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| logo_ec_17_colors_300dpi | EUROPEAN COMMISSIONDIRECTORATE-GENERAL TAXATION AND CUSTOMS UNIONIndirect Taxation and Tax administration**Indirect taxes other than VAT** |
|  |  |

**REPORT**

**FISCALIS 2013 PROJECT GROUP**

**on arrangements for distance selling and business to business sales of excise goods released for consumption**

**FPG 090**

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# Introduction

This report describes the work realised in the Fiscalis 2013 Project Group FPG 090. The project group worked on the evaluation of the current arrangements for the movement of goods released for consumption covered by Chapter V (Articles 32 -38) of Council Directive 2008/118/EC. This report is addressed to all potential stakeholders. Most of the input into the group has been provided by the Commission together with excise experts from the Member States, with some limited input from trade federations[[1]](#footnote-1). The work of the group is not yet complete: no subject has been completely closed and for some issues there is more than one possible solution. Some of the longer term solutions will still need to be worked out. Therefore a new Project Group, FPG 001, has been set up under the Fiscalis 2020 programme.

The Project Group began its work by looking into harmonisation and standardisation of procedures. Possible changes would be assessed according to the following criteria:

1. They should benefit consumers and excise traders;
2. They should provide tangible benefits to Members State administrations. Such benefits could include reductions in administrative cost and improved possibilities for exchange of information and administrative cooperation, leading to more effective collection of tax income and assisting in the fight against fraud.

Since these discussions will continue in the new Project Group it is too early to predict the outcome of the discussions. But the work in the new Project group and an on-going study conducted by an external consultant, who is evaluating the current national arrangements, may require a proposal to modify the Directive 2008/118/EC with regard to the movement of excise goods. These changes could include new rules to ensure that the excise duties are correctly paid but at the same time provide tangible benefits for consumers and traders.

# Reasons for establishing the Project Group

The legal arrangements for the movement of excise goods released for consumption are laid down in Chapter V (Articles 32 – 38) of Directive 2008/118/EC. This chapter of the Directive establishes the provisions for personal purchases by travellers, the movement of duty paid goods between excise traders and cross-border distance selling of excise goods to private persons. Personal purchases by travellers (Art. 32) are not included in the work of the Project Group.

The arrangements mentioned above leave a large degree of discretion to Member States concerning the legal and practical details of the supervision of such movements. This can lead to problems for the functioning of the internal market. There may also be a move by some traders away from movements under excise duty suspension in favour of the use of duty paid arrangements in order to avoid increased supervision by excise authorities. On the other hand, the existing arrangements also create high compliance costs for traders. This increases the possibility that some traders evade these arrangements and move the goods without any supervision.

Application of Articles 33-35 (business to business movements):

The Excise Movement and Control System, “EMCS”, has replaced the paper based system for the goods moving under excise duty suspension and is contributing to the reduction of irregularities, whilst benefitting traders through more rapid completion of excise formalities and a quicker release of movement guarantees. However, the movement of goods released for consumption between economic operators is supervised using a paper based system that has not changed since 1992 (Regulation (EEC) No. 3649/92). Support for automation for duty paid movements may be more forthcoming and feasible than in the past.

Application of Article 36 (distance selling to private consumers)

Article 36 gives Member States the choice on how to handle distance selling. Either the seller or his tax representative has to ensure the duty payment in the Member State where the consumer is located. But most Member States insist that the seller, who is liable to pay the excise duty, uses a tax representative in order to fulfil reporting obligations and to make payments in the Member State where the goods are consumed.

Distance selling is almost impossible in the EU for the following reasons:

- difficulty to find a tax representative in the Member State of destination,

- lack of information from the fiscal authorities in the Member State of dispatch and of destination,

- cumbersome and varying procedures in the Member States,

- cost (fee for the tax representative).

- lack of incentive for traders in low-taxing Member States to comply with the requirements of higher-taxing Member States.

The lack of harmonisation has created high entry costs and an administrative overhead for distance sellers, and is a barrier to the free movement of goods. This also increases the temptation to cut corners and ignore procedures. The lack of harmonisation also hinders effective administrative cooperation.

# WORKING METHOD, FINDINGS AND SOLUTION TYPES

## First meeting

18 Member States were selected to participate in the Project Group (Slovakia, Czech Republic, Lithuania, Latvia, Austria, Hungary, Estonia, Poland, Netherlands, Belgium, Denmark, Spain, France, Ireland, Italy, Finland, Sweden and United Kingdom). The Kick-Off Meeting took place on 26 April 2013. At this meeting the objective of the Project Group was outlined to the participants (see point 1 and 2 of this report). The Member States made a first attempt in analysing the problem areas. The group was split in two subgroups: business to business (B2B) and distance selling/business to consumer (B2C).

