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Monitoring legal requirements for cross border e-Invoicing and Recommendation of changes in the legal environment

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Foreword

This CWA has been prepared by the CEN/ISSS Workshop on 'eInvoicing Phase 2' (WS/eInv2)

The CWA has been approved at the final workshop plenary meeting on 10 September 2009.

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This CWA is part of a set of CWAs which has been prepared by Phase II of the CEN/ISSS Workshop on Electronic Invoicing in the European Community.

The objective of this Phase of the Workshop is to help to fill gaps in standardization for the use of electronic invoice processes, to identify the various practices in Member States, to integrate the emerging technical and practical solutions into effective good practices, and to define and disseminate these good practices for e-invoicing in close coordination and cooperation with private industry, solution providers and public administration.

Five initial Projects have been established with a view to supporting the:

1. Adoption programme for increased electronic invoicing in European business processes
2. Compliance of electronic invoice implementations with Council Directive 2001/115/EC (the provisions of which are now included in the Directive on the Common System of Value Added Tax [2006/112/EC]) as well as Member States' national legislation regarding electronic invoicing.
3. Cost effective authenticity and integrity of electronic invoices regardless of formats and technologies.
4. Implementation of compliant electronic invoice systems in using emerging technologies and business processes
5. Guidelines for the inter-operator electronic invoice exchange

In addition, the Workshop has assumed overall responsibility, as far as CEN is concerned, for standards aspects of the European Commission's expert group on electronic invoicing, complementing and linking with the relevant Commission groups, and ensuring the relevant global standards activities are correctly informed and primed. In this activity, it aims to ensure collaboration with other CEN/ISSS groups, including WS/BII and WS/eBES, with UN/CEFACT (TBGs1 and 5), ISO TC 68 and ETSI/TC ESI.

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1. Introduction

1.1 Background

While electronic business has been in use from the early 1970's, always with the main aim of simplifying and rendering more efficient both national and international trade, the benefits achieved by business in most transactions have often not materialised in the implementation of electronic invoicing in intra European Union (EU) cross border trade.

The Council Directive 2001/115/EC of 20 December 2001 (the provisions of which are now included in the Directive on the Common System of Value Added Tax [2006/112/EC]), in amending the Sixth VAT Directive (77/388/EEC), goes some way in simplifying, modernising and harmonising the conditions laid down for invoicing in respect of Value Added Tax, but regulatory and procedural differences that exist between Member States are still hampering the widespread intra EU cross border implementation of electronic invoicing by organizations, ranging from Multi Nationals (MNE) to Small and Medium Sized Enterprises (SME's).

1.2 Objectives of this Workshop

This CEN Workshop Agreement, '**Monitoring legal requirements for cross border e-Invoicing and Recommendation of changes in the legal environment**' is very specific in focusing on the legal aspects of intra EU cross border trade and recommending changes in certain legal requirement in favour of facilitating electronic invoicing. It covers two of the main tasks of TG2; namely:

Task 3 Monitoring the legal requirements in Member States as regards cross border exchange of electronic invoices;

Task 4 Recommendation of changes in the legal environment for electronic invoicing.

It was not the intention of TG2/SG2 to invite VAT administrations to respond to an extensive questionnaire, but to take a more direct approach. Namely, based on a list of real issues and problems drawn up by business experts and participants from VAT Administrations, TG2 proposes that recommendations of business justified changes and clarifications be addressed to VAT Administrations in specific Member States or to all Member States as relevant.

Issues whose resolution is seen as requiring European level input will be addressed to the Commission Directorate General (DG) Taxation and Customs Union (TAXUD), DG/Internal Market (MARKT) and DG/Enterprise and Industry (ENTR) Expert Group on Electronic Invoicing, or other EU groups undertaking similar work, with a view to their being considered in time for a proposed revision of the VAT Directive.

The CWA consists of a report, accompanied by three annexes:

- Annex 1: A control list of the issues
- Annex 2: Templates with a detailed documentation of the issues in question and the recommendation to the VAT Administration of the relevant Member States
- Annex 3: ODETTE Self Billing Europe, report 2000

The Templates and procedures for their organization and maintenance will also be placed on the e-invoicing relevant portal (<http://www.e-invoice-gateway.net>) being developed by Work Group 1 (TG1). The aim is to open the issues for discussion and inviting interested parties to submit their issues to TG2 SG2 for inclusion.

1.3 Summary Recommendation

The issues identified in this CWA have been debated and agreed by TG2 SG2 with the aim of being addressed to VAT Administration in Member States. Although some apply to all Member States, a few apply only to specific Member States. They reflect problems being encountered by business in the areas of electronic signatures and the recognition of qualified certificates, procedures surrounding self billing

operation, outsourcing to third party service providers, cross border inconsistencies of practice and regulation, etc.

TG2 SG2 is presenting its findings to various parties with a strong request to progress the issues and their recommendations to the various bodies:

- EU DG Taxation and Customs and DG Enterprise with a view to have the issues noted for the next revision of the Directive
- Fiscalis e-Audit group
- Relevant groups undertaking electronic invoicing work, e.g. EC Expert Group on e-Invoicing, PEPPOL project on electronic Public Procurement and IDABC
- Member State Tax Administrations

The group is pleased to note that several key issues identified in the TG2/SG2 Interim CWA (June 2008) are being addressed in the Commission documents named here below. It is to be noted that some Working Group members have reservations concerning some points presented in the proposals that are further reflected in the Mid Term Report and the Code of Practice:

- Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards the rules on invoicing
- Mid-term Report of the European Commission Expert Group on e-Invoicing
- Code of Practice in electronic invoicing in Europe, approved by the expert group plenary on 24th March 2009

In view of the proposals being made for the planned amendments of Council Directive 2006/112/EC, where several issues identified in this CWA are being addressed, the group recommends to review still remaining un-resolved issues in relation to the new Council Directive for submission to DG Taxud and DG Enterprise.

2. Scope

For e-Invoicing Phase 2, the four tasks allocated to TG2 were shared between two sub groups because of the close relationship of the tasks and to avoid unnecessary duplication of work.

This CEN Workshop Agreement, '**Monitoring legal requirements for cross border e-Invoicing and Recommendation of changes in the legal environment**' covers two of the main tasks of TG2; namely;

Task 3 Monitoring the legal requirements in Member States as regards cross border exchange of electronic invoices;

Task 4 Recommendation of changes in the legal environment for electronic invoicing.

The scope of this CWA concentrates on identifying the issues and problems that are hindering business from reaping benefits from e-Invoicing in 'Intra EU Cross border trading' and providing recommendations to Member State VAT administration to review specific restrictions and controls in the legal environment to facilitate electronic invoicing.

3. Abbreviations / Definitions (Developed jointly with TG2/SG1 & TG3)

3.1 Abbreviations

AdES	Advanced Electronic Signature
AICPA	American Institute of Certified Public Accountants
B	Buyer
BPA Matrix -	Business Process Analysis Matrix developed by the Netherlands Tax and Customs Administration (<i>Belastingdienst</i>) and provided as input to this project
CA	Certification Authority
CAdES	CMS Advanced Electronic Signature (see TS 101 903 [7])
CICA	Canadian Institute of Chartered Accountants
CMS	Cryptographic Message Syntax (see RFC 3852 [26])
CP	Certificate Policy
CRL	Certificate Revocation List (see RFC 3280 [21])
DUNS	D-U-N-S® Number (Data Universal Numbering System),
EDI	Electronic Data Interchange
ETSI	European Telecommunications Standards Institute
GL	General Ledger
ITU	International Telecommunications Union http://www.itu.int/library/
OCSP	Online Certificate Status Protocol (RFC 2560 [20])
PAdES	PDF Advanced Electronic Signature (see TS 102 778 [15])
PDF	Portable Document Format (see ISO 32 000 [32])
REM	Registered mail
RFC	Request for Comment http://www.rfc-editor.org/rfc.html
RP	Relying Party
S	Supplier
SME	Small and Medium Enterprise
S/MIME	Secure/Multipurpose Internet Mail Extensions
SSCD	Secure Signature Creation Device
SSL / TLS	Secure Socket Layer / Transport Layer Security (see RFC 5246 [29])
TSA	Time-Stamping Authority
TSL	Trust Status List
TS	(ETSI) Technical Specification
XAdES	XML Advanced Electronic Signature (see TS 101 733 [8])

3.2 Definitions

The following terms have the following meanings in these compliance guidelines (the Guidelines):
(Where necessary, substitute “Supplier” with “Buyer in the case of self-billing”).

