

ECJ Preliminary Ruling Request (Customs): *Baltic Container Terminal* (Case C-376/23) – Augstākā tiesa Submits Referral on Obligations to Discharge Free Zone Procedure

28 August 2023

Report from Martha Caziero, VAT Associate, IBFD

On 28 August 2023, a preliminary ruling request lodged on 15 June 2023, was published in the Official Journal of the European Union. By this, the Augstākā tiesa Senāts (Supreme Court, Latvia) made reference to the Court of Justice of the European Union (ECJ) for a preliminary ruling in the case of *Sia Baltic Container Terminal v. Valsts ieņēmumu dienests* (C-376/23) on the obligations to be fulfilled in order to discharge certain goods from the "free zone" customs' special procedure.

More specifically, the referring court is unsure as to whether the holder of a "free zone" permit can rely on a note describing the customs' status of goods as "Union goods", signed and stamped by a customs officer on a transport document such as a consignment note (CMR), without verifying for itself the validity of the change in customs' status, or whether it is required to include the master reference number (MRN) in its records system.

For this reason, the referring court requested the ECJ to answer the following questions:

"1. Under Article 178(1)(b) and (c) of Delegated Regulation 2015/2446 [[Union Customs Code Delegated Act \(2015/2446\)](#)], in conjunction with Article 214(1) of the Union Customs Code [[Union Customs Code \(2013/952\)](#)], is it possible to discharge the 'free zone' special procedure without having included in the electronic records system the master reference number (MRN) which identifies the customs declaration by which the goods are placed under the subsequent customs procedure?

2. Under Articles 214(1) and 215(1) of the Union Customs Code [[Union Customs Code \(2013/952\)](#)] and Article 178(1)(b) and (c) of Delegated Regulation 2015/2446 [[Union Customs Code Delegated Act \(2015/2446\)](#)], is it possible for the holder of the 'free zone' special procedure to discharge that procedure relying solely on a note concerning the customs status of the goods made by a customs authority official on the transport document for the goods (CMR), without checking for itself the validity of the customs status of those goods?

3. If the answer to question 2 is negative, what level of verification in accordance with Articles 214(1) and 215(1) of the Union Customs Code [[Union Customs Code \(2013/952\)](#)] and Article 178(1)(b) and (c) of Delegated Regulation 2015/2446 [[Union Customs Code Delegated Act \(2015/2446\)](#)] is sufficient in order to consider the 'free zone' special procedure to have been correctly discharged?

4. Was the holder of the 'free zone' special procedure entitled to have a legitimate expectation as a result of the confirmation by the customs authorities that the customs status of the goods had changed from 'non-Union goods' to 'Union goods', even though that confirmation did not indicate the reason for that change of status of the goods or any information which allowed that reason to be verified?

5. If the answer to question 4. is negative, may the fact that, in other proceedings brought before a national court, it was ruled, by final judgment, that, in accordance with the procedures laid down by the customs authorities, the holder of the customs procedure had not committed any infringement with regard to the 'free zone' customs procedure constitute a ground for exemption from the customs debt arising under Article 79(1)(a) and 3(a) of the Union Customs Code [[Union Customs Code \(2013/952\)](#)], in the light of the principle of res judicata laid down in national law and EU law?"

Latvia; European Union - ECJ Preliminary Ruling Request (Customs): Baltic Container Terminal (Case C-376/23) – Augstākā tiesa Submits Referral on Obligations to Discharge Free Zone Procedure (28 Aug. 2023), News IBFD.

Exported / Printed on 10 Mar. 2024 by hkermadi@deloitte.lu.