



Study contributing to an Impact Assessment on Council Directive 2008/118/EC concerning the general arrangements for excise duty

Final Report

Volume 1 – Main Text



CASE - Center for Social
and Economic Research



Authors:

Christopher Hartwell
Grzegorz Poniąkowski
Katarzyna Sidło
Felice Simonelli

Supported by:

Paul Lirette
Katarzyna Mirecka
Eduard Seewald
Giulia Maria Stecchi
Adam Śmietanka
Jan Toczyński
Anne-Christin Winkler
Elisabeth Wölfel

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Directorate C – Indirect Taxation and Tax Administration
Unit C.2 – Indirect Taxes other than VAT
Contact e-mail: TAXUD-C2-EXCISE-MOVEMENTS@ec.europa.eu

*European Commission
B-1049 Brussels*

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Acronyms and Abbreviations

AAD	Accompanying Administration Document
AES	Automated Export System
ARC	Administrative Reference Code
B2B	Business-to-Business
B2C	Business-to-Consumer
BPM	Business Process Model
BAU	Business-As-Usual
CAP	Common Agricultural Policy
CBA	Cost-Benefit Analysis
CDA	Completely Denatured Alcohol
CDPS	Customs Declaration Processing System
CN	Combined Nomenclature
CPC	Customs Procedural Code
CS/MISE	Central Services / Management Information System Excise
DDNXA	Design Document for National Export Application
e-AD	Electronic Accompanying Document
ECOFIN	EU Council of Economic and Finance Ministers
ECS	Export Control System
EMCS	Excise Movement and Control System
ENS	Entry Summary Declarations
EO	Economic Operator
EU	European Union
FESS	Functional Excise System Specification
HMRC	Her Majesty's Revenue & Customs
IA	Impact Assessment
IE	Information Exchange
IT	Information Technology
ICS	Import Control System
ITEG	Indirect Tax Expert Group
ISCO	International Standard Classification of Occupations
L4	Level 4, Functional Requirements and Information Exchanges Specifications
LRN	Location Reference Number
MCA	Multi-Criteria Analysis
MRN	Movement Reference Number
MS	Member State
MSA	Member State Authority
MTIC	Missing Trade Intra-Community
NCTS	New Computerised Transit System
OPC	Open Public Consultation
RoR	Report of Receipt
SAAD	Simplified Administrative Accompanying Document
SAD	Single Administrative Document
SCM	Standard Cost Model
SME	Small- and Medium-Sized Enterprises
SEED	System of Exchange of Excise Data
STC	Single Transport Contract
TCO	Total Cost of Ownership
ToR	Terms of Reference
T1	External Transit
T2	Internal Transit
TIR	fr. Transport International Routier
UCC	Union Customs Code
UCC DA	Commission Delegated Regulation (EU) No 2015/2447
UCC IA	Commission Implementing Regulation (EU) No 2015/2446

VA	Value Added
VAT	Value-Added Tax
VIES	VAT Information Exchange System
WAP	Weighted Average Price

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Abstract

This Study serves as the Final Report for the DG TAXUD Project "Study contributing to an Impact Assessment on Council Directive 2008/118/EC concerning the general arrangements for excise duty", which was conducted under the Framework Contract no. TAXUD/2015/CC/32.

The Study includes a baseline assessment of a series of issues that emerged from the previous evaluation of the Directive and analyses how these problems may evolve if no action at the EU level is taken. The scope of work includes four main problem areas: customs-excise, duty paid business-to-business (B2B), exceptional situations, and low-risk movements. In addition to the main problem areas, this Study also analyses selected aspects concerning risk analysis and the movement of excise goods for private use.

Moreover, the Study considers a set of 13 possible policy options designed to address these problems. It assesses their implementation cost and likely impacts, focusing on the impact on fraud, administrative and compliance costs/benefits, market functioning and SMEs.

The evidence collected for this Study includes data gathered from various sources of both primary and secondary nature. The information gathered for estimating compliance and administrative costs comes mostly from the large scale interview programme of Member State authorities and economic operators. The estimation of the scale of different types of fraud is based on data mining techniques and indicators of discrepancies in various statistical and tax registers.

Finally, the Study compares impacts alternative policy options applying a combination of a cost-benefit analysis (CBA) and a multi-criteria analysis (MCA) methodology.

1 EXECUTIVE SUMMARY

1.1 Introduction

The **overall objective** of this Study is to gather and analyse evidence to quantify the magnitude of the problems in the area of excise duties, as well as to estimate the potential regulatory costs and benefits of suggested solutions. This exercise will help to evaluate potential outcomes of a possible revision of Directive 2008/118/EC (henceforth: the Directive), covering the following:

- verification of the existence of the problems identified in the evaluation studies and the following Commission Report (2017) and their magnitude;
- assistance to the European Commission (henceforth: the Commission) in conducting an open public consultation (OPC) on the possible options for the revision of the Directive;
- assessment of the evolution of the problems that could arise if no further action at the European Union (EU) level is taken (dynamic baseline scenario); and
- identification of policy options to address the problems and an assessment of their economic, social, and environmental impacts, as well as comparisons of each possible option, including the no change scenario.

The scope of work includes initiatives of the Commission's Regulatory Fitness and Performance Programme (REFIT) that belong to four main **problem areas**:

1. **Customs-excise**, namely, the integration of customs and excise regulations relating to import and export operations, which may occur under normal procedures, the Union Transit procedure, or the Single Transport Contract (STC).
2. **Duty paid business-to-business (B2B)**, a type of movement of excise goods where excise duties have been paid at the country of dispatch, currently subject to paper-based procedures and often carried out by small companies and for low-value consignments.
3. **Exceptional situations**, namely, administrative procedures concerning cases of shortages, excesses, rejections, and interruptions occurring during the transport of excise goods.
4. **Low-risk movements**, movements of goods such as denatured alcohol or certain energy products that 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 to the economic value of the good.

In addition to the main problem areas, this Study also analysed selected aspects concerning **risk analysis** and the **movement of excise goods for private use**.

1.2 Overview of Methodology

The evidence collected for this Study includes data gathered from various sources of both a primary and secondary nature.

The strategy for gathering primary information was threefold. Firstly, a large-scale interview programme was set in motion in selected Member States (MS), namely Belgium, the Czech Republic, France, Germany, Ireland, Italy, the Netherlands, Poland, and Portugal. In addition to face-to-face interviews, some targeted stakeholders were sent detailed closed- or open-ended questionnaires. The stakeholders to whom these were sent included Member State Authorities (MSAs) that were not selected for case

studies and all economic operators (EOs) that are members of the Trade Contact Group and/or the Excise Contact Group. Moreover, selected EU-wide trade associations or federations were asked to forward the questionnaire to their members. As the third component of the consultation strategy, an OPC targeting EU citizens, EOs, and other stakeholders was conducted to gather views on a set of possible options for the revision of the Directive. Overall, for the purpose of this Study, 151 individuals answered the OPC questionnaire on the Commission's website. In addition, 31 EOs and MSAs from 25 MS provided their answers to the detailed technical questionnaire. The questions to the problem area of excise and customs were answered by representatives from 21 MS, whereas the questions to the problem area of private acquisition of alcoholic beverages and tobacco products by individuals were answered by authorities from 20 MS.

The fieldwork aimed to gather information on the magnitude of the problems and to uncover different economic outcomes in the application of excise duties for each MS consulted, with particular attention being paid to identifying the suspected areas and volume of fraud activities. The desk research, in turn, was conducted with the goal of supporting this evidence and verifying the accuracy of the information provided in the consultation. The collection of secondary information relevant for the analysis involved a range of different sources, such as legislative documents, databases containing market information, reports, scientific articles, and grey literature.

The goal of the analytical work was to compare the dynamic baseline scenario—the scenario under which the provisions of the Directive remain unchanged—with 10 policy change scenarios, using both quantitative (cost-benefit) and qualitative (multi-criteria) methods. In our analysis, we defined the typology of impacts by setting two dimensions—namely, by classifying them first by nature and then by type of impacted stakeholder. For this purpose, we distinguish between EOs, public authorities, and consumers. Direct impacts are classified in accordance with the following categories:

1. direct charges (e.g. levies and fees);
2. administrative costs/cost savings;
3. compliance costs/cost savings;
4. enforcement costs;
5. hassle costs; and
6. market effects/competition.

To quantify and monetise these different types of costs and benefits, various techniques were used. For the purpose of estimating administrative and compliance costs, the Standard Cost Model (SCM) was used. The estimation of the enforcement costs/cost savings of implementing the policy options that envisage changes in Information Technology (IT) architecture involved an analysis of available Business Process Models (BPMs) and utilisation of the IT Master Plan (referred to as 'EU IT Cost Model'). To estimate the value of fraud, several sources of information and several indicators were applied. In addition to the levels of fraud that were suspected by the respondents, we also utilised, among others, Export Control System (ECS) and Excise Movement and Control System (EMCS) statistics, discrepancies in Intrastat¹ and Extrastat² volumes of trade, as well as production and consumption figures.

Finally, to compare alternative policy options applying a set of six pre-determined criteria, a combination of a cost-benefit analysis (CBA) and a multi-criteria analysis (MCA) methodology was utilised. The CBA enabled comparisons of different monetary outcomes, whereas the MCA examined relationships with qualitative impact categories,

¹ EU data collection system for intra-EU supply and acquisition.

² EU data collection system for export and import.

such as distributional impacts, and provided a ranking of different options using more than one variety of indicators.

1.3 Summary of Key Findings and Conclusion

We find that the current arrangements cause a number of problems both for MS and EOs.

First, the non-alignment of customs and excise procedures causes substantial problems with export operations. The lack of an EU-wide system allowing for an exchange of information between the EMCS and ECS is especially problematic when the MS of dispatch is different than the MS of export. If no EU-wide measures are implemented, the problems will persist and may even slightly increase in scale as the volume of excise movements (also excise movements closed manually) with destination export is expected to increase. Similarly problematic are the present arrangements impeding the use simplifications under external and internal transit and the STC. Another problem is the lack of cross-checking of customs declarations and electronic accompanying document (e-AD) at the border, which prevents ensuring that an actual movement under duty suspension occurs after import. The current paper-based duty-paid B2B procedures are also problematic in terms of the opportunities for fraud that are created. The lack of simplified procedures for low-risk movements in turn creates unnecessary regulatory burdens for EOs. Finally, a number of issues regarding exceptional situations cause an increased risk of fraud, administrative burdens for MS, and uncertainty and the risk of penalties for EOs.

Based on the data analysed, we find the following:

- the full synchronisation of the Automated Export System (AES) and EMCS would require a significant modification of EMCS applications, as well as additional efforts in implementing the AES. Thus, despite high gains, such a policy option would not be profitable over the next five years. The implementation of full automation is, however, supported by the vast majority of MSAs and EOs expecting long-term gains. The harmonisation of alternate proofs of exit is also strongly supported (16 out of 19 MSAs). In lieu of automated process synchronisation, it is recommended to increase legal clarity and to decrease the costs borne by MSAs and EOs by harmonising alternate proofs of exit;
- external and internal transit procedures are reportedly functioning well in all MS analysed, which is not the case for the STC. It is recommended to clarify the current provisions and to solve the problem of insufficient guarantees in the STC. Allowing for the use of the external transit procedure after export is fit for this purpose;
- with an estimated level of fraud of EUR 20 million per year alone in import movements to another MS, the gains in excise revenue would outweigh the costs of the implementation of cross-checks for both MSAs and EOs. In addition, the cross-check would result in man-day savings for MSAs due to the elimination of manual cross-checks. The additional costs for the provision of Administrative Reference Code (ARC) and System of Exchange of Excise Data (SEED) numbers and the necessary modifications in the EMCS and Customs Declaration Processing System (CDPS) to allow for the check of the goods description are expected to be lower than the costs of the loopholes in the current arrangements;
- despite the significant costs connected with changing duty-paid B2B processes, especially in large companies, it is recommended to implement a solution extending the EMCS;
- in implementing a simplification scheme for low-risk movements, a compromise between the expectations of EOs and the reservations of MS regarding a potential

increase in the risk of fraud needs to be reached. It is recommended to implement a solution based on the types of goods that are considered low risk (a list of which would need to be negotiated among MSAs);

the introduction of compulsory reports in cases of destruction, loss, and/or theft during movements, a compulsory increase in storage capacity for tax warehouses, the standardisation of procedures and equipment used to estimate/calculate shortages/excesses, the introduction of a standardised allowable losses threshold, and the introduction of a standard right to be heard would be beneficial overall in terms of costs savings in the long term and a reduction in fraud;

- the integration of excise procedures with those laid out in the Recovery Directive, while generating moderate enforcement costs for national authorities, would, at the same time, lead to an administrative cost savings of approximately EUR 5.23 million over the next five years and is recommended; and
- all the options (except baseline) of this initiative will likely have significant impacts on simplification and will reduce administrative burden and compliance costs.

2 INTRODUCTION

2.1 Nature and Purpose of the Report

Improving the handling, production, and movement of excisable products has been a crucial issue for the European Union (EU) since the launch of the internal market. The scope of the current intra-EU trade in excisable goods is depicted by Figures A1-A4 in Annex A. In 2016, average monthly intra-EU trade registered by Eurostat amounted to more than EUR 15 billion.

With the free circulation within the EU of high-value excise goods that are prone to fraud, a common system was needed for the control and movement of excisable goods in order to prevent fraud and to ensure Member States (MS) received excise duty payments. In this regard, the EU set out basic principles for the treatment of all goods subject to excise duties and other indirect taxes (except for the value-added tax (VAT) and taxes established by the Community) in Directive 92/12/EEC. This Directive allowed only authorised economic operators (EOs) to move excise goods under duty suspension and required that these excisable goods be accompanied by paper documentation—the Accompanying Administration Document (AAD). Directive 92/12/EEC was amended on several occasions since, and, in April 2010, was repealed by Directive 2008/118/EC (henceforth: the Directive), which aimed to modernise and simplify the provisions, and provided the framework for the electronic handling of the movements.

Shortly after the Directive came into force, the Excise Movement and Control System (EMCS) was operationalised. This computerised system was called for by the EU Council of Economic and Finance Ministers (ECOFIN) in 1998 due to the high level of fraud reported under the intra-EU circulation of excise goods. To help combat fiscal fraud, the EMCS allows for the real-time monitoring of movements of alcohol, tobacco, and energy products for which duties remain to be paid. More specifically, under this system, every stage of movement of excise goods is documented through an electronic Administrative Document (e-AD). In addition to creating a paperless administration, the system also aims to standardise and simplify procedures for traders, as well as to accelerate the release of guarantees when goods arrive at their destination.

Because the measures and provisions implemented had multiple goals—namely, increasing oversight of movements and simplifying procedures for both EOs and MSAs—the treatment of excise taxes under the Directive became relatively complex. This treatment is additionally complicated by the fact that numerous players are involved and the location of the purchase, type of product, and movement route can play a role. Within this complex system, as the evaluation studies suggest, there might be scope for further improvement.³

Against this background, the **overall objective** of this Study is to contribute to the Impact Assessment (IA) a set of policy options for a possible revision of the Directive. The revision itself is aimed at gathering and analysing evidence to quantify the magnitude of identified problems, as well as estimate the costs and benefits of solutions to problems in the area of excise duties. This exercise will help to identify potential outcomes in the context of a possible revision of the Directive, covering the following:

- verification of the existence of the problems identified in the evaluation studies and the following Commission Report (2017) and their magnitude;
- assistance to the European Commission (henceforth: the Commission) in conducting an open public consultation (OPC) on the possible options for the revision of the Directive;
- assessment of the evolution of the problems that could arise if no further action at the EU level is taken (dynamic baseline scenario); and
- identification of policy options addressing the identified problems and an assessment of their economic, social, and environmental impacts, as well as comparison of each possible option, including the no change scenario.

The scope of the work fits under four main **problem areas**, where, according to the Commission report, there might be room for improvement of the Directive in order to reduce administrative burdens for both MS and EOs and minimise distortions in the internal market. The problem areas can be summarised as follows:

1. Customs-excise: legal and technical arrangements for the coordination of customs and excise procedures do not work well, causing legal uncertainty and delays, and providing opportunities for fraud. This problem area can be divided into the following sub-areas:

(a) Customs-export: during the export of excise goods from the territory of the EU, both excise and export procedures are active in parallel; however, the extent of synchronisation between the two systems might currently be insufficient. Consequently, an excise movement may remain open and an associated guarantee immobilised long after the goods had exited the territory of the EU; another consequence is that changes in the status of export (e.g. export declaration invalidation) are not always forwarded to excise. Moreover, data cross-checks between excise and export procedures are not mandatory (i.e. from the EU legislation perspective, the export declarant does not have to provide the administrative reference code (ARC) of the excise movement in the customs export declaration), which may lead to fraud.

(b) Customs-import: during the import of excise goods to the territory of the EU, the customs declarant may declare that the excise goods to be released for free circulation will be moved to another MS under excise duty suspension or

³ See e.g. Directorate-General for Taxation and Customs Union (European Commission), *Evaluation of current arrangements for movements of excise goods released for consumption. Final Report*, Luxembourg: Publications Office of the European Union, 2015., and Directorate-General for Taxation and Customs Union (European Commission), *Evaluation of current arrangements for the holding and moving of excise goods under excise duty suspension. Final Report*, Luxembourg: Publications Office of the European Union, 2015.

will be released for free circulation in a tax warehouse in the MS of importation. Since in most cases there is no cross-checking of customs import declarations and excise e-AD, the ability to ensure that an actual movement under duty suspension occurs after import is currently limited, which again may be a source of fraud.

(c) Customs-export followed by external transit, internal transit, or Single Transport Contract (STC) under Article 329 (5)-(7) of Regulation (EU) 2015/2447 (hereafter UCC/IA): Under customs rules, the use of the external transit procedure after an export procedure is limited to Article 189 of Regulation (EU) 2015/2446 (hereafter UCC/DA). However, there is currently no legal base in the Directive to allow for such a simplification. Under Article 329(5) of Regulation (EU) 2015/2447, the customs office of exit is the customs office of departure of the transit procedure. Since the office of exit confirms exit, the exit is confirmed when the goods are still moving within the customs territory of the EU. In other words, there is no proof of physical exit as required under Article 25 of the Directive and the excise guarantee is released when transit starts.

Currently, there is no legal base in the Directive to use internal transit after export as laid out in Article 329(6) (a) and (b) UCC/IA. Under Article 25(1) of the Directive, the exit message from the Automated Export System (AES) triggers the closure of the EMCS movement and, therefore, the release of the excise guarantee. If the office of exit sends the exit certification at the start of transit, there is no proof of physical exit. However, under Article 333(2)(c) UCC/IA, it is requested to confirm exit when transit is discharged. If this was the case in practice, Article 329(6)(a) UCC/IA would be less problematic because the transit destination would be in a third country and exit would thus be confirmed when the goods have physically exited. A future link between the New Computerised Transit System (NCTS) and the AES would enable the transmission of messages.

Similarly, there is no legal base in the Directive for allowing for simplifications under the STC either. Under Article 329(7) of Regulation (EU) 2015/2447, the customs office of exit is the customs office responsible for the place where the goods are taken over under the STC. Since the office of exit confirms exit, this means that the exit is confirmed when the goods are still moving within the customs territory of the EU—namely, there is no proof of physical exit under Article 329(7) of Regulation (EU) 2015/2447. Furthermore, there is no customs guarantee for movement under the STC on the customs territory of the EU, which could be used in case problems with the movement occur.

- 2. Duty paid business-to-business (B2B):** the procedures for moving excise goods between businesses in different countries where excise duties have already been paid (which should be of particular interest for small- and medium-sized enterprises, SMEs) are out of date, unclear, and burdensome. In particular, the current procedures are paper-based and, consequently, long and inefficient.
- 3. Exceptional situations:** currently, different countries may use different means, processes, and methodologies to deal with exceptional situations such as shortages (lower quantity at destination than at dispatch), excesses (higher quantity at destination than at dispatch), rejections (the intended recipient of the goods never ordered the goods), refusals, or interruptions of movements. For instance, different countries may have different ways of assessing shortages and excesses and different thresholds for allowable natural losses (e.g. evaporation

losses in petrol tanks). They may also have different ways of dealing with rejections, interruptions, or reviewing an MSA's decision (i.e. when an organisation disagrees with a decision of a public authority, also known as "right to be heard"). Depending on the country, exceptional situations may lead to irregularities, duty claims, penalties, or seizure of the goods.

- 4. Low-risk movements:** currently, MS seem to make little use of Article 31 of the Directive because of the difficulties in negotiating bilateral or multilateral schemes. The Commission is interested in simplifying formalities for goods that represent low fiscal risk or goods traded between trustworthy EOs. Certain goods, such as denatured alcohol or select energy products, are either exempt from excise duty, taxed at very low rates, or sold in quantities where the excise duty charged is small in comparison with the economic value of the good.

In addition to the main problem areas, this Study also analysed selected aspects concerning:

- 1. Risk analysis:** currently, MS are not obliged to collect and share specific information about the movement of excise goods, which might be useful for risk analysis. Despite the lack of specific policy options at stake, potential benefits and costs of sharing details of movements—namely, owner of goods at dispatch, owner of goods at destination, change of vehicle (or transshipment), and warehouse capacity—were analysed.
- 2. Movement of excise goods for private use:** individuals can transport excise goods—namely, alcohol and tobacco—to another EU country without paying excise in the country of destination, provided the items are for personal use. MS can set guide levels to help determine whether such goods are truly meant for personal use. Currently, the Directive does not allow MS to set guide values lower than certain thresholds (e.g. 800 cigarettes, 110 litres of beer, 90 litres of wine, or 10 litres of spirits) and refers them to the concept of personal use. These legislative thresholds may have a negative impact on health; thus, opinions from individuals and MSAs on the current provisions were gathered.

2.1.1 The Legal Framework

The Directive is designed to ensure the proper functioning of the EU internal market. The main goal of the Directive is establishing general arrangements for excise duties which are levied directly or indirectly on the consumption of manufactured tobacco products (covered by Directive 2011/64/EU), alcohol and alcoholic beverages (covered by Directives 92/83/EEC and 92/84/EEC), and energy products and electricity (covered by Directive 2003/96/EC).

While the rules concerning the production, processing, and holding of these different groups of excise goods are determined at the individual MS level, the Directive sets rules as to how they need to be charged, reimbursed, and exempted from duties when released for consumption in the MS concerned, as well as how this relates to authorised warehouse-keepers or registered consignees. Moreover, it governs movements of excise goods under suspension of excise duty, and their movements and taxation after their release for consumption.

The Directive consists of eight chapters dedicated to various aspects of dealing with excise goods.

Chapter I sets out general provisions and contains a series of common definitions at the EU level (e.g. "authorised warehouse-keeper", "duty-suspension arrangement",

“registered consignor”, and “registered consignee”) in order to establish a clear and consistent framework throughout the EU. It also clarifies the territorial application of excise rules.

Chapter II deals with the concepts of chargeability, reimbursements, and exemptions, clarifying procedures and indicating persons liable in cases of irregularities, irretrievable losses, destructions, refunds, and remissions.

Chapter III is dedicated to production, processing, and holding. Within its scope, the concept and responsibilities of the authorised warehouse-keeper are enlisted (while the notion of “tax warehouse” itself is addressed in Chapter I). Although the legal framework for granting an authorisation to a “tax warehouse” is decided on a national level, Chapter III sets out the system as a whole. Namely, each authorised tax warehouse needs to be linked to an authorised warehouse-keeper who oversees it.

Chapter IV focuses on the movements of excise goods under suspension of excise duty, describing procedures that must be followed, as well as defining the simplified procedures and the roles of registered consignors and consignees. Moreover, it introduces the EMCS (in the Directive, this is referred to as “the computerised system”), designed to automate control over movements under excise duty suspension. The EMCS, developed and operated together by the European Commission and MS, allows for the exertion of tighter control over movements under excise duty suspension in real time by virtue of allowing for monitoring in real time.

Chapter V, on the other hand, deals with the movements and taxation of excise goods after their release for consumption; both in cases of their acquisition by private individuals and distance sales (business-to-consumer, B2C) and their holding in another MS (B2B). In the case of the latter, a Simplified Administrative Accompanying Document (SAAD, further specified under Regulation (EEC) No 3649/92) is required. Chapter V also provides the rules applying to cases of destruction, loss, and any irregularities that may occur during movement.

Chapter VI deals with miscellaneous items, such as rules applying to small wine producers or storage for boats and aircrafts.

Chapter VII bring to life an entity called “Committee on Excise Duty”, which assists the Commission on issues relating to the application of provisions on excise duty.

Finally, Chapter VIII outlines transitional and final provisions.

Although this Study focuses on the Horizontal Directive (2008/118/EC), the implementation of the proposed policy options would require coordination between other legal texts as well, specifically:

- Decision No 1152/2003/EC of the European Parliament and of the Council of 16 June 2003 on computerising the movement and surveillance of excisable products (EMCS Decision 1152/2003/EC);
- Commission Regulation (EC) No 684/2009 of 24 July 2009 implementing Council Directive 2008/118/EC regarding computerised procedures for the movement of excise goods under suspension of excise duty (Implementing Regulation EMCS core (EU) 684/2009);
- Commission Regulation (EEC) No 3649/92 of 17 December 1992 on a SAAD for the intra-Community movement of products subject to excise duty which have been released for consumption in the MS of dispatch (IR duty paid (EEC) 3649/92);
- Commission Implementing Regulation (EU) No 612/2013 of 25 June 2013 on the operation of the register of EOs and tax warehouses, related statistics, and reporting pursuant to Council Regulation (EU) No 389/2012 on administrative

cooperation in the field of excise duties (IR System of Exchange of Excise Data (SEED) (EU) 612/2013);

- Council Regulation (EU) No 389/2012 of 2 May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) No 2073/2004 (IR ACO (EU) 389/2012);
- Commission Implementing Regulation (EU) 2016/323 of 24 February 2016 laying down detailed rules on cooperation and exchange of information between MS regarding goods under excise duty suspension pursuant to Council Regulation (EU) No 389/2012 (IR ACO exchanges (EU) 2016/323); and
- Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (UCC) and Commission Implementing Regulation (EU) 2015/2447 of November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (UCC IA) (customs legislation);

as well as recommendations and guidelines. The details regarding which policy option has (potentially) an impact on which legal text can be found below in Table 1.

Table 1: Policy options and their linkages with chosen legal texts

No.	Policy option	Problem area	Major/minor	EMCS Decision 1152/2003/EC	Horizontal Directive 2008/118/EC	IR EMCS core (EU) 684/2009	IR duty paid (EEC) 3649/92	IR SEED (EU) 612/2013	IR ACO (EU) 389/2012	IR ACO exchanges (EU) 2016/323	Recommendations Guidelines	Customs legislation
1	Recording and validating some excise data items in the customs export declaration, ordered from the least demanding to the most demanding: a. Record and validate SEED numbers of EOs plus record and validate the ARC number of the related excise movement; and b. Option a plus the full data cross-check of entries in export declaration and e-AD (e.g. goods description).	customs-export	major		x			x				
2	Harmonisation of excise-customs legal base for alternate proofs of exit.	customs-export	major		x	x						
3	Automate EMCS-AES interface to ensure the synchronisation of the status of export and excise movements.	customs-export	major		x							
4	Oblige operators to use external transit for all excise goods if they want to use the simplifications for export under Art. 329.	Customs-export followed by external transit, internal transit, or STC	major		x							x

No.	Policy option	Problem area	Major/minor	EMCS Decision 1.152/2003/EC	Horizontal Directive 2008/118/EC	IR EMCS core (EU) 684/2009	IR duty paid (EEC) 3649/92	IR SEED (EU) 612/2013	IR ACO (EU) 389/2012	IR ACO exchanges (EU) 2016/323	Recommendations Guidelines	Customs legislation
5	Recording and validating some excise data items in the customs import declaration, ordered from the least demanding to the most demanding: a. Record and validate SEED numbers of EOs; b. Option a plus record and validate the ARC number of the related excise movement; and c. Option b plus the full data cross-check of entries in import declaration and e-AD (e.g. goods description).	customs-import	major		x			x				
6	Developing a common list of evidence for duty exemption at import.	customs-import	minor		x							
7	Trader registration into a central IT register (SEED), but continue with paper-based procedures for movement control.	duty paid B2B	major	x	x			x				
8	Automate duty paid for B2B processes by extending existing EMCS.	duty paid B2B	major	x	?	x						
9	a. Standardisation of procedures and equipment used in order to estimate shortages and excesses;	exceptional situations	major		x	x						
	b. Introduction of a standardised allowable losses threshold (tolerance threshold);				x							

No.	Policy option	Problem area	Major/minor	EMCS Decision 1.152/2003/EC	Horizontal Directive 2008/118/EC	IR EMCS core (EU) 684/2009	IR duty paid (EEC) 3649/92	IR SEED (EU) 612/2013	IR ACO (EU) 389/2012	IR ACO exchanges (EU) 2016/323	Recommendations Guidelines	Customs legislation
	c. Introduction of a “right to be heard” for shortages/excess proceedings; and				x	x						x
	d. Integration of the excise procedures with the procedures laid out in the Recovery Directive.				x							
10	Simplifications of the movement of low-risk goods.	low-risk movements	major		x	x					x	
11	Tightening of the rules governing alcohol and tobacco trade and transport between EU MS.	health-related issues	minor ⁴		x							
12	Reduction of the guideline levels of alcohol and tobacco to be carried between the EU MS and referring to the concept of consumption instead of personal use.	health-related issues	minor		x							
13	Allowing national adjustments of the guiding levels of alcohol and tobacco.	health-related issues	minor		x							

Source: own elaboration based on the Commission’s working documents.

⁴ Options 11, 12 and 13 are perceived as important by several MS, thus further investigation will be conducted in 2018. This Study could be treated as a preliminary study focusing on data gathering for these policy options.

2.1.2 The Evaluation of the Directive and the Issues at Stake

In line with the Commission's REFIT programme assumptions and Article 45(2) of the Directive that obliges the Commission to submit a report on the implementation of the Directive to the European Parliament and the Council, the Commission requested external contractors to conduct evaluations. As a result, evaluations of Chapter V⁵ (rules on commercial movements of excise goods on which duty has already been paid) and Chapters III and IV⁶ (provisions on tax warehousing and the electronic control systems) were published in 2015 and 2016, respectively. The studies formed the base for the preparation of a final, all-encompassing (albeit focusing on Chapters III-V) document (henceforth: the Evaluation), the primary aim of which was to determine if and to what extent the expected results of the introduction and implementation of the Directive have been achieved.

The Evaluation showed that, in general, both MS and EOs (regardless of their size, although large businesses benefited more) experienced significant improvements from the introduction of the EMCS. MS reported that it allowed them to significantly reduce administrative costs; on average, 35 minutes per movement were saved, which, in 2014, amounted to an estimated 1,267,026 hours or between EUR 27.5 million and EUR 37 million saved. Equally importantly, the introduction of the system helped to exert control over the movements in a more satisfactory way. Similarly, EOs believed the EMCS allowed them to save time (and, as a result, financial resources, according to 41% of respondents), as processing the movements in the system was significantly faster, and the EMCS allowed users to follow, control, and audit movements in a more efficient and effective way.

The majority (19) of the MS agreed or strongly agreed that the EMCS is relevant and still needed in their country, despite "evolution in certain types of fraud". Indeed, both MS and EOs believe that to further reduce the risk of fraud, the scope of the EMCS should be widened to also encompass raw tobacco and lubricating oils. Moreover, MS suggested that the system is further developed and strengthened, for instance, by including in it the duty-paid movements addressed in Chapter V of the Directive as well, as long as balance between "fraud prevention and trade facilitation" is maintained.

At the same time, many problems, and, consequently, room for improvement, were also reported. Both MS and EOs (especially SMEs) reported being dissatisfied with the current B2B duty-paid movements (as specified in Chapter V of the Directive). The main issue was its being burdensome and time consuming: estimations provided by three MS showed that while administration of an EMCS movement on average took several minutes, the paper-based system used for B2B duty-paid movements took between four and eight hours. EOs declared that, on average, 221 minutes were needed to process one movement of this type. Another problem reported was lack of clear legal requirements (such as documentation needed for reimbursement procedures), leading to significant uncertainty for businesses. Indeed, the majority of B2B traders consulted for the study reported not moving their products to other MS because of problems resulting from the current arrangements.

B2C duty-paid business selling, on the other hand, was reported to be expensive to the point when the fees for tax representation (required by the clear majority of MS) at times exceeded the costs of transportation and customs clearance costs. This was

⁵ See: Directorate-General for Taxation and Customs Union (European Commission), *Evaluation of current arrangements for the cross-border movements of excise goods that have been released for consumption. Final report*, 2015.

⁶ See: Directorate-General for Taxation and Customs Union (European Commission), *Evaluation of current arrangements for the holding and moving of excise goods under excise duty suspension. Final Report*, 2015.

especially true for alcoholic beverages, for which the cost of using a tax representative fluctuated between EUR 30 and GBP 100, depending on the country of dispatch and destination (however, the Evaluation recommends that this issue is tackled only once the VAT One-Stop-Shop for distance selling is introduced).

Many technical and legal problems were also identified both by MS and EOs in terms of coherence of customs and excise arrangements, obligations and procedures—especially these relating to exports—despite significant improvements resulting from the introduction of the EMCS system.

Specifically, often the electronic exit message from the Export Control System (ECS) is not sent by customs, so a movement must be investigated and closed manually. A suggested improvement would be a requirement to send the exit message directly to the EMCS, where the movement would be subsequently closed. An additional problem is caused by the fact that, even if the message is received, a reference to the ARC of the matching e-AD is not always provided in the export declaration. Because of this, the system has difficulty or is altogether unable to match the exit result with the correct e-AD. Because of these shortcomings, the movements, despite the existence of automatic systems, must be closed manually, creating additional administrative costs for MS, as well as increasing the risk of tax liability and compliance costs for EOs. Concerning import arrangements, while fewer problems were reported by businesses (17% of all consulted EOs mentioned having concerns), 17 out of 27 MS were of the opinion that unnecessary compliance costs and administrative burdens arise from the lack of coherence between the two systems.

The Evaluation also finds that further complications are caused by the preference of some EOs to use a procedure whereby customs transit follows export for indirect exports, instead of having excise and customs procedures open alongside one another. This is not only problematic from a legal point of view, but also creates additional administrative burdens for MS. At the same, EOs who chose this mode of operating (40% of respondents) explained that it saved them time and money, as well as allowed them to better track their movements; although, they did admit the lack of information exchange across excise and transit procedures was a cause of problems for them.

Furthermore, the requirements for obtaining an authorisation to store and transport excise goods, as well as for simplifications, were reported to be complex and not uniform across the EU, which creates unnecessary burdens for EOs. The complexity of the arrangements also sometimes resulted in additional administrative burdens for MS. Especially problematic were issues related to calculating authorisation (and movement) guarantees.

Another troublesome area identified related to the handling of exceptional situations, such as shortages, excesses, interruptions, rejections, and refusals. It was suggested that in the case of a rejection or refusal of a consignment by a consignee, an automatic change of destination of goods back to the place of dispatch should be made compulsory, and traders should be legally obliged to send rejection and refusal messages.

Moreover, MS reported that “excessively long” journey times reported by some EOs and a lack of certain information in e-ADs (for instance, the ownership of the goods at dispatch and destination) negatively affected their ability to conduct risk analyses. Also, in terms of e-ADs, EOs suggested they should be able to amend specific information provided in it after the e-AD was accepted by the MS of dispatch (instead of going through the procedure of sending an EMCS event report) in order to avoid disagreements over quantities of goods and excise duty to be paid.

Finally, an additional issue highlighted was making claims for recorded shortages. Currently, MS can use procedures outlined in Directive 2010/24/EU (the Recovery Directive); however, the application of these (if they are used at all) varies between individual countries. Importantly, it was found that there is “no clear basis” for linking established duty liabilities with the recovery instruments listed in the Recovery Directive.

Drawing from the findings of the studies conducted and the Evaluation, the Commission concluded that although the existing arrangements on movements of the goods under duty suspension are overall satisfactory, many problematic issues remain and improvements can and should be introduced to make the functioning of the system more efficient and effective. This is believed to be even more true in the case of the arrangements relating to the movements of goods released for consumption to another MS (especially burdensome for SMEs). At the same time, the Commission underlined that changes to the existing arrangements “should not distort competition, hinder the free movement of such goods within the EU, nor should such arrangements hinder tax collection or facilitate fiscal fraud.”

2.2 Methodology

2.2.1 Data Collection Methods

The evidence collected for this Study includes data gathered from various sources of both a primary and secondary nature.

The strategy for gathering the primary information was threefold. Firstly, a large-scale interview programme was set in motion in selected MS—namely Belgium, the Czech Republic, France, Germany, Ireland, Italy, the Netherlands, and Poland. 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 to face-to-face interviews, many identified stakeholders were directly sent a questionnaire. These include MSAs and EOs from MS not covered by in-depth case studies.

Furthermore, the OPC was conducted to gather the views of EU citizens, EOs, and other stakeholders on a set of possible options for the revision of the Directive.

Finally, fieldwork was designed to complement the consultations in gathering information on the magnitude of the problems and in uncovering different economic outcomes in the application of excise duties for each MS analysed. The main goal of the desk research was to expose suspected areas of fraud activities and to estimate the volume of discrepancies underlying the fraud.

2.2.1.1 In-depth Consultation of Stakeholders and the Detailed Technical Questionnaires

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 MS.

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 MS 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 MSAs and EOs, two versions of the questionnaire were created. The questionnaire for MSAs focused on administrative costs, enforcement costs, and suspected values of fraud (see Annex B). It contained 82 open-ended questions that required the cooperation of various services within and between the excise, customs, and health authorities.

The questionnaire for EOs was designed for:

1. both large EOs and 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 (see Annex C). To maximise the response rate, which could have been limited by information privacy, all 50 questions included in the questionnaire for EOs were closed-ended, with pre-defined ranges for answers to the questions that asked for specific numerical values.

The in-depth consultation programme was limited to eight MS—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 MS for case studies was based on the criterion of having a representative distribution of geographical-, market-, and excise tax-related factors within the EU.

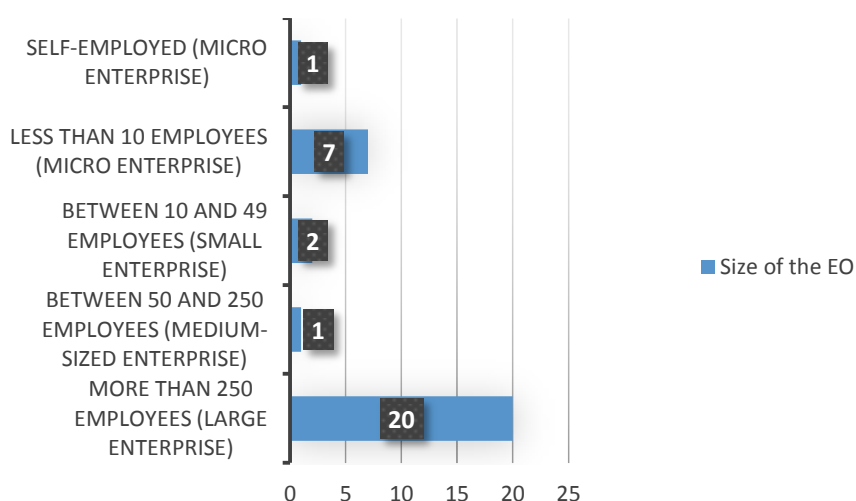
The interview programme was conducted over 12 weeks. Overall, MSAs from 25 MS provided their answers to the detailed technical questionnaire. The questions to the problem area of excise and customs were answered by representatives from 21 MS, whereas the questions to the problem area of the private acquisition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

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

Table 2: Response summary to the detailed technical questionnaire for EOs

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	32
Total	31		

Subsidiaries or Branches in Other Countries than the Headquarters	No. of Respondents	Business in Other Countries than the Headquarters, Subsidiaries or Branches	No. of Respondents
Subsidiaries or branches abroad	14	Business abroad	11
No subsidiaries or branches abroad	15	No business abroad	18
No Answer	2	No Answer	2
Total	31	Total	31



Source: own elaboration.

The interview programme ran smoothly in all MS. MSAs, large manufacturers, and industry associations were very interested to participate in the interviews and complete the questionnaires. The response rate—namely, the percentage of questions where an answer was provided—amounted to 46%. The most difficult questions to

answer were those concerning fraud. Less than 25% of the questionnaires for MSAs included at least one response to this set of questions. Consulting smaller players was also challenging. Due to time limitations and difficulties in providing answers to the questionnaire, small EOs often rejected participating in the interview programme. Despite this, the structure of answers depicted in Table 2 resembles that of the excise goods market, which is highly concentrated.

Bruegel (2014)⁷ shows that the tobacco sector is the most concentrated manufacturing sector in Europe. Over 84% of the manufactured tobacco market in five major European economies is produced by four EOs. The value of its Herfindahl-Hirschman Index (HHI), according to numerous studies in Europe, is above 2,500, signifying it is a highly concentrated sector.⁸ The energy sector is also highly concentrated, though less so than the tobacco sector.⁹ The alcoholic beverages sector is more competitive. As an example, the HHI score for the beer sector is between 800 and 1,300 in MS, which suggests a low to moderate concentration.¹⁰

2.2.1.2 Open Public Consultation

The questionnaire for the OPC 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 MS level within specific problem areas. Importantly, the OPC also asked EOs for the magnitude of efforts currently borne by EOs. The introduction to the OPC also contained information about the availability of the technical questionnaire. In response to this remark, 19 EOs requested a more technical set of questions.

The OPC was launched on 11 April 2017 and was open for 12 weeks, closing on 4 July. A total of 151 responses from 20 MS were received.

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

Table 3: Response summary to the OPC¹¹

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

⁷ Antonielli M., Mariniello M., *Antitrust risk in EU Manufacturing: A sector-level ranking*, Bruegel working paper, 2014.

⁸ See: e.g. Chaloupka F. J. et al., *Cigarette excise taxation: the impact of tax structure on prices, revenues, and cigarette smoking*, NBER working paper series, Cambridge: National Bureau of Economic Research, 2010 and Hawkins B. et al., *Reassessing policy paradigms: A comparison of the global tobacco and alcohol industries*, Global Public Health, 2016.

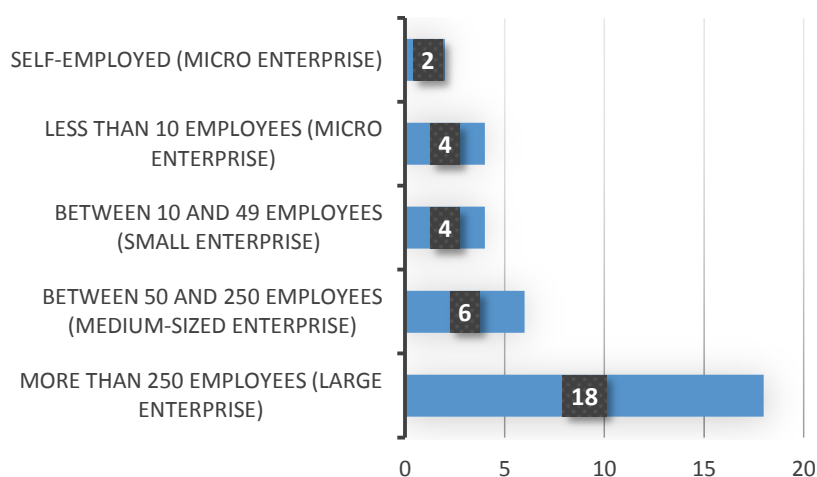
⁹ See: Nawrocki D., Carter W., *Industry competitiveness using Herfindahl and entropy concentration indices with firm market capitalization data*, Applied Economics, 2010 and Karan M.B., Kazdagli H., *The Development of Energy Markets in Europe*, In *Financial Aspects in Energy*, 11-32, Berlin Heidelberg: Springer-Verlag, 2011.

¹⁰ See: Hawkins B. et al., *Reassessing policy paradigms: A comparison of the global tobacco and alcohol industries*, Global Public Health, 2016.

¹¹ Multiple answers possible.

Country of origin	No. of respondents	Country of origin	No. of respondents
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
EO	34	Manufactured tobacco	10
Trade, business and professional associations	48	Energy products	6
Public authority	0	Other	1
Non-government	16	No answer	117
Other	4		
No answer	0		
Total	151	Total	151



Source: own elaboration.

The highest number of questionnaires were completed by private citizens from Sweden concerned with public health related to tobacco or alcohol consumption. The group of representatives of trade, business, or professional associations coming from various MS and covering the interests of traders of all types of excise goods was also relatively large.

Private citizens (49 persons) focused on health-related questions. All of them delivered responses to the questions regarding health-related issues, whereas only nine expressed their opinion in any other problem area. Similarly to private citizens, non-government institutions also concentrated on responding to health-related questions. All in all, four out of 16 of them answered any of the questions from other problem areas.

EOs delivered 36 responses. Most of these respondents, similar to the respondents who completed the detailed technical questionnaire, were producers or traders of alcohols and alcoholic beverages. The least number of answers were delivered by entities from the energy industry.

The majority of responses came from large EOs. Overall, micro-, small-, and medium-sized enterprises amounted to 47% of respondents.

Responses to the OPC questionnaire were an important source of information that were often combined with the responses to the detailed technical questionnaire. In addition to presenting the responses to the questions in the analytical sections of this Study, a complete summary of the answers is presented in Annex D.

2.2.1.3 Desk Research

Our desk research aimed at gathering secondary information relevant for the analysis of the potential impacts of the identified policy options at stake. It involved a range of different sources, such as legislative documents, databases containing market information, reports, scientific articles, and grey literature. More specifically, during the desk research phase, we relied on the following sources of information:

1. **EU legislative documents, studies, and reports**—namely, the text of the Directive and other related documents, including repealed Directive 92/12/EEC, Decision No 1152/2003/EC, Council Regulation (EU) No 389/2012, TAXUD working documents on the IA, the note to MS and the overall plan for the revision of the Directive, Customs Cooperation Working Party 9368/2/15 Rev 2, final reports FPG 078-CWG 276, working documents summarising a detailed proposal for fixing excise problems at export, and evaluation reports on the Directive prepared for the Commission.
2. **EU technical documentation**—a very important source of information for identifying the magnitude of the problems (in particular, Information Technology (IT) enforcement costs) were the Business Process Models (BPMs) available in the ARIS database and in the separate documents delivered by the Commission, yearly and monthly reports available in the CS/MISE section on business statistics from both the ECS and EMCS, and SEED statistics.
3. **MS documentary sources**—namely, the legislative documents implementing the provisions of the Directive and projects in the areas concerned. This also includes detailed data regarding seizures of excise goods, which are gathered by customs authorities and publicly available in the clear majority of MS.
4. **Databases containing market information**—the identification of the magnitude of the problems, such as estimating the prevalence of fraud, required reliance on quantitative data that reports market, supply, and trade information on the excise products covered by the Directive. For this purpose, data published by EU institutions were utilised (Eurostat). This concerned the values of the intra- and extra-EU trade in specific excise product categories from Intrastat and Extrastat, respectively. To account for production values, structural business statistics from Eurostat were utilised. In some cases, the use of commercial databases was required. In the case of the manufactured tobacco and alcoholic beverages covered by the Directive, we analysed market data from Euromonitor International (Euromonitor). For electricity and energy products, Enerdata was utilised.
5. **Scientific and grey literature**—some of the issues covered by this Study have already been covered by scientific thematic publications and by grey literature—namely, reports, theses, technical and commercial documentation, and official documents not published commercially. An example of an aspect covered extensively by this type of literature is determinants of tax compliance,

which is extremely important for estimating the indirect social effects of different policy options.

2.2.2 Data Analysis and Judgment

2.2.2.1 Structuring the Work

The results presented in Chapter 6 of this Study—the Conclusion—are based on a thorough analysis of the impacts of the policy options at stake in relative terms. In other words, the main goal of the analysis was to compare the economic situation in two alternative scenarios:

1. The **dynamic baseline scenario**—that is, where there is no amendment to the Directive within the next five years. This scenario coincides with the no change or business-as-usual (BAU) situation, but includes forecasted changes in the environment of the Directive, which are exogenous to the Directive itself (e.g. the evolving structure of household consumption).
2. The **policy change scenario**—that is, a formal amendment of the Directive and other non-regulatory measures, where applicable.

During the initial stages of the work, both scenarios were refined following consultations with the Commission. This included several meetings, including meetings of the Excise Contact Group, which had some implications for the definitions of policy options at stake.

2.2.2.2 Baseline Analysis

The baseline analysis is an indispensable reference point for the IA and a basis for the analytical work. The data for the baseline analysis was gathered from various sources, from market databases, trade and production data, CS/MISE statistics, and from interviews. It involves, among others, the following aspects: consumption; production; intra- and extra-EU supply and purchase; the number, value, and excise duty concerned in particular types of excise movements; market structure; fraud; and the excise treatment of specific products. As the dynamic baseline scenario concerns the situation in five years, the evolution of all parameters—in the absence of policy changes—had to be projected. A detailed overview of the parameters for specific problem areas is presented in Table 4.

Table 4: Overview of issues for the baseline assessment in specific problem areas

Problem area	Parameters for the dynamic baseline scenario assessment
Customs-export	<ul style="list-style-type: none"> • Value and number of all excise goods, particularly international export operations. • Number and percentage of movements closed manually. • Estimated value of fraud and loss in tax revenues in export operations of excise goods. • Administrative costs of non-coordination between exports and excise. • Costs borne by EOs for having no export-excise synchronisation (i.e. for keeping excise movements open long after the goods have exited the EU).
Customs-export followed by external	<ul style="list-style-type: none"> • Estimated value and number of external transit, internal transit, and STC movements with excise goods (based on the statistics of the movements (1) where the office of exit and export is the same, (2) with specific locations of the office of departure and destination for

Problem area	Parameters for the dynamic baseline scenario assessment
transit, internal transit, or STC	<p>the transit procedure, and (3) an aggregate number of T1 and T2 procedures used after export).</p> <ul style="list-style-type: none"> Indicators of the administrative costs of running the normal export procedure using EMCS and AES (see Annex D for the procedures used for exporting goods). Estimated value of fraud and loss in tax revenues due to early release of the excise guarantee within external transit, internal transit, and STC movements. Guarantees lodged in within external transit, internal transit, and STC movements.
Customs-import	<ul style="list-style-type: none"> Value and number of imports of excise products, particularly movements to other MS. Administrative costs of movement, payment of the excise duty, and, if necessary, reimbursement of excise goods under current arrangements. Value of fraud in import operations of excise goods.
Duty paid B2B	<ul style="list-style-type: none"> Value and number of inbound and outbound movements under duty-paid arrangements from MS. Administrative costs of movement, payment of the excise duty, and, if necessary, reimbursement of excise goods under current arrangements. Value of fraud in B2B duty-paid movements. Excise rate differentials between MS.
Exceptional situations	<ul style="list-style-type: none"> Approaches MS take to assess excesses/shortages. Estimated number of national and international movements where excesses/shortages were detected. Volume of excesses/shortages detected on exports of excise goods. Estimated volume and value of all intra-EU movements of excise goods. Tolerance thresholds and methods of calculation by different MS. Number of consignments where losses were detected. Number of disputable cases. Volume of losses detected on exports of excise goods. Number of disputable cases regarding responsibility for claiming excise duties. Value of excise duty in disputable cases. Daily rates (in EUR) of all MS.
Low-risk movements	<ul style="list-style-type: none"> Volume of denatured alcohol and biofuels movements. Value of denatured alcohol and biofuel movements. Estimated volume and value of all intra-EU movements of excise goods. Revenues from consumption of low-risk goods.

Problem area	Parameters for the dynamic baseline scenario assessment
	<ul style="list-style-type: none"> Revenues from excise on low-risk goods. Number of country pairs and cases of products on which excise is below the 20% threshold. Daily rates (in EUR) of all MS.
Risk analysis	<ul style="list-style-type: none"> Scope of information to which MS currently have access. Number of cases when MS requested additional information for the purpose of risk analysis.

Source: own elaboration.

Since the absolute administrative and compliance costs related to specific types of movements cannot be estimated as accurately as relative changes in costs over time, the dynamic baseline scenario depicts changes in costs compared to the situation where costs per movement would remain the same as today. Wherever possible, for illustrative purposes, the estimates of changes in absolute costs over five years are presented.

2.2.2.3 Impact Analysis and Comparison of Scenarios

This subsection presents the proposed classifications of economic impacts relevant to the policy options regarding the Directive and relevant definitions. Moreover, it presents general methodological considerations. A comprehensive description of the methods used for the assessment of specific costs are presented in Chapter 5.

In our analysis, we define our typology of impacts by setting two dimensions: we classify them first by nature of impact and second by stakeholders affected. The typology of impacts presented in the following sections is in close accordance with the Better Regulation Principles.¹²

We identified the chain of direct impacts by screening who would be directly affected by an initiative. For this purpose, we distinguished between:

- 1. EOs**—a distinction is made between the different types of actors defined by the Directive. We distinguish between authorised warehouse-keepers, registered consignees, registered consignors, tax warehouses, and other (i.e. unregistered traders and producers of excise goods);
- 2. MSAs**—a distinction is made between EU and national levels; and
- 3. consumers.**

We classified the impacts also by their nature in accordance with the following categories:

- 1. direct charges** (e.g. tax revenues, levies and fees);
- 2. administrative and compliance costs/cost savings;**
- 3. enforcement costs;**
- 4. hassle costs;** and
- 5. market effects/competition.**

Direct charges appeared to be an irrelevant type of cost/benefit in this IA. None of the policy options at stake envisaged imposing any charges. Moreover, since the impact of introducing the policy options defined in Chapter 5 on the environment could be

¹² See: TOOL #16: IDENTIFICATION/SCREENING OF IMPACTS (http://ec.europa.eu/smart-regulation/guidelines/tool_16_en.htm).

regarded as minor, indirect costs are limited to **social impacts**. Social indirect costs will include the context of illegal activities and crime.

Table 5 describes the impacts for this assessment.

Table 5: Classification and definition of impacts

	EU authorities	MSAs	EOs	Consumers	All citizens
Administrative costs/cost savings	budgetary costs/cost savings of revenue department(s), costs incurred by other departments in providing information ¹³	budgetary costs/cost savings of revenue department(s), costs incurred by other departments in providing information ¹⁴	incurred to provide information to public sector	-	-
Enforcement costs	costs of enforcing legal provisions, IT implementation costs, judiciary and other costs related to dispute resolution ¹⁵	costs of enforcing legal provisions, IT implementation costs, judiciary and other costs related to dispute resolution ¹⁶	-	-	-
Compliance costs/cost savings	-	-	incurred by meeting the requirements laid upon them, other than administrative ¹⁷	-	-
Hassle costs	-	-	costs associated with waiting time and delays, redundant legal provisions, corruption	costs associated with waiting time and delays, redundant legal provisions, corruption ¹⁹	-

¹³ See: Barbone L., Bird R., Vazquez-Caro J., *The Costs of VAT: A Review of the Literature*, CASE Network Reports 0106, CASE – Center for Social and Economic Research, 2012.

¹⁴ Ibidem.

¹⁵ See: Barbone L., Bird R., Vazquez-Caro J., *The Costs of VAT: A Review of the Literature*, 2012.

¹⁶ Ibidem.

¹⁷ See: Sandford C., Godwin M., Hardwick P., *Administrative and Compliance Costs of Taxation*, Bath: Fiscal Publications, 1989.

	EU authorities	MSAs	EOs	Consumers	All citizens
			18		
Market effects/competition	gains from increasing tax compliance	gains from increasing tax compliance	the effects of encompassing the variations in market conditions	the effects of encompassing the variations in market conditions	-
Indirect social costs/benefits	-	-	-	-	context of illegal activities and crime, public safety, and security

Source: own elaboration.

Administrative costs/cost savings are the budgetary costs/cost savings of (mostly) the revenue authorities in providing the information necessary due to imposing regulatory changes.

In this Study, it is anticipated that the majority of the proposed options may impose or reduce information obligations. An example of a policy option that is envisaged to reduce the time and resources spent on information obligations is: *automatization of duty-paid B2B arrangements*.

We estimated administrative costs using the Standard Cost Model (SCM) and in accordance with the Better Regulation Guidelines. To meet the proportionality principle, obligations with a clearly marginal aggregated economic impact did not undergo a full-fledged SCM-based quantification. Instead, they were subject to a simplified assessment, focused on the stakeholders that would be most affected, in relative terms.

Box 1. EU Standard Cost Model²⁰

Formally, the full-fledged EU SCM is a tool applied for estimating administrative costs on business and public authorities. The main aim of the model is to assess the net cost of information obligations imposed by EU legislation. Nevertheless, the methodology applied for the estimation of compliance and administrative costs may be comparable to the EU SCM.

Within the EU SCM, costs are assessed on the basis of the average cost of the required administrative activity ("Price") multiplied by the total number of activities performed per year ("Quantity"). The average cost per action is estimated by multiplying a tariff (based on an average labour cost per hour including prorated overheads) and the time required per action. Where appropriate, other types of costs such as outsourcing, equipment, or supply costs should be taken into account. The

¹⁹ Ibidem.

¹⁸ See: TOOL #51: TYPOLOGY OF COSTS AND BENEFITS (http://ec.europa.eu/smart-regulation/guidelines/tool_51_en.htm).

²⁰ See: TOOL #53: THE STANDARD COST MODEL FOR ESTIMATING ADMINISTRATIVE COSTS (http://ec.europa.eu/smart-regulation/guidelines/tool_53_en.htm).

quantity is calculated as the frequency of required actions multiplied by the number of entities concerned. In the case of multiple relevant administrative activities per information obligation, these must be totalled to calculate the administrative cost per information obligation.

The core equation of the SCM is as follows:

$$AC_i = \sum_i PQ$$

where:

P – denotes “Price”, which is obtained by multiplying a tariff (based on average labour cost per hour including overhead) by the time required to perform the required activity;

Q – denotes “Quantity”, which is calculated as the number of required administrative activities, or as the population concerned times the frequency of the required activities; and

i – denotes specific costs/obligations.

For the purpose of this Study, hourly earnings adjusted to 2016, including non-wage labour costs and 25% overhead, were used to estimate the monetary cost of various efforts from Eurostat’s Structure of Earnings Survey. More specifically, International Standard Classification of Occupations Profile 3 (ISCO3), *Technicians and associate professionals*, was used to reflect the efforts of the administrative work concerning the excise movements. The choice of this profile was based on the estimates of monthly remuneration provided by EOs during interviews. The wages were obtained for 2014 and adjusted to 2016 using the wage inflation rate²¹ in professional services (see values in Annex E).

Compliance costs/cost savings are those incurred (or saved) by EOs when they are required to adapt their processes to comply with a legal obligation. An example of such a cost may be the anticipated costs related with EO costs concerning *automating duty-paid B2B processes by extending EMCS* (see Chapter 3.4). Compliance costs may relate to both investment, operating, and financial costs.

The methodology for the compliance cost assessment is similar to that of the administrative cost/costs savings assessment, and utilised the SCM described previously in Box 1. It involved a detailed identification of the obligations, quantification of the costs of each obligation for a representative firm in terms of size and efficiency, and calculation of total annual costs (based on the frequency of the obligations and the depreciation of one-off investments). Once the cost per obligation was identified, it was possible to calculate aggregate costs for the whole industry by multiplying the unitary cost by the number of firms affected (the population) or the number of transactions envisaged.

The administrative and substantive compliance costs were analysed jointly and are referred to as “regulatory costs” in the final comparison of policy options.

As in the case of administrative costs, the ISCO3 profile *Technicians and associate professionals* was used to reflect the effort of compliance costs related to the excise movements. In 2016, the abovementioned cost varied from EUR 4.6 in Bulgaria to EUR 59.5 in Luxembourg, and amounted on average to EUR 25.8 (see Annex E).

Enforcement costs/cost savings are one of the most relevant costs for this IA. They are borne by the relevant authorities as it is costly to enforce legal provisions,

²¹ Source: Eurostat.

and, more specifically, for extending the number of processes in the IT system's architecture.

This group of costs includes, for example, IT implementation costs, documentary and physical control costs, audit costs, and judiciary and other costs related to dispute resolution.

To estimate the enforcement costs/cost savings of the implementation of the policy options that envisage changes in IT architecture, we utilised the 2012 IT Master Plan Study (see model equations in Annex H). The efficiency of the model has already been proven, as the model was used in 2012 in the context of assessing the cost of the e-Customs portfolio of more than 20 projects for the Commission and MS. The IT Master Plan enables the estimation of functional and technical system specifications, system design, build and testing activities, deployment, roll-out and conformance tests activities, project management, and quality assurance activities.

To apply the model, the existing applicable BPMs were used to count:

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

For the projects where BPMs were not available or were incomplete, assumptions were made for some or all of these figures, or provisional BPMs were constructed. The "other project" activities, which the model enables the quantification of, were assumed to be a percentage of the efforts of the previous activities. To calibrate the model, we used the most up-to-date and relevant projects that were currently in development, and received accurate estimates and parameters. To verify the accuracy of the estimated enforcement costs, their values were compared with those expected by the stakeholders.

The implementation tasks that were not included in the model are, among others, infrastructure (hardware, software, and network) costs and maintenance, support, and operations efforts and costs. The mechanisms for calculating the enforcements costs not related to the implementation of IT architecture remained the same as those for calculating administrative and substantive compliance costs. The aim was to quantify the cost per occurrence or the annual cost borne by public authorities and, where relevant, other stakeholders based on the amount of working time required, salary rate, annualised investment costs, and other out-of-pocket and operating expenditures. The analysis had a "medium level of granularity", which is deemed to be sufficient for the analysis of policy options, although it may require further refinement at later stages concerning the implementation of the real system.

The calculation of the effort of implementing IT BPMs (five years total cost of ownership, TCO) is equivalent to:

- 1 process = 50 man-days;
- 1 task = 35 man-days; and
- 1 information exchange = 35 man-days.

The same effort for implementing BPMs was used in all countries, regardless of the architecture of their current systems—ECS, EMCS, or import control system (ICS).

The monetisation of the IT costs also requires specifying the average IT specialist man-day cost, which can significantly differ between MS. For the purpose of estimating the IT specialist man-day costs in this Study, the figures used in the *IT Master Plan Study Report*²² were applied. The estimates used were based not only on Eurostat data but also on the feedback on average man-costs provided by MSAs. As the study used costs for 2012, the figures were inflated by the growth of labour costs in the IT services sector in the EU between 2012 and 2016, according to Eurostat. In conclusion, the average man-day cost for IT implementation for all MS amounted to EUR 558.7.

To verify whether the model and assumptions made regarding the parameters of the model were accurate, a robustness check was conducted. The costs of the implementation of the EMCS were verified using the model and 2011 man-day figures. The estimates of 13 processes, 265 tasks, and 58 messages, based on the comparison of current and prospective BPMs, would yield an average cost per MS of EUR 5.98 million, totalling 167.92 million for the entire EU. These values are close to the values obtained from MS, which estimate the cost of implementing the EMCS at roughly EUR 200 million, with the implementation cost varying significantly in different MS.²³

Hassle costs are a residual category of direct costs that are difficult to quantify and monetise and relate to specific obligations. They are subjective costs that might be related to the overlapping of regulatory requirements on specific entities, either citizens or businesses. By definition, these costs are important for subjective well-being.

As these costs are difficult to measure, they were identified and assessed qualitatively. The main source of information for identifying them was fieldwork and direct contact with relevant stakeholders.

Market effects/competition are analysed with the aim to approximate the variations in the demand or supply of certain products in a new market equilibrium, as well as other resulting changes in market conditions, like barriers to entry for new companies.

The analysis of these regulatory impacts could be treated as secondary in this IA. This is due to the variable nature of the suspected costs/benefits for EOs from the implementation of the analysed policy options. Since it is expected that the impact of the policy option will be uniformly distributed on SMEs and large EOs, there was no anticipation of a need to rely on a consolidated taxonomy or standardised assessment methodologies. The only options under consideration that could have a direct impact on competition or improved market access, for example, relate to a specific EO, are limited, or are not substantially distortive. An example of a policy option that may have an impact on the market is the automation of B2B duty-paid movements.

Indirect social costs/benefits include the context of illegal activities and crime. The potential scope for fraud reduction was based on scarce estimates of the current scale of fraud and stakeholder assessments of risk of fiscal fraud occurring under the current arrangements.

The economic implications of fraud were assessed, where relevant, in the framework of the market effects, administrative and enforcement costs for specific MSAs. However, since crime is also a social well-being issue, the economic analysis was complemented by a review of the societal implications of the illegal activities that may stem from the policy options. These were assessed qualitatively.

²² IT Master Plan Study Report, Framework Contract TAXUD/2010/CC/100, Specific contract 07 RfA 103, 2012.

²³ Note: almost half of the EMCS implementation cost was due to one MS.

To estimate the value of fraud, several sources of information and several indicators were used. Apart from the answers to specific questions addressed to EOs and MS regarding suspected levels of fraud, EMCS statistics, Intrastat and Extrastat volumes of trade, and production and consumption figures were utilised. More specifically, we assumed that discrepancies between trends in different indicators may provide relevant information about specific types of fraud. For instance:

1. a mismatch in the number of export movements released (ECS notification IE 501) and in the number of "exit results" (ECS notification IE 518) may indicate fraud on exports;
2. discrepancies between the value of intra-EU trade operations for excise products observed by authorities in outbound and inbound MS may indicate missing trader fraud in B2B duty-paid arrangements;
3. unexplained changes in the number of customs operations (on excise products) using procedural code 42 may indicate fraud in import operations; and
4. a mismatch in the number of export declarations in ECS (notification IE 501) and EMCS movements with destination export (notification IE829) may indicate outward fraud diversion. A relatively higher number of these messages in ECS may, on the one hand, signal diversion fraud with no excise guarantee and, on the other, that goods are retained in the EU as no authorisation is needed from the consignee if the destination type is set to export.

The techniques explored in paragraphs above allowed us to identify and, for some categories, quantify and monetise different types of costs and benefits. As it was possible to quantify only some of the impacts (not all of which could be monetised), the comparison of costs was not a straightforward arithmetic operation, and required an advanced and standardised methodology.

Keeping this in mind, we used a combination of a cost-benefit analysis (CBA) and a multi-criteria analysis (MCA) methodology. The MCA allowed us to compare alternative policy options along a set of predetermined criteria, which, in turn, enabled us to relate to qualitative impact categories, like distributional impacts, and to rank different options using more than one variety of indicators, as is the case with the CBA. The MCA is opinion-based, as it relies on a collective opinion about the weight of different criteria. The criteria for the MCA in this IA were assigned weights, which were determined based on the priorities discussed and scored with assistance from the Commission.

Apart from the monetary criteria assessed with the use of the CBA and other costs, practicality of implementation was assessed as for all policy options.

For interventions that have at stake coordinated and uncoordinated added value, we also took into consideration EU added value or "cost of non-EU".

This group of criteria relates to:

1. **effectiveness:** where EU action is the only way to get results to create missing links, avoid fragmentation, and realise the potential of a border-free Europe;
2. **efficiency:** where the EU offers better value for money, because externalities can be addressed, resources or expertise can be pooled, and action can be better coordinated; and
3. **synergy:** where EU action is necessary to complement, stimulate, and leverage action to reduce disparities, raise standards, and create synergies.²⁴

²⁴ See: Better Regulation "Toolbox".

As all EU actions are governed by the overarching principle of proportionality, a proportionality criterion was accounted for in the MCA judgement. Specifically, answers to the following questions were provided:

- Does the initiative go beyond what is necessary to achieve the problem/objective satisfactorily?
- Is the scope of the initiative limited to those aspects that MS cannot achieve satisfactorily on their own, and where the EU can do better? (subsidiarity test)
- Is the form of EU action (choice of instrument) as simple as possible and coherent with satisfactory achievement of the objective and effective enforcement?
- Does the initiative create a financial or administrative cost for the EU, national governments, regional or local authorities, EOs, or citizens? If yes, is this cost minimised and commensurate with the objective to be achieved?
- Does the EU action leave as much scope for national decision as possible while achieving satisfactorily the objectives set?

2.3 Structure of the Study

The Study is divided in two volumes: **Volume 1 – Main Text** and **Volume 2 – Annexes**. The remaining part of Volume 1 includes four sections:

- **Chapter 3** focuses on problem analysis and provides an assessment of the current situation in the four main problem areas covered by the Study. It also provides an overview of the background and an analysis of the expected developments in the absence of any Commission intervention. In addition, Chapter 3 contains an analysis of the aggregate excise fraud, as components of the excise gap cannot always be attributed to specific arrangements and types of movements.
- **Chapter 4** defines the various policy options identified to address the issues at stake and outlines the impact areas requiring a more thorough analysis.
- **Chapter 5** provides an assessment of the policy options considered, in both a quantitative and qualitative way, and compares the respective positive and negative aspects of each option to the no change scenario.
- **Chapter 6** summarises the key findings of the Study and provides a set of conclusions.

Each chapter is structured following a cross-sectoral approach; hence, each chapter is further divided into six subchapters focusing on specific problem areas.

3 ANALYSIS OF THE ISSUES AT STAKE

3.1 Excise Fraud Analysis

This chapter presents the results of the analysis concerning fraud related to the intra- and extra-EU movements of excise goods. As different indicators used to estimate fraud cover irregularities of different natures and types, and not always correspond to specific kinds of movements and policy options, this chapter on fraud provides the background for analysis of fraud for specific problem areas.

Estimating the value of illegal activities, like excise fraud, is a complicated endeavour, which often results in large confidence intervals or low accuracy of point estimates. The reason is that illegal activities are most often not registered directly, and their value must be determined indirectly by comparing discrepancies and anomalies in multiple time series.

Unlike, for instance, VAT gap methodologies, techniques used for estimating non-compliance in excise goods are not well established in the literature. The most detailed

analytics of the excise gap, which is the difference between potential revenue and actual revenue for a given excise, in the EU are published by Her Majesty's Revenue & Customs (HMRC).²⁵ The excise gap is estimated using a mixture of a top-down and bottom-up approach; in other words, by using independent aggregate statistical data and micro data gathered by MSAs. The total excise gap in the UK in the fiscal year 2014-15 was estimated at GBP 2.8 billion, which is 6.5% of liabilities. According to the estimates, the main element of the gap was illicit trade. Evasion and criminal attacks amounted to approximately 28.5% of the excise gap.

There is scarce evidence concerning EU-wide figures on excise loss. However, this limited evidence points to the conclusion that the main channel of excise revenue loss is illicit trade. According to the findings of Project SUN, tax revenue loss due to counterfeit and contraband in tobacco products alone amounted to EUR 10.2 billion in 2016.²⁶ In 2014, the total reported loss in excise revenue reported by 16 MSAs was EUR 31 (alcohol), 232 (tobacco), and 67 (energy) million, signifying that only a fraction of irregularities were detected.²⁷

Despite the high magnitude of the problem of excise revenue loss, for the purpose of this Study, we are interested only in part of the problem—the specific evasion, diversion, and fraud schemes related to registered or tacked cross-border intra- and extra-EU movements of excise goods. In other words, we focus on excise loss resulting from potential loopholes in the current supervision system and not specifically from the inefficient control of illicit trade.

This chapter is organised as follows. The first subchapter analyses the excise rate differential between MS and verifies whether there are any irregularities concerning trade between the MS with the largest excise rate differentials. The second subchapter analyses Intrastat discrepancies to examine irregularities in intra-EU movements in a broader perspective. The third subchapter analyses trends in export messages to verify trends in irregularities in export movements. Additionally, Annex I looks at the problem of irregularities even more broadly, analysing discrepancies between market data, data offered by statistical offices (namely, production and trade values), and data on excise revenue.

3.1.1 Excise Rate Differentials as a Source of Illicit B2B Duty-Paid Operations

The core incentive for the diversion of foreign produced goods is the price and tax rate differential. As the excise tax is one of the main components of the price of excise goods, the difference in excise burden could be the direct cause of non-compliance with excise rules within both B2B and B2C duty-paid operations, with the latter beyond the scope of this analysis²⁸. This chapter does not analyse counterfeiting, illicit trade, and other types of irregularities where SAADs are not issued.

When goods are moved within such operations, they are liable to excise duty in the MS of their final destination. A diversion would result in paying lower levies in the MS

²⁵ See: HM Revenue & Customs, *Measuring tax gaps 2016 edition. Tax gap estimates for 2014-15, 2016*.

²⁶ See: KPMG, *A study of the illicit cigarette market in the European Union, Norway, and Switzerland, 2016 Results*.

²⁷ See: Directorate-General for Taxation and Customs Union (European Commission), *Evaluation of current arrangements for the holding and moving of excise goods under excise duty suspension. Final Report, 2015*.

²⁸ The validity of the assumption that fraud in B2B operations between MS with large differentials concerns mostly duty-paid operations was confirmed by interviewed EOs. According to EOs, supervision of movements under EMCS impedes fraud, so in the cases where there are strong incentives in form of excise rate differentials, fraud is committed mostly via paper-based duty-paid arrangements.

of dispatch. Due to non-registration in the excise system and the weak control of B2B duty-paid movements, uncovering such irregularities is currently very challenging.

For our analysis, we have selected specific groups of products that, due to high excise rates and rate differentiation, are most prone to fraudulent activities. To compare excise rates for various groups of products across MS, we must make some simplifications—we assume that product prices are uniform within MS.

We also assume that illicit duty-paid B2B operations, despite being taxed illegally in the MS of dispatch, have some properties of completely legal movements. Specifically, EOs register such operations in Intrastat in the MS of dispatch either because they are not aware of the fraud or are not afraid of registration in the MS where the excise was paid. Conversely, such movements are likely not registered in the MS of destination. As a result, to verify the scale of potential fraud in B2B duty-paid arrangements, we investigate both the value and number of discrepancies in Intrastat registers in the MS with large excise rate differentials. We assume that the main reason for the discrepancies is the excise rate differential; however, it is important to bear in mind that other factors and other types of irregularities may also lead to divergence between the registers.

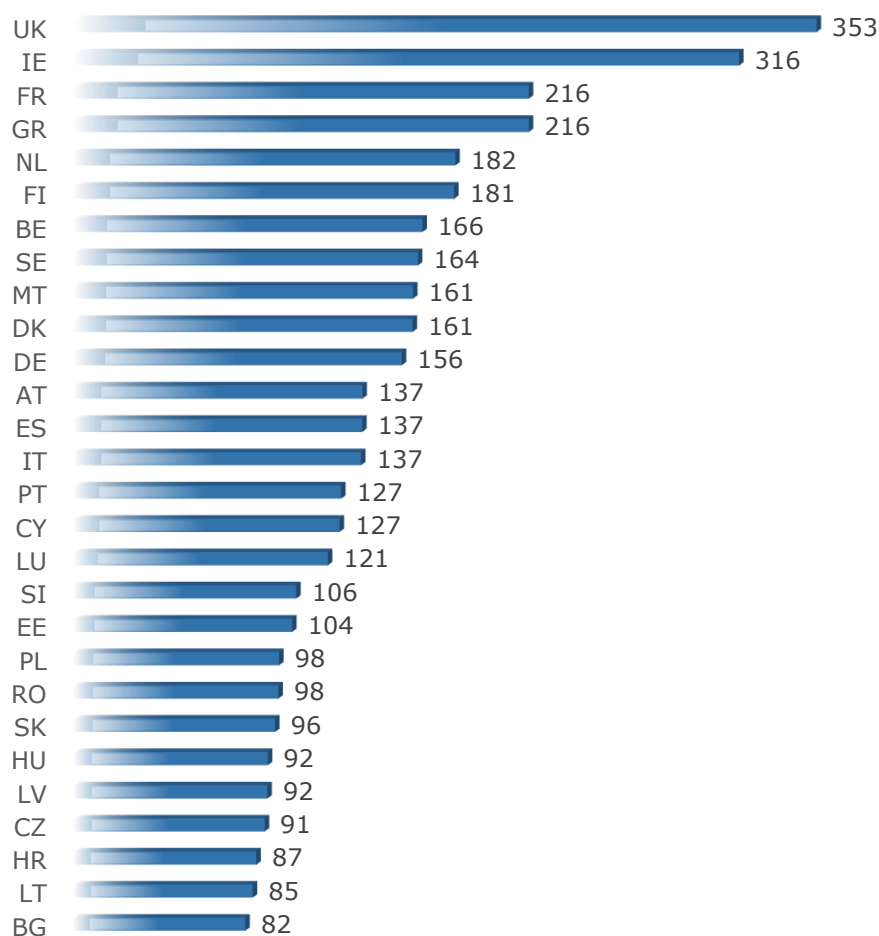
The goods with the highest excise burden relative to their value, weight, and volume are manufactured tobacco products and, especially, cigarettes. The estimates of illicit trade in the EU, which involve the production, import, export, purchase, sale, or possession of cigarettes not complying with the legislation, varies from 6.5-13.6%, depending on the methodology used.²⁹ The largest component of excise revenue loss in cigarettes is illicit trade from non-EU countries.

In this analysis, we focus on intra-EU trade. Firstly, we estimate the excise yield per 1,000 cigarettes of the weighted average price (WAP) based on the information provided directly by MSAs.³⁰ The estimates for all MS are presented in Figure 1.

Figure 1: Excise yield per 1,000 cigarettes of the WAP (EUR, 2016)

²⁹ See: Study on Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco.

³⁰ Source: EXCISE DUTY TABLES Part III - Manufactured Tobacco (EC).



Source: own elaboration.

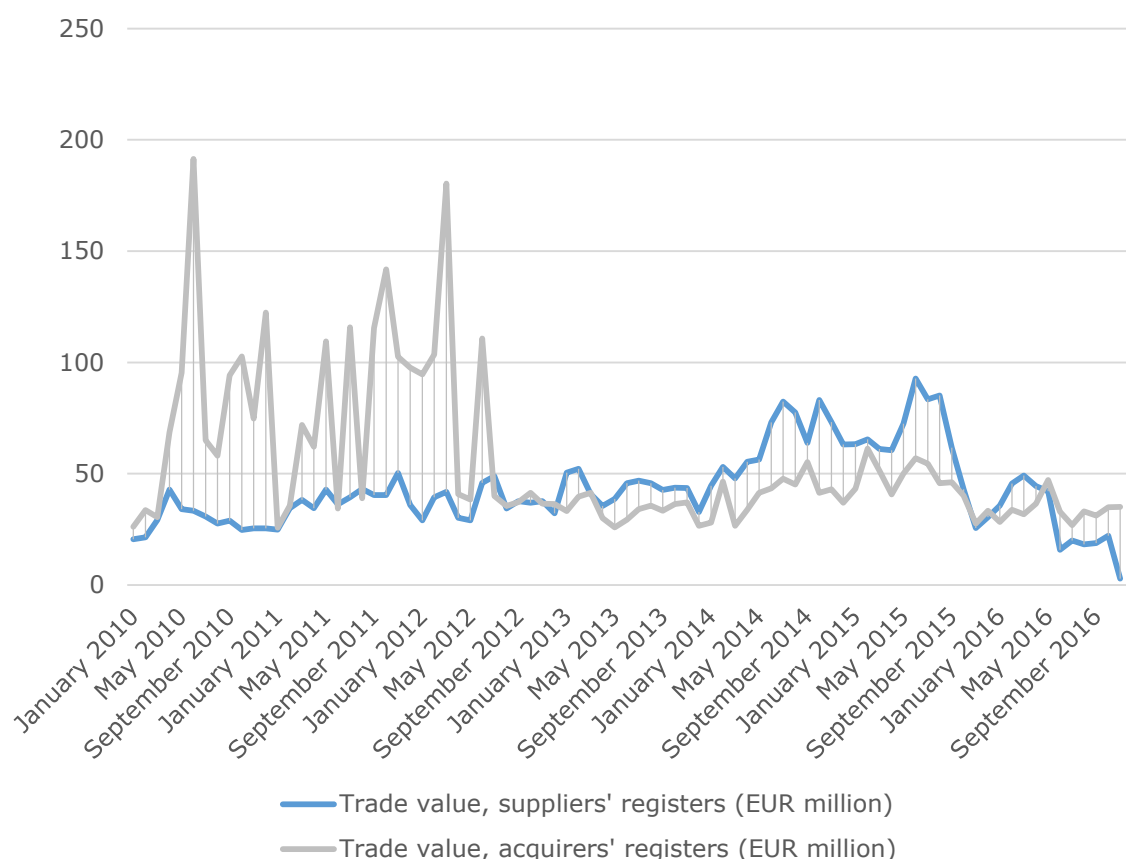
The current difference between the two MS on the extreme sides of the graph, Bulgaria and the UK, is EUR 271 only in excise. This is equivalent to about a EUR 5.4 difference per pack of cigarettes containing 20 sticks. Such a large variation in price might be an incentive for paying excise in the MS of dispatch and not in the MS of final destination.

A difference of EUR 2 per pack, which is found for a number of country pairs, is arbitrarily set as the threshold for selecting trade flows for this analysis. The list of selected MS pairs includes the supply from all other MS to the UK and Ireland, plus the supply from CEE³¹ MS to France and Greece.

The values of these movements registered in Intrastat in both the supplying and acquiring MS are presented in Figure 2.

Figure 2: Trade in cigarettes between MS with large excise differentials

³¹ Namely Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, and Slovenia.



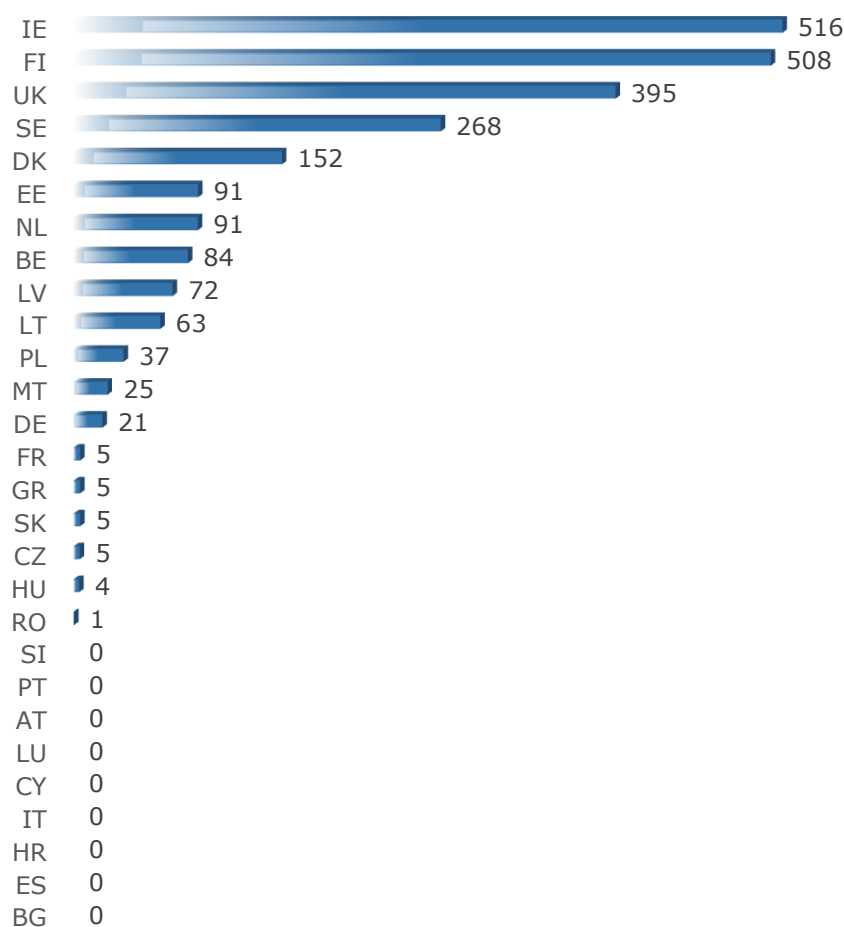
Source: own elaboration.

As shown by the graph, the difference between both registers in the period of January 2010-July 2012 was substantial, and accounted for roughly EUR 1.5 billion. It could be hypothesised that the discrepancies result from inflated, and likely fictitious, supply from MS to the UK. Since registers of acquirers in the UK largely exceed the registers of suppliers, and not the contrary, the reason for the discrepancies was other than excise differential. The reason for such an evolution of trade values might have been, for example, missing trader intra-community fraud (MTIC) and, specifically, carousel fraud. In the case of carousel fraud, it could be observed that in the MS where the brokers within the transaction chain are registered could have inflated both supply and acquisition statistics.

The discrepancies ended as of 2013. Since that time, the registers on the suppliers' side have exceeded the registers on the acquirers' side. Only in 2015 were the registers on the suppliers' side nearly EUR 200 million higher than the registers on the acquirers' side.

The second type of excise goods investigated because of large excise differentials is wine. Although the excise yield relative to the value, weight, and volume is much lower than in the case of cigarettes, wine products are not excisable in many MS, and, thus, the excise yield may vary quite significantly between MS. To estimate the excise yield on wine, we use consumption data³² and aggregate data on excise receipts from all wine products. As a result, our estimates show the approximate average yield for all types of wine, both still and sparkling (see Figure 3).

³² Source: Euromonitor.

Figure 3: Estimated excise yield per one hectolitre of wine (EUR, 2016)

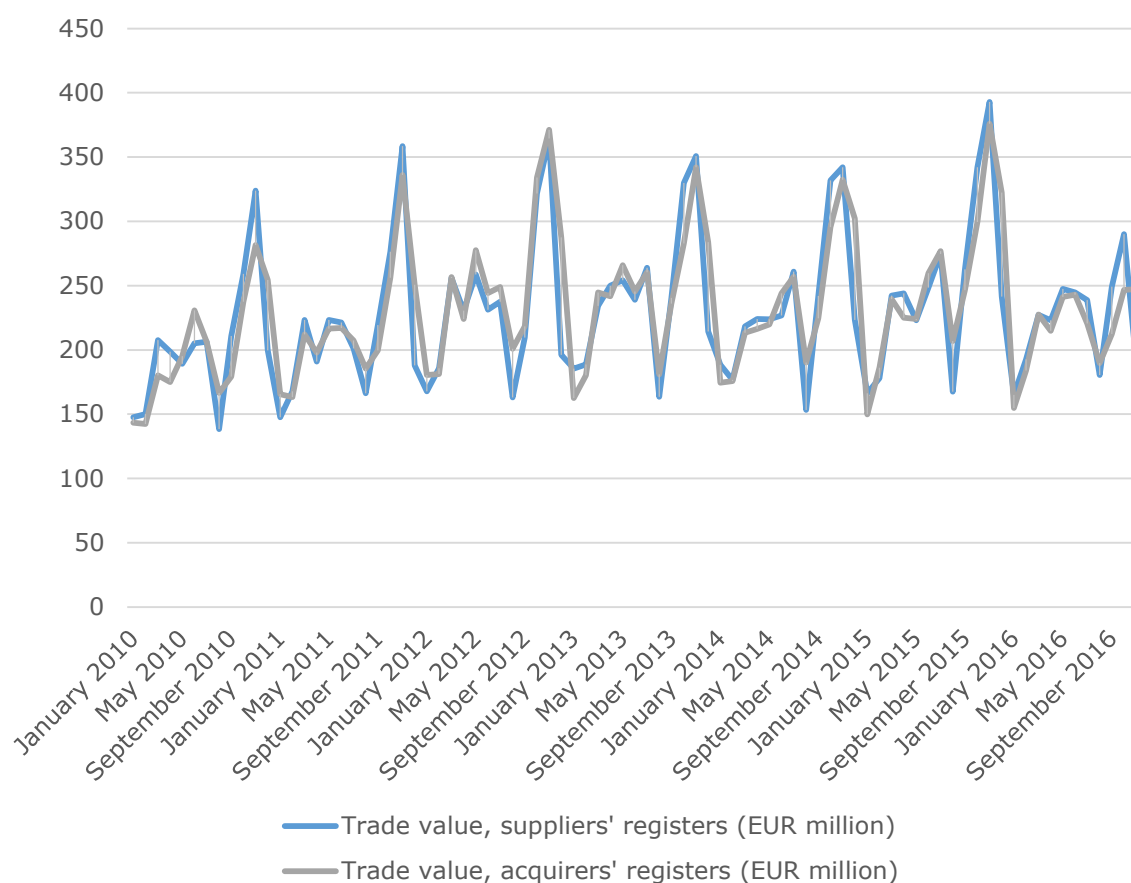
Source: own elaboration.

We examine whether there are significant discrepancies in trade flows between MS where the differences in price per bottle are, on average, more than EUR 2. This concerns all supplies from wine-producing MS where the excise on the majority of wine categories is zero³³ to Ireland, Finland, the UK, and Sweden.

As shown in Figure 4, there are no significant discrepancies in intra-EU movements of wine products. Only seasonal patterns of trade and high correlation of fluctuations could be observed.

Figure 4: Trade in wine between MS with large excise differentials

³³ Bulgaria, Spain, Croatia, Italy, Cyprus, Luxembourg, Austria, Portugal, Slovenia, Romania, Hungary, the Czech Republic, Slovakia, Greece, and France.

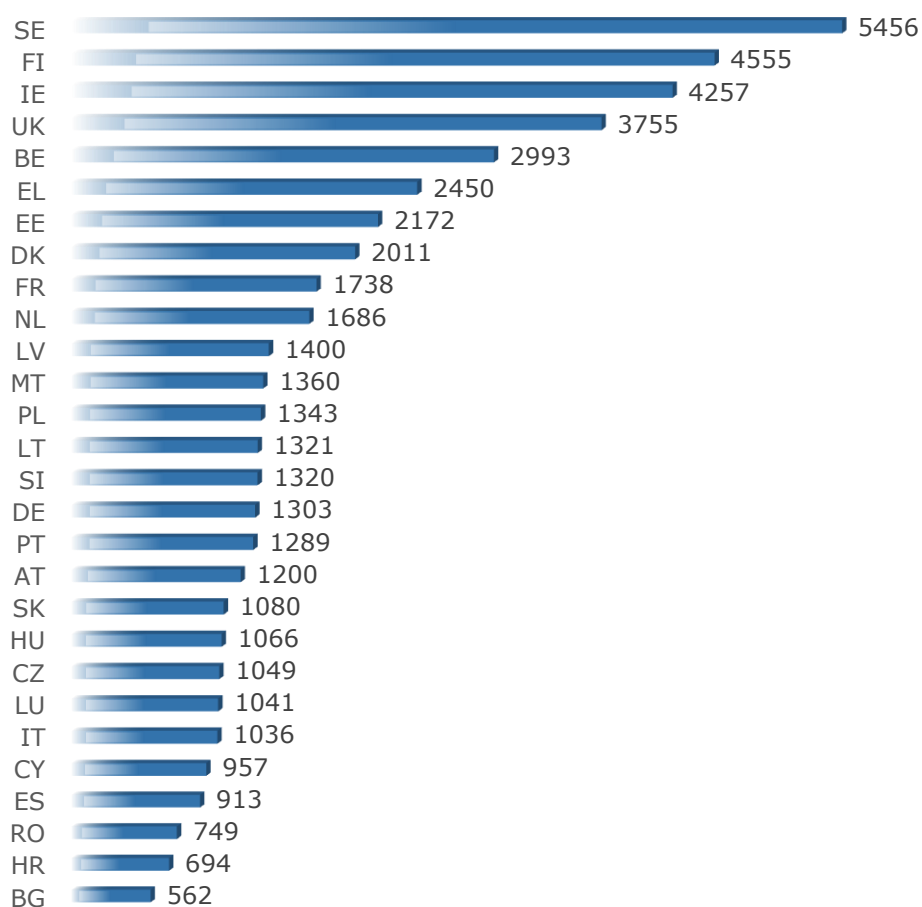


Source: own elaboration.

Significant differences in excise yield could also be observed for spirits. According to the Commission's excise tables,³⁴ the excise yield per 1,000 litres of spirits differs in nominal terms by as much as ten times (Sweden versus Bulgaria) (see Figure 5).

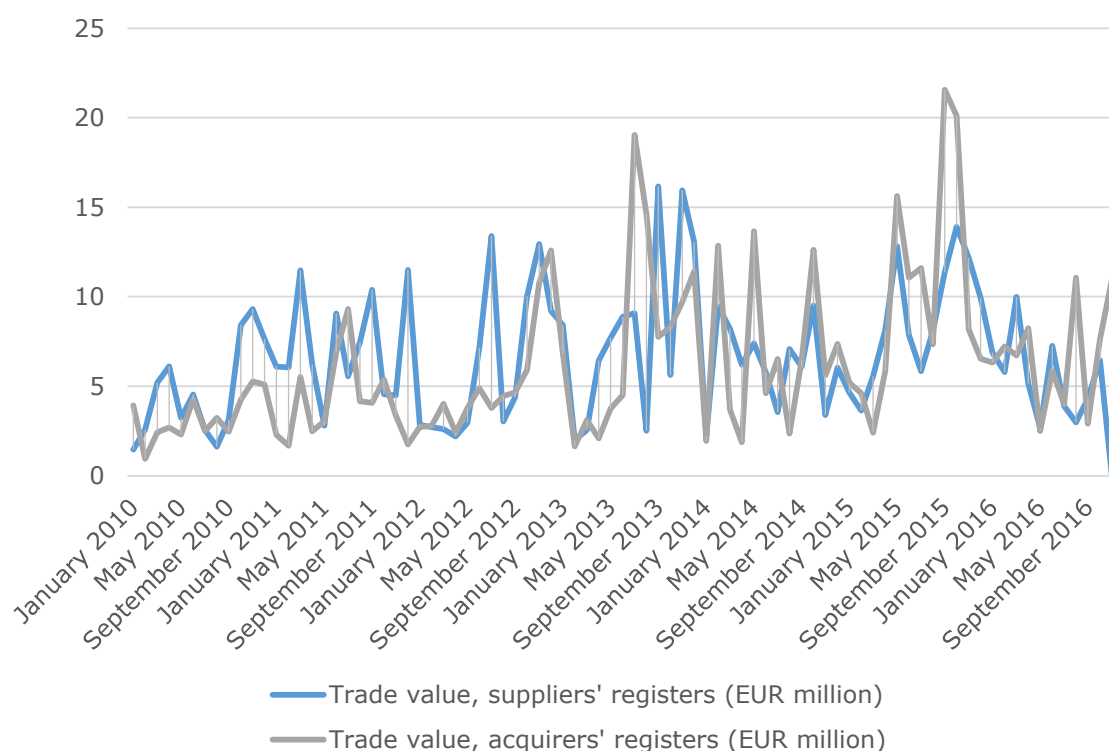
³⁴ Part I - Alcoholic Beverages.

Figure 5: Estimated excise yield per one hectolitre of spirits (EUR, 2016)



Source: own elaboration.

For the purpose of establishing whether the differences in excise rates could be the reason for fraud, we select the five MS with the lowest excise yield (Cyprus, Spain, Romania, Croatia, and Bulgaria) and examine if there are any irregularities in the supply to the MS with the highest excise burden (Sweden, Finland, Ireland, the UK, and Belgium) (see Figure 6).

Figure 6: Trade in spirits between MS with large excise differentials

Source: own elaboration.

The evolution of the trade is volatile and, compared with wine, weakly correlated, signalling possible irregularities. It could be observed that the registers on the suppliers' side exceeded the registers on the acquirers' side. The difference in 2010-2012 was about EUR 62 million. As of 2013, the discrepancies have been lower, which suggests that large-scale irregularities decreased during that time.

