



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 23 July 2007  
(OR. en)**

**8520/4/07  
REV 4**

**Interinstitutional File:  
2005/0247 (COD)**

**UD 41  
ENFOCUSTOM 46  
MI 86  
COMER 60  
TRANS 116  
CODEC 352**

**LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: COMMON POSITION adopted by the Council on 23 July 2007 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

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**DECISION No .../2007/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of**

**on a paperless environment for customs and trade**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 95 and 135 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>2</sup>,

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<sup>1</sup> OJ C 318, 23.12.2006, p. 47.

<sup>2</sup> Opinion of the European Parliament of 12 December 2006 (not yet published in the Official Journal), Council Common Position of ... (not yet published in the Official Journal) and Position of the European Parliament of ... (not yet published in the Official Journal).

Whereas:

- (1) The Community and the Member States have committed themselves, under the Lisbon Agenda, to increasing the competitiveness of companies doing business in Europe. Pursuant to Decision 2004/387/EC of the European Parliament and of the Council of 21 April 2004 on interoperable delivery of pan-European e-Government services to public administrations, businesses and citizens (IDABC)<sup>1</sup>, the Commission and the Member States should provide efficient, effective and interoperable information and communication systems for the exchange of information between public administrations and Community citizens.
- (2) The pan-European e-Government action, as provided for by Decision 2004/387/EC, requires measures to increase the efficiency of the organisation of customs controls and ensure the seamless flow of data in order to make customs clearance more efficient, reduce administrative burdens, help to combat fraud, organised crime and terrorism, serve fiscal interests, protect intellectual property and cultural heritage, increase the safety of goods and the security of international trade and enhance health and environmental protection. For that purpose, the provision of information and communication technologies (ICT) for customs purposes is of crucial interest.

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<sup>1</sup> OJ L 144, 30.4.2004, p. 65. Corrected version in OJ L 181, 18.5.2004, p. 25.

- (3) The Council Resolution of 5 December 2003 on creating a simple and paperless environment for customs and trade<sup>1</sup>, which followed on from the Commission Communication on a simple and paperless environment for customs and trade, calls upon the Commission to draw up, in close cooperation with the Member States, a multi-annual strategic plan for creating a coherent and interoperable electronic customs environment for the Community. Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code<sup>2</sup> requires the use of data processing techniques for lodging summary declarations and for the electronic exchange of data between customs authorities, with a view to basing customs controls on automated risk-analysis systems.
- (4) Accordingly, it is necessary to lay down the objectives to be met in creating a paperless environment for customs and trade, as well as the structure, means and time limits for doing so.
- (5) The Commission should implement this Decision in close cooperation with the Member States. It is therefore necessary to specify the respective responsibilities and tasks of the parties concerned and to make provision as to how costs are to be shared between the Commission and the Member States.

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<sup>1</sup> OJ C 305, 16.12.2003, p. 1.

<sup>2</sup> OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

- (6) The Commission and the Member States should share responsibility for the Community and national components of the communication and information exchange systems, in accordance with the principles set out in Decision No 253/2003/EC of the European Parliament and of the Council of 6 February 2003 adopting an action programme for customs in the Community (Customs 2007)<sup>1</sup> and taking account of Decision No 2235/2002/EC of the European Parliament and of the Council of 3 December 2002 adopting a Community programme to improve the operation of taxation systems in the internal market (Fiscalis programme 2003-2007)<sup>2</sup>.
- (7) To ensure compliance with this Decision and consistency between the different systems to be developed, it is necessary to establish a monitoring mechanism.
- (8) Regular reports by Member States and the Commission should provide information on the progress of implementation of this Decision.
- (9) In order to achieve a paperless environment, there is a need for close cooperation between the Commission, customs authorities and economic operators. To facilitate that cooperation, the Customs Policy Group should ensure the coordination of the activities necessary for the implementation of this Decision. Consultation with economic operators should take place at both national and Community level at all stages of the preparation of those activities.
- (10) Acceding countries and candidate countries should be permitted to participate in those activities, with a view to preparing for accession.

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<sup>1</sup> OJ L 36, 12.2.2003, p. 1. Decision as last amended by Decision No 787/2004/EC (OJ L 138, 30.4.2004, p. 12).

