

Procedure file

| Basic information | |
|---|---------------------------------------|
| COD - Ordinary legislative procedure (ex-codecision procedure) Regulation | 2005/0246(COD) Procedure completed |
| Modernised Community Customs Code | |
| Repealed by 2012/0027(COD) Amended by 2013/0104(COD) | |
| Subject 2.10.01 Customs union, tax and duty-free, Community transit 6.20.04 Union Customs Code, tariffs, preferential arrangements, rules of origin | |

| Key players | | | |
|---|---|---|------------|
| European Parliament | Committee responsible | Rapporteur | Appointed |
| | IMCO Internal Market and Consumer Protection | | 12/12/2005 |
| | | ALDE FOURTOU Janelly | |
| | Former committee responsible | | |
| | IMCO Internal Market and Consumer Protection | | 12/12/2005 |
| | | ALDE FOURTOU Janelly | |
| | Former committee for opinion | | |
| | INTA International Trade (Associated committee) | | 25/01/2006 |
| | | PPE-DE AUDY Jean-Pierre | |
| | BUDG Budgets | The committee decided not to give an opinion. | |
| CONT Budgetary Control | The committee decided not to give an opinion. | | |
| ITRE Industry, Research and Energy | The committee decided not to give an opinion. | | |
| LIBE Civil Liberties, Justice and Home Affairs | The committee decided not to give an opinion. | | |
| Council of the European Union | Council configuration | Meeting | Date |
| | General Affairs | 2823 | 15/10/2007 |
| | Competitiveness (Internal Market, Industry, Research and Space) | 2811 | 25/06/2007 |
| | Competitiveness (Internal Market, Industry, Research and Space) | 2769 | 04/12/2006 |
| | Competitiveness (Internal Market, Industry, Research and Space) | 2715 | 13/03/2006 |
| European Commission | Commission DG | Commissioner | |
| | Taxation and Customs Union | KOVÁCS László | |

| Key events | | | |
|------------|---|---|---------|
| 30/11/2005 | Legislative proposal published | COM(2005)0608 | Summary |
| 17/01/2006 | Committee referral announced in Parliament, 1st reading | | |
| 13/03/2006 | Debate in Council | 2715 | Summary |
| 28/09/2006 | Referral to associated committees announced in Parliament | | |
| 22/11/2006 | Vote in committee, 1st reading | | Summary |
| 29/11/2006 | Committee report tabled for plenary, 1st reading | A6-0429/2006 | |
| 04/12/2006 | Debate in Council | 2769 | |
| 11/12/2006 | Debate in Parliament |  | |
| 12/12/2006 | Decision by Parliament, 1st reading | T6-0545/2006 | Summary |
| 15/10/2007 | Council position published | 11272/6/2007 | Summary |
| 25/10/2007 | Committee referral announced in Parliament, 2nd reading | | |
| 23/01/2008 | Vote in committee, 2nd reading | | Summary |
| 25/01/2008 | Committee recommendation tabled for plenary, 2nd reading | A6-0011/2008 | |
| 18/02/2008 | Debate in Parliament |  | |
| 19/02/2008 | Results of vote in Parliament |  | |
| 19/02/2008 | Decision by Parliament, 2nd reading | T6-0049/2008 | Summary |
| 23/04/2008 | Final act signed | | |
| 23/04/2008 | End of procedure in Parliament | | |
| 04/06/2008 | Final act published in Official Journal | | |

| Technical information | |
|----------------------------|--|
| Procedure reference | 2005/0246(COD) |
| Procedure type | COD - Ordinary legislative procedure (ex-codecision procedure) |
| Procedure subtype | Legislation |
| Legislative instrument | Regulation |
| | Repealed by 2012/0027(COD) Amended by 2013/0104(COD) |
| Legal basis | EC Treaty (after Amsterdam) EC 133; EC Treaty (after Amsterdam) EC 135; EC Treaty (after Amsterdam) EC 026; EC Treaty (after Amsterdam) EC 095 |
| Stage reached in procedure | Procedure completed |
| Committee dossier | IMCO/6/55097 |

