Council of the European Union

Brussels, 26 November 2025
(OR. en)

15767/25

Interinstitutional File:
2023/0156 (COD)

LIMITE

UD 282
CODEC 1889
ENFOCUSTOM 202
ECOFIN 1581
MI 938
COMER 167
TRANS 571
FISC 334
RESPR 40

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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013 - Presidency debriefing on the outcome of the trilogue of 20 November 2025 - Preparation for the trilogue on 10 December 2025

I. STATE OF PLAY

1. Negotiations between the co-legislators on the proposal for a Regulation of the European Parliament and of the Council establishing the Union Customs Code and the European Union Customs Authority[1] (UCC) are now in a decisive phase.

2. At the trilogue of 20 November 2025, co-legislators discussed three groups of issues: EUCA governance, access rights and penalties, pending further technical work that was deemed necessary to make progress on remaining aspects of the draft UCC Regulation. A provisional

[1] Doc. ST 9596/23 + ADD 1 to 4.

agreement has been reached on the EUCA governance and further progress has been made on the issues related to access rights and penalties.

3. The negotiations between the co-legislators are continuing intensively and the agenda of the trilogue of 10 December 2025 is still in preparation.

4. The Presidency expects to close the remaining open issues, so that the scheduled trilogue of 10 December 2025 could be designed with the objective to conclude negotiations on key political issues of this file.

5. Therefore, at this stage, the Presidency suggests that Coreper, while noting the provisional agreement on the EUCA governance, addresses two issues on which the discussions in the trilogue of 20 November were not conclusive: on access rights and penalties. In addition, the Presidency considers it would be useful to exchange views on the entry into force and application of the UCC.

6. The remaining issues to be covered in the forthcoming trilogue of 10 December 2025 are going to be prepared at the Coreper meeting on 5 December, as well as in the meetings of the Customs Working Party, as appropriate.

7. Meanwhile, technical work on the text of the UCC Regulation is ongoing in parallel as well, and the latest available draft of the 4-column table is set out in doc. ST 15895/25. In comparison to the previous version (doc. ST 14985/25), the table mainly reflects progress in the discussions on the Title XIII (Customs Cooperation), Title X (Payment/Debt/Guarantee) and Title V (Placing goods under a customs procedure).

II. KEY ISSUES

a) EUCA and its governance: provisional agreement in the trilogue of 20 November 2025

8. At the trilogue of 20 November 2025, a provisional agreement has been reached on all key aspects of EUCA governance. The parameters of the provisional agreement are set out in the Annex I to this note, which will be transformed into the compromise text of the relevant provisions of the draft UCC Regulation.

9. This provisional agreement matches the key parameters that were set out in the Presidency note to the Coreper discussed on 11 November 2025 (ST 14778/25). In accordance with the provisional agreement, there will be no veto right foreseen for the Commission

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representative on any decisions of the EUCA Management Board. Nevertheless, in the spirit of the overall compromise, concessions had to be offered to the European Parliament on two aspects:

a) the Executive Board of EUCA would have to ("shall") be established at the latest by 3 years after the entry into force of the UCC Regulation (the Presidency had to abandon the position that the establishment of the executive board would depend on two sets of criteria: after the Management Board has taken the key decisions under Article 215, but no later than 4 years after the UCC Regulation is adopted);

b) Article 218 of the draft UCC Regulation will foresee that the committee responsible of the European Parliament may invite the candidates for the post of the Executive Director to answer questions from its members, before the appointment (or extension thereof), but without delaying the appointment procedure and without constraining the decision-making of the Management Board.

10. The Presidency holds the view that the provisional agreement on the key parameters of EUCA governance is a balanced compromise and paves the way for further negotiations on the UCC Regulation.

b) Access rights (Article 31 and Article 240)

11. In the Council mandate, the part on access rights of the EU law enforcement bodies to the EU Data Hub is moved from Article 31 to Article 240 (Title XIII – Customs cooperation). This article defines the limits of the data access "*on a need-to-know and confidential basis and within the boundaries of their respective mandates*" and also specifies that the data shall be given "*only upon duly justified requests with the approval by the relevant customs authorities.*" EP position foresees direct access to the EU Data Hub for the EU law enforcement bodies in Article 31.

12. Following the negotiations, both legislators reached a common understanding that access to data should be legally sound and comply with Union rules.

13. In order to address EP concerns, at the trilogue on 20 November 2025, the Presidency provided a solution for the request by the EU enforcement bodies to be dealt with in an efficient and timely manner and in a way that does not obstruct these bodies in fulfilling their statutory mission.

