General arrangements for excise duty

2008/0051(CNS) - 18/11/2008 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted, by 328 votes to 319 with 34 abstentions, a legislative resolution, amending the proposal for a Council directive concerning the general arrangements for excise duty. The report had been tabled for consideration in plenary by Astrid **LULLING** (EPP-DE, LU), on behalf of the Committee on Economic and Monetary Affairs.

The main amendments – adopted in the framework of the consultation procedure – are as follows:

Definitions: Parliament inserted definitions for 'importation of excise goods', 'registered consignee', 'registered consignor, 'authorised warehouse keeper', 'tax warehouse', and 'place of importation'.

Incurrence of excise duty: the amendments aim to :

- clarify the circumstances applicable to the importation of excise goods;
- clarify the cases when national authorities would subject the destruction of goods under a duty suspension arrangement;
- define the case when the excise goods under suspension of excise duty do not arrive at their destination, due to an irregularity;
- remove any uncertainty with regard to excise duty liability in the case of an irregularity taking place and the place of release for consumption being known;
- clarify the position as regards liability where the excise stamps of one Member State are subject to an irregularity in another Member State.

Exemptions: Members propose that excise goods will be exempted from payment of excise duty where they are intended for delivery to an approved research and development facility, laboratory, government department or other approved party for the purpose of quality testing, pre-market introductory examination and verification for possible counterfeiting, provided that the goods involved are not deemed to be in commercial quantities.. The refund conditions established by the Member State shall not result in unduly burdensome exemption procedures. Excise duty, including that on petroleum oils, may be reimbursed or remitted in accordance with the procedure laid down by each Member State. A Member State shall apply the same procedure to national goods as to those from other Member States.

Duty-free shops: Member States may exempt from payment of excise duty excise goods supplied by tax-free shops which are carried away in the personal luggage of travellers taking a flight, sea-crossing or land-crossing to a third territory or to a third country. The Commission's original proposal had suggested that air and sea travellers should have access to duty free purchases only when their immediate destination was outside the EU. Parliament felt that those with a final destination outside the EU should also be able to take advantage of duty free shopping at each stop along the route to a third country. The Commission's proposal had the effect of abolishing duty free shops on external land borders, but MEPs voted to keep them.

Production, processing and holding of excise goods:where the excise duty has not been paid, this shall take place in a tax warehouse. The Commission proposal had stated that the authorisation to open and run a tax warehouse will be regulated by competent authorities in the Member State where the warehouse is situated. Members feel that this authorisation shall be subject to conditions that the authorities may lay down for the purposes of preventing any possible evasion or abuse. However, it may not be refused on the sole ground that the natural or legal person is established in another Member State.

Movement of excise goods under suspension of excise duty: Members wish to specify that Excise goods may be moved under suspension of excise duty between two points within the territory of the Community, including through a third country or through a region in a third country. They also propose that third parties acting on behalf of the persons mentioned should be allowed to provide the guarantee covering the risks inherent in the movement under suspension of excise duty. In addition, an amendment states that, the competent authorities of the Member State of dispatch may, under conditions they have set, allow for an overall guarantee to be provided for lower excise duties, or for no guarantee to be provided, provided that fiscal responsibility for the transport is at the same time assumed by the party responsible for the transport. This authorisation will only be granted to certain specified persons. The point at which the goods leave the tax warehouse or the place of importation shall be determined by the dispatch of a supplementary information message without delay to the competent authority by the authorised warehouse keeper or the registered consignor.

Furthermore, Parliament introduced amendments to aiming to: (a) give Member States the possibility of monitoring the flows in real time and of carrying out the requisite checks where necessary (Decision No 1152/2003/EC); (b) to determine precisely the transition from the suspensive warehousing arrangements or suspensive temporary storage arrangements to the suspensive arrangements on movements covered, if necessary, by a guarantee provided by another party.

Procedure to be followed on a movement of excise goods under suspension of excise duty: given that the EMCS system will only be deployed in phases, Members felt that the presence of a printout containing the administrative reference code for the goods dispatched, amongst other information, is essential so as not to hamper roadside inspections on intra-Community transport. A further amendment introduces two conditions if the "consignor" wishes to split a movement under suspension into two or more movements, and an obligation for Member States to inform the Commission of the authorised splitting consignments. In addition, the competent authorities of the Member State of dispatch shall forward the report of export to the consignor no later than the working day following reception of the certificate stating that the excise goods have left the territory of the Community.

Tobacco and alcohol: Members felt that the indicative limits in Directive 92/12/EC not be deleted, as the Commission had proposed. Member States' guide levels shall be no less than:

(a) for tobacco products:

- 400 cigarettes;

- 200 cigarillos (cigars of a maximum weight of 3 grammes each);

- 100 cigars,

- 0,5 kilogramme of smoking tobacco;

(b) for alcoholic beverages:

- 5 litres of spirit drinks;

- 10 litres of intermediate products;

- 45 litres of wine (including a maximum

of 30 litres of sparkling wine);

- 55 litres of beer.

Member States may also provide for excise duty to become chargeable in the Member State of consumption in respect of the acquisition of mineral oils already released for consumption in another Member State if those goods have been moved atypically by or for private individuals. Atypical movement may include the movement of fuel in containers other than the vehicle tank or a suitable spare fuel container or the movement of liquid heating fuels by means other than tankers being used for a commercial entrepreneur.

Distance selling: Parliament specified that the vendor should obtain an identification document from the authorities of the Member State of dispatch before commencing his distance selling activities.

A new recital states that, to enhance the functioning of the internal market, further efforts should be made to come to a gradual harmonisation of excise duty within the European Union, while taking into account matters such as public health, the protection of the environment and budgetary considerations.