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IMPACT ASSESSMENT

Accompanying the document

Proposals for a Council Directive, a Council Implementing Regulation and a Council Regulation on

Modernising VAT for cross-border B2C e-Commerce

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1. INTRODUCTION AND CONTEXT

1.1. Introduction

The European Commission is committed to ensuring the free movement of goods and services and to ensuring that “individuals and businesses can seamlessly access and exercise online activities under conditions of fair competition”. This commitment was underlined in May 2015 with the adoption of the Digital Single Market strategy¹ which contained a series of actions designed to break down the barriers for the growth of e-commerce in the EU.

The proposed initiative to modernise VAT for cross-border e-commerce, which is the subject of this impact assessment, stems from the fact that the current VAT system has been identified as one of the major barriers for business² engaging in cross-border trade, and as will be demonstrated in this impact assessment is a major source of distortions for EU losses as well as leading to substantial revenue losses for Member States. This impact assessment recognises that the modernisation of cross-border e-commerce is an evolving process, and thus takes into account and assesses the implementation of important changes made in 2015 to the VAT place of supply rules and the introduction of the Mini One Stop Shop (MOSS).

This assessment, which comes under the REFIT programme, intends to ensure that the future proposal is cognisant of the experiences which have gone before and in particular identify any areas where the regulatory framework can be improved to bring benefits to business, Member States and citizens.

1.2. 2015 Changes to the Place of Supply Rules and the introduction of the Mini One Stop Shop

As set out above, the modernisation of VAT is an ongoing process. Until the end of 2014, VAT on telecommunications, broadcasting and electronically supplied services (hereafter referred to as electronic services) provided to final customers within the EU was levied in the country where the supplier was located but now, since 1 January 2015, with the coming into effect of new rules, VAT on those services is levied instead where the consumer is located (in accordance with the country of consumption principle). This change was adopted by the Council in 2008 to address revenue losses due to business relocating in Member States with low VAT rates as well as significant distortions faced by business as the differential in VAT rates ranged by up to 24% by applying the VAT rate of the place of the supplier.

In parallel with this change and in order to simplify compliance with the new rules, a simplified electronic registration and payment system, "the mini One Stop Shop" (the MOSS) has been introduced, which reduced the costs and administrative burdens for businesses concerned. Instead of having to declare and pay VAT directly to each individual Member State where their customers are based, businesses are able to make a single declaration and payment in their own Member State. Suppliers can use a web portal in their Member State of establishment to account for the VAT due on sales in other Member States. In this way a vendor of electronic services has to charge the VAT of the country in which the consumer is located, but is only required to register and account for VAT in their home country or for third country suppliers in the Member State designated as such.

¹ <http://ec.europa.eu/digital-agenda/en/our-goals>

² <http://www.ecommerce-europe.eu/stream/survey-barriers-to-growth-ecommerce-europe-2015.pdf>

An analysis of the implementation of the new place of supply rules and the MOSS has taken place (see Annex 3) as part of the Study ‘VAT aspects of cross-border E-Commerce – Options for modernisation’ (hereafter referred to as the Study). The study³ (available at https://ec.europa.eu/taxation_customs/publications/studies-made-commission_en) has concluded that the introduction of the 2015 changes has been very successful with general satisfaction from business and increased revenues for the vast majority of Member States arising from the application of the destination principle for supplies of electronic services. VAT revenues of approximately EUR 3 billion were paid through the MOSS in 2015 representing about 70% of the total supplies of these services. Further, the study has estimated that for business there has been a reduction in costs of nearly EUR 500 million or EUR 41 000⁴ per company as a result of the availability of the MOSS compared to the alternative of registering and accounting for tax in the Member State of the consumer.

Nevertheless, some problems have been identified with the new rules which will need to be addressed in the proposal. Business, particularly in the UK which has a very high domestic exemption threshold, have complained that the lack of a threshold for intra-EU supplies of electronic services has meant that they have to account through the MOSS for a negligible amount of sales to other Member States and this is acting as a barrier for such businesses accessing the single market. They have also experienced difficulties in identifying where their customers are located due to the requirement to have two pieces of non-contradictory evidence. Further problems identified by business both large and small is the requirement in EU law to keep records for 10 years, which is over and above national requirements, as well as the need to know different national rules such as those applicable to invoicing and bad debt reliefs. An additional significant concern which has emerged is the inability for a business to adjust a return in the current period and instead have to adjust past returns and seek refunds from Member States.

Table 1 – Summary analysis of the implementation of the 2015 place of supply rules and MOSS

| Summary Analysis of the implementation of 2015 Place of Supply rules/MOSS |
|--|
| <p><i>Positive results</i></p> <ul style="list-style-type: none"> • Significant milestone in EU taxation – for the first time Member States are collecting tax on behalf of each other. • 12 000 businesses used the MOSS system in 2015⁵. • 70% of EU turnover of electronic services covered by the MOSS. • EUR 3 billion paid through the MOSS in 2015 representing up to EUR 18 billion in turnover. • The MOSS has saved these businesses EUR 500 million versus the alternative of direct registration and payment – on average EUR 41 000 per business. This represents a 95% reduction in costs. • Overall, business and Member States very satisfied with the introduction and |

³ Deloitte Study for the Commission on ‘Modernising VAT for cross-border e-commerce – Pg. 2, Executive Summary of Lot 3 – Assessment of the implementation of the 2015 VAT changes.

⁴ Deloitte Study for the Commission on ‘Modernising VAT for cross-border e-commerce – Pg. 8 - Executive Summary of Lot 3 – Assessment of the implementation of the 2015 VAT changes.

⁵ According to the study there are 85 000 businesses active in this sector, 12 000 use the MOSS with the majority of others complying through platforms e.g. iTunes store, Google Play store.

implementation of the systems.

- EU acknowledged as the global leader for such a system – other jurisdictions are following.

Areas for improvement

- Problems experienced by micro business due to the lack of a threshold and difficulties in identifying customers.
- Despite an exceptional communication campaign carried out at EU and national levels, there is still a need for Member States and Commission to communicate with micro-businesses.
- Business concerned at the prospect of multiple audits by potentially each Member State into which they make supplies as well as the need to correct past VAT MOSS returns rather than adjust in current returns and then seek refunds.
- 10 years record keeping, different invoicing rules and onerous correction methods are areas to be looked at.

1.3. Scope for further reforms of the cross-border VAT rules

In the 2011 Communication on the Future of VAT⁶, the Commission outlined that the general principle of EU VAT law should be based on taxation taking place in the country where the good or the service is consumed (the destination principle). In considering the Communication, Council in May 2012⁷ broadly endorsed the destination principle as the way forward for a definitive VAT system in the EU. The European Parliament also recommended reforms in its 2013 report on “*Simplifying and Modernising VAT in the Digital Single Market for e-Commerce*”⁸.

Taxation in the jurisdiction of the recipient of the services is fully in line with international standards in this field. The OECD principles on the taxation of e-commerce were agreed in 1998 in Ottawa and provide that when applied, consumption taxes (like VAT) should result in taxation where consumption takes place. The EU in 2003 became the first tax jurisdiction to tax electronic services in line with the principles developed by the Organisation for Economic Co-operation and Development (OECD)⁹ by taxing B2C supplies of electronic services from non-EU businesses in the Member State of consumption¹⁰. This was followed in 2015 by the changes to the intra-EU place of supply rules which now tax B2C supplies of electronic services in the Member State where they are consumed.

However, it cannot be ignored that the destination principle causes difficulties for business in the EU as they are faced with different rules in different Member States. The complications of having to deal with many different national systems represent a real obstacle for companies

⁶ COM(2011) 851 final
http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/key_documents/communications/com_2011_851_en.pdf

⁷ Ecofin Council Conclusions – May 2012
http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/130268.pdf

⁸ [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/492432/IPOL-IMCO_ET\(2012\)492432_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2012/492432/IPOL-IMCO_ET(2012)492432_EN.pdf)

¹⁰ Within the EU such supplies were still taxed on the basis of where the supplier was located (taxed at origin).

trying to trade cross-border both on and offline. Indeed, the complexity of VAT for making intra-EU B2C supplies is cited by business as one of the top three barriers to cross-border e-commerce¹¹.

Applying the destination principle is also relevant when considering the need to ensure taxation in the context of the digitalisation of the economy, particularly given the significance of VAT revenue for EU economies. This broad issue was considered by the *Commission Expert Group on Taxation of the Digital Economy*, chaired by the former Portuguese Finance Minister Vítor Gaspar, who reported in May 2014¹² and made a number of recommendations in respect of modernising VAT for cross-border e-commerce. The recommendations of the Expert Group were considered by the Commission in the context of preparatory works for the digital single market strategy.

As outlined in the Communication 'A Digital Single Market Strategy for Europe'¹³ (*the DSM Strategy*), the Commission is working to minimise burdens attached to cross-border e-commerce arising from different VAT regimes, provide a level playing field for EU business and ensure that VAT revenues accrue to the Member State of the consumer.

Having carefully considered the problems business face, the Commission made a commitment in the DSM Strategy indicating that it will make legislative proposals in 2016 to reduce the administrative burden on businesses arising from different VAT regimes including:

- (i) extending the current single electronic registration and payment mechanism (the Mini-One Stop Shop) to intra-EU and 3rd country online sales of tangible goods,
- (ii) introducing a common EU-wide simplification measure (VAT threshold) to help small start-up e-commerce businesses,
- (iii) allowing for home country controls including a single audit of cross-border businesses for VAT purposes, and
- (iv) removing the VAT exemption for the importation of small consignments from suppliers in third countries.

The Commission has restated this commitment in the April 2016 VAT Action Plan¹⁴¹⁵. It is also relevant that the Single Market Strategy¹⁶ recognises the complexity of VAT regulations for SMEs and identifies the DSM VAT commitment as one to assist SMEs accessing the single market¹⁷.

¹¹ <http://www.ecommerce-europe.eu/stream/survey-barriers-to-growth-ecommerce-europe-2015.pdf>

¹² http://ec.europa.eu/taxation_customs/resources/documents/taxation/gen_info/good_governance_matters/digital/report_digital_economy.pdf

¹³ COM(2015) 192 final.

¹⁴ Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on an action plan on VAT. Towards a single EU VAT area – Time to decide, Brussels, 7.4.2016, COM(2016) 148.

¹⁵ The Action Plan is currently (May 2016) under discussion in Council. The Council conclusions when finalised should be referenced here.

¹⁶ Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee and the Committee of the Regions on Upgrading the Single Market: more opportunities for people and business <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0550&from=EN>

¹⁷ The single market strategy and the VAT Action Plan also commit to proposing in 2017 a comprehensive simplification package for SMEs. As part of this work, all aspects of SME VAT obligations across all sectors will be analysed. While the existing domestic thresholds will be examined as part of this work the commitment in the DSM strategy to introduce a cross-border intra-EU threshold for e-commerce in this initiative should be seen as separate given that it is focused on one particular sector of the economy.

Further, the April 2016 e-Government Action Plan¹⁸ recognises the 2015 MOSS system as a successful pan-European governmental IT project which has provided benefits for business and the single market, and has included the extension of the MOSS system in its list of actions for the 2016 – 2020 plan.

2. WHAT IS THE PROBLEM AND WHY IS IT A PROBLEM?

2.1. Introduction

As set out in the 2011 Communication on the Future of VAT and the VAT Action Plan, the VAT system for cross-border e-commerce is highly complex for business generally, for SMEs, for tax administrations and indeed for consumers. The Commission receives frequent complaints from business and Member States and therefore there is a need for action. This need to act was supported in the open public consultation for this initiative whereby 94% of respondents either agreed or strongly agreed with the objective of the Commission in the DSM Strategy to minimise burdens attached to cross-border e-commerce arising from different VAT regimes. It is also relevant that at a stakeholder seminar in Dublin in September 2015¹⁹ involving representatives from all Member States and business representatives from online and offline EU and international businesses, the vast majority of Member States as well as business present were broadly in favour of the Commission commitment in the DSM Strategy.

Following the publication of the May 2014 Report of the Expert Group on the taxation of the digital economy, the Commission commenced work on a Study to identify the problem, the problem drivers, evaluate the 2015 changes and to analyse the impacts of the policy options to address the problems. This work forms the basis for the analysis of impacts in this assessment.

2.2. The problems

There are in essence three distinct problems with the current VAT system in respect of cross-border e-commerce. These problems are inter-related and stem from the complexity and exceptions within the current system. The digitalisation of society has in many respects exacerbated inherent problems from these exceptions to the extent that what was designed as simplification measures have now emerged to be a significant problem. However, as will be seen in the options to address the problem there will be a need to use technology as well as introduce simplification measures targeted at small and micro-business. While technology in particular the internet through the growth in e-commerce is somewhat to blame for the extent of these problems, it is through technological solutions that these problems can be addressed. The identification of the problems and the problem drivers derive from the report of the Commission Expert Group, the Study and consultations with business and Member States.

1. Cross border compliance costs

¹⁸ EU eGovernment Action Plan 2016-2020 Accelerating the digital transformation of government (COM(2016) 179 final) <https://ec.europa.eu/digital-single-market/en/news/communication-eu-e-government-action-plan-2016-2020-accelerating-digital-transformation>

¹⁹ This seminar and workshop was held in Dublin in September 2015 under the Fiscalis 2010 programme. Participants included representatives from all Member States and business representatives from online and offline EU and international businesses including the main global players. The Commission specifically facilitated the attendance of small business representatives at this seminar to ensure representation from this important sector.

Since the introduction of VAT in the EU, the destination principle has effectively applied to the business to consumer (B2C) intra-EU supply of goods. However, this principle entails registration of the EU traders in the Member State where its clients are located, provided that a certain threshold for sales is achieved. The complications of having to deal with many different national systems represent a real obstacle for companies trying to trade cross-border both on and offline, and indeed this has been cited by business as one of the top three barriers to cross-border e-commerce.²⁰ It is also identified as one of the main reasons why a company will geo-block²¹.

These complications apply to each Member State the business wishes to make supplies to, and therefore represent a significant barrier to the single market. For instance, a 2011 study indicated that, on average, a firm trading in two EU15 Member States would have to deal with 11 differences in VAT-related procedures²². In addition, such businesses could be subject to audits from the tax administration in each of the Member States they supply to. The Study has estimated using the standard cost model that the average VAT cost annually for intra-EU e-Commerce, where a simplification measure such as the MOSS²³ is not available, is EUR 8 000 per Member State per company²⁴. This can cover registration, the appointment of a fiscal representative, VAT returns, VAT statistical returns, dealing with queries from tax administrations etc. For a business supplying to all 28 Member States, the annual cost could be in excess of EUR 220 000²⁵.

VAT compliance costs are particularly challenging for SMEs, including micro-businesses, who account for more than 99% of businesses in the EU²⁶. They are already active in cross-border B2C e-Commerce, and are increasingly interested in this channel to expand their activities. However, micro-enterprises and SMEs have to face a complex legislative framework for cross-border transactions. SMEs are currently required to charge and remit VAT to the Member State of the consumer for all supplies of electronic services as well as supplies of goods where the distance selling thresholds are exceeded. The average cost for SMEs to account for VAT in another Member State is estimated to be EUR 4 100 annually per Member State²⁷ they supply to.

²⁰ <http://www.ecommerce-europe.eu/stream/survey-barriers-to-growth-ecommerce-europe-2015.pdf>

²¹ A business will decide not to supply to customers in other Member States. There are various reasons for this but onerous cross-border VAT obligations have been identified as one of the key reasons why a business will decide to geo-block and not make supplies to other Member States. See the IMPACT ASSESSMENT Accompanying the proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on addressing geo-blocking and other forms of discrimination based on place of residence or establishment or nationality within the Single Market SWD (2016) 173 Final <https://ec.europa.eu/digital-single-market/en/news/impact-assessment-accompanying-proposed-regulation-geo-blocking>

²² European Commission. (2011), Compliance costs and dissimilarity of VAT regimes across the EU: A retrospective evaluation of elements of the EU VAT system, prepared by Kox, Henk L. M, http://ec.europa.eu/taxation_customs/resources/documents/common/publications/studies/report_evaluation_vat.pdf, p. 22.

²³ The MOSS is only available to business who supply telecommunications, broadcasting and electronically supplied services to end consumers. If the business also supplies goods or has an existing active registration they are not eligible to use the MOSS.

²⁴ Deloitte Study for the Commission on 'Modernising VAT for cross-border e-commerce' – Lot 1, Pg. 32

²⁵ The Commission services recognise that with increasing competition and greater use of technology in the outsourcing of VAT obligations that there may be downward pressure on these costs.

²⁶ See http://ec.europa.eu/growth/smes/index_en.htm.

²⁷ Deloitte Study for the Commission on 'Modernising VAT for cross-border e-commerce' – Lot 1, Pg. 44 This compares to the average of EUR 8 000 for all business. The reduced costs reflects lower activity levels.

It is also relevant to note that while the MOSS itself is a significant simplification for business who make cross-border supplies of electronic services (the cost of approximately EUR 2 200²⁸ per business annually is far less than the estimated average cost of EUR 41 000²⁹ for direct registration and payment), it is disproportionately high for businesses who have a cross-border turnover less than EUR 10 000 and therefore represents a real barrier for such businesses wishing to trade cross-border.

2. Lack of neutrality/distortions for EU business

The issue of neutrality can arise due to non-taxation of goods coming from outside the EU or different VAT rates for supplies from businesses in other Member States. In effect, the same good purchased by a consumer in one Member State can have multiple tax treatments depending on where the supplier is located – this can mean no tax in the case of the imports of small value and lower taxes in respect of supplies from other Member States.

In addition, one of the key outputs from the Study is the extent of non-compliant activity under the status quo. This activity is having a profound impact on EU businesses who as a result are not able to compete on level terms with suppliers from outside the EU. Further there is also evidence that there is abuse of the current distance selling thresholds in intra-EU trade particularly where there are VAT rate differentials. This is significant as the VAT element in many Member States can be close to one quarter of the total price paid by a customer. Micro-business and SMEs, whether they operate in the traditional or digital economies, are particularly vulnerable to such distortions.

It is also relevant in terms of neutrality that there are differences in the level of administrative burden a business faces. There are no VAT compliance costs for non-EU businesses selling to EU customers³⁰ as opposed to local compliance rules applying for domestic sales and foreign registrations for EU cross-border sales.

3. VAT revenue losses for Member States

The different rules applicable in Member States as well as the VAT foregone from the VAT exemption for the importation of small consignments create challenges for tax administrations as there can be uncertainty about the tax treatment. Based on the analysis in the Study, the compliance losses³¹ for Member States are conservatively estimated as between EUR 2.6 and 3.8 billion annually³². In addition, it is estimated that VAT foregone from the VAT exemption for the importation of small consignments could be up to EUR 1 billion annually.

²⁸ Deloitte Study for the Commission on ‘*Modernising VAT for cross-border e-commerce*’ – Lot 3, Pg. 8

²⁹ Deloitte Study for the Commission on ‘*Modernising VAT for cross-border e-commerce*’ – Lot 3, Pg. 8

³⁰ The importer of the good is responsible for accounting for the tax rather than the non-EU business supplying the good. In effect this means that a significant burden is transferred to authorities, postal operators/express carriers and individuals on imports of small value.

³¹ Includes compliances losses from non-EU and intra-EU transactions.

³² Deloitte Study for the Commission on ‘*Modernising VAT for cross-border e-commerce* Lot 1, Pg. 4

2.3. Problem drivers

2.3.1. Driver 1 – The complexity of the current VAT rules for B2C Intra-EU supplies of goods

The evidence collected through stakeholder consultations, external studies and in-house research clearly demonstrates that the VAT rules for cross-border transactions are complicated, non-harmonised, costly for business and difficult for Member States when it comes to ensuring compliance.

Businesses wishing to trade cross-border face different VAT rules depending on the Member State they are supplying to. Member States require that a non-established business registers and accounts for tax on goods ordered via e-Commerce channels and other channels where annual sales to their country are expected to be in excess of EUR 35 000 or EUR 100 000³³. Once this threshold is reached they will need a VAT registration in that other Member State; they may need to engage a fiscal representative; they are facing a different national legislation which in many cases is in a different language and different accounting periods. They may also be subject to audit enquiries from multiple Member States. The level of the threshold is a matter for Member States which due to its non-harmonisation adds complexity, although most Member States apply the EUR 35 000 threshold with the trend for a lower threshold given the decision by France to apply the lower EUR 35 000 threshold this year.

Furthermore, the distance selling thresholds are problematic for Member States to control. In recent years there has been increasing evidence of abuse driven by e-commerce which is highly concerning to Member States. In this respect a project group of the Commission and Member States was established in 2015³⁴ to examine the means whereby Member States could work together to address these abuses. The ultimate driver for the abuse is differences in VAT rates between Member States together with the complex rules which make it difficult for Member States to control. It is important to note that such abuse leads to distortions – the non-compliant taxpayers have a VAT advantage over the compliant ones.

Aside from such abuses, it is also relevant that distortions can legitimately arise under the current rules. For example an Irish trader who does not reach the Danish registration threshold of EUR 35 000 could make supplies of children clothes to customers in Denmark charging the 0% rate applicable in Ireland. The corresponding rate of VAT in Denmark is 25%. This same trader could be supplying to each Member State up to the threshold of EUR 35 000 or 100 000, and hence can theoretically benefit from an overall threshold in excess of EUR 1 million.

2.3.2. Driver 2 – The complexity of the current VAT rules for B2C imports of goods from third countries

Currently the system of imports of tangible goods to end-consumers in the EU is highly complex, is open to abuse and provides a competitive advantage to non-EU suppliers as such suppliers can in certain circumstances make VAT free supplies while EU suppliers generally have to charge VAT. Further, the Commission and Member States receive complaints from consumers who face hidden VAT and administrative fees when purchasing goods from non-

³³ Member States are required to apply a threshold of either EUR 35 000 or EUR 100 000 under Article 34 of the VAT Directive (Directive 2006/112/EC) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:347:0001:0118:en:PDF>

³⁴ This project team was established under the Fiscalis 2020 programme and included representatives from 13 Member States.

EU suppliers – in many cases the consumer may not even be aware where the goods are coming from.

There are in effect 3 types of VAT treatment in respect of imports of goods to consumers in the EU:

i. Imports covered by the VAT exemption for small consignments (EUR 0 – 10/22)

Consignments supplied directly to consumers below EUR 10/22 can benefit from a VAT exemption³⁵ i.e. they are supplied VAT free direct to consumers in the EU. This measure was designed at the time of its adoption in 1983³⁶ as a simplification measure to avoid that too much time is devoted by customs administrations and economic operators in the customs clearance of low value goods.

With the rise of e-commerce, this has however turned into an expensive and growing tax subsidy benefiting non-EU sellers and triggering relocations of EU businesses to third countries or third territories. It is estimated that in 2015 there was 144 million³⁷ consignments benefitting from this exemption (more than a 300% increase over the last 15 years) with the possibility that VAT foregone could be as high as EUR 1 billion in 2015.

This exemption is a source of ongoing complaint by EU businesses as they legitimately argue that they are at a competitive disadvantage to non-EU suppliers. There is also some evidence that the exemption is the subject of abuse whereby the value of the consignments is under-declared so as to be kept within the exemption amount which indicates that the VAT losses could be higher (see below).

Member States do have the option to remove the threshold for mail order including e-commerce transactions which France has recently done. A recent report³⁸ of the French senate shows that the mail order exception implemented in France does not work in practice. The report provides some interesting figures from the Roissy airport: in 2014 3.5 million of express packages and 37 millions of postal packages arrived from third countries whereas the VAT collected in customs amounts to only EUR 1.4 million.

ii. Imports above EUR 10/22 and below the customs threshold (EUR 150).

Consignments between EUR 10/22 up to the customs duty exemption threshold of EUR 150 are subject to VAT but customs duties do not apply. It is estimated that there

³⁵ Article 23 of Council Directive 2009/132/EC of 19 October 2009 provides that goods of a total value not exceeding EUR 10 shall be exempt on import. Member States may grant exemption for imported goods of a total value of more than EUR 10, but not exceeding EUR 22 and can exclude goods imported on mail order (including e-commerce channels). The exemption excludes excisable goods.

³⁶ Prior to 1983, VAT was integrated in a customs negligible value threshold of 10 ECU.

³⁷ EY Study for the Commission - .

http://ec.europa.eu/taxation_customs/resources/documents/common/publications/studies/execsummary_lvcr-study.pdf. The 2013 figure of 115 million consignments has been increased by the Commission in line with the growth in e-commerce.

³⁸ http://www.senat.fr/fileadmin/Fichiers/Images/redaction_multimedia/2015/2015-Documents_pdf/20150917_e_commerce.pdf

were 43 million such imports in 2015. In the vast majority of cases³⁹ the customer is not charged VAT at the time of sale but rather the package is assessed for VAT at importation in the territory of the European Union. The customer pays the VAT and an administrative fee is charged to the customer by the transport operator i.e. the express courier or postal operator at the point of delivery of the good to cover the administrative costs of clearing customs. The postal charges for customs clearance vary between 0 and 22 EUR, whereas the courier firm will report on average cost of approximately 9 EUR per consignment and in practice the fee charged to the consumer can be much higher⁴⁰.

A recent study carried out by Copenhagen Economics⁴¹, which was based on a sample of 400 real purchases, has found that 65% of consignments from non-EU suppliers through the public postal channels were non-compliant. This is significant as it is estimated that 70% of transactions are sent through public postal channels.

iii. *Imports above the customs threshold of EUR 150*

Consignments above the customs threshold of EUR 150 require a customs declaration and will be subject to VAT and customs duties if applicable. Similar to the situation above the customer is liable to the VAT and customs duties and is usually charged an administrative fee by the transport operator to cover the costs of clearing customs⁴².

As indicated, the current complexities for B2C imports of goods are conducive to non-compliance for businesses and it is not ideal for consumers who are faced with the payment of VAT and administrative fees. The Study has estimated VAT foregone a year due to non-compliance of approximately EUR 570 million below the threshold of EUR 10-22 and of approximately EUR 2.1 billion⁴³ on consignments with a value between EUR 10-22 and EUR 150. The consultant considers that this estimate might '*be quite conservative*' given separate work undertaken by the French Senate and reports in the UK which estimate losses in the UK alone of up to EUR 1.9 billion annually⁴⁴. The types of abuses can be 1) goods over the value of the small consignments exemption but under-declared as being within the exemption (VAT free), 2) commercial goods incorrectly declared as consumer to consumer transactions or samples (VAT free), 3) under-declaration of goods between the VAT exemption threshold and the customs threshold (lower VAT paid), and 4) goods supplied from EU based

³⁹ There are some pilot schemes in place between some MS and third party transporters where VAT is charged up front to the customer, it is remitted by the 3rd party and the customer is not assessed for VAT on receipt of the package.

⁴⁰ In practice postal operators and couriers will charge end consumers an administrative fee for customs clearance services

⁴¹ E-COMMERCE IMPORTS INTO EUROPE: VAT AND CUSTOMS TREATMENT (2016) Authors: Dr Bruno Basalisco, Julia Wahl, Dr Henrik Okholm
<https://www.copenhageneconomics.com/publications/publication/e-commerce-imports-into-europe-vat-and-customs-treatment> CE carried out this study on behalf of UPS by making approximately 400 real purchase brought to delivery via e-commerce platforms located in US, Canada, Japan, India and China. Delivery was made to 7 destination Member States. 50% of purchases were via express operators with 50% via public postal operators. VAT was due on all the consignments, customs duties were due on 45% of the consignments.

⁴² Given the complexity of the interaction between customs duties and VAT with very different legal bases and rules, as well as to take a stepped approach it is considered that any amendments to the customs thresholds are beyond the remit of this initiative.

⁴³ Deloitte Study for the Commission: Lot 2 Pg. 256; please note that the estimates are based on compliance work carried out by a small number of Member States and an expert assessment.

⁴⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/507610/Fulfilment_House_Due_Diligence_Scheme_-_HMRC_consultation.pdf, Pg. 4

warehouses but fraudulently treated as VAT-free imports. The latter problem has been the subject of much discussion⁴⁵ in recent months including in the UK parliament⁴⁶ with many complaints primarily from UK and German based businesses that this abuse means that honest businesses cannot compete. This can have wider implications as supplies from these warehouses can be made to consumers in other Member State. It should also be noted that the European Court of Auditors recently reported on VAT fraud in the EU, and has urged action to address this problem⁴⁷.

In summary, this problem driver has implications for both Member States VAT revenues in terms of VAT legitimately foregone by Member States and as well as additional VAT compliance losses due to non-compliance and fraud, and it causes significant distortions to EU business as they are at a competitive disadvantage to non-EU business.

