
Consultation strategy

1. Background to the initiative

Introduction and context

The Commission intends to carry out a consultation of economic operators, the administrations in the Member States and of EU citizens, in connection with the preparation of an Impact Assessment on the possible revision of Directive 1992/83/EEC. This directive sets out EU rules on the structures of excise duty applied to alcohol and alcoholic beverages. In particular, it defines and classifies various alcohol products according to their characteristics, and sets reduced rates and exemptions. The Directive aims to ensure both the proper functioning of the internal market. A proper functioning internal market presupposes that the way in which Member States tax the consumption of products in this area neither distorts competition nor impedes the products' free movement within the EU. In this context, the Directive should ensure that alcohol products are correctly taxed in the Member State of final consumption.

In order to assess if the Directive is still fit for purpose, the Commission carried out a Regulatory Fitness and Performance Programme (REFIT)-evaluation. The final evaluation report was published in 2016. Stakeholders were consulted continuously during this evaluation. The consultations took the form of questionnaires, interviews and round table meetings. The range of stakeholders included a public consultation as well as tax authorities, NGOs, trade associations and industry.

Furthermore, article 22(7) of Directive 1992/83/EEC contains a requirement for the Commission to review a specific arrangement relating to a reduced rate applied to ethyl alcohol produced by fruit growers' distilleries in Hungary, Romania and Slovakia, and report to the Council on possible modifications. The Report from the Commission to the Council has been submitted in November

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1 Articles 26 and Article 113 of the Treaty on the Functioning of the European Union
2 With exception of the situation as described in Article 32 of Directive 2008/118/EC
3 REFIT is a programme to review the entire stock of EU legislation – to identify burdens, inconsistencies, gaps or ineffective measures and to make the necessary proposals to follow up on the findings of the review.
4 The report can be found here: Final Evaluation Report
5 Report to the Council
2016. During discussion of the report in the Council, Member States expressed their support for a possible revision of the Directive, including:

- The need to clarify and harmonise further the classification rules for products manufactured as mixtures of different categories of alcoholic beverages or as mixtures of alcoholic beverages and non-alcoholic beverages.
- The need for clarifying the category "other fermented beverages" and the term "of entirely fermented origin".
- Redefinition and clarification of the procedures for the exemptions applied to denatured alcohol.
- Simplification of the structure of the current excise duties on reduced rates for small producers of all alcohol by extending the scope to include wine, intermediate products and ethyl alcohol, and making the application of the reduced rate optional across the board.
- Investigate further the potential impact of extending the rules for the exemption for private production / own consumption to ethyl alcohol and intermediate products.
- Clarification / re-statement of the policy objectives behind reduced rates for lower strength alcohol.

Therefore, the Report will be followed by an Impact Assessment. In the context of the Impact Assessment on the possible revision of Directive 1992/83/EEC it is clear that additional consultation is necessary.

**Objectives and scope**

The consultation activities will seek to collect evidence on the existence of the problem as well as its scale. In addition, there will be a consultation on the policy options to solve the identified problems and an assessment of the impact of these options. The collection of opinions and views of stakeholders regarding the options and their impacts will also be part of the consultation efforts.

The consultation will be structured around the following main questions.

- Should the classification of the category "other fermented beverages" be changed to include or exclude certain alcohol and / or alcoholic products?
- Should a new category for example for cider, perry, fruit wines be established?
- Are certain products ('borderline products') taking advantage of the differences in tax rates between different categories (ready to drinks, likerettes), while competing with products in a higher taxed category? If yes, should action be taken on EU level?
- Is there a need for EU-action to avoid that denatured alcohol is being diverted to the illegal circuit - with or without the denaturing substances being removed - but sold on as potable alcohol at retail without excise duties?
- Does the continued existence of the two categories of denatured alcohol, for completely denatured and denatured alcohol not for human consumption, pose problems?
- Is clarification of the mutual recognition rules regarding denatured alcohol within the EU and from 3rd countries justified?
- Should the reduced rates for small producers be extended to all alcohol?
• Should the reduced rates for lower strength alcohol be redefined?

• Should the rules for private production / own consumption be extended to all alcohol

Besides the questions listed above there are a few technical issues which will be covered by the consultation for example references to invalid / obsolete CN codes and obsolete legislation.

