

General arrangements for excise duty

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The Commission presented a report on the implementation and evaluation of Council Directive 2008/118/EC concerning the general arrangements for excise duty. The Directive lays down the arrangements for the holding and movement of excise goods within the territory of the European Union.

In general, the Commission considered that arrangements for the holding and movement of excise goods should **not distort competition**, hinder the free movement of such goods within the EU, nor should such arrangements hinder tax collection or facilitate fiscal fraud.

In the light of the findings of the two studies commissioned by the Commission and an evaluation of this regulatory area under its better and effective Regulation (REFIT) programme, the Commission drew the following conclusions:

Suspension of excise duty: the Commission considered that the current arrangements for the holding and movement of excise goods under excise duty suspension **work in an effective and efficient way**, and in a way which could not be achieved without Union-wide action.

The report noted that the introduction of the Excise Movement and Control System (EMCS) for the supervision of movements of excise goods under duty suspension helps to improve the collection of excise duty.

As a result of the reduction in time required to process movement information EMCS has **reduced the overall administrative costs for many Member States**.

In 2014 alone, EMCS resulted in annual savings of between EUR 27.5 million and EUR 37 million.

Business to business duty paid movements: the Directive establishes the common rules for two types of intra-European Union commercial movements of excise goods on which duty has already been paid (i.e. released for consumption): consignments between traders (B2B) and the distance selling of excise goods to a private individual in another Member State (B2C). These arrangements are of particular interest to SMEs.

According to the report, **'duty paid' arrangements impose a substantial burden on businesses** and are not compatible with the objective of encouraging the free movement of goods within the single market, due to the continued use of paper-based procedures, and variation in the approaches taken by Member State.

Average processing time varied between 4 and 8 hours depending on the nature of the consignment. This compares with a few minutes on average for the administration of an EMCS movement.

Accordingly, the Commission considered that the use of EMCS for duty paid procedures would streamline this type of trade, render rules more transparent and clear and would enable traders to recover easily and quickly the duty paid in the Member State of dispatch.

Issues to be resolved: the Commission suggested improvements that may be achieved by the planned amendment to Directive 2008/118/EC and its implementing regulations, in particular as regards the following points:

- **coordination between customs and excise procedures:** the large numbers of unclosed movements in the case of indirect export of excise goods continues to be a matter of concern. A clear legal base for transit and better harmonisation of the rules for the treatment of imported excise goods might also be useful.
- **authorisations:** requirements for authorisations to hold and move excise goods and for simplifications vary between Member States. These authorisations are subject to complex requirements which create excessive obstacles for traders;
- **handling of shortages, excesses, other exceptions and the fight against fraud:** EMCS is generally believed to have reduced fraud. The major problems identified by Member States were the entry of excessively long journey times by traders and a lack of certain data in the e-AD, such as the ownership of the goods at dispatch and destination, which could assist in risk analysis;
- **duty paid procedures aimed at small and medium enterprises:** these arrangements do not function well. They are a source of administrative burden and high trader compliance cost as well as a potential source of fraud. The arrangements for the distance selling of excise goods are even worse, with the generalised use of tax representatives making legitimate commercial business unviable.

Follow up: the Commission intends to examine the following issues:

- legal and technical improvements to the treatment of irregularities and the handling of claims by Member States;
- the usefulness of proposing a less burdensome regime than either EMCS or the SAAD system for the movement of excise goods of low fiscal risk, such as denatured alcohol, flavourings, perfumes and certain energy products;
- legal and technical changes to the arrangements used for the supervision of the import, export and transit of excise goods;
- the partial or full automation of the duty paid B2B arrangements with a view to reducing administrative burden and compliance costs on traders and Member States;
- the means to improve the arrangements for the cross-border distance selling of excise goods.

The Commission will take these conclusions into account in its preparations to revise Directive 2008/118/EC and will carry out an open public consultation and an Impact Assessment.