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on implementing trade policy through efficient import and export rules and procedures
(2007/2256(INI))

Committee on International Trade

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on implementing trade policy through efficient import and export rules and procedures (2007/2256(INI))

The European Parliament,

- having regard to the Treaty establishing the European Community, and in particular to its Articles 23 to 31, 95, 133 and 135,
- having regard to the Lisbon Treaty of 13 December 2007¹, currently being ratified by the Member States,
- having regard to the Convention establishing a Customs Cooperation Council, which was signed in Brussels on 15 December 1950 and came into force on 4 November 1952,
- having regard to the 1994 General Agreement on Tariffs and Trade (GATT), and in particular to its Articles V, VIII and X,
- having regard to the Ministerial Declaration of the World Trade Organisation (WTO) adopted in Singapore on 13 December 1996, and in particular to its paragraph 21,
- having regard to the WTO Ministerial Declaration adopted in Doha on 14 November 2001, and in particular to its paragraph 27,
- having regard to the decision adopted by the WTO General Council on 1 August 2004, and in particular to its Annex D on the Modalities for Negotiations on Trade Facilitation,
- having regard to the WTO Ministerial Declaration adopted in Hong Kong on 18 December 2005, and in particular to its paragraph 33 and Annex E,
- having regard to the reports of the Special Group and the WTO Dispute Settlement Body in Case (WT/DS315), European Communities - Selected Customs Matters,
- having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code²,
- having regard to the proposal for a regulation of the European Parliament and of the Council laying down the Community Customs Code (Modernised Customs Code) (COM)(2005)0608),
- having regard to Decision No 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless environment for customs and trade³,
- having regard to the proposal for a decision of the European Parliament and of the

¹ OJ C 306, 17.12.2007, p. 1.

² OJ L 302, 19.10.1992, p. 1.

³ OJ L 23, 26.1.2008, p. 21.

Council establishing an action programme for customs in the Community (Customs 2013) (COM(2006)0201),

- having regard to the Communication from the Commission of 16 March 2005 on the rules of origin in preferential trade arrangements - Orientations for the future (COM(2005)0100),
 - having regard to the Communication from the Commission of 1 April 2008 entitled 'Strategy for the evolution of the Customs Union' (COM(2008)0169),
 - having regard to the draft Commission regulation (2046/2007) on the rules of origin of the Generalised System of Preferences, currently under consideration by the Customs Code Committee,
 - having regard to the International Convention on the Simplification and Harmonisation of Customs Procedures (Kyoto Convention), as amended,
 - having regard to the proposal for a Council decision on the accession of the European Communities to the World Customs Organisation (WCO) and the exercise of rights and obligations akin to membership ad interim (COM(2007)0252),
 - having regard to the final report of 15 June 2007 of the Commission's Directorate-General for Taxation and Customs Union on 'The future role of Customs',
 - having regard to the proceedings of the hearing held on 19 December 2007 in Parliament's Committee on International Trade on the topic 'Implementing trade policy through efficient import and export rules and procedures',
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade (A6-0184/2008),
- A. whereas the customs union is one of the historic foundations on which the economic and political integration of the European continent was built,
- B. whereas the concepts of customs union and common trade policy are coterminous,
- C. whereas the European Union's import and export rules and procedures continue to play a crucial role in the smooth functioning of the internal market,
- D. whereas, over the years, the common trade policy has undergone important changes which have required - and continue to require - continual adjustments to the import and export rules and procedures,
- E. whereas the common trade policy can only function by basing itself on efficient rules and procedures with regard to the import and export of goods,
- F. whereas simplifying and updating the import and export rules and procedures in the European Union and at international level are of strategic importance for competitiveness and trade,