We fully recognise the risk that opinions, views and positions may be highly subjective. A qualitative assessment of the responses will be considered in the analysis phase, possibly using a triangulation approach, in terms of sources as well as methods.

The consultation will focus on legislation on EU level. In absence of strong indications that there is a desire to expand national measures to the EU level, national measures are considered to be out of the scope of the consultation work.

2. Stakeholder identification

As a first step, it is necessary to identify stakeholder groups who might be concerned by Directive 1992/83/EEC. These are stakeholder groups who are impacted by or could be impacted by revision of Directive 1992/83/EEC. It also includes stakeholder groups which are particularly interested in harmonized structures of excise duties on alcohol and alcoholic products.

Stakeholders' categories:

Public authorities: Politicians and national governments have a major influence on the functioning of Directive 1992/83/EEC in practice because the implementation and enforcement is in their hands. Especially tax authorities (enforcement), ministries of finance (revenue) and ministries of health (health effects of the structures of excise duties on alcohol, in particular reduced rates for lower strength alcohol) have a high interest. Due to the fact that harmonisation of national legislation on indirect taxation has to be agreed by the Council according to the unanimity rule, national governments have also a large influence on the (re)design of Directive 1992/83/EEC.

Industry/business/associations: This stakeholder group, active in the market of alcohol and alcohol products covered by Directive 1992/83/EEC, has a high interest in Directive 1992/83/EEC. Operators releasing alcohol products for consumption are liable for the excise duties. They are affected by all subjects of the Directive, definitions & classification, reduced rates, exemptions, derogations, refunds etc. For the same reasons, associations representing the interests of the industry will also have a high interest in Directive 1992/83/EEC. Amending the scope of the directive might limit or extend the group of affected stakeholders. This will be taken into account with the consultation.

NGOs: NGOs active in the health area have an interest in Directive 1992/83/EEC even though there is no direct link between the Union’s fiscal legislation on alcohol products and a need to ensure, besides the proper functioning of the internal market, a high level of health protection. A certain degree of convergence between the tax levels applied in the Member States is considered to be helpful to reduce fraud, smuggling and ensure a high level of protection of human health within the EU. Also, the level of taxation plays an important role in the price of alcohol products which influences consumers' drinking habits.

Citizens/General Public: The general public is the largest stakeholder group. Even if not directly affected by Directive 1992/83/EEC, the structure and level of excise duties and the scope of the
The above Directive indirectly affects the general public. The level of taxation plays an important role in the price of alcohol. The abuse of the exemption on denatured alcohol and that alcohol being placed on the illicit market as potable alcohol has a direct effect on the general public. Due to the more indirect relation, and as Directive 1992/83/EEC leaves Member States flexibility in implementation, the interest of the general public is often low. The influence of the general public on Directive 1992/83/EEC is also quite low.

### 3. Consultation methods and tools

<table>
<thead>
<tr>
<th>Stakeholder type</th>
<th>Method of consultation</th>
<th>Consultation period</th>
<th>Content</th>
<th>Language regime</th>
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<tbody>
<tr>
<td>Public Authorities in Member States</td>
<td>Targeted questionnaires followed up by telephone and in-depth interviews as appropriate</td>
<td>Q1 &amp; Q2 2017</td>
<td>The problem to be tackled; The issue of subsidiarity and the EU dimension to the problem; The available policy options; and The impacts of the policy options</td>
<td>EN / FR &amp; DE</td>
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<td>Roundtable meeting</td>
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<td>Economic operators and related organizations/associations</td>
<td>Targeted questionnaires followed up by telephone and in-depth interviews as appropriate</td>
<td>Q1 &amp; Q2 2017</td>
<td>The problem to be tackled; The issue of subsidiarity and the EU dimension to the problem; The available policy options; and The impacts of the policy options</td>
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4. Next steps

All relevant consultation activities will be announced via the electronic newsletter "Taxation" or/and "Customs union" issued by DG TAXUD. Anyone interested to be notified by e-mail on new public consultations, can follow RSS Feed or subscribe to Commission at work – Notifications. The consultation will be conducted by the European Commission.

More information about the activities that the European Commission is carrying out in relation to this initiative can be found here:

http://ec.europa.eu/taxation_customs/taxation/excise_duties/alcoholic_beverages/alcoholic_beverages/index_en.html#revision