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Committee on International Trade

2005/0246(COD)

17.10.2006

OPINION

of the Committee on International Trade

for the Committee on the Internal Market and Consumer Protection

on the proposal for a European Parliament and Council regulation laying down the Community Customs Code (Modernized Customs Code)
(COM(2005)0608 – C6-0419/2006 – 2005/0246(COD))

Draftsman:(*) Jean-Pierre Audy

(*) Enhanced cooperation between committees - Rule 47 of the Rules of Procedure

PA_Legam

SHORT JUSTIFICATION

Customs rules play a key role in the implementation of the common commercial policy.

The rules concerning, *inter alia*, the 'factors on the basis of which import or export duties and other measures prescribed in respect of trade in goods are applied' (tariff classification, preferential and non-preferential origin, customs value), dealt with in Chapter 2 of the proposal, are such as to have a considerable impact on the scope of the regulation and, therefore, on the practical consequences of the measures adopted under this policy. Any incorrect definition or application of these rules is likely to mean that the measures will either be circumvented or (if they are preferential measures) unutilised or under-utilised. Therefore the Committee on International Trade cannot but take an interest in such matters.

Furthermore, one of the major objectives of the common commercial policy over the past few years has been to ensure that the formalities and controls necessary to ensure compliance with the rules remain compatible with the need to facilitate trade. The innovations set out in the proposal essentially reflect this concern, which the European Union is striving to uphold at the multilateral level in the World Trade Organisation (WTO) negotiations and which prompted some of the amendments tabled by the rapporteur in the Committee on the Internal Market and Consumer Protection.

Nevertheless, your draftsman is proposing to remedy, by means of the appropriate amendments, the improper use of the comitology procedure in cases in which such a procedure is not warranted and ultimately deprives Parliament of its role as co-legislator.

This is the case in two situations:

- where this procedure would allow some of the provisions of the Customs Code itself to be amended (Articles 35 and 194);
- where an entire subject – in this case the rules on preferential origin – is given over to such a procedure (Article 42).

Essentially, your draftsman takes the view that the European Parliament should have its say, under the codecision procedure, on any adaptation of the Customs Code which should become necessary when the Community takes on commitments and obligations under international agreements (in particular in the WTO), and on the definition of the key principles of the rules on preferential origin (in particular those applicable to the generalized system of preferences (GSP)).

The amendments proposed in this draft opinion concern provisions that are not covered by the draft submitted by the rapporteur of the Committee on the Internal Market and Consumer Protection and are a useful supplement to it.

AMENDMENTS

The Committee on International Trade calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1 Recital 16

(16) As regards the rules on preferential origin, it is appropriate, in order to expedite the decision-making process within the Community, to confer on the Commission powers for the adoption of these rules in the case of goods benefiting from preferential measures applicable to trade between the customs territory of the Community and Ceuta and Melilla.

deleted

Justification

See justification for Amendments 5 and 6.

Amendment 2 Recital 37

(37) It is appropriate to provide empowerment for the adoption of implementing provisions, ***notably where the Community accepts commitments and obligations in relation to international agreements which*** require the adaptation of provisions of the Code.

(37) It is appropriate to provide empowerment for the adoption of implementing provisions, ***where such provisions do not*** require the adaptation of provisions of the Code ***or, owing to their nature and importance, do not require the adoption of a regulation under the codecision procedure.***

¹ OJ C xx, xxx, p. xx.

Justification

See justification for Amendment 8.

Amendment 3
Article 2, introductory paragraph

Customs authorities shall be responsible for administering international trade at the Community's external borders, thereby contributing to open trade, to the implementation of the external aspects of the internal market and of common Community policies with a bearing on trade, as well as to overall supply chain security. These tasks shall include the following:

Customs authorities shall be responsible for administering international trade at the Community's external borders, thereby contributing to open trade, to the implementation of the external aspects of the internal market, ***of the common commercial policy*** and of ***other*** common Community policies with a bearing on trade, as well as to overall supply chain security. These tasks shall include the following:

Justification

Customs authorities play a key role in implementing the commercial policy (at least as far as the 'goods' aspect is concerned). We would therefore like this fact to be highlighted by refraining from putting the commercial policy on the same level as the 'other common Community policies with a bearing on trade'.

Amendment 4
Article 38, introductory paragraph

Articles 39, 40 and 41 lay down rules for the determination of the non-preferential origin of goods for the purposes of applying the following:

(Does not affect English version.)

Justification

(Does not affect English version.)

Amendment 5
Article 42, paragraph 3

3. In the case of goods benefiting from

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preferential measures adopted unilaterally by the Community in respect of certain countries or territories outside the customs territory of the Community or groups of such countries or territories, other than those referred to in paragraph 5, ***the Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down*** the rules on preferential origin.

preferential measures adopted unilaterally by the Community in respect of certain countries or territories outside the customs territory of the Community or groups of such countries or territories, other than those referred to in paragraph 5, the rules on preferential origin ***shall be laid down by a regulation adopted under the codecision procedure.***

Justification

The very definition of the rules on preferential origin is a fundamental aspect of the scope of trade preferences and should henceforth be governed by basic rules rather than by comitology rules, which has the effect of depriving Parliament of its role as co-legislator.