14. However, EP considers that EPPO, given its specific role, should be able to obtain data, stored or otherwise available in the EU Customs Data Hub, exclusively and to the extent necessary for carrying out its tasks pursuant to Article 4 of Council Regulation (EU) 2017/1939.[2]

15. The Presidency believes that a common ground could be found if the data requests from the EPPO are handled by the EU Customs Authority. The EU Customs Authority would verify the request in a swift manner, and, at the same time, the concerned customs authorities would be notified. Where the request is necessary for carrying out the EPPO's customs-related tasks and complies with the conditions to be set out in an implementing act, the EU Customs Authority will have to provide the relevant data. The specific rules, conditions and technical elements would be laid down in an implementing act. Regarding the access rights of the remaining EU law enforcement bodies, such as Europol and Frontex, the Presidency envisages to stay within the limits of the Council position, as referred in paragraph 11 of this note.

16. As regards customs cooperation, the Presidency believes that certain elements in the Council partial mandate could be further clarified in order to find a common ground with the Parliament. For instance, implementing acts could also specify how to identify the customs authorities responsible for approving various data requests and how to handle situations where multiple customs authorities are concerned with the data.

17. All elements of the Presidency compromise text are set out in the Annex II to this note.

c) Penalties (Title XIV)

18. On the issue of penalties (Title XIV of the draft UCC Regulation), at the trilogue of 20 November 2025, the co-legislators exchanged arguments in support of their starting positions. The European Parliament largely supports and even has expanded the Commission proposal, while the general approach of the Council contains the UCC provisions on penalties that are currently in force).

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[2] Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

19. The Presidency maintained the position presented to Coreper on 10 November 2025, setting out the parameters which could be the basis for exploratory technical work (see doc. ST 14778/25, points 16 to 24), in order to determine whether it is possible to find a common ground on this issue.

20. The EP has indicated that there could be an opening on the basis of the following building blocks: non-exhaustive list of customs infringements, non-exhaustive list of penalties, non-exhaustive list of mitigating or aggravating circumstances, as well as provisions on minimum levels of penalties and limitation periods.

21. While differences in the positions of the co-legislators are still present, it was agreed that exploratory technical work must be carried out swiftly, in search of a possible compromise on Title XIV of the draft UCC Regulation

22. Against this background, and on the basis of informal bilateral contacts, the Presidency has drafted the text set out in Annex III to this note, that could possibly serve as the basis for further negotiations with the European Parliament. This text is also to a certain extent based on the existing examples of similar provisions in other legislative acts of the EU, with due regard to the specifics of customs legislation.

23. The Presidency believes that while this compromise text on penalties goes further than the text of the current UCC on this matter, it remains in line with the key parameters that are defended on behalf of the Council delegation in the trilogues.

d) Entry into force and application

24. For EP the EU Customs Data Hub should become fully operational by 31 December 2032 (5 years earlier in comparison to the Commission proposal), where the Council envisages its mandatory use from 1 March 2037.

25. Whereas the development of the EU Customs Data Hub is a complex and time-consuming technical process, some of its functionalities are crucial for the effective application of e-commerce-related provisions. The Council partial mandate addresses this urgent need by envisaging the EU Customs Data Hub's ability to perform operations concerning online distance sales from third countries from 1 July 2028. EP position foresees application from 1 March 2026.

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26. Given the urgency of finding a solution to enable earlier implementation of the measures concerning the distance sales of low-value consignments imported from third countries, as discussed in the Ecofin Council on 13 November 2025, the Presidency believes it could be worth exploring whether the EU Data Hub could be operational sooner than envisaged in the Council position. Advancing the date in question could be helpful in finding common ground with the European Parliament.

III. WAY FORWARD

27. With a view to the forthcoming round of negotiations with the European Parliament on 10 December 2025, the Presidency is seeking preliminary endorsement of the provisional agreement on the EUCA governance, as well as further guidance from Coreper on the issues outlined in Part II of this note (on access rights, penalties and entry into force and application provisions). Against this background, delegations are invited to:

i) exchange views on the way forward in the interinstitutional negotiations on this dossier, and

ii) indicate, where relevant, whether any of the aspects set out in the present note would constitute a red line, blocking them from accepting the overall compromise.