### Identification of weaknesses (B2B):

- use of the paper Simplified Administrative Accompanying Document (SAAD) Under Regulation (EEC) No 3649/92 all B2B movements must be accompanied by a SAAD – in all participating MSAs the use of SAAD for duty paid movements is compulsory. The workflow of the SAAD differs between Member States, e.g. some of them do not ask for a copy of SAAD to be sent to the administration, in other cases a copy is sent to administration but in different moments – after the movements, at departure or in both situations (at departure and after a movement)

- structure of SAAD – there is a different practice on the number of items allowed in the SAAD (one item per one SAAD or several items allowed in one SAAD) and on the use of certain boxes of the document;

- refund – The SAAD is not always endorsed by the Member State of destination, and other additional proof of payment is required in the Member State of dispatch before refunding duty;

- registration of traders – there is no common practise. Some Member States have the register of traders (e.g. commercial register, register of economic operators, register of suppliers for commercial purposes, national SEED, tax payers register), others don't;

- physical movement control – most of the Member States have not much experience with physical controls of duty paid movements;

- export – there is no legal base for exporting duty paid goods; mixed arrangements might be used as a work-around: move the duty paid goods to a tax warehouse under duty paid arrangements and use the duty suspension procedure (EMCS) and the Export Computerized System (ECS) procedure subsequently to export the goods;

- denatured alcohol – movement of completely denatured alcohol has to be accompanied by a SAAD, despite not being an excise good.

### Identification of weaknesses (B2C):

No uniform procedures:

- How does the seller prove duty paid at destination? Use of tax representatives in the Member State of destination is cumbersome for sellers in the Member State of dispatch (no transparent information available). There exists no standard document accompanying the goods.

- It should not matter who transports the goods, but who arranges the transport of the goods can currently change who has primary responsibility for the payment of excise duty.

- A lack of clear rules lead to misinterpretation (in Sweden, Finland and Latvia Article 33 is used where a private person buys goods but arranges for the transport and becomes responsible for the duty payment). It could be useful to determine what is meant by "direct" and "indirect" transport in Article 36. And a clearer definition of "commercial purposes" in Article 33(1) could be helpful too in order to know in which cases Article 33 and in which cases Article 36 is applicable.

- There is also a lack of incentive for traders in low-taxing Member States to comply with the requirements of higher-taxing Member States.

- The Directive 2006/79/EC provides Member States with the possibility to exempt small non-commercial consignments, which are imported unaccompanied. This means that it can be easier and less expensive to import small consignments of excise goods into the Union than goods to dispatch such consignments to another Member State.

- There are no guarantee provisions in a Member State of dispatch with a 0 rate of excise duty. This may lead to less monitoring and control.

- Transactions via Internet are less controlled.

- The burden of transaction should not be put on the buyer who is a private person; but the burden should not be too heavy for seller either, or else evasion will be encouraged.

### Common weaknesses

- Seller, Buyer, Tax Representative, who is the debtor?

- Cash flow problems: There are no common rules on refund of excise duty paid in the Member State of dispatch.

- Potential distortions might lead to inconsistencies in the functioning of the internal market and represent an obstruction to the economic growth for SMEs (e.g. duty free importation of small consignments into the Union, but not the same treatment within the Union).

- A lack of uniform provisions and procedures throughout the Member States and procedural gaps increase the risk of fraud and smuggling. A weak duty paid system could be used to move goods instead of submitting them to a tightly controlled electronic system for duty suspended movements.

## Second meeting

On 18 November 2013 the second meeting of the Project group took place.

### B2B

Proposals for future arrangements in the field of administrative cooperation for duty paid were discussed. The Commission also proposed to use BPMs (Business Process Models) to help describe the current situation and to provide a basis for future work (legal changes if necessary).

The problems raised during the first meeting were further developed.

####  Member States questionnaire on national procedures – B2B

Participants of the project group were asked to provide information on existing procedures and arrangements for B2B movements. The replies were consolidated in one document (see appendix 5.1).

In the majority of Member States duty paid movements have increased after the start of EMCS. This increase of the movements and big differences between different Member States could potentially imply that a part of duty paid transactions is fraudulent.

