



Mr. Bolkestein
Member of the European Commission
European Commission
200 rue de la Loi
1049 Brussels

Brussels, 20 April 2004

Comments on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation No. 2913/92 establishing the Community Customs Code - Com (2003) 452 final

Dear Commissioner,

Orgalime is the liaison group representing the interests of the European mechanical, electrical, electronic and metalworking industries at the level of the EU. Orgalime's members include, at the present time, 33 national trade federations representing some 130,000 companies in 23 European countries. These industries, which include mainly small and medium sized companies, employ some 7 million people and account for around 1,175 billion Euro in the GNP. Over 378 billion euros of products manufactured by our industry were exported out of the EU in 2003. Our industry also relies significantly on imported inputs for the manufacture of our products. This issue is therefore of the highest importance for our companies whose competitiveness depends on their ability to trade.

While Orgalime fully supports the concerns and wishes expressed in UNICE's position on this issue, we would like to suggest specific amendments to the proposal for a regulation amending the Community Customs Code. The amendments we propose, would, we believe, both contribute to simplifying and modernising these legislative procedures while, at the same time, ensuring security on Community territory. Moreover such procedures would not unduly penalise companies through increased costs and administrative burdens.

We would like to stress that we particularly oppose the proposal of asking for a summary declaration prior to any import into and export from the Community's customs territory. We feel that for imports, the transport document and, for exports, the customs document are already sufficient and should be accepted as a form of "summary declaration". Furthermore, we feel that the deadlines for submission of a prior declaration should be shortened in order to prevent any new constraint in terms of delay in the circulation of goods and services.

We would also like to stress that we are very keen to maintain the existing "simplified procedure", which is absolutely necessary for our industry and should therefore not be abolished. The loss of this instrument would have significant impact on costs and therefore on our competitiveness.

Finally, territories and countries fully surrounded by the EU (San Marino, Andorra and Switzerland) and the EFTA countries should be excluded from the new regime through the negotiation of specific arrangements.

We enclose hereafter our detailed proposals for amendments which, in our view, would ensure the necessary degree of security without hindering trade.

Yours faithfully,

Adrian Harris

Cc DG Taxud: Messrs. Verrue, Wiedow, Lux & Pulford.

Orgalime's specific requests for amending the proposals for a regulation amending Council Regulation No 2913/92 establishing the Community Customs Code. As the draft text of the Commission proposal has changed since its publication in July 2003, we have based our comments on the version lately discussed in the Council (Working Party on Customs Union - Legislation and Policy); public interinstitutional file 2003/0167 (COD) 27.02.2004 - 6219/1/04 Rev1:

RECITAL 5

Council Presidency compromise text

(5) In order to allow for appropriate risk-based controls, it is necessary to establish the requirement of pre-arrival or pre-departure information for all goods entering into or leaving the Community customs territory, except for goods passing through by air or ship without a stop within this territory. Such information should be available before the goods enter into or leave the Community customs territory. Different timeframes and rules can be set according to types of goods or types of transport, for authorised economic operators or where international agreements provide for special security arrangements. This requirement must also be introduced with regard to goods brought into or out of a free zone in order to avoid security loopholes. Controls relating to security matters should normally be carried at the customs offices of entry to and export from the Community, whereas those for duty collection or similar purposes should normally be carried out at inland offices of import and export.

Orgalime's proposal

(5) In order to allow for appropriate risk-based controls, it is necessary to establish the requirement of pre-arrival ~~or pre-departure~~ information for all goods entering into ~~or leaving~~ the Community customs territory, except for goods passing through by air or ship without a stop within this territory. Such information **normally supplied by international carriers** should be available before the goods enter into or leave the Community customs territory. Different timeframes and rules can be set according to types of goods, types of transport **and types of economic operator.** ~~or where international agreements provide for special security arrangements.~~ This requirement must also be introduced with regard to goods brought into or out of a free zone in order to avoid security loopholes. Controls relating to security matters should normally be carried at the customs offices of entry to **and export from** the Community, whereas those for duty collection or similar purposes should normally be carried out at inland offices of import and export.