- a) **Advanced Electronic Signature:** An electronic signature which meets the following requirements:
 - it is uniquely linked to the signatory;
 - it is capable of identifying the signatory;
 - it is created using means that the signatory can maintain under his sole control; and
 - it is linked to the data to which it relates in such a manner that any subsequent change of the data is detectable. (Electronic Signatures Directive [13]).
- b) **Agreed Format of an electronic invoice:** The format that the *Trading Partners* have agreed to use as the format of the data to be exchanged between them.
- c) **Archiving, Storage, Record or Document Retention:** The keeping of E-Invoices and related *audit trails* and materials under the conditions and for the period required by a Tax Administration and other applicable law.
- d) **Audit of an E-Invoice or associated business processes:** The process of inspection of an E-Invoice and/or the processes and systems used for handling or storing an E-Invoice during its life cycle by a Tax Administration to ascertain the compliance of that E-Invoice and the underlying sales / purchase transactions with applicable law.
- e) **Audit trail:** Information or data (whether in the form of logic, e.g. an algorithm or computer code, or a process, or a set of transactions, or a recording e.g. an event log, a video etc) that allows an auditor to verify that a process was performed in accordance with pre-defined expectations.
- f) **Auditability of an E-Invoice or associated business process:** The ability for an E-Invoice or associated business process to be *audited*.
- g) **Buyer:** An organization to whom the *Supplier* makes a supply and that may be obligated to receive and store an Invoice, as well as being required to report and declare; and being entitled to deduct/reclaim applicable input tax VAT.
- h) **Conversion:** The act of automatically converting the format of an electronic invoice from the format of the sender to the format of the recipient (Format Conversion), or converting the encoding of content (e.g. different code list or units of measure), using agreed mapping processes that do not alter the information represented by the document (Content Conversion).
- i) **E-Invoice life cycle:** A process comprising (1) the creation or issue of the *electronic invoice by, or in name and on behalf of the Supplier*; (2) receipt of the invoice by or on behalf of the *Buyer*; and (3) *storage* of the electronic invoice during the *storage period* by or on behalf the Supplier and the Buyer.
- j) **E-Invoicing Service Provider or Service Provider:** An organisation that, on the basis of a contractual agreement, performs certain processes in relation to the E-Invoice life cycle on behalf of a *Trading Partner*, or that is active in the provision of support services necessary to realise such processes.

Trading Partners can use multiple e-Invoicing Service Providers; see *3-corner model* and *4-corner model* definitions. An e-Invoicing Service Provider can subcontract all or parts of its services to other providers; such subcontractors can also be e-Invoicing Service Providers if they meet the criteria set out in this definition.
- k) **Electronic data interchange (EDI):** The transfer of commercial, administrative and business information between computer systems, using data formats which have been mutually agreed by the parties. EDI exchanges of invoices are normally used between trading partners to (partially) automate their supply chain. In most interpretations, the use of structured data alone does not make a process EDI.

A key element of an EDI system is the Interchange Agreement between the EDI trading partners making provision for the use of various technical, security and business procedures including those aimed at ensuring and proving the authenticity of the origin and integrity of the data. In this context, Electronic data interchange or EDI is a generic term that covers conventional EDI file formats (UN/EDIFACT [31], ANSI-X12) as well as later developments using XML (Extended Markup Language) using UN/CEFACT or other formats.

Web EDI covers the techniques used to facilitate EDI via the Internet which may include forms EDI accessed via a web browser (see 7.3.5).

- l) **Electronic invoice:** An electronic dataset prepared by or on behalf of a Supplier listing items sold and presented to the Buyer for payment, which contains all details agreed between the *Trading Partners*.
- m) **Electronic invoice data:** A dataset not yet or no longer representing an *Electronic Invoice*, but which is intended to become an Electronic Invoice or which has been derived from an electronic Invoice.
- n) **Electronic Signature:** Data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication. (Electronic Signatures Directive [12])
- o) **Electronic Tax Invoice:** The designated electronic invoice for tax audit purposes with at a minimum all the properties that are legally required. In this Commentary and the Compliance Matrix, the Electronic Tax Invoice is referred to as **E-Invoice**; further the corresponding terms E-Invoicing and Invoice/Invoicing are used where appropriate.
- p) **European Model Interchange Agreement, 94/820/EC:** Commission Recommendation of 19 October 1994 relating to the legal aspects of electronic data interchange.
- q) **Format:** The organization or formatting of electronic data in an electronic document according to preset syntax and/or schema such as UN/EDIFACT, UNCEFACT, xCBL, cXML or PIDX.
- r) **Interchange Agreement:** The provisions of Interchange Agreements are intended to govern the rules of conduct and methods of operation between the Parties in relation to the interchange of data by EDI. Several models of Interchange Agreement have been developed by European and International bodies:
- s) **Internal control:** A process, affected by an organization's people and information technology (IT) systems, designed to help the organization accomplish specific goals or objectives.
- t) **Invoice header data:** Data that relates to the whole invoice, e.g. invoice date, invoice number, Supplier and Buyer identification, name and address, bank account details etc. Some data is typically made available at header level in an invoice because it may be valid for all detail lines, but may be overridden as necessary by making the data available at detail line level, e.g. discount, currency code, VAT rate, delivery address, tax point, etc..
- u) **Invoice line data:** Data that relates to the goods item or service being invoiced, e.g. goods item identification, quantity, price, description, etc... Some invoice line data may be made available in the header if it is valid for several invoice line items, but may be overruled at line level.
- v) **Issue of an E-Invoice:** This is a legal term that is defined differently in different jurisdictions. The E-Invoice starts its *life cycle* as a formal document for VAT purposes when it has been issued. See section 6.6 for more explanation of the importance of the moment of issue in an e-invoicing process.
- w) **Issuer of an E-Invoice:** The party issuing the *electronic invoice* (the *Supplier* or a party – a *Service Provider* or, in the case of *Self-Billing*, the *Buyer* – issuing the e-invoice *in its name and on its behalf*).
- x) **Issuing an E-Invoice in name and on behalf of the Supplier:** The process whereby a party other than the *Supplier* issues the invoice in the Supplier's stead without taking over the Supplier's accountability for that invoice vis-à-vis the Tax Administration. The issuing third party may be a *Service Provider* or, in the case of *Self-Billing*, the *Buyer* or its Service Provider.
- y) **Master data:** In this context for *Trading Partners*, Master Data are data that are stable over longer periods of time such as the names, addresses, and identifications, e.g. VAT numbers, DUNS number, GS1 GLN numbers. For product or services, Master Data may include product names, descriptions, tax category, and identifications such as GS1 identifier.

- z) **Phishing:** A *fraudulent* process of attempting to acquire sensitive information such as usernames, *passwords* and credit card details by masquerading as a trustworthy entity in an electronic communication.
- aa) **Public Key Certificate (certificate):** A set of structured data that has been electronically signed by a “certification authority” to “bind” the identity of a legal or natural person to a “public key” that can be used e.g. to verify electronic signatures created by that person.
- bb) **Readability of an E-Invoice:** The ability of an auditor (e.g. Tax Administration or accountant) to interpret the content of an E-Invoice.
- cc) **Self-Billing:** A method of invoicing whereby the *Buyer* issues the invoice *in name and on behalf of the Supplier*. Self-Billing may be facilitated by a *Service Provider* contracted by the buyer. See further section 6.4.
- dd) **Source Transaction Data:** Relatively dynamic or transaction-specific business documents and information that are typically required to create an E-Invoice. This may include a contract, an order, despatch information, delivery information, customer and product files, and possibly other details.
- ee) **Spoofing:** A technique used to gain unauthorized access to computers, whereby the intruder sends messages to a computer with an *IP address* indicating that the message is coming from a trusted host.
- ff) **Storage period of an E-Invoice:** The amount of time that applicable law requires an E-Invoice to be stored and available for *audit*.
- gg) **Supplier:** An organization that supplies goods or services to the *Buyer* and that may be obligated to issue and store a Invoice, as well as to report, account for and pay applicable output tax *VAT*.
- hh) **Trading Partner:** *Supplier* or *Buyer*.
- ii) **UN-Layout Key (UNLK):** United Nations Layout for Trade documents, including the invoice. UN Recommendation 1 and Recommendation 6; ISO 6422 [30].
- jj) **Uniform Rules of Conduct for Interchange of Trade Data by Teletransmission (UNCID):** As adopted by the International Chamber of Commerce and the United Nations Economic Commission for Europe.
- kk) **VAT or Value-Added Tax:** A consumption tax that is levied at each stage of production based on the value added to a product or service at that stage.
- ll) **3-Corner Model:** An invoicing process set-up whereby *Trading Partners* have separate contractual relationships with the same *Service Provider*.
- mm) **4-Corner Model or Multi-corner Model:** An invoicing process set-up whereby each *Trading Partner* has contracted with one or several separate *Service Providers*, whereby the Service Providers ensure the correct interchange of invoices between the Trading Partners.