Obligatory use of SAAD in business to business movements has been confirmed. However unclear rules and different implementation of existing provisions lead to barriers in the effective collection and exchange of information between Member States, increasing the difficulty of assuring compliance with national excise legislation.

#### Member States contribution on automation of B2B movements

A few MSs shared their experiences with already introduced national automated duty paid movement systems.

Gamma-DSA on optional bases was introduced in France. The system provides partial automation of the SAAD for existing authorised warehouse keepers. It is used to submit and validate data, also to print documents. The report of receipt copy needs to be completed manually.

In HU EMCS was extended to cover duty paid movements (electronic messages and function of e-SAAD) and also connected to the guarantee system. The report of receipt has a paper form.

EE and CZ are in the process of developing duty paid movement systems.

### B2C

####  Member States questionnaire on national procedures – B2C

The participating Member States were asked to provide the Commission with the description of their national procedures for B2C trade. A series of questions were submitted to them and the replies were consolidated in one document (see appendix 5.2.). This survey was considered useful in order to assess the differences between the Member States. The main conclusion was that most of the Member States oblige the seller to use a tax representative for B2C movements. Only Austria, Belgium, Denmark, Finland and Sweden explained that the use of a tax representative was not in all cases obligatory. In Latvia it was not obligatory since entering the EU in 2004. This led to the situation that there was no longer any demand of the service of a tax representative. For this reason this institution was excluded from Latvian legislation after the implementation of the new provisions of Directive 2008/118/EC. In Sweden, for single transactions, the seller registers as a "temporary distance seller" and guarantees the payment of the excise duty in advance to the national tax agency. For regular distance sellers a tax representative is still needed. But in specific situations (see point 3.1.2) Sweden does not apply Article 36 but 33. Latvia does the same.

####  Member States contribution on alternative treatment of B2C movements

The participating Member States were asked to reply to proposals which the Commission submitted to them as regards alternative solutions to make B2C more viable and more transparent for administrations, consignors and consignees (see appendix 5.3.).

The replies reflected a general positive attitude towards changes. The members of the group reiterated that the current national procedures are difficult to apply because they are neither transparent nor clear and because they differ between Member States. A common approach would be welcome.

Austria and Portugal replied as well to the questionnaire since the questionnaire was sent to the Member States at the end of the project group in order to prepare the first meeting of the next project group which started right after the end of the first one and which will carry forward the work. Austria and Portugal have been added to the new group, whereas Spain and Denmark are no longer part of the B2C group.

# CONCLUSIONS AND FURTHER WORK

FPG 090 held only two meetings which were used to establish the objective of the work and to prepare further indebt discussions to be held in a new Project Group under Fiscalis 2020 (FPG 001).

The conclusion of these meetings can be summarised as establishing the lack of uniform treatment throughout the Union and readiness to consider alternative treatments for B2B and B2C movements. The work was seen as a preparation to more transparent, easy to apply but at the same time safe and efficient solutions.

### Conclusion B2B:

- An automated system would speed up and simplify process, also would help identifying fraudulent movements.

- A unique reference number should be introduced to the SAAD;

- The export of duty paid goods has to be clarified;

- Traders dealing with duty paid goods might potentially be registered in SEED in the future;

- Examination of existing legal acts (with regards to duty paid issues) to see whether they need to be changed.

### Conclusion B2C:

- Need to define "for commercial purposes" in Art. 33(1);

- Need to define "direct" and "indirect" transport in Article 36(1);

- Use best practices as benchmark;

- Consider better utilisation of simplified bilateral arrangements?

- Alternatives to the use of a tax representative should be examined whilst making sure that the excise duties are paid:

1. A one-stop-shop approach for cross border transactions could be useful. The trader fulfils all excise obligations via the excise authority of the Member State of residence which forwards the detailed excise information electronically to the excise authority of the Member State of destination. Problems associated with single window need to be clarified first: tax issues, guarantee problems, national requirements etc.
2. In the absence of a one stop shop, procedures should be harmonised, making it possible for distance sellers to follow the same formalities for registering, reporting and payment of collected excise, regardless of the Member State where the buyer resides. This could be supported through commonly developed procedures, guides, and common e-forms for registration, reporting and payment
3. In order to ease operations, the Commission could make available to Member States and trade (through their website):
	* + e-forms in all EU languages, transforming automatically the filled in form in the EU language of the Member State of destination, using a secure channel;
		+ links to Member States administrations dealing with distance selling;
4. A direct administrative link with the authorities of the Member State of destination could be established: for occasional sales the seller could provide the Member State of destination with a guarantee covering the due amount of the excise duty. For regular sales, a standing guarantee could be based on the estimated amount of excise duty due on sales for a given period and the track record of the trader.
5. One single contact point per Member State could be introduced. It would deal with distance selling and publish this contact point on the national website and/or provide clear information on the national procedure to follow.
6. A central web portal with easy access to the details of all national excise regimes could be developed.
7. The use of third party carriers and mail services could be encouraged. They could be registered as trusted operators with the competent authorities of the Member State of destination. The seller would certify that the necessary arrangements for securing the payment of the excise duties in the Member State of destination are made beforehand and the carrier would accept, based on Union wide legal provisions, the transport of excise goods with a certified excise sticker. This would secure as well the transport itself. The carriers could provide the necessary proof that the goods are delivered;
8. A temporary SEED number could be allocated to the buyer (use of B2B provisions for B2C, under the conditions that VAT rules are not circumvented); automate B2C alongside B2B;
9. Further simplifications for goods, such as still wine that is directly transported between Member States and have a zero rate for this product (e.g. relying on VAT supervision) were not welcome.

# APPENDICES

## Summary of MS replies to the questionnaire for B2B movements.

## Summary of MS replies to the questionnaire for B2C movements.

## Member States contributions: alternative treatment for B2C movements.











|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Application of Art. 36 of Dir. 2008/118/EC |  |   |  |   |
|   |   | **Finland** |   | **UK** |
|   |  |   |  |   |
| Do you require the use of a fiscal agent |   | not obligatory |   | yes, appointed by vendor |
|   |  |   |  |   |
| How do operators contact a fiscal agent |   | linked to seller, not published |   | not published, trade associations, internet |
|   |  |   |  |   |
| how and to whom is the agent appointed |   |   |   | HMRC  |
|   |  |   |  |   |
| what are the conditions to be an agent |   | authorisation, reliable operator with sufficient economic and operational capacity |   | authorisation by HMRC, must be UK resident, have UK duty deferment account, have viable business plan, for each consigment written notification to HMRC, duty is debited from duty deferment account |
|   |  |   |  |   |
| is there a central office in your MS dealing with distance selling (Art. 36(4)(a)) |   | yes, www.tulli.fi |   | application to National registration unit, contacts on application form or Notice 204B |
|   |  |  |  |   |
| If no central office how are the offices dealing with distance selling made public |   | customs website in FI, EN and SV |   |   |
|   |  |   |  |   |
| how do you operate guarantees |   | before becoming a fiscal agent a bank guarantee/deposit must be lodged |   | provide guarantee (financial security agreement), make monthly return & pay by 15th of coming month by duty deferment account |

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| --- | --- | --- | --- | --- |
|   |   | **Finland ff** |   | **UK ff** |
| if the vendor becomes directly liable, which procedures are foreseen (Art. 36. (3)) |   | seller launches guarantee covering the full excise amount before dispatching the consigment; the tax declaration has to be filed by the vendor within 4 working days after receipt.Based on the tax declaration Customs makes a tax assessment in which Customs offsets the excise duty against the guarantee.  |   |   |
|   |  |   |  |   |
| If the vendor can directly pay the excise duties in the MS of destination does your MS hold a register of distant sellers? |   | no |   |   |
|   |  |   |  |   |
| Can you calculate the turnover |   | no |   | yes, minimal |
|   |  |   |  |   |
| do you have distance purchaser arrangement, can you describe them? |   | yes, consignee in FI is liable and launches a guarantee similar to B2B |   |   |
|   |  |   |  |   |
| Do you make use of simplifications (Art.36) |   | no |   |   |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|   |   | **Italy** |   | **Spain** |
| Do you require the use of a fiscal agent |   | yes |   | yes |
|   |   |   |   |   |
| How do operators contact a fiscal agent |   |   |   |   |
|   |  |   |  |   |
| how and to whom is the agent appointed |   | Autorisation by customs local office |   | registered before Spanish tax authorities and registered in excise duty register, established in Spain |
|   |  |   |  |   |
| what are the conditions to be an agent |   | provide place of establishment, VAT n°, name and address of vendor, provide guarantee, pay, keep accounts |   | resident and place of business in Spain, designated by operator, must lodg security |
|   |  |   |  |   |
| is there a central office in your MS dealing with distance selling (Art. 36(4)(a)) |   |   |   | [www.aeat.es](http://www.aeat.es/) |
|   |  |   |  |   |
| If no central office how are the offices dealing with distance selling made public |   | website with list of local offices |   |   |
|   |  |   |  |   |
| how do you operate guarantees |   | deposit, bank guarantee or insurance policy |   | determined by local authoriy, cover dutiable amount, comprehensive guarantee of 2,5% of the annual duty. |
| if the vendor becomes directly liable, which procedures are foreseen (Art. 36(3)) |   | no |   |   |
|   |  |   |  |   |
| If the vendor can directly pay the excise duties in the MS of destination does your MS hold a register of distant sellers? |   | N/A |   |   |