2.3.3. Driver 3 – The lack of an intra-EU threshold for B2C supplies of electronic services and other simplification measures for small business

Firstly, it should be noted that the changes to the 2015 place of supply rules for VAT were sought by Member States to address base erosion issues (BEPS). Those issues arose where larger and some smaller mobile businesses utilised changes in technology by locating in Member States with low VAT rates and hence reducing the tax base of other Member States. Secondly the MOSS is, in itself, a significant simplification and can reduce the costs for business by up to 95% compared to the alternative of direct registration and payment.

Nevertheless, the lack of a cross-border threshold for the place of supply rule changes in 2015 has been the source of a large number of complaints by business, it has been raised in the European Parliament and was one of the main problems raised by business in both the open public consultation and the assessment of the implementation of the 2015 changes. While the vast majority of complaints have come from UK based business primarily due to the fact that the UK has a very high domestic exemption for VAT of EUR 106 000⁴⁸, the Commission has accepted the difficulties that the 2015 change have caused for micro-businesses given the absence of a threshold and the difficulties they have faced in identifying where their customers are established.

The problem driver in essence is that a small business which is below the domestic exemption threshold (no VAT is charged on their supplies but no input VAT can be deducted) is now as a result of the 2015 place of supply rules required to charge VAT to customers in other Member States and account for this tax either through direct registration or using the simplified MOSS. The challenge they face is to identify where all their customers are located – to do this they are required under the VAT Implementing Regulation⁴⁹ to collect two pieces of non-contradictory evidence such as the IP address, bank details or other commercially relevant information. For electronic services this is difficult because there is no physical delivery address for the customer and many business use 3rd party platforms to process the

⁴⁵ <http://www.theguardian.com/politics/2015/dec/22/tax-officials-investigate-amazon-ebay-vat-fraud-overseas-sellers> <https://www.onlinehaendler-news.de/handel/allgemein/18888-amazon-de-chinesische-haendler-unfaire-vorteile.html>

⁴⁶ <http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm160114/halltext/160114h0001.htm>

⁴⁷ http://www.eca.europa.eu/Lists/ECADocuments/SR15_24/SR_VAT_FRAUD_EN.pdf

⁴⁸ The domestic exemption thresholds range from almost EUR 7 000 to EUR 106 000. 3 Member States do not have SME threshold: Spain, Sweden and the Netherlands. The table can be found here: http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/traders/vat_community/vat_in_ec_an_nexi.pdf

⁴⁹ Implementing Regulation (EU) No 282/2011

payments. Such businesses are then faced with secondary challenges of needing to know the relevant VAT rules in the Member States they make supplies to and the requirement to keep records of all their supplies for 10 years.

In addressing this problem driver, it should be noted that many Member States were not in favour of a threshold when the 2015 changes were discussed in Council as it could lead to a loss of tax revenues and put their business at a competitive disadvantage and cause distortions in the single market. In discussions on this new initiative at the Fiscalis seminar in Dublin in 2015, many Member State representatives restated their desire for no threshold or a very low threshold, the exception being the UK⁵⁰ perhaps due to the high domestic exemption threshold in place. A group representing the interests of micro-businesses on the issue (the UK based EU VAT Action⁵¹) is seeking a cross-border threshold of EUR 20 000 (which is already high for many Member States) and a so called soft landing up to EUR 100 000 where a business can benefit from simplified requirements such as a customer declaration to identify the location of a customer.

It is essential therefore that the Commission builds a business case based on evidence to ensure that the burden on small business is alleviated without causing any distortion to the single market.

2.3.4. Driver 4 – Complexity of the current MOSS system.

The analysis of the implementation of the 2015 changes identified complexities in the current MOSS system which cause difficulties for business and could be considered as less than efficient for Member State tax administrations.

The inherent drivers of this problem are as follows:

1. The requirement in some Member States to issue invoices to private consumers

While most Member States do not require a business to issue a full or simplified VAT invoice for cross-border B2C supplies of electronic services, the fact that some Member States still do unnecessarily complicates matters and means that many businesses operating cross-border still have to issue these in various different formats as well as different languages. Given that private consumers do not claim input VAT, there is little justification for requiring the issuance of such invoices which is an unnecessary cost on business. To be noted that other commercial documents will always be available to show the value of the transaction.

2. The prospect of audits from 28 tax administrations

Control measures including audits under the MOSS lies with the Member State of the consumer rather than that where the business is located. This raises the possibility that a business could be audited by any Member State. While arrangements have been agreed by many Member States to apply audit guidelines⁵² these are voluntary and do not have any legislative base.

⁵⁰ The UK has the highest domestic exemption threshold of EUR 106 000.

⁵¹ <http://euvataction.org/updates/>

⁵² See MOSS audit guidelines http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/telecom/one-stop_add_guidelines_en.pdf

3. *Record keeping requirements*

Businesses registered and operating via MOSS are required to retain records for a period of 10 years even if in certain Member States the period for domestic transactions is shorter. This means that businesses have additional costs to systematically separate records relating to domestic and intra-EU transactions as well as the costs for retaining these for longer.

4. *Inability to make corrections in the current MOSS VAT return*

In modern tax administrations and with self-assessed taxes, it is generally seen as good practice to allow a business to correct past VAT returns in its most recent return. The reasons for corrections could be a customer returning a product⁵³, money back guarantees for services, incorrectly assigning as B2C when it was B2B, or incorrectly attributed to the wrong Member State. Under MOSS, a business is required to adjust past returns individually which could mean that they need to be refunded VAT for that period. Some businesses have outlined to the Commission that the period for receiving such refunds is in excess of 4 months for some Member States which could have cash flow implications for the businesses.

5. *Filing time*

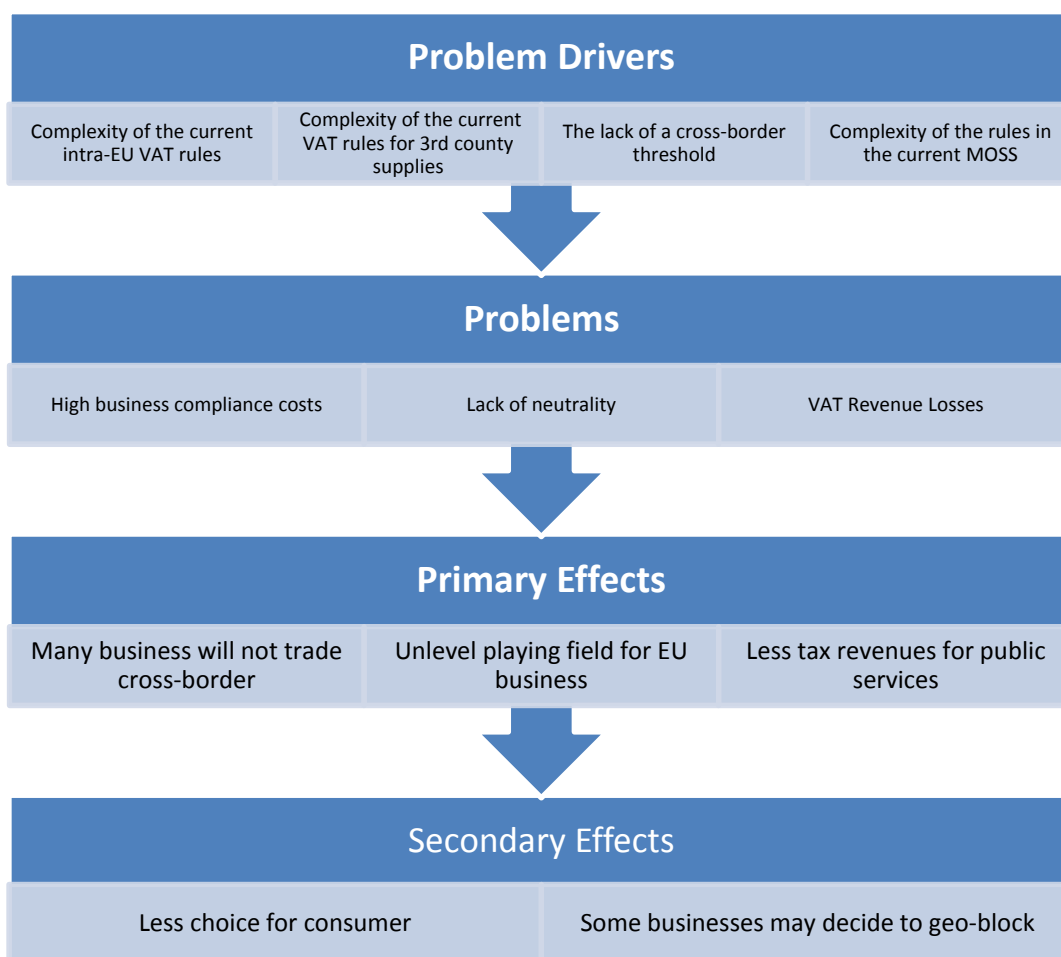
Under the MOSS businesses are required to file and pay the tax return within 20 days of the end of the quarter. The assessment of the implementation of the MOSS has indicated that this period is challenging particularly when considering the inability to adjust a return in the subsequent period.

2.4. Problem Tree

A summary of the problems, the problem drivers and the effects is summarised below. As indicated above the problems and the underlying problem drivers are inter-related and stem from the complexity and exceptions within the current system.

Figure 1 – Problem Tree

⁵³ While not obvious for services such as music or movies purchased online, some intermediaries will make refunds to customers in certain circumstances.



2.5. Evolution of the problem without action at EU level

E-commerce has become a key part of the economy and an important driver of economic growth demonstrated by the fact that over the last five years, e-Commerce in Europe has grown by between 17% and 20%⁵⁴. From 2009 to 2014, the contribution of e-Commerce to GDP has almost doubled⁵⁵. In terms of expenditure, it is estimated that total online expenditure on goods and services in 2015 was EUR 540 billion across the EU-28 with cross-border e-commerce accounting for about 18% of this figure, or EUR 97 billion⁵⁶. Therefore, it is evident that the problems identified in section 2.2 particularly the lack of neutrality for EU businesses and revenue losses for Member States will only increase if there is no action at EU level. Furthermore, the high compliance costs for business wishing to trade cross-border will continue, in the absence of simplification, to hold back the development of the single market in this important area of growth. Failure to act, given the expected continued growth in e-commerce, will lead to an even greater advantage for non-EU sellers and to VAT revenue losses for Member States estimated at EUR 7 billion annually in 2020 and growing by at least 15% year-on-year. While not quantified, there would also be continued negative effects on employment and direct tax revenues.

⁵⁴ E-Commerce Europe, European B2C E-commerce Report 2014

⁵⁵ E-Commerce Europe, <https://www.about-payments.com/newsroom/news/30517/double-digit-growth-for-european-e-commerce-sales>

3. WHY SHOULD THE EU ACT?

In analysing the problems and the problem drivers it is clear that the root causes are within the VAT Directive itself:

- The small consignments exemption which was designed as a simplification measure is leading to VAT foregone in Member States of EUR 1 billion. While Member States can limit this exemption and indeed reduce to zero, the experience in France is that without pan EU simplification measures non-compliance will increase. The regime for imports of goods whereby the customer is liable for the VAT rather than the supplier as is currently the case with electronic services means that compliance is difficult to enforce.
- The distance sales thresholds are provided for in the VAT Directive and only an amendment of the Directive can replace them by a common cross-border threshold. In addition, an amendment to the VAT Directive is required to include the supply of tangible goods within MOSS and therefore address the costly administrative burden which businesses face in trading cross-border.

The experience of the MOSS system clearly demonstrates the EU added-value for Member States in terms of securing VAT revenues and business in terms of reducing the costs for trading cross-border. This could not have been achieved without an amendment to the VAT Directive as it is an exception to the normal rules whereby business are generally required to register for VAT in the Member State of destination in respect of B2C supplies. As set out above, any further added-value by extending this system can only be achieved through a legislative amendment.

The initiative respects the principle of proportionality and will not go beyond what is necessary for the smooth functioning of the single market. The proposal is indeed limited to cross-border ecommerce and will not seek to harmonise purely domestic legislation and procedures.

As with the subsidiarity test, it is not possible for Member States to address the problems and problem drivers without a proposal to amend the VAT Directive.

In conclusion, if the problem at hand is to be addressed in a coherent and meaningful fashion it can only be achieved through a legislative proposal. Therefore, it is necessary for the Commission, which has responsibility for ensuring the smooth functioning of the Internal Market and promoting the general interest of the European Union, to propose action to improve the situation. The legal basis is Article 113 of the TFEU.

4. WHAT SHOULD BE ACHIEVED?

4.1. General objectives

The general objectives of are the smooth functioning of the internal market, the competitiveness of EU business and the need to ensure effective taxation of the digital economy.

4.2. Specific objectives

The specific objective for the proposal are outlined in the Digital Single Market strategy. These objectives are:

- i. Minimising burdens attached to cross-border e-Commerce arising from different VAT regimes which act as a barrier to intra-EU trade and unduly limit consumer choices.
- ii. Providing a level playing field for EU businesses whether involved in the traditional economy, engaged in domestic e-commerce or cross-border e-commerce.
- iii. Facilitating the monitoring of compliance and the fight against fraud for Member States' authorities.
- iv. Ensuring that VAT revenues accrue to the Member State of consumption.

Table 2 – Linking the objectives to the problem

| Specific Objectives | Link to the problem |
|---|---|
| Minimising burdens attached to cross-border e-Commerce arising from different VAT regimes which act as a barrier to intra-EU trade and unduly limit consumer choices. | Addresses the problem of business compliance costs Addresses the problem of a level playing field as non-domestic business can compete without prohibitive costs. |
| Providing a level playing field for EU businesses whether involved in the traditional economy, engaged in domestic e-commerce or cross-border e-commerce. | Addresses the problem of the lack of neutrality for business. |
| Facilitating the monitoring of compliance and the fight against fraud for Member States' authorities. | Addresses the problem of the losses of VAT revenues for Member States and the lack of neutrality for business who are at a disadvantage to suppliers who do not charge VAT. |
| Ensuring that VAT revenues accrue to the Member State of consumption. | Addresses the problem of the losses of VAT revenues for Member States and the lack of neutrality for business. |

5. WHAT ARE THE VARIOUS OPTIONS TO ACHIEVE THE OBJECTIVES?

5.1. Selection of options

Six Policy Options were considered for the Study. These options were inspired by the Report of the Expert Group on the taxation of the digital economy and through dialogue with business interest and Member States. The options are designed to build on each other through a minimal intervention to address the neutrality aspect (Option 2), the introduction a cross-border threshold to address the problems facing micro-business and start-ups to the more comprehensive interventions proposed in Options 4, 5 and 6 which largely reflect the commitment made in the DSM strategy.

The options studied are the same as those identified in the inception impact assessment⁵⁷. Further, these options were tested with Member States and business at the 2015 Dublin Fiscalis seminar, which took place in September 2015⁵⁸. It should be noted that no other options emerged at this seminar, with vast support from both Member States and business for Options 5 or 6, although representatives from many Member States expressed strong doubts in respect of the proposed introduction of a threshold.

The policy options are targeted at business in respect of removing obstacles and improving the competitiveness of EU business. There is a particular emphasis here on SMEs. The policy options are also targeted at Member States in terms of increasing VAT revenues. Benefits will accrue to consumers because they will get a wider choice of products coming from different Member States, and also because under the MOSS, for supplies from 3rd country suppliers, consumers will be able to pay for VAT when making an online purchase of goods and therefore not have any responsibility to pay the VAT and an administrative fee when the good is delivered.

A soft law approach such as voluntary approach to use the MOSS is not feasible. The nature of the MOSS is that a supplier can benefit from a simplified tax accounting process whereby VAT in respect of sales to customers in other Member States is paid through a web portal hosted by his own Member State – in essence Member States agree to let each other collect taxes on their behalf and ensure compliance. Legislatively this is an exception from the normal rules – according to which each Member State is collecting its own taxes - and is considered as a special scheme in the VAT Directive. Therefore a proposal to amend the VAT Directive and get agreement by all 28 Member States is essential. It is also required that the individual MOSS portals inter-connect through IT systems hosted by the Commission.

5.2. Options analysed

5.2.1. *Option 1: Status Quo/Baseline*

This options means no action will be taken at EU level. This option will serve as the benchmark against which the other options will be assessed. The description of the problem and the problem drivers of the status quo is described in Section 2.

⁵⁷ http://ec.europa.eu/smart-regulation/roadmaps/docs/2016_taxud_002_ia_vat_en.pdf

⁵⁸ Deloitte Study for the Commission on ‘Modernising VAT for cross-border e-commerce’ – Lot 3 – Assessment of the implementation of the 2015 VAT changes, Annex 5.

5.2.2. **Option 2⁵⁹**: *Removal of the distance selling thresholds and the small consignment exemption (with no simplification measure)*

Option 2 proposes a minimal intervention by removing the VAT exemption for the importation of small consignments (supplies from 3rd countries) and the distance selling thresholds (Intra-EU supplies). This option is fully in line with the destination principle of VAT by charging VAT in the Member State of the consumer and addresses the issues of tax neutrality. There are no simplification measures proposed in this option. Therefore all imports will be subject to VAT and all businesses who engage in cross-border B2C trade will be required to register and account for VAT in the Member State of destination. This option could be adopted rapidly as no pan European IT system would need to be built.

5.2.3. **Option 3**: *Option 3 - Option 2 but with the introduction of a new common VAT threshold for EU cross-border sales of both goods and services⁶⁰*

Option 3 builds on Option 2 with the removal of the distance selling thresholds and the small consignment exemption but also proposes the introduction of a new common VAT threshold for all intra-EU B2C supplies of goods and services (cross-border threshold). The different levels of the threshold analysed under this option are EUR 5 000, EUR 10 000 and EUR 100 000 taking account of the number of businesses affected and the potential distortions. Such a threshold is independent of the existing domestic VAT exemption thresholds⁶¹. Up to the threshold an EU business making e-commerce supplies to customers in other Member States could opt to treat these supplies as domestic transactions. Once the threshold is exceeded, the supplier would be required to register and account for VAT due in all other Member States (average annual cost of EUR 8 000 per Member State without MOSS). A business which only supplies cross-border electronic services to a given Member State would be able to use the existing MOSS. This option could be adopted rapidly as no pan European IT system would need to be built.

5.2.4. **Option 4**: *Option 3 plus the Mini One Stop Shop (MOSS) applying to intra-EU supplies of goods, intra-EU and non-EU supplies of services and to the import of all goods under the customs threshold of EUR 150*

Option 4 builds on Option 3 but importantly includes significant simplification measures through the extension/evolution of the current MOSS system to the Mini One Stop Shop which would also apply to i) B2C intra-EU supplies of goods and ii) supplies of goods from suppliers outside the EU. Business will, however, be required to apply the rules of the

⁵⁹ In early discussions at Council, one Member State has indicated a preference for this option and therefore it was prudent to examine this in the impact assessment.

⁶⁰ It is important to recognise that this new type of threshold is very different to the distance selling threshold removed in Option 2. Under this threshold, all B2C supplies to consumers in other EU countries will be treated as a domestic supply up to the threshold amount. Thereafter, the business will be required to register and account for the VAT in the Member State of destination with no simplification under Option 3. The difference with distance selling thresholds is that the threshold amount is per Member State at either EUR 35 000 or EUR 100 000. As outlined in Section 2, the distance-selling threshold is both a source of distortion and difficult to control in terms of compliance. The Member State where the business is based will be tasked with ensuring that thresholds are adhered to.

⁶¹ The VAT Directive allows Member States to permit exemption for VAT for small enterprises in respect of domestic transactions. The level of the domestic exemption threshold currently in place in Member States ranges from EUR 5000 to EUR 106 000 in the UK. 3 Member States do not apply any exemption. The threshold proposed will complement the domestic exemption. Note also that the Single Market Strategy and the VAT Action Plan have committed to proposing a SME VAT simplification package in 2017. This is intended to address all obligations an SME faces and is not confined to the e-commerce sector.

Member State of identification in areas such as invoicing and to keep records for 10 years, and could be subject to individual audits from each of the Member States they supply to. For this option, based on the analysis under Option 3, a common threshold of EUR 10 000 was considered for intra-EU B2C supplies of goods and services. For the importation side, supplies from MOSS registered non-EU businesses will also benefit from a fast-track customs procedure (subject to safety and security checks) as the VAT due on the consignments will be pre-declared and no customs duties are due on such consignments. It is also proposed to allow 3rd parties such as postal operators, express couriers or market places to act as an intermediary and account for and declare the VAT through the MOSS. If VAT is not pre-declared under MOSS, the traditional route of accounting for VAT at importation will still be available using a simplified periodical declaration and paying the standard VAT rate in the Member State of importation. The general implementation date would be 2021 as this date aligns with changes to the treatment of parcels in the Union Customs Code and also to ensure that the MOSS system is adapted. This option (and for options 5 and 6) would propose to introduce in 2018 an intermediate threshold targeted at EU microbusiness and start-ups in respect of cross-border supplies of electronic services.

In practice under this option and options 5 and 6, similarly to the current Mini One Stop Shop an EU business will be able to account for all supplies of goods and services to consumer in other Member States through a simplified quarterly return to its own tax administration. His tax administration will then transfer the taxes due to the relevant Member States of consumption. As is currently the case with electronic services, a non-EU business or an intermediary such as a platform/postal operator/express carrier will be able to account for taxes due through the MOSS established by a Member State of its choosing⁶² who will then transfer the taxes due to the Member State of consumption.

5.2.5. Option 5: *Option 4 plus amendments to the Mini One Stop Shop (home country rules and home country control subject to applying the VAT rate of the Member State of Consumption, and a 'soft landing' for identifying the place where the customer is located)*

Option 5 is similar to option 4 in that there will be a MOSS to account for the tax due in other Member States and there will be an intra-EU threshold of EUR 10 000 but instead of applying the rules of the Member State of the consumer, the business applies the VAT rules which apply to his domestic transactions aside from the VAT rate⁶³ which will be of the Member State of the consumer. In addition, further simplifications would be introduced to address the problems identified in the analysis of the 2015 changes such as in relation to corrections, currency conversion rules, amendment of returns etc. Unlike option 4, responsibility for the audit and control of a business will be with the Member State where the business is established in coordination with the Member States of consumption. Similarly to established practice in the field of customs, the Member State of identification will be entitled to retain a small percentage of the tax collected on behalf of other Member States to compensate IT build costs, ongoing maintenance costs and the resources spent controlling business established in that Member State with a view to ensuring full compliance. The objective of this option is that cross-border B2C transactions will be as similar as possible to domestic transactions with payment of the tax due in other Member States through the MOSS.

Option 6: Option 4 plus fully harmonised EU rules for Mini One Stop Shop, subject to applying the rates/exemption of the Member State of Consumption

⁶² Subject to eligibility criteria and controls

⁶³ VAT exempt supplies will also follow the rules of the Member State of the consumer.

Option 6 is similar to Option 5 but instead of home country rules, a set of harmonised EU wide rules would be adopted for all the obligations a business faces when engaging in intra-EU B2C trade. Although, this would mean that one set of rules would apply for domestic transactions and a separate set of rules for intra-EU transactions.

5.2.6. *Discarded option: VAT split payment – intervention of payment service providers in the VAT payment to the relevant tax authorities*

Another option that we also looked into was the possibility for banks, card issuers or other payment service providers to intervene in the collection mechanism for VAT (split payment). How the split payment would function: once a payment is made via the internet to purchase goods, the bank/payment service provider will have the liability to withhold the related VAT amount and remit it to a government bank account.

Several problems were identified with this solution, such as:

- the payment service providers generally have limited information on the underlying transaction. If a payment is made in accordance with the unique identifier (i.e. IBAN) the payment is considered to be executed correctly. The payment service provider of the payer or of the beneficiary are not obliged to check the identity of the beneficiary or the nature of the underlying relationship between the payer and the beneficiary before the payment is executed. Imposing the liability of the payment service providers to withhold the equivalent of the VAT amount would imply knowing in detail the VAT rules applicable to that transaction in order to establish the required VAT amount. Such payment service providers usually have no access to commercial information (status and place of vendor, status and place of customer, VAT rate). To be noted that any additional obligations in the field of electronic payments could only be introduced by amending the Payment Services Directive (PSD)⁶⁴.
- The role of the payment service providers is basically to confirm the validity of the payment method used for the respective transaction and this is done automatically without any human intervention. In fact, under PSD payments have to be executed within one business day. In the near future, instant payments will become the norms. Imposing an obligation on the payment service provider to enter into the nature of the underlying (contractual) obligations of the payer vis-à-vis the payee for VAT purposes would seriously hamper the possibility of payment service providers to participate in instantaneous payments schemes.
- Imposing a fragmented payment would also interfere with Article 67 of the PSD according to which a payment service provider is obliged to transfer the full amount of the payment transaction and to refrain from deducting charges from the amount transferred.

Account taken of the above, this option was discarded. Going forward, this impact assessment will only focus on the first 6 options described above.

⁶⁴ Directive 2007/64/EC

5.3. Key features of the Options

The table below provides an overview of the key features of the different Policy Options.

Table 3 – Summary of the key features of the policy options assessed

| Features | Option1 | Option2 | Option3 | Option4 | Option5 | Option6 |
|---|---------|---------|---------|---------|---------|---------|
| General requirement to register and account for tax in the Member State of Consumption. ⁶⁵ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Availability of a the current MOSS for EU and non-EU B2C supplies of electronic services. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Distance selling thresholds for goods | ✓ | | | | | |
| VAT exemption for the importation of small consignments | ✓ | | | | | |
| Intermediate cross-border threshold in 2018 for electronic services covered by the 2015 changes. | | | | ✓ | ✓ | ✓ |
| Harmonised cross-border threshold for Intra-EU supplies of goods and services. | | | ✓ | ✓ | ✓ | ✓ |
| The availability of the for intra-EU supplies of goods and services | | | | ✓ | ✓ | ✓ |
| The availability of the for non-EU supplies of goods and services | | | | ✓ | ✓ | ✓ |
| Fast-track customs arrangements for VAT pre-declared goods to be imported | | | | ✓ | ✓ | ✓ |
| Primary responsibility for audit with the Member State of Consumption (Multiple MS can undertake audits). | ✓ | ✓ | ✓ | ✓ | | |
| Primary responsibility for audit with the Member State of Identification. | | | | | ✓ | ✓ |
| VAT obligations for the business dependent on the Member State of Consumption (Business operates to the rules in each market they supply to – potentially 28 systems) | ✓ | ✓ | ✓ | ✓ | | |
| VAT obligations of the Member State of identification for business supplying intra-EU cross-border. (Domestic VAT | | | | | ✓ | |

⁶⁵ The general rule is to register in the Member State of consumption. The MOSS is an optional simplification for business.

| Features | Option1 | Option2 | Option3 | Option4 | Option5 | Option6 |
|--|---------|---------|---------|---------|---------|---------|
| obligations except for rates) | | | | | | |
| Harmonised EU rules for business supplying cross-border. | | | | | | ✓ |

6. WHAT ARE THE IMPACTS OF THE DIFFERENT POLICY OPTIONS AND WHO WILL BE AFFECTED?

6.1. Methodology

This analysis of the policy options requires inputs from both the business and government perspective. To achieve this analysis, it was necessary to both quantitative and qualitative information. In terms of the economic impacts, it was necessary to utilise a range of methodological tools using a micro-oriented approach combined with a macro-oriented approach. A detailed annex describing the overall methodology used, the key assumptions and the CGE model used is described in Annex 4.

Table 4 – Summary of methodology used

| Impact | Approach used | Tools for analysis | Key assumptions | Key sources |
|--|---|---------------------------|--|---|
| <i>Impacts for Member States' revenues, costs and benefits for Member States to implement the Option</i> | Quantitative analysis Qualitative analysis | Standard Cost model (SCM) | Costs similar to the MOSS Different scenarios for e-Commerce growth Compliance monitoring based on risk profiling | Member States' interviews and questionnaires Stakeholder workshops Desk research Member States' interviews |
| <i>Impacts on administrative burden for businesses</i> | Quantitative analysis | SCM | Impacts of OSS similar to those of MOSS Number of businesses Number and behaviour of micro-businesses engaged in cross-border e-Commerce | Businesses interviews Stakeholder workshops Business online survey |
| <i>Impacts on competition and growth</i> | Quantitative analysis | CGE model | Different scenarios for e-Commerce growth Number of businesses Number and behaviour of micro-businesses engaged in cross-border e-Commerce | Consumer survey SCM Desk research |
| <i>Impacts on compliance</i> | Quantitative analysis Qualitative analysis | Projections | Different scenarios for e-Commerce growth | Member States' interviews and questionnaires Stakeholder workshops Desk research Mock purchases |

6.2. Analysis of the impacts of each of the options

6.2.1. Option 1 – Status Quo

Section 2 outlines in detail the problems and the problem drivers of the status quo. In summary, the main problems are:

1. Cross-border compliance costs – these costs are estimated as EUR 4.2 billion annually. They will continue to act as a barrier for business wishing to access the single market.
2. Lack of neutrality/distortions – These distortions include non-EU business gaining a legitimate advantage through the exemption for the importation of small consignments in addition to the vast number of non-compliant transactions as noted in the recent Copenhagen Economics study which found that 65% of purchases made from non-EU sellers through the public postal services are non-compliant. In addition, the distance selling thresholds put both domestic E-Commerce sellers and businesses in the traditional economy at a disadvantage due to the exploitation of VAT rate differentials and the lack of control of these thresholds. It is clear that these existing distortions faced by EU business will magnify as e-commerce transactions continue to grow.
3. VAT revenue losses – Revenues for cross-border e-commerce are projected to be EUR 137 billion from e-commerce in 2020. It is estimated in 2020 that the VAT foregone for the small consignments exemption will be EUR 1.3 billion and compliance losses will be EUR 6.7 billion.

