

Proposal for a Decision of the European Parliament and of the Council on computerising the movement and surveillance of excisable products

(2002/C 51 E/29)

COM(2001) 466 final — 2001/0185(COD)

(Submitted by the Commission on 19 November 2001)

THE EUROPEAN PARLIAMENT AND THE COUNCIL
OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Acting in accordance with the procedure provided for in Article 251 of the Treaty,

Whereas:

- (1) Council Directive 92/12/EEC of 25 February 1992 on the general arrangements for products subject to excise duty and on the holding, movement and monitoring of such products ⁽¹⁾ provides that products moving between the territories of the Member States under excise-duty suspension arrangements must be accompanied by a document completed by the consignor.
 - (2) Commission Regulation (EEC) No 2719/92 of 11 September 1992 on the accompanying administrative document for the movement under duty-suspension arrangements of products subject to excise duty lays down the form and content of the accompanying document provided for in the Directive 92/12/EEC ⁽²⁾.
 - (3) In view of the findings and recommendations set out in a report delivered on 24 April 1998 by a High Level Group on fraud in the alcohol and tobacco sectors, it is plainly necessary to replace the existing paper-based system with a computerised system for monitoring the movement of excisable goods, such as will allow Member States to obtain real-time information on those movements and to carry out the requisite checks, including checks during movement of products, within the meaning of Article 15 of Directive 92/12/EEC.
 - (4) The setting-up of a computer system should also allow the intra-Community movement of goods under suspension of excise duties to be simplified.
 - (5) For the purposes of implementing this Directive, the Commission should coordinate Member States' activities,
- so as to ensure the smooth operation of the internal market. It should also support the use of data to combat fraud, particularly by applying risk analysis at the Community level.
- (6) Because of the size and complexity of such a computerised system, both the Community and the Member States will need large additional human and financial resources for the purpose. Accordingly, provision should be made whereby the Commission and the Member States make the necessary resources available for the development and deployment of the system.
 - (7) The division between the Community and non-Community components of the computerised system should also be defined, as should the respective duties of the Commission and the Member States with regard to the system's development and deployment. In that context, the Commission should fulfil a major role in coordinating, organising and managing the system.
 - (8) Arrangements should be made for evaluating the implementation of the computerised system for monitoring excisable goods.
 - (9) The funding of the system should be shared between the Community and the Member States, the Community's share being specifically entered as such in the General Budget of the European Union.
 - (10) This Decision establishes an overall financial amount covering the entire period needed for the development and the deployment of the system, and representing the budgetary authority's 'special reference' within the meaning of Point 33 of the Interinstitutional Agreement of 6 May 1999 between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure ⁽³⁾.
 - (11) Since the measures necessary for the implementation of this Decision are management measures within the meaning of in Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁴⁾, they should be adopted by use of the management procedure provided for in Article 4 of that Decision,

⁽¹⁾ OJ L 76, 23.3.1992, p. 1; Directive as last amended by Directive 2000/47/EC (OJ L 197, 29.7.2000, p. 73).

⁽²⁾ OJ L 276, 19.9.1992, p. 1; Regulation as amended by Regulation (EEC) No 2225/93 (OJ L 198, 7.8.1993, p. 5).

⁽³⁾ OJ C 172, 18.6.1999, p. 1.

⁽⁴⁾ OJ L 184, 17.7.1999, p. 23.

HAVE ADOPTED THIS DECISION:

Article 1

1. A computerised system for the movement and surveillance of excisable products of the kind referred to in Article 3(1) of Directive 92/12/EEC, hereinafter referred to as 'the computerised system', is hereby established.

2. The computerised system shall:

- (a) permit the electronic transmission of the accompanying administrative document provided for in Regulation (EC) No 2719/92, and the improvement of checks;
- (b) combat fraud by enabling the Member States to monitor the flow of excisable products in real time and carry out the requisite checks where necessary;
- (c) simplify the intra-Community movement of products under excise-duty suspension arrangements, in particular by facilitating and speeding up the discharge of such movements.

Article 2

The Member States shall establish the computerised system within five years of the entry into force of this Decision.

Work on developing the computerised system shall begin not later than nine months after the entry into force of this Decision.

The Commission and the Member States shall make available the human, budgetary and technical resources needed to establish and run the computerised system.

Article 3

The computerised system shall be made up of Community and non-Community components.

