

*The Secretary General*

Mr. Frits Bolkestein  
Member of the European Commission  
European Commission  
Rue de la Loi 200  
B-1049  
Brussels

16 November 2004

Community Customs Code: Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EEC) No. 2913/92 of the Community Customs Code (COM (2003) 452-1 of 24/07/2003)

Dear Commissioner,

Orgalime is the liaison group representing the interests of the European mechanical, electrical, electronic and metalworking industries at the level of the EU. Orgalime's members include, at the present time, 33 national trade federations representing some 130,000 companies in 23 European countries. These industries, which include mainly small and medium-sized companies, employ some 7 million people and account for around 1,175 billion Euro in the GNP. Over 378 billion euros of products manufactured by our industry were exported out of the EU in 2003. Our industry also relies significantly on imported inputs for the manufacture of our products. Customs procedures are therefore of the highest importance for our companies whose competitiveness depends on their ability to trade.

Orgalime would like to reinforce the messages we communicated in our letter of 20 April 2004, and also take this opportunity to confirm our support for the concerns and demands expressed to you in UNICE's letter of 21 September 2004.

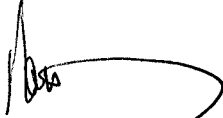
While we fully support the objective of simplifying and modernising customs legislation and procedures in the EU and worldwide, we are concerned by the practical changes certain Commission proposals imply. We feel that without knowledge of the implementing regulation, it is hard for business to thoroughly assess the concrete implications of the Commission's proposed text. We would therefore like to encourage the Commission to work in parallel on the implementing measures in close cooperation with the interested parties.

We would also like to reiterate some of our suggested modifications to the proposal for a regulation amending the Community Customs Code. Orgalime particularly opposes the proposal asking for a summary declaration prior to any import into and export from the Community's customs territory. We feel that for imports, the transport document and, for exports, the customs document are already sufficient and should be accepted as the "summary declaration". We also feel that the deadlines for submission of a prior declaration should be shortened in order to prevent any new constraint in terms of delay in the circulation of goods and services. We also would like to encourage the Commission to negotiate and conclude appropriate bilateral agreements with third countries in order to avoid the emergence of new trade barriers as well as the doubling of formalities and procedures for our member companies.

We are very keen to maintain the existing "simplified procedure", which is absolutely necessary for our industry and should therefore not be abolished. The loss of this instrument would have significant impact on costs and therefore on our competitiveness.

In the Annex to this letter we have mentioned the articles which raise the most concerns for our member companies.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Adrian Harris', enclosed within a large, hand-drawn oval shape.

Adrian Harris

Cc DG Taxud: Messrs. Verrue, Wiedow, Lux & Pulford.

## **Annex: Comments to certain articles that raise industry concerns:**

### **Article 1: Mission of customs**

Orgalime would welcome the reintegration in the Customs code of the two points (indents eight and nine) appearing in the document number 458 on the maintenance of dialogue with the economic operators to make sure their needs and the necessary changes are taken into account before publication of the texts, in order to ensure transparency by the free provision of the laws on the Internet of the regulations and "rulings".

### **Article 10: Authorised economic operator**

The inclusion of the authorised economic operator (AEO) in the Customs Code must be seen as a positive development. The status of authorised operators must be recognised in **all EU Member States** in order to benefit from facilitation procedures irrespective of the state in which the customs office of entry or exit is situated.

The status of AEO must afford genuine advantages. In particular, authorised operators must be eligible for all simplifications in customs procedures. The AEO should be waived from the obligation to submit (summary) declarations upon arrival or departure of the goods. Nor should it be necessary to present the goods to customs during the physical goods movement. Authorised operators should also not have to bear the costs inherent in the new regime: costs of downtime for means of transport prior to dispatch of the summary declaration, miscellaneous administrative costs (preparing the prior declaration, additional insurance, etc.).

We also ask that that AEO should be entitled to undertake all procedures linked to export control for dual-use products.

### **Article 14 – Classification and origin decisions**

With regards to the tariff classification and origin decisions, these should be supplemented by the necessary precision so that such decisions **are valid for the European Union**, and legally **binding** for all European Union customs, plus Turkey with which the EU already has a customs union agreement.

Additionally, concerning the holders, it is essential to specify **that when a company group is involved, decisions are valid for all its subsidiary companies**, and that one of them can therefore evoke for the same product the last Binding Tariff Information (BTI) granted to similar products. Exactly the same should apply to Binding Origin Information (BOI). It is indeed absurd to oblige each subsidiary company to obtain, e.g. a classification (BTI - procedure) from customs officials in each member state of the European Union, which results in sometimes contradictory decisions, which falsify the statistics and lead to contentious matters within a single market. We ask for legislation that is coherent within the single market.

Moreover, the proposed text states that the classification or origin decisions are valid for a period of three years, while currently they are valid for six years. Shortening the period will frustrate long-term contracts, as business needs to rely on these decisions.

### **Article 19 – Administrative penalties**

There is a need for more protection against discretionary decisions. Appeal procedures should therefore be added to this article, which should be in line with the WCO Kyoto Convention.

## **Article 27 – Acquisition of origin**

Orgalime calls for re-incorporation in the new article 27 (TAXUD/458/2004-Rev3) at the end of the paragraph from the current article 24 of the Community Customs Code regarding non-preferential origin. This covers the conditions for grant, i.e. “last substantial transformation economically justified, carried out in a facility equipped for this purpose and resulting in production of a new product or representing an important stage of production”. This rule currently in force must be maintained until another agreement is reached at the WTO.

## **Article 59**

On the customs debt, the ten-day deadline to dispute it is too short. In our view operators should have at least two months within which to do this.

## **Article 71 – Equity**

The notion of good faith by importers is key. Companies must not be held responsible for a foreign administration or an inattentive exporter.

## **Summary declaration**

Orgalime believes that the summary declarations must not jeopardise the simplified customs clearance procedures in companies. Moreover, the timetable for implementation of the summary declaration should be adapted so that its management by customs administrations can be computerised within an electronic environment.

The text is unclear as it is difficult to determine who would be responsible for the data included in the summary declaration. Another issue is to make sure that the data corresponds exactly to physical flows.

The possibilities to amend the declaration “a posteriori” are almost non-existent; and it is not clear what would happen in case of an error noted by the importer on the data of the declaration. How could they be rectified to establish a correct import declaration? Orgalime therefore asks that a possibility of rectifying the errors in the declarations without penalty should be added to the text.

It appears also to be difficult to evaluate the practical feasibility of the proposed changes. It is necessary to review the articles of the code and its implementing provisions (in the committee procedure) simultaneously, in order to clarify which information would have to be included in the prior declaration, who is supposed to provide it, when, to whom, and where this information would have to be submitted.

It is important that practical solutions are found through specific arrangements on the implementation decisions that can prevent new trade barriers between EU and third countries and unnecessary double-procedures for companies. Orgalime therefore asks the Commission to negotiate and conclude appropriate bilateral agreements with third countries.