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CUSTOMS EXPERT GROUP (General Legislation Section)

Subject: Possible legal amendments concerning the determination of the office of exit and related provisions

On 31 May 2017, the project group FPG 076-CPG 143 (excise and customs cooperation under Fiscalis/Customs 2020), which was created to find possible solutions for the export of Union excise goods using the simplifications under Art. 329 UCC IA, held its' last meeting.

On that occasion, the project group discussed in particular the follow-up to the discussions held at the Customs Expert Group (General Legislation Section) on 29-30 May 2017, as well as the next steps to be envisaged. The determination of the office of exit in the case of export via the inland waterways was also included in the discussions (see Article 329 (3) IA).

As a result of these discussions, the delegates to the CEG - GEN may find herewith three series of provisions of the UCC DA and UCC IA for which amendments could be explored (see the track changes). A first justification for these changes was already described in working document Ares(2017)2529898 of 18 May 2017.

These issues will be presented at a forthcoming meeting of the CEG-GEN, for further discussion.

ANNEX I
EXPORT FOLLOWED BY TRANSIT OR BY A SINGLE TRANSPORT CONTRACT

Article 189 DA

Application of the external transit procedure in specific cases

(Article 153(1)) and Article 226(2) of the Code)

(new text is highlighted)¹

1. Where Union goods are exported to a third country which is a contracting party to the Convention on a common transit procedure or where Union goods are exported and pass through one or more common transit countries and the provisions of the Convention on a common transit procedure apply, the goods shall be placed under the external Union transit procedure as referred to in Article 226 (2) of the Code in the following cases:

(a) the Union goods have undergone customs export formalities with a view to refunds being granted on export to third countries under the common agricultural policy;

(b) the Union goods have come from intervention stocks, they are subject to measures of control as to their use or destination, and they have undergone customs formalities on export to third countries under the common agricultural policy.

2. Where the Union goods are eligible for the repayment or remission of import duties in accordance with Article 118(1) of the Code, those goods may be placed under external transit procedure as referred to in Articles 118(4) and 226(2) of the Code.

3. Where Union goods are exported to a third country and moved under the TIR operation or the ATA operation, the goods shall be placed under the external transit procedure as referred to in Article 226 (2) of the Code.

4. Where Union goods referred to in Article 1 of Council Directive 2008/118/EC² are exported these goods may be placed under the external transit procedure.

¹ An agreement on the revision of paragraphs 1, 2, and 3 was already reached during earlier discussions on the UCC DA amendments.

² Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (O.J. 9, 14.1.2009, p. 12)

Article 329 IA
Determination of the customs office of exit
(Article 159(3) of the Code)

1. Except where paragraphs 2 to 7 apply, the customs office of exit shall be the customs office competent for the place from where the goods leave the customs territory of the Union for a destination outside that territory.

2. In the case of goods leaving the customs territory of the Union by fixed transport installation, the customs office of exit shall be the customs office of export.

3. Where the goods are loaded in a seaport onto a vessel or in an airport onto an aircraft without any subsequent transshipment for carriage to a destination outside the customs territory of the Union by sea or air, the customs office of exit shall be the customs office competent for the place where the goods are loaded onto such vessel or aircraft.

4. Where the goods are loaded in a seaport onto a vessel that is not assigned to a regular shipping service referred to in Article 120 of Delegated Regulation (EU) 2015/2446, the customs office of exit shall be the customs office competent for the place where the goods are loaded onto such vessel.

5. Where, after having been released for export, goods are placed under an external transit procedure, the customs office of exit shall be the customs office of departure of the transit operation.

6. Where, after having been released for export, goods are placed under a transit procedure other than the external transit procedure, the customs office of exit shall be the customs office of departure of the transit operation provided that either of the following conditions is fulfilled:

(a) the customs office of destination of the transit operation is situated in a common transit country;

(b) the customs office of destination of the transit operation is situated at the border of the customs territory of the Union and the goods are taken out of that customs territory, after having passed through a country or territory outside the customs territory of Union.