| Documentation gateway | | | | | |
|---|------|--------------------------------|------------|-----|---------|
| Legislative proposal | | COM(2005)0608 | 30/11/2005 | EC | Summary |
| Document attached to the procedure | | SEC(2005)1543 | 30/11/2005 | EC | |
| Economic and Social Committee: opinion, report | | CES0953/2006 | 05/07/2006 | ESC | |
| Committee draft report | | PE376.600 | 28/08/2006 | EP | |
| Amendments tabled in committee | | PE378.684 | 26/09/2006 | EP | |
| Committee opinion | INTA | PE378.665 | 17/10/2006 | EP | |
| Committee report tabled for plenary, 1st reading/single reading | | A6-0429/2006 | 29/11/2006 | EP | |
| Text adopted by Parliament, 1st reading/single reading | | T6-0545/2006 | 12/12/2006 | EP | Summary |
| Council statement on its position | | 13322/2007 | 05/10/2007 | CSL | |
| Council position | | 11272/6/2007 | 15/10/2007 | CSL | Summary |
| Commission communication on Council's position | | COM(2007)0647 | 23/10/2007 | EC | Summary |
| Committee draft report | | PE398.305 | 14/11/2007 | EP | |
| Amendments tabled in committee | | PE398.540 | 07/12/2007 | EP | |
| Committee recommendation tabled for plenary, 2nd reading | | A6-0011/2008 | 25/01/2008 | EP | |
| Text adopted by Parliament, 2nd reading | | T6-0049/2008 | 19/02/2008 | EP | Summary |
| Draft final act | | 03621/2008/LEX | 23/04/2008 | CSL | |

| Additional information | |
|------------------------|-------------------------|
| National parliaments | IPEX |
| European Commission | EUR-Lex |

| Final act |
|---|
| Regulation 2008/450 OJ L 145 04.06.2008, p. 0001 Summary |

Modernised Community Customs Code

PURPOSE: to replace the existing Community Customs Code and the related Regulations with a modernized Customs Code that streamlines customs procedures and lays the foundations for accessible, inter-operable customs clearance systems at EU level.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

CONTENT: the present Community Customs Code, Council Regulation 2913/92/EEC, is out of date. It has not kept pace with either the radical changes to the environment in which international trade is conducted, particularly the rapid and irreversible growth of the use of information technology and the exchange of electronic data, or with the changing focus of customs work. This compromises efficient customs clearance and risk-based controls within the internal market. One should also take into consideration the Community's trade facilitation agenda in the context of the Doha Development Agenda, as well as the requirements stemming from the need to address emerging security and safety threats by strengthening controls at the external border of the Community. The modernizing of the Customs Code, streamlining of customs procedures and processes and the adaptation of the rules towards common standards for IT systems will:

- implement the e-Government initiative in the area of customs;
- fulfil the commitment to the 'better regulation' initiative in this area, by providing less complex and better structured rules and regrouping

several Regulations;

- enhance the competitiveness of companies doing business in and with the Community, thus creating economic growth;
- increase security and safety at the external border, once common standards (including those for risk-analysis) are introduced and managed via a common IT framework;
- reduce the risk of fraud;
- contribute to better coherence with other Community policies, such as indirect taxation, agricultural, commercial, environmental, health and consumer protection policy; and
- ensure an effective decision-making process for the adoption of implementing provisions, guidelines and explanatory notes and provide for the Commission to request a national administration to withdraw a decision.

Such extensive changes cannot be achieved by continued amendment of the present Customs Code, but only by a complete overhaul, i.e. its replacement by a modernized Community Customs Code.

The present proposal must be seen in the context of the renewed Lisbon Strategy, whose objectives are to make Europe a more attractive place to invest and work, where growth is led by knowledge and innovation and where policies allow businesses in the EU to create more and better jobs. The present proposal was also developed to fulfil the objectives of the e-Government initiative, by allowing business, through electronic Customs, to benefit fully from modern technology and the resulting facilitation of trade.