4. Proceedings

In scoping the tasks in TG2/SG2 Monitoring legal requirements for cross border e-Invoicing and Recommendation of changes in the legal environment, input was provided by participants to the group's work, including an extensive list of queries and issues, compiled based on the experiences of multinational organizations in the electronics industry over a number of previous years with legal and administrative problems experienced by them in attempting to implement electronic invoicing in (among others) all Member States and intra community across Member State borders.

Based on the input received it was agreed to be preferable to proceed by joining the efforts of Task 3 Monitoring legal requirements and Task 4 Recommendations to change legal environment into one sub group, Work Group 2 Sub Group 2 (TG2/SG2), in a way making it possible to look at both sides of the problem area; Monitoring legal requirements and Recommending changes in the legal environment.

Some 107 issues were identified and have been dealt with by TG2/SG2 since the start of the joint effort in end of October 2007. In the last reviews, several issues were regrouped to facilitate presentations or removed if they were no longer relevant or supported by the group.

The issue list is open and procedures are in place to deal with new issues that maybe presented to the group up to the completion of the CEN/e-Invoicing Workshop Phase 2 in September 2009. Procedures may be put in place to accept and progress issues submitted after the end of Phase 2 via the project website.

4.1 Selection of main areas of interest

The first list of issues provided as input to the group was helpful to start but very extensive. The group agreed to limit the work to some eight major issues that were considered more manageable, containing the important issue groups that were business justified, achievable in terms of time and effort. Issues that were academic or theoretical in nature were excluded.

The issue groups are described in more detail in section 6.

4.2 Issue Evaluation Template

The issues presented are documented in templates for discussion within the groups and made available on the project website. The issue in question is described by the submitter which should specify the country or countries it is addressed to, or if the issue is addressed to all countries.

The headings in the template are explained here below and an example template is provided in the following page:

- **Statement of the Problem**
Line number and issue group, reference to the line number in the control list, followed by the issue in question. The issue in question may be quite simple, e.g. a Member State imposing regulations to be followed concerning rounding of amounts in an invoice, which are not required by other Member States; Clarification concerning outsourcing of archiving in other Member States or non Member States.
- **Countries in which the problem is evident**
The EU Members State or States in question may be identified, or 'All' if the issue is addressed to all or most EU Member States.
- **Suggested resolution (or evidence of good practices addressing the problem)**
Where possible, it is the intention for the group to present a viable resolution to resolve or clear an issue. This may also be addressing a good practice that is already in use in one or Member States. See suggested resolution in Template on next page.
- **Process of implementing the resolution**
In certain cases, the group may present a process of implementing the issue, or suggest that the issue may be taken into consideration in the preparation of a next directive.
- **Time period for implementing the resolution**
The following time periods have been suggested to give an indication how long the group expected an issue would take to be resolved or cleared. Issue that do not require changes in a directive or national legislation could be much shorter than one not requiring changes in MS laws, or a directive.

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
<p>Line 4 Buyer Requirements / Explicit form</p> <p>1. Does the buyer's agreement to accept invoices in electronic format have to be given explicitly, or is it sufficient for the buyer to accept, process and pay an electronic invoice, for the buyer to be deemed to have accepted the use of electronic invoices?</p> <p>2. If an explicit agreement to accept electronic invoices is required, is it permissible for this agreement to be retained in electronic format?</p> <p>3. If a business agrees to exchange electronic invoices with one business partner using a service provider, does this indicate the business is willing to accept electronic invoices from all businesses that exchange electronic invoices by means of that service provider?</p>
Countries in which the problem is evident
All
Suggested resolution (or evidence of good practices addressing the problem)
<p>1. There should be no requirement for an explicit agreement to accept electronic invoices.</p> <p>2. Not applicable</p> <p>3. No</p>
Input to the PWC DG/TAXUD study.
Time period for implementing the resolution

Example of an Issue Template

4.3 Issues on the CEN/e-Invoicing Website

To maximize the exposure of the issues being identified by the TG and to invite interested parties that are not participating in the groups work to involve themselves in the project, the Issue Evaluation Templates are being made available on the e-Invoicing Website being developed by TG1 (<http://www.e-invoice-gateway.net>).

The aim is to open the list of issues for discussion to industry, trade sector, as well as other interested parties, inviting them to submit their issues to TG2 SG2 for review and inclusion in a similar fashion on the website. Technical as well approval procedures are being put in place to assist to screen, process and review the submission of new issues. Comments submitted will be linked to the relevant Templates so that interested parties may follow the discussions and developments.

The issues being submitted must comply with the initial criteria already agreed and approved by the TG; namely that the issues must be:

- business justified
- practical
- achieving a resolution within reasonable time scales
- within the scope of the TG

4.4 Present status

The Work group have held several meetings, one or two days prior to the CEN e-Invoicing plenary meetings, as well as several meetings kindly hosted by the organizations of participants:

- HM Revenue and Customs in London
- Spanish Tax Administration in Madrid
- Italian Tax Administration in Rome
- IBM, London
- DataCert, London

The group acknowledges that although the problems emanating from the issues are recognised by the group, the discussions to present the views of Member State and their possibilities are lengthy, and arriving at recommendations that the group feel would be acceptable is very time consuming. No recommendation has been suggested for several of the current list of issues due to a lack of consensus within the group.

Some 42 Issues are ready for placing on the Workshop website at present, and approximately an equal number are being analysed for placing on the website at a later date.

The group will review the remaining issues and any new issues being submitted from external parties when a clearer picture emerges from the proposals being made by the EC for the drafting of the new VAT Directive in preparation. The TG1 Website will be used as publication media as well as being the location at which new issues from external parties can be submitted.

5. Review of EC documents on e-Invoicing

The following pertinent documents that have been made available to the CEN Workshop on e-Invoicing in January 2009 are reviewed and commented on in so far as they are specifically relevant to this CWA e-Invoicing, 'Monitoring legal requirements for cross border e-Invoicing and Recommendation of changes in the legal environment': The document in question are:

- Proposal (Draft) for amending Council Directive 2006/112/EC VAT as regards rules on invoicing;
- Mid-Term Report of the EC Expert Group on e-Invoicing;
- Code of Practice in electronic invoicing in Europe, approved by the expert group plenary on 24th March 2009.

5.1 Comments on Proposal draft amending Council Directive 2006/112/EC

The grounds and objectives of the Proposal are very much in line with the views of TG2/SG2 as they pinpoint solutions to facilitate trading partners to use e-Invoicing in cross border intra-community trade:

- Equal treatment of paper and electronic invoices to reduce burden stemming from the unnecessary differentiation of the transactions. On this point, it is necessary to state that the Work Group was informed that the European Commission are in discussion with MS Tax Agencies that have concerns on the principle of equal treatment of paper and electronic invoices; e.g. the Spanish Tax Agency position is that equal treatment cannot be conferred on things that are not equal.
- Redress the e-Invoicing problems created by the divergent implementation of the options provided in earlier Directives so as to eliminate so called legal barriers, especially as they relate to the differences in Member State requirements for electronic signatures.
- Creating a set of harmonised rules by reducing the options allowed for Member State.
- Clearer definition of the storage rules for invoices (paper and electronic), and the facility for converting paper invoices into electronic form for storage purposes.
- **If not included in the present proposal, the following issues should be taken into consideration:**
 - **The question of 'Acceptance by a buyer' to receive electronic invoices should be clarified;**
 - **A clear issue that was identified by SMEs, namely an SME that has to receive a few electronic invoices, should be allowed the facility to convert these few electronic invoice into paper form for storage with the main set of their invoices that are on paper;**
 - **Self billing is mentioned in the draft proposal. If 'EU Self-Billing procedures' are not covered in the present proposal, it would be advisable to include that a uniform set of harmonised procedures be made available taking note of business requirement;**
 - **While the proposal to harmonise the legally required storage period and location is very beneficial to facilitate electronic invoicing, the harmonisation should also be applicable to all other specific national law, e.g. Commerce, Accounting, etc which may have different location requirements and duration.**

