



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Customs Policy, Legislation, Tariff
Customs Processes and Project Management

Brussels, 26 February 2013

taxud.a.3(2013)296900

WORKING DOCUMENT taxud.a.3(2013)296900

Summary

of the meeting "Scenarios to implement a Blue Belt
Maritime environment" held in The Hague (NL) **15-16 January 2013**

AGENDA

DAY 1 – 15 January 2013

- 1. WELCOME AND INTRODUCTION**
- 2. SINGLE MARKET ACT II – OBJECTIVES**
- 3. SITUATION TODAY IN MARITIME TRANSPORT**, Presentation by DG TAXUD
 - 3.1. Working session I – Evaluating the situation today in maritime transport
(identify strengths and weaknesses to fine tune the problem definition)
Groups: Customs, Maritime, Trade
 - 3.2. Reporting to plenary
- 4. OUTCOME PILOT PROJECT ON BLUE BELT – PRESENTATION BY EMSA**
- 5. LEGAL GAP ANALYSIS – PRESENTATION BY NL**
- 6. BLUE BELT UNDER SMA II – LOOKING INTO THE FUTURE**
 - 6.1. Presentation Business Scenario 1 – Blue Belt / Further enhancements of RSS
 - 6.2. Working session II – Sharing views on description of Business Scenario 1
Groups: mixed Customs-Maritime-Trade
 - 6.3. Reporting to plenary
 - 6.4. Presentation Business Scenario 2 – A new Legal Proposal
 - 6.5. Short Discussion in Plenary and Closure of Day 1

DAY 2 – 16 January 2013

- 6.6. Introduction to working session II
- 6.7. Working session II – Sharing views on description of Business Scenario 2 and Elaborate on the "issues" in order to ensure appropriate customs supervision
Groups: mixed Customs-Maritime-Trade
- 6.8. Reporting to plenary
- 6.9. Questions on reporting of Business Scenario 2 and issues to consider
- 7. DISCUSSION IN PLENARY ON THE TWO BUSINESS SCENARIOS, ESTABLISHING THE ASSESSMENT CRITERIA AND SELECTION OF THE PREFERRED OPTION**
- 8. CONCLUSIONS AND NEXT STEPS**

Welcome and Introduction

The participants were welcomed by the Chairman of this meeting Frank Janssens (DG TAXUD). He clarified the objectives, which were to:

- Gather information;
- Get criteria to identify the most appropriate way forward;
- Report to decision maker, even give recommendations if possible.

Single Market Act II – Objectives, Presentation by DG MOVE

DG MOVE reported about the Blue Belt Pilot Project (May – November 2011), the Single Market Act II: 3/10/2012 and Blue Belt objective.

Key action 2 of Single Market Act II is to establish a true Single Market for maritime transport by no longer subjecting Union goods transported between Union seaports to administrative and customs formalities that apply to goods arriving from overseas ports.

The Commission is committed to tabling a **‘Blue Belt’ package by summer 2013 with legal and non-legal initiatives**, including a draft implementing regulation amending CCIP to facilitate maritime transport.

Discussion

WSC: The Single Market Act II, Key action 2 relates to direct transport of Union goods between Union ports, this seems to exclude short sea shipping that **call also foreign ports**. However shipping lines do need to call foreign ports in order to be profitable.

Commission: There will be no limitations imposed to the discussions during this meeting. However it is suggested that the easier scenarios (no calling at foreign ports) are discussed first, and that a broader discussion on more difficult scenarios (consolidated carriage of Union and non-Union goods, calling of foreign ports,...) takes place after that. It is a medium-long term action for the Commission to find a solution for ships calling at foreign ports.

With regards the discussions that are held during this meeting, it would be useful if Trade could, during the discussions, advise on what the reality is (e.g. how often foreign ports are called at, what are usual routes). This can help to better understand which scenarios would be the most beneficial.

Situation Today in Maritime Transport, Presentation by DG TAXUD

Objective of Non-Paper

The non-paper describes the situation as it is today in maritime transport, with the objective of providing input and create a common understanding among the meeting participants of customs treatment of goods arriving and leaving Union ports.

The Commission provided a summary of the content of the non-paper as an introduction in the topic. For more details, the non-paper should be consulted.

Discussion

Commission: RSS can be compared with a ‘bridge’ on which goods can be cross the sea from one point to another as if they have not temporarily left the customs territory of the EU – goods crossing the bridge are considered to be Union goods, and non-Union goods need a customs procedure to allow them to move under customs supervision on that bridge.

WSC: The **Single Transport Contract** is referred to in the non-paper only in relation to RSS, but this contract is also used with non-RSS. The Office of Exit is then the office where custody of goods changes, not the last office before leaving the customs territory of the Union.

Sweden: What is the current burden for trade when applying for, or operating RSS? It would be useful to know where simplifications would be most valuable.

