



EUROPEAN COMMISSION
 DIRECTORATE-GENERAL
 TAXATION AND CUSTOMS UNION
 Indirect Taxation and Tax administration
Indirect taxes other than VAT

Brussels,
 taxud.c.2(2017)3859110 [REDACTED]

MEETING REPORT

- 1. Subject** Directive 2011/64/EU
- 2. Date and Place** 29 June 2017, Brussels
- 3. Participants** DG TAXUD: [REDACTED]
 SWM INTL: [REDACTED]

4. Summary of the discussion

SWM INTL requested a meeting on the possible revision of Directive 2011/64/EU. SWM INTL made a presentation (attached) on the effects a revision of Directive 2011/64/EU could have on their company. SWM INTL is a company that produces reconstituted tobacco and cigarette paper. The production process of reconstituted tobacco was explained and it was clarified that the majority of the output products of SWM INTL are not capable of being smoked without further industrial processing and therefore not excisable. For the tobacco products which are capable of being smoked, SWM INTL uses EMCS and complies with the requirements of Directive 2011/64/EU and 2008/118/EC. The contacts between the company and the FR authorities have been good and there are no issues in this regard.

Raw tobacco

SWM INTL is concerned of the effects the inclusion of raw tobacco within the scope of excisable goods could have. This would only increase the administrative burden on legitimate operators. Moreover, they do not believe that the ability to use EMCS would reduce illicit trade. SWM INTL is not aware of any fraudulent activities related to reconstituted tobacco in FR. They believe a licensing system for all stakeholders could be a solution to improve the traceability of products.

Definitions of smoking tobacco

In the Inception Impact Assessment it is signalled that there might be problems related to interpretation of Article 5 (1) (a) and (b) of Directive 2011/64/EU. SWM INTL would like to clarify what the plans of the Commission are in this regard. TAXUD explained that the process toward an Impact Assessment and possible revision of a directive is a very transparent process. Therefore, the options as listed in the Inception Impact Assessment are ideas which will be tested in the Impact Assessment, but only after it has been demonstrated that there is still a problem in the area which would require such an

intervention. According to SWM INTL adding to Article 5 (1) (a) that 'further industrial processing' has to take place in a tax warehouse, would not make sense because it would not clarify the distinction between capable of being smoked or not, which is where the real problem exists. SWM INTL has with only one MS a discussion about the question whether a product is capable of being smoked or not.

Removing the wording 'retail' of Article 5 (1) (b) would lead to an increase in the burden and loss of competitiveness of the EU raw tobacco sector in the view of SWM INTL. It would mean that all raw tobacco would be considered as capable of being smoked. TAXUD clarified that this article only applied to tobacco refuse as defined in the directive.

SWM INTL considered that providing guidance on the interpretation of the definitions of Directive 2011/64/EU would be useful to avoid disputes. Alternatively, they believe that a solution could be found in setting up a table with pictures of products and their corresponding category in the Directive including if they are capable of being smoked.

Finally, TAXUD emphasized that the decision whether a proposal for revision of the directive had not yet been taken.

Report by: [REDACTED]

c.c.: [REDACTED], TAXUD LIST C2