Amendment 1

Article 4A

Council Presidency compromise text

"(4a) 'customs office of entry' means the customs office designated by the customs authorities in accordance to the customs rules to which goods brought into the customs territory of the Community must be conveyed without delay and at which they will be subject to appropriate risk-based entry controls,

Orgalime's proposal

"(4a) 'customs office of entry' means the customs office ~~designated by the customs authorities~~—in accordance to the customs rules to which goods brought into the customs territory of the Community must be conveyed without delay and at which they will be subject to appropriate risk-based entry controls,

Amendment 2
Article 4b

Council Presidency compromise text

4b) 'customs office of import' means the customs office designated by the customs authorities in accordance with the customs rules where the formalities for assigning goods brought into the customs territory of the Community to a customs-approved treatment or use are to be carried, including appropriate risk-based controls;

Orgalime's proposal

4b) 'customs office of import' means the customs office ~~designated by the customs authorities in accordance with the customs rules~~ where the formalities for assigning goods brought into the customs territory of the Community to a customs-approved treatment or use are to be carried. ~~including appropriate risk-based controls;~~

Amendment 3
Article 4C

Council Presidency compromise text

(4c) 'customs office of export' means the customs office designated by the customs authorities in accordance with the customs rules where the formalities for assigning goods leaving the customs territory of the Community to a customs-approved treatment or use are to be completed including appropriate risk based controls;

Orgalime's proposal

(4c) 'customs office of export' means the customs office ~~designated by the customs authorities in accordance with the customs rules~~ where the formalities for assigning goods leaving the customs territory of the Community to a customs-approved treatment or use are to be completed. ~~including appropriate risk-based controls;~~

Amendment 4
Article 4d

Council Presidency compromise text

(4d) 'customs office of exit' means the customs office designated by the customs authorities in accordance with the customs rules to which goods must be presented before they leave the customs territory of the Community, and at which they will be subject to customs controls relating to the application of exit formalities, including appropriate risk-based controls.

Orgalime's proposal

(4d) 'customs office of exit' means the customs office ~~designated by the customs authorities in accordance with the customs rules~~ to which goods must be presented before they leave the customs territory of the Community and at which they will be subject to customs controls relating to the application of exit formalities, including appropriate risk-based controls.

Amendment 5
Article 5A.2

Council Presidency compromise text

2. The criteria for the accreditation of authorised economic operators shall include:

- an appropriate record of compliance with customs requirements;
- a satisfactory system of managing commercial record which allows appropriate customs control, and;
- where relevant appropriate security and safety standards.

The requirement of being established in the Community may be waived for specific categories of economic operators under the conditions to be laid down in accordance with the Committee Procedure

Orgalime's proposal

2. **An implementation regulation shall determine the detailed rules for accreditation of an economic operator under paragraph 1 and shall include: ~~The criteria for the accreditation of authorised economic operators shall include:~~**

- an appropriate record of compliance with customs requirements;
- a satisfactory system of managing commercial record which allows appropriate customs control and;
- where relevant, appropriate security and safety standards.

~~The requirement of being established in the Community may be waived for specific categories of economic operators under the conditions to be laid down in accordance with the Committee Procedure~~

Amendment 6
Article 36 a points 2 and 4

Council Presidency compromise text

2. The summary declaration shall be lodged at the customs office of entry,

Customs authorities may allow the lodging of the summary declaration [...] at another customs office, provided that this office immediately communicates or makes available electronically, the necessary particulars to the customs office of entry. Customs authorities may allow that the lodging of a summary declaration be replaced by the lodging of a notification and access to the summary declaration data in the operator's electronic system.

4. The Committee Procedure shall be used to establish:
- the time limit by which the summary declaration shall be lodged before the goods are brought into the customs territory of the Community;
 - the rules for exceptions from and variations to the time limit referred to above; and
 - the conditions under which the requirement for a summary declaration may be waived, according to special circumstances and applying to certain types of goods traffic, modes of transport or economic or to authorised operators or where international agreements provide for special security arrangements.

Orgalime's proposal

2. The summary declaration shall be lodged at the customs office of entry, **normally by the international carrier.**

~~Customs authorities may allow the lodging of the summary declaration [...] at another customs office, provided that this office immediately communicates or makes available electronically, the necessary particulars to the customs office of entry. Customs authorities may allow that the lodging of a summary declaration be replaced by the lodging of a notification and access to the summary declaration data in the operator's electronic system.~~

4. **An implementation regulation shall determine: The committee procedure shall be used to establish**
- the time limit by which the summary declaration shall be lodged before the goods are brought into the customs territory of the Community;
 - the rules for exceptions from and variations to the time limit referred to above; and
 - the conditions under which the requirement for a summary declaration may be waived, according to special circumstances and applying to certain types of goods traffic, modes of transport or economic or to authorised operators or where international agreements provide for special security arrangements.

Amendment 7
Article 36 b points 1,2,4 and 5

Council Presidency compromise text

1. The committee procedure shall be used to establish a common data set and format of the summary declaration, containing the particulars necessary for risk analysis and the proper application of customs controls, primarily for security and safety purposes, using, where appropriate, international standards and commercial practices.