Commission: The **benefit of RSS** for operators is that **no proof of status** is needed for **Union goods**, and that only non-Union goods will be under customs supervision by means of the transit procedure. In exchange, RSS vessels can only ply between Union ports and the vessels’ operator is required once to apply for an **authorisation** before using RSS. The process of granting such authorisation includes consultation between involved Member States (where the operator’s vessels are intended to ply ports). Since 2010, it has become easier and quicker to modify or add vessels to the authorisation.

ECSA-WSC: Only a small number of companies use this simplification, which means that **less than 25% of intra Union transport is carried by RSS**. It is only attractive for some carriers (such as ferries) because of **geographical limitations** (vessels can only ply Union ports). Furthermore, it can take up to **45 days** before the necessary authorisation is granted. Legal gap analysis has identified that deadlines should be looked at to reduce the time to get an authorisation. However once there is an authorisation, there are advantages for those operators who use RSS.

Commission: Indeed current RSS is only covering ships plying between EU ports. When third country ports are concerned the situation is comparable to other modes of transport: The status of EU goods has to be proven on re-entry (in a light and efficient way), whereas no customs procedure is needed for the movement of the non-EU goods.

Other modes of transport also face certain formalities in these situations. E.g. for road and rail, crossing Switzerland a customs transit procedure is used.

EUROPRO, ESC/EVO: The ‘bridge’ comparison is too optimistic as there are still administrative burdens for RSS. Furthermore, it would be worthwhile to also discuss the consequences RSS has for other declarations such as **VAT and excise**.

WSC: With regards non-RSS, the facilitation provided to **authorised consignors**, to be able to prove the Union status of goods by using an electronic manifest (**eManifest**) without endorsement by customs being required, does not work. Individual Member States are adding their **own requirements** to the criteria for becoming an authorised consignor, which over-complicates the application process.

Working session I – Evaluating the Situation Today in Maritime Transport and Reporting to Plenary

Group 1: Customs

Strengths: For customs, **RSS works**. The system is reliable and is used in all Member States. However use is very limited and mostly applied for ferries and roll on-roll off between 2 to 3 Union ports. RSS is little used for containerised cargo.

Weaknesses: It is understood that for trade, RSS is not flexible. The authorisation procedure takes up to 45 days, and change of routes is difficult to manage, as additional consultation is required when new Member States are **additionally to be called**. As a result the number of goods transported by RSS is very low. On average, only 25% of goods being moved by ship are done so by RSS. There should be a more integrated system for maritime transport in the European Union, for example a maritime single window to integrate ICS, NCTS, a proof of Union status system, Blue Belt and manifest information (RSS is often combined with transit, using the simplification of Art. 448 CCIP). This provides evidence that the goods on ships are securely transported.

Group 2: Maritime

Strengths: Non-Union goods on board non-RSS vessels, in temporary storage or when transhipped or reloaded do not need to be placed under a customs procedure. For RSS, it is easy to modify vessels in the authorisation.

Weaknesses: Discrepancies between maritime and other modes of transport exist. There is a lack of presumption of Union status goods (for non-RSS) and the legal definition of the customs Union territory is not clear. For RSS, applying or changing routes takes up to 45 days (consultation).

Structural weakness: Penalisation of an energy friendly mode of transport, however there is political commitment to stimulate maritime transport.

Group 3: Trade

RSS is a cumbersome procedure, though some improvements have been made in 2010. The authorisation deadline of 45 days is **too long**, and the scope of RSS is too limited: short sea and deep sea ships do not qualify for RSS as soon as they call a foreign port. The legal gap analysis recommends to open-up RSS to foreign ports; this should be looked at as soon as possible. Potentially Norway, Turkey, Russia and certain northern African countries could be included in the scope of RSS. In addition, it is recommended to reconsider the abolition of level 2 simplifications for transit.

With regards non-RSS, there is a simplification for establishing proof of Union status using self-certification of the status in the cargo manifest by an authorised consignor. In contrary to what blue belt scenario 2 (non-paper) suggests, this requires an authorisation. However this is a cumbersome process as Member States have added their own requirements. There should be a **harmonisation of requirements for the authorisation and of the data elements for manifests**.

Furthermore, export goods lose their Union status when transhipped. It is proposed that these goods keep their Union status as long as possible.

In addition, it is often unclear which procedure is to be applied – more transparency would be welcomed. In any case Trade does not support any proposal that **involves the use of NCTS**, though it understands that customs should be able to perform controls at some point. SafeSeaNet permits monitoring of ships and their voyage, this should provide customs extra assurance and risk assessment possibilities when needed.

The discussion ended with the conclusion that RSS is a valuable tool due to the low take-up by trade. Reasons for this were identified as the time required to issue or extent the authorisation and lack of flexibility in its management.

Outcome Pilot Project on Blue Belt, Presentation by EMSA

EMSA presented the pilot project on Blue Belt as regarding the policy framework, objective and operations. Concerning the findings, it reported that the pilot project has demonstrated that the information available from SafeSeaNet can support customs procedures. However it did not lead to simplifications in these customs procedures or to any improvements for ships trading in the EU, as the customs requirements for a **trace of the goods' status is not supported by SafeSeaNet**.

