

# Breaking the code: the impact of the Union Customs Code on international transactions

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## Abstract

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With 500 customs declarations processed every minute in the European Union (EU), the current paper-based Community Customs Code has reached its limit. Its replacement, the Union Customs Code, introduces profound changes that are described in this paper before considering their impact on customs authorities and business from strategic and financial perspectives.

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## 1. Introduction

The European Union (EU) accounts for 16 per cent of world trade, that is, 500 customs declarations processed every minute across the EU.<sup>1</sup> In this context, the current Community Customs Code<sup>2</sup> (CCC), a paper-based system, has reached its limit. The succeeding legislation, the Union Customs Code<sup>3</sup> (UCC) introduces profound changes for customs administrations and world trade. This paper describes these changes before considering their possible impact on businesses, first from a strategic point of view and then from a financial perspective.

Over the past 50 years, the role of Customs has changed significantly to adapt to the evolution of international trade. Before containerisation, goods were carried in bulk, boxes or nets in a ship's hold. It took several days to unload the cargo one piece at the time, giving customs authorities time to clear the goods and collect duties. When the first containership, *Gateway City*, made its maiden voyage in 1957 from Port Newark to Miami, it allowed dockworkers to unload cargo at a rate of 264 tons an hour.<sup>4</sup> In the '80s, when the current Community Customs Code (CCC) was conceived, a crane at a port could unload 1,000 tons per hour. Today, a single crane can handle 3,500 tons per hour<sup>5</sup> unloading a 12,000 TEU<sup>6</sup> containership in just a half day. This advance in productivity is putting pressure on border agencies to process shipments much faster and avoid creating a bottleneck at borders.

Customs clearance operates on a transaction-per-transaction basis where each import and export is processed individually which means clearance operations are directly affected by volume. In 2007, across the 27 European Member States, customs administrations checked 1.545 million tonnes of sea cargo and 11.7 million tonnes of air cargo. They processed 183 million customs declarations, that is, 5.5 declarations per second.<sup>7</sup> In this context, the current CCC,<sup>8</sup> which is a paper-based system, reached its limits. The next legislation, the Union Customs Code<sup>9</sup> (UCC) introduces profound changes for customs administrations and world trade.

## 2. The UCC

### 2.1 Legal basis

The legal basis for the UCC is Articles 33, 114 and 207 of the Treaty on the Functioning of the European Union (TFEU).<sup>10</sup> Article 31 TFEU can no longer be a legal basis for a legislative act like the recast Regulation.<sup>11</sup> Furthermore, as the proposal falls under the exclusive competence of the Union, the subsidiarity principle does not apply and because the proposal does not entail any new policy developments, it does not imply reassessing compliance.<sup>12</sup>

### 2.2 Entry into force and applicability

The UCC,<sup>13</sup> which is binding in its entirety and directly applicable in all Member States, was adopted on 9 October 2013 and entered into force on 30 October 2013. However, only some empowering provisions are applicable.<sup>14</sup> All other provisions will apply on 1 May 2016, once the UCC-related Delegated and Implementing Acts have entered into force. Until then, the CCC and the Implementing Provisions continue to apply.

Furthermore, because the application of the UCC is based on the use of electronic data processing,<sup>15</sup> it is dependent on the availability of IT systems across Member States. A Commission decision establishes a set of dates to complete the deployment of IT systems for Member States and the trade community with a deadline for completion of 31 December 2020.<sup>16</sup> The application of certain legal provisions will therefore have to be postponed and replaced by transitional measures pending the availability of the IT tools.

### 2.3 New comitology

The Treaty of Lisbon contains new provisions redefining the powers of the co-legislators and the European Commission (the Commission) in Articles 290 and 291.<sup>17</sup> The UCC empowering provisions allow the European Commission (EC) to draw up the implementing acts and delegating acts,<sup>18</sup> replacing the current implementing provisions (CCIP).<sup>19</sup> The draft Delegated Act<sup>20</sup> (DA) and Implementing Act<sup>21</sup> (IA) were submitted in January 2014 and are still, at the time of writing, under discussion in line with Articles 290 and 291 of the TFEU between Member States and the business community.