5.2 Comments on Mid-Term Report EC Expert Group on e-Invoicing and Code of Practice in electronic invoicing in Europe

The Mid-Term report, in a similar way, is also identifying inhibitors presented by TG2/SG2 as hindering organisations identify the same specific points and in more detail:

- Fundamentally EU harmonised and consistent application of simplified legal requirements based on equal treatment of paper and electronic invoicing. Once more, it is necessary to state that the Work Group was informed that the European Commission are in discussion with MS Tax Agencies that have concerns on the principle of equal treatment of paper and electronic invoices; e.g. the Spanish Tax Agency position is that equal treatment cannot be conferred on things that are not equal.
- Equal treatment would mean that secure EDI exchanges between secure application and storage systems may not require additional imposition for authenticity and integrity.
- Cross border intra community trade should be simplified by having consistent Member State implementation of directives relating to electronic invoicing and trade in general. National discrepancies creating legal barriers should be eliminated.
- The PEPPOL project (Pan-European Public Procurement ON-Line), and in particular the pilot projects, should put several issues identified in this CWA to the test, e.g. the question of the variety of e-signature standards in use by different Member States at present and the hindrance it causes in processing certificates issued by CA from other Member States.

6. Issue groups

The issues that have been identified within the agreed scope of this CWA, fall into one of the groups in this section. The details of each issue are to be found in the Templates provided in the annex.

6.1 Buyer Requirements

Unlike paper invoicing, where the seller is not required to have an acceptance from the buyer before sending him a paper invoice, the buyer is required to accept the use of electronic invoicing before an electronic invoice may be sent to him. The directive is not clear on the form or degree of acceptance and Member State regulation is not precise enough.

Although 'Acceptance by the buyer' to receive electronic invoices from a supplier is indicated as required in the Directive 2001/115/EC, the group feels that the Expert Group should include in their report that clear recommendation and clarification be provided on what constitutes 'Acceptance' and 'Non acceptance' in the Council Directive.

6.2 Electronic Signatures and Qualified Certificates

Member States at present are at variance on the question of advanced electronic signatures and qualified certificates. Apart from the Member States that do not insist on advanced electronic signatures, several require Qualified Electronic Signatures, that are issued with a Secure Signature Creation Device, within the meaning of point (6) of Article 2 of Directive 1999/93/EC, and are based on Qualified Certificates.

While the Directives 2001/115/EC (the provisions of which are now included in 2006/112/EC) and 1999/93/EC, do not have restrictions on the country where a Certification Authority resides, some Member States are reluctant to accept certificates issued by CA in other Member States, thus imposing restrictions which effectively render the use of certificates issued in other Member States impracticable.

The recommendations from TG2/SG2 are in line with those in the Proposal for the Directive and the Mid-Term Report, that there should be mutual recognition of trusted Certification Authorities. European multinational organizations would like to see that the mutual recognition of CA is not limited to ones in EU Member States, but international, open to trusted CA.

6.3 Other means to ensure integrity

The provision in the EU Directive on electronic invoicing (2001/115/EC) for the authenticity and integrity of an electronic invoice transmission to be guaranteed by "other means" than EDI or the use of "Advanced Electronic Signatures" is not susceptible to the definition of precise requirements which will be operative in every case. The "other means" are based on good practice applicable to the particular implementation of electronic invoicing in which authenticity and integrity are guaranteed by different types of "other means".

While a Member State may permit an organization to use a specific procedure to guaranty authenticity and integrity, there is a requirement that if a specific procedure is accepted in one Member State, that it should be permitted in other Member States for that same organization. **Multinationals go to great length to ensure that their e-trading procedures are reliable and auditable, and would therefore like to replicate them in other Member States following their agreement.**

6.4 Outsourcing

More and more organizations are outsourcing their business processing and e-Invoicing to third party service providers. While the Directive 2001/115/EC (the provisions of which are now included in 2006/112/EC) mentions that service providers may be used by trading partners, they are not explicit in terms of what is required of the service provider.

6.4.1 Outsourcing of invoice issue

The formal life cycle of the e-invoice starts with the act of issuing an e-invoice; hence, this step frequently coincides with the application of specific controls enabling the verification of ongoing integrity and authenticity until the end of the mandatory storage period. Often, the application of such controls is a strong indication that the Supplier or in the case of self billing the customer, or e-Invoicing Service Provider intended to formally issue the invoice.

Upon issue, the e-invoice may no longer be disposed of or altered (unless it is done in a form supported by an audit trail); the e-invoice now formally exists in VAT terms and both parties to the underlying sales transaction are responsible for guaranteeing its integrity and authenticity.

6.4.2 Outsourcing of buyer functions

In order that the whole end to end flow of the electronic invoicing exchange can be controlled, the requirements imposed for guaranteeing the authenticity and integrity of the data received by the service provider and later passed onto the invoice recipient must be defined in the contract and/or service level agreement.

In terms of an organisation to which the whole or a part of the electronic invoicing process is outsourced by a business, the regulations are relatively straightforward in that the legal responsibility remains with the VAT registered person. It is in the interest of the VAT registered person for service level agreements and/or contracts, to set out that the service provider must enable the VAT registered person to comply with his obligations.

6.4.3 Outsourcing of archiving

The regulation concerning archiving, given in section 6.8 are also valid for Outsourcing of archiving. In addition, the legal responsibility remains with the VAT registered person. It is in the interest of the VAT registered person for service level agreement contracts, to set out that the service provider must enable the VAT registered person to comply with his obligations.

The issues identified by TG2/SG2 on archiving, with or without outsourcing, are in line with the recommendations in the Proposal to the Council Directive and the Mid-Term report, and would therefore recommend their inclusion in the Council Directive.

6.5 Self billing

Self billing is an invoicing procedure permitted by the transcription of EU Council Directive 2006/112/EC into Member State national legislation whereby the buyer, rather than the supplier, issues the invoice based on receipts of material and/or services from a supplier. The issue of self billing invoices may also be outsourced to a service provider.

6.5.1 Self billed invoices.

Self billed invoices, generated by the customer (or a service provider working for the customer) on behalf of a supplier are a concern to VAT administration. There is a risk if the sellers business process does not avoid multiple invoices being issued for the same delivery, that the customer may recover input VAT twice; and that the VAT for which the supplier is due to account based on the self billed invoice may be claimed as input tax if the supplier's system does not prevent this.

While the Directive requires that parties accept e-Invoicing, the form and procedures of acceptance of self billed invoices varies between the Member States. In jurisdictions where each self billed invoice has to be explicitly accepted by the supplier, it is possible to argue that these risks are much better mitigated than where such invoices do not have to be explicitly accepted, but explicit acceptance is effectively a mandated procedural control and is much more burdensome than an effective system control. The electronic implementation of such explicit acceptance is likely to be at least as burdensome as its manual implementation.

The recommendations on this issue are intended to provide on the one hand the necessary assurance to Member State VAT administration, while on the other hand to minimize the burden on trading partners.

Although it may not be up to date, the ODETTE guidelines on Self Billing are annexed to this report to highlight the differences that motor manufacturers have to overcome when using self billing in different Member States and in intra community trade between Member States. (See Annex 3)

6.5.2 Hybrid forms, self billing and conventional invoicing

Hybrid forms, in the context of self billing, are where not all the supplies of a supplier to one and the same customer are invoiced by means of 'Self Billing' procedures. An identifiable part of the supplies made (possibly services or miscellaneous and non production material) are invoiced by the supplier and not self billed by the customer.

6.6 Invoice process requirements

Issues that are related to the process such as rules for rejecting an invoice, for cancelling an invoice before it is made available to the customer, voucher numbering, etc..

Rules are laid down for scenarios such as those where invoices are posted by the supplier on a portal from which they can be accessed/downloaded by the buyer; such as the requirement for a separate notification sent to the customer that invoices have been placed on the portal for collection.

