

EC Customs and Trade Law

New regime for “dual-use” goods

Council Regulation (EC) No 1334/2000 of June 2000 setting up a Community regime for the control of exports of dual-use items and technology has been significantly amended on several occasions. It was then decided to recast this regulation in the interest of clarity.

Regulation (EC) No 1334/2000 is replaced with effect from 27 August 2009, by Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items.

"Dual-use items" means items, including software and technology, which can be used for both civil and military purposes, and shall include all goods which can be used for both non-explosive uses and assisting in any way in the manufacture of nuclear weapons or other nuclear explosive devices.

Security data

On 10 June, 2009, the EC Commission (DG TAXUD) issued a Note synthesizing recent news in matters of communication of security data.

Originally, it was decided that from 1 July 2009, security data had to be provided before arrival or departure of the goods into or out of the Community customs territory.

As known, the European Commission adopted in April 2009 the EC Regulation No. 273/2009 which sets a transitional period from 1 July 2009 to 31 December 2010 during which traders will have the option of submitting electronic entry or exit summary declarations on goods before they enter or leave the EU.

As per the above-cited Note, the transitional period in place between 1 July 2009 and 31 December 2010 for the provision of the Entry Summary Declaration and the Exit Summary Declaration, implies that these data elements are requested as of 1 July 2009 only for export declarations.

"Security data" are detailed in Annex 30A of the Customs Code Implementing Provisions.

The data requirements can be found in Tables 1 to 6 of Annex 30A.

Annex 30A defines the following specific datasets:

- at entry, datasets for some modes of transport (air, sea, inland waterways, rail and road) and for AEOs;
- similarly, at exit, datasets for air, sea, inland waterways, air and ship supplies and for AEOs;

Attention must be drawn to the fact that from 1st July 2009, the registration numbers attributed nationally will be available at Community level (EORI).

Anti-subsidy proceeding concerning imports of sodium metal originating in the United States of America terminated

The anti-subsidy proceeding concerning imports of sodium, in bulk, originating in the United States of America, has been terminated by means of Commission Decision 2009/452/EC of 11 June 2009, without the imposition of countervailing measures.

On 23 July 2008, the Commission initiated an anti-subsidy proceeding concerning imports into the Community of sodium, in bulk, originating in the United States of America, normally declared within CN code ex 2805 11 00.

The proceeding was initiated following a complaint lodged on 10 June 2008 by the sole Community producer Métaux Spéciaux, alleging that subsidised imports of sodium, in bulk, originating in the USA were causing material injury to the Community industry.

The Commission officially advised the complainant, the sole known exporter/producer in the USA (DuPont Reactive Metals), the importers and users known to be concerned (Rohm and Haas Europe SARL and Evonik Degussa GmbH) and the representatives of the USA of the initiation of the proceeding. The interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the notice of initiation.

The investigation of subsidisation and injury covered the period from 1 July 2007 to 30 June 2008.

Trade Disputes

US, Taiwan and Japan against EC — Tariff Treatment of Certain Information Technology Products

Next 11 July, 2009, a WTO panel will hold its second meeting with the parties at the dispute concerning tariff treatment of certain IT products at importation into the EU.

The United States and Japan on 28 May 2008, and Taiwan on 12 June 2008, requested formal consultations with the European Communities and its member States.

The United States, Japan and Taiwan all claim that the tariff treatment the European Communities and its member States accord to certain information technology products does not respect their commitments to provide duty-free treatment for these products under the Information Technology Agreement (ITA). According to the United States, Japan and Taiwan, the European Communities and its member States now impose duties on these products contrary to their scheduled duty-free tariff concessions arising from the ITA. Products concerned include multi-functional printers and monitors.

The United States, Japan and Taiwan assert that a number of EC customs classification legal instruments, alone or in combination with Council Regulation (EEC) No. 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, appear to be inconsistent with the EC's and its member States' obligations under Article II:1(a) and II:1(b) of the GATT 1994 and their Schedules of Concessions.

The United States and Taiwan also claim that the publication of certain amended explanatory notes in the EC Official Journal after their application by its member States is inconsistent with the EC's obligations under Article X:1 and X:2 of the GATT 1994.

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