

Minutes of the JCCC Duty Liability Sub-Group meeting

Date of Meeting: Thursday 2 October 2014

Location: Room 15:18/19 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)
Simon Thewlis (ST)
Mark Emerson (ME)
Bob Ellison (BE)
Gorden Tutt (GT)

Valerie Smith (VS) (*Chair*)
Nicky Shelley (NS)
Hazel Batter (HB)
Robert Oxlade (RO)
Lesley Holiday (LH)
John Mitchell (JM)
Syed Moinuddin (SM)
Piers Davenport (PD)
Lisa Cureton-Burgess (LCB) (*Minutes*)

Apologies:

Apologies were received in advance from,

Barbara Russell
Keith Aldred
John Carlin
Mike Hodge
Bob Ellison
Andy Miller
Corinne Nabavi
Robert Windsor

Previous minutes – Action points

The minutes of the previous meeting of May 2014 were agreed.

Action Points:

AP no.	Action Raised	Action Taken	Owner	Status
1	Talk to UoE regarding BTI codes and GSP Certificates	Members will need to provide actual examples.	NS	Discharged
2	Circulate latest information GSP+	Email was circulated	NS	Discharged
3	list of countries that have not yet nominated an issuing authority for GSP	Email was circulated	NS	Discharged
4	Confirm Tariff heading of Video glasses	Email was circulated	DH	Discharged
5	To review the guidance on Classifying Audio/Video equipment guide.	Review was circulated	PC	Discharged
6	PC to write to David so to forward to the Nomenclature Committee with his concerned over Reg 114/2014	Email was sent to the Commission	PC	Discharged
7	Lisa to look into acknowledge letters to be sent for samples received	Letter has been produced and now in use.	LCB	Discharged

Valuation – Earlier Sales

JM advised the meeting that he had attended the recent General Legislation Committee in Brussels with Jim Repper.

It remains clear that the Commission is committed to implementing the changes both to Earlier Sales and Royalties as proposed.

During that meeting, the UK put forward a proposal that would allow a reasonable period of transition (for Earlier Sales) after implementation of the UCC. This appeared to be the best outcome we could now seek to achieve. The draft text of the so called "Sunset Clause" reads as follows;

Article IA-II-3-02a

In the case of successive sales before valuation, the transaction value may be determined on the basis of a sale for export before the last transaction occurring immediately before the goods are declared for free circulation. In such cases the declarant must prove to the satisfaction of the customs authorities that a binding contract for that sale, indicating the price paid or payable, was entered into prior to entry into force of this Regulation. (i.e. May 2015 on the current timetable for agreement)

This Article shall apply until 31 December 2017.

Following acceptance of the proposal both by other Member States and the Commission, work is now progressing on refining the text and ensuring that the effects of goods being removed from warehouse are fully reflected. The Commission is taking on this work and HMRC will share the result with the JCCC as soon as it is available.

On Royalties, the Commission confirmed that the text will remain unchanged. There has been little support for the UK position from other Member States.

Tariff Preference

NS updated the members 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 pack was distributed prior the meeting. **WA** asked is there were any developments with GSP+ with the Philippines? **AP NS** will inform members of any changes.

WA Gave the group an update on IUU saying that all fish imports from Sri Lanka have been banned and discussions will not take place until next year, there are also problems with other countries.

TTIP- Transatlantic Trade and Investment Partnership

PD said during the last full negotiating round, which was held in July in Brussels, there were productive discussions. The EU and the US had an initial exchange of offers, including on services. Discussions were largely at a technical level covering horizontal and sector elements, regulators building on work in the previous rounds, notably in pharmaceuticals and chemicals. Preliminary discussions have also begun on food and drink issues.

The 7th round of talks are taking place this week in the US, but rules of origin and the customs and trade facilitation chapter will not be on the agenda. This will be followed

by a discussion in mid-October between the EU Trade Commissioner, US Trade Representative and EU trade Ministers. Further information can be found on the European Commission's [website](#).

In the USA midterm elections will be held on 4 November, and US negotiators have already indicated that it would be difficult to discuss certain parts of the deal ahead of the midterms. The UK Government will be continuing to engage with both the Commission and the US Congress during institutional changes with US elections and a new EU trade commissioner, ensuring that progress on TTIP does not stall.