- G. whereas the specific problems encountered by small and medium-sized enterprises (SMEs) with regard to mastering customs rules and procedures often impede such firms' access to international trade and prevent them from taking full advantage of all the opportunities offered by globalisation,
- H. whereas correct assessment of the tariff classification, origin and value of imported goods is essential for the proper application of the common customs tariff, tariff preferences, anti-dumping and anti-subsidy measures and a whole range of other trade policy instruments,
- I. whereas excessively burdensome or lengthy customs rules and procedures are obstacles to the international trade in goods and are regarded by economic operators, in particular by SMEs, to be amongst the key non-tariff barriers to trade,
- J. whereas the role of customs is now moving away from the simple collection of customs duties, an important task which, however, has been considerably scaled down over the last 20 years, towards the application of non-tariff measures, especially in respect of security and safety, combating counterfeiting, money laundering and drugs, and towards the application of measures concerning health, the environment and consumer protection, not to mention the collection of VAT and import/excise duties and exemption from export/excise duties, as well as, of course, compliance with the Union's trade policies,
- K. having regard to the efforts made since August 2004 in the context of the WTO and the Doha Round to negotiate a binding multilateral agreement on trade facilitation, and taking note of the difficulties faced by many developing countries in financing the border measures proposed in those negotiations,
- L. whereas developing countries experience particular difficulties in setting up effective customs systems, especially with regard to infrastructure, equipment and staff training and integrity,
- M. whereas the essential objective of facilitating trade must be reconciled with the equally important objective of effective controls,
- N. whereas concerns relating to the security of persons and goods are playing an increasingly large role in the framing and application of customs rules and procedures, particularly for some of the Union's major trading partners,
- O. whereas European consumer protection standards, particularly relating to health and safety, should apply to all products circulating freely within the single European market, regardless of their origin,
- P. whereas greater use of information technology and other modern technologies when processing customs transactions and checking goods is producing significant improvements in efficiency and speed,
- Q. whereas it is necessary to take into account the interoperability requirements imposed by the use of such equipment and the costs incurred through its use by the administrative authorities concerned and economic operators,

- R. whereas one of the new fundamental objectives laid down in Article 3(5) of the Treaty on European Union (corresponding to the current Article 2(5) as it would be amended by Article 1(4) of the Treaty of Lisbon) is that in its relations with the rest of the world the Union must contribute to the protection of its citizens; whereas the Treaty on European Union also specifies, in Article 3(2) (corresponding to the current Article 2(2) as it would likewise be amended by Article 1(4) of the Lisbon Treaty), that the Union offers its citizens ‘an area of freedom, security and justice’ without internal borders, ‘in which the free movement of persons is assured in conjunction with appropriate measures’ with respect to (*inter alia*) external border controls,
- S. whereas while the Union's customs rules and procedures are defined and adopted at Community level, their actual implementation depends on the action of the national administrations of the Member States,
- T. whereas the WCO plays an important role in promoting trade through international customs cooperation,

The importance of import and export rules and procedures

1. Stresses the importance of effective import and export rules and procedures for the implementation of trade policy;
2. Points out that the effectiveness of any trade policy measure depends largely on the Union's ability to ensure it is properly enforced; this concerns, in particular, trade defence measures and all kinds of tariff preferences that the Union grants to its various partners; a measure that is unenforceable, or difficult to enforce, from the customs standpoint is a measure that is ineffective from the trade standpoint, since it can lead to serious distortions of competition and huge economic, social and/or environmental collateral damage;
3. Deplores the fact that the ‘customs feasibility’ of certain trade policy initiatives is not always properly assessed and taken into account; draws attention, for example, to the problems encountered in 2005 in implementing the Memorandum of Understanding with China on textile imports;
4. Stresses the need for better cooperation between the Commission departments responsible for trade policy and those responsible for customs policy, in particular by including the latter more systematically in the teams which negotiate trade agreements;
5. Calls on the Commission to pay particular attention to the problems encountered by SMEs, in particular by facilitating the process of adapting their IT systems to those employed by customs administrations, at the lowest possible cost, and by simplifying the procedures for securing 'authorised economic operator' status;
6. Welcomes the admission of the European Community to the WCO as a full member with effect from 1 July 2007, a step which formally recognises its international competence in the sphere of customs policy and which can help to strengthen its internal cohesion; calls on the Commission to support the WCO;