The Transport Council of 7-8 June 2012 was generally in favour of continued implementation and further development of the Blue Belt concept.

The following suggestions have been brought forward on how to improve the Blue Belt service:

- Integration of information with national customs systems (single window)
- Linking of ships to cargo information (integration with the IMO FAL documents)
- Enlarging of the scope to all ships trading in EU waters (this can no longer be managed by EMSA alone)
- Enriching of the information on a vessel's voyage (e.g. to include next port(s) of call), helpful for risk assessment
- Using of SafeSeaNet information to give customs reassurance of whereabouts of ships beyond territorial waters

Detection of abnormal behaviour of vessels on sea (e.g. lying idle – anchorage areas) is possible, but will need a lot of programming of required algorithms in the SafeSeaNet system. Some more time and dialogue are required to implement this.

DG MOVE reported regarding the **evolution of SafeSeaNet**, that the Directive 2002/59/EC is under review by the Commission to increase maritime safety, security and environment protection, to improve maritime traffic monitoring, information and surveillance and to streamline, simplify and reduce administrative burden on the maritime sector (e.g. by facilitating the rules for providing access to SafeSeaNet).

The review of this directive can thus be used to assist proposals that result from this meeting. Public stakeholders will be consulted in spring of 2013. A revised directive will be proposed by end of 2013.

Legal Gap Analysis, Presentation by the Netherlands

It was highlighted, that currently, Art. 317 CCIP facilitates intra-EU shipping that falls outside the RSS facilitation, by stating that status of Union goods can be proven by invoices or transport documents, like the shipping company's manifest (yet all conditions must be fulfilled).

The legal gap analysis identified three points for improvement:

1. There is a validation of the manifest required to get proof of status.
2. The current procedure is paper based, hence burdensome.
3. Customs authorities are unaware or are not willing to validate or accept the manifest.

The future options highlight that Art. 317 CCIP could be implemented more efficiently and its existence and effect could be promoted at the local customs authorities. In addition, the use of IT systems was encouraged, but suggesting an eManifest and

promoting the facilitation of the 'Proof of Union Status' project. For the latest, it is suggested to investigate further facilitations, like self-validation, for AEO holders.

Discussion

Portugal: At present the eManifest is already in use, which shipping companies can send in advance, allowing release of Union goods directly upon arrival. An authorised consignor can self-certify the manifest as proof of Union status. Though this simplification (level 2 simplifications) has been taken out of the MCC legislation, it seems that the UCC opens the door again for manifest simplifications, referring to the meeting minutes of the workshop on the 3rd revision of the MCCIP.

Commission: The discussion on the use of the eManifests has indeed been reopened in the Council in the context of the UCC. The Commission will follow the issue up as soon as possible. Following the MCC requirements it was previously the policy line that NCTS is to be used in the future in the context of transit, for all means of transport.

WSC: The presentation by the Netherlands stressed for harmonisation of data elements used, the Directive 2002/59/EC could be a vehicle for that.

Netherlands: Current Port Community Systems can be used when adding non-Union ports. It should be borne in mind that a manifest is not a single document from one departing port to the next receiving port; therefore it does not matter if there is another non-EU port called in between. It should only be ensured that no goods that are meant to maintain the status are discharged in the non-Union port.

Implementing provisions can be amended to remove the validation process, where an office of departure has to validate the Union status of goods indicated in the manifest. If not, an EU-level decision in relation to the proof of Union status system can be approached (for this, AEOs could be involved, to allow them to self-certify the proof).

Portugal: If in respect of data harmonisation new systems are developed that are based on the current legislation, by the time they are created the UCC will have been adopted and these systems will be outdated.

Commission: Some Member States already use electronic authentication of whatever document is presented. Validation is not always needed; there is a legal threshold below 10.000 EUR. Use can be made of the authorised consignor for the proof of status as well. Any non-compliance with the respective rules, as mentioned earlier, should be notified to the Commission. Before considering abolishing any validation, it should be investigated where there is a necessity to keep it, and how this can be facilitated. It is best to cover this under UCC.

Finland: An electronic manifest system is already in place in Finland, but as this system is **not linked with the office of departure**, it is difficult to verify this proof. In addition there is currently no possibility to identify Union export goods in the manifest, so these goods will lose their Union status when leaving the port of loading.

For example, when Union export goods are shipped from Finland, via the Netherlands, to the US, then these goods lose their Union status as soon as they leave Finland and thus are subject to customs procedures in the Netherlands. Traders are not aware what information is to be submitted and where. An ideal solution can only be achieved when the UCC is ready, any other solution will have weaknesses.

WSC: At present, an authorised consignor can only indicate C or N in the electronic manifest. It is suggested to merge the contents of the manifests in the spirit of Art. 324a and 448 CCIP. For export goods, the export declaration MRN is to be provided at the port

of discharge (indicate X in the manifest). Then the problem for export goods can be addressed, but not for goods in transit.