The UK Government is increasing its public engagement efforts, to communicate the potential benefits of the deal, particularly for consumers and small businesses.

The UK's assessment is that good progress has been made, but we will continue to press the Commission to set out a clear list of priority areas, so that an ambitious agreement can be made in 2015.

GT Queried the position of safety and security declarations.

EO Commented that she didn't see safety and security being an area that the US will compromise on, as the US system requires all suppliers to be audited.

SM in responding said that there needs to be an ambitious agreement, encouraging members to contribute to what this would mean at workshops held in each quarter eg the next one potentially in Dec/Jan. The concerns of the Department of Homeland Security in relation to MRA between CTPAT and AEO adds to the sensitive nature of safety and security.

PD: Conveyed that the [US objectives on TTIP](#) are available on line, including those for trade facilitation, questioning whether this was an area requiring more information from HMG. However, Sub group members said that they'd just like to be kept updated.

SM provided an update on the Bali decision in response to **WA's** request, stating that trade facilitation agreement has stalled due to Indian's position on food security. The country is in favour of the trade facilitation, but won't sign up to it unless they gain concessions on food security.

Compulsory Origin Marking

PD circulated an email sent by HMRC on behalf of BIS, asking for firms to comment on an EU Proposal for mandatory country of origin product marking, included in a regulation on [Consumer Product Safety](#). The objective of the Consumer Product Safety Proposal is to ensure that there are no unsafe products on the market.

This would foresee mandatory country of origin marking on all non-food consumer products in the internal market, both those imported and those produced within the EU. The definition of the country of origin would be based on existing non-preferential origin rules governing trade with non-EU countries. Goods made in the

EU would be permitted to be labelled as made in the member state concerned or in the EU.

The UK's commitment is to consumer protection and to legislative measures on product safety that deliver clear benefits for consumers in a cost effective way. As the Commission had yet produced a comprehensive assessment, the UK commissioned a research consultancy to collect evidence on the impact of mandatory country of origin marking to the UK, which is the aim of the email. Costs of introducing an origin marking could entail physical costs, administrative burdens, costs of adapting products and those to customs and consumer protection authorities. There may well be benefits to producers and consumers.

Discussions on the Proposal have stalled due to clear differences between member states on Article 7 of the Proposal (mandatory country of origin product marking). The timings of progressing on this are difficult while we still have the impasse, but this would potentially not be on the statute books for at least 2 years, in the event of discussion concluding successfully.

A request was made for attendees to circulate the email to those of interest, with the advice that anyone wishing to volunteer as an interviewee should contact Amanda Bell at Databuild by 12 October at the latest.

WA commented that country of origin labelling is already part of food information regulations.

Currently, under General Product Safety Regulations 2005, manufactures are required to affix their name and address to products.

VS: HMRC doesn't support the Proposal, as from the control point of view Border Force are not resourced to undertake the physical checks, which would be required with such a legislation.

PC Could only see disadvantages of the Proposal, given that the EU non-preferential rules are different and any change leading to the restructuring of production techniques. In addition, the EU would be subject to retaliatory measures.

EO Reported that the practice foreseen by the legislation is in place in many other geographies.

Commission's proposal to have binding list rules in determining non-preferential origin

PD outlined deliberations on the Commission's desire to introduce the existing non-preferential guidelines on list rules into legislation, so that they become binding. This change would be brought about in the new UCC.

In non-preferential list rules, the country of origin of a good is the last country of production, provided that a primary rule is fulfilled for certain products, which are specified in the guidelines. The primary rule for the classification of these products can lead to a change in origin as a result of a tariff change, or the ex-works price, for

example.

The advantages of having binding list rules is that a hard-and-fast rule is applied, aiding customs and also in respect to anti dumping. The disadvantages, however, are that there is the flexibility and discretion to address to changing situations e.g. technological development in products and production methods. Also, there would be implications for exporters. Amongst our like-minded group there are strong reservations about having binding list rules.

There is a further dimension to any move to have list rules binding, as this could reduce the negotiating position of the EU in negotiations in the WTO to seek common list rules. Whilst these haven't accelerated, the UK has taken the view that these should continue (shared by a number of member states), so that the whole world has a chance to benefit from simplification.

EO Commented that she didn't feel strongly about a change, as Primark is already subject to much of the existing regulatory requirements. However, list rules can be inflexible.