6.7 Invoice content

In addition to the required data in an invoice, are there special requirements concerning rounding rules of values in an invoice imposed by a Member State? Are there requirements imposed by Member States that specific statements be mentioned on an invoice, e.g. late payment penalties expressed in %, with a minimum value expressed by the local tax administration? Would it be possible to use standardised codes for common text required to be placed in an invoice, e.g. VAT exemptions, rounding rules for amounts?

6.8 Archiving

Both parties must store the original invoices for a period set out in applicable Member State national law. During the mandatory storage period of an invoice, the competent tax administration has the right to audit stored invoices. Country specific requirements concerning e.g. format, media, process, security and location have to be taken into account.

6.8.1. Mandatory storage period of invoices for VAT

The mandatory storage period of invoices for VAT varies per Member State between six years and eleven years. In some member states, the mandatory storage period required by company law and or commercial law is different and frequently longer.

6.8.2 Location of archiving e-Invoices

The location in which e-invoices may be stored is restricted to some extent by VAT relevant legislation. It may be in another Member State than that of the sender or receiver. Notification may be required:

- if it is in another EU Member State
- If it is not in an EU Member State

Certain Member States will not allow the storage of e-Invoices in countries that do not guarantee 'Mutual Assistance' and others insist that the country in which e-invoices are to be stored complies with the EU data protection principles.

6.8.3 Form and format of archiving

The e-Invoices are to be archived in the form in which they have been issued. They have to be made available, or access is to be provided, to the pertinent authorities within a reasonable time.

There is some variance in the legality/admissibility of transforming invoices and archiving them as originals, including:

- Transforming paper invoices into digital format for archiving; and
- Transforming e-Invoices onto to a paper medium for archiving (less of a burden for small organisations).

6.9 Cross border

Invoicing between intra EU Member States fall under TG2/SG2's definition of "Cross Border". Invoicing to countries outside the EU is outside the scope of this project. Several issues, such as the issue of certificates in another EU Member State or outside the EU, are dealt with in this section.

This point is included in this CWA because it is considered an inhibitor for SME's to proceed with electronic invoicing even though it relates to cross border transactions. It is not clear why some Member States do not allow the refund of VAT based on an electronic invoice.

Other issues identified as Cross Border inconsistencies are not, *prima facie*, specific to electronic invoicing, but are included because implementation of electronic invoicing requires them to be clarified, e.g. the rules of which jurisdiction apply to guarantees of authenticity and integrity, the way VAT is accounted for services is different from that of goods.

On the question of 'reclaiming VAT on Cross Border electronic invoicing, it is considered an inhibitor for SME's to proceed with implementing electronic invoicing if they are not able to reclaim VAT on cross border invoices in their Member State.

6.10 EDI

While Directive 2001/115/EC and Directive 2006/112/EC indicates that users of EDI will not require to use an electronic signature to ensure authenticity and integrity, the conditions of the acceptance of EDI in Member States is not uniform and such differences hamper users in fully exploiting electronic invoicing using EDI.

7. Some findings

Some findings are presented here to give a more detailed picture of the type of issues that are under discussion in the TG2/SG2 and some of the proposed recommendations resulting from the discussions.

In general, the issues are relatively specific, identifying areas where clarifications are required, where issues are causing difficulties to trading partners or service providers, where differences between Member State regulations increase the complexity to use e-Invoicing procedures efficiently and aimed at the elimination of activities which do not add value.

7.1 EDI

The definition of EDI in the directive 2001/115/EC is based on and refers to Article 2 of Commission Recommendation 1994/820/EC of 19 October 1994. The Recommendation is restrictive and not considered actual with present day EDI implementation of UN/EDIFACT, UN/CEFACT, other recognised standards, or agreements between trading partners. The CEN e-Invoicing Workshop phase 1, recommended a revision of the October 1994 Recommendation and provided a proposal for review by DG Taxation and Customs (DG/TAXUD) and DG Enterprise (DG/ENTR).

The directive presents three approaches, EDI, digital signature or other means. But several Member States have interpreted that as EDI and digital signature or EDI and other means. As a consequence, the application and use of e-Invoicing is not promoted, as was the aim of the directive 2001/115/EC, but rather made more complex, complicated, and expensive.

The group strongly recommend that it should be possible to use EDI for e-Invoicing without imposing additional requirements, such as digital signature or paper summary sheet under the provision that authenticity, non-repudiation, and integrity are maintained by the transmission technique, e.g. the use of value added networks (VANs) or other reliable transfer protocols.

7.2 Issue of certificates

At present several Member States' requirements effectively restrict the acceptance of e-Invoices with Qualified Electronic Signatures, if the certificates are not issued nationally, with the result that certificates issued by Certification authorities in other Member States are not accepted.

In our understanding, the problem is partly technical because there are is a lack of means in place for the buyer to check certificates issued by a Certification Authority in another Member State. Trading partners and especially SME's do not have the means to have certificates issued by Certification Authorities in every Member State with which they trade.

The EC report 'Action plan on e-Signature and e-Identification ...', has identified this problem and are tasked to recommend solutions in 2009 for application by EU Member States as it is a requirement for the PEPPOL project, Pan European Public Procurement Online.

7.3 Acceptance of electronic invoices

On the question of the acceptance of e-Invoicing, the Directive 2001/115/EC is not sufficiently clear on when a trading partner has agreed to receive and process electronic invoices. What level of acceptance is required before a supplier may send his invoices electronically to his trading partners?

- Does the buyer's agreement to accept invoices in electronic format have to be given explicitly, or is it sufficient for the buyer to accept, process and pay an electronic invoice, for the buyer to be deemed to have accepted the use of electronic invoices?
- If an explicit agreement to accept electronic invoices is required, is it permissible for this agreement to be retained in electronic format?
- If a business agrees to exchange electronic invoices with one business partner using a service provider, does this indicate the business's willingness to accept electronic invoices from all businesses that exchange electronic invoices by means of that service provider?

After much debate, the group would suggest the following direct approach:

- There should be no requirement for an explicit agreement to accept electronic invoices
- If an explicit agreement is required to indicate acceptance of electronic invoices, the suggestion would be to have a standard form of words containing the acceptance.. It must also be clear whether this agreement can be made and stored electronically; and which party is required to store the agreement
- No consensus was reached on this point

Annex 1 Control list of issues

Issues to go forward

A	B	C	D	E	F
Template Line number	Area	Reworded issue	Take Fwd	TG1 website?	Cross reference to TG2/SG1 Guidelines
4	Buyer requirements	<p>Line 4 Buyer Requirements / Explicit form</p> <p>1. Does the buyer's agreement to accept invoices in electronic format have to be given explicitly, or is it sufficient for the buyer to accept process and pay an electronic invoice, for the buyer to be deemed to have accepted the use of electronic invoices?</p> <p>2. If an explicit agreement to accept electronic invoices is required, is it permissible for this agreement to be retained in electronic format?</p> <p>3. If a business agrees to exchange electronic invoices with one business partner using a service provider, does this indicate the business is willing to accept electronic invoices from all businesses that exchange electronic invoices by means of that service provider?</p>	Yes	Yes	Interchange agreement? On Boarding?
7	Archiving	<p>Line 7 Conversion of received paper invoices to an electronic format</p> <p>The conversion of original paper invoices to Tax Valid electronic invoices for storage and allowing the paper invoice to be disposed of is permitted in a few Member States, but some of them requiring special agreements or procedures that are not standard across those Member States.</p> <p>Major companies receive a large number of paper invoices from SME's and it would help them to convert them to electronic invoice form.</p>	Yes	Yes	Archiving
8	Archiving	<p>Line 8 Conversion of electronic invoices to a paper invoice</p> <p>The conversion of original electronic invoice received into a paper invoice and allowing the electronic invoice to be disposed of is permitted in a few Member States, but some of them requiring special agreements or procedures that are not standard across those Member States.</p>	Yes	Yes	Archiving

