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CUSTOMS CODE COMMITTEE/CUSTOMS CODE EXPERT GROUP
Tariff measures section

Administrative arrangement
on the surveillance of the release for free circulation or the export of
goods

(applicable from 01/05/2016)

Introduction

1. The effective operation of preferential tariff arrangements and various other import or export-related policies can be enhanced by accurate knowledge of the current level of imports or exports of the goods concerned. The authentic source for this information is the customs declarations themselves.
2. A number of preferential tariff arrangements applied by the EU (e.g. Association Agreements with certain Mediterranean countries and the GSP) and legal acts ruling trade measures (textiles, footwear, fruit and vegetables) make provision for such surveillance. The main purposes of this surveillance are to provide both the information needed to justify introducing or reintroducing the charging of customs duty under a safeguard clause, and intelligence for use in the fight against fraud. This surveillance is distinct from import and export statistics sent by the Member States to the Statistical Office of the European Communities (EUROSTAT).
3. In some cases, surveillance is linked to a specific tariff ceiling, reference quantity or trigger level.
Reaching a tariff ceiling, a reference quantity or a trigger level does not imply or directly lead to the reintroduction of normal customs duty or an additional duty. It merely serves as a signal that such a measure might be contemplated.
4. The efficiency of how this is managed depends not only on the conscientious application of the relevant legal provisions by the Member States and the Commission but also on close cooperation between the administrations concerned. Formal consultation takes place within the tariff measures section of the Customs Code Expert Group.

5. In a view to avoid frequent changes in requests of surveillance and to enlarge the scope of surveillance in domains like follow-up of preferential agreements, monitoring of trade defence instruments and fight against fraud, the declarations for release for free circulation related to all the goods codes of the nomenclature (at 10-digit level) have been placed under surveillance as from 01.01.2011.

Legal basis

6. The legal provisions concerning the procedures for surveillance and the confidentiality of surveillance information are contained, in particular, in:
 - Articles 12, 56(5) and 58(1) of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code¹ (UCC),
 - Articles 55 and 56 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code,² and
 - in various Council and Commission regulations on particular preferential tariff arrangements and trade measures.

Responsibilities

7. The offices responsible for collecting and maintaining the information on surveillance are the Directorate-General for Taxation and Customs Union (TAXUD) in the Commission and, in each Member State, a central office designated by the customs authorities.
8. DG TAXUD's responsibilities with respect to this surveillance are to:
 - ensure that central offices in the Member States are duly informed of the data requirements,
 - ensure that Member States observe the legal requirements,
 - manage the data at EU level,
 - promote the highest quality of data,
 - ensure that safeguard clauses are applied properly and efficiently.
9. In pursuance of these responsibilities, DG TAXUD performs tasks such as:
 - loading reference data derived from the surveillance requirements mentioned in paragraph 11,
 - sending each Member State a computer file via TARIC containing reference data for surveillance,
 - sending similar files of reference data via TARIC at other times, whenever new surveillance measures are adopted,
 - processing import and export figures received from the Member States,

¹ OJ L 269, 10.10.2013.

² OJ L 343, 29.12.2015.

- making aggregated data available to authorised users in the Member States,³
- within the framework of tariff ceilings, informing the Member States when tariff ceilings are reached, when a request for the application of safeguard measures has been received and when, as a result of such a request, a decision to reintroduce the charging of customs duties is to be published,
- maintaining the technical infrastructure (CCN/CSI network and the electronic surveillance system referred to in Article 56 of Regulation (EU) 2015/2447), and providing a help desk facility to assist Member States,
- publishing on the EUROPA website⁴, current information on the status of individual tariff ceilings, reference quantities, trigger levels and other non-confidential surveillance requirements imposed by legal acts, including the aggregated quantities imported/exported and various important dates related to possible reintroduction of normal customs duty or to the levy of additional duties.

10. The central office in each Member State is responsible for:

- collecting the requisite import and export figures at national level,
- reporting the data without delay to DG TAXUD,
- transmitting without delay any modification or deletion of data resulting from the modification a posteriori of the customs declaration (e.g.: pro rata tariff quota allocation, result of post clearance audit, ...)
- transmitting, as necessary, any relevant messages to customs offices received from DG TAXUD concerning the reintroduction of customs duty or similar,
- reacting without delay to error messages or to any other communication concerning data inconsistency received from DG TAXUD by update, deletion or confirmation of the data in question,
- promoting the highest quality of the data at national level.

Coverage

11. As from 01.01.2011, surveillance requirements at import are extended to declarations for release for free circulation of all the goods codes of the nomenclature (at 10-digit level). In addition, the list of surveillance requirements at export is decided by consultation between the relevant services, and is the subject of a regular revision.
Furthermore, it should be noted that no retrospective surveillance will be defined.

Contents of surveillance reports

12. Surveillance import files should comprise data relating to each individual declaration for release for free circulation of the goods under surveillance and the date on which each figure reported is established.

The data required is laid down in Annex 21-01 of Regulation (EU) 2015/2447 and contains 40 specific data elements of a declaration for release for free circulation (e.g. the date of acceptance of the declaration, the procedure code, the preference, the goods code, the country of origin, the statistical value, the net mass, the importer identification number). When requested on the declaration, information on additional codes and supplementary units will be needed.

