



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Customs
Customs tariff

Brussels,
TAXUD-A4/AN/(2021)

CUSTOMS EXPERT GROUP

TARIFF AND STATISTICAL NOMENCLATURE SECTION

Minutes of the 5th meeting of the Customs Expert Group

(TARIC Sub-section)

(CEG/NOM/029)

Please find herewith the minutes of the 5th meeting of the Tariff and Statistical Nomenclature Section (TARIC Sub-section) Customs Expert Group, held via Webex on 26 November 2020.

Antti Suortti
Head of Unit

c.c. Delegates of the Tariff and Statistical Nomenclature Section (TARIC) of the Customs Expert Group.
TAXUD A4

**Minutes of the
5th meeting of the Customs Expert Group
Tariff and Statistical Nomenclature Section – TARIC sub-section
on 26 November 2020**

1. ADOPTION OF THE AGENDA (ARES(2020)5567922 - 15/10/2020)

The agenda is adopted after the following points being added to "**Any other business**":

- Voluntary declaration of tonnes of CO₂ equivalent for fluorinated greenhouse gases.
- BREXIT guidance.
- Integration of phytosanitary measures.
- Integration of new regulations of the EU.
- Integration proposal for the measures relating to sugar from India, Rice from India and Pakistan.
- Integration of TARIC measures related to transit.
- Credibility checks step 4 – State of play.
- Link between the declaration of low value consignments and TARIC.

2. ADOPTION OF THE MINUTES OF THE MEETING OF THE CUSTOMS EXPERT GROUP OF 31 OCTOBER 2019 ARES(2020)2682521

The minutes of the meeting of November 2019 were adopted, with two minor comments from the Member States.

3. PROGRESS REPORTS BY THE MEMBER STATES AND THE CANDIDATE COUNTRIES

There were no major events or highlights reported under this point.

4. REVIEW OF ACTION POINTS ARES(2020)2682521

4.1. Customs tool in the framework of Regulation 2019/1131

The Commission to publish guidelines on the application of customs tool regulation (Action point 1).

DG TAXUD issued the draft guidelines on the application of customs tool regulation (Ares(2019)5352187 - 22/08/2019). This draft is being discussed with the Member States during the CEG dealing with Import, Export Formalities & Special Procedures.

The Commission (DG TAXUD, DG TRADE and Legal Service) is currently working further on the draft.

Ongoing action point.

This action point remains open for the follow-up Customs tool in the framework of Regulation 2019/1131

4.2. The Commission to clarify what country code should be declared for goods subject to the customs tool regulation.

This has been clarified and the country code to use it QP "High seas (Maritime domain outside of territorial waters)"

This action point is closed.

4.3. Reporting into 14(6) of declaration data related both to TDI and to safeguard measures

The Commission to confirm what data must be reported by the Member States whenever the TDI duty is amended as result of an exhaustion of a quota granted to goods subject to safeguard measures.

The safeguard steel regulation foresees a tariff rate quota per product category. Imports under the benefit of the quota are not subject to the safeguard duty. Imports outside the quota are subject to the safeguard duty.

If a product is subject to both anti-dumping/anti-subsidies and safeguard duties then:

1. Imports under the benefit of the quota are subject to anti-dumping/anti-subsidies duty – Member States will report in the 14(6) database the imports and the anti-dumping/anti-subsidies duty paid.

2. Imports outside the quota:

a) imports are simultaneously subject to safeguard duty and to anti-dumping or anti-subsidies duty, the latter is suspended if it is lower than the safeguard duty. Member States will continue reporting the imports in the 14(6) database with the mention that the anti-dumping/anti-subsidies duty is suspended (14(6) allows for it).

Since no anti-dumping/anti-subsidies duty were paid, none should be reported.

b) imports are simultaneously subject to safeguard duty and to anti-dumping or anti-subsidies duty, the latter is reduced with the amount of the safeguard duty if it is higher. Member States will report the imports and the reduced anti-dumping/anti-subsidies duty paid (the difference between the anti-dumping/anti-subsidies duty and the safeguard duty).

Action point closed.

4.4. Antidumping/additional duties steel/steel quotas

The Commission to issue a note detailing the application of the antidumping duties when a tariff quota granted to goods subject to safeguard measures is exhausted.

The reply to action point 3 already details the application of anti-dumping and anti-subsidies duties in this context.

A Member State requested to the Commission to provide a note concerning pro rata allocation on safeguard quotas, where there also is antidumping. If a declaration gets a pro-rata allocation, the antidumping duty rate for that specific date will be the same - both inside and outside the quota, as TARIC cannot handle two different antidumping rates.

The Commission explained this situation is managed in the framework of daily TARIC transmission. Whenever a request for a tariff quota related to safeguard measures receives a zero or a pro-rata allocation, the Commission closes the anti-dumping or anti-countervailing duties on the day before the exhaustion of the respective tariff quota and integrate new ones with reduced duties.

DG TRADE fully agreed with this procedure, given that anti-dumping duty cannot be integrated with two different values valid for the same day.

The Commission will issue the requested note as soon as possible (Action point 2).

Ongoing action point.