Finland: We would like to see a similar solution for maritime as what **exists currently for air transport**, where goods that are loaded in a Union port automatically get Union status.

Blue Belt under SMA II – Looking into the Future

Presentation Business Scenario I – Blue Belt / Further Enhancements of RSS, Presentation by DG TAXUD

DG TAXUD presented the respective content from the non-paper including the characteristics of RSS and potential further improvements. Several possibilities were identified here: shorter time limits and ensuring automated and flexible system. It was noted that the legislation was changed in 2010 and an automated system is operational.

It is still to be seen how the changes made in 2010 and the implementation of the automated RSS system are to improve the uptake.

Under business scenario 1, the treatment of Union and non-Union goods on non-RSS vessels would remain as it is today.

Discussion:

ECSA: In the presentation it is noted that the use of transit is compulsory. However it should be reflected that there is a possibility of applying level 2 simplifications. The question was raised how surveillance of non-Union goods would be performed in practice.

Working Session II – Sharing Views on Description of Business Scenario I and Reporting to Plenary

Group 1:

To facilitate the use of RSS, all members agreed that the procedure to receive an RSS authorisation **should be shortened**. Within the current system, it should be a possibility to investigate if the **geographical restrictions of only EU ports could be more flexible**, meaning including (some) non-EU ports for short sea shipping. However no practical solutions on the burden of proof and other technicalities regarding this topic were agreed.

Nevertheless, it was pointed out that if the holder of the authorisation would be able to **access the system** for changing the vessels and applying for new ports, **without customs intervention**, this would facilitate flexibility and intra-EU trade. An authorisation for RSS would imply that all involved national customs authorities trust the trader (and possibility all the branches, as per AEO), and this should not imply extra controls.

Group 2:

Group 2 proposed several changes:

1. As a first facilitation to lower the duration of the consultation, it was suggested to **communicate on the application with all (involved) MS the same time**.
2. It was indicated that a geographical extension would be useful for trade.
3. If SafeSeaNet would be included, this would allow customs authorities to enhance risk management.

4. The **amendment to the reporting formalities directive** (2010/65/EU) could be brought in relation with the FAL form 2.

Next to these changes, there was an overall agreement to request that the current level 2 transit simplifications for non-Union goods would be kept.

Group 3:

Like the other two groups, also group three suggested to shorten the time to issue the authorisation. It was indicated that this could be reduced to 15 days (or even 0 for AEO). In addition a further facilitation could be envisaged for holders of an AEO certificate, to allow **self-application for RSS** in a customs decisions system. The extension of RSS/EU ports with ports in the EFTA countries & Turkey should be considered.

To further facilitate flexibility, **access to view authorisations** should not only be foreseen for the carriers (operators), but also for the shippers (users). Also, more information should be available to the shipper to identify which ships are under RSS, which are the ports under that RSS, and which ports will be called also outside the RSS ports (occasional foreign countries). There should be as much transparency as possible.

Also in line with the other two groups, it was noted that the level 2 simplifications for transit should be kept in order to facilitate intra-EU trade.

The chairman noted the similarity of view between the three groups as regards potential further facilitation of RSS, in particular the suggestions to

- *Shorten the deadlines for granting and updating the authorisations (consultation)*
- *Allow direct trader access to the systems maintaining the authorisation, for consultation of the current state and for modifications (change routes, vessels)*
- *Consider a geographical extension of RSS to (selected) non-EU ports*
- *Maintain level 2 simplifications of the transit procedure*

Presentation Business Scenario II – A New Legal Proposal – Presentation by DG TAXUD

After an introduction to business scenario II (details can be taken from the non-paper), the proposal was discussed amongst the participants.

Discussion:

EMSA: The question was raised if this legal proposal (scenario 2) concerns maritime transport between EU ports only.

Commission: Scenario 2 concerns indeed ships plying between EU ports. As the suggestion of an extension of the geographical area has been put forward multiple times, also the evaluation of this proposal could take this suggestion into consideration.

WSC: In reality it is often the case that non-Union goods including goods under export procedure could be carried on the same vessel. The presentation does not clarify if the Union goods that are exported lose their Union status before the actual exit (leaving the Blue Belt). In addition in the non-paper it is stated that the Union goods under export will not fall under the presumption of having Union goods status. This would imply that these

goods would be under customs supervision, and this would not be a facilitation for maritime intra-EU transport.

Commission: The presentation is indeed unclear about this topic, and the paragraph in the non-paper should be rephrased. In both cases, the text should not be indicating that these exported Union goods would lose their status, but that these Union goods for export would stay under the export customs procedure until the last point of call in the EU (actual point of exit). This bullet point from the slide should have been split to avoid the confusion, and non-paper will be updated accordingly.

EUROPRO: In order to provide enough flexibility and freedom to trade, the traders should be able to decide whether they want to enjoy the facilitations offered under Blue Belt or not. This would imply that participation should be requested to the customs authorities.

EMSA: The question was raised if this would then imply that an authorisation would be required for Blue Belt, as this would be contradictory with the presentation.