We also examine if excise rate differentials might be a reason for illicit B2B duty-paid movements in petrol and gas oil (diesel). For this purpose, we estimate excise per 1,000 litres of each product type in all MS³⁵ using the Commission's excise tables.³⁶

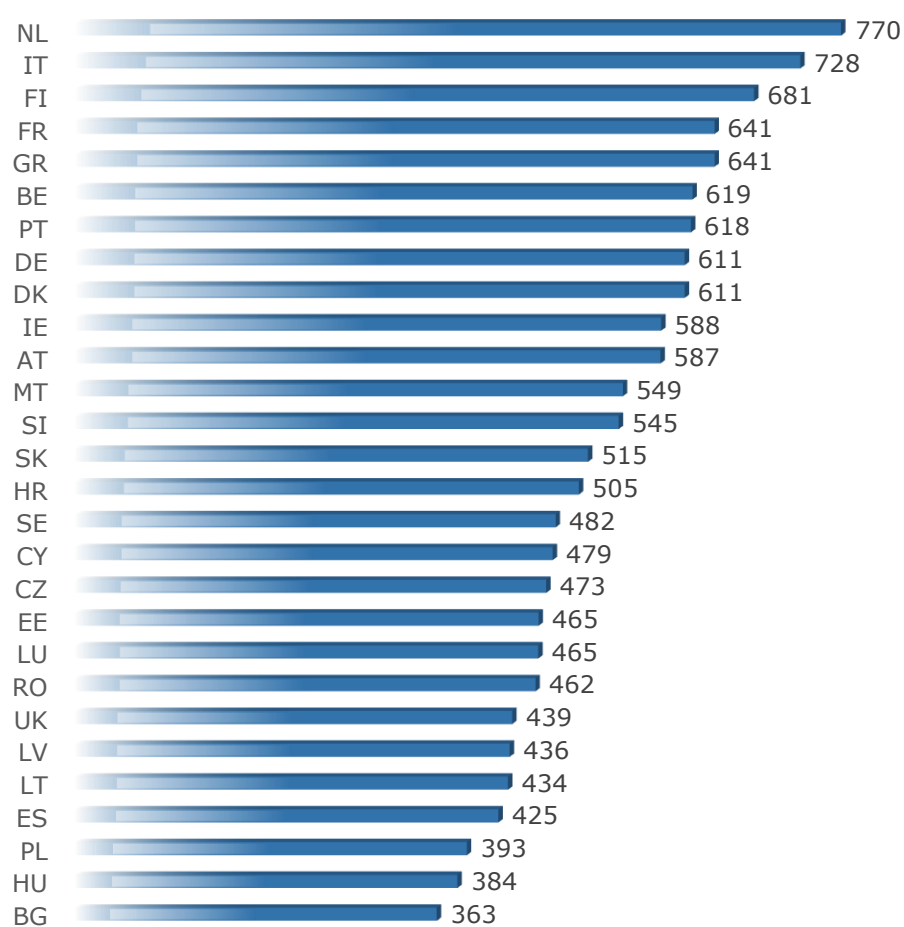
The differentials in the rates on (unleaded) petrol and gas oil products are depicted by Figure 7 and Figure 8.³⁷

³⁵ The exact amount of excise often depends on additional factors (such as the chemical composition of the product). Due to a lack of data, we ignore all exceptions and special treatments.

³⁶ Part II Energy Products and Electricity.

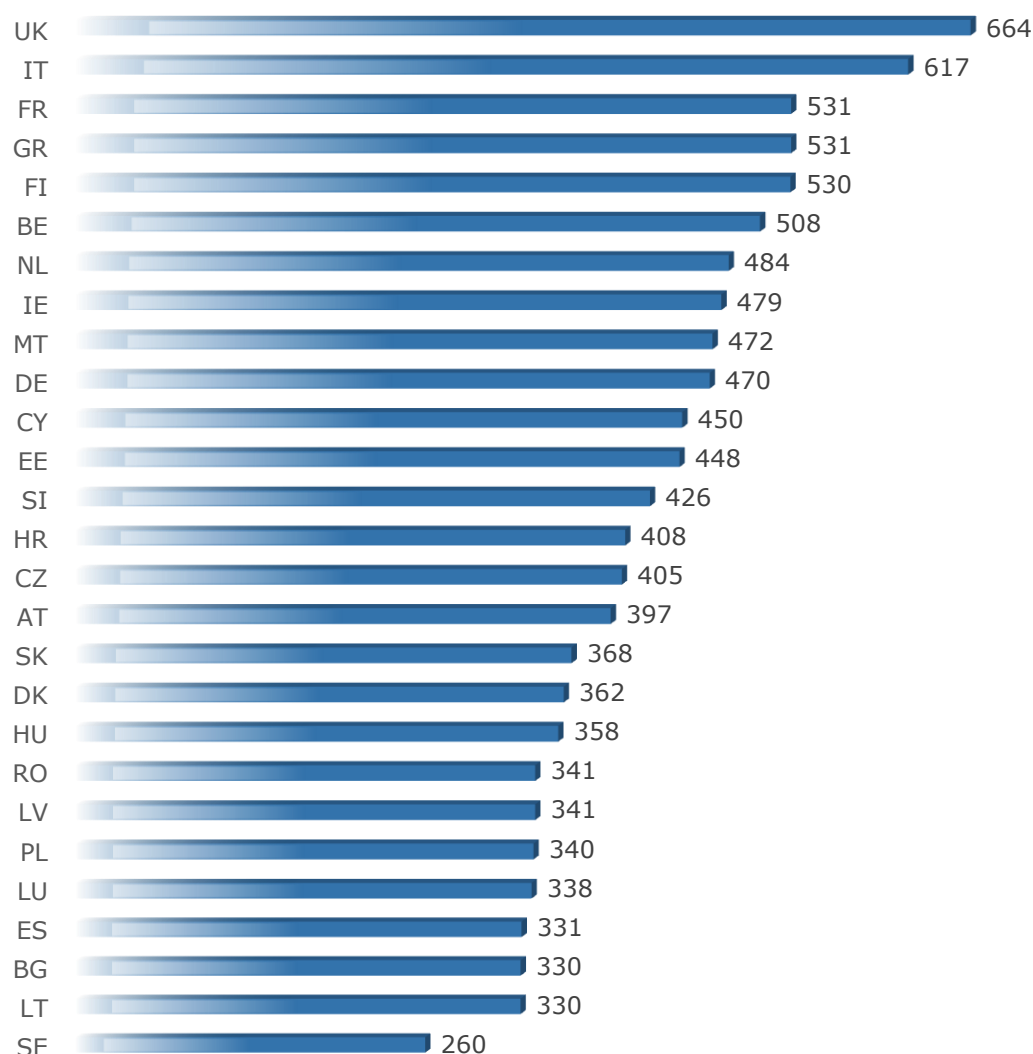
³⁷ Portugal was not included due to a lack of data.

Figure 7: Estimated excise yield per 1,000 litres of unleaded petrol (EUR, 2016)



Source: own elaboration.

Figure 8: Estimated excise yield per 1,000 litres of gas oil (EUR, 2016)

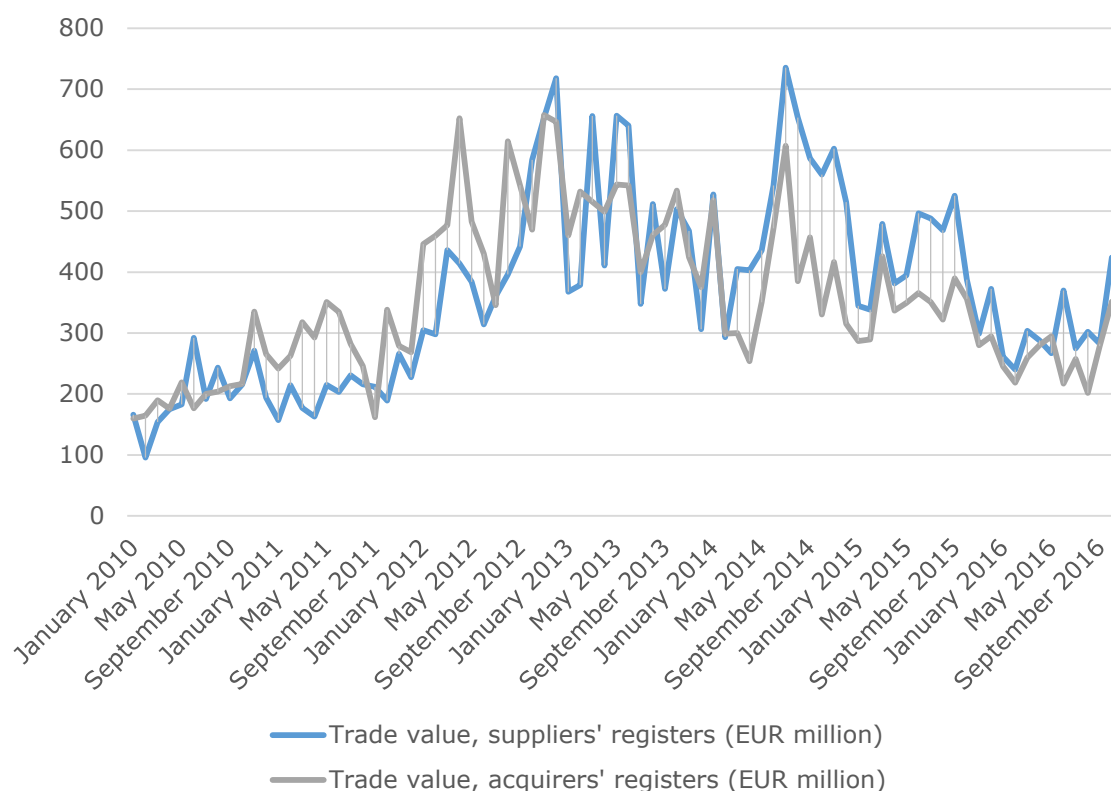


Source: own elaboration.

In the analysis of trade flows between the MS with large rate differentials, we focus on the trade flows between the five MS with the lowest and the five MS with the highest excise rates.

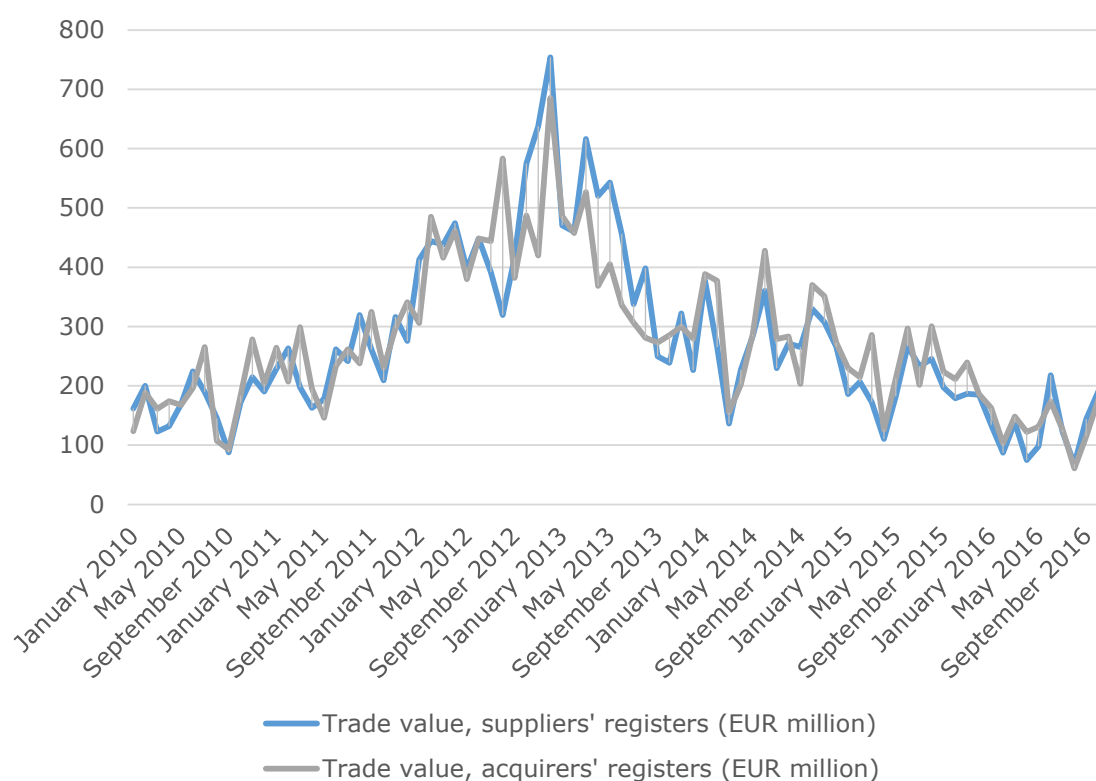
Figure 9 shows the supply of unleaded petrol from Bulgaria, Hungary, Poland, Spain, and Lithuania to the Netherlands, Italy, Finland, France, and Greece. In addition, Figure 10 illustrates acquisitions of gas oil by the UK, Italy, France, Greece, and Finland from Luxembourg, Spain, Bulgaria, Lithuania, and Sweden.

Figure 9: Trade in petrol between MS with large excise differentials



Source: own elaboration.

Figure 10: Trade in gas oil between MS with large excise differentials



Source: own elaboration.

The discrepancies in the trade of petrol in suppliers' and acquirers' registers between the selected MS are more irregular than in the case of gas oil. In 2016, the registers of suppliers exceeded the registers of acquirers by EUR 397 million, which is equivalent to roughly 810 million litres.³⁸ This amount of diverted petrol, assuming the average EU excise yield of roughly EUR 570,³⁹ would be subject to **EUR 462 million excise yield**. The discrepancies concerning intra-EU trade in gas oil are much less pronounced. In 2015 and 2016, the evolution of both registers was very much alike.

Overall, values in Intrastat signal that, during 2010-2016, there were periods of irregularities provoked, among others, by large excise differentials. These periods were very irregular, and the irregularities were diminishing with time. In total, in the period 2010-2016, the discrepancies in Intrastat which could partially be associated with the cross-border intra-EU movements of excise goods between the MS with the highest and lowest excise yields amounted to EUR 1.2 billion net, which might exceed the value of all B2B duty-paid movements. If the values were so high, losses in excise due to the unlawful taxation of goods at the origin may have decreased excise revenue in the MS with the highest excise rates by **EUR 178 million annually**. This estimate could be treated, however, as an upper bound, since other factors (e.g. registration thresholds) and other types of fraud may have contributed to this discrepancy.

3.1.2 EU-Wide Analysis of Intrastat Discrepancies

Eurostat's International Trade Database provides detailed monthly data on trade in goods by CN classification between MS. Using international trade data, it is possible to estimate the scale of discrepancies in the intra-EU trade of excisable goods, because some of the entities participating in fraud are either unaware of the process or try to give the impression of full legality and report their transactions to the system. Significant and repeated differences in the value of registered flows of goods by both partners may indicate tax fraud. Minor differences between reported values may have some other technical causes. For example, they may be due to the difference in the average size of companies reporting intra-Community trade. They may also result from differences in registration thresholds for the import and export of goods in different MS. Also, fluctuations resembling a stochastic process with an expected value of zero may be due to discrepancies in trading partners' reporting dates. To distinguish between these random fluctuations and possible fraud, results were filtered using a set of parameters.

For the purpose of further analysis, we use the groups of excise goods referenced in the Directive:

- **energy products and electricity covered** by Directive 2003/96/EC (CN1507-CN1518, CN2701, CN2702, CN2704-CN2715, CN2716, CN2901, CN2902, CN29051100, CN3403, CN3811, CN3817, CN38249099);
- **alcohol and alcoholic beverages covered** by Directives 92/83/EEC and 92/84/EEC (all excise goods under CN22); and
- **manufactured tobacco** covered by Directive 2011/64/EU (all excise goods under CN24).

³⁸ EUR 0.49 net price of unleaded fuel o was assumed (source: http://www.globalpetrolprices.com/gasoline_prices/Europe/, September 2017).

³⁹ Average excise yield weighted by motor fuel consumption, source: Euromonitor.

There is a proven track record of using *k-means* clustering as a method of identifying anomalies and outliers. Most of the applications for anomaly detection are linked to the banking sector and identifying credit card fraud, insurance fraud, and other anomalies in client behaviour. Applying k-means clustering to fraud detection was briefly discussed in Chandola et al. (2009),⁴⁰ and in more detail in Lindholm (2014)⁴¹ and Baesens et al. (2015).⁴²

The application of k-means clustering to trade data, which, in contrast to, for example, a credit card transactions database, is not real-time data gathered by a strict IT system, required modifications which are described below. The main argument in favour of the k-means clustering method for this particular dataset containing thousands of country pairs and product categories over a period of 6 years is that the method can be applied unsupervised to each time series.

To track discrepancies in trade data, possible fraud, and, in turn, loss in tax revenues, the values reported (CN8 classification) by suppliers and acquirers were coupled. The relative differences between the values of trade reported by both sides were then smoothed using a moving average to remove any short-term fluctuations (which may be caused, for example, by a shift in the reporting period). In the next step, the values of the index were segmented using k-means clustering ($k=2$). The k-means algorithm groups similar observations into two segments thus allowing the identification of “odd” values. One of the advantages of this method is scalability—segmentation can be applied to disaggregated time series to ensure that discrepancies in relatively small categories are not hidden when paired with other time series. An additional advantage of using disaggregated data is that statistical assumptions are more robust in a greater sample.

The distance of means of relative differences for observations grouped into separate clusters were used to verify if, for a certain pair of countries and CN codes, there are observations where values substantially differ between what was reported by the exporter and the importer.

In the next step, periods identified as discrepancies are grouped together if they occurred consecutively. To ensure that short, random peaks and periods which are not substantially different from baseline differences between reported values of export and import are excluded from the final result, two sets (more restrictive and less restrictive) of parameters (minimum length of time and minimum relative difference) were applied to create lower and upper estimates of the discrepancies value for each country pair and product.

Because there is no definitive length of fraudulent schemes and the scale can vary in each category of excise goods and country pair, there is a need to arbitrarily set parameter values and create a “confidence interval” between more and less restrictive sets of parameters. The more restrictive set of parameters was set at six months and 100% of the relative difference between “odd” periods and baseline. This ensures that differences are significant (twice that of the baseline) and long-lasting. The less restrictive parameters were set for three months and 30%.

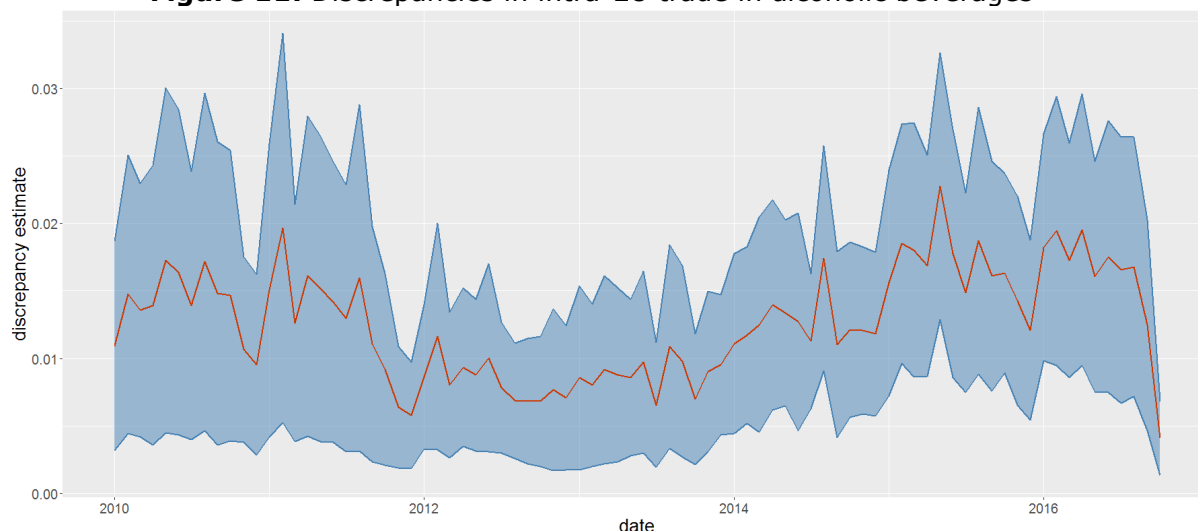
⁴⁰ Chandola V., Benerjee A., Kumar V., *Anomaly Detection: A Survey*, in: CM Computing Surveys, 1-72, 2009.

⁴¹ Lindholm A., *A study about fraud detection and the implementation of SUSPECT - Supervised and UnSuPervised Erlang Classifier Tool*, 2014.

⁴² Baesens B., Vlasselae V., Verbeje W., *Fraud Analytics Using Descriptive, Predictive, and Social Network Techniques. A Guide to Data Science for Fraud Detection*, John Wiley & Sons, 2015.

Finally, periods that were identified as discrepancies and then filtered using the abovementioned parameters were aggregated to obtain the final estimates for each group of excise goods in each month. The results are shown in Figures 11-13 below.

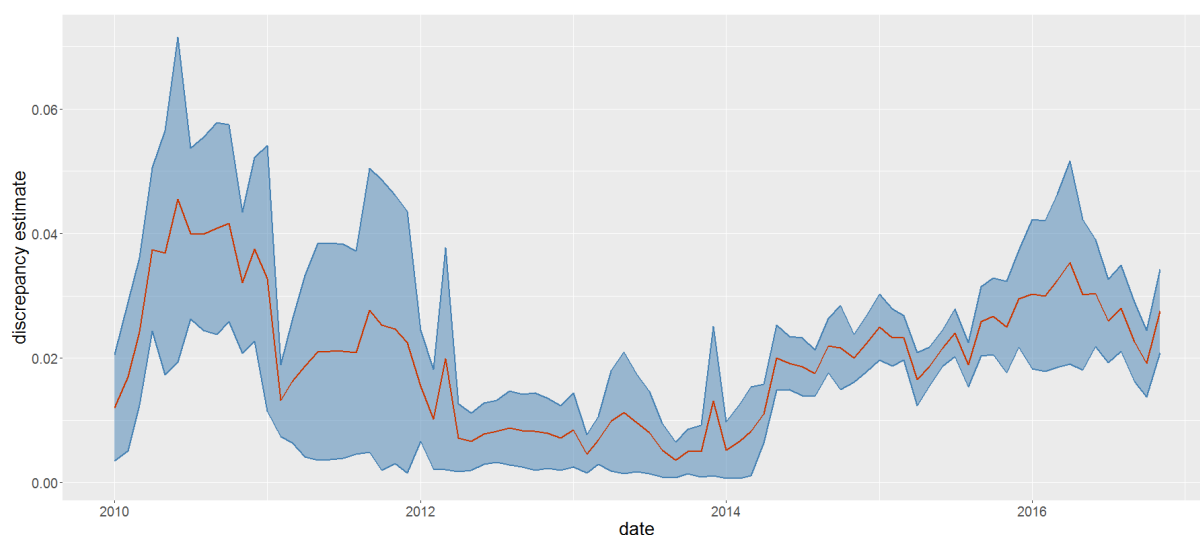
Figure 11: Discrepancies in intra-EU trade in alcoholic beverages



Source: own elaboration.

Figure 11 shows the percentage value of the identified discrepancies in the total value of alcohol and alcoholic beverages trade between 2010 and 2016 using the method mentioned above. The total value of the intra-community trade of excisable goods reported under CN22 to the International Trade Database in 2015 was EUR 22.9 billion. The estimated percentage value of the discrepancies in the analysed period varied between 0.5% and 1% for the most conservative estimation and from 1% to over 3% for the less restrictive set of parameters. The “confidence interval” for estimates was mostly stable during the analysed period and was around 1.5% of the total trade value. The estimated value over time was the lowest between 2012 and 2014; however, since then, it increased for both the lower and upper estimates. This may indicate that fraud related to the intra-community trade of alcohol grew in scale recently.

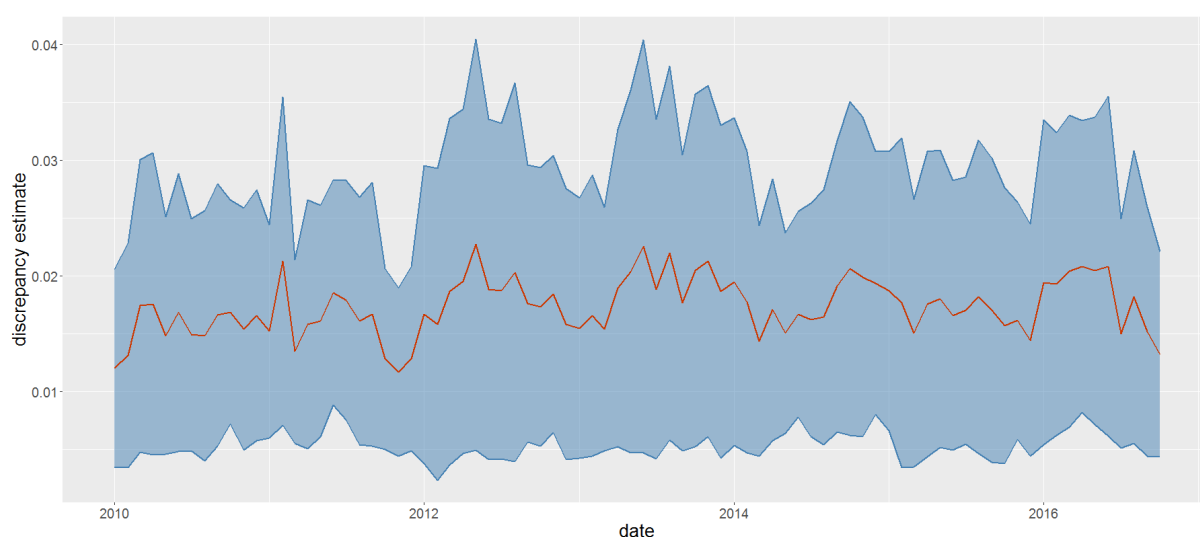
Figure 12: Discrepancies in intra-EU trade in manufactured tobacco



Source: own elaboration.

Figure 12 shows estimations of the discrepancies in trade data as a percentage of the total trade value of manufactured tobacco (the total value of the reported intra-community trade of manufactured tobacco in 2015 was EUR 9.2 billion). The estimated share of the discrepancies in the intra-community trade of tobacco products varied between 0.06% and 2.6% for the lower estimate and 0.7% and 7.2% for the upper estimate in the analysed period. The “confidence interval” for estimates also varied—it was the highest in first two years of the analysed period, which suggests that the number of discrepancies that were short in time and less significant in value was high in that period. Similarly, as with alcoholic beverages, the value of the discrepancies was the lowest between 2012 and 2014 and increased significantly in the last two years of the analysed period.

Figure 13: Discrepancies in intra-EU trade in energy and electricity



Source: own elaboration.

Figure 13 presents the estimated percentage value of the discrepancies in the total value of trade between 2010 and 2016. The total value of the reported intra-community trade of excisable energy products and electricity reached EUR 165.2 billion in 2015. The estimated share of the discrepancies in the intra-community trade of energy products and electricity varied between 0.2% and 0.9% for the lower

estimate and 1.9% and 4.1% for the upper estimate in analysed period. Although the estimated values of the discrepancies varied substantially (especially for the upper estimate), there was no systematic change or seasonality to these variations. One of the reasons for this might be that energy products and electricity is a very broad category of goods and patterns may not be visible because of the aggregation and overall scale of the intra-community trade of these products.

Overall, as presented by Table 6, the discrepancies in Intrastat ranged from EUR 8,225 million to EUR 44,867 million in the period between January 2010–November 2016, which was approximately 0.5% up to 2.7% of the total intra-EU supply.

Table 6: Estimates of Intrastat discrepancies

	Energy products and electricity	Alcohol and alcoholic beverages	Manufactured tobacco	Total
Total value of reported supply between January 2010 and November 2016	EUR 1 316 839 million	EUR 147 072 million	EUR 61 225 million	EUR 1 525 136 million
Lower estimate of discrepancies—total value between January 2010 and November 2016	EUR 6 867 million	EUR 699 million	EUR 659 million	EUR 8 225 million
Upper estimate of discrepancies—total value between January 2010 and November 2016	EUR 38 910 million	EUR 2 972 million	EUR 1 805 million	EUR 43 687 million
Median estimate of discrepancies—total value between January 2010 and November 2016	EUR 22 889 million	EUR 3 671 million	EUR 2 464 million	EUR 29 024 million

2016				
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Source: own elaboration.

The discrepancies included in Table 6 are presented as net values of traded products. The values of discrepancies translated into the loss of excise revenue are illustrated by Table 7.⁴³

Table 7: Estimates of excise revenue loss⁴⁴

	Energy products and electricity	Alcohol and alcoholic beverages	Manufactured tobacco	Total
Revenue loss between January 2010 and November 2016, lower bound	EUR 326 million	EUR 30 million	EUR 824 million	EUR 1 180 million
Revenue loss between January 2010 and November 2016, upper bound	EUR 1 798 million	EUR 148 million	EUR 2 344 million	EUR 4 290 million
Yearly revenue loss between January 2010 and November 2016, median	EUR 157 million	EUR 13 million	EUR 235 million	EUR 405 million

Source: own elaboration.

⁴³ The average excise rates for three product categories were estimated using net consumption figures from Enerdata and Euromonitor and disaggregated excise revenue (source: http://ec.europa.eu/taxation_customs/tedb/taxSearch.html)

⁴⁴ The numbers represent the excise revenue loss from registered but fraudulent transactions in B2B cross-border trade. They do not account for illicit trade.

In the estimation of both the lower and upper bounds presented in Table 7, it was assumed that the discrepancies classified as fraudulent schemes result in excise losses. As confirmed by an abundance of evidence from the data, fraud in excise products is aimed only at VAT.⁴⁵

Discrepancies in Intrastat, which amount to EUR 178 million per year, are limited to intra-EU movements. However, not only intra-EU movements in B2B duty-paid operations are prone to irregularities. As the discrepancies cannot be analysed with the use of Extrastat, we extrapolate the value of fraud in intra-EU movements to obtain the estimate of fraud in import and export transactions. If similar share of import and export movements as intra-EU movements was fraudulent, losses in excise in import would amount to EUR 648 million, and EUR 198 million in export.

3.1.3 Discrepancies in Export Messages

All indirect export operations, that is, operations with excise goods where the office of export and office of exit are located in different MS, are controlled by the ECS. At the beginning of each indirect export procedure, ECS notification IE501 is sent by the office of export to the prospective office of exit. When the goods arrive at the office of exit, the notification IE518 the office of exit sends a message to the office of export to inform about the results of the control.

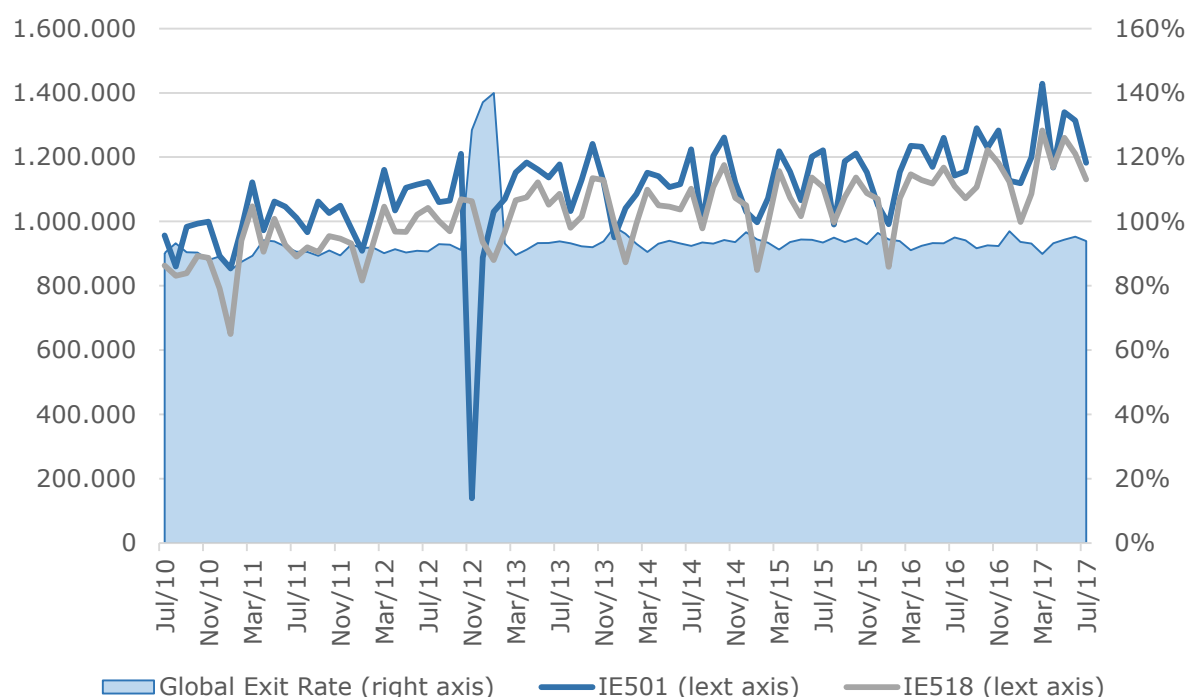
Nevertheless, the message IE501 is not always followed by the message IE518. The reason for not sending IE518 might be manifold, in that there was a change of the office of exit, a malfunction of the system, or human error. A mismatch in the number of export movements released (ECS notification IE501) and in the number of "exit results" (ECS notification IE518) might also indicate potential fraud on exports.

The data on the IE501 messages and IE518 messages split by product types and categories are not readily available. The analysis of trends in the global exit rate could be carried out only on an aggregated product level. The evolution of IE501 and IE518 messages and the three-month global exit rate⁴⁶ are depicted by Figure 14.

Figure 14: IE501/IE518 exit rate

⁴⁵ For instance, introduction of, so called, 'fuel package' in Poland in 2016 led to increase VAT revenue on motor fuel, despite small impact on excise revenue.

⁴⁶ The number of IE518 notifications divided by the number of IE501 notifications.



Source: own elaboration based on CS/MISE statistics.

Within the time of the analysis (July 2010-July 2017), the number of messages increased, on average, by roughly 2.9% annually. As a result, the global exit rate has remained nearly stagnant. In 2016, the percentage of IE501 followed by IE518 amounted to 93.2%, whereas during the five years of the analysis, the global exit rate amounted to approximately 93.7%.

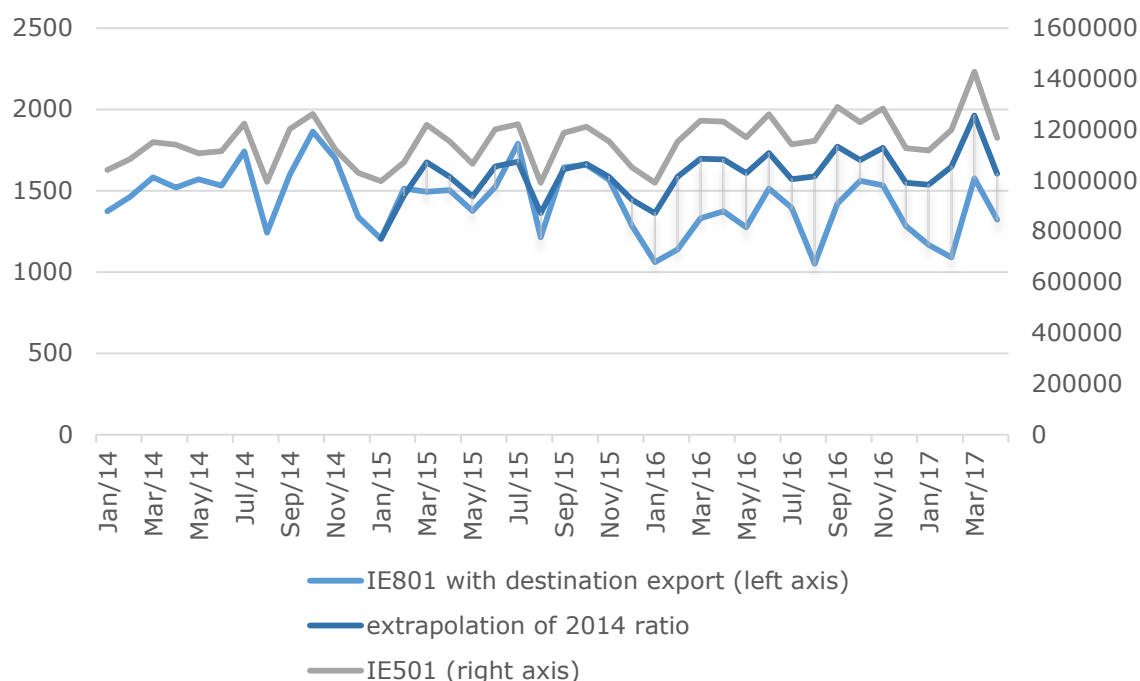
From the above analysis, it might be concluded that during 93.2% of all export movements no irregularities were detected. As the customs authorities have verified the movements in the office of exit, the likelihood of fraud within these 93.2% of operations is similar to that of any movement under customs supervision.

Such an observation cannot be used directly for making conclusions about irregularities in trade of excise goods. However, in addition to the above, a mismatch in the number of export declarations with excise goods in ECS (notification IE501) and EMCS movements with destination export (notification IE801) indicates outward fraud diversion. On the one hand, a relatively higher number of ECS messages may signal diversion fraud with no excise guarantee or an increase in the number of national movements, for which the use of EMCS and of IE801 is not mandatory. On the other hand, a higher number of messages in the EMCS may signal that goods are retained in the EU as no authorisation is needed from the consignee if the destination type is set to export.

The comparative analysis of IE501 and IE801 (with destination export) was performed for the period of January 2014 to April 2017. Figure 15 shows the evolution of IE501 and IE801 with destination exports, which, in the analysed period, accounted for only 0.12% of all movements. The ratio of indirect export movements with excise goods shows interesting characteristics. Firstly, it is strongly correlated with the number of IE501 messages. Secondly, contrary to global export operations in the ECS, it could be characterised by a downward trend.

Figure 15 compares the numbers of IE501 and IE801 with destination export, as well as the counterfactual situation if the number of indirect export operations with excise goods between 2015 and 2017 increased at the same pace as the number of all export procedures.

Figure 15: IE501/IE801 trends

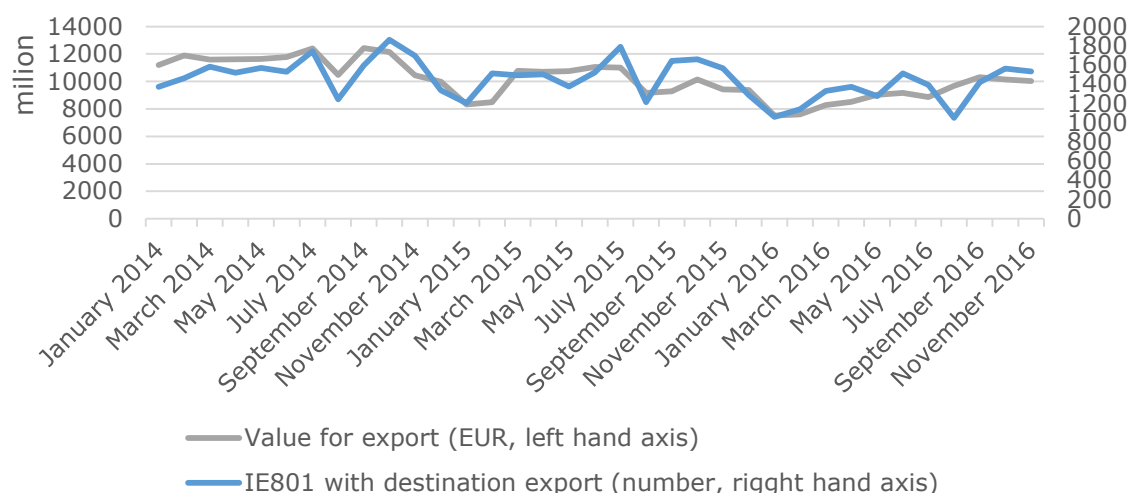


Source: own elaboration, based on CS/MISE statistics.

As the ratio of the messages changes over time, the increasingly higher number of messages in the ECS (IE501) may signal diversion of fraud with no excise guarantee or the relatively weakening performance of exports of excise goods versus non-excise goods.

To determine the likely reason for such a trend in export operations with excise, the number of IE801 with destination export is compared with the value of exports of excise products registered in Intrastat (see Figure 16).

Figure 16: All and international export operations with excise goods from the EU



Source: own elaboration, based on Eurostat and CS/MISE statistics.

As depicted by the graph, the value of exports registered in Extrastat evolves in high correlation with the number of indirect export operations registered in the EMCS. The declining number in the value of excise exports registered in Extrastat explains the parallel decrease in the number of export operations registered in the EMCS. In other words, the number of indirect export operations does not increase in line with all exports in the ECS, but with the value of all types of excise operations registered in the Extrastat reporting system. Thus, the divergent trends of the IE801 and IE501 messages were likely not caused by the non-registering of movements in the EMCS, but rather by the downward trend in the export of excise goods.

3.1.4 Findings from Excise Fraud Analysis

The analysis of fraud related to the intra- and extra-EU movements of excise goods shows that excise revenue loss due to irregularities in registered or tracked movements account for a rather small proportion of the excise gap. Nevertheless, the absolute value of this loss is still of high significance.

The loss that could be associated with B2B duty-paid movements and unlawful taxation in the MS of origin amounted to EUR 178 million yearly between 2010 and 2016. All discrepancies in B2B movements that could be associated with a variety of different fraud schemes were estimated to account for between EUR 174 million and EUR 636 million yearly, which is EUR 405 million on average.

As far as export operations are concerned, no large-scale irregularities or discrepancies were detected in the trends of the indicators of export operations. This suggests that the scale of fraud is relatively small, or that it constant in time.

The available data did not allow for conclusions on the magnitude of the excise gap by comparing production and consumption figures; however, the figures signal that discrepancies have been declining in recent years. As the analysis of consumption and production data showed, the analysis of fraud based on indirect evidence depends critically on the quality of data and the accuracy of numerous assumptions. Thus, estimates of fraud could be less accurate than other estimates presented in this Study.

3.2 Excise-Export

3.2.1 Overview of the Current Situation

Currently, there are three possible procedures for the export of excise goods Directive: (1) local clearance at export, (2) customs clearance at exit, and (3) customs clearance in another MS (i.e. where the MS of dispatch and the MS of export are different). There are several concerns regarding the third type of procedure—exit through a different MS than where the EMCS started, which may be either an *indirect export* or an export followed by transit or STC. There are specific issues related to procedures for the movement of excise goods that are commonly used after export, but not compliant with the current legislation on excise duties (i.e. there is no proof that the goods physically exited the EU). However, the problems and policy options regarding transit and STC procedures following export operation were addressed in a separate subchapter. This subchapter focuses on those related to the regular export procedure.

As shown by Figure 17, when excise goods under duty suspension are exported within indirect export operation, an excise movement must first be accepted by authorities in the MS of dispatch and export. The supervision of the movement until the goods reach the office of export is delegated to excise. From the MS of export, where the customs export declaration is lodged, up to the external border of the EU, the excise movement is supervised by customs. Once the goods have exited the EU, the customs authorities inform the excise authorities, who close the excise movement in the EMCS.

Figure 17: Indirect export procedure



Source: own elaboration, based on the Commission's working documents.

3.2.2 Problem Analysis

The movement of excise duty goods under duty suspension requires aligned customs and excise procedures. In the case of exporting goods under duty suspension, the main problem is that information is not transferred from one system to the other—namely, it is not transferred between the EMCS and ECS. This is problematic when the MS of dispatch is different than the MS of export. When the ECS exit confirmation is not received by the authorities in the MS of export and no report of export is

generated, the EMCS movement remains open and often has to be closed manually by the authorities. This creates additional administrative burdens and can even create liability risks for the consignor (see *Exit results never submitted* in Figure 18). Closing the movements manually requires the alternate proofs of exit, which are not explicitly indicated in the excise law. Despite the higher fiscal risk concerning excise goods, currently, Article 3(2) of Directive 2008/118/EC provides that the formalities laid out by the Community customs provisions for the exit of apply *mutatis mutandis* to the exit of excise goods.

For example, MS may accept the following documents specified in the UCC IA:⁴⁷

- a copy of the delivery note signed or authenticated by the consignee outside the customs territory of the EU;
- proof of payment;
- delivery note;
- a document signed or authenticated by the EO which has taken the goods out of the customs territory of the EU;
- a document processed by the customs authority of a MS or a third country in line with the rules and procedures applicable in that MS or country; or
- EOs' records of goods supplied to ships, aircraft, or offshore installations.

As a result, different MS accept different proofs of exit, which causes legal uncertainty and hassle costs.

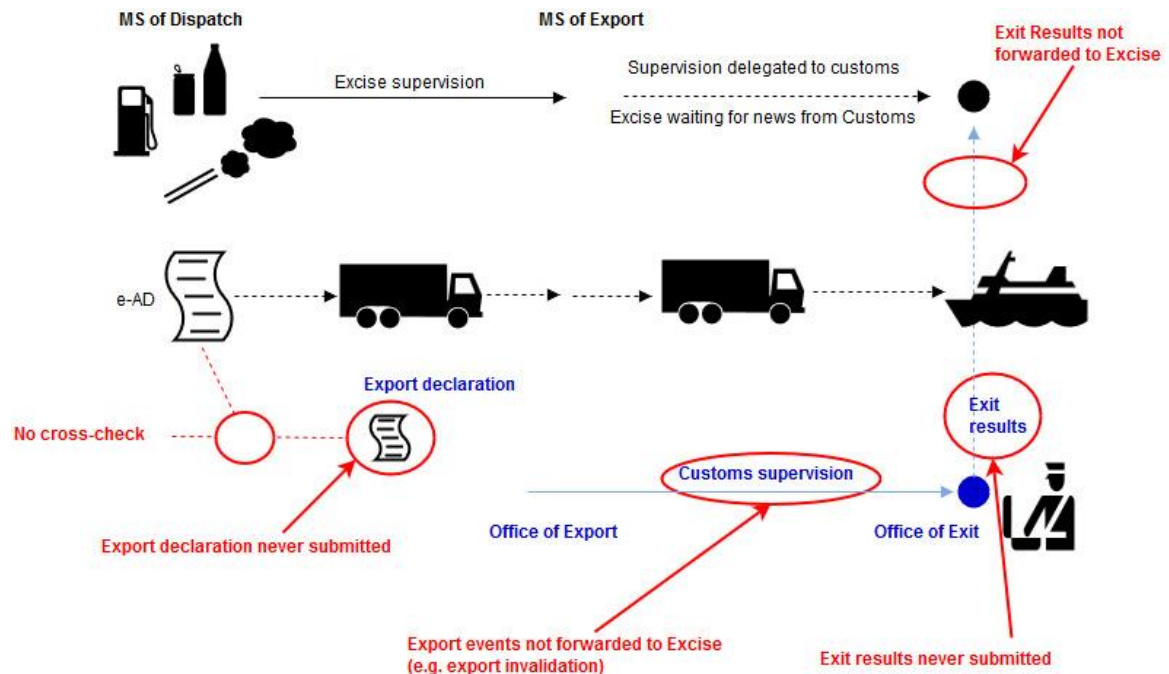
Not only is the confirmation of exit often not received by excise authorities, there are also cases where, even if the exit results message is received, some exporters do not provide a reference in the export declaration to the ARC of the matching e-AD. This makes it difficult or impossible for the system to apply the exit results to the correct e-AD (see *Exit results not forwarded to Excise* in Figure 18).

Furthermore, currently, the cross-checking of information between the EMCS and ECS is not harmonised at the EU level and not all MS perform this operation (see *No cross check* in Figure 18). MS can get around the mismatch between the EMCS and ECS using three different methods. Some MS follow the Design Document for National Export Application (DDNXA)—the ARC is mentioned in Box 40 of the export declaration. Some MS mention the e-AD as a supporting document in Box 44 of the export declaration. Others perform the operation manually. Moreover, even for the countries with automatic procedures, issues can arise as there are no explicit legal obligations for the export declarant to provide the ARC to the customs office of export, though it would be needed to request the e-AD.

In addition (as illustrated in Figure 18: *Export declaration never submitted and Export events not forwarded to Excise*), exceptional situations in the customs export procedure are not always forwarded to excise. The difficulty of verifying if the export declaration was submitted and investigating exceptional situations creates both an administrative burden and the risk of guarantees not released on time.

⁴⁷ See UCC Implementing Act. (EU) 2015/2447 Article 335(4).

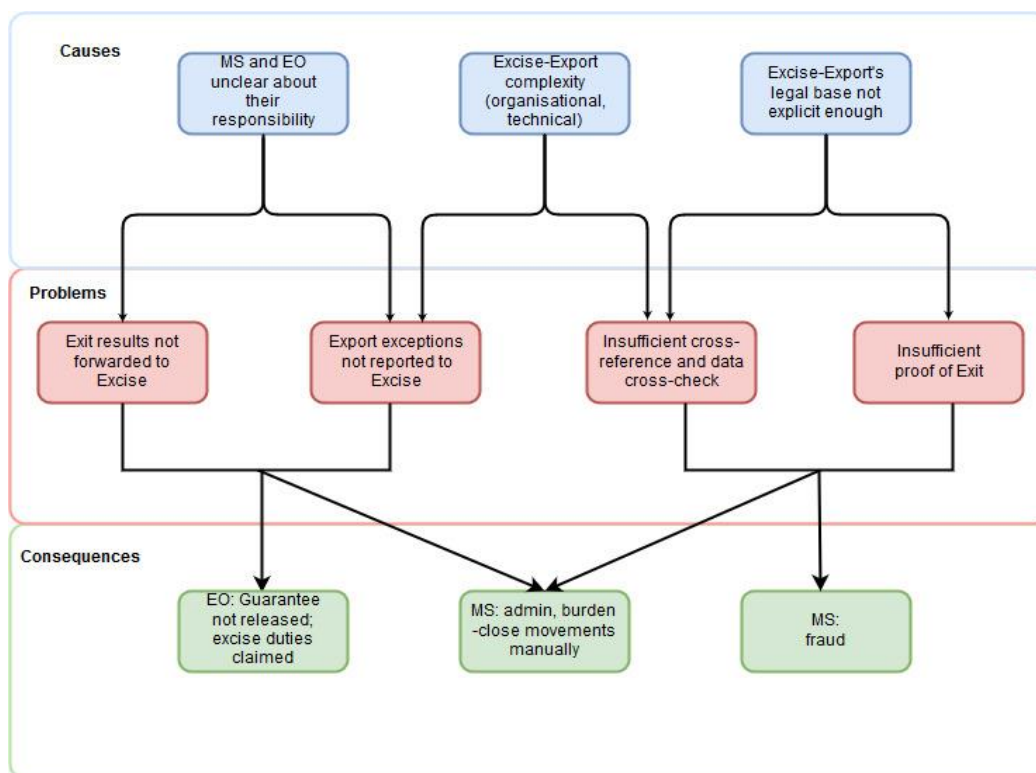
Figure 18: Problems related with indirect export procedure



Source: own elaboration, based on the Commission's working documents.

Based on the Evaluation,⁴⁸ it might be expected that the excise-export legal base is complex, not explicit enough, and MS and EOs are unclear about their responsibilities. This results in an administrative and compliance burden, as well as enables fraud. Figure 19 summarises the causes, problems, and consequences within the excise-export problem area.

⁴⁸ See: EC, Evaluation of current arrangements for the holding and moving of excise goods under excise duty suspension. Final Report, Luxembourg: Publications Office of the European Union, 2015.

Figure 19: Problems related with excise-export

Source: own elaboration, based on the Commission's working documents.

3.2.3 Magnitude of the Problem

➤ VALUE AND VOLUME OF EXPORT MOVEMENTS

In 2016, the value of all export movements registered in Extrastat amounted to EUR 118.5 billion. The vast majority of the exported goods were energy products and electricity (EUR 91.4 billion). Exports of alcoholic beverages amounted to EUR 24 billion, whereas exports of manufactured tobacco products were worth about EUR 3.2 billion.

The largest exporters of energy goods and electricity in 2016 were the Netherlands (EUR 16.4 billion), Belgium (EUR 7.9 billion), and Italy (EUR 7.3 billion) (see Figure 20). The list of MS exporting over EUR 1 billion yearly also includes the UK, Spain, Germany, Greece, France, Sweden, Portugal, Bulgaria, Lithuania, and Romania.

Figure 20: Export of energy products and electricity from MS



Source: own elaboration, based on Eurostat.

As depicted by Figure 21, the main exporters of alcoholic beverages in 2016 were France (EUR 7.5 billion), the UK (EUR 4.6 billion), and Italy (EUR 2.8 billion). The Netherlands, Spain, and Germany were also key exporters, with export values of alcoholic beverages exceeding EUR 1 billion.

Figure 21: Export of alcoholic beverages from MS



Source: own elaboration, based on Eurostat.

The value of exported manufactured tobacco products was much less than the value of exported energy products and alcoholic beverages. Tobacco products were exported mainly by Germany (EUR 1.3 billion), the Netherlands (EUR 0.4 billion), and Sweden (EUR 0.2 billion) (see Figure 22).

Figure 22: Export of manufactured tobacco from MS

Source: own elaboration, based on Eurostat.

The operations illustrated by the graphs in Figures 20, 21, and 22 represent all types of excise export movements—national and international operations and duty-paid and duty-suspended operations. Since the EMCS must be used for exports where the goods are transiting through at least one other MS to the point of exit from the EU, for the purpose of analysing the excise-export area, international operations are especially important.

Export operations tracked in the EMCS include indirect exports as well as followed by transit and STC movements. The number of IE801 messages with destination export includes only the operations when the goods are transiting through at least one MS and the export is under the ECS. The number of such international export operations accounted for 15,931 in 2016.⁴⁹ In 2015, the number of IE801 messages with destination export was over 11% higher (17,766 movements) than in the following year. As Figure 16 in Chapter 3.1.4 shows, the number of IE801 messages with

⁴⁹ Number of messages IE801 with destination type code – “6” = Export (point (iii) of Article 17(1)(a) of Directive 2008/118/EC).

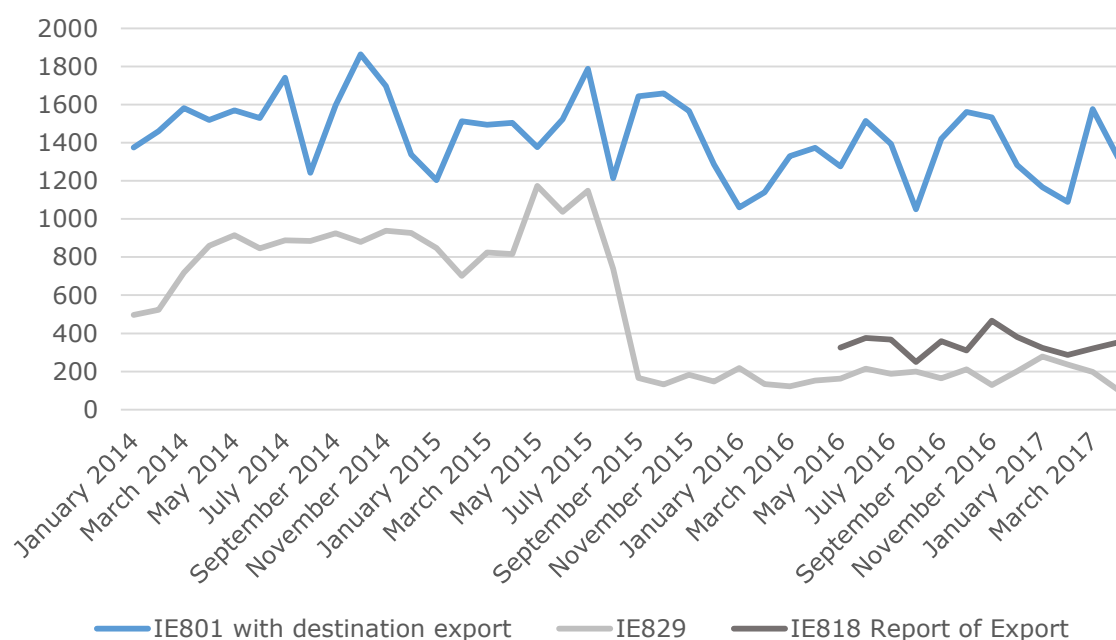
destination export evolved in line with the trend of the value of all excise export movements.

During international export movements, the declarant submits the export declaration to the customs office of export, which is used by some MS. After that, the office of export forwards the declaration to the EMCS and the data contained in the export declaration could be cross-checked with the e-AD. If the cross-check is successful, message IE829 (notification of accepted export) could be generated and sent to the ECS and consignor.

Cross-checking could be performed by the EMCS application of the MS of export or by customs. However, not all countries use the Phase 3 Export Functionality and perform cross-checking, and this is one of the reasons why the number of IE829 messages is lower than the number of IE801 messages with destination exports. Another reason is customs offices not having access to the ARC number, the office of export not receiving confirmation of exit results, and the office of export not receiving confirmation of exit results.⁵⁰

In 2015, the number of IE829 messages was 7,914, whereas in 2016, it was 2,903. As of July 2015, the number decreased as IE829 messages were no longer exchanged between Austrian offices of export and the consignor. The decline in the number of IE829 messages in July 2015 is visualised by Figure 23. Since currently there is no obligation to exchange IE829, Figure 23 depicts cross-checks only partially. The total number of excise movements in MS where the ECS and EMCS were synchronised could be depicted by the number of Reports of Export (IE818).

Figure 23: International export operations and number of successful cross-checks

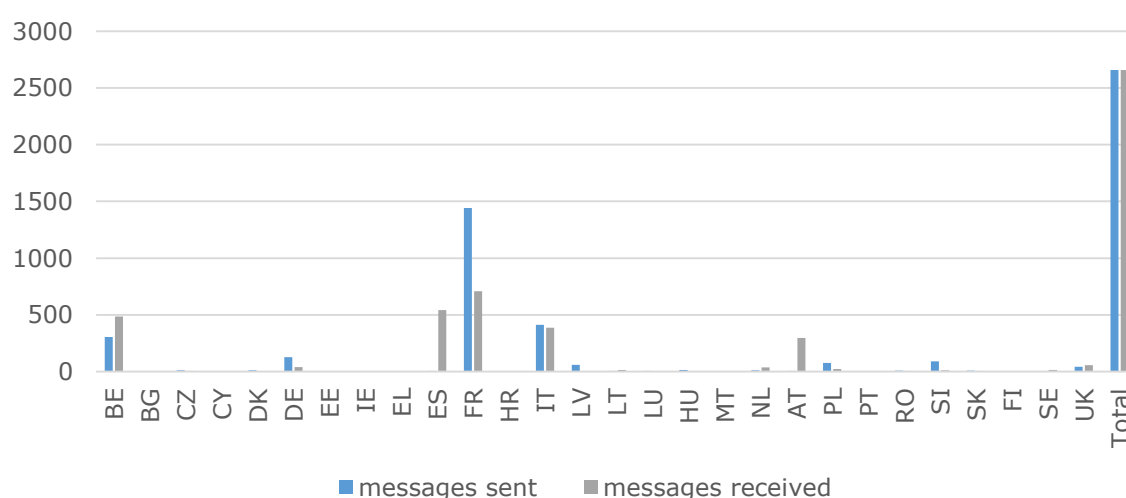


Source: own elaboration, based on CS/MISE statistics.

⁵⁰ See: Directorate-General for Taxation and Customs Union (European Commission), *Evaluation of current arrangements for the holding and moving of excise goods under excise duty suspension. Final Report*, 2015.

Since August 2015, the number of IE829 messages has been growing gradually. Despite this upward trend, the number of messages relative to the number of export movements is still low. In 2016, the cross-check occurred in only roughly 18% of movements. As Figure 24 illustrates, IE829 messages are primarily sent by three MS, France, Italy, and Belgium, and received by France, Spain, and Italy.

Figure 24: Cross-checks by country (IE829)

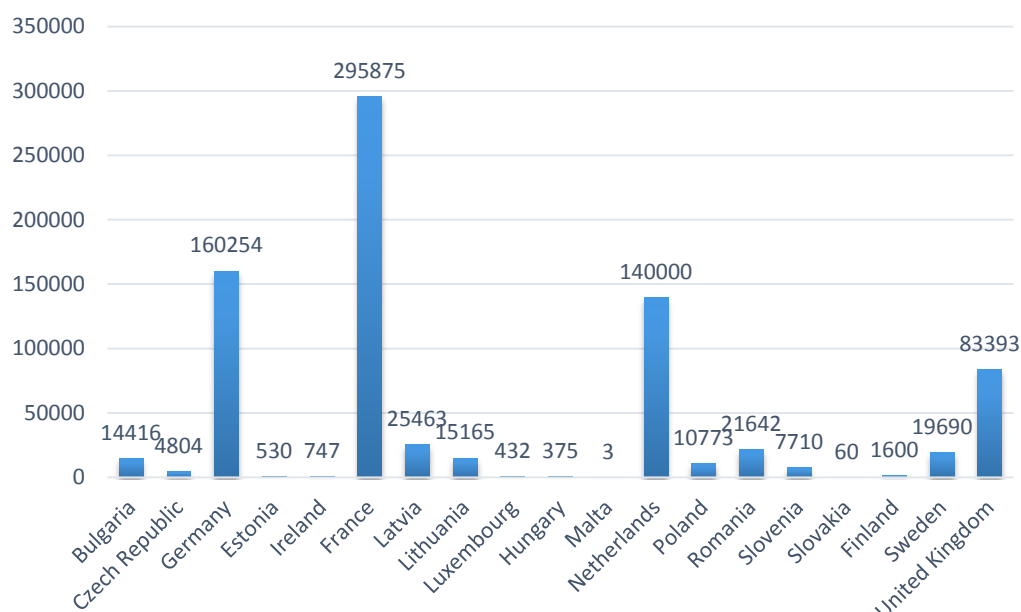


Source: own elaboration, based on CS/MISE statistics.

The answers to the questionnaires provided by MS also provide important information about all national and international in duty-suspended export movements. In 2016, the number of movements with destination export varied in the sample of MS, which delivered the following information, from 3 in Malta to nearly 300,000 in France (see Figure 25).

Figure 25: Excise movements with destination export (2016)⁵¹

⁵¹ Numbers for some MS were approximated.



Source: own elaboration, based on information provided by National Authorities.

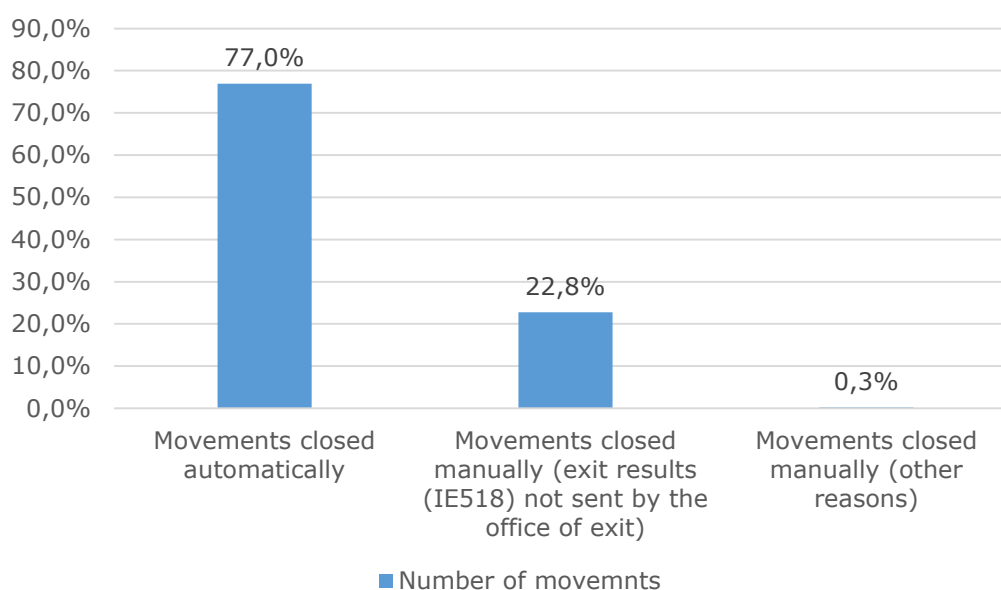
The information gathered does not cover all MS, but is sufficient to accurately estimate the number operations with destination export from all MS. The MS that shared data on the number of all excise export operations contributed to over 68% of the total EU exports of excise goods. On the basis of the information provided by these MS, it might be assumed that export operations of excise goods in 2016 amounted to roughly **1.181 million**, which was equivalent to roughly 37.3% of all movements in the common domain of the EMCS.

➤ MOVEMENTS CLOSED MANUALLY

According to the data provided by 19 MS, the vast majority (77% in terms of number) of movements are closed automatically—that is, the movements are closed by the processing of the ECS IE518 to generate an IE818 (see Figure 26). Excise movements are closed manually often because the exit result (IE518) was not sent by the office of exit. The main reason for this was a lack of diligence or a system malfunction. Other reasons, such as an incorrectly referenced ARC, cancelled the export operation or sent an indication to the wrong office of export, and were rather rare and constituted only 1.3% of movements closed manually, which is roughly one out of 300 excise movements.⁵²

Figure 26: Excise movements with destination export closed automatically and manually according to data provided by MSAs

⁵² The ratio of movements closed manually was heavily affected by the Netherlands, where all out of 140,000 movements were reported to be closed manually.



Source: own elaboration.

MS expect that the number of excise movements with destination export will increase. According to the forecasts provided by the MS, the growth of the number of such movements will amount on average to 9.6%. No MS expects a decrease in the number of excise movements closed automatically. The number of excise movements closed automatically is expected to grow by 12% in five years, whereas the number of movements closed manually is expected to increase at a slower pace, roughly 2% in five years (see Table 8).

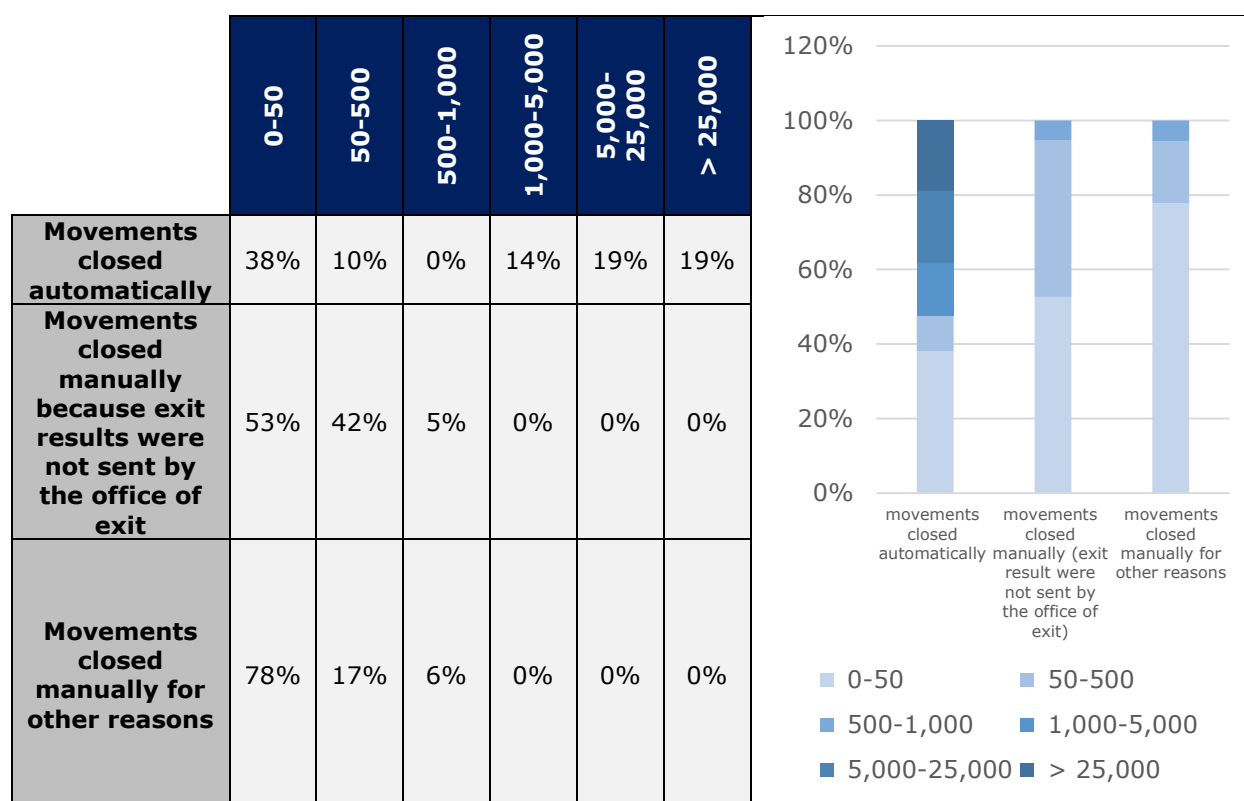
Table 8: Outlook for export movements in five years

	2021 vs. 2016 (forecast)	Share of movements in 2021
Movements closed automatically	+12%	79%
Movements closed manually	+2%	21%

Source: own elaboration.

The aggregate value and volume of export movements closed automatically and manually provided by MSAs are in line with the information and forecasts provided by EOs. The analysis of responses from EOs point to the conclusion that the vast majority of companies also close most of their excise-duty movements automatically (see Table 9).

Table 9: Number of movements with destination exports closed automatically and manually, according to data provided by EOs



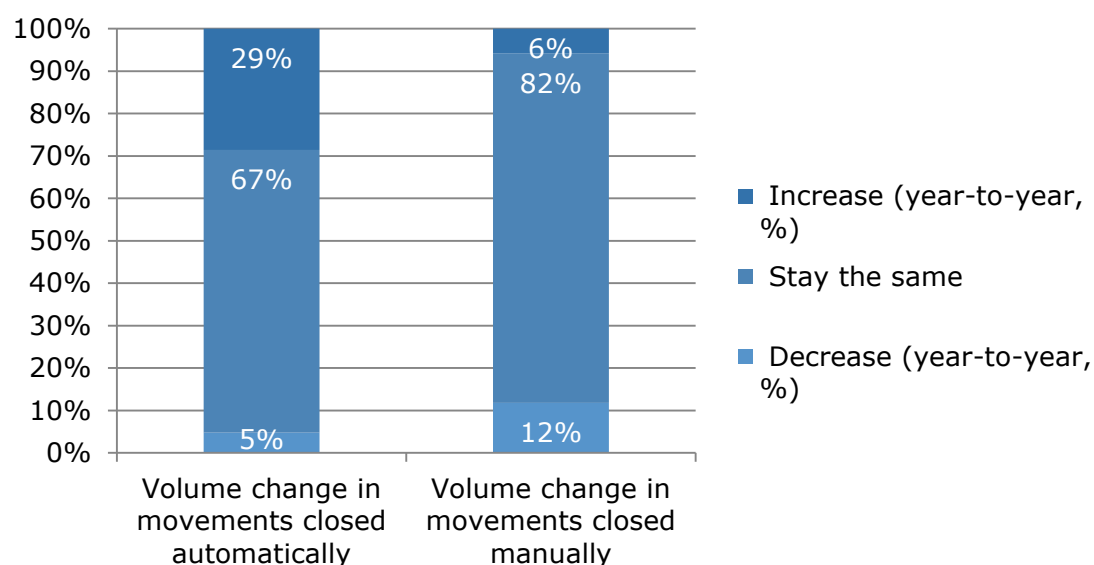
Source: own elaboration.

Of the companies that provided answers to the questionnaire, 53% close less than 50 movements and 95% close less than 500 movements manually because exit results were not sent by the office of exit. The vast majority of companies (78%) also close less than 50 movements manually for other reasons. Only one EO reported closing all movements manually, and two EOs reported closing the majority of their movements manually. It could be concluded that the number of movements closed manually by the EOs that responded to the questionnaire ranged from 1-7%, which corresponds to the number of movements reported by all MSAs, excluding the Netherlands, where all movements were closed manually.

In general, 67% of companies that submitted their answers believed the volume of movements closed automatically will not change, 29% believed it will increase, and 5% believed it will decrease.⁵³ Concerning the movements closed manually (for any reason), the same was true of 82%, 6%, and 12% of EOs, respectively (see Figure 27).

Figure 27: Change in the number of movements closed automatically and manually in five years according to forecasts of EOs

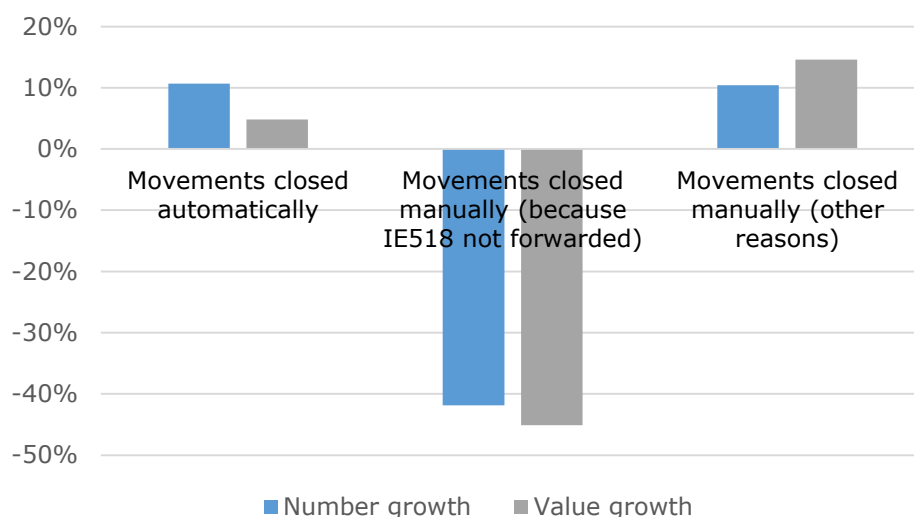
⁵³ Numbers may not add up to 100% due to rounding.



Source: own elaboration.

It may be therefore carefully observed that MS as a group are more optimistic than EOs in terms of the future decrease in volumes of movements closed manually (see Figure 28). On the other hand, although both groups expect that the volume of movements closed automatically will increase, here, it is the EOs who predict faster growth; albeit, admittedly, MS seem to expect that in five years the growth will lead to close to 100% of the movements being closed automatically, the same of which cannot be said of EOs.

Figure 28: Change in the number of movements closed automatically and manually in five years according to forecasts of MSAs



Source: own elaboration.

➤ DISCREPANCIES AND FRAUD IN EXPORT OPERATIONS

Eleven MS provided their answers to the question on the number of audits and discrepancies registered in export operations. The highest values were registered in Lithuania (EUR 28 million), Hungary (EUR 10.5 million), and Romania (EUR 4 million). The Czech Republic, Lithuania, and Hungary registered the highest number of audits detecting irregularities. On the contrary, Cyprus, Malta, and Sweden registered no discrepancies in export operations.

Table 10: Discrepancies in export operations

Indicator	Irregularities	
Sub-indicators	Number of audits	Discrepancies
Unit	Number/year	EUR million/year
Czech Republic	505	3.4
Estonia	1	-
Germany	76	2.7
Cyprus	0	0
Lithuania	150	28
Hungary	381	10.5
Malta	0	0
Netherlands	<50	<0.5
Romania	9	4
Slovenia	8	0.03
Sweden	0	0

Source: own elaboration.

Extrapolating the value of discrepancies using the MS share in all (extra-EU) export operations yields an EU-wide figure of approximately **EUR 124 million** worth of discrepancies per year.

Only three MS answered the question concerning suspected value of fraud. According to the Dutch authorities, EUR 1-10 million of fraud per year is committed due to the absence of a cross-check on exportation. According to the Latvian and Cypriot

authorities, there is no fraud resulting from the lack of cross-checks in export operations. Simple extrapolation of the scarce evidence using the MS share in all (extra-EU) export operations would yield an EU-wide total of approximately **EUR 28 million** worth of fraud per year.

The analysis of trends in indirect export operations shows no visible irregularities. The number of indirect export operations evolves in line with the trends in all export operations of excise goods. Despite discrepancies detected in these operations estimated at EUR 124 million, according to the MSAs, the main reason for discrepancies was not the fraud. According to German authorities, only seven out of 76 movements were denied exit despite abnormalities registered. The remaining movements exited the EU despite complaints. Suspicions of the MSAs regarding fraud are also modest. The vast majority of MSAs were unable to provide an estimate of the fraud; but, on the other hand, did not expect large-scale fraud. The reason given by MSAs was mostly the implementation of the automated cross-check at least at the header message only. However, according to other MSAs, fraud might also occur when EOs understate the quantity of goods in the EMCS in situations where there is no cross-check at the body level. According to some MSAs, in island countries, the diversion of excise goods on export is not prevalent due to the use of 'non-risky' means of transportation for export—namely, water and air transport.

3.3 Excise-Export Followed by Transit or STC

3.3.1 Overview of the Current Situation

Generally, external transit (T1) procedures apply to non-EU goods moved within the EU, suspending import duties and other changes and commercial policy measures until the moment the goods reach their destination. Under Article 189 UCC DA, external transit must also be used if either EU goods are exported to a common transit country or EU good exports pass through a common transit country and one of the following applies: (1) the EU goods have undergone customs export formalities with a view to refunds being granted on export to third countries under the common agricultural policy; (2) the EU goods have come from intervention stocks, they are subject to measures of control as to their use or destination, and they have undergone customs formalities on export to third countries under the common agricultural policy; or (3) the EU goods are eligible for the repayment or remission of import duties on the condition that they are placed under external transit in accordance with Article 118(4) of the Code.

Currently, a proposal is being prepared to amend Article 189 UCC to include international road transport (TIR). The TIR system is an international customs transit system, covering over 50 countries, which enables goods to move across international borders, under customs control, without the payment of taxes and duties that are typically due on importation/exportation. Potential drawbacks of this system are that TIR is restricted to road transportation and the guarantee amount is fixed at EUR 60,000 (to be increased to EUR 100,000) per TIR carnet.

Under Article 227 UCC, internal transit (T2) procedures apply to EU goods that are moved from one point to another within the customs territory and pass through a country or territory outside of the customs territory without any change to their customs status—in these situations, this is provided by an international agreement (e.g. Common Transit Convention). Under Article 329(6) UCC IA, the internal transit procedure could also be used after the export procedure when the customs office of destination of the transit operation is situated in a common transit country or at the border of the customs territory of the EU and the goods are taken out of that customs territory, after having passed through a country or territory outside the customs territory of the EU.

Provided that the goods leave the customs territory of the EU by rail, post, air, or sea, the STC could be used after the export procedure.

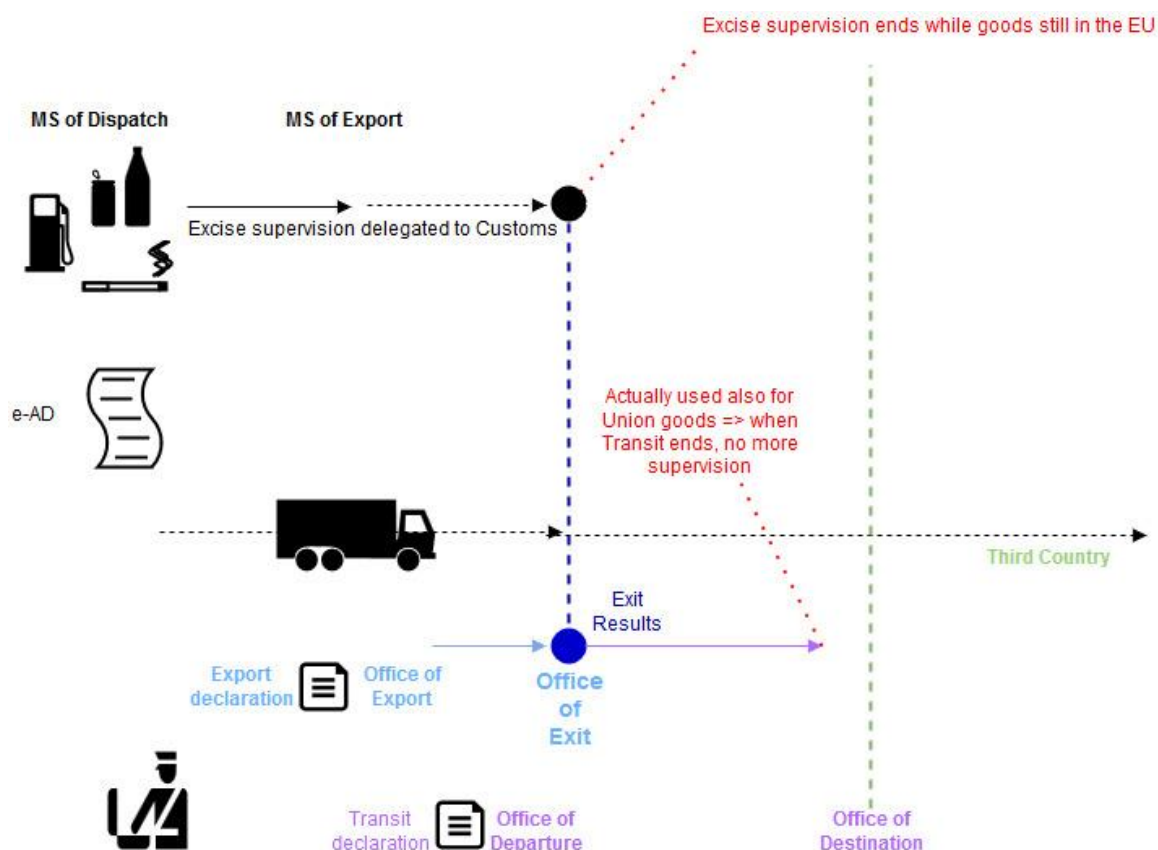
The STC is a multimodal contract (e.g. use of 'air trucks' to cover part of the route for goods transported under a contract with an airline company). It allows as well to export goods by rail, post, air or sea (road is only possible as long as the goods do not leave the customs territory of the EU by road). The contract covers the whole journey but may involve several carriers. Under Article 329(7) UCC IA, the STC is used after export and the shipping company takes over all responsibilities at the start of the STC at the office of exit established under Article 329(7).

3.3.2 Problem Analysis

Simplifications under external and internal transit and the STC currently in use also with excise goods are not in line with the legislation on excise duties. There is a risk that allowing for the use of these procedures may put the financial interests of MS at risk if the guarantees lodged by EOs are too small, proofs of exit are insufficient, and supervision is too weak.

Under Article 329(5) UCC/IA, exit is confirmed when the export procedure is closed and the external transit procedure starts under Article 333(2)(b) UCC/IA. Therefore, the EMCS is closed when transit starts. Goods are considered exited, but still move on the customs territory of the EU. This raises legal and fiscal concerns. However, MS customs authorities have reported that transit provides adequate guarantee management and prevents goods from disappearing at destination, as the goods, which have become non-EU goods with the start of external transit, follow customs procedures and are consequently under customs supervision until the goods exit the customs territory. Nonetheless, under current customs law (Article 189 UCC DA - Reg. (EU) n° 2015/2446), the arrangement can only be used for goods eligible for common agricultural policy (CAP) levy restitution. The CAP levy restitution system is currently not in use.

Figure 29: Problems related to the external transit procedure

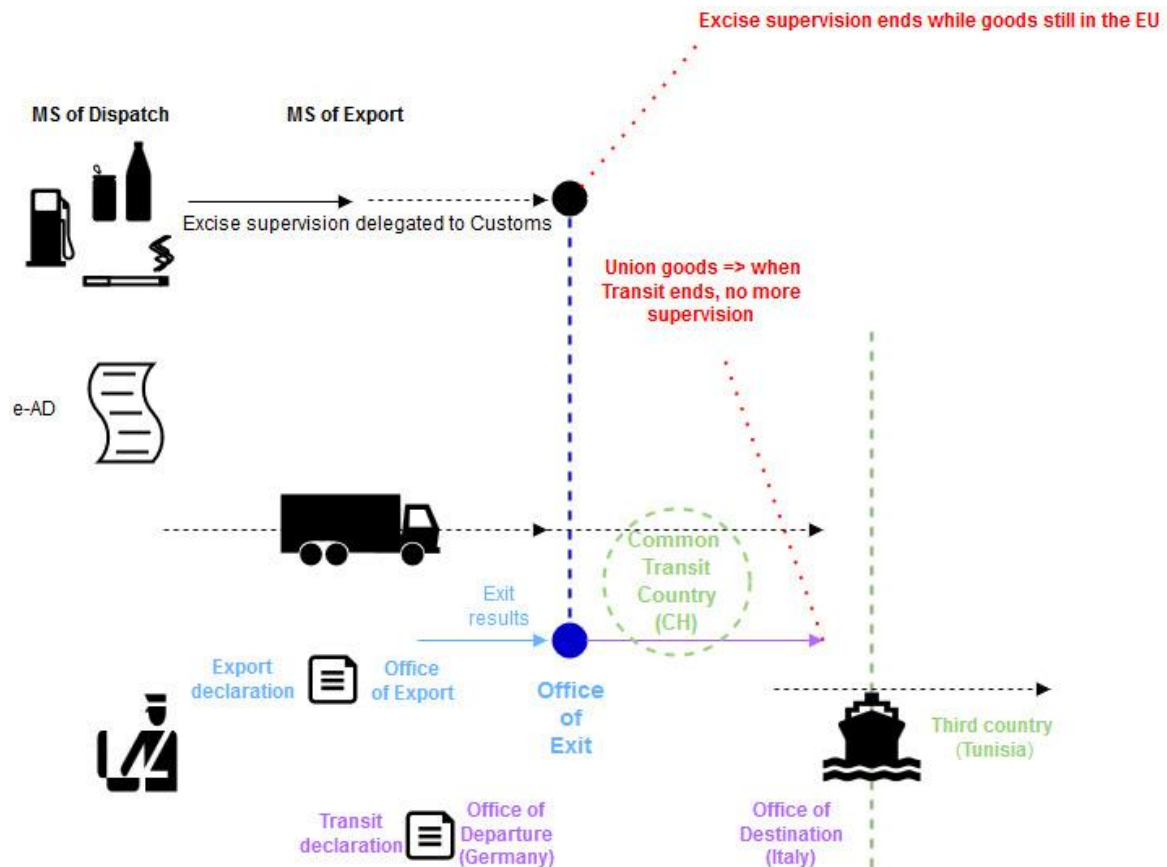


Source: own elaboration, based on the Commission's working documents.

Similar to external transit, under Article 329(6) UCC/IA, export is closed with the start of the internal transit procedure. Exit should be confirmed at the moment of discharge of the transit procedure under Article 333(2) (c) UCC/IA. However, in practice, exit is already confirmed when the export procedure is closed at the office of exit, which is also the office of departure for the transit operation. If Article 333(2)(c) is properly applied and exit is confirmed when transit is discharged, Article 329(6)(a) is less problematic. Transit ends in the common transit country, and in the future, when the NCTS and AES will be linked, the discharge message is sent to the AES when the goods have arrived in the common transit country. The AES could confirm exit to the EMCS, leading to the closure of the movement in the EMCS. However, for Article 329(6)(b), this is not the case. Either transit is discharged properly at the destination in the EU under Article 333(2)(c), after having passed a common transit country, or exit is confirmed by the office of exit when transit starts in the EU. In both cases, there is no proof of physical exit.

This raises legal and fiscal concerns. For this type of procedure, it is difficult to track the movement of goods once transit has ended. Transit does not prove exit by the very nature of this customs procedure. When transit has ended in the EU, goods could be moved back to the customs territory of the EU, unnoticed and unsupervised, because they are considered EU goods.

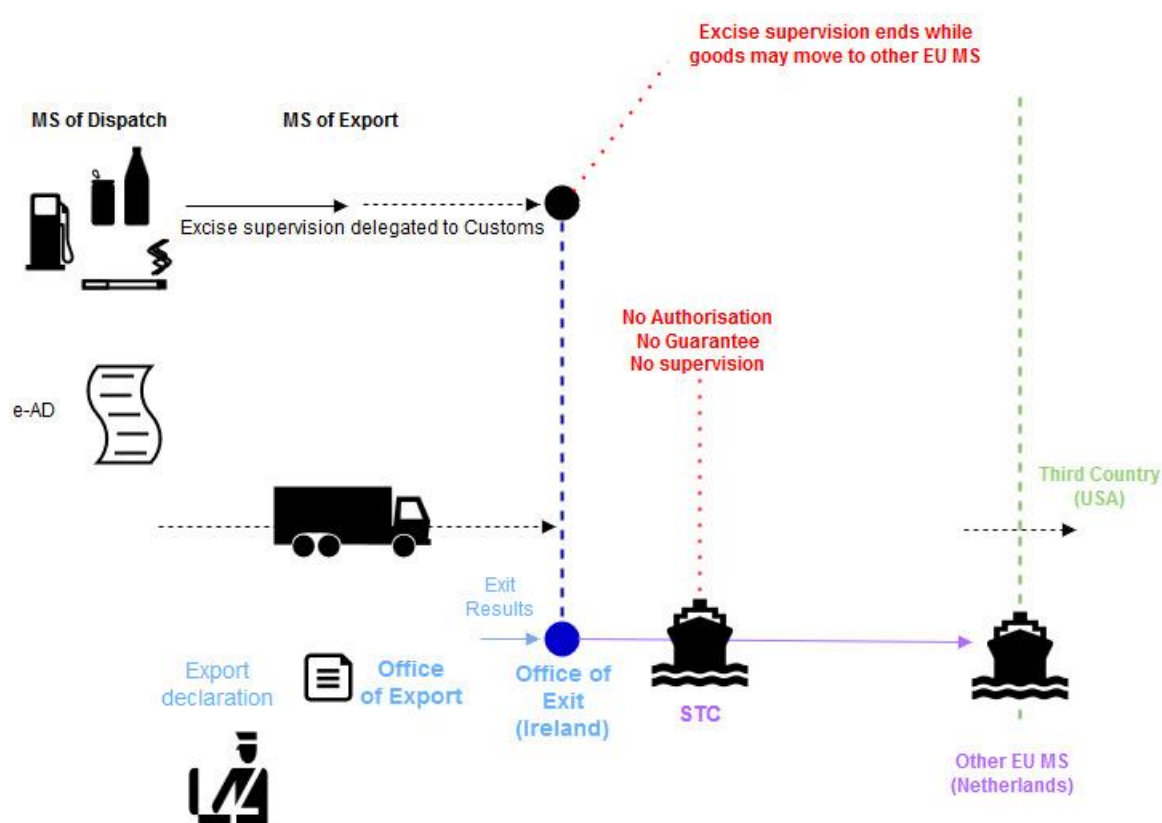
Figure 30: Problems related to the internal transit procedure



Source: own elaboration, based on the Commission's working documents.

Under Article 329(7) UCC/IA, the export procedure and the EMCS are also closed with the start of the STC because exit is confirmed at the moment when the goods have been taken over by the STC under Article 333(2)(d) UCC/IA. Goods are considered exited but still move on the customs and fiscal territory of the EU. This raises legal and fiscal concerns. The STC does not involve any customs guarantee and requires no authorisation, but leaves all supervising responsibility with the transporter. Similar to the internal transit procedure, it is difficult for customs authorities to track goods once the export procedure is closed and the STC starts (increasing concerns that goods may not reach their final destination).

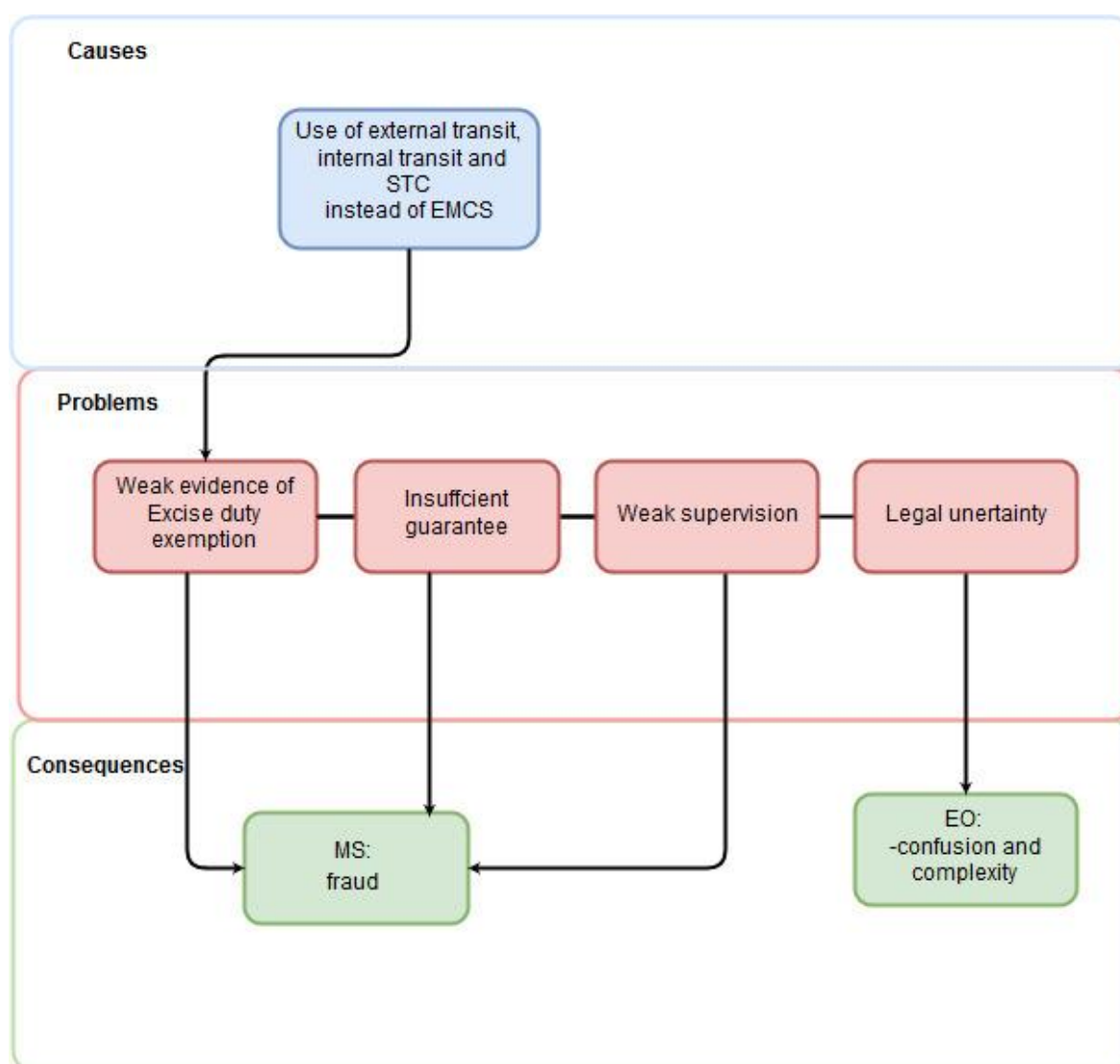
Figure 31: Problems related to STC



Source: own elaboration, based on the Commission's working documents.

The causes, problems, and consequences of all three types of movements are summarised in Figure 32.

Figure 32: Problems related with the import procedure



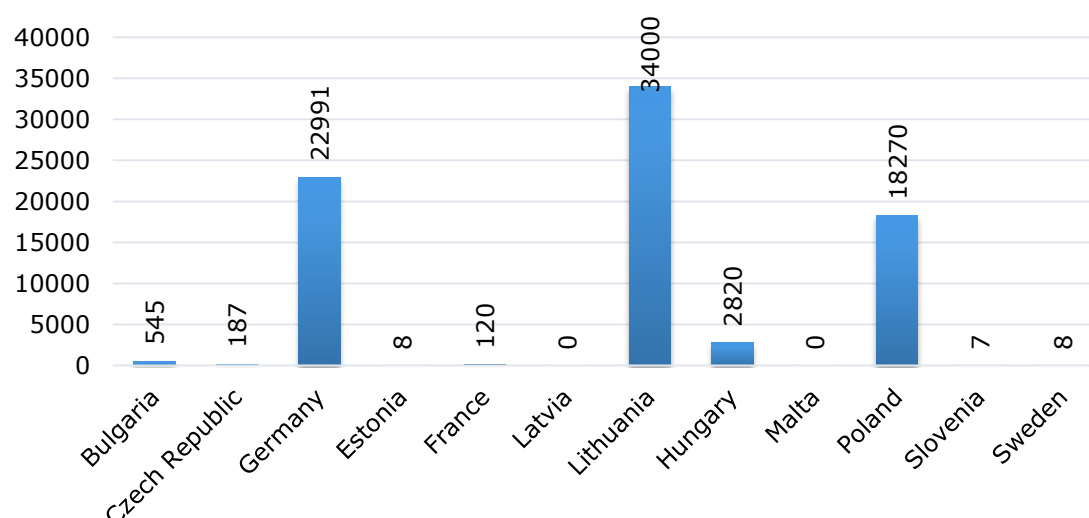
Source: own elaboration, based on the Commission's working documents.

