



**EUROPEAN COMMISSION**

DIRECTORATE-GENERAL

TAXATION AND CUSTOMS UNION

INDIRECT TAXATION AND TAX ADMINISTRATION

**Indirect taxes other than VAT**

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**TAXUD/2014/xxxx**

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**WORKING PAPER**  
**FOR INTERNAL USE**

**Excise Contact Group (ECG) 29 October 2014**

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The **Chairman (Mr Colin O'DRISCOLL)** welcomed the Delegations of the Trade Federations and the Member States to the Excise Contact Group (ECG) meeting and explained the interpretation facilities.

## **1 ADOPTION OF THE AGENDA**

The **Chairman** presented the Agenda of the current ECG meeting. The Agenda was adopted with no comments.

## **2 PLANNING OF UPCOMING MEETINGS AND EVENTS OF RELEVANCE TO TRADERS**

The **Chairman** presented the provisional planning of the next Excise related meetings and events that would take place from October 2014 to March 2015 (the presentation is available on [CIRCABC](#)).

The **Delegation**<sup>1</sup> of a Trade Federation asked whether Trade Federations would be invited to the Fiscalis 2020 Project Group meeting on arrangements for distance selling of Excise goods released for consumption (Duty paid B2C) on 19/11/2014. Depending on the Agenda of the upcoming Duty paid B2C meeting, the **COM** will inform the Trade Federations accordingly if they are invited to participate.

## **3 EMCS STATE OF PLAY AND PLANNING**

The **COM** presented the state of play of EMCS Phase 3.1 operations, the Business and Technical statistics, the removal of the Activation Date constraint in SEED (v1.9.0.), the planning of EMCS Phase 3.2, and the relevant changes, which are important for the economic operators (the presentation is available on [CIRCABC](#)).

The **COM** highlighted an important change for EMCS Phase 3.2 concerning Zero Values in numeric Data Items (Request for Change FESS-154), which pertains to the traders. Following a question from a **Delegation**<sup>2</sup> of a Trade Federation, the **COM** clarified that when a Data Item is applicable, as per rules and conditions of the Common Specifications, the numeric value of the Data Item must be greater than zero.

## **4 REPORT BACK ON WORK RELATED TO MOVEMENTS OF EXCISE GOODS ALREADY RELEASED FOR CONSUMPTION**

### **a) Final Report from Fiscalis 2013 Project Group (FPG 090) on arrangements for distance selling and business to business sales of excise goods released for consumption/ Update on work in the Project Group (FPG 001) – information from the Commission**

The **COM** presented the Report of the Fiscalis 2013 Project Group (FPG 090) on arrangements for distance selling and business to business sales of Excise goods released for consumption (the Report is published on [CIRCABC](#)). The **COM** also introduced a new Fiscalis 2020 Project Group (FPG 001), which continues the work started by the FPG 090 and which is looking in more detail at the existing problems as

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<sup>1</sup> European Confederation of Independent Winegrowers (CEVI)

<sup>2</sup> European Wine Producers (CEEV)

well as searching for potential solutions. There will be another report of the new Project Group in 2015, after the new FPG 001 completes its work.

A **Delegation**<sup>3</sup> of a Trade Federation welcomed the conclusions reflected in the Report and thanked the COM and Member States, which participated in the project actively. The same **Delegation** of a Trade Federation pointed out that the Project Group clearly identified the weaknesses of the current situation of distance sales of Excise products within the EU. The **Delegation** believed that the current situation creates an obstruction for small and medium enterprises therefore, it is important to find alternatives to the use of tax representatives.

The **COM** encouraged the delegates to send their written observations on the Report of the Fiscalis 2013 Project Group (FPG 090) on arrangements for distance selling and business to business sales of Excise goods released for consumption.

**b) Evaluation study of current arrangements for intra EU movements of Excise goods that have been released for consumption – presentation by Ramboll**

**Ramboll** presented a summary of the Evaluation Study on the current arrangements for the cross-border movements of Excise goods that have been released for consumption (the presentation is available on [CIRCABC](#)). The presentation familiarised the delegates with the purpose, scope, methodology and team of the Evaluation study and it also expounded the findings, conclusions and recommendations as the results of the study.

A **Delegation**<sup>4</sup> of a Trade Federation appreciated the Evaluation Study, however, mentioned two issues, which, in their opinion, were not reflected in the Evaluation Study:

- 1) The cumbersomeness of current arrangements to move small quantities of Excise goods;
- 2) The use of accompanying documents while transporting duty paid Excise goods via other Member State's territory.

