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REPORT ON THE OUTCOME OF THE CONSULTATION ON "SIMPLIFICATION OF VAT COLLECTION PROCEDURES IN RELATION TO CENTRALIZED CUSTOMS CLEARANCE"

1. INTRODUCTION

According to Article 106 of the Modernised Customs Code (Regulation 450/2008 of the European Parliament and of the Council of 23 April 2008) customs authorities may authorize importers to both declare and pay customs duties to the local customs administration of their establishment, independent from where the goods are physically imported and where they are transported to within the EU ("centralised clearance"). In such cases, the customs debt shall be deemed to be incurred in the Member State of authorisation.

The Council, when it agreed on the Modernised Customs Code, clearly recognized that "*centralised clearance may also require adjustments in the area of VAT*".

The public consultation was launched with the aim of seeking the views of business on a series of solutions relating to the possible adaptations of VAT collection rules in centralized clearance.

The Commission will take the views expressed by business into consideration in its future work on this issue.

2. THE ISSUES REFERRED TO IN THE CONSULTATION

The Commission identified two main issues to be addressed in the area of VAT. Firstly, it should be analysed whether import VAT obligations need to be centralized. In a centralized model, the importer would submit all the import VAT related data to the Member State of authorization and this Member State would transfer it to the relevant Member State. On the contrary, in a decentralized model the importer would submit this data directly to the Member State of importation.

Secondly, it should be settled whether VAT should be declared in the customs declaration or in a separate form such as an import VAT declaration.

3. ANALYSIS OF REPLIES

The public consultation was launched on 24 July 2010 with a deadline for comments of 30 October 2010. Four questions were asked (see below).

In total 39 replies were received. The replies came from a large variety of businesses and business associations located in 10 different Member States, with most of the replies coming from Germany and the UK.

The replies covered a wide range of business sectors. This included manufacturing, IT companies, freight companies, express carriers and tax advisors. 10 replies came from various business associations representing a wide range of companies both at national and international level.

Not all of the replies to the consultation gave an explanation on all issues. Some respondents only expressed preferences for certain options whilst others provided a broader overview on the possible impact of centralized clearance on business procedures.

A detailed analysis of the replies to the consultation is provided below.

(1) The necessity of amendments to VAT collection rules in the context of centralised clearance

The vast majority of the respondents were in favour of amendments to VAT collection rules for centralized clearance.

In addition, many respondents outlined that VAT amendments are vital for centralized clearance, that without such amendments, the burden of VAT obligations would make centralized clearance inoperative and unattractive to business, and thus bring no significant advantage.

(2) The most appropriate model for import VAT obligations: a centralized or a decentralized model

The vast majority of the respondents were in favour of the centralized model. The main arguments provided in that regard were the following (in no particular order):

- In a centralized scheme, the importer would communicate with the tax authorities of its own country; i.e. the country in which it is established and has proper accounting staff. The importer could communicate in its own language. This would avoid contacts with other Member States of importation as in those countries the company may only have a VAT registration and neither any establishment nor staff;
- It would ensure harmonisation of VAT rules with customs rules;
- It would reduce administrative costs by concentrating business processes in one location; by contrast dual reporting resulting from decentralization creates additional work both for businesses and tax administrations;
- Centralization ensures better control of processes and helps to prevent mistakes;
- As the import VAT calculation is based on the customs value, it is more transparent to calculate them together; moreover, the full information required for calculation of import VAT will be available at the central office;

Additionally, several respondents were suggesting more ambitious changes, such as changes to place of importation rules. Some answers referred to 'deemed transit' as a possible solution. Although suggestions varied, the main features of this alternative model could be described as follows:

- the place of importation for VAT purposes should be the Member State of authorisation;
- the importer would however be released from paying any import VAT in the Member State of authorisation when the final destination is not that Member State (due to a "deemed 42.00 procedure");
- For example, goods are physically imported in MS1, whereas the importer holds an authorisation for centralized clearance in MS2. In such a case, MS2 would be considered as the place of importation. If the final destination is MS 1, the importer would have to use procedure 42.00: the company would then be released from import VAT in MS2 by having to account for deemed intra-Community supply from MS2 to MS1;
- A few respondents were suggesting instead of a deemed intra-Community supply to use customs transit up to the final place of destination.

An even more radical solution was proposed by a few respondents: the exemption of import VAT for fully deductible taxable persons.

