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COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT

Accompanying the document

Proposal for a Council Directive

laying down the general arrangements for excise duty (recast)

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ABBREVIATIONS

AES	Automated Export System (future UCC system, successor of ECS)
Aka	also known as
APoE	Alternate Proof of Exit
ARC	Administrative Reference Code (identifier of an e-AD)
B2B	Business to Business
CAPEX	Capital Expenditure
CCN/CSI	Common Communication Network / Common System Interface
e-AD	electronic Administrative Document (excise "declaration" for moving goods under duty suspension)
ECS	Export Control System
EMCS	Excise Movement Control System
EO	Economic Operator
EOS	Economic Operator System
FAD	Fallback Administrative Document (replaces an e-AD in the rare occurrence when the EMCS system is down)
G€	billion euros (giga euro)
IA	Impact Assessment
ISSG	Inter-Service Steering Group
IT	Information Technology
k€	thousand euros (kilo euro)
M€	million euros
MS	Member State
n/a	not applicable
NA	National Authority
NCTS	New Computerised Transit System
NGO	Non Governmental Organisation
OPC	Open Public Consultation
OPEX	Operating Expenses
REFIT	Regulatory Fitness and Performance programme
SAAD	Simplified Administrative Accompanying Document (excise "declaration" for moving goods under duty paid business-to-business)
SEED	System for Exchange of Excise Data (EU repository of authorised Excise traders)
SME	Small and Medium Enterprises
STC	Single Transport Contract
UCC	Union Customs Code
UCC/IA	Union Customs Code Implementing Act
VAT	Value-Added Tax
VIES	VAT Information Exchange System

1. INTRODUCTION AND CONTEXT

1.1. Excise duty, excise goods and fiscal risk

Excise duty is an indirect tax applied to certain types of goods (aka "excise goods"), which is collected at the time and place of release for consumption¹.

Some goods are subject to harmonised excise duty in the European Union, i.e. common EU legislation applies to certain products which are subject to excise duty in all EU Member States: alcohol and alcoholic beverages, manufactured tobacco, energy products and electricity. This harmonisation includes the way excise goods are held and moved in the EU but still allows large differences in duty rates between Member States.

The movement of excise goods has a high inherent fiscal risk for the following reasons:

1. The duty rates of some excise products (e.g. cigarettes, some energy products) lead to a taxation burden that is much greater than the net value of the goods.
2. The duty rates vary greatly from one Member State to another², which acts as a strong incentive to fraudsters to divert excise goods from low-rate Member States to the illicit markets of high-rate Member States.
3. The total amount of excise duty due on a set of excise goods is collected from one tax payer at a single time and location, which makes excise duty more vulnerable to fraud than other types of indirect taxes³.
4. Excise duty is in almost all circumstances due in the Member State of consumption (the destination principle), but excise goods are often produced or imported elsewhere, giving rise to the need for specific procedures to defer the payment of tax, or cumbersome tax refund arrangements.

1.2. Purpose of Directive 2008/118/EC

After the establishment of the internal market and the abolition of border controls for fiscal purposes between Member States, provisions were made for excise goods to be moved without first being taxed in the Member State of dispatch (i.e. excise duty is 'suspended') and to ensure the possibility of the free movement of excise goods.

To allow the free movement of goods while at the same time ensuring that the correct tax debt is ultimately collected by the Member States, EU legislation (in the form of Council Directive 2008/118/EC) sets out general arrangements for goods subject to excise duty, with particular emphasis on the production, storage and movement of excise goods between Member States. Council Directive 2008/118/EC has replaced Council Directive 92/12/EEC⁴.

Most storage facilities and movements of excise goods need a guarantee, usually provided for by the consignor at the place of dispatch, to cover for the fiscal risk.

¹ Release for consumption occurs when goods are produced or are released from customs or excise procedures which suspend payment of excise duty.

² For instance, the excise duty of a lorry load of beer may be 25 000 € in the UK and 3 000 € in Germany.

³ For instance, VAT is collected at each step of the supply chain and requires information reports for both sales and purchases. Moreover, one firm's revenues are another firm's costs and consequently VAT evasion incentives are mutually inconsistent.

⁴ Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products, OJ L 076 of 23.3.1992

Directive 2008/118/EC defines two types of procedures for moving excise goods between Member States:

- **Duty suspension:** this procedure provides relief to economic operators from having to advance excise duties on production, processing, holding or movement of excise goods not covered by a customs suspensive procedure⁵ and before dispatch of the goods, thus improving cash flow. It also ensures that excise duty is only paid once in the Member State where the goods will be released for consumption. Member States impose stringent conditions on the granting of authorisations for duty suspension.
- **Duty Paid:** this procedure requires excise duties to be paid in advance at the place of dispatch and then at destination (at which point the excise duty paid at dispatch may be refunded). National registration or authorisation procedures tend to be simpler than duty suspension, but there is an additional burden due to the need to process refunds.

1.3. Evaluation of Directive 2008/118/EC

The Commission decided to carry out an evaluation of this regulatory area in the framework of the Commission's REFIT programme and submitted a report to the Council and the European Parliament on the implementation and evaluation of Council Directive 2008/118/EC⁶ in April 2017⁷.

This report was based on two external studies. The first study, on Chapter V of the Directive (i.e. rules on movements of excise goods on which duty has already been paid) was published in 2015. The second study, which concentrated on Chapters III and IV of the Directive (i.e. provisions on tax warehousing and electronic control system, for duty suspension procedures), was published in 2016.

The Council adopted conclusions on this evaluation (see [R6]). Overall, further automation and harmonisation is well supported providing it can be done at reasonable cost; measures to enhance the fight against fraud are also welcome when not hampering legitimate trade. All problems of this initiative are mentioned as areas for improvements in the Council conclusions.

1.4. Intervention Logic

During its evaluation process (see section 1.3), Directive 2008/118/EC was seen by most stakeholders as an enormous improvement on its predecessor Directive 92/12/EEC. Nevertheless, several areas for improvement were identified which constitute the drivers of this initiative.

This initiative is part of the Commission's Regulatory Fitness and Performance Programme (REFIT). All the selected options of this initiative (except baseline) will have significant impacts on simplification and will reduce regulatory costs. Some selected options will also have a positive impact on Small and Medium Enterprises (SME).

This initiative's objectives are described in chapter 4.

⁵ "Customs suspensive procedure" as defined in Article 4(6) of the Directive. The term will be adapted to match the new customs term "special procedures," as used in Regulation n° (EU) 952/2013 (Union Customs Code).

⁶ Council Directive 2008/118/EC of 16.12.2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC, OJ L 9 of 14.1.2009.

⁷ COM(2017) 184 final: <https://ec.europa.eu/transparency/regdoc/rep/1/2017/EN/COM-2017-184-F1-EN-MAIN-PART-1.PDF>

1.5. Trans-European IT systems supporting the excise policy

The procedures related to excise goods under duty suspension are supported by two paneuropean IT systems⁸:

- **EMCS: Excise Movement and Control System**
This IT system supervises the cross-border intra-EU movement and export of excise goods under duty suspension; each movement in EMCS must be declared to the system, before the dispatch of the goods, via an "electronic Administrative Document" (e-AD) and is uniquely identified by its "Administrative Reference Code" (ARC).
- **SEED: System for Exchange of Excise Data**
This IT system is a registry of all Economic Operators authorised to trade excise goods under duty suspension; each Economic Operator is uniquely identified in SEED by its "SEED number".

It should be noted that pan-European IT systems have a lifespan of more than 20 years; so, even relatively high initial investments might prove worthwhile and pay back after some years.

The procedures related to excise goods released for consumption (i.e. for which duty has already been paid) are all paper-based.

1.6. Volume of excise trade and fraud

The amount of goods value, excise duty and estimated fraud (i.e. excise duty loss) in the EU per year is summarised in the following table (see ANNEX IV for further detail). Excise fraud is by its nature difficult to assess and is based on scarce data; consequently the fraud figures should be treated with caution.

Volume of trade, duty and fraud for excise (in billion euros)

	Import	Export	Intra EU	Total	comment
Value	432	132	270	834	
Excise Duty	34	0*	57	91	* Exported goods are not subject to excise duty in the EU; should the same goods be consumed in the EU, their excise duty would be about EUR 14 billion
Estimates of excise duty loss that the policies in the scope of Directive 2008/118/EC may impact					
Duty loss	0.05	0.03	0.4	0.48	Amount of fraud on which policy options related to declared trade may have an impact ⁹

1.7. Baseline

The baseline for this initiative is the following set of legal texts:

- Excise legislation: Decision No 1152/2003/EC of the European Parliament and Council, Directive 2008/118/EC, Council Regulation (EU) No 389/2012, Commission Regulation (EEC) No 3649/92, Commission Implementing Regulations (EC) 684/2009, (EU) 612/2013 and (EU) 2016/323;

⁸ A pan-European IT system is a set of IT applications and components at the Commission, each Member State and each Economic Operator, integrated with each other in order to share information between all stakeholders.

⁹ Most fraud is from illicit trade, such as illicit production in the EU or smuggling to the EU, which is not declared in any way and cannot be fought by declaration-based measures; this is why the policy options in the scope directive 2008/118/EC have an effect on only a part of excise fraud.

- the Union Customs Code and related acts: Regulation (EU) 952/2013 of the European Parliament and Council, Commission Implementing Regulations (EU) 2015/2446 and (EU) 2015/2447;
- the Recovery Directive 2010/24/EU and Commission Implementing Regulation (EU) 1189/2011.

Some initiatives in Customs (e.g. evolutions of UCC Delegated Acts) or in Excise (e.g. Alcohol duty) are in progress but they do not impact the "do nothing" option of this initiative¹⁰. In other words, no other initiative is relevant for the status quo.

Unless explicitly stated otherwise in the impact assessment (see chapter 6), the consequences of the status quo are assumed to evolve in a linear way with the volume of excise movements or of economic operators concerned by the problem. Some uncertainty lies with this assumption as the volume evolution forecast is not always accurate (especially for currently non-optimally monitored movements) and that it is based on stakeholders' inputs and an EU-wide extrapolation.

1.8. Sources

Various sources were used for this impact assessment and their references are provided in ANNEX V. **Unless explicitly stated otherwise in the text, figures come from document [R5]** "Study contributing to an Impact Assessment on Council Directive 2008/118/EC concerning the general arrangements for excise duty" .

Reference documents used in this report are provided in ANNEX V.

¹⁰For instance, this initiative is about the rules and procedures for holding and moving excise goods cross-border while the initiative for the alcohol directive defines the goods classification, duty exemptions and duty rates. These topics are related but they can evolve independently of each other.

2. WHAT IS THE PROBLEM AND WHY IS IT A PROBLEM

2.1. Scope of this initiative

Directive 2008/118/EC is seen by most stakeholders as an enormous improvement on its predecessor Directive 92/12/EEC. Changes related to the implementation of Directive 2008/118/EC, particularly EMCS, have saved Member States considerable administrative costs, for example between EUR 27.5 and 37 million in 2014 alone. Economic operators have also expressed their general satisfaction with the new arrangements. So, this initiative does not change the scope of Directive 2008/118/EC.

Nevertheless, several areas for improvement were identified during the evaluation process (see section 1.3):

- Excise – Customs interactions, which consist of three independent categories
 - Export
 - Export followed by Transit or the use of a Single Transport Contract (STC)
 - Import
- Duty Paid Business-to-Business (B2B)
- Low risk movements
- Exceptional situations

Excise and customs procedures are not always aligned or synchronised, which creates issues when excise goods are imported or exported. For instance, excise and customs export procedures and related IT systems are not always synchronised. Consequently, when synchronisation fails, Economic Operators have to provide extra documents (the nature and content of which are not harmonised at EU level and depend on each Member State's requirements) to national excise authorities who will then have to check and close manually the related excise or export procedures; only after that can the guarantee can be released.

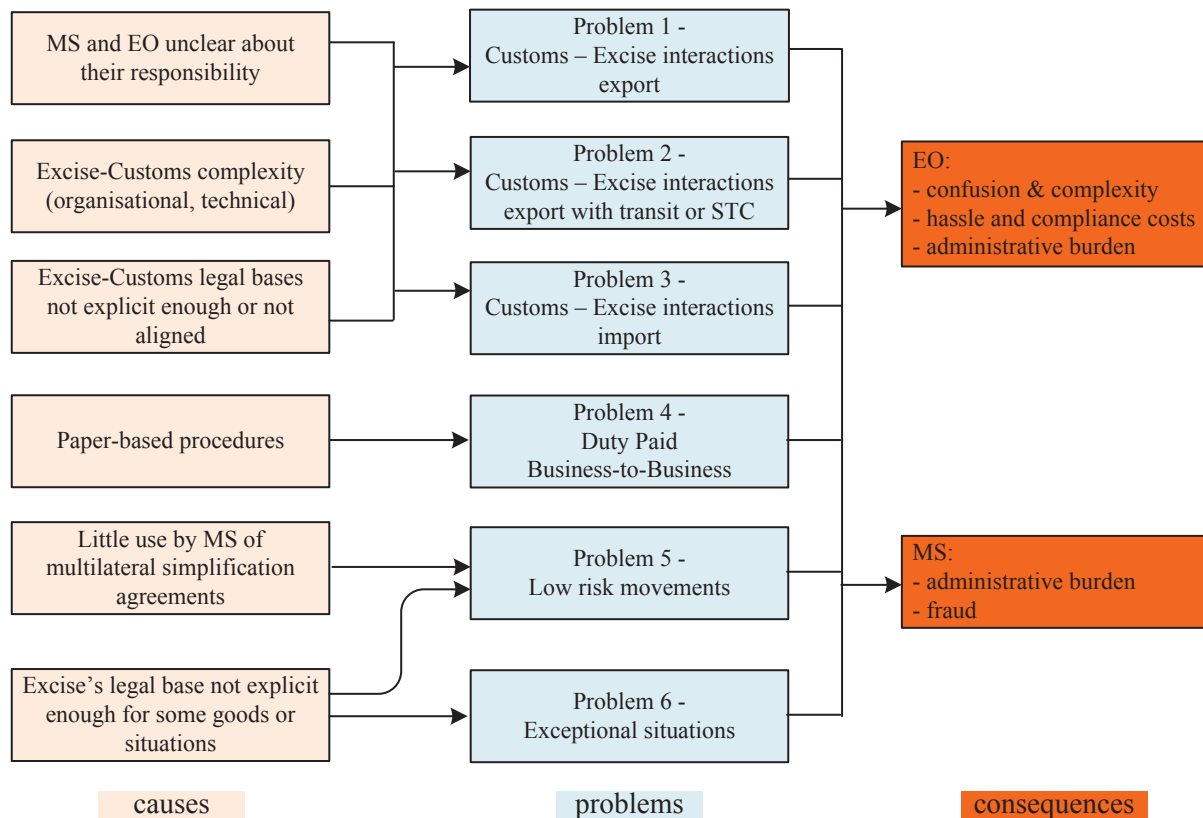
In some situations the excise procedures are cumbersome or vary significantly from one Member State to another. For instance some procedures are entirely paper-based.

Moreover, given the high fiscal risk for holding and moving excise goods under duty suspension, which imposes constraints (e.g. high guarantee, tax warehouse, authorisation), these arrangements are mostly used by large companies. SMEs rather use duty paid business-to-business procedures, which are more adapted to small consignments and low numbers of movements (lower guarantee and simpler authorisation but higher per-movement regulatory burden).

All this causes extra administrative and compliance cost and effort for Economic Operators as well as for excise and customs authorities, because some steps in the procedures have to be performed manually (which is time- and resource-consuming) and subject to requirements that vary from one Member State to another. Moreover, such steps are a source of tax fraud.

Note: some areas for improvement identified in the evaluations or in the Council conclusions (see [R1], [R2] and [R6]) have not been addressed in this Impact Assessment. The justification is provided in Annex VI.

Problem tree:

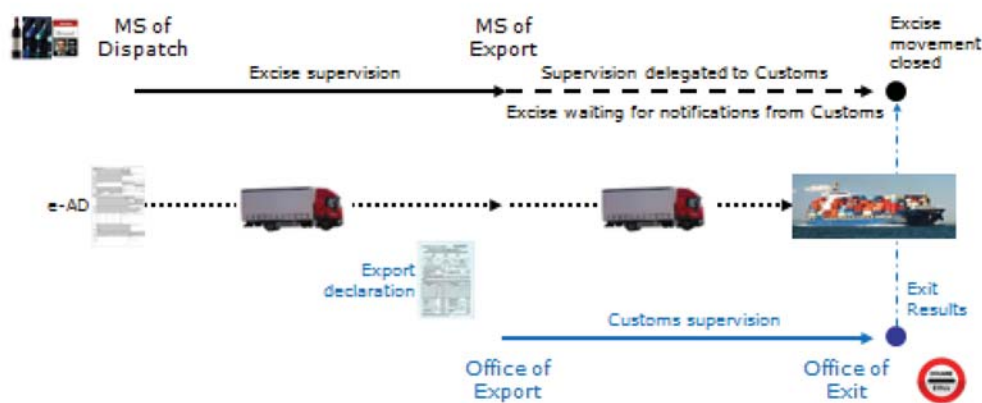


2.2. Excise – Customs interactions: Export

2.2.1. Overview of the current situation

When excise goods under duty suspension are exported, an excise movement must first be opened between the Member States of Dispatch and of Export; to do this, the consignor declares the movement to the national excise authorities by lodging an electronic Administrative Document (e-AD) at the Member State of Dispatch. From the Member State of Export, where the customs export declaration is lodged, the supervision of the excise movement under duty suspension continues in parallel with customs supervision, until the external border of the EU. Once the goods have actually exited the EU, the Customs authorities inform the Excise authorities, who close the excise movement in EMCS and end the excise procedure¹¹.

¹¹Two procedures are used in parallel in order to allow the maximum freedom for economic operators to modify logistic arrangements whilst maintaining a secure oversight of the movement of excise goods by the authorities. The arrangements allow traders to change from exporting goods to supplying a consignee within the European Union, and vice versa



Example: a wine trading business ("the consignor") in Spain sells wine to a client business in Japan. The consignor has to manage an export of excise goods. He arranges for transport from Spain to Japan via the port of Rotterdam (the Netherlands) where the goods will exit the EU. He lodges accordingly an e-AD at the Spanish excise authorities and provides a guarantee for this movement. Not familiar with the customs export procedure, he uses the services of a customs broker business ("the customs declarant") who will manage all customs formalities on his behalf. The customs declarant chooses to lodge the export declaration in France. In this example, the Member State of Dispatch is Spain, the Member State and Office of Export is France and the Office of Exit is the Netherlands.

No incident occurs during the movement and the goods leave Rotterdam and the EU. The customs Offices of Exit informs the Office of Export of the exit of the goods and the export procedure ends. The Office of Export informs the excise authorities in the Member State of Export and the excise authorities inform the Member State of Dispatch, which ends the excise procedure and releases the guarantee.

2.2.2. Problem Analysis

Firstly, export movements should be closed in EMCS based on an electronic exit results message from the customs Export Control System (abbreviated as ECS). This message is often not received from the customs authorities and the excise movements have to be examined and closed manually.

Secondly, even if the exit results message is received, some exporters do not provide a reference in the export declaration to the Administrative Reference Code (ARC) of the matching excise declaration (e-AD), making it difficult or impossible for the system to apply the exit results to the correct e-AD.

Thirdly, exceptional situations in the Customs export procedure (e.g. invalidation of the export declaration; export declaration never lodged) are not always forwarded to the Excise authorities.

These weaknesses translate into increased administrative costs for customs and excise administrations. Consequently the advantages of process automation are lost because movements have to be closed manually by matching exit results from ECS to e-ADs from EMCS. Where there is no match the consignor has to be asked to provide an alternative proof of exit, or risk losing the movement guarantee.

Moreover, the lack of the ARC in export declarations as well as the absence of systematic cross check between export and excise procedures is a potential source of fraud (e.g. where consignments of excise goods under duty suspension declared for export are actually diverted to the EU's illicit market).



Example: re-using the same example as in the previous section.