Reacting to the presentation, another **Delegation**<sup>5</sup> of a Trade Federation expressed several ideas:

- 1) The suspension arrangement covered by EMCS, which is constantly improving, is a largely preferred option;
- 2) Possible side effects of removing the fiscal representatives at destination have to be taken into consideration. There is a well established network of fiscal representatives providing services to the suppliers in the Member States of destination and any solution that would create a discriminatory treatment to those persons would not be a workable solution;
- 3) When creating new possible arrangements for distance selling the following elements should be taken into consideration: fair competition, risk of fraud, limitation of quantities that can be shipped.

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<sup>3</sup> CEVI

<sup>4</sup> European Shippers' Council (EVO)

<sup>5</sup> CEEV

The **COM** responded by saying that the idea of having payments of Excise duty in the Member State of dispatch is discounted. The intention is to continue with the current arrangement whereby the payments of Excise duty are made in the Member State of destination (consumption). Likewise, there is no question of unfair competition. The intention of the Evaluation Study is to look at the procedures and the processes involved in the distance selling, to analyse the current situation and to identify the obstacles, which make distance selling either a very marginal activity or a completely impossible activity. Any proposals in the future impact assessment should be based on finding a new and secure way of allowing distance selling, which would reduce compliance costs without endangering fiscal security.

One more **Delegation**<sup>6</sup> of a Trade Federation said that small and medium enterprises cannot currently benefit from the internal market, therefore alternative solutions and simplifications are anticipated. The same **Delegation** of a Trade Federation thought that there is also a need for a clearer definition of a “consumer”.

The **COM** informed that the finalised Evaluation Study will be published and the review period for comments will be opened.

## **5 PLANNING OF THE EVALUATION STUDY OF CURRENT ARRANGEMENTS FOR THE HOLDING AND MOVEMENT OF EXCISE GOODS UNDER EXCISE DUTY SUSPENSION – PRESENTATION BY RAMBOLL**

**Ramboll** presented the outline of the Evaluation Study on current arrangements for the holding and movement of Excise goods under Excise Duty suspension (the presentation is available on [CIRCABC](#)). It was stated that help and support from Member States and economic operators is the key to a successful completion of the Evaluation Study. In this respect a comprehensive Questionnaire to all 28 National Excise Administrations and a separate online Survey to the economic operators will be distributed.

Two **Delegations**<sup>7</sup> of the Trade Federations made a remark that the chosen period (December 2014 – January 2015) to distribute the Survey is a very busy time for the economic operators and proposed Ramboll to consider it when setting future deadlines.

A **Delegation**<sup>8</sup> of a Trade Federation requested to distribute the Survey to the economic operators not only in the English language.

Another **Delegation**<sup>9</sup> of a Trade Federation requested to make the full Survey available in one piece as the previous experience of navigation through an online survey showed that it was rather cumbersome.

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<sup>6</sup> CEVI

<sup>7</sup> Confederation of European Community Cigarette Manufacturers (CECCM) and European Cigar Manufacturers Association (ECMA)

<sup>8</sup> ECMA

<sup>9</sup> Brewers of Europe

## 6 FISCALIS/CUSTOMS 2020 PROJECT GROUP FOR COORDINATION OF EXCISE AND CUSTOMS PROCEDURES IN RELATION TO MOVEMENTS OF EXCISE GOODS UNDER EMCS – UPDATE ON WORK IN THE PG, FUTURE TRADE INVOLVEMENT IN WORK

The COM informed that the Final Report of FPG 078 / CWG 276 and its annexes were published on [CIRCABC](#). The COM introduced the new Fiscalis / Customs 2020 Project Group (FPG 002 / CPG 003) for coordination of Excise and Customs procedures in relation to movements of Excise goods under EMCS, which continues the work conducted by the previous Project Group FPG 078 / CWG 276. The COM elaborated that the new methods (division into subgroups) were applied to the work of the new Project Group. The subgroups were built according to the categories of the topics: Import related, Export related, Import and Export related.

The COM informed that the Trade Federations could participate in:

- 1) The meetings of the new Fiscalis/Customs 2020 Project Group;
- 2) The review process of the Business Process Models and other material produced as part of the work of the Project Group.

A **Delegation**<sup>10</sup> of a Trade Federation said that they would be interested in participating in both activities and asked to involve them at an earlier stage of those activities.

## 7 FEASIBILITY STUDY INTO FUTURE EVOLUTIONS OF EMCS, COMPRISING IT SUPPORT FOR THE USAGE OF BAR CODES ON THE PRINT-OUT OF THE E-AD – INTRODUCTION AND IDENTIFICATION OF TRADE VOLUNTEERS FOR A PILOT PROJECT

The COM presented the possibilities of the usage of bar codes in the future evolutions of EMCS, the current use of bar codes in customs transit sector (New Computerised Transit System – NCTS) and the next steps to be followed further (the presentation is available on [CIRCABC](#)).

