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PROPOSAL FOR A UNION CUSTOMS CODE – BUSINESSEUROPE COMMENTS

General comments

BUSINESSEUROPE supports the reform the EU customs regime which should facilitate trade and global competitiveness of European businesses simultaneously ensuring safe and secure trade in the EU. Adaptation of customs legislation to fit and govern the electronic environment for customs and trade in a uniform manner in all EU member countries is a costly and extremely challenging endeavour. This underlines the importance of proper cost/benefit analysis before introduction of any new requirements which increase administrative burden and costs for European companies. Customs rules and regulations should be as simple as possible to avoid differences in their implementation. Explanatory notes and guidelines should only secure their uniform implementation in all member states.

The current economic situation makes financing of the necessary changes in the customs administration and IT systems difficult not only for European businesses but for the member states as well. The reform should not only make customs procedures easier, but also save costs for customs and business. Modern and trade supportive European customs procedures, including efficient IT systems, are a key element in maintaining the European Union's attractiveness as a location for trade and investment into the future. In that respect there is a need for the uniform development of eCustoms: a lack of uniformity in data exchange systems throughout the EU will have serious implications for traders as multiple systems are multiplying cost and wasting development investment.

BUSINESSEUROPE has examined the proposed Union Customs Code (UCC), both in terms of technical details and procedural aspects. Comments are provided whether the envisaged delegated acts constitute essential aspects of the basic act, i.e. the UCC itself. In addition, there are other themes which BUSINESSEUROPE regards as being of essential importance and for which business should in any event the possibility to provide its expertise. In general, lot of modifications and derogations are observed, some of them could constitute a deterioration of the current situation or

the previous proposals made through the Modernised Customs Code (MCC). Overall BUSINESSEUROPE observes a tendency towards a lack of harmonization and more restrictive requirements.

The BUSINESSEUROPE comments are therefore broken down into two parts:

- **PRIORITY ISSUES – Comments on the proposed delegation of powers and other key issues**
 - **Topics which cover essential elements and accordingly cannot be regulated by a delegated act**
 - **Topics which are of primary importance for European companies**
- **SECONDARY ISSUES**

In the recitals, the Commission has included a provision that calls for delegated acts in many places. Essential aspects, which in our view also include the objectives and recitals of a legislative act, should be reserved for the basic legislative act. Hence, if regulation of an area is referred to in the recitals, as an essential aspect it cannot be regulated via a delegated act. BUSINESSEUROPE can only support the call for an issue to be regulated in a harmonised way, but this removes the justification for a delegated act: the way to ensure that a harmonised solution is found is via its treatment in the basic legislative act.

BUSINESSEUROPE welcomes the inclusion of various provisions from the Modernised Customs Code Implementing Provisions (MCC-IP) into the UCC. It would also be desirable to incorporate more important provisions of MCCIP. In this respect, parts of what is currently addressed through delegated acts could be dealt with directly in UCC given their importance.

An example would be the clarification that access under the registration procedure should not have to be exclusively online access (which would anyway be difficult or impossible to realise in practice), but rather include the possibility of local access to data.

In its resolution from last year on the modernization of customs (rapporteur: MEP Matteo Salvini), the European Parliament lists a number of expectations that European customs law to which should be responsive. These proposals, which mostly have BUSINESSEUROPE's support, are only partially to be found in the UCC. This can be



traced precisely to the fact that these issues are to be dealt with via delegated acts. Unfortunately, this leaves open the extent to which the proposals will actually be implemented and should therefore also be taken into account when it is decided whether or not an issue can be dealt with via a delegated act.

Postponement of the ultimate deadline of 24 June 2013 of the MCC Regulation has been unavoidable. However, the ultimate new deadline 31 December 2020 will also turn extremely challenging without a firm commitment to a new timetable. Also a transition period of 8 years seems too long, leading to strong concerns that the advantages linked to centralised clearance and to self assessment will be postponed until the end of the transition period. In addition to the preparation of detailed work programmes there should be a scoreboard-based annual follow-up mechanism to control their proper implementation in each member state.

