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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the implementation of the Union Customs Code and on the exercise of the power to adopt delegated acts pursuant to Article 284 thereunder

1. INTRODUCTION

On 9 October 2013, the European Union (EU) adopted the Union Customs Code ("UCC"). Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code[1] entered into force on 30 October 2013 although most of its substantive provisions took effect from 1 May 2016.

The UCC defines a legal framework for customs rules and procedures in the EU customs territory that is adapted to modern trade realities, such as the global integration of production and delivery systems, e-commerce and modern communication tools. Its goal is to facilitate the flow of goods transiting or moving in and out of the Union, so as to enhance the competitiveness of European businesses, while better protecting the financial and economic interests of the Union and the Member States and the safety and security of EU consumers. To meet these objectives, the UCC aims in particular to complete the progression of customs to a paperless, integrated and fully electronic environment. The UCC establishes common rules and data requirements for customs pre-arrival and pre-departure declarations, notifications, applications and decisions. This involves the upgrade or creation of seventeen electronic systems.

While the legislative provisions of the UCC are now in force, the seventeen electronic systems are being implemented on a gradual basis and therefore the UCC also provides for a transitional period, up to the end of 2020, during which existing paper-based or electronic systems can continue to be used for those customs matters for which the new electronic systems are not yet available. A transitional period also applies to authorisations (for example for treatment as Authorised Economic Operators or to use customs "special procedures") issued under the previous customs framework legislation, the Community Customs Code, which can continue to apply until April 2019 at the latest.

Notwithstanding the fact that the UCC is still in this transitional phase, the European Commission has prepared the present report so as to take stock of the state of play of implementation of the legislative provisions and delivery of the electronic systems. The report responds to a request from the European Parliament in a Resolution of 19 January 2017[2] and to the invitation of the Council in its Conclusions on the Follow up of the Union Customs Code of 29 September 2016.[3]

In addition, the Commission herewith reports to the European Parliament and the Council, as required, on its use of the delegation of power to adopt delegated acts conferred by Article 284 of the UCC.

The Commission has prepared this report on the basis of discussions with EU Member States and business on issues to do with implementation of the UCC and on the basis of its own analysis.

2. BACKGROUND

[1] OJ L 269, 10.10.2013, p.1. A corrigendum (OJ L 287, 29.10.2013, p.90) corrected a typographical error in the 10 October text where the implementation date was given as 1 June 2016. The text voted upon by the European Parliament and Council provided for an implementation date of 1 May 2016

[2] European Parliament resolution of 19 January 2017 on tackling the challenges of the Union Customs Code implementation and Commission response - 2016/3024 (RSP)

[3] Council Conclusions on the Follow up of the Union Customs Code (OJ C 357, 29.09.2016, p.2)

a. Legal structure

The UCC superseded the 1992 Community Customs Code ("CCC"), which was the first attempt to consolidate the EU's customs regulations. Although a major achievement and a facilitation for businesses at that time, the procedures and practices under the CCC relied on the use of paper documentation which was not suited to a more modern electronic business environment. In addition, the increasing responsibilities of customs in matters going beyond collection of duties (such as addressing security and safety challenges, illegal cash movements and counterfeit goods) required legislative provisions for a more efficient organisation of customs controls.

This led the Commission to carry out a comprehensive impact assessment to determine the right approach to meet the customs challenges ahead[4] and, on the basis of the results of that impact assessment, the Commission presented a proposal for an EU Modernised Customs Code ("MCC") and a Decision on electronic customs in late 2005. However, for various reasons but in particular because the Lisbon Treaty[5] introduced a new legal architecture with new rules and procedures concerning the adoption of implementing provisions accompanying main regulations, the Commission was obliged to "recast" the MCC before its planned application date.

On 20 February 2012, the Commission therefore proposed the UCC as a recast of the MCC, including articles empowering the Commission to adopt detailed supplementing and implementing rules, which aligned EU customs legislation with the requirements of the Lisbon Treaty.

The UCC entered into force on 30 October 2013 but only the Commission's empowerments took effect on that date while the other provisions of the Code became applicable from 1 May 2016. The Commission made use of its empowerments in the intervening period to adopt the following legal acts, which together with the Code, constitute the UCC legal package:

i. The UCC "Delegated Act",[6] which supplements certain non-essential elements of the Code;
ii. The UCC "Implementing Act",[7] which sets out uniform procedural rules for the implementation of the UCC;
iii. The UCC "Transitional Delegated Act",[8] providing for alternative means for the exchange and storage of customs information for as long as the UCC electronic systems are not operational; and
iv. The UCC "Work Programme"[9], that took the form of a Commission Implementing Decision, setting out the planning of the IT systems.