The COM informed that the Commission Staff Working Document<sup>11</sup> published in 2013 and summarising the views of the economic operators and Member States, revealed that 60% of Member States and 50% of Economic Operators were interested in the introduction of a bar code on a print-out of an electronic administrative document (e-AD). The COM pointed out that currently bar codes are used in NCTS and provided related provisions of Commission Regulation N° 2454/93<sup>12</sup> and the Guidelines<sup>13</sup> followed by an example of a bar code on a Transit Accompanying Document (TAD).

A Member State **Delegation**<sup>14</sup> underlined that an introduction of bar codes in EMCS would not reduce the use of paper documents since the Horizontal Directive N°

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<sup>10</sup> CECCM

<sup>11</sup> SWD(2013) 490 final: Commission Staff Working Document presenting the results of the consultations of Member States and stakeholders required by Article 8(3) of Decision No 1152/2003/EC, Article 45(1) of Directive 2008/118/EC, Article 35(1) of Council Regulation (EC) No 2073/2004 and Council Regulation (EU) No 389/2012 and its accompanying document COM(2013) 850 final: Report from the Commission to the European Parliament and the Council on the functioning of the arrangements for the computerised supervision of excise movements under duty suspension and on the application of the administrative cooperation rules in the area of excise duties, in accordance with Article 8(3) of Decision No 1152/2003/EC, Article 45(1) of Directive 2008/118/EC, Article 35(1) of Council Regulation (EC) No 2073/2004 and Council Regulation (EU) No 389/2012

<sup>12</sup> Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code; *OJ L 253, 11.10.1993, p. 1–766*

<sup>13</sup> Guidelines for the Printout of the Transit Accompanying Document (TAD) and the List of Items (LoI)

<sup>14</sup> MSA-AT

2008/118/EC<sup>15</sup> states that the consignor shall provide the person accompanying the Excise goods with a printed version of the e-AD or any other commercial document reflecting the ARC. That Member State **Delegation** asked for further elaboration on the subject. The same Member State **Delegation** expressed some doubts concerning the use of a bar code only (without an ARC) within an e-AD. The **COM** replied that for commercial reasons consignments have to be accompanied by the commercial documentation, however, the idea behind the introduction of bar codes is to try to reduce the duplication of documentation. This reduction could be a benefit to the economic operators. The benefit to Member States in terms of controls could be the facilitation of easier retrieval of the consignment details from their National EMCS Systems.

Another Member State **Delegation**<sup>16</sup> shared their experience of using bar codes on the e-ADs and pointed out that it did not lead to the reduction of the paper use.

The **COM** specified that the main purpose of this item was to receive the initial reactions to a possible feasibility study. The **COM** also explained that it is important to collect information concerning the actual use of bar codes where they currently exist and to define the requirements and infrastructure that would be necessary in case the approach of using bar codes is generalised within the future EMCS. The **COM** informed that the economic operators will be consulted in writing in order to collect their observations and questions. At the next meeting it will be decided whether to proceed with a pilot project.

## 8 PRESENTATION BY UPEI

### a) Controlled access by traders to SEED information

**UPEI** made a presentation (available on [CIRCABC](#)) where it was stated that the current verification procedures of the Excise authorisations are labour-intensive, time-consuming and may sometimes cause delivery delays. **UPEI** proposed a solution of the problem by expanding the information (adding name and address of the tax warehouse keeper or of the tax warehouse) on SEED-on-Europa (SEED – Excise Authorisation Verification), and referred to the examples of VIES VAT (Value Added Tax Information Exchange System) and EORI (Economic Operators Identification and Registration System) number verifications. It was additionally said that the access to such information could be limited to authorised warehouse keepers or tax warehouses for data protection reasons.

Four **Delegations**<sup>17</sup> of the Trade Federations supported **UPEI**'s proposal.

The **COM** informed that as a first step, an enhanced version of SEED-on-Europa, incorporating direct delivery information, will become available provisionally by mid-2015. The **COM** will look further at the problem together with Member States.

### b) State of play on the establishment of guarantee waiver agreements for the movement of energy products by pipeline

Continuing the presentation, **UPEI** talked about another issue concerning the waiving of guarantees for Excise goods transported by sea or pipeline. **UPEI** pointed out that the

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<sup>15</sup> Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC; *OJ L 9, 14.1.2009, p. 12–30*

<sup>16</sup> MSA-LU

<sup>17</sup> CECCM, CEEV, FuelsEurope and SpiritsEUROPE

existing EU legal arrangement causes difficulties to the economic operators. Therefore, **UPEI** proposed either to amend the provisions of the Directive N° 2008/118/EC in order to enable the transportation by sea without guarantee and without the compulsory agreement of concerned Member States, or to introduce standardised bilateral agreements, which would simplify the procedures to waive guarantees.

