

Brussels, 20 July 2018

CECCM position paper on the recast of the Council the Directive 2008/118/EC concerning the general arrangements for excise duty

CECCM position reflects the views of its member companies, namely British American Tobacco (BAT), Japan Tobacco International (JTI) and Imperial Brands (IMB).

CECCM welcomes the proposal for the recast of the Council Directive 2008/118/EC concerning the general arrangements for excise duty (hereinafter referred to as “Horizontal Directive”) made by the Commission, starting with the alignment between the terminology used by the Excise Directive and the Union Customs Code (UCC) as well as the solutions put forward to further harmonize excise and customs procedures (both on the import and export sides) among which:

- Automated interface between EMCS (Excise Movement and Control System) and AES (Automated Export System);
- Automated data cross-check between electronic excise and customs systems;
- Common list of alternative proofs of exit;
- Common requirements for duty exemptions at import.

On excise and customs interactions topic, we concur with Commission’s view that export followed by external transit should be allowed for excise goods. Interactions between excise and customs could also be covering deliveries of excise goods to special fiscal territories (e.g. Canary Islands), which are considered part of the customs territory of the EU, but which are currently not in scope of the Horizontal Directive.

On duty paid Business to Business procedures, CECCM welcomes the extension of EMCS to cover cross border duty paid movements.

About exceptional situations such as shortages, excesses, rejections or interruptions, CECCM regrets the Commission’s decision not to suggest a common approach in the proposal, but to leave this to a delegated act. If this would remain the case, CECCM believes the delegated act should be proportionate and designed in consultation with relevant stakeholders.

Furthermore, with regards to the right to be heard for economic operators, CECCM also regrets no harmonized approach has been proposed. However, CECCM supports the usage of EMCS data as input to recovery instruments.

Together with its members, CECCM considers that the revised Directive 2008/118/EC should contain new provisions that would allow the Member State of dispatch to reimburse or remit excise where there is evidence that the relevant goods, involved in a discrepancy, are held in an excise warehouse in the Member State of destination or have left the territory of the European Union.

Regarding guarantees, CECCM believes that the EU Commission has missed the opportunity to improve and simplify the legal framework, more precisely to allow for alternative instruments in lieu of traditional means of guarantees (e.g. promissory note) and for taking into consideration the internal market aspects (e.g. by ensuring mutual recognition of guarantees to be provided by a financial institution in any EU country).

Also, in case guarantees are required for tax stamps, tolerance should be permitted allowing tax stamps to exceed the guarantee.

Finally, on excise refund, CECCM considers that mutual recognition of tax stamps destruction by government officials should be promoted at EU level to reduce the administrative burden for economic operators. Refund procedure should exist for excise goods which are returned / withdrawn from the market after their release for consumption due to quality issues. Importantly, tax stamps that have not been used in production should not trigger excise liability given that the excise goods have not been released for consumption.

Last but not least, CECCM would welcome a specific clause in the revised Directive on a refund procedure for excise goods in case those goods are withdrawn (or returned) from the market after having been released for consumption.

We are looking forward to a continued fruitful collaboration and in the meantime, we remain at your disposal for any further clarification you may need.