If, after the goods have left the EU, no Exit Results is sent by the Office of Exit or if the exit is not notified to the excise authorities, then the latter have no means to know that the export procedure is complete. Consequently, the excise procedure remains open. At a point in time, the consignor contacts the Spanish excise authorities and he is requested to provide documents ("alternate proof of exit") to prove that the goods have exited the EU. The consignor might have to get the requested documents from his client in Japan, the transporter or another stakeholder in the movement. He then provides the documents to the excise authorities, who end the excise procedure and release the guarantee.

If the traders happen to be fraudsters, they may move the goods with a valid e-AD to the Netherlands, lodge an export declaration with a lower quantity than in the e-AD and then fraudulently divert the difference in quantity on a vessel to a high-tax-on-wine Member State such as Ireland or the UK. If there is no data cross-check between customs and excise, the customs officers cannot know that the diverted excise goods should have actually been on a vessel to Japan.

Magnitude of the problem

Regulatory burden: from the evaluation (see [R1]) Member State authorities and economic operators consider the lack of synchronisation between the excise and export procedures as being problematic. 22 of 27 Member States (80%) were of the opinion that the current arrangements for the movement of excise goods under suspension were not coherent with the arrangements, obligations and procedures applicable to customs operations and export.

41% of traders consider the absence of coherence between the excise and export procedures as being a problem. The respondents stated they were not satisfied with the coordination between excise and customs procedures.

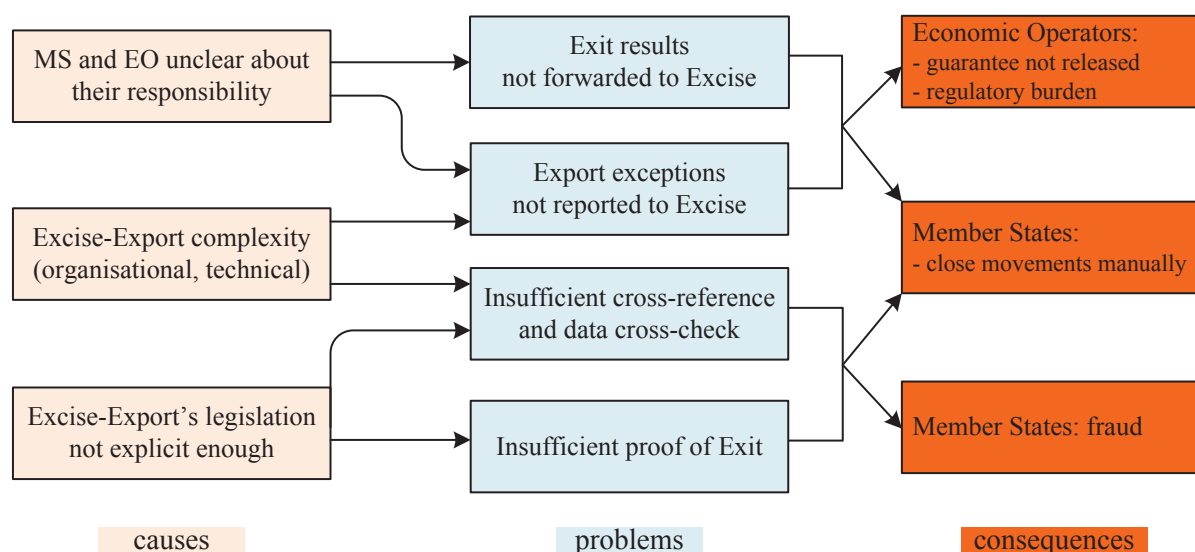
Volume: the following table summarises the volume of excise movements with destination export. A "direct" movement in this context means a movement for which the Member State of Dispatch is the same as the Member State of Export (the use of EMCS is not mandatory in this case, although the Member State of Dispatch/Export must be in a position to transfer e-AD data to the Office of Exit and to the competent authorities of any Member State through which the goods pass on request).

Number of movements	direct ¹²	indirect ¹³	Comment
total (1000 / year)	1,200	16	Member State with highest volume: France 24%, Germany 13%, The Netherlands 12%, United Kingdom 7%
closed automatically	< 77%	25%	At least 288 000 movements per year are closed manually

Fraud: the estimate for the excise fraud related to this problem area is EUR 28 million per year (see [R5]); however this figure is based on very scarce data and is consequently to be treated with great caution (see section 1.6).

Problem tree

The following schema summarises the current problem.



2.3. Excise – Customs interactions: Export followed by Transit or using a Single Transport Contract (hereafter: STC)

2.3.1. Overview of the current situation

In addition to the combination of EMCS and ECS other procedures are sometimes used to supervise the export of excise goods: the external and internal transit procedure and Single Transport Contracts (STC). It appears that the use of these procedures simplify export operations for economic operators because it allows them to close the export procedure at the start of transit or STC, and therefore completing the movement in EMCS.

The Single Transport Contract is a multimodal contract which can be used for the export of goods. Under Article 329(7) of Regulation (EU) n° 2015/2447 the export procedure is closed when STC starts. As of this moment the goods may be taken over under STC by lorry, train, ship or plane and the mode of transport may change several times before the goods physically leave the Union (exception: it is not permissible to use a lorry to cross the external border of

¹²Source: Member State replies to stakeholders' consultation and ECS statistics (see document [R5]); all export movements (23%) that are closed manually require also a manual closure of the related excise movements. More excise movements are likely closed manually due to a lack of excise-export synchronisation at national level but no data is available. So, 7% is the lower bound of direct movements closed manually.

¹³Source: EMCS statistics (see [CIRCABC](#)); 1300 movements with destination export are open per month, out of which 330 are closed by a report of export; others have to be closed manually.

the customs territory). Under STC there is no further customs supervision and no customs guarantee.

The problem outlined under point 2.3.2. concerns export movements of excise goods through more than one Member State before exiting, i.e. the excise movement starts in one Member State and transits at least one more Member State before the goods exit. If transit or STC is used the excise goods are not covered by EMCS which is closed when the exit is confirmed. In this case exit is confirmed when transit or STC starts and consequently EMCS is closed at that moment, and not when the goods physically leave the Union. The excise guarantee is released in the Member State where EMCS is closed. If the excise goods thereafter transit another Member State before they exit the European Union a guarantee has to cover this part of the movement. This is not provided for by STC arrangements and may not be usable under certain transit arrangements. This means that not only the budget of the Member States where the movement starts is concerned but as well the budget of the Member States through which the goods transit and the budget of the Member State of exit.

Under Article 329 (5) – (7) of Commission Implementing Regulation (EU) n° 2015/2447 (Implementing Act of the Union Customs Code, hereafter: UCC/IA) it is possible to export goods by using the combination of export followed by external or internal transit or export followed by STC. But the simplifications lack a legal base for excise goods in excise law.

Under Article 4(6) of Directive 2008/118/EC external transit can only be used instead of EMCS for non-Union goods under excise duty suspension at entry. For export of Union goods the use of external transit is not provided for in this article. Internal transit is not covered at all by Article 4(6). External and internal transit may not be used, after export, instead of EMCS, to move Union excise goods to the place of exit.

Article 17(1) (a) (iii) of Directive 2008/118/EC lacks a provision to end a duty suspension arrangement at the Office of exit.

Articles 20(2) and 25 of Directive 2008/118/EC require the excise movement to end and its guarantee to be released only when the goods have physically left the territory of the Union.

2.3.2. *Problem Analysis*

Articles 4(6), 17(1) (a) (iii), 20(2) and 25(1) of Directive 2008/118/EC are not in line with the Article 329(5)-(7) UCC/IA as indicated in point 2.3.1. The use of these simplified export procedures may put the financial interests of Member States at risk if the guarantees are released before the goods have exited, proofs of exit are insufficient and supervision is too weak.

Under the Directive the whole movement of excise goods must be secured by a guarantee until the goods exit. Confirmation of physical exit ends the movement and leads to the release of the excise guarantee. In practice, when export is followed by transit or STC, the confirmation of exit is sent by ECS before the physical exit of the goods and the guarantee is released too early.

As regards STC the exit message is sent by ECS and EMCS is closed when the goods are taken over by the STC in accordance with Article 333(2)(d) UCC/IA. The goods move on the territory of the Union without any excise or customs supervision. There is no authorisation requirement for the use of STC either. The supervising responsibility lies with the transporter.

As regards internal transit, Article 333(2) (c) UCC/IA allows the transmission of the exit message before the transit procedure is discharged. Moreover, the completion of an internal transit procedure in the customs territory of the Union does not prove the exit of goods; indeed, goods under internal transit remain Union goods and customs supervision for the Union goods ends when transit ends. So, after internal transit has ended, the goods might properly leave the territory of the Union, but they might as well stay. If they leave, they do so without any physical proof of exit.

When using external transit after export the exit message is also sent when transit starts. The goods move on the customs territory of the Union under customs supervision and under a customs guarantee associated with the external transit procedure. Since the goods become non-Union goods when they are placed under external transit, customs supervision only ceases when the goods physically exit.

In all cases under Article 329(5) – (7) UCC/IA the excise guarantee under EMCS is released when goods are still moving on the territory of the Union. For external transit a customs guarantee also covers the excise debt until the goods exit because the goods become non-Union goods when placed under external transit. For internal transit a customs guarantee also covers the excise debt, but only until the end of transit, not until the physical exit of goods. For STC there is neither an excise nor a customs guarantee once the goods are taken over under the contract.

For the above mentioned reasons, which clearly indicate the fiscal risk of the use of internal transit and STC after the export procedure for excise goods, internal transit and STC are not further examined.

Magnitude of the problem

Of the total number of export movements in 2016 99% are direct exports (the Member States in which the excise movements begin are the same as the Member States in which they end) and are therefore of national responsibility. This percentage includes the use of external/internal transit and STC, where the goods physically move through other Member States after the sending of exit results.

28% of all exports were carried out using the export procedure followed by external/internal transit and STC (14% external transit, 5 % internal transit, 9 % STC). In these cases EMCS was closed at the start of transit or STC. This figure also includes the possibility that EMCS was not used at all where the excise duty suspension and the export control procedures are completed in the Member State of Dispatch (where excise movement begins), with only the following transit procedure or the STC involving more than one Member State.

External transit

The study shows that export followed by external transit, replacing EMCS, seems to be common practice (14% of all exports= 229,000 movements); but it shows as well that the customs guarantee lodged for external transit is sufficient to cover the fiscal risk. The answers from economic operators show that external transit after export is currently limited to large companies.

Internal transit

The study shows that export followed by internal transit, replacing EMCS, seems to concern only 5% of all export movements (80,000 movements). Six out of 31 interviewed companies used internal transit after export for more than 250 million Euro

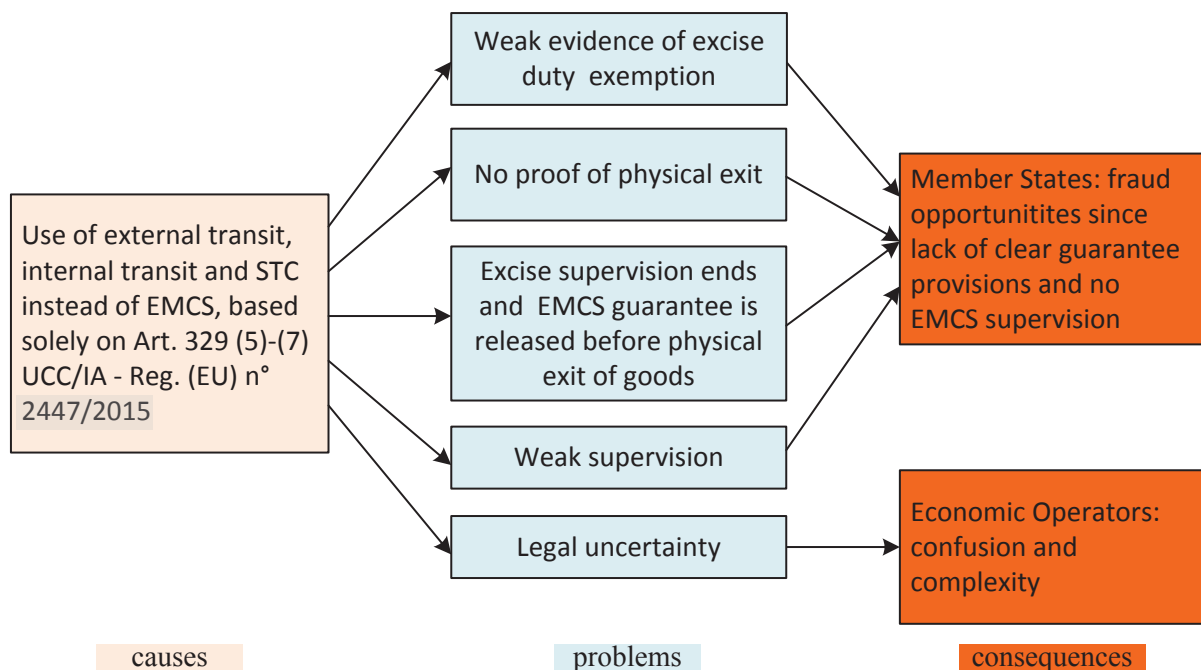
worth of goods. It is primarily used by Member States having a border with a common transit country (e.g. Switzerland). 50% of economic operators interviewed use internal transit. No SME declared that they used it. The guarantee level seems sufficient as long as the goods move under transit. But once transit ends the Union goods are no longer covered by any guarantee. There is a fiscal risk for internal transit ending in the EU.

Single Transport Contract (STC)

The study shows that export followed by STC, replacing EMCS, seems to concern only 9% of all export movements (152,000 movements). STC presents a fiscal risk because no excise or customs guarantee covers the movement. The excise guarantee is released when the goods are taken over by the Single Transport Contract. If the growth of 40% in STC movements in 2016 resulted from fraud, it would mean that 1.5% of excise export could have been diverted to the EU market. This, in turn, would result in EUR 21 million losses in excise revenues of EU MS. 12 out of 31 interviewed companies declared the use of STC with excise goods. Four of them exported yearly for more than 250 million Euro worth of goods.

All three options under Article 329 (5)-(7) are currently used. The estimated amount of 28% of all export operations (whether direct or indirect) of excise goods represents roughly 461,000 movements. Proportionately external transit is used the most.

Fraud: Fraud in transit and STC cannot be observed directly in statistics. Hence, the interviewed Member States and economic operators are not aware of the scale of fraud.



2.4. Excise – Customs interactions: Import

2.4.1. Overview of the current situation

At import of excise goods into the EU, the customs declarant¹⁴ may declare that the excise goods will be moved to another Member State under excise duty suspension or be stored under excise duty suspension in a tax warehouse in the Member State of Importation.

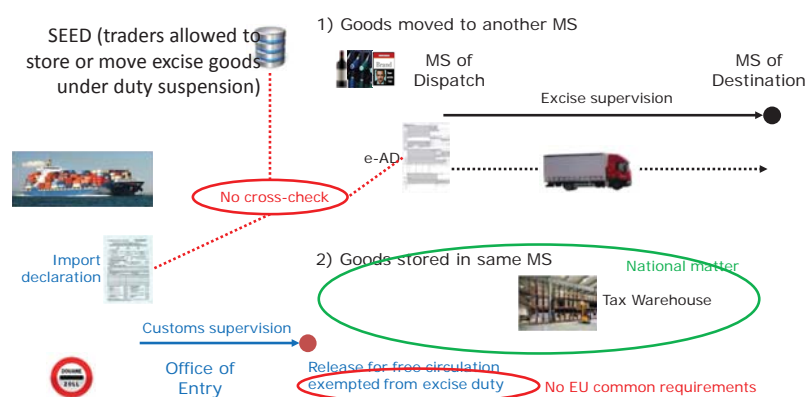


2.4.2. Problem Analysis

In the case of storage in a tax warehouse in the same Member State, all procedures are under the sole responsibility of that Member State.

In the case of a movement to another Member State, a cross-check between customs import declarations and excise electronic Administrative Documents (e-AD) or the registry of excise economic operators (SEED) is rarely carried out. Therefore it is currently difficult to know if the goods are actually moved under duty suspension after importation.

Moreover, there is currently no common list of requirements for excise duty exemption at import. Member States have their national ones and consequently this leads to complexity and confusion for economic operators.



Magnitude of the problem

Regulatory burden: from the evaluation (see [R1]), economic operators expressed concerns over the arrangements for importation, with 17% having some concerns, mainly due to national variations in reporting requirements causing increased administrative and compliance costs. On the other hand, 19 out of 27 Member States expressed concerns about the lack of coherence

¹⁴ The person who or on whose behalf the customs declaration is lodged.

between import procedures and the handover to EMCS, indicating that further harmonisation of procedures might help to alleviate administrative burden and compliance costs.

From the Surveillance database¹⁵ and the stakeholders' consultation (see [R5]), the volume estimates are as follows:

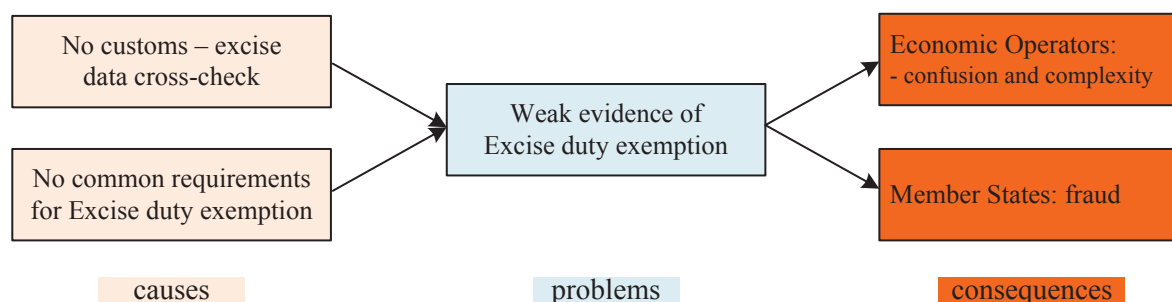
Volume of imports with excise goods moved under duty suspension to another Member State and their share in all imports of excise goods

	Import declarations		share	Value of the goods ¹⁶ (billion euros)	Excise duty ¹⁵ (billion euros)
2012	18,200		6%	n/a	n/a
2016	25,860	+42% compared to 2012	8.3%	36.0	2.8
2021	26,900	+4% compared to 2016	9%	37.4	2.9

Fraud: the estimate for the excise fraud related to this problem area is between EUR 20 million (see [R5]) and EUR 50 million per year; the latter figure is extrapolated from the assessed intra-EU fraud pro-rated to the volume of goods moved to another Member State after import¹⁷. Both figures come from scarce data and are consequently to be taken with caution (see section 1.6). Still, the significantly higher number of movements under duty suspension after import in 2016 than in 2012, which cannot be explained by economic factors, may be an indicator of an increase of fraudulent movements.

Problem tree

The following schema summarises the current problem.



2.5. Duty Paid Business-to-Business (B2B)

2.5.1. Overview of the current situation

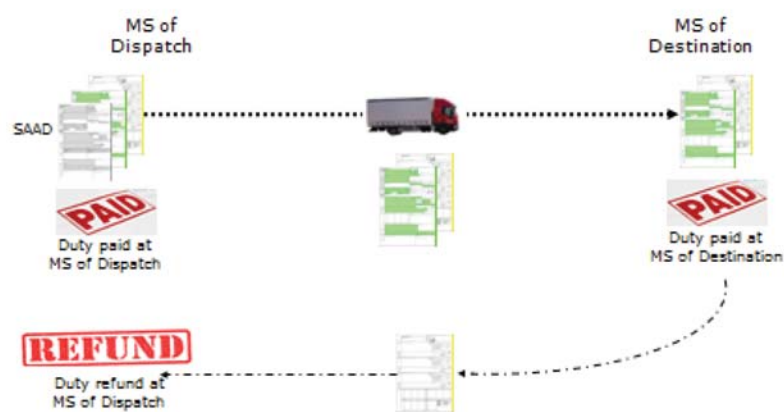
The current procedure for moving goods already released for consumption (i.e. for which excise duty has already been paid) between Member States is a paper-based procedure. B2B duty paid movements are covered by a paper document called the Simplified Administrative Accompanying Document (SAAD). It consists of three copies where the first copy is kept by the Economic Operator that initiates the movement of the goods ("the consignor") at the

¹⁵The Surveillance database monitors the volume of goods imported into the EU: https://ec.europa.eu/taxation_customs/online-services/surveillance_en

¹⁶Assuming the value of the goods and excise duty at import (see 1.6) are proportional to the share of imports followed by a movement under duty suspension to another Member State.

