



HM Revenue
& Customs

Control of Raw Tobacco

Summary of Responses

18 March 2015

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1. Introduction

Background

- 1.1 Raw tobacco which is not yet in a smokeable form is not subject to excise duty and the associated movement controls in the UK.
- 1.2 This is presenting an increasing risk of evasion of Tobacco Products Duty through raw tobacco being freely and legally imported and either processed into illicit smoking products in unregistered premises or sold in small quantities to consumers for home processing.
- 1.3 Increasing volumes of raw tobacco are being imported to the UK, much of which cannot be accounted for by legitimate use. Since 2011/12 import data has shown a steep increase in the volumes of raw tobacco being imported from outside the EU and destined for individuals and businesses not registered to manufacture tobacco products.
- 1.4 The Illicit manufacture of cigarettes and hand-rolling tobacco (HRT) in the UK from raw tobacco deprives the Exchequer of the duty which should be paid and makes cheaper illicit tobacco products more accessible, undermining the Government's public health objectives.
- 1.5 Current UK legislation permits HMRC and Border Force to seize raw tobacco where there is evidence of an intention to fraudulently evade duty at the time of seizure. Once raw tobacco has entered the UK, it is subject to no further controls and can therefore be easily diverted to illegal production of tobacco products.
- 1.6 The Government ran a public consultation from 20 October 2014 to 30 January 2015 on proposals to introduce additional controls on raw tobacco. Our preferred solution was the introduction of a scheme of registration for businesses and individuals importing or using raw tobacco for any purpose, backed up by seizure powers and penalties for breaches of registration requirements. Alternatively, we suggested enhanced seizure powers if we determined that there were a large number of legitimate businesses using raw tobacco.
- 1.7 This report has been prepared and published by HMRC to provide an overview of the responses received and a summary of the main themes that emerged in response to the specific questions asked in the consultation document.

General Responses

- 1.8 HMRC received 126 responses from within the tobacco industry, health groups and from private individuals. There were three other responses one of which was from an overseas government department who are implementing a similar

scheme and offered assistance, the other two responses were to state that they were not importers of raw tobacco.

Type of respondent	Number of responses
Tobacco Industry	15
Health Groups	33
Private Individuals	75
Other	3

- 1.9 No meetings were held with any of the respondents regarding the consultation. Offers for meetings were made and we will hold these within the technical consultation later in 2015.

Overview of comments

- 1.10 Responses to the consultation were received from the tobacco industry, including manufacturers and brokers, health promotion groups and individuals. A campaign against the proposals was organised by the Nothing 2 Declare website, a site which promotes smokers' rights and advises on how to import tobacco products for personal use without having them seized at the border. Many of the responses from individuals used the draft published on this website.
- 1.11 Health groups welcomed the proposals and were keen to have a registration system backed up by seizure powers where product is held by non-registered entities. They saw these proposals as a significant step towards prevention of the damage to health caused by smoking.
- 1.12 The tobacco industry welcomed better controls. Some tobacco manufacturers were concerned that a registration system would be easy for criminals to evade, while a number of brokers were concerned about additional administrative burdens that they may face while accepting that there was a risk which needed to be addressed. As is described later, we plan to work closely with brokers to design a scheme which keeps additional administration requirements to a minimum.
- 1.13 The majority of individuals responding used a standard response from the Nothing 2 Declare website and were opposed to any of the proposals, arguing that raw tobacco is an agricultural product (i.e. not subject to duty or additional controls) and its movement within the EU should not be restricted. However, none of these respondents provided any evidence that they wished to import raw tobacco for reasons other than manufacturing their own smoking products.
- 1.14 This is consistent with our research to date; while alternative uses have been suggested, we have no evidence of actual use of raw tobacco for non-smoking purposes. However, we will also undertake further activity to identify the extent to which raw tobacco is put to non-smoking uses to ensure that we tailor the scheme to address these.

2. Responses to questions 1-2

Definition of raw tobacco

- 2.1 We proposed to use the following definition of raw tobacco for the purpose of the scheme of registration or additional powers of seizure:

“Raw tobacco is any part of the tobacco plant (leaf, stem etc.) that has been harvested from the ground, but does not yet meet the definition of ‘other smoking tobacco’ or ‘hand rolling tobacco’”

Question 1: Does the proposed definition encompass all forms of raw tobacco which could be used to manufacture tobacco products?

