EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Customs Policy, Legislation, Tariff
Customs Legislation

Brussels, 20.20.2015

TAXUD/A2(SA)(ks)(2015)653791

CUSTOMS CODE EXPERT GROUP (CCEG) JOINTLY HELD WITH THE TCG ON 13 - 15 JANUARY 2015

Subject: **Draft summary of conclusions of the 27th meeting of the Customs Code Expert Group jointly held with the TCG on 13 - 15 January 2015**

1ST DAY – 13 JANUARY 2015

COM made a short introduction and ensured that in case the result of discussions so requires, the preliminary draft provisions will be amended.

Relationship between a modified Transit Convention and the UCC – Article 1(1) UCC

CER assumed that the Transit Convention overrules the UCC (according to Art. 1 par. 1 UCC) and therefore modifications of the UCC for transit procedures (e.g. concerning guarantees in case of transit through Switzerland) do not need to be discussed within the framework of the UCC, but in the context of the Transit Convention. Otherwise the CER proposes to discuss that issue in the joint meeting.

COM informed that the Convention will be amended and will be aligned to the UCC.

Customs representative / AEO conditions: authorisation enabling a customs representative to offer services in a Member State other than the Member State in which it is established – Article 21 UCC

CLECAT explained that their problem is that where a customs representative wishes to offer services in a Member A, other than the Member State B in which it is established, on what basis will Member State A be able to assure itself that the customs representative concerned complies with the AEO conditions in relation to the activity carried out?

COM replied with reference to Article 18(3) of the UCC and confirmed that no proof is needed.

MS expressed its concerns as well regarding the situation when the EO is not an AEO, but the conditions should be fulfilled and this fact should be proven.

COM answered that in case one MS has doubts, a consultation procedure can be arranged. Practical issues may be included in guidelines.

AEO conditions – Practical standards of competence or professional qualifications

Concerning Article IA-I-2-27 CONFIAD proposed that the "three years of experience" criteria shall in any case be ascertained, so it shall become an additional criteria to the

"practical standards of competence or professional qualifications". The reason they proposed this is that a person can work, for example, in a company that deals only with export for 3 years and he is considered "experienced" in customs legislation. In reality, this person is "competent" only for a really small part of the EU customs legislation. This seems for them in contrast with the other criteria provided in Article IA-I-2-27 which are more restrictive. Customs representatives should be experts in all matters foreseen in the EU customs legislation and an evaluation shall be foreseen to assess that the customs representatives is "competent".

COM answered that Article 39(1)(d) UCC provides that in case of new activities, the economic operator shall inform the customs authorities accordingly.

Comprehensive guarantee for temporary storage

CLECAT explained that the value is not known by the temporary operator. Due to the lack of more precise and practicable rules temporary storage operators may be faced with huge costs and unnecessary administrative burden.

COM explained that the rules were tested with the transit procedure, where the 7000 EUR was per individual movement in transit and for temporary storage it should be per declaration. The only difference is that the monitoring of the guarantee amount will be done with audit in case of temporary storage and not on a transactional basis as is the case for transit.

COM confirmed that the determination of the guarantee amount for the first time can be made based on estimation.

Further to the question raised COM also explained that the 7000 EUR should be in principle understood per declaration. A declaration could cover more than one container in which case experience of customs and their discretion would lead to a reasonable result.

Additional details for Article IA-III-2-07(4) may be incorporated in guidelines and following a MS comments the paragraph will be moved to the beginning of the Article.

Reference amount management as part of a simplified rail transit procedure

CER as well as some other member states takes the position that (different from today) there is no obligation and even no ground in the UCC to demand a reference amount management in case of a guarantee waiver by an authorisation. Within a simplified transit procedure a reference amount management is a difficult and expensive to manage while the risk for customs is very limited as the economic operator has to fulfil AEO C criteria. And furthermore that risk can further be minimized by regular information obligations by the railway undertaking and controls by the customs.

