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Cefic (European Chemicals Association), ESC (European Shippers Council), FETSA (Federation of European Tank Storage Association), Clecat (European association for forwarding, transport, logistics and customs services)

With respect to the Commission's working paper of 23 August 2017, proposing to amend the "Common storage, accounting segregation and usual forms of handling (UHF) in Special Procedures" (TAXUD/A2/SPE/2017/012), the above associations voice the concerns and disapproval of their members.

The Commission's proposal suggests the introduction of specific requirements for common storage of goods with accounting segregation through the amendment of Article 177 DA. Goods that are stored together will need to have same eight-digit CN code, the same commercial quality and the same technical characteristics. Whereas, these requirements were in the former Art 534(2) CCIP, the trade defense status of goods was not an aspect of the "commercial quality" criteria in previous EU customs legislation –which is here further proposed by the Commission.

Negative Impact on special procedures

First, the introduction of the proposed criterion would result in the *de jure* prohibition of common storage of non-EU goods subject to trade defense measures and EU goods, which however is currently permitted subject to accounting segregation.

Second, the proposed definition of the "commercial quality" criteria could also imply that EU goods and non-EU goods cannot be stored together, if the latter are not customs cleared – a domino effect of the Commission's proposal going beyond the concern of AD duties evasion. Again, this is problematic as companies would end up in situations where EU goods and non-EU goods cannot be stored and further processed together in the Customs Warehouse and Inwards Processing procedures.

Consequences

The proposed definition of the "commercial quality" criterion will negatively impact companies using special procedures, and consequently harm the competitiveness of the industry as a whole.

If the Commission's proposal were to be adopted, the physical segregation of goods during storage and the production will be needed. However, some EU companies have based their business models on the special procedures and the advantages that they provide. As a consequence, EU companies would need to change their continuous production processes resulting in additional expensive investments in infrastructure which may not be viable. As a consequence, companies may also decide

not to use (raw) materials subject to trade defense measures anymore, which would undoubtedly impact competitiveness to the benefit of their competitors in third countries.

Overall, the proposed definition, if adopted, would impose a cost on goods subject to trade defense measures that is beyond the assessed margin of dumping, and would be inconsistent with the EU's WTO obligations.

To conclude, the signatories of this paper **consider that the Commission's proposal, restricting the application of special procedures, attempts to address theoretical fraud situations** - - as until now no evidence of AD duties evasion via special procedures is known to them. Therefore, the signatories believe that it is highly essential to determine where unjustified import duty advantages might occur before taking measures that have adverse effects.

Considering the aforementioned, the signatories **call the Commission to use more appropriate means to establish its goal in preventing unjustified import duty advantages**, such as the economic conditions requirements. In addition, they also remind that the Member States customs authorities have regular contacts with their local companies as they are in charge of granting authorizations for special procedures, putting them at the best place to assess alleged risks of fraud.

At the time of the initiation of the UCC, special procedures were promoted to the industry as major trade facilitation tools that would increase the EU's attractiveness and competitiveness at global level. The signatories of this paper believe that this proposal, launched without consultation of the industry, is a step back as regards facilitation and simplification, and therefore **call upon the Commission not to amend Art 177 DA, but instead to utilize more eligible means to prevent unjustified import duty advantages**.