¹⁷For intra-EU trade, the value of the goods and the excise duty loss in the scope of this initiative represent EUR 270 billion and EUR 400 million per year respectively; the volume of goods moved to another Member State after import representing EUR 36 billion per year, the related fraud estimate is $400 \cdot (36/270)$ i.e. about EUR 50 million per year.

Member State of Dispatch while the two other copies accompany the goods. At destination, excise duty is paid, the second copy is kept by the recipient Economic Operator and the third copy is returned to the Member State of Dispatch, at which point the excise duty at Dispatch may be refunded.



2.5.2. Problem Analysis

The procedures for moving excise goods between businesses in different Member States, where excise duties have already been paid (which should be of particular interest for small and medium enterprises), are out of date, unclear and burdensome. In particular, the current procedures are all paper-based and consequently long and inefficient.

Other practical problems reported were variations between national requirements (e.g. documentary requirements for reimbursement) as well as a lack of clear information about national procedures, leading to discriminatory situations for businesses.

Magnitude of the problem

Regulatory burden: from the evaluation study (see [R2]), it appears that the current arrangements are perceived as burdensome and inefficient by both Member States and Economic Operators.

10 out of 12 Member State administrations perceived the paper-based system as being more burdensome and time-consuming than automated or electronic processes¹⁸. Three Member States were able to provide some approximate estimates on time spent to handle one average business-to-business (B2B) movement. 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.

Well over half of the B2B Economic Operators surveyed had already chosen not to move their products between Member States due to the current arrangements. The main reasons cited were high administrative costs (36 Economic Operators out of 44 who replied) and unclear requirements leading to legal uncertainty (21 Economic Operators out of 44). The majority of Economic Operators considered the duty paid B2B arrangements to be more burdensome than using EMCS.

As summarised in the table here below, the duty paid B2B procedures are much less used than the duty suspension ones. Indeed, economic operators and movements represent about 3% of the number of excise Economic Operator and movements that use the duty suspension procedures. Duty Paid B2B procedures are mostly used for alcohol products and represent an even smaller part of the total value of excise goods moved cross-border within the EU.

Number	%	Comment
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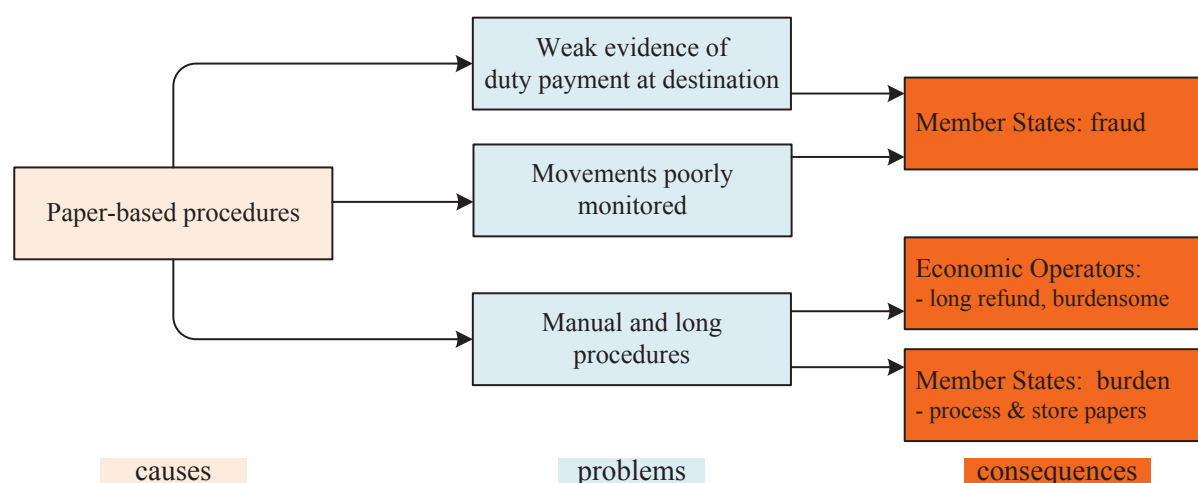
¹⁸ the other 2 did not express an opinion

Number of Economic Operators	6350	3.0%	SME use mostly outbound movements Large companies use both in- and outbound movements
Number of Movements / y	100,000	3.0%	2021 forecast: +6% compared to 2016 Member State with highest volume: France 7%, The Netherlands 7%, Germany 5%
Goods value (million euros / y)	200	0.1%	90% of Duty Paid B2B movements are with Alcohol

Fraud: the available data on excise fraud via Duty Paid B2B come from scarce Member State inputs and is assessed at EUR 20 million per year (see section 1.6 and ANNEX IV). This is much higher than for duty suspension procedures, proportionally to the value of the goods.

Problem tree

The following schema summarises the current problem.



2.6. Low Risk Movements

All current procedures for moving excise goods between businesses in different Member States have some significant cost(s) and effort overhead. They may also take some time during which the goods cannot be moved or released, and the guarantee is immobilised. These procedures apply to all movements of goods, even the ones for which the amount of excise duty and the fiscal risk are low. In particular, certain goods, such as completely denatured alcohol or certain energy products, are either exempt from excise duty, are taxed at very low rates or are sold in quantities where the excise duty charged is small in comparison with the economic value of the goods.

Moreover, Member States currently seem to make little use of Article 31¹⁹, because of the difficulties of negotiating bilateral or multilateral schemes.

Low risk movements are defined for the purpose of this option as consignments whose excise duty is less than 1000€ or than 20% of the net value of the goods.

However, the study contributing to the impact assessment highlighted that:

- the definition of "low risk" generated confusion in the Member States;
- the magnitude of the problem was uncertain as two analysis led to very different results;

¹⁹ Simplifications via bilateral or multilateral agreements between some Member States

- several Member States reckoned the fiscal risk was far from negligible and are very reluctant to allow simplifications for these movements.

Definition of low risk products

The vast majority of respondents, especially those from MSAs, had significant problems estimating both the number of low-risk movements and the excise duty concerned. In fact, only six out of the 19 MS that responded to the question were able to provide any kind of answer. The most important obstacles were the lack of clarity as to what kind of movements should be classified as “low risk” or the belief that no movement of goods could be considered “low risk” (Latvia explicitly reported 0 movements of the type).

The analysis of the answers provided by the MSAs suggests that despite the fact that a definition of “low-risk movements” was provided in the questionnaire, the understanding of what constitutes a “low-risk product” is not clear (for instance, the Netherlands does not consider beer a low-risk good, nor does Poland consider denatured alcohol a low-risk good). In fact, “low-risk movements” vary from country to country, and the term is in itself very controversial.

The data provided by Economic Operators in questionnaires suggest that, on average, low-risk movements constituted between 1.6% and 2.2% of all their movements. In terms of excise duty, its value within Economic Operator’s low-risk movements fell between 0.4% and 2.4% of the value of excise on all movements performed by Economic Operators.

Furthermore, economic operators did not believe that there would be any substantial growth in the number of low risk movements in the next five years.

Some Economic Operators supported this simplification but others mentioned its optionality and the fact that it introduced another type of arrangement for moving excise goods between Member States did not make it very attractive.

To test the approach a VAT-like arrangement for goods was suggested where the excise duty due was less than or equivalent to 20% (used as a proxy for the VAT rate). Using Intrastat data, the contractor was able to estimate that in 2015, the value of the low-risk intra-Union supply of goods such as wine and beer (CN2203, CN2204, CN2205, CN2206)—that is, the supply of goods between countries in which the value of excise duty on these goods was below the 20% threshold—amounted to approximately 46.1% of the value of the total intra-Union supply of alcoholic beverages²⁰. The value of the low-risk intra-Union acquisition of these goods was estimated to amount to approximately 23.3% of the value of entire intra-Union supply of alcoholic beverages. However, these estimates are based on a comparison between the excise duty due in the Member State of supply compared with the VAT burden, but not on the excise duty rates of the Member State where the products are consumed, nor the excise rates for these products for Member States through which these goods are moved on their way to their destination. Therefore the high percentage of the volume of these products is more a result of the analysis method, than a real estimate of the possible usefulness of simplifying procedures associated with these goods.

Still, it appears that the perception of low risk is dependent on excise duty rates. For example, there is a strong correlation between being a wine producing Member State and having a low or zero excise duty rate on wine. Conversely there is also a strong correlation between not being a producer Member State or being a consumer Member State and having a high rate of duty on wine, e.g. Finland has an excise duty rate of EUR 3.39 per litre of still wine, and

²⁰ The same analysis for energy products and tobacco showed that the value of goods moved that fell into the same analysis category were negligible.

Ireland has a rate of EUR 4.24 per litre. This makes such a simplification popular in producer Member States and very unpopular in non-producer, consumer Member States.

The option for low risk movements was however not supported by several Member States due to the difficulty to unambiguously define "low risk," as the excise duty rate and consequently the fiscal risk varies greatly from one Member State to another. Moreover, under the existing arrangements it is still open to neighbouring low risk countries to make bilateral agreements.

Therefore despite the initial attractiveness of an arrangement for low value or low risk goods there appears to be little justification in exploring this particular option further.

2.7. Exceptional Situations

2.7.1. Overview of the current situation

Exceptional situations may occur during the movement of excise goods under duty suspension:

- Shortage: the quantity of goods that arrived at destination is lower than the quantity declared at dispatch (e.g. due to part of the goods being diverted during the transport or due to natural evaporation of volatile goods);
- Excess: the quantity of goods that arrived at destination is higher than the quantity declared at dispatch (e.g. due to an input error when declaring the goods at Dispatch);
- Rejection: the consignee informed the National Authorities and the consignor that he refuses to take any responsibility for the goods (e.g. because he did not order them);
- Interruption: a National Authority cancelled the movement of excise goods (e.g. after a control or a total destruction of the goods).

Moreover a significant quantity of some type of goods might evaporate during transport or storage (e.g. evaporation losses in petrol tanks), which causes a "natural shortage" or a "natural loss".

These situations are not all described in detail in the legislation, which leads to different procedures and rules being used in different Member States and consequently to complexity and confusion for Economic Operators. For instance, different Member States may have different ways to assess shortages and excesses and different thresholds for allowable natural losses. They may also have different ways of dealing with rejections, interruptions or in a review of a public authority's decision (i.e. when an organisation disagrees with a decision of a public authority, aka "right to be heard").

2.7.2. Problem Analysis

Uncommon, exceptional situations represent a high regulatory burden to Economic Operators. Depending on the country, exceptional situations may lead to irregularities, duty claims, penalties or seizure of the goods.

The current ambiguities in exceptional situations have the following consequences:

- Dispute: the details of an electronic administrative document (e-AD) cannot be amended once the latter has been accepted by the Member State of Dispatch, leading to disputes about quantities and excise duty payable. While national jurisdictions usually provide some recourse ("right to be heard") when adverse decisions are made, the ease of challenging such decisions in the field of excise seems to vary greatly.

- Recovery: claims against economic operators may make use of the provisions of Directive 2010/24/EU (the Recovery Directive) if other requests for payment of excise duty are unsuccessful. The use of the instruments provided by the Recovery Directive among Member States varies. In some cases they are not used at all. Moreover, there is no clear basis for linking recovery instruments with a previous establishment of an excise duty liability.
- Follow Up: once an exceptional situation has occurred, it is unclear what follow up actions (e.g. return rejected goods to the location of dispatch) must or should be undertaken by the consignor or other stakeholder involved in the movement.

Magnitude of the problem

Regulatory burden: even though exceptional situations represent a small part of all movements of excise goods, the related administrative burden and compliance or hassle costs are quite significant as illustrated in the table below.

	Movements		Value of goods		Comment
	Number	%	M€	%	
Current volume / year					
Interruptions	3,400	0.11			Source: EMCS statistics
Rejections	600	0.02			
Excesses/Shortages	240,000	8 ²¹	54	0.02	Source: [R5]; amount of shortages
2021 forecast					
Member States	+5%		+13 to 29%		Compared to 2016
Economic Operators	stable		stable		

Note: Member State expect a significant increase of exceptional situations in the next five years while Economic Operators consider they will remain at a similar level as currently.

Cross-border recovery issues are mostly due to lack of guarantee on a disputed movement, lack of familiarity with recovery tools or language²²; no data from Member States is available on the volume of the recovery issues for excise, such as the amount of excise duty to be recovered in another member State.

²¹ Member States and Economic Operators report 4.6% and from 6.2 to 11.4% respectively, of their movements with a shortage or excess; this leads to an average of about 8%.

²² The cost of an official translation may be higher than the debt to be recovered

3. WHY SHOULD THE EU ACT

The EU's right to act in the area of excise duties is established in Article 113 of the Treaty on the Functioning of the European Union, which permits the EU to lay down harmonised rules in order to ensure the proper functioning of the internal market.

For many years the Commission has worked with Member States in harmonising and simplifying customs and tax administrative procedures, because there is a common understanding that such initiatives are both useful and necessary to the functioning of the Single Market.

The Commission's work in the area of excise harmonisation has been facilitated by financial instruments agreed by the European Parliament and the Council. Up until 2014 the financial instrument in use was Fiscalis 2013²³. The use of this instrument was evaluated and a Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.²⁴

The evaluation concluded that the Fiscalis 2013 programme contributed to reducing regulatory costs in three ways: (i) through standardising the exchange of information between tax administration (e.g. through e-forms), (ii) by providing platforms for secured exchange (i.e. the interoperability platform with all IT applications therein anchored), and (iii) by providing common IT systems to be used directly by the tax administrations (e.g. the EMCS or the VIES²⁵). The stakeholders consulted within the evaluation were not able to identify any national or international alternatives to the close collaboration facilitated by Fiscalis 2013, which could have delivered a similar or higher reduction of regulatory cost to national administrations and economic operators.

The scenario of achieving similar levels of cooperation acting bilaterally or multilaterally with EU involvement was considered inconceivable by stakeholders. The Commission's role of a coordinator and facilitator was also recognised by stakeholders and it was recommended that it should be continued.

Similar conclusions were reached by stakeholders in relation to IT systems: many of the IT systems are not just a 'nice-to-haves' but they are actually underpinning legislation (e.g. the EMCS or the requirements of the legislation on administrative cooperation) and their discontinuance would put a strain on the compliance with the EU tax acquis.

In this impact assessment, 70 to 83% of the respondents in the stakeholders' consultation consider an EU action is useful or necessary (see also ANNEX II), which reinforces the general conclusions from the evaluation of Fiscalis 2013²⁶.

The general conclusions from the Fiscalis 2013 evaluation concerning the need for EU action can be applied to the specific policy options being examined here.

²³Decision No 1482/2007/EC of the European Parliament and of the Council of 11 December 2007 establishing a Community programme to improve the operation of taxation systems in the internal market (Fiscalis 2013) and repealing Decision No 2235/2002/EC;

²⁴COM(2014) 745 final

²⁵VAT Information Exchange System

²⁶ Fiscalis 2013 has been superseded by the Fiscalis 2020 program, which now funds excise automation activities. Legal act: Regulation (EU) No 1286/2013 of the European Parliament and of the Council of 11 December 2013 establishing an action programme to improve the operation of taxation systems in the European Union for the period 2014-2020 (Fiscalis 2020) and repealing Decision No 1482/2007/EC.

Alignment with Customs Procedures

Customs and excise legislation should be aligned. Legal certainty at EU level reduces administrative burden and compliance costs for economic operators and Member States authorities and reduces the fiscal risk.

An absence of action at EU level will basically leave the situation as-is, where different Member State implement different rules, which creates confusion to economic operators and increases their costs. Currently there are no EU wide arrangements in place which allow for the the hand-of between customs and excise procedures. This leads to a lack of legal certainty and inevitably increased costs, both for economic operators and for competent authorities. Individual national solutions are possible, but confront economic operators with different national requirements, thereby distorting the Single Market.

Duty Paid B2B

The current paper-based procedures for the Duty Paid B2B movements share the weaknesses of the previous paper-based system for the movement of excise goods under duty suspension (i.e. no real time monitoring, unclear reporting requirements, vulnerability to fraud and frequent delays in the release of guarantees as well as in the refund process) have to be improved and simplified. National improvements, such as national registration of economic operators and national automation of movement control are of little use since the goods are already released for consumptions when they are dispatched. Only improved EU-wide coordination of arrangements has an added value due to the need to share common data and to use common interoperability standards better data from different Member States.

Exceptional Situations

Lack of a common action at EU level increases costs to both national authorities when dealing with situation that involve more than one Member State and also to economic operators because of the use of different national rules.

4. WHAT SHOULD BE ACHIEVED

4.1. General objectives

The general objectives of the initiative are:

- **To ensure the proper functioning of the internal market** – by reducing obstacles to intra-EU cross-border trade.
- **To safeguard the financial interests of the Member States** – by ensuring that excise duty due are properly collected to feed national budgets.

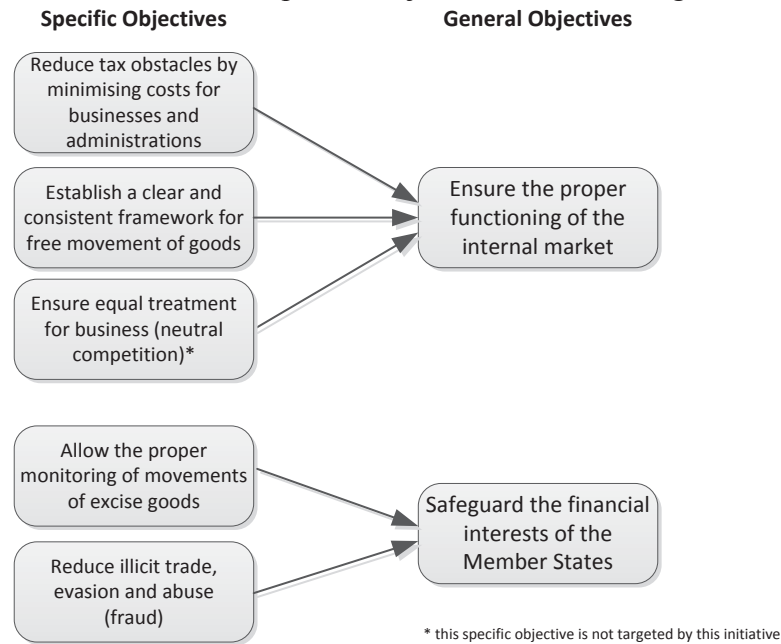
In pursuing these objectives, the initiative seeks to keep a balance between the need to facilitate cross-border trade and the need to ensure that effective controls are in place in order to monitor the holding and movement of excise goods, and ultimately to ensure the excise debt is collected (owing to the risk inherent in cross-border movements of excise goods; see section 1.1).

4.2. Specific objectives

The specific objectives of the initiative are:

- **To reduce tax obstacles by minimising costs for businesses and administrations**
Tax obstacles can be removed and administrative and hassle costs for business and administration can be reduced by simplifying the current procedures and by automation (e.g. duty paid business to business procedures), which increases productivity of staff, makes processing faster and immobilises guarantees for a shorter period of time.
- **To establish a clear and consistent framework for free movement of goods**
A clear and consistent framework for the free movement of excise goods can be achieved by synchronising better excise and customs procedures, harmonizing current movement and holding procedures and defining common rules at EU level. This shall reduce confusion and complexity for Member States and economic operators;
- **To ensure equal treatment for businesses (neutral competition)**
Equal treatment ensures that each Member State does not directly or indirectly discriminate against Economic Operators from other Member States by treating them differently. The only example within the scope of Directive 2008/118/EC is the national obligation to appoint a fiscal representative for distance selling, which is not within the scope of this initiative;
- **To allow the proper monitoring of movements of excise goods**
The monitoring of the movement and holding of excise goods can be improved by further automation (e.g. automation of duty paid business to business procedures);
- **To reduce illicit trade, evasion and abuse (fraud)**
The proper monitoring of the movement and holding of excise goods, more data cross-checks and increasing data quality and consistency contribute to the reduction of fraud. Even though the amount of excise duty fraud in the scope of this initiative, estimated to about EUR 480 million per year (see 1.6), represents only a fraction of the excise duty, it is still a significant amount in absolute value, worth reducing.