For more details concerning the financial implications of this proposal, please refer to the financial statement.

Modernised Community Customs Code

The Council took note of a Commission presentation on a draft Regulation aimed at modernising the EU's customs code. The code lays down the general rules and customs procedures applicable to goods traded between the Community and third countries. The proposed Regulation intends to replace the existing Community customs codes, which dates back to 1992, in a bid to make it more compatible with changes which have taken place in international trade.

Modernised Community Customs Code

The committee adopted the report by Jannelly FOURTOU (ALDE, FR) amending - under the 1st reading of the codecision procedure - the proposed regulation laying down the Community Customs Code (Modernised Customs Code). The main amendments were as follows:

- the committee introduced a definition of 'customs representative', meaning "any person established on EU territory who provides customs services to third parties". It also clarified the criteria applicable, specifying that the status of customs representative shall be open to all applicants, managed by a government body in the Member State, recognised in all Member States once it has been registered in the Member State of application, and subject to "practical standards of competent or professional qualifications directly linked to the activity carried out". The amendment also stipulated that there should be no limit on the number of customs representatives in the EU and that a person with the status of customs representative and with the status of Authorised Economic Operator "shall be able to benefit from all simplifications". Lastly, to ensure that customs representatives should no longer have a monopoly over their activities in dealing with customs, the committee said that anyone should be able to pursue a commercial activity by addressing the customs authorities, without being obliged to be represented by a customs representative;
- the committee introduced new provisions making it clear in the body of the text that there are two statuses of authorised economic operator: 'customs simplification' authorised economic operator and 'security and safety' authorised economic operator. Both authorisations may be held at the same time;
- the derogation making it possible to limit the status of authorised economic operator to one or more specified Member States should be withdrawn as it would be difficult to apply in practice and could create problems vis-à-vis the recognition of this status by third countries (e.g. the USA);
- one amendment sought to enable customs authorities to determine not only the route to be used when goods are to leave the customs territory of the Community but also the time limit for their removal from that territory. The committee argued that this would prevent the long-term storage of goods at the border when their exit formalities have already been carried out.

Modernised Community Customs Code

The European Parliament adopted a resolution drafted by Jannelly FOURTOU (ALDE, FR) amending the proposed regulation laying down the Community Customs Code (Modernised Customs Code). The amendments conformed largely to those made by its Internal Market committee. (Please see the summary of 22/11/2006.)

It should be recalled that this is one of three reports, all of which aim to revise the EU customs framework to meet evolving challenges in trade, technology and security. The other reports involve a paperless environment for customs (COD/2005/0247) and the launch of the Customs 2013 action programme (COD/2006/0075.)

Modernised Community Customs Code

After a thorough examination of the proposal during successive Presidencies, and in the light of its practical implications both for customs administrations and trade, the Council, having taken on board a large majority of Parliament's amendments, has also restructured the text and made a number of changes, mostly of a technical nature.

Amendments accepted by the Council: the European Parliament adopted 51 amendments to the proposal, out of which 34 have been taken on board, totally or in part, in the Council's common position. The Council states that particular attention should be paid to the amendments on comitology. Parliament listed 28 provisions to which the regulatory procedure with scrutiny should apply, a list extended by the Council to 49 instances amongst 44 provisions. The Council has based its position with regard to the type of comitology procedures on the legal requirements and criteria provided for in Council Decision of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred to the Commission, in particular Article 5a.

