



Council of the
European Union

Brussels, 19 November 2015
(OR. en)

9368/3/15
REV 3

LIMITE

ENFOCUSTOM 39
UD 130
COSI 56
FISC 89

NOTE

From:	Italian delegation
To:	Customs Cooperation Working Party
No. prev. doc.:	17775/2/13 REV 2, 16069/1/14 REV1
Subject:	Action 7.1 "To analyse the current situation on excise fraud in the customs context and identify available tools, best practices, weaknesses and needs" - Final Report

Delegations will find in annex the Final Report on Action 7.1 as adopted by CCWP on 17 November 2015. The latest change as agreed during the meeting is in bold and underlined.

1. Background

In 2008¹, the Excise Movement and Control System (EMCS) was introduced for excise goods moving in duty suspension. EMCS has improved the exchange of information about movements, while giving the controlling authorities an overall picture of duty-suspended movements, both of goods within the EU and of those destined for export outside the territory of the EU.

It has also shown that large excise frauds are being perpetrated. Currently Member States lose billions of euros through excise fraud each year. For this reason, the CCWP adopted the mandate for Action 7.1: *"To analyse the current situation on excise fraud in the customs context and identify available tools, best practices, weaknesses and needs."*

The strategic objectives of the mandate are to:

- a) Improve institutional co-operation with other law enforcement authorities, agencies and (non-EU) international organisations.
- b) Enhance operational co-operation between customs authorities, between tax authorities and between customs and tax authorities.
- c) Ensure effective information management for the purposes of law enforcement.

The purposes of the project are to:

- a) Analyse the current situation of excise fraud at EU level and find solutions to tackle the phenomenon, by enhancing cooperation between customs and tax authorities and with other relevant authorities in the EU as well as with international bodies/agencies. The project group will therefore collect data or information related to excise fraud encountered in the Member States. The aim is to identify common patterns of fraud and its extent, and to ascertain the extent of the involvement of organised criminal groups/organisations, in order to identify common approaches to fighting this fraud and to improve the exchange of information between authorities.

¹ The system started working on 1 October 2010.

- b) Exchange experiences and best practices for more effective activities by customs and tax authorities in the Member States.
- c) Identify strengths and weaknesses in the current investigative/working methods in the Member States and in the EU as a whole, in order to make recommendations on how to improve such methods. This should also include the proper use of the existing legal instruments (such as e.g. Naples II Convention) to enhance the cooperation between customs authorities in the EU and other relevant authorities, as well as with international bodies/agencies. It should also identify common approaches to fighting this fraud, and methods for improving the exchange of information between the customs authorities in the EU, and seek ways to improve existing technical tools available to customs authorities in order to make these more effective for combatting fraud.
- d) Produce a report based on the findings, taking into consideration the experience gained by Member States in combatting fraud, with recommendations on how to tackle this phenomenon and how to identify the organised crime groups that are involved. In particular the group must propose concrete ways to use the existing customs cooperation tools, both legal and technical - as well as new tools that may be developed for more effective investigation, not only in single Member States but also at the EU level. The report should also suggest ways to enhance the cooperation between customs authorities and other law enforcement agencies both at national and EU level, in cooperation with tax authorities where necessary.

2. Work of the project group

The work carried out by the project group should also be used as a basis to promote the organisation of a joint operation in this sector.

Overall the project would seek to:

- Ensure that Member States can recognise potentially fraudulent movement patterns in EMCS data, including patterns that relate to fraud in other Member States;
- Identify potential changes to the EU Directive and Implementing Regulations that will inhibit fraud, and
- Enhance cross-border and other kinds of cooperation between Member States.

The working group, coordinated by Italy, consists of representatives of several Member States, namely AT, BE, BG, CY, DE, FI, HU, IT, LV, MT, NL, PL, RO, SE, SI, UK.²

To inform the work of the group, a questionnaire was produced for Member States, divided into three parts:

1. General information: regarding the specific organisation, tasks and powers of the customs offices or other law enforcement bodies dealing with excise fraud;
2. Excise fraud: To collect information about excise fraud cases in each Member State, modus operandi and tools used during the investigations (administrative and penal) for the years 2012 and 2013.
3. Weakness and needs: To obtain information about the main problems Member States faced in their investigations (penal or administrative) and to learn of best practices in developing such investigations.

A draft questionnaire was presented by the Italian delegation at the first meeting of the group, held in Brussels on 27 February 2014. It contained questions designed to identify the current excise fraud situation and common strategies which could be adopted in the fight against excise fraud. The meeting discussed the questionnaire and comments and suggestions from the participants were incorporated into a new draft.

In the first week of March the final draft of the questionnaire was distributed to all the members of the group for final approval.

² See Annex 1 to Annex for the list of participants.

On 31 March 2014 CCWP issued the final version of the questionnaire to all the Member States (doc. CM 2269/14 of 31 March 2014).

On 8 and 9 May 2014 the group met again in Rome to discuss the replies received from Member States (not all the Member States replied). The replies were summarised under specific headings.

Due to the problems that emerged during the analysis of the data collected and also the absence of a response from some Member States, on 11 June the group asked the CCWP for an extension of the deadline for the final report. The group was granted an extension until 31 October 2014.

On 24 and 25 July 2014 the group met in Malta to further analyse all the questionnaires and to draft the final report to be submitted to CCWP.

The answers of the questionnaire were filled in on an EXCEL spreadsheet.

On 15th December 2014 a draft of the final report (16069/14) was presented for approval at the CCWP Plenary. Due to comments and suggestions by some Member States regarding the report, the representative of the group asked the CCWP for an extension of the mandate in order to modify and develop the final report taking into account the amendments required. The request was approved by CCWP.

The group met in Brussels on 19th March 2015 to discuss and finalise the report.

Meanwhile, a revised version of 16069/14, incorporating some minor changes, was issued as an interim report.

3. Results of the questionnaire

The detailed results of the questionnaire are set out in Annex 2. The current chapter sets out the summaries.

DELETED FROM THIS POINT UNTIL THE END OF THE DOCUMENT (page 28)
