

Minutes of the JCCC Duty Liability Sub-Group meeting

Date of Meeting: Wednesday 14th May 2014

Location: Room 15:16 Alexander House 11:00-14:30

Attendees:

Phil Challen (PC)
Lorenzo Rossetti (LR)
Linda Stone (LS)
Emma Ormond (EO)
Gavin Roberts (GR)
Mike Galloway (MG)
Corinne Nabavi (CN)
Simon Thewlis (ST)
Keith Aldred (KA)

Valerie Smith (VS) (*Chair*)
Nicky Shelley (NS)
Hazel Batter (HB)
David Harris (DH)
Jim Repper (JR)
Robert Oxlade (RO)
Beth Earwicker (BE)
Lisa Cureton-Burgess (LCB) (Minutes)

Apologies:

Apologies were received in advance from,

John Carlin
Mike Hodge
Bob Ellison
Walter Anzer
Andy Miller
Gorden Tutt
Tracey Taylor-Scotch (Whisky Association)

Previous minutes – Action points

The minutes of the previous meeting of October 2013 were agreed.

Action Points:

AP no.	Action Raised	Action Taken	Owner	Status
1	Find out regarding the Ukraine updates	NS will give update at meeting	NS	Discharged
2	Enquire as to when the sugar Myanmar reports will be published from the commission	NS updated Corinne by email.	NS	Discharged
3	Send information on items from the WCO meeting	LH answered questions that were raised	LH	Discharged
4	Send any footwear results published in OJ to the JCCC members	Email sent 20/3	CS	Discharged
5	Contact BIS regarding problems obtaining correct certification for undertaking	JM to update group	JM	Discharged no longer required

UCC

JR gave an update on the UCC saying that The Union Customs Code was adopted on 9 October 2013 as Regulation (EU) No 952/2013 of the European Parliament and of the Council. It will be applicable when the relevant Implementing Acts (IAs) and Delegated Acts (DAs) are adopted and this should be no later than 2016.

The first draft of the DAs and IAs were made available in January 2014 for comments by Member States (MS)

The last meeting of the first review cycle will take place in Brussels during June 2014 and the Trade Contact Group meeting (trade input) is scheduled for end June/beginning of July 2014

The second review cycle is scheduled for Sept to Dec 2014, with no further review cycles planned, transitional measures should be issued by the end 2014/early 2015

The Code should be finalised by May 2015 leaving a 12 month settling in period before adoption in May 2016. Re-authorisations, including those that apply to special procedures traders, will need to be in place in line with the adoption date.

SPECIFIC DISCUSSIONS OF INTEREST DURING THE FIRST CYCLE.

The UCC includes measures to complete the transition to a paperless/electronic customs environment, and provisions to expand and reinforce customs procedures

for AEOs, including centralised clearance. The target date for a paperless/electronic environment is 2020.

A number of issues and challenges were made by MSs with no conclusions being reached. The Commission have withdrawn the draft text for a re-write in light of these discussions. Clearly the discussions on AEO will run on with further discussions on the revised text at the next meetings.

Valuation – Earlier Sales

HB gave an update on Earlier Sales saying that In addition to the UK, a number of other MS raised objections at the lack of reference to an earlier sale, expressing concern that this would disadvantage domestic importers here in the EU whilst the US retain the facility. Disappointment was expressed that nothing positive had been offered by way of a compromise

The Commission responded to the comments and concerns as follows;

- The change of approach recognised that EU tax revenue was in jeopardy.
- The current position distances competition between big business and SME's.
- Whilst they support importers, earlier sales offers privileges to some but not others.
- The current system is perverse and operates against the public purse.

Differing views remain across MS so further discussion was put off until now. The Commission maintained their position and stayed with their proposal. They pointed out that this was only the first cycle of consultations and they would do all they could to refine the text to avoid any chance of misinterpretation. The refined text will be discussed again during the next round of consultations in the summer.

There was some discussion on the effect on warehouse transactions. The intention of the proposed text stated as being 'to get as close to the nearest value before release to free circulation'.

An update to the Annexe for this article is yet to be made available. The meeting expressed concern that what was regarded as an important piece of the jigsaw was missing. No conclusions were reached and clearly this discussion will run on with further discussion at the next round of meetings

Valuation – Royalties and License Fees

Currently the very basic requirements as to whether or not a royalty fee is dutiable are:

- Does it relate to the imported goods; and
- Is it paid as a condition of sale of those imported goods?

The starting point for all royalty cases is to determine what the licensee actually receives in return for payment of the fee.

The main change in the UCC is the proposed introduction of legislation to indicate when Royalties/Licence Fees are to be considered to be paid as a condition of sale of the goods. A further change is that the condition at the third indent of current Article 159 of the existing IP's (i.e. the freedom to source condition related to royalties for the use of trademarks) is not reproduced in the new provisions.

It appears that the proposal seeks to recognise that the actual economic value of imported goods incorporating intellectual property, including trademarks, was higher than imports of similar goods without it. The objective therefore appears to be to ensure that this is reflected in the declared Customs Value of the goods concerned. The construction of the current legal provisions does not achieve this in many cases, so it seems inevitable that more Royalties/Licence Fees will be included in the Customs Value in future if these proposals are adopted.