³ Surveillance web interface

⁴ http://ec.europa.eu/taxation_customs/dds2/surv/surv_consultation.jsp?Lang=en

13. Unless otherwise provided by the legislation related to the customs declarations, figures should be sent unrounded. This implies that the Commission's electronic surveillance system (Surveillance2) can accept rounded and unrounded figures.

14. Surveillance export files should comprise data relating to each individual customs export declaration of the goods under surveillance and the date on which each figure reported is established.

The data required is laid down in Annex 21-01 of Regulation (EU) 2015/2447 and contains the specific data elements of a customs export declaration (e.g. the date of acceptance of the declaration, the procedure code, the goods code, the country of destination, the statistical value, the net mass, the exporter identification number). When requested on the declaration, information on additional codes and supplementary units will be needed.

15. In accordance with Article 55(6) of Regulation (EU) 2015/2447, during the transitional period in which the Commission's electronic surveillance system and the national import and export systems are upgraded (at the latest until 31 December 2020), the Commission will only require the 14 data elements laid down in Annex 21-02 of Regulation (EU) 2015/2447. This means that as of 1 May 2016 Member States have the possibility to gradually upgrade their national systems to collect the new data elements.

It is envisaged that from 1 March 2017, a flexible transmission approach will be applied so that the Commission is able to receive also the additional customs declaration data in its electronic surveillance system. This implies that the electronic surveillance system will be ready to receive the different sets of data, including the 40 data elements of Annex 21-01 of Regulation (EU) 2015/2447 from those Member States which have already upgraded their national import and export systems.

16. Data relating to each individual import or export declaration are to be identified by a **unique reference number**. This number is to be unique within the scope of each Member State's system and allow a link to the corresponding customs declaration.

Transmission of surveillance files

17. Member States are to transmit surveillance files at least on a weekly basis. Communication of the first weekly file of the calendar year is expected no later than 20 January. The last weekly file is expected no later than 31 January of the following year.

18. In a view to keep EU figures as up-to-date as possible, Member States are encouraged to make reports more often than the periodicity mentioned above.

Use of computers

19. All the offices responsible for surveillance normally use a computer to perform the functions referred to in this administrative arrangement. Member States are free to choose their own technical infrastructure (S/W and H/W) for capturing and managing the relevant surveillance data. However, when communicating the data to DG TAXUD, Member States must use the agreed file structure laid down in "Surveillance2 functional message exchange specifications" and "Surveillance2 technical message exchange specifications".

20. Communications between the Member States and DG TAXUD are normally made by direct computer link using the CCN/CSI network. Failing that, they should take the form of electronic mail or any other computer-readable data recorded on electronic media or should be transmitted by other available means.
21. As an alternative means of access to the system, a secure website is available to all Member States via CCN/CSI. This access allows users to:
 - consult all reference and statistical data,
 - consult information regarding data exchanges between administrations and DG TAXUD,
 - use a 'data capture' mechanism to send surveillance files to DG TAXUD,
 - use a "data capture" mechanism to insert or update individual Surveillance Declaration Records (SDRs),
 - consult aggregated data for each individual Member State.
22. In accordance with the provisions of Article 55(3) of Regulation (EU) 2015/2447, the Commission shall only disclose aggregated data to users authorised in accordance with Article 56(2) of Regulation (EU) 2015/2447.
23. Member States must send requests for new users to access the aggregated data in Web Surveillance to the Commission (DG TAXUD). The Commission will authorise the Member States to allow access to aggregated data and will publish a list of authorised users in all Member States in the CIRCABC Tariff Quota Interest Group.
Subsequently, access to aggregated data via the secure Web Surveillance Application will be made available to authorised users by the CCN/CSI contact person in the Member States.

Quality of figures

24. The figures reported by the Member States are expected to be accurate. However, it is recognised that errors may arise in surveillance files, for reasons such as erroneous tariff classification in the customs declaration and the wrong country of origin or destination, mistakes in value, volume or supplementary units information.
25. If a Member State detects an error which is large or seems critical to reaching a tariff ceiling, a reference quantity or a trigger level, or to the correct interpretation of surveillance statistics, it should urgently draw the Commission's attention to the correction needed. Otherwise, Member States can take account of the error merely in the context of the subsequent transmission file. This correction must refer to the **unique reference number** of the related import/export declaration.

Confidentiality

26. The surveillance reference data requirements in TARIC will be public. This means that customs authorities and economic operators will perceive in the TARIC as available on the EUROPA website⁵ that for these goods the Commission asks for surveillance data.

⁵ http://ec.europa.eu/taxation_customs/dds2/taric/taric_consultation.jsp?Lang=en

27. In accordance with Article 12 of Regulation (EU) No 952/2013, the information communicated by individual Member States must be treated as confidential.
28. However, the following information can be freely disclosed:
- the global aggregated EU amount charged against a tariff ceiling, reference quantity (or trigger level) or reported against non-confidential surveillance requirements imposed by legal acts,
 - the date when a tariff ceiling, reference quantity (or trigger level) is reached,
 - the fact that the reintroduction of the normal customs duty or the introduction of a supplementary duty has been requested⁶,
 - the date when the normal customs duty is reintroduced or the supplementary duty is introduced,
 - the global EU amount reported against a goods code and an origin.

⁶ The identity of the requester and the date of the request therefore remain confidential.