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Committee on Excise Duty

Excise Contact Group (ECG) 13 January 2014

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 Excise Contact Group (ECG) meeting. The Agenda was adopted with no comments.

The **Delegation**¹ of a Trade Federation raised a question which is detailed under item Any Other Business.

2 PLANNING OF UPCOMING MEETINGS AND EVENTS OF RELEVANCE TO TRADERS

The **Chairman** presented the planning of the meetings and events for the first half of 2014 (the presentation is available on [CIRCABC](#)).

The Fiscalis project group on denaturants that was provisionally planned to take place on the 12-13/2/2014 has been postponed and will be re-booked.

The last meeting of the Excise and Customs coordination project group (FPG 078/CWG 276) in its current form will take place on 7/4/2014². In this meeting the final report of the project group will be discussed. The report will include recommendations for changes to legislation and potential changes to movement control systems. The **Chairman** announced that the COM will propose to continue the project group under Fiscalis 2020.

The **Chairman** concluded the presentation by informing that the planning of the meetings and events for the second half of 2014 will be provided as soon as possible. The planning will include the setup of an ECG meeting as well.

3 EMCS STATE OF PLAY AND PLANNING

The **COM** presented the EMCS state of play (the presentation is available on [CIRCABC](#)). It was illustrated that there is a steady linear growth in the usage of SEED on Europa by the Traders and an increase in the number of EMCS movements in 2013. The availability of EMCS in 2013 reached 97%. The **COM** also reminded the successful accession of Croatia in the EU as of 01/07/2013. Both Croatia and the other Member States successfully developed, tested and deployed their excise applications without any problem. The Member States will deploy a new EMCS release (Phase 3.1) on 13/02/2014 which encompasses a new Administrative Cooperation functionality and which updates to existing EMCS Phase 3 functionality. Later in January 2015, there will also be a change in the Central SEED Register to allow the immediate activation of authorisation updates.

The **Delegation**³ of a Trade Federation asked if the existing functionality in SEED on Europa could be extended to provide the name and address of an Economic Operator.

¹ ECFD

² Note: The date has changed to 27/03/2014.

³ spiritsEUROPE

That would help an Economic Operator to consult the name and address of his counterpart and reduce mistakes in filling the e-AD. The **Chairman** answered that in the past the Member States did not reach an agreement on this issue. A possible technical solution would be a controlled/secured access to SEED so that an Economic Operator can verify the name and address of his trading partners or even his own authorisation. Upon request (from the Trade), the matter could be referred to the Member States for discussion and decision.

4 REPORTS TO THE PARLIAMENT AND THE COUNCIL CONCERNING DECISION 1152/2003/EC ON COMPUTERISATION OF EXCISE PROCEDURES AND TRAVEL ALLOWANCES (PRESENTATION)

The **COM** made a presentation which is available on [CIRCABC](#). According to provisions in the Excise legislation, the COM is obliged to report to the European Parliament and the Council on various issues. The COM has conducted four (4) surveys amongst the Member State Administrations and representatives of the Trade. On the basis of the results of these surveys, the COM prepared two (2) reports that were adopted by the COM on 3/12/2013 and have been transmitted to the Council and the European Parliament. The Reports were included in the material for the present ECG and are also published on EUR-Lex.

The first report includes information on the functioning of the governance arrangements for the EMCS project, on the EMCS fallback arrangements and on the first experiences of Administrative Cooperation on excise duties. It also includes an annex with the detailed results from the surveys. The second report contains a review of the current provisions of Council Directive 2007/74/EC on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries.

Regarding the traders comments, it appeared from the survey that they would like the frequency of the ECG to be increased, and they also request for more consultation. The **COM** invited the Trade Federations representatives to provide any comments they might have by end of February the latest, and encouraged them to provide feedback in writing on the approach used for conducting the surveys.

The **Delegation**⁴ of a Trade Federation commented that according to point 2.2.2 in the report on Council Directive 2007/74/EC, the Member States have different interpretations of the term “occasional import” and wanted to know if this raises concerns to the Member States and to what extent. Further, the Delegation requested the COM to elaborate on the conclusions in the same point where it is said that “COM is open to developing administrative tools and best practices together with interested Member States for addressing the described problem scenarios”. The **COM** invited the Delegation to address their questions in writing so that they are answered and made available to all the Trade Federations and the Member States.

⁴ CEEV

5 LEGISLATION AND RELATED ISSUES (FOR INFORMATION)

(a) New Commission Implementing Regulation No 612/2013 on the operation of the register of economic operators and tax warehouses

The **Chairman** presented information (the presentation is available on [CIRCABC](#)) on the new Commission Implementing Regulation (EU) No 612/2013 which was adopted on 25/6/2013. The new Commission Implementing Regulation establishes a common legal base for the authorisation information exchanged between the Member States. It includes a major re-design of the central SEED (System for the Exchange of Excise Data) so that the authorisation information received from a Member State is made available to the other Member States within 2 hours from its reception. The Member States obligation is to enable their national SEED to check the Central SEED for updates twice per day. Once those changes will be implemented, the authorisation information received from an issuing Member State will be useable to the other Member States (and their Traders) almost immediately. In the current SEED there is a 24 hours delay between the reception of authorisation information from a Member State and its dissemination to the other Member States. The provisions for this major change in SEED will be applicable as from 1/1/2015 in order to give enough time for the adoption of the respective changes by the COM (in the Central SEED) and the Member States (in the national SEED).