### 2.4 Existing provisions

The current CCC,<sup>22</sup> Regulation (EEC) No 3925/91<sup>23</sup> and Regulation (EC) No 1207/2001<sup>24</sup> will be repealed from the date the UCC becomes applicable on 1 May 2016.<sup>25</sup> The short-lived Modernised Customs Code<sup>26</sup> was repealed on the day the UCC entered into force.<sup>27</sup> In order to simplify and rationalise customs legislation, a number of provisions previously contained in separate community acts have been incorporated into the UCC<sup>28</sup> and will also be repealed from the day of its application.<sup>29</sup> As well, the UCC introduces a legal framework for the application of certain provisions from the VAT Directive<sup>30</sup> applicable to customs legislation to trade in goods between parts of the customs territory.

### 2.5 Scope

The UCC applies to the EU customs territory including the territorial waters and the airspace<sup>31</sup> of the Member States. The UCC does not extend to trade in services or capital but only to the international trade in goods.<sup>32</sup> The term “goods” is not further defined in either the TFEU or the UCC, however the European Court of Justice (ECJ) defined “goods”, in the context of customs duty, in *Commission v. Italy*<sup>33</sup> as ‘products which can be valued in money and which are capable, as such, of forming the subject of commercial transactions’. The term “goods” also includes gas and electricity.<sup>34</sup>

### 3. Changes in the UCC

#### 3.1 Legal framework

The legislator has rationalised the legal framework. Common rules, applicable to all special procedures, are supplemented by a small set of rules for each category. This structure mirrors the World Customs Organization's (WCO) Revised Kyoto Convention<sup>35</sup> that is built around general and specific annexes. The UCC also includes measures from the security amendment.<sup>36</sup> The mission of customs authorities is now clearly defined,<sup>37</sup> reflecting the various activities undertaken by customs administrations at borders and inland. The role is further detailed with a list of objectives that customs administrations must aim to achieve. The business community will note that the first measure signals a focus on revenue collection and that trade facilitation is at the bottom of the list.

#### 3.2 Definitions

The UCC also introduces new definitions. It simplifies the use of the generic term "legal or natural person"<sup>38</sup> and adds two definitions. The "economic operator"<sup>39</sup> describes a person who is covered by customs legislation, that is, traders. The "customs representative" is a broker appointed to carry out the acts and formalities required under the customs legislation. This is particularly important for Article 170(1) which specifies that "any person" can lodge a customs declaration and not just "Customs representatives". Furthermore, these new definitions allow the introduction of a new set up for the provisions on customs debt, clarifying where the responsibilities fall.

#### 3.3 Declarations

The UCC sets the legal basis for the introduction of the electronic exchange of information between customs authorities and economic operators, such as electronically lodging declarations and accompanying documents which offers identical facilities to traders in each Member State.<sup>40</sup> There are now only two types of declarations: the standard<sup>41</sup> and the simplified customs declaration.<sup>42</sup> The simplified declaration is subject to authorisation,<sup>43</sup> the conditions for which will be in the DA.<sup>44</sup>

#### 3.4 Customs procedures

The legislator has reduced the number of procedures and organised them in a new structure. The UCC gives traders the choice between three customs procedures:

- Release for free circulation and relief from import duty
- Export
- Special procedures.

Special procedures are divided into four categories covering:

- Transit: external and internal transit
- Storage: customs warehousing and free zones
- Specific use: temporary admission and end-use
- Processing: inward and outward processing.<sup>45</sup>

The aim is to make it simple for the operators to choose the right procedure, to avoid errors and to reduce the number of post-release recoveries and repayments.<sup>46</sup>

An authorisation will be required for Processing, Specific procedures<sup>47</sup> and the storage operation for warehousing procedure.<sup>48</sup> Authorisations will only be available to traders providing the necessary assurance of the proper conduct of the operations<sup>49</sup> and a guarantee will be required.<sup>50</sup>

The UCC changes the rules for placing the goods into free zones, which now become a customs procedure.<sup>51</sup> As a result, the goods and the business records are subject to customs controls.<sup>52</sup>

The “processing under customs control” procedure has been removed. For notification of the “intention to re-export” it is no longer necessary to use “inward processing”,<sup>53</sup> allowing its merger with “Processing under customs control”. The new single Inward Processing procedure covers these two functions as well as destruction, except where destruction is carried out by, or under the supervision of, Customs.<sup>54</sup> The compensatory interest applicable when goods are released to free circulation has been removed. Furthermore, the IPR drawback is no longer available.

