



Brussels
TAXUD.A.2/SPE/GdMP

NON-PAPER

Subject: Proposals received by DG TAXUD on the examination of economic conditions

BACKGROUND

DG TAXUD has received the following proposals to improve the procedure for the examination of economic conditions at Union level in Article 211(6) UCC. We would like to receive the opinion of the delegates on them, as follows:

- 1) Creation of a database at Union level to consult non-confidential versions of inward processing (IP) applications and authorisations,
- 2) creation of a mechanism to take into account the cumulative impact of IP authorisations at Union level,
- 3) amendment of Article 8 of the rules of procedure of the Customs Expert Group (CEG) to give visibility to the fact that the concerned associations are allowed to give their opinion on a certain IP application after a preliminary negative vote of the CEG on the examination of the economic conditions (please separate paper TAXUD/A2/SPE/2021/15 EN to be discussed at next CEG-SPE on 23 November 2021), and
- 4) possible amendment to Article 167(1)(f)(ii) UCC-DA to avoid circumvention of trade defence measures (please separate paper TAXUD/A2/SPE/2021/14 EN to be discussed at next CEG-SPE on 23 November 2021).

Brief analysis of Proposals 1 and 2:

On the proposal to create a database, it would allow any interested party to know the quantity of a certain non-Union goods authorised to be placed under IP at a certain

moment and hence to take into account the cumulative impact of IP authorisations at Union level (today this impact can only be determined within a certain MS). This would help establish a threshold in order to determine from which quantity of the goods placed under IP in the customs territory of the Union it can be considered that the essential interests of Union producers are adversely affected.

The creation of a database would require IT developments, as well as legal amendments to the UCC-DA and to the UCC-IA, including at least the addition of an Article in the UCC-DA to enforce the use of this database. This Article would refer to an Annex (to be added in the UCC-DA and IA or to be a part of existing Annex A, which would be amended in this case) where all the data elements in this database would be set out.

The establishment of a threshold is complex because such threshold may vary depending on the economic circumstances of the good in question, which may be quite volatile, in contrast with the IP authorisations, which are normally valid with a 3 or 5 year validity period. In addition, the quantities of a certain good allowed to be placed under IP at Union level do not necessarily reflect the quantities that are actually placed under IP, but only the maximum quantities allowed.

It should also be considered that in many cases the economic conditions are deemed to be met because of Article 167 UCC-DA. The most common cases are the ones where the goods are not sensitive and where, despite being sensitive, a difference in price between the Union goods and the goods intended to be placed under IP, where comparable Union goods cannot be processed due to the lack of economic viability (see Article 167(1)(f)(ii) UCC-DA).

Request to the Member States to provide comments

As proposals 1 and 2 require further elaboration and debate, COM requests the Member States to provide their preliminary opinion on them by 17 November 2021 at the latest. Proposals 3 and 4 will be discussed at the CEG-SPE meeting on 23 November 2021.