PRIORITY ISSUES – Comments on the proposed delegation of powers and other key issues → Topics which cover essential elements and accordingly cannot be regulated by a delegated act → Topics which are of primary importance for European companies			
Article in UCC	Content of delegation	Assessment	BUSINESSEUROPE comments
Authorised Economic Operator (art. 21-23)			
Art. 23	<p>Under this provision, the Commission is empowered to adopt delegated acts relating to</p> <ul style="list-style-type: none"> - rules for granting the status of authorised economic operator (AEO), and - facilitations granted to authorised economic operators for the security and safety. 	<p>In connection with simplifications, the AEO status will in future play a crucial role. This applies in particular with regard to the fact that certification as an AEO will be the deciding factor for the grant of customs simplifications. Furthermore, the AEO is a concept which goes beyond the UCC, in other words it is important for all aspects of customs. To this can be added that the concept of AEO will also play a role in the framework of international agreements.</p> <p>The UCC objectives are reflected in the recitals, hereby recital 11 (para. 19) states compliant and trustworthy economic operators should, as AEOs, be able to take maximum advantage of simplifications. For this reason, the rules laid down for AEOs should fundamentally be qualified as essential elements aspects which must remain the province of the basic legislative act.</p>	<p>Authorisation rules and simplifications for security and safety are of decisive importance for the competitiveness of EU businesses and should therefore not be regulated through delegated acts adopted by the European Commission.</p> <p>The conditions for AEO status in particular are essential aspects and should be dealt with directly in the UCC.</p>



Decisions relating to the application of customs legislation (art. 24-34)			
Art. 25	<p>According to this provision, the Commission can adopt delegated acts to specify</p> <ul style="list-style-type: none"> - rules on the procedure for taking customs-related decisions, - cases where an applicant has no opportunity to express an opinion, and - rules for monitoring, reassessing and suspending decisions. 	<p>Every request for customs clearance, simplification, report, etc., is linked to a customs-related decision. Whether and to what extent customs-related decisions are to be taken, monitored, reassessed or suspended is an essential aspect which should not be regulated by the European Commission through a delegated act. Such decisions relate to all areas of UCC.</p> <p>In particular, the legal right to a hearing is essential and a fundamental aspect. Absence of an opportunity to express an opinion is an infringement of constitutional rights.</p> <p>The UCC recitals also stipulate (para. 21) that every person has a right to be heard before any adverse decision is taken. In line with para. 20, decisions should be covered by the same rules and also be valid throughout the EU.</p>	<p>These are essential aspects which should be directly dealt within the UCC.</p>
Non-preferential origin (art. 52-55)			
Art. 55	<p>According to this provision, the European Commission can specify</p> <ul style="list-style-type: none"> - non-preferential rules of origin, and 	<p>The origin of a good is an essential aspect of import or export. For that reason, the European Commission should not be empowered to decide on the requirements for rules and proof of origin through</p>	<p>Specifications on non-preferential rules of origin cannot be defined as non-essential elements of the UCC and accordingly not be</p>



	<p>- requirements for the proof of origin through delegated acts.</p>	<p>delegated acts. The basis for delegation covers origin of goods conclusively and in all aspects. No room is left for the legislator to set its own requirements in the basic legislative act.</p> <p>Apart from that, rules of origin have far-reaching implications. These are not merely procedural questions but an area that has a strong impact on the competitiveness of EU companies. In addition to customs, non-preferential Rules of Origin are also used in other domains such as labelling or Trade Defence Instruments.</p> <p>Through delegated acts completely new rules could also be introduced which might go against art. 53 UCC. Moreover, the design of rules of origin has a strong impact on Chambers of Commerce in EU Member States and pose questions of extraterritoriality.</p>	<p>dealt with through delegated acts.</p> <p>BUSINESSEUROPE strongly opposes the treatment of these essential aspects in a delegated act. Provisions dealing with rules of origin must be dealt with directly in the UCC (basic act).</p> <p>Para 27 in the recitals should be deleted in this connection.</p>
<p><i>Value of goods for customs purposes (art. 61-64)</i></p>			
<p>Art. 64</p>	<p>Under this provision, the European Commission can adopt delegated acts to specify</p> <p>- the rules for determining customs value,</p>	<p>Customs value is an essential element for determining the customs debt or a security aspect, and inasmuch influences trade with import goods and production costs where there is inward processing in the EU. Such essential aspects should not be decided by the European Commission</p>	<p>These are essential aspects which should be directly dealt within the UCC.</p>