The following schema illustrates which specific objectives meet which general objectives.



4.3. Linking the objectives to the problems

Table 1: Links objectives-problems

Specific objectives	Link to the problems
To reduce tax obstacles by minimising costs for businesses and administrations	Addresses the problems of excise-export interactions, duty paid business-to-business and exceptional situations (see 2.2, 2.5 and 2.7)
To establish a clear and consistent framework for free movement of goods	Addresses all problems described in this initiative
To allow the proper monitoring of movements of excise goods	Addresses the problems of excise - customs interactions ²⁷ , duty paid business-to-business (see 2.2 to 2.5)
To reduce illicit trade, evasion and abuse (fraud)	Addresses the problems of excise – customs interactions and of duty paid business-to-business (see 2.2 to 2.5)

4.4. Assessment criteria

All solutions (policy options) envisaged to fix the problems are assessed based on the following criteria:

- Regulatory costs and benefits –
benefits can be direct benefits or cost savings; in most cases, the costs and benefits are quantified; in the rare cases where not enough data is available, a qualitative* assessment is used for comparing policy options. The following split of regulatory costs and benefits is available in this report:
 - Administrative costs and benefits for Member States
 - Enforcement costs and benefits for Member States
 - Regulatory costs and benefits for Economic Operators

²⁷For the excise-customs interactions, the problem addressed is to ensure there are no breaks in the monitoring of movements between the excise supervision and the customs one.

This criterion is used for assessing if specific objectives "reduce tax obstacles by minimising costs" and "establish a clear and consistent framework for free movement of goods" are reached.

- Market and SMEs – this criterion assesses the impact on the market of trading excise goods and on the excise business of Small & Medium Enterprises; a qualitative* assessment is used for comparing policy options.

This criterion is used for assessing if specific objectives "reduce tax obstacles by minimising costs" and "establish a clear and consistent framework for free movement of goods" are reached.

- Fraud – this criterion assesses the impact on the fight against excise fraud; some figures are provided in the impact assessment text of chapter 8; however these figures are based on scarce data and are treated with caution; hence when comparing policy options, only a qualitative* assessment is used.

This criterion is used for assessing if specific objectives "reduce illicit trade, evasion and abuse" and "allow the proper monitoring of movements of excise goods" are reached.

- Effectiveness and Efficiency – these criteria assess how cost-effective policy options are and how well they would actually address the problem; a qualitative* assessment is made, actually consolidating the assessment of the previous criteria (regulatory costs and benefits, market & SMEs, fraud).

These criteria are used for all specific objectives.

* Qualitative assessments use a series of '-' minus (for negative impact) and '+' plus signs (for positive impact). A higher number of '+' or '-' means that, within a given problem area, an option has a more positive or negative impact respectively than others.

4.5. Consistency with other EU policies and with the Charter for fundamental rights

The main objectives of the initiative are lowering regulatory costs for Member States and for Economic Operators trading excise goods across the EU and reducing cross-border excise fraud.

Reducing administrative burdens, particularly for SMEs, is also an important objective highlighted in the EU's growth strategy for the coming decade (Europe 2020 – A strategy for smart, sustainable and inclusive growth²⁸).

As excise duty and VAT are usually collected at the same time and location, the policy options of this initiative propose a similar approach to VAT, wherever applicable and possible given the inherent fiscal risk of excise goods.

It would also be consistent with the EU objectives under REFIT²⁹.

The objectives envisaged do not affect fundamental rights.

²⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:2020:FIN:EN:PDF>

²⁹ Regulatory Fitness and Performance programme:

http://ec.europa.eu/info/law/law-making-process/overview-law-making-process/evaluating-and-improving-existing-laws/reducing-burdens-and-simplifying-law/refit-making-eu-law-simpler-and-less-costly_en

5.1. Excise – Customs interactions: Export

- Option 1: Do nothing (baseline)
- Option 2: Data cross-check
- Option 3: Automated process synchronisation
- Option 4: EU common list of Alternate Proofs of Exit

The diagram illustrates the process of excise supervision and customs clearance for goods movement. It shows the flow of information and goods between the MS of Dispatch, MS of Export, Office of Export, Office of Exit, and Customs.

- MS of Dispatch:** Issues an **e-AD** (Electronic Administrative Document) to the MS of Export.
- MS of Export:** Issues an **Export declaration** to the Office of Export.
- Office of Export:** Issues **Customs supervision** to the Office of Exit.
- Office of Exit:** Issues **Exit Results** to the Office of Exit.
- Customs supervision:** A process where the MS of Export is waiting for notifications from Customs.
- Excise supervision:** A process where the MS of Dispatch is waiting for notifications from Customs.
- Excise movement closed:** A process where the MS of Export is waiting for notifications from Customs.
- Systematic cross-check:** A process where the MS of Dispatch is waiting for notifications from Customs.
- Exit Results never submitted:** A process where the MS of Export is waiting for notifications from Customs.
- EU common list of alternate proofs of Exit:** A process where the MS of Export is waiting for notifications from Customs.

This policy option leaves the current situation as-is.

This policy option is a systematic cross-check of data between the customs export declarations and the excise declarations (e-AD), which aims at reducing fraud. The data cross-check may be automated or manual, up to each Member State's decision³⁰. This option would be mandatory for indirect³¹ movements of excise goods with destination export and recommended for direct movements.

This policy option would oblige the declarant³² to provide the reference of the excise movement (aka Administrative Reference Code) and of its consignor (aka SEED number) in the export declaration.

Two types of data cross-checks are proposed and assessed. The first one verifies that the ARC and SEED numbers referred to in the export declaration exist in the excise systems and are valid³³, on a per-export-declaration basis. The second type would be a more thorough cross-

³⁰For instance, Member States with a low volume of export movements of excise goods may assess that the automation of data cross-check is not worth the IT costs associated with automation.

³¹ see section 2.2.2 for the definition of "direct" and "indirect" movements

³²The person lodging the customs export declaration

³³ For instance, that the excise movement related to the export declaration is in state "being exported" and the end date of the SEED number has not expired

check, which, in addition to the above, would also verify on a per-export-declaration basis that the goods descriptions in the export declaration and in the excise e-AD are consistent.

The consequences of a mismatch, such as encouraging the export declarant to correct mistakes (if any), refusing the export release or claiming excise duty, would be up to each Member State according to their national policy and risk analysis.

5.1.3. Option 3: Automated process synchronisation

This policy option automates the synchronisation of the movements' status between excise and customs IT systems³⁴, which aims at reducing the administrative burden of movements' manual closures, as well as the duration of an excise movement with export.

This automated synchronisation would automatically close EMCS movements (and release the excise guarantee) when positive exit results are provided by the Customs Office of Exit. It would also allow to take EMCS corrective action (e.g. change of destination) when the export declaration is invalidated or is never lodged.

This option would be mandatory for indirect³¹ movements of excise goods with destination export and recommended for direct movements.

5.1.4. Option 4: EU common list of Alternate Proofs of Exit

This policy option would legally establish a common list of documents that would be accepted as an alternate proof of exit of goods by the national excise authorities. Given the high fiscal risk related to excise goods, this list would be a subset of the one accepted by the Customs authorities (see UCC Implementing Act (EU) 2015/2447 Article 335(4)).

5.2. Excise – Customs interactions: Export followed by Transit or using STC

The following policy options are envisaged:

- Option 1: Do nothing (baseline)
- Option 2: Authorise the use of external transit after the export procedure for Union excise goods

5.2.1. Option 1: Do nothing (baseline)

This policy option leaves the current situation as-is.

5.2.2. Option 2: Authorise the use of external transit after the export procedure for excise Union goods

This policy option allows economic operators to use a simplified way to export excise goods by using the external transit procedure after export instead of using EMCS until the external border. This policy option would provide adequate guarantee management and would prevent goods from disappearing at destination, as the goods, which have become non-Union goods with the start of external transit, would be under customs supervision until the goods exit the customs territory. The transit guarantee covers the excise debt under Article 226(1) (b) of Regulation (EU) n° 952/2013. However, this option would imply an amendment to Article 189 of Commission Delegated Regulation (EU) 2015/2446 in order to include the possibility

³⁴EMCS (see section **Error! Reference source not found.**) for excise and AES (Automated Export System) for customs

to place Union excise goods under external transit. Articles 4(6), 17(1)(a)(iii), 20(2) and 25(1) of Directive 2008/118/EC would need to be amended in order to allow the use of external transit instead of EMCS to move the goods until the external border.

5.2.3. Discarded options

Internal transit and the Single Transport contract (STC) do not present an option because they are inherently too risky. Whereas economic operators may use external transit, internal transit and STC after the export procedure to take the goods out of the customs territory of the Union under Article 329(5)-(7) or Reg. (EU) n° 2015/2447, only external transit would be considered a fiscally safe solution for excise goods.

Goods placed under internal transit, in accordance with Article 329(6) of Regulation (EU) n° 2015/2447, do not have this fiscal security. The excise guarantee would be released at the start of transit by the Office of Exit which is at the same time the Office of Departure for transit and not when the goods leave the EU. Goods remain Union goods. Where the internal transit procedure ends in the customs territory of the Union, the customs supervision ends and no physical proof of exit exists. If goods disappear after the end of the transit procedure it will be difficult to recover the excise debt. Where the internal transit ends in a common transit country the New Computerized Transit System (NCTS) confirms arrival in that country, but exit is certified at the start of transit by the office of exit which is at the same time the office of departure for transit.

For goods placed under STC, in accordance with Article 329(7) of Regulation (EU) n° 2015/2447, the excise guarantee would be released when the goods are taken over under this contract because this is the moment when exit is confirmed. The goods would move through the EU without customs supervision and no customs guarantee. Since it is a multimodal contract, it is even common that modes of transport change whilst the goods transit several Member States before leaving the EU. If goods disappear before they leave the EU it will be difficult to recover the excise debt.

Excise goods placed under external transit, where authorised by customs law, would become non Union goods and would be under customs supervision. The customs guarantee ensures as well the excise duties.

Changing the general rules for the use of internal transit and STC after export only for excise goods in order to render these procedures fiscally safe would be unproportioned.

However, in order to allow the use of external transit after export for excise goods only one Article in the customs legislation (Article 189 of Regulation (EC) n° 2015/2448) needs to be modified. A legal proposal to change this article is currently in Inter-service Consultation at the Commission.

5.3. Excise – Customs interactions: Import

The following policy options are envisaged:

- Option 1: Do nothing (baseline)
- Option 2: Data cross-check

5.3.1. Option 1: Do nothing (baseline)

This policy option leaves the current situation as-is.

5.3.2. Option 2: Data cross-check

In order to help reduce fraud, this policy option envisages the mandatory addition of a few data items (SEED numbers and ARC) at import and to systematically cross-check some data between the customs import declarations and the excise e-AD. Three types of cross-checks are being considered.

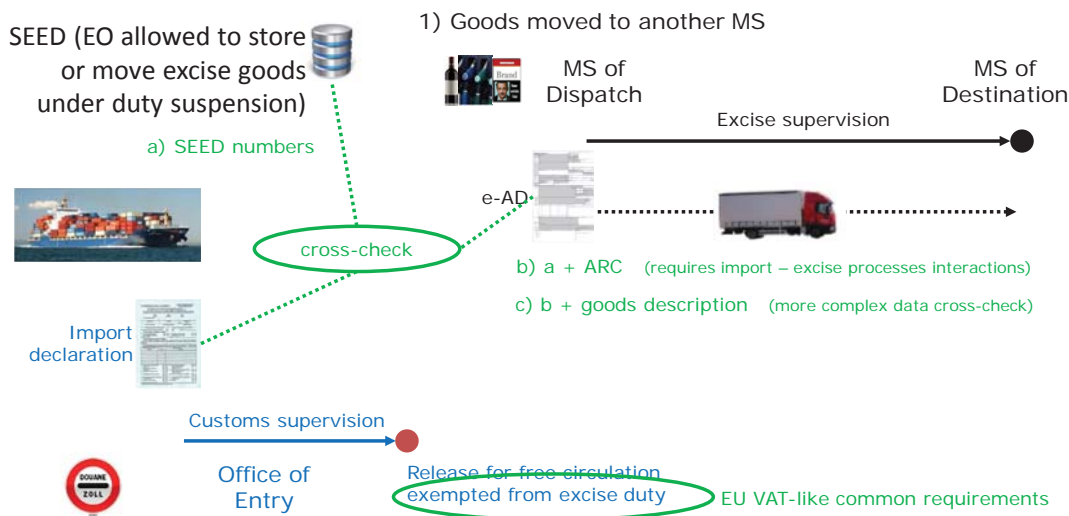
The first, an data cross-check, would require SEED numbers of the consignor and of the consignee³⁵ to be included in the import declaration and would cross-check their existence and validity automatically on a per-import-declaration basis.

The second data cross check is in addition to the one above, would require the EMCS movement's Administrative Reference Code (ARC) to be included in the import declaration and would cross-check its existence and validity automatically on a per-import-declaration basis; this requires new interactions between the national import system and the national excise application of EMCS.

The third and most advanced data cross-check, in addition to the two above, would also verify, on a per-import-declaration basis, that the goods description in the import declaration and in the excise e-AD is consistent.

The data cross-checks may be automated or manual, up to each Member State's decision³⁶.

This policy option would also establish common requirements for moving excise goods under duty suspension after import; these requirements would be similar to the ones used for importing goods under VAT exemption³⁷.



³⁵The consignor and consignee are the Economic Operators which, after import, dispatch and receive excise goods respectively.

³⁶For instance, Member States with a low volume of movements of excise goods after import may assess that the automation of data cross-check is not worth the IT implementation and recurring costs.

³⁷Directive [2006/112/EC](#) (the "VAT directive") article 143 (2) specifies that the following information must be provided for VAT exemption at import: VAT identification numbers of the person liable for VAT at the MS of Importation and of the customer as well as an evidence of transport or dispatch to another Member State (Member States may provide that the latter be indicated to the competent authorities only upon request).

5.4. Duty Paid Business-to-Business

The following policy options are envisaged:

- Option 1: Do nothing (baseline)
- Option 2: Registration of Economic Operators
- Option 3: Automation of Duty Paid B2B processes by extending EMCS

5.4.1. Option 1: Do nothing (baseline)

This policy option leaves the current situation as-is.

5.4.2. Option 2: Registration of Economic Operators

Under this policy option the duty paid B2B economic operators will be registered in a central register. The registration of the duty paid B2B movement will be available via extension of SEED – System for the Exchange of Excise Data currently used for the registration and authorisation data of duty suspension movements, by adding new economic operators involved in a duty paid procedure. It is assumed that the registration process will be lighter, such as a VAT-number-based registration. It will be the responsibility of the Member State Administration to register in the central register all traders that, after the fulfilment of necessary conditions, are allowed to use duty paid B2B procedures. The creation of a common registration system will allow Member States other than the Member State of Registration to check information about the economic operator in question and therefore facilitate controls and administrative cooperation. In an automated environment the registration number is necessary to identify the economic operator in the computerised system unambiguously.

5.4.3. Option 3: Automation of Duty Paid B2B processes by extending EMCS

This option, in addition to the previous one (registration of economic operators in a central register), would automate the B2B duty paid procedures, EU-wide. In other words, the current paper-based procedures would be replaced by computer-based ones, by extending EMCS to B2B duty paid movements, processes, data and rules. More specifically, to enable the proper operation of the enhancement EMCS, SEED must contain the information about duty paid B2B Economic Operators.

5.5. Exceptional Situations

The following policy options are envisaged:

- Option 1: Do nothing (baseline)
- Option 2: Specify a common approach supported by legislation and guidelines

5.5.1. Option 1: Do nothing (baseline)

This policy option leaves the current situation as-is.

A number of issues regarding exceptional situations (estimated to occur during approximately 4.6% excise movements) currently exist, causing increased risk of fraud, administrative burden for Member States, and uncertainty and risk of penalties (as well as certain administrative costs) for the Economic Operators.

Finally, related to the issue of exceptional situations is the uncertainty regarding the processing of recovering duties from an Economic Operator residing in another Member State. This was considered a problem by a number of Member States, although they were not able to provide any numerical values regarding the costs borne.

5.5.2. *Option 2: Specify a common approach supported by legislation and guidelines*

Description

This policy option is a set of changes, which would

- enhance the current excise IT systems and support them with a more detailed legal base via amendments to Directive 2008/118/EC or to implementing regulations; or
- provide guidance and better inform Member States and economic operators of the existing EU legislation on metrology.

Quantitative assessment for shortages and excesses: the Commission would provide information on the applicability of EU metrology directives and of the necessity of using certified equipment when measuring quantities of excise goods: the metrology directives are there to ensure quantities are measured in a common way in all Member States and are already in force; consequently there is no need for any legislation action.

Introduction of compulsory reports in case of destructions, losses, and/or thefts during movements: this option would require Economic Operators to inform their national excise authorities when such an event occurs; it would make a contribution towards the fight against fraud.

Allowable losses: a set of standardised allowable loss thresholds would be developed for each type of excisable good. The rules would recognise that different tolerance thresholds may be needed not only depending on the nature of the good itself, but also on the way in which it is moved as well as atmospheric conditions in the country/countries at the time when the goods in question are under transport (e.g. humidity and air temperature)³⁸.

Right to be heard: the concept of the ‘Right to be Heard’, similar to the one written into the Union Customs Code³⁹, would be introduced in Directive 2008/118/EC. The Union Customs Code (Art. 22(6)), Delegated Regulation (EU) 2015/2446 (Articles 8 and 10) and Implementing Regulation (EU) 2015/2447 (Articles 8 and 9) state that a person (or an economic operator) has a right to be heard whenever customs authorities “intend to take a decision—following an application or not—that would adversely affect the person to whom the decision is addressed” and establishes time limits and exemptions from the requirement, and the procedures to be followed in implementing this requirement. There is currently no equivalent in the Directive 2008/118/EC. Most importantly, the ease of making representation or challenging adverse decisions in the field of excise seems to vary greatly between individual national jurisdictions. The introduction of a common “right to be heard” in cases of suspected shortages or excesses, uniform across the EU, was, therefore, suggested to reduce uncertainty for economic operators and administrative burdens for Member States. In terms of benefits expected from the introduction of the standard right to be heard, EOs mentioned “consistency across MS when dealing with intra-EU movements”, legal certainty, transparency, and uniformity of legal procedures throughout the EU, more opportunities to explain themselves in case of a dispute, and decreased administrative burden.

³⁸An empowerment would be introduced in the revised Directive, authorising the definition of thresholds in an implementing regulation, and the basis for such calculations

³⁹(EU) 952/2013 article 22(6)

Enhanced EMCS procedures to support the right to be heard: as part of the implementation of the right to be heard the current processes in the excise IT systems would be enhanced and given a legal base by the above. EMCS currently provides optional support for communication with economic operators about discrepancies reported on the receipt of excise goods. An implementing or delegated provision, based on Directive 2008/118/EC, would support the exchange of data relevant to exceptions between concerned Member States and economic operators, thereby supporting the right to be heard. It would also provide a basis for collecting agreed data relevant to potential claims, which could also be used as information for notification and recovery instruments under the Recovery Directive.⁴⁰

⁴⁰The level of recourse to the Recovery Directive varies between Member States, partly because of differing national practices concerning guarantee management. Some Member States will immobilise part of a guarantee until any discrepancies and potential claims that arise from them are resolved. Others treat guarantees as a source of payment of last resort where requests for payments have been unsuccessful. Since practice varies so widely, it was decided to restrict the policy option to harmonising claim information, which could then be used for requests for payment and for potential claims under the Recovery Directory.