- 2.2 Some comments agreed with the proposed definition, whilst more comments suggested expanding the proposed definition to include existing text from within the classification heading of the European Community customs code as mentioned in code 2401 for unmanufactured tobacco. This includes the addition of terms such as cured tobacco, blended strip, cut rag, expanded tobacco, green leaf, lamina, tobacco dust, tobacco refuse and reconstituted tobacco sheets.
- 2.3 Although the majority of responses were satisfied that the proposed definition encompasses all forms of raw tobacco many of the responses suggested using a ‘negative list’ approach wherein raw tobacco is automatically defined as anything that does not fall into any existing categories of tobacco classification
- 2.4 Several comments stated that, as raw tobacco is defined as an agricultural product within the EU, there should be no changes regarding the definition unless the EU directives and regulations change.
- 2.5 One respondent highlighted the issue regarding the difference between the definitions for raw tobacco and other smoking tobacco. One comment asked whether the quantity purchased should influence the product definition.

Government response to question 1

The Government is attracted to the idea of a negative definition and will consider this further to see whether it is practical. The proposed definition will be included in the technical consultation and draft legislation later this year.

Question 2: Should plants which have not been harvested but are still growing in containers such as pots and bags also be included to prevent an alternative route to evade duty?

- 2.7 There were many responses here that were in favour of including plants in containers within a raw tobacco definition. Many felt it should follow the negative definition approach and that plants should be included in order to prevent any loophole from being created in evading duties through avoiding registration by having raw tobacco within a container.
- 2.8 Some respondents were in favour of including plants in the scope of controls. However, they added that there should be exemptions for hybrids of the nicotine family, which are bred for their floral displays and not intended for processing into a tobacco product. One respondent commented that most garden centres sell ornamental tobacco plants. Another respondent was against including plants within controls as it would unjustly affect the horticultural industry and they regard this as a separate matter to growing tobacco plants for the purpose of making a tobacco product.
- 2.9 One respondent commented that the question should be asked as to why these plants are being grown and to determine whether it is for ornamental purposes or if there are indicators that it is for the purpose of smoking.
- 2.10 Several responses echoed the response for question 1 in that raw tobacco is defined as an agricultural product within the EU and as such there should be no changes unless the EU directives and regulations change

Government response to question 2

The Government will consider how ornamental plants can be exempted from the negative definition proposed without creating a loophole which can be exploited for duty evasion.

3. Responses to questions 3-11

A scheme of registration

Question 3: We would very much like to hear from businesses and individuals who use raw tobacco for purposes other than manufacturing tobacco products on which duty is payable, including manufacturers of e-cigarette fluids. It would be extremely useful to know:

- 3.1 A large number of respondents made no comment on this question as they were not importers / users of raw tobacco, but were health groups. However several of these respondents did give comment on this question stating that the sub points listed are a good basis for any pre-registration process with emphasis on determining the authenticity of any applications.
- **The nature of your usage**
- 3.2 One respondent stated that their use of raw tobacco was for research purposes and also for the use in primary processing before exportation for production outside the UK.
- 3.3 Some respondents stated that the consultation does not appear to consider tobacco leaf merchants who import raw tobacco and sell on to buyers overseas. They are not seen as being 'end users' of raw tobacco. In their capacity as being raw tobacco 'brokers' it was mentioned that they should also be included in any registration scheme in order to prevent any loophole from being created.
- 3.4 Raw tobacco brokers who responded to the consultation stated that they import raw tobacco samples for both visual and quality analysis before exporting to their customer. The raw tobacco for any production orders are shipped directly to the customer from the country of origin. No other raw tobacco arrives into the UK other than these small samples. One respondent imports raw tobacco into the UK for wholesale, but they do not consider themselves as an end user. One broker also mentioned that their samples are usually legally destroyed within the UK when no longer needed.
- 3.5 One respondent stated that they supplied raw tobacco to companies that manufacture e-liquids for electronic cigarettes.
- 3.6 One respondent does not import raw tobacco into the UK at all.
- 3.7 Several respondents quoted a number of potential uses for tobacco such as for e-cigarette liquid, whole leaf vaporising, potpourri, insecticide, animal bedding, snuff, cosmetics, alternative medicine, dietary supplements and fragrances. One respondent stated that tobacco is used in cooking especially in certain Mexican and Native American dishes.