Amendments not accepted by the Council: the Council rejected certain amendments, and gave the following reasons, inter alia:

- the Council considers that the status of authorized economic operator should only be granted to those operators, including customs representatives, who comply with the criteria laid down;
- with regard to customs representatives, the Council has followed an approach in line with the principles of the internal market, where customs representatives, provided that they comply with the criteria laid down in Article 14, shall be entitled to operate in other Member States than the one where they are established;
- the Council considers that, by definition, random checks cannot be based on risk analysis;
- the charging of fees by customs authorities should be restricted to those cases where application of the customs legislation, including the performance of customs controls, occurs outside the official opening hours of the competent customs offices;
- simplified procedures for certain concerned could lead in some cases to discrepancies in the application of the VAT legislation;
- the negotiation of agreements containing preferential measures is a Council prerogative under Article 133 TEC;
- in the case of plurality of debtors, they should be jointly and severally liable for the totality of the debt;
- the rules which apply to the import summary declaration cannot be mirrored in the handling of the export summary declaration;
- the rules pertaining to the electronic data exchange between customs authorities and other competent authorities, which are under the competence of the Member States, are outside the scope of one of the amendments;
- the non-binding nature of explanatory notes and guidelines prevent them from being referred to in a legal text.

New elements introduced by the Council: the changes introduced by the Council have led to a substantial restructuring of the proposal and a subsequent re-numbering of the articles. The new elements are as follows:

- VAT: all references to VAT and excise duties have been withdrawn from the text, in accordance with EP amendments, and replaced, depending on the context, with "import taxes", or, more generally, with "other charges";
- Simplifications: the idea that simplifications should apply to certain customs formalities, or be granted to certain operators, is central to the Code. The Council, taking partially on board a Parliamentary amendment, has introduced this concept into the text, which caters for the intra-Community trade of goods moving between those parts of the customs territory where the legal provisions on VAT apply and those parts of that territory where these provisions do not apply. At any rate, national or local simplifications, which could potentially distort the application of customs legislation in the customs territory, have been repealed. Additional simplifications, which would apply in the entirety of the customs territory, may be introduced in the customs legislation via the regulatory procedure with scrutiny.
- Customs representation: on this key issue, the common position of the Council seeks to reconcile different approaches to customs representation amongst Member States. By introducing common criteria to entitle customs representatives to provide their services in another Member State than the one where they are established, the Council provides for a level playing field, in line with the Treaty, while safeguarding a high quality of customs representation services.
- Definitions: the Council has modified a number of definitions: ?the customs representative?; ?the declarant? (in line with Parliament's amendment); ?the customs debt?; ?the debtor? and ?the customs status?, ?repayment?; ?remission? and the (electronic) message.
- Authorised economic operator: the common position takes on Parliament's amendment concerning the two different types of authorisations ("customs simplifications" and "security and safety"), a solution which addresses the possible different needs of economic operators. In addition, the Council considers that applications for the status of authorized economic operator should be restricted to economic operators and that a monitoring of such status should offer better guarantees than a periodic review. In line with Parliament's amendment, the possibility for the applicant to request that the status of authorized economic operator be limited to one or more specified Member States has been withdrawn.
- Decisions: the Council has aligned to four months the deadline for the transmission of information to the customs authorities, a period commonly used by national administrations. The principle according to which the customs authorities should communicate to the person concerned the grounds upon which they intend to take a decision which could affect the addressee has been maintained. The Council has more explicitly defined the cases where the customs authorities may refuse a request for a decision relating to binding information.
- Penalties: in line with Parliament's amendment, all references to criminal penalties have been withdrawn from the text. A new paragraph creates an obligation for Member States to notify the Commission of their national provisions with regard to penalties.
- Cooperation between authorities: the common position has spelled out the role to be assumed by the customs authorities when co-operating with other authorities in performing controls.
- Intra-Community flight and sea crossings: the Council has restored the rule that customs controls and formalities should be performed, where provided for under customs legislation, and conferred powers to the Commission under the regulatory procedure for the implementation of this provision.
- Value of goods for customs purposes: the Council has considerably simplified the Chapter on valuation of goods, with some technical rules for such valuation to be elaborated under the regulatory procedure (such as the relationship between the buyer and the seller, the elements to

be used to determine the computed value, and the fall back method).