<sup>2</sup> OJ L 341, 17.12.2002, p. 1. Decision as amended by Council Regulation (EC) No 885/2004 (OJ L 168, 1.5.2004, p. 1).

- (11) Since the objective of this Decision, namely the creation of a paperless environment for customs and trade, cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Decision does not go beyond what is necessary in order to achieve that objective.
- (12) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>1</sup>.
- (13) In particular, the Commission should be empowered to extend the time limits set out in Article 4(2), (3) and (5) of this Decision. Since those measures are of general scope and are designed to amend non-essential elements of this Decision, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC,

HAVE ADOPTED THIS DECISION:

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<sup>1</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

*Article 1*  
*Electronic customs systems*

The Commission and the Member States shall set up secure, integrated, interoperable and accessible electronic customs systems for the exchange of data contained in customs declarations, documents accompanying customs declarations and certificates and the exchange of other relevant information.

The Commission and the Member States shall provide the structure and means for the operation of those electronic customs systems.

*Article 2*  
*Objectives*

1. The electronic customs systems referred to in Article 1 shall be designed to meet the following objectives:
  - (a) to facilitate import and export procedures;
  - (b) to reduce compliance and administrative costs and to improve clearance times;
  - (c) to coordinate a common approach to the control of goods;
  - (d) to help ensure the proper collection of all customs duties and other charges;
  - (e) to ensure the rapid provision and receipt of relevant information with regard to the international supply chain;

- (f) to enable the seamless flow of data between the administrations of exporting and importing countries, as well as between customs authorities and economic operators, allowing data entered in the system to be re-used.

The integration and evolution of electronic customs systems shall be proportionate to the objectives set out in the first subparagraph.

2. The objectives set out in the first subparagraph of paragraph 1 shall be achieved by at least the following means:
  - (a) the harmonised exchange of information on the basis of internationally accepted data models and message formats;
  - (b) the re-engineering of customs and customs-related processes with a view to optimising their efficiency and effectiveness, to their simplification and to reducing the costs of customs compliance;
  - (c) the offering to economic operators of a wide range of electronic customs services enabling those operators to interact in the same way with the customs authorities of any Member State.
3. For the purposes of paragraph 1, the Community shall promote the interoperability of electronic customs systems with the customs systems of third countries or of international organisations and the accessibility of electronic customs systems to economic operators in third countries, with a view to creating a paperless environment at international level where provided for under international agreements and subject to proper financial arrangements.

*Article 3*  
*Data exchange*

1. The electronic customs systems of the Community and the Member States shall provide for the exchange of data between the customs authorities of the Member States and between those authorities and the following:
  - (a) economic operators;
  - (b) the Commission;
  - (c) other administrations or official agencies involved in the international movement of goods (hereinafter "other administrations or agencies").
  
2. Any disclosure or communication of data shall fully comply with prevailing data protection provisions, in particular Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>1</sup> and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>2</sup>.

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<sup>1</sup> OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

<sup>2</sup> OJ L 8, 12.1.2001, p. 1.

*Article 4*

*Systems, services and time limits*

1. Member States shall, in cooperation with the Commission, make operational the following electronic customs systems according to the requirements and time limits set out in the legislation in force:
  - (a) systems for import and export interoperating with the system for transit and enabling the seamless flow of data from one customs system to another throughout the Community;
  - (b) a system of identification and registration for economic operators interoperating with the authorised economic operators system and enabling those economic operators to register only once for all their interactions with customs authorities throughout the Community, taking into account existing Community or national systems;
  - (c) a system for the authorisation procedure, including the information and consultation process, the management of certificates for authorised economic operators and the registration of those certificates in a data base accessible by customs authorities.
  
2. Member States shall, in cooperation with the Commission and by ...\*, establish and make operational the common customs portals providing economic operators with the information needed for customs transactions in all Member States.

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\* OJ: Three years after the date of entry into force of this Decision.

