



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 30.11.2004
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2003/0167 (COD)

**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to the second subparagraph of Article 251 (2) of the EC Treaty

concerning the

**common position of the Council on the adoption of a proposal for a Regulation of the
European Parliament and the Council amending Council Regulation (EEC) No 2913/92
establishing the Community Customs Code**

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1. BACKGROUND

Proposal sent to the EP and the Council (document COM(2003)452 final – 2003/0167 (COD): 24th July 2003.

Opinion of the European Parliament, first reading: 20th April 2004

Amended proposal made orally by the Commission to the Council Working Party on Customs Union (Legislation & Policy): 4th May 2004

Adoption of the common position: 29.11.2004

2. OBJECTIVE OF THE COMMISSION PROPOSAL

The aim of the proposal is to provide the legal framework and, thereby, the possibility for the rapid implementation of enhanced security controls of goods crossing EU borders, including requirements linked to the US Container Security Initiative (CSI), while, at the same time, remaining in step with the e-customs plans for the future.

3. COMMENTS ON THE COMMON POSITION

3.1 General

The common position, on which political agreement was reached on the 18th May 2004, follows the general lines of the Commission's amended proposal. The changes have been made in order to provide greater clarity and to provide for a more flexible and suitable legislation that will meet the aim of maintaining a proper balance between customs controls and the facilitation of legitimate trade.

3.2 Consideration of the amendments proposed by Parliament at first reading

In its common position the Council did not agree to all of the amendments proposed by the European Parliament, but eighteen of the twenty six amendments adopted by

the Parliament are incorporated, in principle, into this common position. This concerns amendments 1, 3, 4, 7, 11 to 23 inclusive and 26.

The Council did not accept those amendments with which the Commission disagreed;

- Amendments 2, 5, 6, 24 and 25, which would limit the new measures only to imports and restrict the roles of customs offices in the application of risk-based controls relating to safety and security; these have been rejected as not in keeping with the intentions of the amended legislation;
- Amendment 9, as it is not consistent with the improved legislation, relating to facilitations for reliable economic operators, contained in the common position; and
- Amendments 8 and 10, which are not in line with the terminology used in other provisions within the Customs Code.

3.3. New provisions introduced by the Council

The common position includes certain further modifications, made by the Council, which will strengthen the safety and security aspects, including the requirement for pre-departure declarations for exports (Articles 182a – 182d), which are in line with the Community taking a global approach to security and safety for exports to all countries, not just those imposing additional security measures on imports, such as the USA, and with recent WCO documents on the responsibilities of parties in an end-to-end international supply chain.

The common position also provides better for Community-wide common rules, such as for pre-arrival declarations (Articles 36a- 36c), and includes clear definition of the role of customs offices (Article 4), in line with the Council Conclusion on the role of customs in the integrated management of external borders.

Furthermore, the position now establishes an effective framework for an authorised economic operator programme (Article 5a) through which reliable traders will be able to benefit from trade facilitation and security certification, an initiative widely supported both by Member States and by traders

4. CONCLUSION

The Commission fully supports the common position which incorporates and improves upon a number of the amendments made by the EP.