

Brussels, 29 May 2002

**OPINION**

of the

Economic and Social Committee

on the

**Proposal for a decision of the European Parliament and of the Council  
on Computerising the movement and monitoring of excisable products**

COM(2001) 466 final - 2001/0185 (COD))

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On 20 December 2001, the Council decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

*Proposal for a decision of the European Parliament and of the Council on Computerising the movement and monitoring of excisable goods*  
(COM(2001) 466 final - 2001/0185 (COD)).

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 8 May 2002. The rapporteur was **Mr Wilkinson**.

At its 391<sup>st</sup> plenary session (meeting of 29 May 2002), the Economic and Social Committee adopted the following opinion by 79 votes to one, with one abstention.

## 1. Introduction

1.1 With the introduction of the Internal Market, fundamental changes were made to the arrangements for the movements of goods subject to excise duties<sup>1</sup>. Physical controls at national frontiers were replaced by administrative controls, based on documents to accompany goods sent from one Member State (MS) to another or imported to, or exported from, the EU.

1.2 Tax rates (excise and VAT) applied to such goods were not harmonised, and still remain very widely different<sup>2</sup>. This gives the prospect of significant profits, in some cases, from fraud. The weaknesses in the system are now being exploited on a major scale, increasingly by organised crime.

1.3 In 1996 the High Level Group (HLG) - study involving the authorities in all MS estimated that revenue losses from tobacco and alcohol products totalled about **□4.8 billion for that year**<sup>3</sup>. In the same year the total of revenues received by MS from excise goods was about **□234 billion**, equating to about 8.1% of their total tax revenues<sup>4</sup>. For different MS the sums received and the percentage of revenues that these represented varied quite widely.

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1 Council Directive 92/12/EEC

2 For example, the differences between highest and lowest MS taxes are:

- mineral oils: unleaded petrol 2.1:1; diesel 2.6:1
- alcohol: spirits 9.1:1; beer 17:1. For still wine the rates range from zero to 2900 euros per hectolitre pure alcohol
- tobacco (overall excise rate): 4.6:1

3 Of this total 69% was from fraud on tobacco products and 31% from alcohol products.

4 This total includes the excise duties on fuel oils, which were not considered in the study.

1.4 In 1998 the ECOFIN Council accepted the recommendation of the Commission to introduce a computerised control system for excisable goods<sup>5</sup> (to reduce fraud), as a long-term goal subject to the outcome of a Feasibility Study. The Feasibility Study<sup>6</sup> was completed in 2000. COM(2001) 466 final makes a proposal for the introduction of such a computer-based system. It is normally referred to as EMCS (Excise Movement and Control System). The proposal has the dual aim of reducing fraud and simplifying the system.

## 2. General comments

2.1 The current system is not good, relying as it does on passing paper documents to discharge movements under duty suspension. Where the correct documents are not returned, or are returned with faults, the sender (who has no control over such failings) can face very significant financial penalties. The operators therefore strongly support the proposed move to a computer-based system of recording transactions. They hope that such a move will help legitimate trade while allowing MS to exercise effective control. They stress that EMCS would have to be applied uniformly by all MS and all operators<sup>7</sup>.

2.2 However, since EMCS cannot be operational before 2007 at the earliest, the Committee stresses the need for the Commission (in consultation with MS and economic operators) to continue to strive for improvements to the current system<sup>8</sup>; these will also help the introduction of EMCS. Such interim improvements should not be allowed to increase the current levels of bureaucracy or complexity<sup>9</sup>.

2.3 All MS also support the system, although it is clear that some have more to gain than others since the scale of fraud varies considerably as does the trade in alcohol and tobacco products.

2.4 As the Commission proposal acknowledges, EMCS would be a "huge, highly complex and costly project". It would have to include various elements of all the MS Administrations, the Commission, OLAF and economic operators (producers, bottlers, warehouses, traders, etc.) in all 15 MS. Security would also be a vital element.

2.5 The system would have to be very robust to ensure that it is available 24 hours a day, 365 days a year and with a very short recovery time for any stoppages (emergencies or maintenance). The number of transactions is estimated in the Feasibility Study as 16 million per year (EU 15 for

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<sup>5</sup> Excise goods are mineral oils, alcoholic products and tobacco products.

<sup>6</sup> Carried out by Alcatel TITN Answare

<sup>7</sup> The application of the current system is not uniform, for example in the approaches of MS to alternative evidence of discharge.

<sup>8</sup> Most important among these are improvements to the System for Exchange of Excise Data (SEED) and flexibility for traders concerning alternative evidence for the discharge of AAD movements.

<sup>9</sup> In particular, the so-called Early Warning System should be reconsidered.

tobacco and alcohol). When mineral oils are added, and allowing for the addition of new MS, this figure will be very much larger.

2.6 There are estimated to be 80,000 economic operators at present, to which number we would have to add the economic operators from however many Candidate Countries will have acceded to the EU before 2007, since this is the earliest date when the system could be operational<sup>10</sup>. The Commission estimates that the total number of economic operators - after enlargement - will be close to 200,000.