3.8 Apart from the one respondent who supplies raw tobacco to an e-liquid manufacturer, we received no responses from any individuals or companies that use unprocessed tobacco for these purposes. One respondent commented that using tobacco as animal bedding for horses was an uncommon practice as horses are prone to chewing on bedding. They further provided information to refute the use as an animal bedding as it was not cost-effective compared to other cheaper alternatives. We will continue to investigate non-smoking uses of raw tobacco as design work on the system proceeds.

- **Where and in what quantities you currently source raw tobacco, including the approximate quantities used;**

3.9 One respondent stated they purchase from USA and Canada and that the quantities are known to HMRC as they import through the proper channels.

3.10 One respondent imports from within the EU. No specific country was mentioned.

3.11 Several respondents stated they purchased small quantities for personal use via the internet, but did not specify quantities.

How you feel these proposals would impact you;

3.12 Some respondents felt that the addition of paperwork or increased time could delay a movement of raw tobacco, which could increase costs.

3.13 Several respondents felt strongly against the proposal in that it seriously violates their human rights and their right as an EU citizen to legitimately purchase an EU defined legal product. It was further stated that the proposals could destroy legitimate trade and with fewer sources of raw tobacco it could drive up prices.

- **Is there an alternative substance that you can use in place of tobacco?**

3.14 No respondents provided an alternative substance that they could use in place of tobacco.

Government response to question 3

The Government notes that no respondent used raw tobacco for entirely non-smoking related purposes, which suggests that only a small number of businesses or individuals would be required to register and many of these are likely to be operators of registered tobacco factories. This conclusion will be further validated through the technical consultation.

The Government notes the position of brokers receiving small samples of raw tobacco and will work with this sector to ensure that administrative burdens for this sector are minimised while avoiding the creation of a loophole in the new scheme.

Question 4: What are your views on a simplified scheme for low-volume users for non-smoking purposes:

- **Do you think there should be a simplified scheme for low-volume users and if so, why?**
- 3.15 One respondent supported a registration scheme for all importers of raw tobacco irrespective of the volumes involved, provided the system is simple to use and low cost both in terms of money and time. All legitimate movements would be captured and any movement outside of the scheme would therefore be deemed to be illicit.
- 3.16 Some respondents were in agreement with a simplified scheme provided that it did not slow down import process and impact on their business as they are competing for tenders against other businesses.
- 3.17 Several respondents were against a separate scheme for low volume users. They are concerned that a simplified scheme could open loopholes which criminals could exploit. A concern was highlighted that groups of low volume users could aggregate their supplies together to create a stockpile of raw tobacco. One respondent felt that a separate scheme would create two tiers of administration which could burden larger businesses in unnecessary red tape against those businesses who would qualify for the simplified scheme and have less of an administrative burden.
- 3.18 One respondent was not against the suggestion of a low volume scheme provided that there is a mechanism in place to ensure that any proposed limits were adhered to.
- 3.19 Several respondents stated that the current scheme within the EU directives and regulations is adequate if implemented properly and that to require purchasers of raw tobacco to register was unprecedented.
- **At what level do you believe that the threshold should be set for a low-volume user of raw tobacco for non-smoking purposes?**
- 3.20 One respondent suggested a maximum individual sample size of 5kgs.
- 3.21 Several comments were against the idea of a threshold.
- **How could HMRC ensure that such a scheme was not exploited to avoid tobacco products duty?**
- 3.22 One respondent suggested that all companies wanting to import unmanufactured tobacco should be registered with HMRC. Imports should only be allowed for companies and not an individuals. The use of a permit number would be beneficial. This respondent also stated they could see no other

reason to import unmanufactured tobacco other than as samples or for manufacturing of smoking products.

- 3.23 One respondent suggested an overall duty charge on raw tobacco to stop the illegal use and smuggling from Europe. This simplified tax should help to stop the illegal trade from increasing. It was unclear from the response whether this meant an excise duty or another tax.
- 3.24 Several responses stated that HMRC have access to VAT records including purchases and movements of raw tobacco from within the EU. Several respondents suggested that as HMRC already has access to import data, through analysis of this data they can make enquiries on usage where necessary.
- **Please supply any evidence you have of usage to support your view**
- 3.25 No evidence was provided in response to this question.