[4] SEC(2005)1543
[5] OJ C 306, 17.12.2007, p. 1–271
[6] Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 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 (OJ L 343, 29.12.2015, p. 1)
[7] Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558)
[8] Commission Delegated Regulation (EU) 2016/341 of 17 December 2015 supplementing Regulation (EU) 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where the relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446 (OJ L 69, 15.3.2016, p.1)
[9] Commission Implementing Decision (EU) 2016/578 of 11 April 2016 establishing the Work Programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code

In addition, as a result of an ongoing dialogue with trade representatives, European Parliament and Member States that led to the identification of some technical issues, the Commission together with the European Parliament and the Council acted quickly to address those issues by adopting the following amendments to the legislative package even before the new rules entered into application:

v. Two modifications to the UCC Delegated Act:

- The Transitional Delegated Act amended the Delegated Act to ensure a smooth transition from the CCC to the UCC on 1 May 2016.[10] It transpired that some provisions of the Delegated Act cannot be applied until the IT systems are fully operational and therefore some transitional measures were needed not just in the UCC but also in the Delegated Act, to allow for the continued use of paper-based or alternative systems until the IT systems are operational.
- Corrections were made to two provisions[11] of the UCC Delegated Act which accidentally omitted a facilitation provision of the CCC. The correction ensures the continuation of a presumption of a declaration for temporary admission, or re-export, in the case of tourist traffic and of certain specified goods such as pallets, containers and vessels and airplanes passing through the customs territory. For planes crossing the EU border in particular, the obligation to provide oral or written declarations would have seriously affected frontier and tourist traffic.

vi. A technical correction to Annex 12 of the UCC Transitional Delegated Act[12], which sets out the forms to be used for applications and authorisations.

Finally, the Commission in April 2016 used the power conferred by Article 50 UCC to adopt a Commission Implementing Decision[13] laying down detailed rules on the establishment of common risk criteria and standards for security and safety risk analysis for the harmonised application of certain customs controls pursuant to the Union Customs Code.

b. Objectives and legislative content

The UCC aims, in line with modern-day needs, to offer greater legal certainty and uniformity for the benefit of both businesses and customs administrations, to simplify rules and procedures, to facilitate more efficient customs transactions and to achieve full automation of all customs procedures and processes. At the same time, the UCC is intended to better safeguard the financial and economic interests of the Union and of the Member States. In addition, it aims to take into account the evolution of policies and legislation in other fields that might impact customs legislation such as regarding the safety and security of imports. Some of the most important legislative changes under the UCC in line with the above objectives are as follows:

(OJ L 99 15.4.2016 p. 6), replacing the earlier version of the Work Programme set out in Commission Implementing Decision (EU) 2014/255 of 29 April 2014 (OJ L 134 7.5.2014, p. 46-53)

[10] The Transitional Delegated Act amended Articles 2, 3, 104, 106, 112, 113, 128, 138, 141, 144, 146, 181 and 184 of the UCC Delegated Act and added Articles 122a, 124, 124a, 126, 126a and 129a to 129d

[11] Commission Delegated Regulation (EU) 2016/651 of 5 April 2016 (OJ L 111, 27.4.2016, p.1) corrected Articles 136 and 141 of the UCC Delegated Act

[12] Commission Delegated Regulation (EU) 2016/698 of 8 April 2016 correcting the Transitional Delegated Act

[13] Commission Implementing Decision C 2016/2422 of 27 April 2016 on the establishment of common risk criteria for security and safety risk analysis

