

Brussels, 31 January 2005

## CONSULTATION ON THE NEW CUSTOMS CODE

### Revision 4 – articles 9 and 10

Clecat<sup>1</sup> and FFI<sup>2</sup> strongly support the idea of the Community Customs Code providing for a clear definition of the status of a customs service provider (customs agent / broker, freight forwarder or any intermediary offering customs related services to third parties) based on the technical requirement that the designated employees and/or officers involved in customs activities should have a good customs compliance record and the ability to demonstrate a proven standard of competence.

We therefore welcome the recognition of customs professionals, through the modification of Art. 9.6 – revision 3 and the insertion of an extra paragraph in Article 10.2.

On the issue of Customs representative and on Authorised Economic Operator, Clecat and FFI would like to make the following joint comments:

#### 1. Customs representative (article 9, 9.6 and 10)

- In our opinion the accreditation of customs representatives and authorisation of AEO's can be separated because an Authorised Economic Operator may or may not be a provider of customs services (he may or may not act on a behalf of a third party).
- Customs service providers, however, who meet the standards for customs representative accreditation should automatically be granted the status of authorized economic operator, at least for customs purposes.
- We suggest therefore adding an additional paragraph to article 9 setting out the criteria for the accreditation of customs agents.
- CLECAT and FFI jointly commit themselves to present recommendations for such standards.
- Still in relation to Article 9.6, we would like to see clarified the condition of acting "on a regular and commercial basis". We understand that the phrase is intended to ensure that individual persons or companies, who do not act on a regular and commercial basis as a customs representative, cannot qualify for AEO status, and we agree with

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<sup>1</sup> CLECAT, the European Association for Forwarding, Transport, Logistic and Customs Services, was founded in 1958 shortly after the establishment of the European Community and today represents 24 national organisations of freight forwarders and customs agents across Europe. Through these national member federations CLECAT represents the interests of about 19.000 companies, employing over 1.000.000 people. On European issues CLECAT also represents FIATA, the World Federation of Freight Forwarders.

<sup>2</sup> FreightForward International (FFI) represents the interests of 9 of the largest global freight forwarders and logistics service providers which together employ more than 358,683 people, transporting volumes in excess of 325 million tons with a turnover of over 27,5 billion euro. The grouping focuses on policies of a non-competitive nature that enables forwarders and logistics service providers to offer and perform client-oriented services and on policies that enable them to diversify the range and scope of their services as integrated-service providers. FFI consists of: ABX Logistics, Dachser, DHL Logistics and Freight, Exel, Geologistics, Kühne & Nagel, Panalpina, Schenker and UTi.

this principle. However in order to avoid misinterpretation, we request the Commission to clarify that the condition does not relate to working on a regular and commercial basis for one particular client, but that it relates to activities of the customs representative in their entirety.

2. Authorised economic operator (Art. 10)

- An authorised economic operator shall benefit from facilitations with regard to customs controls relating to security and safety and/or from simplifications provided for under the customs rules. This, in our opinion can only mean that there will be two different types of authorised economic operators, with distinctive criteria, and distinctive responsibilities.
- We would not object if this were indeed the case, because there may be security related requirements which in some circumstances freight forwarders and customs agents might not be able to meet, while they would have no difficulty to meet the customs or tax related requirements.
- Our worry is that current simplifications under the customs rules, which have nothing to do with security and safety, could not be obtained by the economic operator any longer, because he would not be able to comply with certain requirements attached to the status of "authorized economic operator". This would in particular be the case where these requirements applied to activities, which he would not be able to control and for which, therefore, he could not assume responsibility.
- This would finally result in the situation whereby current fiscal simplifications, which are broadly used by economic operators, may not be granted to economic operators any longer, who cannot comply with certain requirements which are not linked to the specific type of simplification they apply for.
- The introduction of the AEO idea should not be at the expense of existing levels of facilitation for economic operators, but rather should rely on providing additional facilitation, over and above what is available at the moment, to those able to meet the relevant criteria.