	<ul style="list-style-type: none"> - the rules for customs-related price adjustment, - whether the transaction value is applicable, and - when and under what special rules the customs value should be determined on the basis of the transaction value. 	<p>through delegated acts.</p> <p>Customs value has a direct impact on the levies to be collected and hence also on the EU budget. This fact alone demonstrates that the rules for customs value are essential aspects of UCC.</p> <p>In addition, the rules governing customs value are stipulated in the GATT Customs Valuation Code. With regard in particular on the first sale rule, there are also fundamental doubts about regulation in this area via a delegated act.</p>	
<i>Entry summary declaration (art.114-118)</i>			
Art. 118	<p>In application of this provision, the European Commission can specify via delegated acts:</p> <ul style="list-style-type: none"> - the procedural rules for lodging an entry summary declaration, - the time limit within which risk analysis is to be carried out and the necessary measures taken, - procedural rules for amending an entry summary declaration, and - the time limit within which an entry summary declaration is deemed 	<p>Lodging an entry summary declaration for an import good is a precondition for a good to be imported into the EU. Accordingly, the issue of who should regulate the procedure for this is of essential importance and should not be determined by the European Commission via delegated acts.</p> <p>Moreover, the rules governing entry summary declarations are of great importance against the background of international goods flows and the requirements for proper risk analysis (in particular for goods flows with the US).</p>	<p>These are essential aspects which should be directly dealt within the UCC or through implementing acts.</p> <p>Moreover, it should once more be made clear here how the responsibility of the freight carrier is regulated.</p>



	<p>not to have been lodged,</p>	<p>This also applies for derogations. If this area is not addressed with prudence, the result can be considerable delays and unnecessary hindrances, going as far as making it impossible to implement processes. This would lead to considerable competitive disadvantages.</p> <p>The UCC recitals refer to simple, rapid and standardised customs procedures, for both the purpose to make fraud more difficult but also to facilitate legal trade.</p>	
<p><i>Placing goods under a customs procedure (art. 134-139)</i></p>			
<p>Art. 139</p>	<p>This provision relates to centralized clearance.</p>	<p>Among other things, central clearance sets the conditions which make it possible to bring a good into the EU at any location without a requirement for the physical presence of the operator. Even if it is still necessary to adapt numerous national provisions, first and foremost import tax rules, central customs clearance should be regarded as one of the indispensable instruments for a single Europe,</p> <p>The UCC proposes that traders authorized for centralized clearance are now facing a two step clearance procedure; both the office of declaration, where the trader is established, and the office where the goods are presented, will take responsibility for release of the goods for</p>	<p>Central customs clearance will be a decisive instrument for EU implementation, in particular in the future.</p> <p>The objective must be to create practicable solutions that simplify the process also in other areas than customs regulations (e.g. taxation, excise duties, statistics); only in cases of simplified and also central solutions for these other regulations, the central customs clearance will be an attractive tool for companies and customs administrations.</p>



		<p>the procedure, and have the right to verify the declaration data and exercise full controls before release.</p> <p>This will not only deprive authorization to use centralized clearance of all of its intended benefits and increase costs especially for SMEs, but render it so meritless as to be effectively unworkable.</p> <p>Concerning customs declarations, there is no definition of lodgement, i.e. it is unclear whether or not the making available of data by entry in the records or otherwise is considered a release.</p>	<p>The supervising customs office should pilot all the centralised clearance; otherwise centralised clearance would be done on the basis of the normal procedure.</p>
<p><i>Provisions applying to all customs declarations (art. 146-151)</i></p>			
<p>Art. 148</p>	<p>This provision deals with the acceptance of a customs declaration.</p>	<p>The provision of former MCC article 112 (2) was a key principle of centralized clearance as originally conceived and provided for. The legal framework that allows for this should be protected, whether or not a centralized IT system is available at the moment. The 'correction' may be seen as to imply that there is no intention to deliver centralised clearance as originally conceived and promoted; the correction will, in fact, effectively prevent this.</p> <p>The restriction of acceptance to after</p>	<p>The essence of the UCC is to provide a legal framework within which modern processes and systems may be developed and taken forward. It should provide for what may be achievable in the future, not constrained by the technical limitations of the present time.</p>