2.7 The Committee fully supports the proposal to move to EMCS as soon as possible, both because of the need to fight fraud and because of the need for improvement to the operation of movements under duty suspension that is necessary towards completing the internal market. Further, it will be welcomed by EU citizens who will value improvements that can help in the fight against fraud.

### 3. Costs

3.1 The costs estimated for the project are high. For the Commission, they are **□35 million** for development and deployment and thereafter **□4 million per year for operating costs**. For each Member State, and according to the Feasibility Study, the development and deployment phases should cost each between **□5 and 12 million and thereafter □1.7 to 10 per year**. Each Member State is currently estimating its own costs.

3.2 For economic operators, all of whom would have to be part of the system, the costs involved should be comparatively small, except where a major operator decides to develop its own individual application to interface with the Community system. Estimates in this case are **□140,000** for development and **□15,000 per year for operating costs**.

3.3 The estimates presume that economic operators will receive the necessary training from their own MS at the MS's expense, as well as the necessary software.

3.4 There should be savings for economic operators compared with the current paper-based system which would reduce compliance costs; these savings are not estimated in the proposal. MS would expect to recover their costs through reducing fraud. Therefore, assuming that the estimates are fair, the system would be cost effective.

3.5 The Committee notes that the proposal (financial statement) only includes the detailed expected costs up to the end of 2006. This should be extended to at least 2007 (see paragraph 2.2 above) and should also indicate the later expected costs for including future accession countries into the system.

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<sup>10</sup> The proposal says that work on development and implementation must start within nine months of the decision entering into force (see Article 2 of the proposal) and will take five years to complete.

3.6 Because of the key role to be played by the Commission in the proposed system, there must be no reduction in the staffing projected as necessary. Indeed, to allow the Commission to continue to make very necessary improvements to the current paper-based system (see point 2.2 above) while working on EMCS, there is a good case for them to be allocated more staff than foreseen in the proposal.

#### 4. **Participation**

4.1 As the proposal makes clear, EMCS will only be effective if all MS and the Commission give binding commitments to their legal and financial obligations under the proposal. Given the scope and complexity of EMCS it must be accepted that the resource estimates in the Feasibility Study may be quite inaccurate.

4.2 Because of the timescale it seems certain that several Candidate Countries will accede to the EU before the system comes into operation. Article 9 should reflect this by making clear that Candidate Countries will (not "may") be kept fully informed and that not only may they take part in the tests to be carried out, but that they will be eligible for assistance in the preparation and deployment of the system. Such an undertaking will have financial consequences; these should be recognised.

4.3 A further concern is that some Candidate Countries still do not have systems for the control of excisable goods that meet the requirements of EC Directive 92/12. No doubt this is being covered in the accession negotiations, but the countries concerned will need to have experience of the EU system before they can expect to take part in EMCS.

4.4 The addition of the new MS to EMCS could well lengthen the time before the system is operational.

#### 5. **Security**

5.1 Responsibility for the security aspects will be of particular importance. These must cover the legal operation of the system and the ownership and handling of the commercially confidential information that will be held on the system. Because of the wish to use the very latest security arrangements that are available when the system is launched, it is noted that details cannot be included in the proposal at this stage.

5.2 The system must make it possible to identify clearly who is legally responsible for any goods that are under duty suspension anywhere in the internal market area.

#### 6. **Technical**

6.1 There is a very high assurance that EMCS is technically feasible. To some extent this judgement is based on the successful introduction of the New Computerised Transit System (NCTS).

6.2 The relationship between EMCS and the New Computerised Transit System (NCTS) should be made clearer in the proposal (and not just in the explanatory memorandum) since, for example, it is planned that both systems will share some reference lists, yet participation in the two systems will be different. Compatibility with other systems, such as the G7 project on Customs simplification, will also need attention.

6.3 The present proposal only covers excise goods moved under duty suspension within the single market. The proposal needs to make clear the need for adequate links between the EU system (linked warehouses), and EU production facilities and entry and exit points for imports and exports (respectively) from third countries.

6.4 It notes that some MS intend to offer all services electronically by 2005. It will be important to ensure that such services are fully compatible with the proposed EMCS.

## 7. Summary

7.1 The Committee fully supports the proposal, both because of the need to fight fraud more effectively and because of the improvement expected for economic operators within the single market.

7.2 However, it makes the following comments:

- It is vital that each MS, and each Candidate Country before their accession, give a binding commitment to their legal and financial obligations under the proposal. Without this the proposal cannot work.
- Because of the inadequacies of the existing paper-based system, and the long period before EMCS can be in operation, the Committee urges the Commission to continue their efforts to improve the current system as early as possible.
- Detailed costs expected should be extended to include at least 2007.
- Full account must be taken of the expected accession of several Candidate Countries in the timescale foreseen; they will need to be kept fully informed and should be offered help in the preparation and deployment of EMCS.
- All aspects of security of EMCS must be fully covered.
- The relationship of EMCS with NCTS and other systems should be clarified.
- Any special provisions for movement from production facilities, and for exports and imports to/from third countries must be clarified.

Brussels, 29 May 2002.

The President  
of the  
Economic and Social Committee

The Secretary-General  
of the  
Economic and Social Committee

**Göke Frerichs**

**Patrick Venturini**

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