Commission: As it was stated in the presentation, this new legal proposal does not include the need for an authorisation to be able to enjoy the facilitations of Blue Belt.

Introduction Working Session II

The non-paper identifies a number of questions; the answer to these questions evolves and clarifies the concept of business scenario 2. The detailed list of questions can be taken from the non-paper.

Discussion:

Portugal: The presumption of the status of Union goods will definitely facilitate intra-EU trade over sea (if Art. 370 CCIP is adjusted). The disadvantage of the proposal is that all other goods will have to be transported under customs supervision. It is pointed out that from a business logic the office of exit should be office where goods are loaded for exit onto the vessel (as current non-RSS). In addition, it is opted to also discuss and identify improvements to the proposal made by the Netherlands, which is described in the legal gap analysis.

ECSA/WSC: Both trade associations were pleased to see that there are business scenarios considered to tackle the non-RSS ships. They encourage the entire team to be as ambitious as possible. It is appreciated that a presumption of Union goods in Blue Belt is included and that there is no need for a prior authorisation before enjoying these facilitation. It is understood that customs supervision is needed for non-Union goods, but it was indicated that transit would not be the preferred solution. Two questions were asked:

- Would there be a scenario where no authorisation would be required for any operator (in relation to the possible use of eManifest)?
- Would the use of eManifest for non-Union goods be possible without an authorisation?

Both organisations offer the Commission to provide a template for an EU harmonisation of data elements in the eManifest, to avoid diverting specifications on national level.

Commission: It is the goal of the Commission to increase the level of harmonisation across the entire European Union. For that reason the harmonisation of the manifest will remain on the agenda.

Working Session II – Sharing Views on Description of Business Scenario II and Elaborate on the “Issues” in Order to Ensure Appropriate Customs Supervision and Reporting to Plenary

Group 1:

As a first point, the **starting point of Blue Belt** was identified as being the **moment an ENS is lodged**. However it was also noted that this should not be automatic; there should be a possibility to either opt-in or opt-out of Blue Belt.

Vessels that would want to enjoy the facilitations of Blue Belt should **register**. Preferably, there will be a central database or published list that contains all registered blue vessels throughout the Union. In addition, a sort of 'blacklist' could be created.

From a customs perspective, it was indicated that the documents should at least contain the status of goods on board, which goods it concerns (including the correct codes), and where the vessel comes from. It would be useful to have these first two elements in an eManifest, where the 'X' for export goods should also be included (as per the current RSS provisions).

As already indicated previously, the (electronic) manifest should be harmonized across the EU, inspired by Arts. 324a and 448 CCIP. It should also be investigated if some of current additional national requirements (e.g. Portugal requests additional information about FROB) should be included in the manifest for business reasons. Nevertheless it was also confirmed that the implementation of a harmonised eManifest would not be a prerequisite for Blue Belt.

As per the previous discussions, again the possibility of including foreign countries was requested to be investigated by the Commission. Bilateral agreements with these countries could be required.

With regards EU export goods, the point of **confirmation of exit** was discussed for both RSS and non-RSS. When it concerns export goods on an RSS vessel, the certification of exit should be performed at the last port of call (except where a Single Transport Contract is used). Confirmation of exit of export goods on a non-RSS vessel should be performed when goods are first loaded on the vessel (except where a Single Transport Contract is used). At this point in time, VAT will be refundable.

When SafeSeaNet or the eManifest is down, it is suggested to use the **fall-back procedure** currently in place for ICS: to make use of other electronic devices or, if all else fails, to use paper.

Portugal: The referred extra requested elements (5 additional data elements in the national administration) are not requested by the customs authorities, but by port authorities.

WSC: It was questioned why the customs authorities would not want to know about FROB information, as this would be useful for the verifications. The traders already provide this information anyway in the ENS.

Group 2:

When the Blue Belt would be implemented as foreseen, it might be useful to investigate if there are other facilitations that can be foreseen if the vessel calls a 3rd country port. There would be no security related issues when goods are transported under Blue Belt between

two EU ports. If a movement to 3rd county ports would be an option under Blue Belt, additional IT requirements will be necessary to ensure customs supervision.

As non-Union goods would be required to be placed under the transit procedure, a harmonised and improved eManifest could be an appropriate means to minimize administrative burdens. Furthermore, it would also be a welcomed alternative for the status trace of any other goods on board. This would imply that export goods are included, however further discussion on the practicalities would be needed. If the eManifest would be implemented, this should also improve the collection of **statistics** on intra-EU transport.

T5 and fiscal territories have not been discussed within this group as it was not perceived as an issue.

Suggested fall back procedures are paper and email. The rules regarding these procedures should be clarified in the implementing provisions.

Group 3:

The technicalities of SafeSeaNet were verified, and as it was explained by EMSA, the system covers almost the entire European maritime region (incl. Norway, Turkey, Canary Islands, etc.). It is suggested that Blue Belt would start as soon as the signal of the vessel is captured by the SafeSeaNet system in the region. SafeSeaNet could also be used as a tool for customs to verify the status of the goods and for intelligence work (like anti-fraud).