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| --- | --- | --- | --- | --- |
|   |   | **Italy ff** |   | **Spain ff** |
|   |  |   |  |   |
| Can you calculate the turnover |   | no |   |   |
|   |  |   |  |   |
| do you have distance purchaser arrangements, can you describe them? |   | no |   |   |
|   |  |   |  |   |
| Do you make use of simplifications (Art.36) |   | no |   |   |

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| --- | --- | --- | --- | --- |
|   |   | **Belgium** |   | **France** |
|   |  |  |  |  |
| Do you require the use of a fiscal agent |   | no |   | yes |
|   |  |   |  |   |
| How do operators contact a fiscal agent |   | tax representatives are mostly customs respresentatives having an autorisation for customs warehouses; no lists are communicated. |   | no lists, operators and customs do not know them; customs representatives often refuse to become a tax representative for B2C for alcohol |
|   |  |   |  |   |
| how and to whom is the agent appointed |   | the seller has to appoint the tax representative to the local excise office giving name and address and a written mandate from the fiscal agent |   | tax representative is appointed by seller |
|   |  |   |  |   |
| what are the conditions to be an agent |   | place of business in B, provide guarantee, pay excise duties at the latest on Thursday following the delivery of the goods, keep records of deliveries (incl names and addresses of addressees) |   | provide to F customs a commerical register extract (K bis) or "an autorisation of establishment" or "a documentary evidence of identity" |
|   |  |   |  |   |
| is there a central office in your MS dealing with distance selling (Art. 36(4)(a)) |   | no |   | no |
|   |  |   |  |   |
| If no central office how are the offices dealing with distance selling made public |   | <http://annuaire.fiscus.fgov.be/gw/index.php?lang=nl> |   | [http://douane.budget.gouv.fr](http://douane.budget.gouv.fr/) |
|   |  |   |  |   |
| how do you operate guarantees |   | first time: 100%, regular deliveries: global guarantee |   | procedure is base ona a regulation published as CIA No 200 customs document 01-100 of 29.6.2001. A bank of credit institution has to fill a form called "Caution money act n° 3750" and has to send it to the "Recette régionale" (customs office) |