### **3.5 Representation**

The UCC changes the rules for representation.<sup>55</sup> Traders will now be able to deal directly with customs administrations to lodge their declaration<sup>56</sup> although they will still be able to appoint a representative.<sup>57</sup> This facility is already available in some Member States and the UCC makes this function available to all EU traders. Customs representatives will be entitled to provide their services in a Member State other than that in which they are established. This applies to those complying with Authorised Economic Operator (AEO) status,<sup>58</sup> others will be subject to individual Member States decisions.<sup>59</sup>

### **3.6 Customs debt**

The UCC simplifies the rules on customs debt by grouping together all cases incurring a customs debt on importation in order to, among other things, avoid difficulties in determining the legal basis on which the debt was incurred.<sup>60</sup> It consolidates the current rules on customs debt resulting from non-compliance in a single article<sup>61</sup> to make them simpler to apply, a move that is very much welcomed by traders.<sup>62</sup>

The range of debtors is changing. The UCC makes both traders and representatives responsible for the customs debt.<sup>63</sup> There is wide consensus that, in the collection of a customs debt, priority must be given to persons who have deliberately infringed the law.<sup>64</sup> Under the UCC, the debt will be incurred at the place where the trader is established, wherever the goods have entered the EU. The business local customs office is considered best placed to supervise import and export activities.<sup>65</sup> This is particularly important in the context of centralised clearance separating the place where the goods enter the territory and the place where the customs declaration is lodged.

### **3.7 Guarantees**

The UCC introduces circumstances where the provision of a guarantee is mandatory, for instance, to use certain procedures.<sup>66</sup> Guarantees cover not only import duties but also other charges,<sup>67</sup> such as VAT. The UCC also introduces a new “comprehensive guarantee”<sup>68</sup> covering EU-wide transactions. It is available for AEOs or traders meeting certain AEO criteria<sup>69</sup> even in cases where, in principle, it is prohibited.<sup>70</sup> Guarantee waivers are available to AEOs.

### **3.8 Valuation**

One area of contention is the removal of the earlier sale provision relating to valuation. The UCC adds one provision<sup>71</sup> to that effect and clarification is expected to be provided in the secondary legislation. This change follows a decision from the WCO technical committee who, after reviewing this principle, argued in an influential commentary<sup>72</sup> that in a series of sales, the first sale should not be allowed as the basis for customs valuation. It introduces a “last sale rule” where duties should be assessed using the price paid in the last sale prior to the physical introduction of goods into a country.

The provision for royalty payment under the UCC is similar to that under the CCC. However, it is expected that a less strict criterion will be applied in the secondary legislation to capture some royalty payments in the customs value.

### 3.9 Binding information

The UCC opens the possibility to extend “Binding Information” to areas other than Classification and Origin.<sup>73</sup> All binding information will be valid for three years, aligning the current validity of Binding Tariff Information (BTI), which is for six years, to the Binding Origin Information (BOI). Binding Information, currently only binding for the authorities, now becomes binding for business.

### 3.10 New facilities

The centralised clearance<sup>74</sup> facility will enable traders to declare goods electronically and pay their customs duties at the place where they are established, irrespective of the Member State where the goods are imported, exported or consumed. This facility is, however, limited to AEOs’ customs simplifications.<sup>75</sup>

The UCC also introduces the facility for traders<sup>76</sup> to themselves determine, through their internal system, the amount of duty payable, and to perform certain controls under customs supervision. The Self-Assessment facility is also limited to AEOs’ customs simplifications.<sup>77</sup>

The UCC includes the concept of “single window” and “one-stop-shop”.<sup>78</sup> The “single window” allows traders to enter information on goods to only one system and have the data disseminated automatically to different government agencies. The “one-stop-shop” specifies that controls necessary for various purposes (customs, sanitary, etc.) should be performed at the same time and place.