There was a general discussion on proposed deletion of some of the text whilst retaining other parts. No conclusions were reached and clearly this discussion will run on with further discussion at the next round of meetings.

JR reminded members that any complaints made from the trade need to be fully backed up with evidence. He said that we will wait for the text then take action with every effort being made.

PC offered a scenario regarding Earlier Sales, **VS** told members to send all concerns to **LCB** who will make sure that they reach the UCC Team.

Asda Hangers

HB briefly said that The Court of Appeal has now unanimously endorsed the Upper Tier's view, stating that import duty was payable 'on the full amounts Asda paid to the clothing suppliers, without any deduction for the rebates it received from the hanger suppliers'. In their ruling the judges said they disagreed with Asda's argument that HMRC's decision not to include the rebate for the hangers amounted to calculating customs duties based on 'arbitrary or fictitious values' as laid out in the Community Customs Code. The judges said the rebate 'is a commercial arrangement that does not affect the "transaction value" or the "price actually paid or payable for the goods when sold for export to the customs territory of the Community"'.

Tariff Preference

NS updated the meeting regarding the latest position on the EU's New GSP Scheme, EPA & Free Trade Agreement Negotiations, & the Pan-Euro-Med Regional Convention. An update presentation was distributed prior the meeting. **KA** asked if there is a link to the latest information on GSP+ **AP NS** to circulate link to members. **EO** asked is there is a list of countries that have not yet nominated an issuing authority for GSP? **AP NS** to provide details of the countries. **PC** raised the problem of incorrect products codes entered on GSP certificates. Remedial steps were explored. **AP NS** to talk to UoE Leeds.

Classification

ST Asked if pet baskets were classified in the same way as pet mattresses, **BE** said No, if the mattress is internally stuffed then they can be classified within heading 9404 (similar to a large cushion) as there is a statement covering a cat bed which had a detachable base which was classified as having the characteristics of a cushion under 9404.

DH was asked where video glasses are classified **AP DH** to confirm classification.

PC expressed concern about the methodology used to support the classification decision in Regulation 114/2014. He was invited to express his concerns in writing so we can raise them with DG TAXUD. **AP PC/DH**.

VS also mentioned that there have been some staff changes following Nina Ramsey's retirement.

Beth Earwicker attends the Agriculture and Chemicals meeting, she deals with chapters 1-40 and 50-64 and 97 (cars only)

David Harris attends the Miscellaneous /Mechanical and Textile meetings he deals with chapters 84-93

Lesley Holiday attends the WCO meetings and deals with chapters 41-49, 50-64, 65-83, 94, 96-97.

The increasing HMRC focus on self help was discussed. The sub group was invited to suggest improvements or new topics for the range of specialist classification guides available on GOV.UK. **EO** requested that the footwear guide includes slippers. **AP PC** to review the guidance on classifying Audio/Video Equipment. Progress with making Tariff Volumes 1 and 3 available on GOV.UK was shared including the impact on the Printed Tariff 2015.

The recent mandation of electronic BTI Applications were discussed. The only concern raised was about the size of attachments allowed-could this be increased? The 900kb restriction on the EU system was explained and a workaround agreed. **GR** asked if an acknowledgement letter could be sent once samples are received, **AP LCB** to look into this with her team.

The sub group were given a brief outline of the EU "CLASS" project which when implanted will make all key classification information including regulations, explanatory notes, BTIs and legal judgments freely available online 24/7. All agreed that this would be a positive development.

AOB

CN raised a concern regarding a new C18, she received that only had Customs duty and not the Import VAT. She emailed the officer at NBC (National Business Services, Grimsby) and advised him of the error to only be told that it was correct to issue the C18 only for Customs duty as they were only responsible for Customs duty and that the VAT was the responsibility of the VAT officer. This was raised with the NCH and they have confirmed that this was an error by a member of staff and they will be starting full training with all staff dealing with these types of C18's so this does not happen again.

MG asked about the Tariff Classification helpline, **VS** said that HMRC is moving towards digital services so helpline provision is under consideration.

Sub group members commented favorably on the range of subjects covered at the meeting. The next meeting is arranged for the 18th September 2014 Parliament street London and we plan to adopt the same approach.

Meeting closed 14:15

Reference	Action Point(s)	Owner
Tariff Preference	Talk to UoE regarding BTI codes and GSP Certificates	NS
Tariff Preference	Circulate latest information GSP+	NS
Tariff Preference	list of countries that have not yet nominated an issuing authority for GSP	NS
Tariff Classification	Confirm Tariff heading of Video glasses	DH
Tariff Classification	To review the guidance on Classifying Audio/Video equipment guide.	PC
Tariff Classification	PC to write to David so to forward to the Nomenclature Committee with his concerned over Reg 114/2014	PC
Tariff Classification	Lisa to look into acknowledge letters to be sent for samples received	LCB