Government response to question 4

The Government notes and shares concerns that a low volume scheme could be exploited. Mindful of the need to keep administration to a minimum for all affected businesses, the Government proposes one registration scheme for users and dealers in raw tobacco with administrative requirements kept to a minimum. Audit activity under the scheme will take a risk based approach according to the volumes and patterns of usage of raw tobacco observed. This should prevent the creation of loopholes while keeping additional burdens on small users to a minimum.

Question 5: If you would be required to register under this scheme, for which other taxes are you already registered?

- 3.26 A number of businesses who responded were VAT registered, PAYE registered and corporation tax registered. One respondent raised no issues in having to register to have an import permit number.
- 3.27 Some respondents indicated they were registered with HMRC for excise purposes.
- 3.28 Several respondents who do not deal with raw tobacco did not respond to this question.
- 3.29 Several respondents stated that they do not operate a business and gave no further information.

Government response to question 5

As no users for non-smoking purposes responded to the consultation, the Government believes that most, if not all, who are required to register to handle raw tobacco should already be registered with HMRC in other respects, and this is supported by responses received. The new registration scheme will link to existing registrations wherever possible to minimise additional requirements. HMRC will continue to explore the extent to which raw tobacco is put to non-smoking uses to inform design of the scheme and its potential impact.

Question 6: Paragraph 19 includes factors that will be considered as part of a fit and proper test:

- **What are your views on the suggested factors that would be included in a fit and proper test?**
- 3.30 Several respondents were in agreement on the introduction of a fit and proper test. It was mentioned that it is important to be able to link key employees within a business to previous non-compliant or fraudulent activities rather than just looking at the owner.
- 3.31 Several respondents agreed with the suggested potential reasons for refusal provided the list is not exhaustive. Many respondents also stated that the list should adapt over time following the implementation within the UK of the provisions of the Framework Convention on Tobacco Control (FCTC) Illicit Trade Protocol, particularly articles 6 (licence and equivalent approval), 7 (due diligence), 9 (record keeping) and 10 (security and preventative measures).
- 3.32 Some respondents included the use of non-HMRC sanctions such as those within the Licensing Act 2003 and those sanctions currently used by Trading Standards.
- 3.33 Some respondents mentioned that there should be a requirement from users of raw tobacco, who do not have regular excise obligations, to provide some form of financial guarantee. Should a business or individual then fail to comply with their obligation and allow raw tobacco to be used in illegal manufacturing then liability to excise duty is created and the Government should look to collect lost tobacco duties.
- 3.34 One respondent suggested checking the proof of identification of the applicant.
- 3.35 Several respondents commented that the proposal is contrary to the individuals' human rights and raised concerns regarding what criteria would be used in refusing a registration.

- **Are there any additional items you think should be considered as part of this fit and proper test?**

3.36 The majority of respondents gave no response here.

3.37 However one respondent stated that a company, not an individual, should be able to prove a genuine business need. Anyone who cannot provide a genuine business requirement shouldn't be allowed to import raw tobacco.

Government response to question 6

The Government notes the support for a fit and proper persons test and will endeavour to align such requirements with the Illicit Trade Protocol. The Government does not believe that such a test is a violation of human rights, with similar tests applying for other responsible positions.

Question 7: What record keeping requirements do you consider would be necessary to assure HMRC that raw tobacco is being used for a legitimate purpose, i.e. is not being used to illegally manufacture tobacco products?

3.38 Some respondents suggested proof of the import and export of samples. Proof of Importation via couriers docket and producers note and proof of exports through courier dispatch notes.

3.39 One respondent suggested using a simple ledger of receipt and usage.

3.40 The majority of respondents felt that HMRC and other enforcement agencies should have access to all relevant documents, both physical and electronic, in order to verify raw tobacco audit trails. They believed that record keeping requirements should be as extensive and thorough as possible.

3.41 Some respondents believed that there would be very few new requirements on top of the current controls. Suggestions were made for a review of the current controls and record keeping requirements for tobacco factories to confirm the legitimacy of their raw tobacco supply chains.

3.42 Some respondents suggested that the method of payments used to purchase raw tobacco needs to be auditable. No cash purchases should be allowed. A suggestion was made to look at the Scrap Metal Dealers Act 2013, which requires payments to be made by cheque in order to identify the seller.