### 3.11 AEO

Only two types of authorisations remain: Customs Simplifications<sup>79</sup> and Security and Safety.<sup>80</sup> The UCC increases the importance of AEO status as it becomes mandatory for using certain customs simplification facilities such as centralised clearance,<sup>81</sup> entry in declarant records,<sup>82</sup> self-assessment<sup>83</sup> or using a comprehensive guarantee with reduced amount.<sup>84</sup> Furthermore, many authorisations and simplifications available within the UCC will be assessed against certain AEO criteria.

There are also two other changes regarding the granting of status. A new criterion has been added concerning practical standards of competence or professional qualifications for employees of AEOs dealing with customs matters<sup>85</sup> and the scope of compliance has also been expanded to cover taxation rules,<sup>86</sup> not just customs legislation.

### 3.12 Logistics and transport

The UCC introduces the possibility to move goods under Temporary Storage<sup>87</sup> and the period of discharge is increased from 30 or 45 days to 90 days.<sup>88</sup> For the first time, ship supply is mentioned in primary EU-wide legislation.<sup>89</sup> This provision confirms that ship supply is a form of export regardless of the destination of the vessel, that export customs formalities can be used and that it should be exempt from VAT and excise duty. Finally, the right to be heard<sup>90</sup> is strengthened, giving the right of traders to be heard before any decision is taken which would adversely affect them.<sup>91</sup>

## 4. The impact on business

### 4.1 The strategic impact

#### 4.1.1 The contractual environment

The UCC brings a focus on the growing importance of contractual agreements in international transactions between carriers, shippers, customers and other intermediaries along the supply chain, regardless of the Incoterms. Contracts will have to be reviewed in the light of changes such as the introduction of the last sale principle of valuation or new facilities such as centralised clearance. The multiple contracts between the various intermediaries of an international transaction are likely to be affected as new risks and opportunities are emerging from the legislation.

The mandatory aspect of certain guarantees could prompt a review of contracts covering consignment inventory or sub-contracting manufacturing to establish the respective obligations of parties relating to compliance. Similarly, the mandatory requirement of AEO status to access certain facilities raises the question of how the parties in a contract would deal with having one of the links in the supply chain losing its AEO accreditation. This could result in a cost increase for the customer or a slower movement of goods.

The business execution of pan-EU measures will raise the question of the choice of applicable law and jurisdiction as the concept of contract has significant variations between countries of common law, civil Roman law and civil Germanic law.<sup>92</sup> This might be a new factor weighing on strategic decisions for business locations across the EU.

#### 4.1.2 The new “comitology”

The UCC secondary legislation will take the form of a delegated act conferred on the EC, to be renewed every five years<sup>93</sup> and which can be revoked by the European Parliament and the Council at any moment,<sup>94</sup> as well as Implementing Acts from the Council. The new comitology therefore confers a stronger presence to the Parliament in the legal process and gives democratically elected parliamentarians control over the EC.

It is unknown whether this new power of revocation will be exercised and if it is, how it will be used. The process is fixed within a very tight timeframe, which seems very short for the legislator to analyse a provision, particularly in complex cases. The complexity of interpretation could therefore result in delays in decisions and could create periods of uncertainty for traders, particularly in cases of a politically sensitive nature. This would complicate the development, adaptation or deployment of the international strategy of businesses.

#### 4.1.3 Uniformity and predictability

Member States have had significant discretion over the implementation and interpretation of customs regulations. This was clearly demonstrated in *Kamino*,<sup>95</sup> where Liquid Crystal Display (LCD) monitors were classified in the Netherlands as “video monitors” with a 14 per cent duty imposed on them, while in other Member States, such as Germany or the UK, the same product was treated as a “computer monitor” subject to zero per cent duty.<sup>96</sup> The EC-Selected Customs Matters case<sup>97</sup> shows that similar issues also apply in the area of valuation.