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|   |   | **Belgium ff** |   | **France ff** |
| if the vendor becomes directly liable, which procedures are foreseen (Art. 36(3)) |  | excise duties are due at delivery: seller has to notify the excise authorities before the sending and provide a guarantee (100%), before dispatching the goods. Payment is made when goods are received in Belgium. |  | not allowed (Art. 302 U bis (II) general duties Code |
|   |  |   |  |   |
| If the vendor can directly pay the excise duties in the MS of destination does your MS hold a register of distant sellers? |   | no |   | NA |
|   |  |   |  |   |
| Can you calculate the turnover |   | No |   | no; producers refuse to sell wines to MS: procedure too complicated |
|   |  |   |  |   |
| do you have distance purchaser arrangements, can you describe them? |   | NA |   | no |
|   |  |   |  |   |
| Do you make use of simplifications (Art.36) |   | no |   | no |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|   |   | **Ireland** |   | **Sweden** |
| Do you require the use of a fiscal agent |   | yes |   | yes, for regular business |
|   |  |   |  |   |
| How do operators contact a fiscal agent |   | through normal commercial channels |   | operator contacts fiscal agent, see skatteverket.se, form SKV 535b |
|   |  |   |  |   |
| how and to whom is the agent appointed |   | the tax representative is appointed by the Office of the Revenue Commissioners and must provide certain information relating to the person or persons on whose behalf they are operating. This includes a "letter of authorisation from the persons concerned in the other MS" |   | tax authorities, skatteverket.se, form SKV 535b, use same form as for registering distance seller |
|   |  |   |  |   |
| what are the conditions to be an agent |   | the tax represantative must be established in Ireland; he is liable for the payment of the excise duty payable on each consignment; must notify the authorities prior to dispatch of each consignment including details of the person and place to where goods are delivered; he must provide advance security if required; pay outstanding duties at delivery; keep accounts for 3 years. |   | tax representative must be established in Sweden, fiscal agent is not taxable, acts as intermediary for seller, fills in tax return monthly, is responsible for taking account of deliveries, documentation must be available at fiscal agent's premises for audit purposes, authorisations may be withdrawn |
|   |  |   |  |   |
| is there a central office in your MS dealing with distance selling (Art. 36(4)(a)) |   | no, a person wishing to appoint a tax representative must contact the regional office of Revenue Commissioners where the representative is located. |   | yes, to be found at skatteverket.se |
|   |  |   |  |   |
| If no central office how are the offices dealing with distance selling made public |   | By public information notice on the Revenue Commissioner's website. |   |   |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|   |   | **Ireland ff** |   | **Sweden ff** |
| how do you operate guarantees |   | the local office of the Revenue Commissioners will determine the amount |   | distance seller must lodge guarantee (10% of estimated yearly duty) with tax authorities; must be in Kronor and be on a blocked bank account or a bank guarantee; a temporary seller must lodge a guarantee covering 100% of the duties and should be lodged before the goods are sent to Sweden, this is done by paying the amount to the tax authorities bank account (information guarantees: form SKV 535b) |
|   |  |   |  |   |
| if the vendor becomes directly liable, which procedures are foreseen (Art. 36(3)) |   | NA |   | he must be registered as a taxable person( application on form SKV 5372b); the authorities provide the seller with a special tax duty tax return form as soon as the registration form is received by the "agency" and the guarantee is paid; the completed form has to be sent to the tax authority and the tax needs to be paid not later than 5 days after the goods have been "moved into Sweden". A guarantee used as advance payment may be used. |
|   |  |   |  |   |
| If the vendor can directly pay the excise duties in the MS of destination does your MS hold a register of distant sellers? |   | this does not apply |   | distance sellers are registered as they are taxable persons. The registration contains information on the fiscal agent; the register is computerized. |
|   |  |   |  |   |
| Can you calculate the turnover |   | no; but turnover is negligible |   | yes |

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| --- | --- | --- | --- | --- |
|   |   | **Ireland ff** |   | **Sweden ff** |
|   |  |  |  |  |
| do you have distance purchaser arrangements, can you describe them? |   | NA |   | internet sales: buyer arranges for transport instead of vendor, buyer has to notify the movement to the tax authority and lodge a guarantee. Buyer must declare the goods and pay duties within 5 days of the goods "having entered Sweden". Guarantee is normally used to pay tax. But there exist a lot of fraud: buyer does not declare the movement. |
|   |  |   |  |   |
| Do you make use of simplifications (Art.36) |   | Not applicable due to low level of applications for approval as tax representative |   | no bilateral arrangement for simplifications |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|   |   | **Denmark** |   |   |
| Do you require the use of a fiscal agent |   | no |   |   |
|   |  |   |  |   |
| How do operators contact a fiscal agent |   | internet |   |   |
|   |  |   |  |   |
| how and to whom is the agent appointed |   | vendor or fiscal agent must register under http://www.virk.dk; the vendor or agent will be registered as authorised warehouse keeper or registered consignee |   |   |
|   |  |   |  |   |
| what are the conditions to be an agent |   | fiscal agent must be resident in DK, registered for distance selling by tax authorities, launch guarantee, keep records of deliveries and purchasers to whom goods are delivered; vendor and agent are jointly liable for duties |   |   |
|   |  |   |  |   |
| is there a central office in your MS dealing with distance selling (Art. 36(4)(a)) |   | yes: http:/www.skat.dk and hotline: 0045-72381818 |   |   |
|   |  |   |  |   |
| If no central office how are the offices dealing with distance selling made public |   | NA |   |   |
|   |  |   |  |   |
| how do you operate guarantees |   | min 10000 Kroner (200000 on Spirits); bank guarantee or blocked bank account or bearer bonds |   |   |
|   |  |   |  |   |
| if the vendor becomes directly liable, which procedures are foreseen (Art. 36(3)) |   | vendor receives national tax account as part of the registration; see procedure: http:/www.skat.dk/SKAT.aspx?old=2117428&vld=0&lang=US |   |   |

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|   |   | **Denmark ff** |   |   |
|   |  |   |  |   |
| If the vendor can directly pay the excise duties in the MS of destination does your MS hold a register of distant sellers? |   | yes, computerized register of distance sellers |   |   |
|   |  |   |  |   |
| Can you calculate the turnover |   | no |   |   |
|   |  |   |  |   |
| do you have distance purchaser arrangements, can you describe them? |   | individuals may be registered as temporary consignee, this is only valid for one operation and a guarantee has to be paid before registration |   |   |
|   |  |   |  |   |
| Do you make use of simplifications (Art.36) |   | no |   |   |