- *No limitations on the right of a customs representative* to provide services in a Member State other than his place of establishment, so as to ensure a level playing field for trade within the Customs Union.
- *Harmonised rules on decision-making* by the Member States, including on the issuing of authorisations by customs. This is intended to benefit trade by increasing predictability, facilitating application procedures and introducing improved and stronger rules on the right of a trader to be heard prior to adoption of a disadvantageous decision.
- *New simplifications of customs clearance processes.* Authorised Economic Operator (AEO) criteria may be used to determine whether non-AEO economic operators can benefit from some simplifications, while other simplifications are available only to AEOs:
    - Simplifications where some or all AEO criteria apply include the following: i) Customs representative wishing to provide services in a Member State other than the one where he or she is established, ii) Reductions in comprehensive guarantees in respect of customs duties due, iii) Approval of a place other than the competent customs office for presentation of goods; iv) Authorisation to lodge customs declarations in the form of "Entry into Declarant's Records"; v) Authorisation for simplifications related to transit, vi) Authorisation for the operation of a temporary storage facility, vii) Authorisations to use special procedures (customs warehousing, end-use, temporary admission and inward and outward processing).
    - Benefits available only to AEOs (in compensation for the fact that traders wishing to obtain AEO status now have to fulfil additional criteria): i) Total or partial reduction in the guarantee to be provided in order to benefit from deferred payment of duties; ii) Centralised clearance, allowing operators to lodge customs declarations and pay duties centrally from their place of establishment, rather than in other Member States where goods are presented to customs; iii) Waiver of the obligation for the goods to be presented under the Entry into Declarants' records simplification; iv) "Self-assessment", which enables reliable economic operators to calculate the amount of duty payable and carry out certain controls on behalf of Customs; and v) permission to move goods to another Member State while they are still under temporary storage (i.e. before they are assigned to a customs procedure).
- *Standardisation of rules applicable to binding customs decisions on tariffs and on origin:* i) the validity of a Binding Tariff Information (BTI) decision is reduced from six to three years in line with the limit applicable to Binding Origin Information; and ii) the BTI decision is now binding on the holder, meaning that he must inform customs authorities that he holds a BTI decision for the declared goods so as to avoid BTI shopping.
- *Introduction of obligatory guarantees* for all customs procedures, so as to safeguard EU own resources and financial interests, coupled with the availability of reductions for very reliable economic operators and waivers for AEOs.
- *New safety and security rules requiring multiple filing at entry* i.e. not just by the carrier but also by the freight forwarder and even by the consignee, thus aligning the

arrangements with international standards (e.g. WCO Framework of Standards to Secure and Facilitate global trade).

- *Relaxation of the rules on temporary storage,* including the extension of the storage period to 90 days (as opposed to the previous 20 or 45 days, depending on whether the goods were carried by sea), and enabling goods to be moved under temporary storage between facilities without transit procedures.
- *Merger of the customs "inward processing", "processing under customs control" and destruction procedures.* In addition, the holder of an authorisation to use a customs procedure now has more time to decide whether to re-export the final goods, have them destroyed or enter them into free circulation.

c. Electronic systems

Under the UCC, the exchange of information between economic operators and customs authorities as well as between customs authorities must, by 2020, be based entirely on electronic data-processing techniques. This is perceived as a major step forward to facilitate legitimate trade, reduce administrative burdens and ensure that harmonised requirements apply throughout the EU. To achieve this goal, seventeen electronic systems are being upgraded or developed in accordance with the timetable set out in the UCC Work Programme. These systems can be divided into two categories: i) fourteen trans-European systems to be developed or upgraded by the Commission in cooperation with the Member States, including central systems and systems that have a national component to be implemented by the Member States; and ii) three national systems that have to be developed or upgraded by the Member States.

The fourteen trans-European systems (including those with national components) are as follows:

1. Registered Exporter System - *REX* (new): aims to make available up-to-date information on both registered exporters established in GSP countries (countries that benefit from the EU's Generalised Scheme of Preferences that provides preferential access to the EU market) and European Union operators exporting to GSP countries and certain other countries;
2. Binding tariff information – *BTI* (upgrade): aims to align with the UCC the database containing all binding tariff information that has been issued by customs authorities of Member States;
3. Customs decisions system *(CDS)* (new): aims to harmonise across the Union the processes for customs decisions related to the application of customs legislation, by facilitating consultations during the decision-taking period and the management of the authorisations process;
4. Uniform User Management & Digital Signature – *UUM&DS or "EU Trader Portal"* (new): aims to provide direct and EU-harmonised trader access to different electronic customs systems as defined in the UCC;
5. Authorised Economic Operators – *AEO* (upgrade): aims to improve the business processes related to AEO applications and authorisations taking account of the UCC changes;
6. Economic Operator Registration and Identification System – *EORI* (upgrade): aims at providing a minor upgrade to the existing system that enables the registration and

identification of economic operators of the Union and third country persons active in customs matters in the Union;