The conclusions of the Commission expert group on the taxation of the digital economy are clear that the status quo is not an option. The analysis undertaken in the Study and in this impact assessment fully supports this assertion, and therefore the option of taking no action is not feasible. There is also broad support by Member States and business, in particular the e-commerce representative organisations, that there is a need to modernise VAT for cross-border e-commerce.

6.2.2. Option 2 - Removal of the distance selling thresholds and the small consignment exemption (with no simplification measure)

Summary – the extent to which the specific policy objectives will be met

Overall - Objectives not met

1. Minimising burdens attached to cross-border e-Commerce arising from different VAT regimes – Not met
2. Providing a level playing field for EU businesses – Partially met if sufficient controls in place to monitor small consignments and distance selling
3. Facilitating the monitoring of compliance and the fight against fraud for Member States' authorities. – Partially met if sufficient controls in place to monitor small consignments and distance selling
4. Ensuring that VAT revenues accrue to the Member State of the consumer – Partially

met if sufficient controls in place to monitor small consignments and distance selling

Economic Impacts and competitiveness

Impact on business

EU Business

In comparison with the Status Quo, this Option leads to a **12% increase** of the administrative burden on businesses selling cross-border as a result of the removal of the distance selling and import thresholds, without any simplification being introduced. This figure however is based on low compliance by businesses, as well as impossibility of authorities to monitor the increasing number of transactions.

While some distortions will be addressed through the removal of the small consignments exemption, the increase in administrative burdens due to the lack of any simplification measures and a cross-border threshold will be negative for business overall. The impact for domestic operators and those who are already registered for VAT in other Member States is likely to be positive as in theory there should be a more level playing field arising from the removal of the small consignments exemption.

Non-EU Business

Non-EU business and EU based importers will, in theory, be negatively affected by this option as EU customers will be charged VAT on importation of all consignments and the related compliance burden to clear customs will be high in the absence of any simplification. As a result, the attractiveness of VAT free consignments will cease. However, in practice, there would be difficulties in enforcing the removal of small consignments exemption (see also below under *Tax Administration and Tax Compliance*).

SMEs and micro-business

Due to the increase in the administrative burdens which will disproportionately affect small and micro business, only a small minority of micro-businesses will be likely to comply with the new obligations, while the remaining of micro-businesses will be likely to cease trading cross-border or will fail to register for VAT (i.e. be non-compliant). There should be some positive impacts for business operating at domestic level due to the removal of the small consignments exemption and the distance selling thresholds. However, any positive impact is minimal due to the increase in non-compliance.

Postal operators and couriers

The impact on postal operators and couriers is overall negative. The removal of the small consignments exemption will mean that they will have to process a significant larger number of packages through customs with no simplification measures. It is estimated that an additional 150 million parcels will be subject to a VAT declaration, generating a total administrative cost of EUR 1.7 billion, instead of EUR 0.7 million under the baseline scenario (increase by 143%).

Impact on Member States

VAT revenues

VAT revenues for Member States are expected to **decrease by EUR 0.05 billion⁶⁶ a year.**

⁶⁶ See annex 4 Methodology – Analysis of VAT revenues under options 1 – 6.

Tax Administration and Tax Compliance

The removal of the small consignments exemption will increase substantially the number of packages which are required to be cleared by customs authorities.

The removal of distance selling threshold simplifies the VAT system and should be expected to facilitate the compliance control by tax authorities, reducing the VAT fraud on distance selling.

The removal of small consignment exemption simplifies the VAT system and should enable slightly more efficient compliance controls (e.g. by reviewed risk assessment). However, as the volume of parcels subject to VAT increases, there is higher motivation for non-EU suppliers to undervalue and mislabel the parcels to reduce their VAT cost. Evidence on the high level of non-compliance where the small consignment exemption cannot be applied can be found in a recent French Senate report⁶⁷ (France does not apply small consignment exemption to mail orders⁶⁸). Therefore the level of non-compliance is expected to increase in this Option.

Impact on e-Commerce market and competitiveness

Medium growth Scenario⁶⁹

At a broader economic level, there is likely to be a small negative impact on cross-border e-Commerce. In terms of values⁷⁰, compared to the base line total e-commerce (domestic and cross-border) is expected to increase by 0.3%, a decrease of 0.9% is expected in cross-border e-commerce representing a 0.5% increase in intra-EU e-commerce and a decrease of 4.7% in non-EU to EU cross-border e-commerce. Prices are due to increase but this effect is primarily due to the effect on current EU prices arising from VAT free supplies into the EU⁷¹.

There are negligible differences under the DSM scenario⁷².

Table 5 - Medium growth scenario

| | Total e-Commerce ⁷³ | Cross-border e-Commerce | EU cross-border e-Commerce | Non-EU cross-border |
|--|---------------------------------------|--------------------------------|-----------------------------------|----------------------------|
|--|---------------------------------------|--------------------------------|-----------------------------------|----------------------------|

⁶⁷http://www.senat.fr/fileadmin/Fichiers/Images/redaction_multimedia/2015/2015-Documents_pdf/20150917_e_commerce.pdf

⁶⁸ This option is available to all Member States.

⁶⁹ Medium Growth has been calculated as an annual growth rate of 12% for the e-commerce sector in the EU

⁷⁰ All impacts are calculated for 2020. It was decided to choose 2020 as this was deemed at the outset of the Study as a possible implementation date for the proposal given the need to get agreement by unanimity in Council and to provide sufficient time for IT development by both Member States and business. The impacts are on the basis of Year 1 implementation.

⁷² The sensitivity analysis was carried out on the basis of 2 scenarios. The high growth scenario is an annual growth rate of 18% for the e-commerce sector in the EU. The DSM scenario is high growth of 18% for supplies from within the EU reflecting other simplifications under the DSM strategy with medium growth of 12% from non-EU suppliers. For the purpose of this, it was decided that the DSM scenario should be utilised for the options.

⁷³ Total e-commerce includes cross-border and domestic.

| EU e-Commerce prices | | | | |
|--|------|-------|------|-------|
| % | 0.5% | 2.6% | 1.1% | 5.7% |
| e-Commerce value | | | | |
| <i>EUR billions</i> | 3.5 | -1.7 | 0.5 | -0.3 |
| % | 0.3% | -0.9% | 0.3% | -4.2% |
| Regional Impact | | | | |
| <p>Given the lack of a simplification measure, it is unlikely that there will be any significant regional impacts. However, Member States in which SMEs make up a greater contribution to e-commerce would be expected to be disproportionately impacted as those businesses would no longer benefit from the distance selling thresholds.</p> | | | | |
| Consumers and households | | | | |
| <p>The impact on consumers is likely to be negative overall as less business are engaging in intra-EU trade. Hence consumer choice is down, which would make a decrease of prices less likely.</p> | | | | |
| Macroeconomic impact | | | | |
| <p>Negligible.</p> | | | | |
| Environmental and Social Impacts | | | | |
| <p>No significant impacts</p> | | | | |

6.2.3. *Option 3 - Option 2 but with the introduction of a new common VAT threshold for EU cross-border sales of both goods and services*

| Summary - Impact on the policy objectives |
|---|
| <p>Overall – Objectives not met</p> <ol style="list-style-type: none"> 1. Minimising burdens attached to cross-border e-Commerce arising from different VAT regimes – <u>Not met</u> 2. Providing a level playing field for EU businesses – <u>Partially met if sufficient controls in place to monitor small consignments and distance selling</u> 3. Facilitating the monitoring of compliance and the fight against fraud for Member States’ authorities – <u>Partially met if sufficient controls in place to monitor small consignments and distance selling</u> 4. Ensuring that VAT revenues accrue to the Member State of the consumer – <u>Partially met if sufficient controls in place to monitor small consignments and distance selling</u> |
| Economic Impacts |

Impact on business

EU Business

EU businesses will benefit from a clearer legislative framework applying throughout the EU. Despite the introduction of new thresholds, the absence of any other simplification has a negative impact on administrative costs. If the threshold is set at **EUR 10 000, the costs are expected to increase by 7%.**

The lack of any simplification measures will be negative for business overall through an increase in administrative burdens. On the positive side, some distortions have been addressed through the removal of the small consignments exemption and micro-business will be able to avail of a threshold. The impact for domestic e-commerce operators and those who are already registered for VAT in other Member States is likely to be positive as there should be a more level playing field arising from the removal of the small consignments exemption. The negative is the increase in compliance costs due to the lack of simplification measures.

Non-EU Business

Similar to Option 2.

SMEs and micro-business

The introduction of a threshold is likely to be positive for micro-business in particular but the lack of simplification measures i.e. a MOSS is negative for SMEs overall as they will still experience high costs for registering and declaring VAT in other Member States. This also means that there is a significant dis-incentive for micro and smaller businesses to grow as they will face a cliff in terms of administrative costs once the threshold is exceeded.

With the common VAT threshold at EUR 10 000, it is estimated that 430 000 micro-businesses (or 97% of the total) are below the EUR 10 000 threshold. In terms of potential distortions⁷⁴, a threshold of EUR 10 000 would tax at origin respectively 3.9% of the transactions.

Also, as with Option 2 there should be some positive impacts for business operating at domestic level due to the removal of the small consignments exemption and the distance selling thresholds.

Postal operators and couriers

Similar to Option 2.

Impact on Member States

VAT revenues

Under this option total VAT revenues for Member States are expected **to increase by EUR 0.45 billion a year.**

Tax Administration and Tax compliance

⁷⁴ The analysis of distortions is calculated by using taxation at origin as a proxy i.e. the tax would be paid at the rate of the Member State where the supplier is located rather than following the destination principle of where the customer is located.

Similar to Option 2 except that there will be a reduction in the number of businesses required to register for tax in other Member States arising from the introduction of a threshold and therefore this should increase EU compliance compared to Option 2 for the reason that there are less businesses required to register in other Member States and therefore resources can be better targeted.

Impact on e-Commerce market and competitiveness

Medium Growth Scenario

At a broader economic level (based on a EUR 10 000 threshold), there is likely to be a small negative impact on cross-border e-Commerce. In terms of values, total e-commerce (domestic and cross-border) is expected to increase by 0.3%. A decrease of 0.7% is expected in cross-border e-commerce representing a 0.5% increase in intra-EU e-commerce and a decrease of 4.1% in non-EU to EU cross-border e-commerce. Prices are expected to increase but this effect is primarily due to the effect on current EU prices arising from VAT free supplies into the EU. The removal of the exemption will substantially increase the average price of imports, leading to a shift from imports to domestic and intra-EU sales. The shift to intra-EU sales will however be smaller than expected due to the removal of the distance selling thresholds without a MOSS which may lead to smaller firms exiting the market.

Table 6 – Medium growth scenario Option 3

| | Total e-Commerce | Cross-border e-Commerce | EU cross-border e-Commerce | Non-EU cross-border |
|--------------------------------|------------------|-------------------------|----------------------------|---------------------|
| EU e-Commerce prices | | | | |
| <i>Threshold of EUR 10 000</i> | | | | |
| % | 0.9% | 2.33% | 0.68% | 5.71% |
| e-Commerce value | | | | |
| <i>Threshold of EUR 10 000</i> | | | | |
| <i>EUR billions</i> | 3.9 | -1.4 | 0.7 | -2.1 |
| % | 0.3% | -0.7% | 0.5% | -4.1% |

Source: Study

DSM Scenario

The DSM scenario is very similar to the medium growth scenario.

Regional Impact

Similar to option 2, but the availability of a cross-border threshold should mean that Member States with a high proportion of SMEs engaging in e-commerce should not be as disproportionately affected as under Option 2.

Consumers and households

Similar to Option 2.

Macroeconomic impact

Negligible.

| |
|---|
| Environmental and Social Impacts |
| No significant impacts |

6.2.4. Sub-option – Level of the Cross-border threshold for goods and services

The type of threshold which has been studied is one under which businesses would apply domestic rules only. A threshold under which cross-border supplies would be VAT exempt has been disregarded because almost all Member States expressed themselves against it in the Dublin Conference but also because it would increase administrative burdens for small businesses (who could be taxed at a domestic level and exempt abroad – leading to complex apportionment schemes for the right of deduction).

To estimate the optimal level of the cross-border threshold⁷⁵ to be targeted at Micro-business and start-ups, an analysis was undertaken for possible thresholds of EUR 5 000, EUR 10 000 and EUR 100 000. This analysis identified the number of business eligible at each threshold level and the distortionary effect using the proxy of taxation at origin. If an EU business has annual EU cross-border sales below this threshold they shall be deemed to be domestic transactions and therefore they would not be required to register and account for these taxes in the other Member State – either directly or through the MOSS.

Table 7 - Analysis of thresholds

| Threshold | No. of business Eligible ⁷⁶ | Potential reduction in burden with the availability of the MOSS | Intra-EU cross-border impact | | Distortionary effect ⁷⁷ |
|-------------|--|---|---|------------------------------|------------------------------------|
| | | | % of e-Commerce trade taxed at the origin | VAT Revenues taxed at origin | |
| EUR 5 000 | 400 000 | EUR 822 million | 3.7% | EUR 360 million | Low |
| EUR 10 000 | 430 000 | EUR 887 million | 3.9% | EUR 388 million | Low |
| EUR 100 000 | 510 000 | EUR 1054 million | 10.3% | EUR 1 188 million | High |

It is estimated that 400 000 businesses of micro-businesses¹ (90% of the total) will be below the common VAT threshold (set at EUR 5 000). With the common VAT threshold at EUR 10 000, it is estimated that 430 000 micro-businesses (or 97% of the total) are below the EUR 10 000 threshold. In terms of potential distortions¹, a threshold of EUR 5 000 and EUR 10 000 would tax at origin respectively 3.7% and 3.9% of the trade. Significantly a threshold of EUR 100 000 would only exclude an additional 80,000 businesses but would lead to increased distortions of approximately 10%.

Based on the analysis under this option, it is considered that a EUR 10 000 threshold would be optimal given that it excludes 430,000 businesses from the scheme with a minimal amount

⁷⁵ It should be noted that the intra-EU cross-border threshold adopted would be independent of the existing domestic exemption threshold.

⁷⁶ The number of affected business was analysed as part of the Study on ‘Modernising VAT for cross-border e-commerce’ Lot 2, Page 249, Table 129. Estimate of businesses engaged in cross-border trades and revenues. Sources used include Eurostat, Business Enterprise Statistics and Information Society Statistics. The analysis in Table 7 also considers the profile of actual trades per business in the MOSS system see Pg. 109, Table 12, of Lot 3 of the Study.

⁷⁷ This assessment uses taxation at origin as a proxy to determine the potential distortionary effect. The alternative would have been to carry out detailed modelling across Member States which would be extremely complex given VAT rate differentials across individual products and Member States. It is considered for this purpose that less than 5% is low; 5 – 10% is medium; and above 10% is high.

of distortions to the single market. This also ensures that the proposal will largely stay consistent with existing Commission policy as well as international practice that consumption taxes like VAT should be taxed in the country where the consumer is based. In addition, one must also be cognisant of the political considerations particularly as unanimity will be required in Council. In the stakeholder consultation, representatives from most Member States indicated that they are either not in favour of a threshold, or a very low threshold.

6.2.5. *Option 4 - Option 3 plus Mini One Stop Shop applying to intra-EU supplies of goods and services and to the import of all goods under the customs threshold of EUR 150*

Summary - Impact on the policy objectives

Overall – Meets the objectives (Positive overall)

1. Minimising burdens attached to cross-border e-Commerce arising from different VAT regimes – Partially met
2. Providing a level playing field for EU businesses – Met
3. Facilitating the monitoring of compliance and the fight against fraud for Member States’ authorities – Partially met
4. Ensuring that VAT revenues accrue to the Member State of the consumer – Met

Economic Impacts and competitiveness

Impact on business

EU Business

EU businesses will benefit from a clearer legislative framework applying throughout the EU. In addition to a new threshold for micro-business, a simplified scheme (the Mini One Stop Shop) will be available and will substantially reduce administrative costs. Option 4 is therefore likely to **reduce the administrative burden for EU businesses by 42%** (by EUR 1.8 billion) compared to the status quo.

Overall the impacts are positive particularly in terms of the competitiveness of EU business. Business benefits from intra-EU thresholds as well as the simplification measures. It is estimated that about 83% of businesses engaged in cross-border e-Commerce and above the EUR 10 000 threshold will register to the MOSS. The impact for e-Commerce operators is generally positive. Those businesses which are already registered for VAT in other Member States will reduce their annual compliance costs by approximately 90% with the availability of the MOSS, while those which are not yet registered and are growing their intra-EU sales can avail of the intra-EU cross-border threshold.

It is not envisaged that there should be substantial costs for **EU business** to adapt their systems to use the MOSS given the simplicity of the system.

Non-EU Business

This option is likely to have a positive impact for non-EU business wishing to supply to the

EU. This will also be positive for EU based importers supply B2C. While they will no longer be able to supply VAT free consignments to EU customers, they will be able to charge VAT at the point of sale to give a final price to EU customers, including for parcels between EUR 22 and 150 for which a full customs declaration is today required. They can then benefit from the fast-track customs procedure of consignments where VAT is pre-declared. Overall, administrative costs linked to these importations **will be reduced by 72%** (EUR 173 million instead of EUR 625 million a year), mainly because it will move from high per transaction burdens to simplified compliance for all sales during a period. This option will also have a negative impact on non-compliant non-EU business as Member States can free up resources to target the abuse.

SMEs and micro-business

The introduction of a threshold is likely to be positive for micro-business and SMEs generally as they will firstly benefit from a threshold and then, as their intra-EU sales increase, they can use the MOSS.

Traditional economy and domestic E-Commerce suppliers will benefit from the level playing field and higher compliance rates.

Postal operators and couriers

Postal operators and couriers will need to develop/adapt their information systems in order for them to make sure that they receive, in advance of Customs clearance, electronic information indicating whether VAT on consignments up to EUR 150 has been pre-declared or not through MOSS (under Options 4, 5 and 6). Such a system is essential in order for postal operators and couriers to automatically distinguish parcels for which a declaration and payment are required and therefore to avail of the reduced processing costs which the MOSS will offer. Different implementation modalities for customs administrations can be envisaged. It could be based on the MOSS registration number that may either be included in the Customs Early Notification System (compulsory on all consignments, including postal ones, as of 2020) or also implemented outside the ENS.

Providing a robust estimate of such one-off costs is difficult as for some operators it may only be a matter of making relatively minor adjustments to the existing systems which are very well developed due to the full integration of the process from the exporting country until the place of final destination. However, it should be recognised that other operators, particularly postal operators, may need to build new systems – e.g. based on agreements with foreign stakeholders.

In considering the costs that postal operators and couriers will face in either developing new information systems or adapting existing systems it is important to recognise that the recent changes of the Union Customs Code have put security-related obligations on both postal operators and couriers in respect of the advanced information they will all need to provide by 2021 anyway to EU customs administrations in advance of clearance (end of the remaining waivers). There may be scope to coordinate system developments in respect of requirements for information in respect of VAT with the customs information. This may reduce development costs for the couriers and postal operators. It could also bring benefits to Customs administrations as the necessity to ensure that VAT has been pre-declared can be integrated into the general clearance process rather than having a separate process only for VAT. It is also relevant to highlight that a specific simplification regime will be put in place for consignments which are not declared through the MOSS. Postal operators will be able to account for taxes in one simplified monthly return rather than the alternative of a declaration for each consignment. Such a "fallback" procedure may also be very useful in the very first days of the new legal framework where the uptake of the MOSS by non-EU vendors might not be at full speed.

One has also to remember that the ongoing security threats will unavoidably lead to more requirements for proper identification of all types of packages and letters sent either on the postal or courier environments. The envisaged EU VAT changes should aim to link as much as possible to such changes needed for security purposes.

Impact on Member States

VAT revenues

VAT revenues for Member States are expected **to increase overall by EUR 7 billion a year** under this option.

Tax Administration and Tax compliance

This option is expected to substantially improve both voluntary compliance and compliance control on intra-EU cross border trade in goods and services other than electronic services.

The MOSS would facilitate the monitoring of compliance and the fight against fraud for Member States due to increased exchange of information and closer administrative cooperation, similarly to the current MOSS system for electronic services.

Option 4 is expected to further improve both voluntary compliance and compliance control on the import of goods with a value up to EUR 150. The Option would also support reduce the fight against fraud opportunities by sustaining the reduction of undervaluation and incorrect labelling of the goods. The use of MOSS on imports has a potential to also improve compliance controls of compliant companies, as the non-EU supplier would become VAT registered in the EU, therefore having a closer connection with the EU tax authorities. Furthermore, Member States will be able to redirect risk analysis and anti-fraud strategies to companies which will not opt for the MOSS on imports. Therefore, option 4 has potential to reduce fraud, provided there is an effective administrative cooperation between tax administrations of Member States and with third parties. A negative impact for many Member States is the possibility of being involved in a multiplicity of different audits on the same companies within their jurisdiction as primary control for auditing will lie with the Member State of consumption. This could lead to an inefficient use of scarce resources.

IT Set-up costs

Member States will be required to adapt the existing MOSS systems, however, as this is an evolution of an existing system rather than building a new system, it is envisaged that the costs would not be significant. Most IT development costs will concern the non-EU element of the scheme as well as developing risk analysis systems to process advance information

Impact on e-Commerce market

Medium Growth Scenario

The introduction of the MOSS is expected to have a positive impact. Total e-commerce value is expected to increase by EUR 3.8 billion (0.33%) with intra-EU e-commerce increasing by EUR 1.5 billion (1.1%) and a decrease of EUR 2.2 billion (4.2%) in e-commerce from non-EU suppliers. EU cross-border prices marginally decrease.

Table 8 – Option 4 - medium growth scenario

| | Total e-Commerce | Cross-border e-Commerce | EU cross-border e-Commerce | Non-EU cross-border |
|--------------------------------|------------------|-------------------------|----------------------------|---------------------|
| EU e-Commerce prices | | | | |
| <i>Threshold of EUR 10 000</i> | | | | |
| % | 0.73 | 1.84 | -0.03 | 5.66 |
| e-Commerce value | | | | |
| <i>Threshold of EUR 10 000</i> | | | | |
| <i>EUR billions</i> | 3.77 | -0.69 | 1.48 | -2.17 |
| % | 0.33 | -0.36 | 1.07 | -4.2 |

Source: Study

DSM scenario

When considering the impact of the DSM scenario on cross-border e-Commerce within the EU, Option 4 is estimated to have a relatively more positive impact on EU cross-border e-Commerce than non-EU e-Commerce. EU cross-border e-commerce values increase by EUR 2.3 billion (1.2%). In terms of prices, the DSM scenario is associated with greater downward pressure on prices thanks to more firms entering the market and more competition. The effect on the value of total e-Commerce (Domestic and cross-border) is also more positive under the DSM scenario, both in absolute and percentage terms (increase of EUR 7.9 billion or 0.5%).

Regional Impact

The overall VAT revenue from (intra-EU) cross-border e-Commerce transactions is estimated to increase notably under Options 4, 5 and 6, as an effect of higher compliance and of the positive impacts of such options on intra-EU e-Commerce volume and value. The share of such increased revenues obtained by Member States however will vary by country, depending on a number of factors:

- i. Contribution to cross-border e-Commerce, by origin: countries that account for a larger share of cross-border online trade relative to population are expected to see a greater impact from the policy options since a larger proportion of businesses will be affected.
- ii. Contribution to e-Commerce flows, by destination: countries that account for a disproportionately large share of inward e-Commerce flows are estimated to see a greater revenue impact as a result of a greater share of transactions falling within the scope of VAT.
- iii. Change in the level of thresholds: countries that experience a greater monetary reduction from the existing distance selling threshold to the new Intra-EU will also see a greater increase in VAT revenues, since the change in policy will make a larger impact in these markets.

Overall, the size of the domestic market may insulate larger European economies (such as Germany and France) from the potentially adverse effects on cross-border trade deriving from being major countries of origin. In addition, countries such as the UK and Spain would be expected to capture an above-average share of additional VAT revenues, given that spending on cross-border e-Commerce relative to the size of the economy, is higher in these markets. The impact in the UK is likely to be particularly pronounced since the current distance selling threshold for EU businesses is approximately EUR 100,000. Thus the reduction in the intra-EU threshold may significantly increase the share of spending that is subject to VAT. Germany, Luxembourg and the Netherlands also have distance selling thresholds of EUR

100,000 and may therefore see a greater than average impact on tax revenues. The introduction of an intra-EU cross-border threshold together with the MOSS should ensure that there is not a disproportionate effect on Member States with a large number of SMEs.

Consumers and households

The overall impact is likely to be positive as the availability of the Mini One Stop Shop will make geo-blocking no longer justified from a VAT point of view. As a result, there will be more choice for consumers. Overall the impact on prices is a slight increase reflecting the fact that there would be a 5% increase in non-EU supplies mainly down to the application of VAT on transactions which were formally exempt on importation. This increase is mitigated by a decrease in process for intra-EU e-commerce as a result of increased competition and the levelling of the playing field for EU business.

Macroeconomic impact

Increase in VAT revenues will have benefits for Member State budgets. The positive impact on the EU's competitiveness should have a positive impact on the GDP, although no figure is available. This impact is expected to be limited as the measures in scope of this impact assessment only affect one sector of the economy.

Environmental and Social Impacts

A positive impact on employment is expected due to an increase of e-commerce and the improvement of the competitiveness of the EU e-commerce sector. No figure is available on this impact although it is likely to be relatively small.

No significant impact on the environment.

6.2.6. *Option 5 - Option 4 plus amendments to the Mini One Stop Shop (home country legislation and home country control, subject to applying rate/exemptions of the Member State of Consumption)*

Summary - Impact on the policy objectives

Overall – Objectives met (very positive overall)

1. Minimising burdens attached to cross-border e-Commerce arising from different VAT regimes – Met
2. Providing a level playing field for EU businesses – Met
3. Facilitating the monitoring of compliance and the fight against fraud for Member States' authorities – Met
4. Ensuring that VAT revenues accrue to the Member State of the consumer - Met

Economic Impacts and competitiveness

Impact on business

Business compliance costs

In addition to the new simplifications already available under option 4 (Mini One Stop Shop and new intra-EU thresholds), further simplifications (notably home country legislation) will bring administrative costs further down. As a result, the overall administrative burden for businesses is estimated to decrease by 55% (**EUR 2.3 billion annually**) compared to the status quo (the reduction is estimated of 42% under Option 4).

EU Business

Overall the impacts are positive particularly in terms of the competitiveness of EU business. Business benefits from new intra-EU thresholds as well as the simplification measures. The increase in compliance rates will benefit EU business through levelling the playing field. The impact for e-Commerce operators is generally positive. Those businesses which are already registered for VAT in other Member States will reduce their annual compliance costs by approximately 95% with the availability of the MOSS (compared to 90% under option 4), while those who are not yet registered and are growing their intra-EU sales can take advantage of the threshold. Operators in the MOSS will be able to benefit from additional simplifications under this option which further reduce administrative costs.

Non-EU Business

Similar to Option 4 with certain increased burden reduction from additional simplification of the compliance.

SMEs and micro-business

Similar to option 4 but these businesses will benefit proportionately more with the additional simplifications as in many cases trading cross-border will be similar to domestic transactions if in the MOSS, and in fact will be easier in many cases the MOSS VAT return is simpler than most national returns.

Postal operators and couriers

Similar to Option 4.

Impact on Member States

VAT revenues

Similar to Option 4

Tax Administration and Tax compliance

The compliance impact of Option 5 would be very similar to Option 4. However, Option 5 is expected to further increase voluntary compliance by providing additional simplification to the MOSS in the form of application of home country legislation.

Option 5 also has potential to further improve compliance controls and reduce fraud, focusing controls on companies outside the MOSS, provided there is an effective administrative cooperation between tax administrations of Member States and with third parties.

