

Circular

20 May 2020

Subject: Update of the Customs Guidance on COVID-19

Dear Members,

The Commission published a new version of its Guidance on Customs issues related to the COVID-19 emergency. The revision includes updates in relation to several points raised by CLECAT in the [input for the TCG meeting on COVID-19](#).

Most importantly, DG TAXUD has provided further explanation on the application of Article 109 UCC (Payment) and Articles 110 and 111 UCC (Deferment of payment and Periods for which payment is deferred). It has been clarified that Article 110 UCC ‘***does not exclude the possibility for a customs representative to apply and benefit from deferred payments***, by fulfilling the obligation to provide the required guarantee’. As already noted in the guidance, Article 110 UCC provides for different formats of deferred payment, to be granted upon request and upon provision of a guarantee. The period for which payment is deferred is laid down as 30 days (Article 111 UCC).

However, the Commission also mentions that ‘*Nevertheless, there is in our view a possibility to allow a deadline longer than the 30 days mentioned in Article 111 UCC, by having recourse to “other payment facilities” under Article 112 UCC*’. The other payment facilities are also explained in the guidance. In the same section, it is also explained that ‘***if the conditions of Article 112(3) UCC are fulfilled, no additional guarantee for the other payment facility would need to be provided***’.

It has to be noted, however, that DG TAXUD mentions that, while representatives are not excluded from deferment possibilities, third parties making payments for the debtor and are not debtors themselves. This has as a consequence that, ‘*in light of the explicit wording of the legal provisions, they cannot benefit from the same flexibility as that offered to debtors*’. This follows the logic of the [Guidance on Guarantees of December 2019](#), as requested by CLECAT. The guidance states that ‘*in principle, the UCC and its related acts do not hold the other person willing to provide the guarantee liable for the customs debt instead of the debtor or of the potential debtor*’ and ‘*that the guarantee is the fallback option within the process of collection of the customs duties and of other charges, if applicable. The Customs authorities should first address the debtor for the payment of the customs debts and of other charges*’. Therefore, depending on the specific situation and factors, such as the difference between direct and indirect representation (in which case you are debtor), the provision of guarantees and performing payment as a third party, the flexibility provided to freight forwarders, customs brokers and other intermediaries will differ.

Furthermore, the Commission has provided additional explanation on release of partial shipments (of Personal Protective Equipment in particular), submission of proof of preferential origin during the COVID-19 crisis and has updated its overview of exceptional measures taken by Member States. Both documents can be found as attachments to this circular. The changes in the Guidance are marked in red. The guidance and other information were also updated on [the Commission’s dedicated webpage for trade on Customs and COVID-19](#).

As agreed during the CITI call of yesterday, CLECAT will submit additional input, especially on VAT, to DG TAXUD soon. Meanwhile, if you have questions or remarks, do not hesitate to contact the CLECAT Secretariat.

Kind regards,

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Attachments

- [Guidance Of Customs Issues Related To The Covid-19 Emergency Revision 20 May.pdf](#)
- [Overview Of Exceptional Measures Taken By Ms Customs Authorities During The Covid-19 Crisis.xlsx](#)

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