7. Common customs tariff and surveillance – *Surveillance* (upgrade): aims to upgrade, so as to align with UCC requirements, the existing database that records and centralises all EU trade data (imports and exports) provided on a daily basis by the national customs authorities;
8. Proof of Union Status - *PoUS* (new): will store, manage and retrieve all declarations that traders provide to prove the Union status of their goods;
9. New Computerised Transit System – *NCTS* (upgrade): aligns the existing transit system to the new UCC requirements such as the registration of "en route" events, the alignment of information exchanges to UCC data requirements and the upgrade and development of interfaces with other systems;
10. Automated Export System – *AES* (upgrade of both the existing trans-European system and of the existing National Export Systems): aims to implement the UCC requirements for export and exit of goods;
11. Standardised Exchange of Information for Special Procedures – *INF* (new): develops a new system to support and streamline the processes of data management and the electronic handling of data in the domain of Special Procedures;
12. Centralised Clearance for Import - *CCI* (new): aims to coordinate between relevant customs offices the processing of customs declarations and the authorisation to release goods so that economic operators can centralise their dealings with customs authorities;
13. Guarantee Management – *GUM* (new): aims to allow a real time allocation and management across the EU of comprehensive customs guarantees that traders lodge where there are risks that duties might not be paid;
14. Import Control System – *ICS* (upgrade): aims to strengthen the safety and security of the supply chain by means of improving data quality, data filing, data availability and data sharing in regard to Entry Summary Declarations and related risk and control information.

The three systems that Member States have to develop, or upgrade, are as follows:

1. Harmonisation and facilitation of special procedures – *SP*: national systems will have to implement all UCC changes required for customs warehousing, end-use, temporary admission and inward and outward processing;
2. Notification of Arrival, Presentation Notification and Temporary Storage - *NA, PN, TS:* defines the automation of processes at national level in respect of Notifications of Arrival of means of transport, Presentation of goods and declarations for Temporary Storage, as described in the UCC, and supports harmonisation across the Member States as regards the data exchange between trade and customs;
3. National Import Systems – *NIS*: aims at implementing all process and data requirements deriving from the UCC which relate to imports.

3. REVIEW

a. State of implementation of the UCC legislative package

The UCC package was implemented on time on 1 May 2016. The Commission has not so far identified any major problems in its application, although it is clear that both the benefits and the impact of the UCC will only be fully evident when all the related IT systems have been deployed.

Since the UCC's entry into force, the Commission has continued the process of regular meetings with Member States and trade representatives in order to identify and address problems with the legislation, assist in its interpretation and explore the scope for further simplification of processes. This consultation process is in line with the commitments made by the Commission in its Communication on Developing the EU Customs Union and its Governance.[14] The Commission has paid particularly close attention at all times to the need for realistic timelines and to the costs and general impact of the changes on customs and trade.

In addition, Member States and trade representatives have collaborated with the Commission on several guidance documents that address the practical application of the new rules.

The Commission has set up a number of project groups[15] under Customs 2020, involving both Member States and trade representatives, to look at some concrete business cases:

- *A project group on Simplifications*, to develop the benefits of Self-assessment, Entry in the Declarant's Records and Centralised Clearance.
- *A project group on low-value imports*, to analyse the most appropriate way to ensure a level playing field between postal operators and express couriers, given the increase in Internet sales and the consequent obligation on customs to ensure appropriate controls and protect citizens and EU financial interests without hindering legitimate trade.
- *A project group on transit*, to work on the use of an electronic transport document (ETD) as a transit declaration for air transport or maritime transport.
- *A project group on guarantees*, to explore how the conditions to benefit from a total or partial reduction of the level of comprehensive guarantee could better respond to economic reality.

Furthermore, pilot testing in conjunction with trade and Member States is ongoing, as provided for in the UCC, to test new methods and find better ways to address challenges such as those posed by increased internet sales, lack of availability of data and the need for systems-based approaches.