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| **UK** | **IRL** | **BE** |
| 1. difficult to see how a VAT model could correctly work for excise duties simply because of the fundamental differences between MS; a web based option may prove very costly | 1. need for more information on MOSS |   |
| 7. We are interested in the concept of “trusted operators” (eg registration of transporters) |   |   |
| 9. simplification for wine zero rated: UK having a positive rate, VAT supervision probably not enough |   |   |
|   |   |   |
| **general comment:** | **general comment:** | **general comment:** |
| cost and method of collection (incl IT accounting processes) cost/benefit |   |   |
| Tax rep reduces workload for administration |   |   |
| How could declarations/sales be tested and validated?  |   |   |
| how is the duty accounted for and collected in MS of destination? |   |   |
| How and where are guarantees lodged to cover the liability of distance sales - and how these are collected if a default/unpaid liability are detected?  Difficult if guarantee is placed in MS of dispatch. | legal and adm impediments to launch a guarantee in the MS of destination |   |
| tax rep has to have a standing guarantee linked to a duty deferment account, by which UK duty is accounted for |   |   |
| lack of transparency could be stifling genuine UK trade | in favour of promoting consistency and improvement in the collection of excise duty, reduction of compliance costs for traders and the reduction of fraud | need to consult economic operators: wait for reply from federations, which were contacted |
| common set of rules would be welcomed by UK businesses  |   |   |

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| **ES** | **SW** | **F** |
| wait for report of evaluation study before deciding to revise the HD | 1. MOSS: investigate possibilities for B2C | 1. MOSS: privileged option |
| cost/benefit analysis is needed | 2. uniform application of law and uniform practice is desirable: ie standardised e-forms and guidelines (parallel to VAT) | 2.-9. e-forms and links to MS websites, direct link to MS of destination, single contact point per MS, common webportal, simplifications between MS with 0 duty rate, all is possible |
|   | 3. e-forms: costs, responsabilities (irregularities, updates, effects of delay...),  |   |
|   | 5. contact point: which responsabilities? |   |
|   | 6. central web portal: costs, responsabilities (irregularities, updates, effects of delay...),  |   |
|   | 7. carriers as trusted operators for the MS of destination: interesting. + excise sticker as secured proof of payment - to be elaborated |   |
|   | 8. temporary SEED n° for private individuals: fear increase of administrative burden |   |
|   | 9. simplified arrangements for MS having a 0 rate on still wine: too many exceptions might lead to increased fraud |   |

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| **FI** | **AT** | **PT** |
| 1 MOSS: worth investigating. Would require a change of the directive in order to get necessary harmonization of the procedures. Good: model sets responsibilities to the MS of the residence of the distance seller | 1. idea that the trader fulfils all excise obligations via the authorities of the MS of residence seems helpful; however: trader still needs up-to-date information on the various rates of the MS’s of destination; ways to establish a guarantee for the excise duty to be paid to the MS of destination; MS of residence will have to distribute the excise duties collected to various MS’s of destination and will (possibly) request a share of the excise duties collected to cover its administrative expenses. Wait for the experiences made in the VAT. | 1. Interesting approach; but burden on consignor, which is a weakness since it depends exclusively on the consignor to declare the existence of the commercial transaction, and on-line shops being small businesses and not possessing any excise statute, will not be very amiable to its implementation and will probably try to skip it.  |
| 2: would require a change of the directive. If the directive is not changed will the MSs voluntarily change their national legislation in order to harmonize the procedure? Hardly | 2. harmonisation would be most helpful for distance sellers: guidelines and implemented in national legislations or administrative arrangements.  | 2. more merits than the previous one, but will surely bring a lot of work, both legally and technically, to all MS. But it is a step in the right direction |
| 3. Worth considering. In Finland we at the moment have all the necessary forms only in the national languages, Finnish and Swedish | 3. Common e-forms for registration and reporting (e.g. advance declarations of the goods to be delivered) would be very useful. Common e-forms for filing tax returns and for payment may not be necessary; AT legislation provides that tax returns have to be filed by electronic means if technically feasible, otherwise as paper documents; no need to standardize the format and the contents of the tax returns. Instead of e-forms in all EU-languages create e-forms with pre-defined boxes, comparable to the e-AD or the SAAD.  | 3.This proposal can certainly be linked to the one above, complementing it |

