

## **THE USE OF THE EMCS BUSINESS WEB APPLICATION FOR MONITORING THE MOVEMENT OF EXCISE GOODS WITHIN THE EUROPEAN COMMUNITY**

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**ABSTRACT:** *EMCS-RO is a tool developed in accordance with EU requirements, which on April 1, 2010 provided electronic transmission of the accompanying administrative document in the states which are members of the communitarian bloc. Access to the EMCS-RO application is given by the National Customs Authority. The EMCS provides the use of ECS (Export Control System) to monitor the output of excise goods within the EU.*

**KEY WORDS:** *business web application; movement of excise goods; electronic transmission of the accompanying administrative document*

**JEL CLASSIFICATION:** *M15, R48*

### **1. THE PRESENTATION OF THE EMCS-RO APPLICATION**

As of 15 January 2010, the provisions to complement the electronic accompanying administrative document entered into force; this is meant to be accomplished by using the EMCS-RO application for control movements of excise goods under suspension, instead of the RO-DAI used up to that date. EMCS functions in several key areas: *Common domain* (between the administrations of the members of the EU); *National domain* (administration of the member states, one for each, for

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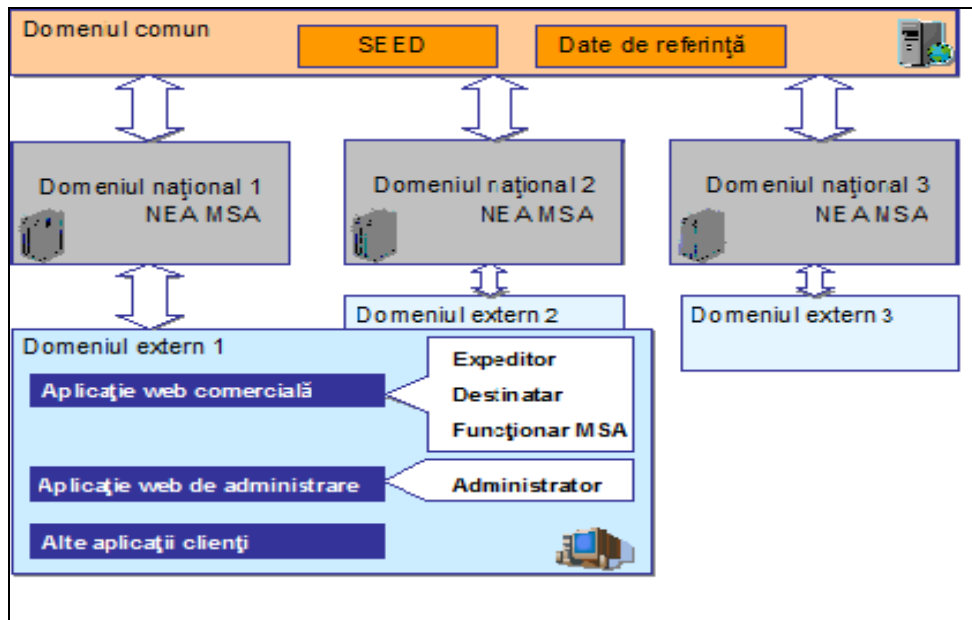
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example in Romania: ANV-ANAF-MFP); *External domain* (economic operators and civil servants).

Common area provides access to the resources of the European Union (EU), such as the system for exchanging excise data - SEED (SEED includes information about companies, authorization, access rights and so on) and reference data (e.g. product codes) and is responsible for disseminating and synchronizing data in all national areas. Each national domain is represented by the Member State Administration (MSA) using a National Excise Application (NEA). NEA offers a service package for members of the external domain and communicates with other national domains, as well as with the common domain through specific channels.

The External field is represented by all economic operators, civil servants and administrators who deal with the national domain through client applications. The next section presents in detail the business processes included in the control system for the motion of excisable goods.