4.5. Integration of TARIC footnotes in Chapter 99 in the framework of Regulation 2019/1131

The Commission to integrate a TARIC footnote at HS code 9931, explaining that the codes cannot be declared for export to Economic exclusive zones or Continental shelves whenever the goods classified there are subject to an antidumping/countervailing measure.

TARIC footnote TN 061 has been integrated following the publication in the Official Journal of Notice of initiation of an anti-dumping proceeding concerning imports of steel wind towers originating in the People's Republic of China 2020/C 351/08.

This action point is closed.

4.6. “Consigned from” meaning in the context of TDI measures

The Commission (DG TRADE) to issue a clarifications note regarding the concept of “consigned from” goods.

The wording “the consignment of the product subject to measures via third countries” is referred to in article 13(1) of the basic Anti-Dumping Regulation.

Similar concepts exist such as the reference to the "country of consignment" in external trade statistics and the reference to the "country of dispatch/export" in customs legislation.

In customs legislation, the "country of dispatch/export" is "the country from which the goods were initially dispatched to the importing Member State,

without any halt or legal operation not inherent in their transport having occurred in an intermediate country". This definition is different from the definition of "consigned from" in TDI. In particular, the concept of 'consigned from' covers both direct and indirect consignments (also where additional processing is performed in the intermediate non-EU country without entailing a change in the tariff heading - CTH).

When a Commission investigation finds circumvention through a third country, the duty is extended to all imports of goods from that country (whether originating or not), irrespective of the shipping route, except those imports manufactured by those exporting producers that came forward, were investigated, and were exempted because they were found not to be circumventing the duties. This applies to both direct and indirect consignments.

Moreover, the Commission hereby refers to point (8) specifically of the minutes of the Joint Committee meeting on implementation of Articles 14(6) of the basic anti-dumping Regulation and 24(6) of the basic anti-subsidy Regulation and Enforcement Issues of 7 September 2012. This point also contains guidance to Member States on how to interpret "consigned from". Finally, it is the responsibility of each Member State (each national Customs authority) to examine the specific facts of each case, as they are best placed to assess them on a case-by-case basis.

This subject will be covered further under the point 7.1 in the presence of colleagues from DG TRADE.

Action point closed.

4.7. Status of the new measurement unit CO₂ Taxud.a.4(2017)4665348 rev.1

The Commission to issue a revised working document containing the new proposals received from the Member States.

The commission published the related working document ARES(2020)5815545 – 23.10.2020 on CIRCABC.

The integration will be further discussed during AOB point 1.

This action point is closed

4.8. The Commission to study the integration into the TARIC of securities

This action point is pending on reassignment subject to available human resources (Action point 3).

4.9. The Commission to make a correlation list between Data Element 4/3 (box 47 of the SAD) and the TARIC measure types

The EU Customs Data Model (EUCDM) Guidance Document provides explanations supported by examples on data requirements laid down in Annex B of the UCC-DA and UCC-IA.

The TARIC sector will add to the table "Calculation of taxes – Tax type" a column with the corresponding TARIC measure types.

Long term action point (Action point 4).

4.10. The Commission to make a correlation list between Data Element 1/10 (box 37 of the SAD) and the TARIC measure types

All combinations of procedure codes which are legally allowed and which can currently be used are listed in the Annex 1 of the EUCDM Guidance Document.

Based on this Annex, the TARIC measure types will be added.

A Member State asked whether a deadline could be given for action point 1.10

and if it is the intention that the correlation list is only drawn up with the requested procedure in combination with previous regulation or for the complete combinations with the additional procedures included.

The Commission explained that the new version of EUCDM will detail the information provided in the new version of Annex B UCC-DA and UCC-IA. This revised Annex B contains Data Elements (DE): 11 09 000 000 "Procedure codes used in the context of customs declarations" and 11 10 000 000 "Additional procedure". There are no significant changes for these two DEs.

A new working group is set up to start its work during the first quarter of 2021. Its main task is to update the EUCDM guide in alignment with the new Annex B. The Member States are invited to propose content for the Guide, which may include the correlation of DE 11 09 and 11 10.

The working group was informed of the wish from the Member States to have a correlation table between 1/10 - 1/11 (DE 11 09 and 11 10). The delegates of the CEG – TARIC will be informed about the decision of the working group.

Considering the workload that the "full" correlation table would represent and the different TAXUD services involved (DIH, TARIC), a "reduced" table could be envisaged that would correlate DE 1/10 with the TARIC measure types. This would be done only if it resulted in significant added value for most of the Member States.

The Member States are invited to further react to this in the dedicated CIRCABC newsgroup.

Long term action point (Action point 5).

4.11. Integration of Commission Implementing Regulation No 543/2011 laying down detailed rules for the application of the Common Market Organization Regulation (CMOR): the Commission to decide if the integration will take place before or after the recast of CMOR.

Regulation (EU) No 543/2011 was amended by Commission Delegated Regulation (EU) No 499/2014 to give effect to the changes introduced by the 2013 CAP reform.

A new modification of Regulation (EU) No 543/2011 was published at the beginning of 2017 (Regulation (EU) No 2017/891). The original provisions regarding the marketing standards will not be subject of modifications.

This is a long term action point (Action point 6).

4.12. TARIC administrative arrangement (document taxud.a.4(2013)3362752): the Commission to raise awareness of the colleagues dealing with Union Customs Code that the discrepancy between the Official Journal (the paper) and the TARIC (the electronic) will have an increased impact in a context where the electronic becomes the norm.