Tariff classification, value, origin and economic arrangements

7. Points out the particular importance of the rules concerning the tariff classification, value and origin – preferential and non-preferential – of goods;
8. Encourages the Commission to strive continuously to improve these rules, both at Community level and in the multilateral contexts of the WTO and the WCO, making them more transparent, predictable, simple and effective;
9. Deplores the persistent deadlock in the multilateral harmonisation exercise concerning non-preferential rules of origin, which began as early as 1995 on the basis of the Agreement on Rules of Origin (ARO) concluded in the Uruguay Round; believes that such harmonisation would, *inter alia*, enable trade defence measures throughout the world to be applied more effectively and fairly and would provide a better framework for origin marking practices; calls on the Commission to take all possible measures with a view to restarting and concluding these negotiations on the basis of the principles laid down in the ARO;
10. Notes the efforts made by the Commission with a view to modernising and simplifying the rules on preferential origin;
11. Deplores the fact that Parliament is not more closely involved, so as to enable it to exercise the right of prior scrutiny it enjoys under the comitology procedure, in considering the draft regulation on the reform of the rules of origin of the Generalised System of Preferences (GSP), currently under consideration by the Member States in the context of the Customs Code Committee, in spite of the importance and great political sensitivity of this reform; notes, however, that the Commission is due to deliver a presentation on the subject to the parliamentary committee responsible;
12. Notes the strong objections from certain Community industrial sectors, such as textiles, clothing and agri-foodstuffs, with regard to the uniform application of the value-added criterion; calls on the Commission and on the Member States to take account of these justified criticisms as far as possible;
13. Notes that it is important in general terms to ensure that the preferences granted to countries benefiting from preferential arrangements in certain sensitive sectors do not, by virtue of excessively flexible rules of origin, lend themselves too easily to being exploited by very competitive third countries;
14. Deplores the fact that European firms are making little use of Community 'customs warehousing' and outward and inward processing procedures owing to their complexity; calls on the Commission to consider simplifying the 'procedures with economic impact', introducing more flexible procedures and a paperless system;

Trade facilitation

15. Attaches the utmost importance to the trade facilitation negotiations under way since August 2004 in the WTO; points out the considerable benefits that are expected from an ambitious agreement in terms of reducing transaction costs, improving the competitiveness and international attractiveness of developing countries and promoting trade;
16. Acknowledges the risk that the outcome of the negotiations on trade facilitation could impose obligations on developing countries to undertake expensive programmes that they can ill afford; regards it as essential, therefore, that, as part of the eventual outcome of the negotiations, the developed countries give a clear commitment to provide financial and technical assistance to developing countries in order to enable them to meet the compliance, adjustment and implementation costs of any future multilateral framework;
17. Underlines the eminently cooperative nature of these negotiations, which do not lend themselves to any cross-sector bargaining involving other issues in the Doha Round; considers that the issue of trade facilitation could be concluded and implemented separately, without disrupting the Round, and therefore calls for it to be removed from the Single Undertaking;
18. Also supports the Commission's ambitious plans to include a chapter on facilitating trade and customs cooperation in all the new free trade agreements it negotiates, in line with its Communication of 4 October 2006 entitled 'Global Europe: Competing in the World – a contribution to the EU's growth and jobs strategy' (COM(2006)0567);

New customs tasks

19. Reiterates the need to establish at European Union level a plan to combat counterfeiting and piracy, and stresses the need for enhanced cooperation on this subject within the Commission, in other words between the departments responsible for intellectual property rules, trade policy and customs policy, with the Member States' customs authorities and between those authorities;
20. Welcomes the compromise reached by the Member States and the Commission on a negotiating mandate for the Anti-Counterfeiting Trade Agreement (ACTA), which is an important element of the Union's global trade strategy and will provide a high-level international framework for strengthening the enforcement of intellectual property rights and protecting producers against industrial theft and consumers against the health and safety risks associated with many counterfeit products;
21. Calls on the Commission and the Member States to take all necessary measures to ensure that goods imported with a view to being placed on the European Union market comply with European consumer protection standards, particularly as regards health and safety, to prevent the circulation of products or substances which could be dangerous for consumers;