**Figure 1. Domains of EMCS**

The new electronic system allows real time monitoring of the status of product movements, improving tax administration's capacity to monitor and control trade in excise goods in duty suspension, leading to increased revenue from excise sector, to a reduction in fraud in the field and not least, to the accomplishment of Romania's obligations as a member of the European Union regarding implementation of the EMCS system. Also, ANAF considers that messages sent through EMCS-RO do not replace paper documents and formalities, which means that the issue, transmission and closing of an accompanying administrative document is due both on paper and computer. EMCS (Excise Movement and Control System) is an electronic system for

monitoring movements of excise goods between Member States, under suspension. It will replace paper documents that typically accompany such movements (DAI). EMCS will mean simplification of procedures, elimination of the red tape generated by paper work and the effective use of a modern IT tool which demonstrates an important development for those who sell alcohol, tobacco and energy products.

EMCS will follow in principle all harmonized excisable products (alcohol and alcoholic drinks, tobacco products, energy products) and all those engaged in trade with these products under suspension. The legal basis for the development of EMCS is Decision no. 1152/2003/EC of the European Parliament and the Council from June 16, 2003 on computerization and monitoring movements of excise goods under suspension. In order to implement the EMCS system, the Council of Europe has approved Directive 118 from December 16, 2008 on the general arrangements for excise and has abolished Directive 92/12/EEC. The new Directive provides a legal basis for the use of the EMCS, which will apply from April 1, 2010.

Since the creation of the European Single Market on January 1, 1993, intra-motion movement of excise goods under suspension may take place only between licensed economic operators and must be accompanied by DAI accompanying administrative document and a guarantee of financial safety for the movement, which will be released when the products reach their destination. The system is designed to monitor the movement of excise goods in order to ensure payment of excise duty in the Member State where goods are released for consumption, while respecting the principle of freedom on the Internal Market. Before 1993, these movements were monitored through customs checks at borders between Member States.

Due to the high level of fraud in the Member States and the concomitant decline of national revenue from tobacco and alcohol in particular, the ECOFIN Council of Economic and Finance Ministries of the member states approved on May 19, 1998, the Report of the High Level Group to establish an electronic link among traders through the customs administrations of the Member States, which became known as the EMCS. To assess the implications of introducing such a complex system, the Commission initiated a feasibility study during 1999-2000, supplemented by an Addendum in 2003. The main conclusion of the feasibility study was that the computerization and replacement with an electronic message were feasible.

Decision no. 1152/2003/EC of the European Parliament and Council from June 16, 2003, provided a legal basis for the development of EMCS. In 2004, a reflection group, consisting of representatives of eight member states, analyzed EMCS requirements and established guidelines. EMCS is supposed to be introduced in 3 stages from 2002 to 2013.

## **2. DESCRIPTION OF SYSTEM OPERATION**

In the EMCS a movement of excise goods between two traders is documented by successive states of e-DAI, from the issuance by the sender to the confirmation of the reception of goods by the consignee. An e-DAI is electronically transmitted by the shipper and endorsed by the dispatch Member State. Excise codes related to recipient and senders are checked in the European Register of Operators (SEED). E-DAI is

electronically sent to your Member State of destination, then the message reaches the recipient and, possibly, any other operator concerned (tax representative, guarantor). If the recipient can not connect to the EMCS, he is informed by the Member State of destination or sender. E-DAI can be cancelled or updated under certain conditions.

On receiving the goods, the recipient sends a “report of receipt”, stating any deficiencies or irregularities. Other cases may occur, where for example the recipient refuses or partially accepts the delivery. The key element of EMCS is the accompanying administrative document in electronic form (e-DAI), currently used for national deliveries, which will replace the procedure on paper. In the case of movements of excise goods between tax warehouses or between an operator and a registered tax warehouse, e-DAI is drawn up by the consignor and sent to the tax administration to which it belongs. This validates the reference data in the e-DAI (Excise codes of sender and recipient and product), then allocates to the e-DAI a unique reference code called ARC, which it returns to the sender. Only after receiving the ARC can the goods leave the authorized place of dispatch.