The document is still being discussed internally and will be disseminated when the discussions will come to a conclusion.

The document has been submitted to the Commission Legal Service at the end of October 2019.

Due to the workload dedicated for BREXIT files, the Legal Service postponed its official reaction. An answer is expected at the beginning of 2021.

Ongoing action point (Action point 7).

4.13. Integration of phyto-sanitary legislation

Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC will enter into force on 14.12.2019.

The Commission to publish the relevant working document once it will agree internally on the integration solution.

The integration will be further discussed during AOB point 3.

Ongoing action point (Action point 8)

4.14. Box 36 correlation table

The Commission to investigate the opportunity of creating a new Regulation Group for the cases where a special certificate must be presented (e.g. for preference code 125).

Commission acknowledges the declaration system does not have a way to make the difference between the TARIC measures in this case and preference codes 120 or 125 would be acceptable for the same measure. Although this situation does not have a financial impact, from the accuracy of customs declaration point of view, it would be better to have a one to one correlation.

The working group dedicated to the revision of Annex B to Commission Delegated Regulation 2015/2447 is considering to remove the preference codes x18, x25 and x50.

The TARIC sector will follow the conclusions of this working group and decide if there is a need to keep this action point open.

This action point remains open for the follow-up by the Commission.

Ongoing action point (Action point 9).

4.15. Integration of TDI legislation

The Commission to study the possibility of using multiple measure types for the integration of the trade defence instruments legislation.

On-going action point (Action point 10).

4.16. The Declaring of additional codes

The Commission to update working document Taxud.a.5(2012) 808931 rev.1 on the declaring of additional codes.

This refers mainly to the situation of trade defence measures, when several of those measures apply to the same product. In the past, anti-dumping and anti-subsidies measures applying to the same products and producers stemmed from related investigations. Therefore it was possible to align the TARIC additional codes. If completely independent investigations target different products classified under the same CN code, as it is the case for deep sweeteners, this results in the same product being subject to two or more trade defence measures. The only integration solution found was to multiply the TARIC measure types for anti-dumping and for anti-subsidies measures.

This integration requires the declaration of two or more TARIC additional codes, therefore the existing rules of declaration of additional codes are impacted. Currently it is not possible to declare more than one additional code for TDI measures.

On-going action point (Action point 11).

A Member State wondered if the limit of no more than two additional codes will be maintained until the end of the transition period 1-12-2023.

The Commission replied that the use of higher cardinality for the additional codes should be as soon as possible but relevant data will not be integrated until the Member States are able to process it. Therefore, DG TAXUD will wait until all Member States are ready.

4.17. Common veterinary entry document (CVED)

There are ongoing discussions between DG SANTE and Member State's authorities regarding the cases where the CVED is not required according to the veterinary legislation.

Commission Delegated Regulation (EU) 2019/2122 of 10 October 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards certain categories of animals and goods exempted from official controls at border control posts, specific controls on passengers' personal luggage and on small consignments of goods sent to natural persons which are not intended to be placed on the market and amending Commission Regulation (EU) No 142/2011(OJ L 321/12.12.2019), has been integrated on 12 December 2019.

Action point closed.

4.18. Commission Regulation (EC) No 1635/2006 of 6 November 2006 laying down detailed rules for the application of Council Regulation (EEC) No 73/90 on the conditions governing imports of agricultural products originating in third countries following the accident at the Chernobyl nuclear power-station.

The Commission to study this Regulation and publish a working document with an integration proposal.

The Commission waits for the outcome of the BREXIT negotiation and the consequences for the TARIC before establishing a concrete timetable. Depending on the outcome, it will try to free resources and start preparing the file.

Long term action point, pending on available resources (Action point 12).

4.19. Status of the document “proofs of origin in TARIC guidelines (Taxud.a.5 (2012)353602), Rev. 3” and integration of the proofs of origin as measure conditions

The Commission to compile in one document all the newsletters and working documents related to origin issues.

The Commission will assess first the scope of this work and decide if it will go ahead with this proposal. When eventually the preferential measures will contain the proofs of origin in their conditions, this document will have to be updated as well.

Currently, the Commission does not have the tools to handle this integration, but these tools will be available soon. However, this integration will not be imposed and will be done only if it brings benefits for the Member States.

Subject to the agreement of the Member States, the Commission will to make gradually the integration, with an entry into force date in the future.

Ongoing action point (Action point 13).

4.20. Integration of REACH substances listed in Annexes XIV and XVII of Regulation (EC) No 1907/2006.

The Commission to formulate a position regarding Member State's comments on this integration proposal.

The Commission issued revision 1 of working document taxud.a.4(2018) 6208264 on the TARIC integration of registration, evaluation, authorisation and restriction of chemicals (REACH), substances listed in annexes XIV and XVII.

Based on this, measure 761 concerning Annex XIV has been integrated into the TARIC, with start date 01/10/2019. Annex XIV has been updated following the publication of Commission Regulation (EU) 2020/171 of 6 February 2020 and a new escape code has been added to the measures.

