web-based platform	12 weeks – starting 28/8/2015	Detailed focus at interview of the most important issues identified from the questionnaires
Industry associations	As above and via the associations + in-depth interviews of selected economic operators	12 weeks – starting 28/8/2015	Economic analysis, volumetrics involved in the key areas (e.g. exempted / denatured alcohol)
Public / open	Web-based open public consultation (link from the consultants' on-line questionnaire to "Your voice in Europe")	12 weeks – starting 28/8/2015	Collection of views on the functioning of the current arrangements and areas to explore for a future fiscal policy for the structures of alcohol and alcoholic beverages in the EU

Organisation of consultations and data collection

- The evaluation envisages a two-step data collection and consultation methodology:
 - an EU wide targeted consultation of Member States and economic operators aiming at collections of views as well as data on the actual functioning of the Directive
 - a number of in-depth case studies will be conducted on the main problem areas that will have been identified through the targeted questionnaires and open public consultation.
- the targeted consultation will cover all EU-28 Member States' administrations and economic operators active in all Member States. Desk research on relevant reports and economic data will equally include sources from across the entire EU. Member States will be given the opportunity to provide written answers to questionnaires and the survey in English, French and German. The survey to economic operators will be delivered in English. PDF copies of the questions will be available in French and German.
- the open public consultation will be conducted in English. The consultation document will be uploaded on the web-based platform of the contractors supporting the evaluation, with the link provided on 'Your voice in Europe'.
- the timing of the consultation will be designed to run the targeted and open consultations in parallel, starting mid-August 2015, ending after a 12 week period in mid-October 2015

3. Follow-up

The next steps following the consultations and data collection are outlined as follows:

Step 1: Analysis of the contributions and pre-identification of the themes suitable for deeper exploring through follow-up interviews and case-studies

Step 2: Design individual questions for the follow-up interviews and specific methodology for the case-studies

Step 3: Identification of interviewees

Step 4: Desk research based on existing information

Step 5: Conducting interviews and case studies

Step 6: Reporting

The evaluation will then proceed as follows:-

After all the steps have been conducted and the data from desk research and all consultations have been gathered, the results will be analysed and synthesised in a synopsis report. This report will also assess the choice of methodology and the overall quality of consultations. It will also constitute a feedback to all consulted parties on the input provided. This report will be drafted in English.

The actual results of all the consultations and all data collection will be integrated into the evaluation report and will constitute the evidence on the basis of which the conclusions, and subsequently possible recommendations, will be made.

Analysis

The final assessment will follow the structure of the evaluation matrix, with analysis of the evaluation sub-questions. Indicators and descriptors will be used to sort out and analyse data.

To ensure that all findings and conclusions are substantiated, the data analysis will be in the form that all findings presented in the evaluation will be supported by evidence from different tools and/or data sources.

1. Submission of the Progress Report: 6 November 2015
2. Submission of Draft Final Report: 29 January 2016
3. Submission of Final Report: 26 February 2016