3.3.3 Magnitude of the Problem

3.3.3.1 Problems Related to External Transit

➤ VALUE AND VOLUME OF EXTERNAL TRANSIT OPERATIONS

According to the information provided by selected MSAs, in 2016, the number of movements varied from 0 in Latvia and Malta to 34,000 in Lithuania, 22,991 in Germany, and 18,270 in Poland (see Figure 33). This means that in the latter MS, external transit operations were used more frequently than regular export operations in the EMCS with destination export. The destination of external transit operations from the Central and Eastern European MS are mostly Belarus, Russia, and Ukraine.

Figure 33: Number of external transit operations

Source: own elaboration, based on information provided by national authorities.

Assuming that the use of external transit operations is similarly popular⁵⁴ in the MS that did not provide an answer, it may be estimated that nearly **229,000 external transit operations** were conducted in 2016.

Answers from EOs are in line with the information provided by MSAs. EOs from Belgium, Germany, France, Luxembourg, the Netherlands, Poland, and the UK confirmed their use of external transit operations. The answers show that the use of external transit might be limited to large EOs. No small- and medium-sized EOs interviewed stated the use of external transit procedures.

The number of external transit operations not only varies across countries but also across time. On the extremes, in Estonia, the average decline of operations was roughly 18% (2013-2016), and in Poland, the number of operations increased by over 5% each year (2011-2016). According to the expectations of most MSAs and EOs, the average number of external transit movements in the EU will remain constant.

➤ **GUARANTEES LODGED AND FISCAL RISK**

Seven out of the eight MSAs who provided an answer to the question related to guarantees is of the opinion that the current level of guarantees is sufficient to cover the fiscal risk related to external transit. In addition, all five EOs who responded to the question stated that the guarantees are sufficient.

In France, most of the EOs need to lodge a transit declaration in the new computerised transit system (NCTS) with a transit guarantee. In use are simplified procedures for rail, maritime, and air transport, which allow authorised operators to conduct operations outside the EMCS and without a guarantee. However, these types of transit operations amount to less than 10% of transit operations after export.

In Poland, a transit guarantee is always required, except for cases clearly stipulated by the UCC. The transit guarantee most often takes the form of a comprehensive guarantee/guarantee waiver, and rarely of an individual guarantee.

⁵⁴ i.e. the ratio of external transit movements to all movements with destination export is the same.

In Sweden, the operators might be granted a reduction in the guarantee, which may be 50%, 30%, or, ultimately, 0% of the reference amount. The reference amount covers the goods value and duties along with VAT and excise. For the guarantee to be considered sufficient, the customs authorities analyse historic data from transit movements for certain EOs one year back, and then decide what the reference amount and guarantee amount should be.

MSAs from Lithuania and Poland have also emphasised that a TIR carnet amounting to EUR 100,000 is used as a guarantee within the TIR procedure.

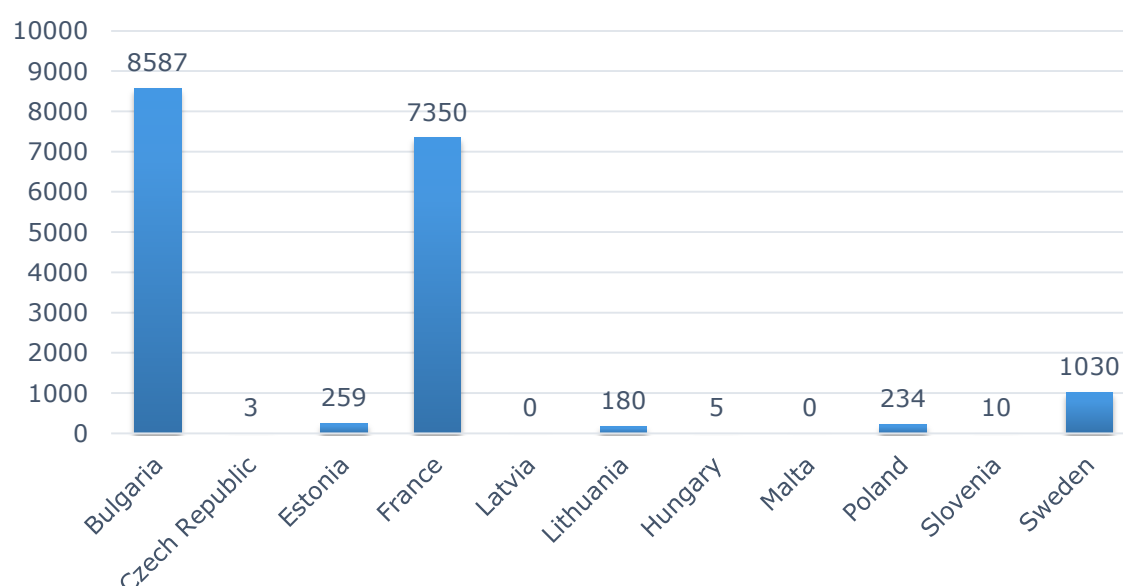
The MSAs stressed that since the guarantees are sufficient to cover the fiscal risk of excise movements, the likelihood of fraud committed during external transit operations with excise goods is low.

3.3.3.2 Problems Related to Internal Transit

➤ VALUE AND VOLUME OF INTERNAL TRANSIT OPERATIONS

Similar to external transit operations, the frequency of the use of the T2 procedure has varied substantially across the EU. In the sample of MSAs who provided an answer to the questions regarding the number of operations, T2 was used most frequently in Bulgaria (8,587 operations in 2016) and France (7,350 operations in 2016) (see Figure 34). The relatively more frequent use of the procedure has a clear geographical pattern. Internal transit is used primarily in the MS bordering common transit countries—namely, Norway, Switzerland, Turkey, Macedonia, and Serbia.

Figure 34: Number of internal transit operations



Source: own elaboration, based on information provided by national authorities.

The MS that provided information about the use of internal transit account for over 21% of the value of total excise export. The number of internal transit operations conducted by these MS amounted to 17,658. Making use of the assumption that the sample accurately resembles all 28 MS, it could be estimated that the number of internal transit operations amounted to approximately **80,000**, which is roughly three times less than the number of external transit operations.

Internal transit operations are utilised mostly by large- and medium-sized EOs. No interviewed SME declared the use of internal transit. Roughly 50% of interviewed EOs declared the use of internal transit. The operators that declared the use did it frequently. Six out of the 31 interviewed companies used internal transit after export for more than EUR 250 million worth of goods.

➤ **GUARANTEES LODGED AND FISCAL RISK**

Similar to external transit, seven out of eight MSAs are of the opinion that the current level of guarantees in their MS are sufficient to cover fiscal risk in internal transit movements. EOs often were not able to respond to the same question, as the guarantee is held by the haulage company. Some EOs mentioned that the internal transit is used in parallel with the EMCS and ECS entries accompanying the goods, which eliminates fiscal risk.

The MSAs from the Czech Republic and Lithuania referred to Article 89 of Regulation (EU) No 952/2013 and Article 159 of Regulation (EU) 2015/2447, which say that the guarantee shall cover the amount of import or export duty and the other charges due in connection with the import or export of the goods. Authorities from Poland mentioned also that if the guarantee is not sufficient for a particular transit operation, customs does not accept the transit declaration; thus, for accepted transit declarations (and transit operations opened in NCTS), the guarantee is always sufficient.

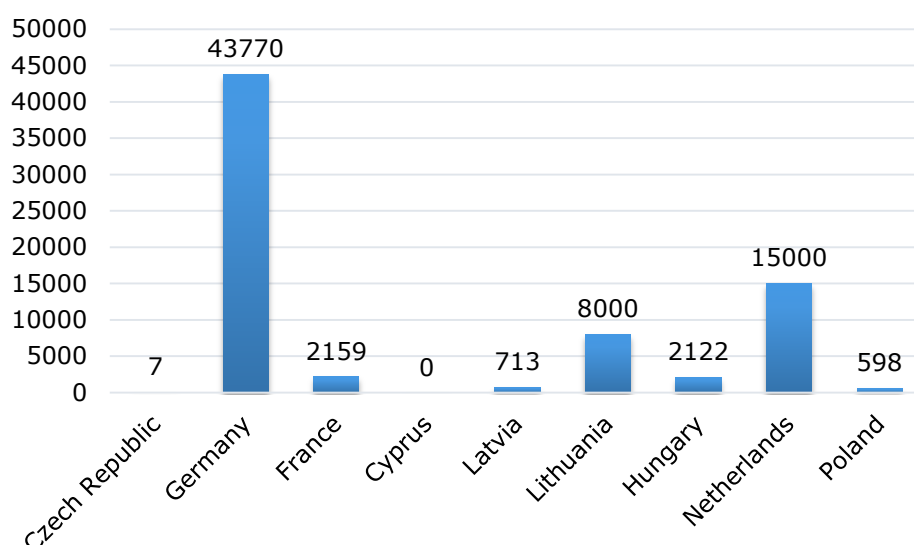
Since the guarantees are sufficient to cover the risk, the likelihood of fraud within internal transit operations is low. A fiscal risk exists when transit ends in the EU and no physical proof of exit can be delivered.

3.3.3.3 Problems Related to STC

➤ **VALUE AND VOLUME OF STC OPERATIONS**

The use of STC is even less proportionally widespread than the use of transit operations. Such operations are used mostly with sea, air, and rail transport with the mode of transport changing during the movement. The MS where the STC is used are, among others, France, Germany, the Netherlands, Lithuania, Latvia, and Poland (see Figure 35).

Figure 35: Number of internal STC operations



Source: own elaboration, based on information provided by national authorities.

The leading MS in the use of the STC is the Netherlands, from where the goods are exported using the STC are mainly to the US, China, Canada, Brazil, Argentina, and Australia. Lithuania, which registered 8,000 STC movements in 2016, is the place of departure of excise goods to Ukraine, the US, and Russia.

Making similar assumptions as in the case of internal and external transit, it could be estimated that the number of STC operations in 2016 amounted to **152,000 movements**.

Among the group of the 31 interviewed companies, only 12 declared the use of the STC with excise goods. Four of them exported yearly more than EUR 250 million worth of excise goods to countries located in Africa, Asia, Europe, and North and South America.

As far as the future of the STC is concerned, two EOs expect a decline in the number of STCs used, whereas three forecast growth and six expect a constant level of their use. Five MSAs forecast that the number of STCs will increase, whereas only one expects to see a decline.

➤ **GUARANTEES LODGED AND FISCAL RISK**

MSAs provided a number of different answers to the question about type of guarantees lodged in their MS for STC operations. According to authorities from three MS, no guarantee is lodged. According to respondents from two other MS, the EMCS guarantee is used for STC movements. In one MS, a bank guarantee is used for large EOs pursuing the STC.

Since there is no guarantee and no supervision with the STC in some MS, as noted by MSAs from two MS, when the export declaration is closed before the goods have physically left, there is a loophole for potential fraud.

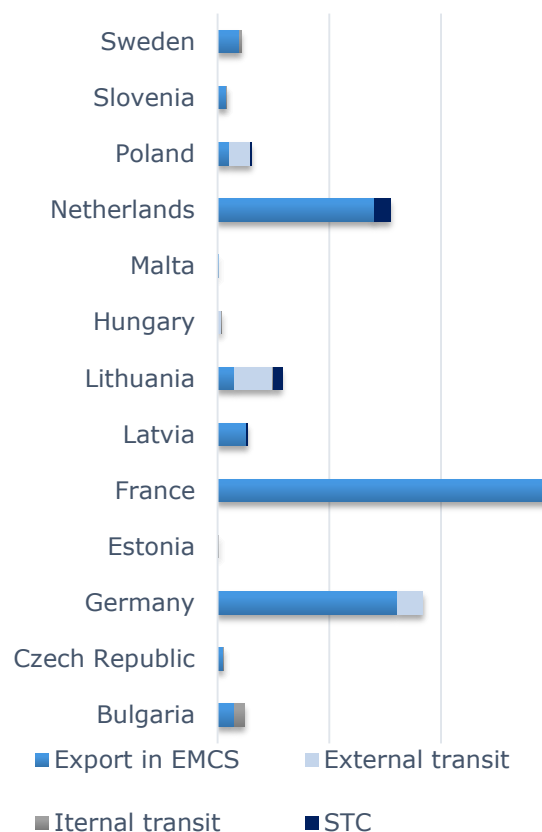
The number of STC movements in the MS where MSAs stated that there are no guarantees and supervision host only 5% of the EU-wide STC movements. It could be concluded that due to the lack of guarantees and supervision, 0.25% of movements might be considered as risky; however, the number of fraudulent operations cannot be accurately estimated.

3.3.3.4 Summary

The information provided by 13 MS allows for the approximation of the number of export operations in the common domain of the EMCS and National Excise Applications, transit movements, and STC (See Table 11). As the graph in Table 11 depicts, movements in the EMCS and National Excise Applications not followed by transit or STC are used primarily for export in all MS except Hungary, Lithuania and Poland. For internal transit and the STC, there are only specific MS where these procedures are used more often than for 10% of movements. Concerning internal transit, these MS were Bulgaria and Estonia, and concerning STC, the MS were Hungary, Germany, and Lithuania.

Table 11: Export operations in selected MS

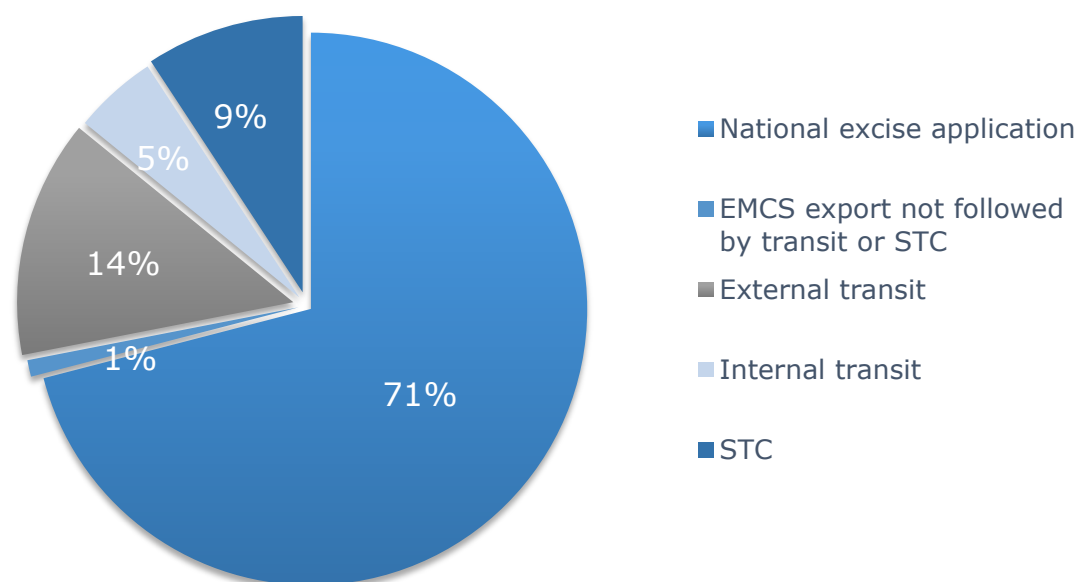
	Direct and indirect export not followed by transit or STC	External transit	Internal transit	STC
BL	61%	2%	36%	0%
CZ	96%	4%	0%	0%
DE	71%	10%	0%	19%
EE	67%	1%	32%	0%
FR	97%	0%	2%	1%
LV	97%	0%	0%	3%
LT	26%	59%	0%	14%
HU	7%	53%	0%	40%
MT	100%	0%	0%	0%
NL	90%	0%	0%	10%
PL	36%	61%	1%	2%
SI	100%	0%	0%	0%
SE	95%	0%	5%	0%



Source: own elaboration, based on information provided by MSAs.

The analysis of the number of all types of operations is summarised by Figure 36. Overall, 71% of operations are national movements registered in National Excise Applications. External transit following export is also widespread, accounting for 14% of movements. Similarly, STC and internal transit are used altogether to export roughly 14% of excise exports. STC accounts for 9%, whereas internal transit accounts for 5% of movements with destination export. Indirect export in the EMCS is the least popular, amounting to less than 1% of operations with destination export.

Figure 36: Types of movements with destination export



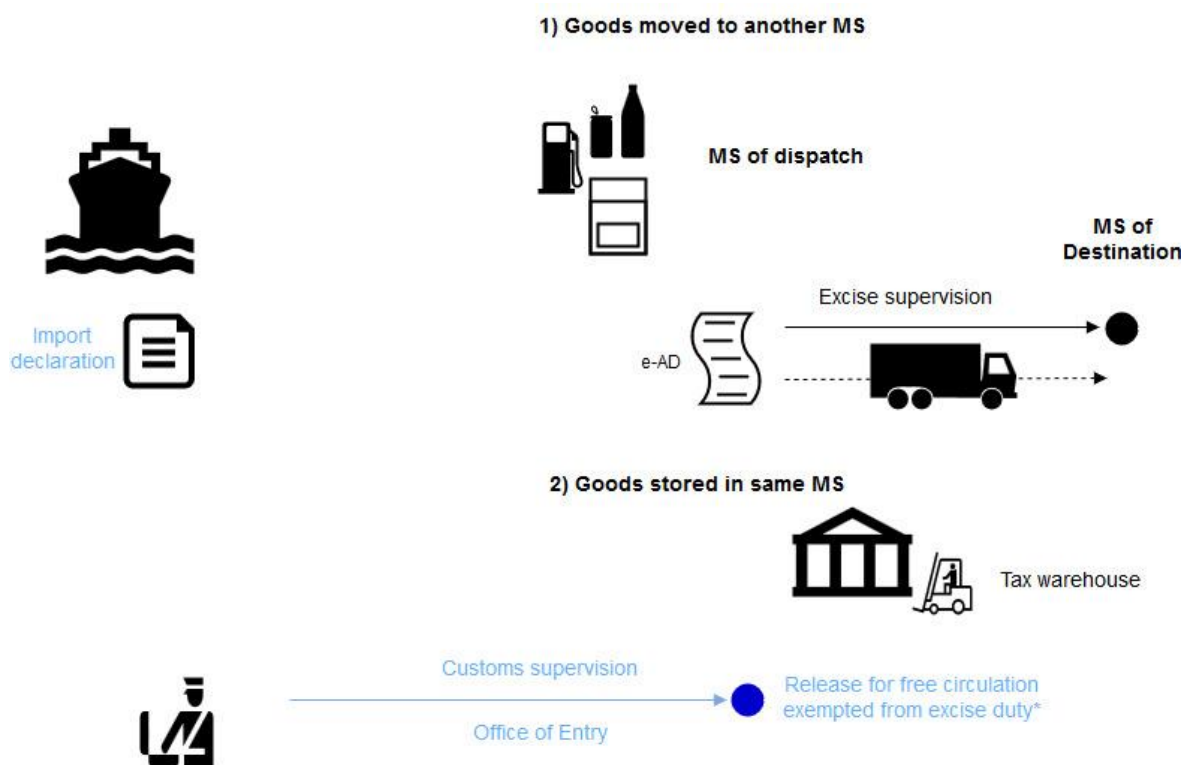
Source: own elaboration, based on information provided by MSAs.

3.4 Excise-Import

3.4.1 Overview of the Current Situation

The importation of excise goods to the territory of the EU may be of a twofold type. The excise goods might be released for circulation in the MS of importation after the payment of import duties, and then stored in tax warehouse under excise duty suspension. In such a case, the importation procedure is a purely national matter with no other MS involved.

Under the provisions of the Directive, the excise good might be released for free circulation in another MS and might be moved from the country of importation under duty suspension (see Figure 37). In such a case, the importers could file for tax suspension at import, claiming in the EMCS that the goods will move under excise duty suspension but then move the goods to a different MS.

Figure 37: Importation procedure

* Customs "excise duty exemption" = Excise "duty suspension or duty exemption"

Source: own elaboration, based on the Commission's working documents.

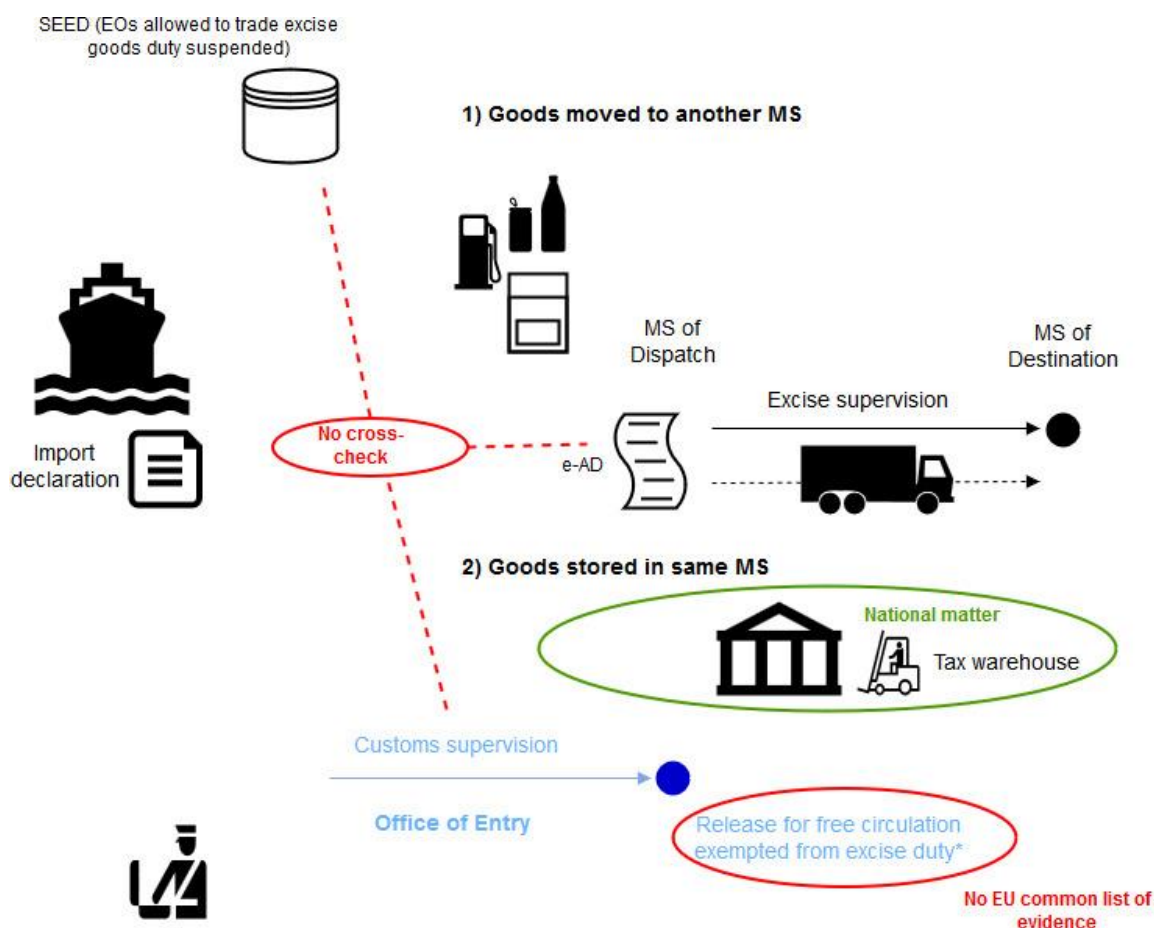
When the goods are imported (from outside the EU), EOs need first to submit the customs declaration in the Import Control System (ICS). The ICS is the system of which the architecture has been developed by the EU for the lodging and processing of entry summary declarations. After the acceptance of the customs declaration, EOs send the draft e-AD (IE815) in the EMCS with a valid SAD number. As a rule, there is no cross-check between the data in the import system and the EMCS; however, a number of MS have developed a method for the verification of the data contained in the customs declaration with the data contained in the e-AD.

3.4.2 Problem Analysis

Since, in most cases, there is no cross-checking of customs declarations and e-AD at the border, the ability to ensure that an actual movement under duty suspension occurs after import is currently limited (see Figure 38). Under such a setting, fraud might be identical to the abuse of arrangements for VAT exemption (SAD Box 37, procedural code 42 - *an exemption or suspension of VAT can be claimed when the customs declaration is submitted on the basis that the goods are not for use in the Member State of Importation*). The evidence required to permit such an exception is not specified for excise, leading to the possibility of untaxed goods being introduced

on the market. In addition, there are concerns that fraud could exist in instances where importers guess the VAT numbers of the consignee in the VAT information exchange system (VIES) or "steal" the VAT number of an EO that is unaware of the scheme.

Figure 38: Problems related to the import procedure

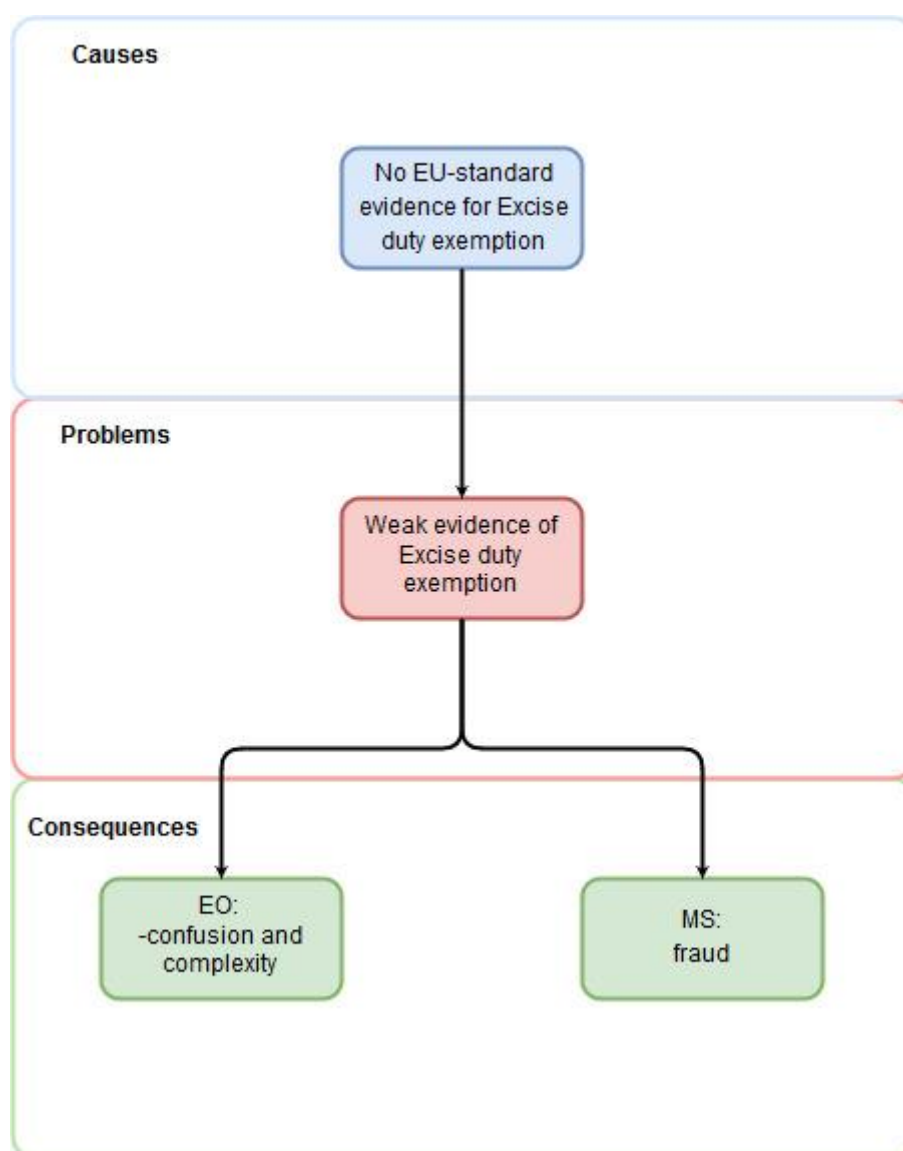


* Customs "excise duty exemption" = Excise "duty suspension or duty exemption"

Source: own elaboration, based on the Commissions' working documents.

A summary of identified causes, problems, and consequences related with the importation of excise goods is presented in Figure 39.

Figure 39: Summary of problems related to the import procedure



Source: own elaboration, based on the Commissions' working documents.

Even though a number of MS have implemented the cross-check, the current technical specifications of the EMCS are not aligned with current customs and excise duties legislation. Accordingly, the existing description of the connection between the importing procedures and the EMCS might be insufficient and inadequate.

3.4.3 Magnitude of the Problem

➤ VALUE AND VOLUME OF NATIONAL AND INTERNATIONAL IMPORT OPERATIONS

The leading MS in terms of the value of imports of energy products and electricity in the EU are the Netherlands (EUR 47 billion), Italy (EUR 41 billion), and the UK (EUR 36 billion). Over EUR 1 billion of energy goods and electricity are also imported by Germany, France, Spain, Belgium, Poland, and Greece. In total, the importation of energy goods and electricity accounted for roughly EUR 313 billion, which is nearly 3.5 times more than the exports.

Figure 40: Import of energy products and electricity to MS



Source: own elaboration, based on Extrastat.

The import of energy goods amounted to over 98% of the value of imports of excise goods. The value of the import of alcoholic beverages was much lower and accounted for nearly EUR 5 billion in 2016. The main importing MS were the UK (EUR 1.79 billion), Germany (EUR 698 million), and the Netherlands (EUR 530 million).

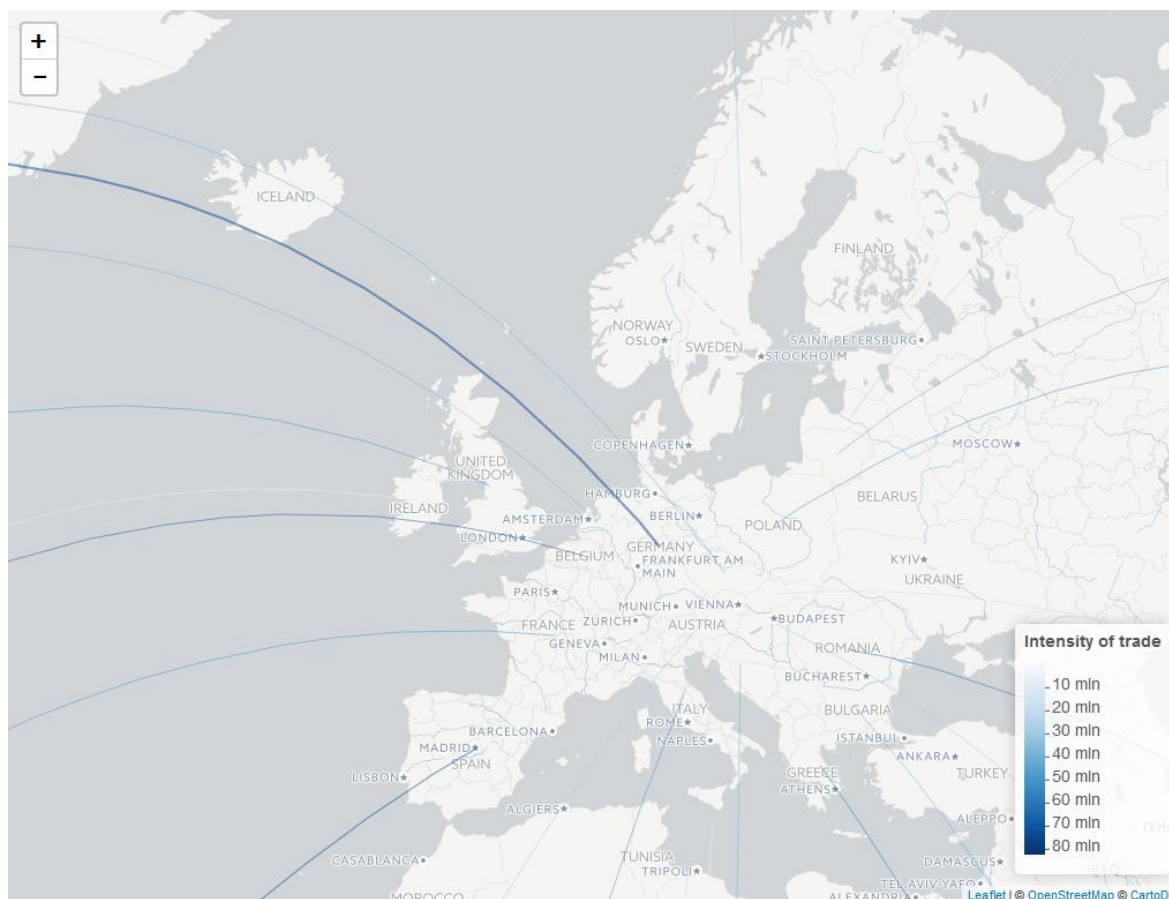
Figure 41: Import of alcoholic beverages to MS



Source: own elaboration, based on Extrastat.

The importation of manufactured tobacco products was less than 0.1% of the value of imports of all excise goods. The main destinations of imports were Germany (EUR 82 million), Spain (EUR 32 million), and Belgium (EUR 25 million) (for details, see Figure 42). In 21 MS, the value of imports of manufactured tobacco products did not exceed EUR 10 million.

Figure 42: Import of manufactured tobacco products to MS

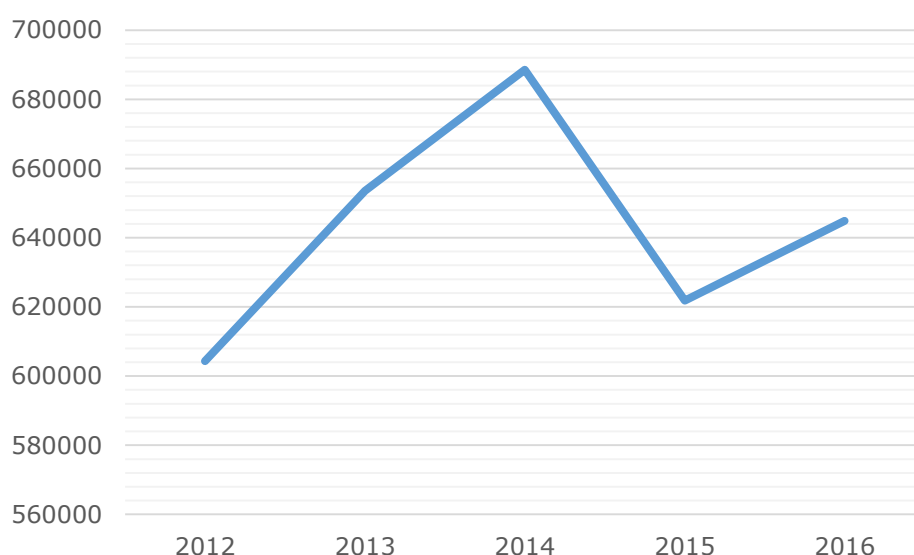


Source: own elaboration, based on Extrastat.

It is important for further analysis to determine the number of movements where goods, after being released for free circulation, are moved to other MS. In this study, we use two different sources of information to examine the volume and structure of import operations.

First, the Surveillance Database, which contains data on excise items in almost all import operations, is utilised. According to the database, the number of excise items in import declarations amounted to 644,388 in 2016. Every year during the analysed period of 2012-2016, the number of excise items in import declarations exceeded 600,000, reaching a record high of 688,584 in 2014 (see the evolution of excise items in Figure 43).

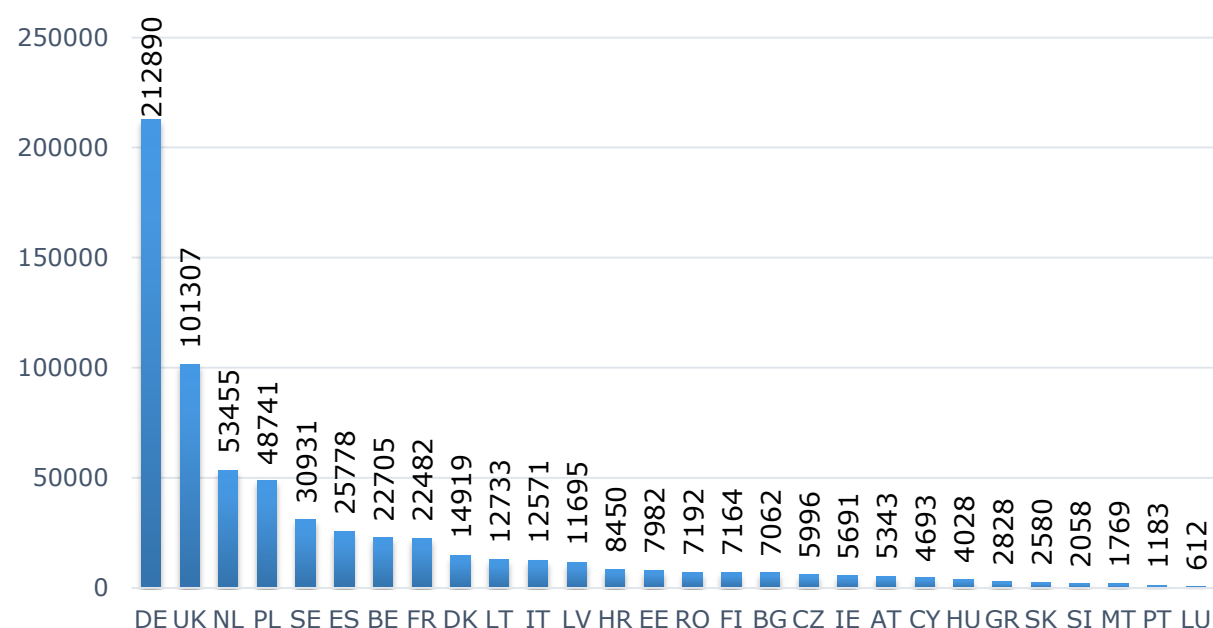
Figure 43: Evolution of excise items in import declarations



Source: own elaboration, based on Surveillance Database.

As shown by Figure 44, the highest number of excise items (which may be from 1 to up to 999 per import declaration) was observed in Germany (212,890), the UK (101,307), and the Netherlands (53,455).

Figure 44: Excise items in operations by MS (2016)



Source: own elaboration, based on Surveillance Database.

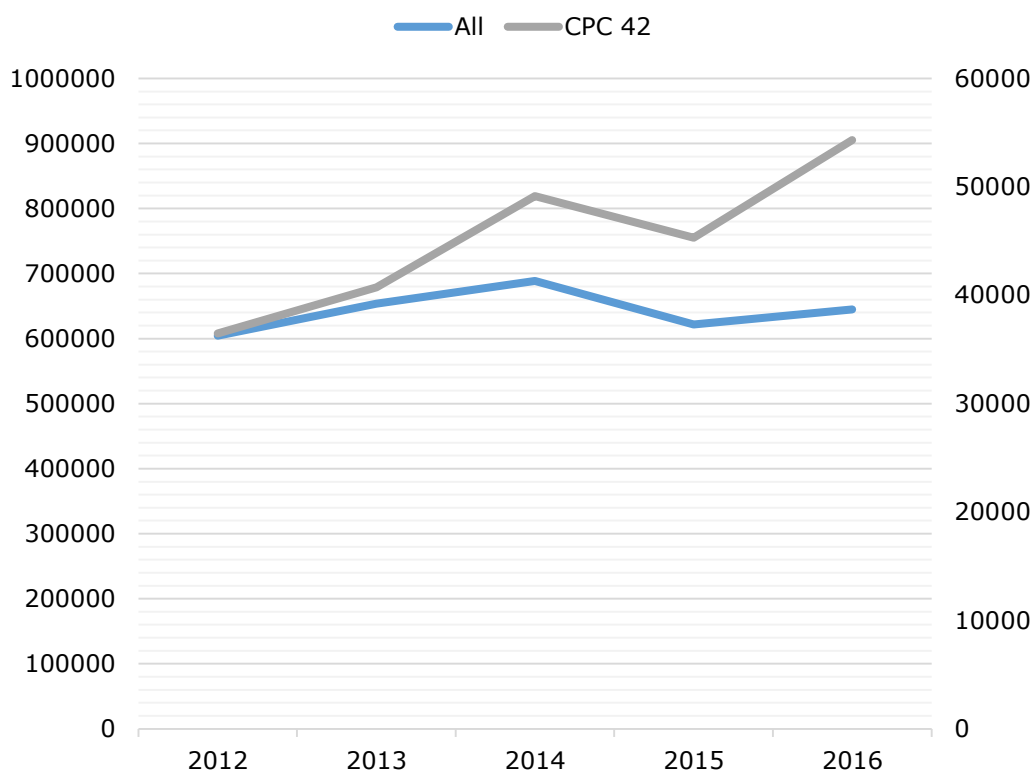
The data contained in the Surveillance Database also allows for excise items to be split into different procedural codes, namely:

- *CPC 07* – Free circulation with simultaneous entry of the goods under a warehouse procedure (including placing in other premises under fiscal control);
- *CPC 42* – Home use with simultaneous entry for free circulation of goods subject to a zero-rated onward supply; and
- *CPC 45* – Partial entry for home use with simultaneous entry for free circulation and for a warehousing procedure including deposit in other premises under fiscal control.

The number of excise items in import declarations with CPC 42 in 2012 amounted to 53,640, which was roughly 8.3% of all excise items in import declaration. The number of CPC 07 and CPC 45, which is the amount of excise items in import declarations stored after import in a non-customs warehouse, was 249,946, roughly 39% of import movements.

As illustrated by Figure 45, the number of excise items in import declaration grew faster than the number of all movements. Over five years, the number of items with CPC 42 increased by nearly 42%, whereas the number of all items increased by roughly 7%.

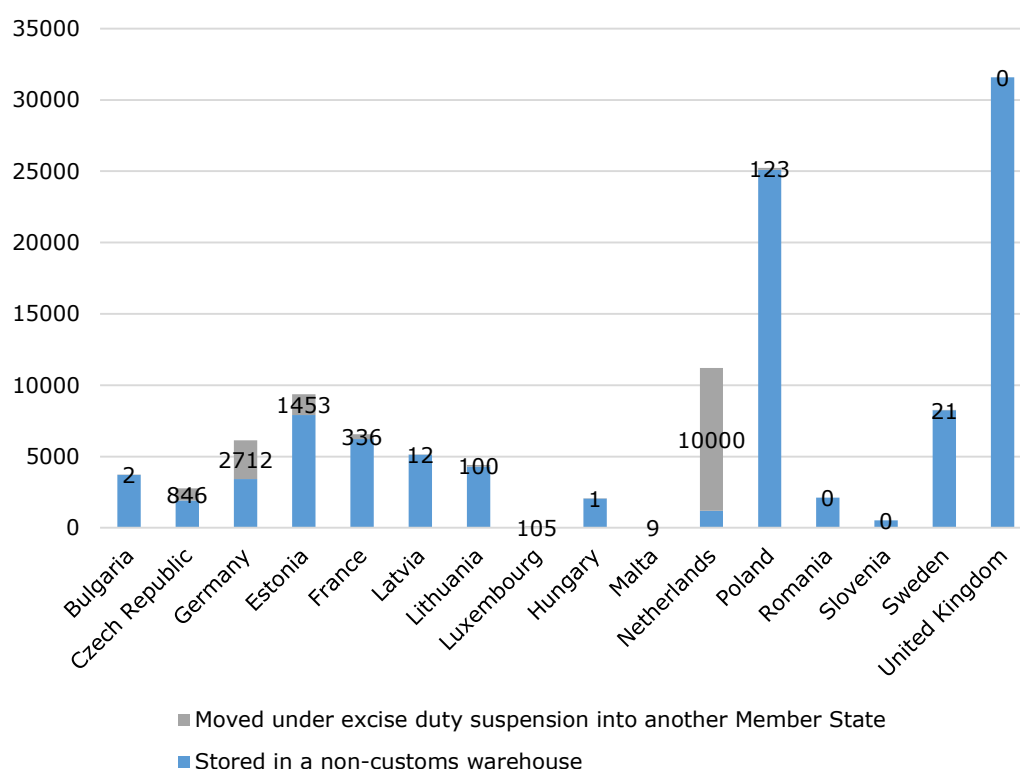
Figure 45: Excise items with CPC 42 against all other codes (2012-2016)



Source: own elaboration, based on Surveillance Database.

The second source of information on the type of import procedures used with excise goods was the questionnaire returned by MSAs. As the responses show, in several MS, there were no movements of excise goods after import under duty suspension to other MS. These MS were Romania, Slovenia, and the UK. The highest number of such movements in the sample of 16 MS was registered in the Netherlands, Germany, and Estonia (see Figure 46).

Figure 46: Import movements to a non-customs warehouse and to other MS under duty suspension



Source: own elaboration, based on Surveillance Database.

In a group of MS importing over 60% of the total EU-28 import of excise goods, there were 15,720 import movements under duty suspension to another MS and 103,748 imports to a non-customs warehouse. It could be estimated that 13.1% of the duty-suspended imports are movements to other MS. A slightly higher ratio of 17.8% is obtained using the number of excise items in import declaration from the Surveillance Database.

Assuming that the MS that did not answer the question regarding the volume of import use have a similar structure of import movements, it could be estimated that, in 2016, **25,860 import operations** were followed by movement under duty suspension to another MS.

MSAs also provided their forecasts of the change in the volume of the two types of import movements. Using 11 responses to the questions regarding the development of import movements, it could be estimated that the number of imports stored in a non-customs warehouse will grow much faster than the number of consignments moved under duty suspension to another MS. This will result in the share of movements under duty suspension to another MS to fall by roughly 4 percentage points (see Table 12).

Table 12: Outlook for import movements in 5 years

	2021 vs. 2016	Share of movements
--	---------------	--------------------

	(forecast)	in 2021
Moved under duty suspension to another MS	+4%	9%
Stored in a non-customs warehouse	+44%	91%

Source: own elaboration.

➤ DISCREPANCIES AND FRAUD IN IMPORT OPERATIONS

The question regarding the number and value of discrepancies detected in import operations was answered by five MSAs. The highest number of audits detecting discrepancies was declared by the Netherlands, where discrepancies were detected in less than 10% of movements. Discrepancies were very small, as their total value amounted to EUR 1 million. On the contrary, in Malta, five audits detected discrepancies worth EUR 12 million. In Hungary, no discrepancies were detected.

Table 13: Discrepancies in import operations

Indicator	Irregularities	
Sub-indicators	Number of audits	Discrepancies
Unit	Number/year	EUR million/year
Lithuania	280	-
Hungary	0	0
Malta	5	12
Netherlands	<10% of operations (<1120)	<1
Slovenia	40	-

Source: own elaboration.

The value of fraud is very difficult to estimate and only the MSAs from the Netherlands informed us about their suspicions, which is less than 1% of movements. Assuming that 1% of movements in the import of excise goods is fraudulent due to the absence of automated cross-checks on importation, losses in excise revenue that could be reduced by efficient data cross-checks would amount to EUR 20 million.⁵⁵ This number is, however, a rough estimate, and does not capture movements not registered by customs and excise—namely, illicit trade and smuggling.

The extrapolation EU-wide estimates of excise revenue loss in import operations, which is EUR 648 million⁵⁶ leads to somewhat higher estimates. If we assume that the fraud on import operations followed by a movement under duty suspension is proportional to the number of operations, then the fraud would be equivalent to 8.3% of EUR 648 million, i.e. EUR 54 million losses in excise duty. From the two estimates, it could be concluded that the lack of cross-check in import operations leads to EUR 20-54 million losses in the EU.

As depicted by Figure 45, in recent years, the number of import operations using procedural codes has increased. Since 2012, the share of CPC 42 in excise items in import declarations has increased from 6% to 8.4%. Such an increase might have been affected by many factors, with one of them being diversion. This type of

⁵⁵ Estimated with the use of EU-average excise rate on each product category (alcohol and alcoholic beverages, manufactured tobacco and energy products).

⁵⁶ See page 65 for description of EU-wide estimates of excise revenue loss in import movements.

unexplained change in the number of customs operations on excise products using procedural code 42 may signal that fraud in import operations is increasing.

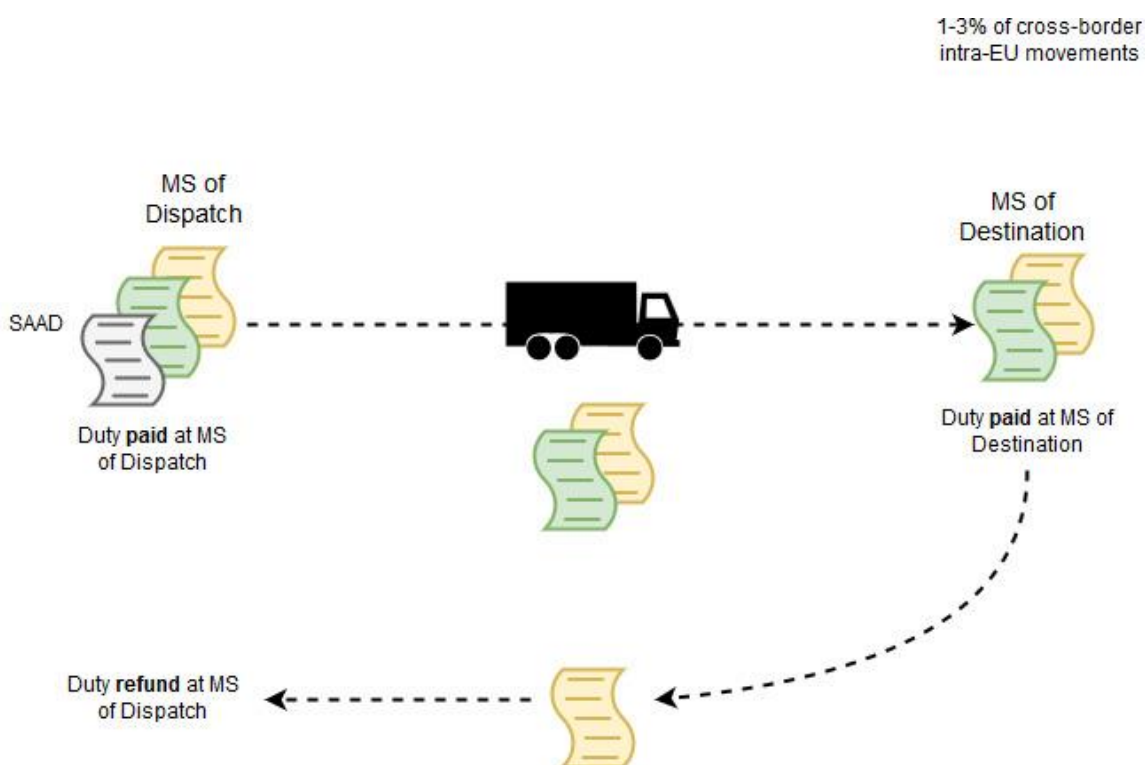
3.5 Duty Paid B2B

3.5.1 Overview of the Current Situation

Apart from duty-suspended movements, excise goods in B2B operations can be moved after their release for consumption. The provisions for the holding and movement of duty-paid goods in B2B operations, along with distance selling (B2C operations), are included in Chapter V of the Directive.

The procedures for moving goods already released for consumption between MS are, in general, paper-based. The SAAD is kept by two parties. The first copy is kept by the consignor at the MS of dispatch while the two other copies travel with the goods. At the destination, excise duty is paid and the second copy is kept by the consignee. The third copy is returned to the MS of dispatch, at which point the excise duty paid at dispatch may be refunded. The functioning of the B2B duty-paid arrangements is illustrated by Figure 47.

Figure 47: Paper-based B2B duty-paid arrangements



Source: own elaboration, based on the Commission's working documents.

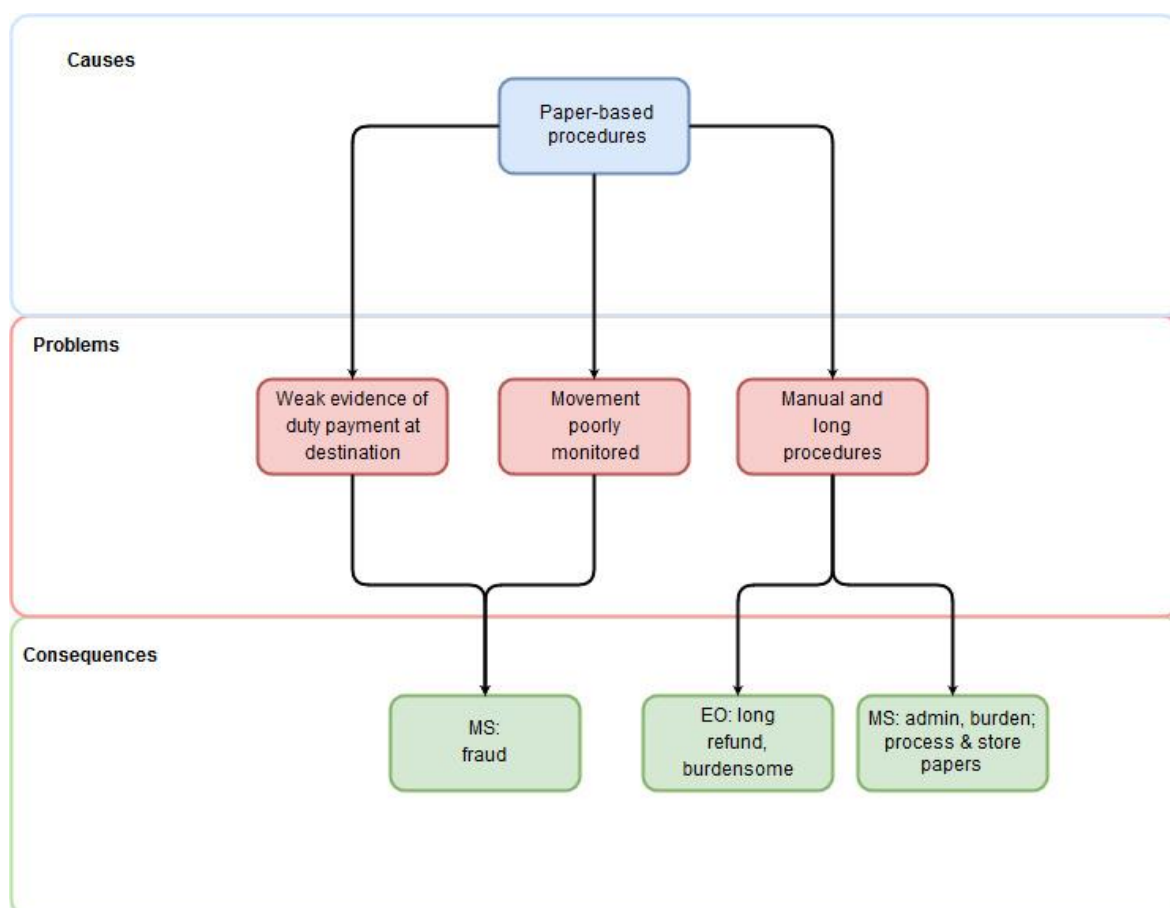
The reason for using duty-paid arrangements may be the minor size of the companies and the small number of trade operations with excise goods. Such characteristics of excise trade patterns might make paper-based operations relatively less costly than the fixed cost of receiving authorisations and accessing the EMCS.

3.5.2 Problem Analysis

As the recent studies commissioned by the Commission show, paper-based procedures concerning duty-paid arrangements, in spite of being economical for small operators, create red tape and are more burdensome than IT-based procedures. The administrative costs of duty-paid movements are quite high for both EOs and MSAs.

Most importantly, the current paper-based procedures make it difficult to keep track of statistics and, as a result, almost no relevant data is available to facilitate potential risk analysis. As there are disparities between excise rates on some products in some country pairs in the EU, unlawful EOs are given incentives to commit fraud. The main concern for potential fraud in this type of movement stems from the differences in rates between individual MS and where goods may not reach their final intended destination. Our hypothesis is that incentives for fraud, along with insufficient means to oversee duty-paid operations and weak evidence of duty paid, pose a risk for tax revenues. At present, only some administrations use electronic procedures for B2B movements and their systems are oftentimes not only not synchronised with each other, but are also not synchronised with other administrative functionalities. See the summary in Figure 48 below.

Figure 48: Summary of problems related to B2B duty-paid arrangements



Source: own elaboration, based on the Commission's working documents.

3.5.3 Magnitude of the Problem

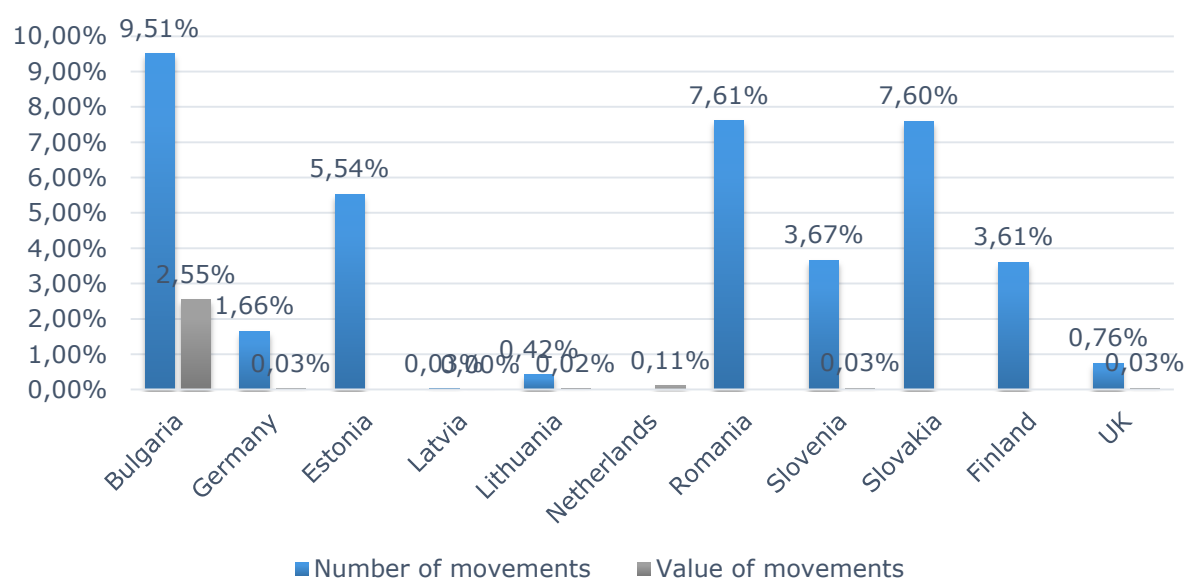
➤ VALUE AND VOLUME OF B2B DUTY-PAID MOVEMENTS

According to past evaluations, the prevalence of B2B operations under duty-paid arrangements is relatively low and, in 2012, amounted to an average of 2-3% of total excise good movements. As far as their value is concerned, estimates based on MS declarations of duty-paid arrangements in B2B operations amounted to 1.24-1.28% of intra-EU trade in alcoholic beverages, roughly 0.0005-0.0018% of intra-EU trade in tobacco products, and 0.0016-0.37% of trade in energy products.

To verify the magnitude of the problem, namely, the number and value of B2B duty-paid movements, we requested the information directly from MS. In response, we received answers from 12 MS. The information delivered on the number of B2B duty-paid in inbound movements by MS receiving roughly 52% of IE801 messages in the common domain of the EMCS. The information about the outbound movements was scarcer. This information was obtained from MS sending 33% of IE801 messages in the EMCS.

The share of B2B duty-paid movements in the number and value of all intra-EU international excise operations in inbound movements is illustrated by Figure 49 and Table 14, Figure 50 and Table 15 depict the share and number of outbound movements.

Figure 49: Inbound B2B duty-paid movements as a share of all intra-EU inbound movements



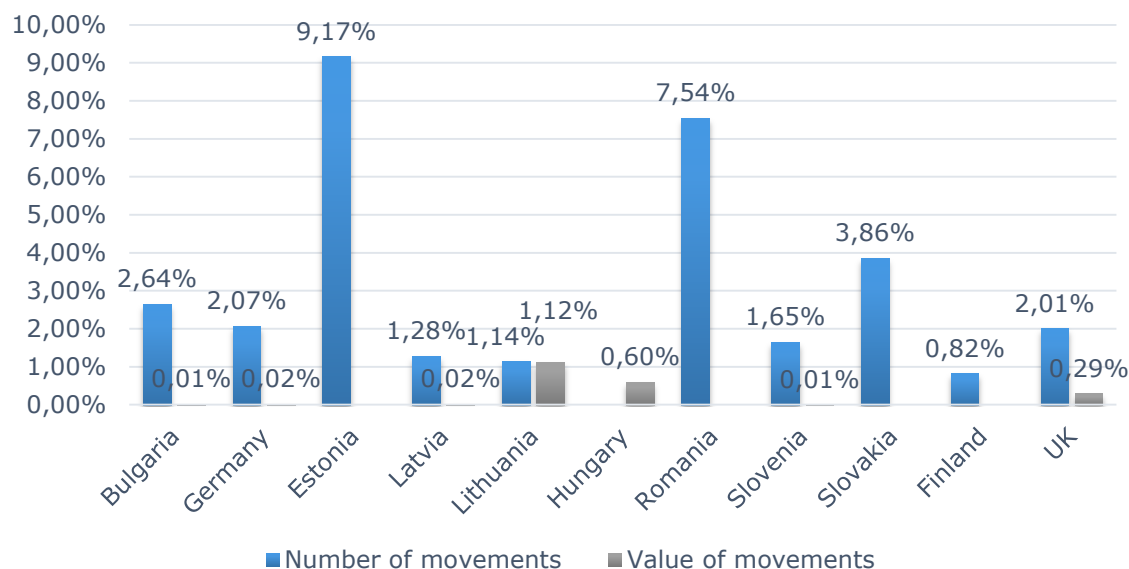
Source: own elaboration.

Table 14: Inbound B2B duty-paid movements per MC

	Inbound movements (nb)
Bulgaria	2925
Germany	9150
Estonia	1222
France	13785
Latvia	9
Lithuania	200
Hungary	.
Netherlands	13500
Romania	2206
Slovenia	1107
Slovakia	5543
Finland	1000
United Kingdom	2046

Source: own elaboration.

The share of B2B duty paid in inbound movements varies from 0.03% in Latvia up to 7.6% in Slovakia, 7.61% in Romania, and 9.51% in Bulgaria. The value of such movements is, on average, lower than the duty-suspended movements. The share in the value of all movements varies from less than 0.01% in Latvia up to 2.55% in Bulgaria. The total share of B2B duty-paid operations in inbound movements in the analysed sample of MS was approximately 3.2% in terms of number and approximately 0.1% in terms of value.

Figure 50: Outbound B2B duty-paid movements as a share of all intra-EU outbound movements

Source: own elaboration.

Table 15: Outbound B2B duty-paid movements per MC

	Outbound movements (nb)
Bulgaria	246
Germany	11200
Estonia	1209
France	.
Latvia	498
Lithuania	700
Hungary	4711
Netherlands	.
Romania	1783
Slovenia	1172
Slovakia	2791
Finland	100
United Kingdom	3064

Source: own elaboration.

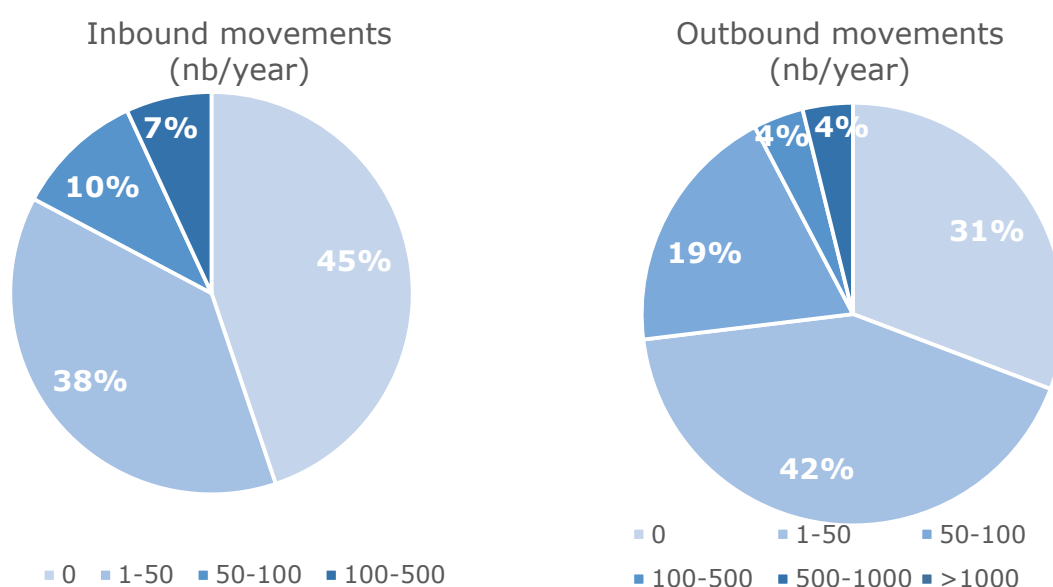
The share of B2B duty paid in outbound movements varies from 0.82% in Finland up to 7.54% in Romania and 9.17% in Estonia. As the value of such movements is, on average, significantly lower than the duty-suspended movements, the share in the value of all movements is also lower, and varies from varies from less than 0.01% in

Bulgaria and Slovenia up to 1.12% in Romania. The total share of B2B duty-paid operations in outbound movements in the analysed sample of MS was approximately 2.6% in terms of number and approximately 0.2% in terms of value.

Extrapolating more complete information on inbound B2B movements, it could be assumed that 3.2% of all cross-border intra-EU movements in terms of number and approximately 0.1% in terms of value are duty paid. In total, in 2016, the number of such movements was roughly **102,000** and the value was about **EUR 201 million**. Since the vast majority of movements concern alcohol and alcoholic beverages,⁵⁷ the value of excise represented by these operations amounts to EUR 8.6 million.⁵⁸ Since the estimate of excise liability on goods moved in between businesses with duty-paid does not include energy and tobacco products, which are taxed at a higher rate, EUR 8.6 million should be treated as a lower bound. Anyhow, the obtained estimates are in line with, but slightly higher than in the 2014 Evaluation.⁵⁹ The sample of countries that provided information regarding the movements was different and larger than in the earlier evaluation.

Despite its low share in aggregate trade volumes and values, 55% of EOs use inbound B2B duty-paid movements and 69% use outbound B2B duty-paid movements. Such types of movements are used by all types of companies—small, medium, and large operators trading and moving all types of excise goods. Large producers of excise goods usually use both inbound and outbound operations, whereas smaller producers usually only use outbound operations (see Figure 51).

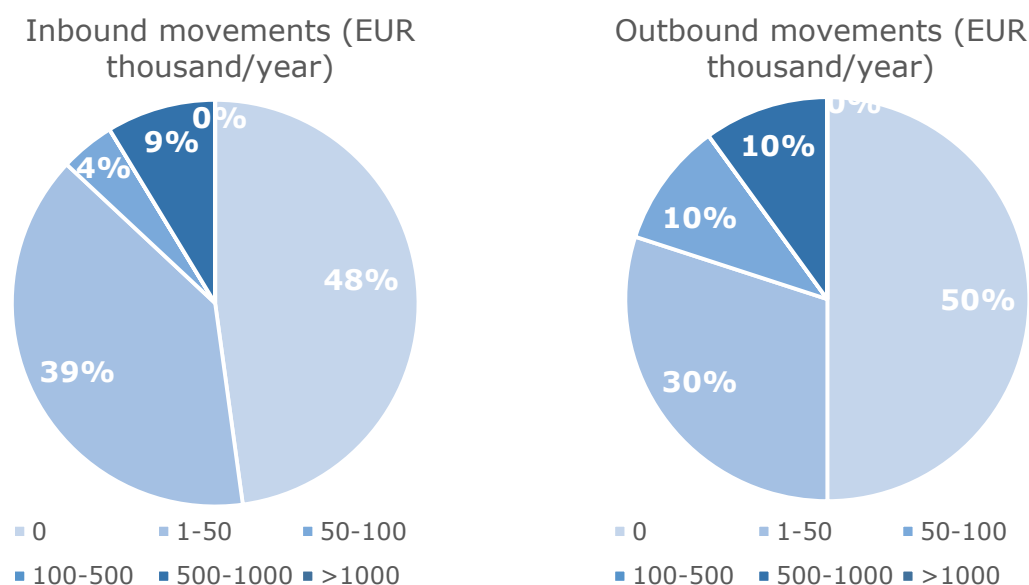
Figure 51: Frequency of use of inbound and outbound B2B duty paid by EOs



⁵⁷ This was confirmed by Latvian and German authorities, where movements of alcohol and alcoholic beverages amount to approximately 100% and 87% of B2B duty-paid movements, respectively.

⁵⁸ Due to the lack of data on the exact share of product categories within B2B duty-paid movements it was assumed that the average excise rate in B2B operation reflects the rate on alcoholic beverages. Available was only the total number and value of movements. The average excise rates for alcoholic beverages were estimated using net consumption figures from Enerdata and Euromonitor and disaggregated excise revenue (source: http://ec.europa.eu/taxation_customs/tedb/taxSearch.html)

⁵⁹ Evaluation of current arrangements for movements of excise goods released for consumption.



Source: own elaboration.

Large EOs often use such types of operations for sending low-value deliveries—namely, samples. For instance, tobacco producers are required to move low-value consignments containing often less than 20 sticks of cigarettes between premises, which are not authorised for duty-suspended operations.

Small companies often use B2B duty-paid movements for their regular business, afraid of costs that need to be borne to use IT procedures, like the purchase of software or the cost of IT technicians. Two out of seven small producers declared no use B2B duty-paid movements due to the high administrative costs related with the burdensome paper-based procedure.

There are also country-specific reasons for the use of duty-paid arrangements. If any exceptional situations or errors are noticed by German MSAs in duty-suspended movements, for security reasons, duty must be paid in Germany. As a result, duty is paid in Germany and the MS of destination. Problems with excise refunds may arise as the movement is treated by the MS of origin as duty paid and in the MS of destination as under duty suspension.

The number of B2B duty-paid movements is expected by both MSAs and EOs to increase over time. Seven out of 12 MSAs expect an increase in the number of movements, whereas only two expect a decrease. EOs also forecast the growth of B2B duty-paid movements. Eight out of the 28 EOs that responded to the question expect growth. The remaining 20 EOs expect that the number of operations will remain at the current level.

Since a number of MSAs provided an exact forecast or increase in the number of movements over the recent years, it is possible to estimate the EU-wide number of movements in 2021. According to the answers delivered by MS, the EU-wide number of B2B movements will increase by **6.2% in five years**.

In addition to the number, value, and excise duty concerned, we estimate the number of EOs using B2B duty-paid arrangements. For this purpose, we use the responses to the questionnaire from the Evaluation Study to estimate the group of all EOs using

duty-paid movements.⁶⁰ The responses to the questionnaire lead to the conclusion that EOs conduct 31.5 movements yearly. Hence, the number of EOs conducting B2B duty-paid was ca. 6,350 in 2016.

➤ DISCREPANCIES AND FRAUD IN B2B DUTY-PAID MOVEMENTS

Seven MS delivered numerical data concerning irregularities detected in B2B operations. A number of MSAs reported no significant problems with duty-paid movements—Latvia, Malta, and the Netherlands. Significant irregularities were detected in Sweden—where seized goods may have created a loss of over EUR 5 million in excise alone—and Lithuania (EUR 4 million in discrepancies).

Table 16: Discrepancies in B2B duty-paid movements

Indicator	Irregularities	
Sub-indicators	Number of audits	Discrepancies
Unit	Number/year	EUR million/year
Latvia	-	0.004
Lithuania	4	4
Malta	0	0
Netherlands	0	0
Romania	2	-
Slovenia	-	ca. 0.2
Sweden	297 (2012)	43 858 litres of alcohol and alcoholic beverages and 26 135 940 cigarettes were seized (2012)

Source: own elaboration.

In addition to the detected discrepancies, which could represent both errors and irregularities, MS expect fraud in the area of B2B duty-paid movements. A number of MS cannot estimate the actual volume of fraud due to the existence of paper-based procedures, because fraud can happen and the authorities may not be aware of it. Lithuanian authorities claim that the value of fraud (EUR 4 million) is higher than the discrepancies, which were often due to fraud. According to Dutch authorities, despite no irregularities detected during audits, fraud might concern 7-8% of movements.

Authorities from two MS (Latvia and Lithuania) noted that the most common type of irregularity is when Box 6⁶¹ of the SAAD is left blank. Moreover, EOs often note the competent authority in the MS of dispatch instead of the competent authority in the country of destination (Box 3).

In addition, some MSAs expect an increase in the value of fraud. Dutch authorities expect growth of 1-2% in fraud and Slovakian authorities estimate a 5% growth.

The detailed answers from MSAs in Lithuania, Slovenia, and Sweden point to the conclusion that fraud may concern nearly 10% of B2B duty-paid movements. If this is the case, excise duty worth EUR 20 million (net) would be lost due to fraud.

⁶⁰ Based on 432 replies. See: Directorate-General for Taxation and Customs Union (European Commission), Evaluation of current arrangements for movements of excise goods released for consumption. Final Report, Luxembourg: Publications Office of the European Union, 2015.

⁶¹ i.e. reference number and date of the declaration.

The estimates of the discrepancies in Intrastat concerning the trade of excise goods with large excise differentials (see Chapter 3.1.1) show that up to **EUR 178 million per year** in discrepancies were observed. Such an estimate, which could be considered as an upper bound for fraud in B2B duty-paid operations due to other factors and irregularities, confirms that EUR 20 million in fraud in B2B duty-paid movements was possible.

3.6 Low-Risk Movements

3.6.1 Overview of the Current Situation

Under Article 31 of the Horizontal Directive, MS may make use of simplified procedures for frequent and regular movements of excise goods transported under a duty suspension occurring between two or more MS. Simplifications include the possibility to forgo electronic supervision of such movements (including movements via fixed pipelines). However, despite the possibility, the majority of MS do not make use of the above-mentioned procedure, reporting difficulties in negotiating bilateral or multilateral schemes.

3.6.2 Problem Analysis

At the same time, movements of certain goods, such as some energy products, completely denatured alcohol, and low excise duty products, are considered to be “low risk”. In what follows, their consignment could be conducted under simplified procedures that would facilitate and limit the amount of effort both on behalf of EOs and MS, possibly without significantly increasing the risk of fraud.

Similarly, simplified reporting procedures should be available to economic operators with a good record of meeting regulatory requirements (“trusted” EOs).

Energy Products and Completely Denatured Alcohol

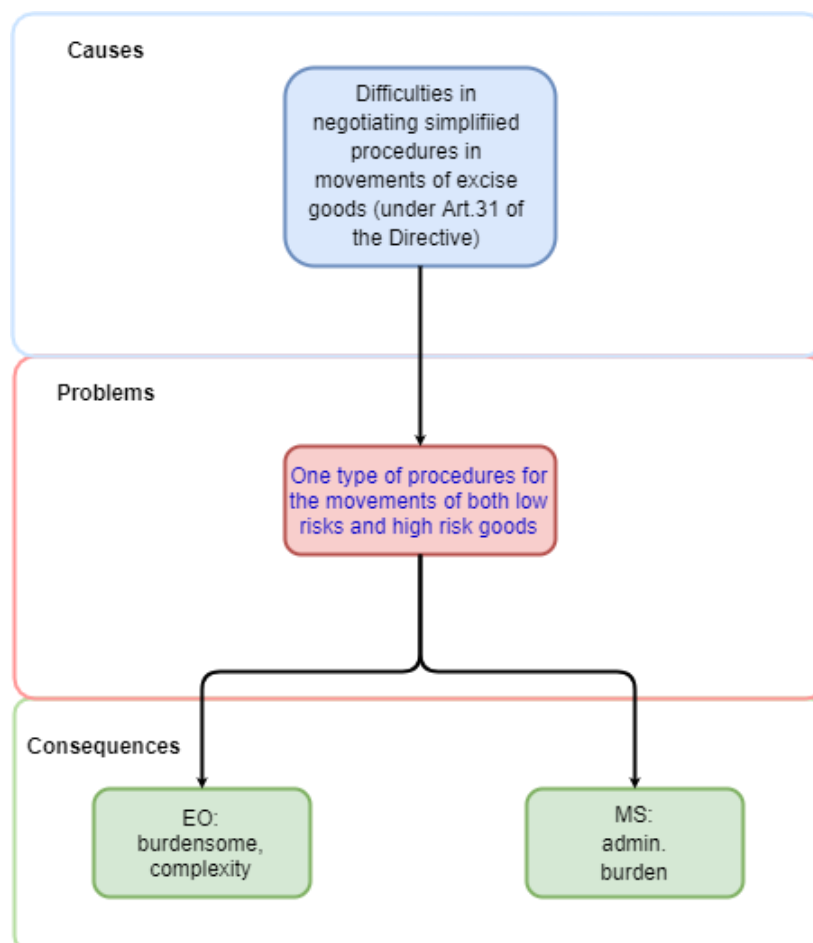
Under Articles 27(1)(a) and (b) of Directive 92/83/EEC, completely denatured alcohol (CDA) is exempted from excise duty as long as it is denatured using one of the methods approved by MS. It is also conditioned by the application of the provisions of Directive 92/12/EEC, namely, irreversible methods that make their turning back into alcohol suitable for human consumption impossible.

This rule also applies to denatured alcohol used to manufacture products not suitable for human consumption, such as biofuels. Bioethanol produced from biomass can be used as fuel, usually in blends with petrol (e.g. E80, E85). Currently, these blends are treated by MS in three different ways – either as alcohol or as an energy product – which results in their different handling in terms of excise treatment (i.e. whether they are exempted from excise duty or not).

Products with Low Excise Duty

Excise duty charged on certain products such as light alcoholic beverages is low enough to deem their consignment “low risk”. In general, should the excise duty levied on a good be less than the VAT levied on its sale, it may be considered disproportionate to require the use of either the EMCS or SAAD duty-paid system. For the purpose of this exercise, the threshold shall be established at 20% on the basis of the average VAT threshold in the EU (between 18% in Luxembourg and 27% in Hungary).

Figure 52: Summary of problems related to low-risk movements



Source: own elaboration, based on the Commission's working documents.

3.6.3 Magnitude of the Problem

➤ VALUE AND VOLUME OF LOW-RISK MOVEMENTS

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).

Table 17: Number and value of low-risk movements, MS

	Number of movements		Excise duty concerned	
	Inbound movements	Outbound movements	Inbound movements	Outbound movements
	Number/year	Number/year	EUR million/year	EUR million/year
Bulgaria	2014	3	0.087	0.003
Germany	35000	19000	18.5	228
Latvia	0	0	0	0
Hungary	14346	16958	0.140	– ⁶²
Slovenia	350	200	-	-

Source: own elaboration, based on the estimates provided by MSAs.

Table 18: Outlook for low-risk movements in five years

Indicator	2021 vs. 2016 (forecast) Number of movements		2021 vs. 2016 (forecast) Excise duty concerned (EUR million / year)	
	Inbound movements	Outbound movements	Inbound movements	Outbound movements
Bulgaria	-3.1%	-	-3.1%	-
France	"no significant change can be foreseen at his stage"			
Latvia	"no change"			
Hungary	"Stagnation is to be expected"	+10%	+10-20%	+4-6%
Slovakia	+5%	+2-3%	+5%	+2-3%

Source: own elaboration, based on the estimates provided by MSAs.

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.

As we proceed, and as it may be seen in Table 19, the majority of EOs—regardless of their size or specialisation—indicated either 0 (52% in the case of inbound and 39% in the case of outbound movements) or under 50 low-risk movements per year (32% for inbound and 39% for outbound movements). Correspondingly, most estimated the excise duty concerned at either 0 (50% in the case of inbound and 47.6% in the case

⁶² Original reply in HUF was "8 digit".

of outbound movements) or below EUR 0.5 million (66.7% and 63.4% for inbound and outbound movements, respectively).

To a certain extent, this data is confirmed by the results of the OPC, although the EOs, who were its participants, were more likely to indicate higher numbers of low-risk movements per year—only 38.1% reported of them conducted less than 100 low-risk movements per year, as compared to 90% of the EOs who completed the detailed questionnaires.

Table 19: Number of low-risk movements, EOs

Number of movements per year	Number of EOs	
	Inbound movements	Outbound movements
0	13	9
1-50	8	9
50-100	1	3
100-500	1	-
500-1000	-	-
>1000	2	2

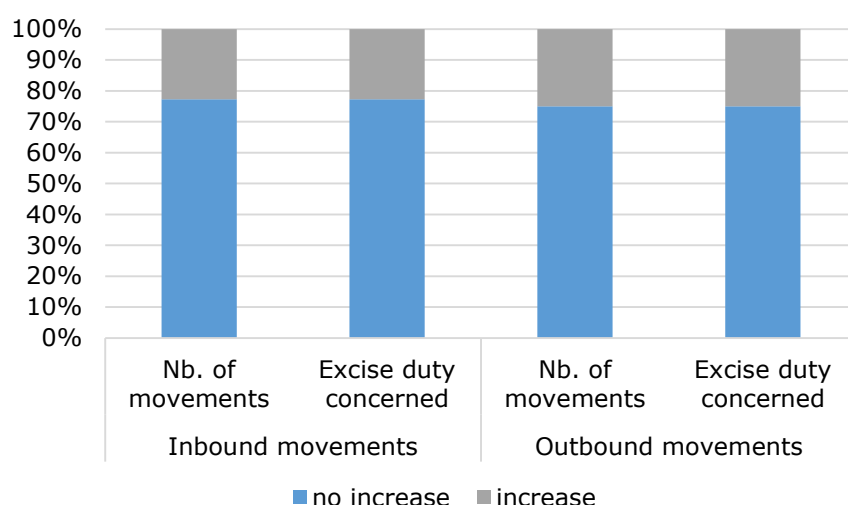
Source: own elaboration, based on the estimates provided by MSAs.

Table 20: Excise duty on low-risk movements, EOs

Excise duty concerned (EUR thousand)	Number of EOs	
	Inbound movements	Outbound movements
0	12	10
1-500	8	7
500-1000	-	-
1000-5000	-	-
5000-10000	-	-
>10000	4	4

Source: own elaboration, based on the estimates provided by MSAs.

In terms of expectations for the future, just over three-quarters of EOs (77% in the case of inbound and 78% in the case of outbound movements) did not expect either the number of low-risk movements or the associated value of excise to increase in the upcoming five years (see Figure 53). Looking at SMEs, those that provided an answer expected the number and value of inbound movements to remain the same, and all but one (that expected an increase) believed the same to be true of outbound movements.

Figure 53: Predicted number and value of excise on low-risk movements within the next five years, EOs

Source: own elaboration.

The data provided by EOs 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 EO's low-risk movements fell between 0.4% and 2.4%** of the value of excise on all movements performed by EOs.

However, it is important to notice at this point that comments in the submitted questionnaires indicate that EOs had similar problems with understanding what constitutes a low-risk product or low-risk movements as the MS (for instance, one EO reported their volume of low-risk movements to be zero, but mentioned in a comment that virtually all their outbound movements were in wine between countries with zero excise on wine, and thus, *de facto*, were low risk; similar concerns were also mentioned by others). Therefore, the numbers mentioned above need to be treated with caution.

Because of the above-mentioned difficulties, for the purpose of this exercise, what we present below is an analysis based on data from Intrastat, Euromonitor, and the EMCS. In order to perform the analysis, we consider the following goods "low risk":

- energy products that do not need to be moved under the EMCS (listed in Article 2(1), but not mentioned in Article 20(1) of the Energy Tax Directive (Directive 2003/96/EC)) (for a full list, see Chapter 3.5.1);
- alcohol (CN2203, CN2204, CN2205, CN2206) for which the value of excise duty is lower than the proposed 20% threshold (only data from MS where this is true were taken into account); and
- movements for which the value of excise duty is lower than EUR 1,000 (estimated at 3.2% in terms of number, and approximately 0.1% in terms of value of all inbound movements on a given (group of) goods, as well as approximately 2.6% in terms of number, and approximately 0.2% in terms of value for outbound movements on a given (group of) goods based on B2B movements analysis; for details, see Chapter 3.5.3).

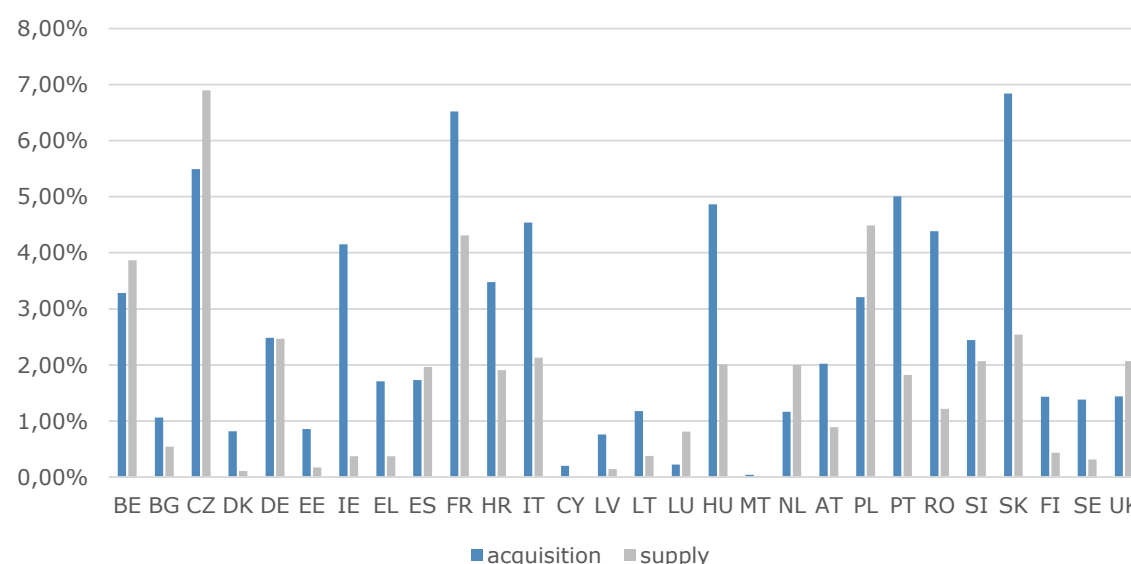
As there is no designated code for completely denatured alcohol, which is classified under the code for denatured alcohol (2207 2000), it was excluded from the analysis.

On average, the **value of the intra-community supply of low-risk energy products in 2015 amounted to approximately 2.33%** of the value of all intra-community supplies of energy products. The lowest share may be observed in Malta (0.04%), with the highest shares observed in France (6.52%) and Slovakia (6.84%).

As for the intra-community acquisition of goods, the **value of the intra-community acquisition of low-risk energy goods in 2015 amounted to approximately 3%** of the value of entire intra-community acquisition of energy products. The lowest share may, yet again, be observed in Malta (0%), with the highest shares observed in Poland (4.49%) and the Czech Republic (6.9%).

The data used for these calculations was drawn from Intrastat. The low-risk category was compiled in line with rules presented above (energy products that do not need to be moved under the EMCS (listed in Article 2(1), but are not mentioned in Article 20(1) of the Energy Tax Directive (Directive 2003/96/EC)).

Figure 54: Value of intra-community movements of low-risk energy goods as percentage of the value of all intra-EU energy movements (2015)



Source: own elaboration.

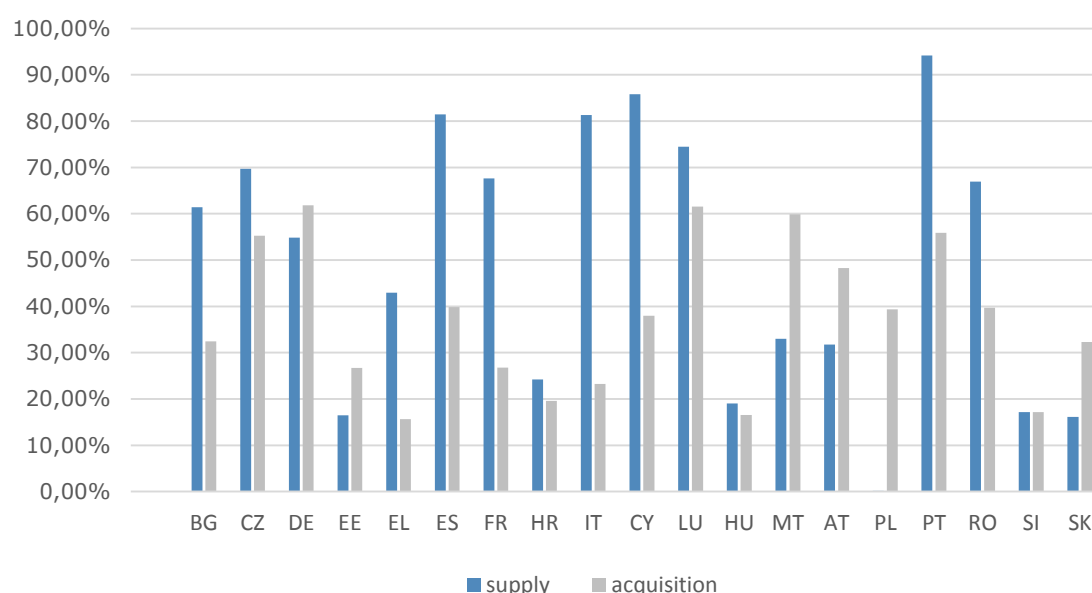
As far as alcoholic beverages are concerned, because EC Excise Duty Tables (Part I – Alcoholic Beverages, 2017) provide information on excise duty rates in terms of value (EUR and/or national currency) per hectolitre of product (for wine), or per hectolitre/degree Plato of the end product (for beer), we were obliged to use other sources of information to compile a list of countries where the excise duty on a given alcoholic beverage, expressed in percentage of the value of the good, is below the 20% threshold. Therefore, we used Euromonitor data on value (in EUR) of consumption of a given good (wine or beer) and EC Excise Duty Table data (Tax receipts – Alcoholic beverages, 2016) on revenue (also in EUR) from taxes on consumption, other than the VAT charged for the consumption by each MS. Dividing revenue by value of consumption allowed us to estimate the excise duty rate in percentage for beer and wine in each MS.

We found that 18 MS charged excise below the 20% threshold for wine (CN2204, CN2205): Austria, Bulgaria, Croatia, Cyprus, Greece, Italy, Luxembourg, Portugal, Slovenia, Spain, Romania, Malta, France, Czech Republic, Hungary, Slovakia, Germany, and Poland, closely followed by Estonia (20.73%). As for beer (CN2203,

CN2206), this was true for seven countries (Germany, Spain, Bulgaria, Malta, Luxembourg, Romania, and Portugal), with the Czech Republic and Cyprus following closely and exceeding the threshold by 0.5 percentage points and 0.6 percentage points, respectively.

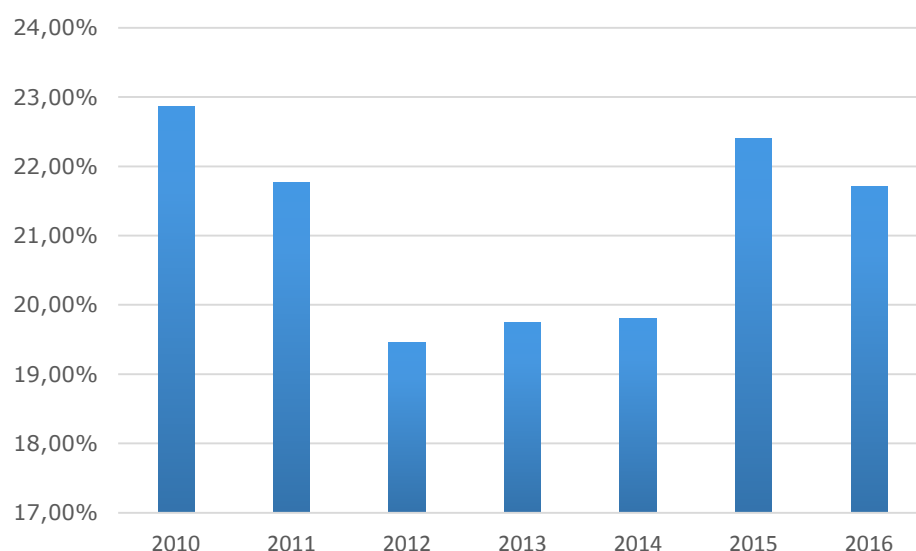
Using this data, we were able to estimate that in 2015, the value of the low-risk intra-community supply of goods such as wine and beer (CN2203, CN2204, CN2205, CN2206)—that is, the supply of goods between countries in which the value of excise duty on these goods was below the 20% threshold—amounted to **approximately 46.1% of the value of the total intra-community supply of alcoholic beverages**. The value of the low-risk intra-community acquisition of these goods of was estimated to amount to **approximately 23.3%** of the value of entire intra-community supply of alcoholic beverages.

Figure 55: Value of intra-community movements of low-risk alcoholic beverages as percentage of value of all intra-community alcoholic beverages movements (2015)



Source: own elaboration.

In total, in 2015, the value of all low-risk movements (understood as explained above) amounted to **approximately 22.4% of all excise goods movements (an increase by 2.6 percentage points since 2014)**.

Figure 56: Value of intra-EU low-risk supply as percentage of the value of all intra-EU excise goods supply

Source: own elaboration.

As it can be seen in Figure 56, there is no clear pattern as to the share of value of low-risk goods in the value of all excise goods movements. Consequently, no firm predictions regarding future trends of the value of low-risk movements may be made at this point.

➤ DISCREPANCIES AND FRAUD IN LOW-RISK MOVEMENTS

Regarding the discrepancies detected in the intra-community supply of “low-risk” goods, only two MS⁶³ provided information on the matter. Hungary explained that “data are not stored in this product range, but viewing on a wider range the numbers are still very low, and consist of omissions, unintentional damages, and extreme circumstances as deciding factors. Directly very low amount of excise duty can be involved, but the potential of illegal activities is always in the background.” An MSA from Finland believed that the number of discrepancies was very low—“only a few cases”—and concerned denatured alcohol only (it did, however, expect this number—without providing any numerical value—to grow in the next five years).

Similarly, in the case of fraud, almost no data is available. Finland did not provide estimations of the number of fraud cases or their value, but signalled that it expected increases. Hungary suggested that the number and value of fraudulent low-risk movements “can grow fast, but now it seems to be ‘only’ a potential threat.”

However, it is possible to attempt to estimate the scale of discrepancies concerning certain products by examining the value of the actual consumption of the given

⁶³ Latvia estimates the number of discrepancies at 0, but this is due to its evaluation of the number and value of low-risk movements, which is also 0.

products in any MS and the MS revenue from excise duty on the given good (data derived from Euromonitor).

Countries where excise duty on wine as of January 2016 was higher than 0%, but lower than or equal to approximately 20% (estimated by virtue of dividing revenues from consumption by revenues from excise duty) include France, Poland, and Estonia.⁶⁴ In Austria, the Czech Republic, Germany, Hungary, Romania, and Slovakia, excise is levied only on sparkling wine (excise on still wine amounts to zero), and analysis was not possible due to the fact that the Euromonitor data on revenue from consumption is provided jointly for all types of wine.

Table 21: Excise duty on wine as of January 2016

	Wine (EUR/hectolitre)	
	Still	Sparkling
BE	74.9086	256.3223
BG	0	0
CZ	0	86.11
DK	155.62/208.43	200.52/253.33
DE	0	136
EE	97.37*	97.37*
EL	20	20
ES	0	0
FR	3.77	3.77
HR	0	0
IE	424.84/616.45	849.68
IT	0	0
CY	0	0
LV	74	74
LT	72.12	72.12
LU	0	0
HU	0	52.62
MT	205	205
NL	88.36	254.41
AT	0	100
PL	37.21	37.21
PT	0	0
RO	0	10.73
SI	0	0
SK	0	79.65
FI	339	339
SE	268.47	268.47
UK	370.99	475.19

* From February 2016, 111.98

Source: Excise Duty Tables, Part I – Alcoholic beverages. January 2016

⁶⁴ In Malta, excise duty on wine (amounting to EUR 0.2 per litre) was only levied in January 2015 and in Greece, on January 2016, so comparisons with previous years were not possible.