The Community components of the system shall be the common specifications, the technical products, the services of the CCN/CSI (Common Communications Network/Common Systems Interface) network, and the coordination services used by all the Member States, to the exclusion of any variant or special feature of any such services designed to meet national requirements.

The non-Community components of the system shall be the national specifications, the national databases forming part of the system, network connections between Community and non-Community components and any software or equipment which a Member State considers necessary to ensure full use of the system throughout its administration.

Article 4

1. The Commission shall coordinate the setting-up and running of the Community and non-Community components of the computerised system, and in particular:

- (a) the infrastructure and tools needed to guarantee the system's internal links and overall interoperability;
- (b) the exploitation of data to combat fraud, particularly by applying risk analysis at the Community level.

2. To achieve the aims of paragraph 1, the Commission shall conclude the requisite contracts and shall draw up, in cooperation with the Member States, management plans for setting up and running the system.

The management plans shall state which initial tasks and which routine tasks the Commission and the individual Member State, respectively, are responsible for completing, the completion date for each task and what evidence of completion may be required.

Article 5

1. The Member States shall ensure that they complete, by the date specified in the management plans mentioned in Article 4(2), the initial and routine tasks allocated to them.

They shall report to the Commission when each task has been completed and shall provide proof of the date of its completion.

2. No Member State shall take any action relating to the setting-up or running of the computerised system that might affect the system's internal links and overall interoperability or its functioning as a whole.

Any measure that a Member State might wish to take and that could affect either the computerised system's internal links and overall interoperability or its functioning as a whole shall only be taken with the prior agreement of the Commission.

3. Member States shall inform the Commission regularly of any measure they may have taken to enable their respective administrations to make full use of the computerised system.

Article 6

The Commission shall introduce any measures that are needed for the implementation of this Decision in accordance with the procedure set out in Article 7. These implementing measures shall not affect the Community provisions governing the raising and checking of indirect taxes or administrative cooperation and mutual assistance in matters of indirect taxation.

Article 7

1. The Commission shall be assisted by the Standing Committee on Administrative Cooperation in the field of Indirect Taxation established by Article 10 of Council Regulation (EEC) No 218/92 ⁽¹⁾.
2. Where reference is made to this paragraph, the management procedure provided for in Article 4 of Decision 1999/468/EC shall apply, in compliance with Articles 7 and 8 thereof.
3. The period referred to in Article 4(3) of Decision 1999/468/EC shall be three months.

Article 8

1. The Commission shall take whatever other steps are necessary to verify that the measures financed from the Community budget are being carried out correctly and in compliance with the provisions of this Decision.

It shall regularly, in collaboration with the Member States, monitor the various development and deployment stages of the computerised system with a view to determining whether the objectives pursued have been achieved, and to issuing guidelines on how to raise the effectiveness of the activities involved in implementing the computerised system.

2. Thirty months after the entry into force of this Decision, the Commission shall submit to the Committee referred to in Article 7 an interim report on the monitoring operations. If appropriate, this report shall set out methods and criteria for use in the later evaluation of how the computerised system is functioning.
3. At the end of the five-year period referred to in the first paragraph of Article 2, the Commission shall present to Parliament and the Council a report on the implementation of the computerised system. The report shall set out, *inter alia*, the methods and criteria to be used in the later evaluation of how the system is functioning.

Article 9

The countries that have applied for membership of the European Union may be kept informed by the Commission

of the development and deployment of the computerised system and may take part in the tests to be carried out.

Article 10

1. The costs of setting up the computerised system shall be split between the Community and the Member States in accordance with paragraphs 2 and 3.
2. The Community shall bear the costs of the design, acquisition, installation and maintenance of the Community components of the computerised system and the ongoing operating costs of those Community components installed in Commission premises, or in those of a designated subcontractor.
3. Member States shall bear the costs of setting up and running the non-Community components of the system and the ongoing operating costs of those non-Community components installed in their premises, or in those of a designated subcontractor.

Article 11

1. The overall reference amount for financing the computerised system for the period defined in the first paragraph of Article 2 shall be set at EUR 35 000 000 in so far as the Community budget is concerned.

The annual appropriations, including appropriations assigned to the use and operation of the system after the above implementation period, shall be approved by the budgetary authority subject to the financial perspective.