When excise goods reach the destination, the consignee shall write a reception report for the tax administration of the Member State of destination. The tax administration validates the reception in accordance with the e-DAI and possibly other information. After validation, the reception report is returned to the dispatcher and all the Member States concerned, including the Member State of dispatch, which will automatically deliver it to the sender. Operators are electronically connected to the EMCS system. Depending on the authorization they hold, they will be able to perform the following operations: connection and submitting of e-DAIs, and amendments, if necessary; connection and drawing up the reception report; change of destination; trail of the movement in which they are involved; accessing ones profile.

The person who accompanies the transport must know the unique reference code given by the system to the e-DAI for the transported products (ARC). The European Commission is still discussing the variant of accompanying the transport with a printed copy of the e-DAI from the system. Each trader uses the system interface provided by the tax/customs national administration. Respecting the national legal provisions, casual economic operators, who are not connected to the system, receive assistance for introducing data or receiving information which concerns them from the system. When the EMCS will be fully operational in all Member States, the procedure on paper will disappear, and the movement of excise goods under suspension will be monitored by EMCS, during which all Member States must provide electronic processing of the confirmation of reception of excisable goods on their territory (at destination). EMCS makes the connection between the excise applications of the Member States. These applications are developed by Member States based on common requirements. The European Commission facilitates access to the EMCS for all operators with excise goods under suspension, but the access to the national excise system will be established by each Member State.

In Romania, the application is made through the PHARE project „Realization and implementation of IT infrastructure concerning administrative cooperation with other Member States” (VIES, SEED and EMCS) and is made freely available to economic operators. Through the efforts of the customs authority to implement the

RO-DAI application nearly 18 months before the mandatory use of EMCS, the national operators have not faced major problems. It is generally considered that the EMCS functionalities and the increased confidence of the legality of the actions performed by economic operators will bring benefits which will help cover long term costs.

### 3. MAIN FUNCTIONS OF EMCS

The main functions of EMCS involve all situations directly related to the movement of excise goods under suspension. Movement is monitored in EMCS through electronic DAI (e-DAI) at each stage, starting from the issuance of the sender to the acknowledgement of receipt made by the recipient. You can find an electronic DAI during its life cycle, in stages such as "accepted" when it has been validated for dispatch, or "send" when the accepted delivery of products has been notified by a receiving report. These functions relate both to a standard scenario, but also to other different situations listed below:

**1) Standard Situation.** Standard situation refers to the most frequent cases of EMCS movements between shipper and consignee, and consists of the sending by an authorized warehouse of excise goods under suspension from a tax warehouse to another tax warehouse or a registered operator.