The three countries selected for analysis vary significantly when it comes to excise levied on wine. In France, the tax, despite increasing gradually between 2012 and 2015 (the last year for which data on consumption and revenues is available)—from EUR 3.60 for still wine and EUR 8.91 for sparkling wine in 2012 to EUR 3.77 and EUR 9.33 respectively as of December 2015—is still relatively low. In Poland, the excise duty on wine has not changed since 2011 and is PLN 158 (EUR 37.21 in January 2016) per hectolitre. In Estonia, the excise duty rate on wine increased between 2011 and 2016 (by 5% as of February 2012, from EUR 76.8 per hectolitre to EUR 80.64 in 2013, to EUR 90 in 2014, and then subsequently to EUR 97.37 in 2015) and is currently almost three times as high as in Poland.

MS also vary in terms of the percentage of the volume of their wine consumption the excise tax constitutes. Changes in this relationship without or not in line with changes in the amount of excise duty claimed may indicate irregularities. In the case of France, the small changes in this ratio do not seem to be a cause of concern.

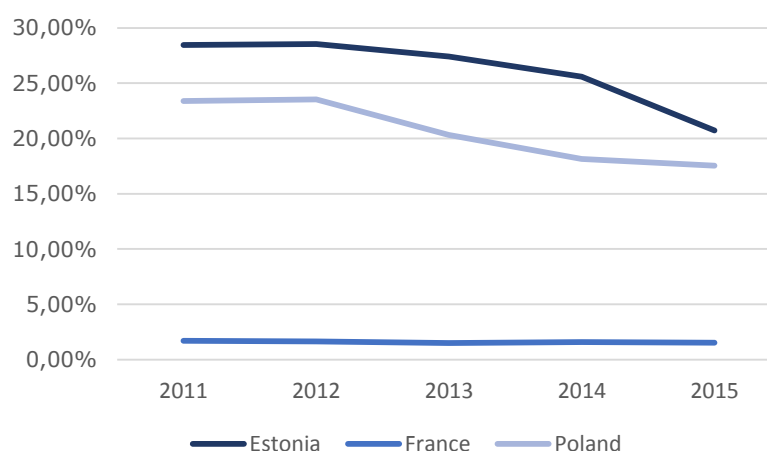
In Poland and Estonia, however, the ratio of revenue from excise to consumption has been declining despite no changes in the excise levied in the former and an increase in the latter. As in both countries excise on still wine is the same as that on sparkling wine, this trend cannot be explained, for example, by higher or lower consumption of one type of wine. This may lead to a careful conclusion that fraud may be the cause of these irregularities.

Table 22: Revenue as percentage of value of consumption of wine in selected MS (2011-2015)

	2011	2012	2013	2014	2015
Estonia	28.46%	28.53%	27.40%	25.59%	20.73%
France	1.69%	1.63%	1.49%	1.59%	1.53%
Poland	23.38%	23.53%	20.33%	18.15%	17.53%

Source: Own elaboration based on data from Euromonitor and DG Taxud.

Figure 57: Revenue as percentage of the value of consumption of wine in selected MS (2011-2015)



Source: Own elaboration based on data from Euromonitor.

Concerning revenues from excise on beer, in MS where excise on beer is (roughly) lower than or equal to 20% (Bulgaria, Cyprus, Czech Republic, Germany, Luxembourg, Malta, Portugal, Romania, and Spain), the changes in ratio of revenues from excise on beer and the value of its consumption varied to a lesser extent than in the case of wine.

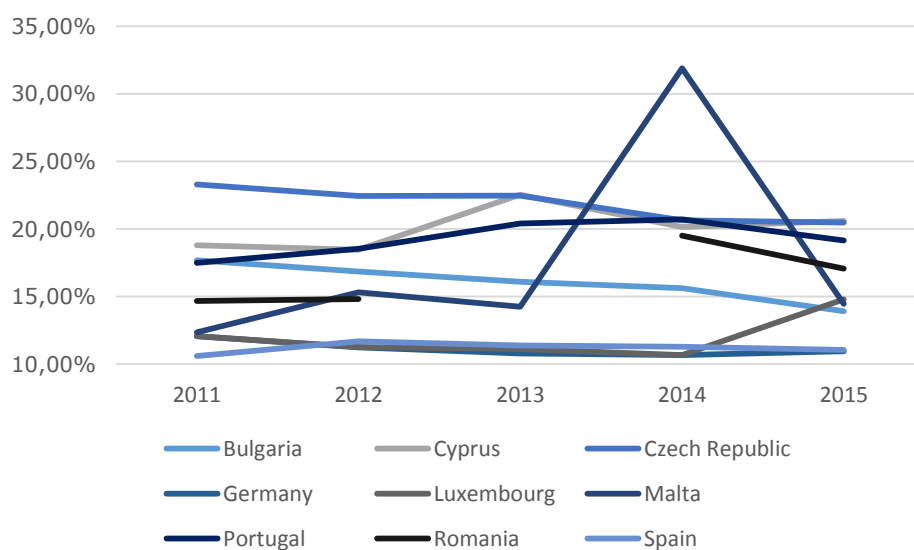
In countries that did not introduce any changes into their excise rates on beer, namely, in Bulgaria, the Czech Republic, Germany, Luxembourg, and Spain, revenues either stayed on same (Spain), decreased and then subsequently increased (Luxembourg), or decreased to varying levels (Bulgaria, the Czech Republic, and Germany). In other words, no clear pattern could have been observed. In other countries, where changes in excise duty were introduced between 2011 and 2015, again the changes in the ratio of revenue to consumption could not be clearly categorised. Moreover, small variations may result from varying levels of consumption of beer on which standard rates are paid and those to which reduced rates apply—differences that are apparent from Euromonitor data on consumption.

However, evidence gathered during the interview phase suggests that beer is one of the products particularly susceptible to fraud; as it has already been mentioned, for instance, the Netherlands does not consider beer to be a low-risk product.

Table 23: Revenue as percentage of the value of consumption of beer in selected MS (2011-2015).

	2011	2012	2013	2014	2015
Bulgaria	17.69%	16.86%	16.09%	15.62%	13.92%
Cyprus	18.78%	18.46%	22.53%	20.13%	20.60%
Czech Republic	23.28%	22.43%	22.46%	20.63%	20.48%
Germany	12.07%	11.25%	10.78%	10.68%	10.94%
Luxembourg	12.07%	11.26%	11.13%	10.66%	14.79%
Malta	12.34%	15.32%	14.24%	31.89%	14.46%
Portugal	17.50%	18.54%	20.41%	20.71%	19.14%
Romania	14.67%	14.81%	-	19.51%	17.05%
Spain	10.59%	11.69%	11.38%	11.29%	11.05%

Source: Own elaboration based on data from Euromonitor and DG Taxud.

Figure 58: Revenue as percentage of the value of consumption of beer in selected MS (2011-2015)

Summing up, then, it is not possible to estimate with a satisfactory degree of certainty a scale of fraud on goods that in this report are considered low-risk movements. The data from Euromonitor, as well as information gathered during the interviews suggest that while the scale of fraud is not huge, it most definitely can be observed.

3.7 Exceptional Situations (Shortages, Excesses)

3.7.1 Overview of the Current Situation

Article 10(6) of the Directive defines an irregularity as “a situation occurring during a movement of excise goods under a duty suspension arrangement, other than the one referred to in Article 7(4), due to which a movement, or a part of a movement of excise goods, has not ended in accordance with Article 20(2).” Irregularities may occur in the form of interruptions, rejection of a consignment, shortages, excesses, or losses.

Currently, certain ambiguities remain at the end of the movement of excisable goods in distinguishing between errors stemming from human mistakes and/or negligence and those resulting from fraud. These ambiguities persist despite the judgment of the Court of Justice ruling in case C-64/15 *BP Europa*, which clarified the uncertainties related to levying of excise duty at delivery of goods under duty-suspension arrangements. Furthermore, how claims for excise duties facing the above-mentioned irregularities should be treated, and how this relates to the Recovery Directive provisions, remains unclear.

3.7.2 Problem Analysis

Interruptions

Article 12 of the Commission Implementing Regulation 2016/323, introduced 24 February 2016, makes the exchange of information mandatory in the case of a definitive interruption of a movement. MSAs are required to send an “Interruption of movement” to their counterparts in relevant MS within one day of learning about the definitive interruption. Situations when a movement needs to be interrupted are listed

in Article 15(1) of Regulation (EU) No 389/2012 (the list of reasons for the interruption available in the EMCS includes suspicion of fraud, destruction of the goods, loss or theft of the goods, and other; the interruption may also be requested at control).

Rejection of a Consignment

Rejection of a delivery by a consignee is currently possible should they receive goods they did not order or in the case of data errors in the e-AD. If the goods reached the consignee and they refused to accept them, a report of receipt (IE818) describing reasons for such a decision must be submitted. If, on the other hand, the goods have not reached the consignee, but they disagreed with the e-AD, an alert message (IE819) must be submitted in order to inform all involved parties; both practical mistakes on the part of the consignor or an attempt of fraud might be the cause of such a situation.

Should the consignee choose to reject the movement, the consignor must issue a change of destination or a splitting. Following this, the relevant MSA might decide to apply a risk assessment; in such a case, the consignor should submit a splitting operation or a change of destination. They may also cancel the e-AD if the goods have not yet been dispatched.

The above-mentioned regulations do not specify when the consignor needs to change the destination in the EMCS should the consignee reject a delivery. Some MS, like Germany, reported that this lack of deadline creates opportunities for fraud, as between the report of rejection by the consignee and the change of destination by the consignor, the authorities can control what happens with the goods only to a limited extent.

Shortages, Excesses, and Losses

If goods are "totally destroyed or irretrievably lost" during transport, they are considered "lost" and no excise duty is charged on them. How losses are determined by various MS was considered a major source of uncertainty by 75% of stakeholders interviewed for the purpose of the Evaluation of Current Arrangements for the Holding and Moving of Excise Goods under Excise Duty Suspension (2015). This is caused by the fact that each MS determines when missing goods are considered a "loss" and when they begin to constitute a "shortage". For instance, some MS calculate set loss tolerances as a percentage value, depending on the type of the product in question or the mode of transport used, while others do not have set limits of tolerances.

If there is a discrepancy between the amount of goods reported in the e-AD and those actually delivered, a shortage (if the amount delivered is less than that identified in the e-AD) or excess (if the amount delivered is greater than that identified in the e-AD) occurs. The procedure for dealing with the already identified shortages and excesses is outlined in the functional specifications (FESS). However, each MS not only has its own rules regarding how to measure potential shortages and excesses, but also determines the point in which the missing goods identified are considered a "loss" and when they become a "shortage".

For instance, Bulgaria, the Czech Republic, Estonia, Ireland, Lithuania, Luxembourg, Hungary, Romania, and Slovenia, while recording the accuracy of measuring instruments, make use of respective national legislations transposed from the Metrology Directives. Cyprus and France, additionally, have specific directions stated in their national legislations. In the Netherlands, it is an EO that is responsible for the measurement, while in Slovenia, rules are defined for tax warehouses, but not for the EO. At the same time, Malta, Finland, Sweden, and the United Kingdom do not have standard estimates of allowable losses. Moreover, out of all the MS that provided an

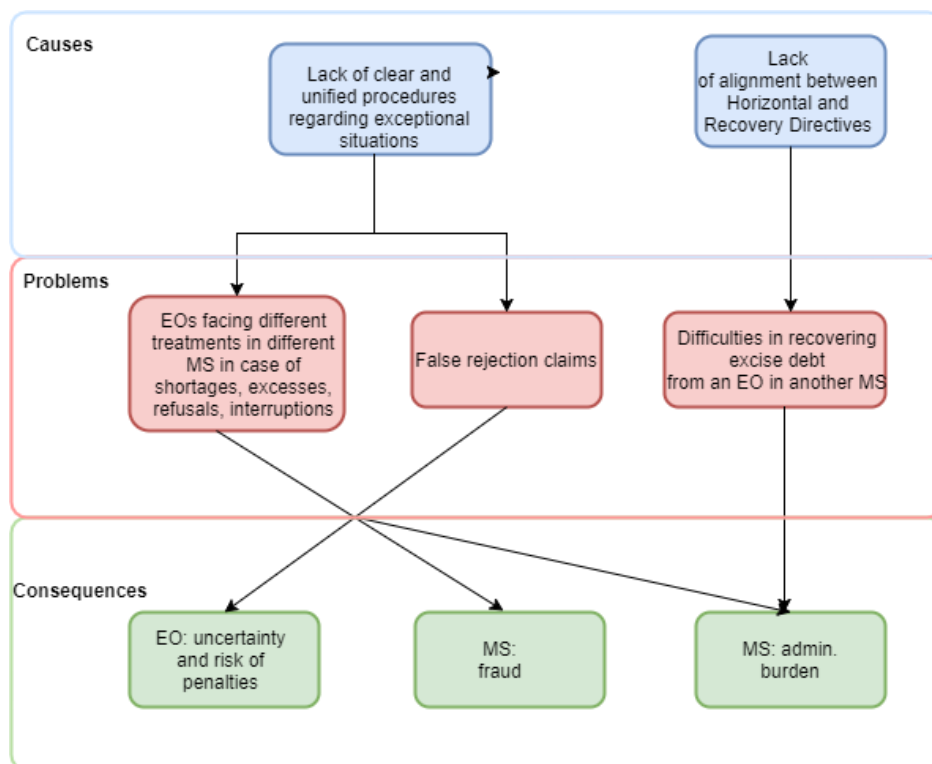
answer to the question, two (Luxembourg and Slovenia) did not take measurement accuracy into account in the estimation of shortages, and four (Ireland, Malta, Sweden and the United Kingdom) did not take into account allowable losses through subtracting them from the measured shortage.

In terms of handling excesses, Bulgaria, Estonia, Ireland, France, Latvia, Lithuania, Malta, Portugal, Slovenia, Slovakia, Finland, and Sweden record them, but allow for the movement of goods to be held under duty suspension if the consignee is an authorised warehouse-keeper. Some MS (the Czech Republic, Germany, Cyprus, Luxembourg, Hungary, the Netherlands, Slovenia, and Slovakia) also require issuing a payment for the registered excesses (none reported confiscating the excessive amount of goods).

Chasing Other MS Duties

The rules governing cooperation between MS in the field of recovery of unpaid taxes were set out in Council Directive 2010/24/EU and are supplemented by the implementation of Commission Regulation (EU) 1189/2011. However, it is believed that MS currently lack incentives to invest their resources in investigating whether or not an EO from their territory owes duty to another MS, despite the fact that the EU Tax Collection Platform was created to reinforce this implementation. Other issues related to chasing other MS duties, such as ambiguities regarding which MS—that of dispatch or that of arrival—may claim excise duties recovered in cases of the fraudulent clearance of an EMCS movement (i.e. a situation whereby—even though the excisable goods never reach the declared destination—the movement is closed in the EMCS by a consignee participating in the fraud scheme) will not be addressed in this exercise. Currently, in order to deal with claims for shortages, seven MS (the Czech Republic, Latvia, Lithuania, Hungary, Poland, Romania, and Slovakia) reserve part of the guarantee when the EMCS indicates a shortage. At the same time, 11 MS (Estonia, Ireland, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovenia, and Sweden) do not start an intervention in debt recovery unless there is an explicit request from another MS referring to the Directive.

Figure 59: Summary of problems related to exceptional situations



Source: own elaboration, based on the Commission's working documents.

3.7.3 Magnitude of the Problem

➤ Value and Volume of Movements Where Exceptional Situations Occur

Only scarce data is available regarding the various types of regularities. The information presented below was extracted either from the EMCS or provided directly by the MSAs (for instance, Slovakia was able to provide an aggregate number of movements that ended in any kind of irregularity for 2016—17,979). However, unfortunately, it is by no means complete and should not be treated as an exhaustive overview of the situation.

Interruptions

Notification on an interruption of a movement (IE807) is reportedly one of the least often used functionalities of the EMCS; in 2016, IE807 messages were recorded 495 times in the common domain of the EMCS.

Table 24: Number of reported time notifications on the interruption of a movement (IE807)

	IE807
Jan 2016	54
Feb 2016	87
Mar 2016	46
Apr 2016	51
May 2016	37
Jun 2016	34
Jul 2016	27
Aug 2016	32
Sep 2016	47
Oct 2016	43
Nov 2016	20
Dec 2016	17

Source: EMCS.

Shortages and Excesses

The number of movements where excesses or shortages were reported varied among MS (at least among those that provided answers to the question) from 0 reported by Latvia, to 17,879 in Slovakia.

Table 25: Number of movements where excesses or shortages were detected, by country

	Number of movements where excesses/shortages were detected	Amount of shortages in terms of value of goods (EUR million /year)
Bulgaria	1215	-
Czech Republic	7470	-
Latvia	0	0
Hungary	3075	-
Netherlands	4500	0.5-1
Romania	13246	-
Slovenia	17000	1.5
Slovakia	17879	-

Source: own elaboration, based on information provided by MSAs.

If we extrapolate the data to the entire EU, the **share of movements where excesses/shortages were detected** in all movements (including B2B movements and outbound and inbound national movements, estimated using data available from the EMCS) was approximately **4.6%**.

To estimate the number of all movements per MS, we used data from the EMCS system on the number of IE801 messages sent; since only two countries, the Czech Republic and Portugal, provide information on the number of national movements sent via Common Domain (while the rest provide information on the number of IE801 and

IE818 messages sent without national movements), we estimated the total number of movements for the remaining MS using weights. Subsequently, we added an estimated number of B2B movements for each MS (3.2% of all movements; for details, see Chapter 3.5.3).

In terms of the value of the goods missing, Latvia reported a value of 0, while the Netherlands and Slovenia estimated the values of EUR 0.5-1 million and EUR 1.5 million, respectively. In the Czech Republic, in 2016, the authorities found that shortages amounted to 2,264,378 litres of energy products, 34,777 litres of beer, 279 litres of intermediate products, 4,543 litres of alcohol, 60,443 litres of wine, 2,081 pieces of cigarettes, 81 kg of tobacco products, and 4,091 kilograms of energy products. Extrapolating the data again (attaching weight to each MS based on the abovementioned calculations and using Intrastat data on the values of all excise movements per MS), it may be estimated that the amount of shortages in terms of value of goods amounted to 0.02% of the value of the entire intra-EU supply of excise goods.

Values of all excise movements per MS were derived from Intrastat.

Table 26: Forecast of the number of movements where excesses or shortages are expected to be detected in the next five years

	2021 vs. 2016 (forecast) Number of excesses/shortages detected/year	2021 vs. 2016 (forecast) Amount of shortages in terms of value of goods (EUR million /year)
Czech Republic	increase	.
Germany	increase	.
Hungary	decrease	decrease
Ireland	0	0
Latvia	0	0
Netherlands	+1%	+1%
Romania	+46%	+46%
Slovakia	+5-7%	+5-7%

Source: own elaboration, based on information provided by MSAs.

Concerning the predictions regarding the number of excesses and shortages, five MS expected an increase in the number of detections, two predicted no changes, and one (Hungary) reported it envisaged a decrease. Extrapolating these predictions to all MS, it may be estimated that **the number of detected cases of shortages and/or excesses will increase by approximately 5%** (our methodology is explained in the two paragraphs above). Calculations were made by attaching weights to each MS based on their reported current and expected number of cases of excesses/shortages and the total number of movements with excesses/shortages estimated at 4.6% of the value of the entire intra-EU supply of excise goods (see the beginning of this Chapter).

In terms of the expected change in the value of the goods missing in the upcoming five years, two MS forecast no changes, one (Hungary) forecasts a decrease, while three MS expect an increase in line with the rise in the number of detected shortages/excesses themselves. Extrapolating these predictions to all MS, it may be estimated that **the value of detected cases of shortages and/or excesses will**

increase by between approximately 13-29%. Calculations were made by attaching weights to each MS based on their reported current and expected value of excesses/shortages and the total value of excesses/shortages estimated at 0.02% of the value of the entire intra-EU supply of excise goods—see the beginning of this Chapter.

Moving to the data provided by the EOs, the majority (57%) reported having less than 50 cases of movements where excesses or shortages were reported in a year. No cases exceeding more than 5,000 of such occurrences a year were reported. Concerning the amount of shortages in terms of value of goods, half of the EOs reported them to be under EUR 500 per year. However, 40% noted it exceeded EUR 10,000 per year and 15% noted it exceeded EUR 100,000 per year.

As the majority (60%) of SMEs did not provide information on the number or the value of movements where shortages/excesses were detected, it is difficult to draw any definite conclusions on the scale of the problem. Out of those that did provide an answer, all believed the number of such movements was under 500 a year. In terms of value of goods, three estimated the amount of shortages at below EUR 500,000, and one at between EUR 10 and 50 million.

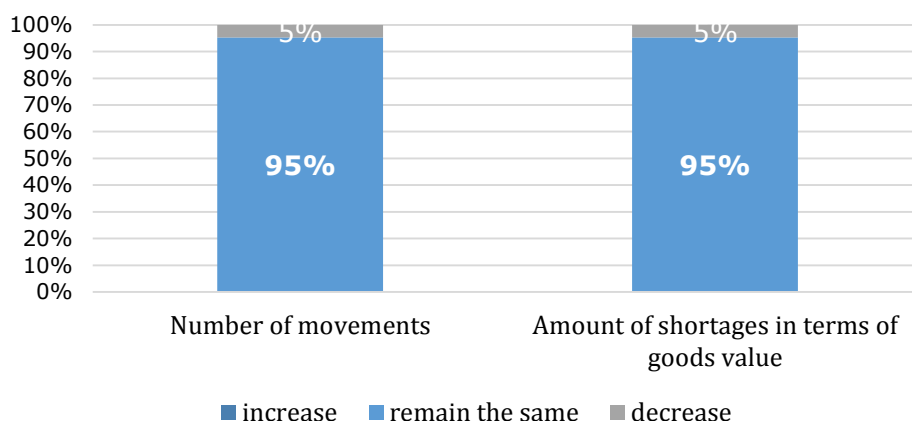
Data provided by the EOs in questionnaires suggest that, on average, **movements where excesses/shortages were detected constituted between 6.2% and 11.4% of all of their movements.**

Table 27: Movements where excesses/shortages were detected (per EO, 2016)

Number of movements/year		Value (EUR thousand/year)	
0-50	12	0-500	10
50-500	6	500-5,000	2
500-1,000	-	5,000-10,000	-
1,000-5,000	3	10,000-50,000	4
5,000-10,000	-	50,000-100,000	1
>10,000	-	>100,000	3

Source: own elaboration.

In terms of predictions for the future, only one EO expected both the number and volume of movements where excesses or shortages were detected to decrease, while the remaining EOs estimated that both the number and volume will not change in the upcoming five years.

Figure 60: Predictions for the number and value of movements where excesses/shortages were detected (next five years)

Source: own elaboration.

Chasing Other MS Duties

Eight MS reported experiencing difficulties while trying to recover duties from an EO residing in another MS (five others said they had never had such problems). Among those who did experience difficulties, seven MSAs blamed the lack of clarity regarding which MS had taxing rights, seven MS mentioned lack of familiarity with tools, three reported language problems (with the Czech Republic mentioning explicitly that it required costly official translations of documentation, which sometimes exceeded the amount of the debt itself), and two indicated lack of guarantees.

3.8 Risk Analysis

3.8.1 Problem outline

The MSAs do not always have all necessary data to perform an optimal risk analysis. Currently, EU MS do not have information regarding international movements in EMCS, e.g. information about the owner of goods at dispatch and owner of goods at destination, change of vehicle and warehouse capacity. Some of the information is available for MS only for national movements.

3.9 Cross-border acquisition of excise goods by private individuals

3.9.1 Overview of the Current Situation

With regard to excise goods that are purchased by private individuals for their own use and transported from one MS to another, Article 32 (in line with Recital 27) of the Directive establishes that excise duty should be paid in the MS where the goods are purchased.⁶⁵ This provision aims to improve the functioning of the Internal Market and facilitate cross-border movement of goods by limiting administrative burdens imposed on consumers. In this respect, the Directive sets some basic rules to confine the scope of the provision. First, both Recital 27 and Article 32.1 clarify that such goods should be transported cross-border by private individuals themselves, without any

⁶⁵ It is worth stressing that this provision does not affect duty-free purchases, which are forbidden for travellers going from one EU country to another.

intermediation. Then Article 32.2 lists five elements that MS should take into account to ascertain that goods are intended for the 'own use' of private individuals: i) the commercial status of the holder; ii) the place where the excise goods are located and the mode of transport; iii) any documentary evidence related to the excise goods; iv) the nature of the excise goods; and the v) quantity of the excise goods. As regards the latter element, Article 32.3 allows MS to select guide levels; such levels cannot be lower than minimum thresholds spelled out in the Directive for both tobacco products and alcoholic beverages.⁶⁶ Interestingly, the Directive refers to 'own use' rather than 'own consumption', thus most likely including, *inter alia*, use within the family or e.g. for a private party. At any rate, 'own use' excludes any form of resale of the alcohol/tobacco purchased in another EU country. Finally, the Directive makes no reference to a time window to which the guide levels should apply.

3.9.2 Problem Analysis

Article 32 of the Directive could give rise to distortions in the functioning of the Internal Market. In fact, the application of different excise duty rates to the same category of products in different EU MS coupled with the possibility to pay the excise duty in the MS where the excise goods are purchased (rather than consumed) may provide incentives for private individuals to purchase tobacco products and alcoholic beverages at a cheaper price in a MS other than the one where they usually reside and consume such goods. This may divert tax revenues between EU MS. It may also impinge on health policy targets in those MS where taxation is, *inter alia*, used as an alcohol and/or tobacco control tool. Finally, to some extent, it may distort competition between sellers of excise goods located in different MS (especially those located in border regions) by creating an artificial competitive advantage based on tax arbitrage.

These distortions are expected to emerge when the difference in the excise duty rates is so high as to offset the additional costs private individuals would incur to transport in person the excise goods from one MS to another. Therefore, the policy problem is more severe in border regions where road or maritime transport is possible.⁶⁷ Furthermore, the policy problem appears to be exacerbated by the adoption of the concept of 'own use', which has a (more uncertain interpretation and) broader meaning than 'own consumption' and is also reflected by high minimum thresholds for guide levels. The text of the Directive, however, does not specify, what were the grounds for setting the current thresholds for guide levels.

In addition, the distortions in the functioning of the Internal Market are worsened by any abuse of the current system. Reportedly, some private individuals commit fraud by distributing for free or selling the excise goods allegedly purchased for their 'own use'; in addition, in some Nordic countries, organised crime relies on this provision to smuggle alcoholic beverages that are then sold with profit. These abuses are favoured by the absence of a time window to which guide levels apply. In fact, private individuals may make repeated trips across borders (in principle, even every day for the entire year), always carrying amounts of excise goods just up to the guide level, and law enforcement authorities might still find it difficult to prove that such excise goods are not meant for 'own use'.

⁶⁶ With regard to tobacco products, the following thresholds apply: 800 cigarettes; 400 cigarillos; 200 cigars; and 1kg of smoking tobacco. With regard to alcoholic beverages, the following thresholds apply: 10l of spirits; 20l of intermediate products; 90l of wine (60l of sparkling wine); and 110l of beer.

⁶⁷ Despite the sharp decrease in airline fares enabled by low-cost air carriers, limitations on luggage weight and dimensions as well as restriction on liquids in carry-on baggage make still difficult to transport large quantities of alcoholic beverages for 'own use' via air transport. By contrast, airborne movement of tobacco products for private use within the thresholds set by the Directive may be more common.

It is worth mentioning that two additional drivers may affect the behaviour of private individuals deciding to purchase excise goods in other MS for their 'own use': i) the difference in the price before tax of the excise goods; ii) the availability of the excise goods. For instance, the price net of excise duty of a certain French wine might be cheaper in France than in Italy due to country-specific pricing strategies of the producer; or certain Irish beer might not be available in Denmark due to a marketing decision of the brewer. Consumer behaviours driven by these two elements are not part of the policy problem assessed by this Study, which is confined to behaviours led by differences in excise duty.

3.9.3 Magnitude of the problem

Measuring the magnitude of the problem is not an easy task for two main reasons: i) cross-border movements of excise goods transported by individual purchasers for their own use generally fall within the domain of unrecorded consumption and are not captured by official statistics; ii) it is difficult to separate purchases driven by differences in excise duty from purchases led by other drivers (e.g. product availability or differences in price net of excise duty).

Against this background, only four MSAs interviewed for this Study were able to provide statistics for average annual cross-border purchases of alcohol by private individuals for their 'own use':

- Estonian authorities stated that 0.8 litres of pure alcohol per adult are purchased by private individuals on a cross-border basis each year; this is equivalent to 8% of total alcohol consumption.
- Finland referred to 79 million litres per year, corresponding to 16% of total national consumption and amounting to a market value of some EUR 350 million.
- Hungarian authorities mentioned that cross-border purchases range from 16 to 22 million litres per year, i.e. 2.5% of total national consumption; nonetheless, they stressed that such figures also included purchases made in third countries.
- Finally, each year 16% of the Swedish national consumption of alcoholic beverages comes from purchases made by private individuals in a different MS.

Figures provided by the Finnish and Swedish authorities broadly confirm the main findings of an EU study on the topic.⁶⁸ In this context, another study published by the Swedish National Institute of Public Health⁶⁹ identified the following EU routes for cross-border purchases of alcohol for 'own use': Germany to Denmark; Denmark to Sweden; Finland (Åland Islands⁷⁰) to Sweden; and Estonia to Finland. The study also detected some potential for cross-border movements between: Estonia and Latvia;⁷¹ France and Spain; Austria and Slovenia; Belgium/France/Germany and Luxembourg; Ireland and Northern Ireland; England and France.

MSAs interviewed for the present Study indicated that public health impacts due to Article 32 of the Directive are most likely concentrated in a certain number of MS. In fact, whereas 17 MSAs responded to this part of the questionnaire, nine MSAs were aware of negative impacts on public health stemming from the Directive. Several MSAs confirmed that negative impacts are generated by the current regulatory

⁶⁸ Rabinovich *et al.* (2009), *The affordability of alcoholic beverages in the European Union*, European Commission.

⁶⁹ Swedish National Institute of Public Health (2009), *Alcohol affordability and cross-border trade in alcohol*.

⁷⁰ Åland Islands is a self-governing province of Finland; its relationship with the EU is regulated by a special protocol which enables the sale of tax free goods to passenger travelling between Åland Islands and other MS.

⁷¹ Apparently both Estonia and Latvia are also affected by cross-border purchases made in Russia.

framework and, more specifically, by: i) the minimum thresholds for guide levels, which appear to be too high; ii) the absence of a time window to which guide levels apply, which allow private individuals to claim compliance with guide levels each time they cross the border.

With regard to tobacco, six MSA interviewed for this Study provided relevant statistics:⁷²

- Estonia referred to 9.6 million sticks per year, i.e. between 0.5 to 1% of the annual national consumption.
- Finnish authorities indicated that the annual average cross-border purchases of tobacco by private individuals accounted for 508 million cigarettes, which is roughly 11% of total annual consumption.
- In France, on average each year more than 15% of total national consumption of tobacco products is purchased in a different MS.
- Hungary reported 200 million sticks purchased abroad each year, i.e. 3% of national consumption of cigarettes, worth about EUR 8.5 million.⁷³
- In Sweden, cross border purchases of tobacco products by private individuals amount to some 5% of the total national annual consumption.
- Finally, each year, 1.5 billion sticks of cigarettes consumed in the UK are purchased by private individuals in other MS, which is equivalent to about 4% of the national cigarette consumption.

In this context, a Eurobarometer survey suggests that more than 90% of Europeans do not purchase tobacco products cross-border and only 5% do purchase tobacco products in another EU country. Interestingly, 60% of cross-border purchases are driven by price considerations. More than 80% of cross-border purchases are done directly by consumers and such purchases represent more than 5% of the yearly tobacco consumption for about 40% of cross-border purchasers.⁷⁴

Against this background, respondents to the OPC sketched a mixed picture with regard to the potential impact of the Directive on public health issues related to consumption of alcohol and/or tobacco (see Annex D). In fact, more than 44% of respondents argued there is no impact, 38% identified a negative impact, and the remainder had no opinion on the topic. Results become, however, clearer when looking at different categories of respondents: whereas the lion's share of EOs and business associations were not aware of any public health-related issue, the clear majority of consumers and NGOs believe that national health policy may be negatively affected by the Directive. More specifically, most of those respondents who were concerned by public health impact specified that Article 32 of the Directive impinges on alcohol control policies; they especially argued that thresholds set for alcoholic beverages are too high and also make room for fraud, as private individuals (in practice) may transport alcohol products both for their 'own use' and for illegal reselling. It is worth remarking, however, that almost 70% of consumers and NGOs participating in the OPC are based in Sweden, which appears to be one of the most affected country by cross-border movement of alcoholic beverages by private individuals. Only a marginal share of respondents also referred to public health issues related to tobacco products. Some

⁷² It is worth remarking that when it comes to tobacco products, illicit trade appears to be the main source of loss in tax revenues and distortions in health policies. In this respect, Euromonitor estimates that 66 billion illicit cigarettes were marketed in Europe, in 2015 (i.e. 14% of the total market); (for further details see: <http://www.euromonitor.com/illicit-trade-in-tobacco-products/report>).

⁷³ Hungarian authorities also reported that less than 1% of national consumption of tobacco products other than cigarettes is purchased in a different MS by private individuals.

⁷⁴ Special Eurobarometer 385 (2012), *Attitudes of Europeans towards tobacco*, European Commission.

stakeholders stressed that when compared to yearly average consumption, thresholds set for tobacco products are lower than those set for alcoholic beverages.

4 DEFINITION OF POLICY OPTIONS

This chapter describes various policy options identified to address the issues at stake and outlines the impact areas requiring a more thorough analysis. As some policy options require more fundamental changes than others, and as some policy options are more advanced in terms of their preparation, the content of the sub-chapters may differ.

4.1 Excise-Export

There are three policy options defined and analysed within the customs-export problem area. These are:

- 1. Recording and validating some excise data items in the customs export declaration**, ordered from the least demanding to the most demanding:
 - a) Record and validate SEED numbers of EOs plus record and validate the ARC number of the related excise movement; and
 - b) Option a plus a full data cross-check of entries in the export declaration and e-AD (e.g. goods description).
- 2. Automation of EMCS-AES interface**, to ensure the synchronisation of the status of export and excise movements.
- 3. Harmonisation of excise-customs legal base for alternate proofs of exit.**

The two versions of the policy option regarding recording and validating data items are exceptive. In other words, the implementation of a full data cross-check requires recording and validating the ARC and SEED numbers of EOs.

The implementation of both *Recording and validating some excise data items in the customs export declaration* and *Automation of EMCS-AES interface* would be based on BPMs developed by the Commission but, similar to the introduction of the EMCS, under the responsibility of each MS.

4.1.1 Automated Data Cross-Check

The first policy option defined within the customs-export problem area is the systematic cross-check of data between the customs export declarations and the excise declarations (e-AD). The main goal for introducing such a solution is reducing the scale of fraud, which might be facilitated by manual and, likely, selective cross-checks between the two documents.

Two options are under consideration. The first is the cross-check at the message header level, which would require excise ARC and SEED numbers to be included in the export declaration and to cross-check them on a per-export declaration basis. The second type of cross-check under consideration is more comprehensive, and, in addition to the simpler cross-check, would also verify the goods description in the export declaration and excise e-AD are consistent.

If the cross-check detects a mismatch, then the export declarant will be required to take corrective actions (e.g. amend the export declaration). Otherwise, the export release will be refused or excise duty will be claimed by MS excise authorities.

According to the assumptions of this policy option, derogations will be granted to MS with low volumes of export of excise goods, so that, for example, Malta and Cyprus will be allowed to continue performing their cross-checks manually.

4.1.1.1 Automated Data Cross-Check at Message Header Level (Documents)

The automated data cross-check at the message header level has already been defined in the BPMs developed by the Commission. The name of the process in AES documentation is *L4-EXP-01-01-01-01: Handle e-AD Request* (see the visualisation of the process in Annex F).

When during the process acceptance of the export declaration the system identifies that the declaration contains one or more ARCs at the goods item level, the L4 process *Handle e-AD Request* is initiated. Consequently, the AES requests the e-AD in electronic format (nIE532) from the EMCS of the MS of export. As goods declared in one export declaration can refer to several e-ADs, a request for all e-ADs must be sent to the EMCS in either one or several messages.

After the request, one of the following cases must be fulfilled:

- The AES at the customs office of export receives an e-AD from the EMCS of the MS of export in an electronic format (IE801). Additionally, the AES records the e-AD, which was received from the EMCS.
- The AES at the customs office of export receives the rejection of the e-AD request from the EMCS of the MS of export in an electronic format (IE906). The AES records the e-AD, which was received from the EMCS. The AES informs the trader about the rejection of the customs declaration, indicating the reasons for the rejection (IE516).

The final situation after running the process is:

- The e-AD request is accepted by the EMCS of the MS of export.
- The e-AD request is rejected by the EMCS of the MS of export. In addition, the trader is informed of the export declaration rejection due to the e-AD rejection.

4.1.1.2 Automated Data Cross-Check at Message Body Level (Goods Description)

The recording and validation of the SEED numbers of EOs with a full data cross-check of entries in the export declaration and e-AD requires two additional processes at the L4 level. These are *L4-EXP-01-01-01-03: Cross-Check e-AD* and *L4-EXP-01-01-01 Acceptance of Export Declaration* (see the visualisation of these processes in Annex F).

When the export declaration is accepted in the AES (namely, when a movement reference number (MRN) is allocated) and the declared goods are identified under excise, the duty suspension arrangement in *Acceptance of Export Declaration* the *Cross-Check e-AD* process initiates. Within this procedure, the AES cross-checks the data of the customs declaration plus the e-AD and records the result of the cross-check. As a result, the AES records the cross-check results which will be used during risk analysis and the control decision later on in the *Acceptance of Export Declaration* procedure.

The process of *Acceptance of Export Declaration* starts when the declaration data is submitted to the office of export. Next, the validation of the export declaration is performed by the AES. If the declaration is invalid, the AES rejects the declaration and notifies the exporter that the declaration is rejected, giving the reason for the rejection. If the declaration is valid, the AES automatically records the export declaration and the validation results.

Consequently:

- If the AES receives the export declaration without the goods being presented (Additional Declaration Type=D, E, F), the state of the movement will be set to *Registered and Waiting for Presentation of Goods*.
- If the AES receives the export declaration and goods are presented, the state of the movement will be set to *Registered and Goods Presented*.

After the *Record of Export Declaration*, the AES performs the necessary checks to ensure that the provided location reference number (LRN) from the declarant is unique and checks the validity of the declared authorisation.

If authorisations are invalid, the AES will inform the declarant of the export declaration rejection (via IE516). The process ends when the export declaration is rejected. The main process *L4-EXP-01-01-Customs Formalities at Office of Export-Acceptance and Controls* continues.

If authorisations are valid, the AES will continue with identifying if the customs declaration contains one or more ARC at the goods item level to determine if the declared goods are under an excise duty suspension arrangement.

In the case of continuation, if the export declaration contains ARCs, the process *Handle e-AD Request* will be initiated. If the e-AD request is accepted by the EMCS and a valid e-AD is provided, the e-AD will be recorded and the main process *L4-EXP-01-01-Customs Formalities at Office of Export-Acceptance and Controls* continues.

If the e-AD request is not accepted by the EMCS of the MS of export, the AES will record the rejection (via IE906) and inform the trader about the rejection. Then, the export declaration is rejected and the main process *L4-EXP-01-01-Customs Formalities at Office of Export-Acceptance and Controls* ends.

In the cases when *L4-EXP-01-01-Customs Formalities at Office of Export-Acceptance and Controls* continues, the AES checks if the goods have been presented at the office of export.

If the goods are presented, the AES will accept the export declaration and the movement state will be set to *Accepted*. The AES generates an MRN for the movement and the trader is notified (IE528) of the export declaration acceptance and the allocation of the MRN.

Unless the goods are presented, two of the following events could occur:

- The AES will receive the presentation notification (nIE511) and, if it was valid, the export presentation notification will be recorded and the process *L4-EXP-01-01-Customs Formalities at Office of Export-Acceptance and Controls* would continue. Next, the state of the movement is set to *Accepted*. The AES

generates an MRN for the movement and the trader is notified (IE528) of the export declaration acceptance and the allocation of the MRN.

- The timer for the presentation notification expires and the export declaration is rejected.

After the trader is informed about the acceptance, the AES interacts with the national risk analysis systems of the MS to request a risk analysis. When the risk analysis results are received, the AES records them and the process *L4-EXP-01-01-Customs Formalities at Office of Export-Acceptance and Controls* ends. In cases where the declaration contains an ARC in the goods item level, the process *Cross-Check e-AD* will be initiated.

The final situation after running the procedure is:

- If the declaration is not valid, it will be rejected and the trader will be informed about the situation.
- If the declaration is valid, it will be accepted, an MRN will be generated and allocated. The trader is notified about the acceptance of the declaration. As a result, the state of the movement is set to *Accepted*.

4.1.2 Automated Process Synchronisation

The objective of the full automation of the EMCS-AES interface is to reduce the administrative burden of manual movement closures, as well as to shorten the duration of an export movement with excise. In addition to the full cross-check, the automated synchronisation would automatically close the movement in the EMCS and release the excise guarantee.

The synchronisation of the EMCS and AES requires the modification of three processes, which are:

- L4-EXP-01-02: *Customs Formalities at Office of Export Release*;
- L4-EXP-01-03-03: *Handle Exit Control Results*; and
- L4-EXP-01-03-04: *Certification of Exit*.

For a full illustration of the processes affected by the automation, see Annex F.

L4-EXP-01-02: Customs Formalities at Office of Export Release starts when the decision to release the goods has been made. Then, the AES releases the goods for export. At this point, the AES starts a timer (90 days) to receive the exit results from the customs office of exit. The time limit can be configured by each MS. At the same time, the AES starts a timer (150 days) to certify the exit of the goods to the trader. At the same time, the AES identifies the declaration type. If it is not a simplified declaration, the process continues. If it is a simplified declaration, the AES identifies if the waiver for supplementary declaration applies.

In total, the following situations might take place:

- If the waiver for the supplementary declaration applies, then the timer for lodgement of the supplementary declaration will start.
- If the waiver for supplementary declaration does not apply, the process will continue.

Later, the release of the goods is communicated (via IE529) to the trader at export. The release information always corresponds to the current version of the export operational data. This means that it contains the amended declaration data (if any) and/or the revised declaration data after a control (if any), complete with the control results of the office of export.

The AES checks whether the customs declaration is lodged under the centralised clearance procedure. If the customs declaration is lodged under the centralised clearance procedure, the AES informs the presentation customs office of the release of the goods for export (IE543). The customs declaration data together with the control results and other relevant information from the customs office of export is sent to the presentation customs office. The presentation customs office informs the holder of the goods about the release (nIE566) and the process ends with the movement state *Goods Released for Export*.

The AES identifies whether the customs office of exit is in the same or another MS.

If the customs office of exit is located in another MS, the AES will send an anticipated export record (IE501) to that MS. Risk analysis results can also be communicated to the office of exit for information purposes.

In addition, the AES checks whether the customs declaration contains an ARC at the goods item level to determine if the declared goods are under an excise duty suspension arrangement. If so, the AES sends a copy of the anticipated export record (IE535) to the EMCS of the MS of export.

Finally, the export movement may leave to the MSA of export if under excise, to the customs office of destination if under transit follows export, or to the customs office of exit. The movement state is then set to *Goods Released for Export*.

L4-EXP-01-03-03: Handle Exit Control Results starts when either the customs office of export receives positive exit results after the operation status check is performed or when the exit results are available at the customs office of export.

The AES checks the received exit results to determine whether they are positive (control results *Satisfactory* (code A1) or *Minor Discrepancies* (code A4)) or negative (control results *Unsatisfactory* (code B1)).

- If the exit results are negative, the AES will notify the customs officer at export that the movement has been stopped at the office of exit because of discrepancies detected. The movement state is set to *Export stopped, discrepancies at Exit*. The AES checks whether the customs declaration contains an ARC at the goods item level to determine if the declared goods are under an excise duty suspension arrangement. If so, then a notification information exchange (IE) will be sent to the EMCS at the MSA of export informing about the negative exit results (IE518).
- If the exit results are positive, then the AES will check the received exit results to determine whether the control results are of type *Minor Discrepancies* (code A4).
 - If the control results are of type *Minor Discrepancies*, then the AES will update the export movement data with the control results and discrepancies identified at the customs office of exit.
 - If the control results are of type *Satisfactory*, then the process will end.

The final situation can be one of the following:

- If the results are negative, the movement state is set to *Export stopped, discrepancies at Exit*.
- If minor discrepancies are reported in the exit confirmation, the export data will be updated accordingly. In addition, the movement state is set to *Exported* and the involved parties will be notified of the export operation.

The certification of exit process (*L4-EXP-01-03-04-Certification of Exit*) has three possible start events:

- The *Certify Exit* process is initiated based on alternative evidence that goods have exited. This start event is triggered by the enquiry procedure from *L4-EXP-01-08*.
- Positive exit results become available at the customs office of export.
- The customs office of export is the same as the customs office of exit and exit notification becomes available.

The AES of the customs office of export certifies the exit of the goods based on available positive exit results or a decision taken by the customs officer. The movement state is then set to *Exported*. The AES also stops the *Certify Exit* timer that started in *L4-EXP-01-01*. The AES will then notify of the goods exit certification (based on the declaration type) and then the procedure will end, resulting in:

- The AES informing the trader that the exit of the goods has been certified (IE599) by forwarding the full export movement data, updated with the exit results and, if necessary, the discrepancies received from the customs office of exit.
- If the customs declaration is lodged under centralised clearance, then the AES informs the presentation customs office that the exit of the goods has been certified (via IE592). The AES forwards the full export movement data, updated with the exit results and, if necessary, the discrepancies received from the customs office of exit, and finally, if the exit is based on alternative evidence, such information will also be transmitted. Otherwise the presentation customs office is not informed.
- If the customs declaration does not concern split exit and if the exit is certified based on the alternative evidence, then the AES will inform the customs office of exit that the exit of the goods has been certified based on the alternative evidence (IE588). Otherwise, the customs office of exit does not receive such information.
- If the customs declaration concerns split exit, then all involved customs offices of exit (the declared customs office of exit and customs offices of exit that have received declaration data) will be informed of the certification of exit (IE524). If the certification of exit is based on alternative evidence, such information will also be included in the IE524.
- If the customs declaration contains one or more ARC at the goods item level, meaning that the declared goods are under an excise duty suspension arrangement, then the AES will inform the EMCS at the MSA of destination/export that the exit of the goods has been certified (IE598). The AES forwards the full export movement data, updated with the exit results and, if necessary, the discrepancies received from the customs office of exit, and finally, if the exit is based on alternative evidence, such information will also be transmitted. Otherwise, the EMCS at the MSA of destination/export does not receive such information.

Finally, the movement state is set to *Exported* and the *Certify Exit* timer is stopped.

4.1.3 Harmonisation of Excise-Customs Legal Base for Alternate Proofs of Exit

The policy option of *Harmonisation of excise-customs legal base for alternate proofs of exit* envisages specifying the list of documents that would be accepted by MS excise authorities in the cases where exit results are not obtained by the office of export. The exact list of proof has yet to be specified. However, it will contain some of the documents already accepted by the customs authorities in the UCC IA⁷⁵, namely:

⁷⁵ See UCC Implementing Act (EU) 2015/2447 Article 335(4).

- a copy of the delivery note signed or authenticated by the consignee outside the customs territory of the EU;
- proof of payment;
- invoice;
- delivery note;
- a document signed or authenticated by the EO which has taken the goods out of the customs territory of the EU;
- a document processed by the customs authority of a MS or a third country in line with the rules and procedures applicable in that MS or country; and
- EOs' records of goods supplied to ships, aircraft, or offshore installations.

The goal of harmonising the proof is to reduce legal uncertainty and process complexity for EOs and MS, without putting the financial interest of MS at risk.

4.2 Excise-Export Followed by Transit or STC

4.2.1 Use of External Transit Only

The policy option under consideration regarding the use of transit and STC procedures is to oblige operators to use external transit for all excise goods if they want to use the simplifications for export under Article 329(5)-(7) UCC/IA, which will result in closing the export procedure and the EMCS when the goods are still moving in EU customs territory. The customs guarantee will cover any potential excise debt since the goods remain under customs supervision until they exit.

To enable such a change in the arrangements used for exporting excise goods, Article 189 UCC DA will need to be modified. Additionally, Article 329(6) and (7) of the same act will have to be made explicitly not applicable for moving excise goods. Article 4(6) of the Directive should also be amended to include the possibility to use external transit instead of the EMCS. In addition, Article 17(1)(a)(iii) should define the office of exit as the EMCS destination only if export followed by external transit is used (and not for STC). Article 20(2) and Article 17(1)(a)(iii) should include the possibility to end the movement at the office of exit. Article 25(1) of the Directive will need to be modified to enable the Office of Exit, being the Office of Departure for transit, to confirm exit when transit starts.

4.3 Excise-Import

Given the considerations described in Chapter 3.3, it is necessary to evaluate solutions that would reduce or eliminate loopholes between excise and import. The current state of affairs may call for a more harmonised approach, such as an automated system that tracks movement and ensures good reasons for duty suspension and/or procedures for the payment of excise duty on the importation of excise goods and better evidence required for deferring payment.

To help reduce fraud, this policy option envisages cross-checking some data between the customs import declarations and the excise e-AD. Three types of cross-checks are being considered.

The first, an automated data cross-check at the message header level, which would require the SEED numbers of the consignor and consignee to be included in the import declaration and would cross-check their validity automatically on a per-import declaration basis.

The second automated data cross check is in addition to the one above, and would require the ARC of the EMCS movement to be included in the import declaration and would cross-check its validity automatically on a per-import declaration basis, which

would require interactions between the national import system and the national excise application of the EMCS.

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

4.3.1 Automated Cross-Check of SEED Numbers

An automated data cross-check at the message header level would require the SEED numbers of the consignor and consignee to be included in the import declaration and would cross-check their validity automatically on a per-import declaration basis.

The following processes, functions, and message exchanges need to be changed or implemented:

- The import process from registration to release of a customs declaration must be reviewed and revised according to the national implementation and the new requirements.
- The function must be called from Customs Declaration Processing System (CDPS), which finds procedure code 45 or 42 and the additional code F06 in the customs declaration.
- The CDPS checks the SEED registration quoted on the customs declaration.
- If the SEED number quoted is correct, the customs declaration will be processed.
- If the SEED number quoted is not correct, the customs declaration will need to be rejected and a message to the trader will need to be generated.

4.3.2 Automated Cross-Check of SEED and ARC

The second automated data cross check, in addition to the one above, would require the ARC of the EMCS movement to be included in the import declaration and would cross-check its validity automatically on a per-import declaration basis. This requires new interactions between the national import system and the national excise application of the EMCS.

This would only work if the import system is halted while an e-AD is generated in the EMCS that includes a valid ARC number.

The following changes to the systems would be required:

- introduce a new status for import declaration (waiting for EMCS response);
- the EMCS must be tailored to enable a draft e-AD version;
- the EMCS must communicate the ARC to the customs system;
- the customs system must store the ARC as part of the declaration;
- the customs system communicates back to the EMCS that the ARC was successfully received and processed; and
- the EMCS releases the draft e-AD and makes it a valid one.

4.3.3 Automated Cross-Check of SEED, ARC, and Goods Description

The third and the most advanced automated data cross-check, at the item entry level, in addition to the two above, would also verify, on a per-import declaration basis, that the goods description in the import declaration and excise e-AD is consistent. In addition to the processes changed for the automated cross-check of the SEED and ARC, only the validation on goods item level would be required.

4.3.4 EU Common List of Evidence

This policy option envisaged providing a standardised list of documents as evidence of excise duty suspension after import for all MS in the excise legislation. The list of documents has yet to be concluded by the writing of this analysis, however, a solution might be to use a list similar to that of the list for VAT exemptions at import.

4.4 Duty Paid B2B

To solve the problem of inefficient and confusing paper-based procedures as well as to enable risk analysis, two solutions are proposed for duty-paid B2B arrangements. The first is to introduce the registration of traders and their authorisations into a central IT register (SEED), and to continue with paper-based procedures for movement control only. The second solution is to automate duty-paid B2B processes by extend the existing EMCS.

4.4.1 Economic Operators' Registration and Authorisation

No BPMs of the extension of SEED were available by the time of the writing of this analysis. Available are only BPMs for registration and authorisation authorised warehouse keepers, registered consignors and consignees allowed to receive and send excise products in EMCS. Hence, an assumption was made that the registration for EOs engaged in B2B duty-paid operations would be similar to a simple VAT number-based registration. B2B duty-paid operators would extend the information registered in SEED. Currently, SEED registers authorised warehouse-keepers, registered consignors, and registered consignees. It includes the list of tax warehouses and, for each authorised warehouse-keeper, the list of tax warehouses (at least one) in use. Moreover, SEED contains the list of temporary authorisations granted to temporary registered consignees.

Registration in SEED is currently covered by functional process *UC-114-105*. It includes the creation, update, or invalidation of a specific record of registration data at the national level. As a result of this process, the data is submitted to the Common Domain Central Services.

The registration process is part of the process *L4-RADM-B2B-01-01: Maintenance of registration data*. During the registration process at the MS level, messages are created and forwarded to the Common Domain Central Services, and wait for a response from the central SEED in the form of dissemination (IE713) or refusal (IE714) of the proposed updates.

The proposed registration for duty-paid operators would be simpler and would contain less attributes than for the other types of operators. The registration process UC-114-105 that is currently available needs to be amended to add a flag or code to an EO to identify this subject as a "duty-paid" operator. During the registration process, messages IE713 and IE714 will need to be amended to include the flag or code for "duty-paid only" traders or operators. The flag or code to be set serves the purpose to identify such traders or operators. Should the option be chosen to use a code for "duty-paid only" traders, the code lists will need to be extended by one more code for "duty-paid only" traders. If only a flag is set, there would be no requirement to add additional codes.

4.4.2 Automated Movement Control (EMCS Extension)

The more far-reaching amendment would be to fully automate B2B duty-paid movements. It is assumed that the current paper-based procedures would be replaced

by computer-based ones by extending the EMCS to the duty-paid B2B processes, data, and rules.

A prerequisite for implementing the full automation would be the registration of EOs, which was described in Chapter 4.4.1.

The BPMs for extending the EMCS to B2B duty-paid arrangements are available. Moreover,, a project run by the Commission produced a business case for the automation of the supervision of this kind of movement. According to this case, a revised legal base for Directive 2008/118/EC, Articles 33-35 and Article 38, would be necessary. In addition, the UCC IA would need to be revised again.

As the compliance costs for automating duty-paid B2B processes by extending the existing EMCS might be relatively high for very small EOs, the automated duty process might only apply within certain thresholds for companies' excise operations.

4.5 Low Risk Movements

4.5.1 Optional Simplification

The main goal of this policy option is to facilitate trade in goods that are believed to carry low risk by virtue of introducing standard simplification schemes in the Directive for their movements.

Simplification schemes are currently available under Article 31, and are based on the following: "simplified procedures may be established for the purposes of frequent and regular movements of excise goods under a duty suspension arrangement which occur between the territories of two or more Member States" (including movements via fixed pipelines). However, due to the difficulties in negotiating bilateral or multilateral schemes (such as the long procedures or rubber-stamping by a national parliament required by some MS), they are rarely used.

The Commission believes that the simplifications might be introduced in the case of movements of certain goods that can be deemed "low risk", such as:

- completely denatured alcohol, which is currently exempted from excise duty as long as it is denatured using one of the denaturing methods approved by MS and is conditional on the application of the provisions of Directive 92/12/EEC that it must be irreversible methods that do not allow it to be returned to alcohol suitable for human consumption;
- certain energy products that are not obliged to move under the EMCS—namely, products listed in Article 2(1) but not mentioned in Article 20(1) of the Energy Tax Directive (Directive 2003/96/EC), with the following CN codes:
 - 2701, 2702, 2704-2710, and 2712-2715 (excluding: 2707 10, 2707 20, 2707 30, and 2707 50; 2710 11-2710 19 69), as well as 2711 11, 2711 21, and 2711 29;
 - 2901 and 2902 (excluding 2901 10, 2902 20, 2902 30, 2902 41, 2902 42, 2902 43, and 2902 44);
 - 3403;
 - 3811; and
 - 3817;
- goods taxed at very low rates—lower than the VAT levied on the sale of the good (such as light alcoholic beverages); based on average VAT thresholds in the EU (between 18% in Luxembourg and 27% in Hungary), the threshold shall be established at 20%; and
- goods sold in quantities where the excise duty charged is small in comparison with the economic value of the good; the proposed threshold is EUR 1,000.

Additionally, EOs with a good record of meeting regulatory requirements could be able to benefit from simplified reporting.

The simplification envisaged would include setting up a system of monthly reporting for cross-border transactions (similar to the VAT procedure), with an exchange of data between MS for reconciliation and control purposes. The accompanying document could be replaced by a commercial accompanying document, such as the CMR (Consignment Note for Road Transport). This simplification would be optional for MS and, consequently, would not necessarily be enforced EU-wide.

4.6 Exceptional Situations

In relation to various exceptional situations that may occur during the movements of excise goods (as described in Article 10 of the Directive such as shortages and excesses, losses, or rejections of a consignment, the following policy options have been suggested:

- **standardisation of procedures and equipment** used to estimate shortages and excesses;
- introduction of a standardised **allowable losses threshold** (tolerance threshold);
- introduction of a “**right to be heard**” for shortages or excess proceedings; and
- **integration of the excise procedures** with the procedures laid out in the Recovery Directive.

4.6.1 Standardisation of Procedures and Equipment Used to Estimate Shortages and Excesses

While the procedure for dealing with already identified shortages and excesses is outlined in the functional specifications (FESS), how they are estimated varies greatly between individual MS. The reason behind the suggestion to introduce standardised procedures and equipment used for estimating shortages and excesses is, therefore, twofold. Firstly, the aim is to reduce levels of uncertainty for EOs; the previous evaluation found that for 75% of the stakeholders interviewed, the lack of clear and unified rules regarding how losses are determined (and indeed when a loss becomes a shortage) was considered a major source of uncertainty. Secondly, this would benefit MS as well, reducing administrative burdens and uncertainty, as well as helping to prevent fraud.

The exact procedure or set of tools that would be applied in estimating shortages and excesses has not been outlined yet. However, new guidelines would be based on the existing metrology directives as well as the current practices of the MS following a careful evaluation of these practices. Different sets of rules and instruments would be assigned for different types of excisable goods.

4.6.2 Introduction of a Standardised Allowable Losses Threshold (Tolerance Threshold)

Under the proposed policy option, 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).

4.6.3 Introduction of a “Right to be Heard” for Shortages/Excess Proceedings

Customs Union Code (Art. 22(6)) and Delegated and Implementing Regulations 2015/2446 and 2015/2447 (Art. 8) state that a person (or EO) 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”. However, certain gaps in the coverage of the right to be heard remain. 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 EOs and administrative burdens for MS.

4.6.4 Integration of the Excise Procedures with the Procedures Laid Out in the Recovery Directive

The main goal of the proposed integration of the procedures in the Directive with relevant procedures laid out in the Recovery Directive is the reduction of difficulties in recovering excise debts from an EO in another MS. The integration would hopefully make the process of recovering excise debts less ambiguous by virtue of clarifying the roles that MS have in reserving guarantees and claiming excise duties recovered in case of a fraudulent clearance of an EMCS movement, as well as clarifying the recovery process itself.

4.7 Risk Analysis

As a minor policy option, beyond core problem areas touched upon in this Study, is the implementation of extra data items in SEED and in e-ADs, which could serve as a crucial input for risk analysis systems.

According to the assumption of the analysed policy option, EOs would be required to provide MSAs with the following extra information about their business and movements of goods:

- owner of the goods at dispatch;
- owner of the goods at destination;
- change of vehicle (or transshipment); and
- warehouse capacity.

4.8 Cross-Border Acquisition of Excise Goods by Private Individuals

As discussed above, Article 32 of the Directive may affect the functioning of the Internal Market and generate distortions in terms of tax revenues, health policy targets and cross-border competition. To address this policy problem, it may be required to **clarify and/or tighten the rules governing cross-border shopping of**

alcohol and tobacco. In this respect, two alternate policy options are considered in this Study:

1. Clarification of the concept of 'own use' and reduction of guide levels.

This regulatory option could entail two amendments of the Directive: i) improving the clarity and legal certainty of Articles 32.1 and 32.2 (and Recital 27) of the Directive by referring to e.g. the stricter concept of 'own consumption', which would in turn facilitate interpretation by law enforcement authorities and courts, and could lead to tighter guide levels; ii) in parallel, reducing thresholds in Article 32.3, thus allowing MS to limit the quantity that private individuals can purchase in MS other than where they consume the excise goods and, in turn, enabling more effective border checks. The current text of the Directive does not define 'own use'; therefore, implementing this policy option does not necessarily require a definition of 'own consumption', which could be left to courts. Clarity of the future text of the Directive would, however, benefit from a definition of 'own consumption'. For instance, the concepts of yearly, monthly or weekly average *per capita* consumption of alcohol and tobacco could be useful references. In addition, the introduction of a time window (e.g. week, month or year) to which the concept of 'own use/own consumption' would apply could further increase the clarity of the provision.

2. Introduction of national adjustments to guide levels. This regulatory option includes two alternate sub-options. First, an amendment of Article 32 could allow MS to derogate from the current minimum threshold for guide levels and adjust them so as to prevent 'disproportionate negative effects' on excise tax collection and/or public health. This sub-option would leave the burden of proof on MS requesting to derogate from the minimum threshold; in this respect, it could also benefit from establishing rules to define a 'disproportionate negative effect'. Second, minimum thresholds spelled out in Article 32.3 would be lowered or removed, leaving MS flexibility to set their own thresholds, without need of proving 'disproportionate negative effects'.

Both option 1 and 2 are expected to primarily impact on consumers, who will have to comply with new rules when purchasing and transporting excise goods on a cross-border basis. Indeed, the new rules will affect fraudsters abusing the spirit and/or letter of the current system. Both options would also impact on (some) MSAs, which will be called to enforce (and in certain circumstances set) new rules. Finally, the two options may affect sellers of excise goods, especially those based in border regions. The magnitude of such impacts depends on the actual content of each option and is further discussed in Chapter 5.8. Finally, it is worth emphasising that other options could be possible (such as adding points to or providing additional clarity to the concepts listed in Article 32.2) but could not be explored in the context of this Study.

5 IMPACT ANALYSIS OF POLICY OPTIONS AND COMPARISON

5.1 Excise-Export

5.1.1 Impact Analysis of Automated Data Cross-Check at Message Header Level

➤ ADMINISTRATIVE AND ENFORCEMENT COSTS FOR PUBLIC AUTHORITIES

The implementation of automated data cross-check at message header level requires amendments in the processes of national EMCS applications, as well as additional processes in the AES. Although some MS have implemented cross-check at message header level between the ECS and the EMCS, the introduction of the AES would require modification of current cross-check processes.

The following chapter presents the result of the analysis of AES and EMCS BPMs, carried out to determine the enforcement cost of automated data cross-check at message header level.

The numbers listed in the following and two subsequent subsections, namely, *Impact Analysis of Automated Data Cross-Check at Message Body Level* and *Impact Analysis of Automated Process Synchronisation Tables*, are in accordance with readily available AES BPMs. In the absence of BPMs for the EMCS, the exact and precise mapping of tasks and information exchange between the AES and the EMCS was not possible. The number of processes, tasks, and messages for the EMCS has been determined to the most accurate extent possible.

The number of processes, tasks, and messages may differ in MS due to the fact that the EMCS has been implemented by each MS individually, and thus may be somewhat higher or lower in comparison to the calculations presented in this document, depending on the development in the respective country.

The number of processes, tasks, and messages for automated data cross-check at message header level are described in Table 28. The effort in man-days is summarised in Table 29 and Table 30.

Table 28: Number of processes, tasks and messages for automated data cross-check at header message

Application	Description	No. of processes	No. of tasks	No. of messages
AES	Handle e-AD request	1	3	
EMCS	Accept e-AD	1	3	
EMCS	Reject e-AD	1	3	
AES	IE516, nIE532, nIE906, nIE801			4
EMCS	Response to nIE532, nIE906, nIE801			3

Source: own elaboration.

Table 29: Effort of implementing automated data cross-check at header message in AES

Description	Number	Effort (man-days)
Number of processes	1	50
Number of tasks	3	105
Information exchange	4	140
Total number of man-days		295

Source: own elaboration.

Table 30: Effort of implementing automated data cross-check at header message in EMCS

Description	Number	Effort (man-days)
Number of processes	1	50
Number of tasks	3	105
Information exchange	3	105
Total number of man-days		260

Source: own elaboration.

All in all, the effort of implementing automated data cross-check in the EMCS amounts to 555 man-days, which is equivalent to a 5-year TCO of **ca. EUR 310 thousand** per MS.⁷⁶

Thus far, three responses providing numerical values for the implementation of automated data cross-check have been received. Two MSAs provided information about the expected five years of TCO. According to Estonian Authorities, the cost would amount to EUR 250 thousand. According to Slovenia, the cost would amount to 35 thousand EUR. Other MSAs share information on budgetary costs solely for implementation expenses (without maintenance) of currently operational cross-checks. Belgian MSAs declared that only the implementation cost of automated cross-check was budgeted, at EUR 400 thousand.

Some MSAs were unable to provide their estimates of TCO over 5 years, as technical specifications in the EMCS were insufficient, or it was impossible to disentangle costs of implementing the cross-check for the already functioning systems. In addition, MSAs from the UK mentioned that the cost of implementing the cross-check would be minimal, as it would only require the adaptation of the currently functioning cross-check.

⁷⁶ See 2.2.2.3 Impact Analysis and Comparison of Scenarios for the assumptions regarding man-day costs.

All in all, the answers provided by MSAs prove that the TCO of the implementation of automated cross-check at header message may vary significantly between MS. The cost, estimated with the use of the IT cost model, is **ca. EUR 310 thousand**, which is roughly the average of the estimates provided by MSAs.

The introduction of automated data cross-check would bear the fixed implementation cost, and lower maintenance costs significantly. The reduction in administrative costs may top the enforcement and IT maintenance costs, which may, in turn, be one of the core reasons for its potential implementation.

The administrative costs' reduction, according to MSAs, would vary from 2 in Estonia, up to roughly 400 man-days per year in the Netherlands (see summary in Table 31). MSAs expect savings at ports, airports, and within inland post assurance, as well as anticipate a reduction in manual paper processing costs.

Table 31: Administrative cost reduction due to implementing automated data cross-check according to MSAs

Indicator	Administrative cost reduction
Unit	man-days
Estonia	2
Hungary	>10
Netherlands	400
Slovenia	5
Slovakia	216

Source: own elaboration.

Extrapolation of the gains using MS share in all extra-EU export operations, yields an EU-wide figure of **ca. 3,200 man-days**. Assuming that the gains in MS that did not provide answers would be the same as in the sample 5 MS, the gain would be equivalent to **EUR 725 thousand** per year.⁷⁷

➤ COMPLIANCE, ADMINISTRATIVE AND HASSLE COSTS FOR EOS

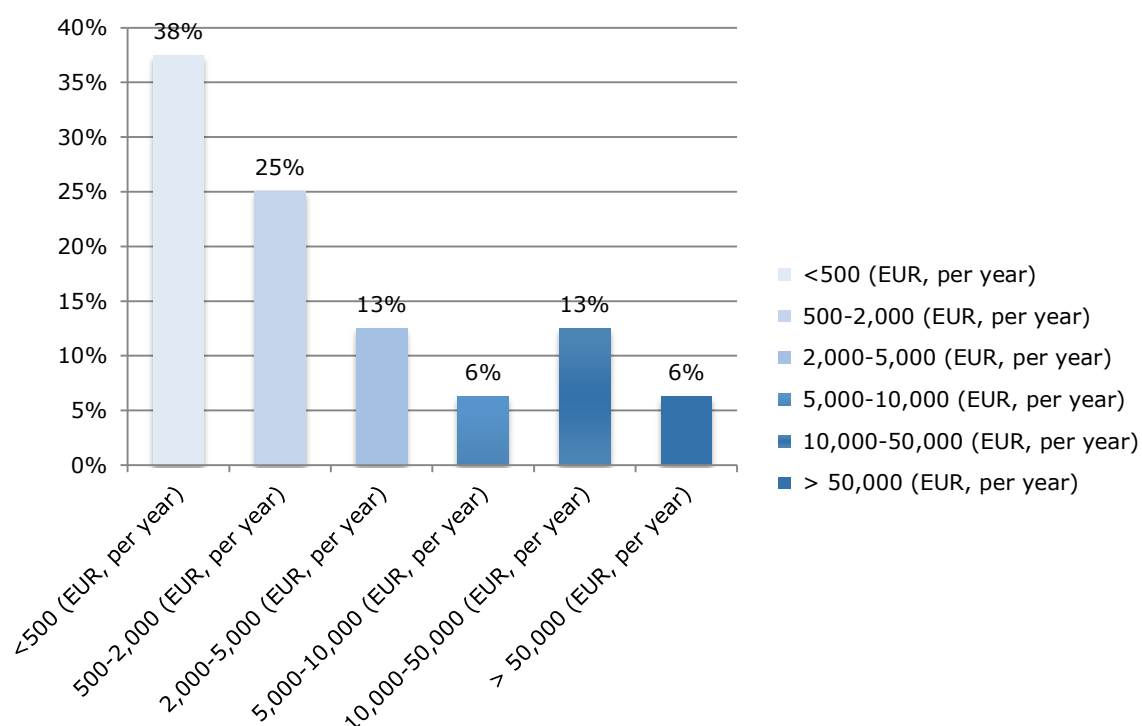
Cost of Providing ARC and SEED

The plurality (38%) of economic operators assessed that providing ARC and SEED numbers would cost them less than EUR 500 annually. A further 25% believed the cost of providing this additional information fit between EUR 500 and EUR 2,000, 13% – between EUR 2,000 and EUR 5,000, and 6% – between EUR 5,000 and EUR 10,000.

⁷⁷ Note: on the basis of information provided by 5 MS the reduction of administrative effort per EUR 1 in export operation was estimated. To estimate the EU-wide cost, the ratio was multiplied by the value of all export movements from the EU.

Nearly one fifth thought they would be required to contribute more than EUR 10,000 (and, roughly, one third of those, or 7% of all respondents, estimated the cost to exceed EUR 50,000) (see Figure 61).

Figure 61: Expected compliance cost for introducing automated cross-check at message header



Source: own elaboration.

In monetary terms, initial calculations using a limited selection of available data⁷⁸ allow us to carefully estimate the per movement cost of providing ARC and SEED. On the basis of data provided by EOs, which have an estimated share of more than 15% of EU exports, it may be evaluated that the average cost of providing SEED and ARC **is EUR 1.04 per export declaration**. Based on the estimated number of all export movements in National Excise Applications and in the Common Domain of the EMCS, it is further estimated that the total cost of ARC and SEED provision would amount to **EUR 1.23 million** each year.

The dispersion of the cost goes in line with the size of EOs that responded in the questionnaire. All companies that suspect of over EUR 10,000 cost per year conduct more than 5,000 export movements per year, which makes the cost for those companies always below EUR 2 per movement.

➤ **IMPACT ON FRAUD**

The fraud on export of goods discussed in the following section includes all dealings that result in goods not leaving the EU and with no excise duty paid. As the exit of goods is supervised by customs, excise goods may also be diverted to the EU partially, with insufficient excise paid. Either of the three may happen: proof of exit may be insufficient, different goods may leave the EU, or there may be lower quantities, than those declared.

Cross-check at header message only would enable to verify those cases, in which the excise declaration has never been submitted. Potential instances, where the excise declaration has not been submitted, do not serve excise fraud directly, as excise is not paid on exports of goods.

The necessity of verifying also the quantity of goods in export and excise was confirmed by interviews and questionnaires. No MS pointed to potential reduction of fraud by implementing cross-check at header level only.

➤ **DISTRIBUTION OF COSTS/BENEFITS BETWEEN MS, AND MODULARITY OF THE POLICY OPTION**

The cost of introducing the automated data cross-check at message header level are not proportional to the size of MS and the number of export operations. The costs of implementing automation might differ between MS due to factors like the price is architecture of the system in use, and the local cost of IT services, which is proved by the costs of introducing EMCS between 2007 and 2011 reported by MSAs.

The benefits for MS from the automated data cross-check would be proportional to the number of movements in EMCS with destination export. Assuming that fraud in export operations results in excise losses in the MS of dispatch, the percentage of gains by each MS could be as described in Table 32.

⁷⁸ Using numbers provided by EOs who did not mark extreme ranges (0-50 or > 25,500). For both the number of movements and costs of provision of ARC and SEED numbers, simple averages were calculated.

Table 32: Distribution of benefits from the automated data cross-check⁷⁹

MS	Benefits (% of all)
Belgium	0.51%
Bulgaria	1.54%
Czech Republic	0.27%
Denmark	0.63%
Germany	13.09%
Estonia	0.45%
Ireland	1.12%
Greece	5.16%
Spain	7.94%
France	13.09%
Croatia	0.59%
Cyprus	0.27%
Italy	10.88%
Latvia	0.47%
Lithuania	1.76%
Luxembourg	0.02%
Hungary	0.54%
Malta	0.00%
Netherlands	19.53%
Austria	0.51%

⁷⁹ Estimated on the basis of the number of items in surveillance database.

Poland	0.98%
Portugal	2.19%
Romania	1.22%
Slovenia	0.20%
Slovakia	0.04%
Finland	0.93%
Sweden	3.82%
United Kingdom	12.25%

Source: own elaboration.

It could be estimated that 5 MS with the highest number of export movements in EMCS would take advantage of nearly 69% of benefits from introducing the automated data cross-check at message header level. On the other hand, only 0.53% of gains could be associated 5 MS with the lowest number of export movements in EMCS.

The problem of unequal benefits from the automation could be balanced by allowing for derogations in a subset of MS. Such option, however technically feasible, would limit full gains from the automation. If a number of MS will not implement the automated cross-check, fraudsters may shift exit of the movements to the MS with weaker supervision. Such effect could not likely be expected in island MS Malta and Cyprus, as shifting the movements to exit via these MS would be costly.

5.1.2 Impact Analysis of Automated Data Cross-Check at Message Body Level

➤ ADMINISTRATIVE AND ENFORCEMENT COSTS FOR PUBLIC AUTHORITIES

The number of processes, tasks, and messages for automated data cross-check at message body, described in detail in Chapter 4.1.2, is summarised in Table 33. The approximated effort that would be required to implement or change existing processes, tasks, and messages is shown in Table 34 and Table 35.

Table 33: Number of processes, tasks and messages for automated data cross-check at message body level

Application	Description	No. of processes	No. of tasks	No. of messages
AES	Handle e-AD request	1	3	
EMCS	Accept e-AD	1	3	
EMCS	Reject e-AD	1	3	
AES	IE516, nIE532, nIE906, nIE801			4
EMCS	Response to nIE532, nIE906, nIE801			3
AES	Cross-check e-AD	1	2	
EMCS	Deliver result for cross-check	1	2	
AES	Acceptance of export declaration	1	19	5
EMCS	Accept e-AD or reject e-AD (stage 2)	2	6	2

Source: own elaboration.

Table 34: Effort of implementing automated data cross-check at message body in AES

Description	Number	Effort (man-days)
Number of processes	3	150
Number of tasks	24	840
Information exchange	9	315
Total number of man-days		1305

Source: own elaboration.

Table 35: Effort of implementing automated data cross-check at message body in EMCS

Description	Number	Effort (man-days)
Number of processes	5	250
Number of tasks	14	490
Information exchange	5	175
Total number of man-days		915

Source: own elaboration.

All in all, the effort of implementing and maintaining automated data cross-check in the EMCS for five years amounts to 2,220 man-days, which is equivalent to **ca. EUR 1.2 million** per MS.

In addition to the estimates with the use of the EU IT cost model, responses regarding the implementation of automated data cross-check were also analysed. Due to the difficulty of analysis of technical specifications of the AES and the EMCS, as well as the troublesome disentangling of costs for already functioning cross-checks, only two responses were received. According to Estonian Authorities, the cost would amount to EUR 250 thousand —exactly the same as in the case of documents' cross-check. According to MSAs from Slovenia, the cost would amount to EUR 40 thousand only, which is EUR 5 thousand more than in the case of simpler cross-check.

The introduction of automated data cross-check at message body, similarly to cross-check at header message, would generate the implementation cost but would simultaneously reduce administrative costs. As described in Chapter 5.1.1, every MS would save ca. 3,200 man-days, equivalent to ca. **EUR 0.75 million** per year.

➤ COMPLIANCE, ADMINISTRATIVE, AND HASSLE COSTS FOR ECONOMIC OPERATORS

As already discussed in Chapter 5.1.1, the plurality (40%) of economic operators assessed that providing ARC and SEED numbers would cost them less than EUR 500 annually. Also, only one fifth estimated them at above EUR 10,000.

In total, the costs of providing ARC and SEED numbers would annually amount to roughly **EUR 1.23 million** for the entire Union.

➤ IMPACT ON FRAUD

As described in Chapter 5.1.1, when analysing fraud on export of excise, we focus on illegal operations that result in the diversion of excise goods to the EU internal market, with no excise duty paid.

Cross-checking at header and message levels would enable to verify instances, where no excise declaration was submitted, value of goods was overstated, or different goods were declared in the e-AD.

Only three responses concerning the potential capability of reducing the scale of fraud by implementing the full cross-check was provided. According to the Dutch Authorities, the value of fraud would decrease by 50 percent, if cross-check were applied at both header and message levels. According to the Latvian MSAs, the cross-check implemented in 2010 was successful in minimising the scale of fraud. In addition, Hungarian MSAs expressed the opinion that it takes much less time for MSAs to recognise such illegal offences, and it provides a better chance to timely deal with such offences.

➤ **DISTRIBUTION OF COSTS/BENEFITS BETWEEN MS, AND MODULARITY OF THE POLICY OPTION**

Similarly to the introduction of the automated data cross-check at message header level, the cost of introducing the full cross-check would not be proportional to the size of MS. On the other hand, gains would go in line with the number of indirect export in the EMCS. Out of which 69% are dispatched from five MS only, namely from France, Italy, Germany, the Netherlands, and the UK. However, allowing for derogations might limit the positive effects of the automation as fraudsters may shift exiting their movements to the MS with no automated cross-check.

5.1.3 Impact Analysis of Automated Process Synchronisation

➤ **ADMINISTRATIVE AND ENFORCEMENT COSTS FOR PUBLIC AUTHORITIES**

Integration of the AES and the EMCS would require substantial adaptations of operating national excise applications. It also significantly increases the cost of introducing the AES.

The number of processes, tasks, and messages for automated process synchronisation is disclosed in Table 36. The effort in man-days is summarised in Table 37 and Table 38.

Table 36: Number of processes, tasks and messages for automated process synchronisation

Application	Description	No. of processes	No. of tasks	No. of messages
AES	Customs formalities at office of export	1	14	
AES	IE529, IE501, nIE535, nIE543, nIE566			5
EMCS	Processing of IE535 incoming, and one outgoing to trader	1	6	2
AES	Handle exit control results	1	6	
AES	IE518			1
EMCS	Processing IE 518 incoming, one outgoing to trader	1	10	2

AES	Certification of exit	1	11	
AES	IE599, nIE598, IE524, nIE592, nIE588			5
EMCS	Processing nIE598	1	6	1
EMCS	nIE598 incoming and 1 outgoing to trader			2
AES	Invalidate export declaration	1	19	
AES	IE514, IE509, IE510, nIE536			4
EMCS	Process nIE536	1	12	
EMCS	Processing nIE536, produce one message to trader			2

Source: own elaboration.

Table 37: Effort of implementing automated process synchronisation in AES

Description	Number	Effort (man-days)
Number of processes	4	200
Number of tasks	50	1750
Information exchange	15	525
Total number of man-days		2475

Source: own elaboration.

Table 38: Effort of implementing automated process synchronisation in EMCS

Description	Number	Effort (man-days)
Number of processes	4	200
Number of tasks	34	1190
Information exchange	9	315
Total number of man-days		1705

Source: own elaboration.

All in all, the effort of implementing automated data cross-check in the AES and the EMCS amounts to 4,180 man-days, which is equivalent to ca. **EUR 2.33 million per MS.**

The introduction of automated process synchronisation would generate the implementation cost, but, in parallel, it would also substantially reduce administrative costs borne by MSAs by closing movements manually. Gains from reducing red tape, expected by six MSAs and expressed in man-days per year, are summarised in Table 39.

Table 39: Administrative cost reduction due to implementing automated process synchronisation according to MSAs

Sub-indicators	Administrative (-) (no manual closing)
Unit	man-days/y
Germany	2000
Estonia	4
Hungary	30-45

Netherlands	800
Slovenia	10
Slovakia	432

Source: own elaboration.

Extrapolation of the gains using MS' share in all (extra-EU) export value, which is roughly 29%, yields an EU-wide figure of 11,370 man-days, equivalent to ca. **EUR 2.64 million** savings per year.

As almost all manual closures of excise movements are due to exit results never been sent (see **Error! Reference source not found.**), this saving will only occur if exit results are actually sent by the customs office of exit; otherwise, there will be no customs message or event to be synchronised with in excise. So, a pre-requisite to the automated process synchronisation may be raising awareness at offices of exit about the importance of sending exit results.

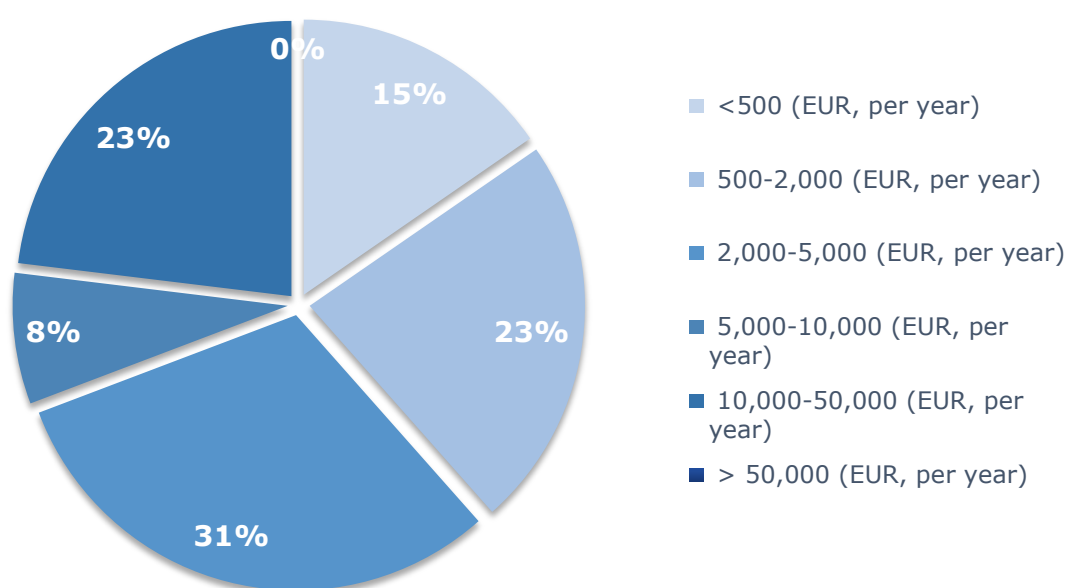
➤ COMPLIANCE, ADMINISTRATIVE AND HASSLE COSTS FOR ECONOMIC OPERATORS

As already discussed in sections 5.1.1 and 5.1.2, the plurality (40%) of economic operators assessed that providing ARC and SEED numbers would cost them less than EUR 500 annually. Also, only around one fifth estimated them at above EUR 10,000.

In total, the costs of providing ARC and SEED numbers would amount to roughly **EUR 1.23 million** a year for the entire Union.

The synchronisation of the AES and the EMCS would decrease the number of movements closed manually, and reduce compliance costs borne by EOs. Roughly half (54%) of the economic operators surveyed believed that their companies or associations would save between EUR 500 and EUR 5,000 annually from the automation. 15% estimated monetary benefits for less than 500 per year, while 8% – between EUR 5,000 and 10,000. Almost one fourth (23%) thought they would save between 10,000 and EUR 50,000 a year.

Figure 62: Expected reduction of compliance costs due to AES-EMCS synchronisation



Source: own elaboration.

On the EU scale, savings (calculated with the same method as cost for provision of ARC/SEED number) were carefully estimated to amount to **circa EUR 2.57 million per year, EUR 2.17 per export movement, and nearly EUR 9.5 per export movement closed manually.**

➤ **DISTRIBUTION OF COSTS/BENEFITS BETWEEN MS, AND MODULARITY OF THE POLICY OPTION**

The benefits from the automated process synchronisation would be proportional to the movements, which would no longer be closed manually. According to the responses of nine MSAs the number of movements varies greatly between MS, and is not strictly related with all movements dispatched (see Table 40).

Table 40: Potential increase in the number of excise movements closed automatically if offices of exit always send exit results

MS	Movements closed manually out of different reasons than exit results (IE518) not sent by the office of exit
Latvia	244
Lithuania	150
Luxembourg	0
Hungary	165
Romania	1387
Slovenia	1
Slovakia	18
Finland	100
United Kingdom	46

Source: own elaboration.

Despite unequal gains, a selective implementation of automation would substantially limit the EU-wide benefits. The benefits of excise-export process synchronization would not be gained at the MS of Dispatch if the MS of Export did not introduce the policy option. Thus, the benefits from introducing the automated process

synchronisation would increase proportionally with the number of MS having such excise-export process synchronization automated.

5.1.4 Harmonisation of Excise-Customs Legal Base for Alternate Proofs of Exit

➤ ADMINISTRATIVE AND ENFORCEMENT COSTS FOR PUBLIC AUTHORITIES

Harmonisation of the legal base for alternate proofs of exit, as noted by a number of MSAs, may bring substantial reduction of the administrative cost.

According to German MSAs, the number of inconsistencies and requests under the co-operation regulation (Regulation (EU) No 389/2012) could be minimised in a manner that the time needed to complete EMCS export operations would be reduced. However, only small advantages (savings of up to 7 man-days per year) are expected, since the work sequence would remain the same regardless of the requirements for the recognition of alternative evidence. The requirement and examination of documents would still be required. Also, the alternative results would still have to be examined at customs offices. In summary, it may be concluded that the establishment of a uniform form for alternative proofs would reduce the burden of examination and, possibly, the frequency of questions and the correspondence resulting from the main audit offices. The legal and planning certainty for the administration and the economic stakeholders, which is accompanied by uniform provisions on alternative proofs, could tend to contribute to a faster processing of the transactions across the EU. This is particularly true in case the alternative evidence is uniformly structured and formalised throughout the EU. In addition, legal disputes about the recognition of alternative proofs could also be avoided. The beneficiaries would have the advantage of being able to confine themselves to a clearly defined list, which is recognised by all Member States, in their efforts to obtain replacement evidence. At the same time, however, (nationally) recognised replacement certificates could possibly no longer be acknowledged in the future, which would lead to the taxation of the consignment in question. As noted by French Authorities, the savings would concern all cases when SAD is lodged in other MS. In addition, according to the Dutch Authorities, savings would also result from less audits and a decrease of objections and appeals.

In total seven MSAs provided their estimates concerning administrative cost reduction, which is summarized by Table 41.

Table 41: Administrative cost reduction due to harmonisation of excise-customs legal base for alternate proofs of exit

Sub-indicators	Administrative (-)
Unit	man-days/y
Belgium	10-20% reduction
Germany	7
Hungary	25
Netherlands	1000-2000
Slovenia	0
Slovakia	54
Sweden	0

Source: own elaboration.

Out of the MS that provided irrelative numbers, the most significant man-day savings are expected by the Netherlands (even up to 2000), where the number of export

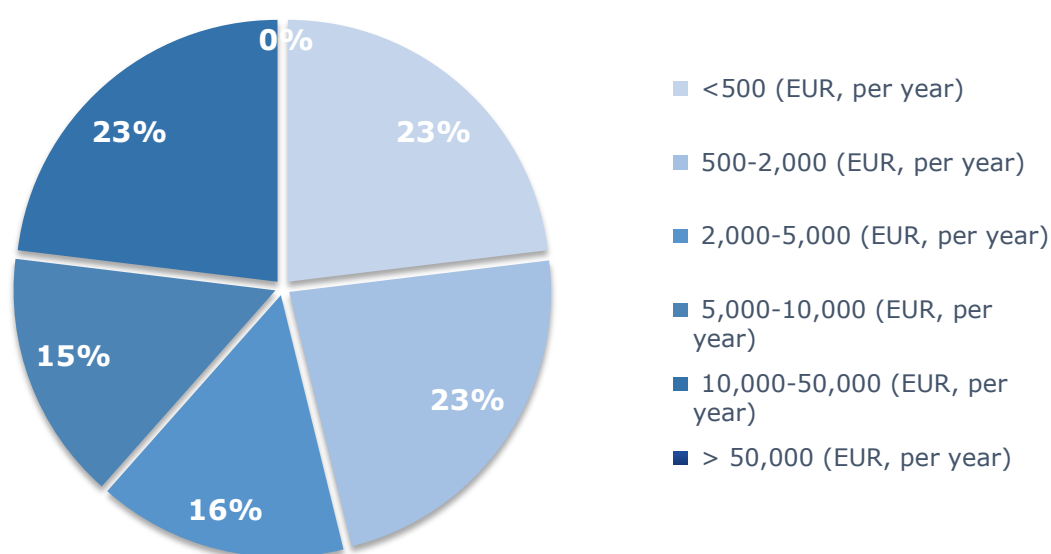
operations closed manually is very large. On the contrary to these high estimates, no savings were expected in Slovenia and Sweden.

Using country specific labour costs, and making the assumption that the administrative costs' savings are proportional to the number of manual closures, we obtained the value of **EUR 2.9** savings per manual closure. The gains from harmonisation of excise-customs legal base for alternate proofs of exit would be ca. **EUR 864 thousand** in 2016, and **EUR 881 thousand** in 2021, when the number of manual closures is expected to increase if no policy changes are introduced.

➤ COMPLIANCE AND ADMINISTRATIVE COSTS FOR ECONOMIC OPERATORS

As far as the opinion of EOs is concerned, almost one fourth (23%) believe that the harmonisation of excise-customs legal base for alternate proofs of exit would bring savings lower than EUR 500 annually, another one fourth (23%) – between EUR 500 and EUR 2,000, and yet another 23% – that they foresee savings between EUR 2,000 and EUR 50,000. One third (31%) places the savings between EUR 2,000 and EUR 10,000 (see Figure 63).

Figure 63: Expected reduction of compliance costs due to harmonisation of alternate proofs of exit



Source: own elaboration.

Our initial calculations (conducted using the same method as for estimating costs of providing ARC and SEED numbers, and benefits from automation) showed that while the benefits from the harmonization of excise-customs legal base for alternate proofs of exit would be two time lower than that of automation, they would still amount to roughly **EUR 1.31 million a year, EUR 1.1 per movement or EUR 4.9 per movement closed manually.**

➤ MARKET EFFECTS AND IMPACT ON SMES

Currently, provisions related to alternate proofs of exit differ substantially across EU MS, which bears substantial compliance costs for EOs. The cost of learning and proper use of the alternate proofs of exit accepted in EU MS are of both fixed and variable nature. It could be expected that if the proofs were harmonised, the necessity to learn specificities of many different legislations at the entry of the export market would be reduced.

However, micro and small companies are, on average, less engaged in export operations. This was confirmed by the responses from micro companies and SMEs to the questionnaire. Out of nine interviewed micro and SMEs, only one company mentioned that compliance costs related to the current legislation are substantive. One SME engaged in exports of energy goods stated that the harmonisation of alternate proofs of exit would save them EUR 5,000-10,000 annually, which was above **EUR 200 per export operation closed manually**. This, in turn, is even 50 times more than in the case of the all-sized companies' sample.

Bearing the above considerations in mind, the current provisions differentiated across EU MS in irrelative terms affect mostly large companies moving excise products through offices of exit located in various EU MS. However, compliance costs related to current provisions are relatively more expensive for smaller companies.

➤ **DISTRIBUTION OF COSTS/BENEFITS BETWEEN MS, AND MODULARITY OF THE POLICY OPTION**

The policy option of harmonising alternate proofs of exit does not envisage substantive fixed cost. The benefits would be proportional to the number of manual closures. Selective harmonisation would not enable the MS to take advantage of legal clarity.

5.1.5 Comparison of Policy Options

Table 42: Comparison of policy options (Excise-Export)⁸⁰

Impact area and target groups	A) Dynamic baseline scenario		B) Automated data cross-check at message header level		C) Automated data cross-check at message body level		D) AES-EMCS automated process synchronisation		E) Harmonisation of excise-customs legal base for alternate proofs of exit	
Administrative costs for MSAs	2% increase in absolute terms (12.5% decrease per movement)	Administrative cost per movement will decrease as the number of movements closed manually will go down in relation to the number of all movements. The number of movements closed manually in absolute terms will increase by 2%.	EUR 3.84 million over 5 years (benefit)	Gains of 3,200 man-days, equivalent to ca. EUR 0.75 million per year today, to increase by 10% over 5 years.	EUR 3.84 million over 5 years (benefit)	Gains of 3,200 man-days, equivalent to ca. EUR 0.75 million per year today, to increase by 10% over 5 years.	EUR 13.44 million over 5 years (benefit)	Gains of 11,730 man-days, equivalent to ca. EUR 2.64 million gains per year due to movements not close manually increasing proportionally to the growth of movements that would be closed manually.	EUR 4.39 million over 5 years (benefit)	Gains of EUR 9 per manual closure, equivalent to ca. 0.86 million EUR gains per year due to legal clarity and increasing with number of manual closures.
Enforcement costs for MSAs	0	No enforcement costs will be borne by MSAs.	EUR 8.68 million over 5 years (cost) EUR 4.34 million CAPEX/ EUR 0.87 million yearly	Effort of implementing the automated data cross-check in EMCS amounts 555 man-days, which is equivalent to ca. 310 thousand EUR, per Member State.	EUR 33.6 million over 5 years (cost) EUR 16.8 million CAPEX/ EUR 3.36 million	Effort of implementing the automated data cross-check in EMCS amounts 2,220 man-days, which is equivalent to ca. EUR 1.2 million	EUR 67.2 million over five years (cost) EUR 33.6 million CAPEX/ EUR 6.72 million	Effort of implementing the automated data cross-check in EMCS amount to 4,180 man-days, which is equivalent to ca. EUR 2.33 million, per MS.	0	No substantial costs are envisaged.

⁸⁰ Note: +2 major positive effect expected, +1 moderate positive effect expected, 0 no effect or neutral impact expected, -1 moderate negative effect expected, -2 major negative effect expected. Monetary values are presented in real terms. Figures in the table were estimated for the next five years as of next year using the estimated change in the number of movements and the estimates of current unitary gains/losses. We also assume that the fixed cost (CAPEX) of implementing IT systems is five times larger than the yearly variable cost (OPEX). Some numbers may not sum up due to rounding.