(b) Regulation Amending Reg. (EC) 684/2009 alignment with EMCS Phase 3.1

The **Chairman** made a presentation (the presentation is available on [CIRCABC](#)) on the next amendment to the Commission Regulation (EC) No 684/2009 which is the Implementing Regulation for the Excise Horizontal Directive (Council Directive 2008/118/EC). It was explained that the Commission Regulation (EC) No 684/2009 entered into force in 2009 and reflected the situation for EMCS at that time. It needs to be updated to reflect the changes that have occurred in EMCS since then and also the changes that will be applicable in the forthcoming EMCS Phase 3.1 which will enter into operation on 13/02/2014. The amendment to 684/2009 has the form of an Implementing Regulation with two (2) amending technical annexes (corresponding to the technical annexes in 684/2009). The amending regulation was voted by the Member States in December 2013 and is expected to be adopted by the Commission in January 2014. In the future any change in EMCS has to be preceded by the formal adoption of a new amendment to Commission Regulation (EC) No 684/2009.

(c) Future work

The **Chairman** presented the work programme on the Excise legislation from present to 2017 (the presentation is available on [CIRCABC](#)). Amongst other legislative updates, the major updates concern the revision of the Excise Horizontal Directive (Council Directive 2008/118/EC) and the revision of the Council Regulation (EU) No 389/2012 (on administrative cooperation in the field of excise duties) by 2017. The **Chairman** added that the Union Customs Code (UCC) was recently adopted by the Council and the European Parliament and that will impact the update of the Excise Horizontal Directive (Council Directive 2008/118/EC).

6 CUSTOMS AND EXCISE COORDINATION GROUP ON EXPORT AND IMPORT PROCEDURES – UPDATE ON WORK IN THE PROJECT GROUP

(a) Export – State of Play

The **Chairman** made a presentation (available on [CIRCABC](#)) on the work of the Excise and Customs coordination project group (FPG 078/CWG 276) concerning the problems in the interfacing between the EMCS and the Automated Export System (AES). In the long term the EMCS-AES interface will be re-designed in order to fix all the current problems. The legal base for the re-design of the EMCS-AES interface will be prepared in 2015 and the updates of the Excise Horizontal Directive (Council Directive 2008/118/EC) will take place in 2016. The new EMCS-AES interface will become operational in the beginning of 2019. In the medium term, the COM will produce a common set of Customs and Excise guidelines on the export of excise goods. In the short term, the COM will focus on solving the major problems in the EMCS-AES interfacing. The COM would like to enforce the presence of the ARC in the export declaration (SAD), to produce a Known Error List (KEL) on export issues and improve the diagnostic tools for Member State Administrations and traders such as CS/MIS and CS/MISE.

The **Delegation**⁵ of a Trade Federation welcomed the COM's work on establishing a new link between EMCS and AES. The **Delegation** asked which would be the decisive message for closing the export procedure for excise goods. The **Chairman** answered that from an excise point of view, the decisive message is the Receipt of Export (IE818) message which is generated in the Member State of Export.

The **Delegation** also commented that the Member States have different rules for what can constitute an alternative proof of exit for the export of excise goods and asked if there will be any change in the updated Excise Horizontal Directive (Council Directive 2008/118/EC). The **Chairman** answered that it would be desirable to harmonise the rules amongst the Member States and even have a common list of alternative proof of exit for Excise as it is the case for the alternative proof of exit for Customs. This will be discussed with the Member States.

The **Delegation**⁶ of a Trade Federation added that excise goods under excise duty suspension can also be used in an Inward Processing (IPR) suspension regime. The Delegation asked how the excise suspension regime of the excise goods will be ended before the goods are handed over to their new duty regime IPR suspension. The **Chairman** answered that EMCS supervises the goods up to the point that those are placed under IPR regime. Then they are supervised by Customs. The existing Excise Horizontal Directive (Council Directive 2008/118/EC) allows the remission of excise duty on the basis of the Customs arrangements (IPR).

(b) Import – State of Play

The **Chairman** presented the state of play (the presentation is available on [CIRCABC](#)) of the work of the Excise and Customs coordination project group (FPG 078/CWG 276) on the import of excise goods.