		<p>presentation, i.e. after arrival, would mean that the possibility of pre-arrival notification (PAN) of whether goods are immediately to be released or to be selected for control will be impossible. It is simply incomprehensible that AEOs can be advised, prior to presentation, of selection for security and safety controls but not of those concerned with lesser fiscal measures.</p> <p>Overall, the provisions are out of line with the recommendations of the revised Kyoto Convention, as set out in UCC recital 40. Moreover, they fail to deliver a legal basis for future IT development in the field of centralized clearance.</p>	
<p><i>Other simplifications (art. 152-157)</i></p>			
<p>Art. 155</p>	<p>Under this provision, the European Commission can adopt delegated acts to specify</p> <ul style="list-style-type: none"> - the rules for grant of local customs clearance authorisation, - the procedural rules for lodging a customs declaration in the form of an entry in the declarant's records, - the obligations of the holder of the authorisation, and 	<p>In the framework of local customs clearance procedure, the existing possibility is of great importance whereby the entry in the declarant's records with notification waiver is equivalent to release of the goods in particular.</p> <p>On the basis of this provision, a production company can currently have direct access to the good once it has been entered in the company's records. Removal of this provision would mean that business processes in the production and</p>	<p>These aspects should be dealt with directly in the UCC as they are decisive provisions whose curtailment or removal would lead to considerable delays going as far as making it no longer possible to complete processes</p> <p>Modernisation of the customs code should facilitate trade, inter alia also by simplifying</p>



	<ul style="list-style-type: none"> - the procedural rules for taking the necessary measures to ensure that the holder of the authorisation meets his obligations. 	<p>preparation of components for assembly would have to be reorganised to allow for the fact that the good would only become available once it had been granted customs clearance. For a large undertaking, this would be impossible or possible only with a considerable effort. These processes are structured in such a way that the good is delivered just in time, thereby determining economic feasibility via off-take capacities, the specific characteristics of carriers and the capacity load on production installations. Delays due to a clearance requirement in specific cases would jeopardise the entire process and burden the EU economy with considerable competitive disadvantages.</p>	<p>procedures and adjusting rules to reflect economic realities. Cancellation of these simplifications would have serious negative impacts on the competitiveness of EU companies.</p>
<p>Art. 157</p>	<p>These provisions relate to self-assessment where the Commission should be empowered to adopt delegated acts specifying</p> <ul style="list-style-type: none"> - the rules for the granting of the authorisation; - the customs formalities and the controls to be carried out by the holder of the authorisation; - the obligations of the holder of the authorisation; - the rules on the procedure for taking the necessary measures. 	<p>This theme is of great importance since it creates possibilities for innovative and forward-looking solutions. Customs rules should reflect the new business reality (see UCC recitals para 13). For instance, it could be possible to apply self-assessment in the area of import tax.</p> <p>Simplifications curtailed in other areas could be rectified via this route. Inasmuch, this theme is of great importance as a basis for absolutely necessary emergency solutions, or what might be termed “supplementary solutions”.</p>	<p>Self-assessment would be well accepted provided it could be read in a positive way for economic operators who chose to use the benefits of clearance procedures (e.g. through full implementation of centralized clearance.</p> <p>These essential elements should be covered directly by the UCC.</p>



