

Customs Flash

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Union Customs Code: what can we expect?

During the last few years, customs news has been dominated by the Community Customs Code's modernisation, recently resulting in the Union Customs Code (UCC). New food for thought has been served by the recent publication of the delegated and implementing acts of the UCC. However, these acts are for the large part based on the implementing provisions that have already been drawn up for the Modernised Customs Code; as such, the content is not a complete surprise.

Implementing and delegating acts

The main differences between these two acts lie in the goal of the respective act and the legislative procedure followed, specifically the role of the various stakeholders. Implementing acts are drawn up by the Commission in case certain measures, in this case the UCC, require uniform implementation across the EU. Member States may veto the implementing act. Delegated acts on the other hand only allow the Commission to draw up amendments to certain elements of the UCC, which are of a non-essential nature. In this case, the Parliament and the Council have the power to veto or revoke the delegation.

What does the modernisation bring?

A lot of discussions on the UCC and its acts concentrate on the changes to the rules on customs valuation. One of the most important changes to be expected in this field concerns the so-called 'first sale for export' principle. Where today companies may still apply this principle upon importation into the EU, the current draft implementation provisions state that, in the future, the goods' value will be determined based on "the transaction occurring immediately before the goods are declared for free circulation". Due to different possible interpretations, at this stage it is unclear what impact this provision will have on the application of the 'first sale for export' principle. The UCC and its acts entail more than the changes on customs valuation. For example, 'Binding Tariff Informations' (BTI) will become binding not only for the Customs authorities, but also for the company that obtained the BTI which will only be valid for three years (whereas the current validity is six years). The changes to the origin rules may even be more interesting, with the rules on non-preferential origin particularly standing out. The delegated acts include revised non-preferential origin provisions, which remarkably resemble the unofficial provisions of the EU's position in the WTO's Harmonisation Work Program (HWP). The Commission apparently aims to give these provisions legal binding force by including them in the delegated acts.

What to do?

The UCC has been adopted and it is expected that it will take at least another year (possibly even longer) for the delegating and implementing acts to be final and adopted. In order to allow Member States and economic

operators enough time to adjust to the new legislation, it is important that no (further) delays occur. Although May 2016 may seem far away, considering the various changes that the UCC and its acts will bring, companies should already start looking into the UCC and its draft acts in order to determine its impact and needed changes for their business (processes). Deloitte's customs team is readily available to assist with such a review.

Deloitte's customs experts will continue to closely monitor the progress and provide updates on developments. The team will be happy to discuss all related matters and what the impact could be on your company.

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