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DRAFT STATEMENT OF THE COUNCIL'S REASONS

Subject : Common Position adopted by the Council with a view to the adoption of a Decision of the European Parliament and of the Council on a paperless environment for customs and trade

DRAFT STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

The Commission submitted the above-mentioned proposal to the Council on 5 December 2005.¹

The European Parliament delivered its Opinion at first reading on 12 December 2006, with no amendments to the proposal.

The Economic and Social Committee delivered its Opinion on 13 September 2006.²

Under the codecision procedure (Article 251 TEC), on [...] the Council, having regard to Parliament's first reading, adopted its common position on the draft Decision.

II. OBJECTIVE

The purpose of the proposed Decision is to create an instrument for the implementation of interoperable and accessible automated customs systems, both under the current and the future modernized Customs Code, and for coordinated processes and services. This instrument is intended to create the necessary commitments to implementing different customs electronic systems and the conditions for future commitments to the 'Single Window' and 'One-Stop Shop' concepts. Its main objective is to determine what action needs to be taken and what deadlines met by all stakeholders in order to achieve the objective of a simple and paperless environment for customs and trade by the time the Modernized Customs Code enters into force.

¹ OJ C 49, 29.2.2006, p.37

² OJ C

III. ANALYSIS OF THE COMMON POSITION

1. General

The Council, in its common position, shares the proposal's objective, which is to establish a paperless environment for customs and trade. Given however the technical difficulties inherent to such an ambitious project, linked with a substantial allocation of resources to be committed by national administrations, the Council favours a step-by-step approach, allowing the implementation of the electronic systems in cascading phases.

2. EP Amendments

The European Parliament did not adopt any amendments to the proposal.

3. New elements introduced by the Council

The main points of the common position which differ from the Commission's proposal are as follows:

Recitals 12 and 13

These new Recitals, in conjunction with Articles 15 and 16 empowering the Commission to adopt implementing measures, refer to the extension of the time limits provided for under paragraphs 2, 3 and 5 of Article 4. These measures, being of general scope and designed to amend non-essential elements of the Decision, are to be adopted under the regulatory procedure with scrutiny, in accordance with Council Decision 1999/468/EC of 28 June 1999, as amended by Decision 2006/512/EC.

Article 1 - Electronic customs systems

The drafting has been amended to clarify that the electronic exchange concerns "data contained in customs declarations, documents accompanying the customs declarations, certificates and other relevant information".

Article 2 - Objectives

- Paragraph 1 point (c): the words "and the interception of dangerous and illicit goods" have been deleted, as this objective was already included in the terms "control of goods";
- Paragraph 1 point (d): the word "help" has been added to indicate that electronic systems as such will not ensure the collection of duties, but will assist customs authorities in fulfilling this mission. The terms "customs duties and other charges" have been introduced, in line with the text of the proposal for a Modernized Customs Code;
- Paragraph 1 point (e): the word "receive" has been added to reflect the fact that the information should circulate back and forth along the international supply chain;
- Paragraph 1 point (f): the new drafting reorganises the data flow, between the authorities of exporting and importing countries, as well as between the customs authorities and the economic operators;
- Paragraph 2 point (b): the drafting has been amended to take account of customs-related processes, in line with the objectives laid down in paragraph 1;

- Paragraph 2 point (c): the principle of subsidiarity, already mentioned in Recital 11, concerns the whole Decision and should thus not be repeated here;
- Paragraph 3: The Council considers that the interoperability of the electronic customs systems, not only with the customs systems of third countries, but also with those of international organizations should be fostered, providing that such an objective be subject to proper financial arrangements.

Article 3 - Data exchange

- Paragraph 1 has been re-arranged and shortened, and the terms "customs authorities" have been introduced, in line with the text of the proposal for a Modernized Customs Code. Under point (c), data exchange has been restricted to official agencies;
- In order to take account of current Community legislation on data protection, the Council has inserted a new paragraph 2 concerning the disclosure or communication of data.

Article 4 - Systems and services, and time-table

Article 4 has been amended to allow for cascading time-limits, an approach which the Council considers more appropriate for the implementation of the systems and services foreseen in the proposal.