A	B	C	D	E	F
Template Line number	Area	Reworded issue	Take Fwd	TG1 website?	Cross reference to TG2/SG1 Guidelines
		SME's who receive a few electronic invoices very often prefer, for economic and procedural reasons to convert the electronic invoices into paper so as to store all their incoming invoices, paper and electronic invoices, in paper form.			
10 & 11	Electronic signatures	<p>Line 10 & 11 Electronic signature</p> <p>This relates to the fields in the certificates and their technical representation.</p> <p>Certification Authorities in Member States are using different profiles for electronic certificates making it difficult (impossible) to achieve automatic processing of e-Invoices, which are signed with e-certificates.</p> <p>It would be advantageous if electronic signatures created for use in "guaranteeing the authenticity and integrity" of electronic invoices were issued in a common format that was accepted in all EU Member States. This relates to the fields in the certificates and their technical representation.</p>	Yes	Yes	Electronic signature
13	Other methods to ensure integrity	<p>Line 13 "Other" means for integrity and authenticity</p> <p>1 "Other" means for integrity and authenticity: The provision in the EU Directive on Invoicing (2001/115/EC) for the authenticity and integrity of an electronic invoice transmission to be guaranteed by "other means" than EDI or the use of "Advanced Electronic Signatures" is not allowed in all Member States.</p> <p>2. If an 'Other means' is allowed in a Member State, it does not mean that the same will be allowed in another Member State.</p>	Yes	Yes	Other means Process based controls
26	Outsourcing of invoice issue	<p>Line 26 Outsourcing of invoice issue (First mile)</p> <p>In order that the whole end to end flow of the electronic invoicing exchange can be controlled, what requirements are imposed for guaranteeing the authenticity and integrity of the data sent by the invoice transmitter to the service provider?</p>	Yes	Yes	First mile
29	Outsourcing of buyer functions	<p>Line 29 Outsourcing of buyer function See also line 26 Outsourcing of Invoice Issue</p> <p>If invoice issue is outsourced, the guarantee for authenticity and integrity starts when the outsourcer issues the invoice. The outsourcer issues the invoice when he makes the data received from the party responsible for issuing the invoice available to the party to whom the invoice is addressed. (<i>This does not remove the first mile from consideration, but makes it the responsibility of the parties to the</i></p>	Yes	Yes	Last mile

A	B	C	D	E	F
Template Line number	Area	Reworded issue	Take Fwd	TG1 website?	Cross reference to TG2/SG1 Guidelines
		<i>contract).</i>			
33	Outsourcing of archiving	<p>Line 33 Outsourcing of archiving</p> <ul style="list-style-type: none"> • Can archiving be outsourced to a third party? • Can archiving be outsourced to a third party in the EU. • Can archiving be outsourced to a third party outside the EU? Conditions? <p>In terms of outsourcing of the invoice exchange and where format conversion is a requirement of the end to end transmission process, is it required for all versions of the invoice e.g. received from issuer/pre conversion/post conversion/transmitted to recipient to be stored?</p>	Yes	Yes	Archiving
37	Self-billing agreement	<p>Line 37 e-Invoicing Self Billing and Line 38 Hybrid forms</p> <p>A) Self Billing e-Invoicing is being used more frequently by industry and trade, but the definition, regulations and procedures imposed by Member States are not very clear to companies when they are looked at from a European perspective..</p> <p>Clarification on Self Billing e-Invoicing is being requested:</p> <ul style="list-style-type: none"> • How is self Billing defined across different countries? • How does the nature of the transaction and the countries involved affect that definition? <p>B) Hybrid forms Self Billing & 'normal', in the context of self billing, are where not all the supplies of a supplier to one and the same customer are invoiced by means of 'Self Billing' procedures. An identifiable part of the supplies made (possibly services or miscellaneous and non production material) are invoiced by the supplier and not self billed by the customer.</p> <ul style="list-style-type: none"> • It is not clear if parties may use Hybrid forms, self-billing for some and direct invoicing for other invoices between the same trading partners 	Yes	Yes	Self-billing
38	Self-billing	Lines 38 Self billing agreements	Yes	Yes	Self-billing

A	B	C	D	E	F
Template Line number	Area	Reworded issue	Take Fwd	TG1 website?	Cross reference to TG2/SG1 Guidelines
	agreement	<ul style="list-style-type: none"> Is an explicit form of self billing agreement required? Is it acceptable for a self billing agreement to be retained in an electronic form? Does a self billing agreement have to include certain mandatory content for it to be acceptable to the tax administration? 			
49	Invoice process requirements	<p>Line 49 Invoice process requirements</p> <p>Are there specific rules with which an issuer must comply to cancel an electronic invoice before making it available to the customer?</p>	Yes	Yes	?
50	Invoice process requirements	<p>Line 50 Invoice process requirements</p> <p>Web Publication; in this context, a method of exchanging invoices with the buyer by placing the <i>original electronic invoice</i> on an agreed web site, but where the original electronic invoice never leaves the secure closed environment operated by the <u>Supplier</u>.</p> <p>1. What rules are set down for monitoring the download of such a pull system (i.e portal) electronic invoices?</p> <p>2. Is a portal invoice acceptable in all EU Member States?</p> <p>3. Must a separate notification be sent to the invoiced party as well as the invoice being placed on the portal?</p>	Yes	Yes	Secure presentment
55	Invoice content	<p>Line 55 Invoice content</p> <p>What are the requirements for rounding calculated figures used in the creation of electronic VAT invoices?</p>	Yes	Yes	
61	Archiving	<p>Line 61 Archiving in another EU Member State</p> <p>Does storing archived invoices in an EU Member State other than the one in which the tax paying business belongs meet the legal requirements?</p>	Yes	Yes	Archiving
62	Archiving	<p>Line 62 Archiving in a non EU Member State</p> <p>Does storing archived invoices in a country outside the EU meet the legal requirements?</p>	Yes	Yes	Archiving
63	Archiving	<p>Line 63 Archiving format</p> <p>Is it sufficient for electronic invoice data to be stored in the machine readable format in which it was transmitted or received, or must the data be rendered</p>	Yes	Yes	Archiving

A	B	C	D	E	F
Template Line number	Area	Reworded issue	Take Fwd	TG1 website?	Cross reference to TG2/SG1 Guidelines
		into a human readable format for storage?			
72	Archiving	Line 72 Archiving medium Some EU Member States require that electronic invoices have to be retained on Write Once, Read Many (WORM) devices.	Yes	Yes	Archiving
76	Archiving	Line 76 Archiving sealing period Italian “15 days sealing” requirement for archived invoices with the aim of verifying invoices issued and received in a 15 day period - aligned to the Italian requirement for VAT to be paid within 15 days of the month end.	Yes	Yes	?
82	Cross border	Line 82 Cross border Requirements for certificates issued by Certification Authorities established outside EU?	Yes	Yes	Electronic signature
106	EDI Paper Summary	Line 106 EDI Paper Summary It should be possible to use EDI for e-Invoicing without imposing additional requirements, such as digital signature or paper summary sheet under the provision that authenticity, non-repudiation, and integrity are maintained by the transmission technique (e.g. the use of value added networks (VAN) or other reliable transfer protocols). The directive 2001/115/EC states three options; EDI, digital signature or other means, but is interpreted by several countries as EDI and digital signature or EDI and other means. As a consequence, the application of e-Invoicing is not promoted (as it was the aim of the directive) but rather made more complex, complicated, and expensive.	Yes	Yes	EDI

Annex 2 Templates

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
Line 4 Buyer Requirements / Explicit form
<p>1. Does the buyer's agreement to accept invoices in electronic format have to be given explicitly, or is it sufficient for the buyer to accept, process and pay an electronic invoice, for the buyer to be deemed to have accepted the use of electronic invoices?</p> <p>2. If an explicit agreement to accept electronic invoices is required, is it permissible for this agreement to be retained in electronic format?</p> <p>3. If a business agrees to exchange electronic invoices with one business partner using a service provider, does this indicate the business is willing to accept electronic invoices from all businesses that exchange electronic invoices by means of that service provider?</p>
Countries in which the problem is evident
All
Suggested resolution (or evidence of good practices addressing the problem)
<p>1. There should be no requirement for an explicit agreement to accept electronic invoices.</p> <p>2. Not applicable.</p> <p>3. No.</p>
Input to the PWC DG/TAXUD study.
Time period for implementing the resolution