General provisions on special procedures (art. 180-192)			
<p>Art. 182</p>	<p>Under this provision, the European Commission can adopt delegated acts specifying, for special customs procedures,</p> <ul style="list-style-type: none"> - the rules for granting the authorisation, - the period for retroactive effect, - exceptions to the conditions for authorisation, - the rules for examining the economic conditions, - obligations of the authorisation holder, and - procedural rules. 	<p>Special customs procedures are decisive for the competitiveness of EU businesses on the global market. Authorisation conditions, exceptions and holder obligations are all essential aspects which should not be regulated by the European Commission via delegated acts. Regulating details of the authorisation grant for special procedures in administrative provisions prompts criticism. An authorisation defines essential aspects of the procedure, in particular rights (and obligations) of economic operators, and goes far beyond technical rules to be determined in administrative provisions.</p> <p>Special procedures play an essential role with respect to improving the competitive situation by exploiting the possibilities for savings. Recital 30 (para. 43 UCC) calls for common and simple rules to be laid down for special procedures. Simple and standardised customs procedures contribute to facilitation of legal trade and hence to the fundamental objectives of UCC. Furthermore, they are an important tool for coming to grips with the demands of a highly modernised age, for both economic operators and customs authorities.</p>	<p>These are essential aspects which should be directly dealt within the UCC.</p>

SECONDARY ISSUES			
Article in UCC	Content of delegation	Assessment	BUSINESSEUROPE comments
<i>Recitals</i>			
Recital (15)	This recital relates to the use of information technologies.	<p>Already today, where IT is not yet available to cover the whole operation, confusion, approximation and discrimination emerge, with extremely high costs. The "hasty" approach to the implementation of IT solutions and of electronic data interchange in activities related to customs requirements and, especially, to declarations is very serious, bearing the risk:</p> <ul style="list-style-type: none"> - to make resounding steps backward, - to promote out of time and inappropriate practices by now, that would be welcome only by some representative, - to install restoring habits to risk analysis on a personal basis or, worse, on the basis of improper pressures by customs authorities who may choose not traceable paths and procedures. 	<p>It would be worthwhile to intensify computerization efforts and forecast very circumstantial exceptions at local and regional level, justified by a special procedure, monitored by the Commission and also by the Council.</p> <p>If suitable systems are in place for other areas, (e.g. port clearance systems), then these should be used as substitutes in order to avoid additional burdens that would be created through the establishment of two different systems.</p>
<i>Scope of customs legislation, mission of customs and definitions (art. 1-5)</i>			
Art. 5 (30)	This article defines the "holder of the goods"	The provision creates a liability without establishing responsibility.	The definition is based upon options and does not



			establish where the primary responsibility lies, particularly where liability is involved, such as in Articles 124 (4) and 167. The definition should be revised to establish a clear hierarchy.
<i>Rights and obligations of persons with regard to customs legislation (art. 6-17)</i>			
Art. 6 (3)	This provision deals with derogations for the exchange and storage of data.	The lack of uniformity in data exchange systems throughout the EU will have serious implications for traders as multiple systems are multiplying costs and wasting development investment.	This derogation will create loopholes in the rules for declaration throughout the Union and is fundamentally out of line with the principles of the modernized Code, in particular the uniform application of legislation and controls, and of a single customs union. Transitional arrangements must be specific and EU wide in their application.
<i>Customs representation (art. 18-20)</i>			
Art. 14, 18 & 19	These articles deal with <ul style="list-style-type: none"> - the provision of information to the customs authorities; - the appointment of a customs representatives; and 	The UCC provisions essentially recall the same responsibilities of the declarant, represented and representative contained in article 5 of the current Custom Code. The current representation institute is inefficient according to what customs	Unfortunately the UCC confirms this situation, despite some changes in relation to the extension of the responsibility of the representative.