COM concluded that the guarantee waiver is based on solvency and it is granted I the context of the comprehensive guarantee. On the other hand the comprehensive guarantee shall be monitored.

Proof of Union Status (PoUS) - Customs Goods Manifest

COM confirmed that L3 BPM is already available for Proof of Union Status, as part of the new scope the Customs Goods Manifest is added and the process is the same as it was for T2L and T2LF.

It was also confirmed that the EO should be connected to the external domain of the PoUS system.

Regarding the Business case document it was said that the document is available for comments since 1/12/2014. MS suggested that the document need additional analysis.

COM confirmed that there will be a 2nd version of the Business Case document and it will highlight the need for harmonisation, a single system for proof of union status.

COM concluded that based on the views and opinion raised at the meeting it will be not necessary in case of Cargo Goods Manifest to register by using the systems in case the document is issued by authorised issuer. The BPM and the Business Case together with the draft legal provisions should be amended accordingly. PT will send proposals by 23/01/2015.

Proof of Union Status for goods moving in free circulation between airports with the EU: requirement for a Single Transport Document

The EEA considers that Title V – Chapter 1 DA-V-1-O1 forms the basis for customs to make the free movement of goods within the EU conditional. At the most recent meeting between the DG TAXUD and Trade, DG TAXUD agreed to submit this to their legal services.

Previous EEA Comments were - Article 155(2) UCC clearly relates only to goods not subject to a procedure, i.e. it does not include non -Union goods subject to transit, but must apply to all goods in free circulation, irrespective of any single transport document.

This provision, as it stands, fails properly to address the free movement of Union goods between Member States, given that direct air movements must not be treated as passing through territory outside of the Union, as is recognized in IA-VII-2-25 (2).

In particular it does not properly address the direct movement of Union goods between Union airports, including goods carried under a single transport contract issued outside of the Union which are released to free circulation at the Union airport of transhipment and carried forward under that contract.

EEA suggest the following amendment:

1. Goods brought into the customs territory of the Union shall be deemed to be Union goods unless it is established that they do not have customs status of Union goods:

(a) where, if carried by air,

(i) the goods have been loaded or transhipped at an airport in the customs territory of the Union, for consignment to another airport in the customs territory of the Union, without a stop outside of the customs territory of the Union;

(ii) where, if carried by air, the goods have been loaded or transhipped at an airport in the customs territory of the Union, for consignment to another airport in the customs territory of the Union, and remain on board an aircraft during a stop outside of the customs territory of the Union, provided that they are carried under cover of a single transport document issued in a Member State,

(b) where, if carried by sea, the goods have been shipped between ports in the customs territory of the Union by a regular shipping service authorised in accordance with Article DA-V-1-02 (512-01-DA).

COM answered that the proposal is not a new concept; it equals to the current situation as it stays in Article 313(3) CCIP. The text will be further reviewed with the Legal Service.

Data-element 'identification of the means of transport' - Annex B and Box 18 of a transit declaration

CLECAT: The vehicle registration number is often not known at the time of the declaration particularly in 'groupage' (consolidation) or unaccompanied ro-ro operations or other situations where the vehicle is swapped with the trailer. It does not fit well either with modern hub and spoke distribution networks, where goods are taken to one location and then distributed from there.

EEA: A number of European Associations have questioned the need to enter the registration number of a vehicle in Box 18 of the transit declaration, given that modern sortation procedures are completed in extremely short time spans, using multiple vehicles for the same destination, it is difficult to allocate a vehicle ahead of completion of the loading and the departure of the vehicle. In these circumstanced it would be better to show the shipment number in this box as an identifier, or, where multiple shipments are loaded to the vehicle, the AEO number, as they will normally be an authorised consignor.

COM confirmed that in case of express couriers the data element is not needed when the relevant info is available in the EO's system.

It was said that the identification number at the departure shall be indicated

COM confirmed that instead of the licence plate the container number can be used.

