



## CONTROLLING RAW TOBACCO THROUGH EXCISE MOVEMENT CONTROL SYSTEM (EMCS)

### INTRODUCTION

The EU Commission intends to introduce a formal control on the movement of raw tobacco to address the issue of illicit production of tobacco products within the EU, including the diversion of unmanufactured (“raw”) tobacco for this illicit production.

This would add raw tobacco to the list of harmonised excise goods whilst imposing conditions linked to the movement and approval of traders in the supply chain, rather than raising revenue from the raw tobacco itself.

The EU Commission should amend the Tobacco Excise Directive 2011/64/EU (TED) and the Directive of General arrangements 2020/262/EU (HED) in order to control raw tobacco through EMCS.

### TOBACCO EUROPE POSITION

#### *EU COMMISSION*

**DEFINITIONS:** Raw tobacco should be defined as a standalone category in TED. The raw tobacco definition should cover solely the products classified under Harmonised System (HS) heading 2401.

**MINIMUM EXCISE DUTY RATE:** A nil minimum excise duty should be imposed for raw tobacco into TED.

**EMCS:** should be applied for the movement of raw tobacco from first processor on-wards. The movement of raw tobacco from EU farmers to the first processor should be subject to simplified measures-i.e., movement based on commercial documentation.

**GUARANTEE:** Nil guarantee should be imposed for the movement of raw tobacco in EMCS (reflecting the nil rate of excise duty on the raw tobacco being moved).

**LOSSES DURING TRANSPORTATION:** Partial losses due to the inherent nature of certain goods moved under EMCS are allowed. Although there is no excise payment due on raw tobacco, a partial loss allowance of 5% is reasonable. Any losses during a movement which exceeds 5% should be subject to investigation to ensure the losses incurred are explainable.

**e-AD:** the e-AD covering raw tobacco movements should be completed using a reduced set of data (e.g., box required for guarantee should be optional).

**RAW TOBACCO CODE FOR EMCS:** All categories of excise goods are allocated a code which is submitted into EMCS to identify the product being moved. Tobacco products have a prefix of “T” followed by a three-digit code. A new code will be needed for unmanufactured tobacco- i.e., T100.

**UNIT OF MEASURE:** It seems to make sense for the volume to be recorded in kilograms. However, given the nature and potential loss due to moisture during carriage, there should be other options in relation to ensuring the loading weight and weight on receipt are accurate. We believe that number of “standard bales” could be used, with standard bale being defined.

**EU Commission guideline:** Currently EMCS is applicable for smoking tobacco and finished tobacco products. Considering that the scope of EMCS is extended to cover raw materials, the EU Commission should draft and publish an Explanatory Note/Guideline document outlining the best practises for monitoring raw tobacco movements across the EU.

#### *EU MEMBER STATES*

**AUTHORISATIONS CONDITIONS & RECORD KEEPING:** additional license for holding and storing raw tobacco should not be required for companies which already have in place a tax warehouse



authorisation for storing and manufacturing finished tobacco products. Therefore, no additional record keeping or guarantee requirements should be added for holding and storing raw tobacco.

**PENALTIES & OFFENCES:** considering the objective characteristics of raw tobacco, appropriate penalties and offences should be developed for non-compliant movements of raw tobacco in order to discourage illicit production of tobacco products. This may include immediate seizure of raw tobacco together with the means of transport and criminal offence charges.

**EXCISE DUTY REFUND:** although no excise duty should be levied on raw tobacco, if Member States do decide to levy a positive rate, there should be an excise duty refund mechanism in place that is simple and does not require a link to production volumes.