

EVALUATION ROADMAP			
TITLE OF THE EVALUATION	Evaluation of the structures of excise duties on alcohol beverages (Council Directive 1992/83/EEC)		
LEAD DG – RESPONSIBLE UNIT	TAXUD (C2)	DATE OF THIS ROADMAP	07 / 2015 (replacing Evaluation Mandate dated Jan 2015)
TYPE OF EVALUATION	[Select the category that applies from each line] Evaluation	PLANNED START DATE	Q3/ 2014
		PLANNED COMPLETION DATE	01 / 2016
		PLANNING CALENDAR	http://ec.europa.eu/smart-regulation/evaluation/index_en.htm
This indicative roadmap is provided for information purposes only and is subject to change.			

A. Purpose
(A.1) Purpose
<p>This retrospective evaluation should provide a critical evidence based judgement of whether the Directive 1992/83/EEC is still fit for purpose and whether it still meets the needs that it aimed to satisfy. In its recommendations, the evaluation will point out identified weakness and provide a first indication of feasible alternatives to address these weaknesses.</p> <p>The evaluation assesses:</p> <ol style="list-style-type: none"> 1) effectiveness (direct results and broader impacts) of existing arrangements for the alcohol structures, 2) efficiency (the costs to both administrations and economic operators of the current arrangements), 3) coherence (the harmonized application of common rules and procedures throughout the internal market), and whether there needs to be a more radical approach giving the Commission implementing powers in the Directive to regulate in the area of partially denatured alcohol for example 4) consistency of the current arrangements; <p>Such evaluation will also help to establish a baseline against which to measure the effects of legal and procedural changes, particularly in the areas of harmonisation and automation of procedures. (EU added value).</p>
(A.2) Justification
<p>The Council in 2005 called upon the Commission to modernize the existing system of alcohol rates. The Commission made a proposal on Alcohol rates¹ during 2006 to adjust for inflation, but this proposal never gained the necessary unanimity, it is now withdrawn, and there is no plan for the Commission to attempt to revitalize the debate on rates. Regarding alcohol structures, there have been no changes or proposals made since Council Directive 92/83/EEC was adopted in 1992. The structures Directive 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. A number of the existing provisions could arguably be improved, clarified, made simpler and, therefore, the question arises whether a modernization could be attempted under the Regulatory Fitness and Performance programme (REFIT), which is the European Commission initiative to make EU law simpler and to reduce regulatory costs.</p>

¹ COM(2006) 486 final

B. Content and subject of the evaluation

(B.1) Subject area

The Directive is intended to provide a harmonised structural basis for excise duties for alcohol and alcoholic beverages in the EU. There are five broad categories of alcohol and alcoholic beverage defined in the Directive:

beer, wine, fermented beverages (other than beer and wine), intermediate products and ethyl alcohol, covering chargeability, reduced rates and own consumption / private production

There are also provisions for exemptions from excise duty for a range of uses of alcohol (e.g. denatured alcohol which is used in the manufacture of products such as screen wash, burning alcohol, cosmetics and perfumes, bio-fuels etc)

(B.2) Original objectives of the intervention

The general objective of the Directive is to provide a harmonised effective legal base for the EU excise duty system for alcohol products in terms of its capacity to safeguard Member States' budgetary objectives, and ensure the proper functioning of the Internal Market while avoiding distortions in competition. To ensure equal fiscal treatment, fair competition and level playing fields, as preventing fraud, evasion and abuse of the regimes.

The specific objectives (reconstructed) are:

- to provide definitions of alcohol and alcoholic products that are subject to excise duty;
- to define methods by which duty must be charged and how it is calculated;
- to define the categories under which the exemptions from excise duty apply
- to allow MS the discretion to provide reduced rates in certain circumstances

(B.3) How the objectives were to be achieved

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 Directive intended to lay down the methods of charging duty which must be complied with, a series of both mandatory and optional exemptions for alcohol that is put to particular (non-potable) uses, and a number of different options for reduced rates for certain types of beverages based on characteristics such as alcoholic strength or the size of the producer.

C. Scope of the evaluation/FC

(C.1) Topics covered

Directive 92/83/EEC defines the structures for excise duties for alcohol products within the territory of the European Union. The current arrangements 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 third countries, increasing the difficulty of assuring compliance with national excise legislation. The problems are further exacerbated because the 5 excise duty product categories of imported goods rely on classification under the CN and TARif Intégré Communautaire; Integrated Tariff of the European Communities (TARIC) 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.

The evaluation will look across all the product categories, and the Articles which define them, detailed above with examination in the key areas of exemptions of excisable alcohol products; the application of the reduced rates provisions; equal fiscal treatment, including the treatment of SMEs; own consumption / private production and the derogations where they apply. The way in which the duty is to be calculated is not within the scope of this evaluation.