PC Strongly against list rules, with the exception of very rare instances, for example, in anti-dumping.

Classification

UCC

RO updated members on Binding Tariff Information and the UCC saying that it should be finalised by May 2015 with adoption in May 2016. The Commission has produced UCC BTI Vision document and EBTI-3 IT system User Requirement. HMRC have consequently started a Change Project for BTI in preparation for implementation of BTI changes in Q 1 2017.

The main changes for BTI are:

While currently the BTI is binding only for the customs authorities, under the UCC it will also become binding for the holder. As a result BTI holders will be obliged to include the BTI reference in their customs declaration and the customs authorities will have to control this obligation.

The COM are also very keen that following the Court of Auditors Special Report No 2/2008 that Member States are requested to control the BTI usage.

This BTI usage control will be performed based on the declaration data on one hand and the BTI data on the other. It will therefore require modifications to both the existing Surveillance 2 system (declaration data) and to the existing EBTI-3 system (BTI data).

The UCC will also require further BTI changes:

- Use and validation of the EORI number to identify the BTI holder;

- alignment of the EBTI-3 system to the UCC requirements such as the standard process for Customs Decisions as will be defined in the UCC Delegated and Implementing Acts
- The possibility for traders to submit the BTI application and receive the BTI decision electronically via an EU harmonised trader interface.

This initial version of the vision document records the outcomes of the inception phase establishing the business case for the UCC BTI project, settling the scope of work and expectations and specifying the business process modifications and improvements to be introduced.

The new functionality is planned to be operational by Q1 2017.

The implementation of the UCC requirements for BTI will be split into 2 phases, due to the dependency on other projects.

Phase 1 will focus on BTI usage control and alignment of the EBTI-3 system to the standard process for Customs Decisions as will be defined in the UCC DA&IA.

This phase will therefore require modifications to the existing EBTI-3 and Surveillance2 central systems, as well as to the existing interfaces of these systems with the Member States. The Member States will send all relevant data elements from the declaration to Surveillance2 where they will be stored centrally. Processing will occur on a sub-set of those data elements determined by BTI priority needs.

In phase 2 some additional functionality will be implemented:

- More data analysis possibilities as processing will occur on all (52) surveillance data elements as determined by all BTI needs and other Commission stakeholders' needs;
- Traders will have the possibility to submit their BTI applications and receive the BTI decisions electronically via an EU harmonised trader interface.

Monitors

RO thanked **PC** for his input into development of the Classification guide on monitors, David Harris has agreed the changes and hopes to get the updated guide onto the GOV.UK website by the end of the year. If anyone has any feedback about any of the Classification guides to send it to **LCB**.

Electronic applications

ST said that he is still having problems with submitting BTI applications online, **VS** asked if members could let **LCB** know of any problems with application submissions and the Government Gateway.

Printed Tariff

VS told the group that there will be a printed Tariff for 2015 however this is expected to be the last one. Volumes 1 & 3 are now on the GOV.UK site in PDF format. **GT** asked how current is the data on GOV.UK **VS** said it is updated daily via CHIEF but if there are any inconsistencies found please send them to **LCB**

AOB

MG asked what the latest was on the Tariff Classification Helpline, **VS** said that there is likely to be a formal consultation on the future of the helpline later this year. There will be a 12 week consultation period, other ways to provide Classification advice will be considered.

VS informed members of organisational changes that have taken place which affect the Customs Duty Liability team. Policy responsibility for Origin, Valuation, ADD and CAP will move from **VS** command and be replaced by EU & National Audits and related activities. The policy teams managed by Ian Wilkins and Kevin Snow are being restructured as part of this change. Tariff Services, including Tariff Classification will remain with **VS**.

With regards to the JCCC meetings **VS** said that the meetings may be co-chaired with Ian`s meetings or we may keep it separate, the members agreed fully that the DL Sub Group meeting should be kept together.

Meeting closed 14:30

Next Meeting 25th February 11am Parliament Street

Reference	Action Point(s)	Owner
Tariff Preference	Inform members of any developments with GSP+ and the Philippines	NS
Tariff Preference	Send link on the proposed legislation on Consumer Product Safety and email canvassing interest in inputting into the research, providing Amanda Bells contact numbers.	PD