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EXCISE COMMITTEE

(ARTICLE 24 OF DIRECTIVE 92/12/EEC)

GUIDELINES ADOPTED AT THE MEETING OF
12, 13 AND 14 NOVEMBER 2003
QUESTIONS CONCERNING THE APPLICATION OF THE COMMUNITY PROVISIONS ON EXCISE DUTIES

1. **Origin:** The Commission  
   **Reference:** Article 27(1)(e) of Directive 92/83/EEC  
   **Subject:** Intra Community movement of flavours covered by Article 27(1)(e) of Directive 92/83/EEC  
   CED 364 rev 1 and 432

The delegations accept almost unanimously that the exemption provided for in Article 27(1)(e) of Directive 92/83/EEC applies from the production stage or the importation onwards to flavourings of CN codes 1302 1930, 2106 9020 and 3302, in the versions in force at the time this guideline is adopted.

2. **Origin:** Belgium; Ad hoc working party on customs/tax coordination; Bordeaux: FISCALIS seminar (2 to 4 June 2003)  
   **Reference:** Article 19(2) of Directive 92/12/EEC  
   **Subject:** Alternative evidence in the absence of the regular return of copy 3 of the Administrative Accompanying Document (AAD)  
   CED 353 rev 4, 388, 389 and 391 rev 1

The delegations unanimously accept that:

- In exceptional circumstances, in the event of the non return of copy 3 of the AAD, alternative proof can be presented of the regular completion of the movement under the suspension arrangements, (other copies of the AAD, customs documents, transport documents, etc.).

The acceptance of this proof, however, is subject:

- for intra-Community movements, in cases of doubt, to endorsement by the Member State of destination with the statement that the excise duty products dispatched under the suspension arrangements have reached the stated destination;

- For exportation, to endorsement by the Member State in which the customs office of exit from the Community is located or by the third country of importation of the products, certifying that the products have left the territory of the EU.

- When a consignor is confronted with the non-return of copy 3 of the AAD, and has exhausted all the means at his disposal for providing proof of the regular discharge of the movement under the suspension arrangements, he can apply to the competent authority of his Member State to assist him in his search with the excise duty liaison office of the Member State of destination or the Member State in which the customs office of exit from the Community is located. This procedure is not binding on the administration, and in no way releases the consignor from the tax responsibilities incumbent upon him.
3. **Origin**: Belgium; Bordeaux FISCALIS seminar (2 to 4 June 2003)  
**Reference**: Article 20(3) of Directive 92/12/EEC  
**Subject**: Implementation of the procedure for recovery referred to in Article 20(3) of Directive 92/12/EEC  
CED 388, 389 and 391 rev 1

The delegations unanimously accept that:

- for the application of Article 20(3) of Directive 92/12/EEC, a notification to the trader for recovery of excise duties must be made at the expiry of the maximum period of 4 months mentioned in that Article. Where it is considered necessary to allow the trader concerned more time to prove the regularity of the transaction, actual recovery of the duties may be postponed for a maximum of three years from the date on which the AAD was drawn up, without prejudice to the bringing of legal or criminal proceedings.

- when a Member State carries out the procedure to recover excise duty on the basis of the provisions of Article 20(3) of Directive 92/12/EEC, the information concerning this recovery of duty must be systematically transmitted to the Member State of destination as shown on the AAD for which the discharge has not occurred. This information should be exchanged on the basis of the provisions of Directive 77/799/EEC.

4. **Origin**: Ad hoc working party on customs/tax coordination; Bordeaux FISCALIS seminar (2 to 4 June 2003)  
**Reference**: Article 19(4) of Directive 92/12/EEC  
**Subject**: Return of copy 3 of the AAD by the customs authorities  
CED 353 rev 4 and 391 rev 1

In line with the decision of the Directors General for Customs and Indirect Taxation at their meeting of 29 November 2003, the delegations unanimously accept that, pending examination of the need to amend Article 19(4) of Directive 92/12/EEC and Article 793(6a) of Regulation (EEC) 2454/93, the certified copy 3 of the AAD can be returned by the customs office of exit from the Community to the physical or legal person entered in box 7 of the AAD as the consignor. This must only be done if the consignor so chooses, and confirms this by entering the following statement below his signature in Box 24: "Copy 3 to be returned to the person specified in box 7".

5. **Origin**: United Kingdom  
**Reference**: Articles 2(1)(c) and 5(1) of Directive 95/59/EEC; Article 3(1), third indent of Directive 92/12/EEC

**Subject**: Fiscal treatment of "cut rag tobacco"

The delegations unanimously accept that "cut rag tobacco", being the cut and processed tobacco that, without any further processing, is fed into cigarette-making machines, within the cigarette factories, to produce cigarettes for subsequent sale to consumers, has to be considered to be manufactured tobacco as referred to in Articles 2(1)(c) and 5(1) of Directive 95/59/EEC and Article 3(1), third indent of Directive 92/12/EEC.