

EU Customs Practice Group

December 2014

EU CUSTOMS POLICY

UCC Developments

In late December 2014, the European Commission circulated a new consolidated version of the draft Implementing and Delegated Acts for the Union Customs Code (UCC) to the EU Member States and the Trade Contact Group (TCG). Joint meetings with the participation of the Commission, Member States and the TCG are taking place from 13-15 January 2015 to discuss numerous outstanding important issues raised by the stakeholders. On 19 January 2015, the European Parliament (EP) will hold a meeting with stakeholders to assess if the Commission is not exceeding its implementing powers, discussing topics raised by businesses, which include non-preferential origin rules, customs valuation, self-assessment, Binding Tariff Information and Binding Origin Information, and requirements related to entry summary declarations.

EU customs risk management

On 4 December 2014, the EU Council adopted conclusions endorsing the Commission's August 2014 Communication on the EU Strategy and Action Plan for customs risk management; tackling risks, strengthening supply chain security and facilitating trade. The Council has called on the Member States and Commission to adopt a realistic and detailed roadmap to implement this Strategy and the Action Plan.

Electronic customs

On 17 December 2014, the EU Council adopted conclusions endorsing the Venice Declaration of 15 October 2014 on electronic customs and single window implementation in the EU, calling on the EU Member States and the European Commission to implement it. The conclusions also announce that by 2015 on an action plan and a roadmap should be agreed to implement a single window environment for customs and invited the Commission to present a proposal for revision of the e-Customs decision.

TARIFFS

Duty suspensions and tariff quotas

a) January 2015 Round

On 18 December 2014, the EU published the Regulations updating the lists of Tariff Quotas (TQs) and Duty Suspensions (DS) as of 1 January 2015.

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This newsletter briefly describes EU customs developments. Due to the general nature of its content, this newsletter is not and should not be regarded as legal advice.

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b) July 2015 Round

The second meeting of the Economic Tariff Questions Group (ETQG) on applications for DS and TQ for entry into force on 1 July 2015 took place during the week of 15 December 2014. The final ETQG meeting is scheduled for January 2015. The Commission's formal proposal to the Council, normally only reflecting consensus proposals resulting from the ETQG meetings, should then be ready sometime in May 2015, for adoption in June 2015.

c) January 2016 Round

Applications for the January 2016 Round must normally be filed with the relevant Member State in January 2015 (the precise deadline depends on the Member State), and eligible applications will be sent by these Member States to the European Commission by 15 March 2015. The first ETQG meeting for this Round will then follow in May 2015.

GSP+ status for the Philippines

In the absence of objections by the Council or EP, the EU has published a delegated regulation granting GSP+ status to the Philippines. This means products originating in this country can since 25 December 2014 enjoy the special tariff preferences under the EU's Generalised Scheme of Preferences (GSP) available to beneficiary countries that ratify and implement international conventions relating to human and labour rights, environment and good governance.

Kenya reinstated under Market Access Regulation

On 24 December 2014, the Commission published a delegated regulation reintroducing Kenya in the EU's Market Access Regulation (from which it was barred on 1 October 2014), in view of the fact that Kenya and the EU in October 2014 were finally able to conclude their negotiations on an Economic Partnership Agreement. The Market Access Regulation is an autonomous preference tool that grants duty-free and quota-free treatment to a range of countries.

FTA Update

a) EP INTA discussion with Trade Commissioner

In early December 2014, the International Trade (INTA) Committee of the EP exchanged views with new EU Trade Commissioner Malmström to discuss the key priorities for the next five years. Malmström reiterated her commitment to further openness on Transatlantic Trade and Investment Partnership (TTIP) negotiations (noting that certain services, such as public utilities and audio-visual services, would remain outside the scope of negotiations), and said her trade priorities also included FTA negotiations with Japan and Vietnam, and the WTO Doha Round. She further stated that the EU's preferential trade agreement with Canada could enter into force in 2017 and that the Commission would decide

soon on the next steps to be taken on the EU-Singapore FTA.

b) Japan

The 8th round of negotiations between the EU and Japan was held in Tokyo on 8-12 December 2014. Also in December, the EU transmitted a second list of non-tariff barriers to Japan, reflecting concerns raised by EU Member States and EU businesses. The 9th round is scheduled to be held in Brussels from 23-27 February 2015. Japan hopes to conclude the talks by the end of 2015.

c) US

In December 2014, Commissioner Malmström met with the US Trade Representative Michael Froman for her first discussion with him on the TTIP. She also announced that the results of the Commission's public consultation on including an investor-state dispute settlement (ISDS) clause in the TTIP Agreement will be published in January 2015. Malmström will at that stage not yet determine whether ISDS will be included in TTIP. The 8th round of TTIP negotiations is scheduled to take place on 2-6 February 2015.

d) Canada

On 18 December 2014, a summary of the final negotiating results of the EU-Canada Comprehensive Economic and Trade Agreement (CETA) concluded in early August 2014 were published. Both sides are now conducting the legal review of the original (English) version of this text.