This process of regular dialogue with stakeholders has led to some further amendments and additions to the UCC legal package since 1 May 2016, as follows:

i. An amendment to Article 136 UCC concerning goods that have temporarily left the customs territory of the Union by sea or air. This amendment[16] was necessary to ensure proper customs supervision in the case of certain goods which enter the

[14] COM/2016/0813 final

[15] See the Commission's register of expert groups at http://ec.europa.eu/transparency/regexpert/index.cfm?do=search.result&page=1

[16] Regulation (EU) 2016/2339 of the European Parliament and of the Council of 14 December 2016 amending Regulation (EU) No 952/2013 laying down the Union Customs Code, as regards goods that have temporarily left the customs territory of the Union by sea or air (OJ L 354, 23.12.2016, p. 32)

Union through one port but continue their journey on a container ship to a second port in the Union and are only unloaded in that second port. As a result of the amendment, the goods must also be presented to customs in that second port.

ii. An amendment to the the UCC Implementing Act[17], so as to better adapt the legislation to the needs of authorities and trade and to better guarantee the effective and uniform application of rules. The most substantial amendments, which were introduced at the request of trade representatives, can be summarised as follows:

- The rules governing a long-term supplier's declaration have been clarified and made simpler. Trade representatives particularly welcomed the reintroduction of the possibility for traders to issue at any moment in the year a single declaration covering the full calendar year;
- More time has been given to exporters to obtain a Registered Exporter (REX) number (allowing exporters to self-certify the origin of goods) for the purposes of the EU-Canada Trade Agreement (CETA); and
- The rules for designating the customs office of exit in cases of export followed by transit of excise goods have been improved.

iii. Adoption of an Implementing Act[18] on technical arrangements for developing, maintaining and employing electronic systems for the exchange of information and for the storage of such information under the Union Customs Code. It lays down the rules governing the Customs Decisions System and the Uniform User Management and Digital Signature system (see section b below).

iv. It is likely that the Delegated Act, and the Implementing Act, will need to be amended again in 2018 to deal inter alia with the following points:

- A new *definition of exporter* in Article 1(19) of the Delegated Act whereby the exporter will still be required to be established in the EU but the condition that the exporter must hold the sale contract will be softened. Trade representatives argue that the current definition does not adequately reflect existing business models, such as where the seller is established outside the EU.
- An amendment to Articles 114 and 134 UCC Delegated Act to introduce flexibilities in the customs formalities applicable for transactions between a *Special Fiscal Territory* and its mainland (i.e. for transactions within a single Member State).
- Extension beyond a day in the deadline in Article 115 UCC Delegated Act to declare *goods stored in other than a temporary storage facility*. The modification would be designed to ensure that the time-period is more manageable for both trade and customs while still being kept short to avoid abuses.

[17] Commission Implementing Regulation (EU) 2017/989 of 8 June 2017 correcting and amending Implementing Regulation (EU) 2015/2447 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 149, 13.6.2017, p. 19–56)

[18] Commission Implementing Regulation (EU) 2017/2089 of 14 November 2017 on technical arrangements for developing, maintaining and employing electronic systems for the exchange of information and for the storage of such information under the Union Customs Code

- Amendment of an existing provision which requires a printout of the *fishing logbook*, including confidential commercial information, to be provided to the customs authorities of third countries so that those authorities can certify that sea-fish products transhipped and transported through their country or territory have not been manipulated. The fish industry has alerted the Commission to a problem of being required to disclose confidential commercial information on where fish have been caught so the amendment would ensure that there would be no sharing of confidential information belonging to EU vessels.
- Amendment to the Delegated Act to restore a provision that existed under the CCC legislation. Trade representatives have noted that the UCC package does not contain any provision specifically allowing a holder of authorisations for end use to *store in a single tank* energy products classified under different subheadings. For reasons related to the technical characteristics of these products, that restriction makes it impossible in practice to use such end use authorisations.
- Amendment to the regulatory framework applicable to *cars rented outside the EU by EU residents*. Currently, if the cars are non-EU plated, they are subject to import duty when they enter the EU customs territory (except where an EU resident uses a rented car to return to his place of residence). This has been considered too restrictive in the case of EU residents renting cars for short periods so the Delegated Act may be amended to rectify this issue.
- Amendment to the rules of origin so that a *preferential tariff treatment can be granted to processed products* that have been obtained from imported goods that themselves qualified for preferential tariff treatment under the inward processing procedure. This amendment would offer to the economic operators concerned a tariff treatment equivalent to the one they enjoyed, under the customs procedure known as processing under customs control, when the CCC was in force.
- Some technical amendments to better adapt to the situation of exporters the rules on registration for the REX electronic system.

