



Brussels, 21 March 2018.

RETURN-REFILL CONTAINERS – AN UPDATE

(Item II. p on the Agenda)

Background

1. The customs treatment of return-refill containers was discussed by the PTC at its sessions in April 2017, under agenda item XVI *Any other business*, and in October 2017 under a dedicated agenda item – item XVII. On those occasions, the PTC was informed of the earlier discussions at the Administrative Committee for the Customs Convention on Containers, 1972 (the Container Convention) and of the establishment of a Virtual Group to progress the WCO work in this area.
2. A progress report by the Virtual Group was submitted to the October 2017 PTC sessions as an Annex to Doc. PC0493. In addition to the progress report, document PC0493 contained information on other intersessional developments such as the issuing in May 2017 of a news release and a set of business recommendations by the International Chamber of Commerce (ICC) and the putting forward in July 2017 of a proposal by Australia regarding the temporary admission of containers, pallets and packings (doc. G/C/W/740 of 28 July 2017) with the objective of having the proposal considered at the Eleventh World Trade Organization (WTO) Ministerial Conference in Buenos Aires in December 2017.
3. At its October 2017 sessions, the PTC was further informed that the United States was no longer in a position to chair the Virtual Group on the Customs treatment of return-refill containers and Members were invited to consider volunteering to lead the Group's work.
4. In conclusion of the discussions held at its 217th/218th sessions, the PTC took note of Doc. PC0493 and the suggestions and input provided by delegates, and instructed the WCO Virtual Group on the Customs treatment of return-refill containers to continue examining the issue at the technical level and present reports, including guidance by the Virtual Group on the options for the way forward, to the Administrative Committee for the Container Convention, the Administrative Committee of the Istanbul Convention and the next sessions of the PTC.

Intersessional developments

5. After the stepping down of the Chair of the Virtual Group on the Customs treatment of return-refill containers in September 2017, no Member has volunteered to lead the Group's work and no progress has been achieved with the examination at the technical level of the issues related to the Customs treatment of return-refill containers, pallets and packings.
6. Australia did not put the proposal for temporary admission of containers, pallets and packings for agreement by the Eleventh WTO Ministerial Conference in Buenos Aires in December 2017.
7. In the intersession the private sector shared with the WCO Secretariat additional concerns regarding the Customs treatment of tracking devices used as accessories to means of transport (trucks, maritime containers, etc.). The Secretariat was informed that there was a growing concern among the container transport industry to ensure that container tracking devices of all types are considered by Customs as accessories of the container and not subject to Customs formalities and levying of Customs duties for the devices themselves. The industry argues that a partial and inconsistent acknowledgment by the global Customs community of the growing adoption by the industry of containers equipped with tracking devices might result in unnecessary delays and costs for legitimate trade, as containers represent the most used means of international transport.
8. The Container Convention contains provisions concerning the temporary admission of accessories and equipment of temporarily admitted containers, but the definition of "accessories and equipment of the container" does not specifically mention tracking devices. Annex B.3 to the Convention on Temporary Admission (the Istanbul Convention) - *Annex concerning containers, pallets, packings, samples and other goods imported in connection with a commercial operation*, also contains provisions concerning the temporary admission of accessories and equipment for temporarily admitted containers. Annex C to the Istanbul Convention – *Annex concerning means of transport*, refers to accessories in the definition of the term "means of transport", but the provisions of neither Annex B.3 nor Annex C specifically refer to tracking devices as accessories to containers and means of transport. The 2013 Recommendation of the Customs Co-operation Council concerning Customs formalities in connection with the temporary admission of Container Security Devices (CSDs) contains a definition and recommendations as to the Customs formalities concerning CSDs.
9. However, it should be noted that the Container Convention has 39 Contracting Parties, the Istanbul Convention has 69 Contracting Parties and the Recommendation on CSDs has been accepted by 15 Members. In this context the industry argues that the low level of adoption of the related international conventions by the WCO Members and the non-binding status of recommendations do not provide predictability of treatment of tracking devices in international operations.

Action required

10. The PTC is invited to:
 - take note of the updates presented in the present document;

- consider adding the Customs treatment of tracking devices to the issues to be considered by the Virtual Group on the Customs treatment of return-refill containers and having the issues discussed at a horizontal level, i.e. at the Administrative Committee for the Container Convention, the Administrative Committee of the Istanbul Convention and the PTC.
 - invite Members to volunteer for leading the work of the Virtual Group as Chair of the Group.
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