Impact area and target groups	A) Dynamic baseline scenario		B) Automated data cross-check at message header level		C) Automated data cross-check at message body level		D) AES-EMCS automated process synchronisation		E) Harmonisation of excise-customs legal base for alternate proofs of exit	
			OPEX		yearly OPEX		yearly OPEX			
Administrative, compliance and hassle costs for economic operators	2% increase in absolute terms (12.5% decrease per movement)	Administrative cost per movement will decrease as the number of movements closed manually will go down in relation to the number of all movements. The number of movements closed manually in absolute terms will increase by 2%.	EUR 6.61 million over 5 years (cost)	Cost for providing ARC and SEED numbers would annually amount to roughly EUR 1.25 million in the first year increasing to EUR 1.37 million in 5 years.	EUR 6.61 million over 5 years (cost)	Cost for providing ARC and SEED numbers would annually amount to roughly EUR 1.25 million in the first year increasing to EUR 1.375 million in 5 years.	EUR 7.26 million over 5 years (benefit)	Cost for providing ARC and SEED numbers would annually amount to roughly EUR 1.27 million in the first year increasing to EUR 1.35 million in 5 years. The efficiency gains would be significantly larger, summing up to EUR 2.6 million per year.	EUR 6.66 million over 5 years (benefit)	The benefit from the harmonization would be roughly half of the benefit of automation without requirement to provide ARC and SEED (EUR 1.1 per movement or EUR 30.6 per movement closed manually).
Impact on fraud	0	If no EU-wide measures are implemented, MS will continue implementing their own measures. Despite that fact, fraudsters will continue abusing the system using existing loopholes. The value of fraud on export was estimated to EUR 28 million per year EU-wide.	+1	Cross-check at header message only would enable to verify those instances, where the excise declaration has never been submitted, by this limiting partially fraud estimated to EUR 28 million per year.	+2	Cross-check at message level would enable to fully verify inconsistencies in the document reducing the vast majority of irregularities amounting to roughly EUR 28 million per year.	0	No impact envisaged	0	No impact envisaged
Market effects and impact on SMEs	0	No change in the market structure over the next five years is envisaged	0	No direct impact envisaged. Indirect impact on market price through fraud reduction and	0	No direct impact envisaged. Indirect impact on market price through fraud reduction and	0	No direct impact envisaged. Indirect impact on market price through fraud reduction and costs/benefits for	+1	Reduction of fixed costs especially burdensome for SMEs.

Impact area and target groups	A) Dynamic baseline scenario		B) Automated data cross-check at message header level		C) Automated data cross-check at message body level		D) AES-EMCS automated process synchronisation		E) Harmonisation of excise-customs legal base for alternate proofs of exit	
				costs/benefits for EOs.		costs/benefits for EOs.		EOs.		
Efficiency	-	-	-	The desired effect of reducing fraud would be achieved at reasonable price, without more efficient alternative solution.	-	The desired effect of reducing fraud would be achieved at relatively high price.	-	The desired effect of reducing fraud would be achieved at relatively high price.	-	The desired effect of reducing fraud would be achieved at very low price, without more efficient alternative solution.
Effectiveness	-	-	-	The objective of fraud reduction would be achieved only partially.	-	The objective of fraud reduction due to the discrepancies in declarations would be fully achieved.	-	The objective would be achieved partially. Manual closures due to IE518 not forwarded would remain the reason for closing movements manually.	-	The objective would be fully achieved.

Source: own elaboration.

5.2 Excise-Export followed by Transit or STC

5.2.1 Impact Analysis of Use of External Transit only

As described in Chapter 3.3, there is no legal basis for the use of transit and STC procedures following export in the EU legislation on excise duty. Nevertheless, in practice, internal transit, external transit, and STC are frequently combined with export operations of excise goods to make use of the simplification under Article 329. The estimated share of these operations in the EU amounts to 28% of all excise operations with destination export, which is roughly 461,000.

The policy option described in Chapter 4.2 clarifies the legal basis for the use of transit and STC procedures. In order to close the export procedure and the EMCS while the goods are still moving on the Union customs and fiscal territory, the EOs would be obliged to use external transit. If such regulatory changes are introduced, external transit will replace all STC and internal transit, which are conducted roughly 195,000 times a year in the EU. It may also be foreseen that some EOs that currently do not make use of the simplifications under Art. 329 due to legal uncertainty, would start using the external transit procedure (see visualisation of procedures in use in Annex G). Therefore, it may be estimated that no less than 28% of export movements with excise goods will be followed by external transit, if the regulations change.

➤ ADMINISTRATIVE AND ENFORCEMENT COSTS FOR PUBLIC AUTHORITIES

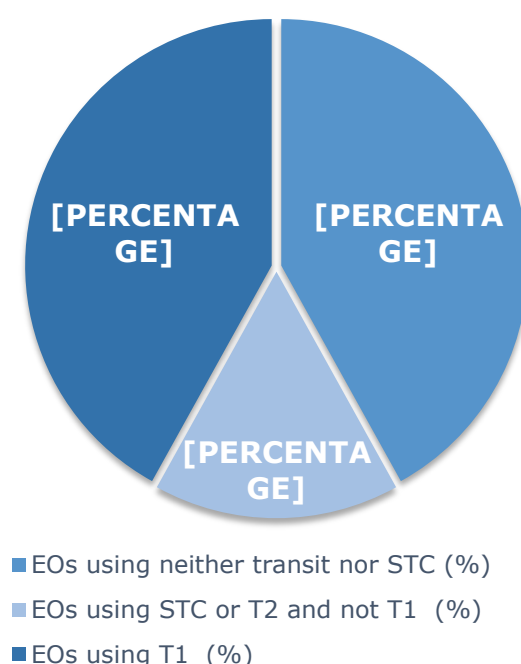
The introduction of regulatory changes would bear minimal enforcement costs. Apart from changes in the Directive and its implementing regulations and in the UCC/IA and UCC/DA, no changes in the existing systems, neither the EMCS, ECS/AES, nor NCTS, are envisaged. Prohibiting the use of internal transit and STC after export for excise goods would only need to be reflected in the national systems.

Similarly, since external transit will replace internal transit and STC, which are both similar in nature, the impact on administrative costs borne by MSAs will be minor. Despite the fact that linking e-AD manually to transit MRN takes time, the problem may equally frequently concern external transit, internal transit, and STC.

➤ COMPLIANCE COSTS FOR ECONOMIC OPERATORS

Change in compliance costs borne by EOs would be related to the replacement of roughly 10% of all export operations, namely T2 and STC, with T1. Obligation to use a different procedure may involve a fixed learning cost and could be related to varying efforts per operation.

As far as learning costs are concerned, only a small part of EOs, which currently employ STC or internal transit, do not use external transit. Out of all interviewed EOs, 42% use neither external transit, nor internal transit and STC. The remaining 58% use at least one of these procedures regularly. As visualised by Figure 64, only 16% of EOs use either internal transit or STC, but do not apply external transit.

Figure 64: Use of external transit by EOs using internal transit and STC

Source: own elaboration.

External transit, internal transit and STC are similar to each other in terms of compliance. External transit, internal transit, and STC are similar to each other in terms of compliance effort. They bear similar information obligations, and are even administered by the same computerised system, the NCTS. On top of that, EOs are currently being integrated, incorporating different types of operations following export. Thus, switching from the STC and internal transit to using external transit would also be minimal in terms of EOs' learning costs. As noted by EOs, the costs of restricting the use of STC would be large if the operators were forced to record status of the goods (Union and non-Union).

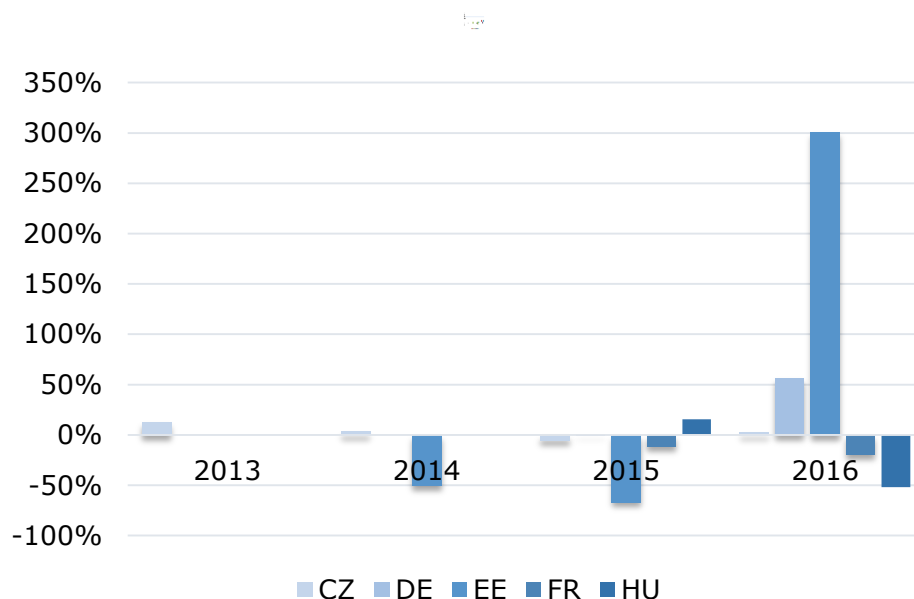
➤ **IMPACT ON FRAUD**

EOs' and MSAs' answers to the questionnaire lead to the conclusion that guarantees lodged under internal transit cover excise, and are lodged in accordance with the T2 procedure. On the contrary, in some MS, STC does not involve any guarantees, thus, despite safe means of transportation, it is confined to creating a window for excise goods' diversion into the EU market without payment of excise. As a result, STC is not allowed for excise goods in a number of MS.

Fraud in transit and STC operations cannot be observed directly in the statistics. Hence, the interviewed MSAs and EOs were not aware of the scale of fraud in transits of STCs. What could be observed — and could be a sign of irregularities — were dynamics and volatility, which could not be explained by economic factors.

As illustrated in Figure 65, the dynamics of the number of external transit was stable except for Estonia and the year 2016. In Estonia, the number of operations was relatively small, and the hike from 2 to 8 operations in 2016 might have been caused by very specific factors. The hike of roughly 50% in 2016 in Germany and Poland, MS where EOs use roughly 20,000 operations a year, goes beyond positive economic tailwinds in 2016.

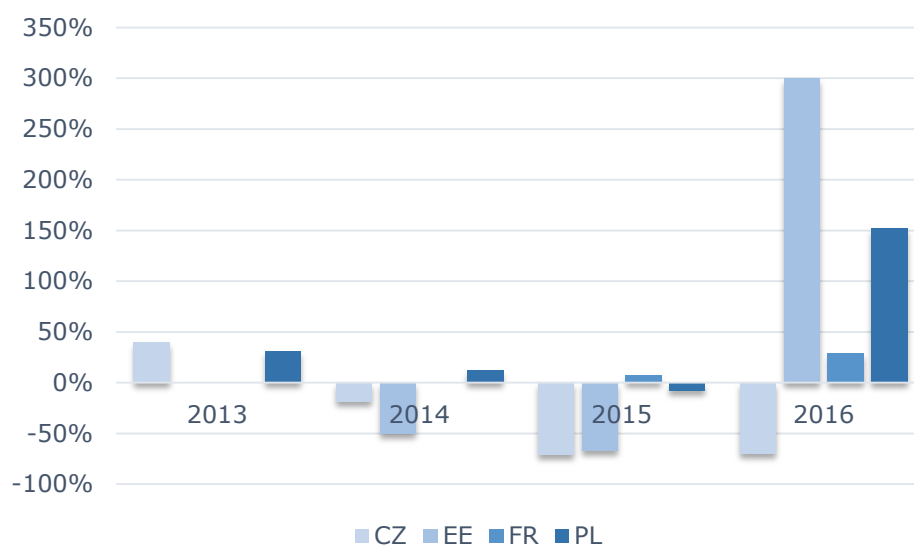
Figure 65: Dynamics of external transit in sample MS (yoy % change)



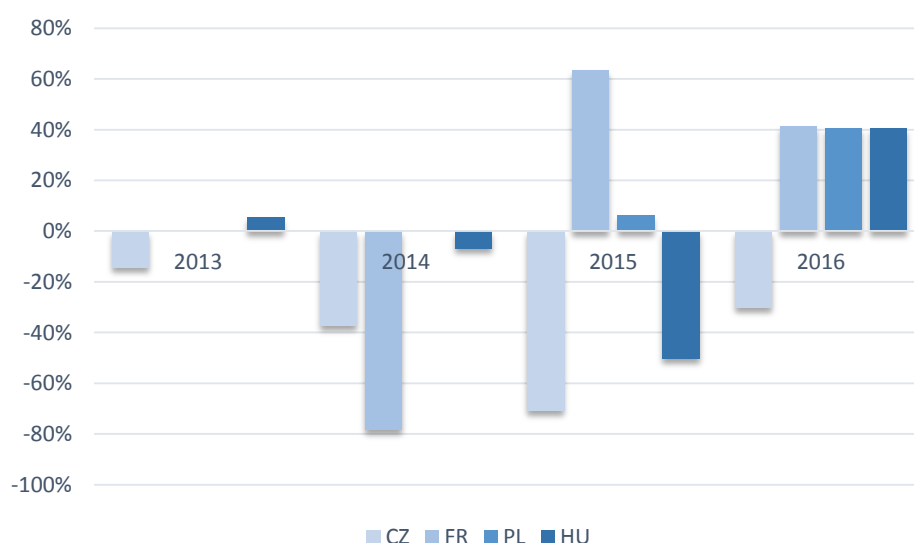
Source: own elaboration.

The number of the internal transit and STC movements was even more volatile. As in the case of external transit, the number of internal transit movements increased rapidly in 2016.

Figure 66: Dynamics of internal transit in sample MS (yoy % change)



Source: own elaboration.

Figure 67: Dynamics of STC in sample MS (yoy % change)

Source: own elaboration.

Contrary to what the volatility and dynamics of movements may signal, according to almost all interviewees, guarantees lodged for external transit and STC are sufficient to cover excise fraud — thus, there is no loophole for fraud. Only the Hungarian Authorities expressed the opinion that most of T1 operations could be eliminated, as they are often fraudulent.

In the case of some MS, guarantees do not cover STC, which is the reason why some MS explicitly do not allow for such movements with excise. No guarantees and very fast growth of a number of operations in 2016 may signal that irregularities might have taken place that very same year. The scale of such operations cannot be estimated accurately with the use of available indicators. It may not be ruled out that in MS which expressed concerns about such movements, and where guarantees do not cover STC operations with excise goods, fraud could take place.

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 even EUR 21 million losses in excise revenues of EU MS.

➤ **DISTRIBUTION OF COSTS/BENEFITS BETWEEN MS, AND MODULARITY OF THE POLICY OPTION**

The policy option of clarifying the legal base by allowing for the use of external transit, and prohibiting internal transit and STC does not envisage substantive fixed cost. The benefits could only be obtained by EU-wide solution without derogations. Differentiated provisions in different MS would lead to legal unclarity. Moreover, they could potentially **create loopholes for fraud**.

5.2.2 Comparison of Policy Options

Table 43: Comparison of policy options (Excise-Export followed by Transit or STC)⁸¹

Impact area and target groups	A) Dynamic baseline scenario		B) Obligation to use external transit instead of internal transit and STC	
Administrative costs for MSAs	+13.1% in absolute terms over 5y	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 by -7%, whereas the number of STC movements will stay roughly unchanged.	+13.1% in absolute terms over 5y	Administrative costs will grow in line with the number of movements (as the administrative cost per T1, T2 and STC is similar). The number of external transit movements is expected to be 13.1% higher than the number of T1, T2 and STC today.
Enforcement costs for MSAs	0	No substantial enforcement costs are envisaged.	0	No substantial enforcement costs are envisaged.
Administrative, compliance and hassle costs for EOs	+13.1% in absolute terms over 5y	Costs borne by EOs will grow proportionally with the number of movements. The number of external transit movements is expected to increase by 28.9%, internal transit by -7%, whereas the number of STC movements will stay roughly unchanged.	+1	In general, the costs borne by EOs will grow proportionally with the number of movements (as the cost for EOs per T1, T2 and STC is similar). The number of external transit movements is expected to be 13.1% higher than the number of T1, T2 and STC today. However, due to increased legal certainty, hassle costs will go down, and so will be the per movement burden on EOs.
Impact of fraud	0	If T1, T2 and STC continue to be used after export, fraudsters will continue abusing the system. Using STC in MS where guarantees were not lodged for STC may cost even MS EUR 21 million per year.	+2	Covering with sufficient guarantee all movements with destination export will substantially reduce fraud especially in MS, where guarantees are not lodged for STC. Compared with dynamic baseline scenario, gains of even EUR 21 million per year could be envisaged.
Market effects and impact on SMEs	0	No changes in the market structure over the next five years are envisaged.	0	No direct impact envisaged. Indirect impact on market price through fraud reduction could be expected.
Efficiency	-	-	-	The desired effect of reducing fraud would be achieved at minimal cost, without more efficient alternative solution.
Effectiveness	-	-	-	The objective of legal clarity and provision of sufficient guarantees for all movements with destination export would be fully achieved.

⁸¹ Note: +2 major positive effect expected, +1 moderate positive effect expected, 0 no effect or neutral impact expected, -1 moderate negative effect expected, -2 major negative effect expected. Monetary values are presented in real terms. Figures in the table were estimated for the next five years as of next year using the estimated change in the number of movements and the estimates of current unitary gains/losses. We also assume that the fixed cost (CAPEX) of implementing IT systems is five times larger than the yearly variable cost (OPEX). Some numbers may not sum up due to rounding.

5.3 Excise-Import

In the following section, we analyse three different types of recording and validating excise data items in the customs import declaration. The goal of implementing recording and validation is to decrease the scale of fraud and complexity of regulations for EOs. The implementation of cross-check would bear both an enforcement cost, and an increase in efforts of providing information by EOs. Although some MS (e.g. Bulgaria, Finland, and Lithuania) have already implemented cross-checks, technical specification of the common cross-check would require changes to the existing systems.

5.3.1 Impact Analysis of Automated Cross-Check of SEED Numbers

➤ ADMINISTRATIVE AND ENFORCEMENT COSTS FOR MSAs

The implementation of automated cross-check of SEED numbers of the consignor and consignee on a per-import declaration basis would require new processes, functions, and message exchanges, or their modification in CDPS and SEED. The numbers of processes, tasks, and messages for the automated data cross-check at message header level, in accordance with the business model described in Chapter 5.3, are presented in Table 44. The effort in man-days is summarised in Table 45.

Table 44: Number of processes, tasks and messages for automated cross-check of SEED numbers

Application	Description	No. of processes	No. of tasks	No. of messages
CDPS	Import process	1		
CDPS	Generate message to declarant			1
CDPS	Contact SEED		1	1
SEED	Report SEED check result back to CDPS		1	1
CDPS	Process SEED message		1	
CDPS	Inform declarant			1
(Error handling)	Generate message to declarant asking clarification in case of negative SEED reply		3	1

Source: own elaboration.

Table 45: Effort of implementing automated data cross-check for automated cross-check of SEED numbers

Description	Number	Effort (man-days)
Number of processes	1	50
Number of tasks	6	210
Information exchange	6	175
Total number of man-days		435

Source: own elaboration.

The total effort of implementing automated data cross-check in the EMCS amounts to 435 man-days, which is equivalent to **ca. EUR 243 thousand** on average per MS.

Limited evidence expected by MSAs partially confirms the accuracy of the estimates with the use of the EU IT cost model. According to MSAs from Estonia and Slovenia,

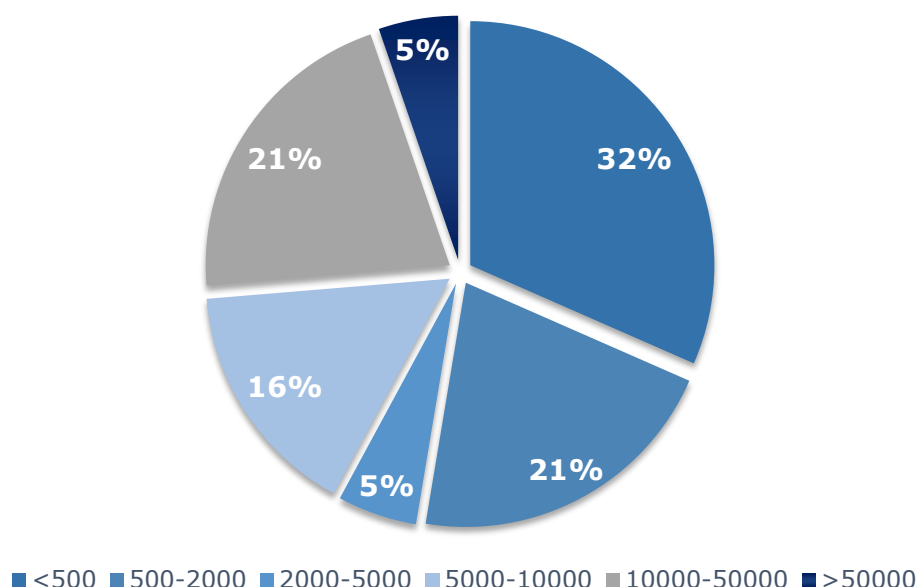
the implementation of a simple cross-check would cost EUR 250,000 and EUR 55,000, respectively. It could be expected that due to tariffs below the EU-average, the two MS would report lower costs, than the average borne by EU MS.

➤ **COMPLIANCE, ADMINISTRATIVE AND HASSLE COSTS FOR EOS**

The potential introduction of cross-check would also increase information obligations for EOs. The provision of SEED only will be less laborious than the provision of both SEED and ARC. In fact, the expense of providing SEED is likely to be equally as costly as the provision of ARC, which is analysed in the following chapter. In other words, accessing information on SEED and ARC conveys more or less a similar effort.

In order to estimate the cost of SEED provision, we assume that the cost is roughly 50% of the provision of SEED and ARC, and analyse responses of EOs regarding the cost of providing these two numbers. The costs declared by 19 EOs are illustrated in Figure 68.

Figure 68: Suspected effort for providing SEED and ARC in import declarations



Source: own elaboration.

The largest share of 19 EOs were of the expected costs would be minimal, namely from 0 to EUR 500 per year. In the group of 32% of respondents there were companies that registered relatively small number of import movements, which is at least from 0 up to 50 import movements a year. In total, the majority of respondents (55%) expected that their costs of providing ARC and SEED would be below EUR 2,000. Only one EO declared that the yearly cost of such information obligation would be more than EUR 50,000.

The average cost for providing SEED and ARC per import declaration estimated on the sample of 19 EOs that provided information on the suspected costs and on the number of import followed by a movement under duty suspension, is EUR 10. The cost of fulfilling this obligation partially, which is provision of SEED only, could be approximated to EUR 5 per import movement. The yearly cost for all EOs in the EU, assuming current number of import followed by a movement under duty suspension, would be roughly **EUR 129,300**.

In addition, the implementation of the automated cross-check of SEED numbers will also require the establishment of EU common requirements for moving excise goods under duty suspension after import. It may be expected that common requirement will reduce hassle costs by diminishing the complexity of provisions across EU MS.

➤ **IMPACT ON FRAUD**

The main goal of introducing cross-check is to eliminate fraud in import operations stemming from weak evidence of duty-exemptions at import. Cross-check of information at header-level would prevent the situation, where importers guess the VAT numbers of the consignee in the VAT information exchange system (VIES), or “steal” the VAT number of an EO that is unaware of the scheme.

According to Dutch MSAs, cross-checks of SEED and ARC, which would likely have similar impact, would result in a 50% reduction of fraud at import. As a result, the expected gains would account for roughly EUR 500,000 in the Netherlands itself. In addition, French MSAs were also of the opinion that the proposed solution would prove itself effective. Nevertheless, French MSAs represent a belief *that the more cross-checks, the larger the reduction of fraud.*

Bearing in mind expectations of MSAs, as well as types of fraud committed on import, it could be assumed that cross-check at a header level would reduce fraud by roughly 50% in the short term. The cross-check of SEED only would not eliminate the risk of non-compliance in excise liability of goods in the import declaration and the EMCS. The above conclusion may be confirmed by the opinion of Irish MSAs which, despite low levels of detected fraud on import, indicated that benefits, in terms of detecting frauds and irregularities, are likely to be meaningful.

➤ **DISTRIBUTION OF COSTS/BENEFITS BETWEEN MS, AND MODULARITY OF THE POLICY OPTION**

The benefits from the automated cross-check of SEED numbers would be proportional to the number of import operations followed by movements under duty suspension. Nevertheless, both MS of dispatch and destination could benefit from the cross-check, as the goods could be diverted to markets of any of these countries. It might be expected that significant gains would be achieved by the Netherlands, Germany and Estonia that reported the highest number of entry of import followed by a movement under duty suspension. The least substantial gains could be expected by island MS (Cyprus, Ireland, Malta and the UK), which are neither place of entry nor the destination for such movements.

A selective implementation of the cross-check would substantially limit the EU-wide benefits in terms of fraud reduction. It might be expected that some fraudulent movements would be shifted to MS with no cross-check in place.

5.3.2 Impact Analysis of Automated Cross-Check of SEED and ARC

➤ **ADMINISTRATIVE AND ENFORCEMENT COSTS FOR MSAs**

On top of the costs borne by the cross-check of SEED number, the additional introduction of the automated cross-check of ARC number of the consignor and consignee on a per-import declaration basis would require saving a part of the import declaration. This would only work if the import system was halted, whereas in the EMCS, an e-AD is generated with a valid ARC number.

The enforcement cost for this policy option would entail change of processes, tasks, and messages in CDPS, the EMCS, and SEED. The number of processes, tasks, and

messages for automated data cross-check at message header level are described in Table 46. The effort in man-days is summarised in Table 47.

Table 46: Number of processes, tasks and messages for automated cross-check of SEED and ARC numbers

Application	Description	No. of processes	No. of tasks	No. of messages
CDPS	Import process	1		
CDPS	New status of declaration including timer		1	
CDPS	Alert if timer expires		1	
EMCS	Generate draft e-AD	1	3	
EMCS	Report ARC to CDPS		1	1
CDPS	Receive message from EMCS and process		1	
CDPS	Report to EMCS that import procedure is finished		1	1
EMCS	Release draft e-AD and validate		1	
CDPS	If no ARC exists generate message to declarant asking clarification		3	1

Source: own elaboration.

Table 47: Effort of implementing automated data cross-check for automated cross-check of SEED and ARC numbers

Description	Number	Effort (man-days)
Number of processes	2	100
Number of tasks	12	420
Information exchange	3	95
Total number of man-days		615

Source: own elaboration.

The increase in total effort for checking ARC number also would amount to 180 man-days. The increase in the overall effort of checking the ARC number would also amount to 180 man-days, i.e. roughly EUR 100 thousand. The total cost of implementing and maintaining the system for five years would be around **EUR 343 thousand** per MS.

MSAs from Estonia and Slovenia, who shared their expectations of the costs of cross-check at import, did not indicate that the provision of ARC would yield an additional enforcement cost, if compared to SEED cross-check. According to their estimates, the implementation of cross-check would cost EUR 250,000 and EUR 55,000, respectively.

➤ **COMPLIANCE, ADMINISTRATIVE, AND HASSLE COSTS FOR EOS**

The provision of ARC and SEED, according to the information described and illustrated in the following chapter, would cost roughly EUR 10 per import declaration. The total cost would amount to ca. **EUR 258,600** a year (assuming the current number of import movements followed by a movement under duty suspension), and would rise along with the expected increase in the import volume of excise goods. Moreover, establishment of EU common requirements for moving excise goods under duty suspension after import, a prerequisite for the automated cross-check, will diminish hassle costs by reducing the complexity of provisions across EU MS.

➤ **IMPACT ON FRAUD**

Compared to cross-check of SEED only, the introduction of cross-check of ARC would ensure not only that the indicated consignee is an authorised excise trader, but also that the number of movement would be identical.

Despite the additional data cross-check, the likely impact on fraud reduction would be similar as in the case of SEED only. The problem of “stealing” VAT numbers is eliminated already in the case of a simpler cross-check. The cross-check of ARC does not eliminate fraud where description of goods differs. Thus, it could be expected that by implementing cross-check of SEED and ARC, the fraud on imports would be largely, but not completely, eliminated, as in the case of a simpler cross-check. Such an assumption was confirmed during interviews with MSAs.

➤ **DISTRIBUTION OF COSTS/BENEFITS BETWEEN MS, AND MODULARITY OF THE POLICY OPTION**

Similarly to other types of cross-check the benefits from the automated cross-check of SEED and ARC numbers would be proportional to the number of import operations followed by movements under duty suspension. Both MS of dispatch and destination could benefit from the cross-check. Moreover, a selective implementation of the cross-check would substantially limit the EU-wide benefits in terms of fraud reduction. It might be expected that some fraudulent movements would be shifted to MS with no cross-check in place.

5.3.3 Impact Analysis of Automated Cross-Check of Goods Description

➤ **ADMINISTRATIVE AND ENFORCEMENT COSTS FOR MSAs**

The introduction of an automated cross-check, which also provides a good description, when compared to SEED and ARC cross-checks, would require relatively small amendments.

The number of processes, tasks, and messages for automated data cross-check at ARC and SEED, together with validation of goods' item level, are described in Table 48. The effort in man-days is summarised in Table 49.

Table 48: Number of processes, tasks and messages for automated cross-check of goods description

Application	Description	No. of processes	No. of tasks	No. of messages
EMCS	Import process	1		
CDPS	New status of declaration including timer		1	
EMCS	Generate draft e-AD	1	3	
EMCS	Report ARC to CDPS including goods items		1	1
CDPS	Receive message from EMCS and save ARC		1	
CDPS	Check goods items		1	
CDPS	If cross check on goods items level successful report to EMCS that import procedure is finished		1	1
EMCS	Release draft e-AD and validate		1	
CDPS (error handling)	If cross check on goods items not successful generate message to declarant asking clarification		3	1
CDPS	Receive declarants reply, process it		1	1
EMCS	EMCS ask trader for correction		1	1

Source: own elaboration.

Table 49: Effort of implementing automated data cross-check for automated cross-check of goods description

Description	Number	Effort (man-days)
Number of processes	2	100
Number of tasks	14	490
Information exchange	5	175
Total number of man-days		765

Source: own elaboration.

The total effort of implementing validation at item level would require an additional 140 man-days. In total, the cost of implementing such a cross-check procedure would be roughly **EUR 427 thousand** per MS.

Two MSAs, which responded to the question regarding the implementation cost, also foresee an increase in the implementation cost of goods description cross-check. The cost of introducing the cross-check, as well as its maintenance over five years, would amount to EUR 60,000 according to Slovenian MSAs, and EUR 270,000 according to Estonian MSAs. The cost expected by MSAs is higher in the estimates of the EU IT cost model, which might be associated with the fact that the answers were provided by MS with daily IT services tariffs below the EU average. In addition, UK MSAs, where the tariffs exceed the EU average, pointed that it is difficult to accurately foresee the

implementation cost, however, it would likely exceed GBP 2 million TCO over five years.

All in all, the cost of full cross-check at goods description is estimated to be much lower than the automated cross-check at body level on exportation. The reason for such a significant difference is the number of tasks and information exchange on exportation and importation (both in EMC and in AES/CDPS). As a result of generally simpler treatment of import, changing *modus operandi* on importation will be less costly.

➤ **COMPLIANCE, ADMINISTRATIVE, AND HASSLE COSTS FOR EOS**

The provision of ARC and SEED, necessary for the full cross-check, would cost ca. **EUR 258,600** a year, and would rise along with the expected increase in the import of excise goods. As in the case of simpler cross-checks, establishment of EU common requirements for moving excise goods under duty suspension after import will diminish hassle costs by reducing the complexity of provisions across EU MS.

➤ **IMPACT ON FRAUD**

The implementation of a “full” cross-check could nearly eliminate all known types of fraud in excise on import (except for illicit trade or smuggling). If there were a perfect match of customs and excise data, and customs data reflected the actual quality and quantity of goods imported, fraud in excise would be entirely eliminated. What was confirmed by the MSAs from the UK, is that the implementation of cross-check at header and goods description would result in a significant reduction – *if not in current fraud levels, then definitely in future ones*.

➤ **DISTRIBUTION OF COSTS/BENEFITS BETWEEN MS, AND MODULARITY OF THE POLICY OPTION**

Similarly to other types of cross-check, the benefits from the automated cross-check of SEED and ARC numbers would be proportional to the number of import operations followed by movements under duty suspension. Both MS of dispatch and destination could benefit from the cross-check. Moreover, a selective implementation of the cross-check would substantially limit the EU-wide benefits in terms of fraud reduction. It might be expected that some fraudulent movements would be shifted to MS with no cross-check in place.

5.3.4 Comparison of Policy Options

Table 50: Comparison of policy options (Excise-Import)⁸²

Impact area and target groups	A) Dynamic baseline scenario		B) Automated cross-check of SEED		C) Automated cross-check of SEED and ARC		D) Automated cross-check of goods description	
Administrative costs for MSAs	+4% in absolute terms over 5y	The number of import operations moved to another MS will increase resulting in the growth of cost borne by customs and excise MSAs.	EUR 1.44 million over 5 years (benefit)	Gains equivalent to ca. EUR 0.28 million per year today, to increase by 4% over 5 years.	EUR 1.44 million over 5 years (benefit)	Gains equivalent to ca. EUR 0.28 million per year today, to increase by 4% over 5 years.	EUR 1.44 million over 5 years (benefit)	Gains equivalent to ca. EUR 0.28 million per year today, to increase by 4% over 5 years.
Enforcement costs for MSAs	0	No enforcement costs are envisaged.	EUR 6.8 million TCO over 5y (cost) EUR 3.4 million CAPEX/EUR 0.68 Million yearly OPEX	The effort of implementing the automated data cross-check in amounts 435 man-days, which is equivalent to ca. 243 thousand EUR, per MS.	EUR 9.6 million TCO over 5y (cost) EUR 4.8 million CAPEX/EUR 0.96 million yearly OPEX	The effort of implementing the automated data cross-check in amounts 615 man-days, which is equivalent to ca. 343 thousand EUR, per MS.	EUR 12 million TCO over 5y (cost) EUR 6 million CAPEX/EUR 1.2 million yearly OPEX	The effort of implementing the automated data cross-check in amounts 765 man-days, which is equivalent to ca. 427 thousand EUR, per MS.
Administrative, compliance and hassle	+4% in absolute terms	The number of import operations	EUR 0.7 million over 5y	The cost of SEED provision would be roughly EUR 5 per	EUR 0.7 million over	The cost of ARC and SEED provision would be roughly EUR 10 per	EUR 1.3 million over 5y	The cost of ARC and SEED provision would be roughly EUR 10 per movement,

⁸² Note: +2 major positive effect expected, +2 moderate positive effect expected, 0 no effect or neutral impact expected, -1 moderate negative effect expected, -2 major negative effect expected. Monetary values are presented in real terms. Figures in the table were estimated for the next five years as of next year using the estimated change in the number of movements and the estimates of current unitary gains/losses. We also assume that the fixed cost (CAPEX) of implementing IT systems is five times larger than the yearly variable cost (OPEX). Some numbers may not sum up due to rounding.

Impact area and target groups	A) Dynamic baseline scenario		B) Automated cross-check of SEED		C) Automated cross-check of SEED and ARC		D) Automated cross-check of goods description	
costs for EOs	over 5y	moved to another MS is expected to increase and so are the absolute costs for EOs.	(cost)	movement, increasing from EUR 130,000 to EUR 134,000 after 5 years. Furthermore, establishment of EU common requirements for moving excise goods under duty suspension after import will diminish hassle costs for EOs.	5y(cost)	movement, increasing from EUR 130,000- to EUR 134,000 after 5 years. In addition, establishment of EU common requirements for moving excise goods under duty suspension after import will diminish hassle costs for EOs.	(cost)	increasing from EUR 261,000 to EUR 269,000 after 5 years. Furthermore, establishment of EU common requirements for moving excise goods under duty suspension after import will diminish hassle costs for EOs.
Impact of fraud	0	Fraudsters will continue irregularities in import, which may amount to even EUR 20 million.	+1	Cross-check of SEED would moderately reduce the fraud on imports by preventing the situation, where importers guess the VAT numbers of the consignee in the VAT information exchange system (VIES), or "steal" the VAT number of an EO that is unaware of the scheme.	+1	Cross-check of SEED and ARC would have a similar impact as the cross-check of SEED only. It would moderately reduce the fraud on imports by preventing the situation, where importers guess the VAT numbers of the consignee in the VAT information exchange system (VIES), or "steal" the VAT number of an EO that is unaware of the scheme.	+2	Implementation of a "full" cross-check could nearly eliminate all known types of fraud in excise on import (except for illicit trade).
Market effects	0	No changes in the market structure over the next five years are envisaged.	0	No direct impact envisaged. Indirect impact on market price through fraud reduction and increase in costs borne by EOs could be expected.	0	No direct impact envisaged. Indirect impact on market price through fraud reduction and increase in costs borne by EOs could be expected.	0	No direct impact envisaged. Indirect impact on market price through fraud reduction and increase in costs borne by EOs could be expected.
Efficiency	-	-	-	The desired effect of reducing the scale of fraud would be achieved at reasonable price, without more efficient alternative solution.	-	The effect of reducing the scale of fraud would be similar to the SEED cross-check but it would be achieved at higher cost.	-	The impact on reducing fraud would be larger than for simpler cross-checks, which would go in line with the higher cost of its implementation.

Impact area and target groups	A) Dynamic baseline scenario		B) Automated cross-check of SEED		C) Automated cross-check of SEED and ARC		D) Automated cross-check of goods description	
Effectiveness	-	-	-	The objective of fraud reduction would be achieved only partially.	-	The objective of fraud reduction would be achieved only partially.	-	The objective would be fully achieved.

Source: own elaboration.

5.4 Duty Paid B2B

Two analysed policy options within the problem area of duty-paid B2B movements, which are EOs registration and authorisation, and EMCS extension, are expected to yield substantial enforcement costs.

Both policy option would require significant changes in the existing IT solutions. The implementation of either of two policy options would also change the *modus operandi* of EOs. Affected would be SMEs, which often use duty-paid arrangements in their core business, but also larger EOs, which use duty-paid arrangements for their premises unregistered as consignors, consignees and tax warehouses. Implementing different means of automation and registration would also impact the administrations through reducing red tape and through better supervision.

5.4.1 Impact Analysis of EOs Registration and Authorisation

➤ ADMINISTRATIVE AND ENFORCEMENT COSTS FOR MSAs

EO registration and authorization would require somewhat modifying SEED that currently records warehouse keepers, registered consignors and registered consignees authorised operating with duty suspended movements. The changes in SEED that would be required to include the new type of arrangement and operators is summarised by Table 51.

Table 51: Effort of implementing automated data cross-check for automated cross-check of goods description

Description	Number	Effort (man-days)
Number of processes	1	50
Number of tasks	1	35
Information exchange	2	70
Total number of man-days		155

Source: own elaboration.

The numbers in Table 51 result from the need to amend, add a flag or a code to an economic operator in order to identify this subject as "duty-paid" operator in the available registration process *UC-114-105* in SEED.

Changes that would need to be implemented are listed in Table 52.

Table 52: Number of processes, tasks and messages for EOs registration and authorisation

Application	Description	No. of processes	No. of tasks	No. of messages
SEED	Registration process UC-114-105	1	1	
SEED	IE713 IE714			2

Source: own elaboration.

Assuming the estimated effort of 155 man-days, TCO would amount on average to roughly **EUR 86,000**. As SEED databases are administered and implemented in all MS, such cost on average would need to be paid by all EU MS.

The estimate of the enforcement cost with the use of EU IT cost model is in between the estimates provided by Swedish and Slovenian MSAs, who expect the total cost, including the registration process of EOs, of ca. EUR 500,000⁸³ and EUR 100,000 respectively. In addition, Slovakian MSAs expect to spend 648 man-days to set-up the registration, which in monetary terms would be roughly EUR 80,000.

As mentioned, in addition to IT implementation cost, registration and authorization of EOs would increase administrative burden on MSAs. It could be expected that the administrative costs would be significant just after the implementation of the policy option, but would also somewhat increase the necessary head-count for registration of EO in the future.

The details of the registration process are at this stage unknown. For the sake of this analysis we assume that the registration of EOs for duty-paid movements would be two times simpler than in case duty-suspended movements. As declared, by Swedish MSAs, currently it takes 1-2 days of effective work for the assessment of each application. Thus, it might be expected that the time to assess simplified applications would take **less than a man-day**.

Since the estimates on the number of EOs moving excise goods not registered in SEED, are not available, to estimate the cost of SEED extension we use expectations of MS. Assuming an average cost of registration to 2 man-days per registration and 0.4 man-day⁸⁴ per renewal, the EU-wide cost of registering all 6,350 EOs would amount to EUR 2.4 million. Yearly administrative cost of renewing these registrations would amount to ca. EUR 0.5 million.

➤ **COMPLIANCE, ADMINISTRATIVE AND HASSLE COSTS FOR EOs**

If the registration is implemented, EOs would need to register in SEED. The details of the registration process were are unknown at this point. According to the assumption of the Commission, the procedure would be simplified compared with the registration and authorization of operators for duty suspended movements. We assume that the registration procedure would require two times less effort than the registration of tax warehouse.

Using the estimate from the Evaluation Report of 10-15 man-days for registration in EMCS, it is assumed that the cost of registration would amount to 6-man-days per registration, namely EUR 7.2 million in all EU MS. Assuming 20% of this effort for yearly renewal, the EU-wide cost for registration would cost MS ca. EUR 1.4 million per year.

➤ **IMPACT ON FRAUD**

The registration of EOs in SEED would help filter risky EOs that may take advantage of excise differentials between the MS. The requirements that EOs would need to meet to register are unknown, and thus the reduction of the scale fraud could be analysed only qualitatively.

Registration and authorization as is an efficient mean of fighting with fraud, however not immune to irregularities. An example of irregularities despite registration may be MTIC, and VAT fraud despite necessary registration in VIES. The value of MTIC was estimated to EUR 60 billion in 2016.⁸⁵

⁸³ Estimated using man-day effort provided by Swedish MSAs of 12 FTE in total, and 1-2 man-days per registration.

⁸⁴ Note: 20% of the registration cost is assumed.

⁸⁵ Source: Europol.

In addition, as an example, despite concessions granted for the traders of motor fuels in Poland, the implementation of a set of limitations in July 2016 regarding the trade of motor fuels, showed existence of large scale fraud (mostly in VAT). Only in 2016, the excise revenue increased by 5.2%, reducing the excise gap in fuel by ca. 2 pp.

The registration of EOs conducting duty-paid operations would significantly limit fraud in such operations (which could amount up to EUR 178 million yearly), but would not be effective enough to eliminate fraud in B2B duty-paid movements. Nevertheless, even if fraud is reduced only partially, the impact on excise revenue gains would be meaningful.

5.4.2 Impact Analysis of Automated Movement Control (EMCS extension)

➤ ADMINISTRATIVE AND ENFORCEMENT COSTS FOR MSAs

The extension of EMCS to duty-paid B2B movements would result in substantial enforcement cost for MSAs. Due to natural large differences in handling duty-paid and duty-suspended movements, the cost of extending EMCS, as pointed by MSAs, could account for a significant cost of introducing EMCS for duty-suspended movements, borne in 2007-2011.

The technical specification of the automated movement control for B2B duty-paid arrangements is not available. Thus, to estimate the cost we build on the relatively recent experience of MSAs of implementing EMCS. For this purpose we use TCO of EMCS in the period of 2007-2011.

Table 53: Enforcement costs of implementing automated movement control

Sub-indicators	Enforcement cost (EUR)	Enforcement cost (%)
Unit	EUR/5y TCO	(%) of EMCS implementation
Czech Republic	0.3	15.0%
Luxembourg	0.25	4.1%
Poland	0.7-0.95	N/A
Slovenia	0.06	3.4%

Source: own elaboration.

Using the information provided by MSAs we approximate the cost of extending the EMCS to 7.5% of the cost of its introduction between 2007 and 2011. In monetary terms, the cost of extending EMCS to B2B duty-paid movements and maintaining the system for five years would amount to **EUR 15 million** in all EU MS.

According to MSAs, transition from paper-based to electronic procedures will have significant efficiency gains (see Table 54).

Table 54: Efficiency gains of introducing automated movement control

Sub-indicators	Gains suspected by MSAs	Estimated gains
Unit	man-days/y	EUR/y
Latvia	16 (+EUR 800,000)	801,200
Slovenia	100	14,320

Slovakia	1500	183,600
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Source: own elaboration.

Assuming that the increase in efficiency in man-days per B2B duty-paid operation would be the same over all MS, which is 0.15 man-days per B2B duty-paid movement, the increase in efficiency would result in **30.6 thousand man-day savings** a year with the current number of B2B duty-paid movements.⁸⁶ In monetary terms for the entire EU, this would bring **EUR 5.8 million savings per year**.

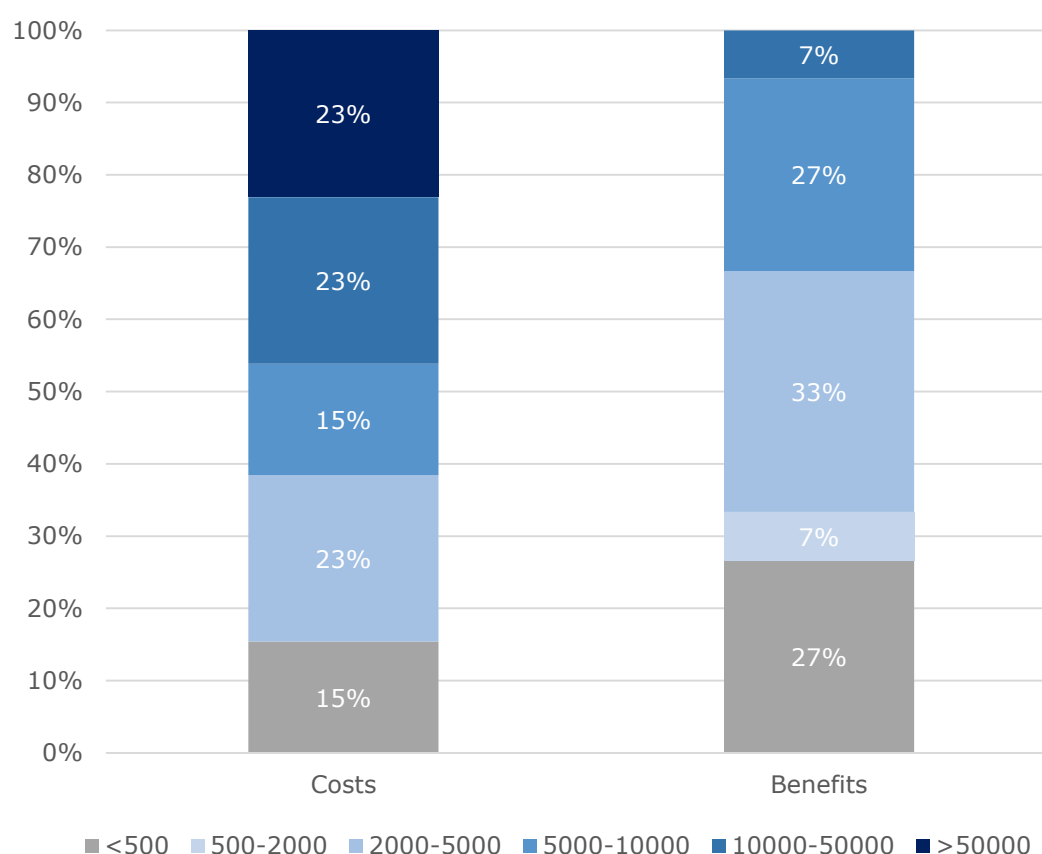
➤ COMPLIANCE, ADMINISTRATIVE AND HASSLE COSTS FOR EOs

In terms of costs and benefits for EOs, two types of effects could be expected from the automation. These are efficiency gains per each operation and fixed cost of adapting processes. The cost will likely differ for different types of EOs.

Bearing in mind the results of the baseline analysis that proved that small and medium EOs use duty-paid arrangements more often than large EOs, we conduct the analysis separately for SMEs and for large EOs. In addition, for each of the group we combine the expectations of costs and benefits.

As illustrated by Figure 69, the costs above EUR 10,000 per year are foreseen by 46% of large EOs. Such benefits are foreseen by only 7% of respondents.

Figure 68: Costs and benefits from automated movement control in view of large EOs

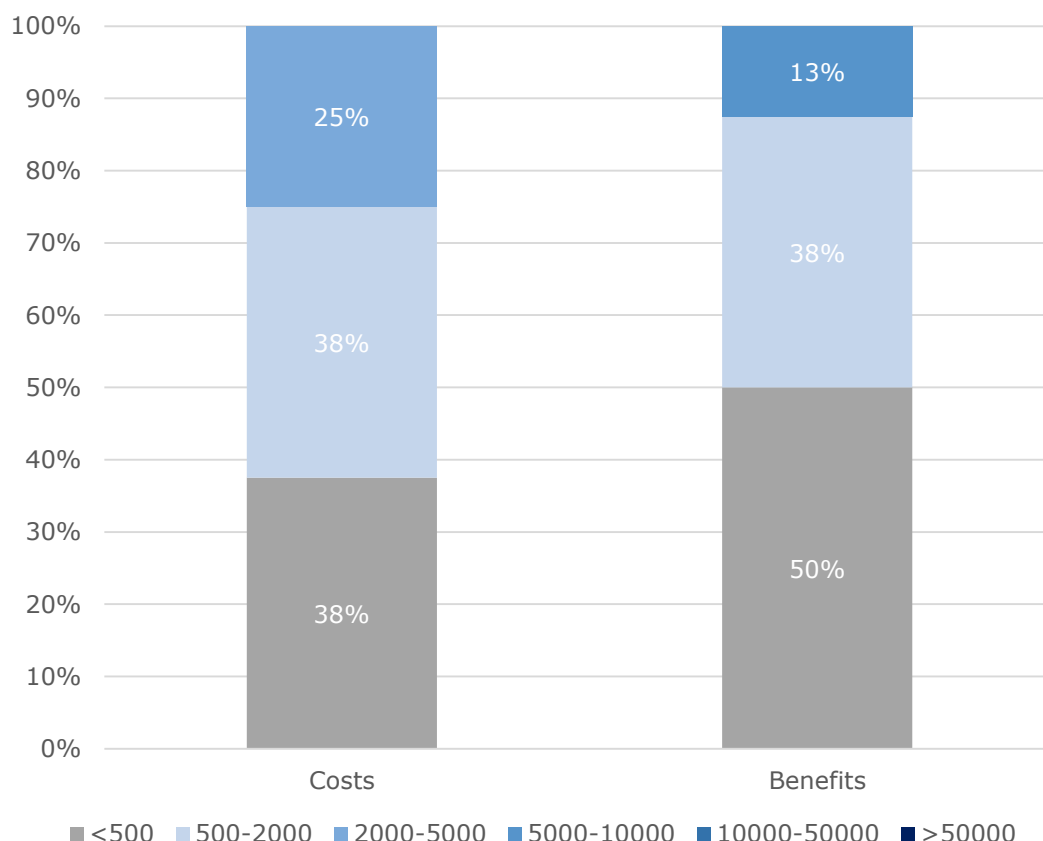


Source: own elaboration.

⁸⁶ Estimated on the basis of inbound and outbound movements from MS, which provided their answer to the questionnaire.

The structure of costs and benefits expected by EOs employing less than 250 workers is more alike. The difference is mostly on the extreme sides of the chart. Very small benefits are predicted by the larger share of respondents than very small cost. However, significant benefits above EUR 5,000 yearly are expected by 13% of MS. No MS expect total costs of this or higher value.

Figure 69: Costs and benefits from automated movement control in view of small and medium EOs



Source: own elaboration.

Knowledge about the number of movements and expected benefits from the automation allow to estimate net gains per movement, which would amount to EUR 36 per movement for large EOs and EUR 95 for SMEs. In order to estimate the costs or benefits macro-EU-wide scale, we use the information on the respondents' structure and average number of yearly movements from the Evaluation Report survey. Taking into account that 17% are large EOs with 69 movements per year and 83% is SMEs with 10 movements per year on average, it is estimated that 59% of all B2B duty-paid movements are conducted by large EOs and 41% by SMEs. As a result, EU-wide yearly gains would amount to EUR 12.2 million.

On the cost side, the compliance and administrative burden for EOs on the basis of the answers to the questionnaires is estimated to reach EUR 20,500 per large EO and EUR 1,300 per SME. Hence, the EU-wide cost for 6,350 EOs conducting B2B duty-paid movements would amount to roughly EUR 29 million (inclusive registration and automation costs).

As many interviewees pointed, the cost of automated movement control would be of fixed nature, and would be borne during the first year, i.e. during the period of adaptation. Large operators were of the opinion that their IT systems would need to

be adapted by external suppliers and that some processes, like archiving, would also need to become electronic. A number of small operators expected that due to the lack of IT knowledge and internal capacity, the automation would require hiring expensive external technicians and consultants. However, the costly change of *modus operandi* or implementation of new IT systems envisaged by numerous EOs, would not be necessary. In the end, if the cost is too high, some of the operators may decide to maintain their current methods of dealing with B2B duty-paid movements, which would decrease their expected cost of introducing automated movement control. EOs will be able to keep their business processes as MS will provide web-user interfaces to fill-in on-line SAAD forms.

➤ **IMPACT ON FRAUD**

According to MSAs, the automated movement control would significantly reduce the scale of fraud in B2B duty-paid movements. In total, 21 out of 22 MSAs, support the implementation of such automation, which confirms suspected effectiveness of the system in reducing the scale of fraud.

According to the MSAs from Ireland, the use of EMCS for intra EU movements of duty suspended excise goods has shown, there is a reduced incidence of fraud among other through improved opportunities for risk analysis. The MSAs from Cyprus, Lithuania, Germany and the UK explicitly confirm the positive expectations towards the automation limiting fraud.

➤ **MARKET EFFECTS AND IMPACT ON SMEs**

As the analysis of compliance and administrative costs suggests automation of B2B duty-paid movements would have especially significant impact on large EOs, who do not frequently use duty-paid movements. Despite rare use of the system large operators would have to adapt their *modus operandi*, in that introduce changes in their ERP systems. The cost of such change would amount on average to EUR 20,500, hence would require ca. 570 movements with efficiency gains of roughly EUR 56 to pay-off. For SMEs, the cost of implementation is smaller and efficiency gains are larger. This is why the implementation of the automated movement control would require only 14 movements to bring net gains.

5.4.3 Comparison of policy options

Table 55: Comparison of policy options (B2B duty-paid)⁸⁷

Impact area and target groups	A) Dynamic baseline scenario		B) EO registration and authorisation		C) Automated movement control (EMCS extension)	
Administrative costs benefits for MSAs	+6.2% in 5y in absolute terms	Increase in the cost will be proportional to the growth in the number of import movements if B2B duty-paid movements continue to be paper-based.	EUR 4.3 million over 5y (cost)	The EU-wide cost of registering all 6,350 EOs would amount to EUR 2.4 million. Yearly administrative cost of renewing these registrations would amount to ca. EUR 0.5 million.	EUR 24.7 million over 5y (benefit)	Gains of 0.15 man-days per B2B duty-paid movements. Such an increase in efficiency would result in 30.6 thousand man-day savings a year. In addition, during five years' time EUR 4.3 million in all EU MS per year would be borne due to registration efforts.
Enforcement costs for MSAs	0	No enforcement costs are envisaged.	EUR 2.4 million TCO over 5y (cost) EUR 1.2 million CAPEX/EUR 0.24 million OPEX	Effort of implementing registration and authorisation amounts to 155 man-days, which is equivalent to ca. 86 thousand EUR, per MS.	EUR 15 million TCO over 5y (cost) EUR 7.5 million CAPEX/EUR 1.5 million OPEX	Effort of extending EMCS amounts to 970 man-days, which is equivalent to ca. 258 thousand EUR, per MS.

⁸⁷ Note: +2 major positive effect expected, +1 moderate positive effect expected, 0 no effect or neutral impact expected, -1 moderate negative effect expected, -2 major negative effect expected. Monetary values are presented in real terms. Figures in the table were estimated for the next five years as of next year using the estimated change in the number of movements and the estimates of current unitary gains/losses. We also assume that the fixed cost (CAPEX) of implementing IT systems is five times larger than the yearly variable cost (OPEX). Some numbers may not sum up due to rounding.

Impact area and target groups	A) Dynamic baseline scenario		B) EO registration and authorisation		C) Automated movement control (EMCS extension)	
Administrative, compliance and hassle costs for EOs	+6.2% in 5y in absolute terms	Increase in the cost will be proportional to the growth in the number of import movements if B2B duty-paid movements continue to be paper-based.	EUR 13 million over 5y (cost)	EUR 7.2 million in all EU MS per registration and ca. EUR 1.4 million per renewal.	EUR 32 million over 5y (benefit) (EUR 16.8 million cost after the first year and net gains of EUR 12.2 million in subsequent years)	Benefits of EUR 12.2 million per year due to efficiency gains and EUR 29 million for registration and change of modus operandi.
Impact of fraud	0	Paper-based duty-paid B2B movements and large excise rate differentials will continue facilitate fraud, which might exceed EUR 20 million, per year.	+1	Registration and authorization will reduce the scale of fraud. As in the case of VAT. No supervision of movements and guarantees will, however, leave space for fraud.	+2	Full automation of movements, as in the case of introducing EMCS for duty-suspended arrangements will substantially reduce the scale of fraud. Gains exceeding EUR 100 million over 5 years could be expected.
Market effects and impact on SMEs						
Efficiency	-	-	-	The desired effect of reducing the scale of fraud would bear relatively large administrative and compliance costs.	-	The desired effect of reducing the scale fraud would go in line with the increased efficiency no bot EOs' and MSAs' side. The initial, fixed cost of changing modus operandi, whereas variable cost would be low.
Effectiveness	-	-	-	It might be expected that irregularities in B2B duty-paid movements would be reduced only partially.	-	The automated movement control would be very effective in increasing efficiency and reducing fraud.

Source: own elaboration.

5.5 Low risk movements

5.5.1 Impact Analysis of Optional simplification

➤ ADMINISTRATIVE AND ENFORCEMENT COSTS FOR PUBLIC AUTHORITIES

Out of six MS that provided an answer to the relevant question, three (Ireland, Sweden, and the UK) stated they saw no benefits, one (Germany) described advantages and disadvantages of the suggested solution in detail, but provided no numerical value, and only two (Slovenia and Slovakia) specifically stated their expected administrative cost reduction in terms on man-days. Slovenia believes that, should the simplification scheme be introduced, it would save 20 man-days per year (that is, 2,864 EUR/year), while Slovakia – 108 days (13,219.2 EUR/year). Germany explained that the introduction of the simplification scheme could introduce certain flexibility that could, in turn, provide benefits for the MS itself. How beneficial it would be, would, however, “depend(s) on the concrete scope of the simplifications and the goods concerned”.

Table 56: Administrative cost reduction due to introduction of standard simplification schemes for “low-risk” cross-border movements according to MS

Indicator	Administrative cost reduction
Unit	man-days
Ireland	0
Slovenia	20
Slovakia	108
Sweden	0
United Kingdom	0

Source: own elaboration based on answers provided by MSAs.

Extrapolating these numbers, administrative cost reduction due to introduction of standard simplification schemes for “low-risk” cross-border movements would amount to **ca. 1,011 man-days EU-wide, which equals ca. EUR 0.786 million.**

In order to achieve this number, we attached a weight to each MS, dividing the value of low-risk operations (intra-community supply of low-risk goods) in a given country by the value of all low-risk operations EU-wide (both numbers calculated using the method explained in detail in Chapter 3.6). Subsequently, knowing each MS’s share in all the low-risk movements, we were able to estimate its benefit from introduction of standard simplification schemes in terms of man-days. Knowing each country’s daily rate (in EUR) allowed us to then calculate the cost in monetary terms.

➤ COMPLIANCE AND ADMINISTRATIVE COSTS FOR ECONOMIC OPERATORS

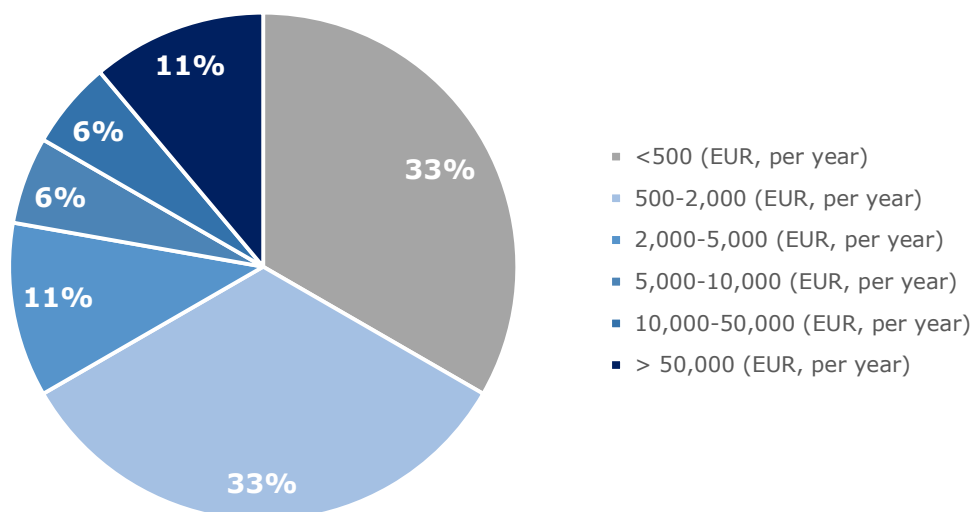
Out of the plurality (42%) of EOs who provided an answer to the relevant question, one third (33.3%) expected savings amounting to less than 500 EUR a year, and another third (33.3%) – between 500 and 2,000 EUR a year. Roughly, an equal number believed they would save 2,000-5,000 EUR a year, 5,000-50,000 EUR⁸⁸ a year, and

⁸⁸ One EO (5.6% of the sample) believed they would save between 5,000 and 10,000 EUR/year, and one – between 10,000 and 50,000 EUR/year. Numbers displayed on the chart may vary slightly due to their rounding to the nearest number.

more than 50,000 EUR a year (11.1% each). There was no statistically important difference in perception of potential benefits between companies depending on the sector they operated in. Bigger companies (employing over 250 people) were, however, the only ones to expect financial benefits exceeding 2,000 EUR per year (40% of all EOs employing 250 people and more). One fifth believed they would save between 10,000 EUR and 50,000 EUR a year. As for the SMEs, only 30% of those who took part in the survey answered that question. Out of those who did, two expected benefits to be below EUR 500 and one – between EUR 500 and 2,000 annually.

Extrapolating this number yields a figure of **ca. EUR 4.45 million EU-wide**. In order to achieve this number, we computed weight for each EO that provided its estimation of expected benefits by virtue of dividing number of its operations (as reported in the questionnaire) by the total number of all excise movements (calculated using data from EMCS, as described in detail in Chapter 3.7.3). We subsequently used the weights and estimations of savings provided to extrapolate the value of savings for the entire EU.

Figure 70: Benefits expected by EO from the introduction of standard simplification schemes for “low-risk” cross-border movements



Source: own elaboration based on answers provided by MSAs.

Financial benefits are also expected by EOs that participated in the OPC. Roughly two thirds suspected introduction of the simplification scheme would be beneficial or very beneficial for them. At the same time, however, 9.7% were concerned about a potential detrimental effect of the proposed changes.

➤ MARKET EFFECTS AND IMPACT ON SMES

Taking the level of EOs' discontent with current arrangements into consideration, introduction of a simplification scheme would be beneficial for EOs. However, it is worth noting at the same time that although EOs expressed a hope in questionnaires and the OPC that a simplification scheme would be introduced, some of them were worried that implemented changes would not, in fact, reduce their administrative burden (implicitly: further complicate their work). Moreover, differences in terms of the type of simplification scheme preferred could be noticed between different groups of EOs; micro companies were not in favour of a scheme based on a type of product (100% against it), preferring simplification based on fiscal risk attached to a movement or a combination of both solutions. It was only large companies, employing over 250 employees, who supported simplification scheme based on type of product transported.

In monetary terms, the scale of savings from the introduction of proposed policy option is rather limited and with only one in ten EOs (11%) expecting to save more than 50,000 EUR a year thanks to the simplification scheme. Large EOs would benefit more than small ones; all micro companies that replied to the question estimated their savings to fall below EUR 500 per year and the only medium-sized (50-250) enterprise that responded—at between EUR 500 and EUR 2,000. 27% of large companies, on the other hand, expected to save more than EUR 5,000 and 13.3% more than EUR 50,000—although 60% still believed their savings to be below EUR 2,000 a year.

➤ **IMPACT ON FRAUD**

Apart from Latvia, who believed fraud related to low risk movements to amount to zero (although only because it believed the number of low risk movements to be zero), and Finland who did not provide estimations on fraud but did expect its scale and value to increase in the upcoming 5 years, no MS provided any information regarding current or future scale of fraud.

However, in their comments MSAs indicated that their unwillingness to introduce simplification scheme (especially one based on fiscal risk associated), or indeed to recognize the term “low risk” goods/movements, resulted from the fact that all movements carry a risk of fraud (even movements with low excise concerned due to the effect of scale).

➤ **DISTRIBUTION OF COSTS/BENEFITS BETWEEN MS, AND MODULARITY OF THE POLICY OPTION**

The benefits from the introduction of low risk movements’ simplification would vary significantly between MS. This is however not an impediment for the introduction of this policy option as it may—and indeed from the beginning was planned to be—implemented in the voluntary basis. MS that do not believe they would benefit from it will be able to abstain from its introduction.

5.5.2 Comparison of Policy Options

Table 57: Comparison of policy options (low-risk movements)⁸⁹

Impact area and target groups	A) Dynamic baseline scenario		B) Simplification of low-risk movements	
Administrative costs for National Authorities	10% increase in absolute terms (0% increase per movement)	The administrative cost per movement borne by MS will remain the same. The number of low-risk movements in absolute terms will increase by 10 percent.	4 million EUR over 5 years (benefit)	Gains of ca. 1,011 man-days, equivalent to ca. EUR 0.79 million per year, to increase by 10% over 5 years.

⁸⁹ Note: +2 major positive effect expected, +1 moderate positive effect expected, 0 no effect or neutral impact expected, -1 moderate negative effect expected, -2 major negative effect expected. Monetary values are presented in real terms. Figures in the table were estimated for the next five years as of next year using the estimated change in the number of movements and the estimates of current unitary gains/losses. We also assume that the fixed cost (CAPEX) of implementing IT systems is five times larger than the yearly variable cost (OPEX). Some numbers may not sum up due to rounding.

Impact area and target groups	A) Dynamic baseline scenario		B) Simplification of low-risk movements	
Enforcement costs for National Authorities	0	No enforcement costs will be borne by National Authorities.	0	No enforcement costs will be borne by National Authorities (use of simplified schemes will be voluntary).
Administrative, compliance and hassle costs for economic operators	10% increase in absolute terms (0% increase per movement)	The administrative cost per movement borne by MS will remain the same. The number of low-risk movements in absolute terms will increase by 10 percent.	22.7 million EUR over 5 years (benefit)	Gains of ca. EUR 4.5 million per year, to increase by 10% over 5 years.
Impact of fraud	0	If no measures are implemented, the level of fraud will not change immediately.	-1	Simplification of low risk movements may increase the scale of fraud.
Market effects and impact on SMEs	0	No change in the market structure over the next five year envisaged.	0	No change in the market structure over the next five year envisaged.
Efficiency	-	-	-	The desired effect of diminishing burden for the EOs would be achieved at reasonable price.
Effectiveness	-	-	-	The desired effect of diminishing burden for the EOs would be partially achieved.

Source: own elaboration.

5.6 Exceptional situations (shortages, excesses, etc.)

5.6.1 Impact Analysis of solutions aimed at suppressing fraud schemes involving rejections

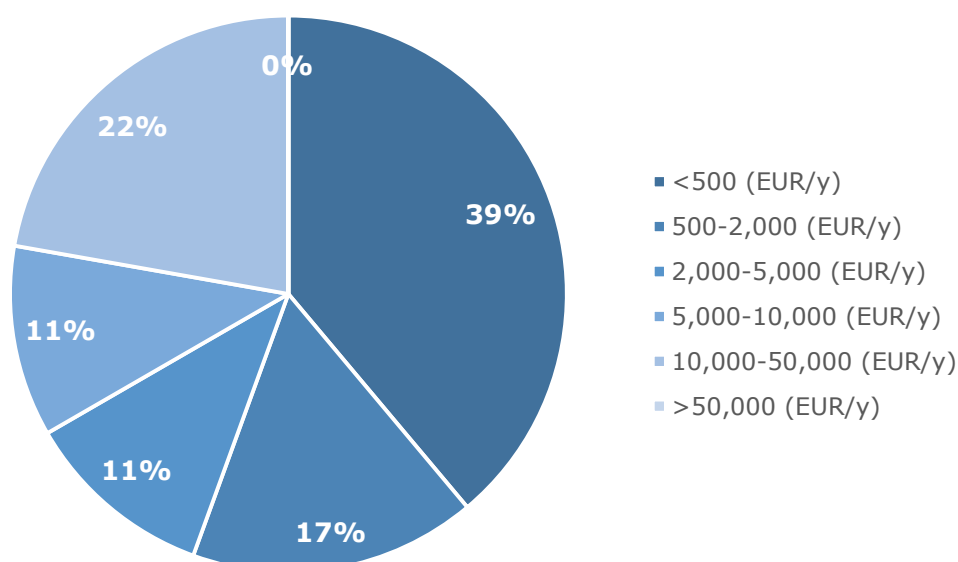
➤ COMPLIANCE, ADMINISTRATIVE AND HASSLE COSTS FOR EOs

In terms of **costs**, the plurality (38.9%) of EOs estimated that **obligatory reporting** of destructions, losses, and thefts during a movement would cost less than 500 EUR per year. A further 16.7% evaluated this cost at between EUR 500 and 2,000 per year, 22.2% – between EUR 2,000 and 10,000 per year, and another 22.2% at between EUR 10,000 and 50,000 a year. No company believed it would cost them more than that amount. Only one SME answered the question, so analysing costs depending on the company size was not possible.

Extrapolating these numbers for the entire EU would amount to **between EUR 6 and EUR 7 million per year**. In order to achieve this number, we attached a weight to each EO, dividing the number of movements it performs per year (as reported in the questionnaire) by the number of all movements of excise goods in the EU. The number of all movements in the EU was calculated using data from the EMCS (as described in detail in Chapter 3.7.3). Knowing each EO's share of the market in terms of the number of movements and their estimated cost of sending obligatory reports, we were

able to extrapolate this cost for the entirety of the excise goods movements (i.e. "the entire EU").

Figure 71: Estimated cost of reporting destructions, losses, and thefts during a movement.



Source: own elaboration.

➤ **DISTRIBUTION OF COSTS/BENEFITS BETWEEN MS, AND MODULARITY OF THE POLICY OPTION**

For the policy option to have a desired effect, reporting of destructions, losses, and thefts during a movement would have to be obligatory on the EU-level and in all MS. The policy can potentially benefit all MS equally.

5.6.2 Impact Analysis of standardization of procedures and equipment used in order to estimate/calculate shortages/excesses

➤ **ADMINISTRATIVE AND ENFORCEMENT COSTS FOR MSAs**

Table 58: Cost of lack of a unified approach between MS to estimating/calculating shortages

	man-days/ year	million EUR/ year
Germany	0.1-14	.
Latvia	0	0
Hungary	25-30	0.032-0.064
Slovenia	130	.

Slovakia	1000	.
Sweden	0	0

Source: own elaboration.

MSAs varied in their estimations regarding the cost of a unified approach towards estimating/calculating shortages. While Latvia and Sweden believed it to be 0 (both in terms of man-days and EUR per year), Germany – between 0.1 and 14 days (“[t]he administrative burden is more likely to be on the part of the economic stakeholders”), and Hungary – 25-30 man-days and EUR 0.032-0.064 million per year, Slovenia estimated the cost at 130 man-days, and Slovakia at 1,000 man-days per year.

The total, **EU-wide cost** of lack of a unified approach in MS towards estimating/calculating shortages, calculated using the previously estimated total number of movements, where excesses/shortages were detected (ca. 4.6% of all movements, see Chapter 3.7.3) would amount to **ca. 7,510 man-days per year**, which is equal to **EUR 1.485 million**.

In order to achieve this number, we attached a weight to each country, dividing the number of movements ending in shortage/excess recorded in a given MS by the number of all movements ending in shortage/excess recorded in the EU (estimated at 4.6% all off movements in the EU; for details, see Chapter 3.7.3). Subsequently, knowing each MS’s share in all the movements ending in shortage/excess, we were able to estimate its cost resulting from the lack of a unified approach of MS towards estimating/calculating shortages in terms of man-days. Knowing each country’s daily rate (in EUR), we were able to calculate the cost in monetary terms.

When it comes to the **cost of implementing a standard way to assess shortages/excesses**, i.e. the cost of measurement equipment and other possible costs, only France was able to provide an estimate – “probably nothing”. Germany noted that estimating costs was not possible due to the lack of any technical specifications at the given time. Hungary commented that the cost of the equipment would be one-off, as “only certification process means additional cost”, but that the EU would need to bear costs of “legislation processes and expert groups”.

Table 59: Benefits resulting from no longer manually cross-checking, less time/resources spent on clarifications of accusations of excessive shortages, or other gains.

	Benefits resulting from				
	No longer manually cross-checking		Less time/resources spent on clarifications of accusations of excessive shortages		Other
	man-days/year	million EUR/year	man-days/year	million EUR/year	man-days/year
Ireland	-	-	1	-	-
Latvia	0	0	0	0	-
Hungary	-	-	20-30	0.032-0.064	-
Slovenia	70	-	70	-	-
Slovakia	1000	-	1000	-	1000
Sweden	0	0	0	0	
UK	-	-	-	-	0

Source: own elaboration based on answers from MSAs.

Gains from reduced effort of eliminating manual cross-checking were estimated between 0 man-days per year by Latvia and Sweden, to 70 man-days by Slovenia, and 1,000 days by Slovakia. Using the same method of calculation as above, gains would amount to **ca. 9,722 man-days for the entire EU, which corresponds to EUR 1.931 million.**

Gains from having to spend less time/resources on clarifications of accusations of excessive shortages were, once again, evaluated differently by various MSAs. Latvia and Sweden believed the value to be 0 (both in terms of man-days and EUR), Ireland thought it would reduce its burden by 1 man-day a year, Hungary – 20-30 man-days and EUR 0.032-0.064 million, whereas Slovenia and Slovakia by 70 and 1,000 man-days, respectively. Using the same method of calculation as in the previous cases, the cost would reach **ca. 7,161 man-days, or EUR 1.402 million for the entire EU.**

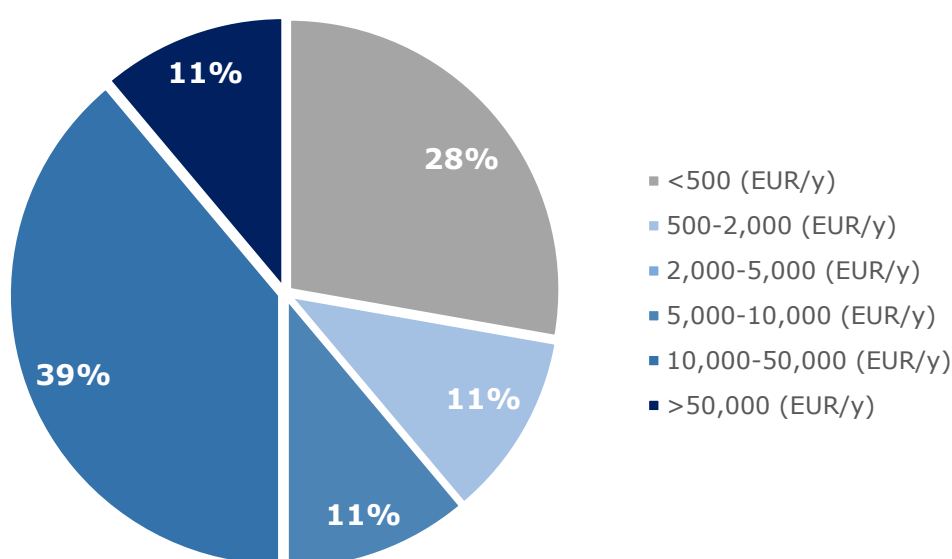
Finally, Slovakia believed 1,000 man-days could be saved from other gains, should the standardisation be introduced, while the UK noted they saw no benefits from its introduction.

➤ **COMPLIANCE, ADMINISTRATIVE AND HASSLE COSTS FOR EOs**

The plurality (39%) of EOs estimated benefits from introduction of a standard way of assessing shortages/excesses at EUR 10,000-50,000 per year. 28% believed that savings would amount to less than 500 EUR, others, to EUR 500-2,000, EUR (5,000-10,000), or over EUR 50,000 (11% each).

As micro (fewer than 10 employees) or small (10-49 employees) companies did not reply to the question, and only a single medium-sized did (<500 EUR), it was not possible to draw any conclusions regarding the cost on the basis of company size. Building on the previously calculated total number of movements where excesses/shortages were detected (ca. 4.6% of all movements, see Chapter 3.7.3), and data on movements where excesses/shortages were noted and provided by EOs, we estimate that EU-wide benefits for EOs would amount to **EUR 18.1 million.**

Figure 72: Suspected benefits from introduction of a standard way of assessing shortages/excesses



Source: own elaboration.

➤ **DISTRIBUTION OF COSTS/BENEFITS BETWEEN MS, AND MODULARITY OF THE POLICY OPTION**

For the policy option to have a desired effect, standardization of procedures and equipment used in order to estimate/calculate shortages/excesses would have to be introduced on the EU-level and in all MS. The policy can potentially benefit some MS more than others, depending on their current estimated costs resulting from the lack of a uniform policy towards shortages/excesses.

5.6.3 Impact Analysis of introduction of standardized allowable losses threshold

➤ **ADMINISTRATIVE AND ENFORCEMENT COSTS FOR MSAs**

MSAs estimated costs resulting from lack of a unified tolerance threshold between 0 (Latvia and Sweden), through 40-50, and 50 (Hungary and Slovenia respectively), up to 100 man-days per year (Slovakia). Although Germany did not provide any numerical answer, it believed that the administrative burden resulting from lack of a unified tolerance threshold would be “very low or low (...) mainly generated by the evaluation of the transactions and the necessary correspondence with the parties involved”.

Basing on the previously calculated total number of movements where excesses/shortages were detected (ca. 4.6% of all movements; see Chapter 3.7.3), as well as data provided by MSAs, we estimate the EU-wide cost of lack of a unified tolerance threshold at ca. **1,444 man-days, which amounts to EUR 0.285 million.**

In order to achieve this number, we used the previously calculated weight attached to each country, representing its share in the total number of movements ending in shortage/excess recorded. Subsequently, knowing the abovementioned weights and the cost of the lack of a unified tolerance threshold for the five countries that did provide it, we were able to estimate this cost for the remaining MS. Knowing each country’s daily rate (in EUR), we were then able to calculate the cost in monetary terms.

In terms of possible gains from the standardisation, estimations again differed among MS. Latvia and Sweden did not think any existed, Slovenia estimated them at 30 man-days per year, Slovakia – at 1,000 man-days, while the Netherlands – at between 200 and 400 man-days (or 1-2 FTEs).

Although Lithuania did not provide any numerical answer, it considered the standardisation to be “beneficial”, while the Netherlands admitted it would result in “less administrative burden”. Ireland noted that although gains “are not likely to be significant, as instances of this [shortages/excesses] are rare in Ireland (...) this type of standardisation provides useful guidance for control staff and economic operators”. Hungary thought standardisation would reduce “the risk of substitution, steal, or any fraudulent actions”.

Basing on per diem rates in each MS, and data provided by MSAs, using the same method as in case of the cost of the lack of unified tolerance threshold (as explained two paragraphs above), we estimated that the EU-wide gain from the introduction of the tolerance threshold at **ca. 11,523 man-days, or ca. EUR 2.275 million.**

Table 60: Estimates of costs of a lack of standardized losses threshold and gains from its introduction.

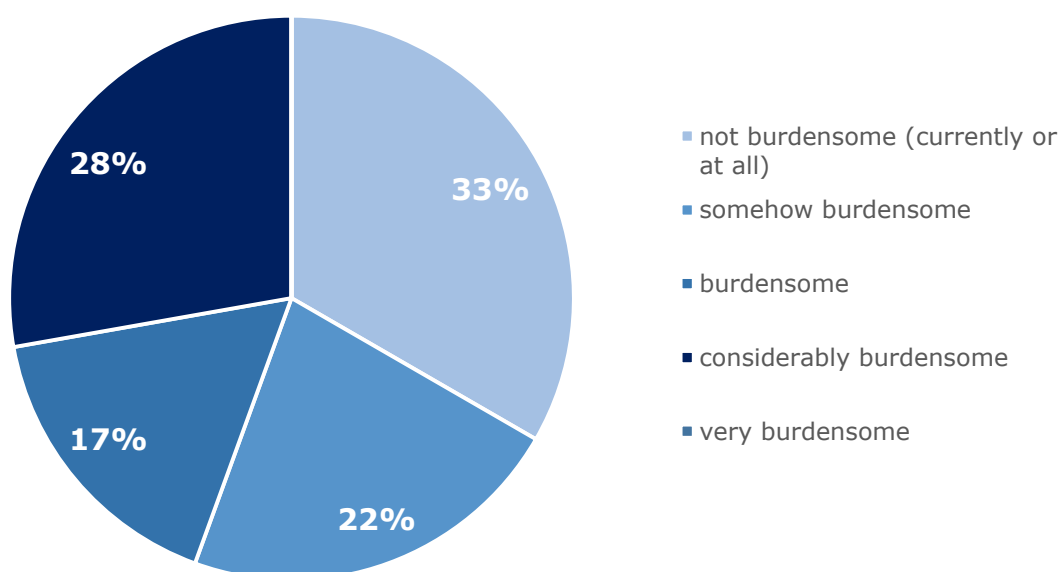
	Cost of lack of a unified tolerance threshold		Gains from standardization	
	man-days/year	million EUR/year	man-days/year	million EUR/year
Latvia	0	0	0	0
Hungary	40-50	0.032-0.064	-	-
Netherlands			200-400 ⁹⁰	
Slovenia	50	-	30	-
Slovakia	100	-	1000	-
Sweden	0	0	0	0

Source: own elaboration.

➤ **COMPLIANCE, ADMINISTRATIVE AND HASSLE COSTS FOR EOs**

Opinions on the current state of affairs, as well as how burdensome the lack of standardised allowable losses threshold is, varied among EOs. While one third (33.3%) believed they were not burdensome (at all or “currently”), close to another third (27.8%) considered them considerably burdensome. 22.2% thought they were somehow burdensome, and 16.7% – burdensome. Thus, in general two thirds of EOs considered the lack of a standardised allowable losses threshold a problem — at least to a certain extent.

Opinions differed mostly depending on the company size. Only large EOs, employing more than 250 employees, considered the lack of threshold not to be burdensome. Small companies (10-49 employees) believed it was either burdensome or considerably burdensome.

Figure 73: Level of burden associated with lack of a unified tolerance threshold

⁹⁰ “Decrease of 1-2 FTE on yearly basis”.

Source: own elaboration.

➤ **DISTRIBUTION OF COSTS/BENEFITS BETWEEN MS, AND MODULARITY OF THE POLICY OPTION**

For the policy option to have a desired effect, the unified tolerance threshold would have to be introduced on the EU-level and in all MS. The policy can potentially benefit some MS more than others, depending on their current estimated costs resulting from the lack of a uniform policy towards shortages.

5.6.4 Impact Analysis of introduction of a “right to be heard”

➤ **ADMINISTRATIVE AND ENFORCEMENT COSTS FOR MSAs**

Most MSA did not provide numerical evaluations of estimated administrative costs resulting from the lack of a standard right to be heard. Two MSAs that did, Latvia and Sweden, believed them to be 0.

Similarly, cost of appeal against a decision made was provided only by Latvia and Sweden, which, again, estimated them at 0. Additionally, the UK noted that the cost would be “minimal”, Lithuania thought it depended on the timeframe set for the “right to be heard” procedures (too long time granted to EOs to appeal would result in administrative burden), and Bulgaria deemed it “the same as at UCC-actions” (while adding at the same time that costs might result from prolonging the period of time before which revenue is acquired from an EO in case of a lost appeal). In what follows, it may be carefully estimated that the EU-wide cost of appeal for MS would be very low.

Moving to the administrative cost of granting EOs standard right to be heard, Germany and the Netherlands estimated it to be 0, both in terms of man-days and EUR, while Hungary thought it would cost it 90 man-days per year. Belgium did not provide a numerical value, but noted it “must have at least two officers for each examination ([t]he time of an examination depends on the complexity of the case).” Basing on the methods of calculation described earlier in this Chapter (attaching weight to each country depending on its share in the total number of movements ending in shortage/excess), as well as using data provided by MSAs, and the per diem rates in each MS, we estimate that the EU-wide cost of granting EOs standard right to be heard would amount to ca. 1,787 man-days, which is equal to ca. EUR 0.354 million.

Table 61: Cost of granting EO standard right to be heard

	Administrative costs in cases of shortages, excesses, rejections, or interruptions		Other cost
	man-days/y	million EUR/y	million EUR/y
Germany	0	-	0
Hungary	90	-	-

Netherlands	0	0	-
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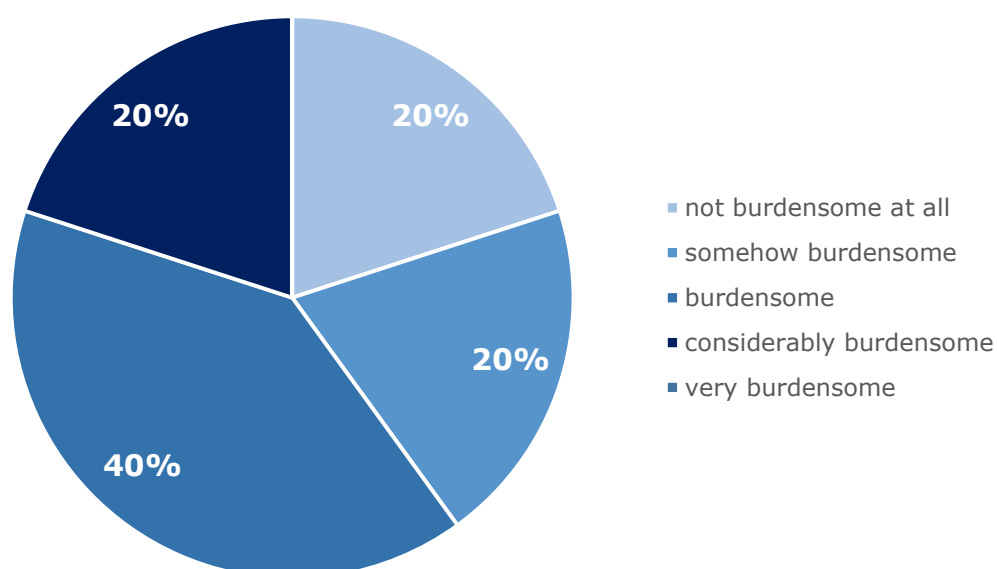
Source: own elaboration.

In terms of benefits from the right to be heard, Belgium, Ireland, and Romania underlined benefits for EOs (such as the opportunity to prepare better appeals and more legal certainty). Ireland additionally believes that introduction of this proposal will lead to “better quality standards of administration and compliance”. Cyprus underlined easier settlements of pending and/or outstanding payments, Latvia – smoother communication with EOs from other MS, while Hungary believed the introduction of the right to be heard would lead to an improved cooperation between MSAs and EOs.

➤ Compliance, Administrative and Hassle Costs for EOs

The majority of EOs (80%) considered the lack of a standard right to be heard in cases of shortages, excesses, rejections, and/or interruptions to be at least to some extent burdensome; 20% believed it was somehow burdensome, 40% – burdensome, and 20% that it was considerably burdensome. Only 20% of EOs (and exclusively large ones, i.e. employing more than 250 people) thought it was not burdensome at all.

Figure 74: Level of burden associated with lack of a standard right to be heard

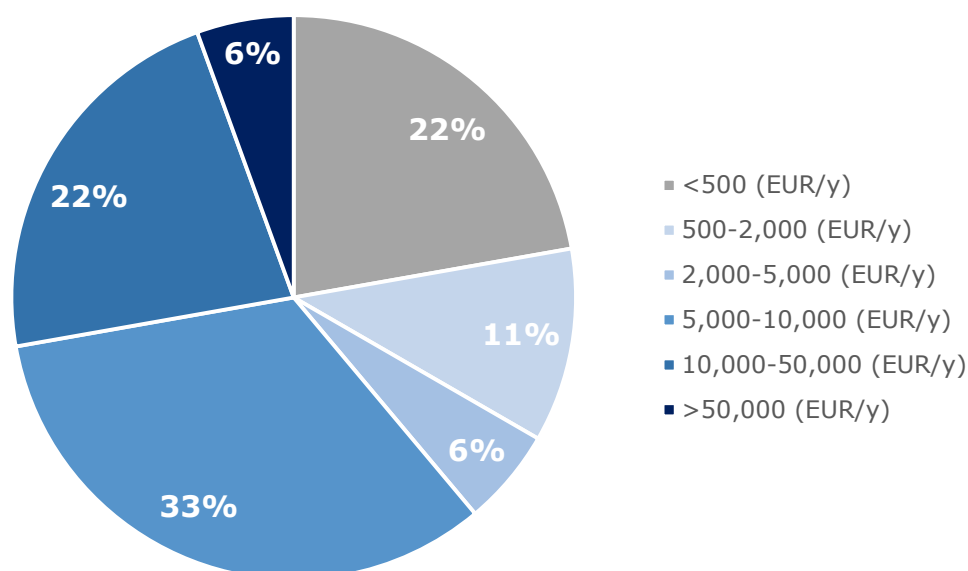


Source: own elaboration.

In terms of financial effort on behalf of EOs resulting from the lack of right to be heard, 22% of companies estimated it at below EUR 500 per year, 11.1% – at between EUR 500 and 2,000, 5.6% – ranging from EUR 2,000 to 5,000, 33.3% (the plurality) to be between EUR 5,000 and 10,000, 22.2% – between EUR 10,000 and 50,000, and, finally, 5.6% – to exceed EUR 50,000 a year. There was no consistent pattern in terms of estimated costs depending on the size of the company; two SMEs that did reply to this question estimate the cost at EUR 5,000-10,000 per year.

In estimate the total cost of the lack of right to be heard for the EOs, we calculated for each EO that took part in the survey weight, representing its share in the total number of intra-EU movements. Subsequently, knowing the abovementioned weights and the cost of the lack of a unified tolerance threshold for the EOs that did provide it, we were able to estimate this cost for the remaining EOs. This lead us to belief that the EU-wide cost of the lack of a standard right to be heard for EOs would amount to ca. **EUR 13.49 million per year.**

Figure 75: Financial effort due to the lack of a standard legal right to be heard



Source: own elaboration.

Moving to non-monetary costs of the lack of a standard right to be heard, one group of EOs noted that the lack of the above right means they are “virtually powerless” in terms of dealing with situations, when they are faced with penalties caused by a change of vehicle in which the goods are transported, or exceeding the expected normal journey time, both of which are, in some MS, interpreted as the movement being invalid. Language issues were also mentioned by other EOs, when explaining a disputable situation is required in a language other than English.

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.

➤ **DISTRIBUTION OF COSTS/BENEFITS BETWEEN MS, AND MODULARITY OF THE POLICY OPTION**

For the policy option to have a desired effect integration of the excise procedures with the universal “right to be heard” would have to be introduced on the EU-level and in all MS. Indeed, a number of MS already has similar provisions in place and the vast majority of the EOs EU-wide reported lack of a EU-level right to be burdensome. The policy can potentially benefit EOs in all the MS equally.

5.6.5 Impact Analysis of integration of the excise procedures with the procedures laid out in the Recovery Directive

➤ ADMINISTRATIVE AND ENFORCEMENT COSTS FOR MSAs

MSAs were not able to provide any numerical values regarding effort needed to integrate excise procedures with the procedures laid out in the Recovery Directive. German authorities explained it is the lack of any specifications regarding proposed integration that prevents them from making any estimations. Similarly, Hungary believed the costs would vary depending on the “level and profundity of integration” (one extra cost would be time spent by administration to absorb new procedures). Lithuanian and Swedish authorities noted that the provisions of Recovery Directive are already being applied for the recovery of the excise duties in their respective countries.

In terms of benefits, only two countries – Netherlands and Sweden – provided numerical values (1/2 FTE per year or 100 man-days and 0 man-days respectively). Basing on the methods of calculation (attaching weight to each country depending on its share in the total number of movements ending in shortage/excess) described earlier in this Chapter, as well as using data provided by Netherlands and Sweden, we calculated the benefit in man-days and (multiplying man-days by each country’s per diems) EUR for the remaining MS, and were able to conclude that the benefit from integrating the excise procedures with procedures laid out in the Recovery Directive would amount to 4,561 man-days per year or EUR 1.02 million for the entire EU.

Other benefits mentioned by MSAs included gaining “clarity regarding which MS is eligible to collect the excise duty” (Cyprus) and general reduction of administrative burdens (Slovakia).

Table 62: Effort for MS to integrate the excise procedures with the ones laid out in the Recovery Directive

	Administrative cost	
	man-days/year	million EUR/year
Netherlands	100 ⁹¹	-
Sweden	0	0

Source: own elaboration.

➤ DISTRIBUTION OF COSTS/BENEFITS BETWEEN MS, AND MODULARITY OF THE POLICY OPTION

⁹¹ “1/2 FTE yearly”.

For the policy option to have a desired effect integration of the excise procedures with the procedures laid out in the Recovery Directive would have to be introduced on the EU-level and in all MS. The policy can potentially benefit all the MS equally.

5.6.6 Comparison of Policy Options

Table 63: Comparison of policy options (Exceptional Situations)⁹²

Impact area and target groups	A) Dynamic baseline scenario		B) Introduction of compulsory reports in case of destructions, losses, and/or thefts during movements	
Administrative costs for National Authorities	0	No administrative costs will be borne by National Authorities.	0	No administrative costs will be borne by National Authorities.
Enforcement costs for National Authorities	0	No enforcement costs will be borne by National Authorities.	0	No enforcement costs will be borne by National Authorities.
Administrative, compliance and hassle costs for economic operators	0	No administrative, compliance or hassle costs will be borne by EOs.	EUR 35 million over 5 years (cost)	Cost of ca. EUR 7 million per year, to increase by 10% over 5 years.
Impact of fraud	0	If no measures are implemented, the level of fraud will not change immediately.	+1	Possibly limiting the level of fraud over the next five years.
Market effects and impact on SMEs	0	No change in the market structure over the next five years envisaged.	0	No impact envisaged.
Efficiency	-	-	-	The desired effect of reducing fraud would be achieved at high price.
Effectiveness	-	-	-	The desired effect of reducing fraud would be partially achieved.

Impact area and target groups	A) Dynamic baseline scenario	B) Standardization of procedures and equipment used in order to estimate/calculate shortages/excesses
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⁹² Note: +2 major positive effect expected, +1 moderate positive effect expected, 0 no effect or neutral impact expected, -1 moderate negative effect expected, -2 major negative effect expected. Monetary values are presented in real terms. Figures in the table were estimated for the next five years as of next year using the estimated change in the number of movements and the estimates of current unitary gains/losses. We also assume that the fixed cost (CAPEX) of implementing IT systems is five times larger than the yearly variable cost (OPEX). Some numbers may not sum up due to rounding.

Impact area and target groups	A) Dynamic baseline scenario		B) Standardization of procedures and equipment used in order to estimate/calculate shortages/excesses	
Administrative costs for National Authorities	EUR 7.64 million over 5 years	Administrative cost per year amounts to ca. 7,510 man-days or ca. EUR 1.49 million. The number of movements ending in shortage/excess in absolute terms will increase by 5%.	EUR 9.52 million over 5 years (benefit)	In comparison to dynamic baseline scenario, gains from reduced effort of eliminating manual cross-checking amount to ca. 9,722 man-days or EUR 1.931 million a year. Gains from having to spend less time/resources on clarifications of accusations of excessive shortages amount to ca. 7,161 man-days or EUR 1.402 million a year.
Enforcement costs for National Authorities	0	No enforcement costs will be borne by National Authorities.	close to 0	Enforcement costs that will be borne by National Authorities will be very low.
Administrative, compliance and hassle costs for economic operators	0	No administrative, compliance or hassle costs will be borne by EOs.	EUR 93 million over 5 years (benefit)	Gains of EUR 18.1 million a year.
Impact of fraud	0	If no measures are implemented, the level of fraud will not change immediately.	+1	Possibly limiting the level of fraud over the next five years.
Market effects and impact on SMEs	0	No change in the market structure over the next five year envisaged	0	No change in the market structure over the next five year envisaged
Efficiency	-	-	-	The desired effect of reducing fraud would be achieved at low price.
Effectiveness	-	-	-	The desired effect of reducing fraud would be achieved only to small extent.