7. On request the customs office of exit shall be the customs office competent for the place where the goods are taken over under a single transport contract for transport of the goods out of the customs territory of the Union by the railway companies, the postal operators, the airlines or the shipping companies provided that the goods are to leave the customs territory of the Union by rail, post, air or sea.

8. Paragraphs 6 and 7 shall not apply in cases where Union goods referred to in Article 1 of Council Directive 2008/118/EC³ are exported.

³ Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (O.J. 9, 14.1.2009, p. 12)

The first subparagraph shall be applied at the latest on the date of deployment of the Automated Export System (AES) referred to in the Annex to the Commission Implementing Decision (EU) 2016/578 of 11 April 2016 establishing the Work Programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code.

9. Where a re-export notification is to be lodged in accordance with Article 274(1) of the Code, the customs office of exit shall be the customs office competent for the place where the goods are in the free zone or in temporary storage.

ANNEX II
INTRODUCTION OF A CORRECTION MECHANISM IN CASE NO PHYSICAL EXIT OF THE
GOODS HAS TAKEN PLACE

Article 340 IA

Goods ~~released for export or re-export~~ that do not leave the customs territory of the
Union

(Article 267 of the Code)

1. Where goods released for the export or re-export are no longer intended to be taken out of the customs territory of the Union, the declarant shall immediately inform the customs office of export.

2. Without prejudice to paragraph 1, where the goods have already been presented to the customs office of exit, the person who removes the goods from the customs office of exit for carriage to a place within the customs territory of the Union shall inform the customs office of exit that the goods will not be taken out of the customs territory of the Union and specify the MRN of the export or re-export declaration.

3. Where, in the cases referred to in Article 329(5), (6) and (7) of this Regulation, a modification in the transport contract has the effect of terminating inside the customs territory of the Union a transport operation which should have terminated outside, the companies or authorities in question shall inform the customs office of exit of that modification and may only carry out the modified contract with the prior agreement of ~~the~~ that customs office ~~of exit~~.

3a. In the cases referred to in paragraphs 2 and 3, the customs office of exit shall inform the customs office of export that the goods were not taken out of the customs territory of the Union.

The first subparagraph shall be applied at the latest on the date of deployment of the Automated Export System (AES) referred to in the Annex to the Commission Implementing Decision (EU) 2016/578 of 11 April 2016 establishing the Work Programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code.

4. In the case of an invalidation of the export or re-export declaration in accordance with Article 248 of Delegated Regulation (EU) 2015/2446, the customs office of export shall inform the declarant and the declared customs office of exit of that invalidation.

Article 248 DA

Invalidation of the customs declaration or the re-export declaration

(Article 174 of the Code)

1. Where there is a discrepancy in the nature of the goods released for export, re-export or outward processing compared to those presented to the customs office of exit, the customs office of export shall invalidate the declaration concerned.

2. Where, after a period of 150 days from the date of release of the goods for the export procedure, the outward processing procedure or re-export, the customs office of export has received neither information on the exit of the goods nor evidence that the goods have left the customs territory of the Union, that office may ~~shall~~ invalidate the declaration concerned.

~~The first subparagraph shall not apply in cases where the customs office of export has evidence that the export of goods may take place within a period of more than 150 days starting from the date of release of the goods for the export procedure.~~

3. Where the customs office of export is informed, in accordance with Article 340 (3a) of Commission Implementing Regulation (EU) 2015/2447, that the goods were not taken out of the customs territory of the Union, it shall immediately invalidate the declaration concerned and where appropriate, it shall immediately annul the relevant certification of the exit of goods referred to Article 334 of Implementing Regulation (EU) 2015/2447.