3. The Commission shall, in cooperation with the Member States and by ...<sup>\*</sup>, establish and make operational an integrated tariff environment enabling connection to other import and export related systems in the Commission and the Member States.
4. The Commission shall, in partnership with the Member States in the Customs Policy Group and by ...<sup>\*\*</sup>, evaluate the common functional specifications for:
  - (a) a framework of single access points, enabling economic operators to use one single interface to lodge electronic customs declarations, even if the customs procedure is carried out in another Member State;
  - (b) electronic interfaces for economic operators enabling them to conduct all customs-related business, even if several Member States are involved, with the customs authorities of the Member State where they are established; and
  - (c) single window services providing for the seamless flow of data between economic operators and customs authorities, between customs authorities and the Commission, and between customs authorities and other administrations or agencies, and enabling economic operators to submit all information required for import or export clearance to customs, including information required by non customs-related legislation.

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<sup>\*</sup> OJ: Five years from the date of entry into force of this Decision.

<sup>\*\*</sup> OJ: Three years from the date of entry into force of this Decision.

5. Within three years of a positive evaluation of the common functional specifications referred to in paragraph 4(a) and (b), the Member States shall, in cooperation with the Commission, endeavour to establish and make operational the framework of single access points and the electronic interfaces.
6. The Member States and the Commission shall endeavour to establish and make operational a framework of single window services. The evaluation of the progress achieved in this area shall be included in the reports referred to in Article 12.
7. The Community and the Member States shall provide for due maintenance of and the required improvements to the systems and services referred to in this Article.

#### *Article 5*

#### *Components and responsibilities*

1. Electronic customs systems shall consist of Community components and national components.
2. The Community components of electronic customs systems shall comprise in particular the following:
  - (a) related feasibility studies and common functional and technical system specifications;

- (b) common products and services, including the necessary common reference systems for customs and customs-related information;
  - (c) services of the Common Communications Network and Common Systems Interface (CCN/CSI) for the Member States;
  - (d) the coordination activities performed by the Member States and the Commission when implementing and operating electronic customs systems within the Community common domain;
  - (e) the coordination activities performed by the Commission when implementing and operating electronic customs systems within the Community external domain, excluding services designed to meet national requirements.
3. The national components of electronic customs systems shall comprise in particular the following:
- (a) the national functional and technical system specifications;
  - (b) the national systems, including databases;
  - (c) network connections between customs authorities and economic operators, and between customs authorities and other administrations or agencies, within the same Member State;
  - (d) any software or equipment which a Member State considers necessary to ensure full use of the system.

*Article 6*  
*Tasks of the Commission*

The Commission shall, in particular, ensure the following:

- (a) the coordination of the setting-up, conformance testing, deployment, operation and support of the Community components, as regards electronic customs systems;
- (b) the coordination of the systems and services provided for in this Decision with other relevant projects relating to e-Government at Community level;
- (c) the completion of the tasks allocated to it under the multi-annual strategic plan provided for in Article 8(2);
- (d) the coordination of the development of Community and national components with a view to a synchronised implementation of projects;
- (e) the coordination at Community level of electronic customs services and single window services with a view to their promotion and implementation at national level;
- (f) the coordination of training needs.

*Article 7*  
*Tasks of the Member States*

1. The Member States shall, in particular, ensure the following:

- (a) the coordination of the setting-up, conformance testing, deployment, operation, and support of the national components, as regards electronic customs systems;

- (b) the coordination of the systems and services provided for in this Decision with other relevant projects relating to e-Government at national level;
  - (c) the completion of the tasks allocated to them under the multi-annual strategic plan provided for in Article 8(2);
  - (d) the regular provision to the Commission of information regarding the measures taken to enable their respective authorities or economic operators to make full use of electronic customs systems;
  - (e) the promotion and implementation at national level of electronic customs services and single window services;
  - (f) the necessary training for customs officials and other competent officials.
2. Member States shall estimate and communicate annually to the Commission the human, budgetary and technical resources needed to comply with Article 4 and with the multi-annual strategic plan provided for in Article 8(2).
3. If there is a risk that an action envisaged by a Member State in relation to the setting-up or operation of electronic customs systems might compromise the overall interoperability or functioning of those systems, that Member State shall inform the Commission thereof prior to taking such action.

