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TAXATION AND CUSTOMS UNION

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Environmental and other indirect taxes

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EXCISE CONTACT GROUP

MINUTES OF THE ECG MEETING ON 07/11/2011

1 WELCOME AND INTRODUCTION

The **Chairman** (Mr **O’Driscoll**) welcomed the Member States and the European Trade Federations delegates, explained the interpretation facilities and went through the agenda in detail.

2 STATE OF PLAY OF EMCS, PRESENTED BY THE COMMISSION

Mr **Dejongh** presented a short overview of the current state of the EMCS as it relates to Phase 3 deployment implementation as well as what is envisioned for future iterations of the EMCS system.

EMCS Overview



Item_2_EMCS_Overview_07-11-2011

Mr **Dejongh** reminded the attendees that Administrative Cooperation, as part of EMCS, envisions taking over the current applicable EWSE and MVS functionalities, however MVS will continue to be operational to follow-up on Duty Paid movements. Emphases were given that for traders the most important aspect of Milestone Mc is Splitting of Movements and that for MSA the most important aspect is Administrative Cooperation.

A plan on “*What is next*” for the EMCS system was given up to 2013, with proposed (optimistic) dates still subject to MSA approval, which consists of an overview on corrective and evolution maintenances after Milestone Mc. Special emphasis given to:

- Change related to the Small Wine Producers. The SEED application is envisioned to include these operators information as to allow temporary registered consignees to receive goods from Small Wine Producers in the EMCS system. Applicability of this change was mentioned for mid-2012 was given by Mr Dejongh, subject to MSA discussion and approval;
- Introduction of functionalities related to Duty Paid movements. To be discussed and agreed whether only Administrative Cooperation would be included, or broaden the scope to also include follow-up of movements. Subject to MSA discussion and approval;
- Integration of EMCS and ECS, which while currently already operational, has limitations. The Working Group (WG) has started the discussion and changes could come out of that and maybe new functionalities might be available in future, subject to approval of MSA.

Referencing the EMCS state of play, Mr **Dejongh** noted that until October 2011, operations could be summarised as a low number of error messages, being most of the movements closed, with a number of movements exceeding 2 million. Under debate with MSA is the usage of the IE906 message for semantic errors, where MSA do not agree with content of messages, because the rule is that those messages should not be exchanged between MSA, only apply between MSA and traders.

The schedule for Phase 3 test environments, planning and specifications was shown. Some MSA will allow Traders to still use Phase 2 messages after 01/01/2012 which will then be converted to

Phase 3. There is no business impact with such an approach, which is good for traders, but in 2012 tests will have to continue for those MSA.

Regarding Splitting of Movements, MSA are allowed to choose between implementing or not the IE825 message.

Mr. **Milward** from the **CEEV** Trader Federation wanted to understand the underlying reason why the Splitting of Movements was made optional for MSAs. The **Chairman** stated that there was a different approach from MSAs, with some in favour that the Splitting of Movements would not be needed and others which found it necessary, thus the availability was made optional, however the Splitting of Movements functionality only affects energy products.

Mr. **Magaraggia** from **Copa-Cogeca** wanted to know what changes will be introduced regarding Small Wine Producers. The **Chairman** assured that Art° 40 will not be eliminated. EMCS is to be in line with current legislation. EMCS expects all Temporary Registered Consignees to name a Consignor. Art° 40 also states that Small Wine Producers do not necessarily need to fulfil the requirements for Consignors, to be registered in SEED, according to the choice of MSA. Since they are not registered they do not have a SEED number, so it is difficult for a Temporary Registered Consignee to have an authorisation which is usually visible to all MSA, as there are no means to add the authorisation into the SEED database. What will happen is that the structure of the SEED record makes it possible to see that a Temporary Registered Consignee is going to receive wine from Small Wine Producer whom is not in the database, so the required authorisation can be delivered. Moreover Mr. **Magaraggia** stated that Art40 made it possible for Small Wine Producers not using Electronic Accompanying Documents (e-AD), but in EU not all MSAs acknowledge this possibility and thus movements are refused at the borders when a paper document is shown. In the light of that, **Copa-Cogeca** requested that the Commission (COM) clear this issue out. The **Chairman** explained that the COM position is clear, and that Art° 40 is a matter for MSA to decide with their own producers, they are obliged to accept it if other MSA have provided the derogation to their producers. Additionally the **Chairman** stated that should problems occur in the future, the COM is available to address the issues.