6. WHAT ARE THE IMPACTS OF THE DIFFERENT POLICY OPTIONS

6.1. Excise – Customs interactions: Export

6.1.1. Do nothing (baseline)

Over the next five years both Member States and Economic Operators expect a total increase of 2% of the number of manually closed excise movements with destination export. The share of manually closed movements is expected to decrease slightly (from 23% in 2016 to 21% in 2021).

Consequently, the problem will slightly worsen as Member States' administrative costs, Economic Operators' hassle costs and fraud are expected to increase by 2% in absolute value over the next five years.

No significant changes in the market structure are envisaged over the next five years.

6.1.2. Data cross-check

This option would require Economic Operators to provide extra information (references to excise documents, i.e. ARC for the declaration of the excise movement and SEED numbers for the authorisations of moving excise goods) in each export declaration. This increases the compliance costs to an EU-wide amount assessed at 6.61 million over 5 years, i.e. at about EUR 1.32 million per year. Out of 18 Economic Operators in the targeted stakeholders' consultation that replied to the question, 18 and 9 considered a data cross check of references and of goods description should be introduced respectively. In the Open Public Consultation, 68% of the respondents who provided an answer considered data cross-check useful or very useful.

This option would also require an evolution of Member States customs and excise IT systems to implement the data cross-checks, which increases their enforcement costs. Based on an analysis of impacted IT tasks and messages (see Annex IV) and on replies from three Member States in the stakeholders' consultation, the total cost of the IT systems over five years is assessed EU-wide at EUR 8.68 and 33.6 million for the checking of references (ARC and SEED numbers) and of goods description respectively.

On the other hand, extrapolating EU-wide the replies from five Member States in the stakeholders' consultation, the automation of data cross-checks would reduce the customs authorities' administrative costs by EUR 725,000 per year.

As highlighted by Member States replies to the stakeholders' consultation, data cross-checks would help reduce fraud, with the more advanced cross-check having a more positive impact on fraud reduction. This impact is difficult to quantify however as very few MS provided an opinion⁴¹. Out of 18 Member States that replied to the question, 17 and 15 considered a data cross check of references and of goods description should be introduced respectively.

This option is not expected to have any impact on the market or on SMEs, as most Economic Operators involved in export are large companies.

Even though they may vary significantly depending on each member State's IT architecture, legacy systems, etc. the enforcement costs are still quite uniformly distributed among Member States as the requirements and IT implementation effort are similar. However, the benefits

⁴¹One MS stated it could decrease fraud by 50% and two other MS that it would definitely have a positive impact

will be higher for Member States with high excise duty rates (i.e. which have a higher risk of excise fraud) or a high volume of movements.

6.1.3. Automated process synchronisation

This option requires an evolution of Member States' customs and excise IT systems to synchronise processes between excise and export applications, which increases their enforcement costs. Based on an analysis of impacted IT tasks and messages (see Annex IV), the total cost of the IT systems over five years is assessed EU-wide at EUR 67.2 million. This high cost is due to a quite high number of IT processes, tasks and messages that have to be modified on both excise and export IT systems.

It reduces administrative costs for Member States and hassle costs for Economic Operators. Extrapolating the replies in the stakeholders' consultation, the yearly cost savings are assessed EU-wide at EUR 2.64 million for Member States and EUR 2.57 million for Economic Operators.

This option is not expected to have any impact on the market or on SMEs.

The enforcement costs are distributed quite uniformly among Member States as the requirements and IT implementation effort are similar. However, the benefits will be higher for Member States with a high volume of movements.

It must be noted that the automated synchronisation of the excise and export processes brings benefits only if exit results are sent by the Office of Exit, which is not at all the case currently⁴². Otherwise, both export and excise procedures will remain open anyway, waiting for the exit of the goods to be notified.

Out of 17 Member States and 21 Economic Operators in the targeted stakeholders' consultation, 16 and 21 respectively considered the automation of process synchronisation should be introduced.

6.1.4. EU common list of Alternate Proofs of Exit

This option has a negligible cost and provides great benefits by reducing legal uncertainty and process complexity, for Economic Operators and Member States alike. Based on the replies from the stakeholders' consultation, the administrative cost savings for Member States is assessed EU-wide at about EUR 870,000 per year and the compliance cost savings for Economic Operators at EUR 1.31 million per year. For the latter this represents a cost saving of about EUR 4.9 per movement.

This option might have a slightly positive impact on SMEs and on the market by reducing the learning curve on documents to be accepted across the EU and consequently making the processing of manually closed excise movements easier and faster.

Out of 19 Member States and 23 Economic Operators in the targeted stakeholders' consultation, 16 and 20 respectively considered a common list of Alternate Proofs of Exit should be introduced.

⁴²Currently, almost all excise movements that are closed manually are closed so because exit results are not submitted (see section 2.2).

6.2. Excise – Customs interactions: Export followed by Transit or using STC

6.2.1. *Do nothing (baseline)*

Financial impact:

- Administrative costs for Member States' administrations (+13.1% in absolute terms over 5 years):
Administrative costs will grow in line with the number of movements. The number of external transit movements is expected to increase by 28.9%, internal transit to decrease by 7% and STC movements will stay roughly unchanged.
- Enforcement costs for Member States' administrations (0):
No substantial enforcement costs are envisaged.
- Administrative, compliance and hassle costs for economic operators (+13.1% in absolute terms over 5 years):
Costs borne by economic operators will grow proportionally with the number of movements. The number of external transit movements is expected to increase by 28.9%, internal transit to decrease by 7%, whereas the number of STC movements will stay roughly unchanged.
- Impact on fraud (0):
If internal and external transit and STC continue to be used after export, fraudsters will continue abusing the system. Using STC in Member States where guarantees were not lodged for STC may cost Member States EUR 21 million per year.
- Market effects on SMEs Efficiency (0):
No changes in the market structure over the next five years are envisaged.

Impact of missing legal alignment of excise and customs legislation:

Some Member States would continue to allow the use of external and/or internal transit and/or STC without having a legal base in excise law, others would not. The "do nothing" option would contribute to the lack of legal and procedural certainty for Economic Operators.

6.2.2. *Authorise the use of external transit after the export procedure for excise Union goods*

Financial impact

- Administrative costs for Member States' administrations (+14, 2% in absolute terms over 5 years):
Administrative costs will grow in line with the number of movements (the administrative costs being similar for internal and external transit and STC). The number of external transit movements is expected to be 14.2% higher than the number of internal and external transit and STC today.
- Enforcement costs for Member States' administrations (0):
No substantial enforcement costs are envisaged. Directive 2008/118/EC and its implementing regulations and in the UCC/IA and UCC/DA need to be modified.

No changes in the existing excise and transit systems, are needed. However the prohibition of the use of internal transit and STC for excise goods need to be reflected in the national export systems; no data is available and it is expected to lead to very limited costs.

- Administrative, compliance and hassle costs for economic operators (+):
In general, the costs borne by economic operators will grow proportionally with the number of movements. The number of external transit movements is expected to be 14.2% higher than the number of internal and external transit and STC today. However, due to increased legal certainty, hassle costs will go down, and so will be the per movement burden on economic operators. For Economic Operators this option would not entail learning costs since most of them, also the ones using internal transit and STC, use external transit already.
- Impact on fraud (++):
Covering with sufficient guarantee all movements with destination export will substantially reduce fraud especially in Member States, where guarantees are not lodged for STC. Compared with dynamic baseline scenario, gains of EUR 21 million per year could be envisaged. Since there are no large enforcement cost envisaged, eliminating fraud by the analyzed policy option would be cost-effective.
- Market effects on SMEs Efficiency (0):
No direct impact envisaged. Indirect impact on market price through fraud reduction could be expected.

Impact of legal alignment of excise and customs legislation by allowing the use of export followed by external transit

The possibility to use external transit instead of EMCS will facilitate trade whilst securing the excise debt. Currently already 14% of all exports are carried out by using external transit.

Customs legislation, i.e. Article 189 UCC/DA, has to be modified in order to allow excise Union goods to be placed under external transit.

Excise legislation, i.e. Articles 4(6), 17(1)(a)(iii), 20(2) and 25(1) has to be modified in order to allow the use of external transit at export, to allow for the office of exit to become an excise destination and in order to convey the responsibility to secure the excise debt to the external transit procedure.

The alignment of the two legislations would create legal certainty for the traders. It would as well allow for uniform application of law.

The option would constitute a choice. The Economic Operators would be able to chose between the use of export followed by external transit and the normal export procedure without the use of external transit.

6.3. Excise – Customs interactions: Import

6.3.1. Do nothing (baseline)

The number of movements of excise goods under duty suspension after import is expected to increase by 4% from 2016 to 2021 and their share in all imports to increase from 8.3% to 9% (see section 2.2).

Consequently, the problem will slightly worsen as Member States' administrative costs, Economic Operators' hassle costs and fraud are expected to increase over the next five years in the same proportion as the number of movements.

No changes in the market structure are envisaged over the next five years.

6.3.2. Data cross-check

This option would require Economic Operators to provide extra information (references to excise documents, i.e. ARC for the declaration of the excise movement and SEED numbers for the authorisations of moving excise goods) in each import declaration. Based on the replies to the stakeholders' consultation, this increases the compliance costs to an EU-wide amount assessed at EUR 260,000 per year. It is assumed that the compliance costs for providing only SEED numbers would be half of it, i.e. EUR 130,000 per year. Out of 16 Economic Operators that replied to the question, 14, 13 and 4 considered a data cross check of SEED numbers, of ARC and of goods description should be introduced respectively.

Though it is expected that common EU requirements on moving excise goods under duty suspension after import would reduce hassle costs of Economic Operators by reducing the complexity of provisions across different Member States, no specific data is available on the amount of such hassle cost savings.

This option would also require an evolution of Member States customs and excise IT systems to implement the data cross-checks, which increases their enforcement costs. Based on an analysis of impacted IT tasks and messages (see ANNEX IV), the total cost of the IT systems over five years is assessed EU-wide at EUR 6.8, 9.6 and 12 million for the checking of SEED numbers, of ARC and of goods description respectively. Replies from the only two Member States that provided a quantified cost assessment in the stakeholders' consultation were both below these figures, which suggests that they are upper bonds.

As highlighted by Member States replies to the stakeholders' consultation, data cross-checks would help reduce fraud, with the most advanced cross-check having a more positive impact on fraud reduction. This impact is difficult to quantify however as very few MS provided an opinion⁴³. According to Member States' replies to the stakeholders' consultation, the "medium" cross-check (SEED numbers and ARC) would not reduce fraud compared to cross-checking only SEED numbers. Out of 18 Member States, 18, 17 and 13 considered a data cross check of SEED numbers, of ARC and of goods description should be introduced respectively.

This option is not expected to have any impact on the market or on SMEs, as most Economic Operators involved in import are large companies.

⁴³One Member State stated it could decrease fraud by 50% and two other Member States that it would definitely have a positive impact.

Even though they may vary significantly depending on each member State's IT architecture, legacy systems, etc. the enforcement costs are still quite uniformly distributed among Member States as the requirements and IT implementation effort are similar. However, the benefits will be higher for Member States with high excise duty rates (i.e. which have a higher risk of excise fraud) or a high volume of movements of excise goods under duty suspension after import.

6.4. Duty Paid Business-to-Business

6.4.1. Do nothing (baseline)

From the stakeholders' consultation (see [R5]), the number of duty paid B2B movements is expected to grow by about 6% over the next five years. The current issues (e.g. regulatory burden) are assumed to grow in the same proportion.

If the B2B duty paid procedure is not automated, the B2B duty paid movements will continue to be covered by the existing paper-based system meaning that the movements of excise goods will continue to be accompanied by multiple copies of the SAAD (defined in the Commission Regulation (EC) No 3649/92). This would mean that none of the existing problem will be resolved. The complicated and non-harmonized paper-based procedure will continue to be used. The usage of that procedure will not allow access to movements detailed and information about the economic operators taking part in duty paid movements. It will not be possible to have a real time monitoring or control of those movements by the Member State Administrations. Economic operators will struggle with high administrative burden and costs associated with the procedure (e.g. preparation of SAAD) and suffer from frequent delays in the release of guarantees as well as in the refund process. The current duty paid procedure presents limited capacity to perform risk analysis necessary to prevent fraudulent abuse of the paper-based procedure.

Consequently, the problem will slightly worsen as Member States' administrative costs, Economic Operators' hassle costs and fraud are expected to increase over the next five years in the same proportion as the number of movements.

No changes in the market structure are envisaged over the next five years.

6.4.2. Registration of Economic Operators

This option increases enforcement costs for both Member States as it requires some IT investment and yearly operations (SEED extension), which is assessed at EUR 1.2 million and EUR 240,000 respectively.

It also increases administrative costs for Member States and compliance costs for Economic Operators in order to perform the registration themselves (provide information and documents, process applications, etc.). The first registration of economic operators would cost Member States EUR 2.4 million, assuming that it will occur in the first year of the implementation of the system. Yearly administrative cost of renewing these registrations would amount to EUR 0.5 million. The compliance costs for Economic Operators are assessed at EUR 7.20 and 1.44 million for the first-time registrations and yearly renewals respectively.

The investments costs and yearly operating expenses are assessed at EUR 1.2 million and EUR 0.24 million respectively. The enforcement costs for Member States is deduced from the stakeholders' consultation and from an IT cost assessment (see Annex IV). The compliance

costs for Economic Operators is assumed to be half of the one for duty suspension (see evaluation report [R1]) as the duty paid B2B registration procedures are expected to be much simpler; this leads to an effort of 6 and 1 man*days to get a first-time registration and a yearly renewal respectively.

It should have a positive impact on the fight against fraud, as registrations and authorisations always do (however difficult to quantify).

The registration and electronic storage by Member States of certain information regarding economic operators dealing with duty paid B2B movements will be indispensable for the proper function of excise duty system and the fight against fraud. At the moment there is a lack of data concerning duty paid movements and traders dealing with those operations. The movements are covered by paper documents exchanged between traders; often without any intervention of Member State administration.

The registration will ensure storage of up to date accurate data about these economic operators. In case of any irregularities it will allow a rapid exchange of those data between Member States and automated access to information. Making use of the information contained in registers, through a risk analysis, will result in better detection of suspicious movements and hence in reduction of fraud.

This option does not provide direct benefits to the Economic Operators. So, it is expected to have a slightly negative impact on the market and in particular on SMEs as the latter are relatively more sensitive to compliance costs.

6.4.3. Automation of Duty Paid B2B processes by extending EMCS

This option requires significantly higher IT investment from Member States, which leads to higher enforcement costs too; initial investment and yearly operating expenses are assessed EU-wide at EUR 7.5 and 1.5 million respectively. The enforcement costs for Member States are deducted from the stakeholders' consultation.

Economic Operators will update their own IT systems if they deem worth it; otherwise they will fill in on-line forms provided by Member States. Based on the replies to the stakeholders' consultation, the regulatory costs for Economic Operators are assessed EU-wide at EUR 14.50 and 2.90 million for initial one-off costs and for yearly operations respectively.

This option also reduces administrative burden for both Member States and Economic Operators (productivity gains, faster processing, guarantee release and refund). Extrapolated from the replies to the stakeholders' consultation, the yearly cost savings are assessed EU-wide at EUR 5.8 and 12.20 million for Member States and Economic Operators respectively.

This option will have a definitely positive impact on the fight against fraud as the monitoring of movements would be much more efficient. This is however difficult to quantify.

Based on the stakeholders' consultation, the benefits/costs ratio is expected to be more than twice higher for SMEs than for large companies, likely because their structure is more adaptable to changes in procedures or in IT systems.

Even though they may vary significantly depending on each member State's IT architecture, legacy systems, etc. the enforcement costs are still quite uniformly distributed among Member States as the requirements and IT implementation effort are similar. However, the benefits will be higher for Member States with high excise duty rates (i.e. which have a higher risk of excise fraud) or a high volume of duty paid business-to-business movements.

Out of 19 Member States and 24 Economic Operators that provided an opinion in the targeted stakeholders' consultation, 18 and 21 respectively considered the automation of duty paid B2B procedures should be introduced. From the Open Public Consultation, 87% of respondent Economic Operators and Trade Associations considered this option useful or very useful.

6.5. Exceptional Situations

6.5.1. Do nothing (baseline)

Doing nothing will cost economic operators EUR 13.49 million and Administrations EUR 8.13 million additional costs over the next 5 years if nothing is changed

No obligation on economic operators to report destructions, losses, and/or thefts during movements or to add storage capacity of a tax warehouse would generate no new costs or benefits either for Economic Operators or for Member States, and would leave related fraud unaffected. Lack of standardization of procedures and equipment used in order to estimate/calculate shortages/excesses in turn, apart from causing uncertainty for Economic Operators, will cost Member States ca. EUR 7.64 million over the course of the next five years. Nonexistence of standard allowable losses threshold, again causing uncertainty to Economic Operators, also costs Member States an estimated EUR 0.29 million annually. Lack of a standard right to be heard in turn, considered to be at least to some extent burdensome by 80% of Economic Operators, generates cost of approximately EUR 13.5 million annually.

No changes in the level of fraud or in the market structure are envisaged over the next five years.

6.5.2. Specify a common approach supported by legislation and guidelines

This option is not expected to have any significant impact on the market or on SMEs.

Quantity assessment for shortages and excesses: the legal requirement to follow the EU metrology *acquis*, particularly the use of certified measuring equipment, and their use would be encouraged through guidance and workshops. Metrology directives ensure quantities are measured in a common way in all Member States and are already in force; consequently there is no need for any legislation amendment but only to make national authorities involved in excise procedures more aware of these directives.

The standardization of procedures and equipment used to estimate/calculate shortages/excesses is supported by both Member States (69%) and Economic Operators (76%)—is expected to generate benefits of approximately EUR 17.2 million in lower administrative costs for Member States and approximately EUR 93 million for Economic Operators in forgone administrative, compliance and hassle costs. Additionally, the introduction of this policy option has a potential to moderately reduce the risk of fraud for Member States. The benefit of this option would outweigh its costs within one year of its implementation.

Introduction of compulsory reports in case of destructions, losses, and/or thefts during movements would generate a cost of approximately EUR 35 million for EOs over 5 years. At the same time, MSAs believed it had a potential to moderately limit the risk of fraud. Unsurprisingly, then, this policy option was more popular among the latter (66.6%) than the former (45%). It is difficult to evaluate benefits to the MS in terms of scale of the fraud

reduction so it is difficult to assess whether (and when) the costs borne by the EOs would be offset by fraud reduction.

Allowable losses: standardized allowable losses thresholds (tolerance thresholds) would be introduced and their values defined in the legislation. 83.3% of Member States expect this would not only significantly reduce risk of fraud, but also result in lowering Member States' administrative costs. Basing on per diem rates in each Member State, and data provided by the stakeholders' consultation, using the same method as in case of the cost of the lack of unified tolerance threshold, it is estimated that the EU-wide gain from the introduction of the tolerance threshold at approximately EUR 11.7 million over the next five years. 86.4% of Economic Operators expect significant regulatory cost savings but the latter could not be quantified.

Right to be heard: the concept of the 'Right to be Heard,' similar to the one written into the Union Customs Code, would be introduced in Directive 2008/118/EC. Introduction of a standard right to be heard was supported by the vast majority of both Member States (80%) and Economic Operators (100%), although a number of the former believe their existing national legal systems provide Economic Operators with sufficient opportunity to defend themselves. The annual administrative costs of introduction of a standard legal right to be heard for Member States would amount to roughly EUR 0.36 million. The current situation is assessed to cost Economic Operators EUR 67 million in the next five years; though the cost savings due to the introduction of a standard right to be heard could not be quantified, it is expected to be very significant.

Enhanced procedures to support a right to be heard: limited evidence (an extrapolated estimate from one Member State) indicates moderate enforcement costs for this option, but an administrative cost saving of approximately EUR 5.23 million over the next five years if all Member States implemented the current optional processes in the excise IT systems for optional support for communication with Economic Operators about discrepancies reported on the receipt of excise goods. A legal base would facilitate the exchange of data relevant to exceptions between concerned Member States and economic operators and would provide a means for exchanging and collecting data to support for the Right to be Heard. It would also be relevant to the collection of potential claims under the Recovery Directive.

