



Significant changes in the EU customs rules are coming into force

Adapting to the trends of the last few decades, the EU customs rules will significantly change as of May 2016, which may present considerable challenges for companies engaged in customs activities.

In recent decades international trade and the global environment have undergone significant changes (consider, for example, the developments in the IT sector) that have necessitated the creation of a new legal environment. As a result, a new Union Customs Code was announced on 10 October 2013, which will replace the currently applicable Community Customs Code, a law that has been in effect for over 20 years. In line with the requirements of the Lisbon Treaty, the Union Customs Code will be implemented through secondary legislation in the form of a Delegated Act and an Implementing Act. These were published in the EU Official Journal on 29 December 2015. As well as the EU level regulations, Member States may also introduce national implementing rules regarding the Union Customs Code where it is allowed by the EU level customs regulations.

The Union Customs Code and its secondary legislation will introduce several significant new concepts and changes compared to the currently applicable customs provisions. Therefore, the introduction of the new legislation will pose a major challenge for economic operators engaged in customs activities.



By introducing the Union Customs Code, the fundamental procedural rules will change. For instance, in certain cases the deadlines for making customs decisions will be significantly extended. Economic operators should take this into consideration when obtaining certain customs licenses.

Furthermore, new rules for customs procedures will be implemented (e.g. end-use and free zone), certain customs procedures will be subject to change (e.g. customs warehousing or inward processing) or will be terminated (e.g. processing under customs control).

Stricter rules will be applicable in connection with customs valuation. For example, royalty payments and license fees are likely to become part of the customs duty base and first sales provisions relating to customs valuation will be removed. Mandatory customs guarantees will also be introduced (for example relating to certain special customs procedures). Mandatory customs guarantees will also be introduced (for example relating to certain special customs procedures) and waiver or reduction will be available for comprehensive guarantee only.

Nevertheless, the new legislative provision will introduce a number of new customs simplifications (e.g. self-assessment or central customs clearance), by which the customs activities of companies may be faster and simpler to perform.

In addition to the above, the Union Customs Code has significant changes in store for authorized economic operators (AEO) as well. Based on the Union Customs Code, the AEOF (i.e. combined) certificate should not anymore be issued, and the customs authority will only issue AEOC ("customs simplification") and AEOS ("safety and security") type licenses (not certificates) to the operators. Additionally, the requirements for obtaining the AEO will be more stringent (e.g. in the case of the AEOC-type license, appropriate tax records will be required in addition to appropriate customs records, and practical expertise and/or experience will also be required). We highlight that in the future the AEO license will be a legal prerequisite for applying several customs simplifications and licenses. Consequently, companies that currently do not possess an AEO certificate (with special regard to companies that currently apply customs simplifications and intend to continue their application in the future) should consider obtaining AEO status as soon as possible.

Last but not least, we should point out that a further aim of the new Union Customs Code is to make customs processes fully electronic.

Some of the above changes will require the development of new IT systems and enhancements to existing systems which will be introduced in phases until the end of 2020. The European Commission adopted a new regulation to establish transitional rules for operators and customs authorities pending the introduction of new IT systems to create a fully electronic customs environment. This will be published in the EU Official Journal when the scrutiny period of the European Parliament and Council has ended.

Considering the large-scale changes to the legal environment and the short time available for the preparation, we recommend that you start reviewing your processes and activities in light of the new Union Customs Code as soon as possible by involving our experts. In this way the changes can be started in time based on the jointly developed preparation action plan in order to avoid risks and exploit opportunities.

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