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EUCA GOVERNANCE: AGREED PARAMETERS (TRILOGUE OF 20 NOVEMBER 2025)

○ Establishment of the Executive Board and moment of establishment (Articles 211 and 215)	The Executive Board of EUCA would have to ("shall") be established **at the latest by 3 years after the entry into force of this regulation.**
○ EP representative in the EUCA management board (Article 212) ○ Commission representative(s) in the EUCA management board (Article 212)	The Management Board would – in addition to the 27 Member State representatives – include two representatives of the Commission, with voting rights, and one representative of the EP, without voting rights.
○ Chairperson and deputy chairperson of the management board (Article 213)	The Chair of the Management Board would be elected from the representatives with voting rights (MS and the Commission). Should the Chair be a representative of a Member State, then the deputy chair would have to be elected from the representatives of the Commission; and the opposite: should the Chair be one of the Commission representatives, then the deputy chair should be elected from the representatives of the Member States.
○ Management board voting thresholds (Article 216(1))	The decisions to be taken by two-thirds majority of the Management Board would be the following: - election of the Chair and the deputy, - rules to prevent conflict of interest, - annual budget, - appointment of the executive director, - adopting the draft and final single programming document and, - if relevant, adopting a strategy for co-operation with customs and relevant authorities at national and EU level. **All other decisions would be taken by absolute majority.**

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○ Composition of the executive board (Article 217)	The Executive Board would consist of 4 representatives of Member States, and one representative of the Commission, and all these persons would also be members of the Management Board. The Chair of the Executive Board would be elected from all the members of the Executive Board. The Executive Board would exercise the functions set out in Article 217, and take decisions by absolute majority of its members.
• **Commission veto-right in the management board on certain decisions (Article 216(2)):**	**No veto right for the Commission on any of the decisions of the Management Board**
• **Commission role in other elements:**	
○ Executive director assessment, term extension and removal from office (Article 218)	The Commission (and not the Management Board, as in the Council general approach) shall carry out an assessment - in consultation with the Management Board - that takes into account an evaluation of the performance of the Executive Director and the EU Customs Authority's future tasks and challenges (Article 218(2)) The term of the Executive Director could be extended once, by the Management Board, upon proposal of the Commission (Article 218(3)), which takes into account the assessment and the result of the consultation with Management Board on the assessment referred to in Article 218(2). The Executive Director may be removed from office only upon a decision of the Management Board acting on a proposal from the Commission. The European Parliament and the Council shall be informed of the reasons (Article 218(5));

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	The responsible committee of the European Parliament may invite the candidates for the post of the Executive Director to answer questions from its Members, before the appointment (or extension thereof), without delaying the appointment procedure and without constraining the decision making of the Management Board.
o Consultation of the Commission on the draft single programming document (Article 219(5))	The Executive Director would have an obligation to consult the Commission on the draft single programming document before submitting it to the Management Board (Article 219(5));
o Periodic evaluation of EUCA's performance in accordance with Commission guidelines (Article 235(1))	The periodic evaluation of EUCA's performance by the Commission would have to be made in accordance with Commission guidelines
o Commission consent prior to the establishment of EUCA local offices (Article 237(3))	Before deciding to establish a EUCA local office, the Executive Director would have to obtain the prior consent not only of the Management Board and of the Member State concerned, but also of the Commission (Article 237(3));

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ACCESS RIGHTS - DRAFT PRESIDENCY COMPROMISE

Chapter 4
Data

[NEW] Article 31a

Right for EPPO to obtain data stored in the datahub

1. The European Public Prosecutor's Office ('EPPO') shall, upon request, obtain data, stored or otherwise available in the EU Customs Data Hub, exclusively and to the extent necessary for carrying out its tasks pursuant to Article 4 of Council Regulation (EU) 2017/1939[3] as long as those tasks concern customs-related matters according to the modalities determined in an implementing act adopted pursuant to paragraph [5] of this Article.

2. The requests to obtain data referred in paragraphs 1 of this Article shall be sent to the EU Customs Authority. Customs authorities shall be automatically notified of requests from EPPO at the same time as the EU Customs Authority. Where the request complies with the requirements of this Article, the EU Customs Authority shall provide the relevant data to EPPO.

3. The EU Customs Data Hub shall provide a digital interface via which EPPO can request and obtain data in an easy and swift way without undue delay.

