



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 5 December 2012

17297/12

**Interinstitutional File:
2012/0027 (COD)**

**UD 318
ENFOCUSTOM 138
MI 807
COMER 256
TRANS 451
CODEC 2920**

NOTE

From: General Secretariat
To: Council

No. prev. doc.: 15743/12 UD 265 ENFOCUSTOM 114 MI 691 COMER 227 TRANS 376
CODEC 2578

No. Cion prop.: 6784/12 UD 49 ENFOCUSTOM 10 MI 120 COMER 36 TRANS 53 CODEC 450

Subject: Proposal for a Regulation of the European Parliament and of the Council laying
down the Union Customs Code (Recast)
- Orientation debate

I. INTRODUCTION

1. On 20 February 2012, the Commission transmitted to the Council the above "recast" proposal on the Modernised Customs Code, which entered into force on 24 June 2008 but which, for its largest part, will not be applicable before 24 June 2013. The proposal on the table aims, before this date of application, at:
 - repealing the Modernised Customs Code, the implementation of which is not possible in the absence of a proper set of implementing provisions;

- renaming the Modernised Customs Code into the Union Customs Code (UCC);
- aligning the UCC with the Lisbon Treaty, in particular Articles 290 and 291 TFEU;
- providing, notably through a delegation of power to the Commission, for the definition and development of the electronic systems needed for the implementation of the customs processes;
- adjusting the UCC to the evolution of the customs legislation since 2008.

II. STATE OF PLAY

2. The text of the UCC was subject to a detailed examination by the Working Party on Customs Union during the Danish and Cyprus Presidencies, including at the occasion of a one-week workshop held in September 2012 in the premises of the World Customs Organization (WCO).
3. On that basis, the Presidency prepared a compromise proposal, set out in doc.15743/12, which addressed all issues raised during the preceding negotiations.
4. This text was examined by the Working Party at its meetings on 28 and 30 November 2012 and, generally speaking, could be supported by a large number of delegations. However, a number of outstanding difficulties, many of them of a very technical nature, remain, making it impossible to reach a general approach on this important file in time for the Competitiveness Council on 10 December 2012.

- 5 The situation is complicated by the fact that, in the absence of an entry into force of the Union Customs Code (Recast) by 23 June 2013, the already adopted 2008 Regulation on the Modernised Customs Code¹, the application of which is impossible in the absence of implementing provisions, would nevertheless formally become applicable. This would create the risk of leaving the European Union, by the end of June 2013, without the legislative and implementing instruments required for the operation of the Customs Union.

6. Taking into account the latest possible date of entry into force of the UCC, i.e. 23 June 2013, the need for legal-linguistic revision of the text, and the negotiation to take place with the European Parliament, the Council would urgently need to reach an agreement on the UCC no later than the first weeks of 2013, as indicated in the timetable set out in Annex. Any further delay in the process carries the risk of leaving the European Union, by end of June 2013, without the legislative and implementing instruments required for the operation of the Customs Union.

III. CONCLUSION

7. **The (Competitiveness) Council is invited, at its meeting on 10 December 2012, to take note of the state of play and to proceed to an orientation debate on the future operation of the Customs Union.**

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1 Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code), OJ L 145, 4.6.2008, p. 1.

Possible timetable for the adoption of Union Customs Code (Recast)

<u>January 2013:</u>	Agreement on a mandate for negotiations with Parliament on the UCC;
<u>January - February 2013:</u>	Trilogue meetings
<u>End February / early March 2013:</u>	Agreement reached and confirmation by Coreper; letter to the IMCO Committee chair
<u>March- April 2013:</u>	Legal-linguistic revision in view of preparing the text for the April 2013 plenary session
<u>15- 18 April 2013:</u>	EP Plenary vote
<u>May 2013:</u>	I/A Item at Coreper I and Council: final adoption
<u>20-23 May 2013:</u>	Signature of the legislative act
<u>End May 2013</u>	Publication in the Official Journal
<u>June 2013</u>	Entry into force 20 days after publication: i.e. before 24 June 2012

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