-Customer debt and guarantees: the Council has restored the rule according to which, in case of plurality of debtors, they should be jointly and severally liable for the debt, considering that such a rule would confer more certainty to the customs authorities that the debt will actually be recovered. In addition, the common position has introduced or reinforced a number of simplifications. The guarantee, under certain conditions, may be used for amounts payable following post-release control. The use of the comprehensive guarantee has been made available to all economic operators, provided that they respect certain criteria, including a proven solvency.

- Extinguishment of customs debt: the Council has redrafted the text, pointing out that it is the confiscation of goods (and not their seizure) which, under certain conditions, triggers the extinguishment of the debt. The concept of "irrecoverable loss" has also been clarified.

- Centralised clearance: the Council has introduced a new Article, since it is more logical to integrate in a single article all the provisions in the Code related to the concept of centralized clearance. Under this new drafting, centralized clearance may be made available to all persons. However its use is restricted in certain cases to applicants complying with the criteria for the granting of the status of authorized economic operator.

- Customs declaration: the Council has introduced a number of modifications concerning the customs declarations. In line with the principle laid down that the customs declaration should be lodged using an electronic data-processing technique, the common position allows, under certain conditions, this declaration to take the form of an entry in the declarant's records. The simplified declaration is no longer restricted to authorized economic operators. Two exceptions to the rule that the declarant should be established in the customs territory of the Community have been added.

- Self-assessment: the concept of self-assessment, introduced with regard to the determination by the declarant of the amount of duty payable, is extended in to certain customs formalities and certain controls under customs supervision.

- Special procedures: the scope of the special procedures has been spelled out and aligned with the structure of Title VIII. The rules related to the end of the transit procedure are no longer mixed with the rules on the discharge of a procedure. The Council has, for practical reasons, introduced exceptions to the rule concerning the absence of a time-limit for goods placed under the storage procedure.

- Formalities and customs supervision: the Council has substantially restructured the relevant Article, adding some instances of prohibitions and restrictions, such as those related to drug precursors, and spelling out the persons who shall present the goods leaving the customs territory of the Community.

- Implementing measures: a cover-all provision has been added, catering for possible additional simplifications of the Code.

-Final provisions: Council Regulation (EEC) No 918/83 and Council Regulation (EC) No 82/2001 have been withdrawn from the lists of Regulations repealed.

In view of providing for a smooth application of the proposed regulation, and given the importance of the implementing provisions in that respect, a distinction has been made between the entry into force and the application of the proposed regulation. The provisions listed in paragraph 1 of Article 188, which confer implementing powers to the Commission, shall be applicable from the date of the entry into force of the Code. The other provisions shall be applicable once the implementing provisions are applicable. The implementing provisions shall enter into force one year after the entry into force of the Code, at the earliest. In any event, all the provisions of the Code shall be applicable five years after its entry into force, at the latest.

The Council concludes that its common position is entirely in line with the objectives of the proposal, i.e. adapting the customs code to the requirements of an electronic environment for customs and trade, streamlining customs procedures, and simplifying the customs legislation, thereby contributing to the fulfilment of the goals of the Lisbon process. The common position not only takes on board the large majority of Parliament's amendments, but also reinforces the use of the newly introduced regulatory procedure with scrutiny. The new elements introduced by the Council reflect the need to adapt the text to the practical and technical realities, to establish a level playing field between operators and to balance better the requirements of the customs administrations and the facilitations of trade.

Modernised Community Customs Code

The Commission states that the common position, on which political agreement was reached by qualified majority, follows the general lines of the Commission's amended proposal. The changes have been made in order to provide greater clarity and to provide for more flexible and suitable legislation that will meet the aim of maintaining a proper balance between customs controls and the facilitation of legitimate trade. The Commission fully supports the common position, which incorporates and improves upon a number of the amendments made by the European Parliament.