3.43 Several respondents commented on individual purchases being made over the internet using a bank card. These would subsequently be included on bank statements for both the purchaser and supplier. They felt that no other records were needed for private individual as they are not businesses.

Government response to question 7

The Government notes the comments about the types of records available, and will seek to balance the need to prevent duty evasion with keeping additional administrative burdens to a minimum. Accordingly, the record keeping requirements will be designed to use existing records wherever possible. The scope for this will be further investigated as part of the technical consultation.

Question 8: Paragraph 25 states that HMRC will establish at the point of importation that raw tobacco is destined for a registered holder. It may therefore be necessary for the carrier or owner of raw tobacco being imported to provide proof of destination at the border. Are there any issues you can identify with this requirement?

- 3.44 Some respondents stated that samples are imported via a courier using official documentation including the delivery address.
- 3.45 Several responses suggested that there should be a requirement for importers to prove the security of their supply chains and having audit trails in place. They should also check that the end user is registered. Safeguards were also suggested around credibility of the proof of destination with suggested powers to check documents.
- 3.46 Several respondents raised the potential risk that registration numbers could be misused and that a proof of destination may not be sufficient. To counteract this they suggested full details should be provided of the registered end user and any intermediaries in the UK.
- 3.47 A number of responses to this question mistakenly believed that they would have to fulfil a minimum quantity level for supplying raw tobacco.
- 3.48 One respondent raised the question of whether importers of raw tobacco could give prior notice of importation.
- 3.49 One respondent did not respond to this question.

Government response to question 8

The Government notes the possibility of misuse of registration numbers, and will work with the industry to design a scheme which guards against this. While the suggestion of a nominal limit is interesting, the Government does not wish to impede legitimate business.

Question 9: Are there any potential wider consequences of this system that we have not identified here?

- 3.50 Several respondents did not comment on this question.
- 3.51 One respondent suggest that a registration scheme gives a false confidence and that the system could be easily bypassed which in turn would not address the problem.
- 3.52 It was suggested that legitimate UK companies dealing in raw tobacco would relocate to another EU member state. Criminal gangs would quickly fill the void that would be left. It was felt the scheme would not prevent a private individual from purchasing from internet companies within the EU as they would take the risk upon HMRC or Border Force seizing any packages. Many respondents felt that HMRC could not issue a penalty against the purchaser as raw tobacco is not dutiable.
- 3.53 Several respondents commented that purchases and imports from internet companies based outside of the EU would operate as normal and if packages were stopped at the UK border then given the low price of raw tobacco a replacement may be sent free of charge.

Government response to question 9

While any system can be attacked, the Government believes that a properly designed and implemented registration scheme can be protected from abuse. The Government will consider what further measures may be necessary to prevent extensive importation of raw tobacco by post.

Question 10: Are there any equality issues raised by these proposals, such as a disproportionate impact on any particular group of population such as ethnic groups or disabled people, for example?

- 3.54 All respondents to this question indicated that they were not aware of any issues raised by this proposal, which would impact on a particular group of the population such as ethnic groups or disabled people.
- 3.55 However two respondents highlighted that raw tobacco being diverted in the manufacture of illicit tobacco within the UK is currently having a detrimental effect on certain groups such as children and vulnerable adults who may be encouraged to start or continue smoking.

Government response to question 10

The Government shares the view that no particular groups will be adversely affected by the scheme, and that better control of raw tobacco will help protect children and vulnerable adults from illicit tobacco products. However, this will be explored further as part of the technical consultation.

Question 11: Do you have any views on the potential impact of this scheme on businesses affected, including potential costs and burdens and any suggestions for how these can be kept to a minimum?

- 3.56 The majority of comments suggested that HMRC should fully utilise the data it already has access to. HMRC could act upon any imports where there is reasonable suggestion that there is a problem.
- 3.57 Several comments from health groups stressed the importance of supply chain controls and the fact that many households would benefit indirectly from a reduction in duty avoidance.
- 3.58 Some respondents stated that those companies that are already registered with HMRC for tobacco manufacturing should not have to be registered under a separate registration scheme.
- 3.59 One respondent mentioned that by having the registration online it would keep costs down as the number of legitimate end users of raw tobacco would be low.
- 3.60 One respondent was concerned that a registration system could cause a potential delay in samples being received which would impact on their business. They would welcome a simple system of using an import permit number that does not cause delay or additional cost.