- Paragraph 1: the common position commits Member States to make operational (and not only establish) the electronic systems under points (a) to (c) in accordance with the requirements and time-tables set in the legislation in force;

- Paragraph 1 point (a): the systems for import and export should interoperate with the system for transit (already implemented). Electronic interfaces have been moved under paragraph 4 point (b);
- Paragraph 1 point (b): the system of registration for economic operators, which should also allow their identification and interoperate with the authorised economic operators system, should take account of existing Community or national systems, in order to avoid overlaps or undue costs;
- Paragraph 1 point (c): the insertion of this new point follows from the proposal for a Modernized Customs Code and the role attributed therein to the authorized economic operator. Common customs portals have been moved to paragraph 2;
- Paragraph 2: provision moved from paragraph 1 point (c): while the drafting has been re-arranged, the substance of this provision on the common customs portals is unchanged;
- Paragraph 3: provision moved from paragraph 2 point (b): while the drafting has been re-arranged, the substance of this provision on an integrated tariff environment is unchanged;
- Paragraph 4: the Council considers that, in order to ensure that the objectives set out in the proposal can be safely met, the Commission should, within three years after the entry into force of this Decision and in partnership with Member States, evaluate the common functional specifications for a framework for single access points, electronic interfaces for economic operators (previously in paragraph 1 point (a)) and single window services;

- Paragraph 5: following the positive evaluation referred to in paragraph 4, within three years, Member States commit to endeavour to establish and make operational the framework for single access points and the electronic interfaces for economic operators;
- Paragraph 6: Member States and the Commission commit to endeavour to establish and make operational the framework of single window services, with progress in this area being evaluated and reported in accordance with Article 12;
- Paragraph 7: the new drafting allows for maintenance of, in addition to improvements to, the systems described in the above paragraphs.

Article 5 - Components and Responsibilities

The amendment to Article 5 clarifies responsibilities for Community and national components, the list of which having been made non-exhaustive, adds feasibility studies to the Community components and specifies the common system specifications.

Article 6 - Tasks of the Commission

- Point (a): the deployment of electronic customs systems has been added to the tasks, the list of which having been made non-exhaustive;
- Point (c): the Council inserted this provision, in order to link the tasks to be completed by the Commission to the multi-annual strategic plan (provided for in Article 8(2));

- Point (e): the Council considers that the co-ordination by the Commission at Community level of electronic customs services and single window services should also foster the promotion and the implementation of these services at national level;
- Point (f): the Council considers that the co-ordination of training needs is the responsibility of the Commission.

Article 7 - Tasks of the Member States

- Paragraph 1 point (a): the deployment of electronic customs systems has been added to the tasks, the list of which having been made non-exhaustive (in line with Article 6, point (a));
- Paragraph 1 point (f): training has been added to the list of tasks under the responsibility of Member States (this provision mirrors Article 6, letter (f));
- Paragraph 2: the Council considers that Member States should communicate annually to the Commission the resources needed to comply with Article 4 and with the multi-annual strategic plan;
- Paragraph 3: the Council considers that Member States should inform the Commission, and not seek its approval, prior to an action on the electronic customs systems which might compromise their interoperability or functioning.

Article 8 - Strategy and Co-ordination

The Council has amended the title of Article 8 to reflect the importance of a proper co-ordination and strategy in the implementation of systems and services foreseen in the proposal. In paragraph 1 point (c), the co-ordination of the information of the customs authorities and economic operators has been added. Paragraph 1 point (e) has been aligned with the new drafting of Article 4.

Article 10 – Financial provisions

- Paragraph 1 creates a link with Article 2(3), and the costs to be borne by third countries and international organizations in accordance with this provision;
- Paragraph 4 : the first part of this provision has been transferred to Article 7(2).

Article 12 - Reports

- Paragraph 2 has been amended, with the delivery date of the annual report being postponed to March, giving sufficient time to Member States to prepare their reporting, and with these reports being based on a standard format;
- In paragraph 3, the Council postpones accordingly, from March to June, the delivery date of the consolidated annual report established by the Commission. This consolidated report should also evaluate the progress achieved by Member States and the Commission, in particular with regard to the implementation of systems and services set out in Article 4, and the possible need for an extension of the time-limits laid down in this Article. The consolidated report, which should also be submitted to the Customs Policy Group, should contain the results of any monitoring visits by the Commission.

Article 15 - Implementing measures

In this new provision, the Council provides for the adoption by the Commission in accordance with the regulatory procedure with scrutiny of implementing measures laying down an extension of the time-limits provided for under paragraphs 2, 3 and 5 of Article 4.

Article 16 - Committee

This new provision provides for the committee whose task is to assist the Commission in the adoption of the implementing measures referred to in Article 15.

IV. CONCLUSION

The Common Position, which has been unanimously adopted by the Council and which is supported by the Commission, has been designed to achieve, within a realistic timeframe and taking into account the technical and political challenges linked to it, the aim of the proposed Decision, which is to establish a paperless environment for customs and trade and to create an instrument for the implementation of interoperable and accessible automated customs systems and for coordinated processes and services.