2. Member States shall estimate and make available the budgets and human resources needed to meet their obligations described in Article 5.

Article 12

This Decision shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

Article 13

This Decision is addressed to the Member States.

⁽¹⁾ OJ L 24, 1.2.1992, p. 1.

ANNEX

Technical aspects

The data transmission system will use an architecture in which the Member States will be responsible for all telephone switchboards and electronic switching stations used by traders in the respective Member States, or by the Member States themselves, to receive or transmit data, and for all data exchanges with other Member States. No external intermediaries will be used to carry out these tasks.

If the system is to be used for commercial operations, very high standards of security and confidentiality have to be built into it. In particular it must be guaranteed to be tamper-proof, the data transmitted must enjoy absolute privacy and the system must be permanently available, 24 hours a day, 365 days a year. Similarly, recovery times after any breakdowns must be very short.

1. Architecture

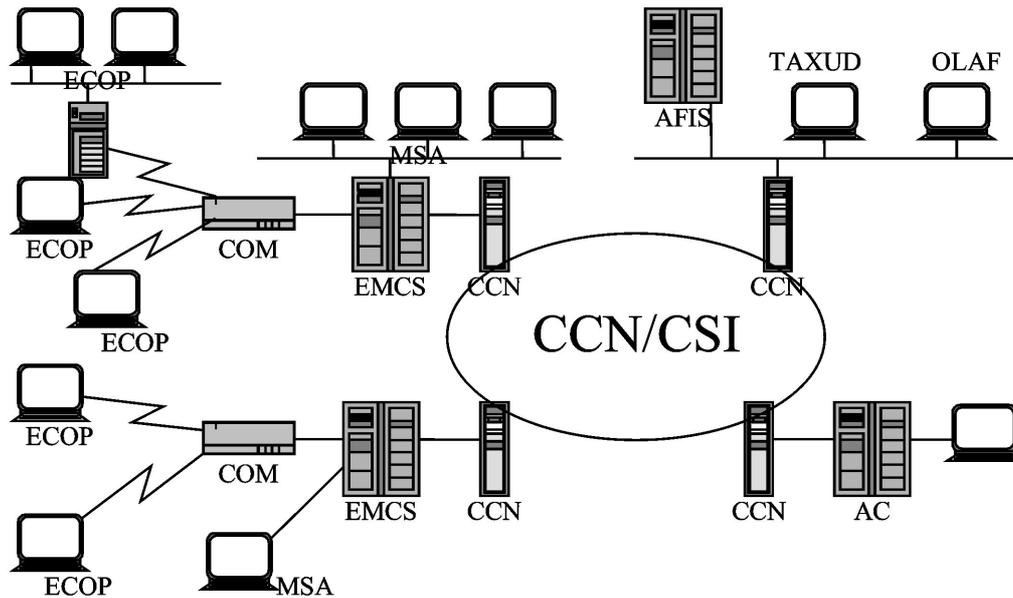
Given the conclusions of the feasibility study and the data transmission system selected, the principles underlying the proposal are:

- All listed operators (authorised warehousekeepers and their bonded warehouses, registered traders and their tax representatives) must be connected up to the system.
- All data transmitted between traders connected up to the system must be transmitted via at least one Member State.
- Certain other traders, particularly non-registered traders (occasional consignees) will not have direct access to the system. In their case, certain data must be transmitted directly between traders.
- Where data are so transmitted, only one of the traders, generally the consignor, will be responsible for putting the data into the system.
- Listed operators will be responsible for providing all data on the movement of goods, particularly the data required for submitting and, where necessary, updating the movement information (the electronic AAD ⁽¹⁾), and for returning the 'discharged' message.
- All administrative data other than movement data, will be transmitted directly between Member States. The data may never be transmitted via traders.
- Information that is in the public domain may be made available for consultation at an information centre accessible to the public.
- Where use of the computerised system is concerned, a trader may communicate directly only with the Member State responsible for the place from which, or to which, the products are consigned, as appropriate.

It is recognised that the CCN/CSI infrastructure already in use to link the Member States would give the projected system a head start. It is proposed that the AFIS infrastructure should be used temporarily for movement verification, mutual assistance and any other related exchanges.