IT Set-up costs

Similar to Option 4

Impact on e-Commerce market

Similar to Option 4

Table 9 - Overview of economic impacts for Option 5

| | Total e-Commerce | Cross-border e-Commerce | EU cross-border e-Commerce | Non-EU cross-border |
|--------------------------------|------------------|-------------------------|----------------------------|---------------------|
| EU e-Commerce prices | | | | |
| <i>Threshold of EUR 10 000</i> | | | | |
| % | 0.68% | 1.75% | -0.15% | 5.66% |
| e-Commerce value | | | | |
| <i>Threshold of EUR 10 000</i> | | | | |
| <i>EUR billions</i> | 3.57 | -0.63 | 1.57 | -2.20 |
| % | 0.32% | -0.33% | 1.13% | -4.22% |

Source: Study

Regional Impact

Similar to Option 4

Consumers and households

Similar to Option 4

Macroeconomic impact

Similar to Option 4

Environmental and Social Impacts

Similar to Option 4

6.2.7. *Option 6 - Option 4 plus fully harmonised EU rules for Mini One Stop Shop, subject to applying the rates/exemption of the Member State of Consumption*

Summary - Impact on the policy objectives

Overall – Meets the objectives (Very positive overall)

1. Minimising burdens attached to cross-border e-Commerce arising from different VAT regimes – Partially met
2. Providing a level playing field for EU businesses – Met
3. Facilitating the monitoring of compliance and the fight against fraud for Member States' authorities – Met
4. Ensuring that VAT revenues accrue to the Member State of the consumer – Met

Economic Impacts and competitiveness

Impact on business

Business compliance costs

In addition to the new simplifications already available under option 4 (Mini One Stop Shop and new thresholds), further simplifications (notably harmonised rules) will bring administrative costs further down. As a result, the overall administrative burden for businesses is expected to decrease by 51% (EUR 2.1 billion annually) compared to the status quo (as compared to 42% under Option 4 and 55% under Option 5). EU businesses will benefit from a clearer legislative framework applying throughout the EU.

EU Business

Overall the impacts are positive particularly in terms of the competitiveness of EU business. Business benefits from new intra-EU thresholds as well as the simplification measures. Compliance rates increase benefits EU business through a level playing field. The impact for e-Commerce operators is generally positive. Those businesses which are already registered for VAT in other Member States will reduce their annual compliance costs by approximately 92% (as compared to 90% under option 4) with the availability of the MOSS, while those who are not yet registered and are growing their intra-EU sales can avail of the threshold.

Non-EU Business

Similar to Option 4

SMEs and micro-business

Similar to option 4 but unlike Option 5, micro-businesses and SMEs which are above the threshold and in MOSS will need to apply two separate rules – domestic and the harmonised EU rules. Harmonisation in areas such as this has invariably led to the highest standards in an EU Member State applying to all business, e.g. the 10 year record keeping requirement under the MOSS, hence increased burdens.

Postal operators and couriers

Similar to Option 4.

Impact on Member States

VAT revenues

Similar to Option 4

Tax Administration and Tax compliance

The compliance impact of Option 6 would be very similar to Option 4. Option 6 also has potential to further improve compliance controls and reduce fraud, focussing on companies outside the MOSS and provided there is an effective administrative cooperation between tax administrations of Member States and with third parties.

IT Set-up costs

Similar to Option 4

Impact on e-Commerce market

Similar to Option 4

Table 10 - Overview of economic impacts for Option 6

| | Total e-Commerce | Cross-border e-Commerce | EU cross-border e-Commerce | Non-EU cross-border |
|--------------------------------|------------------|-------------------------|----------------------------|---------------------|
| EU e-Commerce prices | | | | |
| <i>Threshold of EUR 10 000</i> | | | | |
| % | 0.69% | 1.79% | -0.10% | 5.66% |
| e-Commerce value | | | | |
| <i>Threshold of EUR 10 000</i> | | | | |
| <i>EUR billions</i> | 3.60 | -0.68 | 1.52 | -2.19 |
| % | 0.32% | -0.35% | 1.10% | -4.20% |

Source: Study

| |
|---|
| Regional Impact |
| Similar to Option 4 |
| Consumers and households |
| Similar to Option 4 |
| Macroeconomic impact |
| Similar to Option 4 |
| Environmental and Social Impacts |
| Similar to Option 4 |

7. HOW DO THE OPTIONS COMPARE?

7.1. Summary assessment of the impacts

A summary assessment of the options is presented below.

Option 2

This option reduces VAT revenues and increases business compliance costs. High levels of con-compliance mean that distortions remain. In terms of the public consultation, this option does not meet the overall orientation expressed in as there are no simplification options proposed. Postal service providers have strong concerns in respect of their ability to collect taxes on small consignments with the removal of the VAT exemption.

Option 3

While this option offers some relief for micro-business, there is a negligible effect on VAT revenues and a reduction in costs for business. In terms of the consultation, the introduction of a threshold is seen as positive for the smallest of business but businesses over the threshold or who expect to grow will face onerous cross-border burdens without further simplification.

Option 4

There is a positive impact on VAT revenues and it substantially decreases compliance cost for business vs. status quo. This option is broadly compatible with the results of the consultation although a drawback of this option for business is the requirement to deal with 28 sets of rules and subject to audit by the Member States it makes supplies to. Postal operators are concerned

by the impact of the removal of the small consignments exemption (as with options 5 and 6) although the availability of the MOSS for imports and special simplifications when MOSS is not used should mitigate against these concerns.

Option 5

This option has a material effect on the overall compliance costs for business reducing these by EUR 500 m compared to option 4. The reason for this is that business will only face one set of rules as opposed to 28 sets of rules in option 4 and 2 sets (domestic and harmonised EU) in Option 6. Further this option is intended to improve identified deficiencies in the 2015 MOSS such as the means to correct past returns and extending the period to file the tax by 10 days. This option is compatible with the general results of the consultation and was the preferred option for business at the Dublin seminar.

Option 6

This option is less desirable in terms of the reduction of business compliance costs compared to option 5, but is more positive than Option 4. Similarly to option 5, this option is broadly compatible with the results of the consultation but concern was expressed that harmonised EU rules would be overly complicated.

Table 11 analyses and evaluates the key impacts across the 6 options.

Table 11 – Summary analysis of impacts

| Key impacts | Option1 | Option2 | Option3 | Option4 | Option5 | Option6 |
|--|---------|---------|---------|---------|---------|---------|
| A – Economic and Competitiveness impact | | | | | | |
| Impact on Member States | | | | | | |
| <i>Member States' revenues from intra-EU trade</i> | = | - | + | +++ | +++ | +++ |
| <i>Cost for Member State to implement</i> | = | - | - | -- | -- | -- |
| <i>Effects on the volume and value of imports from third countries</i> | = | -- | + | +++ | +++ | +++ |
| Impact on businesses | | | | | | |
| <i>Administrative burden</i> | = | -- | - | ++ | +++ | +++ |
| Competition and growth in the EU | | | | | | |
| <i>Effects on intra-EU e-Commerce for goods and services</i> | = | --- | - | + | ++ | ++ |
| <i>Effects on intra-EU e-Commerce prices</i> | = | - | - | + | ++ | ++ |
| <i>Effects on intra-EU e-Commerce value</i> | = | + | ++ | ++ | ++ | ++ |

| Key impacts | Option1 | Option2 | Option3 | Option4 | Option5 | Option6 |
|--|---------|----------------------|---------------------|---------------|---------------|---------------|
| Compliance | | | | | | |
| <i>Effects on Compliance</i> | = | --- | --- | ++ | +++ | ++ |
| B – Effectiveness of Options vs Policy Objectives | | | | | | |
| <i>Minimising burdens attached to cross-border e-Commerce arising from different VAT regimes.</i> | = | --- | -- | ++ | +++ | +++ |
| <i>Providing a level playing field for EU businesses.</i> | = | + | + | +++ | +++ | +++ |
| <i>Facilitating the monitoring of compliance and the fight against fraud for Member States' authorities.</i> | = | -- | -- | ++ | +++ | +++ |
| <i>Ensuring that VAT revenues accrue to the Member State of the consumer</i> | = | + | + | +++ | +++ | +++ |
| C – Coherence of options vis-à-vis the DSM Strategy | | | | | | |
| <i>Extending the current MOSS to intra-EU and 3rd country online sales of tangible goods</i> | = | --- | --- | +++ | +++ | +++ |
| <i>Introducing a common EU-wide simplification measure (VAT threshold) to help small start-up e-commerce businesses.</i> | = | --- | ++ | +++ | +++ | +++ |
| <i>Removing the VAT exemption for the importation of small consignments from suppliers in third countries.</i> | = | + | + | +++ | +++ | +++ |
| <i>Allowing for home country controls including a single audit of cross-border businesses for VAT purposes.</i> | = | --- | --- | + | +++ | ++ |
| D – Key indicators | | | | | | |
| <i>VAT Revenues (EUR)</i> | 137 bn | 136.95 bn (- 0.05bn) | 137.45 bn (+0.35bn) | 144 bn (+7bn) | 144 bn (+7bn) | 144 bn (+7bn) |
| <i>Business Compliance</i> | | 4.7 bn | 4.6 bn | 2.4 bn | 1.9 bn | 2.1 bn |

| Key impacts | Option1 | Option2 | Option3 | Option4 | Option5 | Option6 |
|--------------------------------------|--------------------------|--------------------------|---------------------------|-----------------------------------|-------------------------------|-------------------------------|
| <i>Costs (EUR)</i> | 4.2 ⁷⁸ bn | (increase of 0.5bn) | (increase of 0.4bn) | (decrease of 1.8 bn) | (decrease of 2.3 bn) | (decrease of 2.1bn) |
| <i>Business Compliance Costs (%)</i> | = | + 12% | + 7% | - 43% | - 55% | - 51% |
| <i>Overall assessment</i> | Does not meet objectives | Does not meet objectives | Does not meet objectives. | Partially meets objectives | Fully meets objectives | Fully meets objectives |
| Legend | | | | | | |
| +++ much better suited | | ++ better suited | | + slightly better suited | | |
| = no difference | | | | | | |
| - less suited | | - - slightly less suited | | - - - much less suited | | |

7.2. Identification of the Preferred Option

The analysis above indicates that broadly speaking Options 4, 5 and 6 are the options which can best address the specific objectives for modernising VAT for cross-border e-Commerce. These options fulfil in particular the key objectives of ensuring a level playing field for EU business and that tax revenues accrue to the Member State of the consumer.

In comparing these 3 options, **Option 5** is considered to be the most positive as a business established in a Member State can make supplies to a customer in another Member State under broadly the same rules as a domestic transaction, the VAT rate applicable being the only exception. This option reduces overall compliance costs for business by 55% and evidence points to this option between the optimum one in terms of meeting the overall general and specific objectives of the proposal.

In comparison, Option 4 reduces business compliance costs by 42%. This is positive compared to the status quo and options 2 and 3, however option 4 would require a business to potentially have to apply 28 different sets of rules depending on the Member State of consumption. On the other hand, Option 6 would require a business trading cross-border to apply two separate sets of rules, one for domestic transactions and one for EU transactions. This option is projected to reduce overall business compliance costs by 51%. While this is still a significant reduction compared to Option 4, experience from recent negotiations on the standard VAT return⁷⁹ as well as the obligations negotiated under the 2015 MOSS indicate that the harmonised intra-EU rules will likely be the case of upwards harmonisation i.e. the rules for intra-EU transactions will reflect the most complex in EU Member States.

Options 4, 5 and 6 are projected to increase VAT revenues in 2020 by **EUR 7 billion** compared to the status quo. Option 2 marginally reduces VAT revenues while Option 3 leads to a small increase. The drivers for the increase in VAT revenues are the reduction in non-compliance and VAT foregone from the small consignments exemptions. While the data indicated that there would only be negligible changes in additional VAT revenues across Options 4, 5 and 6 it is also relevant to reflect that there is generally a positive correlation between reduced administrative burden for accounting for taxes and higher compliance rates.

⁷⁸ Numbers have been rounded.

⁷⁹ The 2013 proposal for a standard VAT return was withdrawn by the Commission in 2015. The reason for the withdrawal was that the negotiations in Council were leading towards a compromise return which would be an amalgamation of all Member States returns and hence increasing the burden on business for adapting to this new return with no discernible benefits.

Therefore, greater VAT revenue gains for Member States arising from higher compliance rates may materialise under Option 5.

It should be noted that there is a negligible increase in prices in options 4, 5 and 6. The reason for this slight increase is that many consignments coming from non-EU countries are currently not subject to VAT. However, consumers should benefit in that suppliers from non-EU countries will be able to avail of the MOSS and therefore the consumer will be charged a VAT inclusive price and for these supplies will not be faced with any liability for VAT and administration charges on importation. In addition, there should be access to a greater range of products due to the increase in intra-EU e-commerce and in time competitive pressures may lead to a reduction prices.

In terms of effects on consumers, option 5 may lead to a slight increase in prices, but this is as a result of the fact that VAT will be applied on certain goods which are currently exempt or through non-compliance. One notable benefit for consumers is that they will be able to pay VAT at the point of sale when purchasing goods to be imported. This compares to the current situation where postal operators or express carriers collect VAT from the consumer on importation together with an administrative fee before releasing the goods. Consumers will, in addition, benefit from greater choice as e-commerce grows.

7.3. Subsidiarity of the preferred option

The preferred option 5 is considered to be consistent with the principle of subsidiarity as the main problems which have been identified (distorting effects, high administrative costs, etc.) are triggered by the rules of the existing VAT Directive. Given that VAT is an EU tax, Member States are currently not allowed by themselves to set different rules and therefore any initiative to modernise VAT for cross-border e-commerce requires a proposal by the Commission to amend the VAT Directive. Therefore Option 5 will clearly offer value over and above what can be achieved at Member State level.

7.4. Proportionality of the preferred option

The preferred option 5 is considered to be consistent with the principle of proportionality i.e. it does not go beyond what is necessary to meet the objectives of the Treaties in particular the smooth functioning of the single market.

1. There is an overall reduction in the compliance costs business face when trading in the single market with Option 5 providing the highest reduction in costs.
2. For the most-part, trading cross-border will be as similar to trading at Member State level.
3. The MOSS will be optional for business and therefore a business may decide to maintain existing arrangements. The MOSS will be integrated, as with the MOSS system, into the web portal of their tax administration.
4. EU business will benefit from a more level playing field.
5. The IT costs for Member States and the European Commission should not be significant given that this is an evolution of an existing system.
6. The new intra-EU threshold will ensure that small business and businesses with incidental cross-border sales will not be required to register and can opt to deem such supplies as domestic. Further, when exceeding the threshold business will be faced with a far simpler option of using the MOSS than under the status quo.

As outlined in 5.1, a soft law approach, such as a Member State volunteering to apply the MOSS, is not feasible.

As with the subsidiarity test, it is not possible for Member States to address the problems and problem drivers without a proposal to amend the VAT Directive.

7.5. Impact on SMEs

The impact of the various options on SMEs and indeed in terms of the status quo has been a central objective of this impact assessment.

Specific measures have been undertaken to understand and address the issues faced by SMEs which have informed this assessment both in quantitative and qualitative terms:

1. The Study included a specific analysis on SMEs. The terms of reference for the study mandated that SMEs would be included in all samples consulting business. An online survey was specifically directed at small and micro-business in coordination with representative groups.
2. In evaluating the current system and considering the options, the Commission ensured that SMEs were represented at the Dublin Fiscalis event. Furthermore, the Commission ensured that the EU SME body 'UEAPME' was able to present to Member States and business on the challenges they face. In addition, the Commission ensured that a UK based representative group was present at the seminar and participated in the various workshops⁸⁰.

The benefits of the preferred Option to SMEs can be summarised as follows:

1. With a threshold, a very large number of small businesses who are engaged in intra-EU trade would not be required to use the MOSS and instead will be able to opt to treat transactions as domestic. A EUR 10 000 threshold would, for example, exclude almost 430 000 businesses while generating only minor distortions.
2. An intermediate threshold for electronic services will be needed following adoption by Council to address the issues faced under the 2015 changes without waiting for the full entry into force of the new proposal.
3. SMEs would also need to benefit from further simplifications such as the soft landing whereby up to e.g. EUR 100 000 there will be simplified requirements on the evidence needed to verify the location of the customer for supplies of electronic services.
4. SMEs who are growing will benefit from the MOSS which is far less costly than the alternative of direct registration in the Member State of the consumer. They will also be able to apply home country rules i.e. it will be similar to trading at domestically and any queries in respect of the MOSS should generally only be through their own tax administration.
5. SMEs (and all business) will benefit from information systems to assist with the identification of the appropriate VAT rates in other Member States.

⁸⁰ See <http://euvataction.org/2015/09/14/what-happened-at-the-eu-vat-fiscalis-summit/> for a report by the representative group on their participation at the Fiscalis seminar.

6. SMEs in e-commerce and in the traditional economy will benefit from the more level playing field whereby non-EU business will no longer be able to make supplies VAT free into the EU.

7.6. Delivering on REFIT

Annex 3 presents the results of the early assessment of the implementation of the 2015 changes to the place of supply rules and particularly the MOSS system, which is in essence a pilot for the broader initiative. This assessment shows that the MOSS has saved businesses EUR 500 million versus the alternative of direct registration and payment – on average EUR 41 000 per business. This represents a 95% reduction in costs compared to the alternative of direct registration in the Member State of the consumer.

The early assessment of MOSS has also been very useful in ensuring that the new initiative recognises the positives and addresses the shortcomings of the 2015 changes. For instance, the preferred option 5 proposes the introduction in 2018 of a cross-border threshold applying to services covered by the 2015 changes as well as a relaxation on the need for two pieces of evidence for suppliers of electronic service who have less than EUR 100 000 turnover (the so called soft-landing). In addition the extension of the MOSS in 2021 will take on board the shortcomings identified under the REFIT assessment of the initiative such as the need for home country rules in terms of invoicing requirements, coordination of audits, communications with taxpayers and indeed including a threshold for suppliers of goods as well as services.

The second REFIT aspect of the initiative refers to the main objectives of the new initiative, which is "minimising burdens attached to cross-border e-Commerce arising from different VAT regimes".

In terms of the tangible benefits identified under the REFIT element of this proposal:

- The simplifications in 2018 will take up to 6,500 businesses out of the current MOSS system leading to a potential cost saving for these businesses of EUR 13 million.
- Also, in 2018, the so called soft landing approach where businesses who make intra-EU supplies of electronic services up to EUR 100,000 will benefit an additional 1,000 businesses
- The preferred option (Option 5) is expected to reduce VAT compliance costs for businesses by € 2.3 billion a year from 2021. This option which takes on board the improvements identified in the assessment of the implementation of MOSS delivers an additional EUR 500 million compared to Option 4 which does not offer the benefits of home country rules in areas such as record keeping, invoicing rules, coordination of audits etc.
- The introduction of a threshold for goods in the 2021 changes will benefit approximately 430,000 businesses with potential savings to these businesses of up to EUR 860 million.

8. HOW WOULD ACTUAL IMPACTS BE MONITORED AND EVALUATED?

8.1. Indicators for monitoring and evaluation

The table below gives an overview of the objectives, the indicators to measure whether they will be achieved, the tool for measuring these and the operational objectives.

Table 12 – Monitoring and evaluation framework

| <u>Objectives</u> | <u>Indicator</u> | <u>Measurement tool</u> | <u>Operational objectives</u> |
|--|--|---|---|
| Minimising burdens attached to cross-border e-Commerce arising from different VAT regimes | <ul style="list-style-type: none"> • The number of businesses using the MOSS. • The cost savings for business. | <ul style="list-style-type: none"> • Real time reports in MOSS. • Standard cost model exercise should be repeated 3 years after implementation. | <ul style="list-style-type: none"> • 70% of eligible business using the MOSS • 90% reduction in cost vs alternative of direct registration based on supplying to 5 Member States. |
| Providing a level playing field for EU businesses | <ul style="list-style-type: none"> • The rate of non-compliance | <ul style="list-style-type: none"> • Study to estimate non-compliance to be carried out 3 years after implementation. | <ul style="list-style-type: none"> • Reduction in non-compliance. • Member States working together to address compliance challenges from e-commerce. |
| Facilitating the monitoring of compliance and the fight against fraud for Member States' authorities | <ul style="list-style-type: none"> • The rate of non-compliance | <ul style="list-style-type: none"> • Study to estimate non-compliance to be carried out 3 years after implementation. | <ul style="list-style-type: none"> • Reduction in non-compliance. • Member States working together to address compliance challenges from e-commerce. |
| Ensuring that VAT revenues accrue to the Member State of the consumer. | <ul style="list-style-type: none"> • The flow of VAT revenues through the MOSS. | <ul style="list-style-type: none"> • Real Time reports in MOSS. | <ul style="list-style-type: none"> • Increase in overall VAT revenues from e-commerce transactions. |

The extension of the MOSS provides an ideal opportunity to integrate monitoring into the revised IT system with the objective of having real-time reports on the core indicators particularly the number of businesses using the MOSS and the flow of VAT receipts through it. This real-time tool can differentiate between intra-EU supplies and supplies from businesses in third countries. Prior to the introduction of the MOSS, it is intended to put in place and implement a comprehensive and ongoing communication strategy to ensure that businesses in the EU and outside are aware of the possibilities offered by the MOSS. Within the EU, the Study currently estimates that approximately 130 000 EU businesses will be eligible to use the MOSS. 430 000 businesses will not be required to use it with a EUR 10 000 threshold. The first benchmark will be that 70% of business and VAT revenues will go through the MOSS which is in line with the take-up of MOSS.

Estimating the rates of non-compliance is more difficult to do on an ongoing basis. Therefore, it is proposed to carry out after three years an exercise to estimate non-compliance in a representative sample of Member States and identify means to address it.

8.2. Monitoring structures

As with the 2015 changes, it is envisaged that the Standing Committee on Administrative Cooperation Expert Group (SCAC – EG) which is chaired by TAXUD officials and representative of all Member States will monitor the MOSS, in particular the indicators on take-up by business, VAT revenues and compliance.

ANNEX 1: PROCEDURAL INFORMATION

1. Agenda planning and Work Programme References

The initiative to modernise VAT for cross-border e-commerce forms part of the Digital Single Market Strategy, adopted in May 2015, as well as part of the Single Market Strategy, adopted in October 2015, the VAT Action Plan adopted in April 2016 and the E-Government Action Plan also adopted in April 2016.

TAXUD is the lead DG for the initiative. The Agenda Planning Reference is 2016/TAXUD/002. The [Inception Impact Assessment](#) was published in July 2015.

2. Inter-Service Steering Group

An Inter-Service Steering Group was set up in 2015. In total, six meetings were organised: on 24 February 2015, 10 June 2015, 25 June 2015, 17 July 2015, 16 November 2015 and 28 April 2016. The first two meetings were chaired by TAXUD, with meetings since chaired by the SG.

The following directorates and services were consulted: CNECT, GROW, JUST, ECFIN and OLAF. The feedback received from these directorates and services has been taken into account in the report.

The ISSG approved the Inception Impact Assessment that was published in July 2015. The ISSG also followed the work of the study with presentations of the draft reports given by the consultants. The ISSG were given the opportunity to comment on the draft reports.

3. Consultation of the Regulatory Scrutiny Board

The Regulatory Scrutiny Board was consulted on 25 June 2016. The opinion of the Board was positive. The Board made a number of key recommendations:

- (1) The policy context should be better described. In particular the REFIT elements of the initiative should be brought out more clearly.
- (2) The need for EU action should be further elaborated, including how the principles of subsidiarity and proportionality apply.
- (3) The links between general and specific policy objectives should be further refined.
- (4) The analysis of the impacts should be improved, especially by bringing out the costs and benefits of each option more clearly.

4. Commission Expert group on taxation of the digital economy

The Commission Expert Group on taxation of the digital economy examined the role of VAT in ensuring revenues from the digital economy and the current VAT obstacles in its report of May 2014. The [Report](#) made a series of recommendations on VAT including the extension of the single electronic mechanism to supplies of goods and the removal of the small consignments exemption.

5. Studies to support the Impact Assessment

Following the conclusions of the Expert Group on taxation of the Digital Economy, the Commission engaged Deloitte as consultants to:

1. Undertake an in-depth economic analysis on VAT aspects of e-Commerce.
2. Prepare an analysis of costs, benefits, opportunities and risks in respect of the options for the modernisation of the VAT aspects of cross-border e-Commerce, with the expectation that the analysis will feed into preparations for a future legislative proposal.
3. Evaluate the implementation of the 2015 place of supply rules and the Mini One Stop Shop, and identify best practices and room for possible improvements.

In addition, the impact assessment benefited from a Study carried out in 2015 by EY for the Commission the assessment of the application and the impact of the VAT exemption for importation of small consignments. The Study carried out for the Commission presents an overview of the legal framework and procedures in place in the 28 EU Member States, as well as an economic analysis of the low value consignments market from 1999 until 2013, including an estimation of the potential VAT foregone by tax authorities due to this exemption.

OVERVIEW OF CONSULTATION STRATEGY

The consultation strategy had two main purposes. The first was to assist with the analysis under REFIT of the implementation of the 2015 changes to the 'place of supply'- rules and Mini One Stop Shop⁸¹ (MOSS), and the second was to get the views of stakeholders on the Commission's commitment in the Digital Single Market Strategy to modernise the VAT framework for cross-border e-commerce.

There were four main aspects to the consultation process:

1. Consultations and stakeholder workshops undertaken by Deloitte as part of the Study on 'Options for the modernisation of cross-border e-commerce' (February 2015 –July 2016).
2. Fiscalis seminar (September 2015, Dublin) with Member States and business.
3. Targeted consultation with key stakeholders.
4. Open public consultation which took place between 25 September 2015 and 18 December 2015.

The intention to make a proposal in 2016 to modernise VAT for cross-border e-commerce is currently being discussed by the Council in the context of the VAT Action Plan with the intention to adopt conclusions in the first half of this year. To be updated following the adoption of conclusions as this reflects the views of Member States.

In addition, the Commission has presented the initiative at various fora including the VAT Expert Group, the indirect tax committee of the Confederation of British industry, at the International VAT Association, the annual conference of E-Commerce Europe, the VAT working group of Business Europe, at a roundtable held in London hosted by EMOTA and, in April 2016, at a joint Customs/Fiscalis 2020 workshop in Malmö focussing on the customs aspects of the initiative.

In designing the consultation strategy, the Commission was conscious of the need to consult directly with business and with Member States in addition to dialogues with associations and tax practitioners. Furthermore, the Commission identified that it was essential that SMEs were specifically targeted in the consultation strategy and for this reason requested that the consultants engage directly with SMEs in the course of their work. In addition, the Commission ensured the representation of the UEAPME (the EU representative body for SMEs) at the Dublin Fiscalis seminar as well as a representative from EU VAT Action (representing micro-businesses).

The Commission considers that the consultation strategy ensured that all the key stakeholders were reached, either directly or through representative associations, and that the key issues relevant for stakeholders have been highlighted in the impact assessment.

An overview of the participation of key stakeholders as identified in the consultation strategy is identified below. This table demonstrates the comprehensive nature of the engagement

⁸¹ A comprehensive explanation of the 2015 changes is available at this link http://ec.europa.eu/taxation_customs/taxation/vat/how_vat_works/telecom/index_en.htm#new_rules

with stakeholders for the initiative. A summary of the view of the stakeholders is presented in section 3 of this report.

Table 1 – Overview of the key stakeholders and consultation strategy

| Consultation activity | <i>Deloitte Study</i> | <i>Fiscalis Seminar</i> | <i>Targeted consultation</i> | <i>Open Public Consultation</i> |
|-----------------------------------|-----------------------|-------------------------|------------------------------|---------------------------------|
| | | | | |
| Representative Bodies | | | | |
| EU Business Organisations | ✓ | ✓ | ✓ | ✓ |
| EU E-Commerce organisations | ✓ | ✓ | ✓ | ✓ |
| Business Tax experts | ✓ | ✓ | ✓ | ✓ |
| EU Commerce organisations | ✓ | ✓ | ✓ | ✓ |
| EU Postal service organisation | ✓ | ✓ | ✓ | ✓ |
| EU Express operator organisations | ✓ | ✓ | ✓ | ✓ |
| Businesses | | | | |
| Electronic service providers | ✓ | ✓ | ✓ | ✓ |
| E-commerce – goods | ✓ | ✓ | ✓ | ✓ |
| Platforms/Intermediaries | ✓ | ✓ | ✓ | ✓ |
| SMEs | ✓ | ✓ | ✓ | ✓ |
| Micro-businesses | ✓ | ✓ | ✓ | ✓ |
| Postal operators | ✓ | ✓ | ✓ | ✓ |
| Express operators | ✓ | ✓ | ✓ | ✓ |
| Tax Practitioners | | | | |
| | ✓ | ✓ | ✓ | ✓ |
| Member States | | | | |
| | ✓ | ✓ | ✓ | |
| Members of the Public | | | | |
| | | | | ✓ |

CONSULTATION ACTIVITIES

A summary of the consultation activities is presented below.

Consultation and workshops carried out with the consultants (February 2015 – July 2016)⁸²

⁸² Some of this work is ongoing. This will be updated before publication.