Annex XVII is still under investigation for the creation of the correlation table with the CN codes, a specific project group formed by TAXUD (chemical classification sector) and Member State delegates is working on it. A partial integration of this Annex was also considered, but the TARIC sector considers that this integration would be unbalanced and this should be avoided.

However, the Member States are invited to reflect on this proposal and to react in case they have comments.

This action point remains open for follow-up (Action point 14).

4.21. Prioritization of ITSM – follow up

The Commission to contact ITSM about ITSM lowering unilaterally the priority of the incidents and to publish on CIRCABC the answer as soon as it will be received.

ITSM has formally acknowledged the request. If this problem happens again, the Member States are invited to report it to TAXUD.

The Member States confirmed the problem still exists. Moreover, for the same problem reported almost at the same time, the Member States can receive different priority levels.

The Commission has been in contact again with ITSM about this matter and ITSM has replied that they respect the procedure and the Service Level Agreement.

This action point is closed.

If such problems occur again, the Member States are invited to raise the matter with ITSM and put the Commission in copy so actions can be taken.

4.22. Credibility checks step 4: wood and gases

The Commission to revise the integration proposal – TARIC Newsletter 2/2018 and TARIC Newsletter 3/2018 as regards the credibility checks on wood and gases.

As some Member States have no decimal point in their declaration systems, the Commission will revise its proposal as regards the credibility checks on wood and gases.

In addition, it was proposed to exclude small consignments from these measures.

The integration is further analysed and will be discussed in more details during the next CEG-TAM meeting taking place on 11.12.2020.

Ongoing action point (Action point 15).

4.23. Sending TARIC data to the Member States

The Commission to take the necessary measures in order to stop transmitting TARIC data by email.

The email TARIC transmissions to Italy were discontinued at the beginning of March 2020.

This action point is closed.

4.24. Credibility checks

The Commission to issue a new working document with explanations and examples for the credibility checks measures that will be integrated in 2020.

The related working document (taxud.a.4(2020)5210580) was sent to CEG-TAM correspondents on 31.08.2020. It will also be distributed to CEG-TARIC members via CIRCABC.

The implementation of the new measures is scheduled for 1.12.2020.

Action point closed.

A Member State asked when the test data related to these new measures will be provided.

Due to technical issues, the test data cannot be sent at the moment. As soon as these issues will be overcome the Commission will create new test data and send them to the Member States (Action point 16).

Seeing this delay, the start date of the measures is postponed to 1.2.2021.

4.25. Chapter 99 – creation of new TARIC measures

A Member State requested the integration of the third country duty rate for all the codes of Chapter 99 where this measure is missing.

The Commission is not in favour of integrating the measures, as the codes under HS subheading 9930 should be used in export and re-export declarations for ship supplies that are not subject to the rules of the Directive 2008/118/EC concerning the general arrangements for excise duty and repealing Directive 92/12/EEC.

The discussion remains open as regards the declaration of heading 9931 for goods returning from a drilling platform to the EU customs territory.

Ongoing action point (Action point 17).

4.26. Integration of phytosanitary controls

The Commission to publish the related working document.

This action point is redundant with Action point 4.13.

Action point closed.

4.27. TARIC certificate for the IOSS (Import-One-Stop-Shop) number

The Commission to create of a new code in TARIC for the IOSS number.

TARIC certificate C 715: *Import-One-Stop-Shop (IOSS) number - individual VAT identification number (Art. 369q of Council Directive (EU) 2017/2455)* has been integrated on 13.11.2019 with start date 1.1.2020.

Action point closed.

A Member State asked what the implication of the TARIC certificate code is, as long as there is a Data Element for IOSS that will enter into force in July 2021.

The Commission will investigate this question further (Action point 18).

4.28. Impact of the current review cycle of Annex B to Regulation 2015/2447 (UCC – IA): certificates N990, C990 and D019

The Commission to amend working document Ares(2019)6557887 according to the comments received from Member States regarding the certificate D019.

Revision 1 of working document Ares(2019)6557887 containing references to certificate D019 has been published on CIRCABC on 24 November 2020.

A Member State pointed out that certificates N990, C990 and D019 will soon be included in a code list for type "Authorisations" (D.E. 12 12 002 000). These are all related to End-use and are therefore covered by a license of Annex A included in CDMS. The AES technical specifications (export / exit) contains a table with 'authorization types' where D019, C990 and N990 have already been included. Moreover, footnote 73 has now been added to Annex B, which lists the TARIC certificate codes for End-use that must also be included in the declaration. This in addition to the Annex A reference numbers of the authorizations, so that a tariff validation can proceed smoothly.

The Commission answered that certificates D019, C990 and N990 are used only for the end use procedure on release for free circulation. Therefore, it is not clear why these certificates should be included in AES, which concerns only export.

The subject will be further discussed in the PG Automated Export System.

Action point closed.

4.29. Impact of the current review cycle of Annex B to the Regulation 2015/2447 (UCC – IA): declaration of the CUS code

The Commission to study the possibility of integrating measures regarding the obligation to declare the CUS code, whenever this is required by the legislation.

A Member State asked if there is a deadline for this action point so that it will be known whether the CUS code for Import (H1 column, Annex B) and for Export (column B1, Annex B) can be used.