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| **FI** | **AT** | **PT** |
| 5. Good idea. Can all MS offer information in EN on their internet pages | 4-5. COM proposals already implemented in AT. For registration of the identity of the distance seller, for advance notifications of shipments and requests for general permissions (covering frequent movements) an electronic form is available to traders via the homepage of the Ministry of Finance (in German). The guarantee may cover individual movements of excise goods or may be a standing guarantee. AT has established one single contact point dealing with distance selling, in order to comply with Art. 36 (4)(a) of Dir. 2008/118/EC (“competent office specifically designated”). For excise: customs office of Innsbruck. [For VAT: tax office of Graz-Stadt is in charge of registration of traders established in another MS].  | 4. This proposal merits much in depth discussion because it raises serious questions: How would the guarantee work, since our guarantees are only recognized if created following our national rules? Would the vendor establish a guarantee (temporary or standing) in each MS of destination? Are we putting forward the possibility of a guarantee valid throughout the EU? The possibility of transposing to distance selling the same philosophy applied currently to the guarantees of products in excise duty suspension is very interesting but will probably carry with it the same problems and obstacles |
| 6. main responsibility on COM, final result would probably be better | 5-6. central web portal with access to the details of all national excise regimes necessary? Details of MS’s national excise duty legislation have been published in the “excise manual”; one chapter has been devoted to distance selling, which needs of course to be updated by MSAs regularly; or provide links to national sites on DG TAXUD homepage. National info-sites would need to provide for the pertinent information in English. | 5-6. Good idea to make the administration a contact point and to have a central web portal, since it would be able to clarify any doubts that the traders may have about the national procedures, but, only if traders are willing to know and comply with the procedures, otherwise they will just ignore them as well |

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| **FI** | **AT** | **PT** |
| 7. How would this alternative make the procedure simpler, and who would profit of it? | 7. COM proposal is interesting but needs to be elaborated.  | 7. complex for business, probably creates distortions, since the carrier companies that would be “certified” would undoubtedly charge extra for the certification procedures, making more attractive to small businesses the use of uncertified carrier companies. Also the technical and legal means of implementing this change would have to be quite substantial |
| 8. May require a change of the directive. Not transfer too much of the responsibilities from the seller to the buyer: buyers will ignore the excise duties and sellers can freely sell as much as they can | 8. AT already provides for the use of temporary SEED-numbers for duty paid goods, this also applies to distance selling. The so-called national SEED-numbers are registered in the national sector of the SEED-database which also covers registration data of distance sellers and data concerning their guarantees. Moreover, the distance seller needs a national SEED-number in order to file a tax return by electronic means. If we oblige the buyer to apply for and use a temporary SEED number, this might be feasible, but puts an administrative burden (like handling administrative documents) on private individuals. AT would, however, be ready to discuss this new possibility.  | 8. Obligations on the part of the buyer that can be considered cumbersome. Without the means to effectively monitor their enforcement, there is a clear possibility that this is bound to “alienate” the buyers, making them work outside any established system. This is a subject that merits further discussion |
| 9. Not an interesting alternative to us |   | 9. This solution has merit but will only work if the products are subject to a zero rate of excise in both MS involved. Problems may arise if the products are subject to road controls if and while they pass a third MS where the products are subject to a positive rate of excise |

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|   |   | PT |
|   |   | general comments: |
|   |   | -        The need to put in place practices that will enable the correct control and taxation of the products in the member state of destination/consumption; |
|   |   | -        Within the scope of the previous point, the convenience of creating some kind of “early warning” system containing an effective form of notification by the MS of expedition to the MS of destination, regarding the products that are to be sent to its consignees;  |
|   |   | -        The absolute need to accommodate such practices to the market, which will necessarily imply the agreement and full collaboration of all private actors involved. |
| 1. MOSS: mini one stop shop as in VAT |   |   |
| 2. harmonisation of national procedures |   |   |
| 3. Commission making availalbe e-forms and links to national administrations |   |   |
| 4. direct link with the Member State of destination (no use of a tax representative) |   |   |
| 5. single contact point per Member State |   |   |
| 6. central webportal with access to national excise regimes |   |   |
| 7. use of third party carriers and mail services to be used as trusted operators replacing the tax representative |   |   |
| 8. use of temporary SEED number by the buyer  |   |   |
| 9. simplifications (e.g. for 0 rate products) |   |   |

1. Trade federations whose clients are small and medium sized wine growers. They are interested in a better functioning of distance selling under Art. 36. [↑](#footnote-ref-1)