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
<p>Line 7 Conversion of received paper invoices to an electronic format</p> <p>The conversion of original paper invoices to Tax Valid electronic invoices for storage and allowing the paper invoice to be disposed of is permitted in a few Member States, but some of them requiring special agreements or procedures that are not standard across those Member States.</p> <p>Major companies receive a large number of paper invoices from SME's and it would help them to convert them to electronic invoice form.</p>
Countries in which the problem is evident
All
Suggested resolution (or evidence of good practices addressing the problem)
<p>Recommend that the conversion of paper invoices to electronic form be permitted to replace the received paper invoices. The paper invoices may then be disposed of.</p> <p>If agreements or procedures are to be required, then a European standard agreement, accepted in all Member States would be preferred.</p>
Process of implementing the resolution
Time period for implementing the resolution
Good Practice

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
<p>Line 8 Conversion of electronic invoices to a paper invoice</p> <p>The conversion of original electronic invoice received into a paper invoice and allowing the electronic invoice to be disposed of is permitted in a few Member States, but some of them requiring special agreements or procedures that are not standard across those Member States.</p> <p>SME's who receive a few electronic invoices very often prefer, for economic and procedural reasons to convert the electronic invoices into paper so as to store all their incoming invoices, paper and electronic invoices, in paper form.</p>
Countries in which the problem is evident
All
Suggested resolution (or evidence of good practices addressing the problem)
<p>Recommend that the conversion of electronic invoices to paper form be permitted to replace the received electronic invoices. The electronic invoices may then be disposed of.</p> <p>If agreements or procedures are to be required, then a European standard agreement, accepted in all Member States would be preferred.</p>
Process of implementing the resolution
Time period for implementing the resolution
Good Practice

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
<p>Line 10 & 11 Electronic signature</p> <p>This relates to the fields in the certificates and their technical representation.</p> <p>Certification Authorities in Member States are using different profiles for electronic certificates making it difficult (impossible) to achieve automatic processing of e-Invoices, which are signed with e-certificates.</p> <p>It would be advantageous if electronic signatures created for use in "guaranteeing the authenticity and integrity" of electronic invoices were issued in a common format that was accepted in all EU Member States. This relates to the fields in the certificates and their technical representation.</p>
Countries in which the problem is evident
All
Suggested resolution (or evidence of good practices addressing the problem)
<p>As stated in the Directive 1999/93, a certificate that is acceptable in one member state for the purpose of guaranteeing authenticity and integrity of invoices should be acceptable in all member states.</p> <p>We propose that an automatically interoperable digital signing method be defined which is acceptable in all Member States.</p> <p>From their experience, the Spanish Tax Agency has arrived to the conclusion that the approach to resolve this issue is through a technical solution that is approved by all Member States. A technical working group, or other forum, should be set up to at least agree the minimum content profile of a certificate to be used in all Member States. In addition, the Spanish Tax Agency finds it helpful that the VAT Number be included in the e-certificate for taxes purposes.</p>
Process of implementing the resolution
<p>As a Good Practice in a CWA (delivered by TG3; this could be an input for them) It would be convenient to state a minimum content of an e-certificate in a CWA. If that were not possible then comment it as a necessity. If not possible either then trying to state that minimum content or the necessity of it in the future PWC report.</p>
Time period for implementing the resolution
GP

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
<p>Line 13 “Other” means for integrity and authenticity</p> <p>1 “Other” means for integrity and authenticity: The provision in the EU Directive on Invoicing (2001/115/EC) for the authenticity and integrity of an electronic invoice transmission to be guaranteed by “other means” than EDI or the use of “Advanced Electronic Signatures” is not allowed in all Member States.</p> <p>2. If an ‘Other means’ is allowed in a Member State, it does not mean that the same will be allowed in another Member State.</p>
Countries in which the problem is evident
Suggested resolution (or evidence of good practices addressing the problem)
<p>1 The principle of ‘other means’ should be accepted by all Member States.</p> <p>2 Once a specific ‘Other means’ is accepted for a company in a Member State, it should be permitted in all other Member States where the procedure is intended to be used by that company, subject to acceptance by the Member States concerned.</p>
Process of implementing the resolution
Time period for implementing the resolution
GP

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
Line 26 Outsourcing of invoice issue (First mile)
In order that the whole end to end flow of the electronic invoicing exchange can be controlled, what requirements are imposed for guaranteeing the authenticity and integrity of the data sent by the invoice transmitter to the service provider?
Countries in which the problem is evident
Suggested resolution (or evidence of good practices addressing the problem)
Where the issue of electronic invoices is outsourced to the service provider, the tax paying business remains responsible for the invoice, it is therefore important that control measures exist to ensure that the data sent by the supplier (or in the case of self billing the customer) reaches the service provider for use in issuing the invoices, but no regulations should be imposed on this “first mile” process.
Process of implementing the resolution
Time period for implementing the resolution

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
Line 29 Outsourcing of buyer function See also line 26 Outsourcing of Invoice Issue If invoice issue is outsourced, the guarantee for authenticity and integrity starts when the outsourcer issues the invoice. The outsourcer issues the invoice when he makes the data received from the party responsible for issuing the invoice available to the party to whom the invoice is addressed. (<i>This does not remove the first mile from consideration, but makes it the responsibility of the parties to the contract</i>).
Countries in which the problem is evident
Suggested resolution (or evidence of good practices addressing the problem)
Where the electronic invoices are received by a service provider, the data contained in them has to be sent from the service provider to the buyer (or in the case of self billing the supplier). It is therefore important that control measures exist to ensure that once an invoice has been received, all of the invoice data reaches its intended destination, but no regulations should be imposed on this “last mile” process as it is covered by standard audit procedures and requirements.
Process of implementing the resolution
Time period for implementing the resolution

Workgroup 2 – Issue Evaluation Template

Statement of the Problem	
Line 33 Outsourcing of archiving	
<ul style="list-style-type: none"> • Can archiving be outsourced to a third party? • Can archiving be outsourced to a third party in the EU? • Can archiving be outsourced to a third party outside the EU? Conditions? • In terms of outsourcing of the invoice exchange and where format conversion is a requirement of the end to end transmission process, is it required for all versions of the invoice e.g. received from issuer/pre conversion/post conversion/transmitted to recipient to be stored? 	
Countries in which the problem is evident	
Suggested resolution (or evidence of good practices addressing the problem)	
	<ul style="list-style-type: none"> • It should be possible to outsource the archiving of invoices to a third party • Outsourced archiving should be possible in any EU Member States • Outsourced archiving should be possible in any country with which a mutual assistance agreement exists. • It is recommended that the invoice is archived in its original format, at the sender's side, and in its original format as received at the receiver. • It should not be a requirement to store intermediate versions • <i>Where Member State laws, other than VAT law, require invoices, whether paper or electronic, to be stored in the Member State of the issuer, it is recommended that the laws be brought into line with VAT law within a reasonable time. As they stand, they can be contradictory.</i>
See also issue 61 concerning location of archiving.	
Process of implementing the resolution	
Time period for implementing the resolution	

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
<p>Line 37 e-Invoicing Self Billing and Line 38 Hybrid forms</p> <p>A) Self Billing e-Invoicing is being used more frequently by industry and trade, but the definition, regulations and procedures imposed by Member States are not very clear to companies when they are looked at from a European perspective.</p> <p>Clarification on Self Billing e-Invoicing is being requested:</p> <ul style="list-style-type: none"> • How is self Billing defined across different countries? • How does the nature of the transaction and the countries involved affect that definition? <p>B) Hybrid forms Self Billing & 'normal', in the context of self billing, are where not all the supplies of a supplier to one and the same customer are invoiced by means of 'Self Billing' procedures. An identifiable part of the supplies made (possibly services or miscellaneous and non production material) are invoiced by the supplier and not self billed by the customer.</p> <ul style="list-style-type: none"> • It is not clear if parties may use Hybrid forms, self-billing for some and direct invoicing for other invoices between the same trading partners
Countries in which the problem is evident
All
Suggested resolution (or evidence of good practices addressing the problem)
<p>A) Self Billing</p> <p>It is recommended that a European procedure for Self Billing e-Invoicing, agreed by all Member States, be developed as soon as possible taking established industry Self Billing procedures into consideration.</p> <ul style="list-style-type: none"> • The procedures should not have dissimilar or contradictory requirements across Member States. • The procedures should be usable with non EU Member States. <p>B) Hybrid forms should be permitted supported by clear procedures approved across EU Member States and permitted with non EU Member States.</p>
Process of implementing the resolution
Time period for implementing the resolution