Impact area and target groups	A) Dynamic baseline scenario		B) Introduction of a standardized allowable losses threshold	
Administrative costs for National Authorities	EUR 1.49 million over 5 years	Cost of ca. 1,444 man-days or EUR 0.285 million a year.	EUR 10.22 million over 5 years (benefit)	In comparison to dynamic baseline scenario, gains of ca. 11,523 man-days or ca. EUR 2.275 million a year.
Enforcement costs for National Authorities	0	No enforcement costs will be borne by National Authorities.	0	No or minimal enforcement costs for MSAs.
Administrative, compliance and hassle costs for economic operators	0	No change in terms in the level of administrative, compliance or hassle costs for the EOs.	+2	Introduction of a standardized allowable losses threshold would be of huge benefit to EOs in terms of reduction of administrative, compliance and hassle costs.
Impact of fraud	0	No change in the market structure over the next five year envisaged	0	No or minimal impact on the level of over the next five year envisaged.
Market effects and impact on SMEs	0	No change in the market structure over the next five year envisaged	0	No change in the market structure over the next five year envisaged
Efficiency	-	-	-	The desired effect of reducing fraud would be achieved at low price.
Effectiveness	-	-	-	The desired effect of reducing regulatory burden be achieved only partially.

Impact area and target groups	A) Dynamic baseline scenario	B) Introduction of a "right to be heard"
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Impact area and target groups	A) Dynamic baseline scenario		B) Introduction of a "right to be heard"	
Administrative costs for National Authorities	0	No administrative costs will be borne by National Authorities.	EUR 1.82 million over 5 years (cost)	Cost of 1,787 man-days or ca. EUR 0.354 million a year.
Enforcement costs for National Authorities	0	No enforcement costs will be borne by National Authorities.	0	No or minimal enforcement costs will be borne by National Authorities.
Administrative, compliance and hassle costs for economic operators	EUR 69.44 million over 5 years	Cost of EUR 69.44 million a year.	+2	Introduction of a right to be heard will have a significant positive impact on the functioning of the EOs.
Impact of fraud	0	No change in the market structure over the next five year envisaged	0	No change in the market structure over the next five year envisaged
Market effects and impact on SMEs	0	No change in the market structure over the next five year envisaged	0	No change in the market structure over the next five year envisaged
Efficiency	-	-	-	The desired effect would be achieved at reasonable price.
Effectiveness	-	-	-	The desired effect of decreasing administrative costs would be achieved.

Impact area and target groups	A) Dynamic baseline scenario	B) Integration of the excise procedures with the procedures laid out in the Recovery Directive.
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Impact area and target groups	A) Dynamic baseline scenario		B) Integration of the excise procedures with the procedures laid out in the Recovery Directive.	
Administrative costs for National Authorities	0	No administrative costs will be borne by National Authorities.	EUR 5.23 million over 5 years (benefit)	Gain of ca. 4,562 man-days or 1.017 EUR million per year.
Enforcement costs for National Authorities	0	No enforcement costs will be borne by National Authorities.	-1	Moderate enforcement costs will be borne by National Authorities.
Administrative, compliance and hassle costs for economic operators	0	No administrative, compliance or hassle costs will be bore by economic operators.	0	No administrative, compliance or hassle costs will be bore by economic operators.
Impact of fraud	0	No change in the market structure over the next five year envisaged	0	No change in the market structure over the next five year envisaged
Market effects and impact on SMEs	0	No change in the market structure over the next five year envisaged	0	No change in the market structure over the next five year envisaged
Efficiency	-	-	-	The desired effect would be achieved at low price.
Effectiveness	-	-	-	The desired effect would be partially achieved.

Source: own elaboration.

5.7 Risk Analysis

MSAs sometimes lack necessary data required to perform an optimal risk analysis. The prerequisite for the improvement of the current state of affairs is the provision of additional information about the movements of businesses to MSAs. In the following chapter, we assess the potential administrative costs from increased information obligations and benefits that this information may bring. The main source of information are responses of EOs and MSAs to the questionnaires.

5.7.1 Impact Analysis of Extra data items in in SEED and in e-ADs

➤ ADMINISTRATIVE AND ENFORCEMENT COSTS FOR MSAs

Out of 22 MSAs who submitted the questionnaire, six MSAs presented answers in the section of risk analysis, four of those only partially. In the following, the numerical and qualitative explanations of the cost as well as the benefit from reports to MSAs are analysed.

The administrative costs of MSAs for introducing a risk analysis are divided into effort from reports of the owner of the goods at the dispatch and at the destination, information about changes of the vehicle or transshipments during the movement and information about the warehouse capacity. Hungary, Latvia, Luxembourg and Slovenia provided numerical answers. Hungary and the Netherlands explained qualitatively the cost of the improvement faced by MSAs.

The estimates vary a lot between the four countries that reported the potential costs. While Latvia does not foresee any cost for the collection and implementation of a risk analysis for any of the scenarios, Hungary estimated the fixed cost of introducing risk analysis to amount EUR 490,000 (HUF 115 million). Assuming five-year live without of the system without necessity for costly upgrades, the yearly cost could be estimated to EUR 98,000. A higher cost of EUR 150,000 is expected by MSAs from Luxembourg. MSAs from Slovenia expects cost that slightly increase with the extension of the provided information from EUR 2,000 to EUR 2,600. For the MS, the cost only occur processing the information from the owner of the goods at the dispatch and the destination, and does not increase if information about a change of the vehicle or a transshipment and details about the warehouse capacity are added (see Table 64).

Table 64: Administrative costs for MSAs from implementing risk analysis

MS	Owner of goods at dispatch/destination (option 1)	Option 1 and change of vehicle or transshipment (option 2)	Option 1 and 2 and warehouse capacity (option 3)
Hungary	EUR 98,000	EUR 98,000	EUR 98,000
Latvia	EUR 0	EUR 0	EUR 0
Luxembourg	EUR 150,000	EUR 150,000	EUR 150,000
Slovenia	EUR 2,000	EUR 2,300	EUR 2,600

Source: own elaboration.

The Netherlands highlight that each of the yearly 650,000 consignments would require two manual checks which would result in more than 100 full time equivalents. Therefore, the cost for the presented options for improvement is in their opinion unacceptable.

In the second part of the questions concerning the risk analysis, MSAs assessed the potential benefit in increased efficiency in providing risk analysis of each information. The impact on fraud specifically was not assessed.

Only Slovenia gave numerical answers while Sweden and Hungary added qualitative notes. Slovenia expects a benefit of 10 man-days per year through the provision of the information of the owner of the goods at dispatch and owner of the goods at destination. Adding information about a change of the vehicle or a transshipment saves 5 additional man-days and reports about the warehouse capacity save 3 additional man-days so that Slovenia achieves a total benefit of 18 man-days if all three suggested options are implemented. The MS highlights that additional information does not only allow for a more efficient risk analysis, but that this efficient gain would consequently result in a fraud reduction. Hungary supports this, adding that the effectivity and the return on investment can be increased. Contrarily, Swedish authorities do not expect to stop fraud with the provision of more information. Instead, the administrative burden will be increased although the information can already be accessed in the case of imports.

Table 65: Benefits from collection and introduction of risk analysis with varying information (in man-days)

MS	Owner of goods at dispatch/destination (option 1)	Option 1 and change of vehicle or transshipment (option 2)	Option 1 and 2 and warehouse capacity
Slovenia	10	15	18

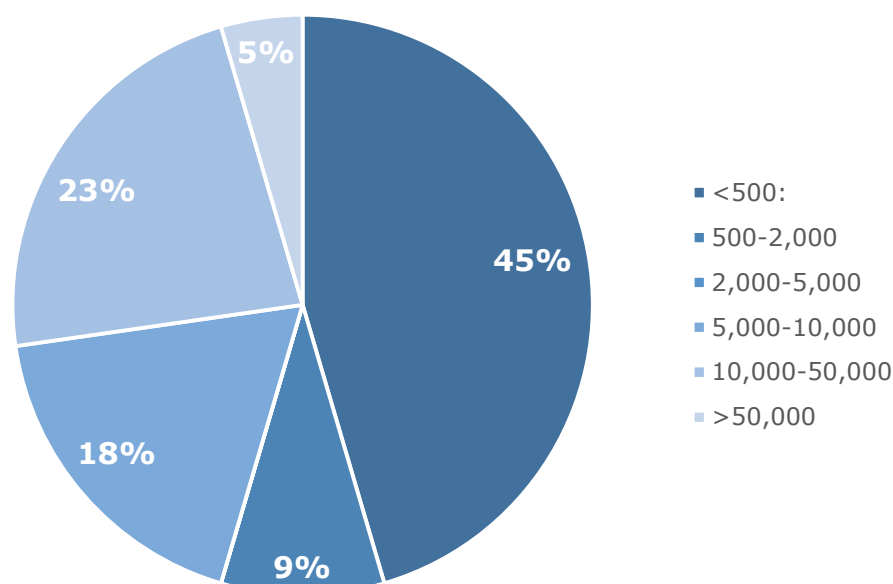
Source: own elaboration.

Other countries added more details regarding the general assessment of the provision of additional information for the risk analysis. The results vary across MS. Some assess the additional information as not essential for excise needs and its provision as too burdensome for EOs and MS (Latvia, Netherlands, Slovakia), while others see significant benefits for an effective risk management, a better traceability of the goods, and the identification of risk and potential fraud (Czech Republic, France, Ireland, UK). Furthermore, Hungary emphasises that risk analysis data could be used in many other ways although it would need numerous IT developments. As an alternative, the Slovakian authorities suggest to introduce a column about the owner in the e-AD in order to avoid the additional administrative burden.

➤ **COMPLIANCE, ADMINISTRATIVE AND HASSLE COSTS FOR EOs**

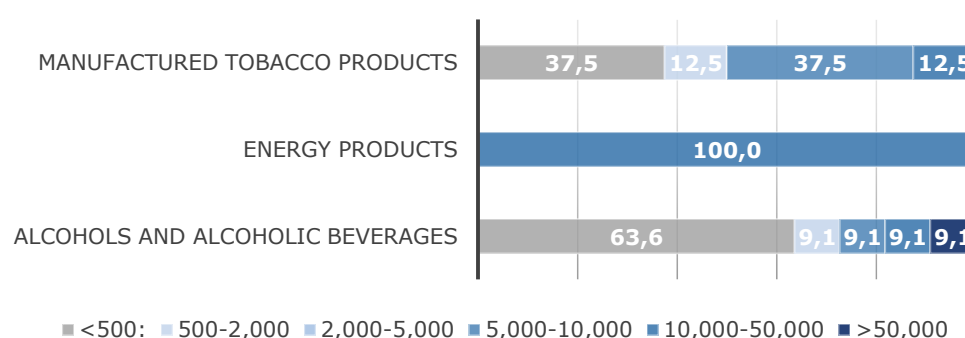
On the side of EOs, 25 out of 31 EOs that filled out the questionnaires responded at least partially. The questions targeted the whole yearly cost that businesses would need to bear to provide additional information to the national public authorities in the same areas as in the questions for the MS. However, the costs were estimated individually and the first option (additional effort in the excise administrative document for the owner) was further specified into goods at the dispatch and at the destination.

EOs, who did not answer this part of the questionnaire, stated that the risk analysis is not relevant for their business (two EOs) or expect an overall moderate effect (one EO).

Figure 76: Cost for providing information about the owner of the good at dispatch (in EUR)

Source: own elaboration.

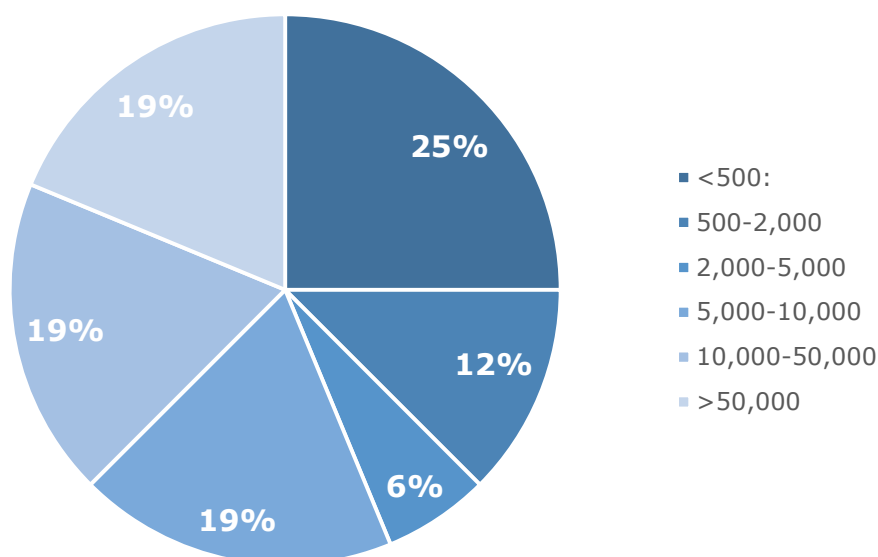
The expectations on the additional cost which have to be borne from the owner of goods at the dispatch diverge towards both extremes. Almost half of the respondents estimate this effort to be below EUR 500 whereas almost a quarter of EOs indicate the second largest range of between EUR 10,000 and EUR 50,000. Breaking these numbers down into the main sectors of the businesses shows that EOs operating in the area of alcohols and alcoholic beverages assess the cost to be lower than EOs engaged in the business with manufactured tobacco products or energy products. It must however be mentioned that only two of the respondents operate in the energy sector. Moreover, all of the three micro enterprises report costs of below EUR 500 whereas the responses from mainly EOs with more than 250 workers are more diversified.

Figure 77: Cost for providing information about the owner of the good at dispatch by sector (in EUR)

Source: own elaboration.

Compared to the expected cost at the dispatch, the cost for providing the information about the owner of the good at the destination in the administrative document is relatively high. Around one fifth of all EOs expect the cost to lie within the three upper categories (more than EUR 50,000; EUR 10,000 – 50,000; EUR 5,000 – 10,000). On the other side, one quarter assess the additional cost to amount below EUR 500. As in the previous case, businesses in the field of manufactured tobacco products face lower cost in the administrative document than the energy sector. Regarding alcohols, the estimations of the cost are much dispersed and slightly lower than in the sector for manufactured tobacco. Four of these EOs note that no estimation is possible as the type of movements and their identification need to be clarified.

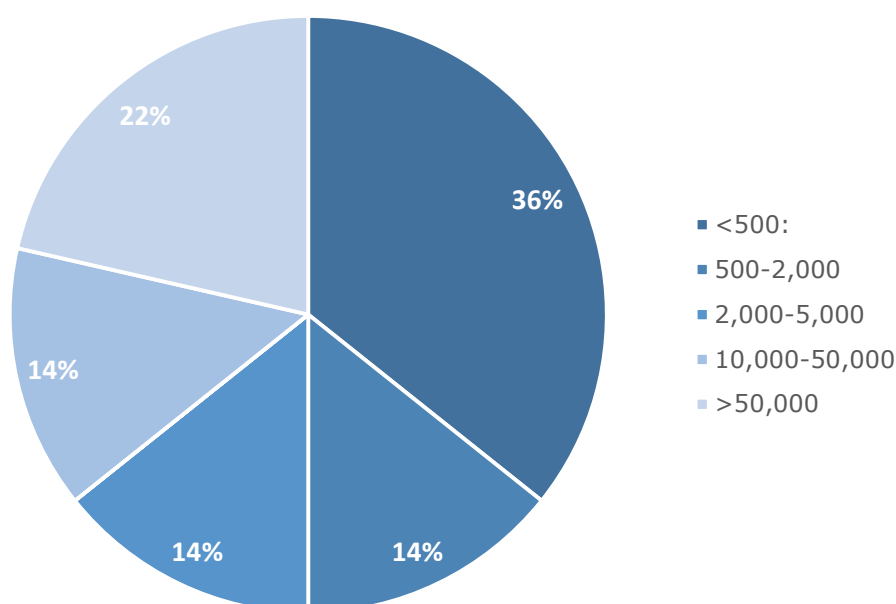
Figure 78: Cost for providing information about the owner of the good at destination (in EUR)



Source: own elaboration.

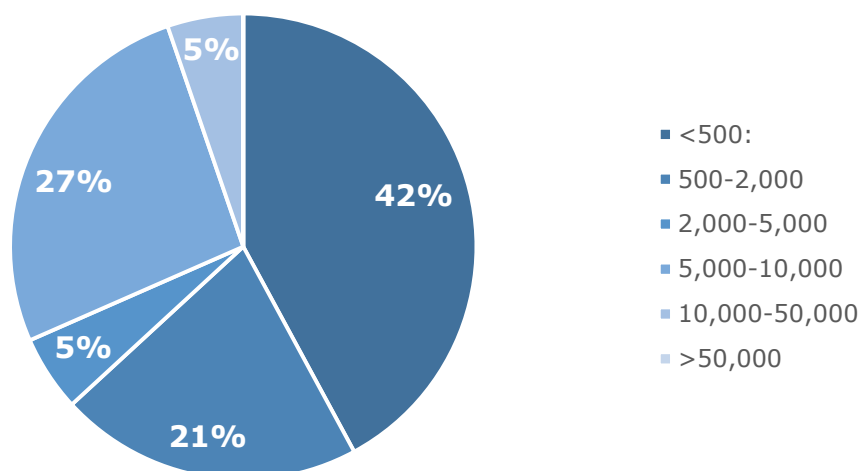
Furthermore, the EOs rated the cost of providing data of transshipment to the national authority during the movement. The pattern is similar to the previous case: most of the EOs expect the cost to be below EUR 500, whereas the estimations are dispersed and the second biggest share of EOs indicated the estimations of more than EUR 50,000. Five of the EOs who did not indicate an estimation explain that the impact and costs of reports during the movements are disproportionate to the risk.

Figure 79: Cost for providing information about change of vehicle (in EUR)



Source: own elaboration.

Finally, the EOs estimated the cost that arise with reports to the MSAs about authorisations requests or renewals about the warehouse capacity. These cost are compared to the previous categories relatively low. The vast majority expects cost below EUR 500 and only one EO (5%) forecasts cost between EUR 10,000 and EUR 50,000 which the highest estimation in this category is. Comparable to the cost borne by the owner of the goods at dispatch and the cost during the movements, businesses from the sector of alcohols and alcoholic beverages report higher costs than EOs operating in the area of tobacco. While both businesses from the energy sector expect the cost to amount for more than EUR 50,000 in all previous categories, the estimation is lower in this scenario with cost between EUR 5,000 and EUR 10,000. One EO notes that although the burden of providing the additional information would be low, the impact of the reports would not have a big impact either.

Figure 80: Cost for providing information about warehouse capacity (in EUR)

Source: own elaboration.

Besides these numbers, the EOs express their concerns that reports to national authorities are not feasible for different reasons. For instance, the actual owner at the end of the chain can often not be identified, containers change the vehicle several times at the dispatch and details about changes of the vehicle are not viable as traders do not want hauliers to access EMCS. Alternatively, the suggestion of amending e-ADs or the report of a receipt is introduced to decrease the administrative burden and reduce the risk by putting a timeframe around the amendments.

Regarding **cost of adding storage capacity of a tax warehouse** to SEED, 31.6% of EOs estimated it at less than EUR 500 per year, 15.8% at between EUR 500 and 2,000 per year, 26.4% – between EUR 2,000 and 10,000 per year, and 15.8% between EUR 10,000 and 50,000 a year. Finally, 10.5% estimated the cost of adding the storage capacity to exceed EUR 50,000 a year. One of the two EOs, which provided such an answer, commented that it would require introduction of an additional IT system and would create additional administrative burdens. As only two SMEs answered the question (one estimating the cost at EUR 500-2,000 and the other at EUR 5,000-10,000) it was not possible to draw any conclusions regarding the cost depending on the company's size.

Out of 7 EOs (all of them large companies with over 250 employees) operating in the alcoholic beverages sector, 5 estimated their costs at below EUR 500 a year. In the energy sector, size of the company regardless, all EOs estimated the cost at between EUR 5,000 and EUR 10,000 a year. Answers provided by companies operating in the tobacco sector were the most varied.

Results of the OPC submitted by the associations suggest that the cost of adding storage capacity of a warehouse would be low or very low (56%) to moderate (16%), with 16% estimating it at high and 13% at very high.⁹³ Similar results were provided by the EOs who participated in the OPC, although more of them leaned towards

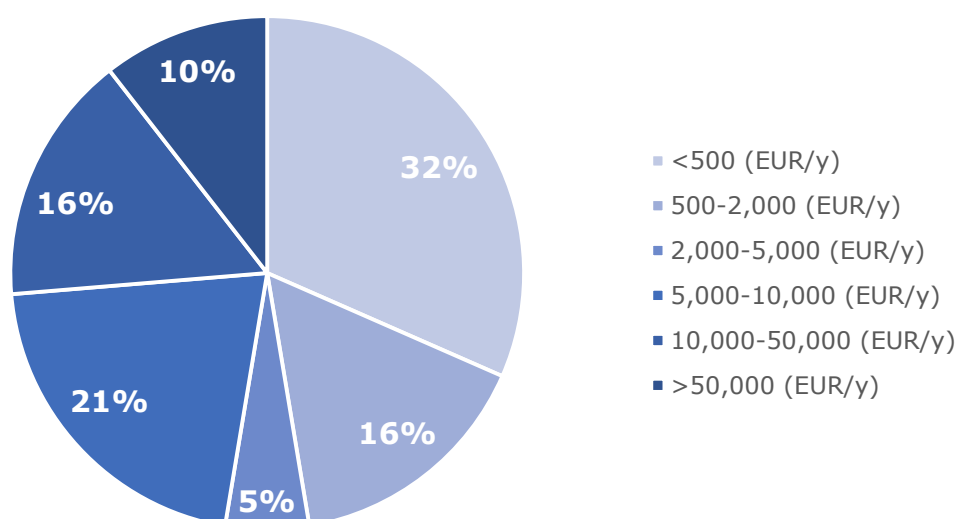
⁹³ Percentage excluding „don't know" answers.

'moderate' answer (29%), with 29% expecting low and 4% very low costs, and 25% and 14%–high and very high costs respectively.⁹⁴

Taking all these data and information gathered during our interviews into consideration, we assumed (in face of the lack of exact statistics) one warehouse per each 50 employees a company has. We then used the data provided by the EOs in the questionnaire, dividing their answers by sector, and using weighted averages (depending on the company size) calculated a minimum and maximum cost per warehouse for a company in each sector. Subsequently, we multiplied these by the number of registered warehouses in each sector (data from SEED for 2016).

Based on those calculations we carefully estimate that **the EU-wide cost for adding storage capacity of a tax warehouse would oscillate between EUR 162.3 million and EUR 236.8 million per year.**

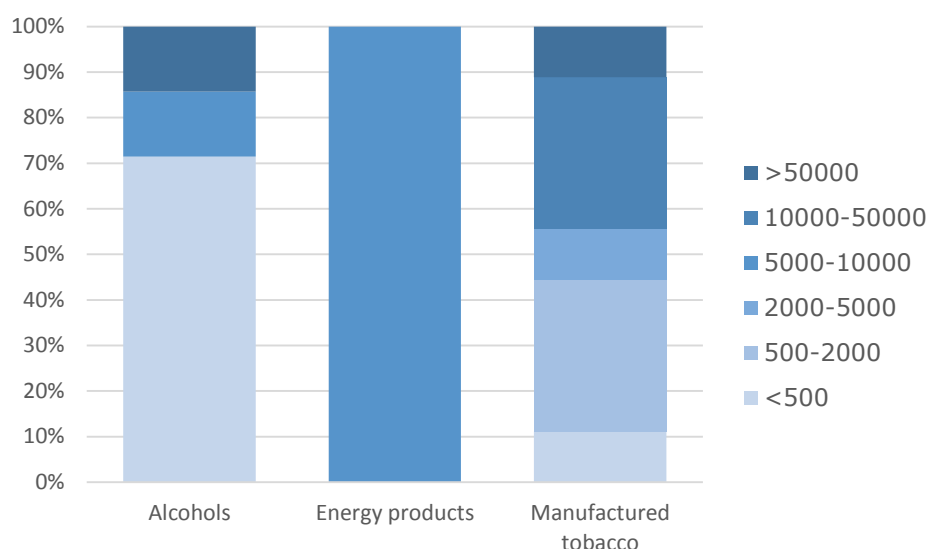
Figure 82: Cost of adding storage capacity of a warehouse by company size.



Source: own elaboration

Figure 83: Cost of adding storage capacity of a warehouse by sector.

⁹⁴ Percentage excluding „don't know" answers.



Source: own elaboration.

Table 66: Comparison of policy options (Exceptional Situations)⁹⁵

Impact area and target groups	A) Dynamic baseline scenario		B) Introduction of compulsory adding storage capacity of a tax warehouse	
Administrative costs for National Authorities	0	No administrative costs will be borne by National Authorities.	0	No administrative costs will be borne by National Authorities.
Enforcement costs for National Authorities	0	No enforcement costs will be borne by National Authorities.	0	No enforcement costs will be borne by National Authorities.
Administrative, compliance and hassle costs for economic operators	0	No administrative, compliance or hassle costs will be borne by EOs.	between EUR 162.3 million and EUR 236.8 million per year (cost)	Cost of ca. EUR 22 million per year, to increase by 10% over 5 years.
Impact of fraud	0	If no measures are implemented, the level of fraud will not change immediately.	+1	Possibly limiting the level of fraud over the next five years.
Market effects	0	No change in the market structure over the next five years envisaged.	0	No impact envisaged. Higher per/warehouse cost for operators with just one warehouse.
efficiency	-	-	-	Very large cost for EOs relative to potential gains from risk analysis in reducing fraud.

⁹⁵ Note: +2 major positive effect expected, +1 moderate positive effect expected, 0 no effect or neutral impact expected, -1 moderate negative effect expected, -2 major negative effect expected. Monetary values are presented in real terms. Figures in the table were estimated for the next five years as of next year using the estimated change in the number of movements and the estimates of current unitary gains/losses. We also assume that the fixed cost (CAPEX) of implementing IT systems is five times larger than the yearly variable cost (OPEX). Some numbers may not sum up due to rounding.

Impact area and target groups	A) Dynamic baseline scenario		B) Introduction of compulsory adding storage capacity of a tax warehouse	
effectiveness	-	-	-	Possibility to track warehouse capacity would have only partial impact on the scale of excise fraud.

Source: own elaboration.

5.8 Cross-border acquisition of excise goods by private individuals

The policy problem generated by the current provision regulating the cross-border purchases of excise goods by private individuals for their 'own use' can be addressed by clarifying and/or tightening the rules governing cross-border shopping of alcohol and tobacco. In this respect, two main policy options were considered in this Study (Chapter 4.8): i) a reduction of guide levels based on the reference to the concept e.g. of 'own consumption' rather than 'own use'; ii) the introduction of mechanisms allowing for national adjustments of guide levels below the current minimum thresholds. In what follows, a mainly qualitative impact analysis of both options as well as of the baseline (or 'no change') scenario is presented. At this stage, uncertainty remains about the magnitude of the overall policy problem generated by cross-border shopping of alcohol and tobacco, which appears to be concentrated in certain MS. It is already possible to ascertain that, for some Member States (in particular Nordic countries), the problem is significant and impinges on their ability to define both tax and public health policies (see Chapter 4.8).

5.8.1 Baseline assessment

In the absence of an EU intervention, current rules on cross-border purchases of excise goods for 'own use' by private individuals will continue to apply. In fact, no major change in the functioning of the current systems is expected. Therefore, the policy problem described in Chapter 3.9.2 remains unchanged. Accordingly, those MS applying excise duty rates considerably higher than their neighbours will continue to experience losses in tax revenues and difficulties in implementing alcohol/tobacco control policies based on taxation, especially in border regions. In fact, some national consumers will keep on purchasing excise goods at a cheaper price in other MS; fraudsters will continue to abuse existing rules to import excise goods to be sold with profit. Finally, sellers of excise goods located in border regions of MS with low excise duty will preserve an artificial competitive advantage over sellers located in MS with high excise duty.

In this context, it appears that distortions generated by tobacco products are more limited than distortions linked to cross-border shopping of alcohol. As mentioned,⁹⁶ the most common cross-border routes to purchase alcoholic beverages for 'own use' go from: Germany to Denmark; Denmark to Sweden; Finland (Åland Islands) to Sweden; and Estonia to Finland. Additional flows involve: Latvia and Estonia, Spain and France, France and the UK, the UK and Ireland, Slovenia and Austria, and Luxembourg and Belgium/France/Germany.

⁹⁶ For further details, see Swedish National Institute of Public Health (2009), *Alcohol affordability and cross-border trade in alcohol*.

This baseline (or no-change) scenario may be dynamically affected by national decisions aiming to change current excise duty rates. More specifically, some MS might choose to lower their excise duty to limit incentives for cross-border purchases in a sort of 'race to the bottom', which may aggravate public health problems. A case in point was the reduction in excise duty on alcoholic beverages introduced in Finland in 2004, when Estonia became an EU member.⁹⁷ Any decrease in taxation would reduce incentives for consumers to purchase excise goods in other MS; it would also reduce national prices of alcohol/tobacco and increase national consumption of such products, with negative impacts on public health. The overall effect on tax revenues would depend on the elasticity of the demand for alcoholic beverages in the MS lowering the excise duty; at any rate, it is expected to be positive as this would be the main reason for MS to lower excise duty. Nevertheless, the negative public health effects of increased consumption due to the decreased national excise duty and increased availability of alcoholic beverages would be likely to prevent some MS to decrease alcohol taxes.

5.8.2 Clarification of the concept of 'own use' and reduction of guide levels

5.8.2.1 Expected impact

The impact of this policy option depends on the chosen definition of 'own use/consumption' (and related guide levels) and/or on the selection of the most adequate time window to which guide levels apply.

The clarity and legal certainty of Article 32 of the Directive could be improved by referring to the concept of 'own consumption' rather than 'own use'. While it facilitates interpretation by law enforcement authorities and courts, this change, however, could not be sufficient to address the policy problem. In fact, based on data provided by WHO⁹⁸ and Eurostat⁹⁹, in 2016 Europeans¹⁰⁰ consumed on average 92 litres of beer, 32 litres of wine and 7 litres of spirits *per capita*.¹⁰¹ Clarifying the concept of 'own use' by referring it to the concept of 'own consumption' over an entire year would therefore results in values lower than the current minimum thresholds. By contrast, applying the same definition to tobacco products would paradoxically worsen the policy problem. In fact, based on OECD data¹⁰², in 2014 Europeans smokers smoked about 14 cigarettes per day, i.e. more than 5,200 cigarettes per year, and this value is above the current minimum threshold for tobacco (800 cigarettes).

Against this background and since minimising public health impacts and/or tax avoidance would be one of the main objectives of any change of Article 32, the revised Directive could refer either to the concept of: i) monthly or weekly 'own consumption';

⁹⁷ Rabinovich *et al.* (2009), *The affordability of alcoholic beverages in the European Union*, European Commission.

⁹⁸ WHO does not provide data on consumption of beer, wine and spirits in litres. However, such figures can be estimated by relying on WHO data. First, most recent WHO data on *per capita* consumption of pure alcohol in litres (<http://apps.who.int/gho/data/node.main.A1032?lang=en>) are converted into *per capita* consumption of pure alcohol per type of beverage in litres by relying on the breakdown provided by WHO (<http://apps.who.int/gho/data/node.main.A1023?lang=en>). Then, to make the conversion into litres of beer, wine and spirits, it is assumed that beer has an alcohol content of 5% alcohol by volume, wine has an alcohol content of 12%, spirits have an alcohol content of 35%; this assumption is in line with the method of estimation adopted by WHO to calculate consumption of pure alcohol (WHO (2014), Indicator Code Book - Global Information System on Alcohol and Health).

⁹⁹ Data on EU population are retrieved from Eurostat. For further details, see "Population on 1 January by broad age group and sex [demo_pjanbroad]".

¹⁰⁰ Figures refer to Europeans above 15 years; they are calculated as weighted average of national *per capita* consumption adopting as weight the MS population above 15 years.

¹⁰¹ It goes without saying that, by applying the same methodology, figures for average *per capita* consumption are higher (129 litres of beer, 44 litres of wine and 10 litres of spirits) if one considers only drinkers. WHO data on *per capita* consumption of pure alcohol by drinkers are available at: <http://apps.who.int/gho/data/node.main.A1028?lang=en>.

¹⁰² For further details see: http://stats.oecd.org/index.aspx?DataSetCode=HEALTH_LVNG

or ii) (annual) 'own consumption' and introduce a time window (e.g. year) to which the guide levels would apply. In the first case, guide levels should be reduced, as private individuals would be allowed to transport no more than e.g. the quantity for weekly consumption each time they cross the border. In the second case, guide levels could even remain unchanged; yet they will cumulatively apply to e.g. all cross-border movements made by a certain private individual across the entire year.

Both solutions would discourage cross-border travel with the sole purpose of purchasing cheaper excise goods. This, in turn, would substantially reduce tax diversion between neighbouring MS and make taxation a more effective instrument for health policy. Fraudsters would not be able to abuse anymore of the current system. Sellers of excise goods would have more limited room to benefit from tax arbitrage.

Nonetheless, the effective implementation of this policy option would increase enforcement costs and generate some hassle/irritation costs for private individuals. In fact, to comply with more stringent guide levels, law enforcement authorities will be called to perform better checks on private individuals crossing MS borders. For instance, they could perform more in-depth checks of luggage and/or measure small quantities of alcohol or tobacco detected. In this respect, the introduction of time window to apply guide levels appears to be relatively more burdensome, as national authorities will have to keep track of the travellers who frequently cross borders and their purchases of alcohol/tobacco products. Indeed, the impact on enforcement and hassle/irritation costs could be lower if those MS that are currently not affected by the policy problem would still decide to adopt loose guide levels; this would be consistent with the spirit of the Directive in case the actual definition of 'own consumption' will be left to MS, which will be able to decide for e.g. annual, monthly or weekly average values.

5.8.2.2 Stakeholders' view

Twelve MSAs interviewed for this Study believe that the reduction of EU minimum guide levels would be useful to tackle public health issues; five MS opposed this change, the remainder either were neutral or had no opinion on the specific policy option.

Moreover, 15 MSAs suggested to improve the definition of 'own use' to facilitate the interpretation by law enforcement authorities of all the elements listed in Article 32.2. More specifically, most of respondents agreed with the introduction of the concept of (yearly average) 'own consumption' rather than 'own use'; some MSAs, which were in favour of lowering the EU minimum thresholds, suggested to rely on the even stricter concept of 'monthly average consumption' or 'low-risk drinking consumption'. For consistency reasons, such an amendment of the Directive would benefit from a change in the minimum thresholds spelled out in Article 32.3 and/or the identification of a time window to which the guide levels apply.

The OPC provided again a mixed picture (see Annex D). In fact, more than half of respondents believe that lowering the minimum threshold for guide levels would be useful to address health policy issues generated by the Directive. Nonetheless, when focusing on different categories of respondents, 39% of EOs and business associations believe that changing the thresholds established by Article 32.3 is not useful, 12% that is useful, the remaining respondents in this category either were neutral or had no opinion; by contrast, more than 80% of individuals and NGOs were in favour of such option to better achieve health policy targets.¹⁰³

Almost half of the respondents emphasised the need to further specify the concept of 'own use'. More than 56% of EO and business associations opposed such change,

¹⁰³ It is worth reiterating, however, that almost 70% of consumers and NGOs participating in the OPC are based in Sweden, which is one of the EU MS most affected by the policy problem under investigation.

while 85% of individuals and NGO supported the change to increase legal certainty. Only half of those respondents suggesting a revision of the concept of 'own use' were in favour of the adoption of the concept of (yearly average) 'own consumption'; the other half suggested to introduce far stricter legal definitions such as the average monthly or weekly 'consumption'.

5.8.3 Introduction of national adjustments to guide levels.

5.8.3.1 Expected impact

This policy option includes two alternate sub-options: i) allowing MS to derogate from the minimum thresholds for guide levels to prevent 'disproportionate negative effects' on excise duty collection and/or public health; ii) allowing all MS to set their own guide levels by removing EU minimum thresholds. These sub-options could potentially be effective in addressing the current distortions, while taking into account that the policy problem seems to affect some MS substantially more than others.

The first sub-option may entail some elements of complexity. In fact, only MS proving 'disproportionate negative effects' would be allowed to adjust their minimum threshold. Therefore, it is necessary to introduce mechanisms to allow MS to notify their decisions and the Commission to approve such decisions. In addition, it could be beneficial to: i) provide a definition of 'disproportionate effects'; and ii) agree upon best practices to measure such effects, especially if one considers that cross-border shopping of excise goods is currently not captured by official statistics and any data available is estimated.

This sub-option would allow MS affected by the policy problem to set more stringent guide levels than the minimum thresholds spelled out by the Directive. This would most likely remove any excessive incentive for consumers to purchase excise goods in other MS, thus eliminating distortions in tax collection and health policy. Although different rules might then apply in different MS, consumers would only need to have knowledge of rules in force in the MS where they usually reside and consume excise goods.

This policy option would also ensure fair(er) competition between sellers of excise goods located in border regions. The option would not force or imply any change in the current practice (or increase enforcement costs) for MS that are not affected by the policy problem. Conversely, and importantly, it would provide an effective tool to those MS that wish to do more to minimise negative public health effects and/or tax avoidance, as they could better orientate actions of their law enforcement officials at the border.

Law enforcement authorities of MS with stricter rules could be called to perform more in-depth checks on private individuals crossing MS borders; this would create hassle/irritation costs for private individuals. Nonetheless, as additional checks will be implemented only on borders that are more at risk of disproportionate cross-border purchases, both hassle/irritation costs and enforcement costs will be most likely offset by benefits in terms of increased tax revenues and better alcohol/tobacco control policies.

The second sub-option is relatively simpler to implement. In fact, by removing EU minimum thresholds, each MS would be allowed to (re)interpret the concept of 'own use' and/or set national thresholds. The outcomes of this sub-option could be similar to those of the sub-option above in case only MS affected by disproportionate negative effects would change the current guide levels. The more MS will change their guide levels, the more impacts may look like those registered under the option discussed above (i.e. clarification of the concept of 'own use' and reduction of guide levels).

Despite different national rules, private individuals would be called to be aware of the guide levels of the MS where they reside (as happens today, the difference being that minimum thresholds are now the same all over the EU).¹⁰⁴

5.8.3.2 Stakeholders' view

Thirteen MSAs interviewed for this Study were in favour of allowing for national adjustments of the minimum thresholds to prevent disproportionate negative effects on excise tax collection; the same number of MSAs requested flexibility mechanisms to prevent disproportionate negative impact on public health. Interestingly, only a marginal share of MSAs were explicitly against flexibility to avoid tax and/or health policy distortions. Seven MSAs suggested to remove the EU minimum threshold and allow MS to set their own guide levels; the same number of MSAs opposed this change.

Eleven MSAs agreed that allowing for flexibility in setting national guide levels would have either a neutral or positive impact on EOs. Some respondents argued that the quantity moved across borders by private individuals represent a small share of total sales by large EOs. In addition, in the current system, some EOs are called to adapt their distribution system and make their products available also in MS with low excise duty rates, to avoid losing market shares due to cross-border shopping. Finally, new thresholds would remove the artificial competitive advantage experienced by sellers located in border regions of MS applying low excise duty rates.

OPC results are similar to those registered for the alternate policy option (see Annex D). In fact, almost 50% of respondents suggested to introduce flexibility mechanisms to allow MS setting guide levels below the current thresholds in order to prevent 'disproportionate negative effects' either on excise tax collection or public health. Again, these mechanisms were welcomed by the clear majority of individuals and NGOs (81% for tax purposes, 87% for public health purposes). By contrast, 37% of EOs and business associations believe that flexibility mechanisms are not useful either for public health or tax purposes, about 15% believe they are useful, another 15% have a neutral position vis-à-vis this option, the remainder has no opinion. Similar feedback was provided with regard to removing EU minimum thresholds and leave MS free to set their own guide levels; yet, the share of respondents in favour of this option was generally lower than the one in favour of flexibility mechanisms: 42% of respondents believe this sub-option is useful; 73% of NGO and private individuals is of the same opinion; 37% of EOs and business association is against it, 18% in favour. While most of individuals and NGOs (in line with feedback from interviewed MSAs) believe that national flexibility in setting guide levels would have a positive impact on EOs, most of EOs and business associations expected a negative impact. On the positive side, sellers of excise goods in MS applying high excise duty rate would not be harmed by tax arbitrage as well as by fraudsters abusing the current system to resell excise goods purchased in other MS. Reportedly, on the negative side, applying different thresholds in different MS would increase legal uncertainty for consumers and EOs and favour 'black market' as an alternative to cross-border purchases; in addition, the enforcement of low thresholds would require the introduction of new border checks, thus slowing the cross-border movement of private individuals.

5.8.4 Comparison of policy options

Table summarises the main impacts stemming from the two policy options discussed above and compare such impacts with the current situation (baseline). It is worth reiterating that additional policy options could be devised to address the relevant

¹⁰⁴ MS might wish to put efforts in communicating to their residents any change in the guide levels to avoid that private individuals will be obliged to surrender or pay additional excise duty on (some of) their excise goods when moving across MS.

policy problem. In this respect, it is suggested to perform further analysis in order to draw more robust conclusions based on quantitative evidence.

Table 67: Comparison of policy options (health issues)¹⁰⁵

Impact area and target groups	A) Baseline		B) Clarification of the concept of 'own use' and reduction of guide levels		C) Introduction of national adjustments to guide levels	
Tax revenues (MSAs)	0	MS applying low excise duty rates will keep on diverting part of tax revenues from their neighbours.	-1 (yearly consumption) +1 (monthly/weekly consumption or time windows)	The concept of 'own consumption' will improve legal certainty and provide operational guidance. The concept of yearly 'own consumption' will reduce thresholds for alcohol, with some positive impact on tax revenues; it will increase thresholds for tobacco, with negative impact on tax revenues. The concept of monthly/weekly 'own consumption' or time windows to which guide levels apply will substantially reduce thresholds with positive impact on tax revenues in MS affected by the problem.	+1 (disproportionate effect) +1 (no minimum threshold)	National adjustments to guide levels will avoid tax diversion between MS.
Public health (Consumers, MSAs)	0	Alcohol and tobacco control policies in MS applying high excise duty rates will continue to be less effective than expected.	-1 (yearly consumption) +1 (monthly/weekly consumption or time window)	The concept of 'own consumption' will improve legal certainty and provide operational guidance. The concept of yearly 'own consumption' will reduce thresholds for alcohol, with some positive impact on public health; it would increase thresholds for tobacco, with negative impact on public health.	+1 (disproportionate effect) +1 (no minimum threshold)	National adjustments to guide levels will allow for more effective health policies in some MS.

¹⁰⁵ Note: +2 major positive effect expected, +1 moderate positive effect expected, 0 no effect or neutral impact expected, -1 moderate negative effect expected, -2 major negative effect expected.

Impact area and target groups	A) Baseline		B) Clarification of the concept of 'own use' and reduction of guide levels		C) Introduction of national adjustments to guide levels	
				The concept of monthly/weekly 'own consumption' or time windows to which guide levels apply will substantially reduce thresholds with positive impact on public health in MS affected by the problem.		
Market effects (Consumers, EOs)	0	Consumers, where convenient, will continue to shop alcohol and tobacco in MS other than where they usually reside. Sellers of excise goods based in some border regions will keep on benefiting from tax arbitrage.	-1 (yearly) +1 (monthly or weekly)	The concept of yearly 'own consumption' will reduce thresholds for alcohol, with less incentives for consumers to buy abroad and less room to exploit tax arbitrage by sellers in border regions; it will increase thresholds for tobacco, with more incentives for consumers to buy abroad and more room to exploit tax arbitrage by sellers in border regions. The concept of monthly/weekly 'own consumption' or time windows to which guide levels apply will substantially reduce thresholds, thus limiting cross-border shopping and cross-border tax competition.	+1 (disproportionate effect) +1 (no minimum threshold)	National adjustments to guide levels will limit tax competition between sellers based in different MS and reduce incentives for consumers to buy alcohol and tobacco in other MS.
Fraud (Consumers, EOs)	0	Fraudsters (either private individuals or organised crime) will keep on abusing the current system to move across borders alcohol and tobacco that	-1 (yearly) +1 (monthly or weekly)	The concept of yearly 'own consumption' will limit fraud on alcohol and increase fraud on tobacco. The concept of monthly/weekly 'own consumption' or time windows to which guide levels apply will eradicate fraud relying on the current system.	+1 (disproportionate effect) +1 (no minimum threshold)	National adjustments to guide levels will eradicate fraud relying on the current system.

Impact area and target groups	A) Baseline		B) Clarification of the concept of 'own use' and reduction of guide levels		C) Introduction of national adjustments to guide levels	
		are then sold with profit, thus harming EOs.				
Enforcement (MSAs, Consumers)	0	High minimum thresholds allow law enforcement authorities to avoid inspections to detect small quantities of alcohol and tobacco, thus facilitating the free movement of persons.	0 (yearly) -1 (monthly or weekly)	The concept of 'own consumption' will improve level of legal certainty and provide operational guidance. The concept of yearly 'own consumption' would will leave enforcement procedures and costs unchanged. The concept of monthly/weekly 'own consumption' or time windows to which guide levels apply will require law enforcement authorities to perform more in-depth inspections. This generates some enforcement costs and some hassle/irritation costs for private individuals.	0 to -1 (disproportionate effect) 0 to -1 (no minimum threshold)	National adjustments in case of disproportionate effects will require law enforcement authorities to perform more in-depth inspections on borders more affected by distortions. This generates some enforcement costs and some hassle/irritation costs for private individuals. . National adjustments based on the removal of the minimum thresholds will require some law enforcement authorities to perform more in-depth inspections. This generates some enforcement costs and some hassle/irritation costs for private individuals.

Note: +2 major positive effect expected, +1 moderate positive effect expected, 0 no effect or neutral impact expected, -1 moderate negative effect expected, -2 major negative effect expected.

Source: own elaboration.

6 CONCLUSIONS

6.1 Key Findings and Recommendations

6.1.1 Excise–Export

6.1.1.1 Baseline Assessment

According to the analysis, non-alignment of customs and excise procedures causes substantial problems with export operations for both MSAs and EO. Lack of an EU-wide system allowing for an exchange of information between the EMCS and ECS is especially problematic when the MS of dispatch is different than the MS of export. When the ECS exit confirmation is not received by the excise authorities in the MS of export and no report of export is produced, the EMCS movement remains open and often has to be closed manually by the MSAs. Manual cross-checking, manual closures and no legal clarity generate substantial costs for MSAs exceeding EUR 4 million per year. On the other hand, similarly large costs are also borne by EOS. There are also cases where, even if the exit results message is received, some exporters do not provide a reference in the export declaration to the ARC of the matching e-AD, in order to divert excise goods to the EU market. The number of discrepancies per year represent roughly EUR 124 million. Fraud is suspected to amount to ca. 20% of discrepancies. If no-EU wide measures are implemented, the problems will persist and may even slightly increase in scale as the volume of excise movements (also excise movements closed manually) with destination export is expected to increase.

6.1.1.2 Assessment of Possible Policy Options

The implementation of automated data cross-check at message header level could partially solve current problems. Gains, in terms of administrative cost reduction for MSAs, are expected to exceed EUR 4 million per year for the cost of implementation of EUR 8.68 million over five years. On the EOs' side, increase of the costs due to additional information obligations of EUR 6.61 million over five years must be expected. Despite negative net value of benefits borne directly by MSAs and EOs, reduction of losses in excise revenue will likely exceed the costs.

The direct impact of the more advanced message body level cross-check on MSAs and EOs will be the same as in the case of the simple cross-check except for significantly higher IT implementation cost and higher effectiveness in fighting fraud. If the fraud of the scale expected by MSAs is eliminated, the benefits from the introduction of more advanced costs would prevail the increase in administrative and enforcement costs.

In order to eliminate the costs related with manual closures of the movement, AES-EMCS automated process synchronisation would need to be emanated. The gains of the implementation would amount to EUR 13.44 million over the next five years but would be significantly higher than the cost of modification in EMCS and the additional costs in implementing AES. Significant gains in terms of administrative and compliance costs might be achieved without full automation. It is expected that the harmonisation of excise-customs legal base for alternate proofs of exit may save MSAs and EOs even EUR 11 million over the next five years.

6.1.1.3 Recommendations

The estimates of administrative and compliance cost, and expectations towards the scale of fraud support implementation of the data cross-check in more at both message header and body level. Full synchronisation between AES and EMCS would require significant modification of EMCS applications and additional effort in implementing AES. Thus, despite high gains, such policy option would not be profitable

over the next five years. The implementation of full automation is however supported by the vast majority of MSAs and EOs expecting long-term gains. Strongly supported (16 out of 19 MSAs) is also harmonisation of alternate proofs of exit. In the place of automated process synchronisation, it is recommended to decrease legal non-clarity and costs borne by MSAs and EOs, by harmonising alternate proofs of exit.

6.1.2 Excise–Export followed by Transit or STC

6.1.2.1 Baseline Assessment

As the analysis has shown, the possibility to use simplifications under external and internal transit and the STC are very important for EOs. T1, T2 and STC movements constitute a large part of export operations (28%). Moreover, MSAs expect that the total volume of these movements will be increasing, so that in 5 years' time their number will increase by 14.3%. However, not only is the use of transit and STC procedures not in line with the excise provisions, but the lack of guarantees in STC movements puts financial interests of MS at risk. Recent growth in the number of these movements may well suggest increase in their popularity among lawful EOs, but also an increase in the scale of irregularities.

6.1.2.2 Assessment of Possible Policy Options

Obligation to use external transit instead of internal transit and STC could solve two problems caused by the current arrangements, namely legal uncertainty and insufficient guarantees, without passing costs to EOs and MSAs. The obligation to use external transit instead of internal transit or STC would not change *modus operandi* as the simplifications under Article 329 would apply and the same number of declarations would be filed by EOs and verified by MSAs. On the contrary, the restriction will have a positive impact through reduction of hassle for EOs. Importantly, the necessity to lodge guarantees for all export movements and for the entire journey time will eliminate a serious loophole and could significantly reduce the risk of fraud.

6.1.2.3 Recommendations

The external and internal transit are reportedly functioning well in all MS analysed, which is not the case of STC. It is recommended to clarify current provisions and solve the problem of insufficient guarantees in STC. Allowing for the use of the external transit procedure after the export is fit for purpose.

6.1.3 Excise–Import

6.1.3.1 Baseline Assessment

Currently, in most cases, there is no cross-checking of customs declarations and e-AD at the border. Consequently, the ability to ensure that an actual movement under duty suspension occurs after import is limited. The evidence of fraud on import is weak and does not allow for accurate estimates. However, even if the fraud amounted to 1% of the value of import movements, which was expected by MSAs, EUR 20 million increase in excise revenue per year might be expected only from movements to another MS.

6.1.3.2 Assessment of Possible Policy Options

In order to reduce the scale of fraud, cross-checking between the e-AD and import declaration would need to be performed. The implementation of a simple cross-check of SEED would cost EUR 6.8 million over five years and would create information obligations that would cost EOs EUR 5 million over five years' time. At the same time,

the current limited cross-checks would be completely replaced saving MSAs EUR 1.44 million over five years.

The more advanced cross-check of ARC also would require additional amendments in CDPS and EMCS, which would cost additional EUR 2.8 million in all MS over 5 years. Moreover, the additional information obligations would be twice as costly as SEED provisions. At the same time, substantial additional gains in fighting fraud are not envisaged.

The automated cross-check of goods description would be even more costly. The total EU cost of its implementation was estimated at EUR 11.96 million. Compared to cross-check of ARC and SEED, it would enforce the same information obligations but would also facilitate nearly eliminating fraud stemming from inconsistencies between excise and customs. The cross-check of goods description was supported by the vast majority of MSAs (13 out of 19), however the support was lower than for the simpler checks, which were supported by 18 out of 19 MSAs.

6.1.3.3 Recommendations

With the estimated level of fraud of EUR 20 million per year only in import movements to another MS, the gains in excise revenue would top the costs of the implementation of the cross-checks on both MSAs and EOs sides. In addition, the cross-check would result in man-day savings for MSAs due to elimination of manual cross-checks. The additional costs for provision of ARC and SEED, and necessary modifications in EMCS and CDPS to allow to check goods description are expected to be lower than the costs of loopholes in the current arrangements.

6.1.4 Duty Paid B2B

6.1.4.1 Baseline Assessment

According to the analysis, in 2016 the number of B2B duty-paid movements was roughly 102,000 and their value amounted to ca. EUR 201 million. As a result, 3.2% of all intra-EU movements in terms of number and approximately 0.1% in terms of value were duty paid. In five years' time, the number of operations is expected to be roughly 6.2% higher than it is today. Currently, duty-paid movements are used mostly by some small operators and on no-tax warehouse premises by large EOs. The current procedures are paper-based with poor supervision over the movements and EOs themselves, which creates opportunities for fraud in MS with large differentials. Although the scale of fraud cannot be estimated accurately, discrepancies in Intrastat system between MS with large excise rate differentials suggest that fraud may exceed the value of EUR 20 million that was expected by MS.

6.1.4.2 Assessment of Possible Policy Options

The introduction of the EOs registration and authorization will somewhat reduce the scale of fraud but will also generate substantial costs both for MSAs and EOs. All in all, extending SEED and registering and authorizing operators will cost EUR 19.7 million over five years. The registration and authorization will likely reduce the scale of fraud in the value exceeding the cost of efforts.

The complete automation of movements, which could be achieved by extending EMCS will be substantially more costly. The cost for MSAs and EOs would amount to EUR 44 million over five years. The bulk of these costs would be the costs of changes in modus operandi incurred by large EOs and the cost of changes in EMCS incurred by MSAs. Significant savings are expected in administrative costs on EOs side. Gains from abandoning paper-based procedures would amount to ca. 0.15 man-days per B2B

duty-paid movement. Such increase in efficiency would result in 30.6 thousand man-day, and EUR 12.2 million savings a year. In addition, it could be expected that the full automation would nearly eliminate the loopholes and fraud creating losses in excise worth EUR 20 million annually.

6.1.4.3 Recommendations

Despite significant costs connected with changing the processes, especially in large companies, the more far-reaching solution of extending EMCS is recommended. This is also recommended by MSAs (18 out of 19) and EOs (21 out of 24).

6.1.5 Low risk movements

6.1.5.1 Baseline Assessment

Current arrangement allowing for simplification of movements of certain goods under Article 31 of the Directive are rarely used due to difficulties in negotiating bilateral or multilateral schemes. That is despite the fact that the value of intra-EU supply of low risk goods – understood as energy products that do not need to be moved under EMCS (listed in Article 2(1) but not mentioned in Article 20(1) of the Energy Tax Directive (Directive 2003/96/EC)) and products for which excise duty is lower than the VAT levied on its sale – constitutes roughly ca. 22.4% of the value all intra-EU supply of excise goods. Unfortunately, MS were not able to provide suspected levels of fraud related to the low risk movements. However, the fact that the majority (88%) of MSAs opposes simplification schemes based on the perceived fiscal risk attached to a given good confirms opinions expressed during the interview stage to the effect that no movement of goods is completely free of fiscal risk.

Regarding opinion of the EOs, the OPC showed, the majority of them (59%) are dissatisfied with the current arrangements (importantly, the remaining 41% was neutral towards them and none reported being satisfied).

6.1.5.2 Assessment of Possible Policy Options

The implementation of simplification of movements of low risk goods could solve a problem of disproportionate administrative burden–i.e. requirement to use EMCS or SAAD duty-paid system–levied on EOs in case of transportation of low risk goods. We estimate that ca. EUR 22.7 million could be saved for EOs over five years. Unsurprisingly, then, for this policy option is significantly more prevalent among EOs (95%) than MSAs (50%). Nevertheless, introduction of this policy option would also be beneficial to MS. According to our calculations, gains of ca. EUR 4 million could be achieved over the same period, while no direct costs would be associated with the implementation of the policy option. At the same time, however, the distribution of these benefits would vary between MS depending on their market structure and national specificities (such as excise duty rates).

6.1.5.3 Recommendations

In introducing the simplification scheme, compromise between expectations of the EOs and reservations of MS regarding potential increase of the risk of fraud needs to be reached. The first step towards implementation of this policy option should therefore be reaching an agreement among the MS as to a definite list of goods (possibly by CN codes in order to avoid confusion as with expressions such as “light alcoholic beverages”) that are to be considered “low risk” or alternatively–a list of low risk movements (e.g. only movements via pipelines and/or ships and planes). This version of the simplification scheme, i.e. basing it on a type of good rather than fiscal risk

attached, is preferred by the MS (50% favoured it, compared to 13% that approved "fiscal risk" option, and 40% that would agree on a combination of both). The fact that introduction of simplification scheme will be voluntary should make reaching the consensus easier, as MS that do not wish to participate in it could simply opt out. Introduced this way, simplification scheme could alleviate administrative burdens of EOs without increasing the risk of fraud.

6.1.6 Exceptional situations (shortages, excesses, etc.)

6.1.6.1 Baseline Assessment

A number of issues regarding exceptional situations (estimated to occur during ca. 4.6% excise movements) currently exists, causing increased risk of fraud, administrative burden for MS, and uncertainty and risk of penalties (as well as certain administrative costs) for the EOs.

While sustaining lack of obligation to produce a report in case of destructions, losses, and/or thefts during movements or to add storage capacity of a tax warehouse would not generate no costs or benefits neither for EOs nor for MS, its lack prevents decreasing risk of fraud. Lack of standardization of procedures and equipment used in order to estimate/calculate shortages/excesses in turn, apart from causing uncertainty for EOs, will cost MS ca. EUR 7.64 million over the course of the next five years. Nonexistence of standard allowable losses threshold, again causing uncertainty to EOs, also costs MS 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 EOs, generates cost of ca. EUR 13.5 million annually.

Finally, related to the issue of exceptional situation is the uncertainty regarding process of recovering duties from an EO residing in another MS. This was considered a problem by a number of MSAs, although they were not able to provide any numerical values regarding the costs borne.

6.1.6.2 Assessment of Possible Policy Options

Introduction of compulsory reports in case of destructions, losses, and/or thefts during movements would generate a cost of ca. 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%). The difficulty is evaluating benefits to the MS in terms of scale of the fraud reduction make it difficult to assess whether (and when) the costs borne by the EOs would be counterpoised.

Standardization of procedures and equipment used in order to estimate/calculate shortages/excesses—supported by both MSAs (69%) and EOs (76%)—in comparison to dynamic baseline scenario, is expected to generate benefits of ca. EUR 17.2 million in lower administrative costs for MSAs and ca. EUR 93 million for EOs in forgone administrative, compliance and hassle costs. Additionally, introduction of this policy option has a potential to moderately limit the risk of fraud for MS. The benefit of this option would outweigh its costs within one year of its implementation. Even more popular among both groups (83.3% of MSAs and 86.4% of EOs) was introduction of a standardized allowable losses threshold, expected to not only significantly reduce risk of fraud, but also result in lowering MS' administrative costs by ca. EUR 10.2 million over the next five years. Just as was the case with standardization of procedures and equipment for shortages/excesses evaluation, the benefit of this option would outweigh its costs within one year of its implementation.

Introduction of a standard right to be heard was supported by the vast majority of both MSAs (80%) and EOs (100%), although a number of the former believe their

existing national legal systems provide EOs with sufficient opportunity to defend themselves and annual costs of introduction a standard legal to be heard for MS would amount to roughly EUR 0.36 million. They would be however outweighed by the benefits expected by the EOs in the form of avoiding costs of the lack of standard right to be heard amounting to EUR 13.5 million a year.

Finally, integration of the excise procedures with the procedures laid out in the Recovery Directive, while generating moderate enforcement costs for the national authorities, would at the same time save them ca. EUR 5.23 million over the next five years (no MS was not able to provide numerical values regarding effort needed to integrate excise procedures with the procedures laid out in the Recovery Directive). The benefits from the introduction of this policy option would therefor outweigh the costs.

6.1.6.3 Recommendations

The majority of the above discussed policy options have support of both MSAs and EOs, in spite of the recognition of the fact that introduction of some of them would bear monetary costs (in case of a policy option that lacked support of EOs, that is introduction of compulsory reports in case of destructions, losses, and/or thefts, it might be worth ensuring that timely reporting will be taken into account when the administration assesses a shortage and/or a national penalty (a solution supported by 89.5% of EOs) in order to support their backing).

In general, however, introduction of all the above listed policy options (apart from creation of a journey time database) would be overall beneficial both in terms of costs save in the long term and reduction in fraud. At the same time, though, more details regarding some of the planned policy options (namely introduction of the right to be heard and integration of the excise procedures with the procedures laid out in the Recovery Directive) will be needed before MS fully support them. In many cases answers "it depends" conditioned support of the specificities of the proposed solutions. Winning support of all the MS for the policy options suggested under the headline of "exceptional situations" is crucial as for the changes to have the desired effect they would have to, in our opinion, be introduced on the EU-level and be made obligatory in all MS.

6.1.7 Cross-border acquisition of excise goods by private individuals

6.1.7.1 Baseline Assessment

The current provisions of the Directive (Article 32 and Recital 27) regulating cross-border purchases of excise goods by private individuals generate some distortions in the functioning of the Internal Market. As things now stand, consumers based in border regions of MS applying high excise duty rates on alcohol and tobacco products have incentives to purchase excise goods at a cheaper price in neighbouring MS. This may divert tax revenues between EU MS and reduce the effectiveness of alcohol and tobacco control policies based on taxation, especially in border regions and in those cases where fraudsters abuse the current system. This problem appears to affect a limited number of MS, mostly concentrated in the North European region, and seems to be more prominent for alcoholic beverages than for tobacco products.

6.1.7.2 Assessment of Possible Policy Options

Clarifying the concept of 'own use' and reducing guide levels would improve legal certainty and provide operational guidance for border control authorities. Nonetheless, a reference to the concept of yearly 'own consumption' would contribute to solve the policy problem for alcoholic beverages while worsening the policy problem for tobacco products. By contrast, a reference to the concept of monthly/weekly 'own

consumption' would be more effective in addressing the problem for all excise goods. This option, especially in case a stricter definition of 'own use/own consumption' would apply, can generate enforcement costs as well as some hassle/irritation costs for private individuals moving across borders. The introduction of national adjustments to guide levels would allow for flexibility, thus enabling those MS that are most affected by the policy problem to avoid tax diversion, implement more effective public health measures and eradicate fraud relying on the current system. This option would create less enforcement costs and hassle/irritation costs than the previous one, as it would allow MS that are not affected by the policy problem to maintain the current guide levels and enforcement strategies unchanged.

6.1.7.3 Recommendations

The comparison of the expected impacts of the two policy options with each other and *vis-à-vis* the baseline scenario reveals that no policy option is strictly preferred to another. Whereas it is not possible to select the best policy option, it is worth reiterating that the policy problem appears to be geographically limited. Therefore, any solution to the problem should be targeted to those MS suffering the most, without imposing enforcement costs to those MS that are not affected by the problem. Against this background, it is suggested to perform further analysis in order to draw conclusions based on quantitative evidence and select the best option to address the policy problem.

6.2 Summary of Impacts by Typology

This final Chapter briefly summarises the impacts – actual and expected – that have been analysed in this Study, based on their nature and typology. Table 68 below provides a cross-cutting overview of the most relevant impacts that have been identified in relation to the issues at stake, and their estimated drivers and magnitude.

Table 68: Overview of most relevant impacts

Impact Area	Conclusions
Excise fraud	<ul style="list-style-type: none"> Currently, arrangements for movements of excise goods create incentives and loopholes for large scale fraud: <ul style="list-style-type: none"> fraud on export (~EUR 28 million, per year) due to non-alignment of excise customs provisions, fraud in STC (~EUR 21 million, per year) due to insufficient guarantees lodged and poor supervisions, fraud in import (~EUR 20 million, per year) due to weak evidence of duty exemption at import, fraud in B2B duty-paid movements (>20 EUR million, per year) due to excise rate differentials and poor supervision of movements and operators. The cross-check at header and message level between EMCS and both import declaration and ECS (or AES), would allow to significantly reduce the scale of fraud in import and export. Reduction of irregularities after export could be achieved by covering all movements with sufficient guarantee, in that for movements using simplifications under Article 329. Obligation to produce a report in case of destructions, losses, and/or thefts during movements and to add storage capacity of a tax warehouse could reduce a risk of fraud on all movements. Standardization of procedures and equipment used in order to estimate/calculate shortages/excesses, as well as introduction of standard losses threshold would reduce a risk of fraud on all movements.
Legal certainty	<ul style="list-style-type: none"> The current state-of-affairs presents specific areas, where EOs are uncertain of their right and obligations. Most importantly, there is

Impact Area	Conclusions
	<p>legal uncertainty of using T1, T2 and STC operations, and about accepted proofs of exit in different MS.</p> <ul style="list-style-type: none"> • Standardization of procedures and equipment used in order to estimate/calculate shortages/excesses, as well as introduction of standard losses threshold would reduce legal uncertainty for EOs. • Integration of the excise procedures with the procedures laid out in the Recovery Directive would clarify procedures that MS need to follow while recovering duties from an EO residing in another MS. • Introduction of a standard right to be heard would reduce legal uncertainty for EOs.
SMEs competitiveness	<ul style="list-style-type: none"> • Due to the nature of excise goods, the production and trade with excise goods could be characterised with large effects of scale. • Possibility of movements outside the system of complicated and expensive registrations and authorisations in duty-suspended arrangements creates level-playing field for SMEs. • Reducing administrative burden by eliminating paper-based procedures may, eventually, increase competitiveness of SMEs.
Administrative costs for MSAs	<ul style="list-style-type: none"> • Non-alignment of excise, customs and transit procedures creates burden for MSAs. • Exchange of information and cross-checks between the import/export and EMCS will substantially reduce the burden at the cost of significant implementation costs. • Introduction of simplification scheme for low risk movements could reduce the burden for MSAs. • Lack of standard right to be heard costs MSAs ca. EUR 13.5 million annually.
Administrative, compliance and hassle costs for Eos	<ul style="list-style-type: none"> • Non-alignment of excise, customs and transit procedures creates burden for EOs. • Further automations of arrangements will reduce the burden, but will also impose additional information obligations. • Substantial effort would need to be exerted to extend risk analysis. • Introduction of simplification scheme for low risk movements could reduce the burden for EOs. • Lack of standard procedures in case of exceptional situations creates burden for EOs, exceeding the cost of introduction of standardized procedures. • Lack of standard right to be heard is burdensome for 80% of EOs.

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**Study contributing to an
Impact Assessment on
Council Directive
2008/118/EC concerning the
general arrangements for
excise duty**

Final Report

Volume 2 – Annexes

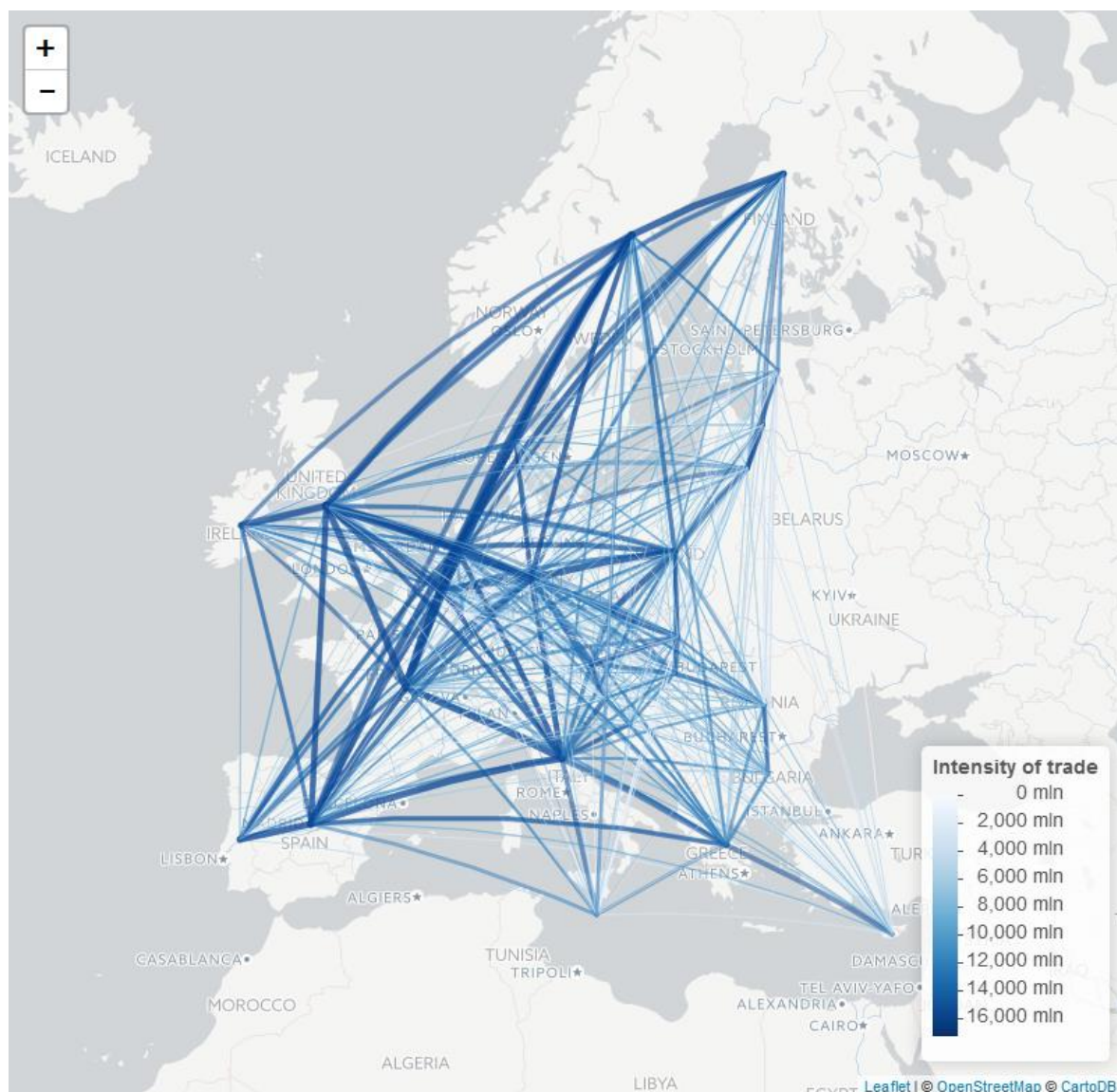
Annexes

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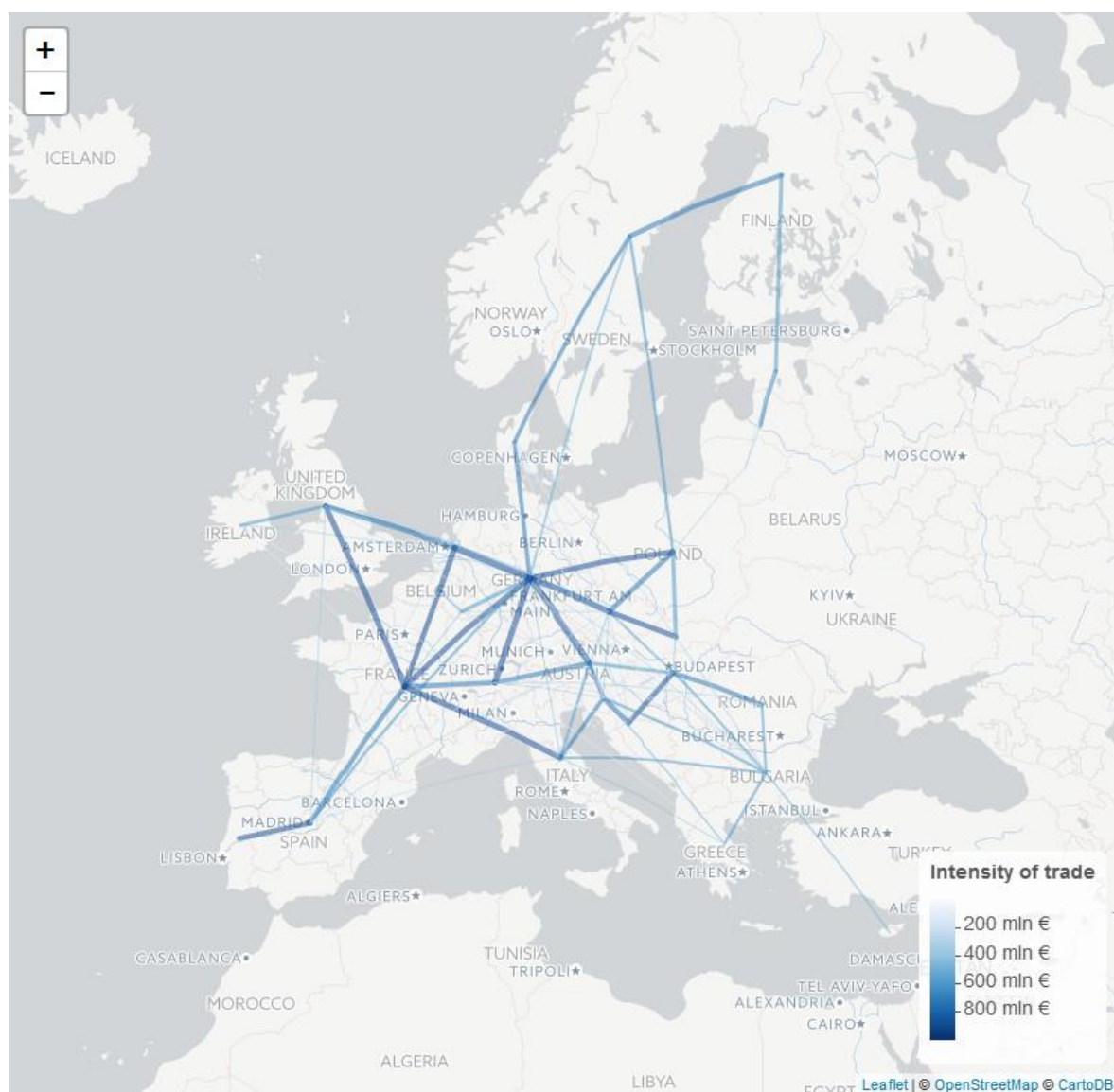
A . INTRA-EU TRADE IN EXCISABLE GOODS

Figure A1: Intra-EU trade in energy goods



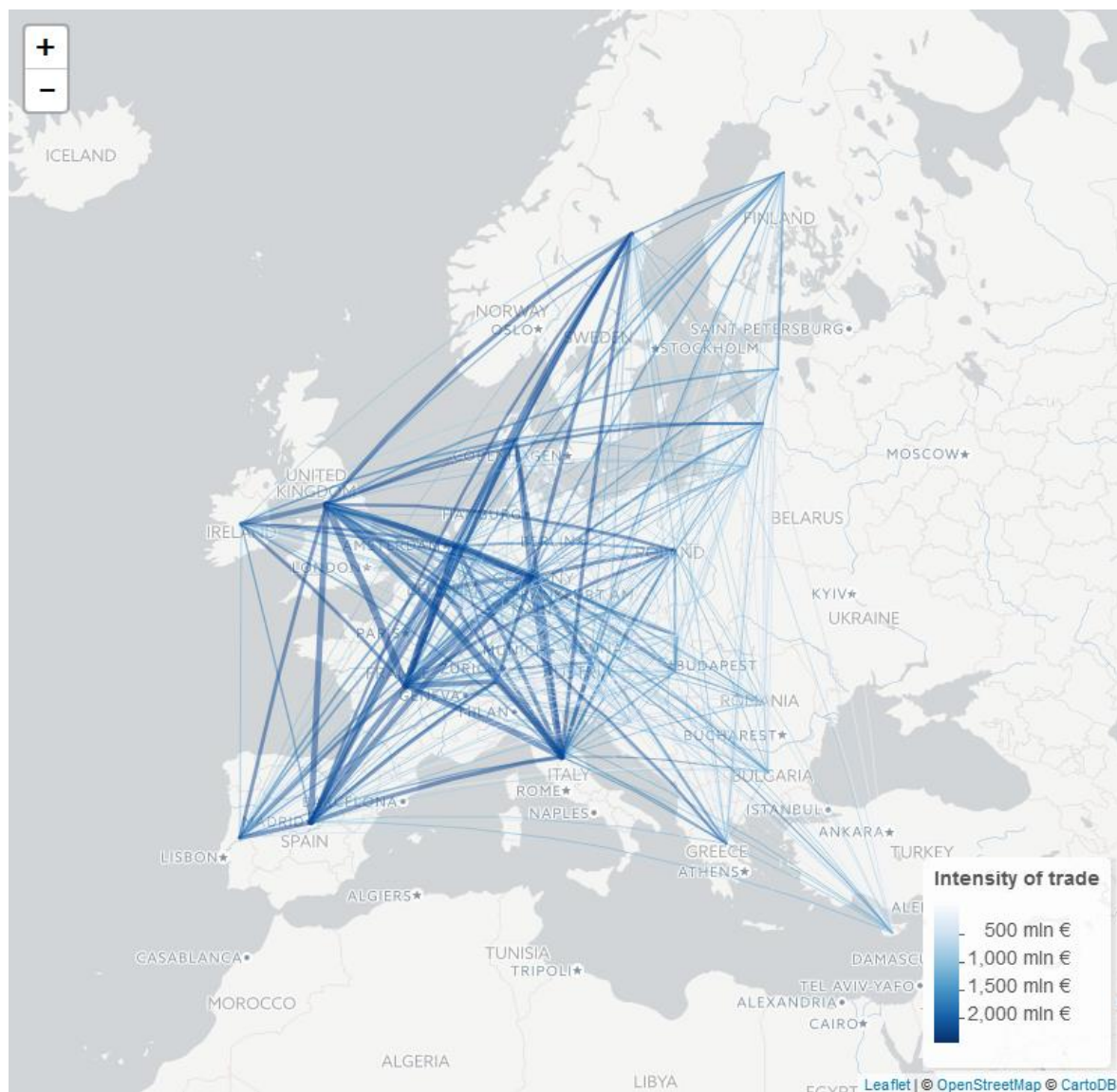
Source: own elaboration.

Table A2: Intra-EU trade in electricity



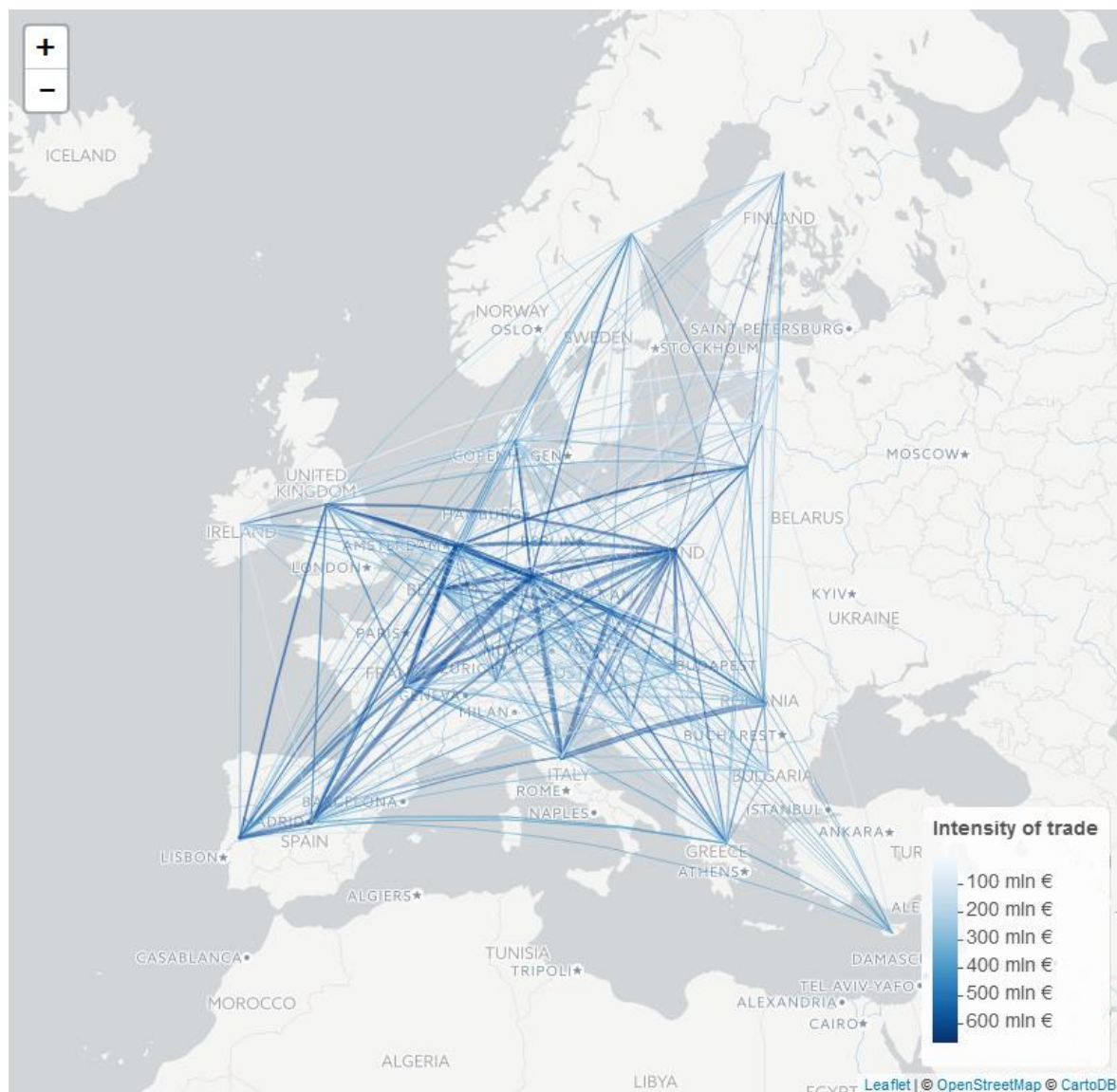
Source: own elaboration.

Table A3: Intra-EU trade in alcoholic beverages



Source: own elaboration.

Table A4: Intra-EU trade in manufactured tobacco



Source: own elaboration.

B. QUESTIONNAIRE FOR MEMBER STATES' EXCISE, CUSTOMS AND HEALTH AUTHORITIES

Questionnaire for Member States' Excise, Customs and Health Authorities

Introduction

Purpose of the consultation

Directive 2008/118/EC¹⁰⁶ sets out the general procedures for the holding and movement of excise goods (alcohols and alcoholic beverages, manufactured tobacco products, energy products) in the European Union (EU). It also explains the procedures for deferring payment of excise duty available to authorised traders who hold or move excise goods.

Two external evaluation studies of the Directive were carried out between 2014 and 2016¹⁰⁷. Based on these studies a Report evaluating the functioning of the Directive will be submitted to the European Parliament and the Council. According to the Commission report, there might be scope to improve Directive 2008/118/EC in order to reduce administrative burden for both Member States and economic operators and reduce distortions in the internal market.

Scope of the consultation

This consultation is intended to gather the views of Member States authorities (excise and customs and public health) on a set of possible options for the revision of Directive 2008/118/EC. The consultation questionnaire is divided into several sections, namely:

- 1st section - on respondent's profile and details.
- 2nd section - on the customs – excise interactions issues.
- 3rd section - on the so-called 'duty paid business-to-business' procedures.
- 4th section - the simplification of low risk movements.
- 5th section - on exceptional situations (e.g. shortage, rejection) of a movement of excise goods, which may lead to an irregularity.
- 6th section - on Risk Analysis, which requires data to be provided to public authorities.
- 7th section - on Acquisition by Private Individuals.

A brief outline of the policy problem is provided at the beginning of each section. You can choose to reply to all sections or only reply to a subset of sections.

Note: a glossary is provided at the end of this questionnaire.

Personal data

1. Please indicate your name, or the name of your institution and department.

¹⁰⁶ [Council Directive 2008/118/EC](#) of 16 December 2008 concerning the general procedures for excise duty and repealing [Directive 92/12/EEC](#) OJ L9/12 14.1.2009

¹⁰⁷ <http://bookshop.europa.eu/en/evaluation-of-current-procedures-for-the-cross-border-movements-of-excise-goods-that-have-been-released-for-consumption-pbKP0614146/> and <http://bookshop.europa.eu/en/evaluation-of-current-procedures-for-the-holding-and-moving-of-excise-goods-under-excise-duty-suspension-pbKP0215865/>

[Click here to enter text.](#)

2. Please select whether you participate to this consultation as:

[Choose an item.](#)

[If 'Other', please specify.](#)

[Click here to enter text.](#)

3. Please your Member State.

[Click here to enter text.](#)

Customs-excise

Problem outline: *The legal and technical arrangements for coordination of customs and excise procedures do not work well, causing legal uncertainty, delays and providing opportunities for fraud.*

Customs-export

Problem outline: *during the export of excise goods from the territory of the European Union (EU), both excise and export procedures are active in parallel; however, their synchronisation might currently be insufficient. As a consequence, the excise movement may remain open and the associated guarantee immobilised long after the goods have exited the territory of the EU; another consequence is that changes in the status of export (e.g. export declaration invalidation) are not always forwarded to excise. Moreover, data cross checks between excise and export procedures are not mandatory (e.g. from an EU legislation perspective, the export declarant does not have to provide the ARC108 of the excise movement in the customs export declaration), which may lead to fraud.*

1. Please indicate (a) the number of excise movements and (b) the amount of excise duty of goods that are moved from your Member State with destination "export" that are:

- closed automatically;
 - (a) Number of movements per financial year.
 - (b) Amount of excise duty.
- closed manually, because of:
 - exit results (IE518) not sent by the office of exit;
 - (a) Number of movements per financial year.
 - (b) Amount of excise duty.
 - other reason¹⁰⁹?
 - (a) Number of movements per financial year.
 - (b) Amount of excise duty on movements closed manually because of specific reasons.

¹⁰⁸ Administrative Reference Code

¹⁰⁹ For instance, no automated synchronisation between National Export Control Application (NECA, ECS, AES) and National Excise Application (NEA, EMCS).

2. Please indicate your estimation of the trends in these movements over the coming five years (Q1).
 - Year-to-year per cent (%) volume change in movements closed automatically.
 - Year-to-year per cent (%) volume increase in movements closed manually.
3. What is the volume of discrepancies detected on exports of excise goods in your Member State (for the latest year available)?
 - Number controls/audits indicating discrepancy, irregularity or fraud per financial year.
 - Amount of discrepancies in terms of goods value, per financial year, in local currency.
4. Please indicate your estimation of the trends in these discrepancies over the coming five years.
 - Year-to-year per cent (%) increase in discrepancies.
5. Can you estimate the actual volume of fraud due to the absence of a cross-check on exportation in your Member State?
 - No. of fraudulent movements per financial year.
 - Losses in excise duty for state revenue per financial year.
6. Please give your rough estimation of the trends for the next 5 years (Q5)?
 - Year-to-year per cent (%) fraud change.

Option for improvement – “AES-EMCS data cross check”: in an attempt to reduce fraud. A potential policy option could be to cross-check data between the customs export declarations and the excise declarations (e-AD). Two types of cross-checks are under consideration. The first is an automated data cross-check, at the message header level, which would require EMCS ARC and SEED numbers to be inserted in the export declaration and to cross-check them on a per-export-declaration basis. The second type would be a more advanced cross-check, at item entry level, which, in addition to the above, would also verify on a per-declaration basis that the goods description in the export declaration and in the excise e-AD are consistent.

7. In your opinion, should an EU-harmonised automated data cross-checks for goods that are exported be introduced?
Yes, with a message header-level cross-check only.
Yes, with both message header- and item entry-level cross-checks.
No.
Don't know.

8. Please give an estimate of the IT costs that would be required to implement an automated cross-check at point of export:

- message header-level cross-check only:

Total Cost of Ownership over 5 years in local currency.

- message header- and item entry-level cross-checks:

Total Cost of Ownership over 5 years in local currency.

9. Can you estimate the benefits (in terms of fraud avoidance per year) if an automated data cross-check at point of export were to be implemented?

- message header-level cross-check only:

Amount of discrepancies reduction in terms of goods value in local currency.

- message header- and item entry-level cross-checks:

Amount of discrepancies reduction in terms of goods value in local currency.

Option for improvement – "Automating the AES-EMCS synchronisation": in an attempt to reduce the administrative burden of movements' manual closures, as well as the duration of an excise movement with export, this potential policy option envisages automation of synchronisation of the movements' status between EMCS and AES. This automated synchronisation would automatically close EMCS movements (and release the excise guarantee) when positive exit results are provided by the Office of Exit, allowing to take EMCS corrective action (e.g. change of destination) when the export declaration is invalidated, etc.

10. In your opinion, should the synchronisation of EMCS-AES be automated EU-wide?

Choose an answer.

11. Please give a rough estimate of the potential gains from the automation of EMCS-AES synchronisation.

- effort saved on not cross-checking manually anymore:

Man-days and/or financial (in local currency) per year.

- effort saved on not closing movements manually anymore:

Man-days and/or financial (in local currency) per year.

Option for improvement – "Harmonisation of alternate proofs of exit": currently, the law allows Economic Operators to present "appropriate evidence" to confirm Exit of goods. Examples of such evidence are a copy of the delivery note, a proof of payment or the invoice, and a declaration signed or authenticated by the company. There is no agreement between Member States on what constitutes acceptable Alternative Proofs of Exit leading to legal uncertainty for traders.

This option envisages to legislate at EU-level in order to define a list of EU-wide acceptable alternate proofs of exit for exported excise goods.

12. In your opinion, should the excise EU legal base define alternate proofs of exit EU-wide?

Choose an answer.

13. Please give your estimate of the potential gains from harmonizing the excise-customs legal base for alternate proofs of exit due to reduced effort in closing movements.

Man-days and/or financial (in local currency) per year.

14. Can you foresee the other potential gains from harmonization of excise-customs legal base for alternate proofs of exit?

Please specify.

Customs-import¹¹⁰

Problem outline: *during an import of excise goods to the territory of the European Union (EU), the customs declarant may declare that the excise goods to be released for free circulation will be moved to another Member State under excise duty suspension or will be released for free circulation in a tax warehouse in the Member State of Importation. Since in most cases there is no cross-checking of customs import declarations and excise e-AD, the ability to ensure that an actual movement under duty suspension occurs after import is currently limited, which is a source of fraud.*

¹¹⁰ "Import" here means: goods being imported from a third country into the EU.

15. Please indicate (a) the number of movements and (b) the amount of excise duty of goods released for free circulation in your Member State:

(a) and then stored in a non-customs warehouse

- Number of movements per financial year.
- Amount of excise duty.

(b) and then moved under excise duty suspension into another Member State

- Number of movements per financial year.
- Amount of excise duty.

16. Please give your estimate for the trends over the next 5 years in these movements (Q15).

Year-to-year per cent (%) volume/number change in exempt import movements.

17. What is the volume of discrepancies between the import declaration and the eAD detected on imports of excise goods in your Member State?

- Number controls/audits indicating discrepancy, irregularity or fraud per financial year.
- Amount of discrepancies in terms of goods value, per financial year, in local currency.

18. Please give your rough estimation of the trends for the next 5 years (Q17).

- Year-to-year per cent (%) fraud change.

19. Can you estimate the actual volume of fraud due to the absence of automated cross-check on importation?

- No. of fraudulent movements per financial year.
- Losses in excise duty for state revenue.

20. Please give your rough estimation of the trends for the next 5 years (Q19).

- Year-to-year per cent (%) change in fraud.

Option for improvement – "Recording and validating excise data items in the customs import declaration". In order to help reduce fraud, this policy option envisages to cross-check some data between the customs import declarations and the excise ones (e-AD). Three types of cross-checks are being considered.

The first, an automated data cross-check, at message header level, which would require SEED numbers of the consignor and of the consignee to be included in the import declaration and would cross-check their validity automatically on a per-import-declaration basis.

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

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

21. In your opinion, what type of EU-harmonised automated data cross-check between import and excise procedures should be implemented?

Choose an answer.

22. What would be the IT costs for implementing an automated cross-check once the goods are imported?

- message header-level cross-check of SEED numbers of consignor and consignee;

Total Cost of Ownership over 5 years in local currency.

- message header-level cross-check of SEED numbers and ARC;

Total Cost of Ownership over 5 years in local currency.

- message header- (SEED numbers and ARC) and item entry-level cross-checks?

Total Cost of Ownership over 5 years in local currency.

23. Can you estimate the benefits (in terms of fraud avoidance per year) if an automated data cross-check at import were to be implemented?

- message header-level cross-check of SEED numbers of consignor and consignee in terms of goods value;

Amount of discrepancies reduction in terms of goods value in local currency.

- message header-level cross-check of SEED numbers and ARC - amount of discrepancies in terms of goods value:

Amount of discrepancies reduction in terms of goods value in local currency.

- message header- (SEED numbers and ARC) and item entry-level cross-checks - amount of discrepancies in terms of goods value (financial):

Amount of discrepancies reduction in terms of goods value in local currency.

Export procedure followed by the external transit procedure

Problem outline: Under Article 329(5) of Regulation (EU) 2015/2447 the customs office of exit is the customs office of departure of the transit procedure. Since the office of exit confirms exit, this means that the exit is confirmed when the goods are still moving on the customs and fiscal territory of the Union. Currently, under Article 25(1) of Directive 2008/118/EC, the exit message from the Automated Export System triggers the closure of the EMCS movement and therefore the release of the excise guarantee. However, under Article 17(1)(a)(iii) and 20(2) of Directive 2008/118/EC, the excise movement may not be closed before the goods have physically exited. There is no proof of physical exit under Article 329(5). The use of the external transit procedure after an export procedure is limited to Article 189 of Regulation (EU) 2015/2446. Currently there is no legal base in Directive 2008/118/EC to allow for such simplification.

24. Please indicate how often the combination of an export procedure followed by an external transit procedure is used in your Member State.

- Number of movements per financial year.
- Excise duty concerned per financial year (national currency).

25. Please give your estimate for trends over the next 5 years for these types of movements (Q24)?

Year-to-year per cent (%) volume/number change in export followed by external transit.

26. To which third countries are excise goods exported by using external transit?

Names of the countries.

27. Are all operators obliged to lodge a transit guarantee (NCTS) for excise goods being moved under external transit? If yes, is the guarantee sufficient?

Please explain.

Export procedure followed by the internal transit procedure

Problem outline: Under Article 329(6) of Regulation (EU) 2015/2447 the customs office of exit is the customs office of departure of the transit procedure. Since the office of exit confirms exit, this means that the exit is confirmed when the goods are still moving on the customs and fiscal territory of the Union. Currently, under Article 25(1) of Directive 2008/118/EC, the exit message from the Automated Export System triggers the closure of the EMCS movement and therefore the release of the excise guarantee. However, under Article 17(1)(a)(iii) and 20(2) of Directive 2008/118/EC, the excise movement may not be closed before the goods have physically exited. There is no proof of physical exit under Article 329(6). Currently there is no legal base in Directive 2008/118/EC to allow for such simplification. Moreover, the transit guarantee cannot be used for claims on excise debt.

28. Please indicate how often the combination of an export procedure followed by an internal transit procedure is used in your Member State..

- Number of movements per financial year.
- Excise duty concerned per financial year (national currency).

29. Please give your estimate for trends over the next 5 years for these types of movements (Q28)?

Year-to-year per cent (%) volume/number change in export followed by internal transit.

30. To which third countries are excise goods exported by using internal transit?

Names of the countries.

31. Are all operators obliged to lodge a transit guarantee (NCTS) for excise goods being moved under internal transit? If yes, is the guarantee sufficient?

Please explain.