It discusses those amendments of the European Parliament that were accepted in the common position and those that were rejected. It also points out that the Council ? while fully subscribing to the principle of aligning the proposal with the new regulatory procedure with scrutiny resulting from Article 5a of the ?comitology? Decision ? reached conclusions different from the European Parliament on some empowerment provisions and completed the work undertaken by the European Parliament by aligning other provisions.

New provisions introduced by the Council: the common position includes certain further modifications that address both the concerns reflected in the European Parliament's amendments, which took account of the opinions of European business interests, and those raised by the Member States' customs administrations. The points at issue fell into two categories, the key issues of customs representation, centralised clearance and the ?single window? (for which political support was sought, and given, in the Council of Ministers), and several lesser issues, such as national simplifications, the application of guarantees and the right to be heard, for which practical solutions have been found within reason. Changes to the procedure for the adoption of implementing provisions have also had considerable implications for the modernised Code.

The Commission draws attention to the main amendments made by Council.

-Reference to a common Community framework for penalties has been withdrawn in keeping with the removal of any reference to excise and VAT in the revised text of the Code, these taxes being subject to other legislation. The list of repealed Regulations has also been amended. The European Parliament's support for keeping certain existing national simplifications in the customs legislation is also not fully taken on

board in the common position. The abolition of national empowerments is a cornerstone of the proposed reform, as these can lead to non-uniform application of customs rules by Member States and compromise the level playing field for business throughout the EU. Within this constraint, however, certain provisions recommended by Parliament have been adopted, notably to allow for simplified procedures for the movement of goods between the European Community and its 'special territories', such as the Aaland Islands, Channel Islands, Canary Islands etc.

-In the matter of customs representation, the common position introduces conditions, based on "common" criteria, to be fulfilled by customs representatives acting in more than one Member State, as this should not be left for a Member State to decide unilaterally. Although this is not an "accreditation procedure", it should address the concerns expressed by Parliament, the customs agents and by some Member States and is in accordance with the Treaty and the Services Directive. The common position also further qualifies the derogations from the need to prove empowerment to act as a customs representative. The time limit within which a requested decision must be taken, and the applicant notified, by the customs authorities has been increased by Council to four months, more reasonably in line with many existing national rules.

-The requirement for Member States to report to the Commission on customs penalties has been restricted by Council to reporting only the national provision in force, or brought into force, in Member States.

-The provision for an extended time limit for keeping documents and other information which formerly applied only to the appeals procedure now applies to court procedures as well.

-Political considerations persuaded Council to retain Council Regulation (EC) No 82/2001, governing origin rules in the case of Ceuta and Melilla, as autonomous, but with the agreement that the Regulation be updated to bring it into line with other origin rules. The detailed rules on relationship and the rules for the fall back method of valuation have been transferred to the implementing provisions.

-The Council has re-introduced the stipulation that where several debtors exist, they shall jointly and severally be liable for the debt. At the same time, the proposed encouragement for customs authorities to attempt to recover the debt, in the first instance, from any deliberate infringer has been set aside. However, the option of suspending the time limit for the payment of duties in such a case has been maintained.

The Council has also introduced a safeguard against the possible circumvention of tariff measures such as anti-dumping duty into the framework for implementing measures relating to calculation of duty.

-On guarantees, issues arose in connection with the proposal to extend the liability of the guarantor to cover any customs debt arising from undeclared goods and from post-clearance controls. The Council has made it clear that this applies to guarantees in general but that use of the guarantee to recover post-clearance debts is optional for the Member States and, in any case, can only apply if the guarantee had not been released. The common position also better qualifies the need for implementing provisions relating to the general provisions for guarantees, notably in relation to other cases in which no guarantee is to be required, e.g. for particular modes of traffic/transport, or where a guarantee is of limited validity. On guarantors, the text now also better defines the institutions that may provide a guarantee without approval. The proposal to restrict the use of comprehensive guarantees with a reduced amount, or a guarantee waiver, to AEOs has also been removed from the text, while criteria identical to some of those imposed on AEOs (proven solvency, in particular) will have to be met for the use of either simplification.