COM confirmed that for the cases where the identification of the means of transport is only available later, a possible solution will be considered.

Simplified rail transit procedure – Art. 233(4)e UCC, NCTS – application in case of rail transport and Transitional period for the existing rail transit procedure

Concerning the proposal for a simplified rail transit procedure for rail transport according to UCC 233(4)e CER explained that DG TAXUD has expanded that for rail transport, different from maritime and air cargo transport, a European wide database is demanded to follow the rail consignments concerned from the moment of declaration until the moment of release after arrival. As customs needed – if required - only access to a database of the consignments, related to Art 233 UCC, more or less as an alternative solution for the overall control via the freight accountancy according to UIC leaflet 304, the CER will draft a proposal of the elements of such a database: A new database or as a part of existing systems containing the consignment note data. Some details for the application: full access for customs of the EU countries; Norway, Switzerland and Turkey for transports where these countries are involved. Preferably is one customs office per country. Access for RU, but only for the consignments uploaded by the railway undertaking (to respect the confidentiality). Special access for RU of arrival, to finalize and discharge the transit procedure.

COM confirmed that until the time when NCTS is to be applied, there will be transitional measures and the paper based procedure may be continued. COM explained that the

amended NCTS system will be benefit for rail and in case the railway system will not be ready before, the adopted NCTS system will be easily applicable.

Discussion with rail may be continued but the result will not be included in the provisions of the 1st published UCC DA/IA.

Regarding NCTS – application in case of rail transport CER explained that some modifications of NCTS are proposed by DG TAXUD for a better fit with the daily production of rail transport. The former "NCTS rail" working group had not drafted final conclusions (due to the focus on UCC 233-4-e). Therefore CER sees a need for further checks (in practice in the different member states) to find out whether further modifications are necessary to make NCTS a workable solution for rail (e.g. a dedicated application of authorized consignee).

About Transitional period CER highlighted that a succeeding procedure for the existing simplified rail transit procedure will not be ready in May 2016. There is a need for a transitional period until another simplified rail transit procedure and a modified and suitable NCTS application for rail will be installed. This has to be clarified as soon as possible.

COM answered that a transitional period will be foreseen for rail transit until modified NCTS is applicable (2018). Until then the current paper procedure is used, but guarantee waiver by law is not applicable any more in UCC, so guarantee is required to be lodged as of 1 May 2016 by rail.

Level 2 simplification (IATA+AEA) and Simplified transit for movement by air and see (ex 445) including data set (EEA)

Maintaining the simplified transit procedure for movements by air and sea is a priority issue for the EEA. AEA-ECSA-EEA– IATA-WSC have submitted a joint proposal on this issue, and further discussion is needed to ensure that the procedure is in place and can be properly utilised.

COM explained that new Article DA-VII-2-14 to 15 and IA-VII-2-58 to 61 were drafted as a result of the work of the Project Group on Simplified transit declaration by means of using an Electronic Transport Document and discussed with MS in December 2014. The text is completed.

IATA and EEA confirmed that after having seen the 3rd CLSD version they withdraw the question.

Further to MS request COM confirmed to remove the part “in the system of the applicant” in Article DA-VII-2-15.

2ND DAY – 14 JANUARY 2015

Entry summary declaration / Supply Chain Security and EU Risk Assessment Provisions – Title IV chapter 1, DAs & data Annex (WSC+ECSA)

COM informed the meeting that the Concept Paper was amended and distributed to the meeting.

WSC explained its concerns that carrier can only file the parties he knows and the legal text requires that in box no 22 the carrier has to declare the party who can declare the

buyer and seller. WSC underlined that the requirement is not acceptable for them because the carrier is not always in the possession of this information.

COM highlighted the provision in Articles 127(4) and 124(6) of the UCC. It was concluded that the description of the data element 3/22 should be improved and that this box should be filled in if the 2nd set of data is necessary.