The Commission explained that in EUCDM, the CUS code is mentioned at DE 6/13 (DE 18 08 in the draft of the new Annex B). It is mandatory at import and export where the goods concerned are subject to a TARIC measure in relation with a CUS code. However, the deadlines for implementing UCC National Import Systems Upgrade is 31.12.2022 and for AES is 1.12.2023.

A deadline for integrating specific measure type into the TAXUD is being investigated.

Ongoing action point (Action point 19).

4.30. Impact of the current review cycle of Annex B to the Regulation 2015/2447 (UCC – IA): Y certificates and reference number

The Commission (TAXUD A/4 sector) to propose to the colleagues dealing with DIH to further subdivide Data Element class 1204000000 (Additional reference) in subclasses, in order to allow the declaration of reference numbers.

The subdivision of Data Element class 1204000000 is foreseen in latest review of Annex B to the UCC Delegated (Ares(2020)2533700 - 13/05/2020).

A Member State asked if in the TARIC will be made a breakdown of the Y codes that do and that do not have a reference number. In Annex B this element has the A status (mandatory), but due to introductory note 3 the reference number could be omitted in the cases where a Y code has no reference. The declaration systems have already made this element optional.

The Commission will do the splitting of the Y codes between those who require/allow a reference number and those who forbid will be done only if it brings significant added value to the work of the Member States. Currently, it cannot commit to a timetable but, if the Member States consider it important, the Commission is willing to investigate the question further.

Another Member State asked how this differentiation would be done in practice.

A first proposal from the Commission is to create a new certificate type for those “Y” certificates where the reference number is needed. In short, the differentiation would be done via the certificate type.

Ongoing point (Action point 20).

4.31. Centralised electronic system for the exchange of information between the authorities of the Member States, import licences for cultural goods and importer statements

The Commission to prepare a working document explaining the integration of Regulation (EU) 2019/880 of the European Parliament and of the Council of 17 April 2019 on the introduction and the import of cultural goods.

Article 16 of the regulation conditions its application to the availability of electronic systems described in the regulation. These systems are not available yet. Therefore, this regulation has currently no impact on the TARIC.

As soon as a timetable of applicability will be defined, the working document will be published.

Ongoing action point (Action point 21).

4.32. Violation of business rules in transmissions

The Commission to further reflect how to avoid in the future the situation where a TARIC transmission file which is correct from the logic point of view generates violation of processing rules in the Member States.

The TARIC transmission files are built to be consistent at a global level and not action by action. This is in line with their specifications. In this context, the logic of the files will not be amended.

This action point is closed.

4.33. Integration of the supplementary unit “Watt” for control of prices

The Commission to study the possibility to integrate a supplementary unit measure for “Watt” together with a credibility check measure, for TARIC code 8541 40 90 00.

Currently there is no legal base in integrate the mentioned supplementary unit. A second option is to integrate a new credibility check measure, which would be part of the new credibility checks integration package.

This option will be further discussed during the CEG-TAM on 11.12.2020.

Action point closed.

4.34. REX system for overseas countries and territories (OCTs)

The Commission to study the added value of creating two country groups, one for the countries that are ready to use the REX system and another one for the countries that are not yet ready.

The study on creating REX groups for OCT's concluded that it would not bring added value because the OCT's have a small number of exports to the EU. Moreover, after the UK withdrawal, its territories will no longer be members of the OCT group, which will reduce even further the trade flows concerned.

Action point closed.

Regarding point 1 - *The Commission to inform Member States on the corrections brought to the DDS-TARIC site* from the list of Permanent action points, a Member State asked if the Commission would provide the reference data from CS/RD for the publication via DDS.

The Commission plans, for around mid of March 2021 to put in production a new version of DDS2-COL, called DDS2-RD (Referential Data), in order to publish and then to download (zip file) defined CSRD2 entities per applicability (i.e. ICS2 entities).

The functionality to search and download Custom Office list remains as is.

In the meantime Member States have full access to CS/RD2 and they can easily publish on their national sites code-lists and other data they consider necessary.

5. ORGANISATION OF TARIC MEETINGS

The next CEG-TAM will be organized on 11.12.2020.

The Commission has no information regarding the 2021 CEG-TARIC meeting, due to the current pandemic situation. As the on-line meetings are easier to organise, the CEG-TARIC can be organized in case there are important and urgent subjects to discuss.

6. ANY OTHER BUSINESS

6.1. Voluntary declaration of tonnes of CO₂ equivalent for fluorinated greenhouse gases

The Commission gave a presentation on the voluntary declaration of tonnes of CO₂ equivalent in the context of a better monitoring of the movements of fluorinated greenhouse gases (f-gases).

DG TAXUD and DG CLIMA are collaborating for the implementation of the Single Window data exchange for the certificates – CERTEX, between the DG CLIMA system that is used for the management of Hydrofluorocarbons (HFC) quotas and the customs declaration system of the Member States. DG TAXUD will build up a list of TARIC measures and certificates that will be compliant with the needs of CERTEX.

One of the big objectives of DG CLIMA is to be able to manage online and in real time the HFC quotas, expressed in tonnes of CO₂ equivalent.

The legislation in force does not require the declarant to declare the tonnes of CO₂ equivalent in customs. However, the representatives of the industry expressed their will to declare this element.