The **COM** will look at the problem trying to unblock the current situation.

## 9 PRESENTATION BY CECCM – THE FUTURE OF TAX STAMPS

**CECCM** and **ESTA** made a joint presentation (available on [CIRCABC](#)), in which they explained, from their point of view, the possible overlap of the new requirements under Tobacco Product Directive (TPD) N° 2014/40/EU<sup>18</sup> with certain articles of Directives N° 2011/64/EU<sup>19</sup> and N° 2008/118/EC. **CECCM** stressed that the implementation of the new requirements would have a big impact on the current positioning of the tax stamps on the packages. Therefore, **CECCM** proposed to think about a new solution replacing tax stamps with the TPD digital process: the unique identifier for Track and Trace in combination with the new security feature.

A **Delegation**<sup>20</sup> of a Trade Federation informed that they have not yet taken the decision whether to support or not the idea of eliminating paper tax stamps.

The **COM** forwarded DG SANCO's position, which stated DG SANCO's disagreement with the statement that it would not be possible to put the tax stamps on the bottom of the package as it will interfere with the unique identifier for Track and Trace. The decision about the location of the unique identifier has not yet been taken. The **COM** also informed that DG SANCO established an Expert Group on tobacco policy to discuss the detailed issues concerning the arrangements for the control of tobacco on health grounds (Commission decision C(2014) 3509 of 4 June 2014). The purpose of this group is to assist the COM in the preparation of policy initiatives for incentive measures in the area of tobacco control, to facilitate cooperation with Member States and to act as a forum through which Member States' experts can be consulted on the preparation of reports, legislative proposals and Delegated Acts (DA) in the framework of Union legislation on tobacco, in particularly the DA for TPD. The first meeting was held on 13/06/2014. One of the subgroups (Traceability and security features on tobacco packaging) is discussing how Articles 15 and 16 of the TPD would be implemented. The first meeting of that subgroup is planned on 10/12/2014. Additionally, the **COM** announced that DG SANCO through the Consumers, Health and Food Executive Agency initiated the analysis and feasibility assessment concerning the EU system for tracking and tracing of tobacco products and for security features. The final report of that Feasibility Study is expected in 2015.

**CECCM** added that experts from the Ministries of Finance and Customs should be represented in the aforementioned Expert Group.

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<sup>18</sup> Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC; *OJ L 127, 29.4.2014, p. 1–38*

<sup>19</sup> Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco; *OJ L 176, 5.7.2011, p. 24–36*

<sup>20</sup> ECMA

## **10 ANY OTHER BUSINESS**

### **a) New Tax Stamps – Transitional period in Bulgaria**

**SpiritsEUROPE** informed about an issue with the alcoholic beverages, which are on the market and which carry old tax stamps after the new law had been adopted in Bulgaria. **SpiritsEUROPE** asked for information on other Member States' experience and addresses a question to the COM about the harmonisation of the practice.

The **COM** asked **SpiritsEUROPE** to provide the explanation of the situation in writing.

### **b) EMCS Activities Strategic and Tactical Plan**

The **COM** informed about the EMCS Activities Strategic and Tactical Plan, which contains the possible potentials of the future EMCS and automation activities, and invited the delegates to provide their comments in writing on the current version of the document.



## ANNEX A – ACTION LIST

Nr	Action for	Description	Logged on	Status
1.	DG TAXUD	To consider whether the Trade Federations need to be invited to the next meeting of the Fiscalis 2020 Project Group on arrangements for distance selling of Excise goods released for consumption (Duty paid B2C) on 19/11/2014	ECG on 29/10/2014	Open
2.	DG TAXUD	To publish the Evaluation study of current arrangements for intra EU movements of Excise goods that have been released for consumption after it is finalised and to open a period for comments	ECG on 29/10/2014	Open
3.	DG TAXUD	To consider possibilities of making the Survey on current arrangements for the holding and movement of Excise goods under Excise Duty suspension available to the EOs in one piece	ECG on 29/10/2014	Open
4.	DG TAXUD	To launch a written consultation on the potential usage of bar codes on the print-out of the e-AD	ECG on 29/10/2014	Open
5.	DG TAXUD	To open bilateral discussions (consultations) with Member States on the establishment of guarantee waiver agreements for the movement of energy products by pipeline	ECG on 29/10/2014	Open
6.	Member States	To contact health ministries in order to obtain information about the activities of the Group of experts on tobacco policy, established by Commission decision C(2014) 3509 of 4 June 2014 to discuss the detailed issues concerning the arrangements for the control of tobacco	ECG on 29/10/2014	Open