Europaia Trade Federation, representing oil companies, showed regret for the Splitting of Movements not being applicable in all MSA, making the movements control being made by destination country and not as a Pan-European level, which is an extra burden in development costs. The **Chairman** noticed that maybe in the future some MSA might change their opinion, furthermore requesting numbers and figures for the issue stated.

The **Chairman** added a final point. By the 2nd half of next year the COM is planning to set up a WG with MSA on duty paid movements and distance selling. The first works would include Administrative Cooperation for duty paid, more interesting for MSA; another is to look and provide support for VAT, refund systems, one stop shops and it would be interesting to have the position of Trade Federations. Mr. **Milward** explained that companies often feel like this kind of situations most of the times bare too much bureaucracy with little outcome, to which the **Chairman** counter posed that the approach would be on a win-win solution.

3 INFORMATION POINT ON PROJECT GROUP FOR THE COORDINATION OF EXCISE AND CUSTOMS PROCEDURES

The **Chairman** explained this point by saying that coordination between Excise and Customs procedures was being considered. Comments have been made by MSA and Trader Federations regarding the coordination between EMCS and ECS, where movements remain open and problems occur with passing information between two systems. In the WGII meeting in June it was decided to create a Project Group (PG) composed of persons from Excise and Customs to try to improve the coordination. The first proposal was for the PG to look for quick gains, the use of EMCS followed by ECS. But also other issues appear, due to lack in legislation and technical

specifications. For example, use of Excise products in processing relief, duty paid movements intended for export, combination of the use of EMCS and NCTS. The PG is planned to meet once a month to discuss the possibility of integrating ECS with EMCS and other issues occurring from the start of EMCS. On the end of second quarter of 2012 a stakeholder meeting is being arranged with members of this group to discuss the ideas regarding those issues. In the meantime if specific issues exist they are welcome, especially concerning the ECS and EMCS.

4 INFORMATION POINT ON COMMISSION E-LEARNING MODULE FOR EMCS

The **Chairman** informed that the e-Learning modules are available for download but only in English. The COM can undertake the work of implementing translations, but the COM does not have the resources to the translations itself. MSA are in a better position in terms of providing the input for the translation exercise. Additionally it was also requested to the present Trade Federations to review the material and provide an opinion, regarding the accuracy of the learning material, if the public target is the correct one, if general and technical levels are accurate.

5 EMCS COST BENEFIT ANALYSIS (CBA)

Mr. **Ruà** informed the audience about the purpose of an EMCS CBA, to assess the added value of the IT systems that have been co-financed by the Fiscalis Program. Being EMCS is also financed by the program and as other Milestones are approaching it is a good time to evaluate the whole project. The exercise is a difficult one thus the COM alone does not have the means to compile it, so it is important to have the MSA and Trader Federations on board as much as possible. The subject was presented in the last ECWP in September and currently data collection is needed, both for costs and financial benefits. If able, MSAs should provide data or any other available research. Should information not be available, the COM is looking forward to hear the opinion of all MSA. The exercise is targeted to be completed by the first quarter of 2012.

Mr. **Milward** inquired if a document containing some groundwork would be made available by the COM, which was confirmed that a questionnaire would be produced if MSA agree.

Brewers of Europe (BoE) agreed that targering the end of first quarter 2012 is realistic. Although some material is already available, other still needs to be compiled by some companies. **BoE** asked what the outcome would be for COM and trade parties. Mr. **Dejongh** informed that a Return on Investment (ROI) analysis is desired, and that the CBA will enable knowledge of where investment is needed as well as the costs required to traders. Such decisions need to have financial support. The CBA will provide a full picture of the system and if it provides added

The **Chairman** had a quick announcement; referring to points discussed previously and that if there existed any input to be added to the Excise and Customs coordination group, this should be sent to the usual e-mail address taxud-emcs@ec.europa.eu. In spite of the group dealing in the beginning with generalities, they would be particularly interest in feedback regarding:

- Interfacing EMCS and ECS;
- Specific issues that arise when Excise Office and Customs Office of Exit, exist in different countries where messages sometimes don't get through;

Additionally also informed that the next meeting of the PG would occur on the 24th of November 2011, and that the group would meet every month.