Apart from the above more general amendments to the UCC package, the Commission has also, as it did under the CCC, used its powers under the UCC to adopt implementing acts on several occasions for specific or technical purposes, such as for the tariff classification of goods and for temporary derogations from the rules on preferential origin.

b. State of implementation of the UCC Work Programme

The first deadline for the operation of some of the seventeen IT systems listed in the UCC Work Programme was 2017 and this deadline has been met:

- On 1 January 2017, the Commission launched the Registered Exporter (REX) system. This new database contains the data on registered exporters in beneficiary countries of the Generalised System of Preferences of the EU and on some registered operators in the EU, including in the context of the free trade agreement with Canada. This allows an economic operator to check whether a supplier is registered to be allowed to make out statements on origin and will also allow EU customs authorities to validate REX numbers provided in customs declarations against the central database. About 20,000 exporters have been registered in the EU and about 11,000 exporters have been

registered in the GSP beneficiary countries already applying the system. The feedback received from economic operators, from EU customs authorities and from competent authorities in the GSP beneficiary countries has been very positive with no complaints so far.

- In October 2017, the Commission launched the Customs Decision system and the Uniform User Management & Digital Signature system (UUM&DS) together. The Customs Decisions System represents a major step in the harmonisation of the way customs authorisations are managed across the 28 Member States. The system has common components (EU trader portal, central customs decisions management system and customer reference services) and national components (national trader portal and national customs decisions management system). It allows the processing of twenty two customs authorisations such as those for simplified declarations, centralised clearance, inward and outward processing, comprehensive guarantees, deferred payment, transit and several more. The Economic Operator can file the applications for authorisations via the UUM&DS which allows him access to the Decision System.
- The first phase of the Binding tariff information (BTI) system was completed in October 2017, which was the target date for the completion of that phase.

Most of the other electronic systems are also on track for completion by the dates set out in the Work Programme. In effect, it is expected that close to eighty per cent of the Commission's work on the trans-European systems will be completed by 2020.

However, it has also become clear that not all the systems can be fully completed by the 2020 deadline. That deadline was always an ambitious one, given the complexity of the task and the costs of introducing new IT systems across the EU. When setting that deadline, it was anticipated that the rules supplementing and implementing the UCC (the Delegated Act, Implementing Act and Transitional Delegated Act) would be adopted very soon after the adoption of the UCC in 2013, so that their provisions could be taken into account in developing the IT systems. However, discussions on the supplementing and implementing provisions took much longer than expected and the acts were only adopted in their final form in late 2015/early 2016. This led in turn to a delay in producing the functional specifications for the electronic systems dealing with declarations and notifications, which are based on the data requirements laid down in Annexes B of the UCC Delegated and Implementing Acts. The complexity of the systems has only become fully apparent on the completion of these technical specifications.

In addition, the harmonisation of the data requirements (i.e. the data that the customs authorities of the Member States require from economic operators) has proved to be one of the main challenges for the development of the IT systems. Data harmonisation is crucial for the interoperability of the different electronic systems and for a harmonised application of the legal rules. It is also crucial so as to ensure alignment with international data models such as that of the World Customs Organisation and thus ensure linkages with third countries' IT systems and facilitate trade. However, this work involves a much heavier than expected investment in terms of time and in financial terms in fully reprogramming some of the existing electronic systems.

Another challenge is that, as the electronic systems are closely interlinked with each other, it is important to implement them in the right order (sequencing) so as to ensure that interdependencies are respected and that the changes for administrations and trade are

introduced in a structured and coherent manner.

Particular issues arise in relation to the upgrade of the Import Control System (ICS). This system was designed in response to concerns about security following the 9/11 attacks and in the framework of the standards for international trade advocated by the World Customs Organisation. It requires carriers to send a certain number of data elements electronically to the EU customs office of first entry before merchandise enters the territory and in most cases, even before the merchandise leaves the country of export. The aim under the UCC is to improve the existing ICS. "ICS2" would, for example, introduce a central European repository so as enable the collection of high quality and real time advance cargo information; provide for multiple filing (i.e. so that not only a carrier but also an importer, consignee, or other relevant persons could provide the necessary data on the goods entering the custom union); provide for a harmonised trader interface to allow economic operators to submit advance cargo information in a standardised and harmonised way; and provide tools to help customs authorities screen for risk management purposes the high volumes of information stored in the repository. However, it has become clear that the work involved in the ICS is much greater than expected, in particular because of the high security requirements for data in the central repository, high operational costs, the above-mentioned need to harmonise data requirements and the need for more shared functionalities at EU level so as to reduce the requirement for parallel costly national investments.