Customs supervision of non-EU goods was not discussed in detail, as the group agreed to start from the presumption of Union status of goods in port where goods are loaded. The manifest should be made electronic with harmonised data. It was indicated that this eManifest could also be used for other purposes, like for the maritime Single Window. It was again stressed that the indication of status of the goods should be extended to at least to C, N, X and F (see CCIP). To facilitate the work for customs the export MRN should also be included for export goods. AEOs or Authorised Consigners could be able to **self-validate** the manifest. All other economic operators should request a validation by customs. If this facilitation would be a possibility, the status of the operator should be apparent to customs and to the shippers.

As per the other two groups, fall back procedures for the eManifest and SafeSeaNet should be foreseen.

Questions on Reporting of Business Scenario II and Issues to Consider

Commission: The possibility of the self-validation of manifest at departure (proposed by group 3) would need to be further discussed in more detail, in order to define the conditions.

EUROPRO / ESC / CLECAT: For the logistic services, the VAT consequences for the confirmation of exit should be taken into account. At the moment the confirmation of exit is at the port of loading (non-RSS). It would be useful to mirror the export/exit regime of the RSS system, where an E on the manifest indicates that the goods are to be exported. This approach allows all parties to monitor the exit appropriately.

Commission: It is to be seen if a letter (such as E or X) on the manifest could also be used as an indicator. The principles on VAT refund are not intended to be changed and are based on a confirmed exit.

CLECAT: It has been noted that there is general agreement in the 3 working groups that the idea of mirroring the RSS concept, where an 'X' on the manifest indicated that goods are under the export procedure would also be suitable in Blue Belt. However, it would be crucial for the users that the confirmation of exit is provided at the port of loading, to avoid mistakes with regards to the VAT exemption.

Italy: All (customs) purposes should be covered by the eManifest data model. It needs to be considered that different ports have different necessities, e.g. some ports have multiple temporary storage facilities and so additional information is required in those cases. It could also be of importance to include references to previous submitted documents (e.g. an ENS). Even in some cases, a link is to be foreseen between temporary storage and the ENS. It was requested to bear in mind these links between the requirements, for ENS, for FAL-2 and for TS, when the harmonisation of the data elements is performed.

WSC: Almost irrespective of what comes out of Single Market Act II and this exercise, Trade hopes that the Commission starts working on a harmonised manifest. It was requested that it would be communicated who (which department) would take ownership of this exercise.

Commission: The responsible service for the harmonisation of the data will depend on ownership and content of the related legal proposal. This will either be DG TAXUD or DG MOVE (in respect to the revision of the directive).

WSC: It should be pointed out that the possible amendment of Art. 317 CCIP should be inspired by / merged with the content in Art. 448 and Art. 324(a) CCIP.

Commission: COM indicated that possibilities for this should be identified, however no promises can be made at this moment. It is noted that this proposal was also included in the legal gap analysis. It should be analysed if the articles could be merged at all, as they deal with 2 different topics:

- Art. 324(a) CCIP concerns a simplification for status, namely the authorised consignor, requiring an authorisation.
- Art. 448 CCIP concern a (simplified) custom transit procedure; which requires an authorisation as well.
- In contrast, Art. 317 CCIP lists the commercial documents which can be used in the context of the proof of status without any authorisation.

It should also be noted that DG TAXUD will not be able to touch upon legislation that defines the international transport documents. This implies that a possible harmonisation across domains and documents will require input and cooperation of other stakeholders and public administrations.

Discussion in Plenary on the Two Business Scenarios, Establishing the Assessment Criteria and Selection of the Preferred Option

WSC: From all working groups there has been a strong embrace of the Commission's proposal of scenario 2 for non-RSS. The inclusion of the presumption of Union status of goods is crucial. It is suggested to establish as few conditions as possible to this presumption. NCTS is not to be retained, but rather an eManifest inspired by Art. 448 CCIP, including status marks.

The working groups presented different opinions in respect of whether validation of this manifest should be required and in what form. It is suggested that this validation aspect be

further discussed. For WSC, the starting point ought to be that any economic operator should be able to register for Blue Belt.

Commission: There should be a validation of the manifest at departure, or at least verification of the status of goods at destination after risk assessment. AEO and/or Authorised Consignors could be allowed to self-certify the manifest.

WSC: If there would be validation at the point of loading (endorsement), this would be no different than the current situation (Art. 317 CCIP), which currently does not function well. Therefore it is suggested that verification is performed at destination (customs office of discharge).

Portugal: In accordance with Art. 865 CCIP, when non-Union goods are presented as being Union goods, customs debt incur. Therefore, validation at departure and possible random controls at destination would make more sense. If there would be only verification of the manifest at destination, the effect to the office of departure should not be forgotten.

Commission: Regardless of the option put forward today, before the Commission can make a formal proposal other services such as DG BUDGET and OLAF are to be consulted. Verification of the manifest at office of destination should be kept, however as regards validation at departure, there seems to be agreement amongst the participants that trusted traders can self-certify the status in the manifest.