4. The Commission shall specify, by means of an implementing act:
   (a) the modalities for EPPO to request and obtain data, including personal and commercially sensitive data available in the EU Customs Data Hub. In particular, the Commission shall:

[3] Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

i. **determine the modalities for requests from EPPO for data, including personal or commercially sensitive data stored or otherwise available in the EU Customs Data Hub;**

ii. **establish the procedure to verify the compliance of those requests with the requirements to obtain data according to paragraph 1 of this Article;**

iii. **consider the need for EUCA to designate a specific contact point, person or persons or to provide additional safeguards.**

(b) the technical elements and functioning of the digital interface referred to in paragraph 3 in this Article.

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Chapter 2
Cooperation with other authorities within the Union

Article 240

~~Framework for~~ Customs cooperation with other authorities within the Union

1. Without prejudice to Regulation (EC) No 515/97 **and to Article 31 and 31a of this Regulation**, the EU Customs Authority and the customs authorities shall cooperate with other competent authorities or bodies at Union and national level, including market surveillance authorities, sanitary and phytosanitary authorities, ~~other~~ law enforcement authorities or bodies, statistical authorities, and tax authorities, within the applicable legal frameworks

~~It shall also cover, where applicable, Union bodies or agencies in the limit of their tasks related to customs-related matters, such as the European Union Agency for Law-Enforcement Cooperation (Europol), the European Public Prosecutor's Office (EPPO) and the European Border and Coast Guard Agency (Frontex).~~

2. The cooperation referred to in paragraph 1 shall take place regularly and in a structured way. It shall pursue, in particular, the following objectives:

(a) contributing to and following legislative developments in policy areas of relevance for customs;

(b) the exchange of data, in particular data relevant for risk management in accordance with Title IV, Chapter 3;

(c) the development of coherent and coordinated supervision strategies for risk management of goods under the areas of responsibilities of both customs authorities and other authorities, in accordance with Title IV, Chapter 3;

(d) the operational implementation, including performance of joint controls in accordance with Article 241;

(e) contribution to innovation and research activities, development of new technologies and joint procurement in areas relevant for customs.

2a. The EU Customs Authority shall, in cooperation with the customs authorities, develop and regularly update a framework supporting the cooperation referred to in this Article by proposing objectives and key areas of cooperation and providing orientations for its practical implementation.

Customs authorities and the EU Customs Authority shall use electronic means for complying with paragraph 1.

3. Under the cooperation referred to in paragraph 1, the customs authorities and the EU Customs Authority may only exchange data with other authorities or bodies at national and Union level on a need-to-know and confidential basis and within the limit of their tasks related to customs-related matters.

In particular, to exchange information:

(a) the authority requesting the data shall duly justify its request;

(b) the customs authorities concerned with the data shall approve the request;

(c) the data shared shall be limited to the data strictly necessary for the purpose stated in the request;

(d) all applicable rules regarding data confidentiality and data protection shall apply to the shared data;

(e) the relevant data shall be extracted from the EU Customs Data Hub and communicated to the relevant authority.

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Every Member States shall designate a single central unit to ensure the efficient reception of the requests for data stored otherwise available in the EU Customs Data Hub and their approval. Judicial orders shall be executed swiftly.

[…]

10. The Commission shall, by means of implementing acts adopted in accordance with the examination procedure referred to in Article 262(4), lay down the detailed rules governing the extraction and communication of data under paragraph 2a of this Article. Those implementing acts shall, for each category of requesting authority or body, specify in particular:

(a) the precise categories of data that may be shared;

(b) the conditions and modalities for the exchange, including for automated exchanges;

(c) any restrictions and liabilities on the onward transfer of the data by the requesting authority;

(d) the need for the authority ~~concerned~~ **requesting certain data** to designate a specific contact point, person or persons or to provide additional safeguards **for the correct handling of the data received.**

Those implementing acts shall also specify how to identify the customs authorities responsible for approving the various requests and how to handle situations where multiple customs authorities are concerned with the data.

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ANNEX III

PENALTIES (TITLE XIV) - DRAFT PRESIDENCY COMPROMISE

Recital 61 replaced by the following:

(61) A common framework establishing a minimum core of infringements of customs legislation and of penalties should be laid down, for Member States to implement. Penalties for infringements of customs legislation should be effective, proportionate and dissuasive.

Addition of a new Recital 61a:

(61a) This Regulation should foresee that the rules on penalties can be applied in such a manner that the penalty is initiated by a competent authority and imposed by a judicial authority, while ensuring that the penalty is effective, proportionate and dissuasive, and have an effect equivalent to the penalties imposed by competent authorities. When imposing such penalties, judicial authorities should take into account the recommendation by the competent authority initiating the penalty.