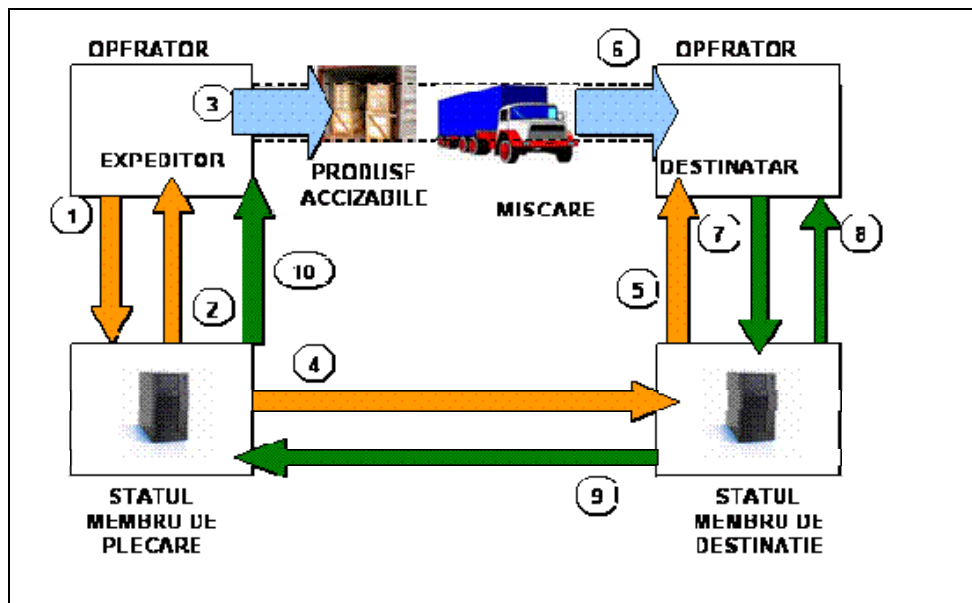


Figure 2. Standard Situation

The authorized depositor is the person or entity authorized to produce, process, hold, receive and dispatch excise goods during his activity, the payment of excises being suspended in conformity with the law. The registered operator is a natural or legal person without authorized warehouse status, who is authorized only to receive

excise goods under suspension from other European Union member states; this operator can not hold nor dispatch such products under suspension.

Both the sender and the recipient are registered in the SEED database by the tax authorities of the Member State concerned. SEED contains all the necessary information for the proper functioning of EMCS. The steps are:

1. The sender, before dispatching the products, completes and loads in the system an electronic DAI, which will be reviewed by the application of the Member State of departure;
2. The Member State of dispatch automatically validates and sends back to the sender the e-DAI. This is an instantaneous step;
3. The sender delivers the excisable goods;
4. The Member State of dispatch sends the e-DAI to the Member State of destination;
5. The Member State of destination shall send the e-DAI to the recipient;
6. The excise goods reach their destination;
7. The recipient sends an electronic report of reception;
8. The Member State of destination validates the report and sends it back to the recipient;
9. The Member State of destination shall send the reception report to the Member State of dispatch;
10. The Member State of dispatch shall forward the report to the sender.

The electronic DAI submitted by the sender to the Administration of the Member State of dispatch is verified in the SEED database, especially as regards the validity of both the excise codes of the sender and the recipient. If one of these data is incorrect, then there will be no validation of the electronic DAI. Once validated, the e-DAI is given a unique registration code (ARC); then the content of the e-DAI is set; the update of the content is not accepted unless you change the destination (using a specific procedure).

The ARC must be available during the transportation of the products. After the validation of the e-DAI, a timer is turned on by the system. If a reception report is not received in this period the e-DAI is marked and the Administration of the Member State of dispatch sends a reminder to the sender and the Administration of the Member State of destination, the latter sending it to the recipient. After this reminder, the recipient and / or sender should solve the situation making use of appropriate means; either the recipient sends a reception report, or the economic operators send messages to the Administrations of the Member States (e.g., indicating the existence of an incident during transport that delayed the movement of goods or that those goods are still in inventory at the destination). The reception of goods is confirmed by the recipient, by sending a reception report, stating that the goods have reached their destination.

After the arrival of goods, the recipient makes an inventory, paying special attention to surpluses and shortages. He records the results in a reception report which is sent for validation to the Administration of the Member State of destination. From a legal point of view, the reception report has the same value for the sender as copy no. 3 of the DAI used today. This means that there is a general discharge of products which is subject to: Payment of fees related to shortcomings; Results of possible future

proceedings, which could confirm deficiencies for which the financial responsibility of the one who guarantees would be engaged. Technically, in EMCS this download will be made through the validation of the reception report by the application of the MS of destination, which is automatically sent to all the administrations of the MS involved, and the sender and recipient.

**2) Other situations.** Several cases concerning e-DAI are:

◆ **Cancellation.** The sender can cancel a planned transportation. This situation is likely before the actual shipment of goods, if the valid e-DAI does not properly describe the transport or if movement is not possible for some reason. Cancellation is used for example when a dispatcher sends an e-DAI which is not in accordance with the request of the recipient (quantity or nature of the goods), or when the commercial transaction is simply aborted, or when the afferent valid e-DAI is found incorrect before the shipping of goods. In such cases the sender may cancel the e-DAI. After the goods have left the warehouse, an e-DAI can no longer be deleted. If, after the shipment of goods one finds that the e-DAI is not correct, the supplier may submit either a report on the event (if the administration of the shipping MS agrees to register it) or an explanatory message after receiving the goods. If the commercial transaction is cancelled after the goods have been shipped, the supplier must primarily request the return of goods by changing the destination, and then he receives them back by sending a reception report.