⁵ EVO

⁶ CECCM

A **Delegation**⁷ from a Trade Federation asked if the Excise and Customs coordination project group (FPG 078/CWG 276) intends to also discuss the use of centralised clearance in EMCS. The **Chairman** explained that the import duty is always the same regardless of where (Member State) it is paid. The excise duty is paid in the Member State of Destination and the excise duty differ largely amongst the Member States. So it seems unlikely that the Member States will collect the excise duty on behalf of each other. However as regards the centralisation of the declarations this is something that will be further examined in the future bearing in mind that the centralised clearance enters into force in 2020.

7 FISCALIS PROJECT GROUP FPG/090 ON ARRANGEMENTS FOR DISTANCE SELLING AND BUSINESS TO BUSINESS SALES OF EXCISE GOODS RELEASE FOR CONSUMPTION – UPDATE ON WORK IN THE PROJECT GROUP

The **Chairman** updated the participants (the presentation is available on [CIRCABC](#)) on the work of the Fiscalis 2013 project group 090 (FPG/090). The project group has set up two (2) sub-groups to examine the national operations for B2B and B2C (distance selling) movements. The intention is to draw draft guidelines based on best practices, examine the cost and benefits of computerising this type of movements as well as to examine possible amendments to the legislation. The project group will present an interim report to the Committee on Excise Duty in mid-2014 and a final report by the end of 2015.

8 PROBLEMS RELATED TO DISTANCE SELLING

(a) Presentation by CEEV

The **CEEV** made a presentation (available on [CIRCABC](#)) listing the main issues that should be taken into account when considering simplifications in the procedures of distance sale of wine, the main issue being on the sales on the internet. A private individual could purchase large quantities of products from various suppliers for personal consumption and sell these products to final consumers. This would be unfair competition to well established traders and importers in the country of destination (consumption) who have to fulfil all the formalities for the movement of products subject to excise duty. In addition, the simplifications should promote fair competition regardless of the size of the businesses involved and the origin of the products sold. As a last point CEEV mentioned that the statistics on the circulation and consumption of wine products in the Member States should not be simplified. These statistics is precious information for stakeholders who take decisions for the development of markets.

(b) Presentation by CEVI and COPA-COGECA

The **COPA-COGECA** and the **CEVI** made a presentation (available on [CIRCABC](#)) explaining that the small and medium wine growers (represented by **COPA-COGECA**) and the independent wine growers (represented by **CEVI**) face high costs when they make cross-border distance sales of wine within the EU. These costs are related to the need for having a fiscal representative at the destination country who clears the excise duty of the sold wine products. According to their opinion procedures for distance selling should be harmonized and simplified.

⁷ EVO

A **Delegation**⁸ of a Trade Federation asked if the work of the Fiscalis 2013 project group 090 (FPG/090) will also include the distance selling of other alcoholic beverages such as spirits. The **Chairman** clarified that the work of the project group focuses on the distance selling of wine but it can be extended to distance selling of other excise products if there is a corresponding interest from the Trade. The **Delegation** also asked the COM to provide more information on B2B movements. The **Chairman** explained that the B2B movements are movements of excise goods that have been released for consumption in one Member State and are moved to another Member State of Destination by traders. These B2B movements are not monitored by EMCS and are taking place using the paper SAAD. The excise duty that has been paid at the Member State where the excise goods were initially released for consumption can be reimbursed or remitted. The small and medium sized enterprises find it difficult to use B2B because of a variety of different procedures, adopted by the Member States, concerning proof of advance payment of excise duty in the Member State of Destination. For the Member States, the lack of harmonization and clarity about these procedures may lead to potential problems of tax evasion. The project group examines these procedures that are in place and the possibility to reach a win-win situation both from the perspective of traders and from the perspective of the Member States.

A **Delegation**⁹ of a Trade Federation agreed with **COPA-COGECA** and **CEVI**.

9 DESTRUCTION OF TAX STAMPS – PRESENTATION BY CECCM

The **CECCM** made a presentation on the subject which is available on [CIRCABC](#). The **CECCM** proposed to update Council Directive 2008/118/EC to allow the destruction of tax stamps and/or damaged products bearing tax stamps to take place in the Member State of production under supervision of its competent authorities. The evidence of destruction, duly endorsed by the competent authority supervising the destruction procedure, has to be presented to and be accepted by the competent authority of the Member State where the tax stamps were made available.

The **Chairman** thanked **CECCM** for the presentation and added that the proposal will be communicated to the Member States for their official reaction and most probably will also be taken up in a future Committee on Excise Duty (CED) meeting.

10 ANY OTHER BUSINESS

A Trade Federation **Delegation**¹⁰ asked if the review of the Excise Horizontal Directive (Council Directive 2008/118/EC) will take place later this year (2014) and which will be the role of the ECG in this review. The **Chairman** clarified that COM report on the functioning of the Excise Horizontal Directive (Council Directive 2008/118/EC) is due in 2015 and will include: the link between customs and excise; the arrangements for distance selling and for duty paid B2B movements; other issues such as current arrangements for shortages and for non-arrival of goods.

⁸ SpiritsEurope

⁹ ECFWSID

¹⁰ ECFD