

Certain Legal Aspects of Customs Law Regarding Containers Abandoned in Temporary Storage

An operator brought cargos for a giant shipping line. The cargos have been transported via trains from the port with due railway and transit documents. The trains have entered the Hungarian border and arrived in the temporary storage of a warehousing company in accordance with the agreement signed with the operator.

The cargos have been discharged in the container terminal to the temporary storage of a warehousing company as non-Union goods in the customs area of the EU. The final destination country of the goods is partly Hungary, partly other countries of the EU.

Thus the non-Union goods have been placed in temporary storage procedure where the 'holder/principal of the procedure' is the warehousing company as holder of the authorization.

The problem arose after the announcement of a possible investigation into the type of goods stored in the cargos. The Hungarian authorities organized a comprehensive check in this certain product group. The containers containing such products have been investigated very thoroughly.

Due to the prolonged investigation and the accompanying costs of the investigation the buyers of the cargos have not emerged to claim their goods.

The question arose: who can be made responsible for the costs and what measure can be taken regarding the now abandoned cargos with the non-Union goods?

According to Sec. 84 and 85 of the Hungarian Act CLII of 2017 an obligation related to the application of customs rules is considered violated, if the person responsible for the non-Union goods being in temporary storage will not place them under customs procedure or re-export them. Art. 148 UCC requires an authorization for the operation of temporary storage facilities. Art. 149 UCC declares that non-Union goods being under temporary storage shall be placed under customs procedure or

re-exported within 90 days. If the holder of the authorization exceeds the deadline of 90 days, customs fee shall be imposed.

The temporary storage is 90 days and cannot be prolonged, therefore the non-Union goods being under temporary storage shall be placed under customs procedure or re-exported within 90 days.

After the elapse of the 90-day period of the temporary storage the holder of the authorisation may trigger a custom warehousing procedure or start a new transit procedure and after a few days restart again the procedure. This pragmatic solution is not always accepted by custom authorities in the EU, e.g in Austria.

(To be continued in Part II)