*Article 8*  
*Strategy and coordination*

1. The Commission shall, in partnership with the Member States in the Customs Policy Group, ensure the following:
  - (a) the determination of strategies, required resources and development phases;
  - (b) the coordination of all activities related to electronic customs, in order to ensure that resources, including those already used at national and Community level, are used in the best and most efficient manner;
  - (c) the coordination of legal, operational, training and IT development aspects, as well as the provision of information to customs authorities and economic operators as to those aspects;
  - (d) the coordination of the implementation activities of all parties concerned;
  - (e) the compliance by the parties concerned with the time limits set out in Article 4.
  
2. The Commission shall, in partnership with the Member States in the Customs Policy Group, draw up and keep updated a multi-annual strategic plan allocating tasks to the Commission and to the Member States.

*Article 9*  
*Resources*

1. For the purposes of establishing, operating and improving electronic customs systems in accordance with Article 4, the Community shall make available the human, budgetary and technical resources required for the Community components.
2. For the purposes of establishing, operating and improving electronic customs systems in accordance with Article 4, the Member States shall make available the human, budgetary and technical resources required for the national components.

*Article 10*  
*Financial provisions*

1. Without prejudice to the costs to be borne by third countries or international organisations within the framework of Article 2(3), costs relating to the implementation of this Decision shall be shared between the Community and the Member States in accordance with the provisions of paragraphs 2 and 3 of this Article.
2. The Community shall bear the costs relating to the design, acquisition, installation, operation and maintenance of the Community components referred to in Article 5(2), in accordance with the Customs 2007 Programme laid down in Decision No 253/2003/EC and any successor programme thereto.

3. Member States shall bear the costs relating to the setting up and operation of the national components referred to in Article 5(3), including interfaces with other administrations or agencies and economic operators.
4. Member States shall enhance their cooperation with a view to minimising costs by developing cost sharing models and common solutions.

#### *Article 11*

##### *Monitoring*

1. The Commission shall take all the necessary steps to verify that measures financed from the Community budget are being carried out in compliance with this Decision and that the results obtained are consistent with the objectives set out in the first subparagraph of Article 2(1).
2. The Commission shall, in partnership with the Member States in the Customs Policy Group, regularly monitor the progress made by each Member State and by the Commission towards compliance with Article 4, with a view to determining whether the objectives set out in the first subparagraph of Article 2(1) have been achieved and how the effectiveness of the activities involved in the implementation of electronic customs systems may be improved.

#### *Article 12*

##### *Reports*

1. Member States shall regularly report to the Commission on their progress with each task allocated to them under the multi-annual strategic plan referred to in Article 8(2). They shall notify the Commission of the completion of any of those tasks.

2. No later than 31 March of each year, the Member States shall submit to the Commission an annual progress report covering the period 1 January to 31 December of the preceding year. Those annual reports shall be based on a format established by the Commission in partnership with the Member States in the Customs Policy Group.
3. No later than 30 June of each year, the Commission shall, on the basis of the annual reports referred to in paragraph 2, establish a consolidated report evaluating the progress made by Member States and the Commission in particular towards compliance with Article 4, and the possible need for an extension of the time limits set out in Article 4(2), (3) and (5), and submit that report to the parties concerned and to the Customs Policy Group for further consideration.
4. Additionally, the consolidated report referred to in paragraph 3 shall contain the results of any monitoring visits that may be carried out. It shall also contain the results of any other controls and may set out the methods and criteria for use in any later evaluation, in particular evaluation of the extent to which electronic customs systems are interoperable and how they are functioning.

### *Article 13*

#### *Consultation with economic operators*

The Commission and the Member States shall regularly consult economic operators at all stages of the preparation, development and deployment of the systems and services provided for in Article 4.

The Commission and the Member States shall each set up a consultation mechanism bringing together a representative selection of economic operators on a regular basis.

*Article 14*  
*Acceding or candidate countries*

The Commission shall inform the countries which have been recognised as acceding or candidate countries of the preparation, development and deployment of the systems and services provided for in Article 4, and shall allow them to participate therein.

*Article 15*  
*Implementing measures*

Extensions of the time limits set out in Article 4(2), (3) and (5) shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 16(2).

*Article 16*  
*Committee*

1. The Commission shall be assisted by the Customs Code Committee.
2. Where reference is made to this paragraph, Article 5a(1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

*Article 17*  
*Entry into force*

This Decision shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

*Article 18*  
*Addressees*

This Decision is addressed to the Member States.

Done at,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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