	<ul style="list-style-type: none"> - the empowerment of a customs representative. 	<p>regulations ask for – despite the fact that, during the completion of customs formalities there is a substantial relief for representatives who have to comply only with formal obligations. However, as a consequence of European and national consolidated jurisprudence practices it is always the represented that is considered being fully responsible even when the inaccuracy or falseness of the information is due to complex regulations, usually unknown to the economic operator.</p>	<p>The responsibility of the representative should be strengthened, as for the transparency of the relationship with the representee. This could be reached, for example, through the request of the subscription of a detailed mandate and the possibility of special dispensation to the principles of responsibility (in favour of the representee exclusively).</p> <p>Furthermore, the institution of representation should be linked to the general regulations concerning mandate, as they are widely used in the ordinary laws of member Countries.</p>
<p>Art. 14 (2b)</p>	<p>This article deals with the provision of information to the customs authorities, identifying the responsibility for the person concerned.</p>	<p>The importer ("the person concerned") is responsible for the authenticity of any document supporting the declaration, application. It is questionable how the importer could take responsibility for e.g. an invoice or an origin declaration from a supplier.</p> <p>There is no problem provided the importer's responsibility is to have an</p>	<p>The importer is responsible, that the invoice etc. is provided to customs. If the invoice etc. is obvious incorrect, it incurs to the importer to provide a new document with correct data. He would not be responsible in case of incorrect data in cases it is impossible for him</p>



		invoice from the supplier. However, there are concerns when the importer is responsible for the content of a document received from the supplier – as this would create interpretational issues.	to identify the incorrectness. Moreover, this article should be modified, at least in relation to the authenticity of documents, since in many countries this can only be done by a notary or a technical expert.
Art. 15	This provision deals with electronic systems.	This provision is unclear and seems to be in contradiction to the harmonization position.	This article should be redrafted in order to provide more clarity.
<i>Application and authorisation (art. 21-23)</i>			
Art. 21	This article lays out conditions for the application and authorization for the AEO	The status of the Authorised Economic Operator shall be recognised by the customs authorities in all Member States, without prejudice to customs controls” (cf. Art. 21 para 4 UCC) – this is a very important element.	Mutual recognition is necessary in order to have reciprocity in the procedure. It is therefore important to preserve the regulation in art. 21 (4). Additional elements: - All aspects related to the AEO, and in particular those referring to its benefits, should be included in one article, despite the use of other articles for further development of this instrument, in order to promote AEO certification;



			<ul style="list-style-type: none"> - Since certain simplified procedures ask for requirements the AEO has already fulfilled in order to gain this status, these requirements should be considered automatically fulfilled by the AEO. - In relation to the exceptions made, in certain cases, to the obligation of being established in the customs territory of the Union, the differences between the concept of establishment on a VAT basis or on a direct taxation basis should be discussed. Moreover, the UCC should address the possibility of becoming a AEO for operators from third countries with which reciprocity agreements have been signed.
<i>Decisions relating to the application of customs legislation (art. 24-34)</i>			
Art. 31	<p>This provision empowers the Commission to adopt delegated acts specifying</p> <ul style="list-style-type: none"> - the decisions which are not valid throughout the customs territory of the Union; 	<p>These are fundamental provisions which have an impact across the whole of customs law.</p>	<p>This should be covered either directly in the UCC or by an implementing act.</p>

	- the rules on the procedure for annulling, revoking or amending favourable decisions		
<i>Guarantee for a potential or existing customs debt (art. 77-88)</i>			
Art. 83	This provision deals with comprehensive guarantee.	The provisions lead to an unnecessary duplication of guarantee requirement. This will inevitably lead to increasing costs. Moreover, it fails to be responsive to the principle set out in Recital 31 (44) UCC.	<p>The ‘corrections’ fail to address the mistaken interpretation of Article 83(2) that restricts reduction / 100% waiver to potential debt. This is completely impractical.</p> <p>It would mean that a debt is no longer covered by a guarantee and a new full guarantee will be sought to cover the debt as soon it is incurred by the holder of a reduced comprehensive guarantee or a waiver,</p> <p>Such an arrangement would be both onerous and unnecessary. The whole point of authorisation to use these reductions is that the holder has proven solvency and is fully able to pay his incurred debts, without additional security.</p>
Art. 87	This provision empowers the Commission to adopt delegated acts	Currently some EU-member states do not request a guarantee for some Customs	These provisions should be covered by an implementing