(C.2) Issues to be examined

To map the main characteristics and issues with the application and interpretation of the Directive into the national excise systems for alcohol products and how those issues manifest themselves into problems with the efficiency of the operation of the Single Market, opportunities for fraud, and administrative burdens for tax authorities and legitimate economic operators. This includes misclassification of products, particularly in the area of intermediate

products, abuse of the exemption applied to denatured alcohol, abuse of the own consumption / private production provisions etc.
(C.3) Other tasks

D. Evidence base

(D.1) Evidence from monitoring
There is no current formal monitoring system in place. A Fiscalis Project Group (013) has been in place since 2011, and the Programmes Information and Collaboration Space (PICS) PICs on-line collaboration platform holds some data from the MS and industry stakeholders detailing specific problems in the various areas. Also the May 2015 Fiscalis Working Group has produced data and analysis from the MS on all issue relating to the application of the Directive. Examples of data include, there is an EU database holding information about denaturing formulations in each MS but it is not adequately maintained or updated by the MS, leaving to discrepancies in interpretation and legal challenges. For classification, there are also examples submitted from the MS where different Binding Tariff Information (BTI) have been applied to the same product. This data is captured centrally via PICs
(D.2) Previous evaluations and other reports
The study will build on and complement the work being conducted on the evaluation of excise movement arrangements for alcohol products, by deepening the aspects relating to holding and movement.
(D.3) Evidence from assessing the implementation and application of legislation (complaints, infringement procedures)
Classification problems ongoing – C-532/14, C-533/13 whether a drink is classified as a spirit or an intermediate product where the tax rates differ, denatured alcohol problems – C-306/14, where an exemption can apply to alcohol which is used in a manufacturing process
(D.4) Consultation
A Steering Group and a Fiscalis Project Group (013) of MS and industry stakeholders has been set up. On line research surveys were undertaken in 2012 in the area of exemptions using IPM. PICs is regularly used as an on-line collaboration platform for the study to collect additional information / share expertise.
(D.5) Further evidence to be gathered
<p>The study shall be carried out by taking a high level view across all MS and all sectors, but then analysing the situation in a selection of several Member States where the impact of a particular sector is greatest. The Commission has proposed a selection of Member States taking into account geographical diversity, size and the level of use of the existing procedures as revealed by the surveys of Member States that have been conducted by the Commission.</p> <p>Using a case-study approach to go further in depth into a number of selected issues, while also assessing the administrative and compliance costs of implementing some elements of the legislation, achieve a final, cross-EU analysis to enable the identification of good practices and the formulation of recommendations</p> <p>Over a 12 week period, starting mid-August 2015, ending mid-October 2015, the consultants will collect input from the competent national excise administrations through a questionnaire prepared by the contractor and agreed by the Commission. The delegates to the Committee on Excise Duty will act as contact points for the contractor within their excise administration, and will facilitate the collection of relevant information from the operational level.</p> <p>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 will initially scope in all EU 28 MS and then identify the priority areas and those MS most affected by them.</p> <p>Over the same time period, input from economic operators and consumers will be collected through a targeted consultation. To that effect, the Fiscalis Project Group, the Excise Contact Group and other interested Trade Associations and Consumer Associations will be informed about the study and will be invited to encourage their members to actively participate to this consultation. In the offer, the contractor will propose the best possible tools for analysis and data gathering from economic operators (e.g. targeted questionnaires, face-to-face, web-based or telephone interviews, etc. Any limitations of the tools proposed shall also be specified.</p> <p>An open public consultation will also run in parallel.</p>

E. Other relevant information/ remarks

This evaluation has started in Q3 2014 and the contract for the supporting external study was signed in Q4 2014. The present retroactive roadmap follows the changes to the requirements and procedures for evaluations as introduced by the Better Regulation package adopted on 19th of May 2015, one of which is the publication of an evaluation roadmap. This roadmap therefore replaces the original internal evaluation mandate.

The evaluation is advanced (the scope of the study already defined and the targeted consultation with the Member States and economic operators about to start). Open public consultations on the issues covered by the evaluation will be launched during Q3/2015 shortly and will give all stakeholders the opportunity to provide comments. The results of this consultation will feed into the evaluation study and will be reported on.

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Planning

Key milestones (indicative)

[Indicate the expected dates for the steps which apply to this evaluation. Where a step does not apply e.g. no external contract, the row can be deleted. A milestone with date can be added as appropriate.]

Steering Group set up	Q01/2015
Public Consultation	Q03/2015
Other Stakeholder Consultation	Q03/2015
Submission to Regulatory Scrutiny Board	Yes (Q2/2016)
Final Report	Q01/2016
ISC launch	Q02/2016
Deadline for Report to Council and European Parliament	Yes (Q2/2016)
Dissemination Plan	01/2016
Action Plan	01/2016