c. Next steps

The Commission will continue the process of regular discussion with Member States and business to ensure that the UCC *facilitates trade*. The simplification of customs legislation and procedures introduced by the UCC is already having a good impact and it has largely been welcomed by economic operators. However, some argue that the UCC does not go far enough in facilitating trade. They point to the fact that AEO status is now compulsory to benefit from certain simplifications and that this will disadvantage small companies that are not able to invest in acquiring AEO status, even though it was business which requested some special benefits for AEOs in return for the investment and effort that the economic operators involved invest in obtaining AEO authorisation. Many trade representatives also point out that it will take too long for the benefits of the UCC to fully materialise because of the long transitional periods allowed for the continued co-existence of paper based systems in some Member States although others seek longer transitional periods for the completion of all the new electronic requirements. Furthermore, some trade representatives point to continuing differences between Member States in interpretation of rules.

The Commission will also continue to work in close consultation with stakeholders *to identify errors and technical anomalies* in the legislative package. The UCC legal acts are more than 2,000 pages long and therefore it is inevitable that adaptations will continue to be necessary to the legislative package. The previous CCC and its corresponding Implementing Provisions required several amendments.

On the side of customs authorities, a critical function is to *protect revenues and ensure safety and security.* Efforts must also continue, therefore, to ensure that the balance between controls and trade facilitation is right and that any problems in this regard are addressed quickly. This work will involve continued intensive engagement with the European Parliament, the European Court of Auditors and services within the Commission responsible for protecting EU own resources and for combating fraud.

As regards the *UCC electronic systems*, the Commission believes it is necessary to extend the

deadline for some systems in order to ensure a smooth implementation of the others by the 2020 target date. Member States and business need realistic timetables and legal certainty about the arrangements for the exchange and storage of customs information and need on average two years to make arrangements for each electronic system. If some systems are not likely to be implemented by that date, this must be clarified by 2018 and certainty must be provided about the legal rules that will apply in the absence of such systems.

In consequence, the Commission proposes the following:

i) It will carry out an interim evaluation of the UCC by end 2021, and a comprehensive fitness check once all the electronic systems have been implemented. The fitness check will enable the Commission to decide in the longer term whether any major policy changes need to be made so that the UCC remains fit for purpose in a global trading environment and so that it continues to ensure a proper balance between trade facilitation and controls.

ii) Prior to the fitness check, the Commission may continue to present proposals for any corrections or technical amendments to the UCC legal package that become necessary to ensure the continued smooth functioning of the legislative framework.

iii) The Commission will consider tabling a legislative proposal in early 2018 for an extension to the deadline for the continued use of transitional arrangements in respect of the limited number of electronic systems that cannot be fully implemented by the deadline of 2020. This will be followed by a Commission Implementing Decision with a corresponding update to the Work Programme. At this time, the systems which look likely to require further work beyond 2020 are as follows:

- the upgrades of the Import Control System (ICS), the New Computerised Transit System (NCTS) and the Automated Export System (AES) plus the export component of the Special Procedures System; and
- the introduction of the Centralised Clearance for import (CCI), Proof of Union Status (PoUS) and Guarantee Management (GUM) Systems.

The Commission has consulted Member States about these electronic systems that require further work and has drawn up this tentative planning on the basis of the responses received from Member States. It has also consulted trade representatives at the regular meetings of the Trade Contact Group that gathers representatives from diverse trade associations.

4. EXERCISE OF THE POWER TO ADOPT DELEGATED ACTS

Under Article 284 UCC, the Commission is empowered 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 Regulation, for a period of five years starting on 30 October 2013. Article 284 (2) requires the Commission to draw up a report to the European Parliament and to the Council in respect of the use of this power to adopt delegated acts. The Commission is required to prepare the report no later than nine months before the end of the five year period, namely by 30 January 2018.

The UCC empowers the Commission to adopt delegated acts under the following provisions: 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, and 279.