Following the conclusions of the Expert Group on taxation of the Digital Economy, the Commission engaged Deloitte as consultants to:

4. Undertake an in-depth economic analysis on VAT aspects of e-Commerce.
5. Prepare an analysis of costs, benefits, opportunities and risks in respect of the options for the modernisation of the VAT aspects of cross-border e-Commerce, with the expectation that the analysis will feed into preparations for a future legislative proposal.
6. Evaluate the implementation of the 2015 place of supply rules and the Mini One Stop Shop, and identify best practices and room for possible improvements.

As part of this Study, the Commission emphasised the need for the consultants to engage directly with business to ensure that the analysis of the problem as well as the assessment of the 2015 changes to the 'place of supply' rules and MOSS reflected the real issues that business face. The Commission also underlined the need for the consultants to engage directly with SMEs.

The consultation activities undertaken by Deloitte as part of the Study included:

- Two workshops with business on the problems faced with imports from 3rd countries⁸³.
- One workshop with business, representative organisations and practitioners.
- In-depth interviews with businesses in 8 Member States⁸⁴.
- Questionnaire to all 28 Member States (Finance Ministries/Tax administrations)⁸⁵.
- In-depth interviews with 8 member States (Finance Ministries/tax administrations).
- Interviews with SME organisations.
- Specific survey aimed micro-business experience with the 2015 changes.
- Participation in all workshops at the Dublin Fiscalis seminar⁸⁶.

Fiscalis seminar (September 2015)

The seminar was organised by the Commission and Irish Revenue Commissioners from the 7th to 9th September 2016 in Dublin, having more than 160 participants from all 28 Member States authorities, third country authorities (Australia, Norway), the OECD, business representatives (including microbusiness and US based e-business), tax practitioners and the Commission services. The Fiscalis seminar approach has been useful as the interactions between business and Member States help in developing a common understanding of the problem. This is particularly important for a VAT proposal as agreement of all Member States will be required.

⁸³ The work shop minutes are in Annex 8 Pg 182, Lot 1 Report 'Options for modernising VAT for cross-border e-commerce' (unpublished).

⁸⁴ See Annex 3, Pg 218 Lot 2 Report Lot 1 Report 'Options for modernising VAT for cross-border e-commerce' (unpublished).

⁸⁵ See Annex 6, Pg 162 Lot 1 Report 'Options for modernising VAT for cross-border e-commerce' (unpublished).

⁸⁶ See Annex 2, Pg 218 Lot 2 Report Lot 1 Report 'Options for modernising VAT for cross-border e-commerce' (unpublished).

The seminar included a mix of presentations from Member State tax administrations, the Commission, businesses and other experts (OECD, Norway, etc.), workshop discussions, and questions and answers sessions. The feed-back received during the seminar was overall very positive.

Detailed information on the agenda, participants and outcome of the seminar is available under: http://ec.europa.eu/taxation_customs/taxation/vat/digital_single_market/index_en.htm

The main issues expressed by the attendees in respect of the 2015 changes concerned the absence of threshold for micro-enterprises, foreign exchange conversions, diverging invoicing rules and uncertainty in respect of how cross-border audits will work.

Regarding the future approach announced in the DSM strategy:

- All business and almost all Member States strongly indicated that they are in favour of extending the One Stop Shop to distance sales of goods;
- There was wide agreement on removing the exemption for the importation of small consignments. In particular, there was a strong view expressed by EU business who complained about the distortions of competition it generates.
- There was no agreement on the threshold for micro-enterprises between Member States - the majority of Member States are not in favour of any threshold (or a very low threshold) as there were no significant complaints in their country and this will trigger distortions as well as difficulties for monitoring the thresholds. Also concerns from certain business on the risk of distortions.
- The UAPME (European organisation for SMEs) acknowledged that 95 % of the reported issues were from the UK.

Targeted consultation with key stakeholders.

Given the need to ensure that all stakeholders were targeted the Commission identified a number of key stakeholders who would need to be contacted to ensure that they were aware of the initiative and any potential implications.

The terms of reference for the Study specifically ensured the consultation of 1) businesses including SMEs impacted by the 2015 changes, 2) EU businesses likely to be impacted by the VAT DSM proposal, and 3) Member States. The Fiscalis seminar was an invaluable complement to this by consulting businesses across the EU as well as some global business together with Member States in plenary sessions and workshops on the impact of the proposal. Nevertheless, it was recognised that there would be a need for the Commission to reach out directly to certain businesses and representative organisations to ensure their participation in the process. This was particularly relevant for public postal operators and express courier operators who would be directly affected by the intention to remove the small consignments exemption and replace it with simplification measures. The first step in this targeted process was a workshop involving these operators in March 2015 which has been followed up by a series of meetings to discuss how this will work practically particularly in terms of matching the new VAT requirements with customs rules. The Commission also invited representatives from these operators to make presentations at a Fiscalis/Customs 2020 workshop for tax and customs administrations in April 2016 – the subject of this workshop was to look at the legal and technical issues for imports of small consignments arising from a

removal of the small consignments exemption and the extension of the Single Electronic Mechanism to the supply of goods from non-EU suppliers.

As outlined in Table 1, the Commission held meetings (on request) with a number of different organisations and businesses, and participated in events where the VAT DSM initiative was discussed. In this respect, it is relevant that meetings were held with groups representing SMEs. The primary purpose of these meetings was for business to gain an understanding of the initiative and to identify any issues of concern. The results of these meetings have been reflected in the conclusions in Table 4.

Open public consultation

Overview

The open public consultation for the initiative was held for 12 weeks between 25 September and 18 December 2015⁸⁷ using the EU survey tool. The questionnaire was translated to ensure that the reach was as far as possible. The Commission received approximately 370 submissions. All public submissions are available on the DG TAXUD website⁸⁸. There was no evidence of a campaign/a large number of duplicate responses which could have a material impact on the results and therefore all contributions have been included in the analysis.

The profile of the participants is below with a large majority of respondents being business:

Table 2 – Profile of respondents Open Public Consultation

| Profile | No. | % |
|----------------------|-----|------|
| Business | 252 | 68% |
| Business association | 58 | 16 % |
| Member of the Public | 34 | 9% |
| Other/No answer | 28 | 7% |

In terms of the countries where the contributors indicated where they were based, a significant 45% indicated the UK. 143 of these were businesses with 94 indicating that they had worldwide turnover of less than EUR 100 000 annually.

Table 3 – Country of respondents – Open Public Consultation

| Country | No. | % |
|-----------------------|-----|-----|
| UK | 167 | 45% |
| Belgium ⁸⁹ | 39 | 10% |
| Germany | 32 | 8% |
| Italy | 14 | 4% |

⁸⁷ http://ec.europa.eu/taxation_customs/common/consultations/tax/2015_vat_cross_border_ecommerce_en.htm

⁸⁸ http://ec.europa.eu/taxation_customs/resources/documents/common/consultations/tax/public-consultation-results_en.xlsx

⁸⁹ Reflects the fact that many of the representative organisations are Brussels based.

| | | |
|-----------------|-----|-----|
| Netherlands | 13 | 3% |
| France | 12 | 3% |
| Other EU | 119 | 19% |
| Non-EU | 12 | 3% |
| Other/No answer | 19 | 5% |

The survey for the open public consultation also included a small number of open questions. These questions gave an opportunity for respondents to elaborate on their responses. For the most part, respondents raised the issues of key concern giving further background on particular issues such as cross-border threshold. A number of contributors including tax practitioners provided an insight into the difficulties with the current regime and indicated where they saw the need for improvements. Other bodies raised the difficulties they face with different regimes across the EU for instance the scope of the VAT exemption for gambling and the need for Member States and the Commission to provide information on compliance obligations for businesses trading cross-border. A number of issues such as the taxation of e-books were raised which are not relevant for this proposal and these have been disregarded for the purpose of this synopsis report.

Summary Results from the open public consultation

Below is a brief analysis of the key findings. It is important to recognise that the responses, which numbered 370, should not be interpreted as representing the views of all businesses across the EU. However, the Commission considers that the overall consultation strategy did reach the key stakeholders for this initiative.

A. Analysis of the 2015 changes to the 'place of supply' rules

- Three quarters of respondents considered that the current Mini One Stop Shop is a significant simplification to the alternative of registering and accounting for VAT in the Member State of the consumer for supplies of electronic services. A deeper analysis indicates that many of those who did not support the simplification did not do so primarily due to the lack of a cross-border threshold.
- Most of the problems with the 2015 changes to the 'place of supply' rules were raised by micro-businesses due to the lack of a cross-border threshold, many of which indicated that as a result they will no longer make supplies of such services cross-border.
- The top 5 issues of concern with the 2015 changes were
 1. the lack of a cross-border threshold,
 2. micro-business deciding not to trade intra-EU as a result of no threshold,
 3. difficulties in identifying the location of the customer,
 4. the need for better communication on future changes for micro-businesses,
 5. the desire for simplified VAT obligations.

B. Cross-border VAT on sale of goods and other transactions not in MOSS

- A large majority of respondents were of the view that accounting for VAT in other Member States is either very difficult or difficult.
- The distance sales thresholds, in particular, were identified by many respondents as problematic particularly in terms of the need to identify sales per Member State to ensure that a threshold was not breached.

C. 2016 VAT initiative in the DSM

- A large majority of respondents⁹⁰ either agreed or strongly agreed with the objective of the Commission in the DSM Strategy to minimise burdens attached to cross-border e-commerce arising from different VAT regimes.
- A large majority agreed with the objective of extending the Single Electronic Mechanism (One Stop Shop) to B2C supplies of tangible goods.
- There was broad support for the application of home country obligation rules for the extended Single Electronic Mechanism particularly in respect of audits.
- A large majority of respondents, across all categories, were strongly in favour of a cross-border threshold.
- Many respondents, particularly EU businesses and business representative bodies indicated that they are in favour of the removal of the small consignments thresholds.

OVERVIEW OF CONSULTATION RESULTS

Further detailed information is available in the Study⁹¹ and on the consultation page of the DG TAXUD website.

Table 4 – Summary of results

| Stakeholders | Summary of Results |
|--|--|
| <i>EU business and business organisations</i> | EU business and business organisations were broadly supportive of the initiative, in particular the potential of the SEM to reduce cross-border compliance costs and the need to ensure a level playing field for EU business. The need to introduce a cross-border threshold to facilitate small business and to address the problems experienced with the 2015 changes was emphasised. Business organisations also stressed the need for an EU VAT information portal to support the initiative. |

⁹⁰ For the purposes of these statistics, respondents who expressed no opinion or did not answer were excluded.

⁹¹ See https://ec.europa.eu/taxation_customs/business/vat/vat-reports-published_en.

| | |
|---|---|
| <i>Tax Practitioners</i> | Tax practitioners were generally satisfied with the introduction of the place of supply changes and MOSS. Specific concerns related to the invoicing rules, the audit regime, corrections of past returns with potential delays in refunds and the currency conversion rules. Emphasised the need to address these in the 2016 proposal. |
| <i>Micro-business and SMEs</i> | The principal issue for micro-businesses was the absence in the 2015 place of supply changes of a cross-border threshold and the difficulties they face in identifying the location of customers. These businesses strongly advocate the introduction of a threshold and other simplification measures particularly in respect of the identification of the location of their customers. |
| <i>Postal Operators/Couriers</i> | The express couriers were broadly in favour of the initiative although some caution was expressed on the need to have real simplification for both VAT and customs obligations. Postal operators expressed concerns on how the removal of the small consignments exemption will affect their business model and the investment needed to adjust to the proposals as they handle many of the consignments currently benefitting from the exemption. |
| <i>Member States</i> | Discussions are ongoing in Council in respect of the conclusions on the VAT Action Plan. However, Member States were broadly supportive of the initiative at the Fiscalis seminar in Dublin. Two Member States, UK and Denmark, responded to the public consultation. Both were broadly in favour of the initiative, however, while the UK was strongly in favour of a cross-border threshold, Denmark expressed strong reservations on this point due to potential distortions and the effects on Danish business. |
| <i>European Parliament</i> | MEPs, in questions and in committees, have raised on a number of occasions the difficulties that micro-businesses, particularly from the UK, have faced since the introduction of the 2015 changes particularly in respect of the lack of a cross-border threshold and problems identifying the location of their customers. Vice-President Ansip and Commissioner Moscovici have indicated to MEPs that they are in favour of the introduction of simplification measures in the forthcoming initiative. |
| <i>Citizens/Consumers</i> | Responses from citizens, consumers and consumer groups to the open public consultation were not significant. |

ANNEX 3 - ASSESSMENT OF THE IMPLEMENTATION AND APPLICATION OF THE 2015 PLACE OF SUPPLY RULES FOR THE ELECTRONIC SERVICES AND THE MINI ONE STOP SHOP (MOSS)

1. INTRODUCTION/BACKGROUND

1.1. Introduction

This annex presents the assessment of the implementation and application of the 2015 place of supply rules for telecommunications, broadcasting and electronically supplied services (hereafter “electronic services”) and the Mini One Stop Shop (MOSS), and identifies the best practices and room for possible improvements.

The assessment focuses on the following areas:

1. Assessment of the preparatory work for the introduction of the 2015 changes;
2. Assessment of the 2015 place of supply rules;
3. Assessment of the implementation of the MOSS;
4. Administrative cooperation, audit and audit guidelines;
5. Quantitative assessment of the 2015 place of supply rules and the MOSS;
6. Assessment of the impact of the changes on SMEs;
7. Conclusions and recommendations.

The analysis included in this assessment draws on the report produced by Deloitte as part of their study on VAT aspects of cross-border e-Commerce. The assessment covers the first 18 months (up to July 2016) of the operations of the scheme.

It is important to note that the assessment does not constitute a full evaluation given that the MOSS has been applicable only since January 2015. Therefore, the focus on the analysis is on assessing the implementation of the MOSS and the 2015 place of supply rules and measuring changes in VAT revenues and regulatory costs for businesses and national administrations. The full evaluation will be conducted after sufficient experience with the functioning of the new rules has been gathered.

The assessment has been conducted soon after implementation in order to support the extension of the new rules to cross-border business to consumer sales of goods and to services other than electronic services. However, it is also relevant that in the long lead-in period (2008 – 2015) from adoption at Council to implementation, there was an intense dialogue with key stakeholders including Member States and business. This dialogue identified many of the potential issues which could arise for instance in respect of the auditing rules being burdensome on business and IT systems not being ready, and the Commission took steps to address these through auditing guidelines and the development of a fall-back IT solution.

This assessment has been conducted under REFIT, which is the Commission’s programme to make EU law simpler and to reduce regulatory costs. It should be noted

that as the MOSS was proposed in 2005 and agreed in 2008 no specific impact assessment was carried out to identify the expected savings from MOSS. The aim of this assessment is to identify to what extent the simplification potential has materialised on the ground and whether there is scope for introducing any potential improvements.

1.2. Background to the 2015 Changes

The issue of VAT and the digital economy has been discussed since the mid 1990's, with agreement reached by the OECD in Ottawa in 1998 that when applied, consumption taxes (like VAT) should result in taxation where consumption takes place. The adoption of the e-commerce Directive in 2002⁹² that took effect in 2003 put this principle into practice. Effectively this meant that the place of supply for electronic services from outside the EU would be in the Member State of consumption. This was supported by vendor registration and remittance whereby a non-established trader could account for VAT in one Member State in respect of his supplies to all Member States. The responsibility then fell on that Member State to transfer the VAT to the Member State of consumption.

The 2003 changes were an important milestone in EU VAT Law as it was a statement of intent for future developments. It is also a reasonable assumption that failure to have implemented these changes would have resulted in tax and employment losses to the EU as the digitalisation of the economy allowed the delivery of services without any physical presence and automatically in a loss in competitiveness for EU business. With average VAT rates in the EU of approximately 21%, there would have been a clear incentive for a business to locate outside the EU and supply these service VAT free. However, the 2003 changes created their own problems as the place of supply rules for the same supplies made intra-EU were taxed at the place of the supplier rather than the customer. This meant that there could be considerable gains for EU suppliers by locating in a Member State with low VAT rates as there is a wide variance in VAT rates within the EU with standard rates of between 15 and 27%.

As a result, non-EU businesses located themselves within the EU in a low VAT jurisdiction. In addition, many EU businesses also relocated to a low VAT rate EU jurisdiction which led to an erosion of the VAT base in certain Member States. It is important to recognise that the gains were in respect of revenues and not just profits and therefore the gain could be up to 20% of the consumer price of the service. Due to the resulting distortions and revenue losses, it quickly became apparent to the Commission and Member States that there needed to be a move to a destination based VAT system for B2C supplies of electronic services, broadcasting and telecommunications within the EU.

It is relevant also to mention that in many respects in 2003 digital services were still in the embryonic stage. At that stage, people were generally buying their music in stores, renting movies and buying physical books in book stores. The changes since then have been profound. There is no doubt that this presents challenges for business in the traditional economy, but in terms of taxation, it is also clear that the step taken by the EU in 2003 to move towards the destination system for supplies of electronically supplied services was the correct one.

⁹² Council Directive 2002/38/EC

As outlined above, the 2003 changes to the place of supply rules presented challenges within the EU. Taxation of electronic services supplied B2C within the EU was in the Member State in which the supplier is established and not at destination, while in relation with third countries, taxation in the Member State of destination was already the rule. This rule led to a cluster of businesses establishing themselves in Member States with the lowest rate of VAT, from which they can supply electronic services across the EU at a more advantageous VAT rate than a business established in the Member State of the customer. This threat to the tax base in many Member States emphasised the need for further reform to the place of supply rules based on the destination principle.

In 2005, the Commission made a proposal to amend the place of supply rules and provide that the same rules for services based on the destination principle would apply intra-EU. After a number of years of negotiation, new place of supply rules were agreed by Council as part of the so-called VAT package. As a result of this agreement, from 1 January 2015 the place of supply of all services of telecommunications, broadcasting and electronic services to private individuals are in the Member State in which the customer is located, rather than the Member State in which the supplier is established. The same principle thus applies, intra EU and in relations with third countries.

The Commission proposed in 2004 a "one-stop" mechanism allowing a trader to fulfil all his VAT obligations for EU-wide activities in the Member State in which he is established. While agreement on this proposal had stalled and indeed this proposal has now been formally withdrawn, the principles of this vendor registration and remittance model were integrated into the VAT package, whereby a mini One Stop Shop (MOSS) was introduced in 2015 to support the new place of supply rules. The MOSS allows the supplier, rather than register for VAT in each Member State in which he has a customer, to register, declare and pay the VAT due on supplies of electronic services supplied to final consumers in other Member States via a web portal in his own Member State. The supplier therefore submits, once a quarter, a single VAT declaration to his home administration.

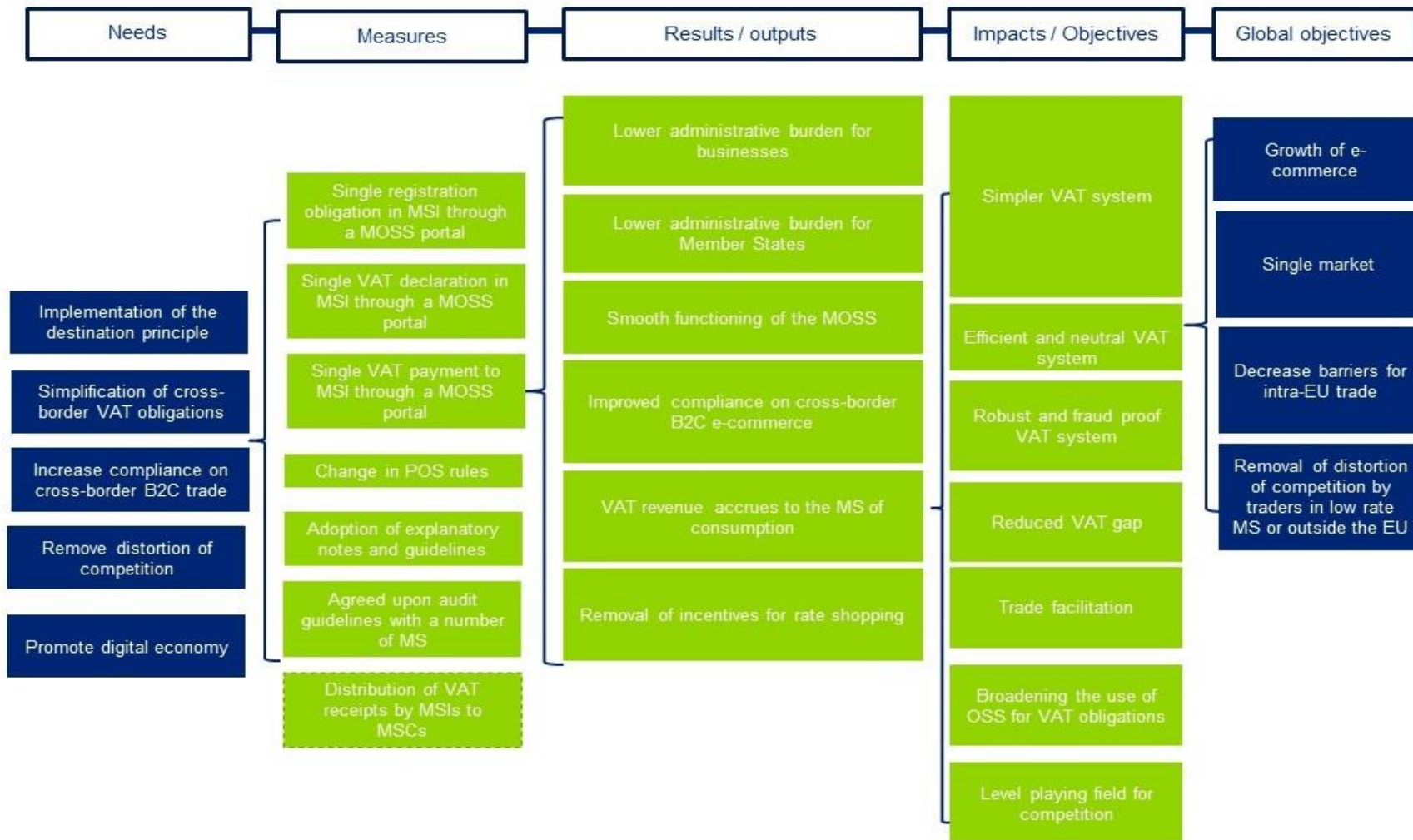
1.3. Intervention logic

In terms of the policy intervention, the table below summarises the policy intervention and its objectives.

| Policy intervention | Policy objectives |
|---------------------------------|---|
| 1. Place of Supply rule changes | Ensuring that tax revenues from supplies of electronic services accrue to the Member State of consumption based on the destination principle. Neutrality for business – supplies in a Member State would be taxed at the same VAT rate irrespective of the origin of the supply. |
| 2. Introduction of the MOSS | Simplifying the burden on business who are required to account for VAT in other Member States |

Figure 1 provides a more in-depth analysis of the intervention logic

Figure 1 – Intervention Logic



1.4. Methodology

The study carrying out this assessment used a range of methodologies, including in-depth interviews with tax authorities and businesses in eight Member States, questionnaire based surveys with tax authorities and microbusinesses, application of analysis tools (Standard Cost Model, hereinafter SCM) and a stakeholder seminar, arranged jointly with the EU Commission and the Irish Revenue to confirm the initial findings.

The study used the SCM to identify and quantify the recurring costs of doing business in other Member States for a ‘typical’ business engaged in cross-border B2C e-commerce transactions in electronic services. The SCM is a widely used tool to estimate the administrative burden for businesses to comply with legal requirements which, as is the case here, can generally be translated into Information Obligations (IOs). The ‘typical’ EU business results from the characteristics of a number of real businesses engaged in cross-border B2C e-commerce in electronic services in EU Member States. The results per country were averaged to calculate the time needed by the ‘typical’ EU business to comply with VAT related requirements. In addition, a non-EU business selling electronic services across the EU was included in the exercise. Overall, 28 EU businesses (from seven Member States and one non-EU country) were included in the sample. The sample covered micro (2), small (2), medium (1) and large (16) businesses. Additional data and information came from external available sources. A key input for the model is the hourly earnings/wage rates elaborated by Eurostat⁹³. Other key parameters for the analysis were the number of businesses engaged in cross-border B2C e-Commerce (obtained as part of the study), and the number of Member States a ‘typical’ EU business is registered to (estimated via primary data collection and expert judgement).

In addition, the study estimated the one-off implementation costs for businesses related to the place of supply rules and the MOSS on the basis of interviews with businesses. Due to the limited experience with audits at this stage, enforcement costs have not yet been analysed.

While there has been lengthy engagement on these changes with business and Member States since 2008, it should be noted that due to the short time since the implementation of the new rules from January 2015, the findings in the analysis only show the initial experience of the tax authorities and businesses, which is still limited in some areas, such as on audits and administrative cooperation.

Please note that the assessment is not covering all five evaluation criteria required by the Commission Better Regulation’s guidelines. Given that the new rules have been in place only since 2015, it was too early to judge their relevance, coherence and value added. Therefore this analysis focuses on the analysis of the implementation of the new rules, early results (effectiveness) and the corresponding changes in VAT revenues and compliance costs both for businesses and national administration (efficiency). The early results refer to initial outputs rather than long-term impacts that could be assessed in the context of general objectives. Similarly, the assessment of changes in regulatory burdens is likely not to capture all cost-savings, as it refers to the first months of the functioning of the new rules where both

⁹³ See: http://ec.europa.eu/eurostat/web/products-datasets/-/earn_ses_hourly. The most recent figures date back to 2010, but given the economic crisis, figures are considered still quite accurate by the Commission’s services consulted on the topic. Updated hourly earnings should be elaborated by Eurostat by the end of 2015.

business and national administrations were still learning how to apply the MOSS and the 2015 place of supply rules.

Also, given the nature of this assessment, the results have not been presented around the evaluation questions. Instead, it was considered that structuring of the analysis around the key aspects of the new rules would result in a clearer presentation.

The analysis is conducted both from the Member States' and businesses' perspective.

2. ASSESSMENT OF THE IMPLEMENTATION AND FUNCTIONING OF THE 2015 PLACE OF SUPPLY RULES FOR ELECTRONIC SERVICES AND THE MINI ONE STOP SHOP (MOSS)

2.1. Preparatory work for the implementation of the 2015 place of supply rules and the MOSS

The successful introduction of the 2015 place of supply rules and the MOSS was a high priority for the Commission as outlined in the Communication on the Future of VAT (December 2011). The Commission services together with Member States recognised the importance of a successful introduction of the 2015 changes for the EU VAT system and in particular the need to ensure that IT specifications for the MOSS system were in place, the need to have robust implementing rules in implementing regulations, the need to work with the key stakeholders and importantly the need to communicate with business. This part of the assessment gives an overview of the preparatory work undertaken and follows this with an assessment of this work by Member States and business.

2.1.1. Overview of preparatory work undertaken.

A summary of the preparatory work is below. A more detailed report was presented by the Commission to the Council in June 2014 (see COM(2014) 380 final⁹⁴).

1. Legislative framework

To prepare for the 2015 changes and the MOSS, it was essential to put in place a clear legal structure to fully support this significant development.

A Council Regulation relating to the obligations under the MOSS was adopted in October 2012⁹⁵, along with a Commission Regulation relating to the standard forms and returns⁹⁶. In addition, a further Council Regulation, laying down measures helping to identify correctly the place of supply of certain services such as how to determine customer location, and providing for a number of proxies in that respect, was adopted by the Council on 7 October 2013⁹⁷. In particular, it clarifies the issue of customers having multiple locations, or using devices to buy

⁹⁴

[http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/telecom/com\(2014\)_380_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/telecom/com(2014)_380_en.pdf)

⁹⁵ Council Regulation (EU) No 967/2012 of 9 October 2012 amending Implementing Regulation (EU) 282/2011 as regards the special schemes for non-established taxable persons supplying telecommunications services, broadcasting services or electronic services to non-taxable persons (OJ L 290, 20/10/2012, p. 1–7)

⁹⁶ Commission Implementing Regulation (EU) No 815/2012 of 13 September 2012 laying down detailed rules for the application of Council Regulation 904/2010, as regards special schemes for non-established taxable persons supplying telecommunications, broadcasting or electronic services to non-taxable persons (OJ L 249, 14/09/2012, p. 3–10)

⁹⁷ Council Implementing Regulation (EU) No 1042/2013 of 7 October 2013 amending Implementing Regulation (EU) No 282/2011 as regards the place of supply of services (OJ L 284, 26.10.2013, p. 1).

electronic services, telecommunications or broadcasting in a Member State in which they are not established. Based on this new legal framework, clear and very detailed definitions of electronic services, broadcasting services and telecommunication services are available.

2. *Guidance for Member States and business*

The Communication on the Future of VAT included a clear recommendation that the Commission will publish guidance in order to inform businesses and promote a more consistent application. This was seen by the Commission services as fundamental for the success of the new rules and MOSS.

