

**Question for written answer P-004072/2016
to the Commission**
Rule 130
Angelika Mlinar (ALDE)

Subject: Restriction on the use of indirect representation for customs procedure code 42 in Austria

In Austria, declarations with regard to imports under customs procedure code 42, if made by a representative are only accepted if he uses indirect representation (and thus becomes liable for customs duty and import VAT). However, Article 143 (1)(d) of the VAT Directive does not stipulate any restriction with regard to the type of representation which may be used.

Furthermore, tax exemption is granted upon application for the release for free circulation of non-EU goods and thus enforces the application of Article 5 of Council Regulation No 2913/92 and Article 18 of Regulation (EU) No 952/2013 and the right of choice stipulated therein. Nevertheless, the Austrian Government maintains that Article 143(2) of the VAT Directive stipulates a tax representative that is legally able to owe tax, which is only possible in the case of indirect representation.

This obligatory use of indirect representation puts Austrian freight forwarders at a competitive disadvantage in comparison with companies in other Member States.

Does the Commission share the Austrian Government's opinion? If not, what does the Commission intend to do in order to ensure Austria's compliance with EU law?