Export followed by Single Transport Contract (STC)

Problem outline: Under Article 329(7) of Regulation (EU) 2015/2447 the customs office of exit is the customs office competent for the place where the goods are taken over under the Single Transport Contract. Since the office of exit confirms exit, this means that the exit is confirmed when the goods are still moving on the customs and fiscal territory of the Union. Currently, under Article 25(1) of Directive 2008/118/EC, the exit message from the Automated Export System triggers the closure of the EMCS movement and therefore the release of the excise guarantee. However, under Article 17(1)(a)(iii) and 20(2) of Directive 2008/118/EC, the excise movement may not be closed before the goods have physically exited. There is no proof of physical exit under Article 329(7) of Regulation (EU) 2015/2447 and no customs guarantee for the movement under STC on the customs and fiscal territory of the Union which could be used in case something goes wrong. Currently there is no legal base in Directive 2008/118/EC to allow for such simplification.

32. Please indicate how often the combination of an export procedure followed by an STC procedure is used in your Member State.

- Number of movements per financial year.
- Excise duty concerned per financial year (national currency).

33. Please give your estimate for trends over the next five years for these types of movements (Q28)?

Year-to-year per cent (%) volume/number change in export followed by STC.

34. To which third countries are excise goods exported by using STC?

Names of the countries.

35. Since there is no customs guarantee under STC, what type of guarantee is used to secure the excise debt and how can your administration claim the guarantee?

Please explain.

Please provide any additional concerns or comments you may have on this section below.

[Click here to enter text.](#)

B2B duty paid arrangements

Problem outline: The procedures for moving excise goods between businesses in different countries, 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.

36. Please indicate (a) the number, (b) excise duty concerned for paper-based cross-border excise movements to or from your country.

- Inbound movements;
 - (a) Number of movements per financial year.
 - (b) Excise duty concerned (national currency).
- Outbound movements;
 - (a) Number of movements per financial year.
 - (b) Excise duty concerned (national currency).

37. Please give your rough estimate of trends over the next 5 years (Q36).

- Year-to-year per cent (%) volume/number increase in inbound movements.
- Year-to-year per cent (%) volume/number increase in outbound movements.

38. What is the volume of discrepancies detected on paper-based B2B operations?

- Number controls/audits indicating discrepancy, irregularity or fraud per financial year.
- Amount of discrepancies in terms of goods value, per financial year, in local currency.

39. Can you estimate of trends for the next 5 years (Q38)?

Year-to-year per cent (%) increase in discrepancies.

40. Can you estimate the actual volume of fraud due to the existence of paper-based procedures in your Member State?

- No. of fraudulent movements per financial year.
- Value of goods unofficially released for consumption.
- Losses in excise duty for state revenue.

41. Please give your rough estimation of trends for the next 5 years (Q55)?

- Year-to-year per cent (%) fraud change.

Option for improvement – "Automate duty paid B2B processes by extending EMCS". this option would automate the Duty Paid B2B procedures, EU-wide. In other words, the current paper-based procedures would be replaced by computer-based ones. This evolution would require the registration of duty paid B2B Economic Operators in an IT system; it is assumed that the registration process will be light, such as a simple VAT-number-based registration. This automation of the procedures would however lead to overall faster processing, in particular faster guarantee release and refund management.

42. In your opinion, should the current paper-based B2B movements system be automated?

Choose an answer.

43. Could you provide an estimation of (total) costs for your administration to set up a computerised system that would replace the current paper based B2B movements in your Member State?

Man-days and/or financial (in local currency) per year.

44. Could you provide an estimation of (total) costs for your administration to set up a registration of excise operators, for instance, based on a VAT number in your Member State?

Man-days and/or financial (in local currency) per year.

45. Please indicate the benefits from the potential introduction of computerised system for a paper based B2B movements in terms of increase of efficiency of tax administration in your Member State.

Man-days and/or financial (in local currency) per year.

Please provide any additional concerns or comments you may have on this section below.

[Click here to enter text.](#)

Simplification of low risk movements

Problem outline: currently, Member States seem to make little use of Article 31, because of the difficulties of negotiating bilateral or multilateral schemes. The Commission is interested in looking at simplification of the formalities for goods that represent a low fiscal risk, or goods traded between trustworthy economic operators. 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 good

46. What is the number, value and excise duty concerned with excise movements of “low risk” goods (energy products covered under Article 2 but not Article 20 of Directive 2003/96/EC, completely denatured alcohols or products with excise duty lower than 1000€ or the equivalent of 20% ad valorem) to and from your country?

- Inbound movements;
 - (a) Number of movements per financial year.
 - (b) Excise duty concerned (national currency).
- Outbound movements;
 - (a) Number of movements per financial year.
 - (b) Excise duty concerned (national currency).

47. Please give your rough estimate of trends for the next five years (Q46).

- Year-to-year per cent (%) volume/number increase in inbound movements.
- Year-to-year per cent (%) volume/number increase in outbound movements.

48. Please indicate the volume of discrepancies detected on exports of “low risk” cross-border movements:

- Number controls/audits indicating discrepancy, irregularity or fraud per financial year.
- Amount of discrepancies in terms of goods value, per financial year, in local currency.

49. Can you estimate the trends in discrepancies for the next five years (Q48)?

Year-to-year per cent (%) increase in discrepancies.

50. Can you estimate the actual volume of fraud on related to “low risk” goods in cross-border movements?

- No. of fraudulent movements per financial year.
- Losses in excise duty for state revenue.

51. Please give your rough estimation of trends for the next 5 years (Q50)?

- Year-to-year per cent (%) fraud change.

Option for improvement – "Providing standard simplification schemes in the Horizontal Excise Directive". If the excise duty levied on a good is less than the VAT levied on the sale of the good, it might be disproportionate to require the use of either EMCS or the SAAD duty paid system. Similarly, economic operators with a good record of meeting regulatory requirements should be able to benefit from simplified reporting. The simplification envisaged would be to set up of a system of monthly reporting for cross-border transactions, with an exchange of data between Member States for reconciliation and control purposes. The accompanying document could be replaced by a commercial accompanying document, such as the CMR (Consignment Note for Road Transport). This simplification would apply only to consignments of low excise duty, i.e. for which the excise fiscal risk is limited. This simplification would be optional for Member States and consequently would not necessarily be enforced EU-wide.

52. In your opinion, should the standard simplification schemes for "low-risk" cross-border movements be provided in the Horizontal Excise Directive?

Choose an answer.

53. If yes, should there be a simplification scheme based on:

- Type of products (energy products covered under Article 2 but not Article 20 of Directive 2003/96/EC, completely denatured alcohols)?

Choose an answer.

- Low fiscal risk (i.e. potential excise duty liability on possible movements is less than VAT due – estimated under 1000€ or 20% of net value)?

Choose an answer.

- Combination of the first two options?

Choose an answer.

54. Please indicate the benefits from the potential introduction of simplification schemes to "low-risk" cross-border movements in terms of decrease of efficiency of tax administration in your Member State.

Man-days and/or financial (in local currency) per year.

Please provide any additional concerns or comments you may have on this section below.

[Click here to enter text.](#)

Common approach for shortages/excesses, interruptions, rejections

Problem outline: currently, different countries may use different means, processes, and methodologies to deal with exceptional situations such as shortages (lower quantity at destination than at dispatch), excesses (higher quantity at destination than at dispatch), rejections (the intended recipient of the goods never ordered the goods) or interruptions of movements. For instance, different countries may have different ways to assess shortages and excesses and

different thresholds for allowable natural losses (e.g. evaporation losses in petrol tanks). 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"). Depending on the country, exceptional situations may lead to irregularities, duty claims, penalties or seizure of the goods.

55. Please describe your approach to calculating shortages in excise goods movements, in particular:

- How do you record the accuracy of measuring instrument?

Choose an answer. If you chose 'other', please describe: Please describe.

- Do you take into account measurement accuracy in the estimation of shortages?

Choose an answer.

- Do you take allowable losses into account by subtraction from the measured shortage?

Choose an answer.

- Do have standard estimates of allowable losses?

Choose an answer.

56. What is the volume of shortages detected on movements of excise goods?

- Number controls/audits indicating shortage. per financial year
- Amount of shortages in terms of goods value, per financial year, in local currency.

57. Can you estimate the trends in discrepancies for the next 5 years (Q56)?

Year-to-year per cent (%) increase in shortages.

58. How do you handle excesses?

Choose an item.

Specific problem outline – A fraud scheme that involves a consignee rejecting or refusing a consignment and the consignor not subsequently making a change of destination might be prevalent and putting financial interests of Member States at Risk.

59. Could this be solved by making the result of a rejection or refusal of a consignment an automatic change of destination back to the consignor?

Choose an answer.

60. Should event reports reporting destructions, losses and thefts during a movement be made an obligation on the consignor or the carrier in your Member State?

Choose an answer.

61. Are there other events (e.g. change of vehicle, transshipment) for which an event should become compulsory?

Choose an answer.

62. Would it be useful to add the storage capacity of a tax warehouse to SEED, in order to allow a comparison with the quantities declared on the e-AD?

Choose an answer.

63. Would it be useful to establish a journey time database?

Choose an answer.

<p><u>Option for improvement – "Standardization of procedures and equipment used in order to estimate/calculate shortages/excesses".</u></p>
--

64. Do you think that there should be standardized procedures and certified equipment used in order to assess shortages/excesses?

Choose an answer.

65. What is the estimated administrative effort due to the lack of a unified approach between MS to estimating/calculating shortages in your Member State?

Man-days and/or financial (in local currency) per year.

66. Please give your estimate of the gains from a standard way to assess shortages/excesses:

- reduced effort from no longer manually cross-checking;
Man-days and/or financial (in local currency) per year.
- time and resources spent on clarifications of accusations of excessive shortages;
Man-days and/or financial (in local currency) per year.
- other gains.

Please specify.

Financial (in local currency) per year.

67. Please give your estimate of the cost of implementing a standard way to assess shortages/excesses:

- cost of the certified measurement equipment;

Financial (in local currency) per year.

- Other cost.

Please specify.

Financial (in local currency) per year.

Option for improvement – "Introduction of a standardized allowable losses threshold (tolerance threshold)".

68. Do you think that there should be one harmonized approach to allowable losses?

Choose an answer.

69. What is the estimated administrative effort due to the lack of a unified tolerance threshold for shortages and excesses in you Member State?

Man-days and/or financial (in local currency) per year.

70. Please give your estimate of the gains from the standardization of allowable losses threshold.

Man-days and/or financial (in local currency) per year.

Option for improvement – "Introduction of a "right to be heard" for the shortages/excess proceedings". Customs has the concept of the 'Right to be Heard' written into the Union Customs Code. This means that an economic operator should always be given an opportunity to make representations when notified of a decision. National jurisdictions usually provide some recourse when adverse decisions are made but the ease of making representation or challenging such decisions in the field of excise seems to vary greatly.

71. Do you think that there should be a standard legal right to be heard related to shortages, excesses, rejections, or interruptions?

Choose an answer.

72. What is the estimated administrative effort due to the lack of a standard legal right to be heard related to shortages, excesses, rejections, or interruptions?

- administrative costs;

Man-days and/or financial (in local currency) per year.

- costs of appeal against decision made;

Man-days and/or financial (in local currency) per year.

- other.

Please specify.

73. Should the facilities in EMCS, which are supposed to provide a right to be heard in the case of shortages, be provided with a legal base?

Choose an answer.

74. What would be the estimated cost for your Member State of granting an EO a standard right to be heard in cases of shortages, excesses, rejections, or interruptions?

- administrative costs;

Man-days and/or financial (in local currency) per year.

- other.

Please specify.

75. What other benefits do you expect from the introduction of a standard right to be heard for your Member State?

Please describe.

Option for improvement – "Integration of the excise procedures with the procedures laid out in the Recovery Directive". In order to reduce difficulties in recovering excise debts from an economic operator in another Member State, the procedures in the Horizontal Excise Directive could be integrated with the procedures laid out in the Recovery Directive. This would result in disambiguating the role of MS in reserving guarantees and claiming excise duties recovered in case of a fraudulent clearance of an EMCS movement.

76. Please indicate how you deal with claims for shortages in your Member State.

- part of the guarantee is reserved when EMCS indicates a shortage. Choose an answer.
- no intervention in debt recovery unless there is an explicit request from another Member State under the Recovery Directive. Choose an answer.

77. Has your administration experienced difficulties in recovering excise debts from an economic operator in another Member State?

Choose an answer.

78. What was the cause of the difficulty?

- Lack of clarity about which Member State had the taxing right.

Choose an answer.

- Language problems with the economic operator.

Choose an answer.

- Lack of an available guarantee.

Choose an answer.

- If applicable lack of familiarity with the tools provided by the Recovery Directive.

Choose an answer.

79. What would be the estimated effort for your Member State to integrate the excise procedures with the procedures laid out in the Recovery Directive?

Man-days and/or financial (in local currency) per year.

80. What would be the estimated benefits for your Member State from integrating the excise procedures with the procedures laid out in the Recovery Directive?

- administrative costs;

Man-days and/or financial (in local currency) per year.

- other.

Please specify.

Please provide any additional concerns or comments you may have on this section below.

[Click here to enter text.](#)

Risk Analysis

Problem outline: the national public authorities do not always have all necessary data to perform an optimal risk analysis.

Option for improvement: Economic Operators would be required to provide the national public authorities with extra information about their business and their movements of goods.

81. Please give your rough estimate of the whole cost for collecting and introducing risk analysis on the basis of the following information (for your Member State):

- owner of the goods at dispatch and owner of the goods at destination
Financial (in local currency) per year.
- owner of the goods at dispatch and owner of the goods at destination and a change of vehicle (or transshipment)
Financial (in local currency) per year.
- owner of the goods at dispatch and owner of the goods at destination, a change of vehicle (or a transshipment) and warehouse capacity
Financial (in local currency) per year.

Please give your rough estimate of the benefits (e.g. fraud reduction, more efficient and effective risk analysis) if the following information was available (for your Member State):

- owner of the goods at dispatch and owner of the goods at destination;
Man-days and/or financial (in local currency) per year.
- owner of the goods at dispatch and owner of the goods at destination and a change of vehicle (or transshipment).
Man-days and/or financial (in local currency) per year.
- owner of the goods at dispatch and owner of the goods at destination, a change of vehicle (or transshipment) and warehouse capacity
Man-days and/or financial (in local currency) per year.

Please provide any additional concerns or comments you may have on this section below.

[Click here to enter text.](#)

Excise – Acquisition by private individuals

Individuals can transport excise goods, namely alcohol and tobacco, to another EU country without paying excise in the country of destination, provided they are for personal use. Member States can set guide levels to help determine whether such goods are truly meant for personal use.

Currently, the Directive does not allow Member States to set guide values lower than certain thresholds (e.g.: 800 cigarettes, 110 l of beer, 90 l of wine or 10 l of spirits) and refers them to the concept of personal use.

82. Can you estimate the average annual cross-border purchasing of alcohol by private individuals for personal use in your country?

In litres	In euros	As a % of the total consumption (litres)	Don't know
-----------	----------	--	------------

83. Can you estimate the average annual cross-border purchasing of tobacco by private individuals for personal use in your country?

In units (sticks/kg)	In euros	As a % of the total consumption of tobacco (sticks/kg)	Don't know
----------------------	----------	--	------------

84. Are you aware of any negative impacts of Directive 2008/118/EC on public health related to tobacco or alcohol consumption?

Yes (please specify)	No	Don't know
----------------------	----	------------

85. If yes, do you think these negative impacts are related to the lack of flexibility of Member States to set lower guide levels than those set out in the Directive?

Yes	No	Don't know
-----	----	------------

86. How useful would the following measures be to mitigate these negative impacts on health?

	Useful	Neutral	Not useful	Don't know
lower the EU minimum thresholds of the guide levels in the Directive				
allow national adjustments of the guide levels <i>to prevent disproportionate negative effects on excise tax collection</i>				
allow national adjustments of the guide levels <i>to prevent disproportionate negative effects on public health</i>				
allow national adjustments of the guide levels <i>by removing the EU minimum thresholds</i>				

Problem outline: currently, the Directive's guide levels refer to the concept of personal use. Personal use is a concept that may create difficulties in interpretation at operational level.

Option for improvement: increase legal certainty and operational guidance for authorities and individuals by referring to an appropriate concept (for instance: average yearly personal consumption, for which concrete statistics are available).

87. Should legal certainty be improved by further specifying the concept of personal use?

Yes | No | Don't know

88. If yes, which criteria would be useful to specify the concept of personal use?

	Useful	Neutral	Not useful	Don't know
average yearly personal consumption				
Other (please specify)				

89. Would flexibility on setting lower national guide levels have an impact on economic operators?

Positive | Neutral | Negative | Don't know

Please explain

Please provide any additional concerns or comments you may have on this section below.

[Click here to enter text.](#)

Glossary

AAD	Accompanying Administration Document
AES	Automated Export System
ARC	Administrative Reference Code
B2B	business-to-business
B2C	business-to-consumer
CAP	Common Agricultural Policy
DDXNA	Design Document for National Export Application
eAD	Electronic accompanying document
ECS	Export Control System
EMCS	Excise Movement and Control System
EO	Economic Operator
FEES	Functional Excise System Specification
IA	Impact Assessment
NCTS	New Computerised Transit System
SAD	Simplified Accompanying Document
SCM	Standard Cost Model
SEED	System of Exchange of Excise Data
STC	Single Transport Contract
UCC	Union Customs Code
VIES	VAT Information Exchange System

C. QUESTIONNAIRE FOR ECONOMIC OPERATORS

Questionnaire for Economic Operators

Introduction

Purpose of the consultation

Directive 2008/118/EC¹¹¹ sets out the general procedures for the holding and movement of excise goods (alcohols and alcoholic beverages, manufactured tobacco products, energy products) in the European Union (EU). It also explains the procedures for deferring payment of excise duty available to authorised traders who hold or move excise goods.

Two external evaluation studies of the Directive were carried out between 2014 and 2016¹¹². Based on these studies a Report evaluating the functioning of the Directive will be submitted to the European Parliament and the Council. According to the Commission report, there might be scope to improve Directive 2008/118/EC in order to reduce administrative burden for both Member States and economic operators and reduce distortions in the internal market.

Scope of the consultation

This consultation is intended to gather the views of economic operators on a set of possible options for the revision of Directive 2008/118/EC. The consultation questionnaire is divided into several sections, namely:

- 1st section - on respondent's profile and details.
 - 2nd section - on the customs – excise interactions issues.
 - 3rd section - on the so-called 'duty paid business-to-business' procedures.
 - 4th section - the simplification of low risk movements.
 - 5th section - on exceptional situations (e.g. shortage, rejection) of a movement of excise goods, which may lead to an irregularity.
 - 6th section - on Risk Analysis, which requires data to be provided to public authorities.
- Finally, a glossary of abbreviations.

A brief outline of the policy problem is provided at the beginning of each section. You can choose to reply to all sections or only reply to a subset of sections.

Note 1: a glossary is provided at the end of this questionnaire.

Note 2: if you do not have the time to fill in this detailed questionnaire, you have the option of filling in a simpler one which is available as part of the Open Public Consultation for the revision of directive 2008/118/EC at: https://ec.europa.eu/taxation_customs/consultations-get-involved/customs-consultations/public-consultation-general-arrangements-excise-duty-harmonisation-and-simplification_en

Personal data

¹¹¹ Council Directive 2008/118/EC of 16 December 2008 concerning the general procedures for excise duty and repealing Directive 92/12/EEC OJ L9/12 14.1.2009

¹¹² <http://bookshop.europa.eu/en/evaluation-of-current-procedures-for-the-cross-border-movements-of-excise-goods-that-have-been-released-for-consumption-pbKP0614146/> and <http://bookshop.europa.eu/en/evaluation-of-current-procedures-for-the-holding-and-moving-of-excise-goods-under-excise-duty-suspension-pbKP0215865/>

1. **In which country do you live or where is the headquarters of your organisation**
(main headquarters in the case of multinational companies)?
 - Austria;
 - Belgium;
 - Bulgaria;
 - Croatia;
 - Cyprus;
 - Czech Republic;
 - Denmark;
 - Estonia;
 - Finland;
 - France;
 - Germany;
 - Greece;
 - Hungary;
 - Ireland;
 - Italy;
 - Latvia;
 - Lithuania;
 - Luxembourg;
 - Malta;
 - Netherlands;
 - Poland;
 - Portugal;
 - Romania;
 - Slovak Republic;
 - Slovenia;
 - Spain;
 - Sweden;
 - United Kingdom;
 - Other country (please specify)
2. Does your organisation have subsidiaries or branches in other countries than your headquarters'?
3. If yes, in which country (ies) are your organisation's subsidiaries and branches?
(Multiple choices possible)
 - EU-level and/or multinational;
 - Austria;
 - Belgium;
 - Bulgaria;
 - Croatia;
 - Cyprus;
 - Czech Republic;
 - Denmark;
 - Estonia;
 - Finland;
 - France;
 - Germany;

- Greece;
- Hungary;
- Ireland;
- Italy;
- Latvia;
- Lithuania;
- Luxembourg;
- Malta;
- Netherlands;
- Poland;
- Portugal;
- Romania;
- Slovak Republic;
- Slovenia;
- Spain;
- Sweden;
- United Kingdom;

4. Does your organisation carry out business in other countries than your headquarters', subsidiaries' or branches'?

5. If yes, please indicate these additional country (ies)? (Multiple choices possible)

- EU-level and/or multinational;
- Austria;
- Belgium;
- Bulgaria;
- Croatia;
- Cyprus;
- Czech Republic;
- Denmark;
- Estonia;
- Finland;
- France;
- Germany;
- Greece;
- Hungary;
- Ireland;
- Italy;
- Latvia;
- Lithuania;
- Luxembourg;
- Malta;
- Netherlands;
- Poland;
- Portugal;
- Romania;
- Slovak Republic;
- Slovenia;
- Spain;
- Sweden;
- United Kingdom;

6. Is your organisation included in the Transparency Register?

If your organisation is not registered, we invite you to register [here](#), although it is not compulsory to be registered to reply to this consultation. [Why a transparency register?](#)

- Yes
- No
- Not applicable

If so, please indicate your Register ID number.

How many employees does the company have?

- More than 250 employees (Large enterprise)
- Between 50 and 250 employees (Medium-sized enterprise)
- Between 10 and 49 employees (Small enterprise)
- Less than 10 employees (Micro enterprise)
- Self-employed (Micro enterprise)

Which of the following goods categories best describe **your business' main economic activities** (multiple choices possible)?

- Alcohols and alcoholic beverages
- Manufactured tobacco products
- Energy products
- Other (please specify)

Customs-excise

Problem outline: the legal and technical arrangements for coordination of customs and excise procedures do not work well, causing legal uncertainty, delays and providing opportunities for fraud.

Customs-export

Problem outline: during the export of excise goods from the territory of the European Union (EU), both excise and export procedures are active in parallel; however, their synchronisation might currently be insufficient. As a consequence, the excise movement may remain open and the associated guarantee immobilised long after the goods have exited the territory of the EU; another consequence is that changes in the status of export (e.g. export declaration invalidation) are not always forwarded to excise. Moreover, data cross checks between excise and export procedures are not mandatory (e.g. from an EU legislation perspective, the export declarant does not have to provide the ARC¹¹³ of the excise movement in the customs export declaration), which may lead to fraud.

90. Please indicate your estimate, per year, of (a) the number of excise movements and (b) the amount of excise duty for goods that are moved by your company/members of association with destination "export" that are:

- Closed automatically;

- | | | | | | | |
|-----|---|---|--|---|---|--|
| (a) | <input type="checkbox"/> 0-50
(<small>< 1 per week</small>) | <input type="checkbox"/> 50-500
(<small>1-10 per week</small>) | <input type="checkbox"/> 500-1,000
(<small>10-20 per week</small>) | <input type="checkbox"/> 1,000-5,000
(<small>20-50 per week</small>) | <input type="checkbox"/> 5,000-25,000
(<small>50-250 per week</small>) | <input type="checkbox"/> > 25,000
(<small>>250 per week</small>) |
| (b) | <input type="checkbox"/> 0-500
(<small>thousand EUR</small>) | <input type="checkbox"/> 500-5,000
(<small>thousand EUR</small>) | <input type="checkbox"/> 5,000-10,000
(<small>thousand EUR</small>) | <input type="checkbox"/> 10,000-50,000
(<small>thousand EUR</small>) | <input type="checkbox"/> 50,000-250,000
(<small>thousand EUR</small>) | <input type="checkbox"/> > 250,000
(<small>thousand EUR</small>) |

- Closed manually because exit result (IE518) was not sent by the office of exit;

- | | | | | | | |
|-----|---|---|--|---|---|--|
| (a) | <input type="checkbox"/> 0-50
(<small>< 1 per week</small>) | <input type="checkbox"/> 50-500
(<small>1-10 per week</small>) | <input type="checkbox"/> 500-1,000
(<small>10-20 per week</small>) | <input type="checkbox"/> 1,000-5,000
(<small>20-50 per week</small>) | <input type="checkbox"/> 5,000-25,000
(<small>50-250 per week</small>) | <input type="checkbox"/> > 25,000
(<small>>250 per week</small>) |
| (b) | <input type="checkbox"/> 0-500
(<small>thousand EUR</small>) | <input type="checkbox"/> 500-5,000
(<small>thousand EUR</small>) | <input type="checkbox"/> 5,000-10,000
(<small>thousand EUR</small>) | <input type="checkbox"/> 10,000-50,000
(<small>thousand EUR</small>) | <input type="checkbox"/> 50,000-250,000
(<small>thousand EUR</small>) | <input type="checkbox"/> > 250,000
(<small>thousand EUR</small>) |

- Closed manually for other reasons¹¹⁴;

- | | | | | | | |
|-----|---|---|--|---|---|--|
| (a) | <input type="checkbox"/> 0-50
(<small>< 1 per week</small>) | <input type="checkbox"/> 50-500
(<small>1-10 per week</small>) | <input type="checkbox"/> 500-1,000
(<small>10-20 per week</small>) | <input type="checkbox"/> 1,000-5,000
(<small>20-50 per week</small>) | <input type="checkbox"/> 5,000-25,000
(<small>50-250 per week</small>) | <input type="checkbox"/> > 25,000
(<small>>250 per week</small>) |
| (b) | <input type="checkbox"/> 0-500
(<small>thousand EUR</small>) | <input type="checkbox"/> 500-5,000
(<small>thousand EUR</small>) | <input type="checkbox"/> 5,000-10,000
(<small>thousand EUR</small>) | <input type="checkbox"/> 10,000-50,000
(<small>thousand EUR</small>) | <input type="checkbox"/> 50,000-250,000
(<small>thousand EUR</small>) | <input type="checkbox"/> > 250,000
(<small>thousand EUR</small>) |

¹¹³ Administrative Reference Code

¹¹⁴ For instance, no automated synchronisation between National Export Control Application (NECA, ECS, AES) and National Excise Application (NEA, EMCS).

91. Please give your estimate for trends over the next five years for these types of movements (Q1).

- Volume change in movements closed automatically;

☐ Decrease (year-to-year per cent (%)) ☐ Stay the same ☐ Increase (year-to-year per cent (%))

- Volume change in movements closed manually;

☐ Decrease (year-to-year per cent (%)) ☐ Stay the same ☐ Increase (year-to-year per cent (%))

Option for improvement – “AES-EMCS data cross check”. In an attempt to reduce fraud, a potential policy option could be to cross-check data between the customs export declarations and the excise declarations (e-AD). Two types of cross-checks are under consideration. The first is an automated data cross-check, at the message header level, which would require EMCS ARC and SEED numbers to be inserted in the export declaration and to cross-check them on a per-export-declaration basis. The second type would be a more advanced cross-check, at item entry level, which, in addition to the above, would also verify on a per-declaration basis that the goods description in the export declaration and in the excise e-AD are consistent.

92. In your opinion, should an EU-harmonized automated data cross-checks for goods that are exported be introduced?

Choose an item.

93. Can you estimate the potential costs for your company for having to provide ARC and SEED numbers in the export declarations, per year?

☐ <500 (EUR) ☐ 500-2,000 (EUR) ☐ 2,000-5,000 (EUR) ☐ 5,000-10,000 (EUR) ☐ 10,000-50,000 (EUR) ☐ > 50,000 (EUR)

Option for improvement – "Automating the AES-EMCS synchronisation". In an attempt to reduce the administrative burden of movements' manual closures, as well as the duration of an excise movement with export, this potential policy option envisages automation of synchronisation of the movements' status between EMCS and AES. This automated synchronisation would automatically close EMCS movements (and release the excise guarantee) when positive exit results are provided by the Office of Exit, allowing to take EMCS corrective action (e.g. change of destination) when the export declaration is invalidated, etc.

94. In your opinion, should the synchronisation of EMCS-AES be automated EU-wide?
Choose an answer.

95. Can you estimate the potential benefits for your company from no longer needing to close the movements manually (e.g. faster release of the excise guarantee), per year?

☐ <500 (EUR) ☐ 500-2,000 (EUR) ☐ 2,000-5,000 (EUR) ☐ 5,000-10,000 (EUR) ☐ 10,000-50,000 (EUR) ☐ > 50,000 (EUR)

Option for improvement – "Harmonisation of alternate proofs of exit". Currently, the law allows Economic Operators to present "appropriate evidence" to confirm Exit of goods. Examples of such evidence are a copy of the delivery note, a proof of payment or the invoice, and a declaration signed or authenticated by the company. There is no agreement between Member States on what constitutes acceptable Alternative Proofs of Exit leading to legal uncertainty for traders.

This option envisages to legislate at the EU-level in order to define a list of EU-wide acceptable alternate proofs of exit for exported excise goods.

96. In your opinion, should the excise EU legal base define alternate proofs of exit EU-wide?

Choose an answer.

97. Can you estimate the potential benefits for your company from harmonizing the excise-customs legal base for alternate proofs of exit that will result from the reduced effort in closing movements, per year?

☐ <500 (EUR) ☐ 500-2,000 (EUR) ☐ 2,000-5,000 (EUR) ☐ 5,000-10,000 (EUR) ☐ 10,000-50,000 (EUR) ☐ > 50,000 (EUR)

Customs-import¹¹⁵

Problem outline: during an import of excise goods to the territory of the European Union (EU), the customs declarant may declare that the excise goods to be released for free circulation will be moved to another Member State under excise duty suspension or will be released for free circulation in a tax warehouse in the Member State of Importation. Each Member State has its own regulatory requirements concerning evidence to support claims for excise duty exemption at import.

98. Please indicate (a) the number of movements, (b) excise duty concerned for goods imported under duty exemption by your company/members of association.

i. And then stored in a non-customs warehouse (per year).

(a) ☐ 0-50 (< 1 per week) ☐ 50-500 (1-10 per week) ☐ 500-1,000 (10-20 per week) ☐ 1,000-5,000 (20-50 per week) ☐ 5,000-25,000 (50-250 per week) ☐ > 25,000 (>250 per week)

(b) ☐ 0-500 (thousand EUR) ☐ 500-5,000 (thousand EUR) ☐ 5,000-10,000 (thousand EUR) ☐ 10,000-50,000 (thousand EUR) ☐ 50,000-250,000 (thousand EUR) ☐ > 250,000 (thousand EUR)

ii. and then moved under excise duty suspension into another Member State (per year).

(a) ☐ 0-50 (< 1 per week) ☐ 50-500 (1-10 per week) ☐ 500-1,000 (10-20 per week) ☐ 1,000-5,000 (20-50 per week) ☐ 5,000-25,000 (50-250 per week) ☐ > 25,000 (>250 per week)

(b) ☐ 0-500 (thousand EUR) ☐ 500-5,000 (thousand EUR) ☐ 5,000-10,000 (thousand EUR) ☐ 10,000-50,000 (thousand EUR) ☐ 50,000-250,000 (thousand EUR) ☐ > 250,000 (thousand EUR)

¹¹⁵ "Import" here means: goods being imported from a third country into the EU.

99. Please give your estimate for trends over the next five years for these types of movements (Q9).

☐ Decrease (year-to-year per cent (%)) ☐ Stay the same ☐ Increase (year-to-year per cent (%))

Option for improvement – "Recording and validating excise data items in the customs import declaration". In order to help reduce fraud, this policy option envisages to cross-check some data between the customs import declarations and the excise ones (e-AD). Three types of cross-checks are being considered.

The first is an automated data cross-check, at message header level, which would require SEED numbers of the consignor and of the consignee to be included in the import declaration and would cross-check their validity automatically on a per-import-declaration basis.

The second automated data cross check is in addition to the one above and would require the ARC of the EMCS movement to be included in the import declaration. It would cross-check its validity automatically on a per-import-declaration basis; this requires interactions between the national import system and the national excise application of EMCS.

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

100. In your opinion, what type of EU-harmonised automated data cross-check between import and excise procedures should be implemented?

Choose an answer.

101. Can you estimate the potential costs for your company for having to provide ARC and SEED numbers in the import declarations, per year?

☐ <500 (EUR) ☐ 500-2,000 (EUR) ☐ 2,000-5,000 (EUR) ☐ 5,000-10,000 (EUR) ☐ 10,000-50,000 (EUR) ☐ > 50,000 (EUR)

Export procedure followed by the external transit procedure

Problem outline: The current excise legislation does not allow, for excise goods, the possibility of using external transit after export because this actually closes the excise movement while the goods might still be physically within the territory of the European Union.

Legal references: Under Article 329(5) of Regulation (EU) 2015/2447 the customs office of exit is the customs office of departure of the transit procedure. Since the office of exit confirms exit, this means that the exit is confirmed when the goods are still moving on the customs and fiscal territory of the Union. Currently, under Article 25(1) of Directive 2008/118/EC, the exit message from the Automated Export System triggers the closure of the EMCS movement and therefore the release of the excise guarantee. However, under Article 17(1)(a)(iii) and 20(2) of Directive 2008/118/EC, the excise movement may not be closed before the goods have physically exited. There is no proof of physical exit under Article 329(5). The use of the external transit procedure after an export procedure is limited to Article 189 of Regulation (EU) 2015/2446. Currently there is no legal base in

Directive 2008/118/EC to allow for such simplification.

102. Please indicate how often the combination of an export procedure followed by an external transit procedure is used by your company/members of your association.

(a) Number of movements per year.

☐ 0-50 (< 1 per week) ☐ 50-500 (1-10 per week) ☐ 500-1,000 (10-20 per week) ☐ 1,000-5,000 (20-50 per week) ☐ 5,000-25,000 (50-250 per week) ☐ > 25,000 (>250 per week)

(b) Excise duty concerned, per year.

☐ 0-500 (thousand EUR) ☐ 500-5,000 (thousand EUR) ☐ 5,000-10,000 (thousand EUR) ☐ 10,000-50,000 (thousand EUR) ☐ 50,000-250,000 (thousand EUR) ☐ > 250,000 (thousand EUR)

103. Please give your estimate for trends over the next five years for these types of movements (Q13).

☐ Decrease (year-to-year per cent (%)) ☐ Stay the same ☐ Increase (year-to-year per cent (%))

104. To which third countries are excise goods exported by your company/members of your association using external transit?

Names of the countries.

105. Are all operators obliged to lodge a transit guarantee (NCTS) for excise goods being moved under external transit? If yes, is the guarantee sufficient?

Please explain.

Export procedure followed by the internal transit procedure

Problem outline: The current excise legislation does not allow, for excise goods, the possibility of using internal transit after export because this actually closes the excise movement while the goods might still be physically within the territory of the European Union.

Legal reference: Under Article 329(6) of Regulation (EU) 2015/2447 the customs office of exit is the customs office of departure of the transit procedure. Since the office of exit confirms exit, this means that the exit is confirmed when the goods are still moving on the customs and fiscal territory of the Union. Currently, under Article 25(1) of Directive 2008/118/EC, the exit message from the Automated Export System triggers the closure of the EMCS movement and therefore the release of the excise guarantee. However, under Article 17(1) (a) (iii) and 20(2) of Directive 2008/118/EC, the excise movement may not be closed before the goods have physically exited. There is no proof of physical exit under Article 329(6). Currently there is no legal base in Directive 2008/118/EC to allow for such simplification.

106. Please indicate how often the combination of an export procedure followed by an internal transit procedure is used by your company/members of your association, per year.

(a) Number of movements per year.

☐ 0-50 (< 1 per week)
 ☐ 50-500 (1-10 per week)
 ☐ 500-1,000 (10-20 per week)
 ☐ 1,000-5,000 (20-50 per week)
 ☐ 5,000-25,000 (50-250 per week)
 ☐ > 25,000 (>250 per week)

(b) Excise duty concerned, per year.

☐ 0-500 (thousand EUR)
 ☐ 500-5,000 (thousand EUR)
 ☐ 5,000-10,000 (thousand EUR)
 ☐ 10,000-50,000 (thousand EUR)
 ☐ 50,000-250,000 (thousand EUR)
 ☐ > 250,000 (thousand EUR)

107. Please give your estimate for trends over the next five years for these types of movements (Q17).

☐ Decrease (year-to-year per cent (%))
 ☐ Stay the same
 ☐ Increase (year-to-year per cent (%))

108. To which third countries are excise goods exported by using internal transit?

Names of the countries.

109. Are all operators obliged to lodge a transit guarantee (NCTS) for excise goods being moved under internal transit? If yes, is the guarantee sufficient?

Please explain.

Export followed by Single Transport Contract (STC)

Problem outline: The current excise legislation does not allow, for excise goods, the possibility of using single transport contract after export because this actually closes the excise movement while the goods might still be physically within the territory of the European Union.

Legal references: Under Article 329(7) of Regulation (EU) 2015/2447 the customs office of exit is the customs office competent for the place where the goods are taken over under the Single Transport Contract. Since the office of exit confirms exit, this means that the exit is confirmed when the goods are still moving on the customs and fiscal territory of the Union. Currently, under Article 25(1) of Directive 2008/118/EC, the exit message from the Automated Export System triggers the closure of the EMCS movement and therefore the release of the excise guarantee. However, under Article 17(1) (a) (iii) and 20(2) of Directive 2008/118/EC, the excise movement may not be closed before the goods have physically exited. There is no proof of physical exit under Article 329(7) of Regulation (EU) 2015/2447 and no customs guarantee for the movement under STC on the customs and fiscal territory of the Union which could be used in case something goes wrong. Currently there is no legal base in Directive 2008/118/EC to allow for such simplification.

110. Please indicate how often the combination of an export procedure followed by an STC procedure is used by your company/members of your association.

(a) Number of movements per year.

☐ 0-50 (< 1 per week)
 ☐ 50-500 (1-10 per week)
 ☐ 500-1,000 (10-20 per week)
 ☐ 1,000-5,000 (20-50 per week)
 ☐ 5,000-25,000 (50-250 per week)
 ☐ > 25,000 (>250 per week)

(b) Excise duty concerned, per year.

☐ 0-500
(thousand EUR)
 ☐ 500-5,000
(thousand EUR)
 ☐ 5,000-10,000
(thousand EUR)
 ☐ 10,000-50,000
(thousand EUR)
 ☐ 50,000-250,000
(thousand EUR)
 ☐ > 250,000
0
(thousand EUR)

111. Please give your estimate for trends over the next five years for these types of movements (Q21).

☐ Decrease (year-to-year per cent (%))
 ☐ Stay the same
 ☐ Increase (year-to-year per cent (%))

112. To which third countries are excise goods exported by using STC?

Names of the countries.

113. Since there is no customs guarantee under STC, what type of guarantee is used to secure the excise debt and, when needed, how is the guarantee claimed by your administration?

Please explain.

Please provide any additional concerns or comments you may have on this section below.

[Click here to enter text.](#)

B2B duty paid arrangements

Problem outline: The procedures for moving excise goods between businesses in different countries, where excise duties have already been paid¹¹⁶ (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.

114. Please indicate (a) the number, (b) excise duty concerned for paper-based cross-border excise movements to or from your company/members of your association.

- Inbound movements;

(a) Number of movements per year.

☐ 0
(not used at all)
 ☐ 1-50
(< 1 per week)
 ☐ 50-100
(1-2 per week)
 ☐ 100-500
(2-10 per week)
 ☐ 500-1,000
(10-20 per week)
 ☐ >1,000
(>20 per week)

(b) Excise duty concerned, per year.

☐ 0
(not used at all)
 ☐ 1-50
(thousand EUR)
 ☐ 50-100
(thousand EUR)
 ☐ 100-500
(thousand EUR)
 ☐ 500-1,000
(thousand EUR)
 ☐ > 1,000
(thousand EUR)

- Outbound movements;

(a) Number of movements per year.

¹¹⁶ See Articles 33 and 34 of Directive 2008/118/EC and Regulation (EEC) No 3649/92 for more information on the current arrangements.

- (b) Excise duty concerned, per year.
- | | | | | | |
|---|--|---|---|--|--|
| <input type="checkbox"/> 0
(not used at all) | <input type="checkbox"/> 1-50
(< 1 per week) | <input type="checkbox"/> 50-100
(1-2 per week) | <input type="checkbox"/> 100-500
(2-10 per week) | <input type="checkbox"/> 500-1,000
(10-20 per week) | <input type="checkbox"/> $>1,000$
(>20 per week) |
|---|--|---|---|--|--|

115. Please give your estimate for trends over the next five years for these types of movements (Q25).

- Inbound movements;

☐ Decrease (year-to-year per cent (%)) ☐ Stay the same ☐ Increase (year-to-year per cent (%))

- Outbound movements;

☐ Decrease (year-to-year per cent (%)) ☐ Stay the same ☐ Increase (year-to-year per cent (%))

Option for improvement – "Automate duty paid B2B processes by extending EMCS". This option would automate the Duty Paid B2B procedures, EU-wide. In other words, the current paper-based procedures would be replaced by computer-based ones. This evolution would require the registration of duty paid B2B Economic Operators in an IT system; it is assumed that the registration process will be light, such as a simple VAT-number-based registration. This automation of the procedures would however lead to overall faster processing, in particular faster guarantee release and refund management.

116. In your opinion, should the current paper-based B2B movements system be automated?

Choose an answer.

117. Can you provide an estimation of (total) yearly costs for your company/members of association to adapt to the automatic EMCS procedure for all movements, including the effort of registration as an excise operator via a light (e.g. VAT-number-based) procedure? If possible, please describe and specify the costs.

☐ <500 (EUR) ☐ 500-2,000 (EUR) ☐ 2,000-5,000 (EUR) ☐ 5,000-10,000 (EUR) ☐ 10,000-50,000 (EUR) ☐ $> 50,000$ (EUR)

Please explain.

118. Can you estimate the potential yearly benefits for your company/members of your association from the potential introduction of computerised system for a paper based B2B movements, for instance in terms of reduced effort per movement, faster guarantee release or faster refund management?

☐ <500 (EUR) ☐ 500-2,000 (EUR) ☐ 2,000-5,000 (EUR) ☐ 5,000-10,000 (EUR) ☐ 10,000-50,000 (EUR) ☐ $> 50,000$ (EUR)

Please provide any additional concerns or comments you may have on this section below.

[Click here to enter text.](#)

Simplification of low risk movements

Problem outline: currently, Member States seem to make little use of Article 31, because of the difficulties of negotiating bilateral or multilateral schemes. The Commission is interested in looking at simplification of the formalities for goods that represent a low fiscal risk. 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 good.

119. What is the number and excise duty concerned with excise movements of “low risk” goods (energy products covered under Article 2 but not under Article 20 of Directive 2003/96/EC, completely denatured alcohols or products with excise duty lower than 1000€ or the equivalent of 20% ad valorem) to and from your company/members of association?

- Inbound movements;

(a) Number of movements per year.

☐ 0 (not used at all) ☐ 1-50 (< 1 per week) ☐ 50-100 (1-2 per week) ☐ 100-500 (2-10 per week) ☐ 500-1,000 (10-20 per week) ☐ >1,000 (>20 per week)

(b) Excise duty concerned, per year.

☐ 0 (not used at all) ☐ 1-500 (thousand EUR) ☐ 500-1,000 (thousand EUR) ☐ 1,000-5,000 (thousand EUR) ☐ 5,000-10,000 (thousand EUR) ☐ > 10,000 (thousand EUR)

- Outbound movements;

(a) Number of movements per year.

☐ 0 (not used at all) ☐ 1-50 (< 1 per week) ☐ 50-100 (1-2 per week) ☐ 100-500 (2-10 per week) ☐ 500-1,000 (10-20 per week) ☐ >1,000 (>20 per week)

(b) Excise duty concerned.

☐ 0 (not used at all) ☐ 1-500 (thousand EUR) ☐ 500-1,000 (thousand EUR) ☐ 1,000-5,000 (thousand EUR) ☐ 5,000-10,000 (thousand EUR) ☐ > 10,000 (thousand EUR)

120. Please give your estimate for trends over the next five years for these types of movements (Q30).

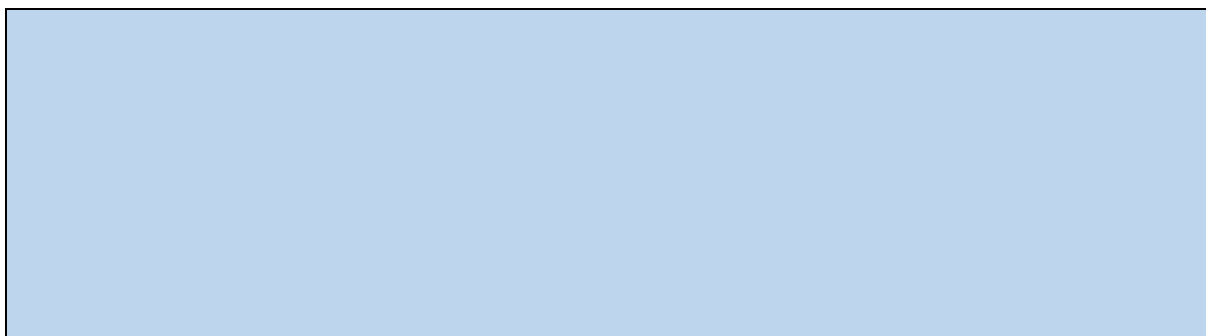
- Inbound movements;

☐ Decrease (year-to-year per cent (%)) ☐ Stay the same ☐ Increase (year-to-year per cent (%))

- Outbound movements;

☐ Decrease (year-to-year per cent (%)) ☐ Stay the same ☐ Increase (year-to-year per cent (%))

Option for improvement – “Providing standard simplification schemes in the Horizontal Excise Directive”. If the excise duty levied on a good is less than the VAT levied on the sale of the good, it might be disproportionate to require the use of either EMCS or the SAAD duty paid system. Similarly, economic operators with a good record of meeting regulatory requirements should be able to benefit from simplified reporting. The simplification envisaged would be to set up of a system of monthly reporting for cross-border transactions, with an exchange of data between Member States for reconciliation and control purposes. The accompanying document could be replaced by a commercial accompanying document, such as the CMR (Consignment Note for Road Transport). This simplification would apply only to consignments of low excise duty, i.e. for which the excise fiscal risk is limited. This simplification would be optional for Member States and consequently would not necessarily be enforced EU-wide.



121. In your opinion, should the standard simplification schemes for “low-risk” cross-border movements be provided in the Horizontal Excise Directive?

Choose an answer.

122. If yes, should there be a simplification scheme based on:

- Type of products (energy products covered under Article 2 but not Article 20 of Directive 2003/96/EC, completely denatured alcohols)?

Choose an answer.

- Low fiscal risk (i.e. potential excise duty liability on possible movements is less than VAT due – estimated under 1000€ or 20% of net value)?

Choose an answer.

- Combination of the first two options?

Choose an answer.

123. Can you estimate the potential benefits for your company/members of your association from the potential introduction of simplification schemes to “low-risk” cross-border movements, per year?

☐ <500 (EUR) ☐ 500-2,000 (EUR) ☐ 2,000-5,000 (EUR) ☐ 5,000-10,000 (EUR) ☐ 10,000-50,000 (EUR) ☐ > 50,000 (EUR)

Please provide any additional concerns or comments you may have on this section below.

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Common approach for shortages/excesses, interruptions, rejections

Problem outline: currently, different countries may use different means, processes, and methodologies to deal with exceptional situations such as shortages (lower quantity at destination than at dispatch), excesses (higher quantity at destination than at dispatch), rejections (the intended recipient of the goods never ordered the goods) or interruptions of movements. For instance, different countries may have different ways to assess shortages and excesses and different thresholds for allowable natural losses (e.g. evaporation losses in petrol tanks). 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"). Depending on the country, exceptional situations may lead to irregularities, duty claims,

penalties or seizure of the goods.

124. What is the volume of shortages detected on movements of excise goods from your company/members of your association?

(a) Number of movements per year.

☐ 0-50 (< 1 per week) ☐ 50-500 (1-10 per week) ☐ 500-1,000 (10-20 per week) ☐ 1,000-5,000 (20-50 per week) ☐ 5,000-10,000 (50-100 per week) ☐ > 10,000 (>100 per week)

(b) Excise duty concerned.

☐ 0-500 (thousand EUR) ☐ 500-5,000 (thousand EUR) ☐ 5,000-10,000 (thousand EUR) ☐ 10,000-50,000 (thousand EUR) ☐ 50,000-100,000 (thousand EUR) ☐ > 100,000 (thousand EUR)

125. Please give your estimate for discrepancies over the next five years for these types of movements (Q35).

☐ Decrease (year-to-year per cent (%)) ☐ Stay the same ☐ Increase (year-to-year per cent (%))

Specific problem outline: a fraud scheme that involves a consignee rejecting or refusing a consignment and the consignor not subsequently making a change of destination might be prevalent and putting financial interests of Member States at Risk.

126. Could this be solved by making the result of a rejection or refusal of a consignment an automatic change of destination back to the consignor?

Choose an answer.

127. Do you think event reports reporting destructions, losses, and thefts during a movement should be made obligatory for both the consignor and or the carrier?

Choose an answer.

128. Do you think that the timely reporting of destructions, losses and thefts during a movement should be taken into account when the administration assesses a shortage and/or a national penalty?

Choose an answer.

129. What would be the effort for your company/members of your association resulting from obligatory reporting destructions, losses, and thefts during a movement, per year?

☐ <500 (EUR) ☐ 500-2,000 (EUR) ☐ 2,000-5,000 (EUR) ☐ 5,000-10,000 (EUR) ☐ 10,000-50,000 (EUR) ☐ > 50,000 (EUR)

130. Are there other events (e.g. change of vehicle, transshipment) for which an event reports should become compulsory?

Choose an answer.

131. How costly would it be for your company/members of your association to add the storage capacity of a tax warehouse to SEED, in order to allow a comparison with the quantities declared on the e-AD, per year?

- ☐ <500 (EUR) ☐ 500-2,000 (EUR) ☐ 2,000-5,000 (EUR) ☐ 5,000-10,000 (EUR) ☐ 10,000-50,000 (EUR) ☐ > 50,000 (EUR)

Option for improvement – "Standardization of procedures and equipment used in order to estimate/calculate shortages/excesses".

132. Do you think that there should be standardized procedures and certified equipment used in order to assess shortages/excesses?

Choose an answer.

133. Can you estimate the potential benefits for your company/members of your association from a standard way to assess shortages/excesses, per year?

- time and resources spent on clarifications of accusations of excessive shortages;

- ☐ <500 (EUR) ☐ 500-2,000 (EUR) ☐ 2,000-5,000 (EUR) ☐ 5,000-10,000 (EUR) ☐ 10,000-50,000 (EUR) ☐ > 50,000 (EUR)

- other gains.

Please specify.

Option for improvement – "Introduction of a standardized allowable losses threshold (tolerance threshold)".

134. Do you think that there should be one harmonised approach to allowable losses?

Choose an answer.

135. Please specify how burdensome the lack of standardised allowable losses threshold is for your company/members of your association.

Choose an item.

Option for improvement – "Introduction of a "right to be heard" for the shortages/excess proceedings". Customs has the concept of the 'Right to be Heard' written into the Union Customs Code. This means that an economic operator should always be given an opportunity to make representations when notified of a decision. National jurisdictions usually provide some recourse when adverse decisions are made but the ease of making representation or challenging such decisions in the field of excise seems to vary greatly.

136. Do you think that there should be a standard legal right to be heard related to shortages, excesses, rejections, and/or interruptions?

Choose an answer.

137. What is the estimated effort of your company/members of your association due to the lack of a standard legal right to be heard related to shortages, excesses, rejections, and/or interruptions?

- costs of appeals, per year;

☐ <500 (EUR) ☐ 500-2,000 (EUR) ☐ 2,000-5,000 (EUR) ☐ 5,000-10,000 (EUR) ☐ 10,000-50,000 (EUR) ☐ > 50,000 (EUR)

- other.

Please specify.

138. Should the facilities in EMCS, which are supposed to provide a right to be heard in the case of shortages, be provided with a legal base?

Choose an answer.

139. Please specify how burdensome is for your company/members of your association the lack of a standard right to be heard in cases of shortages, excesses, rejections, and/or interruptions.

Choose an item.

140. What other benefits do you expect from the introduction of a standard right to be heard?

Please describe.

Please provide any additional concerns or comments you may have on this section below.

[Click here to enter text.](#)

Risk Analysis

Problem outline: the national public authorities do not always have all necessary data to perform an optimal risk analysis.

Option for improvement. Economic Operators would be required to provide the national public authorities with extra information about their business and their movements of goods.

141. Please give your rough estimate of the whole cost for collecting your company/members of association to provide following information, per year:

(a) In the excise administrative document, i.e. before the goods have left the location at dispatch:

- owner of the goods at dispatch;

☐ <500 (EUR)
 ☐ 500-2,000 (EUR)
 ☐ 2,000-5,000 (EUR)
 ☐ 5,000-10,000 (EUR)
 ☐ 10,000-50,000 (EUR)
 ☐ > 50,000 (EUR)

- owner of the goods at destination.

☐ <500 (EUR)
 ☐ 500-2,000 (EUR)
 ☐ 2,000-5,000 (EUR)
 ☐ 5,000-10,000 (EUR)
 ☐ 10,000-50,000 (EUR)
 ☐ > 50,000 (EUR)

(b) During the movement, inform the national authority at dispatch of – a change of vehicle (or transshipment).

☐ <500 (EUR)
 ☐ 500-2,000 (EUR)
 ☐ 2,000-5,000 (EUR)
 ☐ 5,000-10,000 (EUR)
 ☐ 10,000-50,000 (EUR)
 ☐ > 50,000 (EUR)

(c) For tax warehouses only: in authorisations requests or renewals – warehouse capacity.

☐ <500 (EUR)
 ☐ 500-2,000 (EUR)
 ☐ 2,000-5,000 (EUR)
 ☐ 5,000-10,000 (EUR)
 ☐ 10,000-50,000 (EUR)
 ☐ > 50,000 (EUR)

Please provide any additional concerns or comments you may have on this section below.

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Glossary

AAD	Accompanying Administration Document
AES	Automated Export System
ARC	Administrative Reference Code
B2B	business-to-business
B2C	business-to-consumer
CAP	Common Agricultural Policy
DDXNA	Design Document for National Export Application
eAD	Electronic accompanying document
ECS	Export Control System
EMCS	Excise Movement and Control System
EO	Economic Operator
FEES	Functional Excise System Specification
IA	Impact Assessment
NCTS	New Computerised Transit System
SAD	Simplified Accompanying Document
SCM	Standard Cost Model
SEED	System of Exchange of Excise Data
STC	Single Transport Contract
UCC	Union Customs Code
VIES	VAT Information Exchange System

D. OPC RESPONSE SUMMARY

As described in Chapter 3.2.1.2, the questionnaire for Open Public Consultation included 30 questions in total, divided into six thematic sections, as well as 11 identification questions. The enquiries primarily touched upon respondents' level of satisfaction with current arrangements, and the perception of whether specific actions should be taken at the EU or MS' level within specific problem areas. Importantly, the OPC also asked EOs about the magnitude of efforts currently borne by EOs. The introduction to the OPC also contained information about the availability of a technical questionnaire. In response to this remark, 19 EOs requested a more technical set of questions.

The OPC was launched on April 11, 2017, and was open for 12 weeks, closing on July 4. A total of 151 responses have been received from 20 EU MS.

A summary of answers from the OPC is shown in Table D1 and D2.

Table D1: OPC: respondents by origin

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, please specify	4
Poland	5	No Answer	1
Total	151		

Source: own elaboration.

Table D2: OPC: respondents by type and activity

Respondent type	No. of respondents	Main economic activities	No. of respondents
Private citizen	49	Alcohols and alcoholic beverages	19
Economic operator	34	Manufactured tobacco products	10
Trade, business or professional association	48	Energy products	6
Public authority (national, regional, local)	0	Other (please specify)	1
Non-Government organisation	16	No Answer	117
Other (please specify)	4		
No Answer	0		
Total	151	Total	153

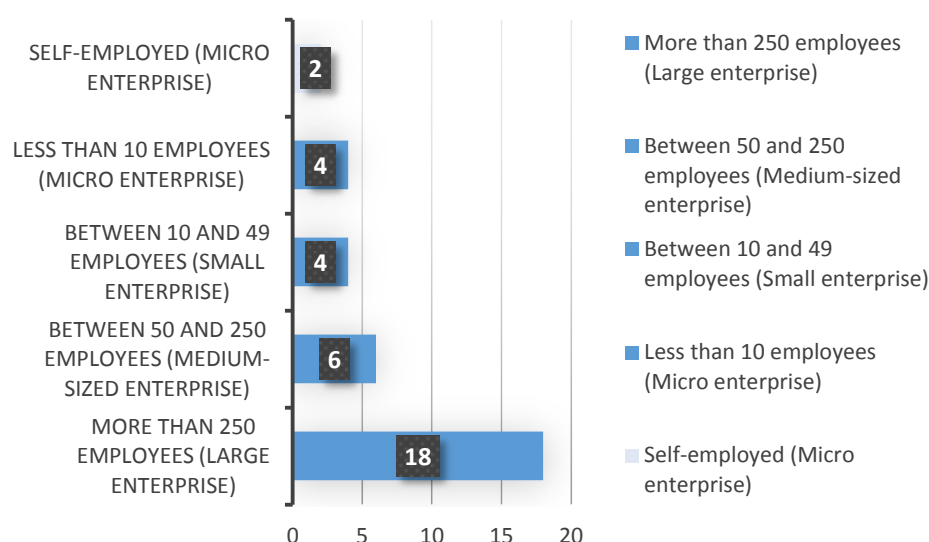
Source: own elaboration.

The highest number of questionnaires were filled out by private citizens from Sweden, concerned with public health related to tobacco or alcohol consumption. The group of representatives of trade, business, or professional associations (henceforth: "associations") coming from various MS, covering interests of traders of all types of excise goods, was also large.

36 responses were delivered by EOs, of which 34 indicated to be EOs in the questionnaire, and two specifically mentioned being a tobacco manufacturer and a tobacco distributor. Most of these respondents, similarly to those, who filled the detailed technical questionnaire, were producers or traders of alcohols and alcoholic beverages. Least answers were delivered by entities from the energy industry.

The vast majority of responses came from large EOs. All in all, micro, small, and medium enterprises together amounted to 47% of respondents (Figure D1).

Figure D1: Responses to the OPC by size of EOs



Source: own elaboration.

Responses to the OPC questionnaire were an important source of information for specific problem areas. They supported the evidence from the detailed technical questionnaires in all problem areas, but also touched upon the problems of small and medium EOs and private acquisitions by individuals in the most detailed manner.

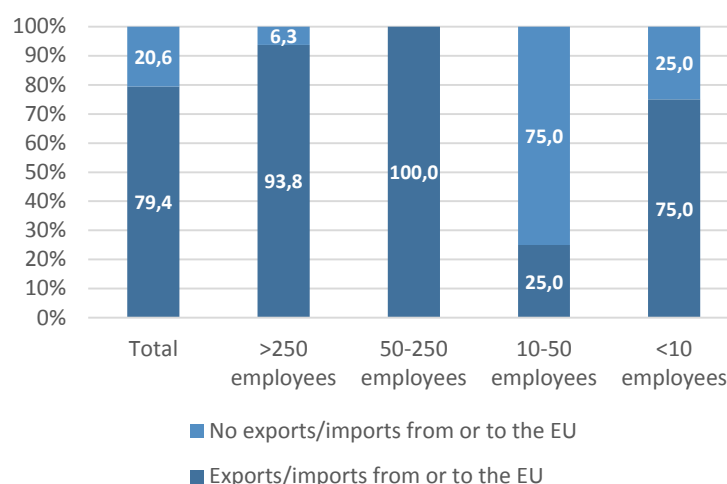
Excise-Customs Interactions

The first section of the questionnaire on excise-customs interactions addressed five questions to EOs and stakeholders with knowledge on import or export procedures. Answers of the 36 EOs 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. Answers given by the EOs and associations and are followed by a short summary of the responses provided by other respondents.

The following investigations specifically concerned movements that were conducted from or to the EU, whereas exports and imports between MS were not considered. A vast majority of both associations (75%) and EOs (79.4%) apply the above movements.

A breakdown of numbers depending on the sizes of the latter shows that businesses with a large number of employees conduct movements with partners outside of the EU more often, than operators with fewer employees. Importantly, the share of small EOs is comparably low, with four firms each representing small and micro enterprises. The results are depicted in Figure D2.

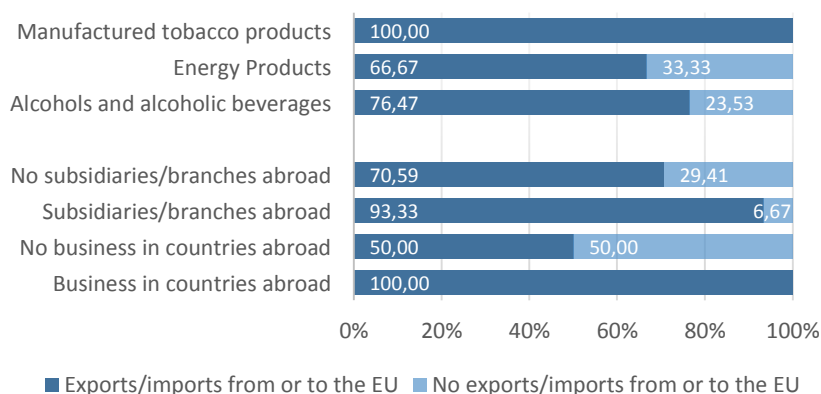
Figure D2: Exports and imports from or to the EU by size of the EO



Source: own elaboration.

When looking at each sector of the main economic activities, all of the EOs operate in the field of manufactured tobacco products export, or import goods from or to countries outside of the EU. Yet, the comparably lower shares in the energy and alcohol sectors are still very big (80% and 76.5%, respectively). However, only six out of EO respondents operate in the energy sector. Therefore, the share of 80% corresponds to four businesses, which export or import from or to the EU. Whether an EO acts locally only, or in various countries, is also crucial. All of the operators, which carry out business in countries other than the location of their respective headquarters, and 93.3% of those with subsidiaries and branches abroad, conduct such exports. On the other side, only half of the operators who are not engaged in business with other countries, and 70.6% of operators without subsidiaries or branches abroad, export or import from or to states outside of the EU. The responses are presented in Figure D3.

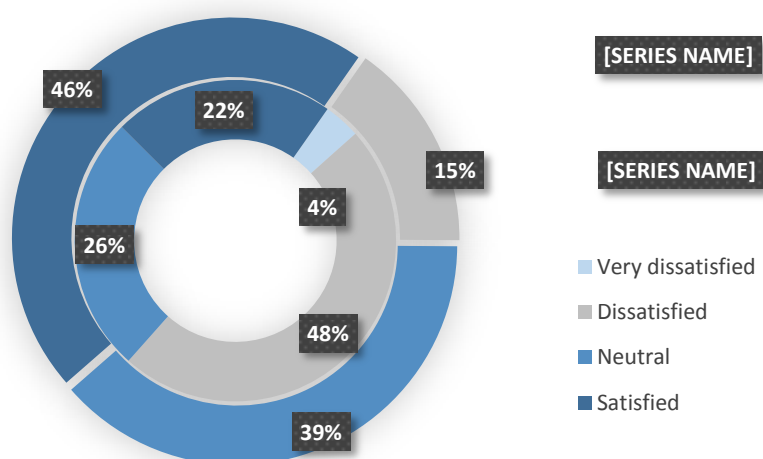
Figure D3: Exports and imports from or to the EU by sector and activity abroad of the EO (in percentage)



Source: own elaboration.

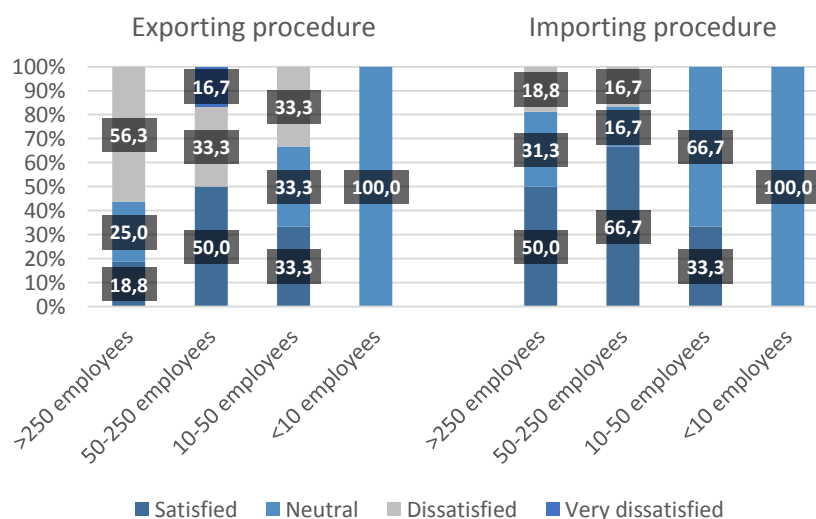
The responses centring around the satisfaction of the respective EOs varied in case of opinions on the current importing and exporting procedures, as shown in Figure D4. The reaction regarding imports of those respondents, who indicated the conduct of movements from or to the EU, leans to the favourable side. Almost half (46.2%) were satisfied with the current method, whereas only 15.4% were dissatisfied. The remaining operators were neutral towards the approach. Contrarily, views on the exporting procedure were rather negative. In this case, more than half of the EOs (51.9%) were either dissatisfied or very dissatisfied. Only 22.2% considered the current system satisfying, while 25.9% remained neutral. In both cases, those EOs, who move exports or imports, were slightly less satisfied, than operators who did not export or import to or from the EU. Neither in the exporting nor the importing procedure, did EOs indicate to be very satisfied with the current system.

Figure D4: Satisfaction with the current import and export procedure, EOs



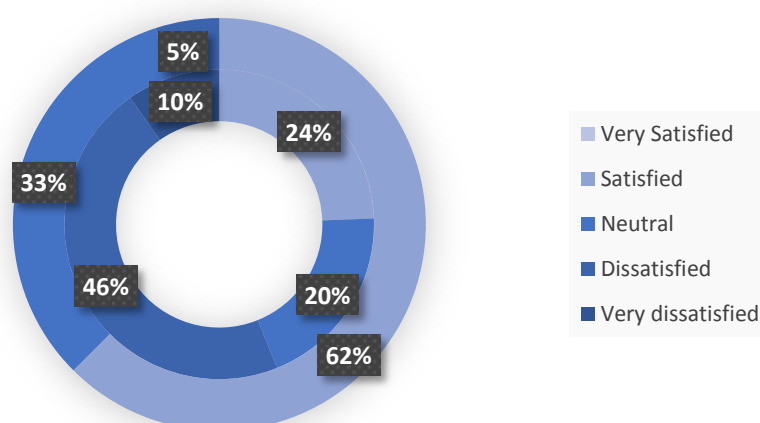
Source: own elaboration.

Aside from whether an operator imports or exports goods from or to states outside the EU, the number of employees is linked to the satisfaction of respective EOs (Figure D5). While businesses with a high number of employees tended to assess the current approach as dissatisfying, the share of EOs, who perceived it as satisfying or were neutral towards it, increased with a proportionate decrease in the number of employees. The above tendency is equivalent in both exporting and importing procedures. Nonetheless, it was more prominent in exports, as the variation in opinion on the exporting procedure was, in general, greater. Conspicuously, all of the micro enterprises were neutral in both cases — the importing and the exporting approach.

Figure D5: Satisfaction with the current import and export procedure by size of EO (in percentage)

Source: own elaboration.

Moving to the associations, much as the EOs they were predominantly (62.5%) satisfied with the current importing procedures (with only 5% expressing dissatisfaction and the rest being neutral), and predominantly dissatisfied (46.3%) or very dissatisfied (9.8%) with the current exporting procedure. Only 24.4% considered the current exporting system satisfying, while 29.5% remained neutral towards it (see Figure D6).

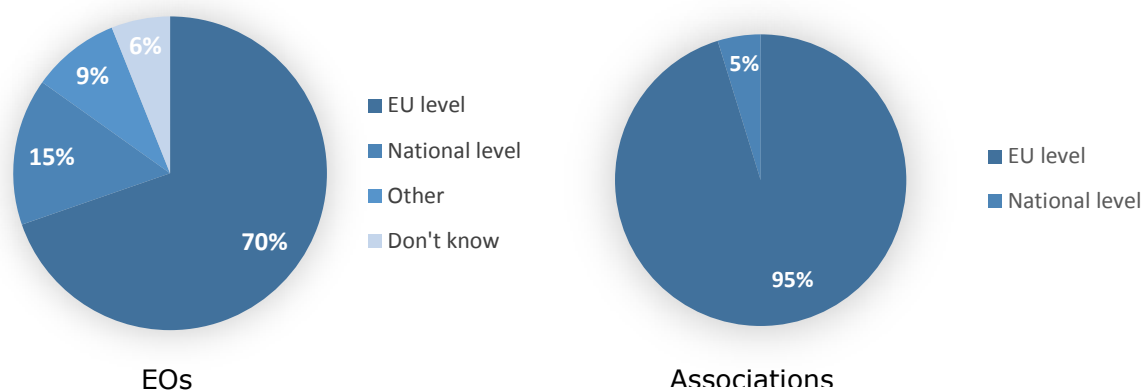
Figure D6: Satisfaction with the current exporting system

Source: own elaboration.

As far as the question on which level improvements of the current state should be undertaken is concerned, a great majority of both EOs (70.0%) and associations (95%) desired actions at the EU level. 15.2% of EOs and 5% of associations pointed to responsibility at the national level. Moreover, 9.1% of EOs suggested alternatives, such as the simultaneous improvement at both the national and union levels. In this context, one EO highlighted that a sole improvement on the European level would not be

enough, should difficulties in the national procedure restrict operations. Figure D7 gives an overview of these numbers.

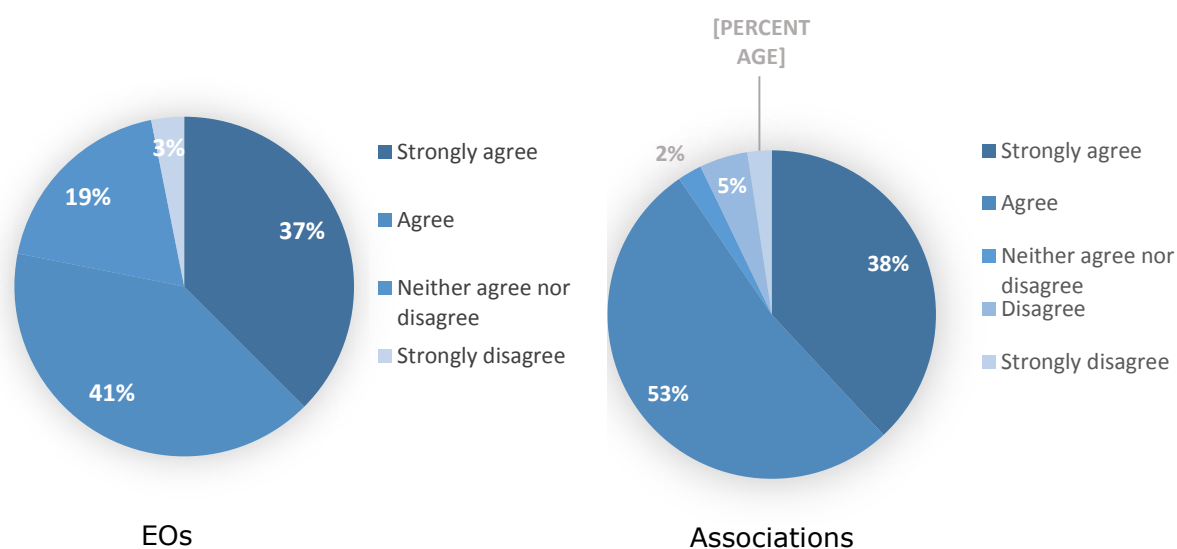
Figure D7: Level of improvement for current procedure



Source: own elaboration.

Finally, respondents rated a potential improvement of the current procedure, where the data were cross-checked between customs declarations and excise e-ADs, including an automatic synchronisation to diminish the administrative burden (Figure D8). A big majority of the questioned EOs supported the suggestion, with more than three quarters agreeing or strongly agreeing with the provisions of the potential policy option. Similarly, the vast majority of the associations agreed (52.4%) or strongly agreed (38%) with the proposed solution. Only a small share of EOs (3.1%) and associations (7%) disagreed or strongly disagreed with the modification towards cross-checked data, while the remaining 18.8% of EOs and 2% of associations were indifferent. Therefore, the respondents were convinced by the promised positive effects of accelerating the processes, as well as gain in predictability and reliability.

Figure D8: Agreement on improvement through automated data cross-check



Source: own elaboration.

In addition to EOs and Trade, business or professional associations, 67 other entities and individuals (henceforth: "others") participated in the OPC as well, among them Non-

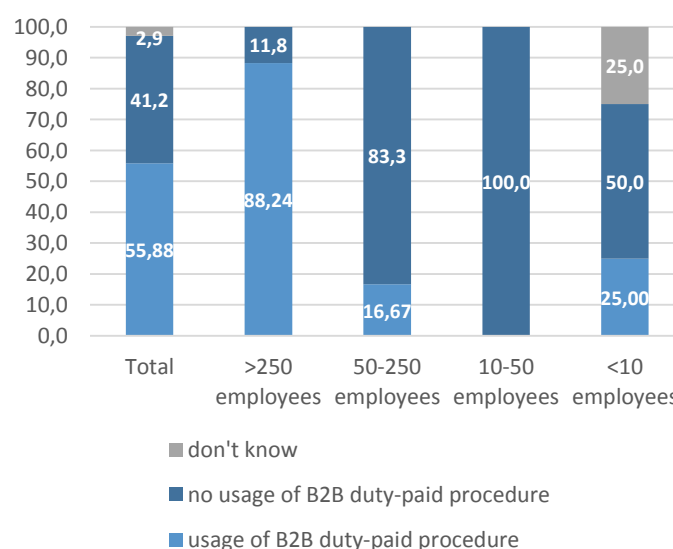
Government Organisations, a network of Non-Government Organisations and private citizens. Within this group, half of this respondents were neutral towards the current export procedure, with further 29% satisfied or very satisfied, and 21% dissatisfied or very dissatisfied. Higher level of dissatisfaction (28%) were reported regarding the import procedure, towards which 43% of respondents from this group that answered the question were neutral. Just as in the case of the EOs, the vast majority of this group expected actions to be implemented at the EU level (91%), and agreed or strongly agreed with the suggested improvements (71%, the remaining 29% neither agreed nor disagreed).

Duty-Paid Business-to-Business (B2B)

As in the previous chapter, the questions centred around duty-paid B2B and were targeted at EOs and stakeholders with real-life knowledge on the functioning of these procedures. The following chapter, therefore, includes answers to seven questions from 36 EOs and 48 associations, and displays them in contrast to the previous passage on movements within EU borders. A short summary of the responses given by other entities is presented at the end of this chapter.

The share of EOs moving excise goods from or to businesses in other MS within the EU, for which excise duties have already been paid, is slightly higher than that of EOs, which did not move such goods. EOs with a higher number of employees apply the above procedure more often than small EOs. At the same time, EOs who hold subsidiaries or carry out business in other countries, use the B2B duty-paid procedure to a higher extent, than EOs who only act locally. This might be of importance considering the fact that the case of excise movements, where excise duties have been paid beforehand, is assumed to be of particular interest to small and medium enterprises. However, the number of responding EOs decreased with the number of employees. While 17 EOs represented large enterprises, only six respondents belonged to the group with 50-250 employees, and four small and micro enterprises submitted their questionnaires. Figure D9 illustrates the responses by the size of the businesses.

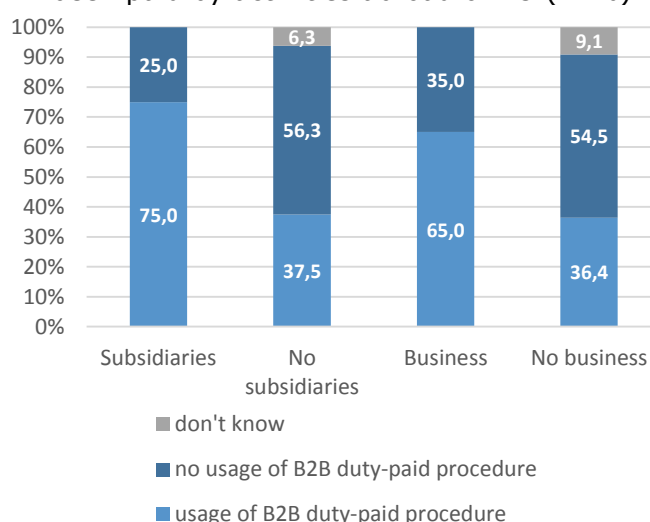
Figure D9: Movement of excise goods, for which excise duties have already been paid by size of EO (in %)



Source: own elaboration.

The numbers of such movements extend to the extremes: on the one side, 36.4% of the EOs which provided numbers in the questionnaires indicated less than 100 B2B duty-paid movements per year. On the other side, 55% of the EOs conduct more than 2000 of these movements annually. Only 9.1% apply the procedure to 100-500 movements each year. However, the average excise duty per consignment is less dispersed. The majority (70%) of consignments has a value between EUR 101 and EUR 500, while only 20% were indicated to be worth less than EUR 50, and 10% more than EUR 2,000. The results are shown in D10

Figure D10: Movement of excise goods, for which excise duties have already been paid by activities abroad of EO (in %)

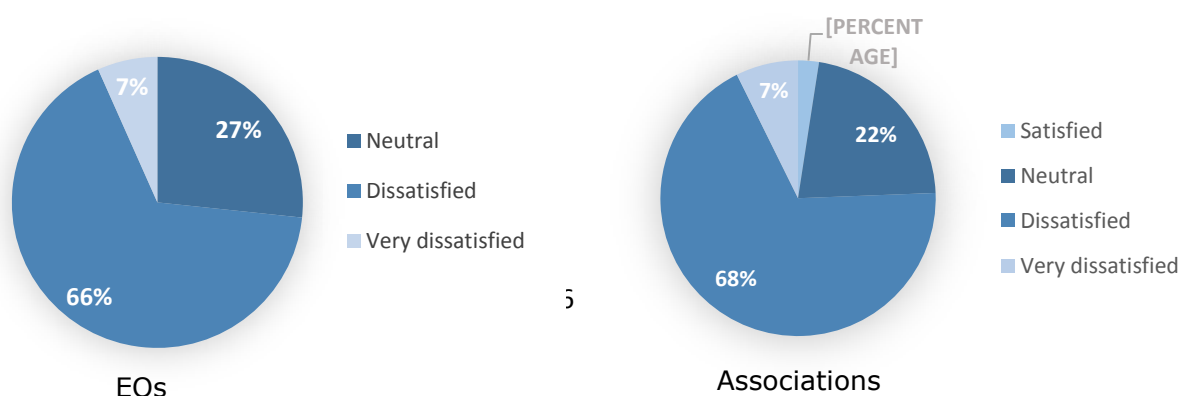


Source: own elaboration.

Moving to associations, slight more than a half of those that answered the question does move excise goods, for which excise duties have already been paid, to or from businesses in other MS within the European Union (54%). In terms of the number of these movements, only 12 associations were able to provide any kind of estimation. Out of those, 50% apply the procedure to over 2,000 movements per year, 41.7% – less than 100 movements, while the remaining 8.3% to between 100 and 500 movements a year. Money-wise, out of 11 associations that did provide an average amount of excise duty due at destination per consignment, the majority (63.6%) estimated it at EUR 100-500, 18.2% at between EUR 501 and EUR 2,000, and further 18.2% at less than EUR 50.

(Dis)satisfaction with the current procedure is similar among EOs and associations. While roughly two thirds of both EOs (66%) and associations (68%) perceived the current procedure as dissatisfying, only around one quarter among both groups (27% and 22% respectively) were indifferent in their judgements. 7% of both EOs and associations found it very dissatisfying. None of the EOs and just one association were satisfied with the status quo. The answers are presented in Figure D11.

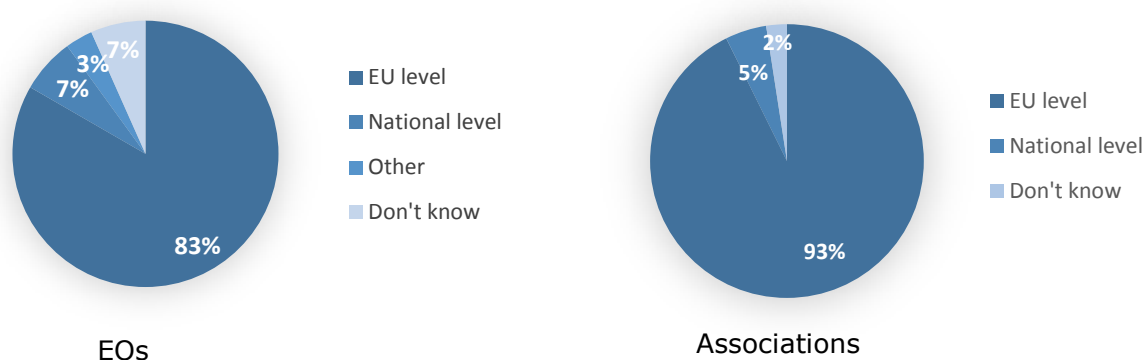
Figure D11: Satisfaction with the current duty-paid B2B procedure



Source: own elaboration.

Furthermore, there is an agreement both among EOs and associations that improvements of the duty-paid B2B procedure should be undertaken at the EU level (Figure D12). While 83.3% of EOs and 92.7% of associations opted for a transnational solution, only 6.6% and 4.9% respectively expected national authorities to be in charge to improve the duty-paid B2B procedure. Moreover, one EO saw the optimal strategy in actions at the EU level, while the EMCS system would be extended to cover cross-border duty paid movements (a solution that was also suggested by one association).

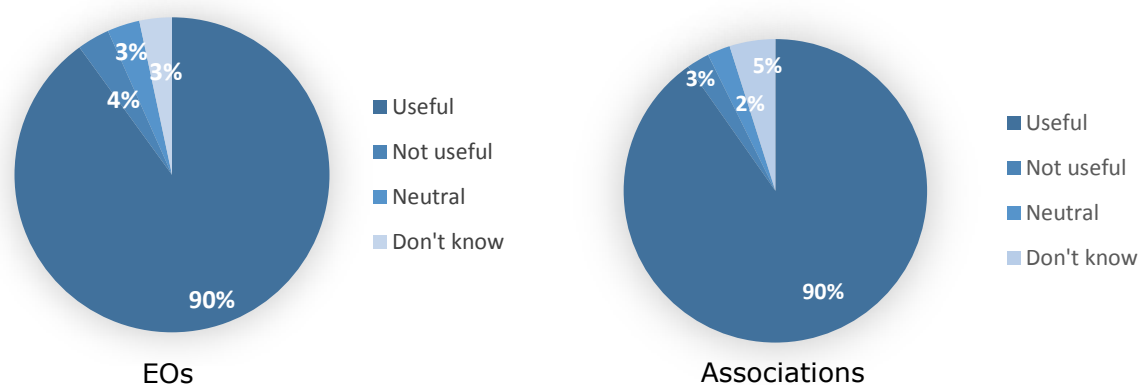
Figure D12: Level of improvement for current duty-paid B2B procedure



Source: own elaboration.

This approach is in line with the suggestion of an EU-wide automation of the duty-paid B2B procedures, including the extension of the EMCS system. The vast majority of both EOs and associations (90% each) believed that the procedure, which targets faster processing, improving the release of the guarantee, and the acceleration of the refund management, was useful. Only 4% of EOs and 3% of associations thought it would not be useful, while 3% and 2% respectively were indifferent towards the resolution. Figure D13 summarises the answers.

Figure D13: Expectations from change to computer-based system



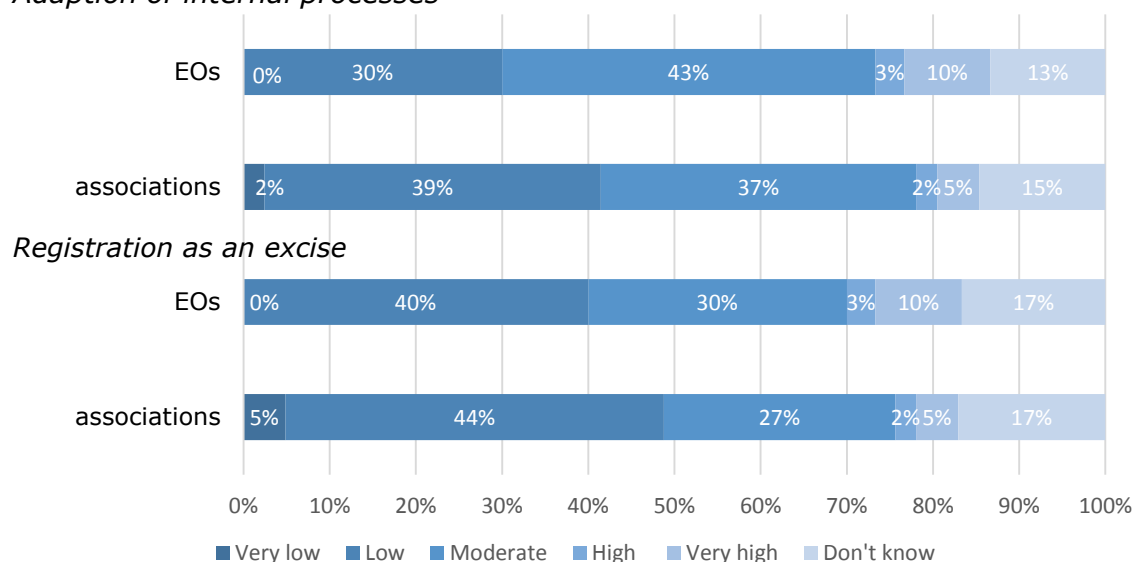
Source: own elaboration.

Should the system be introduced, EOs using duty-paid B2B procedures would be required to register in an IT system and adjust their internal processes, thus replacing the current paper-based with a computer-based approach. The estimations of the costs for the adjustments are dispersed, with a majority of EOs expecting to carry out a low (30%) or moderate (43%) effort in the registration as an EO, as well as in the adaption of internal processes (Figure D14). There is no clear pattern how the costs vary between different types of EOs, i.e. depending on the size of the EO, or the area of business it mainly operates in. Only operators with more than 2,000 duty-paid B2B excise movements per year indicated uniformly low or moderate efforts in both categories, while the distribution for operators with smaller amounts was divergent. The rather small expected effort is in line with the assumption of a light registration process, simplified by an easy conduction, for instance, through a VAT-number-based process.

Similarly, associations did expect that both the costs of the adaption of internal processes will be very low (2%), low (39%), or moderate (37%), and just as the costs of registration (5%, 44%, and 27% respectively).

Figure D14: Estimated effort

Adaption of internal processes



Source: own elaboration.

Out of the remaining respondents ("others") only three are involved in moving excise goods for which excise duties have already been paid, to or from businesses in other MS within the European Union. Out of those three, two estimated that for them an average amount of excise duty due at destination per consignment amounts to EUR 501-2,000, and one – between EUR 51 and EUR 100. The majority (61.6%) of the 13 respondents who had an opinion on the issue were neutral towards the current duty paid B2B procedures, with 15.4% being dissatisfied or very dissatisfied and 23.1% feeling very satisfied.

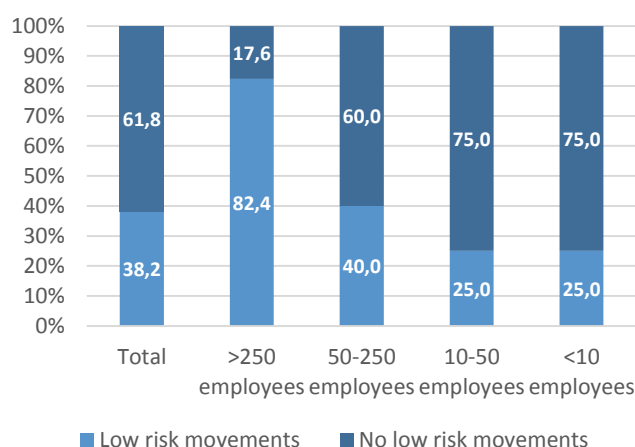
Moreover, two thirds of this group of participants expected actions on the EU-level (12.5% hope for national level actions) and the majority (60%) found an alternative computer-based procedure useful (the remaining 40% being neutral or not having an opinion). The vast majority, in line with opinions provided by the EOs and associations, expected low level effort to adapt to the system.

Low Risk Movements

The following chapter focuses on low risk movements, categorised as movements of goods for which the excise duty is below EUR 1,000 or 20% of the value of the respective good. As before, 36 EOs and 48 associations answered six questions targeting movements between operators in different countries within the EU. Apart from providing details about the current usage of low risk movements and rating the present system, the EOs investigated the impact of an alternative procedure.

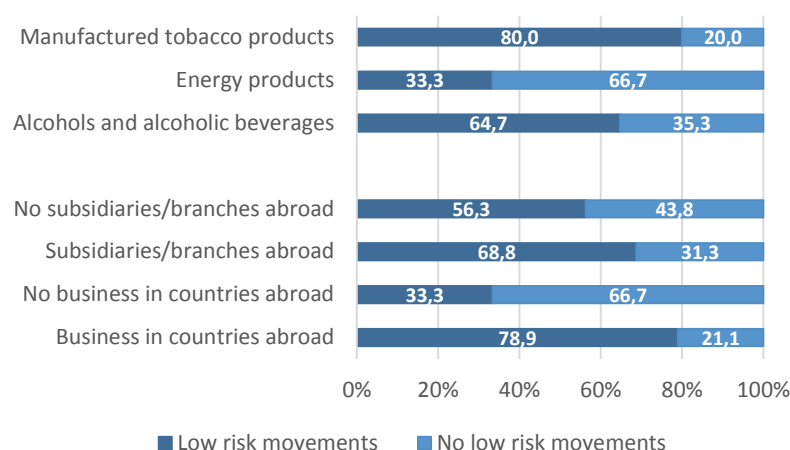
In total, almost two thirds of the EOs (61.8%) and associations (60.5%) move low risk goods between EU MS. Notably, among the EOs, the share is much higher in large enterprises (82.4%), and falls as the number of employees declines. Only one quarter of the EOs with 50 or less employees conducts low risk movements. The responses of the EOs depending on the company size are depicted in Figure D15.

Figure D15: Movement of low-risk goods by size of EO



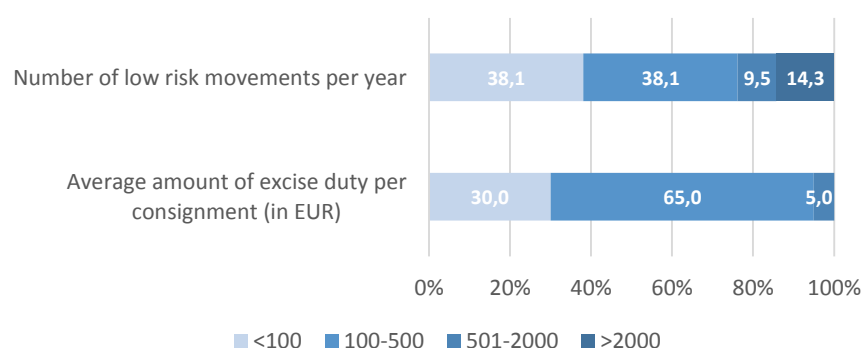
Source: own elaboration.

As for the sector in which the movements take place, operators that work in the area of energy products reported a smaller share of low risk movements in comparison to businesses working in the field of manufactured tobacco products or alcohols and alcoholic beverages. Additionally, the share of firms conducting low risk movements varies depending on whether a firm carries out business abroad or not. In this case, more than three quarters of the EOs transport low risk movements between countries, while only one third of operators who are not engaged in business abroad move these goods. On the opposite, the fact that an EO has subsidiaries or branches abroad has only a small impact on the existence of low risk movements, whereas businesses with subsidiaries or branches in more than the country of its headquarters reported 10% of more frequent movements of low risk goods. Figure D16 gives an overview of the responses by sector and activities of the businesses abroad.

Figure D16: Low risk movements by sector and activity abroad of the EO

Source: own elaboration.

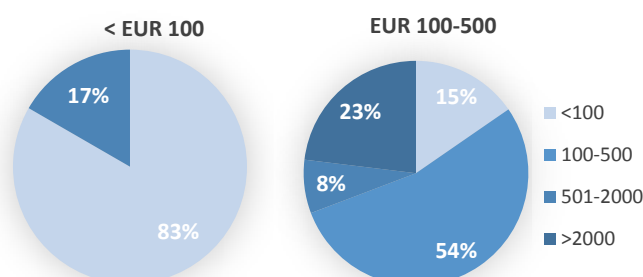
The absolute number of movements, as well as the average amount of excise duty per consignment, tend to fall into the lower categories provided in the questionnaire (Figure D17). More than one third of the questioned EOs conducted less than 100, or between 100 and 500 low risk movements per year (38.1% each), whereas relatively few businesses conducted between 501 and 2,000 (9.5%) or more than 2,000 movements (14.3%). Considering the average amount of excise duty per consignment, the trend of leaning towards low categories is even stronger: the value of 95% of the movements is worth less than EUR 500, while the remaining 5% are worth between EUR 501 and EUR 2,000 (Figure D17).¹¹⁷ The number of low risk movements varies remarkably with the average amount of excise duty per consignment. Out of the six EOs whose average amount of excise duty amounted to less than EUR 100, 83% conducted less than 100 movements per year. The number of movements grows with the amount of excise duties per consignment: around half of the businesses with an average amount of excise duties between EUR 100 and EUR 500 move between 100 and 500, and around one quarter of these EOs, more than 2,000 consignments per year.

Figure D17: Number of low risk movements and average amount of excise

¹¹⁷ Only one EO reported an average amount of excise duty per consignment between EUR 501 and EUR 1,000. This category was broadened in the figure to EUR 501-2,000.

Source: own elaboration.

Figure D18: Number of low risk movements per year by average amount of excise duty



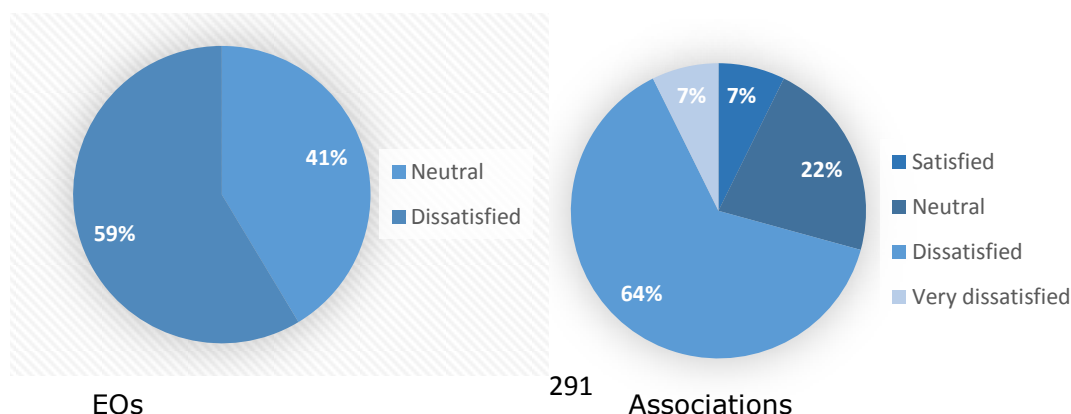
Source: own elaboration.