⁽¹⁾ Accompanying administrative document

The resulting architecture is therefore as follows:



Each Member State has one applications server (the computerised system for the movement and surveillance of excisable products) to process messages issued by its officials or by traders. Each server is linked up to the CCN/CSI⁽¹⁾ network by a CCN gateway. The officials' work stations (in the Member States) are connected up to the server for the computerised system by the internal AEM network. The various help centres and helpdesks are connected up to the system's server and/or the CCN gateway (not shown in the diagram).

Traders (ECOP) are connected up to their respective Member States by a front-end communications channel (COM) which is duplicated so that, if one channel is down, the other ensures that the site remains available. Most traders use only one work station or one stand-alone PC but larger traders will have their own server and network.

The European Commission departments (the Directorate-General for Taxation and Customs Union (TAXUD) and the European Anti-Fraud Office (OLAF)) are directly linked to a CCN gateway. The AFIS⁽²⁾ server is linked to the same gateway.

The applications centre (AC) is connected up to its own CCN gateway.

Each Member State is responsible for all the functions falling within its local domain.

2. Functions

To permit development and deployment to be staggered over the period, the system would be broken down into three groups of functions, as follows:

- Group I: The essential reference module for the AAD electronic routing system, chiefly comprising the basic data of the individual specifications in the Directive and the details of the mutual obligations on data exchange. Access to the VIES⁽³⁾ system may be added to this group.
- Group II: The AAD electronic routing system itself and all the data required for drawing up a movement document.
- Group III: The additional modules for which the electronic AAD (Group II) is the pre-requisite but which do not themselves have any effect on the AAD routing system.

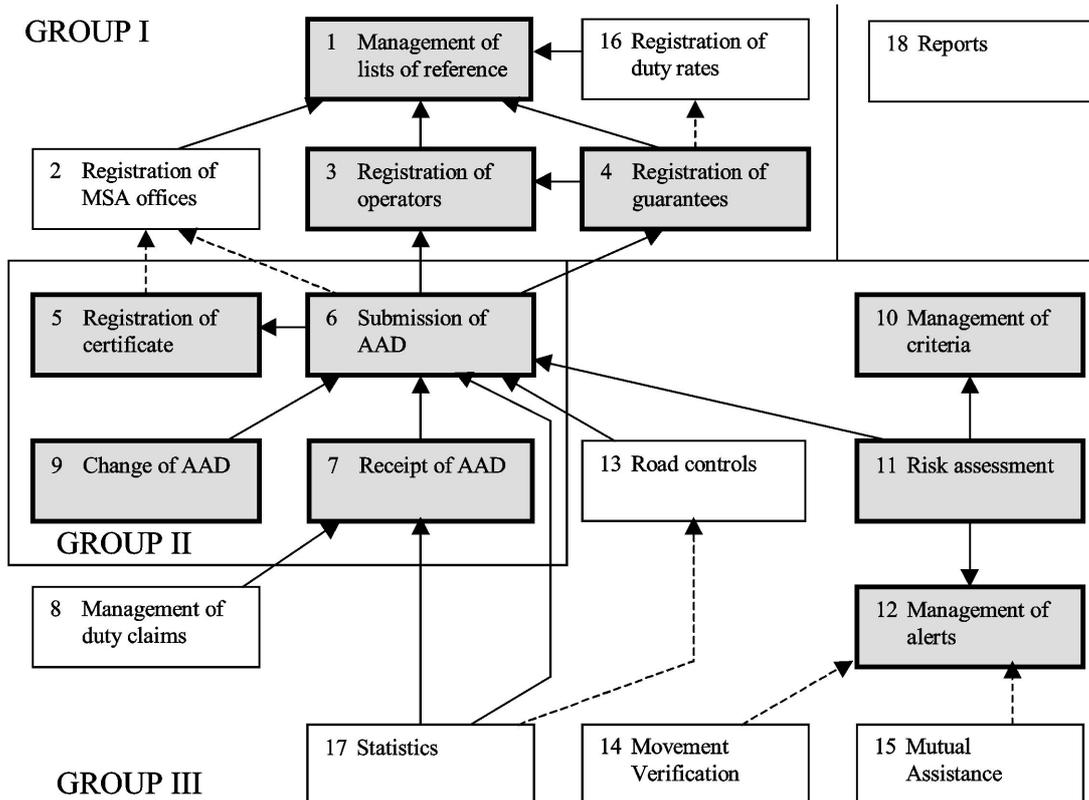
⁽¹⁾ Common Communications Network/Common Systems Interface.