The Commission proposes the integration of the certificate Y121 where an amount of CO₂ equivalent would be declared in Data element 2/3 of the customs declaration. The trader would have the choice to declare this amount or not.

The Legal Service from the Commission has considered the voluntary declaration of tonnes of CO₂ equivalent, as legally acceptable. However, the matter of the impact on the responsibility of the Member States is still being discussed.

From a pure legal point of view, national customs authorities are not required to perform controls or verifications. It is therefore the decision of the customs authority from each Member State to control or not customs declarations that may be subject to the declaration of the tonnes of CO₂ equivalent.

The timetable for the update of f-gases Regulation where the declaration of tonnes of CO₂ equivalent becomes mandatory is not scheduled sooner than 2025.

A Member State considers the collection of data on the import of tonnes of CO₂ equivalent as a matter that concerns other authorities than the customs. It would also be difficult to check the correctness of declared data. Therefore, as long as there is no legal obligation, the Member State is not in favour of this integration.

For another Member State, this integration does not bring any added value. In most of the cases the customs declaration is lodged by a customs agent and not by the importer himself. The agent has no interest to complicate the declaration if this is not legally binding.

From the reactions received, the Commission understands that the Member States consider that this certificate will not bring much benefit unless its declaration is made mandatory in the relevant EU legislation.

The discussion is left open on CIRCABC for further comments.

6.2. BREXIT guidance

The Commission issued a working document regarding the memberships of country codes XI, XU and GB.

As TARIC is concerned, only GB will be used for export and import. The code XI will be integrated as a Member State, while XU will not be linked to any country group or TARIC measures.

In case of a trade agreement between EU and UK, measure 142 will be integrated with origin “GB”.

The memberships of the overseas countries and territories depending on UK will no longer benefit from the Association Agreement of OCTs and preferential duties will cease to apply to them.

The monthly EUR exchange rate will continue to include the British pound as it is used in Northern Ireland.

A Member State pointed out that anti-dumping measures for bicycle parts integrated for the benefit of British companies should also be closed.

The Commission confirmed the closure of these measures. At the same time it confirmed that there are no companies in Northern Ireland that would benefit from this exemption.

At the request of a Member State, the Commission confirmed the modifications foreseen in the working document will be integrated into the TARIC as soon as possible.

Another Member State pointed out on CIRCABC that the area codes of XI and XU are not updated to “country”.

The Commission confirmed this change has been done.

6.3. Integration of phytosanitary measures

This integration is pending. The Commission will publish a working document as soon as possible. Once the agreement for the integration is reached, the Commission will need one month to do the integration.

As a new measure type will be used for this integration, the Commission will also produce test data (Action point 22).

6.4. Integration of new regulations

A Member State considers necessary to insert information about additional cases or additional requirements related with importation of certain goods from certain countries. For example, regarding Regulation (EU) 2017/821 – conflict materials, it is necessary to link explanatory footnotes to the commodity codes mentioned in this regulation. Reference to this legal act and an explanatory text should be included in the description of the footnotes.

Moreover, Regulation (EU) 2020/1641 regarding imports of live, chilled, frozen or processed bivalve molluscs, echinoderms, tunicates and marine gastropods for human consumption from the United States of America should be also integrated.

As a reaction to this proposal, one Member State does not consider that Regulation (EU) 2020/1641 should be integrated into the TARIC, as it refers to the introduction into the EU territory based on a document that is verified at border control posts by veterinary inspectors.

Another Member State stated that when the concerned products are imported from the US into the EU, implementation Regulation (EU) 2020/1641 requires the presentation of an official certificate. This certificate must be presented to the first veterinary office in the EU, which issues the Common Health Entry Document. This document must be presented upon the release into free circulation. For the release into free circulation of the concerned products, TARIC measure type 410 (veterinary control) covers the above mentioned situation. Regarding Regulation (EU) 2017/821 – conflict materials, explains that the national customs authorities do not have a "first line" responsibility. Relevant data will only be provided by the declarant at the request of the competent authority when the consignments enter into free circulation. Normally, there are no necessary activities for the customs authorities at the moment of release of free circulation. Therefore, it is not necessary to integrate a new TARIC measure.

The Commission agrees that Regulation (EU) 2020/1641 should not be integrated into the TARIC. On the other hand, it will also study the proposal to integrate footnotes for the CN codes listed in Regulation (EU) 2017/821 (Action point 23).

6.5. Integration proposal for the measures relating to sugar from India, rice from India and Pakistan

The Commission proposed to change the integration of reduced duty rates for basmati rice from India and Pakistan and of sugar from India and Pakistan.

It was explained by a Member State that imports of Basmati rice from India and Pakistan pursuant to Commission Regulation (EC) No 972/2006 is currently integrated via measure 142-Tariff preference. This means that, in order to apply the reduced duty, the importer must declare preference 300. In accordance with the rules of origin, the TARIC application requires the declaration of one of the proofs of origin to apply a zero specific duty and the presentation of certificates A022, L001, Y100¹. As this is not a preferential arrangement but an "Agreement in the form of an Exchange of Letters", the current integration is inaccurate and the measure to use should be 103 instead of the current measure 142.

The reactions received on CIRCABC from other Member States were different. Some made the necessary changes in their systems and consider the integration should not change. Other can work with the current integration, but are open to an eventual change.