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
Lines 38 Self billing agreements <ul style="list-style-type: none"> • Is an explicit form of self billing agreement required? • Is it acceptable for a self billing agreement to be retained in an electronic form? • Does a self billing agreement have to include certain mandatory content for it to be acceptable to the tax administration?
Countries in which the problem is evident
All
Suggested resolution (or evidence of good practices addressing the problem)
Recommendation: <ul style="list-style-type: none"> • An explicit agreement should not be a requirement. • It is recommended that self billing agreements may be kept in electronic form. • If an explicit agreement for self billing is required, a form of words approved across all EU Member States should be available. The UK has a suggested form, even though it is not compulsory, it is proposed as a standard content with the EU Member States where required. See UK form below.
Process of implementing the resolution
Time period for implementing the resolution

Example of UK Self-Billing agreement

What follows is an example of an acceptable self-billing agreement. You may use it if you wish to, but you do not have to word your agreement in exactly this way as long as the agreement you do use contains all the relevant information, as explained in section

Self-Billing Agreement

This is an agreement to a self-billing procedure between

Customer name VAT number
 and
 Supplier name VAT number

The self-biller (the customer) agrees:

1. To issue self-billed invoices for all supplies made to them by the self-billee (the supplier) until ____/____/____ (insert **either an end date for the agreement or the date your contract ends**).
2. To complete self-billed invoices showing the supplier's name, address and VAT registration number, together with all the other details which constitute a full VAT invoice.
3. To make a new self-billing agreement in the event that their VAT registration number changes.
4. To inform the supplier if the issue of self-billed invoices will be outsourced to a third party.

The self-billee agrees:

1. To accept invoices raised by the self-biller on their behalf until ____/____/____ (insert **either an end date for the agreement or the date your contract ends**).
2. Not to raise sales invoices for the transactions covered by this agreement.
3. To notify the customer immediately if they
 - change their VAT registration number;
 - cease to be VAT registered; or
 - sell their business, or part of their business.

Signed by

On behalf of

Date

Signed by

On behalf of

Date

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
<p>Line 49 Invoice process requirements</p> <p>Are there specific rules with which an issuer must comply to cancel an electronic invoice before making it available to the customer?</p>
Countries in which the problem is evident
All
Suggested resolution (or evidence of good practices addressing the problem)
Submit to CEN/e-Invoicing Workshop TG2/SG1 CEN/Fiscalis
Process of implementing the resolution
Time period for implementing the resolution

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
<p>Line 50 Invoice process requirements</p> <p>Web Publication; in this context, a method of exchanging invoices with the buyer by placing the <i>original electronic invoice</i> on an agreed web site, but where the original electronic invoice never leaves the secure closed environment operated by the <u>Supplier</u>.</p> <p>1. What rules are set down for monitoring the download of such a pull system (i.e portal) electronic invoices?</p> <p>2. Is a portal invoice acceptable in all EU Member States?</p> <p>3. Must a separate notification be sent to the invoiced party as well as the invoice being placed on the portal?</p>
Countries in which the problem is evident
Suggested resolution (or evidence of good practices addressing the problem)
<p>1. No rules should be set down for monitoring the download to a pull system.</p> <p>2. The use of 'Portal systems' for presenting eInvoices should be accepted in all EU Member States.</p> <p>3. It would be a good practice to send a separate notification to the party picking up the invoice at the portal, but it should not be a legal requirement.</p>
Process of implementing the resolution
Time period for implementing the resolution

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
Line 55 Invoice content What are the requirements for rounding calculated figures used in the creation of electronic VAT invoices?
Countries in which the problem is evident
Italy and possibly other Member States.
Suggested resolution (or evidence of good practices addressing the problem)
Allow to use up to 4 decimal digits for all amount values or remove all restrictions.
Process of implementing the resolution
Time period for implementing the resolution

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
<p>Line 61 Archiving in another EU Member State</p> <ul style="list-style-type: none"> Does storing archived invoices in an EU Member State other than the one in which the tax paying business belongs meet the legal requirements? Does storing archived invoices in a country outside the EU meet the legal requirements? <p>See also Line 33 Outsourcing of archiving.</p>
Countries in which the problem is evident
Suggested resolution (or evidence of good practices addressing the problem)
<ul style="list-style-type: none"> There should be no requirements that invoices have to be stored in the Member State where the tax paying business belongs. Storing archived invoices should be possible in any EU Member State or any country with which a mutual assistance agreement exists. In the case of storage outside the EU Member States, notification may be required by some Member States. <i>Where Member State laws, other than VAT law, require invoices, whether paper or electronic, to be stored in the Member State of the issuer, it is recommended that the laws be brought into line with VAT law within a reasonable time. As they stand, they can be contradictory.</i>
Process of implementing the resolution
Time period for implementing the resolution

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
<p>Line 63 Archiving</p> <p>Is it sufficient for electronic invoice data to be stored in the machine readable format in which it was transmitted or received, or must the data be rendered into a human readable format for storage?</p>
Countries in which the problem is evident
All
Suggested resolution (or evidence of good practices addressing the problem)
<p>Only the machine readable format in which it was issued or received is required to be stored, together with any method upon which the guarantee of authenticity and integrity relied.</p> <p>It is suggested that the EU Directive should explicitly specify that stored invoice data have to be made available on request in a human readable form. It is the owner of the data that is responsible to provide a method to produce the human readable format.</p> <p>We highly recommend that a single standard form of an invoice is agreed by all VAT authorities.</p>
Process of implementing the resolution
Time period for implementing the resolution

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
<p>Line 72 Archiving</p> <p>Some EU Member States require that electronic invoices have to be retained on Write Once, Read Many (WORM) devices.</p>
Countries in which the problem is evident
All
Suggested resolution (or evidence of good practices addressing the problem)
Any secure storage application should be acceptable for storage of electronic invoices provided that the integrity and authenticity is guaranteed throughout the archiving period.
Process of implementing the resolution
Time period for implementing the resolution

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
<p>Line 76 Archiving sealing period</p> <p>Italian “15 days sealing” requirement for archived invoices with the aim of verifying invoices issued and received in a 15 day period - aligned to the Italian requirement for VAT to be paid within 15 days of the month end.</p>
Countries in which the problem is evident
Italy
Suggested resolution (or evidence of good practices addressing the problem)
<p>It is recommended that such requirements be removed as they slow down or hinder the adoption of e-Invoicing.</p> <p>If a ‘Sealing Period’ is required, it should be limited to only one single approach agreed at EU level.</p>
Process of implementing the resolution
Add clear guidance to the invoice directive on what the maximum requirement for archiving process is.
Time period for implementing the resolution

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
Line 82 Cross border Requirements for certificates issued by Certification Authorities established outside EU? ..
Countries in which the problem is evident
All
Suggested resolution (or evidence of good practices addressing the problem)
Widespread adoption of TSL (Trust-Service Status List) would solve this issue.
Process of implementing the resolution
Time period for implementing the resolution

Workgroup 2 – Issue Evaluation Template

Statement of the Problem
<p>Line 106 EDI Paper Summary Specific</p> <p>It should be possible to use EDI for e-Invoicing without imposing additional requirements, such as digital signature or paper summary sheet under the provision that authenticity, non-repudiation, and integrity are maintained by the transmission technique (e.g. the use of value added networks (VAN) or other reliable transfer protocols).</p> <p>The directive 2001/115/EC states three options; EDI, digital signature or other means, but is interpreted by several countries as EDI and digital signature or EDI and other means. As a consequence, the application of e-Invoicing is not promoted (as it was the aim of the directive) but rather made more complex, complicated, and expensive.</p>
Countries
Germany
Suggested resolution (or evidence of good practices addressing the problem)
<p>It is recommended to remove the requirement for the 'Summary Document' or the requirement of electronic signature because EDI through a secure method of transmission meet the requirements of Authenticity, Integrity and non repudiation.</p>
Process of implementing the resolution
Time period for implementing the resolution

Annex 3 ODETTE Self Billing Europe (2000)

The ODETTE Self Billing Europe, brought out in 2000, explains how Self Billing may be implemented in Europe. The report outlines in detail the different approaches taken by some Member States to permit Self Billing in their country, thus hindering a Europe wide solution to be developed.

Annex 3 is available at:

ftp://ftp.cen.eu/PUBLIC/CWAs/eInv2/Annex3_Odette_SelfBilling_in_Europe.pdf