A worrying erosion of freedom in the name of security

22. Acknowledges the legitimacy of concerns relating to the security of people and goods, but stresses the need to strike a fair balance between control and facilitation; regards, however, the role of customs in the full application of Community measures concerning health, the environment and consumer protection as a priority that must not be compromised by customs facilitation measures;
23. Supports the SAFE Framework of Standards (to Secure and Facilitate Global Trade) adopted by the WCO Council in 2005; fully endorses the opinion expressed by the WCO that 'it is an unacceptable and an unnecessary burden to inspect every shipment' and that priority should be given to managing risks effectively by means of efficient automated systems;
24. Deeply deplores the adoption by the US Congress in July 2007 of the so-called HR1 legislation and the unilateral introduction by the United States of a scanning requirement for all shipping containers bound for that country as from 2012; doubts that such a measure will be effective and that it is compatible with WTO rules; fears that once implemented, it will curb the development of transatlantic trade;
25. Notes that secure trade is particularly important in an ever more integrated global economy; urges the Transatlantic Legislators' Dialogue (TLD) and the Commission to continue their efforts to ensure that the US legislation requiring the scanning of all US-bound cargo is modified in line with a risk-based approach; calls on the Commission to raise the matter in the Transatlantic Economic Council (TEC) and other bodies and persuade the US to change its decision; calls for support to be given to mutual recognition of 'authorised economic operators' and of security standards agreed by the WCO (C-TPAT, SAFE framework);

An ongoing lack of harmonisation

26. Points out that the compatibility of the Union's customs system with WTO rules was essentially confirmed on appeal by the WTO Dispute Settlement Body in the aforementioned Case WT/DS315, and welcomes this result;
27. Notes, nevertheless, that both our trading partners and European economic operators themselves continue to call for greater harmonisation between national administrations in the implementation of Community customs legislation;
28. Notes that pernicious discrepancies are sometimes found between Member States, for example with regard to the levying of VAT on imports, conditions for access to certain simplified procedures, the frequency of physical checks on goods and penalties;
29. Considers that every effort must be made to ensure equal treatment for economic operators throughout the Community customs territory, as it is an essential prerequisite as regards preserving the integrity of the internal market and protecting the Union's financial interests, maintaining its powers in the area of external policy – particularly trade policy – and ensuring compliance with its international commitments;

30. Expresses its support for all measures seeking to increase cohesion between national administrations, encourage synergies, establish new communication and information-sharing systems, develop best practices and exchange staff and experiences with a view to enabling these administrations to function as one in the application of Community legislation;
31. Stresses the crucial importance, in this respect, of instruments such as the Community's integrated tariff (Taric), European binding tariff information (EBTI) and the common risk management framework; calls on the Commission and the Member States to continue to perfect these instruments and ensure they function properly;
32. Stresses the need to standardise the law of evidence or establish common minimum rules and ensure uniform implementation by the 27 Member States of Community customs regulations (and in particular Regulation (EC) 1383/2003);
33. Calls on the Commission to incorporate in its proposals precise rules on the administrative and penal sanctions for infringing the customs provisions laid down in Articles 27(a) and 280 of the EC Treaty as they would be amended by the Lisbon Treaty;
34. Criticises the reluctance of the Commission and the Member States to envisage, at this stage, new structures to ensure that Community customs legislation is applied in a uniform manner; calls on the Commission and the Member States to seriously consider the possibility of establishing a unified European Union customs service to enable customs rules and procedures to be implemented more effectively throughout the European Union's customs territory;

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35. Instructs its President to forward this resolution to the Council and Commission, the governments and parliaments of the Member States, the World Customs Organisation, the World Trade Organisation and to member countries and candidate countries.

