



Council of the  
European Union

131096/EU XXVII. GP  
Eingelangt am 17/02/23

Brussels, 17 February 2023  
(OR. en)

6605/23

UD 40  
ECOFIN 166  
DELECT 28

## COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	17 February 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 79 final
Subject:	REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the exercise of the power to adopt delegated acts pursuant to Article 284 of the Union Customs Code

Delegations will find attached document COM(2023) 79 final.

Encl.: COM(2023) 79 final



Brussels, 17.2.2023  
COM(2023) 79 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND  
THE COUNCIL**

**on the exercise of the power to adopt delegated acts pursuant to Article 284 of the Union  
Customs Code**

# 1. Introduction

Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (“the UCC” or “the Code”)<sup>1</sup> entered into force on 30 October 2013 although most of its substantive provisions took effect from 1 May 2016. It provides an updated and comprehensive legal and IT framework for customs rules and procedures governing the trade in goods between the EU and third countries. Its goal is to achieve a fully paperless environment that facilitates the flow of legitimate goods moving into or out of, or transiting through the Union, so as to enhance the competitiveness of European businesses, while better protecting the financial and economic interests of the Union and its Member States and safeguarding the security and safety of its consumers.

Article 284 of the UCC empowers the Commission to adopt delegated acts in accordance with the procedure set out in Article 290 TFEU, in order to supplement or amend certain non-essential elements of the UCC<sup>2</sup>. The delegation of powers to the Commission is conferred for a period of five years, starting on 30 October 2013, and shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension. The delegation of powers was tacitly extended in 2018 for a period of an identical duration (until 30 January 2023).

Article 284 (2) requires the Commission to draw up a report to the European Parliament and to the Council in respect of the exercise of the delegation of power under the UCC. This report must be drawn up not later than nine months before the end of the five-year period.

The first report was published on 22 February 2018<sup>3</sup> and covered the period from October 2013 to November 2017. At that time the Commission exercised its power to adopt delegated acts four times: 1) to adopt Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 which supplements certain non-essential elements of the Code (UCC Delegated Act)<sup>4</sup>; 2) to adopt Commission Delegated Regulation (EU) 2016/341 of 17 December 2015 which provides for alternative means for the exchange and storage of customs information for as long as the UCC electronic systems are not operational (UCC Transitional Delegated Act)<sup>5</sup>; 3) to correct Articles 136 and 141 of the UCC Delegated Act<sup>6</sup>; and 4) to correct Annex 12 of the UCC Transitional Delegated Act<sup>7</sup>.

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<sup>1</sup> OJ L 269, 10.10.2013, p. 1–101

<sup>2</sup> It concerns the delegated acts referred to in Articles 2, 7, 10, 20, 24, 31, 36, 40, 62, 65, 75, 88, 99, 106, 115, 122, 126, 131, 142, 151, 156, 160, 164, 168, 175, 180, 183, 186, 196, 206, 212, 216, 221, 224, 231, 235, 253, 265, 279 of the UCC.

<sup>3</sup> COM(2018) 39 final

<sup>4</sup> OJ L 343, 29.12.2015, p. 1–557

<sup>5</sup> OJ L 69, 15.03.2016, p. 1–313

<sup>6</sup> OJ L 111, 27.4.2016, p.1–2

<sup>7</sup> OJ L121, 11.5.2016, p. 1–10

The present report explains how the Commission has exercised the power to adopt delegated acts pursuant to Article 284 of the UCC from December 2017 to December 2022. It also expresses the Commission's view that the power to adopt delegated acts conferred on it by the UCC should be extended for a further period of five years, in accordance with Article 284(2) of the UCC (tacit extension).