The Commission considered creating a new measure type for reduced duty rates in the framework of GATT, or reusing the existing measure types 102 or 104.

The Commission will wait for more reactions until the end of 2020 and decide if it will change or not the integration in the beginning of 2021 (Action point 24).

¹ Certificate of authenticity (A022) and Agricultural import licence with specific entries (L001, Y100)

6.6. Integration of TARIC measures related to transit

A Member State asked if there are any plans to integrate in TARIC measures for the transit customs procedure. In NCTS-5, 6-digit and sometimes even 8-digit CN codes will be used, instead of no commodity code at the moment. There are also rules explained there for the use of the CN codes, but the main purpose is the possible application of restrictions, control measures and prohibitions. Currently however, there are only import and export measures in TARIC, but none for transit.

Commission representatives in the meeting did not have extended information on this. The use of 8-digit codes in NCTS may be linked to the implementation of the new ICS2 system. However, the use of CN codes in the transit procedure may be difficult, as this procedure is used jointly with countries which do not apply the Combined Nomenclature.

Another Member State mentioned that all these apply also to the entry into the customs territory of the European Union.

Several Member States supported the proposal to further investigate the need to integrate transit measures into the TARIC.

A Member State expressed doubts regarding the possibility of using CN codes in the transit declarations. Third countries like for example Turkey, which are part of the Transit Convention, do not use the Combined Nomenclature. Checking the non-tariff measures for these declarations would become problematic.

This issue will be further investigated by the Commission (Action point 25).

6.7. Credibility checks step 4

The Commission published the working document related to these measures and as mentioned during the review of the action points (Action point 4), will create the test data as soon as certain technical issues are solved.

The existing measures will be split between those who are expressly foreseen in the legislation (e.g. Combined Nomenclature, Suspensions Regulation) and those which are based on laws of physics (e.g. net weight/supplementary unit is credible or not).

Moreover, new measure types will be created, together with their related new condition types and measure actions. The proportion will be checked in these cases between net mass or supplementary units and the value of the goods.

In order to set the thresholds of these measures, colleagues from JRC in Ispra help to define average prices of some products.

The initial schedule was to integrate the measures as from 1.12.2020. Due to the mentioned technical problems, this date was postponed to 1.2.2021.

However, this deadline can be further postponed at the request of the Member States.

6.8. Link between the declaration of low value consignments and TARIC

A Member State requested information from the Commission on the declaration of low value consignments.

The Commission explained that the guidelines regarding the declaration of low value consignments are discussed in the dedicated project group with prohibitions and restrictions (P&R) experts. These guidelines will be finalized during the next meeting of the project group on 7 December 2020, and published by the end of the year (subject to the availability of the translations).

The guidelines, once finalised, will be posted on CIRCABC (Action point 26).

With regard to restrictions and prohibitions, it was agreed in the project group that TARIC cannot be used *per se* for low value consignment (H7) declarations. This means that Member States will have to develop a functionality or a “TARIC subset” which will check the presence of restrictions or prohibitions at the declared 6 digit code. If all the codes under this 6 digit code are subject to P&R, the H7 declaration is rejected. If only one or several codes are subject to P&R, the declaration will be flagged and additional controls have to be performed by the competent customs authorities.

As in the low value consignments the tariff code is declared at 6 digit level and the origin or value are not mentioned, there is no possible trigger for applying the TARIC credibility checks.

The Commission conducted a survey made on the Member States which revealed an estimated total of 4.2 billion customs declarations to be made for low value consignments during one year. For comparison, the annual number of customs declarations currently received in Surveillance³ is 280 million.

A Member State decided to make a “black list” of CN codes which cannot be subject of low value consignment declarations. The rest of the declarations will be checked against the national TARIC database. In case a restriction or a prohibition is met, TARIC will send back a warning. The warning will be forwarded to the importer and it will be her/his responsibility to further check if the goods are restricted/prohibited or not.

7. TRADE DEFENCE INSTRUMENTS (TDI): QUESTIONS AND ANSWERS FROM DG TRADE

DG TRADE gave a general presentation regarding the policy changes scheduled for the near future.

7.1. Definition of "consigned from" goods in the context of TDI measures

A Member State asked the Commission to issue a definition of "consigned from" goods in the context of TDI measures. The position of the Commission is that there is no equivalent in the customs legislation.

The action point on the definition of "consigned from" is closed by DG TAXUD on the basis of the written input that DG TRADE has given (see Action point 4.6).

Another Member State pointed out that for the economic operators in particular, the definition is still not clear. If the goods arrive from China in the EU with a stop in Switzerland, the importers are still tempted to declare the goods as consigned from Switzerland.

The Commission underlined that anti-circumvention measures are imposed mainly because many importers try to unlawfully avoid the payment of anti-dumping or anti-subsidies duties. The basic of anti-circumvention is to extend the duties when such behaviour is observed. Therefore, the concept of "consigned from" should be interpreted in a broad way, so the objective of avoiding anti-circumvention can be met. However, a straight definition of "consigned from" cannot be formulated. Every particular case must be assessed individually.

It is the traders' obligation to inform themselves about the product they will import and its real origin. Both traders and Member States can access all info available on TRADE's website (measures in force, contact points, etc.). Also, the national trade associations can give valuable advices in this area.