ANNEX III
TIME-LIMIT FOR THE CUSTOMS OFFICE OF EXIT TO INFORM THE CUSTOMS OFFICE OF
EXPORT OF THE EXIT OF THE GOODS

Article 333 IA

Supervision of goods released for exit and exchange of information between customs offices

(Article 267 of the Code)

1. Once goods have been released for exit, the customs office of exit shall supervise them until they are taken out of the customs territory of the Union.
2. Where the customs offices of exit and export are different, the customs office of exit shall inform the customs office of export of the exit of the goods at the latest on the working day following the day on which the goods have left the customs territory of the Union.

However, in the cases referred to in paragraphs 3 to 7 of Article 329 of this Regulation, the time-limit for the customs office of exit to inform the customs office of export of the exit of the goods shall be the following:

- (a) in the cases referred to in Article 329(3) and (4), ~~at the latest on the working day following~~ on the day ~~on which~~ when the vessel or aircraft on which the goods have been loaded has left the port or airport of loading or at the latest on the following working day;
- (b) in the cases referred to in Article 329(5), ~~at the latest on the working day following on~~ the day ~~on which~~ when the goods have been placed under the external transit procedure or at the latest on the following working day;
- (c) in the cases referred to in Article 329 (6), on the day when the transit procedure has been discharged or at the latest on the following working day ~~at the latest on the working day following the day on which the transit procedure has been discharged~~;
- (d) in the cases referred to in Article 329(7), ~~at the latest on the working day following the day on which the goods have been taken over under cover of a single transport contract on~~ the day when the information referred to in Article 332 (5) is available to the customs office of exit or at the latest on the following working day.

3. Where the customs offices of exit and export are different and the exit of the goods is refused, the customs office of exit shall inform the customs office of export at the latest on the working day following the day on which the exit of the goods has been refused.
4. In unforeseen circumstances, where goods covered by one export or re-export declaration are moved to a customs office of exit and are subsequently to leave the customs territory of the Union through more than one customs office of exit, each customs office of exit where the goods were presented shall supervise the exit of the goods which are to be taken out of the customs territory of the Union. The customs offices of exit shall inform the customs office of export of the exit of the goods under their supervision.

5. Where goods covered by one export or re-export declaration are moved to a customs office of exit and subsequently leave the customs territory of the Union as more than one consignment due to unforeseen circumstances, the customs office of exit shall inform the customs office of export of the exit of each consignment.

6. Where goods are to leave the customs territory of the Union in the case referred to in Article 329(~~67~~) of this Regulation, the carrier shall upon the request by the competent customs authorities at the point of exit provide information on those goods. That information shall consist in one of the following:

(a) the MRN of the export declaration;

(b) a copy of the single transport contract for the goods concerned;

(c) the unique consignment reference number or the transport document reference number and where the goods are presented in packages or containerised, the number of packages and, if containerised, the container identification number.

7. By derogation from point ~~eb~~ of paragraph 2 of this Article, until the dates of deployment of the Automated Export System referred to in the Annex to Implementing Decision 2014/255/EU, in the cases referred to in Article 329(5) of this Regulation, the time-limit for the customs office of exit to inform the customs office of export of the exit of the goods shall be the first working day following the day the goods are placed under that transit procedure or the goods leave the customs territory of the union or the transit procedure is discharged.

8. By derogation from paragraph 4 of this Article, until the dates of deployment of the Automated Export System referred to in the Annex to Implementing Decision 2014/255/EU, the customs office of exit where the consignment was first presented shall collect the exit results from the other customs offices of exit and shall inform the customs office of export of the exit of the goods. They may do so only when all of the goods have left the customs territory of the Union.

9. By derogation from paragraph 5 of this Article, until the dates of deployment of the Automated Export System referred to in the Annex to Implementing Decision 2014/255/EU, where goods covered by one export or re-export declaration are moved to a customs office of exit and subsequently leave the customs territory of the Union as more than one consignment due to unforeseen circumstances, the customs office of exit shall inform the customs office of export of the exit of the goods only when all of the goods have left the customs territory of the Union.