◆ **Change of destination.** A sender can change the destination of a transport. One can also update the fields concerning the destination in a DAI, either during transport or following a refusal at delivery or even a refusal of the transport. The sender makes this shift by changing the identity of the recipient (who may even be the sender itself) or just by naming a new place of destination (e.g. in case the goods have to be delivered to another tax warehouse of the same recipient). The change is validated by the administration of the shipping member state and a confirmation of this update is sent back to sender. Meanwhile, this change is brought to the attention of the previous intended destination (the administration of the member state and the recipient) and the updated e-DAI is sent to the new destination. After receiving the e-DAI, the Administration of the new Member State of destination forwards it to the recipient.

◆ **Division (only for energy products).** A sender may divide a shipment of energy products in two or more parties, intended to different destinations. Thus, the sender sends a series of e-DAI to replace the original. Total quantity must remain unchanged. Division (only for energy products) is used for example in the case of transport along the coast, when some of the goods are delivered to multiple harbours or multiple recipients from the same harbour, without the sender knowing in advance who will be the final recipient.

◆ **Unregistered operator.** A recipient may be an unregistered operator. In this case, the unregistered operator obtains a temporary authorization to receive specific amounts of excise goods under suspension; these goods are to be released for consumption upon delivery. The recipient must guarantee in advance the payment of taxes upon arrival of the goods. The temporary authorization is registered in SEED for the period in which it is valid. A temporary authorization is issued either for a single movement of goods (non-reusable authorization) or for more than one transport, but

the total amount of goods moving under suspension must not exceed the amount registered in the authorization (reusable authorization).

◆ **Refusal (before the arrival of goods).** A recipient may reject the goods before their arrival. Before the arrival of goods, the recipient can send a warning or refusal to notify the administration of the Member State and the sender that the e-DAI does not match his order or that he has not requested that delivery. The recipient must deliver such a message immediately after he has discovered the discrepancy. An alert message is sent, for example when wrong quantities are declared, the e-DAI does not match exactly with the order of the recipient; the recipient can wait to check the transport on arrival. A message of refusal is sent for example when the recipient does not expect at all the goods described. If the e-DAI is rejected, the sender must change the destination (or to divide the transport). A change of destination means the change of destination for the return of goods, so the new destination is actually the original place of shipment. If the e-DAI is not rejected, the sender can: continue the transport, if the reasons for the alert do not prevent the goods from being accepted by the recipient, or change the destination; this change must be made as soon as possible, before the goods can reach their original destination, or divide the transport, if this is allowed; cancel the E-DAI if the goods have not left the tax warehouse of dispatch.

◆ **Refusal (after the arrival of goods).** A recipient may completely refuse the delivery. This is done by a report of reception which includes, if relevant, the evaluation of gaps and surpluses. The delivery is not unloaded and the sender must change the destination in order to allow goods to reach another destination (possibly to return to the fiscal warehouse of dispatch). If delivery is refused, at least one reason must be given. One should note that the specification sheets do not provide another procedure of a partial rejection of delivery. This is still being discussed. While waiting for a final solution, a recipient who wishes to deny only part of the delivery can, for example, fully accept the goods and then immediately send a new e-DAI in order to cover the transport of the refused goods to the sender or to another destination designated by the sender.

◆ **Custom Cases.** An EMCS movement can interact with customs procedures, especially when goods are imported or exported. When excise goods are imported and must remain in suspension, the transportation of goods begins from the customs office of imports, immediately after releasing them for free circulation. At customs putting goods in free circulation determines the payment of import duties and the implementation of all measures and formalities which concern the goods; after these processes the goods become available for the importer. Goods can leave the customs office of importation only after the e-DAI is compared with the data reported in the declaration of import. This operation is similar to the standard scenario described above, except that the movement of products does not start from a tax warehouse, and therefore requires a registered sender to send the e-DAI at the import location. Currently, when excisable goods under suspension are exported outside the EU, the destination of the transport is the customs office of exit, through which the goods can leave the EU. This office sends a copy of the DAI (on paper) to the sender for the discharge of the delivery.