## 2. Exercise of delegated powers

From December 2017 to December 2022, the Commission exercised its power to adopt delegated acts pursuant to Article 284 of the UCC eight times. All delegated acts were aimed at amending and/or correcting the UCC Delegated Act and, in two instances, were also aimed at amending the UCC Transitional Delegated Act. In particular, they are as follows:

1. [Commission Delegated Regulation \(EU\) 2018/1063](#) of 16 May 2018, using Articles 2, 7, 24, 65, 88, 99, 142, 151, 156, 160, 212, 216, 231 and 253 of the UCC, amended and corrected Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code<sup>8</sup>.

This amendment covered several different issues identified following the entry into application of the UCC framework. The most salient modifications included a revised definition of "exporter"; an extension of the time limit for taking a decision on repayment or remission of customs duties; the introduction of some flexibilities in the customs formalities applicable in the case of transactions between a Special Fiscal Territory and its mainland within the same Member State and making it possible for EU residents to import cars rented outside the EU for short periods such as holidays without paying import duties.

The regulation was published on 30 July 2018 following a two-month scrutiny period by the Council and European Parliament and entered into force on 31 July 2018 in accordance with its Article 3, with the exception of Article 1(3) which allowed for the continued use of paper-based procedures for specific customs decisions. This entered into force on 2 October 2017, on the day of deployment of the UCC Customs Decision System.

2. [Commission Delegated Regulation \(EU\) 2018/1118](#)<sup>9</sup> of 7 June 2018, using Article 99 (c) of the UCC, amended Article 84 of the Delegated Regulation (EU) 2015/2446. It was published on 18 August 2018 following a two-month scrutiny period by the Council and

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<sup>8</sup> OJ L 192, 30.7.2018, p. 1–28

<sup>9</sup> OJ L 204, 13.8.2018, p. 11–12

European Parliament and entered into force on 2 September 2018 (Article 2). The purpose of the amendment was to provide some flexibility regarding the conditions for obtaining a comprehensive guarantee with a reduced amount, or a guarantee waiver.

3. [Commission Delegated Regulation \(EU\) 2019/841](#) of 14 March 2019, using Article 212 of the UCC, corrected only certain language versions of Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code<sup>10</sup>, that contained some linguistic mistakes in several articles and in Annex 22-01. It was published on 24 May 2019 and following a two-month scrutiny period by the Council and European Parliament entered into force on 13 June 2019 (Article 2).
4. [Commission Delegated Regulation \(EU\) 2019/1143](#) of 14 March 2019 amending Delegated Regulation (EU) 2015/2446 as regards the declaration of certain low-value consignments<sup>11</sup> was published on 5 July 2019 following the two-month scrutiny period by the Council and European Parliament and entered into force on 13 June 2019 (Article 2). Using Article 160 and Article 7 of the UCC, it amended certain provisions of the Delegated Regulation (EU) 2015/2446 to adjust it in accordance with the VAT rules for E-commerce adopted in December 2017<sup>12</sup>. The changes included, as of the date of application of the new VAT rules, i.e. 1 July 2021, the removal of the release for free circulation by any other act of consignments with a value not exceeding EUR 22 and introduced a specific (reduced) dataset in Annex B for the declaration for release for free circulation of low value, duty free consignments.
5. [Commission Delegated Regulation \(EU\) 2020/877](#) of 3 April 2020 amending and correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013, and amending Delegated Regulation (EU) 2016/341 supplementing Regulation (EU) No 952/2013, laying down the Union Customs Code<sup>13</sup>. It was published on 26 June 2020 following a two-month scrutiny period by the Council and European Parliament and entered into force on 15 March 2020 as regards Article 1(13)(b) and Article 1(16)(b)(i) and on 16 July 2020 for all other provisions (Article 4). The retroactive entry into force of the provisions allowing the declaration by any other act of organs, human or animal tissue or human blood for transplantations was necessary due to the disruptions arising at the

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<sup>10</sup> OJ L 138, 24.5.2019, p. 76–78