COM confirmed that the buyer/seller related information are required in case of maritime, road and rail transport, for air transport it is not a requirement.

Regarding Article IA-IV-1-04(5) and the question raised whether the do not load message can be sent after the deadline of 24 hours, COM confirmed that this message can only be sent within the 24 hours.

WSC committed to send their proposal for redrafting of Article IA-IV-1-04(5)

After extensive discussion the conclusion was made the COM will note the concerns, but there is very limited room for changing the draft provisions.

Issue of partial filling for rail

CLECAT explained the issue that their constraints and market realities which led to the development of a 'partial filing' approach in air and ocean equally apply to rail. No partial filing is foreseen for rail.

COM noted the comment and CER and CLECAT committed to make a proposal and send it to COM.

Waiver from the obligation to lodge an entry summary declaration

CLECAT explained that in Article DA-IV-1-01 as a result of the proposed deletion of subparagraph (n) goods on vessels or aircraft which are carried between ports and airports in the customs territory of the EU without calling at any port outside that territory will no longer be exempted from the obligation to lodge an ENS. CLECAT is not entirely convinced that article 136 UCC makes this superfluous.

COM referred to the provisions of Articles 136 and 155 UCC and confirmed that those articles are covering the removed point "n".

Further to a question raised it was confirmed by COM that the transport contract referred to in this article is the contract between the post and the carrier.

MS raised the question how the limited scope in Article DA-IV-1-01(e) and (f) covers the pallets, containers and means of transport, what was the approach in the previous CLSD version.

COM confirmed the review the issue.

Other persons required to submit particulars of the entry summary declaration

Concerning Article DA-IV-1-08b(3) CLECAT and IATA committed to send back proposal for a new wording.

Data requirements for ENS (CER)

After having the detailed discussion on ENS, CER who raised the question does not request further discussion.

Empty wagons and ENS – specific rail topic (CER)

CER confirmed that the issue is more relevant for EXS, discussions are foreseen on 15/01/2015. However it was emphasised by several MS and trade representatives that the ENS/EXS for empty containers is huge workload for the EO side.

COM underlined that the proposed draft provisions are presenting the current situation.

Further to comments raised, COM committed to reintegrate the removed part of Article DA-IV-2-04.

ENS data: method of payment for transportation charges and 6 digit code (EEA)

EEA explained the issue as follows:

Requirement for a 6-digit code at first point of entry in the EU leads to increased cost for legitimate trade without a positive impact on risk assessment. EU customs legislation implemented in 2010 requires carriers to submit advance data for a security and safety risk assessment. This data must be submitted prior to the arrival at the first point of entry in the EU. So far a description of the goods is allowed but the Commission proposes to require a 6-digit numerical code which is a numerical code describing the type of goods in a shipment. Again, the Commission has proposed this change without clarification or evidenced justification. It does not add value for a security and safety risk assessment at the first point of entry into the EU. Factors such as sender, addressee, country of origin and destination have proven to be more effective factors for both security and safety risk assessment and these factors have already been agreed by the Commission from a security perspective as being suitable for detecting shipments that are considered to pose a direct terrorist threat to the safety of an aircraft.

Requiring a 6-digit code would therefore not improve security or lead to increased safety, but would lead to an additional cost of at least EUR 250 million per year to express carriers to which the impact on other economic operators still needs to be added. This proposal, therefore, requires an impact assessment very detailed, emphasizing the additional cost resulting from this change.

The conclusion was made that the disagreement remains, COM does not intend changes concerning this issue.

Bo changes will be introduced regarding the transportation cost as well.

Customs value of goods

Amcham identified as outstanding customs valuation issues: the current possibility to use an earlier sale under certain conditions must be maintained, and royalties and licence fees should only be included in the customs value if they are a true condition of sale.