⁽²⁾ Anti-Fraud Information System.

⁽³⁾ VAT Information Exchange System.

The function modules which make up the different Groups are illustrated below in descending hierarchical order. Dark arrows indicate that the return module cannot function if the reference module is not operational. Dotted arrows show that the reference modules can be left out temporarily although it would be advisable to develop them. Modules shaded in grey are those which the Member States and traders regard as priorities.

For easier reading, not all transmission links have been shown.



The following paragraphs summarise the subsystems in each Group.

Group I: Pre-requisite functions (development period — two and half years from start-up of activities)

This group includes all the functions needed to activate the system as a whole, i.e:

- drawing up reference lists (lists of codes, lists of excise offices handling the system, structure of the excisable products, thesaurus of terms);
- management and consultation of listed traders;
- management of and consultation on guarantees;
- management of and consultation on excise rates;
- consultation of VAT data;
- related reports.

It should be pointed out that, where possible, some of the reference lists such as the list of codes and list of Member States' offices will be shared with the New Computerised Transit System (NCTS).

Group II: Electronic AAD routing system (development period — four years commencing one year after start-up of activities)

This group comprises the functions needed for managing the electronic AAD, i.e:

- management of guarantee certificates;
- submitting and registering the AAD;
- updating and splitting the AAD whilst a movement is under way;
- acceptance or rejection of the AAD;
- link to the customs arrangements for exporting goods;
- claims for losses;
- consultation and recovery of movement data;
- automatic reminders;
- related reports.

Group III: Downstream functions (development period — two years commencing three years after start-up of activities)

This group includes:

- registration of reports on wayside checks;
- risk evaluation;
- management of warnings;
- automatic reminders;
- statistics;
- movement verification and mutual assistance;
- free text messages.

Applications

Apart from the application functions listed above, other aspects also have to be developed in order to be able to:

- allocate user names;
- change passwords;
- check links;
- consolidate statistics;
- allow support personnel to consult data;
- allow support personnel to make corrections and connect up equipment.

3. Tasks

Work will be shared out between the European Commission and the Member States as follows:

- The Commission will coordinate all work done by the partners, as also the joint programme. It will check the overall systems specification and supervise the development of the common applications. It will provide an applications centre for the partners so that they can check operations and evaluate the various components.
- Each Member State will set up a network of terminals, develop its own application and open it up to traders. Each party involved will do that part of the work on the common programme that relates to itself.

3.1 The European Commission

In view of European Union policy, the system for the movement and surveillance of excisable products should be computerised in three stages, as in the classic V-shaped development approach. The main components identified as being the European Commission's responsibility are:

A central project office, which will also coordinate the support programme and supervise deployment, will be responsible for:

- the common specifications;
- technical products;
- the services of the CCN/CSI network;
- the coordination services for all the Member States.

These Community components do not include any variant or special feature designed to meet purely national needs.

It should be noted that the experience of the Member States is required as input into the systems specification. The Commission will therefore request the participation and contributions of the Member States in establishing this specification.

The Commission, with the collaboration of the Member States, will also regularly evaluate the various development stages of the system.

3.2 *The Member States*

Each Member State must develop and implement its own application of the system whilst complying with the operating and technical specifications supplied by the Commission.

Member States are free to select tools, the technical environment, equipment and the like to suit their internal requirements. Each Member State may develop its application on an existing platform. However, the resulting system must comply fully with the specifications jointly agreed by the Commission and the Member States. In particular, the intra-EU interfaces must be strictly compatible in form and semantics with the systems developed by other Member States.

To help Member States check the compatibility of their applications and prepare for validation (type-approval) of their systems, the European Commission will provide the Member States with validation tools.

The following components are the responsibility of the Member States:

- drawing up of national specifications;
- participation in the drawing up of the common operating specifications and interfaces;
- establishing a national project office;
- quality management;
- security and management policy;
- developing Group I applications;
- acceptance of Group I applications;
- developing Group II applications;
- acceptance of Group II applications;
- developing Group III applications;
- acceptance of Group III applications;
- the information programme;
- the training programme;
- the support programme;
- deployment.

The Commission will encourage any joint initiatives to develop products that are of interest to some or all the Member States where one national administration acts as team leader.