<sup>11</sup> OJ L 181, 5.7.2019, p. 2–12

<sup>12</sup> Council Directive (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods: OJ L 348, 29.12.2017, p. 7–22; Council Regulation (EU) 2017/2454 of 5 December 2017 amending Regulation (EU) No 904/2010 on administrative cooperation and combating fraud in the field of value added tax: OJ L 348, 29.12.2017, p. 1–6 and Council Implementing Regulation (EU) 2017/2459 of 5 December 2017 amending Implementing Regulation (EU) No 282/2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax: OJ L 348, 29.12.2017, p. 32–33

<sup>13</sup> OJ L 203, 26.6.2020, p. 1–27

EU's external borders following the lockdowns due to the COVID 19 pandemic. Using Articles 7, 10, 24, 88, 131, 156, 160, 168, 175, 183, 212, 216, 253 and 265 of the UCC this Regulation amended a number of provisions of the UCC Delegated Act and using Article 279 of the UCC, of the UCC Transitional Delegated Act. The changes introduced new rules related to the waivers and time limits to lodge an entry summary declaration (ENS) and transitional provisions until the releases of the Import Control System 2 (ICS2) are deployed. In addition, the Regulation introduced a new definition for the intrinsic value as well as some transitional provisions for postal operators and Member States to enable the smooth implementation of the VAT e-commerce rules, and created a new EU form 302 for the movement of goods in the context of military operations.

6. [Commission Delegated Regulation \(EU\) 2020/2191](#) of 20 November 2020, using point b of Article 131 and point a of Article 265 of the UCC, amended Delegated Regulation (EU) 2015/2446 as regards the time-limits for lodging entry summary declarations and pre-departure declarations in case of transport by sea from and to the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man<sup>14</sup>. It was published on 23 December 2020 after early non objection by the Council on 21 December 2020 and European Parliament on 15 December 2020 and entered into force on 24 December 2020. It applies from 1 January 2021 (Article 2).
7. [Commission Delegated Regulation \(EU\) 2021/234](#) of 7 December 2020, using Article 7 of the UCC, amended Delegated Regulation (EU) 2015/2446 as regards common data requirements, and using Article 279 of the UCC amended Delegated Regulation (EU) 2016/341 as regards the codes to be used in certain forms<sup>15</sup>. Following a two-month scrutiny period by the Council and European Parliament, it was published on 23 February 2021 and entered into force on 15 March 2021 (Article 3).
8. [Commission Delegated Regulation \(EU\) 2021/1934](#) of 30 July 2021, using Articles 63 and 65 of the UCC, amended Delegated Regulation (EU) 2015/2446 as regards certain provisions relating to the non-preferential origin of goods<sup>16</sup>. The Regulation was published on 10 November 2021, following a two-month scrutiny period by the Council and European Parliament, and entered into force on 30 November 2021, while Points (5), (6) and (7) of Article 1 apply from 1 January 2022 (Article 2), in accordance with the date of entry into force of the 2022 version of the Harmonised System.

In addition, during the reporting period, two of the above-mentioned regulations introduced amendments to the UCC Transitional Delegated Act, on the basis of Article 279 UCC. These

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<sup>14</sup> OJ L 434, 23.12.2020, p. 8–9

<sup>15</sup> OJ L 63, 23.2.2021, p. 1–385

<sup>16</sup> OJ L 396, 10.11.2021, p. 10–16

adjustments were needed as certain UCC electronic systems are not yet operational, and therefore, in the respective areas, the transitional rules continue to apply.

1. [Commission Delegated Regulation \(EU\) 2020/877](#) of 3 April 2020 amending and correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013, and amending Delegated Regulation (EU) 2016/341 supplementing Regulation (EU) No 952/2013, laying down the Union Customs Code<sup>17</sup>.
2. [Commission Delegated Regulation \(EU\) 2021/234](#) of 7 December 2020 amending Delegated Regulation (EU) 2015/2446 as regards common data requirements, and Delegated Regulation (EU) 2016/341 as regards the codes to be used in certain forms<sup>18</sup>.