Government response to question 11

The Government will seek to design the registration scheme to use data already held where possible and to operate online. We will seek to work with brokers during the technical consultation to ensure that their businesses are not adversely affected by the registration scheme. We will also seek further input to confirm the extent to which raw tobacco is put to non-smoking uses to inform an assessment of impact.

4. Responses to questions 12-15

Broadening the existing powers of seizure

Question 12: What documentation do you consider it reasonable and necessary for an importer or consignee to provide to prove that a consignment of raw tobacco is destined for a legitimate end use?

- 4.1 One respondent stated that tobacco samples they receive come with an invoice from the producer in the country of origin. The paperwork from their agent clearly states the consignee and the delivery address. It was also mentioned that documentation on the grade, type and quantity of tobacco would be useful.
- 4.2 Other comments included introducing financial guarantees in addition to sales and delivery records.
- 4.3 One respondent suggested the use of unique shipping records that can only be used once to prevent the chance of fraudulent use and that these documents are time restricted.
- 4.4 Several respondents suggested that records should be consistent with the articles within the FCTC Illicit Tobacco Protocol when implemented. Any documentation that is produced must be robust in order for a decision to be made that the raw tobacco is going to a legitimate end use and that it does not impact on HMRC and Border Force resources.
- 4.5 Some responses suggested HMRC should publish guidance to accompany any proposed changes in order to assist either small business or private individuals.
- 4.6 Several respondents reinforced the response given in question 4 regarding HMRC having access to VAT records and raw tobacco importation data.
- 4.7 Several comments from individuals stated that it is impossible to prove that raw tobacco is destined for a legitimate end user.

Government response to question 12

The Government intends to keep any additional documentation required to a minimum ensuring that proof required of a registered destination is robust and not open to abuse. Existing records will be used a basis for these requirements where possible.

Question 13: What are your views on broadening the seizure powers, including any issues, potential costs and burdens? Please supply any evidence you have to support your view?

- 4.8 The majority of responses were against broadening existing seizure powers rather than having a registration scheme. It was felt that seizure powers should work in conjunction with a registration process rather than having to choose between each option.
- 4.9 It was suggested that HMRC and Border Force cannot be expected to check every consignment and they should be empowered to check those only where there is reasonable grounds to suspect the raw tobacco is not destined for a legitimate use.
- 4.10 Some respondents agreed with the broadening of the seizure powers rather than the introduction of a registration scheme. They feel that having and using tougher sanctions can deter any future attempts to defraud.
- 4.11 One respondent welcomed the proposed sanctions against individuals and companies who do not comply with the registration scheme.
- 4.12 Some comments suggested that those importers who are reckless or negligent in failing to ensure proper supply chains should be subject to seizure and other penalties.
- 4.13 Some comments suggested that the power within Section 170B Customs and Excise Management Act 1979 is inadequate as it only concerns offences whereby a person is knowingly concerned with the fraudulent evasion of excise duty and that anyone could argue their lack of knowledge as a defence.
- 4.14 Several respondents did not support increasing seizure powers. A number of comments were made regarding the working practises of Border Force and the fear of what may happen should they be given additional seizure powers.

Government response to question 13

The Government agrees that a registration scheme is preferable to strengthened powers of seizure in isolation. Introduced alone, such powers would place a significant burden on both businesses and HMRC and Border Force. The registration scheme will enable legitimate businesses to operate with minimal extra burdens and officials to focus attention on suspect consignments.

Question 14: Are there any potential wider consequences of increasing existing powers that we have not identified here?

- 4.15 Some respondents were concerned about potential delays in receiving raw tobacco supplies.
- 4.16 One respondent made comment that HMRC need to ensure that any new provisions are consistent with the UK's obligation to implement the FCTC Illicit Trade Protocol.
- 4.17 Several comments suggested that the introduction of additional powers may lead to an increase in resources for both HMRC and Border Force.
- 4.18 One respondent suggested that Trading Standards could have a role to play with regards to registration and auditing work.
- 4.19 One respondent suggested that the proposals will destroy legitimate business and allow organised criminals to fill the gap. They felt it was worth noting that Poland has introduced excise duty on raw tobacco and that it is currently undergoing legal challenge as it's in direct contradiction to the EU law.