EXPLANATORY STATEMENT

The customs union celebrates its 40th anniversary in 2008. It was one of the first stages of European integration which, over time, has led to the abolition of all import and export customs duties between EU Member States and to the adoption by those countries of a common external tariff in their relations with third countries. It is a vital aspect of the proper functioning of the internal market and the correct application of the Union's trade agreements.

Customs policy falls within the competence of the Community but is implemented by the Member States: the national customs authorities are responsible for enforcing EU law on a daily basis; that is one of the key problems as far as the operational efficiency of import and export procedures for goods is concerned.

There have been many recent legislative developments and many are still under way: the Modernised Community Customs Code, the decision on a paperless environment for customs and trade, the action programme for customs in the Community (Customs 2013), the draft Commission regulation on the GSP rules of origin, etc. Lastly, the Treaty of Lisbon, currently being ratified by the Member States, stipulates in Article 1(4) that one of the Union's priorities will be the protection of its citizens in its relations with the wider world.

Internationally, there is no lack of uncertainty and the World Trade Organisation (WTO) negotiations are experiencing a damaging slowdown, especially with regard to trade facilitation. Moreover, the European Community has been through a tough dispute before the WTO Dispute Settlement Body concerning the organisation of its customs, certain features of which do not comply with WTO rules; this is due in particular to the intervention of numerous national administrations. Even within the World Customs Organisation (WCO), of which the European Community has only been a member since 2007, progress in terms of the efficiency and global harmonisation of customs procedures has slowed down due to the security concerns which have emerged in the United States since the attacks of 11 September 2001. Last August, the US Congress passed a law (the 100% scanning law) which to all intents and purposes shatters the system. Even if this law is to become fully enforceable only in 2012, it is already opening up a period of uncertainty with regard to the worldwide movement of goods.

It is against this background that European customs have reached a turning point, at which their future for the next twenty years is being redrawn. That is why your rapporteur has taken the initiative of launching a political debate on implementing trade policy through import and export rules and procedures. Parliament will thus be able to express itself on these topics which are vital for the Union's competitiveness and the protection of its citizens, the latter issue, since the Lisbon Treaty currently under ratification in the Member States, having become one of the Union's objectives.

With a view to a wide-ranging consultation of stakeholders in the customs field, at the proposal of your rapporteur, on 19 December 2007 the Committee on International Trade held a mini-hearing, attended by speakers from the Commission, the WCO, the WTO and BusinessEurope. The documents relating to the proceedings are included in this report as a working document.

It is worth noting that import and export procedures are a cross-sector issue. They are, of

course, an essential aspect of the functioning of the internal market, which needs common rules to be applied in a harmonised manner at its external borders. That is why customs-related matters, such as the recent Modernised Community Customs Code, are included among the responsibilities of the Committee on the Internal Market and Consumer Protection. However, these common rules go way beyond the internal market as such and have an impact on all aspects of trade policy and hence of the Union's economic competitiveness and the protection of its citizens.

The role of customs in the 21st century: each State has a different perception

The role of customs is now moving away from the simple collection of customs duties, which has declined considerably over the past twenty years, towards the application of non-tariff measures, especially in respect of security and safety, combating counterfeiting, money laundering and drugs; it is also geared to the application of measures concerning health, the environment and consumer protection, not to mention the collection of VAT and import/excise duties and exemption from export/excise duties, as well as, of course, compliance with the Union's trade policies.

Customs in the 21st century are a multifunctional tool. First of all they play a fiscal role, i.e. levying duties and taxes on the movement of goods. Their second role is economic: customs serve and facilitate external trade. Lastly, they have a role in security, since they are responsible for state borders and for combating problems such as smuggling.

Countries fulfil these roles in accordance with their different priorities. For instance, developing countries, for which customs duties are a major budgetary resource, attach the greatest priority to the fiscal role.

In other countries, such as the United States of America, priority is given to the security role, due to the mistrust which arose after the attacks of 11 September 2001. Your rapporteur finds it perfectly acceptable for personal security to play a greater role in the determination of customs rules and procedures. However, he takes the view that certain measures, taken unilaterally by the United States, are a serious obstacle to trade and to the growth of world trade.