Explanatory Notes on the Place of supply rules

Following agreement of the Implementing Regulation in Council, the Commission in collaboration with Member States and business representatives prepared extensive explanatory notes which were published in April 2014. The ‘Explanatory Notes’⁹⁸ are intended as a guidance tool that can be used to clarify the practical application of the new place-of-supply rules for telecommunications, broadcasting and electronic services. They are available in all EU languages, as well as in Japanese, Chinese and Russian.

MOSS Guidelines

The Commission services have drafted a comprehensive Guide to the MOSS⁹⁹, which has been adopted by the Standing Committee on Administrative Cooperation (SCAC) in October 2013. This Guide gives detailed information on how the MOSS will work in practice and covers areas such as registration, deregistration, making returns, the payment process and record keeping. The guidelines have been published in the EU languages, Japanese, Chinese and Russian.

3. *Communication*

The Commission recognised the need to inform business, both in the EU and in 3rd countries, on the 2015 changes and the MOSS. The Commission, in collaboration with Member States and business organisation, participated in a number of seminars to explain to business how the new rules would work, and what it can offer them in terms of simplicity. The Commission made a keynote presentation at the OECD Global VAT Forum in Japan in April 2014. Further events took place in Luxembourg, the UK, Poland, Germany and the US. In addition, the Commission has a dedicated web portal¹⁰⁰ with all the relevant information on the 2015 changes and MOSS.

4. *MOSS IT implementation*

The success of the MOSS is dependent on IT systems and development. While responsibility primarily lies with Member States to ensure that the web portals were fully functional for registration in October 2014, and for live operation in January 2015, the Commission has worked very closely with Member States to ensure that the systems were ready. Technical

⁹⁸ http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/telecom/explanatory_notes_2015_en.pdf.

⁹⁹ http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/telecom/one-stop-shop-guidelines_en.pdf.

¹⁰⁰ http://ec.europa.eu/taxation_customs/taxation/vat/how_vat_works/telecom/index_en.htm#new_rules.

specifications have been prepared by the Commission and agreed by Member States at the Standing Committee on Administrative Cooperation (SCAC). The Commission very closely monitored the implementation of MOSS by Member States, and proposed fall-back solutions to national administrations in case any Member State would not have had part of its system ready on time.

5. *Coordination of audits*

One important issue which is not yet fully resolved is the audit of the businesses under the MOSS. EU legislation on the MOSS still foresees that controls and audits are to be carried out by the Member State of consumption, although several tools are available to Member States to enhance coordination of audits. For both EU and non-EU companies, this may involve up to 28 different tax administrations auditing the same companies without any coordination and leading to information requests in multiple languages. Not only could this create disproportionate administrative burdens on business but it could also put at stake the efficiency of the audits themselves as well as the level of voluntary compliance (which is particularly sensitive where non-EU companies are involved). Member States have developed audit guidelines in order to promote the principle of coordination of audits, with the aim of reducing burdens on business, promote voluntary compliance and raise the efficiency of audits. These guidelines have been published by the Commission, as well as the names of participating Member States. Unfortunately, not all Member States have agreed to implement them. They are available in all EU languages, as well as in Japanese, Chinese and Russian.

Appropriate new tools, such as joint audits, to enhance the efficiency of audits in this sector may be useful, provided Member States can agree on the legal basis. Delivering a successful MOSS as a precursor to the broader OSS requires full trust by each Member State that taxes will be collected and that the necessary auditing (on the principle of risk) will take place.

2.1.2. *Analysis of the Member State perspective of preparatory works/implementation*

The main conclusion from the assessment of the implementation from the Member State's perspective is that the launch of the MOSS has been successful and that the MOSS system functions well. There is some evidence of 'teething' problems, such as the issues around registrations and related communications. However, these concerns do not seem significant and ought to be easily addressed in the short term. The support of the European Commission during the implementation process has been assessed very positively by the Member States.

In more detail:

- The legislative implementation of the place of the supply changes was timely and generally successful and in most cases the legislation was accompanied with administrative guidance.
- There was high appreciation for the active role of the Commission in providing further guidance on the interpretation of the new rules.
- The Member States used a wide range of communication channels to promote the new rules. However, there may be some scope for improvements regarding tailoring the communication for specific groups of businesses (especially microbusinesses).
- The Member States have started to identify mismatches in the national interpretation or the application of the rules. EU level discussions or further guidance may help to reduce such mismatches or find a way to address the consequences.

Implementation costs

- The average IT cost for a Member State for implementing the MOSS portal was about EUR 2.5 million, with very large variations across countries.
- The IT cost borne by the Commission linked to the development of the specification of the MOSS amounted to about EUR 1.9 million whilst the annual cost for the support, follow-up of operations, incidents support and basic maintenance of the system is estimated at around EUR 300 000 in Year 1, and EUR 180 000 per year to 2020.

2.1.3. Analysis of the business perspective of the preparatory works/implementation

Many businesses had to adapt their cross-border sales and related processes. In this regard, businesses found communication activities on both the EU and national level helpful. However, the awareness was significantly lower amongst the smallest businesses. The Commission's guidance material are considered very helpful, but quite technical (especially for small businesses) and it was seen by some businesses as unfortunate that not all Member States follow or endorse these¹⁰¹. The effectiveness of national guidance was considered to differ depending on the country; however, some additional national guidance targeted to the smallest businesses would be generally welcomed.

Similarly to the Member States, it can be confidently concluded that the launch of the MOSS has been successful also from the business perspective and that the MOSS functions well as a reporting tool, mitigating the administrative burden for businesses supplying B2C electronic services.

Regarding business experiences with the MOSS registrations, the experiences were very positive. The issues identified relating to the MOSS registrations were:

- Some businesses were uncertain whether supplies fall into the scope of the new place of supply rules, which was mostly a problem for smaller and micro companies.
- The lack of the possibility to register retroactively is considered to cause a disproportionate burden.
- The fact that non-EU suppliers cannot use the MOSS if they already have a local registration could cause problems with compliance.

2.2. Assessment of the 2015 place of supply rules;

Since 1 January 2015, all cross-border B2C supplies of electronic services, previously taxed in the Member State of the establishment of the supplier (for EU suppliers) are now subject to VAT in the Member State of the residence of the customer. In assessing the change in the rules it is necessary to look at the impact on Member States revenues and on business. There are some cross-overs with the assessment of the MOSS system given that this was the simplification measure introduced to reduce the burden on business.

The implementation of the 2015 place of supply changes created costs for both tax authorities and businesses. The ongoing application of the new rules impacts the revenue of the Member States, influenced by the uptake of the MOSS and the revenue declared through the MOSS. The businesses that chose to register for the MOSS or to apply alternative compliance

¹⁰¹ This particular comment reflects the fact that not all Member States have agreed with the auditing guidelines whereby Member States endeavour to minimise the burden on business y coordinating audits.

measures (such as registering directly or trading through platforms) suffer different administrative burdens, depending on their choice as well as their size and business model.

2.2.1. Assessment of the impact on Member States

VAT revenues from electronic services for the EU 28 as a total will have increased arising from the introduction of changes. The reason for this is the differential in VAT rates between origin and destination which can be up to 24%. The vast majority of Member States will have benefitted monetarily from the changes. The biggest impact has been on Luxembourg who had a concentration of electronic service suppliers. The revenue losses for Luxembourg have been mitigated by revenue sharing whereby as an interim measure the Member State of identification can retain 30% of the revenues in years 2015 and 2016, and 15% of the revenues in 2017 and 2018. A detailed quantitative analysis is included in Table 1, Section 2.4.

2.2.2. Assessment of the impact on business

The assessment showed that the impact of 2015 place of supply rules on businesses depends on the size and business model of the business and the nature of its supplies. The general conclusion is that SMEs, especially microbusinesses, are impacted by the new place of supply rules more significantly than larger companies, and are struggling with the application of the new rules. Therefore, further consideration on ways to simplify the application of rules by these businesses would be useful, such as, for example, requiring a lower standard on collection of evidence or including a threshold.

The changes in the place of supply rules were widely endorsed as the principle of taxation in the country of consumption is considered as fair and providing a level playing field for businesses. However, the fact that businesses are confronted with potentially 28 different sets of national rules was ranked by businesses as their main issue, impacting the smallest businesses most.

The other key findings from the assessment of the application of the new place of supply rules were as follows:

- Regarding identifying the customer status (B2B or B2C), the business systems rely mostly on assumptions (e.g. checking the VAT registration number or assuming B2C due to the nature of the supply) and correcting the transaction post sales, when challenged by a business customer.
- In terms of locating the customers, the proxies included in the Implementing Regulation were seen as very helpful for businesses and are widely applied. The majority of the businesses interviewed however rely on two pieces of information¹⁰² to locate their customers and apply a (self-created) hierarchy of evidence in case of mismatches.
- The presumption that the tax obligation lies with the intermediary (unless rebutted) when trading through a platform or marketplace (Article 9a of the Implementing Regulation) was considered as considerably simplifying the administrative burden for smaller companies, although further guidance would be welcomed. Intermediaries (app stores and

¹⁰² The evidence required can be the 1) the billing address of the customer, 2) the IP address of the device used by the customer or any other method of geolocation 3) bank details of the customer, 4) the mobile country code stored on the SIM card of the customer, 5) the location of the customer's fixed land line, and 6) other commercially relevant information (article 24f of Council Implementing Regulation 282/2011 of 15 March 2011).

marketplaces) have mixed reactions to the presumption, depending on their business model.

Although for most companies the qualification of their services as an electronically supplied service was fairly straightforward, some businesses are struggling with it, especially regarding services which may be either taxed under new rules or exempt (e-learning, gaming) and where national rules tend to differ.

2.3. Assessment of the Mini One Stop Shop

The MOSS was introduced as a means to mitigate the administrative burden of the 2015 place of supply changes by allowing the supplier to report its cross border B2C supplies of electronic services through an electronic portal in the Member State where it is established (or in case of a non-EU supplier in a Member State of its choice).

2.3.1. Take up of the MOSS

The number of businesses registered to the MOSS was provided by Member States and increased over the year, reaching about 12 900 in the EU scheme and slightly below 1 100 in the non-EU scheme by the middle of 2016.

The total number of EU businesses supplying cross-border B2C electronic services is estimated to be about 83 000. This does not mean that 70 000 (83 000 less the 13 000 registered to the MOSS) EU businesses supplying cross-border B2C electronic services are still doing so outside of the MOSS system. In fact, a significant part of those businesses (especially smaller ones) are not using the MOSS but are trading through a platform or marketplace which is registered for the MOSS (Article 9a of the Implementing Regulation). As such, they are not directly eligible for the MOSS but instead the intermediary assumes most of the fiscal obligations. Other businesses are directly registered in the Member States of consumption, for example because they also sell goods.

It may also be the case that some businesses are not compliant in that they continue to charge domestic VAT for intra-EU transactions. However, the study did not find any cases of large scale abuse of the new place of supply rules.

Based on data collected and stakeholders interviewed the study estimated that about 15% of businesses supplying cross-border B2C electronic services are registered for the MOSS. According to expert assessment, about 70% of the volume of electronic services is however processed via the MOSS.

2.3.2. Changes in VAT compliance costs for businesses

In evaluating the MOSS, it is useful to also analyse what the costs for business would have been without the simplification measure, as the first objective of the 2015 was to apply the destination principle. The MOSS was intended to address the burden that business would face arising from this policy change.

Businesses not using the MOSS

According to estimates, the overall costs that businesses face when engaging in cross-border B2C e-Commerce of electronic services under the 2015 place of supply rules (but not using

the MOSS) amount to about EUR 1.4 billion or about EUR 41 500¹⁰³ annually per business per year, or about (on average) EUR 5 200 per business per each Member State they sell to cross-border. This is less than the overall average cost for businesses engaged in cross border e-Commerce (around EUR 8 000) as there are relatively more SMEs in the segment of businesses supplying electronic services¹⁰⁴. To be observed that this is not a new burden but a cost which is linked to already existing obligations of companies which, for one reason or another, are already VAT registered in the Members States of consumption.

VAT registration is perceived as particularly burdensome by businesses, as they have to deal with differences in the national procedures and time necessary for registration across Member States. It is quite common for businesses in such situations to outsource these tasks and to use external advisors, especially for large enterprises.

Submitting the VAT return represents by far the most burdensome and expensive regular administrative cost, as it represents more than 95% of the total compliance costs for businesses applying the 2015 place of supply rules, but not using the MOSS. Companies often choose to outsource at least part of the related activities, as a way to cope with the different requirements and frequencies across Member States.

Businesses using the MOSS

According to estimates, the overall costs that businesses face when engaging in cross-border B2C e-Commerce of electronic services using the MOSS amount to about EUR 23 million, or about EUR 2 200 per business per year, or about (on average) EUR 434 for each Member State to which a business has cross-border sales¹⁰⁵. As anticipated, this represents an increase in the administrative burden, due to the change in the place of supply rules, counter-balanced by the MOSS. The overall cost for businesses using the MOSS is about 95% lower than of those not using the MOSS, resulting in a total saving for businesses using it of about EUR 500 million. Similar cost savings can be expected from the extension of the MOSS to intra-EU B2C supplies of goods proposed in the Commission's Digital Single Market Strategy of May 2015, for businesses making such supplies of goods for which at present they are registered in the various Member States of destination.

In addition, submitting VAT returns and paying VAT via the MOSS presents economies of scale for businesses, deriving from the fact that they have to file only one VAT return (and carry out one payment) for each reporting period, irrespective of the number of Member States they have supplied cross-border electronic services to. The marginal cost for submitting the VAT return and paying the VAT thus decreases for each additional Member State electronic services are supplied to. Such economies of scale translate into a reduction of the costs per company per Member State from 92% when the VAT return is filed for three Member States, up to 95% when it is filed for 27 Member States.

Submission of VAT returns through the MOSS represents by far the most burdensome task, accounting for approximately 98% of the total administrative costs related to the use of the MOSS. The submission of VAT returns via the MOSS is carried out by businesses either in-house or with the support of external advisors.

¹⁰³ An average of eight VAT registrations was used.

¹⁰⁴ Part 1 of the study determined that cross-border VAT compliance costs are lower for SMEs. However, these costs relative to the companies' revenues are proportionately higher.

¹⁰⁵ An average of five Member States was used.

Overall, businesses do not consider the MOSS return/declaration as a complex or particularly burdensome task. However, some of the businesses interviewed would appreciate an improvement in the MOSS functionality such as allowing a direct dialogue between the business accounting system and the MOSS as a means to input data directly.

2.3.3. Assessment of the MOSS – Member States' perspective

The assessment is largely positive with in excess of 14 000 registrations in mid-2016. This does not fully reflect the reality of the uptake of the MOSS as many businesses supplying cross-border e-services are complying through intermediaries (platforms).

The main problems identified in relation to the MOSS are in fact linked to its design and scope or the limitations of it, such as the application to electronic services only, without a threshold and the exclusion of the input VAT deductions, or the revenue sharing mechanism which received very mixed reaction from the Member States. The assessment identified a list of mostly operational issues which may be addressed in the medium term, such as the MOSS return correction procedure, a review of the currency exchange principles, a *de minimis* for transfers of funds between Member States or other simplifications on payments and reimbursement processes.

The net revenue impact (loss or gain) from the new set of rules depends on whether each Member State has more cross-border consumption or sales. Nearly all Member States expected the net revenue impact of the new rules to be positive (with a few exceptions). Indeed, based on the initial MOSS data (Q1 and Q2 2015), most Member States have a net gain and only a limited number of Member States experiences a net loss.

The total VAT revenue declared via MOSS in 2015 exceeds EUR 3 billion (EU scheme around EUR 2 754 million and non-EU scheme around EUR 292-350 million). Comparing revenue from the non-EU scheme to the revenues reported through the VoES in 2014 of about EUR 140 million, the estimates from Q1 2015 indicate at least a tripling of revenues.

Based on the information received, in all countries analysed, a small number of large businesses account for the large majority of the revenues collected under the Union MOSS. Data collected from Member States show that more than 99% of the VAT revenue processed via the MOSS is declared by about 13% of the businesses registered (with small differences across Member States).

2.3.4. Assessment of the MOSS - Businesses' perspective

The analysis of the introduction of MOSS from a business perspective indicates overall that it is successful and meets the overall objectives to making it easier and less costly for business to comply. This analysis is confirmed by the evaluation of the related administrative burden. However, for small- and microbusinesses even this lower administrative burden seems difficult to overcome.

Regarding the system itself the MOSS is generally considered easy to use and it is seen as very convenient to be able to file only one single VAT return and make one single payment. The system is, however, not without its flaws and there are operational elements which could be simplified, such as the treatment of credit notes and currency conversions, the possibility of providing notifications and balance statements by the portal and the storage period for the

MOSS documentation. The Commission's forthcoming proposal to extend the system to cross-border supplies of goods should address these issues.

2.4. Overview of the key results from the analysis

The table below provides an overview of the main results of the analysis, based on data available mid- 2016.

Table 1 – Overview of main results from the quantitative analysis

| Main results from the analysis | | | |
|---|--|--|--|
| Total number of EU businesses supplying cross-border B2C electronic services | About 83 000 | | |
| Businesses registered to the MOSS ¹⁰⁶ | Union scheme 12899 registrations | Non-Union scheme 1079 registrations | |
| EU businesses outside of the MOSS supplying electronic services | About 34 000 | | |
| EU businesses not eligible for the MOSS/non-compliant ¹⁰⁷ | About 38 000 | | |
| Administrative burden in 2015 for EU businesses supplying electronic services | <u>Overall:</u> EUR 1.437 billion | In MOSS - Overall: EUR 23 million - Per business: EUR 2 172 - Per business per Member State: EUR 434 | <u>Outside MOSS</u> - Overall: EUR 1.414 billion - Per business: EUR 41 623 - Per business per Member State: EUR - 5 203 |
| First Member States of Identification ¹⁰⁸ | In terms of No. of registrations | | In terms of revenues (2015) |
| | <u>Union scheme:</u> - Germany (2943); - UK (2578) Germany and the UK hold 43% of | | <u>Union scheme:</u> - Luxembourg (55% of revenue) - Ireland (15% of revenue) The total VAT revenue reported for 2015 amounts to EUR 2 692 |

¹⁰⁶ Situation as of May 2016.

¹⁰⁷ The study did not find any evidence of widespread non-compliance

¹⁰⁸ Situation as at the beginning of October 2015.

| Main results from the analysis | | |
|--|---|---|
| | all registrations. | million. The estimate for 2016 is EUR 2 735 million. |
| | <u>Non-Union scheme:</u> - UK (616) - Ireland (166) The UK and Ireland hold 76% of all registrations | <u>Non-Union scheme:</u> - United Kingdom (50% of revenue) - Ireland (34% of revenue) The total VAT revenue reported for 2015 amounts to EUR 306 million. The estimate for 2016 is EUR 508 million. |
| | <u>VoES¹⁰⁹ registrations:</u> - UK (54% of registrations) - The Netherlands (21% of registrations) | <u>VoES revenues:</u> - 2012: EUR 103.5 million - 2013: EUR 118.1 million - 2014: EUR 137.9 million |
| First Member States of Consumption | <u>Union scheme</u> - UK - Germany - France - Italy - Sweden | <u>Non-Union scheme</u> - UK - Germany - France - Italy - Spain |
| | Most Member States underestimated their net gain. | |
| VAT revenue from VAT returns with a declared turnover below/above EUR 10 000 | <u>Total VAT revenue (below):</u> EUR 1,1 million (0,1%) | <u>Total VAT revenue (above):</u> EUR 2,99 <u>billion</u> (99,9%) |

¹⁰⁹ The VAT on Electronic Services system or “VoES” was a system similar to the non-Union MOSS and was introduced on 1 July 2003.

2.5. Administrative cooperation, audit and audit guidelines

Despite the implementation of the MOSS, businesses still need to apply up to 28 sets of national rules and may receive direct information requests from other Member States. Since VAT audit rules are not harmonised in the EU, this could be particularly burdensome for the businesses. However, the MOSS audit guidelines are aiming to reduce this burden, for example by encouraging close cooperation of Member States on audit. Effective administrative coordination is crucial also from the tax authorities' perspective.

Member States' perspective

The main outcome from the assessment is that it is still too early to draw conclusions on the effectiveness of the administrative cooperation and the MOSS audit, as the experiences are very limited. Member States seem to expect difficulties in administrative cooperation in the near future. It may be therefore useful to continue monitoring their experiences and arrange discussions to pre-empt the difficulties and find solutions to the identified potential issues. Therefore, this area needs to be further assessed in 2016.

It is positive to note that a large majority of Member States have endorsed the MOSS audit guidelines and are getting ready for further cooperation on audit and other information exchange. The future direction towards a single audit mechanism is generally seen as a right way forward, although the Member States expect it to take a long time and significant effort. Meanwhile, full application of audit guidelines and effective cooperation on audits would be desirable.

Businesses' perspective

Businesses have so far no experience with the MOSS audits, although a few have received information requests from Member States of Consumption. Despite the lack of direct experience, the businesses have a negative perception of a potential audit by multiple Member States. Their main concerns are linked to a lack of awareness of the process, an expected high administrative burden, but also language issues. Businesses have therefore a strong preference for audits conducted by the Member State of Identification.

2.6. Assessment of the overall impact of the 2015 place of supply changes and MOSS on SMEs

From a quantitative point of view, for 2015, about 6 500 companies with an annual turnover of less than EUR 10 000 were registered for the MOSS. In total, the MOSS revenue generated by these companies amounted to EUR 1.1 million, which is less than 0.5 per cent of the total VAT revenue reported through MOSS in 2015.¹¹⁰

In general, the analysis has confirmed that SMEs and microbusinesses have been significantly more impacted by the 2015 POS rules than larger companies. The administrative burden resulting from the 2015 POS rules, as described in this report, is often higher for small and micro companies as they have less resources at their disposal. A number of medium and large-sized businesses had already decided to register for VAT purposes in several Member States for other reasons, and were thus more prepared to cope with the legislative changes.

¹¹⁰ See table 12 - MOSS revenue distribution under and above EUR 5 000 in 2015.

On the contrary, the sole implementation of the destination principle would have brought a major burden on micro and small businesses (EUR 5 000 annually per Member State they trade), which would have forced many of them to stop trading cross-border or to be non-compliant, as their turnover from such transactions does not cover such costs. The introduction of a simplification measure like the MOSS was necessary to support the change in the legislative framework, and was considered very positively by businesses, even if some concerns on some of the current features were expressed.

Despite the simplification provided by the MOSS (and the related reduction of the administrative burden), microbusinesses and small businesses still face challenges in implementing the 2015 place of supply rules.

In particular, SMEs and microbusinesses often do not have the necessary resources (including personnel, budget and knowledge) to identify the customer’s location and to deal with divergent foreign VAT law in all EU Member States. This could result in a competitive disadvantage and reduced market access for SMEs.¹¹¹ Additionally, in case of an audit, SMEs would possibly have to deal with multiple foreign tax authorities, which seems an even more disproportionate burden on SMEs.

It should be noted, however, that article 9a of the VAT Implementing Regulation can greatly reduce compliance costs for SMEs who make supplies through intermediaries as the obligation is on the intermediary to account for the tax. The absence of a threshold could also work to the advantage of intermediaries as the compliance costs may act as a barrier to a small business selling products to the customer directly or taking a multi retail channel approach. At the same time, operating via an intermediary could result in a lower profit margin as the supplier is obliged to pay a commission. The upside is, of course, that these intermediaries can assist business in accessing markets.

2.7. Overall assessment of whether the policy objectives were met

Given the rules have been in place since January 2015, it is too early to assess if the legislation has fully met its objectives. Therefore, the analysis below provides first indications of whether the legislation has been successful and is on track to meet its long-term objectives.

| Policy intervention | Broad Policy objectives | Assessment of whether the policy objectives were met |
|------------------------------|--|--|
| Place of Supply rule changes | <p>Ensuring that tax revenues from supplies of electronic services accrue to the Member State of consumption based on the destination principle.</p> <p>Neutrality for business – supplies</p> | <p>Overall, this objective has been met as supplies of electronic services which were previously taxed in the Member State where the supplier was based are now be taxed in the Member State of the consumer and therefore such tax revenues will accrue to that Member State.</p> <p>Under the 2015 changes, all supplies irrespective of origin are taxed at the</p> |

¹¹¹ For more detail, see “2.3.5. Other difficulties encountered by businesses” under “Reduced market access for SMEs”.

| | | |
|---------------------------------|--|---|
| | in a Member State would be taxed at the same VAT rate irrespective of the origin of the supply. | same VAT rate in a given Member States. The early evidence shows that this have assisted with providing a level playing field. |
| Introduction of the MOSS | Simplifying the burden on businesses which are required to account for VAT in other Member States as a result of the changes to the Place of supply rules. | <p>Overall the results were positive. The MOSS reduced costs by 95% compared to the alternative of direct registration, with total savings in year 1 of approximately EUR 500 million.</p> <p>Difficulties faced by SMEs due to the lack of a cross-order threshold and the need for identifying customers. Important to note that the former could have had implications for the neutrality objective as different rates would be charged dependent on origin.</p> <p>Further possible simplifications have been identified in the areas of audits, currency conversions and corrections to past return.</p> |

A further analysis below links the needs of the policy intervention to the results.

| Needs | Results |
|--|---|
| Implementation of the Destination System | The 2015 changes were an important step in applying the destination system of VAT. However, the lack of a cross-border threshold caused difficulties for micro-businesses, particularly those who are below the domestic VAT exemption thresholds. |
| Simplification of cross-border VAT obligations | The move to destination system for intra-EU supplies of electronic services whereby supplies of such services are now taxed where the consumer is located rather than where the business is based increases complexity for such businesses. However, the introduction of the Mini One Stop Shop has mitigated to a great degree the increase in costs for business with an estimated cost saving for a business of EUR 40 000 annually compared to the alternative of direct registration in each Member State supplied to. |
| Increase compliance on cross-border B2C trade | It is too early to determine compliance arising from the introduction of the new rules. The study did not identify any widespread non-compliance. However, there has been a marked increase in VAT paid by non-EU business through the scheme compared to the VOES scheme. |
| Remove distortion of competition | As a result of the changes, supplies of electronic services will attract the same rate of VAT in a Member State regardless of where the suppliers are |

| | |
|-----------------------------|--|
| | based. Therefore, this is expected to have a positive impact on a level-playing field. It is too early to determine the size of this effect. |
| Promote the digital economy | <p>The removal of distortions means that many SMEs can now compete on equal terms with the businesses who were previously able to avail of the VAT rate differentials of the origin system for such supplies. It is too early to assess to what extent it has impacts on the promotion of the digital economy.</p> <p>However, the lack of an intra-EU threshold has acted as a barrier to micro-businesses who have seen the new rules as a barrier to growth and cross-border trade.</p> |

3. RECOMMENDATIONS FOR IMPROVEMENT

This section presents the recommendations by the external consultant for improvements in the current application of the 2015 place of supply changes, based on the conclusions from the assessment.

The recommendations are grouped into immediate improvements (*i.e.* recommendations that can be implemented easily in a short period of time within the existing legislative framework) and recommendations for future improvements (*i.e.* recommendations that need longer time, legislative changes and/or more effort to be implemented).

Whenever relevant, a distinction is made between recommendations at EU level (*i.e.* recommendations to be implemented at central level by the Commission and European institutions) and at Member States level (*i.e.* recommendations to be implemented by the Member States).