COM explained that the initial objective of Article IA-II-3-02(2) was to prevent the use of domestic sales as the basis of transaction value. This provision is covering the suspensive procedures and it concerns non Union goods. Those goods were not sold before they were brought to the customs territory of the Union and the purpose is not to go to secondary methods in those cases and to presser the application of the transaction value.

Concerning Article IA-II-3-02a the provision gives the possibility to apply another value than determined in Article IA-II-3-02.

COM underlined that in case company A is selling the goods to company B and both companies are established in the EU than this sale cannot be taken into account as a sale for export. This is a domestic sale.

COM committed to review once again the provisions of Article IA-II-3-02(2) and make them clearer.

Concerning the problems raised on royalties and license fees COM confirmed that the preliminary draft provisions are in line with the international agreements.

The recommendation of the PG analysing the implementation feasibility of Obj 1&2 of the RM strategy

COM informed about the result about the shared interface. It was said that a new PG is under establishment. This PG will be responsible to prepare the BC and the Vision document and this group should assess the issue on a more detailed level. TCG will be consulted during the work.

3RD DAY – 15 JANUARY 2015

Temporary Admission of containers (World Shipping Council)

COM explained that the default declaration for placing containers for temporary admission is the customs declaration made by any other act. The customs cannot ask for oral declaration or standard customs declaration. However on voluntary basis it is possible to declare the container on the standard way or orally. Most probably it will be not the general practice.

Operation of storage facilities (CLECAT)

CLECAT explained that referring to Article DA-VII-3-03 the authorisation for the operation of storage facilities for customs warehousing of goods providing that these facilities shall be exclusively operated by the holder of the authorisation.

COM explained that the current customs warehouse type “E” can be operated as today under the UCC as well. A reference was made to Article 211 UCC.
Concerning the question on movement between storage facilities COM clarified that based on the provision already included in the UCC no authorisation is necessary for the movement of goods between the storage facilities. Keeping proper records is the prerequisite for the activity.

Further to a question raised by a MS COM confirmed that based on the provisions of DA-VII-1-17(1)(c)(iii) it is possible to move goods between storage facilities covered by 2 authorisations. Article 215 UCC provides the rules for discharge of the procedure.

It was agreed to change in Article IA-VII-1-11(b) from “competent customs office” to “competent customs authority”.

Article DA-IA-2-04 was amended as follows, however the conclusion was made that this text should be further checked.

Article DA-IV-2-04

Approval of a place for the presentation of goods to customs and temporary storage

UCC implemented provision	UCC empowering provision	Current IP provision	Annex	Adoption procedure
Articles 139(1) & 147(1)	Articles 142 & 151			DA

1. The customs authorities may approve goods to be presented and stored in temporary storage in places other than temporary storage facilities where the following conditions are fulfilled:

(a) the requirements laid down in Article 148(2) and (3) of the Code;

(b) such places allow for the handling of goods pursuant to Article 147(2) of the Code;

(c) such places allow for the preservation of the nature and quantity of the goods;

(d) the goods are placed under a customs procedure in the following day after their presentation.

2. The approval referred to in paragraph 1 shall not be required where the place is already authorised for the purpose of the operation of the temporary storage facilities or for the placing of goods under a customs procedure.

Title V - Conditions for authorisation for the simplified declaration procedure – ensuring compliance with prohibitions and restrictions (CLECAT)

CLECAT introduce the issues concerning Article DA-V-2-13. Paragraph 1 (f) reads: where applicable, he or she has procedures are in place for the handling of import and/or export licences connected to prohibitions and restrictions, including measures to distinguish these goods from other goods and to ensure compliance with these prohibitions and restrictions. Customs representatives act on the basis of information received from their customers; they are not in a position to verify the exact nature of the goods. They play a part in ensuring compliance with prohibitions and restrictions, but they cannot, on their own, ensure compliance.

The conclusion was made that no change to the legal provisions is to be made.