Finland: What is needed at departure is at least to get confirmation (and validation of this) of the next port of call.

Commission: This information is already available on the current manifest. It should be kept in mind that this information is retained in a future harmonised manifest.

Netherlands: When an AEO operator confirms the Union status of goods at departure, the Netherlands require certain proof (invoice or other) that the goods on the manifest are indeed Union goods.

EUROPRO / ESC / EVO: Validation has to do with the content of the manifest, and has nothing to do with the application for a simplification. A simplification cannot be denied at a later stage. Validation at departure is most logical, also in respect of customs duties and other obligations for which carriers will be liable during the movement.

WSC: If the concept of Authorised Consignor is maintained, this is in conflict with what is being discussed: for an Authorised Consignor it is the manifest at destination that is important ('day after manifest'). Additionally, it should be made clear what is meant by validation. If it relates to the endorsement of proof, this is contrary to the spirit of the new legal proposal (scenario 2).

Commission: In the case of an Authorised Consignor, and also in the case of the 'day after manifest', what is meant by validation is the certification of the status of goods, not transit. This means that certain activities normally performed by customs are done by the operator, who is authorised to do so (Art. 324e CCIP). This should not be abolished, it needs to be investigated in what form it can be retained. Authorisations only need to be granted once and then remain valid.

WSC: Validating the status of goods, according to WSC, would mean customs going back to Trade and asking for a purchasing order whenever Union-goods are indicated in the manifest. This would essentially be an endorsement of proof as it is at present (Art. 317 CCIP). This cannot be reconciled with a legal presumption of Union status of goods.

Portugal: The reality is opposite to that: it is not checked whether Union goods are correctly declared, rather what is checked are the goods declared as non-Union goods in the manifest. Goods marked as Union goods are assumed to be correctly declared.

Netherlands: Between or in ports of departure or destination, at a certain point customs validate and accept provided information. The same information accepted at departure should not be validated again at destination. The Netherlands are more in favour of an Art. 317 CCIP plus, where an eManifest can be used, rather than a legal presumption of Union status of goods.

ESC: The major consequence of a legal presumption of Union status of goods is that evidence is to be provided for non-Union goods. This means the position in delivering evidence is much stronger in such a construction and the burden of proof is opposite. However even then customs should be able to perform controls.

WSC: Evidence of the status of non-Union goods is already provided by Trade with the lodgement of an ENS. It should be considered whether the ENS can be pushed to any subsequent ports. Once a vessel has entered the Blue Belt, there can be Union goods transported from one Member State to another, non-Union goods or Union goods for export on board. The non-Union goods could be captured in the ENS in addition. If the legal presumption that goods are Union goods is not taken forward, that would not be an improvement.

Netherlands: The Netherlands' proposal is the result of the legal gap analysis. It is the least burdensome procedure, within the current structure, that does not require many legal and IT changes and improves what already exists while avoiding that non-Union goods need to be placed under a transit procedure. Furthermore, this fits best in the current environment and the way it is foreseen in the UCC. From cost effectiveness and facilitation point of view, this proposal is worth looking into.

WSC: As it is the objective of this meeting to discuss all ideas and proposals and to be as ambitious as possible, the discussion goes beyond the results of the legal gap analysis. In respect of non-RSS, WSC supports a legal presumption of Union goods, without an authorisation requirement, calling of foreign ports and the use of an eManifest without NCTS. However WSC can accept that the AEO status could be a requirement.

Commission: As the possibility of calling foreign ports is reiterated, additional measures need to be discussed (such as an authorisation requirement). It should be understood that this is not the result of lack of customs goodwill, but that customs have certain responsibilities.

The new legal proposal (scenario 2), which excludes a requirement for prior authorisation is a result of a political decision to facilitate intra-EU trade and not trade with foreign countries. However it has become clear during this meeting that exclusively intra-EU routes are little used. As it could be beneficial to facilitate the mainstream of maritime transport, calling at foreign ports is also to be considered.

WSC/ECSA: Support of the new legal proposal (scenario 2) by WSC and ECSA stands on the premise that mandatory use of NCTS is dismissed. There seemed to be general understanding to use the eManifest instead. If this is not taken forward and level 2 simplifications are abolished in the end, WSC and ECSA will fall back on fully supporting the legal gap analysis. At present Trade are already using manifests with goods status' indications, thus no considerable IT changes would be required.

Commission: Within the framework of the discussions, use of an eManifest will be taken forward. What remains under discussion is the presumption of Union status of goods and on which side the burden of proof is. It seems that the practicalities and mechanics are not

that much different across the various viewpoints, it is more a legal matter. This will be further discussed during the transit committee, including on the need for a transit procedure or not.

ECSA: In previous discussions on RSS (2010), the decision not to discuss the possibility of calling foreign countries was founded on the fact that it was unknown which vessels move beyond territorial waters. This has changed with the development of SafeSeaNet.

