

The future Union Customs Code: Legislative and practical changes in the customs clearance process

The Union Customs Code (UCC) was adopted on October 9, 2013 as Regulation (EU) No 952/2013 of the European Parliament and of the Council.

Its provisions will become effective on May 1, 2016.

This new code brings about many legislative and practical changes for businesses that import or export goods.

Under Article 6 of the UCC, all customs declarations must be made using electronic data-processing techniques, the use of paper format being tolerated only in exceptional cases. However, the new provisions provide for a transition period up December 31, 2020 at the latest.

The three notions that are essential to determine the customs treatment of goods are value, origin and tariff classification.

Regarding the obligation to declare to the customs authorities the value of the imported goods to allow for the collection of duties and taxes, the production of an invoice will only be required if the value of the relevant goods is determined according to one of the substitute valuation methods. As such, if the goods are sold for export to the country of importation, the company shall declare the transaction value and shall not be required to produce an invoice.

Regarding the declaration of origin of the goods - that conditions the application of preferential tariff measures which may lead to a reduced or a zero-rate of customs duty if there exists a commercial agreement between the European Union and the supplier of the goods located in a non-EU country - Article 62 of the UCC stipulates that the declaration remitted to the client by the supplier shall henceforth be valid for a period of two years, as opposed to 1 year previously. Companies may also apply for a Binding Origin Information (BOI) decision that shall henceforth be issued within a period of 120 days (+ 30 days for the customs authorities to verify whether the conditions for the acceptance of the application are fulfilled) and that shall remain valid for

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a period of 3 years from the date of issuance. Under the former provisions, the period for customs authorities to issue BOI decisions was 150 days while such decisions were valid for the same term of three years.

Regarding tariff classification - i.e. the classification of the goods in the customs tariffs that serves as a basis for determining the applicable customs duties - companies may apply for a Binding Tariff Information (BTI) decision: This is a request made to the customs authorities to obtain the correct tariff classification for the goods that companies intend to import or export. Under the UCC, BTI decisions shall henceforth be issued within a period of 120 days (+ 30 days for the customs authorities to verify whether the conditions for the acceptance of the application are fulfilled) and shall remain valid for a period of 3 years from the date of issuance. Under the former provisions, BTI decisions were to be issued more quickly and had a longer validity period. The UCC aims at harmonizing the processing of applications for a BTI decision with that of applications for a BOI decision that may be made concurrently.

Companies that export or import goods must be vigilant on the consequences of the changes brought forward by the UCC since any breach of applicable provisions shall be deemed a criminal offense.

For example, under Article 410 of the French Customs Code (in its current version that is likely to be amended to reflect the UCC), any omission or inaccuracy in the information to be included in customs declarations (classification, value, origin, etc.) is punishable by a fine of 300 to 3,000 euros.

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