Despite the fact that the UCC limits the variations of customs practices, some provisions will *de facto* allow them. Member States can, for instance, decide the necessary conditions for foreign representation on their territory.<sup>98</sup> There is also the possibility for the EC to introduce an act to authorise certain decisions that would not be valid across the entire customs territory<sup>99</sup> or with the possibility of derogation from electronic declarations.<sup>100</sup>

The scope of these derogations is unclear and one could ask whether they could be used by some countries to further simplify procedures, thereby creating a competitive advantage. These variations in customs treatment are not motivated by a competition for revenue. The duties collected by customs authorities are part of the EU's own resources<sup>101</sup> and Member States keep only 25 per cent of the amount to cover collection costs. However, efficient customs procedures have become a competitive field and Member States move towards the direction of offering the trade favourable conditions to increase the volume of business going through their ports, airports and distribution networks and, more generally, encourage foreign direct investment. The Netherlands, for instance, advertise their import VAT deferment system<sup>102</sup> on their 'Invest in the Netherlands' website:

In contrast to most other EU member states, the Netherlands has instituted a system that provides for the deferment of VAT at the time of import. ... The bottom line is that there is no actual payment of VAT at import, so that you can realise cash-flow and interest earning benefits.

French legislators recognise that in a competitive European environment, the speed of customs clearance is a central factor to customs competitiveness.<sup>103</sup>

Although these differences of treatment are labelled "non-uniformity",<sup>104</sup> from the perspective of traders they are an issue of predictability resulting in an uncertainty of how imports are going to be treated. Non-uniformity is not such a problem for the trader who would adapt to non-uniform rules as long as those rules are predictable, that is, certain. Traders may, in fact, prefer non-uniformity as it allows them to choose a point of entry in the EU where the most favourable interpretation of the rules applies.

This risk of intra-EU competition is therefore real. For instance, following the *Kamino* case, where the classification in the Netherlands led to a 14 per cent duty rate, Dutch Customs noted that:

... not all member states are following this policy. The result is a diverted flow of business, which is harmful to the competitiveness of Dutch industry in the logistics and services sector.<sup>105</sup>

The UCC recognises this risk and promotes harmonised and standardised control throughout the Union 'so as not to give rise to anti-competitive behaviour at the various Union entry and exit points'.<sup>106</sup>

The UCC could therefore trigger strategic reviews in some businesses possibly resulting in the restructure and relocation of certain functions such as logistics and customs management.

### 4.1.4 AEO

The mandatory AEO status necessary to benefit from certain facilitation measures could negatively impact on traders, particularly small and medium-sized enterprises (SMEs), which do not have the resources to go through the accreditation process thereby locking them out of those benefits. While becoming an AEO could be a necessity for some businesses, it could also prove a risky move. According to the proposed directive on EU-wide sanctions on customs matters, when a person responsible for the infringement is an AEO, it is an aggravating circumstance.<sup>107</sup> The effect on customs authorities cannot be underestimated and leads to the question of whether customs administrations are suitably resourced to cope with a possible increase in assessment requests.

## 4.2 The financial impact

The centralised clearance facility, in the context of the centralisation strategy of a business, facilitates the EU-wide management of imports and exports. The combination of a European Logistics Centre with its EU customs management function could secure economies of scale and deliver cost reductions. Adding to this, the in-house EU-wide customs clearance function could deliver some cost reductions as long as the internal function is more cost effective than the outsourced option. Further, positive financial

impacts<sup>108</sup> include lower costs for customs clearance as a result of more competition between customs representatives throughout the EU. Some companies might also decide to redesign their distribution networks to remove some inventory locations that are no longer necessary.

However, the UCC will also put pressure on business finances. Mandatory financial guarantees could have a significant impact on cash flow for some businesses, for instance, in the UK where guarantees were generally not required. In an environment where businesses find it difficult to access finance, some companies might not be able to match this requirement and therefore be prevented from using customs procedures that suspend or remove import duties. The requirement for a financial guarantee can be waived in certain circumstances, but only for AEOs. However, it is doubtful whether the majority of SMEs have the resources and time to undergo an AEO assessment. Without access to finance to use certain special procedures such as inward processing, to repair faulty products, it might be more cost efficient for an SME to simply move their repair activity close to the customer's market and out of the EU.

The cost of the necessary upgrade to the business electronic systems to interface with Customs could be substantial to cover new software, perhaps a new network or telecommunications structure, and training, as well as maintenance and routine upgrading. The cost of customs software is, however, expected to decrease as a result of the creation of an EU-wide market. However, because the application of certain IT-related UCC provisions is postponed pending the availability of the Member States' IT tools; businesses will have to deal with transitional measures. This is a concern for the trade as they could be required to manage two parallel systems, an IT system and a paper-based system.<sup>109</sup> This would not only be expensive but also create risks of non-compliance. The trade, therefore, emphasised the importance of Member States adopting and implementing measures at the same time.