EMSA: The non-paper suggests that there be continuous availability of SafeSeaNet, though considering the (lack of) discussions on this topic during the meeting it seems this is not perceived as important. Further development of SafeSeaNet could go in either of two directions:

- Passive access, where customs can consult when needed;
- Data is actively pushed to customs 2hrs before arrival of a vessel (as it was during the pilot, however this approach requires a considerable IT investment).

Commission: SafeSeaNet tracking information of vessels is important to customs, and is closely linked to the presumption of Union status of goods (in which case it is important that customs know where vessels come from and where they are going). However, customs may be able to continue their work when there would be an interruption of SafeSeaNet, as it will be used as a supporting validation tool. Further examination is required to determine what requirements will be needed from SafeSeaNet.

Conclusion

Single Market Act II

Single Market Act II puts forward 12 measures to stimulate growth and complete the single market. One of these measures relates to the facilitation of maritime transport. Both DG MOVE and DG TAXUD have committed to taking legal and non-legal actions for facilitating maritime transport to create a level playing field across modes of transport. This was very well received by trade.

In preparation of and to facilitate the discussions in this workshop, a non-paper was drafted and distributed to all participants, where two scenarios were put forward: a further enhancement of current RSS, and a new legal proposal.

Blue Belt Scenario I: Further Enhancements of RSS

It was generally considered that RSS should be kept as a means of facilitating intra-EU maritime transport and to further enhance it as part of the Blue Belt initiative. In particular, the following aspects should be considered further (subject to what is legally possible):

- Shorter time limits, mainly in relation to consultation
- Geographical extension to (some) ports outside of the Customs Union
- Direct interface for trade in a centralised customs decisions system

Blue Belt Scenario II: A New Legal Proposal

The solutions provided in the legal proposal were generally accepted as a basis for further discussion, be it that many insisted on the use of an eManifest instead of the use of NCTS for transit. The further development of the legal proposal was also seen as a first action compared to the proposals from the legal-gap analysis.

In addition, the following main topics were discussed in relation to the new legal proposal and remain to be investigated further:

- Harmonisation of an eManifest, including the indication of status of goods.
- Practicalities regarding the supervision of the goods' status for non-Union goods, validation/endorsement and the burden of proof.
- Related simplifications for economic operators (AEO, authorised consignor).
- Geographical extension to (some) ports outside of the Customs Union.

Next Steps

- Report will be drafted from the meeting, submitted for their comments, made available to administrations and trade.
- The commission will report to transit committee, ECG, and maritime group in order to group opinions of all stakeholders.
- Provisionally an informal ECG has been planned on 5th of March. Depending upon the need additional stakeholders will be invited: transit, customs, maritime, trade, etc.
- The commission agreed to update the non-paper in order to illustrate more clearly the ideas and concerns. This includes the following:
 - RSS update;
 - eManifest and
 - Legal possibilities/limitations

It will be investigated if these proposals come closer to a formal proposal.

- The Commission will start with business analysis and prepare respective material (e.g. BPM) to visualise the approach.
- The Commission (specifically DG MOVE) indicated that under the revision of the reporting formalities directive (2010/65/EU), it will be investigated what facilitations (also customs) could be implemented. On 14 February, the customs subgroup will discuss some simplifications to the reporting formalities directive (2010/65/EU) in relation to Blue Belt.

Overall, the commission reiterated the importance of SMA II and its deadlines to all parties.

Discussion

WSC: Many BPMs have been published, based on frozen MCCIP, which have to be changed anyway. Why will BPMs be drafted on the basis of a proposal when it is still not clear what this proposal will be? I would be more fruitful to await the discussion in the transit committee.

Commission: Legal text and concepts can be difficult to understand. It has been proven that BPM and legal text could go together to facilitate understanding, however it is not the intention to draft many BPMs on this topic.

WSC: This meeting's discussions influence the BPMs on Proof of Union Status. Does this not undermine the use of the entire Proof of Union Status system?

Commission: This topic will not be touched until there is a stable solution. From this point, and if necessary, the Commission will prepare an amendment to further follow this up.

Actions

DG MOVE

- The presentation by the Netherlands stressed for harmonisation of data elements used, the Commission will verify if Directive 2002/59/EC could be a vehicle for that.

DG TAXUD

- DG TAXUD will consider all elements related to customs legislation, in particular concerning the use of a manifest. In addition, issues on the use of the transit procedures are to be verified, as the MCC stated that electronic communications (i.e. NCTS) should be used in the context for transit for all means of transport, and this seems to change in the context of the UCC.
- A summary of the main discussions of this meeting will be presented to the Customs Code Committee (Customs status and Transit Section) at the end of January. The Committee will be asked for its first reactions, it will be responsible for voting on any legal changes with regard to customs status and transit.

DG MOVE and DG TAXUD

- Elaborate on a medium-term basis a solution for vessels that call EU-ports and non-EU ports in close-range of the customs territory of the Union maintaining the customs status of the goods transported, serving the needs to trade.