7. HOW DO THE OPTIONS COMPARE

All figures in the comparison tables of this chapter are relative to the "Do nothing" (dynamic baseline) option.

When quantified, costs and benefits are expressed in million euros (M€). Costs are split into the initial one-off costs and yearly recurring costs. To illustrate better what a given policy option would bring (positively or negatively), the comparison tables also provide costs and benefits over five years, which sum the initial one-off costs (where applicable) and the costs & benefits of the first five years of operations.

Negative figures are highlighted in red characters and represent costs or a negative impact. Positive figures are highlighted in green characters and represent benefits, costs savings or a positive impact.

7.1. Excise – Customs interactions: Export

The table here below summarises the impact presented in section 6.1.

Do nothing	Data cross-check			Automated Process Synchronisation		EU common list of Alternate Proofs of Exit	
	ARC and SEED numbers	Goods description		Initial one-off costs	Yearly recurring cost/benefit	Initial one-off costs	Yearly recurring cost/benefit
MS administrative costs & benefits (M€)	0	0.77	3.84	0	2.69	0	0.88
MS enforcement costs & benefits (M€)	-4.34	-0.87	-8.68	-16.80	-3.36	-33.60	-67.20
EO regulatory costs & benefits (M€)	0	-1.32	-6.61	0	-1.32	0	1.33
Impact on fraud	0	+			++	0	0
Impact on market and SME	0	0			0	+	+
Efficiency	0	+			-	++	++
Effectiveness	0	+			++	++	++

Quite expectedly, the more advanced data cross-check is more costly and provide more benefits to the fight against fraud. The regulatory costs to Economic Operators for providing extra excise information in the export declarations are limited and would be compensated by the introduction of an EU common list of alternate proofs of exit. However, the enforcement costs for Member States (mostly IT systems) are high for the cross-check of the goods description and very high for the automated process synchronisation. The latter is significantly higher than the benefits it would bring to all stakeholders.

The EU common list of alternate proofs of exit has negligible regulatory costs and provide substantial benefits to all stakeholders.

⁴⁴the automated process synchronisation would be efficient only if exit results are sent by the Office of Exit, which is not at all the case currently (see section 6.1.3). In other words, the benefits of an automated excise-export process synchronisation would appear only if customs officers would send many more exit results than currently; measures to be taken to increase the ratio of exit results is entirely in the customs export area and consequently outside the scope of this excise initiative.

7.2. Excise – Customs interactions: Export followed by Transit or using STC

The table here below summarises the impact presented in section 7.2.2.

	Do nothing	Allow the use of external transit after export instead of EMCS
MS administrative costs & benefits over 5 years	+14,2%	+14,2%
MS enforcement costs	0	0
Administrative compliance and hassle costs for economic operators over 5 years	+14,2%	+
Impact on fraud	0	++
Impact on market and SME	0	0
Efficiency	0	0
Effectiveness	0	++

The above shows that the option of using external transit after export instead of EMCS until the external border ("do nothing") is cost neutral and has a better impact on fraud.

Compared to the "do nothing" option the use of external transit after export instead of EMCS would facilitate trade because it would be possible for traders to regroup a number of export movements at the place where the office of exit is located inside the customs territory and then dispatch the goods from the office of exit, which would be at the same time the office of departure for transit, to the external border, from where they would physically exit. Until the goods physically exit they are under customs supervision because the goods become non-Union goods when placed under external transit. This would even bear the advantage that the guarantor will be the declarant of the transit procedure who is much closer to the goods in question than the registered consignor or authorised warehousekeeper who was the guarantor under EMCS. The use of the external transit procedure would provide the same fiscal security as the use of EMCS until the external border under the "do nothing" option.

7.4. Duty Paid Business-to-Business

The table here below summarises the impact presented in section 6.4.

	Do nothing	Registration of Economic Operators	Automation of Duty Paid B2B processes by extending EMCS
		Initial one-off costs Yearly recurring costs/benefits 5 years	Initial one-off costs Yearly recurring costs/benefits 5 years
MS administrative costs (M€)	5 years: +6%	-2.39 -0.48 -4.30	-2.39 -0.48 -4.30
MS administrative benefits (M€)			5.8 29.00
MS enforcement costs & benefits (M€)		-1.20 -0.24 -2.40	-7.50 -1.50 -15.00
EO regulatory costs (M€)	5 years: +6%	-7.20 -1.44 -14.40	-14.50 -2.90 -29.00
EO regulatory benefits (M€)			0.00 12.20 61.00
Fraud		+	++
Impact on market and SME		-	++
Efficiency		+	++
Effectiveness		-	++

Though more expensive to implement, in particular in terms of initial one-off costs, the automation of the duty paid B2B processes brings much higher benefits, in particular for SMEs.

The complete automation of B2B movements compared with one step approach, a registration of traders, will be more costly especially in terms of investments and regulatory cost for economic operators. However savings will be only achieved in case of automation, by both MS administrations as well as by economic operators. The current arrangement for B2B movements which are paper based with a poor supervision of movements and operators create opportunities for fraud in MS with excise rate differentials. The automation would eliminate those loopholes and fraud creating losses.

7.5. Exceptional Situations

	Do nothing	<u>Quantitative assessment for shortages and excesses</u>			<u>Compulsory reports in case of destructions, losses, and/or thefts during movements</u>			<u>Allowable losses</u>		
		Initial one-off costs	Yearly recurring costs/benefits	5 years	Initial one-off costs	Yearly recurring costs/benefits	5 years	Initial one-off costs	Yearly recurring costs/benefits	5 years
MS administrative costs & benefits (M€)	⁴⁵	0	3.4	17.2	0	0	0	0	2.34	11.7
MS enforcement costs & benefits (M€)		0	0	0	0	0	0	0	0	0
EO regulatory costs & benefits (M€)		0	18.6	93	0	-7	-35		+2 ⁴⁶	
Fraud			+			+			0	
Impact on market and SME			0			0			0	
Efficiency			++			+			+	
Effectiveness			++			--			+	

⁴⁵ The Member States administrative costs of the current lack of standardisation of procedures and equipment used to calculate shortages or excesses is assessed at 7.64 million euros over the next five years

⁴⁶ This impact could not be quantified but is assessed to be significantly positive to Economic Operators.

	Do nothing	Right to be Heard		Enhanced Procedures		All Measures	
		Initial one-off costs	Yearly recurring costs/benefits 5 years	Initial one-off costs	Yearly recurring costs/benefits 5 years	Initial one-off costs	Yearly recurring costs/benefits 5 years
MS administrative costs & benefits (M€)			-0.36	0	1.04	6.42	32.1
MS enforcement costs & benefits (M€)		0	0	0	0	0	0
EO regulatory costs & benefits (M€)	43		+2 ⁴⁷			11.6 ⁴⁸	58.0 ⁴⁴
Fraud			+		0	+	
Impact on market and SME			++		0		
Efficiency			+		+		
Effectiveness			-		+		

⁴⁷ If nothing is done, the current lack of Right to be Heard would cost Economic Operators 67 million euros in the next five years. The impact of introducing a Right to be Heard could not be quantified but is assessed to be significantly positive to Economic Operators and would save a significant amount of the current costs.

⁴⁸ These figures are lower bonds as some policy options (e.g. Right to be Heard) bring benefits that are not quantified.

8. THE PREFERRED OPTION

8.1. Excise – Customs interactions: Export

Given the high enforcement costs (mostly evolutions of IT systems) and the lack of obvious return at EU level (in particular due to the scarcity of data on fraud and to the fact that the benefits are not uniformly distributed across Member States), the data cross-check of goods description and the automated process synchronisation are deemed too expensive compared to their benefits to be proposed at EU level.

On the other hand the data cross-check of excise references (SEED numbers and ARC) in export declarations provides significant benefits to the fight against fraud at a relatively low cost for Member States and Economic Operators; consequently this option is preferred at EU-level. Moreover, it will also allow, but not oblige, some Member States to do more (e.g. data cross-check of goods description and/or automated process synchronisation) should they assess it worthwhile at national level. To facilitate the task of Member States willing to implement these options, the Commission will specify detailed recommendations for a solution.

Given the high administrative benefits and negligible regulatory costs highlighted by all stakeholders, a legislative measure to specify a common list of documents that shall be accepted as an alternate proof of exit for excise goods is to be proposed at EU-level.

8.2. Excise – Customs interactions: Export followed by Transit or using STC

The objective of legal clarity and provision of sufficient guarantees for all movements with destination export would be fully achieved when opting for the possibility to use of external transit after the export procedure for excise Union goods.

Given the clear benefits for trade to be able to use external transit after export instead of EMCS and the negligible enforcement costs, this is the preferred option.

8.3. Excise – Customs interactions: Import

Given the high enforcement costs (mostly evolutions of IT systems) and the lack of obvious return at EU level (in particular due to the scarcity of data on fraud and to the fact that the benefits are not uniformly distributed across Member States), the data cross-check of goods description is deemed too expensive compared to their benefits to be proposed at EU level.

On the other hand the data cross-check of excise references (SEED numbers and ARC) in export declarations provides some benefits to the fight against fraud at a relatively low cost for Member States and Economic Operators; consequently this option is preferred at EU-level. Moreover, it will also allow, but not oblige, some Member State to do more (e.g. data cross-check of goods description) should they assess it worthwhile at national level.

In order to reduce the regulatory costs for Economic Operators and to be consistent with the VAT approach of the problem (see section 5.3.2 and footnote 33), it is also proposed to allow Member States to require ARC only upon request.

8.4. Duty Paid Business-to-Business

An overwhelming number of respondent Member States (18 out of 19) and a large majority of respondent Economic Operators (21 out of 24) are in favour of an automation of the duty paid B2B procedures⁴⁹. The quantitative analysis shows also an overall benefit as the administrative cost savings overweight the enforcements and compliance costs after two years of operations.

Moreover, the automation is expected to benefit significantly to SMEs. It will reduce bureaucracy and administrative burden by eliminating paper-based procedure for Member State and Economic Operators. It may in particular increase competitiveness of SME's. Immediate and easier acces to online, up-to-date and real time data will enable better visibility and more effcient follow-up of on-going movements for the Member State administrations and a better targeting of their controls. It will reduce sensitivity to fraud and fiscal risks.

Consequently the preferred option is the automation of the duty paid B2B procedures.

A drawback is that this preferred option imposes enforcement (IT) costs to some Member States which will get a limited return due to the low number of duty paid B2B movements in their country

8.5. Exceptional Situations

With the exception of the compulsory reporting in case of destructions, losses, and/or thefts during movements, all other policy options for the handling of exceptional situations show a strong net positive benefit to both Member States and economic operators

The quantification of shortages and excesses merely requires better application of the existing acquis and should be covered by guidance and workshops. Standardisation of allowable losses would be of benefit to both Member States and to economic operators, although the benefits to economic operators are not quantifiable; this measure calls for a common legislative proposal.

Whilst the right to be heard may involve a very small cost to Member States the benefits to economic operators are large. It is therefore recommended to include provisions for this in a common legislative proposal.

Finally enhanced procedures in EMCS show a small cost reduction for Member States, but some benefit to economic operators. It is therefore recommended that this option should be included in the legal base.

8.6. REFIT (simplification and improved efficiency)

The following table summarises the REFIT cost savings, which are regulatory cost savings for Member States and Economic Operators.

<i>REFIT Cost Savings (in million euros, per year) – Preferred Option(s)</i>

⁴⁹This option includes the registration of economic operators, as it is a pre-requisite to automation (see section 5.4.3).

<i>Description</i>	<i>Amount for Member States</i>	<i>Amount for Economic Operators</i>	<i>Comments</i>
Excise-customs interactions			
export data cross-check of references	0.77	0	
export common list of alternate proofs of exit	088	1.33	
import data cross-check	.29	.13	
Duty Paid Business-to-Business automation	5.80	12.20	Productivity gains, faster processing, guarantee immobilised for a shorter period of time
Exceptional situations			
certified equipment	3.44	18.60	
standardized allowable losses thresholds	2.34	n/a ⁽¹⁾	
enhanced procedures	1.04	0	
TOTAL	14.55	32.27	

(1) significant regulatory cost savings are expected for Economic Operators but limited or no data is available

Cost savings for Member States are mostly administrative ones as the preferred options will save time and effort spent on disputes, challenges of decisions and processing of documents. The positive impact on fraud reduction is not included in this table as it could not be quantified due to the scarcity of available data.

Cost savings for Economic Operators are mostly administrative ones as the preferred options will save time and effort spent on disputes, challenges of decisions and processing of documents. The automation of duty paid business-to-business procedures will also reduce hassle costs by decreasing the time period during which the movement guarantee is immobilised and by fastening the refund process.

8.7. Impact on other policies, Coherence and Proportionality

The preferred policy options only enhance existing procedures and are not expected to cause any significant consumption increase. The Health services of the Member States administrations were consulted (see Annex II section 2). No social or environmental impact has been identified for any option.

A few policy options have a positive impact on trade or on SME (e.g. automation of duty paid B2B). It is not expected however to have macroeconomic impacts on intra-EU trade, exports or imports, or to drastically improve the competitiveness of SMEs.

All preferred policy options are consistent with customs or VAT policies: data cross-check aligned with customs data model, alternate proofs of exit similar to customs, export

facilitation by allowing external transit for excise goods, common requirements for duty exemption at import similar to VAT, right to be heard similar to customs.

All preferred policy options are proportionate as their overall benefits outweigh their costs, the latter being reasonably low. The set of preferred policy options also reach a right balance between the fight against fraud and the facilitation of legitimate trade.

8.8. Stakeholders' opinions on preferred options

The following table summarises the stakeholders' opinion on the preferred options, among the respondents to the related questions. The percentage indicates the ratio⁵⁰ of stakeholders that consider a given option useful or very useful.

Option	Targeted Consultation		Open Public Consultation
	Member States	Economic Operators	Economic Operators or Trade Associations
Export			
Data cross-check of references	94%	100%	68%
Common list of alternate proofs of exit	84%	87%	n/a
Export followed by external transit	n/a	n/a	n/a
Import – data cross-check of SEED numbers	90%	87%	n/a
Duty Paid B2B - automation	94%	87%	87%
Exceptional situations			
Assessment for shortages and excesses	69%	76%	84%
Allowable losses	83%	86%	n/a
Right to be heard and related procedures	80%	100%	90%

⁵⁰Each ratio is based on the number of respondents that provided an answer to a given question; in other words, "no answer" replies are not taken into account for the calculation of the ratio.

9. HOW WOULD ACTUAL IMPACTS BE MONITORED AND EVALUATED

9.1. Monitoring Indicators

The following table below gives an overview of the main policy objectives, the indicators to measure whether they will be achieved, the tool for measuring these and the operational objectives.

Specific objectives (see 4.2)	Indicator	Measurement tool	Operational objectives
Reduce illicit trade, evasion and abuse (fraud)	Excise fraud - number of audits - number of controls - reported fraud - suspected fraud Enforcement costs for excise and customs authorities	EU excise evaluation study Data and feedback provided by the Member States	Substantial decrease of excise fraud at export, import and duty paid B2B
Reduce tax obstacles by minimising costs for businesses and administrations Establish a clear and consistent framework for free movement of the goods	Administrative costs for excise and customs authorities	EU excise evaluation study Data and feedback provided by the Member States	Reduction of administrative costs in excise-export ⁵¹ and duty paid B2B intra-EU cross-border procedures.
	Compliance costs for Economic Operators	EU excise evaluation study Data and feedback provided by the Economic Operators (ECG, TCG and stakeholders' consultation in evaluation study)	Reduction of compliance costs in duty paid B2B intra-EU cross-border procedures Reduction of compliance costs for the handling of shortages and excesses
	Average duration of an excise duty paid B2B movement	Regular reports in EMCS	Reduction of the duration during which an excise movement in duty paid B2B intra-EU cross-border procedures is open.
	Size of Economic Operators that use excise procedures Number of movements of excise goods	EU excise evaluation study . Regular reports in EMCS, AES and NCTS Data and feedback provided by the Economic Operators and/or the Member States	Increase in number of SMEs and in number of movements for duty paid B2B procedures Increase in number of movements under external transit after export
Volume			

⁵¹For excise movements with destination export which require an alternate proof of exit

Specific objectives (see 4.2)	Indicator	Measurement tool	Operational objectives
Allow the proper monitoring of movements of excise goods	Number of movements	Regular reports in EMCS and SEED	More accurate data for exports, imports and duty paid business-to-business
	Number of Economic Operators		
	Net value of the goods (€)	Data provided by the Member States	
	Excise duty (€)	Analysis of market or consumption databases	

9.2. Monitoring structures

The Committee on Excise Duty, an advisory committee on excise issues in which representatives of all Member States participate and which is chaired by Commission officials from DG TAXUD, will monitor the implementation of the evolutions of Directive 2008/118/EC and discuss and clarify possible interpretation issues between Member States regarding the new legislation. In case new legislative developments are required, the Indirect Taxation Expert Group might be further consulted.

9.3. Evaluation

Member States and the Commission shall examine and evaluate the functioning of the evolutions provided for in the new legislation. To that purpose, Member States shall communicate to the Commission any relevant information as regards the level and the evolution of the administrative costs, excise fraud and number of Economic Operators authorised to use excise procedures, necessary for the evaluation of the effectiveness, efficiency, coherence with other interventions with similar objectives, and continued relevance of the new legislation. The evaluation should also seek to collect input from all relevant business stakeholders as regards the level and the evolution of their compliance costs.

The Commission will prepare a retrospective evaluation of the functioning of the new legislation five years after its entry into force.

ANNEXES

ANNEX I Procedural Information

1. Lead DG, Decide Planning/CWP references

The lead DG is DG TAXUD.

This initiative got the following political agreements:

- Agenda Planning: General arrangements for excise duty – harmonisation and simplification. (2018/TAXUD/003)
- Inception Impact Assessment: General arrangements for excise duty – harmonisation and simplification (Ares(2017)1497481)
- Commission Work Programme 2017 Annex II initiative 6

2. Organisation and timing

The following DG were invited to the Inter-Service Steering Group (ISSG): AGRI, BUDG, COMP, GROW, MOVE, OLAF, SANTE, SG, SJ, TRADE. DG AGRI and BUDG attended the first ISSG meeting. DG OLAF, SANTE, SG, SJ attended all ISSG meetings and involved themselves in all steps of the Impact Assessment.

An independent contractor (CASE) performed a study contributing to this impact assessment, which provided most of the data and inputs in this impact assessment report. The final deliverable of this study is document [R5].

The ISSG reviewed and approved the following documents

- all ISSG meetings' minutes
- questionnaires (OPC, Member State, Economic Operator) for the stakeholders' consultation
- inception report⁵² of the independent contractor's study
- final report of the independent contractor's study
- Commission's Impact Assessment Report (this document)

Two external economists, proposed by the independent contractor, reviewed the study's draft final report:

- Dr A. Renda (Senior Research Fellow at Duke University and an Adjunct Professor of Law and Economics at Duke School of Law)
- Dr R. Bird (Professor Emeritus of Economics, Rotman School of Management, and Senior Fellow of the Institute for Municipal Governance and Finance, Munk School of Global Affairs, University of Toronto)

⁵² Intermediate deliverable, describing the problems, options, methodology and approach of the study

The chronology of the main events is as follow:

16/01/2017	kick-off of the study contributing to the Impact Assessment
27/02/2017	first ISSG meeting
31/03/2017	approval of the forms for the stakeholders' consultation
Apr-Jul 2017	stakeholders' consultation, including OPC in all EU languages
28/08-08/09	ISSG review of the study's draft final report
13/09/2017	ISSG meeting on the study's draft final report
09/10/2017, 24/10/2017 and 16/11/2017	ISSG meetings on Commission's Impact Assessment Report
27/11/2017	approval of the study's final report

3. Consultation of the RSB

The RSB was consulted on 24/01/2018 and provided, via written procedure, a positive opinion on 26/01/2018.