European customs try to strike a balance between these three roles. The 'joint mission statement', submitted to the customs policy group on 11 July 2007, sets out the following four commitments:

- to ensure the safety and security of citizens;
- to protect the financial interests of the Community and its Member States;
- to protect the Community from illegal or unfair trade, whilst supporting legitimate commercial activities;
- to enhance the competitiveness of European businesses by establishing modern working methods backed up by an easily accessible environment.

Facilitating trade through the customs system

Your rapporteur wishes to point out that these import and export rules and procedures, if applied too stringently, could constitute a non-tariff barrier and discourage trade.

It is here that the question of trade facilitation arises. Facilitation is currently the subject of important negotiations in Geneva under the Doha Round, one which is being addressed three years after the start of the Round (2004) and on which a genuine consensus between countries is taking shape. However, it will only be possible to reach an agreement in this field when all the issues of the Round have been dealt with, in accordance with the 'Single Undertaking' principle.

However, since certain topics such as agriculture have slowed down the Doha negotiations, the entire trade facilitation reform has ground to a halt. That is why your rapporteur is calling for trade facilitation to be removed from the 'Single Undertaking' and to be dealt with separately.

A lack of harmonisation: the cause of a fragile customs system

Your rapporteur wishes to stress that the ongoing lack of harmonisation is a clear cause of the weakening of the European customs system. This system was the subject of legal proceedings, initiated by the United States, before the WTO Dispute Settlement Body. This body, following an appeal, confirmed that the EU customs system was compatible with WTO rules, though it did express a few criticisms, underlining the lack of harmonisation, as indeed the EU's trading partners and European economic operators regularly do themselves in their calls for greater harmonisation between national customs administrations.

This deficiency also results in companies being treated differently. For instance, it is illogical for VAT to be collected on imports by customs administrations or for companies to be given the option of paying VAT under a domestic system.

Your rapporteur acknowledges that the harmonisation process is difficult, as there are intrinsic limits to it. However, he wishes to encourage this process and would stress that the fragmented implementation of our trade policy and common customs rules, split as they are between all national administrations, is a serious handicap which constantly obliges the Commission to make great efforts of coordination.

The establishment of a customs administration

Your rapporteur understands that the reform of the Customs Code is a priority for the Commission and that it is already a sufficiently complex task without being combined with institutional reform. However, he wishes to open up a debate on the establishment of a European customs civil service by proposing that consideration be given to the possible creation of integrated and coordinated national customs administrations, with a view to moving towards a Community administration in charge of the customs union. Indeed, the increasingly pro-harmonisation nature of the customs rules means that the role of customs is in practice becoming identical throughout the Union. In view of the long periods of time required for developments to take place in the Community, especially those which affect the prerogatives of the Member States, your rapporteur believes the time has come to put this issue on the table. It is an issue which is both symbolic, in that it is the crowning achievement of 40 years of increasingly advanced customs integration, and pragmatic, in that it reflects the need for a more efficient customs organisation in an increasingly complex, fast-moving world

which will not wait for us.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	6.5.2008
Result of final vote	+: 24 -: 0 0: 0
Members present for the final vote	Graham Booth, Daniel Caspary, Christofer Fjellner, Glyn Ford, Ignasi Guardans Cambó, Jacky Hénin, Ģirts Valdis Kristovskis, Caroline Lucas, Marusya Ivanova Lyubcheva, Erika Mann, Helmuth Markov, David Martin, Vural Öger, Georgios Papastamkos, Tokia Saïfi, Gianluca Susta, Daniel Varela Suanzes-Carpegna, Iuliu Winkler, Corien Wortmann-Kool
Substitute(s) present for the final vote	Jean-Pierre Audy, Vasco Graça Moura, Javier Moreno Sánchez, Salvador Domingo Sanz Palacio, Zbigniew Zaleski
Substitute(s) under Rule 178(2) present for the final vote	Anne Ferreira