Another cost increase is the modification of the transaction value as the first sale is replaced by the last sale principle.<sup>110</sup> Its opponents argue that it is based on several incorrect assumptions about cross-border trade.<sup>111</sup> Companies using the first sale principle will see their taxable basis and therefore their amount of duties and taxes increase. This change has been strongly resisted by most trade organisations,<sup>112</sup> particularly multinational corporations. However, it has been argued that this decision could result in a fairer trading environment for SMEs.

Initially, operational costs could increase to adapt the business to the new requirements introduced by the UCC. The removal of some procedures and facilities will demand the review of the supply chain. A review of the current authorisations will be necessary and in some cases new applications for authorisations for certain procedures will be required.

## 5. Conclusions

There is little doubt that the current CCC, which relies heavily on paper-based processes, is no longer fit for purpose. Its successor, the UCC, rationalises and simplifies the legal framework. It introduces, *inter alia*, the concepts of electronic customs declarations and centralised clearance that will bring profound changes on how Customs and trade operate. It also tightens compliance requirements and cements the status of AEO as the benchmark for compliance.

The new legal instrument will provide challenges and opportunities for both global traders and customs organisations. Some uncertainties will be clarified in the secondary legislation while others will be left to the courts to decide, possibly creating a period of uncertainty. However, the UCC is not self-executing so this initial review needs further research in light of the Implementing and Delegating Acts and the actual implementation variations between countries.

## Notes

- 1 European Commission's Taxation and Customs Union Directorate-General, viewed 15 February 2015, [http://ec.europa.eu/taxation\\_customs/customs/policy\\_issues/customs\\_strategy/index\\_en.htm](http://ec.europa.eu/taxation_customs/customs/policy_issues/customs_strategy/index_en.htm).
- 2 Council Regulation (EEC) 2913/92 establishing the Community Customs Code (CCC).
- 3 Proposal for a regulation of the European Parliament and of the Council laying down the Union Customs Code (Recast) (The UCC) COM(2012) 64 final, 20 February 2012.
- 4 World Shipping Organisation, 'History of containerisation', viewed 29 April 2015, [www.worldshipping.org/about-the-industry/history-of-containerization](http://www.worldshipping.org/about-the-industry/history-of-containerization).
- 5 Sumitomo Heavy Industries, 'Products & solution, material handling machinery and system', viewed 18 April 2015, [www.shi.co.jp/english/products/material/cargo/index.html](http://www.shi.co.jp/english/products/material/cargo/index.html).
- 6 Ton Equivalent Unit, which is equal to a 20 foot container.
- 7 European Commission's Taxation and Customs Union Directorate-General, viewed 15 February 2015, [http://ec.europa.eu/taxation\\_customs/customs/policy\\_issues/customs\\_strategy/index\\_en.htm](http://ec.europa.eu/taxation_customs/customs/policy_issues/customs_strategy/index_en.htm).
- 8 Council Regulation (EEC) 2913/92 establishing the Community Customs Code (CCC).
- 9 Proposal for a regulation of the European Parliament and of the Council laying down the Union Customs Code (Recast) (The UCC) COM(2012) 64 final, 20 February 2012.
- 10 Consolidated version of the Treaty on the Functioning of the European Union [2010] OJ C 83/47.
- 11 UCC, p. 8.
- 12 UCC Explanatory memorandum (3).
- 13 Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code [2013]OJ L269/1 Art. 44 (1).
- 14 UCC Art. 288.
- 15 UCC Art. 6.
- 16 Commission Implementing Decision of 29 April 2014 establishing the Work Programme for the Union Customs Code (2014/255/EU) [2014] OJ L134/46.
- 17 Consolidated version of the Treaty on the Functioning of the European Union [2010] OJ C 83/47.
- 18 UCC Art. 2.
- 19 Commission Regulation (EEC) 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code [1993] OJ L 253/1.
- 20 Consolidated preliminary draft of the Union Customs Code Delegated Act TAXUD/UCC-DA/2014-1, 13 January 2014.
- 21 Consolidated preliminary draft of the Union Customs Code Delegated Act TAXUD/UCC-IA/2014-1, 13 January 2014.
- 22 Council Regulation (EEC) 2913/92 establishing the Community Customs Code (CCC) [1992] OJ L 302/1.
- 23 Regulation (EEC) No 3925/91 on the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing [1991] OJ L374/4.
- 24 Regulation (EC) No 1207/2001 on procedures to facilitate the issue or the making out in the Community of proofs of origin and the issue of certain approved exporter authorisations under the provisions governing preferential trade between the EC and certain countries [2001] OJ L165/1.
- 25 UCC Art. 288(2).
- 26 Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code ) [2008] OJ L145.
- 27 UCC Art. 286(1).
- 28 Council Regulation (EEC) 3925/91 concerning the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing [1991] OJ L 374/4 and Council Regulation (EC) No 1207/2001 of 11 June 2001 on procedures to facilitate the issue or the making out in the Community of proofs of origin and the issue of certain approved exporter authorisations under the provisions governing preferential trade between the European Community and certain countries [2001] OJ L165/1.
- 29 UCC Art. 245(2).
- 30 Council Directive (EC) 2006/112 'on the common system of value added tax' [2006] OJ L347/1.
- 31 UCC Art. 4(1).
- 32 UCC Art. 1(1).