ANNEX II Synopsis Report

1. Background to the initiative

Excise duties are indirect taxes on the sale or use of specific products. They are usually applied as an amount per quantity of the product e.g. per kg / per hl /per degree alcohol / per 1000 pieces etc. All revenue from excise duties goes entirely to the Member States. In the EU, Member States must apply excise duties to alcohol, tobacco, and energy.

Directive 2008/118/EC⁵³ sets out the general arrangements for the holding of excise goods and their movements between Member States. It explains the arrangements for deferring payment of excise duty available to authorised traders who hold excise goods or move excise goods between Member States.

The current initiative intends to harmonise and simplify provisions for the export, import and transit of excise goods. It aims support the automation of movement control procedures - mainly used by small and medium enterprises - in order to harmonise and simplify these arrangements.

2. Summary of consultation activities carried out

The consultation strategy has focused on three main groups of stakeholders: Member States' administrations, economic operators and citizens. This in-depth consultation programme aimed to gain a better understanding of the overall functioning of the mechanisms established by the Directive, the logic underlying intervention, details of the issues at stake, the number and type stakeholders involved and their roles, and the Directive's connection to other relevant EU policies. In addition, the objective of the consultation activities was to gather the views of the main stakeholders on a set of possible options for the revision of Directive 200/118/EC.

The main consultation activities that were carried out were:

- A written questionnaire for all Member States authorities complemented by series of interviews to selected Member State, taking into account geography and volume of excise trade. More specifically, this consultation targeted customs, excise and health National Authorities.
- The economic operators' consultation included a series of interviews, as well as a detailed questionnaire sent to the most relevant stakeholders (e.g. EU customs' trade contact group, Excise Contact Group).
- An open public consultation was conducted to gather the views of citizens, non-government organisations, economic operators and other stakeholders on a set of possible options for the revision of the Directive. Each economic operator responding to this consultation was offered to get the detailed Economic Operator questionnaire (see above) upon request. The consultation lasted 3 months and was available in all EU languages.

All consultation activities took place between April and July 2017.

⁵³ [Council Directive 2008/118/EC](#) of 16 December 2008 concerning the general arrangements for excise duty and repealing [Directive 92/12/EEC](#) OJ L9/12 14.1.2009

Table 1. Overview of respondents

	Nb	Comments
Member States' authorities		
interviews	7	Belgium, Czech Republic, Germany, France, Ireland, the Netherlands, Poland For a total of 85 informants interviewed
replies to questionnaire	21	Customs & Excise
	20	MS replies to the questions related to health
Economic Operators		
interviews	41	Same countries as Member State plus Italy with more than one informant per interview
replies to questionnaire	31	Including 10 with less than 50 employees
Open Public Consultation		
replies to questionnaire	151	Including 38 Economic Operators (out of which, 10 with less than 50 employees) and 48 Trade Associations
documents uploaded	38	

3. Results of consultation activities

Member States' consultation

The major source of information for estimating the magnitude of problems and for forecasting the counterfactual effects of implementing particular policy options were answers to the detailed technical questionnaires and in-depth consultations with stakeholders in selected Member States.

The questionnaires were designed to gather quantitative information on the current state of affairs, such as the number of specific types of excise movements and the economic costs related to the current arrangements. Since some MS already apply on their own specific measures or arrangements that are planned to be implemented on an EU-wide basis, the data gathered in these Member States was utilised not only to estimate the magnitude of the problems but also to extrapolate the costs and benefits from implementing specific policy options. In addition, for each analysed policy option, opinion questions and questions regarding suspected costs and benefits were included in the questionnaire.

To accurately address the different types of problems faced by the Member States' authorities and economic operators, two versions of the questionnaire were created. The questionnaire for authorities focused on administrative costs, enforcement costs, and suspected values of fraud. It contained 82 open-ended questions that required the cooperation of various services within and between the excise, customs, and health authorities.

In addition to the questionnaire, an in-depth consultation programme was conducted. It was limited to eight Member States—namely, Belgium, the Czech Republic, France, Germany, Ireland, Italy, the Netherlands, and Poland,—and aimed to gain a better understanding of the overall functioning of the mechanisms established by the Directive, the underlying intervention logic, the magnitude of problems experienced, and the effects of potential policy options, as well as the nature of the issues at stake, the stakeholders involved and their roles, and, finally, the Directive's connection to other relevant EU policies. The selection of

countries for case studies was based on the criterion of having a representative distribution of geographical-, market-, and excise tax-related factors within the EU.

The interview programme was conducted over 12 weeks. Overall, authorities from 25 Member States provided their answers to the detailed technical questionnaire. The questions to the problem area of excise and customs were answered by representatives from 21 countries, whereas the questions to the problem area of the private acquisition of alcoholic beverages and tobacco products by individuals were answered by health authorities from 20 countries.

Economic operators' consultation

The questionnaire for economic operators was designed for:

1. both large economic operators and small and medium enterprises (SMEs);
2. players engaged in movements of different excise products (manufactured tobacco, energy products, and alcoholic beverages); and
3. operators in different stages of the value chain (producers, wholesalers, retailers, and logistics companies).

The questionnaire focused on compliance and hassle costs. To maximise the response rate, which could have been limited by information privacy, all 50 questions included in the questionnaire for economic operators were closed-ended, with pre-defined ranges for answers to the questions that asked for specific numerical values.

A summary of the responses from economic operators by size of company, origin, and specialisation is depicted in Table 2 below.

Table 2. Response summary to the detailed technical questionnaire for economic operators

Country of Origin	No. of Respondents	Main Economic Activities	No. of Respondents
Italy	10	Alcohols and alcoholic beverages	15
Germany	6	Manufactured tobacco products	12
France	3	Energy products	4
United Kingdom	3	Other	1
Belgium	2		
Netherlands	2		
Poland	2		
Ireland	1		
Romania	1		
Luxembourg	1		
Total	31	Total	32

Open public consultation

The questionnaire for the open public consultation included 30 questions divided into six thematic sections, as well as 11 identification questions. The questions focused on the respondents' level of satisfaction with the current arrangements and their perceptions on whether specific actions should be taken at the EU or Member State level within specific

problem areas. Importantly, the questionnaire also asked economic operators for the magnitude of efforts currently borne by them.

Table 3 gives a summary of the responses to the open public consultation by size of company, origin, respondent type and specialisation.

Table 3. Response summary to the open public consultation

Country of origin	No. of respondents	Country of origin	No. of respondents
Sweden	45	Estonia	4
Belgium	13	Czech Republic	3
Germany	11	Denmark	3
Italy	10	Hungary	3
France	8	Luxembourg	3
Spain	8	Portugal	3
Finland	7	Greece	2
United Kingdom	6	Ireland	1
Austria	5	Slovenia	1
Netherlands	5	Other	4
Poland	5	No answer	1
Total	151		

Respondent type	No. of respondents	Main economic activities	No. of respondents
Private citizen	49	Alcohols and alcoholic	19
Economic Operators	34	Manufactured tobacco products	10
(out of which: SMEs)	(16)	Energy products	6
Trade, business and professional associations	48	Other	1
Public authority (national,	0	No answer	117
Non-government	16		
Other	4		
No answer	0		
Total	151	Total	151

Responses to the questionnaire were an important source of information that was often combined with the responses to the detailed technical questionnaire. The following sub sections briefly presents the results of the most important parts of the open public consultations:

A. Excise-Customs Interactions

The first section of the questionnaire was on excise-customs interactions and addressed five questions to economic operators and stakeholders with knowledge on import or export procedures. Answers of the 36 economic operators and 48 associations cover engagement in the export or import of excise goods, their perception of the current procedure, and the assessment of potential improvement.

Table 4 and 5 below present the level of satisfaction with the current procedures for exporting goods and for importing goods, respectively.

Table 4. Level of satisfaction with current procedures for exporting goods

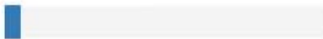
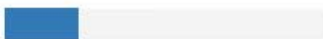
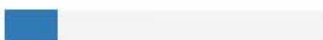
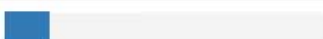
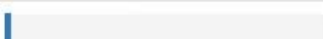

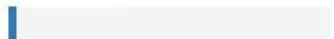
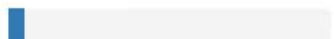
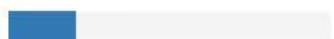
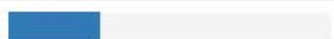
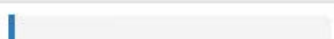

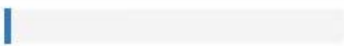
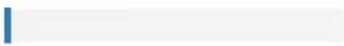
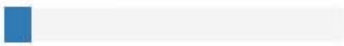
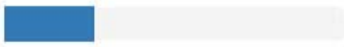
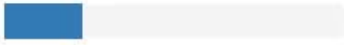

		Answers	Ratio
Very dissatisfied		7	4.64 %
Dissatisfied		34	22.52 %
Neutral		24	15.89 %
Satisfied		20	13.25 %
Very satisfied		2	1.32 %
No Answer		64	42.38 %

Table 5. Level of satisfaction with current procedures for importing goods

		Answers	Ratio
Very dissatisfied		3	1.99 %
Dissatisfied		7	4.64 %
Neutral		31	20.53 %
Satisfied		42	27.81 %
Very satisfied		2	1.32 %
No Answer		66	43.71 %

In the case of export procedures, the level of dissatisfaction (41 respondents) is higher than the level of satisfaction (22 respondents), pointing out that there is room for improvement of these procedures. In the case of imports, the situation is different, with more respondents satisfied with the current procedures (44), as opposed to dissatisfied respondents (only 10).

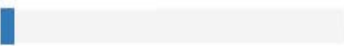
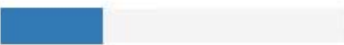
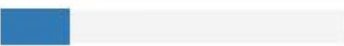
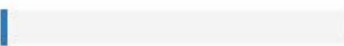


Table 5. Level of agreement with the option to cross-check data between customs declarations and excise electronic administrative documents

		Answers	Ratio
Strongly disagree		2	1.32 %
Disagree		2	1.32 %
Neither agree nor disagree		11	7.28 %
Agree		39	25.83 %
Strongly agree		34	22.52 %
No Answer		63	41.72 %

The final question related to the level of agreement of respondents to the option for improving the current situation. Most respondents (73 or 48%) agreed with the option, with only 4 respondents disagreeing.

B. Duty-Paid Business-to-Business procedures (B2B)

Table 6. Level of satisfaction with current duty paid business-to-business procedures

		Answers	Ratio
Very dissatisfied		5	3.31 %
Dissatisfied		44	29.14 %
Neutral		29	19.21 %
Satisfied		2	1.32 %
Very satisfied		3	1.99 %
No Answer		68	45.03 %

As can be seen from Table 6, most of the respondents that answered the question were dissatisfied or very dissatisfied with the current procedures (49 respondents or 32%) and only 5 respondents (3%) were satisfied with them, pointing out to a need to further improve these procedures.

When asked what is the most adequate level to take action, 45% (68 respondents) indicated the EU level, while only 4% (6 respondents) thought that the national level is appropriate.

There respondents were then presented the option for improvement of the current situation by automating the duty paid B2B procedures, EU-wide. They were then asked two further questions: one on the effort needed to comply with the new requirements and one on the usefulness of such a change.

As regards the efforts to register as an excise operator and to change the internal process of the organization in order and to switch to computer based procedures, most respondents estimated them to be low or very low (49 respondents for the registration as an excise operator and 38

respondents for the change of internal processed respectively) while only 6 respondents (for the registration as an excise operator) and 8 respondents (for the change of internal processed respectively) estimated them to be high or very high. This indicates a low potential burden of the changes on the concerned organizations.

Table 7. Usefulness of switching to computer-based procedures

		Answers	Ratio
Not useful		3	1.99 %
Neutral		7	4.64 %
Useful		68	45.03 %
Don't know		9	5.96 %
No Answer		64	42.38 %

As can be seen from the table above, most respondents (68 or 45%) believe the option would be useful for their organizations, with only 3 respondents (or 2%) disagreeing.

C. Low Risk Movements

Table 8. Level of satisfaction with current low risk movements (under 1 000€ or 20% of the value of the goods)

		Answers	Ratio
Very dissatisfied		4	2.65 %
Dissatisfied		44	29.14 %
Neutral		29	19.21 %
Satisfied		4	2.65 %
Very satisfied		2	1.32 %
No Answer		68	45.03 %

As can be seen from Table 8, most of the respondents that answered the question were dissatisfied or very dissatisfied with the current procedures for low risk movements (48 respondents or 32%) and only 6 respondents (4%) were satisfied with them, pointing out to a need to further improve these procedures.

When asked what is the most appropriate level for improving the current procedures, 48% (72 respondents) indicated the EU level while 3% (5 respondents) indicated the national level. One association commented that the solution is “EMCS exemption for low value movements (...) harmonised within EU and applicable to all excisable goods.”

The respondents were presented the option to improve the current situation which would be to replace the current movement control by a monthly return, similar to a VAT monthly return. In that case, there would not be a supervision of the movements by the national authority on a per-movement basis anymore.

The majority of respondents rated the suggestion positively: 60 of them (or 40%) believing the impact of the option to be beneficial or very beneficial and only 4 respondents (or 3%) believing this would be detrimental or very detrimental.

Table 9. Impact of using monthly returns for your organization, compared to the current procedures

		Answers	Ratio
Very beneficial		13	8.61 %
Beneficial		47	31.13 %
Neutral		7	4.64 %
Detrimental		3	1.99 %
Very detrimental		1	0.66 %
Don't know		14	9.27 %
No Answer		66	43.71 %

Thus, it can be concluded that there is a relatively important level of support for this option from the side of the respondents that have taken part in the open public consultation.

D. Exceptional Situations such as Shortages, Excesses, Rejections or Interruptions

Currently, strategies to face exceptional situations vary between EU Member States. These strategies include means, processes, and methodologies, address shortages, excesses, rejections, or interruptions of movements. Determined by the national approach, these exceptional situations may cause irregularities, duty claims, penalties, or seizure of goods. For this chapter, the respondents evaluated the current frequency of exceptional situations, expressed their expectations for improvements, and rated various options for enhancements that would harmonise the approach across the EU.

As in the previous sections, most of the respondents supported action at EU level (68 respondents or 45%) with only a small minority of 2% (3 respondents) indicating that they would rather see action at national level.

The survey described the options considered by the European Commission to improve the current situation: to harmonise at EU level the methodology for assessing shortages and excesses as well as to ensure a right to be heard exists in each Member State for the exceptional situations and related public authorities' decisions that can occur during the movements and holding of excise goods. It also described the option to harmonise at EU level the consequences (duty claims, penalties or seizure of the goods) of exceptional situations.

Then the respondents were asked to rate how useful each of the 3 options would be for them:

- Level of necessity of an EU harmonization of methodologies for assessing shortages and excesses: 68 respondents (45%) found this useful, as opposed to 2 respondents (1%) who did not find it useful;
- Level of necessity of an EU harmonised right to be heard: 74 respondents (49%) found this useful, as opposed to only 1 respondent (1%) who did not find it useful;

- Level of necessity of an EU harmonization of the consequence of exceptional situations: 66 respondents (44%) found this useful, as opposed to 2 respondents (1%) who did not find it useful;

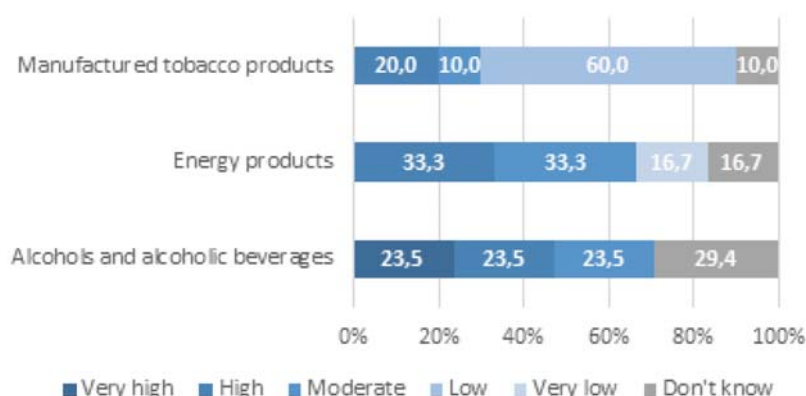
Thus, it can be concluded that the level of support for these changes clearly outweighed the opposition to such changes.

E. Risk Analysis

At times, national public authorities lack the necessary data to analyse the fiscal risk of movements of excise goods. To counteract this deficiency, economic operators could provide additional information about their business and their movements of goods.

As for the sectors the businesses operate in, it is remarkable that the majority of economic operators that move manufactured tobacco products expect a low effort for the report of requests and renewals of warehouse capacity (60%). On the other side, operators in the area of alcohols and alcoholic beverages expect the highest effort, reporting only very high, high, and moderate efforts to equal shares (23.5%). The effort estimated by businesses from energy products may be found in the middle, between the two extremes. Table 10 summarises these responses.

Table 10. Effort for request/renewals of warehouse capacity by sector (in percent)



F. Acquisition by private individuals

The Council Conclusions⁵⁴ call on the Commission to explore the possibilities for revising the provisions on guide-levels for intended own use of alcohol (and tobacco), set out in Article 32 of the Directive. Furthermore, the Council Conclusions on "Cross-border aspects in alcohol policy — tackling the harmful use of alcohol"⁵⁵ also invite Member States and the Commission to tackle the issue of the cross-border purchases of alcoholic beverages to support the effectiveness of national alcohol and health policies.

In the last section of the open public consultation as well as in a separate targeted questionnaire to national health authorities, the respondents were asked several questions related to the effects of the Directive on public health, especially those related to guide level thresholds for personal consumption. According to the Directive individuals can transport excise goods (such as cigarettes or alcohol) to another EU country without paying any excise taxes, provided they are





⁵⁴ Council Conclusions on Commission report on Council Directive 2008/118/EC (adopted on 5/12/2017)

⁵⁵ [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XG1222\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52017XG1222(01)&from=EN)

for personal use⁵⁶. However, it should be noted that any changes related to these issues was outside the scope of the current proposal, and these questions were of an exploratory nature only. This topic triggered high interest in the open public consultation (especially from respondents in one particular Member State), as well as in the Member States' consultation.

Most respondents to the open public consultation (64 respondents or 42%) were not aware of negative impacts of the Directive on public health related to tobacco or alcohol consumption, but there was a relatively high number of respondents that was aware of such effects (55 or 36%), as it is shown in Table 11.

Table 11. Open public consultation - awareness of any negative impact of Directive 2008/118/EC on public health related to tobacco or alcohol consumption?

		Answers	Ratio
Yes (please specify)		55	36.42 %
No		64	42.38 %
Don't know		25	16.56 %
No Answer		7	4.64 %

Respondents to the open public consultation were asked to assess four different measures to possibly alleviate the negative impact on health. The results can be seen in the table below.

Table 12. Open public consultation⁵⁷ - possible measures to alleviate the negative impacts on health (absolute number of respondents and percentage)

	Useful	Neutral	Not useful	Don't know/no answer
Lower the EU minimum thresholds of the guide levels in the Directive	60 (40%)	8 (5%)	28 (19%)	55 (36%)
Allow national adjustments of the guide levels <i>to prevent disproportionate negative effects on excise tax collection</i>	61 (40%)	9 (6%)	25 (17%)	56 (37%)
Allow national adjustments of the guide levels <i>to prevent disproportionate negative effects on</i>	64 (42%)	8 (5%)	25 (17%)	54 (36%)

⁵⁶ The current thresholds are 800 cigarettes, 110 l of beer, 90 l of wine or 10 l of spirits.,

⁵⁷ Views of economic operators, NGOs and private individuals have been collected. While most of economic operators were not in favour of adjusting the guide levels, about 80% NGOs and private individuals supported this option.

<i>public health</i>				
Allow national adjustments of the guide levels <i>by removing the EU minimum thresholds</i>	56 (37%)	8 (5%)	31 (21%)	56 (37%)

When it comes to the results for the targeted questionnaire that was addressed to the national health authorities, 9 national authorities indicated that they are aware of negative impacts of the Directive on public health, while 7 were not aware of such negative impacts. The remaining 12 national authorities did not reply to the survey or did not know.