Until November 2017, the Commission exercised its power to adopt delegated acts four times (see section 2.a):

a) To adopt the UCC Delegated Act[19]. The table in the Annex links the provisions in the UCC Delegated Act with the empowerments conferred on the Commission by the Code;

b) To adopt the UCC Transitional Delegated Act[20], on the basis of the empowerment in Article 279 of the Code;

c) To correct Articles 136 and 141 of the UCC Delegated Act[21] on the basis of the empowerment in Article 160 of the Code; and

d) To correct Annex 12 of the UCC Transitional Delegated Act[22], on the basis of the empowerement in Article 279 of the Code.

When preparing the delegated acts the Commission consulted all relevant stakeholders, in particular Member States' experts and economic operators from the trade, logistics and business sector. 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.

5. CONCLUSION

With this report the Commission complies with i) the request of the European Parliament for a report on the implementation of the UCC and ii) its obligation to report to European Parliament and Council on its use of delegated powers under Article 284(2) of the UCC Regulation.

As regards the implementation of the UCC, the Commission views as a considerable achievement the fact that the UCC which introduced such major changes has not encountered any major legislative problems during its first eighteen months of implementation. The process of regular consultation with Member States and trade has led to the speedy resolution of any technical errors that have become evident since the adoption of the Code in 2013. At the same time, it is clear that the impact of the UCC must be studied in a comprehensive way in the future so as to determine whether the UCC has met the goals for which it was designed or whether any policy adjustments are needed. The Commission proposes, therefore to:

[19] See footnote 6
[20] See footnote 8
[21] See footnote 11
[22] See footnote 12

- carry out by 2021 an interim evaluation of the UCC legal framework and the electronic systems implemented by that date
- carry out a more comprehensive fitness check once all the electronic systems have been implemented;
- continue to propose corrections or technical amendments to the UCC legal package necessary to ensure the continued smooth functioning of the legislative framework;
- consider tabling a legislative proposal in early 2018 for an amendment to the UCC, so as to extend to 2025 at the latest the period during which transitional arrangements can be used in respect of the customs formalities that are dealt with by the IT systems which cannot be fully implemented by 2020;
- update the UCC Work Programme via a Commission Implementing Decision.

Concerning the use of the power to adopt delegated acts conferred by Article 284 (2) of the UCC, the Commission believes that it has exercised these powers actively and appropriately. At the same time, the Commission considers that this delegation of power should be extended in order to enable it to propose any further measures necessary to adapt customs legislation to technical and technological progress as well as to the dynamics of trade.

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

Annex

UCC empowering provisions	UCC DA provisions adopted in accordance with the delegation of power
Article 2	Articles 114, 134, 188
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
Article 10	Articles 5, 6, 7
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
Article 31 (Revocation and amendment of favourable decisions)	Delegation not yet used: 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.
Article 36 (Management of decisions relating to binding information)	Delegation not yet used: 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
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
Article 75	Article 71

Article 88 (Customs debt)	Articles 72, 73, 74, 75, 76, 77, 78, 79, 80, 168
Article 99	Articles 81, 82, 83, 84, 85, 86
Article 106	Article 88, 92
Article 115	Articles 89, 90, 91,
Article 122	Articles 98, 99, 100, 101, 102
Article 126	Article 103
Article 131(Repayment and remission)	Articles 104, 105, 106, 107, 108, 109, 110, 111, 112, 113
Article 142 (designated places for the presentation of the goods brought into the EU customs territory)	Article 115
Article 151 (conditions and authorisation for temporary storage)	Articles 115, 116, 117, 118
Article 156 (Customs status of goods)	Articles 119, 120, 121, 122, 122a,128, 129, 129c, 129d,182
Article 160 (Placing goods under a customs procedure)	Articles 135, 136, 137, 138, 139, 140, 141, 142, 143
Article 164	Article 155
Article 168 (simplified declarations)	Articles 145, 146, 147, 183
Article 175	Articles 148, 248
Article 180	Article 149
Article 183 (EIDR)	Article 150
Article 186	Articles 151, 152
Article 196	Article 153
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

Article 216	Articles 174, 217, 218, 237
Article 221	Articles 179, 180
Article 224	Article 169
Article 231	Articles 187, 189
Article 235 (Union transit)	Articles 191, 193, 195, 197, 198, 199, 200
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
Article 265	Articles 244, 245