- 33 Case 7/68 EC *Commission v. Italy* [1968] ECR 423.
- 34 Case C-158/94 *Commission of the European Communities v. Italian Republic* ECR I – 5789.
- 35 WCO, Convention, original text, viewed 15 February 2015, [www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf\\_revised\\_kyoto\\_conv.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv.aspx).
- 36 Regulation (EC) 648/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulation (EEC) No 2913/92 establishing the CCC.
- 37 UCC Art. 3.
- 38 CCC Art. 4(1).
- 39 UCC Art. 5(5).
- 40 UCC Art. 6(1).
- 41 UCC Title V Section 2.
- 42 UCC Title V Section 3.
- 43 UCC Art. 166(2).
- 44 UCC Art. 168
- 45 UCC Art. 210.
- 46 UCC Recital 47.
- 47 UCC Art. 211(1)(a)
- 48 UCC Art. 211(1)(b)
- 49 UCC Art. 211(3)(b)
- 50 UCC Art. 211(3)(c)
- 51 UCC Art. 245.
- 52 UCC Recital 49.
- 53 UCC Art. 256.
- 54 UCC Recital 50.
- 55 UCC Recital 21.
- 56 UCC Art. 15.
- 57 UCC Art. 18.
- 58 For a customs representative who complies with the criteria laid down in points (a) to (d) of Art. 39.
- 59 UCC Art. 18(3).
- 60 UCC Recital 32.
- 61 UCC Art. 79.
- 62 Commission (EC) ‘Proposal for a regulation of the European Parliament and of the council amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code Annex 1 to Impact Assessment Public Consultation on the draft modernized Customs Code Rev. 3’ COM(2003) 452 final, 24 July 2003.
- 63 UCC Art. 79 and 82.
- 64 Commission (EC), ‘Proposal for a regulation of the European Parliament and of the council amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code Annex 1 to Impact Assessment Public Consultation on the draft modernized Customs Code Rev. 3’ COM(2003) 452 final, 24 July 2003.
- 65 UCC Recital 42.
- 66 UCC Art. 211.
- 67 UCC Art. 89(2).
- 68 UCC Art. 89.
- 69 UCC Art. 95(1).
- 70 UCC Art. 96(2).
- 71 UCC Art. 70(2).
- 72 WCO Technical Committee 2007, ‘Commentary 22.1: Meaning of the Expression “Sold for Export to the Country of Importation” in a Series of Sales’.
- 73 UCC Art. 35.
- 74 UCC Art. 179.

- 75 UCC Art. 179(2).
- 76 UCC Art. 185.
- 77 UCC Art. 185(2).
- 78 UCC Art. 47.
- 79 UCC Art. 38(2)(a).
- 80 UCC Art. 38(2)(b).
- 81 UCC Art. 179(2).
- 82 UCC Art. 182(3).
- 83 UCC Art. 185(2).
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- 85 UCC Art. 39(d).
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