When preparing and amending the delegated acts, the Commission consulted all relevant stakeholders, in particular, Member States' experts and economic operators from the trade, logistics and business sectors. Experts from the Member States and the business community discussed and supported the provisions included in the delegated acts.

Throughout the procedural and decision-making process, the Commission ensured the timely and appropriate transmission of relevant documents to the European Parliament and to the Council. The European Parliament and the Council did not object to the adoption of any of those acts.

In order to ensure that the EU customs legislation is constantly adapted to the technical requirements and technological progress of customs activity, the Commission is of the view that the power to adopt delegated acts conferred on it by the UCC should be extended for a further period of five years, in accordance with Article 284(2) of the UCC (tacit extension).

### 3. Conclusion

With this Report the Commission complies with its obligation to report to the European Parliament and to the Council on its use of delegated powers under Article 284(2) of the UCC.

The Commission has exercised the delegated powers conferred on it by the UCC actively and appropriately over the past five years. At the same time, the Commission considers that this delegation of power to adopt delegated acts should be extended for a further five years, according to Article 284(2) of the UCC (tacit extension). This will enable the Commission to continue to supplement the customs rules in the light of political, technical and technological progress and of changes in trading patterns, all of which have an impact on customs.

The Commission invites the European Parliament and the Council to take note of this report.

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<sup>17</sup> OJ L 203, 26.6.2020, p. 1–27

<sup>18</sup> OJ L 63, 23.2.2021, p. 1–385



## Annex

<b>UCC empowering provisions</b>	<b>UCC DA provisions adopted in accordance with the delegation of power from 2013 until November 2017 and reported in 2018<sup>19</sup></b>	<b>UCC DA provisions adopted in accordance with the delegation of power from December 2017 until December 2022</b>
Article 2	Articles 114, 134, 188	Articles 114, 134
Article 7 (means for exchange and storage of information and common data requirements)	Articles 2, 3, 4, 9, 19, 21, 38, 39, 40, 82, 85, 86, 87, 92, 93, 94, 95, 96, 116, 124, 124a, 125, 126, 126a, 127, 129a, 129b, 130, 131, 132, 133, 144, 154, 157, 160, 163, 164, 165, 175, 178, 181, 184, 185, 190, 196, 238, 241, 246, 247, 249	Articles 2, 7a, 40, 82, 124a, 126a, 127, 128d, 131, 133, 143a, 144, 163
Article 10	Articles 5, 6, 7	Article 6
Article 20	Article 210	
Article 24 (Decisions relating to the applications of customs legislation)	Articles 5, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 26, 27, 28, 29, 30, 82, 92, 97, 121, 123, 156, 162, 171, 172, 173, 186, 192, 194, 205	Articles 5, 10, 13, 17, 82, 97, 197a
Article 31 (Revocation and amendment of favourable decisions)	<p>Delegation not used in the reporting period, as there has not been a business case yet.</p> <p>The provision concerns: 1) cases where a favourable decision addressed to several persons may be revoked both in respect of the person who fails to fulfil an obligation imposed under that decision and also in respect of the other persons involved; 2) exceptional cases in which the customs authorities may defer the date on which revocation or amendment takes effect.</p>	
Article 36 (Management of	In the reporting period, the Commission services have taken the initial steps to exercise the delegated powers under Article 36(b) by publishing	