Article 165(3)

3. For the purposes of ~~sanctions~~**penalties,** as applicable ~~to customs~~ **under the law of a Member State, for** infringements **of customs legislation**, the customs debt shall nevertheless be deemed to have been incurred where, under this Regulation or under the law of a Member State, import or export duty or the existence of a customs debt provide the basis for determining ~~sanctions~~**penalties**.

Article 200

Application of ~~sanctions~~penalties

Where the customs debt is extinguished on the basis of Article 199(1), point (h), Member States shall not be precluded from the application of ~~sanctions for failure to comply with the~~**penalties for infringements of** customs legislation.

Title XIV

~~COMMON PROVISIONS ON CUSTOMS~~ INFRINGEMENTS OF CUSTOMS LEGISLATION AND ~~ON NON-CRIMINAL SANCTIONS~~PENALTIES

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[Commission proposal text deleted till Article 245]

Article 245

Subject matter and general provisions

~~This Title establishes a list of customs infringements and non-criminal sanctions for those infringements. It does not prevent Member States from taking more stringent measures by providing for administrative or criminal sanctions in accordance with their national law. Neither does it affect other infringements provided for under Union legislation.~~

1. Member States shall provide for the infringements of customs legislation and penalties for such infringements in accordance with this Title.

2. This Title does not prevent Member States from taking more stringent measures, by providing for penalties.

3. Member States shall notify to the Commission the provisions of their national law which they adopt pursuant to this Title by [….] and, without delay, any subsequent amendment affecting such provisions.

[all further text of the Commission proposal deleted till Article 252]

Article 252

~~Union~~**Infringements of** customs ~~infringements~~**legislation**

1. ~~The~~**Without prejudice to Article 200, 245 and 254, Member States shall ensure that at least the** following ~~acts or omissions shall~~ constitute **an infringement of** customs ~~infringements~~**legislation**:

(a) [deleted]

(b) failure to comply with the obligation to provide **the required** information to customs **authorities** in accordance with this Regulation~~, including the~~ **;**

(ba) failure to **comply with the obligation to** lodge a customs declaration;

(c) ~~provision of incomplete, inaccurate, invalid, inauthentic, false or falsified~~**failure to comply with the obligation to provide complete, accurate valid and authentic** information or documents to customs **authorities**;

(d) failure ~~of the person responsible~~**to comply with the applicable rules providing for the obligation** to keep ~~the~~ **record of compliance with customs legislation, such as keeping** documents ~~and~~**or** information ~~related to~~**demonstrating** the accomplishment of customs formalities;

(e) **failure to comply with the rules on** removal of goods from customs supervision;

(f) [deleted]

(g) ~~non-payment of~~ **failure to comply with an obligation to pay** import or export duties ~~by the person liable to pay within the period prescribed in accordance with Title X, Chapter .~~**;**

(ga) failure to comply with the obligations of an importer, a deemed importer or an exporter under Articles 20 to 22 of this Regulation.

2. ~~Without~~**Paragraph 1 is without** prejudice to ~~paragraph 1,~~**the right of** Member States ~~may~~**to** provide for further **conduct,** acts ~~and~~**or** omissions that constitute ~~customs~~ infringements **of customs legislation**.

3. [deleted]

[Art 253 of the Commission proposal deleted; and proposed Article 254 replaced by the following]

Article 254

Penalties

1. Member States shall provide for penalties for infringements of customs legislation, including those referred to in Article 252, and shall ensure that such penalties are effective, proportionate and dissuasive.

Member States shall ensure that penalties are applied with regard to at least the following, as set out in national law:

a) whether customs infringements are committed intentionally, negligently, or by manifest error;

b) the nature, gravity and duration of the customs infringement.

2. The penalties referred to in paragraph 1 may take at least one of the following forms:

a) a pecuniary charge by the customs authorities, including, where appropriate, a settlement applied in place of and in lieu of a criminal penalty;

b) the revocation, suspension or amendment of any authorisation held by the person concerned.

3. In cases where customs duties or other charges are eluded, the pecuniary charge, where provided under national law, shall be determined taking into account the amount of such duties or other charges. Where determining such an eluded amount is not possible, the pecuniary charge shall be determined taking into account the customs value of the goods.

4. This Article may be applied in such a manner that the penalty is initiated by the competent authority and imposed by a judicial authority, while ensuring that the penalty is effective, proportionate and dissuasive, and has an effect equivalent to the penalties imposed by competent authorities.

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