The respondents to the national health authorities' targeted questionnaire were also asked to assess four different measures to possibly alleviate the negative impact on health:

Table 13. Targeted questionnaire to national authorities - possible measures to alleviate the negative impacts on health (absolute number of authorities)

	Useful	Neutral	Not useful	Don't know/no answer
Lower the EU minimum thresholds of the guide levels in the Directive	12	1	5	10
Allow national adjustments of the guide levels <i>to prevent disproportionate negative effects on excise tax collection</i>	13	3	1	11
Allow national adjustments of the guide levels <i>to prevent disproportionate negative effects on public health</i>	13	3	1	11
Allow national adjustments of the guide levels <i>by removing the EU minimum thresholds</i>	7	2	7	12

Thus, it can be concluded that there is an interest in more flexibility on the guide levels, both among the citizens as well as the national health authorities.

ANNEX III Who is affected by the initiative and how

1. Practical implications of the initiative

National excise and customs authorities are affected by this initiative, which reduces their administrative burden and improves their capacity in fighting fraud at the (enforcement) cost of evolutions in their IT systems and their business processes.

Economic Operators involved in the holding and movement (including imports and exports) of excise goods are affected by this initiative. It reduces the regulatory burden at the cost of providing a few extra data items to their National Authorities and of some evolutions in their IT systems.

Most of Economic Operators affected by this initiative are large companies. However the automation of the duty paid business-to-business procedures is expected to benefit to Small and Medium Enterprises.

Cost and Benefit figures are provided in each chapter for each problem area (e.g. "customs – excise interactions: export", "duty paid business-to-business").

2. Summary of costs and benefits

The tables here below summarise the costs and benefits (in million euros) for all preferred options together.

Note 1: none of the options provide benefits or induce costs to citizens or consumers.

Note 2: no indirect costs have been identified during the impact assessment

<i>I. Overview of Benefits (total for all provisions) – Preferred Options</i>		
<i>Description</i>	<i>Amount per year</i>	<i>Comments</i>
<i>Direct benefits</i>		
Member States		
administrative cost savings	14.55	<ul style="list-style-type: none"> • EU common requirements for alternate proof of exit and exceptional situations will reduce the time spent on processing files and disputes • the automation of the current paper-based duty paid B2B procedures will increase staff productivity
impact on fraud	+	<ul style="list-style-type: none"> • data cross-check between excise and customs will increase data quality and consistency, making fraud more difficult at import and export • automation of duty paid B2B procedures will improve the monitoring of cross-border movements of excise goods
Economic Operators		

regulatory cost savings	32.27 ⁽¹⁾	<ul style="list-style-type: none"> • EU common requirements for alternate proof of exit and exceptional situations will reduce the time spent on disputes • automation of duty paid B2B procedures will make processing faster, which will immobilise the movements' guarantee for a shorter period of time
Indirect benefits		
Economic Operators		
impact on market and SMEs	+	<ul style="list-style-type: none"> • from the stakeholders' consultation, it appears that the automation of duty paid B2B procedures will reduce regulatory costs more to SMEs than to large companies • EU common requirements for alternate proof of exit and exceptional situations will reduce the overhead of disputes with other Member States than the one of establishment and may increase competitiveness of SMEs

(1) This figure is lower bonds as some preferred options (Allowable losses thresholds, Right to be Heard; see section 7.5) bring benefits that are not quantified.

II. Overview of costs (million euros) – Preferred options					
		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent
Excise-export data cross-check	Direct costs		1.32 ⁽⁴⁾	4.34 ⁽¹⁾	0.87 ⁽¹⁾
	Indirect costs				
EU common list of alternate proofs of exit	Direct costs			0.00	0.00
	Indirect costs				
Excise-export followed by external transit	Direct costs				
	Indirect costs				
Excise-import data cross-check	Direct costs		0.13 ⁽⁴⁾	3.40 ⁽¹⁾	0.68 ⁽¹⁾
	Indirect costs				
Automation of duty paid business-to-business procedures	Direct costs	14.50 ⁽²⁾	2.90 ⁽²⁾	9.89 ⁽³⁾	1.98 ⁽³⁾
	Indirect costs				
EU common requirements for exceptional situations	Direct costs			0.00	0.36
	Indirect costs				
TOTAL	Direct costs	14.50	4.35	17.63	3.89
	Indirect costs				

(1) enforcement costs, mostly for the evolutions of IT systems

- (2) compliance and hassle costs to register as a duty paid B2B economic operators and enforcement costs for the evolution of IT systems
- (3) administrative costs to register and authorise duty paid B2B economic operators and enforcement costs for the evolution of IT systems
- (4) administrative costs to provide excise references in the customs export and import declarations

ANNEX IV Analytical Models used in preparing the Impact Assessment

Volume of Trade and Fraud for excise goods.

Document [R1] provides overall figures on the goods value and excise duty of excise goods imported to the EU, exported from the EU and moved cross-border intra-EU. It also assesses that the fraud on excise goods amounts to about EUR 5.2 billion per year for 17 Member State, which is extrapolated to EUR 8.6 billion per year for 28 Member State.

Document [R3] states that, for tobacco alone, the EU VAT and duty gap is about 10 billion euro per year⁵⁸, including an excise duty loss of about EUR 7 billion per year. Document [R4] assesses the excise duty gap in the UK alone at GBP 2.8 billion (EUR 3 billion) in 2015.

From the documents quoted here above, the overall EU excise fraud is assessed at EUR 10 billion per year; the EU excise fraud per area (import, export, intra-EU) is extrapolated at the prorata of the goods value⁵⁹.

However, the bulk of the excise fraud comes from patterns such as smuggling into the EU or illicit production in the EU, which do not involve any declared movement whatsoever. So, the amount of fraud on which the Directive can act upon is only a part of the overall EU excise fraud and this part corresponds to the trade of excise goods which is declared at least partly (e.g. declared at the Member State of Dispatch or at the Member State of Destination). Based on an analysis of discrepancies in the declared volume of trade in IntraStats between acquirers and providers, document [R5] provides an estimate of this amount of fraud for the Intra EU trade between EUR 174 and 636 million per year, i.e. an average of about 400 million euros per year. Extrapolated at the prorata of the goods value, the fraud on which the Directive can act upon at import and export are assessed at 648 million euros and 198 million euros respectively.

The stakeholders' consultation provided also some inputs on suspected fraud related to problems and options in the scope of this initiative. Extrapolated EU-wide based on the volume of trade, these inputs leads to a suspected excise revenue loss of EUR 28 million for export, 21 million for export using Single Transport Contract and 20 million for duty paid B2B.

IT Cost Model for member States

To assess the cost of IT systems evolutions for member States, the independent contractor chose to re-use a model established in 2012 for the cost assessment of the IT systems required by the Modernised Customs Code (now Union Customs Code). This IT cost model was deemed valid for this initiative as the excise trans-European IT systems are close to the customs' ones in many aspects (architecture, organisation, etc.)⁶⁰.

⁵⁸ [Europol](#), quoting [KPMG](#), reports 11 billion euros of tax & duty loss related to tobacco fraud in 2015.

⁵⁹ For instance, the excise fraud at import is extrapolated to $10 * (432/834) = 5.2$ billion euros per year

⁶⁰For instance, EMCS and SEED are close to customs' IT systems New Computerised Transit System (NCTS) and Economic Operator System (EOS) respectively.

The principle of this model is to first assess the IT development cost based on indicators of the required evolutions (e.g. number of impacted tasks, processes, messages) and then to extrapolate the other IT costs (e.g. quality assurance, deployment, operations) from the IT development ones.

This description of the 2012 IT cost model is copied here below.

The basis for the estimation method resides in the analysis of business process models for the implementation of evolutions and on using specific customs process areas that were modelled in detail and precisely estimated. These facts allow to build an estimation model based on counting sizing parameters (number of processes, number of unique tasks in those processes, number of new information exchanges, number of interfaces to existing IT systems), and calibrate it using the precisely estimated projects, counting the same sizing parameters on these IT projects.

Moreover, the model has been adapted to reflect the diversity of current IT systems for Customs in the MS, in terms of technology, architecture and status. The model uses three types of IT situations for a MS that will introduce additional parameters in the effort and the cost for the implementation of an IT project to improve the accuracy of these estimations, using the available information for these IT projects.

- **Type 1:** The existing IT system has been built using flexible/modular architecture such as Service Oriented Architecture and it will be upgraded to support the new functionality;
- **Type 2:** The existing IT system has been built using older technology (monolithic not modular structure) and it will be upgraded to support the new functionality;
- **Type 3:** A new system will be implemented to accommodate the changes brought by the project using new flexible/modular architecture such as Service Oriented Architecture.

The estimation method is detailed hereafter.

The Basic assumption for the effort and cost estimation concerns the activities and related costs that are included in the estimation and the ones that are excluded.

The implementation tasks that are **included** in the estimations are the following:

- Functional and technical systems specifications (FSS, TSS);
- System Design, Build and Testing activities (DBT);
- Deployment, Roll-out and Conformance tests activities;
- Project management and Quality assurance activities.

Yearly recurring costs for infrastructure, maintenance, support and operations costs are estimated at 20% of the implementation costs.

Also the model is built on the following assumptions

- All processes are in average of equivalent size/complexity;
- Level of granularity in L3 BPM's is coherent in all BPM's inspected;
- Updates in Tasks and in messages lead to the same implementation effort;

- All tasks in L3 BPMs inspected are assumed to be automated tasks (i.e. to be implemented by an IT system);
- Type 1/2/3 Member States are assumed to have type 1/2/3 applying for ALL the options of this initiative.

The generic algorithm used to estimate Member State project implementation effort takes into account the following steps and parameters:

1. For each project, the existing applicable BPMs are used to count:

- The total number of processes in scope (*# processes*);
- The number of processes where a change is occurring (*# of changed processes*);
- The total number of unique tasks in those processes (*# of tasks*);
- The number of tasks where a change is occurring (*# of changed tasks*);
- The number of new or updated information exchanges (messages) in these processes (*# of messages*);
- In addition, for each project, the number of new or updated interfaces with other (existing) systems (or other process areas) (*# of impacted interfaces*), and the total number of interfaces (*# of interfaces*).

3. The different project activities are assumed to be dependent on one or many of the above parameters, as follows:

- Functional System Specifications (FSS):
 - The total number of processes determines the effort for Functional System Specifications activities (it is assumed all the processes will need to be specified, even if no change);
 - The effort is computed as follows:

$$\text{total FSS effort} = \# \text{ processes} \times \text{effort for 1 process FSS};$$
- Technical System Specifications (TSS):
 - The number of processes only where a change is occurring, determines the effort for the Technical System Specifications activities;
 - The effort is computed as follows:

$$\text{total TSS effort} = \# \text{ of changed processes} \times \text{effort for 1 changed process TSS};$$
- Design, Build and Test (DBT):
 - The number of tasks where a change is occurring and the number of new or updated information exchanges (messages) determine the effort for the Design-Build-Test activities;
 - The number of interfaces to other (existing) systems (or other process areas) adds an effort percentage to Design-Build-Test activity;
 - For estimating the Design-Build-Test effort for each project, the Member States are assumed to have be in one of the three following categories for each project:

- **Type 1:** The existing IT system has been built using flexible/modular architecture such as Service Oriented Architecture and it will be upgraded to support the new functionality.

In that case the DBT estimation is done as follows: the number of new tasks added to the number of new messages, multiplied by the effort for one task and message. The Design-Build-Test effort (DBT) effort is also increased by an additional 3% per changed interface to an existing system (e.g. if the project needs to change for instance 3 interfaces to other systems, the effort is increased by 9%):

$$\text{total DBT effort} = (\# \text{ of changed tasks} \times \text{effort for 1 task} + \# \text{ of messages} \times \text{effort for 1 message}) \times (1 + \# \text{ of impacted interfaces} \times 0.03);$$

- **Type 2:** The existing IT system has been built using older technology (monolithic not modular structure) and it will be upgraded to support the new functionality.

To reflect the old technology stack that is more costly to change, an additional 40% DBT effort of is estimated with regard to the flexible/modular architecture. The DBT effort is increased by an additional 5% per changed interface to an existing system instead of 3% that was applied for the flexible/modular architecture type 1 (e.g. if the project needs to change for instance 3 interfaces to other systems, the effort is increased by 15%):

$$\text{total DBT effort} = (\# \text{ of changed tasks} \times \text{effort for 1 task} + \# \text{ of messages} \times \text{effort for 1 message}) \times 1.4 \times (1 + \# \text{ of impacted interfaces} \times 0.05);$$

- **Type 3:** A new system will be implemented to accommodate the changes brought by the project using new flexible/modular architecture such as Service Oriented Architecture.

In this case, the total number of tasks parameters drives the Design-Build-Test (DBT) effort, increased by 3% per interface to an existing system, and counting here all the interfaces to other systems. For some projects a multiplication factor (factor 2 applied to Entry and Import and Centralised Clearance projects; factor 4 for NCTS) is applied to the number of tasks, to reflect the fact that most processes not changed by legislation are not modelled and so do not enter in the counting, and in addition, some specific national (sub-)processes might also need to be included (i.e. related to excise, VAT, ...):

$$\text{total DBT effort} = (\# \text{ of tasks} \times \text{effort for 1 task} + \# \text{ of messages} \times \text{effort for 1 message}) \times (1 + \# \text{ of interfaces} \times 0.03).$$

For an EU-wide cost estimate of the options in this initiative, it is assumed that all Member States are of Type 1. This is because excise IT systems (EMCS and SEED) are recent and the customs IT systems to be interfaced with them are being modernised due to the implementation of the Union Customs Code.

4. The other project activities are assumed to be a percentage of the previous activities efforts, as follows:

- The Deploy-Rollout-Conformance Tests activities are assumed to be 20% of the Design-Build-Test;
- The Project Management activities are assumed to be 15% of all the previous activities; and
- The Quality Assurance activities are assumed to be 20% of all the previous activities (including PM).

In addition, the effort and cost method for MS take also into account the following variations:

- For Project management and Quality assurance (PM and QA) Member States efforts presented above are merged in a single multiplication factor, assumed to be equal to 38% of Design-Build-Test and Deploy/Roll-out efforts.

5. To calibrate the model, the RSS (Regular Shipping Service authorisation) and the COPIS projects that have accurate estimates and parameters, are used to count the same parameters, and come to effort values for the parameters (for FSS, TSS and DBT):

- The currently derived value for 1 process: around 50 Man-days;
- The currently derived value for 1 process with change: around 50 Man-days;
- The currently derived value for 1 task with change: around 35 Man-days;
- The currently derived value for 1 message exchange: around 35 Man-days.

When no sufficiently detailed business process models were available for a given option, the IT cost was extrapolated from the Member States' inputs from the stakeholders' consultation.

IT cost for Economic Operators: no IT cost model was available for Economic Operators. So, this cost was extrapolated from the Economic Operators' inputs from the stakeholders' consultation⁶¹.

Man*day cost

Two profiles apply to the cost models used in this impact assessment, in order to translate efforts into financial values.

For IT cost, the same man*day rate was used as the 2012 IT cost model referred to here above (the EU-average value was 500€ in 2012), with an overhead equal to the growth of labour cost for IT specialists between 2012 and 2016, leading to 559€ per man*day in 2016.

For other costs (e.g. administrative cost), the Commission's 2017 Standard Cost Model was used, with profile ISCO3 "Technicians and associate professionals" (see document [R5] Annex E).

⁶¹For instance, if an option has an impact on each movement of excise goods and if Economic Operators, whose trade volume represent 10% of the EU number of excise movements, indicated in their replies to the stakeholders' consultation a total cost of EUR 100,000, then the EU-wide IT cost for Economic Operators for this option is extrapolated to EUR 1 million.

ANNEX V Reference Documents

- [R1] "Evaluation of current arrangements for the holding and moving of excise goods under excise duty suspension" (2016)
- [R2] "Evaluation of current arrangements for the cross border movements of excise goods that have been released for consumption" [\(2015\)](#)
- [R3] "COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT - Stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products - A comprehensive EU Strategy" (COM(2013) 324 final)
- [R4] Measuring Tax Gap in the UK – 2016 edition
- [R5] "Study contributing to an Impact Assessment on Council Directive 2008/118/EC concerning the general arrangements for excise duty" 27/11/2017 [yet to be published]
- [R6] "Council Conclusions on Commission Report on Council Directive 2008/118/EC" adopted on 05/12/2017

ANNEX VI areas for improvement identified in the evaluations and not addressed

Some areas for improvement identified in the evaluations and/or in the Council conclusions (see [R1], [R2] and [R6]) have not been addressed in this Impact Assessment for the following reasons.

- a) Guarantees and obstacles to obtaining economic operator authorisations: These issues were not considered further as there were no clear conclusions from evaluations about the way forward. The evaluation studies did not reflect the issue of guarantees as a major cause of concern to economic operators, and the evaluation studies did not indicate any major obstacles to economic operators joining the schemes. Therefore this area did not indicate clear options that could have been explored in the Impact Assessment.
- b) Distance selling: A real simplification for distance selling of excise goods can only be achieved if the requirement of having a tax representative is abolished, the payment of excise duties in the Member State of consumption is simplified but secured and the seller does not need a VAT number in the Member State of consumption. This was as well the conclusion of a project group with Member States in 2015. Distance selling (together with acquisition by private individuals) is also an area with potential public health impact which may compromise Member States policies to reduce alcohol related harm. The Commission decided to postpone the examination of distance selling of excise goods until a One Stop Shop for VAT was adopted. The VAT e-commerce Directive was adopted by the Council on 5 December 2017 and a study will be launched by the Commission in 2018. Once the outcome of the study will be known, the appropriateness of presenting a legislative proposal on this topic will be assessed.
- c) Acquisition by private individuals: until 2016, no stakeholder (European Commission, Member State or Economic Operator) showed any particular interest in the guide levels specified in Article 32 of Directive 2008/118/EC. Early 2017, some Member States (e.g. Estonia, Finland, Sweden) and DG SANTE proposed to include the issue of cross border purchases of alcohol and tobacco for personal use into the evaluation process of the Directive 2008/118/EC to support health policies. However this is a potentially sensitive topic for

citizens, which had not been previously evaluated and was not supported by some other Member States (e.g. Germany, Luxembourg). The Commission will conduct a joint excise and health back-to-back evaluation and impact assessment in 2018-2019, supported by a study performed by an external contractor, which is fully compliant with the Council Conclusions. Once the outcome of the study will be known, the appropriateness of presenting a legislative proposal on this topic will be assessed.

d) Journey time limits restrict the maximum journey time estimate that can be entered on an electronic administrative document (e-AD). The previous situation, which existed during the evaluation, was that any estimated journey time could be entered of up to 92 days, which made the journey time estimate useless from a control point of view. In the meantime this has been addressed by an amendment of the Excise Movement Control System (EMCS) Implementing Act (Regulation (EC) 684/2009) to introduce more reasonable maximum journey times. These changes were implemented in EMCS in February 2018.

e) Direct delivery definitions were not raised as an issue by stakeholders during the evaluation studies, nor in the open public consultation.

f) The procedures for the supervision of the movement of ships and aircraft's stores were discussed with Member States in the Excise Committee, acting as an expert group in 2010. Article 41 allows Member States to choose whether to exempt ship stores from VAT and excise duty, but previously there was no commonly accepted way of supervising such goods from a place of dispatch onto the ship. The conclusion was that such stores, where the Member State of loading agreed that such goods should be exempt from VAT and excise duty, should be subject to export formalities, but not the export procedure. So, in the case of an indirect movement, the Export Control System (ECS) would deliver an exit result to confirm loading of the goods, but this would not otherwise be treated as an export. This conclusion was further discussed during the drafting of the Union Customs Code and is now legally reflected in Article 269 (2) (c) of the Union Customs Code.

g) EU risk analysis system: the potential enhancement to EMCS was mentioned in the 2015 evaluation study report for duty suspension; in meetings with Member States. The suggestion was to add information to electronic administrative documents and the development of IT tools, which could be used for enhanced risk analysis by Member States. However, difficulties arose in reaching any common agreement about how to define specific options for data and for tools. This idea of enhancement was eventually not part of the Council Conclusions.