6 ROUND-TABLE FOR THE EUROPEAN TRADER FEDERATIONS, INTRODUCED BY PRESENTATIONS FROM EUROPIA AND OCEAN

The **Chairman** informed the audience that due to unavailability of **EUROPIA**, only a presentation of **OCEAN** would be shown.

Mr. **Maagard** representing OCEAN, Organisation de la Communauté Européenne des Avitailleurs de Navires, took the opportunity to make a presentation of the experience and conclusions of the use of EMCS and the OCEAN Trader Federation. The presentation focused on the Ship Chandlers, their role in the global maritime business, the scope of their business, how EMCS affected their daily work.

OCEAN Presentation



Ocean Presentation
for ECG

OCEAN made a number of proposals for new EMCS facilities that would help and ease their daily work:

- Clear guideline on how to use the EMCS for Ship Supply similar to the e-Learning modules;
- Make a database available for ARC requests, like they exist for NCTS and ECS;
- The details on an e-AD are the same as on an Export Declaration, but the information needs to be fed twice for an operation that is the same. A suggestion is to use the e-AD on a long term stand-alone and not use Export Declaration, given easier administration;
- Why can't a destination of Excise goods be a vessel?
- According to regulation 684/2009, optional provisions can be implemented, but for a player acting in Europe as domestic market, there would be the need of a logic system where only one kind and one way of making the movements. The different ways of implementing EMCS cause unequal treatment as well as competition distortion.

Mr. **Milward** explained that in the past similar discussions happened where was suggested the use of bar codes, in this case for wine and spirits, and from a sector point of view as well as for Customs, putting a unique number is a good system. Trials were made, but due to the crises the project stopped. As conclusion also mentioned that a process where goods had unique numbers when they are manufactured, which could be used in whole systems, would end some of the concerns displayed at the OCEAN presentation.

The **Chairman** took the stage and offered the conclusions on the **OCEAN** presentation. A customs code guideline on ship supply already exists and can be found on the Europa site, saying that ship supply should be treated as export. According to the Customs Code implementing provisions currently it treats ship supplies subject to export procedures, being a little different. But what it means is that ship supply should be treated as if they were exports. The ship supply goods should be treated as Excise goods moving to special territories. Normally speaking that should imply that, if goods are supplied to ships the goods should use combination of EMCS and ECS. This might be a heavy procedure, but if persons understand these procedures, then it will be easy to be harmonised, being better having one heavy harmonised procedure, than 27 different ones.

On the point where the consignee of a ship supply does not have either a SEED or EORI number, currently in the case of an export procedure that should not matter. From an export point of view the trader needs to be identified, but the consignee is not relevant because the trader is deemed to be outside the EU.

Regarding the proof of export, which is part of the general problem, reports of export are not received from the Customs Office of exit and therefore movements do not get closed. The Excise and Customs Coordination Project Group is looking for alternate proof, since there are variations between MSA on what is acceptable.

Concerning the port deliveries, the treating of all ship supply as export would make them lose the tax exemption if they were brought back, because they were no longer considered community goods, having to go through a number of procedures to pay Duty and VAT.

On the mentioned T1 (goods which are Ex Ship Supply) and T2 (goods moving from one place of the Community to another) status the **Chairman** also stated that Customs and Excise Administrations would not be fond of putting them together, because a distinction should be made on the different type of goods.

Additionally the **Chairman** pointed that the issues would be followed in more detail, also mentioning that the issue of bar coding had been raised before and it is something to be studied and that will be taken up to the Community level. It is useful for traders and authorities for control, since not knowing the location of goods leads to assumptions and therefore to procedures that might not be the more efficient way of dealing with the issue that something might be liable for duty or tax, but is something not for a near future because of the expenditure needed and the consensus of 27 different MSA and Non-EU states.

It was also mentioned that the topic of National Vs European rules are very interesting and more information is welcome, because things should be done the same way, it should not have to vary too much from country to country, that is the whole point of an electronic system. Related to the issue of e-AD, it cannot be used because movements are following export procedures, and there is one way of exporting goods, an e-AD and the use of ECS. Other problem of using the e-AD is that a Consignee whom is registered within EMCS would be needed, and to provide the destination for the e-AD treating it as an intern movement. The issue of what the destination would be has already been discussed as well as the Tax Warehouses being fixed in one spot, and the opposite would be needed, tax warehouses being ships, which were rejected by MSA.