	<p>specifying:</p> <ul style="list-style-type: none"> - the cases where the guarantee covers other charges; - the specific cases where no guarantee is required; - the rules for a guarantee to be valid only in one Member States; - the rules for determining the amount of the guarantee; - the rules on the form of the guarantee and the guarantor; 	<p>procedures with economic impact (such as IPR). The provision of guarantees implies additional costs and the management of the guarantee (such as for IPR) may require additional data reported to Customs.</p>	<p>act.</p>
<p><i>Payment of the amount of import or export duty (art. 96-102)</i></p>			
<p>Art. 102</p>	<p>This provision empowers the Commission to adopt delegated acts specifying:</p> <ul style="list-style-type: none"> - the rules for the suspension of the time-limit for payment of the amount of import or export duty corresponding to a customs debt and the period of suspension; - the cases where the obligation to charge credit interest is waived; - the cases where the obligation to charge interest on arrears is waived. 	<p>This is ultimately a matter for uniform executive implementation of suspension of payment by the Member States. Accordingly the Member States should have the corresponding possibilities to influence the generation of rules.</p>	<p>This should be regulated as an implementing act in the examination procedure.</p>
<p><i>Repayment and remission (art. 103-110)</i></p>			
<p>Art. 109</p>	<p>This provisions empowers the Commission to adopt delegated acts specifying amongst others:</p>	<p>Definition of cases where special circumstances exist is a central characteristic for repayment of a</p>	<p>This should be regulated as an implementing act in the examination procedure.</p>



	<ul style="list-style-type: none"> - the rules on the procedure for repayment and remission; - the special circumstances. 	<p>remission. Due to the basis for the transfer of power, only an abstract definition of special circumstances could be specified, despite the fact concrete examples of cases (e.g. certain omissions by national customs administrations) might be listed at national level which could give rise to special circumstances. When criteria/cases are specified, it is therefore the member states which have to apply the fairness rules.</p>	
<p><i>Extinguishment of a customs debt (art. 111-113)</i></p>			
Art. 113	<p>This provision empowers the Commission to adopt delegated acts specifying the list of failures with no significant effect on the correct operation of the customs procedure concerned, with the result that customs debt is extinguished under the UCC.</p>	<p>Corresponding legislative acts which list failures of the customs debtor that have had no significant effect should be adopted in the examination procedure in order to involve the Member States in the drafting of the central debt extinction provision in article 111 UCC.</p>	<p>This should be regulated as an implementing act in the examination procedure.</p>



Entry summary declaration (art. 114-118)			
Art. 114	These provisions relate to the lodging of an entry summary declaration (ENS).	<p>The provisions unnecessarily duplicate the format and provision of electronic data if separate ENS can be demanded by customs authorities. This might result in possible delay and increasing costs.</p> <p>The UCC completely removes the primary responsibility, i.e. of the carrier, intended and laid down by the MCC.</p>	<p>The use of commercial, port or transport information as an entry summary declaration, provided it contains the correct data, should be the primary method of such a declaration throughout the EU, without it being subject to approval by individual customs authorities.</p> <p>It is difficult to see who else, other than the carrier, can be obliged to lodge, or to control the lodgement, of the ENS; the present legal framework here remains sound and it is imperative that it be retained.</p>
Simplified customs declaration (art. 143-145)			
Art. 145	This provision deals with simplified customs declarations.	The consequences here, leading to reduced possibilities, are not as great as in the area of the local customs clearance procedure, but here too this would impact negatively on the companies' competitiveness. The UCC stated objectives also include a simplification of customs declarations and transfer into the customs procedure (cf. para 39 of the	Although the title of this chapter is "simplified customs declarations", art. 144 (specific cases when the obligation to lodge a supplementary declaration shall be waived) is also in relation with local customs clearance. The waiver is of



