Opinion of the European Economic and Social Committee on the ‘Proposal for a Regulation of the European Parliament and of the Council laying down the Union Customs Code (recast)’

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On 7 March 2012 and 13 March 2012 respectively, the Council and the European Parliament decided to consult the European Economic and Social Committee, under Articles 33, 114 and 207 of the Treaty on the Functioning of the European Union, on the

Proposal for a Regulation of the European Parliament and of the Council laying down the Union Customs Code (recast)


The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 8 May 2012.

At its 481st plenary session, held on 23 and 24 May 2012 (meeting of 23 May), the European Economic and Social Committee adopted the following opinion by 135 votes to 3, with 3 abstentions.

1. Conclusions and recommendations

1.1 The Committee considers that an efficient customs union is a vital prerequisite for European integration in order to ensure uniform and EU-wide efficient, safe and transparent free movement of goods with maximum consumer and environmental protection and effective combating of fraud and counterfeiting.

1.2 The Committee therefore calls for a single customs policy, based on uniform, up-to-date, transparent, effective and simplified procedures, which will contribute to the EU’s economic competitiveness at global level and protect the intellectual property, rights and safety of European businesses and consumers.

1.3 Accordingly, the Committee welcomes the adoption by the European Commission of the proposal for a regulation recasting Regulation (EC) No 450/2008 of 23 April 2008, and calls for binding timeframes, uniform interpretations and widespread information and training, in addition to appropriate national and EU funding.

1.4 The Committee naturally agrees that the provisions of the code should be aligned with the Treaty of Lisbon as regards the delegation of powers and granting of implementing powers, with due respect for the balance between the Parliament and the Council, placing the two institutions on an equal footing as regards delegated acts.

1.5 The Committee also considers that it is vital and important to introduce modernisation measures such as simpler customs legislation and to complete interoperable computerised customs systems, which will streamline commercial practices and ensure greater coordination of prevention and prosecution activities.

1.6 The Committee is concerned about the possibility of differing national interpretations of the EU customs rules, which would constitute a major bureaucratic burden for businesses (especially small businesses), and thus damage Europe’s competitiveness.

1.7 The Committee therefore strongly supports the process of centralised clearance with appropriate electronic systems; systematic use of standardised working methods; business process modelling; dissemination of all initiatives related to electronic customs; and, as an experiment, the establishment of a European rapid reaction task force to support innovation.

1.8 The Committee acknowledges that the introduction of the code should be postponed in order to allow time for the development of harmonised electronic systems and improvements in the organisation of customs procedures at the EU’s external borders, and above all to properly inform and train the workforce, thus spurring on international trade and the swift movement of people and goods.

1.9 The Committee considers that closer cooperation is needed between customs administrations, market surveillance authorities, Commission departments and European agencies in order to ensure better quality control of goods crossing the borders.
2. The current situation

2.1 Customs have a crucial role in guaranteeing safety and security, protecting consumers and the environment, ensuring complete revenue collection, strengthening the fight against fraud and corruption, and ensuring the enforcement of intellectual property rights. The importation into the EU of counterfeit goods leads to a loss in revenue, violates intellectual property rights, and is a serious threat to the health and safety of European consumers.

2.2 The 1992 EU customs code (which is still in force) is implemented by means of procedures which often use paper documents despite the fact that electronic clearance through national computerised systems was launched some time ago, although there is no EU requirement to use it.

2.3 In the meantime, the role of customs has expanded as a result of increasing trade flows, other factors linked to product safety and new IT applications which have made the internal market more competitive, and the changes brought about by the Treaty of Lisbon.

2.4 In 2008 the Modernised Customs Code (7) was adopted in order to cope with heavier trade flows, new risk management and the protection and safety of legitimate trade, and to establish a common IT space for customs and trade.

2.5 The rules of the Modernised Customs Code are already in force, but to be applied in practice they need implementing provisions, scheduled for 24 June 2013. However for technical and practical reasons owing to complex legal, IT and operational issues, this deadline will not be met.

2.6 In its opinions on this subject, the Committee has already said that it considers ‘these deadlines ... to be rather optimistic’ (7) and has pointed out that ‘the lack of an implementing regulation — which the Commission does, moreover, have the power to draw up — leaves room for some uncertainty for the moment as regards a number of provisions’ (7). However, the Committee still believes that ‘it would inevitably be damaging if customs union, which has been the spearhead of European economic integration, were now to fall behind the world of international trade’ (7).

2.7 With regard to financial resources, the Committee reiterates the views set out in its recent opinion on the proposal for an action programme for customs and taxation in the European Union for the period 2014-2020 (FISCUS) (5). However, as the Committee has stated on several occasions (3), this should be only the first step in structured cooperation between all national and European agencies engaged in combating fraud and financial crime: money laundering, organised crime, terrorism, smuggling, etc.

2.8 Moreover, the Committee considers that since recent years have seen the development of two programmes (Customs 2013 and Fiscalis 2013) which have taken different directions and are now uniting under the FISCUS programme, it is important to maintain the main positive aspect of such a programme which is ‘the importance given to the human factor’.