We note that there is an imbalance in the proposal between preferential origin on the one hand and non-preferential origin and customs value on the other, the key principles of which are laid down in the Code itself (albeit in a simplified manner compared to the current Code, as far as non-preferential origin is concerned).

Moreover, the regulation establishing the GSP rules of origin, to which this paragraph (3) refers, is traditionally used as a basis for negotiating the conventional rules on preferential origin referred to in paragraph 2. It is therefore all the more important that Parliament be involved in decisions having a bearing on all of our preferential systems.

Amendment 6 Article 42, paragraph 4

4. In the case of goods benefiting from preferential measures applicable in trade between the customs territory of the Community and Ceuta and Melilla, contained in Protocol 2 to the Act of Accession of Spain and Portugal, ***the Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down*** the rules on preferential origin.

4. In the case of goods benefiting from preferential measures applicable in trade between the customs territory of the Community and Ceuta and Melilla, contained in Protocol 2 to the Act of Accession of Spain and Portugal, the rules on preferential origin ***shall be laid down by a regulation adopted under the codecision procedure.***

Justification

See justification for Amendment 5. These considerations also apply to the rules on preferential origin applicable to Ceuta and Melilla.

Amendment 7 Article 42, paragraph 5 a (new)

5a. When negotiating on behalf of the Community the agreements referred to in paragraph 2 of this article, or when submitting a proposal with a view to laying down, by a regulation adopted under the codecision procedure or under Article 187 of the Treaty, the rules referred to in paragraphs 3, 4 and 5 of this article, the Commission shall take account in particular of the following:

(a) the commitments and obligations accepted in relation to international agreements;

(b) the need to define criteria relating to the origin status of products which are tailored to the features of each product, ensuring that the economic benefit of the preferential measures is indeed reserved for countries, territories or groups of countries or territories in respect of which these measures were agreed or adopted;

(c) the level of development and degree of industrialisation of the countries, territories or groups of countries or territories in respect of which the preferential measures were agreed or adopted;

(d) the regional integration objectives underlying some of the preferential systems in question, by the laying down of appropriate cumulation rules;

(e) the need to lay down rules which are simple to understand and to apply, so that the operators of the countries, territories or groups of countries or territories in respect of which the preferential measures were agreed or adopted may effectively use those preferential measures, and which must be

compatible with the aim of facilitating trade.

The Commission shall make provision for appropriate monitoring measures, to prevent or punish any abuse or circumvention of the preferential measures.

Justification

It is important for the rules on preferential origin to be laid down in accordance with certain key principles, so as to ensure that they are consistent with the aims of the commercial policy. This provision seeks to provide a framework for the subject.

Amendment 8 Article 194, point (c)

(c) any other implementing measures, where necessary, **including** where **the Community accepts commitments and obligations in relation to international agreements which** require the adaptation of provisions of the Code.

(c) any other implementing measures, where necessary, where **such arrangements do not** require the adaptation of provisions of the Code **or, owing to their nature and importance, do not require the adoption of a regulation under the codecision procedure.**

Justification

According to established case-law, the use of the comitology procedure may only concern implementing measures necessary for the implementation of the basic rules. It is not acceptable to use that procedure here in order to adapt the provisions of the Code itself, which falls under the codecision procedure.

If the Community 'accepts commitments and obligations in relation to international agreements which require the adaptation of provisions of the Code' (in particular in the WTO), Parliament intends to play its role as co-legislator with regard to the implementation of those commitments and obligations.

PROCEDURE

Title	Proposal for a European Parliament and Council regulation laying down the Community Customs Code (Modernized Customs Code)
References	COM(2005)0608) – C6-0419/2006 – 2005/0246(COD
Committee responsible	IMCO
Opinion by Date announced in plenary	INTA 17.1.2006
Enhanced cooperation – date announced in plenary	28.9.2006
Draftsman Date appointed	Jean-Pierre Audy 25.1.2006
Previous draftsman	
Discussed in committee	3.10.2006 17.10.2006
Date adopted	17.10.2006
Result of final vote	+:19 –:0 0:0
Members present for the final vote	Jean-Pierre Audy, Enrique Barón Crespo, Jean-Louis Bourlanges, Daniel Caspary, Christofer Fjellner, Béla Glattfelder, Syed Kamall, Sajjad Karim, Erika Mann, Javier Moreno Sánchez, Georgios Papastamkos, Godelieve Quisthoudt-Rowohl, Robert Sturdy, Gianluca Susta, Zbigniew Zaleski
Substitute(s) present for the vote final	Bastiaan Belder, Harlem Désir, Jörg Leichtfried, Antolín Sánchez Presedo
Substitute(s) under Rule 178(2) present for the final vote	
Comments (available in one language only)	...