



## Consequences on inward processing of the application of EU trade defense measures to certain products originating in the United States

*As a reminder, the inward processing procedure (IP) allows third-country goods to be imported into the Union, processed or repaired before being re-exported or released for consumption.*

*The Union Customs Code (UCC) and its delegated and implementing acts provide for certain common conditions applicable to special procedures. They concern, in particular, the discharge of the IP special procedure by (i) placing the goods under another customs procedure, (ii) taking them out of the EU customs territory, (iii) by destroying them without leaving waste or (iv) by abandoning them to the State (UCC, art 215).*

*For the purposes of discharging IP procedure, certain operations are regarded as re-export (Implementing Regulation 2015/2447, Article 324), and in particular the delivery of aircraft or spacecraft and related equipment.*

*On the other hand, such presumption is not possible when:*

- non-Union goods placed under the IP are subject to agricultural or commercial policy measures, provisional or definitive anti-dumping duties, countervailing duties, safeguard measures or any additional duty resulting from a suspension of concessions if they had been declared for release for free circulation;*
- a customs debt was incurred in accordance with Article 78 (1) of the Code for non-originating goods placed under the IP if the holder of the authorization intends to re-export the processed products.*

In a Note of 2 December 2019 \*, the French customs and indirect taxation authorities (DGDDI), recalls that in response to the trade defense measures put in place by the United States, the European Union (EU) has instituted two types of safeguard measures applicable to imports of steel and aluminum from the United States:

- **Trade Policy Measures (TPMs)**, which result in the production of surveillance certificates for aluminum and certain aluminum products originating in the United States. **This measure has been applicable since May 12, 2018.**
- **Tariff measures**, ie additional duties levied on certain products originating in the United States (aluminum, steel and products made from these metals) **due from 22 June 2018.**

These measures have the following effects on IP authorizations for the goods concerned:

### 1. Review of economic conditions

Applications for IP authorizations (including renewals of authorizations) for goods subject to TPM must be subject to a review of the economic conditions by the European Commission, provided that the authorization provides for taxation on the basis of finished products (Article 85.1 of the UCC):

- If the economic conditions are considered as not fulfilled, the authorization can not be issued.
- If these economic conditions are met, the authorizations thus issued can not be retroactive.

### 2. Prohibition to use the simplified clearance procedure

The simplified clearance provided for in Article 324 of Implementing Regulation 2015/2447 of 28 July 2015, applicable in particular in the field of **aeronautics**, is prohibited.

Therefore, only a clearance of common law can be implemented which has the consequence of transforming the authorization "324 REC"(in French) into a "common law" authorization.

Holders of an IP authorization for goods subject to the commercial policy measures and **benefiting from the simplified clearance procedure must send a letter by 31 December 2019 to the customs office which issued the authorization in order to specify:**

- the desired clearance arrangements; and
- in the case of release for free circulation, the taxation arrangements chosen.

### 3. Consequences of the introduction of additional duties

The consequences are identical to those mentioned above, but in addition, it will be forbidden to use the equivalent compensation method (use of Union goods in place of non-Union goods subject to tariff measures).

In addition, a modification of the existing IP authorizations will be necessary, when they include the equivalent compensation or simplified clearing modality under Article 324 of the Implementing Regulation 2015/2447.

### 4. Regularization with respect to the collection of duties and taxes

Economic operators liable to duties (customs duties and additional duties) and import VAT due to the introduction of trade defense measures must regularize their situation by approaching their interregional customs clearance offices before 31 January. 2020. The Note explains the modalities of such regularization.

*\* For more information, you will find the DGDDI Note and the corresponding appendices on the links below:*

[Note DGDDI commercial measures IP](#)

[Annex 1 – Review of economic conditions](#)

[Annex 2 – Prohibition to implement Article 324 REC](#)

[Annex 3 – Consequences of the production of the surveillance certificates for the IP](#)

[Annex 4 – Consequences of the introduction of the additional duty](#)

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**DS Avocats' Customs and International Trade team is at your disposal to provide you with additional information.**

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