

Coordinated strategy to improve the fight against fiscal fraud

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PURPOSE: to develop a coordinated strategy to improve the fight against fiscal fraud.

BACKGROUND: the Commission considers that, in 2004, fiscal receipts (the total amount of taxes and compulsory social contributions) represented 39.3% of GDP in the European Union, or EUR 4 097.7 billion. On the other hand, there are only very few estimates available on the amount of taxes not collected due to fiscal fraud. In general, the economic literature mentions that fraud accounts for approximately 2 to 2.5% of GDP.

Therefore, the interests at stake in the case of fiscal fraud are extremely important. The functioning of fiscal systems is, and should remain, primarily the responsibility of the Member States. While fiscal administration, tax auditing and the recovery of taxes is in the hands of the Member States, the Commission has the duty to stimulate and facilitate cooperation between Member States in order to guarantee the proper functioning of the internal market and to protect the financial interests of the Community.

CONTENT: the objective of the current Communication is to launch a debate with all the parties concerned on the different elements to be taken into account in an “anti-fraud” strategy at European level. It does not contain "one" single and global solution to the problems. Its objective is to present some realistic and pragmatic actions that could be taken in the short term but it is essential that this would be done in a coordinated and integrated manner to respond better to the Community or even international dimension of economic markets.

Improve the functioning of administrative cooperation between the Member States: the Commission considers that the moment has come to set up a monitoring system, on the basis of quantifiable indicators, in order to ensure that each Member State is able to and actually does provide efficient assistance to other Member States. In addition, multilateral audits should become the rule in view of the Community dimension of trade.

As regards VAT, Member States should also make more coherent use of the structures for support and operational assistance at Community level, specifically the resources of the European Anti-Fraud Office (OLAF). Since fiscal fraud is often linked with organised criminal structures in different criminal sectors, it is important to adopt a common and multidisciplinary approach to the fight against fraud. This is why the Commission has put forward its proposal for a Regulation on mutual administrative assistance for the protection of the financial interests of the Community against fraud and any other illegal activities (see [COD/2004/0172](#)).

Alongside the strengthening of the means to detect tax fraud, reinforcement of the existing legislation on assistance in the recovery of taxes should improve the collection of unpaid taxes. Consideration should therefore be given to ways of facilitating procedures and providing assistance for tax officials.

The Commission also suggests that it would be appropriate to create a forum for high-level discussion or even consultation where issues relating to fraud and to cooperation between Member States could be examined at an overall level.

Developing cooperation with third countries: the increased involvement of companies established in third countries in carousel fraud, the expansion of electronic commerce and the globalisation of the services market underline the need for international cooperation on VAT.

In the Member States, cooperation with third countries is primarily under bilateral agreements. This approach does not ensure the necessary effectiveness. The Commission is looking into proposals to develop a Community approach to cooperation with third countries. The inclusion of tax cooperation clauses under the economic partnership agreements that the Community concludes with its partners could be a way of supporting this objective. Lastly, the Commission is currently trying to promote technical assistance to help third country partners increase the transparency of their taxation systems.

Modifying the common VAT and excise duty system: regarding VAT, the Commission considers that the weak points of the current system need to be analysed in the light of the fraud opportunities it creates. These include in particular the taxation of distance selling, the rules for the taxation of new and second-hand vehicles, and even the rules for the taxation of intra-Community trade in general.

Without wanting to exclude alternative solutions, the Commission recalls that the definitive VAT regime supported by the Community institutions could remedy these weaknesses as well as eliminate certain types of fraud. Moreover, the Commission could envisage the possibility of strengthening the principle of joint and several liability for the payment of tax.

Some Member States consider that the VAT system should be amended in order to reduce the losses of VAT income due to fraud. They call for the reverse charge mechanism to be extended to domestic transactions in a Member State, thus challenging the principle of fractionated payment, which has hitherto been regarded as a key element in a VAT system.

The Commission is examining the need for such a step with an open mind at this stage. Such a change raises a number of important questions, requiring an in-depth discussion with all the interested parties, first and foremost with the operators who would be affected. This would cover primarily: (i) the level of legal certainty for operators applying the reverse charge system in good faith (the VAT treatment of operations being dependent on the customer's status); (ii) the advantages and the costs of implementation.

In examining possible changes to the VAT system to fight tax fraud, the taxation of intra-Community transactions should be considered, either at a single rate, which should be high enough to rule out any incentive to set up a carousel fraud, or at the rate of the receiving Member State.

As regards excise duties, the current structure of tax on tobacco prevents the proper functioning of the internal market, in particular by partitioning markets (price fixing) and thus generating trade diversions. Consequently, these distortions should be eliminated.