As for the associations, 33% of those that answered the question estimated that the number of low risk movements in their association annually exceeds 2,000; all of them believed the average amount of excise duty at destination per consignment amounted to EUR 100-500. Another third of associations thought that the number of low risk movements they conduct was lower than 100; out of those, 28.6% estimated the average amount of excise duty at destination per consignment at EUR 100-500, further 42.9% – at between EUR 501 and EUR 1,000, and 28.6% at below EUR 100. One association estimated the number of low risk movements at between 100 and 500, for which the average amount of excise was between EUR 100 and EUR 500.

EOs and associations alike perceive the current procedure rather negatively. The majority of the respondents were dissatisfied with the status quo (58.6% and 63.4% respectively), with 7.3% of associations being very dissatisfied. The remaining part of the EOs was neutral (same was true for 22% of the associations), and 7.3% of the associations reported being satisfied with the existing procedures (Figure D19).

Looking and the EOs and breaking these shares down, the differences between the sectors, in which the businesses are mainly operating, is noteworthy. While half of the EOs from the energy sector were neutral towards the current low risk arrangements, and one half was dissatisfied, the vast majority of 77.8% of EOs carrying out business mainly in the field of manufactured tobacco products was dissatisfied. The satisfaction of businesses in the sector of alcohols and alcoholic beverages corresponds to the average satisfaction, as initially described.

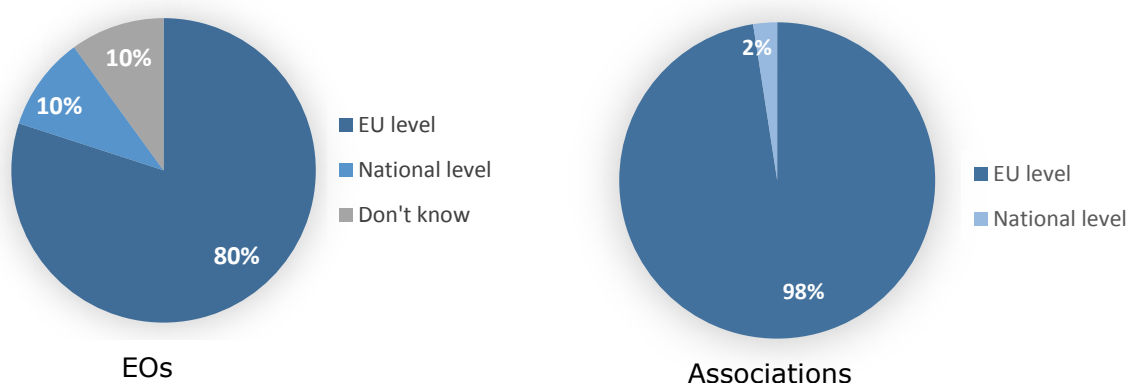
Figure D19: Satisfaction with the current low risk movement procedures



Source: own elaboration.

In order to improve their view on the matter, most EOs (80%) and almost all the associations (97.6%) expected a reaction from the EU. Only 10% of the EOs and one association pointed to authorities at the national level as the party responsible for adjustments. The responses are presented in Figure D20. One associations commented that the solutions is "EMCS exemption for low value movements (...) harmonised within EU and applicable to all excisable goods."

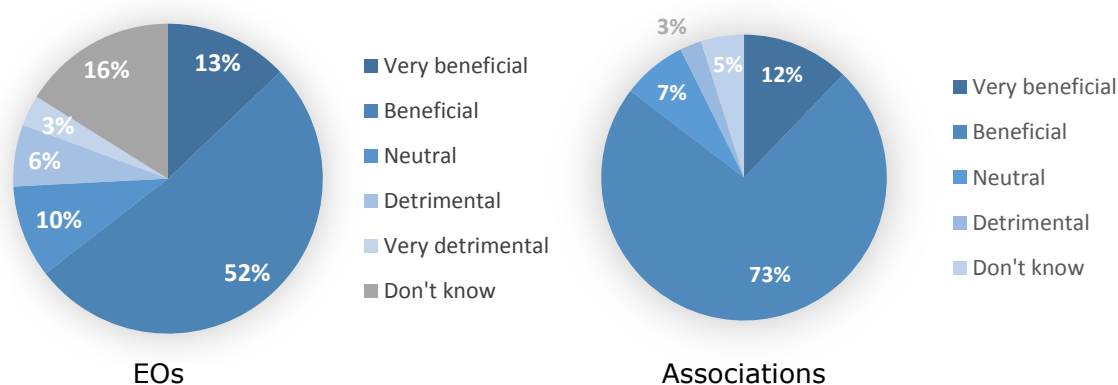
Figure D20: Level of improvement for current low risk procedure



Source: own elaboration.

One possible improvement would be monitoring via a monthly return, which would be similar to VAT arrangements. The majority of respondents rated the suggestion positively, as depicted in Figure D21. Around two thirds of the EOs and 85% of the associations expected a beneficial or very beneficial impact on their business of the replacement of the current approach, while only 9.7% of the former and 2.5% of the latter were concerned about a potential detrimental effect.

Figure D21: Expectations from controls by a monthly return



Source: own elaboration.

Among the 67 remaining respondents, only two reported conducting low risk movements within the EU, with both reporting less than 100 of such movements.

Regarding the amount of excise duty per consignment, the medium amount of between EUR 100 and EUR 500 per consignment was reported by one of them, with the second

pointing to the amount between EUR 501 and EUR 1,000. Unlike EOs and associations, this group of respondents was mostly neutral (61.5%) or satisfied (23.1%) with the current procedures. However, their expectations of seeing action take place at the EU level, and the overall positive judgement of a change towards controls by a monthly return, are all in line with the answers given by the EOs and associations discussed above.

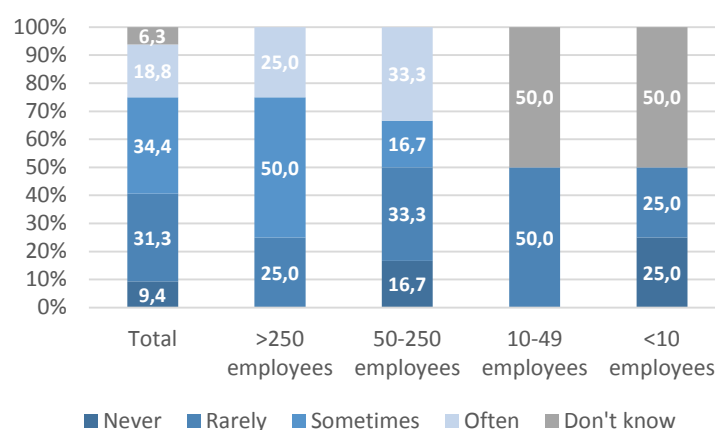
Exceptional Situations such as Shortages, Excesses, Rejections or Interruptions

Currently, strategies to face exceptional situations vary between EU MS. These strategies, including 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. Consistently with the previous chapters, the answers to five questions, provided by EOs and associations, are in the centre of investigation, followed by a short summary of responses from other entities.

The vast majority of EOs and associations are at least sometimes confronted with exceptional situations during the movement or holding of excise goods. However, the frequency of incidences varies significantly. While around a third of the operators reported facing exceptional situations rarely or only sometimes, 18.8% experience such occurrences frequently, and 9.4% — never. None of the businesses reported encounter exceptional situations on a constant basis. In case of the associations, over half of them reported encountering exceptional situations during movements only sometimes (53.7%), 12.2% — often, 9.8% — rarely, and 7.3% — never.

Subdividing the frequency reported by the EOs by the number of workers employed, a clear decrease in the frequency can be observed, as the number of employees decreases. All of the large enterprises reported to experience exceptional situations at some frequency, whereas half of the micro enterprises, that were aware of scarce, exceptional situations in their business, reported no incidences. Figure D22 presents the responses by the size of the businesses.

Figure D22: Frequency of exceptional situations by size of EO

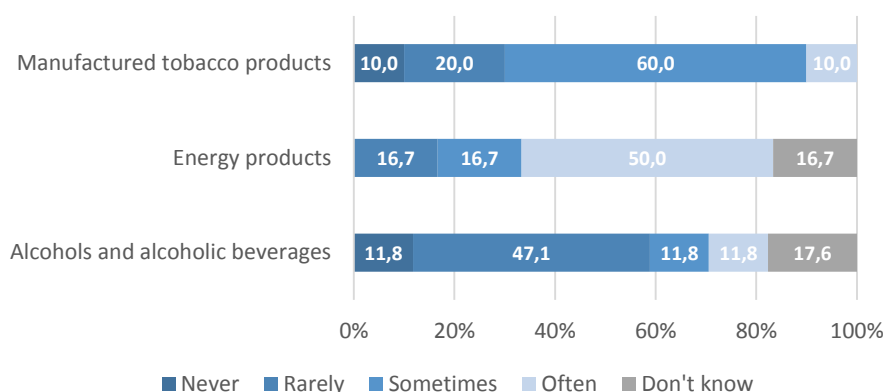


Source: own elaboration.

The numbers were broken down into those EOs, which did or did not have subsidiaries or branches abroad, or — alternatively — carried out business in another country, but the state of its headquarters did not follow a pattern. In opposition, the division into sectors gives a differentiated picture of how exceptional situations vary across the

activities of the businesses, as shown in Figure D23. All of the operators, mainly engaged in the field of energy products, reported exceptional situations, half of which were at a high frequency. On the other side, EOs carrying out business in the area of alcohols and alcoholic beverages, are most likely to never be confronted (11.8%), or at a rare frequency (47.1%), in exceptional circumstances. Businesses in the sector of manufactured tobacco products reported a combination between the two presented extremes, indicating, for the most part (60%), facing exceptional situations at certain times.

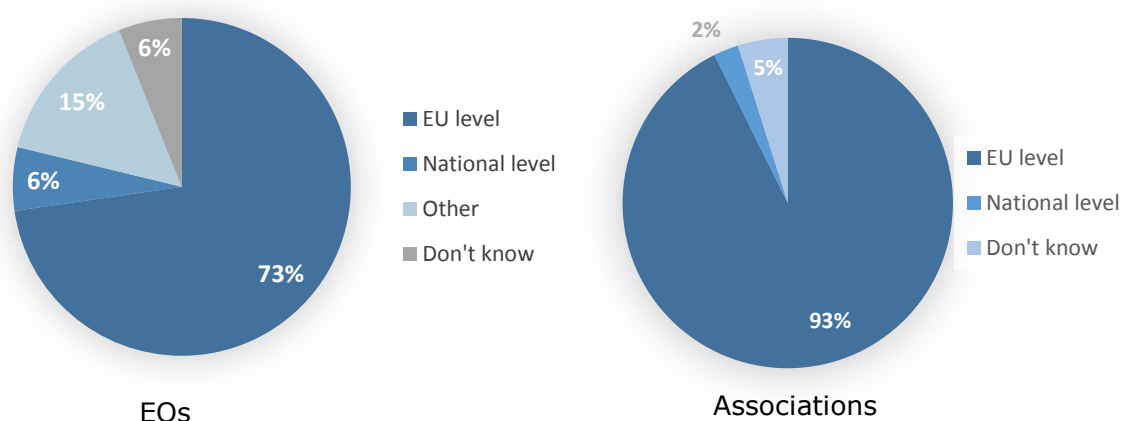
Figure D23: Exceptional situations by sector of the EO



Source: own elaboration.

As in the previous chapters, the majority of the EOs (73%) and almost all associations (93%), expects actions to be undertaken at the EU level (Figure D24). Notably, the 6% of the EOs that see national authorities in charge of improvements, are micro enterprises. Moreover, 60% of the EOs who have in mind solution different from modifications conducted at the EU level or by national authorities noted that, in their opinion, both levels needed adjustments.

Figure D24: Level of improvement for current procedure of handling exceptional situations

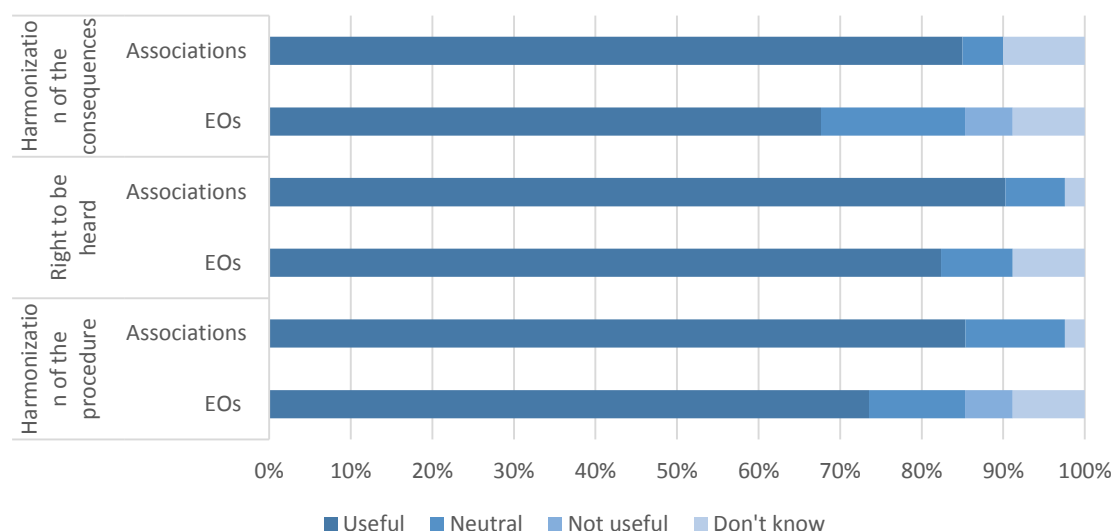


Source: own elaboration.

Finally, the respondents evaluated an option of improvement, including the harmonisation of the current strategies for assessing shortages and excesses at the EU level, a right to be heard in each MS, as well as harmonisation of the consequences of exceptional situations at the EU level. EOs and associations rated the necessity for each component of the suggested improvement.

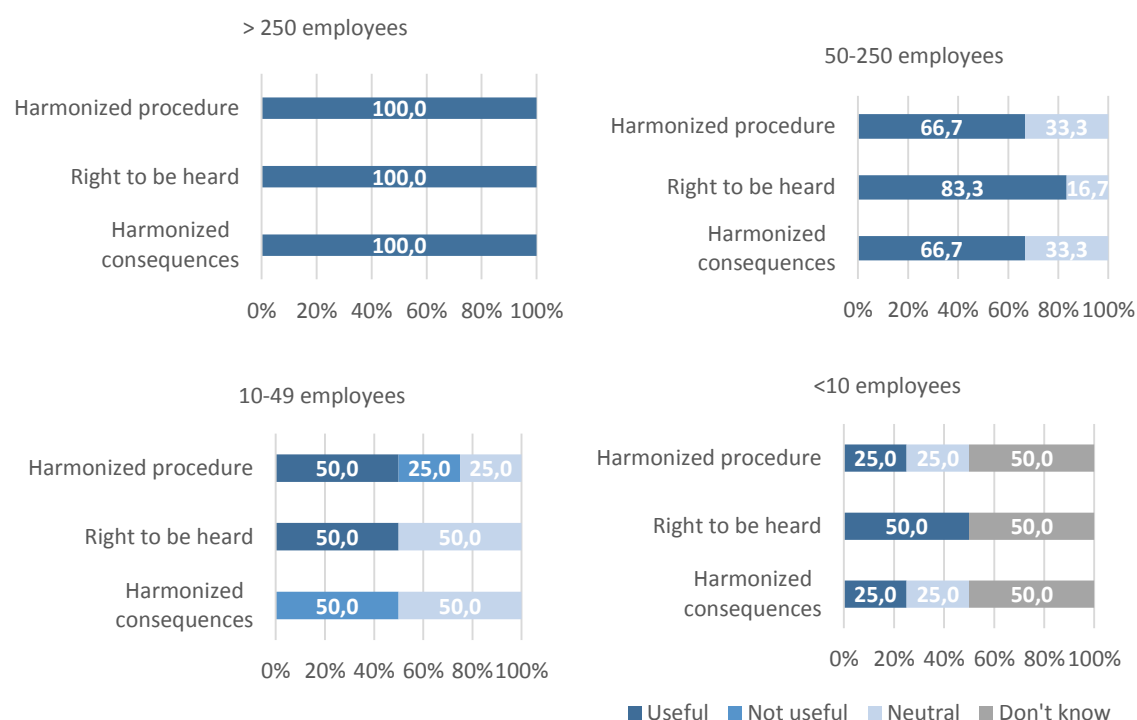
In general, the reaction to all three proposals was positive, as the respondents expected, for the most part, a beneficial impact. 82.4% of the EOs and 90% of the associations perceived the implementation of the right to be heard to be useful, and none of the operators expected the improvement to be useless. Regarding the two other components of the improvements, only a small share of the EOs 5.9% (and zero associations) predicted that the harmonisation of both the procedure and the consequences would not prove functional. The remaining majority agreed about a useful impact or stayed neutral. The responses are illustrated in Figure D25.

Figure D25: Expectations from improvements of the procedure for exceptional situations



Source: own elaboration.

In line with the frequency of exceptional situations that vary with the size of the EOs, the expectations from the improvements also depend on the number of employees. All of the large EOs – these are, as previously noted, at least rarely confronted with exceptional situations – expected all three suggested improvements to be useful. What is expected of the modifications decreases with the frequency of exceptional situations. Small enterprises are the most sceptical group, with 10 to 49 employees, where only half of the respondents found a harmonised procedure and the right to be heard useful. None of these EOs assessed harmonised consequences to be useful. Instead, half of the businesses found it inapplicable, while the other half remained neutral. It is worth noting that this group reports only rare occasions of exceptional situations. Figure D26 exhibits the rating of the three components by the size of the EOs.

Figure D26: Expectations from improvements of the procedure for exceptional situations by size of EO

Source: own elaboration.

Separating the EOs by sector, in which they operate, shows that businesses from the area of alcohols and alcoholic beverages do not expect the same usefulness as businesses from the energy or tobacco sectors. While the majority of energy and tobacco sectors rate the three options for improvement as useful (between 83.3% and 100%), operators engaged in the alcohols and alcoholic beverages sector assessed the options with more scepticism. Only between 47.4% and 76.5% of the above group rated the options for improvement as useful.

Regarding the remaining respondents, only one reported encountering exceptional situations at all (rarely). In line with expectations by EOs and associations, all respondents in this group expected improvements to be introduced at the EU level. The assessment of the improvements in form of harmonisation of the procedure, a harmonised right to be heard, and the harmonisation of the consequence of exceptional situations all correspond with the assessment of the EOs and associations, albeit with a more positive tendency: all but one respondent (who believed that harmonised right to be heard would not to be useful) that had an opinion on the matter though introduction of all three harmonisations would be useful or at least neutral.

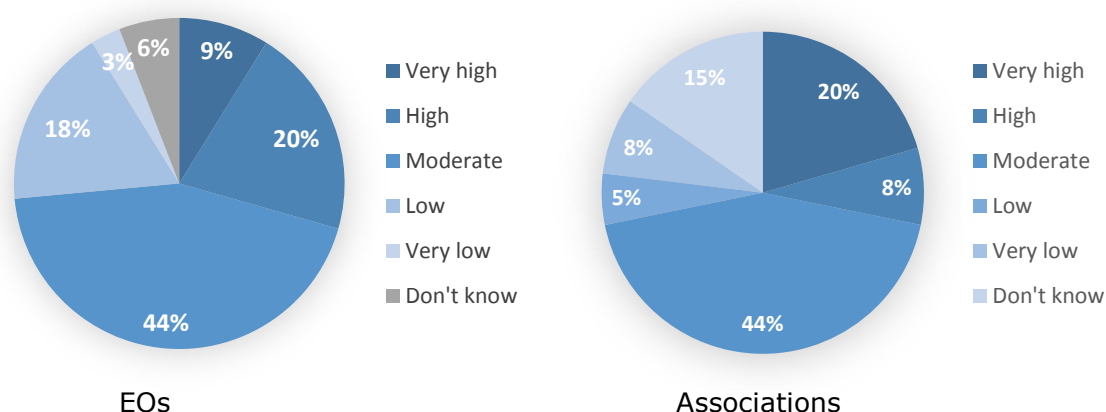
Risk Analysis

At times, national public authorities lack the necessary data to analyse the fiscal risk of movements of excise goods. To counteract this deficiency, EOs could provide additional information about their business and their movements of goods. In the following chapter, the respondents estimated the effort that would be required to provide information about procedures before, during, and after the movement. The estimation

encompasses the availability of the information, as well as the burden, cost, and time that businesses would need to raise in order to transfer information to the respective national public authority. As before, the analysis presents answers of 36 EOs and 48 associations to four scenarios, followed by a summary of the responses from the remaining respondents.

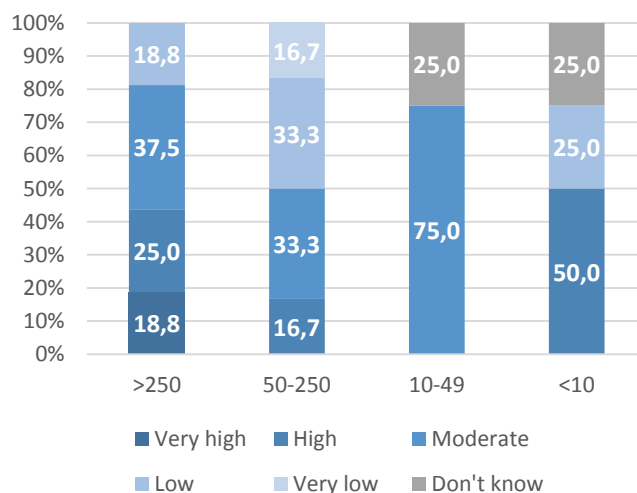
Before the movement, required data can comprise information in the excise administrative document. This can, i.e. take place before the goods have left the dispatch location. The additional effort can be divided into the work taken on by the owner of the goods at either the dispatch or destination points. As far as the owner of goods at dispatch is concerned, the effort expected to provide requested information is of moderate intensity, and is anticipated by almost half of both the EOs and associations (44%). For the EOs, the effort decreases at both extremes: while 20% expect high, and 18% expect low additional effort, only 9% reckon the effort to be very high, and 3% to be very low. Associations were less optimistic, with 20% of them expecting the effort to be very high, 8% – high, and only 12.8% reckoned the effort would be low or very low. The responses are presented in Figure D27.

Figure D27: Effort in the excise administrative document
(owner of the goods at dispatch)



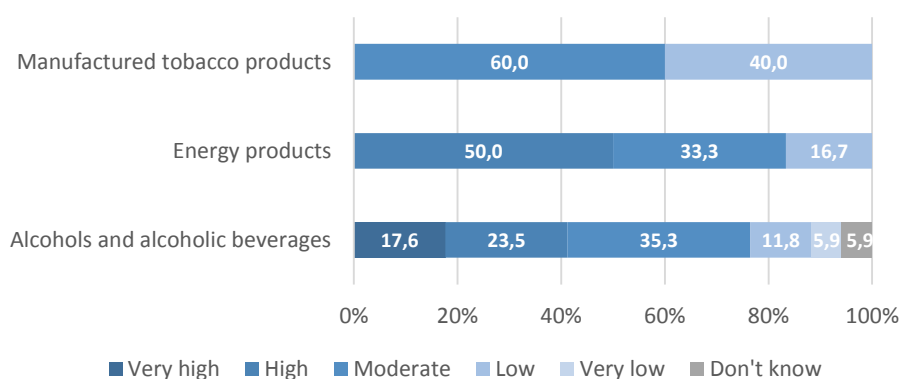
Source: own elaboration.

Focusing on the EOs, if we consider both the expected effort, and the number of workers a given EO employs, a slight correlation between high effort and multitude of employees may be suspected. However, this pattern does not seem to be strong, especially in the case of micro enterprises, where half of the respondents reported bearing a high effort in the excise administrative document. Figure D28 depicts the answers by the size of the EOs.

Figure D28: Effort in the excise administrative document (owner of the goods at dispatch) by size of EO

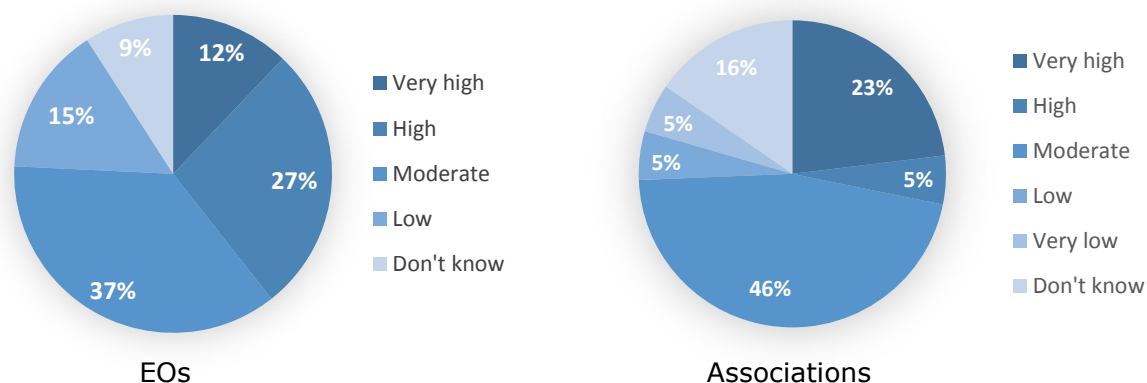
Source: own elaboration.

The effort put into the excise administrative document by the owner of the goods upon dispatch displays a broader variation in the distribution. This, in turn, depends on the sector the EOs operate in, as shown in Figure D29. On the one side, operators active in the area of manufactured tobacco products assess the effort to be either moderate (60%) or low (40%). On the other, the opinions within the sector of alcohols and alcoholic beverages is a lot more dispersed, with estimations ranging from very high to very low effort.

Figure D29: Effort in the excise administrative document (owner of the goods at dispatch) by sector (in percent)

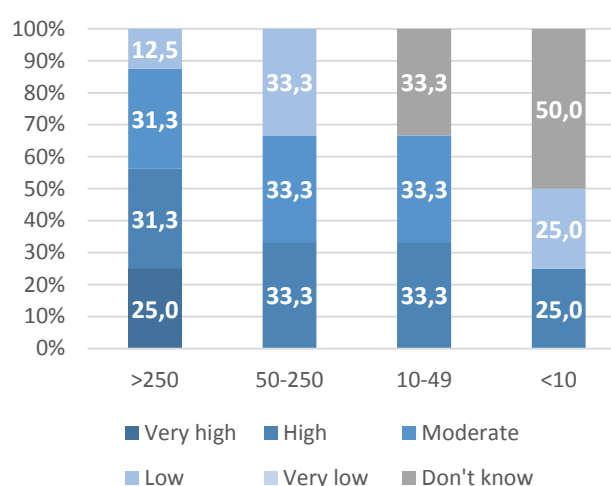
Source: own elaboration.

Contrary to the owner of goods at dispatch, the owner at the destination point can face an additional effort in the excise administrative document. Compared to the owner of the goods at the dispatch point, the EOs expect the additional effort to be higher, while the associations – roughly the same. 39% of the EOs and 28% of associations indicated a high or very high effort, whereas only 15% of EOs and 10% of the associations reported a low or very low administrative effort. Figure D30 illustrates the result.

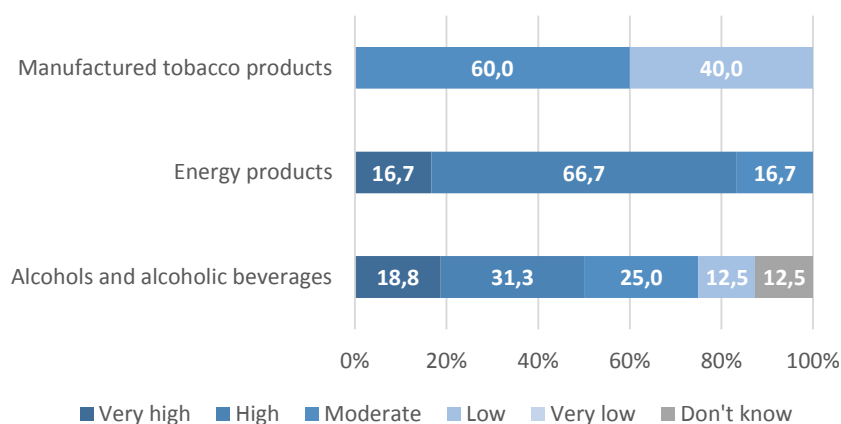
Figure D30: Effort in the excise administrative document (owner of the goods at destination)

Source: own elaboration.

Focusing on the EOs again and dividing their answers by the number of employees, the pattern of reduction in effort as the number of workers decreases may be observed as in the previous case, but is stronger than in the case of effort on behalf the owner of goods at dispatch (Figure D31). Considering the breakdown of the effort at the destination into sectors, the answers are in line with those given for the owner of goods at dispatch (Figure D32). Again, the respondents operating in the area of manufactured tobacco products indicated a moderate or low effort only, whereas the estimated effort in the sector of alcohols and alcoholic beverages was much more dispersed.

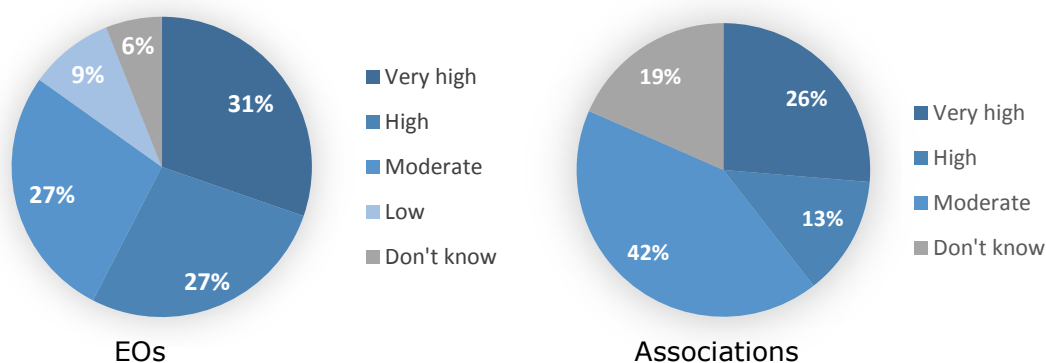
Figure D31: Effort in the excise administrative document (owner of the goods at destination) by size of EO

Source: own elaboration.

Figure D32: Effort in the excise administrative document (owner of the goods at destination) by sector (in percent)

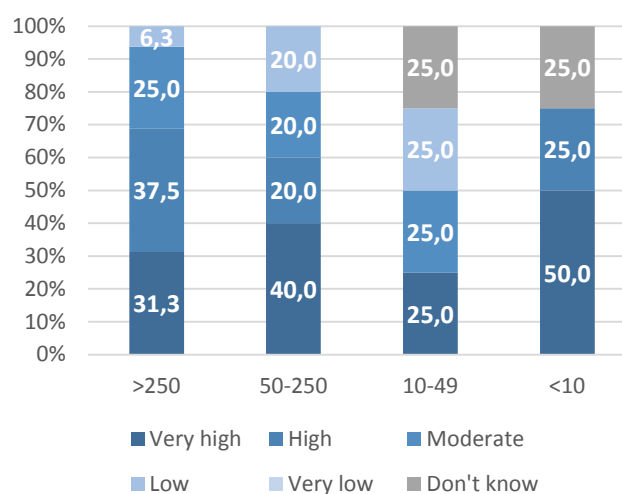
Source: own elaboration.

Additional effort may arise during movement, when authorities at the dispatch point must be informed about a change of vehicle or transhipment. The EOs and associations assessed this effort to be comparably high, with almost one third (30.3%) of the former and quarter (26%) of the latter reporting a very high effort and 27.3% and 13% respectively – high effort. None of the respondents expected a very low effort, and associations did not expect low effort either. Figure D33 gives an overview of the responses.

Figure D33: Effort during the movement (change of vehicle or transhipment)

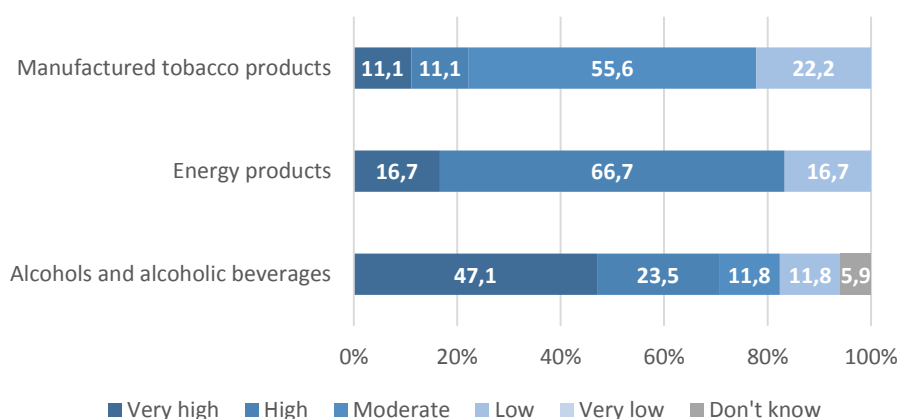
Source: own elaboration.

The picture resulting from the division of EOs by the number of their employees is less clear than in the case of additional effort in the excise administrative document, as seen in Figure D34. In the case of effort resulting from reports about transhipments or a change of vehicle, the cost for micro enterprises is not lower than for the other groups. Half of these EOs, who hire less than 10 employees, face a very high cost, and a quarter faces a high cost. The group with the overall lowest additional effort during the movements is constituted by small enterprises, which report very high, moderate, and low costs, with 25% in each group.

Figure D34: Effort during the movement by size of EO

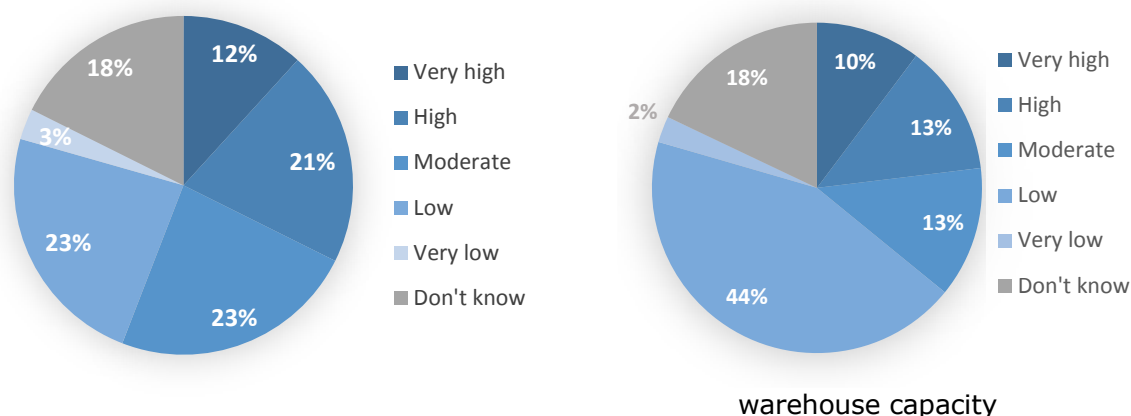
Source: own elaboration.

Reports about change of vehicle and transshipments require a relatively high effort from EOs moving alcohols and alcoholic beverages, as almost half of the respective group estimated the effort to be very high (47.1%). The expected effort is also high for enterprises operating in the area of energy products, where two thirds assume a high effort is needed to report to authorities upon dispatch. Relatively low, but more dispersed than the effort indicated in the excise administrative document, are the shares expected by EOs in the area of manufactured tobacco products. The results are presented in Figure D35.

Figure D35: Effort during the movement by sector (in percent)

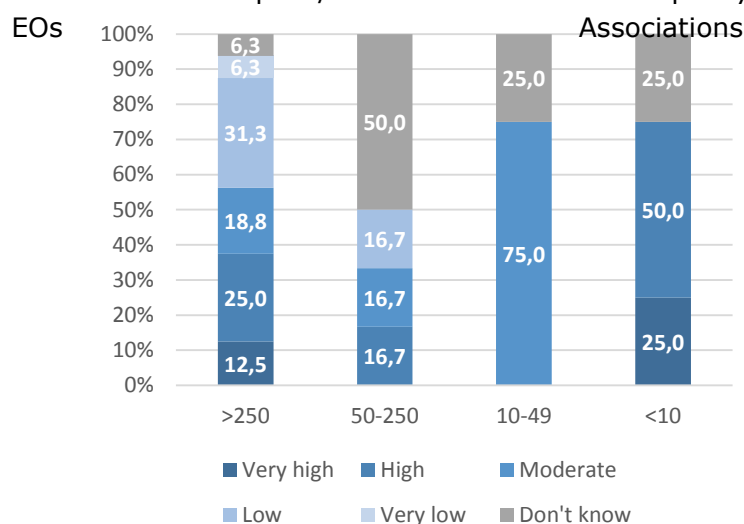
Source: own elaboration.

Finally, the questioned EOs and associations assessed additional effort that tax warehouses face, when providing information about authorisation requests or renewals for the warehouse capacity is needed. The effort, which is expected to transmit this information, is very dispersed, as illustrated in Figure D36. 46% of the EOs and 56.4% of associations expected low or moderate effort, 21% and 13% respectively — a high effort, but expectations of very high (12% and 10%) and very low (3% and 2.6%) efforts were also reported.

Figure D36: Effort for request/renewals of

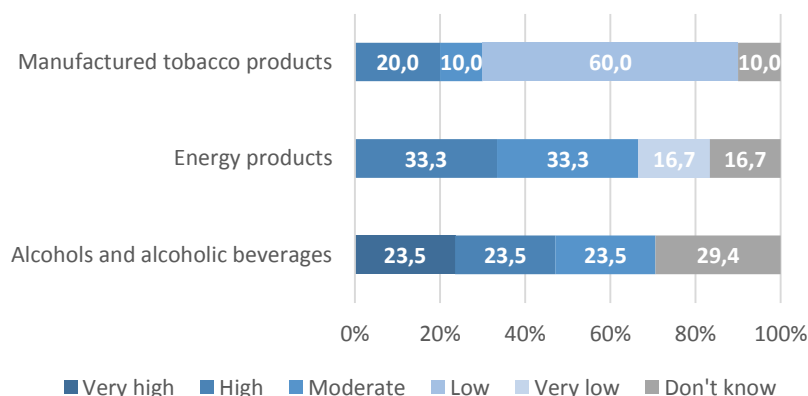
Source: own elaboration.

In contrast to previous results, the effort expected by the EOs seems to increase as the number of employees falls. Half of the micro enterprises reported high, and a quarter reported a very high effort. Meanwhile, some of the large and medium-sized enterprises also reported low, or — in the case of large enterprises — a very low effort. Moreover, the higher the size of an EO, the more dispersed the answers given. Still, the small amount of micro and small enterprises which responded to the questionnaire also need to be considered. Figure D37 depicts the answers from the EOs by their size.

Figure D37: Effort for request/renewals of warehouse capacity by size of EO

Source: own elaboration.

As for the sectors the businesses operate in, it is remarkable that the majority of EOs 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. Figure D38 summarises these responses.

Figure D38: Effort for request/renewals of warehouse capacity by sector (in percent)

Source: own elaboration.

The remaining respondents assess the additional effort with slightly different tendencies than EOs and associations. Considering the effort required in the excise administrative document, when compared to the businesses above, they expect that a higher effort be necessary. In both cases, the effort for the owner of goods at dispatch and destination points is expected to be high or very high by over a third of the non-EOs, and slightly under a third has the same expectations regarding additional effort for reports during the movement. Requests and renewals of the warehouse capacity were however estimated to be less burdensome, with close to a third of respondents expecting moderate or low levels of effort needed.

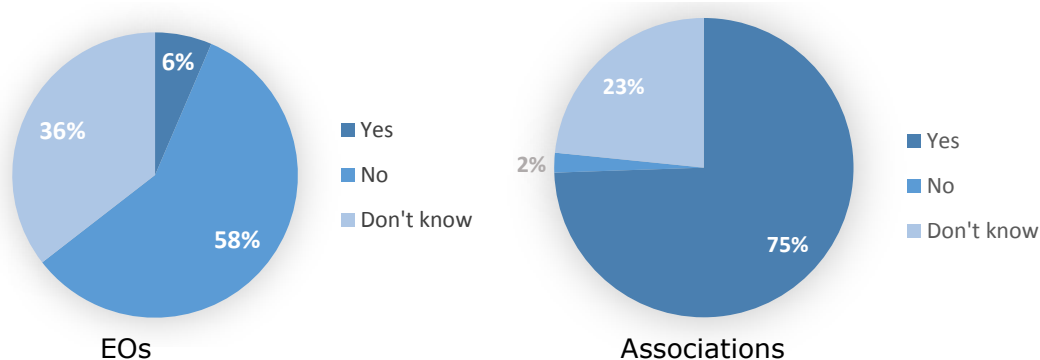
Excise–Acquisition by Private Individuals

In the last section of the questionnaire, the respondents answered six questions related to concerns about public health, its impact on the Directive, and the assessment of possible improvements. Responses to the questions regarding public health make up roughly 31 percent of answers to questions regarding all policy options.¹¹⁸

As in the preceding chapters, the answers given by the 36 EOs and 48 associations were analysed, and are followed by a summary of the answers provided by the remaining respondents, which are 49 private citizens, 16 NGOs.

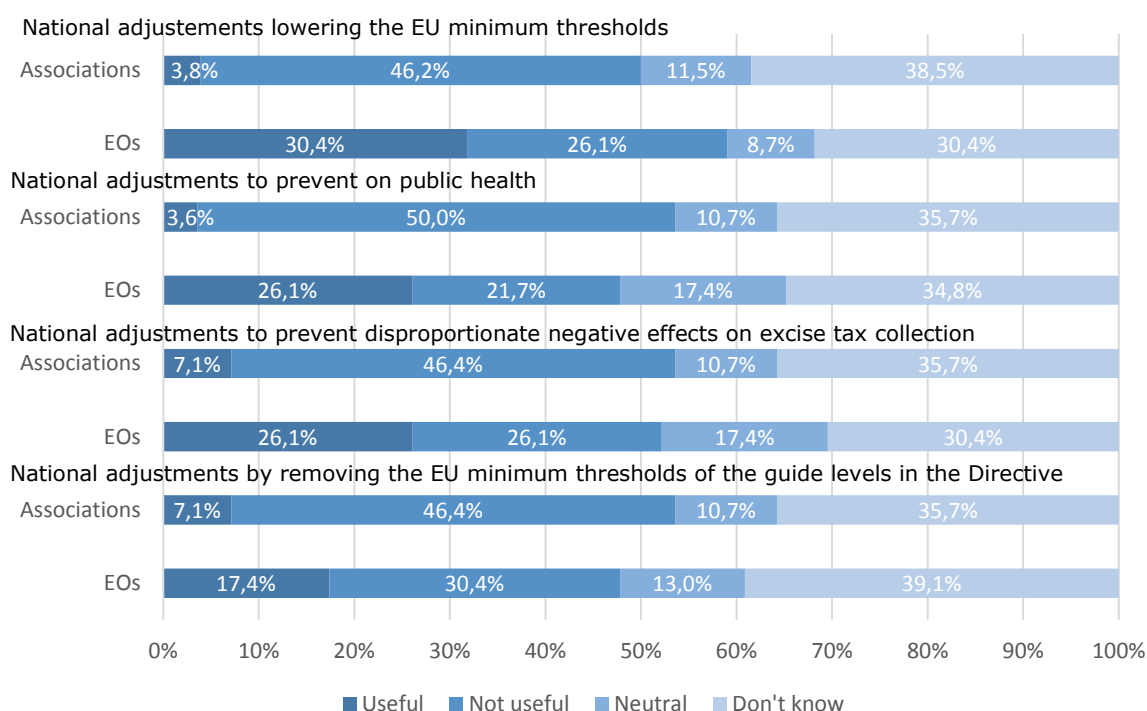
The majority of EOs is not aware of negative impacts of the Directive on public health related to tobacco or alcohol consumption, whereas only 6% of the responding businesses indicated their consideration of the subject, as it is shown in Figure D39. Out of these businesses, half (3% of all respondents) stated that these repercussions are connected to the lack of flexibility of MS to set lower thresholds than the guide levels in the Directive. In a stark difference, three quarters of the associations were aware of the problem, with only one indicating they were not aware of it.

¹¹⁸ “Don’t know” answer was treated as lack of answer.

Figure D39: Awareness of negative impacts of the Directive on public health

Source: own elaboration.

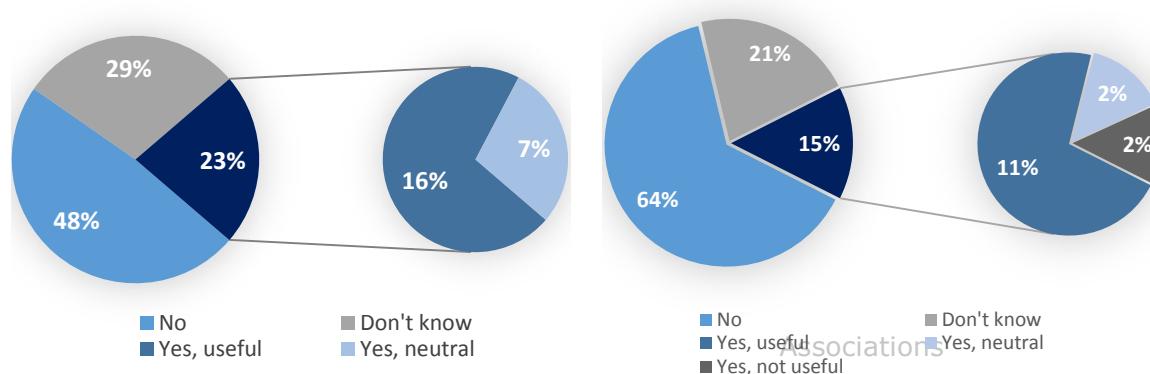
Respondents were asked to assess four different measures to alleviate the negative impact on health. The implementation of national adjustments in the form of removing the EU minimum thresholds of the guide levels in the Directive was assessed rather negatively, as the share of EOs (30.4%) and associations (46.4%) that did not find it useful outweighed the share of those that found it applicable (17.4% and 7.1% respectively). The opinion on the option allowing national adjustments of guide levels in order to prevent disproportionate negative effects on excise tax collections was found useful and useless by an equal number of EOs (26.1% each, 17.4% remained neutral) but the plurality (46.4%) of the associations were of opinion that it will not be useful. The answers of EOs leaned slightly to the positive side in terms of the assessment of national adjustments that would prevent the effects on the public health. However, half of the associations found this option not useful. Compared to previous procedures, the measure allowing national adjustments of guide levels by removing the EU minimum thresholds was seen as most useful by the EOs, with around a third of the EOs assessed it as useful, while only around a quarter did not expect it to be applicable. However, once again associations were more critical, with 46.2% of them not believing this solution is of use. The exact shares for each option may be seen in Figure D40.

Figure D40: Awareness of negative impacts of Directive on public health

Source: own elaboration.

An option to resort to an appropriate concept is presented in order to address the fact that the Directive's current guide levels refer to the concept of personal use, which could be misinterpreted at the operational level. Owing to this improvement, legal certainty and operational guidance for authorities and individuals could be gained. However, only less than a quarter of the EOs and 15% of associations supported these options, whereas almost half of the EOs and almost two thirds of the associations questioned did not want legal certainty to be improved by a specification of personal use. With the advantage of concrete statistics at hand, one option for specification is the data on average yearly personal consumption. Out of the supporters of concretisation of personal use, almost three quarters strengthened the application of statistics on average yearly personal consumption by assessing it as useful. The remaining quarter stayed neutral towards the option or did not find it useful. The responses are depicted in Figure D41.

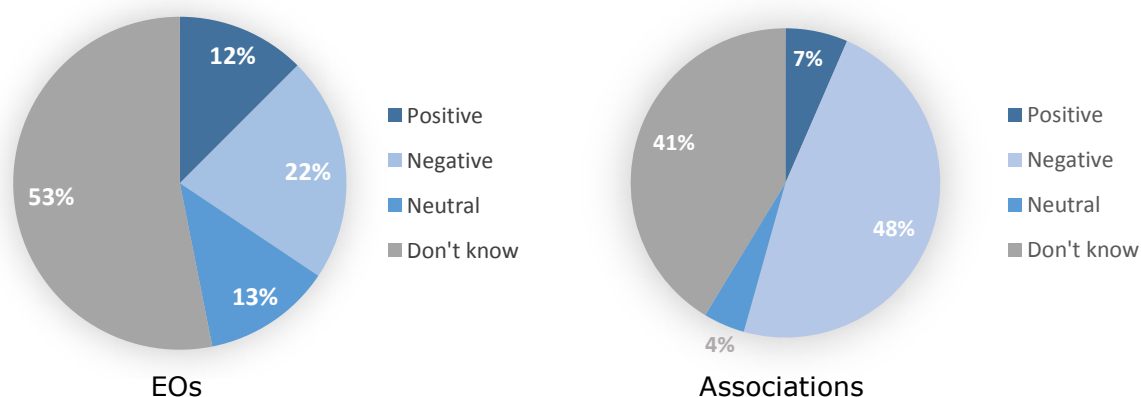
Figure D41: Improvement of legal certainty and usefulness of average yearly personal consumption as criteria for specification



Source: own elaboration.

The assessment of the respondents about the impact of more flexibility in setting lower national guide levels on EOs is very dispersed and rather negative among the EOs themselves (22%) and decidedly negative among the associations (48%) (Figure D42). Around half of all EOs who had an opinion on the issue indicated negative effects, whereas a quarter assessed it positively or neutrally. Multiple times, EOs and associations noted their concern that the idea of a common market would be restricted by this measure, resulting in smaller sales, as well as a restraint of customers in their legal alternatives to non-duty-paid or counterfeited products. Associations additionally were concerned it would create confusion and uncertainty. On the other side, some of the businesses highlighted their doubts as to whether an increased regulation and taxes could reduce alcohol related harm.

Figure D42: Impact of flexibility on setting lower national guide levels on EOs



Source: own elaboration.

The answers given by the remaining respondents diverge from the previously presented results, mostly due to the high number of questionnaires completed by private citizens from Sweden, who are concerned about public health issues arising from tobacco and alcohol. 49 private citizens and 16 non-government institutions expressed their opinion. Over three quarters of this group were aware of negative impact of the Directive on public health. The four measures to mitigate negative impact on health were rated more positively than by the EOs and associations, ranging from 72.3% to 87.7% of positive assessments. Likewise, the group supported (83.6%) the improvement of legal certainty by specifying personal use to a bigger extent than EOs and associations, although they found other approaches, than the discussed average yearly consumption, to be more useful. Correspondingly, they expected the impact of flexibility on setting lower national guide levels to be more positive than it was expressed by EOs and associations.

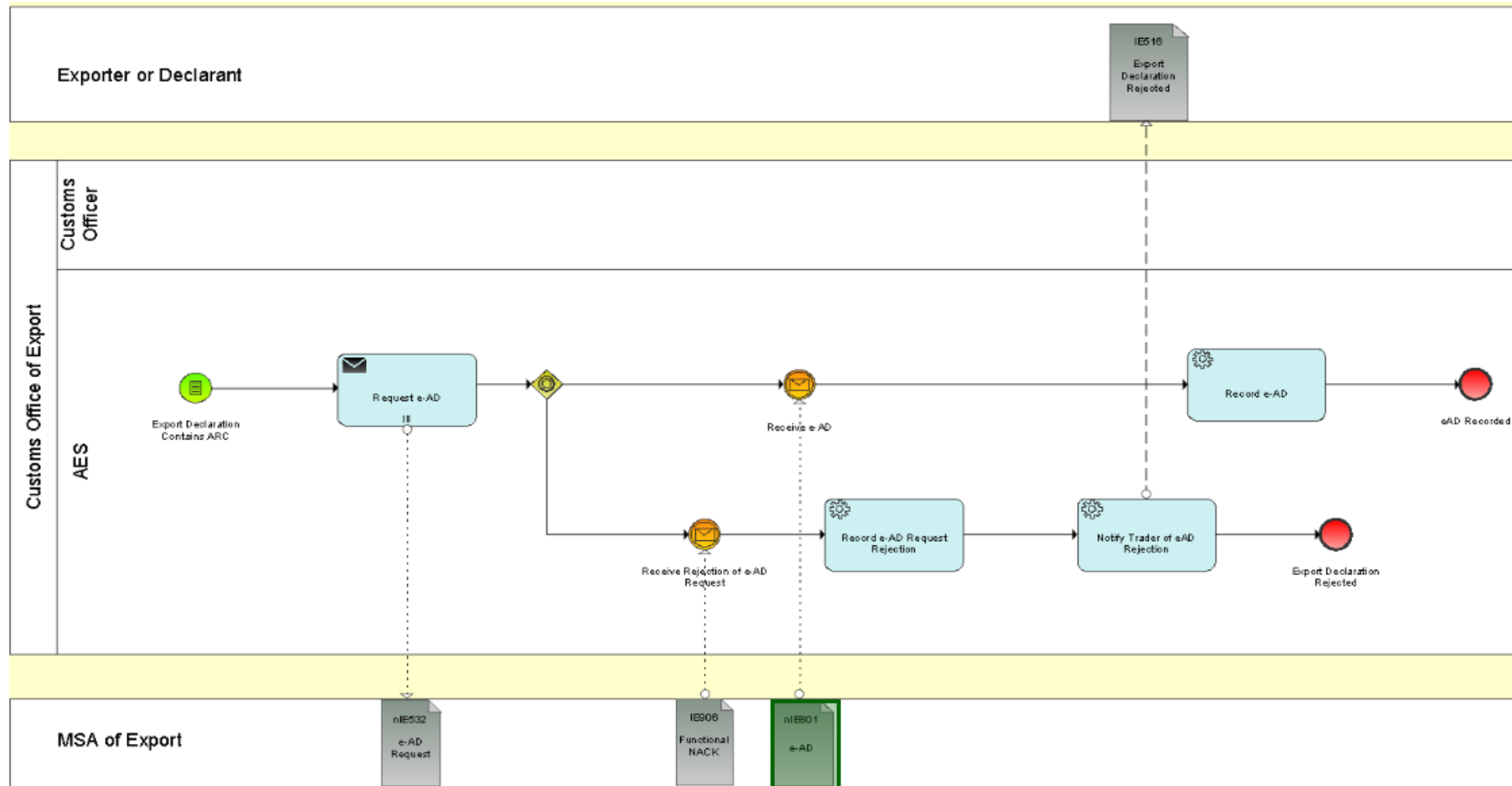
E. LABOUR TARIFFS

	Hourly tariff (EUR, ISCO3, 2016)	Daily tariff (EUR, ISCO3, 2016)	Yearly tariff (EUR, ISCO3, 2016)
Belgium	38.7	309.6	71,149.2
Bulgaria	7.6	60.8	14,023.9
Czech Republic	13.4	107.2	24,673.1
Denmark	50.0	400	91,769.4
Germany	35.1	280.8	64,393.4
Estonia	13.1	104.8	24,123.8
Ireland	35.7	285.6	65,599.5
Greece	17.6	140.8	32,251.0
Spain	24.3	194.4	44,574.0
France	33.6	268.8	61,757.0
Croatia	9.8	78.4	18,071.8
Italy	28.4	227.2	52,114.2
Cyprus	23.6	188.8	43,351.1
Latvia	9.3	74.4	17,051.5
Lithuania	7.7	61.6	14,128.9
Luxembourg	44.2	353.6	81,247.3
Hungary	8.8	70.4	16,109.5
Malta	16.7	133.6	30,722.6
Netherlands	35.0	280	64,279.5
Austria	35.1	280.8	64,397.9
Poland	12.0	96	22,012.1
Portugal	15.8	126.4	29,035.3
Romania	7.5	60	13,849.4
Slovenia	17.9	143.2	32,923.5
Slovakia	15.3	122.4	28,139.2
Finland	35.7	285.6	65,569.2
Sweden	43.4	347.2	79,786.7
United Kingdom	24.9	199.2	45,677.5
European Union (28 MS)	23.7	189.6	43,575.0

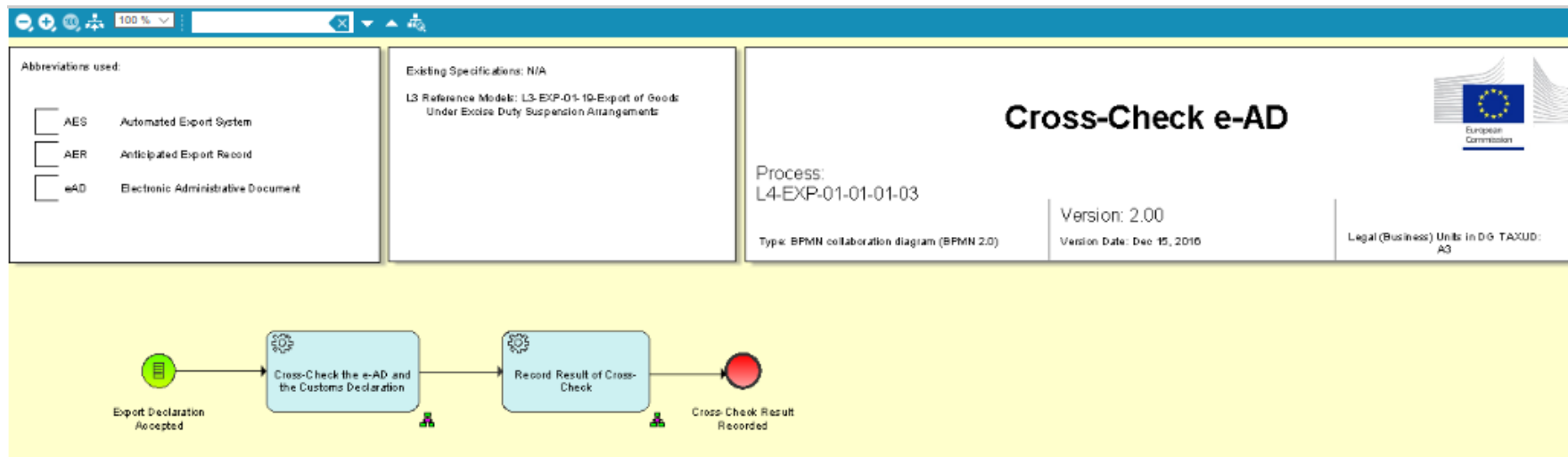
Source: own elaboration on the basis of Eurostat and EU Standard Cost Model.

F. VISUALISATION OF BPMs

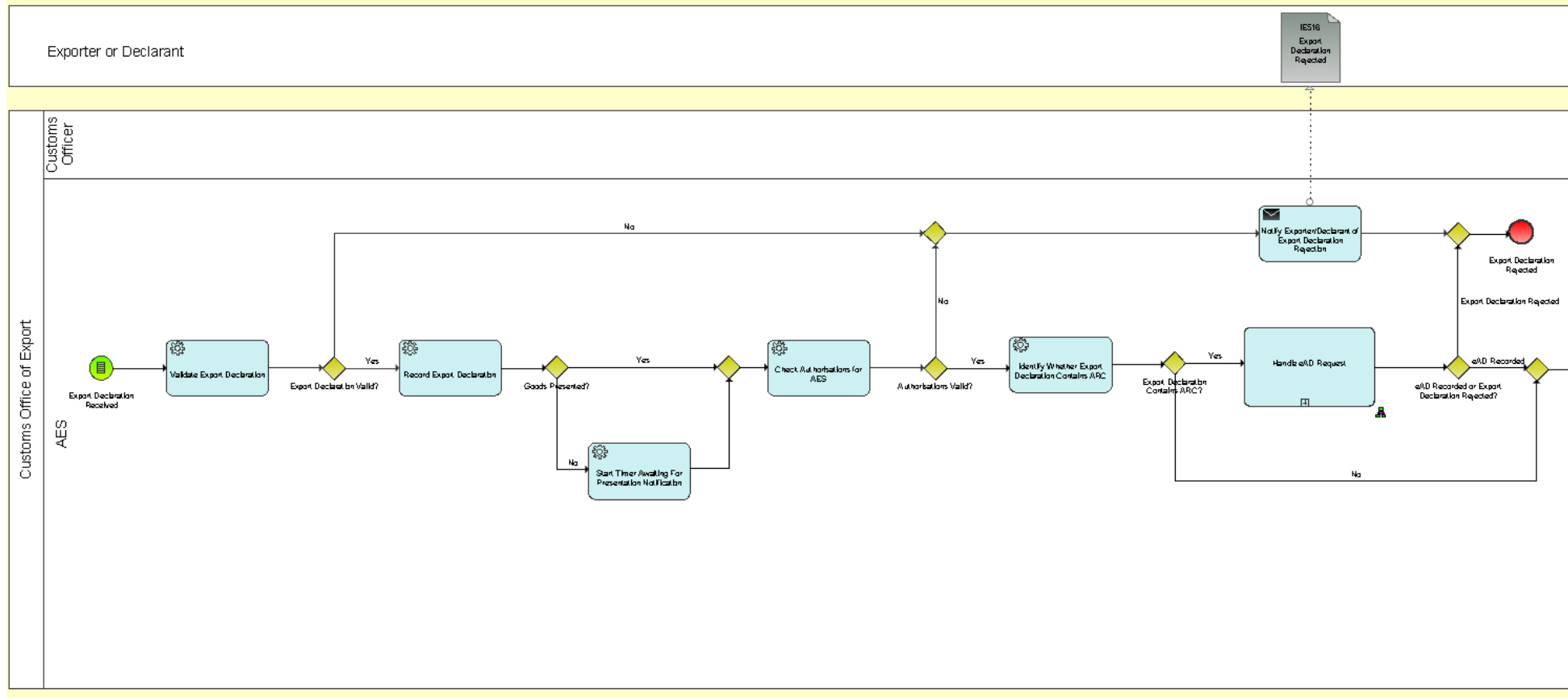
- *L4-EXP-01-01-01-01: Handle eAD*

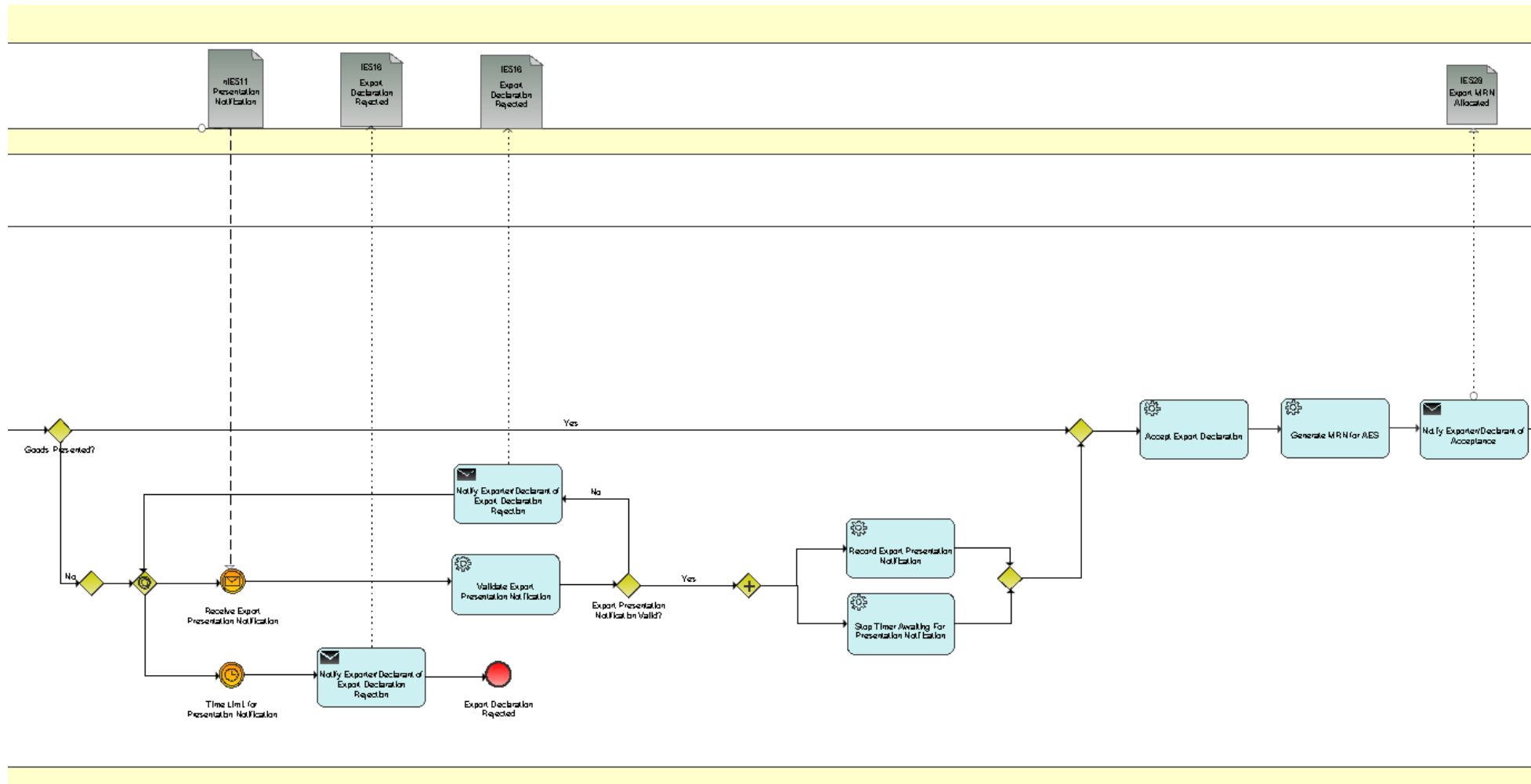


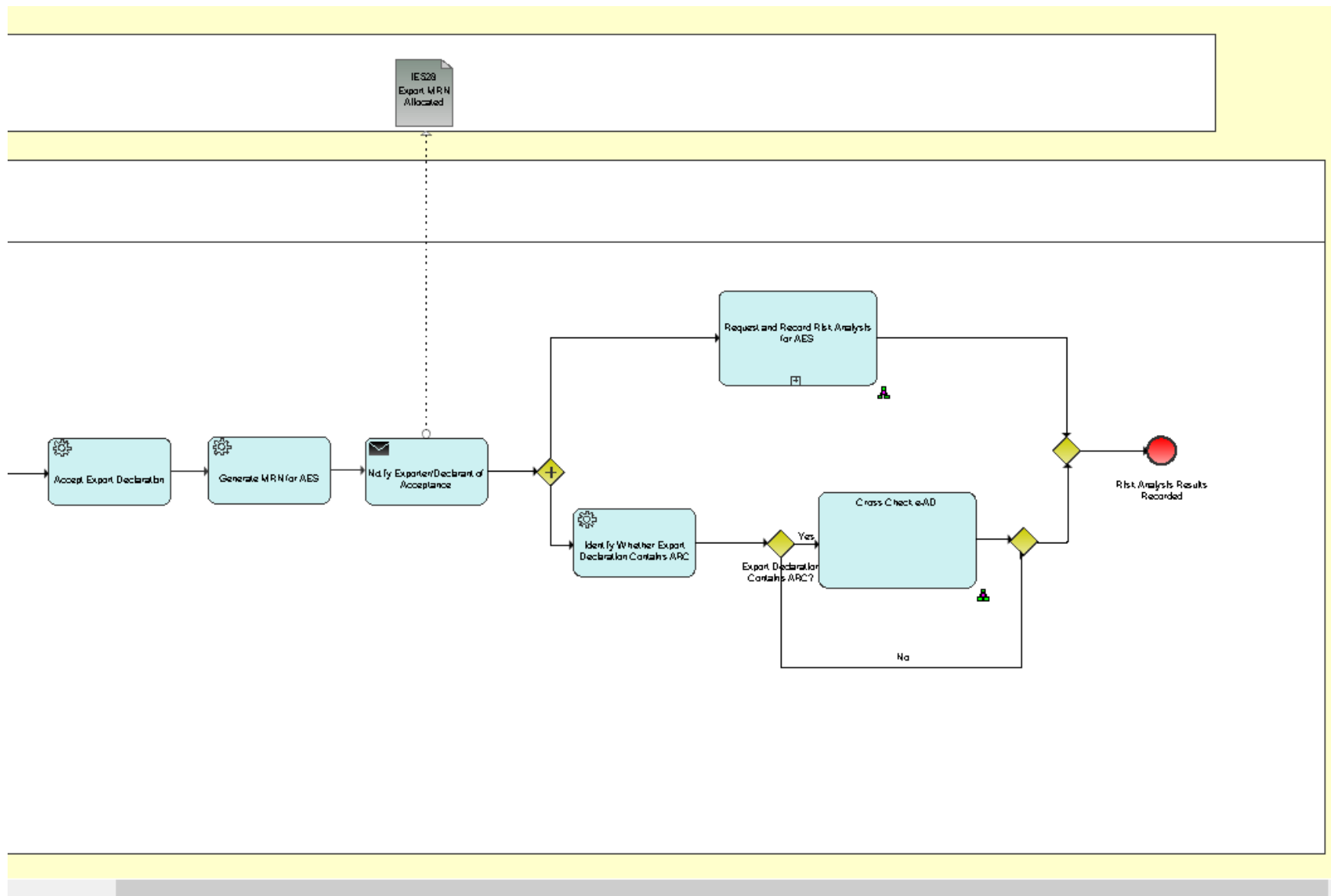
- *L4-EXP-01-01-01-03: Cross-Check eAD*



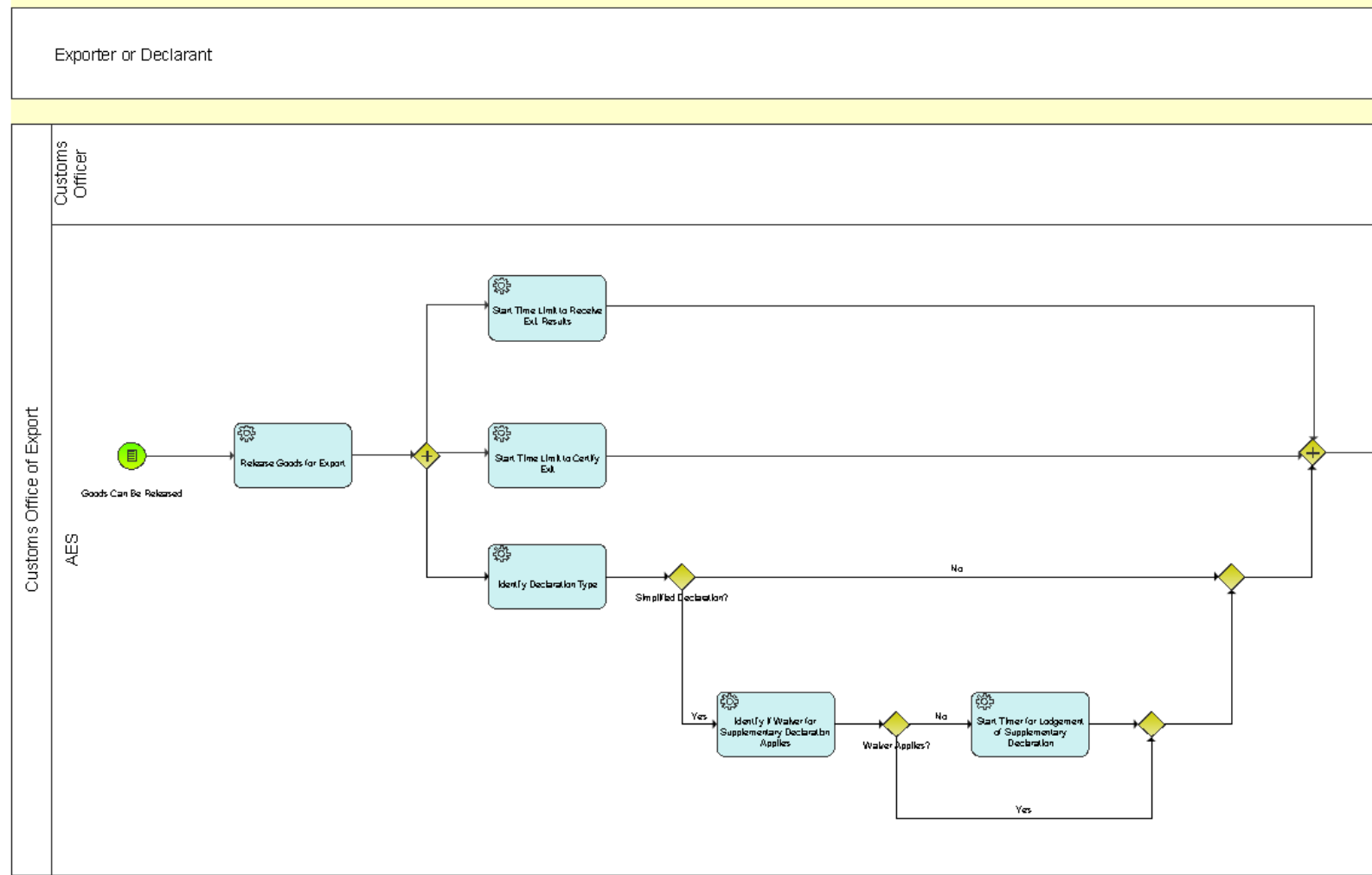
- L4-EXP-01-01-01 Acceptance of Export Declaration



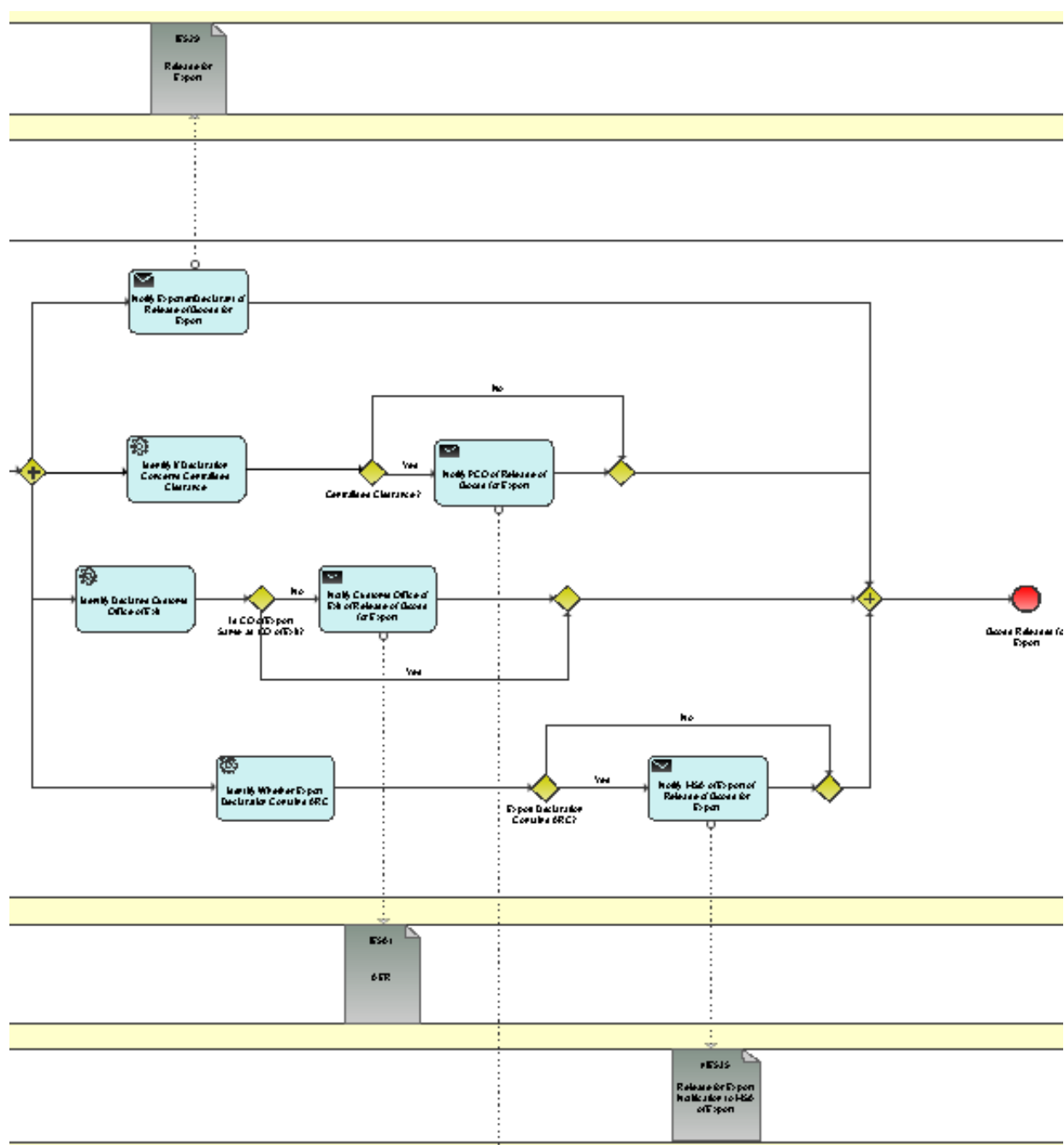




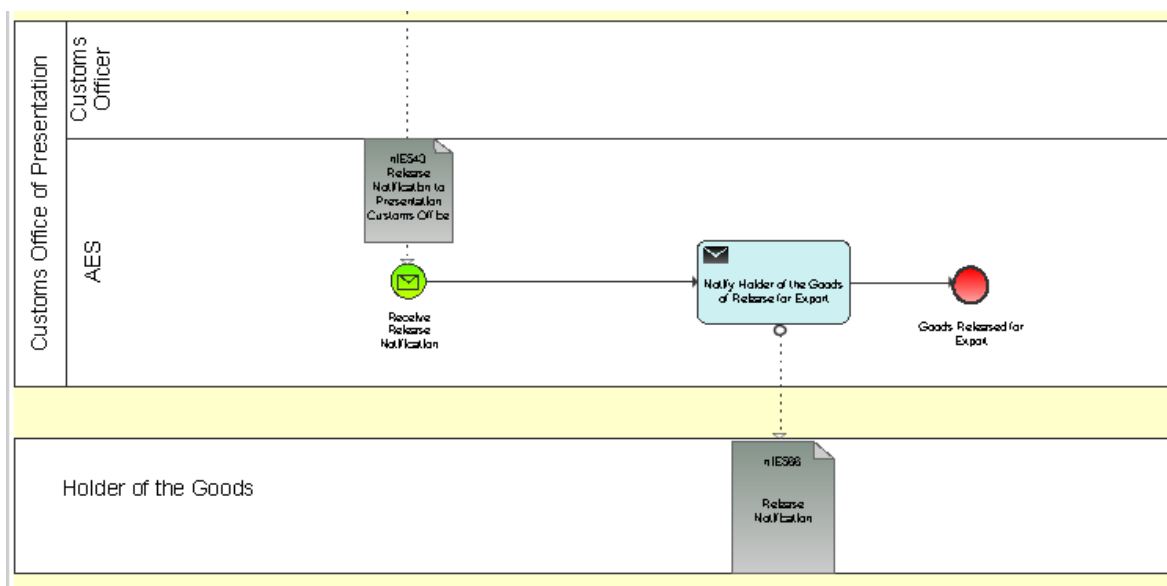
- *L4-EXP-01-02: Customs Formalities at Office of Export Release*



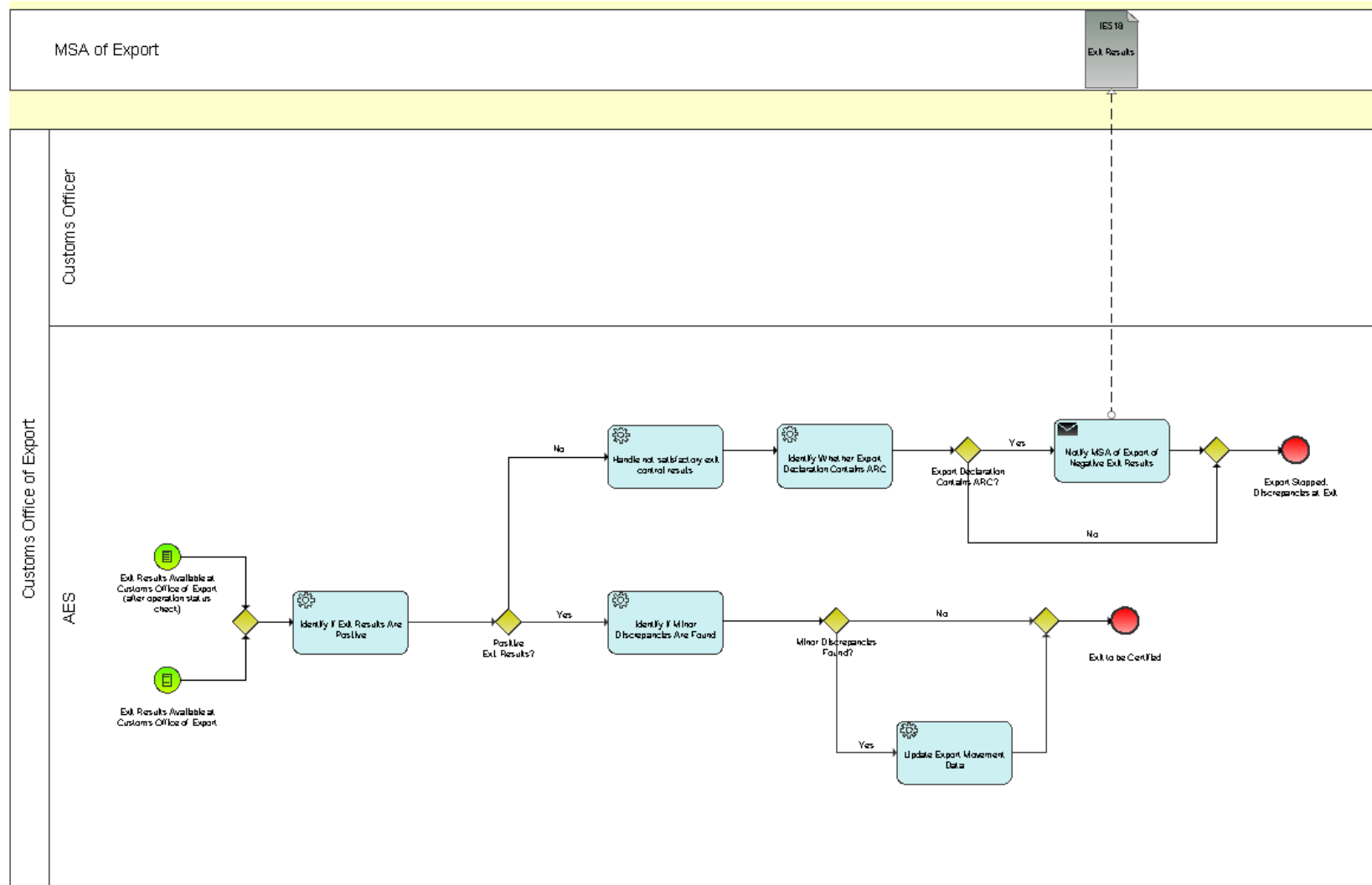
- *L4-EXP-01-02: Customs Formalities at Office of Export Release – part 2*



- *L4-EXP-01-02: Customs Formalities at Office of Export Release – part 3*



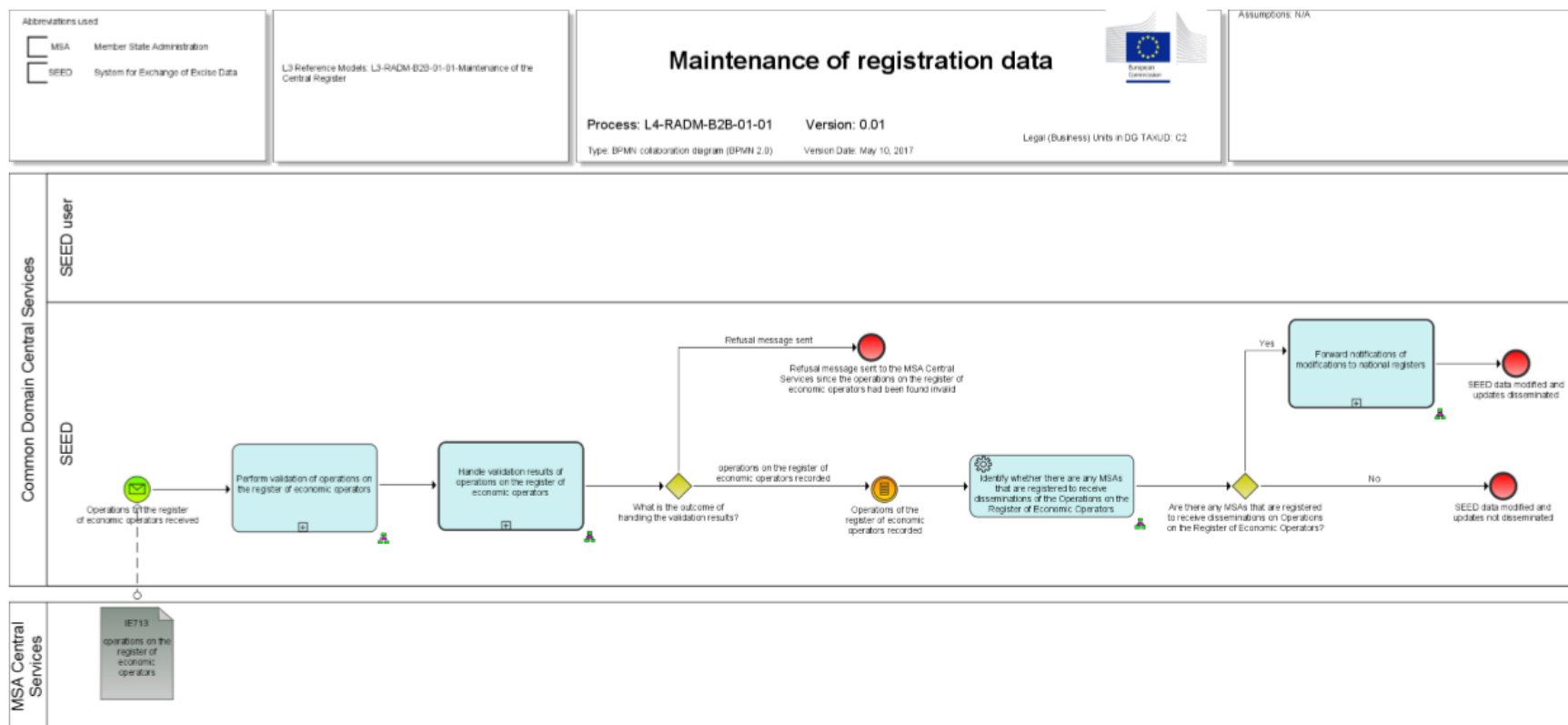
- *L4-EXP-01-03-03: Handle Exit Control Results*



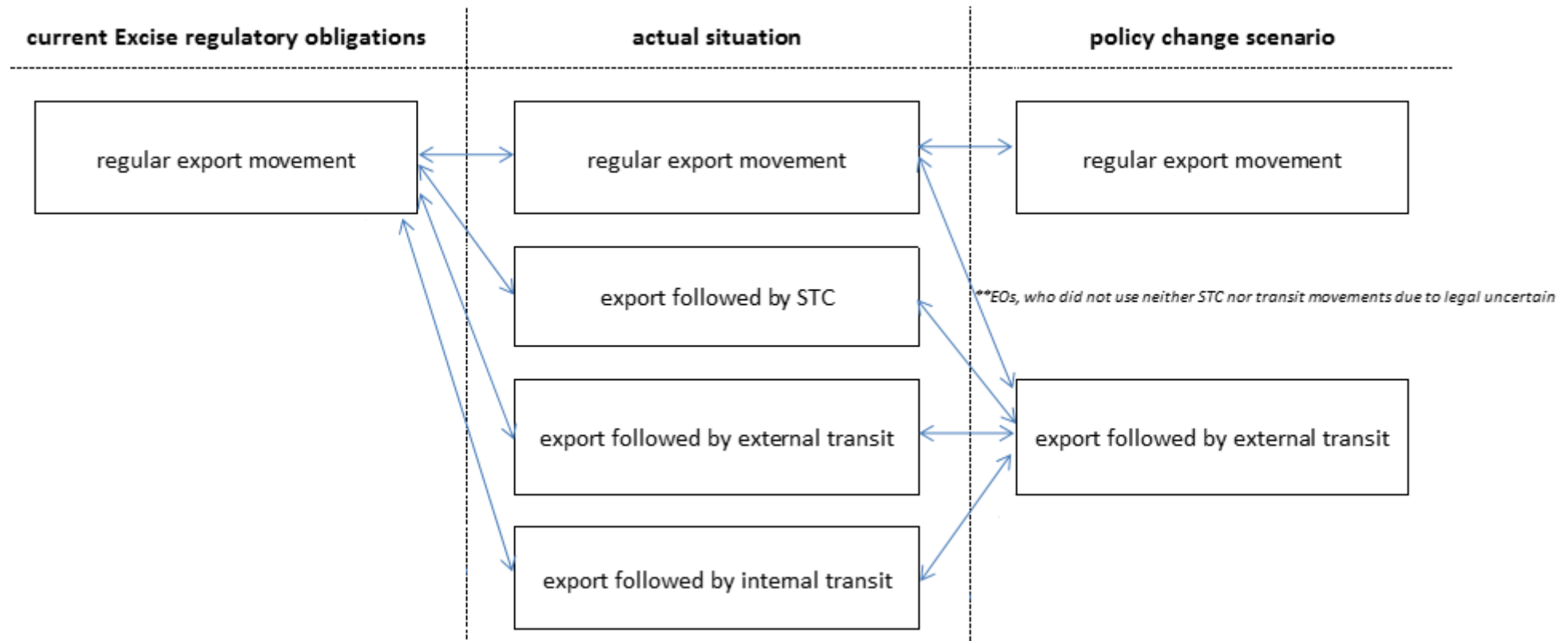


- *L4-RADM-B2B-01-01: Maintenance of registration data.*

Process L4-RADM-B2B-01-01-Maintenance of registration data



G. PROCEDURES FOR EXPORTING EXCISE GOODS



Source: own elaboration.

H. THE 2012 IT MASTER PLAN STUDY MODEL EQUATIONS

Functional System Specifications (FSS):

total FSS effort = # processes × effort for 1 process FSS

Technical System Specifications (TSS):

total TSS effort = # of changed processes × effort for 1 changed process TSS

Design, Build and Test (DBT):

If the existing IT system has been built using flexible/modular architecture :

total DBT effort = (# of changed tasks × effort for 1 task + # of messages × effort for 1 message) × (1 + # of impacted interfaces × 0,03)

If the existing IT system has been built using older technology :

total DBT effort = (# of changed tasks × effort for 1 task + # of messages × effort for 1 message) × 1,4 × (1 + # of impacted interfaces × 0,05);

If new system will be implemented to accommodate the changes brought by the project using new flexible/modular architecture:

total DBT effort = (# of tasks × effort for 1 task + # of messages × effort for 1 message) × (1 + # of interfaces × 0,03).

I. DISCREPANCIES BETWEEN SUPPLY AND USE OF EXCISE GOODS

As an important point background information and accuracy check for the estimates of different types of fraud, we estimate part of the value of the excise gap related with hidden production and illicit trade. In order to estimate total value of discrepancies we planned to use data on actual consumption and compare it with supply-side using balancing term of international trade and change in stocks. In theory, utilizing market data constructed with the use of questionnaires should reflect actual value of consumption. As discussed in Chapter 3.1.1 and 3.1.2 data on intra- and extra-EU trade (from the reports of seller) also reflect actual rather than the fictitious values. On the contrary, production values registered by statistical offices do not include those producers, who do hide their production and further trade.

As a source of data we use Euromonitor Passport database (consumption), Eurostat's Prodcom, Extrastat, and Intrastat (supply-side data) and Enerdata Global Energy & CO2 Database (consumption and supply-side data). The methodology of data collection process, especially regarding consumption was only partly disclosed: it utilizes, among others sources, trade surveys, store checks, official datasets and own estimations. This ambiguity unfortunately significantly reduces reliability of the data and in turn possible conclusions. For illustrative purposes we also included data on excise revenue.¹¹⁹ Due to missing data we were able to complete the analysis for alcohol and alcoholic beverages, manufactured tobacco products, as well as energy products, excluding, where necessary, some MS.

The results are presented in Table 8, 9 and 10, where Gap is defined as discrepancy between actual and reported values as a percent of actual consumption.

Table I1: Estimates of illicit trade and hidden production of alcohol and alcoholic beverages¹²⁰

	Consumption of alcohol and alcoholic beverages in litres (market data)	Production minus trade balance of alcohol and alcoholic beverages in litres	Gap	Excise Revenue in EUR
2011	46 355 200 000	44 983 785 149	3%	29 027 322 045
2012	46 009 400 000	44 953 742 595	2%	30 935 998 591
2013	45 483 600 000	44 318 463 919	3%	31 632 709 391
2014	45 415 200 000	45 355 671 292	0%	33 038 175 961
2015	45 606 200 000	46 109 583 589	-1%	34 988 096 194
2016	45 867 400 000	46 597 015 385	-2%	.

Source: own elaboration.

¹¹⁹ Source: https://ec.europa.eu/taxation_customs/business/economic-analysis-taxation/data-taxation_en

¹²⁰ Latvia, Romania, Slovenia, Belgium, Cyprus, Greece, Ireland, Luxembourg, Malta, the Netherlands and Sweden were omitted due to missing data.

Table I2: Estimates of illicit trade and hidden production of manufactured tobacco products¹²¹

	Consumption of manufactured tobacco products in tones (market data)	Production minus trade balance of manufactured tobacco products in tones	Gap	Excise Revenue in EUR
2011	256 737	235 173	8%	38 524 968 887
2012	250 410	238 642	5%	39 005 363 393
2013	233 121	274 931	-18%	38 256 832 966
2014	227 660	239 267	-5%	36 855 216 844
2015	225 495	233 428	-4%	38 269 517 777
2016	222 871	-	-	-

Source: own elaboration.

Table I3: Estimates of illicit trade and hidden production of energy¹²²

	Consumption of energy in EUR	Production minus trade balance of energy in EUR	Gap	Excise Revenue in EUR
2011	800 759 185 992	831 866 873 337	-4%	10 842 830 581
2012	890 908 133 731	938 480 742 973	-5%	8 466 459 676
2013	907 778 498 852	944 051 391 581	-4%	8 502 195 066
2014	872 074 237 883	907 823 030 057	-4%	10 796 552 990
2015	802 594 680 286	842 598 855 430	-5%	11 890 129 841
2016	735 978 670 844	773 787 575 245	-5%	-

Source: own elaboration.

Although quality of the data is good enough to assess general scale of consumption and apply that value to previously estimated discrepancies in trade data, it is not consistent enough to reliably estimate the Gap between actual value of consumption and supply-side data. Presented above results of the analysis are biased by different methodologies applied in the process of collecting the data, different in each dataset and source as well as by a simple statistical error. That bias prevents clear interpretation of the value of calculated difference because it is impossible to separate it from the value of the actual Gap - yet it is still possible to draw some conclusion regarding its trend (at least for countries that were not omitted due to missing data).

¹²¹ The Czech Republic, Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, Austria, Belgium, Cyprus, Finland, France, Ireland, Italy, Luxembourg, Malta, Sweden and the United Kingdom were omitted due to missing data.

¹²² Cyprus, Croatia, Denmark, Luxembourg and Malta were omitted due to missing data.

The analysis of the Gap between the actual consumption side, reported production and international trade despite showing negative Gaps, shows also a clear pattern. The difference between the aggregates falls in both in case of alcoholic beverages and tobacco, reaching negative values in 2014 and 2015 for both categories of products. The negative value could be justified with a quality bias in one of the components. The trend is, however, less questionable. This leads to the conclusion that one of two factors may play a role. Either illicit trade or hidden production are falling, or discrepancy between supplier and purchaser's Intrastat registers are growing, which signals growing VAT or excise fraud in movement of those excise goods. In case of energy products it seems that there is no clear trend and the Gap is mostly stable.

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