-As the new Code lays the foundation for system-based controls, the Council broadly accepted the principle of 'self-assessment' promoted by some Member States in Council, according to which customs formalities are simplified as far as possible and, where practical and appropriate, authorised traders are allowed to regulate (or 'assess') themselves. The right of customs authorities to accept amounts of duty payable determined by the declarant is now included in the text. As with centralised clearance, a defining provision is included in a new article outlining and clarifying the basic concept of self-assessment, which will, however, be restricted to authorised economic operators.

-The Council has sought to clarify the conditions of extinguishment of a customs debt where the goods are seized and confiscated. Furthermore, while acknowledging the role of debtors in supporting the fight against fraud, the Council has withdrawn the proposal for a provision specifically allowing the extinguishment of a customs debt incurred during a controlled delivery performed to identify criminals, as this is not the practice in every Member State.

-In Chapter 2 of Title V 'Placing goods under a customs procedure', the common position now includes a new article outlining and clarifying the basic concept of centralised clearance, which will no longer be restricted to those AEOs, although applicants will have to meet AEO criteria. The structure of this Chapter has also been changed to follow a more logical order. The rules for simplified and supplementary declarations are now placed together with those for standard declarations and common provisions governing them all.

-The Council has withdrawn the restriction on the use of simplified declarations to AEOs, which renders the provision for 'occasional' simplified declarations in the Commission proposal superfluous, and has also reintroduced the restriction on the right to waive presentation of the goods to simplified declaration by entry in the records alone. The common position also restores the reference in the Code to particular persons who need not be established in the customs territory of the Community in order to lodge a declaration.

-A new Chapter 3 'Verification and release of goods' in Title V logically separates out the customs clearance aspects of goods declared for a procedure.

A new article provides for implementing measures.

-Under the proposals for the modernised Code, temporary storage becomes a customs procedure and, as with goods in customs warehouses and free zones, no time limit is to be set for placing goods in temporary storage under another customs procedure, so that automatic incurrence of a customs debt after a specific deadline is avoided. The text now recognises that there are circumstances where time limits for temporary storage may be set, notably where the storage facility is operated by the customs authority itself and no commercial arrangements exist, and in exceptional circumstances. The same Article now provides for the adoption of implementing provisions to govern these exceptional circumstances.

-Provisions are now made under exit formalities for the presentation of goods leaving the customs territory of the Community to customs at the point of departure, i.e. the office of exit. In the current Code, such presentation is explicit in the rules of certain procedures, e.g. export, transit, but not in all cases, and this is now necessary for security and safety controls.

-The application of the Council 'comitology' Decision 2006/512/EC, laying down revised procedures for the exercise of implementing powers conferred on the

Commission, is now reflected throughout the Code, with every article that empowers the Commission to adopt implementing measures having

been amended to specify which procedure applies in each case. In many cases a more detailed framework for the committee procedure has been added to these provisions.

Key issues not addressed by amendments/statements:

-Centralised clearance? will have an impact on the amounts collected by each Member State and hence on the share (25%) of customs duties they receive in the form of collection costs, on VAT and on statistical arrangements. In order that such outside issues should not delay the adoption of the modernised Code a Council statement has been agreed, advocating that a mechanism be devised to readjust the flow of collection costs. This mechanism should be developed within the appropriate forums and be granted a status ensuring a legally binding effect on Member States, to be in force by the time the modernised Code enters into force and to be operational by the time the Code is applicable.

-The Council statement also notes that the centralised clearance system may also require adjustments in connection with VAT, statistics, and national prohibitions and restrictions, and that these issues should be clarified in the appropriate forums before the provisions on centralised clearance in the Modernised Customs Code enter into force.

In another statement, the Council and the Commission agree to evaluate the functioning of the centralised clearance system three years after the entry into force of the modernised Code.