#### 4. MOVEMENT OF EXCISE GOODS WITHIN THE EUROPEAN COMMUNITY

EMCS' main scenario includes the movement of excise goods within the European Community (EC). This involves the transportation of goods according to the agreements of the suspension of excises between economic operators (a sender and a recipient) through the authorities of that Member State Administration (MSA) and the national excises applications (NEA) that they use.

Both sender and recipient must be registered in the database of the System for Exchange of Excise Data (SEED) by the corresponding MSA.

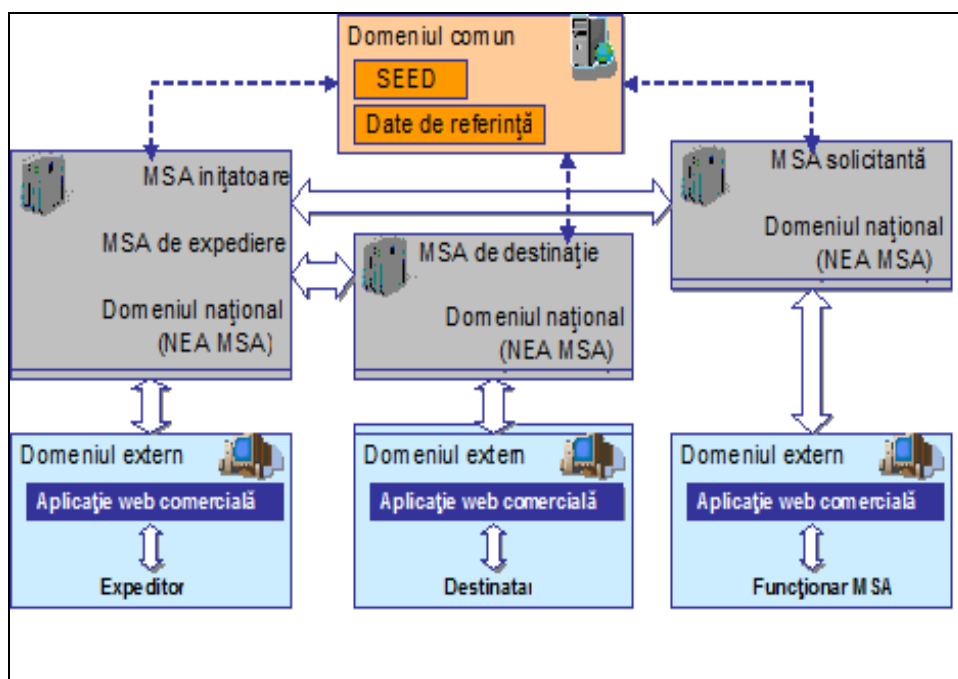


Figure 3. Flow of movements within the EMCS

The process of moving within the EMCS consists of the following main steps:

1. The sender sends a draft of the e-DAI to NEA of the corresponding MSA and provides a guarantee of movement. This guarantee can also be provided by another operator;
2. The MSA responsible for sending validates the draft of the e-DAI according to the information in SEED and the national complementary information. After validation, a reference code known as the ARC is assigned to the e-DAI and it is automatically returned to the sender, who can then dispatch the goods. At the same time, the MSA responsible for sending transmits the form of the e-DAI to the MSA of destination;
3. The MSA of destination forwards the e-DAI to the recipient;

4. On the arrival of the goods, the recipient writes a reception report to be submitted for validation to the MSA of destination;
5. The MSA of destination validates it in accordance with the e-DAI and possible additional information;
6. After validation, the reception report is returned to the recipient for confirmation and to all MSA involved, including to the MSA of dispatch, which then automatically submits it to the sender.