To conclude the **Chairman** Requested figures for the raised problems, explaining that it would make it easier to handle the prioritisation of the problems.

Mr. **Maagard** commented on the usage of the two systems and the time it consumed, explaining that the processing time being as low as possible is of essence to the traders.

BoE explained that currently they encounter problems with transports and bulk of transports and that requested figures would be made available through the CBA channel.

7 MODIFICATION OF CN CODES FOR 2012. COMMENTS ARE INVITED ON THE PROPOSED MAPPING BETWEEN CN AND EXCISE PRODUCT CODES

The **Chairman** explained that there is an international nomenclature that is revised annually, which provides a code for every product traded in the international market. These items also include Excise goods, and the purpose of the combined nomenclature is for the international trade and do not have to do with Excise Tax categories, but has an indirect impact. Therefore there is a need for mapping the codes, and it is also useful for traders involved in import/export. So every year after becoming available by the World Customs Organization and what effect have the changes of the codes on the goods affected by Excise. There has been an upload of the Appendix

B of the FESS on CIRCA containing all the codes that are used in EMCS, including all the changes to be made on the existing descriptions. An electronic form will be provided to the MSA to be updated on the EMCS versions before the end of the year, to be ready on the 1st of January with the mapping between Excise product codes and combined nomenclature. The review of the document will start in the middle of November.

Input from the MSA about the classification exercise is needed and in the middle of November a document will be issued for MSA asking for comments and corrections on the mapping. But before that input if the Trader Organisations could provide their feedback on the correctness of the document, preferably the week after the ECG would be good.

European Wine and Borders and Distributors, commented that there were products under the 2204 code where the percentage of alcohol is equal or less than 15%, they are classified as intermediate product or fermented on the basis of Art17 of the Directive. After looking they would have to be put under fermented products only. The list of codes that need revision will be sent to the COM.

UPEI (Union Pétrolière Européenne Indépendante) stated that their Czech members are in favour of including 2 CN codes into the system, 27101991 and 27101999.

CZ commented that it was a problem also of **PL, HU, SI** and **LT** and that the Working Group for lubricants are concerned with the problem of mix lubricant oils with gas oils. The CN codes could be covered under Art20(1) of Directive 96/2003, it would be good to discuss this item because there is a draft of a new directive that will replace the previously stated.

The Chairman pointed that the issue was a slightly different one from the CN Codes, explaining that this exercise has to do with the current scope of the vertical directives for goods which are treated for both subject to Excise duty and also Movement and Control provisions. The CN codes mentioned previously are into a procedure to move hydro-carbons into a situation where they are controlled by EMCS, becoming part of Art20. That involves a vote taken by the Committee on Excise Duty followed by a Decision of the Commission. The process for that takes up from 6 months to one year. There will be discussions later in the Committee on Excise Duty and ECWP concerning other aspects, as sub-chapter 30, and also the items on sub-chapter 2710.

EUROPIA is against including lubricating oils in the directive 3811 as it is the same as adding lubricant additives. **EUROPIA** will be sending all the comments. The concerns are also with some exemptions to the regulation, 271020 regarding bio-diesels, will the setting up new Excise product code lead to automatic integration of a registered store keeper.

The **Chairman** comments that it depended. Two different levels of authorisation exist, one goes through the Excise product code, quite detailed, and authorisation is given, would need modification to the existing authorisation. The other authorisation is given on more general level then authorisation is seen as automatically expandable to cover goods that fall under that Excise product.

EUROPIA then referred that the question for diesel and bio-diesel is simple, now there exist 3 different codes, meaning that basis that will be quite different for the first 8 categories.

The Chairman stated that the mapping should not change Excise categories, and asked for questions and doubts to be provided in writing, to be able to better address and provide a formal answer.

8 ANY OTHER BUSINESS

No points were addressed.

9 CONCLUSION

The **Chairman** closed the meeting by thanking the delegations and the Trader Federations for their attendance and the contributions that will be incorporated to the discussions with MSAs for the future work on this project. He also thanked the interpreters for dealing with very technical material in a very competent way.