		recitals of UCC).	such an importance that the cases should be listed in the basic act.
Other simplifications (art. 152-157)			
Art. 154	This provision deals with the entry in the declarant's record	<p>Entry in the declarant's record is one of the major customs simplifications that should result from the UCC (cf. comment on Art. 155).</p> <p>Clarification is necessary whether the authorization to lodge customs declaration in the form of an entry in the records will only be granted if customs authorities have (online) access to the declarant's electronic system. This would be an unjustified restriction, online access must not be a prerequisite for this simplified declaration procedure.</p>	All these facilitations – without a requirement to grant online access to the declarant's electronic system – should be automatically applicable to companies that have been granted AEO status.
Special procedures (art. 180-192)			
Art. 181 & 191	<p>These provisions deal with</p> <ul style="list-style-type: none"> - the requirements for an authorisation to use special procedures; - the specifications for equivalent goods. 	The provision devalue the AEO status by adding further conditions for the use of special procedures. It requires an repeated assessment of criteria for the AEO status, based on the condition: "insofar as the activity pertaining to the special procedure concerned was taken into account when granting that authorisation".	The condition "insofar as the activity pertaining to the special procedure concerned was taken into account when granting that authorisation" is simply indefensible and totally contrary to the letter and spirit of the MCC. It devalues AEO status and effectively means that an



		Application of this provision will result in increasing costs, especially for SMEs.	AEO be required to reapply for that status every time it wishes to extend its operation. AEOs, by definition, should be seen as compliant to these criteria. Any additional rules for use of a procedure can be made clear even in guidelines. This should be regulated in the form of an implementing act.
Art. 191 (3b)	This provision states that the use of equivalent goods is not authorised when prohibition of drawback applies.	The meaning and sense of this provision are not clear.	This provision should be either redrafted or deleted.
Storage (art. 199-202)			
Art. 202	This provision empowers the Commission to adopt delegated acts specifying <ul style="list-style-type: none"> - the cases where Union goods are placed under customs warehousing or free zone procedure; - the rules on customs supervision; - the obligations for the holder of authorisation and of procedure; - the rules to set a time limit by which the storage is to be discharged; 	The withdrawal of use of Entry Summary Declaration (ENS) as declaration for “Temporary Storage and the lack of waiver from declaration for Temporary Storage for short term storage will have the following consequences: <ul style="list-style-type: none"> - up to 26 million additional declarations annually for the express sector (30% of current volume of declarations); - exposure to additional entry processing and customs controls, resulting in possible delay and increasing costs; - negative impact upon customs 	The introduction of an additional declaration – a customs declaration for temporary storage (CDTS) – is without justification and simply cannot be seen to be within either the spirit or the letter of the MCC. The ENS, or a transit document replacing it, clearly fulfils the requirement for a declaration for storage. Additional data reasonably



	- the rules for lodging the declaration for temporary storage.	resources and effective deployment.	required for storage under customs supervision can, and should, be part of the notification consistent in presentation of the goods.
Temporary storage (art. 203-204)			
Art. 203	This provisions deals with the placement of goods under the temporary storage procedure.	A declaration has to be lodged in case of temporary storage – this is a real new element in the UCC. Such a change might require system/procedure changes or administrative changes.	Temporary storage should be a customs procedure, but without additional requirements as they exist for customs procedure (e.g. to file a declaration). It is necessary to include waivers or exemptions for obligations normally requested in case of a customs procedure (e.g. waiver of a declaration).
Temporary admission (art. 214-217)			
Art. 217	These provisions relate to temporary admission where the Commission should be empowered to adopt delegated acts.	The convention on temporary admission is an essential aspect which cannot be dealt with through a delegated act.	The provisions of the 26 June 1990 convention on temporary admission (Istanbul convention) and its annexes must be incorporated in an ordinary legislative act.
Goods brought out of the customs territory of the Union (art. 228-242)			
Art. 230, 238 & 241	These provisions empowers the Commission to adopt delegated acts in	Provisions on pre-departure declarations are of essential importance against the	If this area is not addressed with prudence, the result can

	<p>the areas of:</p> <ul style="list-style-type: none"> - pre-departure declarations (art. 230); - exit summary declarations (art. 238); - re-export advice (art. 241). 	<p>background of international goods flows and the requirements for proper risk analysis (in particular for goods flows with the US). This also applies to derogations.</p>	<p>be considerable delays and unnecessary hindrances. This would inevitably be associated with considerable competitive disadvantages.</p>
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