



Are flows of goods included in the containment-related measures?

Update on Customs measures related to COVID-19

By Stanislas ROQUEBERT

While people see their freedom of movement drastically, but necessarily, restricted, the same cannot be said for goods that must continue to move: show must go on!

I- What about the free movement of goods within the EU?

The free movement of goods is not questioned. Both the European Commission and the Member States have communicated clearly to this effect.

However, in practice, emergency measures adopted by some Member States may necessarily affect the transport of goods between Member States since some borders (e.g. between Spain and France) may be closed or restricted.

II- And with non-EU countries, can we still import/export?

At this stage, no import/export restrictions have been promulgated for certain products or countries. Movement restriction measures do not apply to goods.

On the contrary, the movement of goods is well maintained, especially with the United States (i.e. the restrictions imposed only concern people), and China, since scientists consider that "the risk of being infected with the Covid-19 Coronavirus by touching an object imported from a risk area is considered to be extremely low".



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In practice, some trade could of course be restricted (e.g. the port of Le Havre has decided to limit the arrival of ships, and the majority of cargo travels on passenger flights, which are also severely restricted), but there are no restrictions in principle and the time of stupor will necessarily give way to effective practical supply chain organization.

Finally, and given the current circumstances, personal protective goods such as masks and gloves, but also food products, should be subject to import flexibilities rapidly.

III- Is it still possible/necessary to carry out import and export customs clearance formalities?

Obviously, customs clearance formalities must be carried out independently of the current situation since any import/export must be subject to the filing of a declaration at all times.

In this sense, the administration continues to function remarkably:

- All customs declarations are computerized and the software work;
- The customs officials are currently in a teleworking system. A minimum service is therefore efficiently guaranteed.

IV- Is the payment of customs duties suspended or facilitated?

At this stage, the emergency measures taken by the French Government only concern direct taxes, but not customs duties or indirect contributions (excise duties, ICT, etc.).

Nevertheless, the Customs authorities has confirmed "that in case of emergency and in accordance with the regulations in force, situations will be studied on a case-by-case basis".

V- What about ongoing customs controls?

The ongoing controls are continuing, and new controls can be initiated, even if the administration is necessarily busy on other priorities.

Some practical situations:

- a) I have 15 days to provide documents or answer questions, do I have to do so?
- b) I have received a notice of the outcome of an investigation and have 30 days to make comments, is the deadline suspended?
- c) I have received a notice of payment following a notification of infringement, requesting payment within 10 days, is the time limit suspended?
- d) I have received an assessment notice; do I have to make payment or dispute promptly?

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Please note that deadlines are always running and there is no general suspension. Nevertheless, the Customs authorities have confirmed that they will probably not oppose extensions of time limits given the context.

This is why we recommend, as a precaution, to request in writing and in a reasoned manner additional time limits (in particular for observations to notices of investigation results or assessment notice contestation), justified by the containment. For companies, their boards and the Customs Authorities, it seems preferable, except in emergencies, that the pre-litigation/litigation activity regains its full effect after containment.

This being said, it is important to continue the procedures in progress in order to avoid a harmful bottleneck when the situation has returned to normal and we recommend, if at all possible, to respond/advance as far as possible.

VI- What about ongoing Customs disputes in Courts?

As far as judicial and customs procedures are concerned (except for specific criminal proceedings), it has been agreed with the courts, the National Bar Association and professional associations, to request the postponement of all the proceedings scheduled for the next few weeks until the situation returns to normal.

For all scheduled hearings, we therefore recommend, as a precautionary measure, to request referrals and to follow the procedural deadlines, including during periods of confinement. Likewise, we recommend taking advantage of these calmer times to make progress on possible conclusions or draft writings in order to be reactive and avoid bottlenecks during the resumption.



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