7.2. Consequences for national customs authorities from the Seraphim judgment: feedback & follow-up on the Note sent to Customs attachés (ARES(2020)4729179 – 10/09/2020).

The Commission recalled the following in this solar panels case:

Pending the outcome of the appeal, the Commission and the Member States must continue to protect the Union budget, especially given the substantial financial impact of this case.

Irrespective of the undertaking invoices invalidated by the Commission,, the national customs authorities can (but most importantly) have a legal obligation to recover the due duties for all undertaking invoices found to be in breach of the requirements set in Annex 2 and Annex 3 to the solar panels Regulations.

The delegates are asked to distribute as much as possible the information sent by the Commission prior the meeting on CIRCABC group, so all the competent national authorities would be aware about their responsibilities in recovering the duties.

7.3. Refunds in the COVID context: moving from paper-based to electronic communications with customs authorities

The refund requests of anti-dumping and anti-subsidies duties are submitted by the importer to the Member States, who forward them to the Commission. However, there are no clear instructions on the procedure to be followed. Some Member States submit the requests on paper, other electronically.

The Commission underlined the need for Member States to submit refund requests electronically (rather than on paper) to ensure respect of legal

deadlines and avoid adverse legal and economic implications for the institutions and Member States, and requested CEG participants to recall this in their national administrations, including by the circulation of the documents shared for this meeting.

7.4. Reporting transactions to the continental shelf and exclusive economic zone as provided for in the “customs tool” regulation: first Anti-dumping case (wind towers).

On 21 October 2020, an anti-dumping investigation was initiated on imports of steel wind towers originating in the People’s Republic of China. This is the first anti-dumping investigation covering also transactions to the Continental shelf or exclusive economic zone of Member States (CS/EEZ). Therefore, the so-called customs tool regulation² has been activated and since the date of initiation of the case, Member States' customs must report transactions to the Commission, on the basis of the information contained in the receipt declaration.

More specifically, the reporting of CS/EEZ transactions by Member States contains the same information as for normal transactions reported in the 14(6) database. The only difference is that there is a need for a change in the field "Member State". For transactions to the CS or EEZ, this field should be filled with the competent Member State as defined in Article 3(1) of the customs tool, and it should indicate that this transaction was received in a CS or EEZ.

The Commission is grateful that Member States perform this in a timely manner (normally the following month after the receipt declaration is lodged, as with other transactions reported in “14(6)”).

The Member States are invited to report to DG TRADE by mid of December 2020 if the systems to be able to process the receipt declaration are put in place, including any other information they would consider necessary.

Regarding the guidelines on the application of the customs tool, the Commission recalled that these guidelines are under preparation. They would be indeed helpful but not strictly necessary for the application of the customs tool regulation. Irrespective of the guidelines, Member States should make sure that systems are up and running for the reporting and are invited to send by 10 December 2020 to TRADE-AD674-WIND-TOWERS-INJURY@ec.europa.eu a confirmation of the readiness of the systems to implement the receipt declaration, as well as any practical questions they may have.

A Member State expressed concern for the multiplication of reporting obligations for Member States. These obligations are becoming challenging for small Member States.

² Commission Implementing Regulation (EU) 2019/1131 of 2 July 2019 establishing a customs tool in order to implement Article 14a of Regulation (EU) 2016/1036 of the European Parliament and of the Council and Article 24a of Regulation (EU) 2016/1037 of the European Parliament and of the Council (OJ L 179, 3.7.2019, p. 12)

The Commission clarified that CS/EEZ reporting was decided by the European Parliament and the Member States in the context of modernizing the TDI legislation.

Another Member State proposed the creation of a new working group dedicated to discussions regarding TDI matters.

The Commission took note of a proposal of this proposal. However, at this stage, current communication channels appear to be sufficient.

Customs Expert Group (CEG/NOM/029) – 26 November 2020

List of participating authorities

DELEGATIONS

AUSTRIA
BELGIUM
BULGARIA
CROATIA
CYPRUS
CZECH REPUBLIC
DENMARK
ESTONIA
FINLAND
GERMANY
GREECE
HUNGARY
IRELAND
ITALY
LATVIA
LITHUANIA
LUXEMBOURG
MALTA
NETHERLANDS
PORTUGAL
ROMANIA
SLOVENIA
SPAIN
SWEDEN
COMMISSION

ADMINISTRATION

Bundesministerium für Finanzen
Ministerië van financiën, douane en accijnzen
Bulgarian customs agency
Croatian Customs directorate
Department of customs and excises
General Directorate of Customs
Told og Skattestyrelsen
Estonian tax and customs board
National board of customs, Finland
Bundesministerium der Finanzen
Independent Authority for Public Revenue –
Directorate of Tariff Issues.
Hungarian tax and customs administration
Office of the Revenue, Irish Tax and Customs
Agenzia Dogane
Latvian National Board of Customs
Lithuanian customs department under the
ministry of finance
Adm douanes et accises
Maltese Customs Administration
Belastingdienst Douane
Autoridad Aduaneira
Romanian Customs Authority
Customs administration of the Republic of
Slovenia
Departamento de informática tributaria
Tullverket
TAXUD/A/4
TRADE/G/4
TRADE/G/1