Government response to question 14

The Government will design the scheme and related operational activity to ensure that delays in delivery of consignments are avoided wherever possible. The use of a registration system should help ensure that legitimate users receive their goods without delay rather than every shipment being queried. As mentioned above, the Government will align all the requirements of the registration system with the FCTC Illicit Trade Protocol.

Question 15: Do you have any alternative proposals for the control of raw tobacco and the prevention of avoidance of tobacco products duty?

- 4.20 Several respondents stated that they wanted HMRC to harmonise with the EU and make better use of the information that they already have including import data. They suggested that the proposals in this consultation could drive the tobacco trade into the hands of organised crime
- 4.21 Some respondents wanted no changes to the current system.
- 4.22 Some comments suggested that only Companies should be allowed to import raw tobacco asking the question "why does an individual need to import raw tobacco?"
- 4.23 Some comments re-affirmed their view preferring the broadening of seizure powers and requesting that the registration scheme is not taken forward

- 4.24 Some respondents stated that their views have come from a study commissioned by DG TAXUD (TAXUD/2012/DE/341) on the use of Excise Movement and Control System (EMCS) for the movement of raw tobacco. The use of EMCS would be a great cost and would present an administrative burden on companies.
- 4.25 Some respondents recommended that HMRC works more closely with other government departments as recommended in the Public Accounts Committee hearing.

Government response to question 15

The Government will work to make best use of data already available as highlighted above. We do not believe that the introduction of a registration scheme will drive the tobacco trade into the hands of organised crime, but will instead protect legitimate businesses from the illicit trade.

The Government does not intend to restrict registration to businesses, but any party seeking registration will need to show a legitimate use for raw tobacco.

We note that no viable alternative schemes for the control of raw tobacco have been suggested which confirms that registration is the correct approach to tackling duty evasion in this area.

5. Next steps

- 5.1 The Government welcomes the responses to this consultation. While a number of legitimate concerns have been raised about points of detail, the responses confirm the Government's view that a registration scheme is the correct way forward here.
- 5.2 We propose to introduce a registration scheme as set out in the consultation, to be legislated for in Finance Bill 2016. We will carry out further technical consultation with legitimate users of raw tobacco on the detailed system design later in 2015 to ensure that administrative burdens are kept to a minimum, and that concerns about the integrity and robustness of the scheme are addressed.
- 5.3 We will also work to ensure that the scheme is suitable to address the needs of tobacco brokers who responded to the consultation and that we have confirmed the extent to which and how raw tobacco is used for non-smoking purposes.
- 5.4 The detailed scheme design will also ensure that proper and proportionate powers are in place to enforce compliance with the registration requirements, including seizure of raw tobacco destined for or held by unregistered users, and penalties for unregistered holding or use of raw tobacco.

Annexe A: List of stakeholders who responded

Adbac Limited
Alliance One International Services Limited UK
ASH UK
ASH Ireland
ASH Northern Ireland
ASH Scotland
ASH Wales
Association of Directors of Public Health
Asia Leaf Services Ltd
Association of North East Councils
Balksbury Company Ltd
British American Tobacco
British Heart Foundation
British Lung Foundation
Cancer Research UK
Cancer Focus Northern Ireland
CECCM – Confederation of European Community Cigarette Manufacturers
County Durham Tobacco Alliance
Deborah Arnott - ASH
ESTA – European Smoking Tobacco Association
European Tobacco Brokers Ltd
Fresh Smokefree North East
Hartlepool Borough Council
Honey Bee UK
Hull City Council
Hunters & Frankau
Imperial Tobacco Limited
Japan Tobacco International
Lancashire County Council
Making Smoking History in the North East Partnership
Marketing Store Worldwide Limited
Middlesbrough Tobacco Control Alliance
Newcastle County Council
North East Trading Standards Association
Nottinghamshire Strategic Tobacco Alliance Group
Ontario Ministry of Finance
Phillip Morris Limited
Plymouth County Council
Public Health - County Durham
Richard Howe
Rotherham Tobacco Control Alliance
Smokefree Southwest
Smokefree Newcastle
Swindon Borough Council Trading Standards

The Royal College of Radiologists
Tobacco Free Futures
Tobacco Free Leicestershire & Rutland
Tony Hywood
Wakefield Council
wholeleaftobaccoonly.com
Worcestershire County Council

We also received 75 responses from private individuals