Several respondents quoted the problem of VAT registration in that regard as the major obstacle for businesses as the businesses under the current rules very often are required to register only for importation purposes.

(3) Do you consider that it is simpler to account for import VAT together with customs duties or to file a separate import VAT declaration on a periodic basis and why?

The vast majority of the respondents were in favour of calculating customs duties together with VAT. In general, the respondents were of the view that centralized clearance should minimize administrative burden and not create new administrative barriers.

The main arguments provided in that regard mirror the arguments provided in relation to the centralization of the system:

- it is more simple to calculate the import VAT amount in the same declaration; common reporting helps to prevent mistakes in the calculations and makes it easier to control the amounts for the importer; in case of errors it is easier to correct errors in a single declaration¹;
- it is also easier to control for tax authorities;

¹ As opposed to that, one respondent noted that separate declarations should be easier while customs and import VAT are separate taxes followed by separate accountants; therefore it is logical to have them separately in separate declarations.

- one declaration helps to avoid double work that could appear in case the amount of VAT is calculated separately; consequently it helps to avoid additional costs for the importer;
- VAT and customs duties are now accounted together using specifically designed IT systems. Maintaining the same principle could avoid the costs of creating a completely new IT system;

(4) Which other aspects do you think should also be considered in the context of this exercise?

The majority of respondents that answered this question quoted the need for further changes in the fields of VAT, customs or statistical legislation and IT. The main problems referred to by the respondents are summarized below:

Issues related to VAT legislation:

- VAT rules concerning import VAT payment should be unified throughout the EU as current rules are too complicated and lead to significant administrative expenses. Some respondents specifically quoted the need to unify the definition of 'importer';
- The principles of VAT deduction should be unified throughout the EU as these rules create a significant administrative burden; transporters/customs agents should get a right for tax deduction on their own;
- Some respondents pointed out that a real simplification could be achieved only by using postponed accounting as currently different rules are too complicated. Inter alia postponed accounting would help to prevent delays on the border related to the payment of taxes;
- A few respondents requested to address other issues such as VAT rates, VAT groups and guarantees.

Customs related issues:

- Prohibitions and restrictions must be harmonized EU wide as a long term objective;
- Uniform application of the rules related to customs controls should be ensured and risk analysis should be applied in a uniform manner;
- Goods should not be blocked at the border until duties are paid. In general, fiscal and statistical obligations should be dealt with after the release of goods; only safety and security checks should be dealt with prior to the release of the goods;
- The importer should be given a right to choose its Member State of Authorisation;
- Several respondents mentioned clearance for inward processing as an issue to be addressed.

Issues related to statistics:

Several respondents referred to statistical regulations. In general, the respondents were of the view that statistical information should follow the common principle of centralized clearance and should be provided only in the Member State of authorisation.

Issues related to IT systems:

- Centralized clearance must be integrated with applications for special procedures, suspension regimes and duty relief;
- The centralized model based on a Single Window concept should be supported by minimum record keeping and documentary requirements;
- Some respondents pointed out that a smooth transfer from SASP (Single Authorisation for Simplified Procedures) should be ensured so that the companies should not have to invest in completely new systems.

Annex 1

Results of the replies relating to centralized clearance

1	The necessity of amendments to VAT collection rules in the context of centralised clearance	Required ²	Not required ³
		36	1
2	The most appropriate model for import VAT obligations:	Centralized	Decentralized
		32	1
	Principle arguments in favour:		
	Single Member State of contact	17	
	Reduce work	10	
	Reduce administrative costs	9	
	Increased control	11	
	Single language	3	
	Reduce mistakes	6	
	Transparent VAT calculation	6	
	Avoid VAT registration	7	
3	Do you consider that it is simpler to account for import VAT:	Together with customs duties	Separately
		30	5
4	What other issues should be considered with centralised clearance?		
	VAT	Unified EU VAT deduction rules	7
		Harmonized customs and import VAT rules	6
		'Deemed transit'	5
		Postponed accounting	12

² 11 respondents quoted that without VAT amendments centralized clearance does not provide any significant benefits

³ One respondent assumed that in case 'deemed transit' is implemented no VAT changes are required

		Exemption from import VAT	3
		One Stop Shop	3
	Customs	Prohibitions and restrictions	3
		Harmonization of customs rules	4
	Statistics	Should follow the principles of single window	5
	IT	IT systems should be based on existing systems	4