3.1.1. Recommendations for immediate improvement

Based on the key findings and conclusions on the 2015 place of supply rules, the recommendations for immediate improvement are the following:

| Recommendations at EU level | Recommendations at Member State level |
|--|---|
| <p>Provide more clarity in the Explanatory notes regarding the scope of the new rules in order to encourage further alignment in national practices, specifically in relation to the services where mismatches are most likely, such as electronically supplied services, gaming, educational services and financial services. Further elements on considering the notion of minimal human intervention would also be welcomed.</p> <p>Discuss the national implementation of the rules for intermediaries (Article 9a of the Implementing Regulation) to reduce the mismatches and clarify or expand the explanatory notes if necessary, to</p> | <p>Improve guidance for and communication with small and micro-businesses to support them regarding the understanding of the scope of the 2015 place of supply rules and the use of evidence that will be needed to determine the location of the customer.</p> <p>Provide clearer guidance on the rules for intermediaries (e.g. requirements for rebuttal) and trading through intermediaries (e.g. calculation of the taxable turnover).</p> |

| | |
|--|--|
| <p>provide further alignment in national rules and more clarity and certainty for businesses.</p> <p>Explore options for addressing the consequences of mismatches in national place of supply rules, such as more effective use of cross-border rulings.</p> <p>Continue developing the Commission’s MOSS web portal to improve business access to and awareness of the relevant national rules, including the identified mismatches in scoping or other country specific implementations.</p> <p>Prepare a simpler version of tailored guidance (e.g. explanatory notes) for small and micro businesses.</p> | |
|--|--|

3.1.2. Recommendations for future expansion

In relation to the aim for further expansion of the rules to supplies of goods and other services and related EU and national legislative and administrative changes, the recommendations based on the lessons learned are the following:

| Recommendations at EU level | Recommendations at Member State level |
|---|---|
| <p>Include specific simplification measures for small and micro businesses or businesses with limited cross-border trade, e.g. a threshold or use of one piece of evidence.</p> <p>Remove the right to require an invoice on cross border B2C supplies.</p> <p>Continue with the inclusive approach on the preparation of the future changes and related guidance, aiming for a high level of alignment in the national implementation of the changes.</p> <p>Although politically difficult, a strong request from businesses is that VAT rules concerning rates (one single VAT rate)¹¹², invoicing, sanctions and audit be (more) harmonised.</p> | <p>Involve businesses in the implementation process from early on for better awareness and preventive management of the potential impact on the administrative burden on businesses, especially on the small and micro-businesses.</p> <p>In the communication strategy on upcoming changes, consider using a tailored approach for the small and micro businesses.</p> <p>Prepare comprehensive national guidance on legislative and administrative changes, preferably in cooperation with businesses, and publish it as early as possible.</p> |

3.2. Recommendations on the MOSS system

3.2.1. Recommendations for immediate improvement

Based on the key findings and conclusions on the implementation of the MOSS, the recommendations for immediate improvement are the following:

¹¹² The Commission position on VAT rates is outlined in the April 2016 VAT Action Plan, which is currently under discussion at Council.

| Recommendations at EU level | Recommendations at Member State level |
|--|---|
| <p>All the EU level recommendations require a change of the law and have therefore been included in the below section on future expansion.</p> | <p>Consider being lenient on spontaneous disclosures as the current system sets a very high entry bar for businesses wishing to comply.</p> <p>Send warnings or notifications for businesses when the deadline for filing the MOSS return approaches. Make a balance statement available to businesses reporting through MOSS.</p> <p>Provide more technical assistance on compliance especially for the smallest businesses.</p> <p>Provide a national testing environment for businesses reporting through MOSS.</p> <p>More flexibility on uploading formats for reporting through MOSS.</p> <p>The portals could be fed with prepopulated information such as VAT rates (these could possibly come from TIC). The information relating to MSCs should also be published as soon as possible.</p> <p>Remove the invoicing requirements on the supplies covered by the new rules to reduce administrative burden on businesses.</p> |

3.2.2. Recommendations for future expansion

In relation to the aim for further expansion of the rules to supplies of goods and other services and related EU and national legislative and administrative changes, as well as the extension of MOSS to these supplies, the recommendations based on the lessons learned are mentioned below.

| Recommendations at EU level | Recommendations at Member State level |
|--|---|
| <p>Consider the extension of the deadline to file the MOSS return.</p> <p>Enable correcting VAT in the current return instead of having to correct the original return, especially in case of the credit notes.</p> <p>Reduce the requirement to store transactional data for 10 years.</p> <p>Remove the block for non-EU suppliers to register for MOSS when they are already VAT registered in one of the EU Member States.</p> <p>Harmonise the national MOSS portals (or set up an EU portal), in order to avoid the problems of interoperability of the systems.</p> <p>Introduce more flexible currency exchange rules,</p> | <p>Involve businesses in the implementation process from early on for better awareness and preventive management of the potential impact on the administrative burden on businesses, especially on the small and micro-businesses. A use of the early testing environment is recommended.</p> <p>In communication strategy on upcoming changes, consider using tailored approach for the small and micro businesses.</p> <p>Prepare comprehensive national guidance on administrative changes, preferably in cooperation with businesses, and publish it as early as possible.</p> <p>Regular communication efforts are advised since there will likely remain uncertainty about the applicable regime.</p> |

| | |
|---|--|
| <p>such as allowing businesses to apply the same rates they use for their regular business activities.</p> <p>Revisit the revenue sharing mechanism and its appropriateness for the effectivity of the MOSS.</p> <p>Continue with the inclusive approach, involving all relevant stakeholders (all Member States and businesses), on preparation of the future IT changes and related guidance, aiming for high level of alignment in the national implementation of the changes.</p> <p>Regular communication efforts are advised since there will likely remain uncertainty about the applicable regime.</p> <p>Member States should have sufficient time for implementation of IT changes. Any specs on further changes that would be made to the IT set up of the MOSS portal (or similar), should be communicated well in advance.</p> | <p>Consider possibilities to combine the local VAT return with the MOSS return.</p> <p>Enable the offset of a MOSS payment against an input VAT refund on the national VAT return.</p> |
|---|--|

3.3. Recommendations on the administrative cooperation and audit

Based on the assessment, the recommendations for improvements in the current application of the administrative cooperation and audit in relation to the 2015 place of supply changes are the following.

3.3.1. Recommendations for immediate improvement

| Recommendations at EU level | Recommendations at Member State level |
|--|--|
| <p>Continue monitoring the administrative cooperation between the Member States and arrange discussions to pre-empt the difficulties and find solutions to the identified potential issues, such as clarity in contact points and procedures.</p> <p>Continue promoting the application of the audit guidelines and arrange discussions between the Member States to encourage and improve cooperation on MOSS audits.</p> <p>Continue and widen discussions with non-EU countries on administrative cooperation on VAT matters.</p> <p>Create an EU MOSS audit team formed by the Member States, which may have a coordinating and advising function.</p> | <p>Provide comprehensive guidance to businesses on the national approach to MOSS audits, to provide clarity and certainty and help businesses to comply.</p> |

3.3.2. Recommendations for future expansion

In relation to the aim for further expansion, the recommendations based on the lessons learned are as follows.

| Recommendations at EU level | Recommendations at Member State level |
|---|--|
| Consider possibilities of changing the audit guidelines into a legislation, e.g. in the form of an implementing regulation. Continue developing the Single Audit Mechanism, to simplify the cross-border auditing and reduce the related compliance cost for businesses. | Change the approach to audits by starting to audit processes rather than transactions. |

4. CONCLUSION

The new place of supply rules for intra-EU supplies of telecommunications, broadcasting and electronically supplied services are an important step in ensuring the destination principle of VAT which is the agreed position of the Commission and Member States. However, it is recognised that the destination principle also makes life more difficult and costly for businesses who are required to account for the VAT due to the Member States of their consumers, and therefore simplification measures are needed.

Overall, the findings of the assessment show that the new rules have been implemented effectively. Given that they have been applicable only since January 2015, it is too early to assess if the legislation has fully met its objectives; however the available evidence shows that the first results are positive and in line with the expectations.

In particular, the business community has been very satisfied with the introduction of the 2015 changes, Business has recognised the efforts taken to communicate these changes and the issuance of comprehensive guidance material. Business has also recognised the benefits of bringing together business and Member States prior to the introduction of the changes to ensure that these were workable.

The introduction of the MOSS is seen by business and the majority of Member States as an essential system for the collection of taxes and making compliance as easy as possible. The timely and relatively error-free introduction of 28 individual but intra-connected IT portals now used by approximately 14 000 businesses is a significant achievement.

The MOSS has been very successful with EUR 3 billion paid through it in 2015, representing up to EUR 18 billion in trade and 70% of the total in this sector. This mechanism has saved business EUR 500 million or EUR 40 000 per business compared to the alternative of direct registration (95% reduction compared to the alternative of direct registration), and thus contributed to reducing unnecessary burdens on business, which is a key objective of the REFIT programme.

It should also be recognised that such a system whereby Member States are collecting substantial tax revenues on behalf of each other is not only a key milestone for the EU VAT system but also for the single market.

There are, however, lessons to be learned from the 2015 changes notably regarding the lack of a cross-border threshold as well as the rules for the identification of the location of customers has caused difficulties for micro-businesses and start-up. These issues can be addressed in this new initiative without causing distortions in the single market. Another key consideration, driven by the spirit of the DSM strategy, is that doing business cross-border should be as similar as possible as doing business within your own Member State.

In bringing forward a new proposal in 2016 to extend the Mini One Stop shop to cross-border supplies of tangible goods, the Commission and Member States should consider both the positives and the learning points from the 2015 changes. The need to have clear rules and robust IT specifications together with ongoing support from the Commission services is essential. It is also critical that any changes are communicated to those businesses who will be affected, whether in the EU or in third countries. In this respect, particular attention needs to be focused on SMEs with both the Commission and Member States reaching out to such businesses. In addition, it is essential that Member States introduce a cross-border e-commerce compliance strategy to ensure that any abuses are identified and addressed, and therefore businesses will face a level playing field.

ANNEX 4 – WHO IS AFFECTED BY THE INITIATIVE AND WHY?

The table below sets out the practical implications of the preferred option on the key stakeholders including business, postal operators, member States and consumers.

| Stakeholder | Key obligations | Timescale/Costs |
|--|--|--|
| <i>Member States</i> | <p>Additional modules will need to be developed for the exiting Single Electronic Mechanism.</p> <p>Tax and customs administrations will need to put in place a compliance regime to ensure VAT is paid on small consignments.</p> | <p>These will be developed over the 3 year period with an implementation date of 2021.</p> <p>The compliance programme should be risk based. In terms of customs, it will require liaison between the importers and the customs authorities to ensure compliance and that adequate records are kept.</p> <p>Given the SEM is an evolution of an existing system costs should not be very high.</p> |
| <i>Commission services</i> | <p>DG TAXUD will support Member States in developing the additional modules for the SEM in addition to the preparation of guidance material and the development of a communication strategy.</p> | <p>Commission will intensify work once the proposal is firmed up by Council and adopted.</p> |
| <i>Postal operators/Express couriers</i> | <p>Postal operators and express couriers will need to adapt their systems to ensure that consignments are either VAT pre-declared or tax is paid at the border.</p> | <p>The envisaged implementation date of 2021 has been chosen to align with other developments for these operators as a result of the union customs code.</p> <p>Therefore, the preferred option should minimise any additional costs.</p> |
| <i>Enterprises</i> | <p>Enterprises who are currently registered for VAT in other Member States may need to de-register.</p> <p>Enterprises who engaged in cross-border trade but were not registered in other Member States due to being below thresholds will need to adapt their systems to ensure the correct VAT rate is charged and register for the SEM.</p> | <p>There may be a small cost in de-registering, but there will be immediate savings through using the SEM.</p> <p>Registrations will open in mid-2020. Member States and the Commission will assist business in implementation.</p> |

Effect on consumers

In terms of effects on consumers, the proposal may lead to a slight increase in prices, but this is as a result of the fact that VAT will be applied on certain goods which are currently exempt or through non-compliance. One notable benefit for consumers is that they will be able to pay VAT at the point of sale when purchasing goods to be imported. This compares to the current situation where postal operators or express carriers collect VAT from the consumer on importation together with an administrative fee before releasing the goods. Consumers will, in addition, benefit from greater choice as e-commerce grows.

1. OVERVIEW OF THE METHODOLOGY

The study was tailored to meeting the requirements of the EC guidelines on Impact Assessment methodology¹¹³, which includes the analysis of both the business and government perspective regarding VAT aspects of cross-border e-Commerce. Covering these aspects requires the collection of both quantitative and qualitative information and the application of a range of methodological tools. This part of the assignment builds upon the results of both Lot 1 and Lot 3, as well as on the analysis of a series of secondary data.

Given the large relevance of the quantification of a large number of economic impacts for the analysis of the Policy Options, a micro-oriented approach is combined with a macro-oriented approach. This involves using the Standard Cost Model methodology and the Computable General Equilibrium methodology. The key models adopted for the analysis required a series of secondary data and assumptions, Data collection and analysis relied on a number of sources of evidence

1.1. Approach to analysing the impacts

The large set of impacts to analyse required the use of different models for analysis, different sets of assumptions and of data gathering tools.

Table below provides an overview of the approach and tools used to assess each impact, of the key sets of assumptions and sources used. As mentioned earlier, each of them is explained in more detail afterwards.

¹¹³ See: http://ec.europa.eu/smart-regulation/guidelines/tool_16_en.htm

Table 1 – Approach to the analysis of impacts

| Impact | Approach used | Tools for analysis | Key assumptions | Key sources |
|--|---|---------------------------|--|---|
| <i>Impacts for Member States' revenues, costs and benefits for Member States to implement the Option</i> | Quantitative analysis Qualitative analysis | SCM | Costs similar to the MOSS Different scenarios for e-Commerce growth Compliance monitoring based on risk profiling | Data from Lot 1 and Lot 3 (Member States' interviews and questionnaires) Stakeholder workshops Desk research Member States' interviews |
| <i>Impacts on administrative burden for businesses</i> | Quantitative analysis | SCM | Impacts of OSS similar to those of MOSS Number of businesses Number and behaviour of micro-businesses engaged in cross-border e-Commerce | Data from Lot 1 and Lot 3 (businesses interviews) Stakeholder workshops Business online survey |
| <i>Impacts on competition and growth</i> | Quantitative analysis | CGE model | Different scenarios for e-Commerce growth Number of businesses Number and behaviour of micro- | Consumer survey SCM Desk research |

| | | | | |
|------------------------------|---|-------------|---|--|
| | | | businesses engaged in cross-border e-Commerce | |
| <i>Impacts on compliance</i> | Quantitative analysis Qualitative analysis | Projections | Different scenarios for e-Commerce growth | Data from Lot 1 and Lot 3 (Member States' interviews and questionnaires) Stakeholder workshops Desk research Mock purchases |

1.2. Tools for the analysis

This sub-section provides a very brief description of the two main models used to conduct the analysis. For each of them, we indicate where to find more detailed explanations.

1.2.1. Standard Cost Model

The Standard Cost Model (SCM) methodology was applied to estimate the administrative burden for enterprises in order to comply with legal requirements translated into Information Obligations (IOs).

Our objective was to identify and quantify the costs a 'typical' business engaged in cross-border B2C e-Commerce transactions of goods and/or in TBE services has to face to comply with the current VAT-related requirements (Status Quo), and how such costs are likely to change under the different Options considered.

The key elements (including IOs, frequency of the obligations, average costs) derive from the analysis carried out under Lot 1 and Lot 3.

The detailed description of on the SCM approach and the key parameters used are part of Lot 1 and Lot 3 reports. A more detailed description of the key elements used for Lot 2 and the detailed figures elaborated are presented in Annex 4.

1.2.2. *Computable General Equilibrium (CGE) model*

In order to assess the magnitude of the effects on cross-border e-Commerce arising from the administrative burden, a Computable General Equilibrium (CGE) model has been developed. The CGE model is a dynamic single-region, multi-sector representation of the EU economy. Through a series of equations it describes the behaviour of key agents in the economy – households, firms, the government and the foreign sector – and how their interactions shape the markets for factors of production, goods and services, and savings and investment. Within the retail sector, the model distinguishes between online and offline trade and between domestic, intra-EU and non-EU e-Commerce.

For the purposes of this assignment (Lot 2) the CGE model was used in order to estimate the impact of the administrative burden by calculating the response of the economy to the removal of this burden, drawing on the outputs of the Standard Cost Model and the consumer survey. These impacts are estimated under a number of different scenarios for the growth of e-Commerce (see section 2.2.3 and Annex 5 for more detail.)

1.3. Quantification of the impacts

Along with the qualitative analysis, this report also aims to quantify the impact of the Policy Options on businesses, government revenues and the Single Market.

The assessment of the impacts of the options rests on a large number of analysis and assumptions, which are explained in detail in annex 4.

Here we only provide the key elements for the analysis of the policy options, i.e.

- Number of businesses;
- Timeline adopted;
- Growth rates;
- VAT revenues and compliance.

1.3.1. *Number of businesses*

The total value of cross-border e-Commerce is estimated to be EUR 96.8 billion (calculated from the consumer survey and MOSS receipts as part of Lot 1); the revenues of businesses of different sizes are then estimated based on this total figure and the revenue contributions shown in the table above. Based on these figures and data on the number of businesses engaged in cross-border trade collected as part of Lot 1, the average cross-border revenues of firms of different sizes can be estimated.

Table 2 – Average cross-border e-Commerce revenues of firms, by size

| All businesses | Micro businesses | Small businesses | Medium businesses | Large businesses |
|----------------|------------------|------------------|-------------------|------------------|
|----------------|------------------|------------------|-------------------|------------------|

| | | | | | |
|--|---------|---------|---------|---------|-----------|
| Number of firms | 557 908 | 442 444 | 81 716 | 24 594 | 9 154 |
| Share of e-Commerce revenues by firm size | 100% | 4.1% | 12.6% | 21.6% | 61.7% |
| Cross-border e-Commerce revenues (EUR billions) | 96.8 | 4.0 | 12.2 | 20.9 | 59.7 |
| Average cross-border e-Commerce revenues | 173 505 | 9 041 | 149 298 | 849 801 | 6 521 739 |

Source: Eurostat, *Business Enterprise Statistics, Information Society Statistics, 2013*

1.3.2. Timeline

The analysis of the financial impacts (which includes the quantification of the administrative burden for businesses and of VAT revenues for Member States, as well as of the processing costs for postal operators and couriers) uses 2015 as baseline.

This assumption implies that all the changes introduced by each Option are implemented immediately. The same assumption is also taken for the take-up rate (e.g. of the SEM). This assumption implies that operators (EU and non-EU businesses, postal operators and couriers, marketplaces, etc.) will be ready to implement the necessary changes and thus achieve the maximum expected take-up immediately

1.3.3. Growth rates

In order to ensure a consistent like-for-like comparison of the policy options, it is important to assume the same growth rates across all scenarios including the status quo. The policy options are then compared relative to this baseline.

These growth rates capture exogenous trends in the e-Commerce market, including underlying trends in consumers' propensity to buy online, the expansion of the cross-border online market due to the DSM strategy and the growth of international online markets. In keeping with the assumptions agreed for the Lot 1 analysis, three rates are considered: 6%, 12% and 18%. The same rates of growth are used for EU and non-EU trade. For simplicity and to reduce the number of scenarios presented in each chapter of the report, only the medium growth scenario results have been included in the main body of the report; the additional scenarios are included in section 5.

1.3.4. VAT revenues and compliance

In Option1 and in all the other Options covered by the study, we estimated the volume and value of parcels imported to the EU from thirds countries due to B2C e-Commerce purchases of EU consumers for the following groups of parcels:

Small value consignments, i.e. parcels below the 10-22 EUR threshold; and
 Parcels above the small value consignment threshold and below the Customs threshold,
 i.e. parcels between 10-22 EUR and 150 EUR.

The estimates are based on the data provided by two recent studies on volume and corresponding value of small value consignments (parcels below 10-22 EUR) in 2013¹¹⁴, and on the distribution of parcels by value¹¹⁵.

The table below provides an overview of the volume and value of parcels below the Customs threshold estimated for the study under the medium growth scenario (CAGR of 12%).

Table 3 – Volume and value of parcels below the Customs threshold

| | Volume | Value (EUR) |
|--|---------------|--------------------|
| Small value consignments | 144 067 840 | 2 967 797 504 |
| Parcels between EUR 10-22 and EUR 150 | 43 220 352 | 1 685 593 728 |
| Total parcels below EUR 150 | 187 288 192 | 4 653 391 232 |

Source: Deloitte analysis

The corresponding value was estimated using an average value of EUR 20 per parcel, in line with available literature, and the corresponding (theoretical maximum) VAT revenue estimated applying a standard VAT rate of 20%.

Different assumptions on compliance were considered under the different policy options covered by the study.

1.4. Data gathering tools

In this sub-section we briefly recall the several tools used to gather qualitative and quantitative inputs throughout the entire assignment (thus including Lot 1 and Lot 3). For each of them we provide references to more detailed explanations.

¹¹⁴ European Commission (2015), Assessment of the application and impact of the VAT exemption for importation of small consignments, prepared by EY, accessed at http://ec.europa.eu/taxation_Customs/resources/documents/common/publications/studies/lvcr-study.pdf on June 12th 2015

¹¹⁵ Hintsa J., Mohanty S., Tsikolenko V., Ivens B., Leischnig A., Kähäri P., Hameri AP., and Cadot (2014), The import VAT and duty de-minimis in the European Union – Where should they be and what will be the impact?, accessed at <http://www.euroexpress.org/uploads/ELibrary/CDS-Report-Jan2015-publishing-final-2.pdf> on January 26th 2015.

1.4.1. Consumer survey

The consumer survey, carried out in 25 countries, was used to gather information on the status quo. In particular, the data gathered from the survey acted as inputs for the CGE model and also formed part of the analysis of the model's outputs. For information on the range of data collected from the survey see section 1.2.1 and Annex 2 of Lot 1 report.

1.4.2. Interviews and Questionnaires

Data gathered from the interviews and questionnaires informed the parameters used for the impact assessment analysis. In particular, insights from business engaged in B2C e-Commerce on the administrative cost associated with current VAT rules was particularly useful to this assignment.

1.4.3. Mock purchases

In order to assess compliance with the rules for intra-EU B2C supplies of goods through distance selling and for B2C supplies of goods by non-EU suppliers, Deloitte conducted real and mock online purchases from EU and non-EU e-Commerce traders. Data was gathered from 150 companies based inside the EU and outside the EU. A detailed description and analysis of the purchases are included in Annex 4 of Lot 1 report, while the main findings from the exercise are summarised in section 4 of Lot 1 report.

1.4.4. Stakeholder workshops

As mentioned earlier, and in accordance with the Commission's Guidelines on Impact Assessment, we had a cooperative approach to impact assessment, discussing relevant elements for the analysis with key stakeholders as well as with the Commission. During the assignment, we organised two stakeholder workshops to discuss and validate the problem assessment (See Annex 8 of Final report for Lot 1). In addition, some elements of the Policy Options were discussed with stakeholders during the Fiscalis Group meeting held in Dublin on September 2015 (the key elements from the discussion on Options are in Annex 3).

1.4.5. Business online survey

In accordance with the Commission, over the summer we carried out a short online survey among the businesses already contacted for the study to gather further inputs on some elements of the Policy Options. An overview of the answers received is in Annex 3.

1.4.6. Desk research

In order to collect the qualitative and quantitative data necessary to the analysis, and to validate the assumptions made, we conducted extensive research among available literature and datasets. The full list of sources used is in Annex 1

2. CGE MODEL

2.1. Introduction

The objective of Lot 2 is to understand the costs, benefits, opportunities and risks in respect of the Options for the modernisation of the VAT aspects of cross-border e-Commerce. This includes an analysis of the economic impacts of the proposed Options on the EU. The primary methodological tool for this analysis will be a Computable General Equilibrium (CGE) model of the economy of the European Union.

This model is used to accomplish the following objectives, encompassing parts of both Lot 1 and Lot 2:

- To estimate the impact of administrative barriers to trade on retail prices, e-Commerce volumes and cross-border sales volumes. This analysis will also be used to identify the implications for European competitiveness and productivity (Lot 1, Task 3);
- To develop scenarios for the growth of cross-border e-Commerce within the EU (Lot 1, Task 4);
- To estimate the impact of the proposed Policy Options on e-Commerce volumes, cross-border e-Commerce volumes, and the wider economy (Lot 2, task 4).

This section describes:

- The scope and outputs of the CGE model;
- The development of the methodology;
- The data strategy used.

2.2. Scope of the CGE model

The primary objective of the CGE model is to assess the impacts on e-Commerce, cross-border trade and the wider economy of the current administrative barriers to e-Commerce and the Policy Options for modernisation. This model is be used in tandem with the Standard Cost Model designed to assess the impact of VAT policy on the costs facing firms. Based on the estimated impact on firms' administrative costs and the costs of cross-border e-Commerce, the CGE model is used to estimate the resulting impact on e-Commerce volumes and trade and the implications of the policy for the single market.

This technical note sets out in more detail the scenarios incorporated into the CGE model and the outputs calculated as part of the model.

2.3. Scenarios for the modernisation of VAT treatment

The scenarios analysed in the CGE model focus on the administrative costs associated with cross-border e-Commerce VAT compliance. The scenarios include:

Option1): The status quo; the impact of the current administrative burden is discussed in the Lot 1 report.

Option2): Removal of small consignment exemption and distance selling thresholds;

Option3): Replacement of small consignment and distance selling thresholds with a cross-border B2C sales threshold (e.g. 5000 EUR, 10 000 EUR);

Option4:) Option2 plus the Single Electronic Mechanism, structured as the existing Mini One Stop Shop system;

In order to estimate the impact of these scenarios, the model incorporates three channels through which the Policy Options may affect businesses and the wider economy.

- **Impact on firms' fixed administrative costs:** Administrative costs affect both the firm's production and the firm's pricing decision. On the production side, administrative costs can be viewed as a fixed cost, i.e. an overhead cost the firm faces regardless of the level of output produced. To model this fixed cost element, a fixed cost can be incorporated into the production function in order to capture the effect on the production decision of firms. The assumption behind the fixed cost element, as discussed in the literature review, is that firms tend to use a proportion of their labour force for administrative tasks, which could have otherwise been used in the production process. A reduction of these costs as a result of a policy change means firms no longer require these unproductive workers and so the same level of output can be produced with less labour, increasing productivity and the value-added in the sector.
- The current level of the administrative burden on firms and the impact of the proposed policy changes on this burden will be estimated using the Standard Cost Model.

- **Impact on firms' variable administrative costs:** fixed costs would not be expected to affect firms' pricing decisions, which will instead depend on the variable costs of production. Therefore a variable cost element will also be incorporated into the model, which will reflect any administrative costs incurred on a per-transaction basis. This includes the costs of making any VAT or Customs declarations, which are borne by couriers or postal operators but assumed to be passed on to businesses. This variable cost will introduce a wedge between the price paid by consumers for online goods and services and the price received by firms, effectively acting as an additional charge on online sales. The model will include the flexibility to set different variable administrative costs facing EU and non-EU firms, reflecting the fact that the costs associated with intra-EU trade and non-EU trade may vary across the Policy Options.
- **Supply of cross-border e-Commerce:** Lastly, changes to the policy governing cross-border e-Commerce in the EU may also affect businesses' market entry decisions. In particular, the elimination of the registration thresholds may mean that smaller businesses choose to cease trading cross-border rather than incur the administrative costs. This is reflected in the CGE model by a reduction in businesses' willingness to sell cross-border, with firms instead preferring to sell their goods domestically.

The impact of the Policy Options are estimated based on the effect that the proposed changes will have on the fixed and variable costs and on the supply of e-Commerce. These effects are calculated based on the output of the Standard Cost Model, previous research on the VAT revenues at stake conducted by the Commission and research on VAT compliance. The inputs and data sources are discussed in more detail in section 3.

2.4. Outputs of the CGE model

There are a number of macroeconomic and e-Commerce specific outputs that come directly from the model. The EU-wide outputs that the model calculates directly include the following:

- Total value of e-Commerce;
- Value of intra-EU cross-border e-Commerce;
- Value of non-EU cross-border e-Commerce;
- GDP by sector;
- Output by sector;
- Employment by sector;
- Wages by sector;
- Prices;
- Household consumption and incomes;

Due to the complexity surrounding the development of a multi-region CGE model and constraints on data availability, a number of simplifying assumptions are made in the CGE

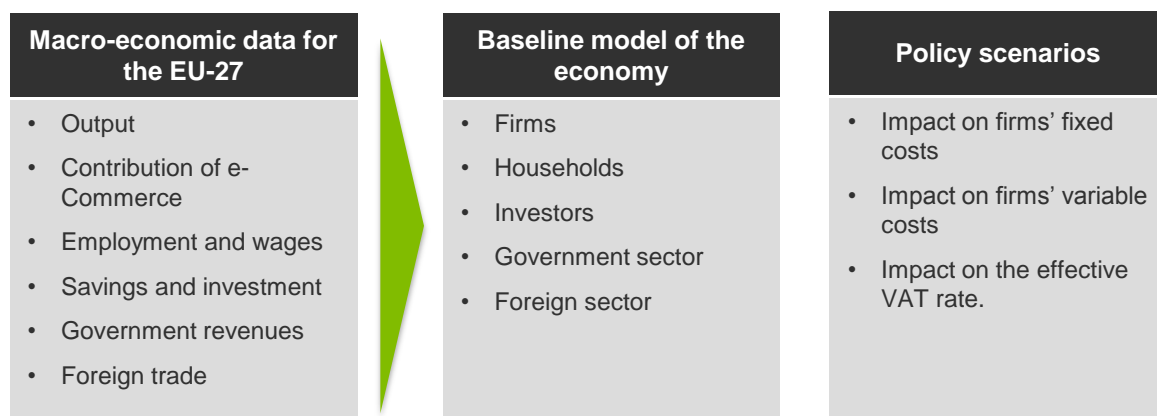
model. These assumptions, their impact and the steps taken to mitigate the effects are described below.