Maintenance of the STC facilitation under self-assessment and its practical implementation/ Supervision and confirmation of exit of the goods under self-assessment: (CLECAT, IATA+AEA, WSC+ECSA, EEA, CER)

Associations who raised the issue have removed their comments after having seen the 3rd CLSD version of UCC DA/IA.

TITLE VIII - Formalities prior to the exit of the goods o Exit summary declaration

Supply Chain Security and EU Risk Assessment Provisions (WSC and ECSA)

The conclusion was made that the legal provision should be fine-tuned in a way that it will be clear that for intra EU traffic no EXS is required.

For Article IA-VIII-04-02 it was decided to add “the person decided not to take out the goods…”

For Article DA-VIII-1-02(2) MS committed to send a proposal

EXS data requirements (CLECAT, CER)

CLECAT concluded that the explanation given earlier by COM is sufficient for them.

Empty wagons and EXS – specific rail topic (CER)

COM noted the request of CER that for EXS for empty wagons the current rules should be kept.

Concerning the question how the bulk goods in excess should be handled, Com referred to Article IA-VIII-2-03(b) as general rule, but agreed to receive proposal sent by trade.

List of the represented delegations coming from the Member States in the meeting: AT, BE, BG, CZ, HR, CY, DK, EE, FI, FR, DE, IE, IT, LV, LT, LU, HU, MT, NL, PL, PT, SI, SK, ES, SE and UK

Austria: Ministry of Finances
Belgium: Ministry of Finances
Bulgaria: National Customs Agency
Czech Republic: National Customs Agency (GDC)
Croatia: Customs Agency
Cyprus: Customs and Excise Department of the Ministry of Finances
Denmark: Danish Customs and Tax Administration
Estonia: Tax and Customs Board
Finland: Finnish Customs
France: Customs Administration (DGDDI) from the Ministry of Finances
Germany: Ministry of Finances
Ireland: Revenue
Italy: Agenzia della Dogane
Latvia: National Customs Board
Lithuania: Customs Department
Luxemburg: Customs
Hungary: Ministry for national economy and Customs Department
Malta: Ministry of Finance
Netherlands: Customs department and Ministry of Finance
Poland: Ministry of Finance
Portugal: Autoridade Tributaria e Aduanera
Slovakia: Ministry of Finance, Financial Directorate
Slovenia: Financial Administration
Spain: Spanish Customs Agency
Sweden: Swedish Customs
United Kingdom: HMRC – UK Customs

Trade Contact Group organisations who attended the meeting:
AEA, ACEA, AMCHAM EU, Business Europe, CECCM, CEFIC, CER, CLECAT, CLEPA, CONFIAD-PANEUROPEAN NETWORK, DIGITAL EUROPE, ECSA, EEA, ESC, EUROCOMMERCE, EUROPRO, EurTradeNet, FEPORT, FESI, IATA, IPCSA, OCEAN, POSTEUROPE, WSC

List of members of the Commission who attended the meeting:

Unit/Service	Name
A2	AIGNER Susanne
A3	JANSSENS Frank
B2	CABRAL Maria Manuela
A2	ANABOLI Panayota
A2	PINHEIRO Jesus Jorge
A2	RATHJE Michael
A2	REIMANN Matthias
A2	SALAZAR SANTAFE Didac
A2	SKRAM Katalin
A2	DUBIELAK Anna
A2	BAJZAT Anita
A2	FARNARARO Antonella
A3	DELCOURT J.-L.
A3	JARLENE Danute
A3	CLAUDIO Madalena

A3	NICOLOVA Elena
A3	WESP Stefan
A3	EMPL Erich
A3	NAGY Agnes
A3	GABOR Juhasz
A1	LIBIOULLE Lieve
B2	STAUFFER Suzane
B2	KOSTADINOVA Tonka
B2	KASPEREIT Dieter
B2	ROHLOFF Annegret
B3	TAVENEAU Patrick
B4	GRAVE J.-M.
B4	MALONE John
B4	NIVOLO Marco