Modernised Community Customs Code

The Committee on the Internal Market and Consumer Protection adopted the recommendation for the second reading drafted by the rapporteur, Ms Janelly FOURTOU (ADLE, FR), approving, without amendment, the common position of the Council, as regards the adoption of the regulation laying down the Community Customs Code (Modernised Customs Code).

The European Parliament adopted 51 amendments to the proposal at first reading, of which 34, mainly essential, are wholly or partly accepted in the Council's common position. As recalled in the explanatory memorandum, which accompanies the report, the main differences compared to the first reading are:

- The status of authorised economic operator: in its common position, the Council has taken over Parliament's Amendment, providing for two distinct types of authorisation - 'customs simplification' and 'safety and security'. As called for by the Parliament, an applicant will not now be able to request that authorised economic operator status be limited to one or more specified Member States.
- Entitlement to act as a customs representative: the Council, without reproducing Parliament's proposals exactly, has nonetheless proceeded from the premise that customs representatives and authorised economic operators should interact. In the common position, customs representation is deemed to be a service within the meaning of the Treaty. The right of establishment is a matter for Member States. The entitlement to provide services within the Community is based on the criteria governing authorised economic operator status as laid down in Article 14(a) to (d).
- Centralised customs clearance: the Council has introduced in a new single article, all of the provisions of the Code related to the concept of centralised clearance: all economic operators may benefit from centralised clearance on the territory of any one Member State, but they have to satisfy the eligibility criteria for authorised economic operator status in cases involving several Member States. The Council has issued a statement 'on the sharing of duty collection, on VAT and on statistics under the centralised clearance system'. The Council and Commission have, in addition, produced a joint statement on the need to assess the operation of the centralised clearance system three years after the Modernised Customs Code has entered into force. The Commission will accordingly submit a report to the Council and Parliament and draw up such proposals as might be considered necessary to amend the legislation.
- Comitology: the regulatory procedure with scrutiny, involving the Parliament, was to have applied to just 28 provisions but the Council broadened it out to cover 44 provisions.

Modernised Community Customs Code

The European Parliament adopted a legislative resolution based on the report drafted by Janelly FOURTOU (ADLE, FR), approving the common position of the Council, as regards the adoption of the regulation laying down the Community Customs Code (Modernised Customs Code).

Modernised Community Customs Code

PURPOSE: to replace the existing Community Customs Code and the related Regulations with a modernized Customs Code.

LEGISLATIVE ACT: Regulation (EC) No 450/2008 of the European Parliament and of the Council laying down the Community Customs Code (Modernised Customs Code).

CONTENT: this Regulation aims to modernise the Community customs code. It is intended to replace the old Community customs code, which dates back to 1992, in order to adapt EU customs to changes in the international trade environment.

The Code addresses issues concerning the requirements of an electronic environment, the simplification of rules and the changing nature of the tasks performed by the customs authorities. It is aimed at simplifying legislation and administration procedures both from the point of view of customs authorities and traders, notably by:

- simplifying the structure and providing for more coherent terminology, with fewer
- provisions and simpler rules;
- providing for radical reform of customs import and export procedures to reduce their number and make it easier to keep track of goods;
- rationalizing the customs guarantee system;
- extending the use of single authorisations (whereby an authorisation for a procedure issued by one Member State would be valid

throughout the Community); and

- implementing the "e-Government" initiative in the area of customs.

The general reform of the Customs Code includes the following main elements:

- customs representation: the Regulation abolishes the possibility of restricting the right to make customs declarations exclusively to customs representatives established in the Member State concerned, as such a restriction is incompatible with the internal market;
- centralised clearance allows an importer or exporter to lodge his customs declarations in electronic form from his premises to the customs office where he is established, irrespective of the place where the goods are entering into or leaving the customs territory of the Community;
- the status of the "authorised economic operator" has been extended and will allow operators that have gone through a certification procedure to benefit from simplifications, including with regard to self-assessment of import and export duties, and to perform themselves certain controls under customs supervision.

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