If no shortcomings are described in the report, the return of the reception report releases the e-DAI and the guarantee provided by the guarantor. Clerks of MSA of the Member States which aren't directly involved in the movement of goods can download or reclaim information about movement (e-DAI).

Several cases are possible:

1. the sender can cancel the movement before the goods are shipped from the warehouse;
2. the sender can change the destination of the delivery at any time after the validation and reception of the e-DAI;
3. the recipient may refuse the delivery before or after the dispatch of goods from the warehouse, causing the cancellation of movement or the change of destination.

**Direct delivery of excisable goods**, is another basic scenario that has a special variant in which the goods are delivered directly into a tax warehouse or at the registered address, but are delivered directly. The following restrictions are applied:

- The recipient is either the manager of an authorized warehouse, or a registered recipient authorized to practice direct delivery.
- On the date of the initiation of movement, the recipient is not entitled to disclose to the sender the name of the actual place of delivery. Consequently, the sender makes a change of destination in order to indicate the address of delivery in the e-DAI.
- Upon the reception of goods, the consignee sends the report of reception mentioned in the e-DAI.

After the reception, the goods are considered to be offered for consumption. Therefore, the excise has to be paid according to national provisions. Each state is responsible for deciding whether or not to allow direct delivery and, if so, to decide whether each delivery location has to be certified separately. The list of the possible delivery sites is not copied in SEED.

## **5. USING THE EMCS BUSINESS WEB APPLICATION**

The EMCS Business web application is meant for the business users from the external field: senders and receivers of goods, MSA clerks. It provides the necessary tools to initiate manage and monitor the movement of excise goods under suspension. It is designed as a direct link between the national and external field. Prerequisites require one to: have installed one of the following browser clients: Internet Explorer 6 or higher; Firefox 1.0.5 or higher; in order to access the EMCS Business web application, you must have the necessary connection. After the launch of the EMCS Business web application, you can view the latest moves, including those outdated and

business exceptions. Also, you can use shortcuts in order to create a movement or to search for an existent movement. In addition, you can have access to News, New Features, Links and Official documents.

Figure 4. EMCS Home

## 5. CONCLUSION

EMCS is the result of the efforts of the European Community (EC) to unify all border trade between members of the EC. EMCS is designed to monitor the movement of excise goods between Member States, excise goods under the suspension regime. In other words, it represents a link between economic agents who want to monitor the movement of excise goods for which taxes have not yet been paid between Member States. The EMCS provides the use of ECS (Export Control System) to monitor the output of excise goods within the EU. ECS is a project of computerization of customs procedures for export which is under development and will be operational before the

launch of the EMCS. Finally, the destination of the EMCS transport may be subject to other customs procedures. EMCS intends to replace the Accompanying Administrative Document (AAD) in paper format, which now accompanies the movement of goods, with electronic messages from the sender to the recipient, through the administrations of Member States. EMCS helps to simplify procedures, to administer without using paper documents and to use modern IT tools efficiently. This is an important development for retailers of alcohol, tobacco and petroleum products.

The system brings significant improvements to the existing paper process:

- ensures the safe movement of goods, through the verification of data coming from economic agents before dispatching goods, and also ensures more rapid and safe return of the evidence that the goods reached their destination;
- monitors the movement of excisable goods, allowing real-time transmission of information and checks during their movement.

For example, when imported goods are refused by the importer because they have flaws or do not meet the terms of the contract under which they were imported, they can be placed in a customs warehouse, in order to obtain a refund of customs taxes before they are re-exported.

Using the EMCS Business web application and according to the user's permissions the following activities can be performed: creating, managing and monitoring movements of excises; for existing movements, one can send a cancellation, change of destination (COD), reception report (MMR) and explanation for the delay; you can browse movements based on lists of search criteria; you can find and import excise movements located and stored on a different system.

EMCS will be useful in reducing fraud through a system of rapid exchange of information between tax/customs authorities with tasks in the administration of excise duties. Among other things, the new Directive allows Member States to simplify existing rules for commercial movements, including sales at a distance, for excisable products from a Member State to another, with excises paid in the Member State of dispatch.

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