— ‘It must be ensured that national customs and tax administrations are sufficiently equipped to answer the challenges of the next decade;

— An up to date and efficient IT system must be provided for the taxation and customs sectors. This would include such elements as the Modernised Customs Code (MCC);

— The Committee would like to see more detailed assessments of the impact on the EU and Member States governments’ budgets’ (7).

2.9 Modernising the customs sector will require financial resources appropriate to the customs-related procedures and processes, particularly the development of electronic systems and staff training.

(7) Cf. footnote 5, ibid.
2.10 The strategic objectives of the new proposal for a regulation are the same as for Regulation (EC) No 450/2008 which is being recast, and are consistent with existing policies on the trade in goods entering and leaving the EU; the Committee has already given its views on these objectives (9).

2.11 The European Parliament has already set out its views in the resolution of 1 December 2011 on the modernisation of customs services (9), addressing the issues of the customs strategy, instruments for competitiveness and risk management, the single window principle, the harmonisation of control and sanction systems, procedural simplifications, financial interests, intellectual property rights and enhanced cooperation.

2.12 The Commission, in its Report on Progress on the strategy for the evolution of the customs union (10), has flagged up the need:

— for a broader strategic approach to cooperation with other agencies and international partners in the areas of security, health and the environment;

— to improve and update governance, both in terms of structures and working methods, notably by evolving towards a more business-oriented approach to the customs union processes;

— to share and pool capacities and capabilities between the Member States and the Commission, in order to improve efficiency and uniformity and realise economies of scale, under the FISCUS programme;

— to define a basis for measuring and assessing performance (outcomes as well as outputs) to ensure that the customs union is fulfilling its objectives, and to identify lags or gaps.

2.13 The Council, in its resolution of 13 December 2011 (11), decided to define a strategy for future cooperation with the aim of determining the measures that need to be undertaken in order to further enhance customs cooperation and cooperation with other authorities, to strengthen the role of customs as the leading authority for controlling the movement of goods within the area of freedom, security and justice, and to protect EU citizens more effectively.

3. The Commission proposal

3.1 The Commission proposes to replace Regulation (EC) No 450/2008 (Modernised Customs Code) with a recast regulation which:

— aligns it to the Treaty of Lisbon,

— adjusts it to the practical aspects and developments in customs legislation and in other policy fields relevant to the movement of goods between the EU and third countries, and

— allows sufficient time for the development of supporting IT systems.

3.2 The recasting of Regulation (EC) No 450/2008 provides for better adequacy of legislation with business practices, supported by an optimal architecture for and planning of IT developments, while encompassing all the advantages of the regulation subject to the recast proposal, namely the simplification of administrative procedures for public authorities (EU or national) and private parties.

4. General comments


4.2 However, while endorsing the new proposal, the Committee considers that the following aspects need to be guaranteed:

— binding timeframes for enacting the implementing provisions in order to avoid further recasts and delays;

— uniform interpretation of the EU’s customs rules which must act as a single administration in order to establish single European customs;

— the same level of control and uniform treatment of operators throughout the EU customs territory, with standardised control packages, the completion of the single window and easier access to the status of authorised economic operator;

— information disseminated broadly among all interested operators in order to guarantee standardised and uniform application of the new rules and IT procedures based on common standards ensuring full interoperability;

— a high level of training for customs agents and operators based on platforms and European standards with a view to improving professionalism and accountability, with the appropriate monitoring, based on European quality parameters;

— appropriate national and EU financial resources, initiating dedicated programmes such as FISCUS, EU programmes for continuing vocational training focusing partly on language skills and ICT and Jean Monnet Chairs;
— sharing and pooling of capacities and capabilities between the Member States and at European level, leading to the establishment of a European customs training institute to promote professional excellence in the customs sector.

4.3 The Committee considers that these points are particularly important as regards training and common IT initiatives with a view to ensuring high levels of interoperability of customs systems, a single European body of customs skills and uniform operating standards.

4.4 The substantial investments made in setting up computerised, interoperable customs systems have not yet ironed out differences in rules and data use; the timeframe set by the Commission proposal must be used to press ahead with harmonisation and to establish a European body of customs rules which will act as a basis for the objective advocated by the Committee: the creation of single European customs.

4.4.1 With a view to the uniform application of the new regulation, the Committee suggests, as an experiment, setting up a European rapid reaction task force to carry out skilled and burdensome customs work, especially at external borders.

4.5 The Committee reiterates that ‘Community customs management should be one of the long-term objectives of the Union; this has advantages in terms of simplicity, reliability and cost, as well as the possibility of interconnecting with other EU and third country systems’ (12).

4.6 The Committee underscores the importance of up-to-date guidelines for import controls in the field of product safety, and a public database of dangerous goods intercepted at customs.

4.7 The Commission should take into account the remarks made by the Committee in its opinion of 13 December 2007 on a common framework for the marketing of products (13) regarding the need to improve coordination and step up market surveillance activities.

4.8 As regards legal protection in the EU market, the rules should move towards a new system for determining the origin and guaranteeing the traceability of products, so as to improve information for consumers and step up prevention of illegal activity and fraud in the customs sector.

Brussels, 23 May 2012.

The President of the European Economic and Social Committee
Staffan NILSSON