<sup>19</sup> COM(2018) 39 final, 22.1.2018



UCC empowering provisions	UCC DA provisions adopted in accordance with the delegation of power from 2013 until November 2017 and reported in 2018 <sup>19</sup>	UCC DA provisions adopted in accordance with the delegation of power from December 2017 until December 2022
decisions relating to binding information)	for feedback a draft Delegated Regulation introducing the rules concerning decisions on Binding Valuation Information (BVI) <sup>20</sup> . Adoption of this Delegated Regulation is foreseen for the first semester of 2023. The provision concerns: 1) the specific cases referred to in Article 34(7) point (b) and Article 34(8), where Binding Tariff Information (BTI) and Binding Origin Information (BOI) decisions are to be revoked; 2) the cases referred to in Article 35, where decisions relating to binding information are taken concerning other factors on the basis of which import or export duty and other measures in respect of trade in goods are applied.	
Article 40	Articles 23, 24, 25	
Article 62	Articles 31, 32, 33, 34, 35, 36	Articles 31, 33, 34, 35
Article 65 (Preferential origin)	Articles 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70	Articles 37, 53, 55
Article 75	Article 71	
Article 88 (Customs debt)	Articles 72, 73, 74, 75, 76, 77, 78, 79, 80, 168	Articles 76, [168] <sup>21</sup>
Article 99	Articles 81, 82, 83, 84, 85, 86	Articles 82, 83, 84,
Article 106	Articles 88, 92	
Article 115	Articles 89, 90, 91	
Article 122	Articles 98, 99, 100, 101, 102	
Article 126	Article 103	

<sup>20</sup> [Binding valuation information \(BVI\) decisions – inclusion in EU legislation and simplifications to customs formalities \(europa.eu\)](#)

<sup>21</sup> This Article has been eliminated in accordance with Article 1(24) of Commission Delegated Regulation (EU) 2020/877 of 3 April 2020 amending and correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013, and amending Delegated Regulation (EU) 2016/341 supplementing Regulation (EU) No 952/2013, laying down the Union Customs Code; OJ L 203, 26.6.2020, p. 1–27

<b>UCC empowering provisions</b>	<b>UCC DA provisions adopted in accordance with the delegation of power from 2013 until November 2017 and reported in 2018<sup>19</sup></b>	<b>UCC DA provisions adopted in accordance with the delegation of power from December 2017 until December 2022</b>
Article 131(Entry summary declaration)	Articles 104, 105, 106, 107, 108, 109, 110, 111, 112, 113	Articles 104, 105, 106, 112, 113, 113a
Article 142 (designated places for the presentation of the goods brought into the EU customs territory)	Article 115	Article 115
Article 151 (conditions and authorisation for temporary storage)	Articles 115, 116, 117, 118	Article 115
Article 156 (Customs status of goods)	Articles 119, 120, 121, 122, 122a, 128, 129, 129c, 129d, 182	Articles 124a, 128a, 128d,
Article 160 (Placing goods under a customs procedure)	Articles 135, 136, 137, 138, 139, 140, 141, 142, 143	Articles 136, 138, 139, 140, 141, 142
Article 164	Article 155	
Article 168 (simplified declarations)	Articles 145, 146, 147, 183	Articles 146, 147
Article 175	Articles 148, 248	Article 248
Article 180	Article 149	
Article 183 (EIDR)	Article 150	Article 150
Article 186	Articles 151, 152	
Article 196	Article 153	

<b>UCC empowering provisions</b>	<b>UCC DA provisions adopted in accordance with the delegation of power from 2013 until November 2017 and reported in 2018<sup>19</sup></b>	<b>UCC DA provisions adopted in accordance with the delegation of power from December 2017 until December 2022</b>
Article 206	Articles 158, 159	
Article 212 (General provisions on special procedures)	Articles 161, 163, 165, 166, 167, 170, 175, 176, 177, 178, 201, 202, 203, 204, 206, 207, 218, 239, 240, 242, 243	Articles 163, 166, 167, 177, 177a, 207, 218
Article 216	Articles 174, 217, 218, 237	Article 218, 237
Article 221	Articles 179, 180	
Article 224	Article 169	
Article 231	Articles 187, 189	Article 189
Article 235 (Union transit)	Articles 191, 193, 195, 197, 198, 199, 200	Article 193, 195, 197
Article 253 (Specific use)	Articles 206, 208, 209, 210, 211, 212, 213, 214, 215, 216, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236	Articles 212, 215, 220, 223, 224, 227, 228, 229, 230, 231, 232, 233, 234, 235, 235a, 236
Article 265	Articles 244, 245	Articles 244, 245