e) Ecuador

On 12 December 2014, following conclusion of negotiations in mid-July 2014, the EU and Ecuador initialled the text allowing Ecuador to join the existing EU FTA concluded with the Andean Community (i.e. Colombia and Peru). The text of the agreement now needs to be ratified by both sides before it can enter (provisionally) into force. In the meantime, in late December 2014, the EU adopted and published a Regulation providing an interim reciprocal arrangement for granting duty preferences to Ecuador, pending the start of application of the FTA (which already applies with respect to Colombia and Peru). As a consequence, from 1 January 2015, EU customs duties applicable in 2014 on products originating in Ecuador will not be increased, even though the country from that date is removed from the list of EU GSP+ countries.

f) Georgia

On 18 December 2014, the EP formally consented to the EU-Georgia Association Agreement that includes the creation of a Deep and Comprehensive FTA, which has been provisionally applied since September 2014.

g) Colombia/Peru

In early December 2014, the Commission issued its first annual report on the implementation of the EU-Colombia/Peru Trade Agreement (which applies since 2013). Although the report states that it is too early to make a conclusive assessment of the results of the FTA (after one year of implementation) on trade and investment flows, it considers that the overall level of bilateral trade decreased in relation to Peru (while there have been some notable increases in non-traditional trade). This reduction is said to be due to a decrease in global commodities prices in 2013. The available data for Colombia shows that trade flows have not changed much. The report also notes that there is underuse of available tariff rate quotas.

CLASSIFICATION

Nomenclature Committee Developments

a) Mechanical/Miscellaneous/Textiles Sector

The 144th meeting of the Mechanical/Miscellaneous/Textiles Sector of the Customs Code Committee takes place on 12-15 January 2015. The agenda shows that the Committee is due to conclude discussions on the classification of car receivers/radio back panels and Central information display back panels, photo books, luminous shoelaces, long trousers, mini greenhouses, and biplane aircrafts, amongst others. It will also hold a first discussion on the classification of, *inter alia*, curtain material, sun blinds for cars, sewing machines, monitor arms, arm sleeves for smartphones, footwear, toys for animals, LED glitter lamps, adhesive guns, and mixer-converter analogue/digital pre-amplifier devices.

ORIGIN

Origin Committee Developments

On 11-12 December 2014, the 215th meeting of the Origin Section of the Customs Code Committee took place. The report is not yet available, but the agenda promised discussions on certain Pan-Euro-Med (PEM) matters, and on origin-related discussions with Japan, Vietnam and Korea. The Committee was also scheduled to discuss the horizontal question as to which documents can bear origin declarations. As regards GSP origin rules, the Committee was supposed to discuss precautions to be taken in light of the removal of certain countries from the list of GSP beneficiary countries, the state of play on the Registered Export System (REX), coordination with Norway and Switzerland, and a request from Cape Verde for a prolongation of a derogation from the normal GSP origin rules.

Drawback for Tunisia, the Palestine Liberation Organisation, Morocco and Egypt

In early December 2014, the EU published Decisions under the Euro-Mediterranean Agreements with Tunisia, the Palestine Liberation Organisation, Morocco and Egypt extending the application period of the drawback

or partial exemption from customs duties or taxes with equivalent effect in the origin protocol of these Association Agreements until the end of 2015.

EP discussion on EU management of PTAs

During the December 2014 meeting of the EP INTA Committee, the European Court of Auditors (ECA) presented the results of its audit on the EU's management of preferential trade arrangements (PTAs). In that audit, the ECA concluded, among others, that despite improvements in the use of impact assessment tools, the Commission did not adequately assess all the economic effects of PTAs. In addition, ECA determined that Member State customs authorities do not always ensure that only authorised goods originating in the declared third countries benefit from reduced tariffs.

PROCEDURES

Amendment to the TIR Convention

In early December 2014, the EU published a list of amendments to the Customs Convention on the International Transport of Goods Under the Cover of TIR Carnets (TIR Convention) for entry into force on 1 January 2015.

EU-Canada customs cooperation agreement

On 23 December 2014, the EU published the agreement between the EU and Canada on customs cooperation with respect to matters related to supply-chain security and related risk management, which already entered into force in 2013.

MISCELLANEOUS

WTO ITA negotiations not yet concluded

Despite progress in the talks on an expanded product scope of the WTO's Information Technology Agreement (ITA) back in November 2014, the parties failed to reach an agreement in December 2014. The insistence on the exclusion of certain products by China apparently disappointed other parties. The negotiations will resume in early 2015. Once agreement on the expanded product scope of the ITA can be reached, the negotiators will start discussing the phase-out period for tariffs on the newly added products.

EU sanctions on Crimea and Sevastopol

As of 20 December 2014, the EU imposed further sanctions against Crimea and Sevastopol including, among others, a ban on exporting a wide range of listed goods and technology (no matter what sector they are used in) to Crimean companies or for use in Crimea – as well as providing related technical assistance, brokering, construction or engineering services.

EU publishes revised version of dual-use list

On 30 December 2014, the European Commission published the updated Annex I to the EU Dual-Use **Regulation 428/2009**, reflecting changes to the international control lists on which the EU list is based. This Annex lists goods, software and technology normally used for civilian purposes but which may have military applications as well, or which could contribute to the proliferation of Weapons of Mass Destruction. Annex I items are subject to export controls in the EU.

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