- **Geographic scope:** For tractability, the model treats the EU as a single region based on macroeconomic data aggregated from across the EU-27¹¹⁶. The direct outputs from the model are therefore at the EU-level.
- **Treatment of e-Commerce:** The model distinguishes between two sales channels, online and offline. It is assumed that consumers' choice of whether to buy online or offline depends on the relative price of online and offline goods and services and their own innate preferences¹¹⁷. For firms, it is assumed that the cost of producing goods and services does not depend on whether they are sold online or offline, but firms may face differential administrative and/or VAT costs by selling through different channels.
- Within the online retail sector, the model distinguishes between goods and services that are purchased from domestic (same-country) suppliers, cross-border e-Commerce within the EU, and online imports from non-EU states. The administrative costs associated with each of these categories may change differentially based on the proposed Policy Options and this will be captured within the model, for example through a change in the relative costs of intra-EU and non-EU online purchases.
- **Sectors:** The outputs of the model reflect two sectors: the retail sector (within which goods and services may be sold either online and offline) and a single aggregate non-retail sector (in which there is no B2C e-Commerce). The impact on output, employment, wages, prices and demand for capital goods are calculated for each of these sectors.

The diagram below provides an overview of the scope and outputs of the CGE model and the additional outputs that will be calculated.

¹¹⁶ Data on Croatia is not currently included in Supply and Use tables for the EU; the impacts calculated for the EU-27 will therefore be scaled up to take account of this.

¹¹⁷ Consumer's preferences for shopping online versus offline will determine how readily they switch between different channels based on changes in relative prices. This willingness to switch could reflect a number of factors including: the availability of products online vs offline, the convenience of online vs offline shopping or a preference for choosing goods in person.



2.5. Data strategy

The CGE model draws on three main sources of data:

- **Macro-economic data for the EU-27:** The majority of the data required for the baseline CGE model can be found in a social accounting matrix (SAM); this is a square matrix that represents the various transactions made between commodities, factors and institutions taking place in an economy. This matrix is constructed

using supply and use tables and national accounts data from Eurostat¹¹⁸, from 2011;

- **E-Commerce data:** In addition to this macroeconomic data, the baseline CGE model requires data on the split of online and offline trade and on domestic, intra-EU and non-EU e-Commerce. This data is obtained from Eurostat and from the consumer survey conducted as part of Lot 1;
- **Data on the administrative burden:** The information required for the scenario analysis comes from the outputs of the Standard Cost Model. This data includes the administrative burden associated with the different Policy Options and estimates of the impact of changing the VAT threshold.

In addition to this data, the model requires some assumptions to be made about consumer preferences over domestic purchases and imports and over online and offline purchases. These assumptions are based on a review of the academic literature and on consultation with experts. Sensitivity analysis is conducted on key variables, such as elasticities¹¹⁹, administrative cost, and compliance levels (i.e. VAT collection rates), to check the robustness of the results of the model to changes in these assumptions; where necessary, a range of estimates will be reported so as to provide an upper and lower bound on the estimated impacts.

2.5.1. Macro-economic data

The primary source of data used for the development of the core CGE model is found in a Social Accounting Matrix for the EU. This matrix accounts for flows of income expenditure between different actors in the economy – firms, households, the government and the foreign sector – and is based on the principle that one agent's income must be another's expenditure. The Social Accounting Matrix therefore contains the following information:

- Production activity by sector;
- Demand for intermediate inputs by sector (the Input-Output table);
- Payments to capital and labour by sector;
- Final consumption expenditure by sector;
- Capital formation and inventory investment by sector;
- Imports and outputs by sector;
- Taxes and subsidies by sector and by revenue base;
- Direct taxation and transfers by domestic actors;
- Payments made/received by domestic actors to/from the rest of the world;

¹¹⁸ Supply and Use data is not available for Croatia; the estimates will therefore be adjusted upwards based on Croatia's estimated contribution to EU GDP and its contribution to e-Commerce (from the consumer survey).

¹¹⁹ See equations in the quantity section of Annex 1.

- Domestic actors' net savings and the net savings from the rest of the world;

2.5.2. Construction of the EU Social Accounting Matrix

At present, a Social Accounting Matrix for the EU is not available and so its construction is a key task for the development of the CGE model. The information required to construct the matrix can be found in Supply and Use tables for the EU-27 and in National Accounts data for each of the Member States. Both have been made publicly available by Eurostat, albeit with the Supply and Use tables only being updated to 2011.¹²⁰

An important characteristic of the Social Accounting Matrix is that it is 'balanced' – i.e. for every actor, institution and activity, total income received must equal to total expenditure made (inclusive of savings). This requires a certain level of consistency and completeness in the data sources that is not always possible due to a lack of sufficient detail, measurement accuracy, or differences in data collection/collation methodology. The following is a general data reconciliation strategy to ensure consistency of the data sources used to complete the Social Accounting Matrix:

- Where possible, data points from the Supply and Use tables are used without further assumptions or reconciliation¹²¹;
- Where the Supply and Use tables have gaps in data points required, National Accounts data is used;
- Where National Accounts data is lacking in sufficient granularity, suitable assumptions are made to estimate the data points required¹²²;
- Where for the same data point the Supply and Use tables are significantly different from National Accounts data, suitable assumptions are made using information from both sources to estimate a single data point¹²³. If the differences are small, Supply and Use table data is used;
- As a last resort, if the Social Accounting Matrix is complete but does not balance, an estimation procedure involving re-weighting of the data in the matrix will be conducted.

Figure 1 illustrates the basic structure of the Social Accounting Matrix as well as the sources for each data point required.¹²⁴ Columns represent expenditures/outlays made, while rows represent incomes received. For example, reading down from the Households column and across to the Commodities row represents household final consumption expenditure on goods and services. Table describes the primary data inconsistencies encountered and the specific data reconciliation strategy used to correct for these inconsistencies.

¹²⁰ Due to the latest Supply and Use tables being updated only to 2011, Croatia is not included in the tables and so only an EU-27 aggregate can be calculated.

¹²¹ The tables have been constructed by Eurostat with a high level of consistency (i.e. total supply of a good or service is equal to total use/demand) and in most cases a significant level of granularity.

¹²² National Accounts data tables in Eurostat often do not provide data points in sufficiently granular detail.

¹²³ Due to differences in definitions or data collection methodologies, the Supply and Use tables and National Accounts data do not always report the same value for the same data point.

¹²⁴ Implied data points are calculated residually after filling the SAM with all other data points.

Figure 1: Basic structure of the Social Accounting Matrix

| Social Accounting Matrix | Activities | Commodities | Labour factor | Capital factor | Net taxes on production | Net indirect taxes | Households | Government | Rest of the World | Savings-investment |
|--------------------------|--|--|---------------------------|--------------------------|-------------------------|--|---|---|-------------------------------------|-------------------------|
| Activities | | Output | | | | | | | | |
| Commodities | Intermediate consumption (Derived from Input Output table) | | | | | | Household final consumption expenditure | Government final consumption expenditure | Exports | Gross Capital Formation |
| Labour factor | Payments to capital | | | | | | | | | |
| Capital factor | Payments to labour | | | | | | | | | |
| Net taxes on production | Net taxes on production | | | | | | | | | |
| Net indirect taxes | | Net Indirect taxes on products (i.e. VAT receipts and other taxes) | | | | | | | | |
| Households | | | Total payments to capital | Total payments to labour | | | | Payments from government to households (i.e. Social Benefits and other transfers) | Net payments from ROW to households | |
| Government | | | | | Net taxes on production | Taxes less subsidies on products (i.e. VAT receipts and other taxes on products) | Total direct taxes paid by households | | | |
| Rest of the World | | Imports | | | | | | Net payments from government to ROW | | Net foreign savings |
| Savings-investment | | | | | | | Net Household Savings | Net Government Savings | | |

National Accounts data
 Supply and Use tables
 Mix of National accounts data and Supply and Use tables
 Implied data points

Table 4 - Data reconciliation

| Data point | Data inconsistency/challenge | Data reconciliation strategy |
|--|--|---|
| Payments to/from Rest of World | <p>National Accounts data: Provides payments to/from Rest of World</p> <p>Supply and Use tables: Provides no data on payments to/from Rest of World</p> | National Accounts data used. |
| Final consumption expenditure at market prices by households, government and gross capital formation | <p>National Accounts data relative to Supply and Use tables: Reports slightly higher final consumption expenditure for households and government. Reports even higher gross capital formation Reports slightly higher total final consumption expenditure.</p> | Supply and Use tables used in conjunction with an assumed actor disaggregation of mixed income to compensate for the differences. |
| Direct taxation and transfers | <p>National Accounts data: Reports total tax on income and wealth; Reports current transfers; Reports social contributions; Reports social benefits.</p> <p>Supply and Use tables: Provides no data on direct taxation and transfers</p> | National Accounts data used. |
| Indirect taxes: VAT by sector | <p>National Accounts data: Reports total VAT but not by sector or by actor.</p> <p>Supply and Use tables: Reports taxes less subsidies on products paid in final consumption by households, government and gross capital formation. However, does not report by sector</p> | <p>VAT receipts in National Accounts data used as total VAT in SAM.</p> <p>Assumed to be contained completely within taxes less subsidies on final consumption products reported in Supply and Use Tables.</p> <p>After netting out VAT from taxes less subsidies, assumed that remainder is other net taxes on products.</p> <p>VAT and other net taxes disaggregated by sector and by agent using suitable assumptions.</p> |

| Data point | Data inconsistency/challenge | Data reconciliation strategy |
|---|--|--|
| Payments to capital: Gross operating surplus, mixed income | <p>National Accounts data: Provides both gross operating surplus and mixed income but not by sector.</p> <p>Supply and Use tables: Provides gross operating surplus by sector but records no mixed income.</p> | <p>Mixed income calculated by subtracting Supply and Use tables data from National Accounts data.</p> <p>Gross operating surplus reported by Supply and Use tables used in conjunction with an assumed sector disaggregation of mixed income as payments to capital.</p> |

2.5.3. Data on e-Commerce

In order to account for the specific impacts on e-Commerce, data is required on the following:

- The share of consumer expenditure in the retail sector that is online versus offline;
- The share of online expenditure that is spent on domestic goods and services, on intra-EU goods and services and on non-EU goods and services;
- The allocation of e-Commerce spending by product category; and
- The value of e-Commerce spending by country of origin and country of destination (the trade matrix).

The majority of this data has been obtained from the consumer survey conducted across 25 EU Member States as part of the Lot 1 analysis. This survey asked 1,000 consumers in each of the markets surveyed about the value and volume of e-Commerce purchases of goods and services; the products purchased; and the country from which the product was purchased. The results of this survey were used to estimate the total value of e-Commerce purchases in the EU and the split of these purchases between domestic, intra-EU and non-EU transactions.

To account for the markets that were not surveyed – Luxembourg, Malta and Cyprus – a number of additional sources were used:

- Existing survey estimates from Civic Consulting were used to estimate the total value of e-Commerce and the value of cross-border e-Commerce in these markets¹²⁵;
- Averages from other 25 Member States were used to allocate online spending among product categories;
- Estimates from the JRC trade matrix were used to construct the trade matrix¹²⁶.

¹²⁵ Civic Consulting (2011) “Consumer market study on the functioning of e-Commerce”

¹²⁶ European Commission Joint Research Centre (JRC) , “The Drivers and Impediments for Cross-border e-Commerce in the EU”, 2013

The estimates of the total value of EU trade will be compared against data from the EU Supply and Use tables on consumer expenditure on the retail sector in order to estimate the share of expenditure that is online. Within online trade, the survey provides estimates of the split between domestic, intra-EU and non-EU trade.

The more granular data required to calculate the impact by retail category and by country is also sourced from the consumer survey.

2.5.4. Data on administrative costs and VAT payments

The other key input to the CGE model is data on the administrative costs associated with the VAT treatment of e-Commerce. This will cover three areas:

- Fixed administrative costs associated with VAT compliance in regard to cross-border e-Commerce;
- Variable administrative costs associated with VAT compliance in regard to cross-border e-Commerce;
- Potential changes in businesses' trading and market entry decisions.

The first two items are obtained from the outputs of the Standard Cost Model, described in the Inception Report. These estimates are based on fieldwork interviews conducted across 10 Member States. This is used to estimate both the total fixed administrative costs incurred by EU firms in connection to cross-border e-Commerce and any variable costs incurred on each transaction. These costs are then compared to the total costs of production (from the EU Supply and Use tables) in order to estimate the burden that these costs represent for firms.

The Standard Cost Model is also used to estimate the impact of the proposed Policy Options on firms' fixed and variable administrative costs. The estimated change in cost is then inputted into the CGE model in order to assess the impacts on e-Commerce.

The impact on businesses' supply decision is estimated based on data on administrative costs relative to revenues for businesses of different sizes, described in Section 2.2.1 of this report. Given the uncertainty surrounding this effect, sensitivity analysis is included.

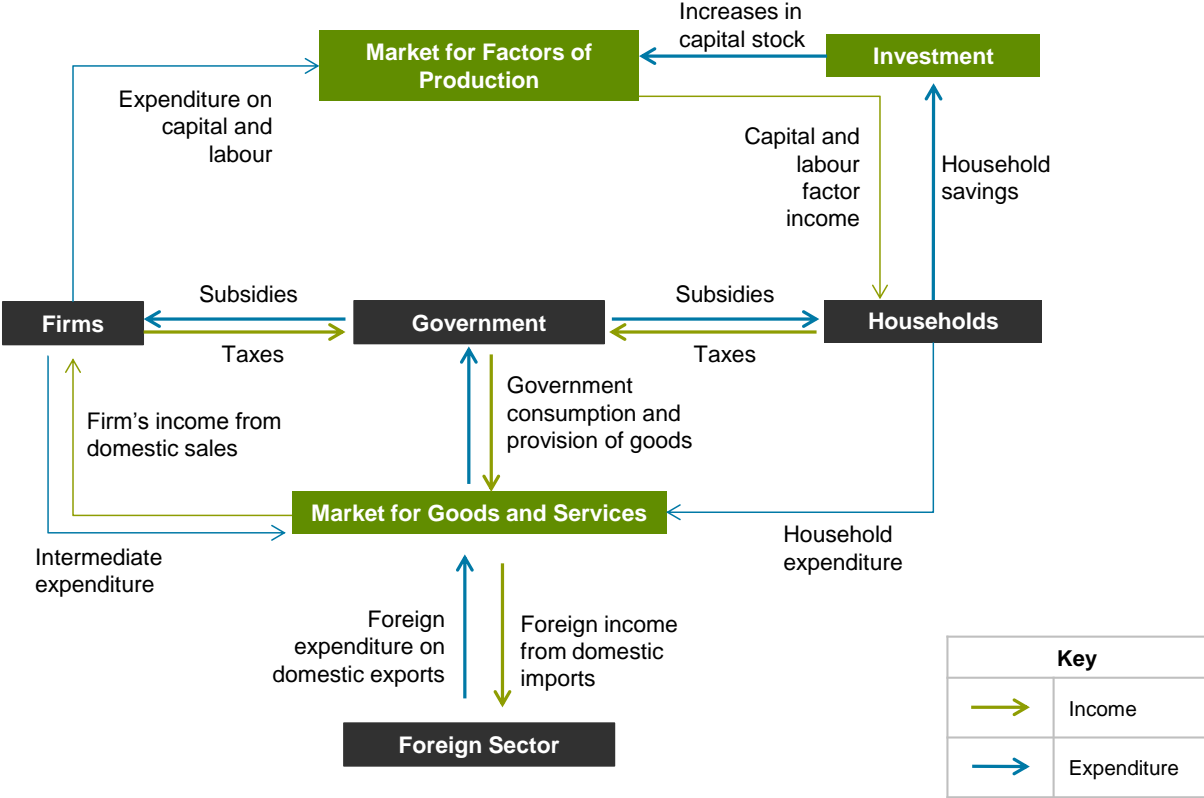
2.6. Modelling approach

2.6.1. Overview of the CGE model

A CGE model is a multi-sector model based on a set of equations describing the behaviour of the key actors in the economy of the EU – households, firms, the government and the foreign sector – and how their interactions affect the markets for factors of production, goods and services, and savings and investment. By considering the reaction of these actors simultaneously, the model evaluates the aggregate impacts – direct and indirect – of a change in tax policy.

The CGE model is based on the circular flow of income, which describes the various inter-linkages in the economy and how they determine the equilibrium in key markets. This is shown below.

Figure 2 – Circular Flow of Income



The interactions between households, firms, the government and the foreign sector determine equilibrium demand, supply and prices in each sector. This equilibrium is based on the principle that one agent’s expenditure is another agent’s income and therefore all spending throughout the economy is accounted for. Prices are determined by the fact that the markets for goods and services and for factors of production (labour and capital) must clear.

The behaviour of each segment of the economy and how it will be modelled is described in more detail below.

Households

Households own the factors of production - skilled labour, unskilled labour, and capital - which they supply to firms for their use in the production process. Income from these factors, net of any taxes paid or social benefits received, may either be spent on goods and services or saved. It is assumed that households save a constant fraction of their net income, determined by their marginal propensity to save. The remainder is allocated to consumption, with consumption across sectors based on fixed shares.

Within the retail sectors (i.e., those sectors in which there is some B2C e-Commerce activity), households are assumed to have preferences over buying online versus offline and over

buying domestic, EU and non-EU goods. These preferences are modelled in the form of a nested CES consumption function, which takes the form:

$$Q_i = \left(\sum_j \delta_j D_j^{\frac{\sigma-1}{\sigma}} \right)^{\frac{\sigma}{\sigma-1}}$$

where δ_j represents the initial allocation of spending across the different types of products D_j (where $\sum \delta_j = 1$, and the product types may be online/offline goods or domestic/EU/non-EU goods) and σ represents consumers' willingness to substitute between different types of goods or channels of purchase. Assuming that consumers optimise their consumption given the prices they face, the demand for domestic, EU and non-EU goods, online and offline, can then be expressed as a function of relative prices and aggregate household incomes.

Firms

As discussed above, the economy will be split into a single “non e-Commerce sector” that will include those sectors that do not contribute to B2C e-Commerce and a number of retail sectors that may engage in B2C e-Commerce.

Within each sector, firm production is assumed to be a Cobb-Douglas function of the factors of production: labour and capital. The Cobb-Douglas coefficients will be calculated based on data from Eurostat supply and use tables, which detail payments to capital and labour. It is assumed that firms face a competitive market and therefore that demand for labour and capital in each sector will be such that their price is equal to their marginal productivity. Intermediate inputs do not directly enter into the production function; instead demand for intermediate goods is determined based on Input-Output coefficients.

In the non-retail sector, goods produced may either be exported or sold domestically accordingly to a constant elasticity of transformation (CET) function that defines firms' preferences based on the differential between domestic price and the world export price.

In the retail sector, firms will additionally be able to sell either online or offline, as well as selling either domestically or internationally. It is assumed that this does not alter the cost of production, but that there may be different administrative costs or VAT payments associated with different distributional channels. The modelling of these costs is discussed in more detail below.

Government

The government receives tax revenues from households and firms which it uses to provide public goods for the use of households and firms and purchase goods and services for government consumption. Data on government spending will be aggregated from National Accounts data in Eurostat. Aggregate data on government revenues by source, i.e. indirect tax payments can also be used to estimate an actual VAT rate for the retail sector. Alternatively, and as a way of corroborating these estimates, an actual VAT rate for the retail sector can be

calculated based on VAT rates in each country, weighted by each country's share of total EU retail trade.

Foreign Sector

The model will treat the EU as a single economy and represent the interactions between the EU and the rest of the world through a number of channels:

- Consumers may purchase EU goods (whether domestic or intra-EU) or non-EU imports. These imports may be purchased either online or offline;
- Firms may consume EU and non-EU intermediate inputs;
- Firms can either produce goods for EU or non-EU consumption.

The world price of imports and exports will be treated as an exogenous numeraire in the model and it will be assumed that the proposed policy changes do not have an impact on world prices faced by firms.

Modelling the behaviour and production functions of non-EU firms is beyond the scope of the model. Rather, it will be assumed that imports to the EU through different channels (i.e., online vs offline) may incur differential tariffs and administrative costs. This will not affect world trade prices, but may affect the final price faced by EU consumers and the volume of e-Commerce purchases from non-EU suppliers.

2.6.2. *Equilibrium of the model*

The interactions between these agents determine equilibrium output, factor demands, consumption and prices in each sector. This equilibrium is based on the principle that one agent's expenditure is another agent's income and therefore all spending throughout the economy is accounted for. Prices are determined by the fact that markets must clear:

- **Market for goods and services:** demand from the government and domestic and foreign consumers and firms must equal supply from firms and imports in each sector. As noted above, world import and export prices are assumed to be exogenous and are therefore fixed in the model; however, domestic prices may adjust relative to their initial numeraire value of 1.
- **Market for factors of production:** In equilibrium, total demand for labour and capital must equal supply. It is assumed that prices for labour and capital are determined competitively, and therefore the costs of labour and capital depend on the marginal productivity of these factors.
 - In the baseline model, the supply of capital in each sector is given by the capital accumulation equation, whereby capital in each period is the sum of the previous period's capital net of depreciation and new investment in capital goods. To simplify the analysis, unemployment will not be modelled; it will therefore be assumed that the total demand for labour across sectors must equal

labour demand. This approach will still be able to account for movement of labour between sectors.

- **Savings and Investment:** The level of domestic investment in the EU must equal the level of savings, net of any savings that are invested internationally. Within the EU, the total value of investment is allocated across sectors based on exogenous parameterised shares. This parameter determines investment in capital by sector of destination; purchases of capital goods by sector of origin are given by a capital coefficients matrix based on I-O tables.

The behaviour of firms, households, the government and the foreign sector is fully specified by the system of equations that make up the CGE model, along with a set of closure rules that ensure that markets clear. Solving this system of equations simultaneously yields an equilibrium for the economy of the EU.

The parameters of these equations are calibrated so as to ensure that the baseline solution to this system of equations matches the current data on the economy. These parameters are either calculated directly based on EU national accounts and supply and use data or are based on academic estimates.

2.6.3. Dynamics of the CGE Model

The CGE model is used to estimate the behaviour of the economy over an eleven-year period. In the baseline case, in which there is no change in policy, the dynamics enter into the model in two ways:

- **Exogenous growth:** the model incorporates exogenous increases in productivity over time, represented through an increase in the level of output generated by a fixed amount of inputs (labour, capital and intermediate goods). These productivity improvements lead to increased output in each sector and increased earnings from labour and capital, driving further growth in the economy;
- **Capital accumulation:** in addition to these exogenous productivity gains, the economy of the EU will also grow as a result of capital accumulation as investment increases the capital stock available for use in the economy. Within each sector, the capital stock in period $t+1$ is assumed to be the capital stock in period t minus depreciation plus purchases of capital goods.

The model can separately account for trends in e-Commerce in the EU and a potential shift towards a greater share of trade occurring online. These dynamics are captured through a change in consumer preferences over online versus offline purchases of goods and services, which in turn affects the parameters δ and σ described above. An increase in δ represents a shift in consumers' innate preferences towards e-Commerce; an increase in σ represents an increase in the extent to which consumers will switch between online and offline.

As well as capturing baseline economic growth and changes in preferences, the model will also be used to estimate the dynamic response of consumer behaviour and the wider economy to a change in policy governing cross-border e-Commerce. In order to estimate the dynamic impacts resulting from a change in policy, the model reflects the fact that some variables take

longer to adjust to a policy change than others. For example, demand for labour is widely recognised to adjust more quickly than demand for capital. This is incorporated in the model via an adjustment cost related to the capital stock. It is assumed that new investment is subject to an adjustment cost of capital additional to the initial cost of investment; this enters into the capital adjustment equation and can be interpreted as installation costs or learning and training costs.

2.6.4. Modelling of the proposed Policy Options

As discussed above there are three channels through which the proposed Policy Options may affect the model:

- A reduced in fixed administrative costs;
- A reduction in variable administrative costs; and
- A change in the supply of e-Commerce.

Fixed administrative costs: The fixed cost channel assumes that within the retail sector a fixed amount of labour LO is required for administrative tasks, over and above the labour used in productive activities. LO will enter the model through the following production function equation:

$$X_i = a_i^d K_i^\alpha (L - LO)_i^{1-\alpha}$$

Where X is output, a is the level of exogenous technological progress, K is the capital stock and L is the labour force, with the subscript i indicating the sector.

The production function will determine how each sector allocates capital and labour to be used to produce output X. A reduction in fixed administrative costs is assumed to reduce the number of man-hours spent on unproductive administrative tasks, thereby reducing overhead labour LO. This will in turn increase the average productivity of labour in the economy and increase the value-added for firms, generating increases in output and cross-border e-Commerce. On the other hand, the fact that less labour is required for administrative tasks may put downward pressure on wages and employment in the short term.

Variable administrative costs: A change in variable administrative costs, that is, any administrative costs incurred on a per-transaction or per-consignment basis will enter the model through a change in the price received by EU firms from the sale of goods and services online and across borders. This is represented in the equation below through the parameter c^n that represents the costs per unit of selling online within the EU. This administrative cost will create a wedge between the price $P_i^{EU_n}$ paid by consumers (for online imports within the EU) and the price $P_i^{EU_x}$ received by firms (a weighted average of the online and offline prices).

$$P_i^{EU_x} = \frac{(1 - c^n)P_i^{EU_n} \cdot N_i + P_i^{EU_f} \cdot F_i}{EU_i}$$

A similar representation will be used to capture how changes in policy affect the costs of trade for non-EU suppliers. The production function and pricing decisions of non-EU firms will not be modelled. Instead, it will be assumed that non-EU firms sell their product at a world price, which may be subject to a mark-up within the EU as a result of Customs tariffs or administrative costs that are passed on to the consumer. The Standard Cost model will estimate the impact of the proposed policy changes on the administrative costs for non-EU sellers, c^{mn} , which will affect the price of online non-EU imports as shown in the equation below:

$$P_i^{mn} = pw_i^m(1 + t_i^m)(1 + c^{mn})R$$

P_i^{mn} is the price of online imports from outside the EU, pw_i^m is the world import price (treated as a numeraire), R is the world interest rate and t_i^m and c^{mn} are respectively the effective tariff rate on online imports and the additional costs associated with online imports relative to offline.

Supply of cross-border e-Commerce: Lastly, changes to the policy governing cross-border e-Commerce in the EU may also affect businesses' market entry decisions. In particular, the elimination of the registration thresholds may mean that smaller businesses choose to cease trading cross-border rather than incur the administrative costs. This is reflected in the CGE model by a reduction in businesses' willingness to sell cross-border, with firms instead preferring to sell their goods domestically.

3. ANALYSIS OF NET VAT REVENUES IN OPTIONS 1 TO 6

In order to supplement the work in the Study particularly in respect of VAT revenues which are a key element to the impact assessment, the Commission services undertook further analysis of the output from the Deloitte Study.

It should be underlined that a series of assumptions are necessary to identify these revenues:

The assumptions are as follows:

- The estimate of total e-commerce trade of EUR 970 billion in 2020 is based on the output of the study which estimated EUR 550 billion in 2015. The Medium Growth scenario 12% year on year growth applies to all data.
- 20% of trade is cross-border in line with the Deloitte study
- A 15% average VAT rate has been taken, although this is quite conservative.
- The 2015 compliance loss base is 3.8 bn (consultants conclusion is that losses are conservative) – these losses come from online and offline trade due to lack of neutrality.
- Trade volume increase by 0.3% for options 2 and 3, and 0.35% for options 4,5 & 6.

Table 5 – Net VAT revenues in options 1 - 6

| | Option 1 | Option 2 | Option 3 | Option 4 | Option 5 | Option 6 |
|---------------------------------|---------------|------------------|------------------|-----------------|-----------------|-----------------|
| Total Value of EU E-Commerce | 970 bn | 970 bn | 970 bn | 970 bn | 970 bn | 970 bn |
| Theoretical VAT revenues | | | | | | |
| <i>Intra EU E-Commerce</i> | 20 bn | 20.1 bn | 20.1 bn | 20.2 Bn | 20.2 Bn | 20.2 Bn |
| <i>Non-EU E-Commerce</i> | 9 Bn | 8.5 bn | 8.5 bn | 8.5 bn | 8.5 bn | 8.5 bn |
| <i>Domestic E-Commerce</i> | 116 bn | 116.85 bn | 116.85 bn | 116.8 bn | 116.8 bn | 116.8 bn |
| Total | 145 bn | 145.45 bn | 145.45 bn | 145.5 bn | 145.5 bn | 145.5 bn |
| VAT foregone | 1.3 bn | 0 | 0 | 0 | 0 | 0 |
| Compliance losses | 6.7 bn | 8.5 bn | 8.0 bn | 1.5 bn | 1.5 bn | 1.5 bn |
| Net VAT Revenues | 137 bn | 136.95 bn | 137.45 bn | 144 bn | 144 bn | 144 bn |
| Comparison to baseline | | - 0.05 bn | + 0.45 bn | + 7 bn | + 7 bn | + 7 bn |

Source – Commission analysis using Study data