2. The summary declaration shall be made using a data processing technique. Commercial, port or transport information may be used, provided it contains the necessary particulars. Customs authorities may accept paper-based summary declarations in exceptional circumstances, provided that they apply the same level of risk management as that applied to summary declarations made using a data processing technique.

Orgalime's proposal

1. **Deletion**

2. The summary declaration shall be made using a data processing technique. ~~Commercial, port or~~ Transport information may be used, provided it contains the necessary particulars.

Customs authorities may accept paper-based summary declarations in exceptional circumstances, provided that they apply the same level of risk management as that applied to summary declarations made using a data processing technique.

Council Presidency compromise text

4. Notwithstanding the obligations of the person described in paragraph 3, the summary declaration may be lodged by
 - (a) the person in whose name the persons referred to in paragraph 3 act; or
 - (b) any person who is able to present the goods in question or to have them presented to the competent customs authority; or
 - (c) a representative of one of the persons referred to in paragraph 3 or points (a) or (b).
5. The person referred to in paragraph 3 and 4 shall, at his request, be authorised to amend one or more particulars of the summary declaration after it has been lodged.
...

Orgalime's proposal

4. Deletion

5. The person referred to in paragraph 3 ~~and 4~~ shall, at his request, be authorised to amend one or more particulars of the summary declaration after it has been lodged. However, no amendment shall be possible after the customs authorities
...

Amendment 8
Article 182 a

Council Presidency compromise text

1. Goods leaving the customs territory of the Community, with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territory without a stop within this territory, shall be covered either by a customs declaration or, where a customs declaration is not required, a summary declaration.
2. The committee procedure shall be used to establish
 - the time limit by which the customs declaration or a summary declaration shall be lodged at the customs office of export before the goods are brought out of the customs territory of the Community;
 - the rules for exceptions from and variations to the above-mentioned time limit and the conditions under which the requirement for a summary declaration may be waived or adapted; and
 - the cases in which and the conditions under which goods leaving the customs territory of the Community are not subject to either a customs declaration or a summary declaration, according to special circumstances and applying to certain types of goods traffic or modes of transport, to authorised economic operators or where international agreements provide for special security arrangements.

Orgalime's proposal

1. Goods leaving the customs territory of the Community, with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territory without a stop within this territory, ~~shall~~ **must** be covered ~~either~~ by a customs declaration ~~or a summary declaration.~~
2. **Deletion**

Amendment 9
Article182b

Council Presidency compromise text

1. Where goods leaving the customs territory of the Community are assigned to a customs approved treatment or use for the purpose of which a customs declaration is required, this customs declaration shall be lodged at the customs office of export [...] before the goods are to be brought out of the customs territory of the Community.
2. Where the customs office of export is different from the customs office of exit, the customs office of export shall immediately communicate, or make available, the particulars required by the customs office of exit, electronically, to the customs office of exit.
3. The customs declaration shall contain at least the particulars necessary for the summary declaration referred to in Article 182d(1).
4. Where the customs declaration is made other than by use of a data processing technique, the customs authorities shall subject the data to the same level of risk management applied to declarations made by use of data processing technique.

Orgalime's proposal

1. Where goods leaving the customs territory of the Community are assigned to a customs approved treatment or use for the purpose of which a customs declaration is required, this customs declaration shall be lodged at the customs office of export **in principle** before the goods are to be brought out of the customs territory of the Community.
2. **Deletion**
3. **Deletion**
4. **Deletion**

Amendment 10
Article 182c

Council Presidency compromise text

1. Where goods leaving the customs territory of the Community are not assigned to a customs approved treatment or use for which a customs declaration is required, a summary declaration shall be lodged at the customs office of exit [...] before the goods are to be brought out of the customs territory of the Community.

2. Customs authorities may allow the lodging of the summary declaration [...] at another customs office, provided that this office immediately communicates or makes available electronically, the necessary particulars to the customs office of exit.

3. Customs authorities may allow that the lodging of a summary declaration be replaced by the lodging of a notification and access to the summary declaration data on the economic operator's electronic system.

Orgalime's proposal

1. Deletion

2. Deletion

3. Deletion

Amendment 11
Article182d

Council Presidency compromise text

Orgalime's proposal

1. The committee procedure shall be used to establish a common data set and format of the summary declaration, containing the particulars necessary for risk analysis and the proper application of customs controls, primarily for security and safety purposes, using, where appropriate, international standards and commercial practices.
2. The summary declaration shall be made using a data processing technique. Commercial, port or transport information may be used, provided that it contains the necessary particulars. Customs authorities may accept paper-based summary declarations in exceptional circumstances, provided that they apply the same level of risk management as that applied to summary declarations made using a data processing technique.
3. The summary declaration shall be lodged by:
 - (a) the person who brings the goods, or who assumes responsibility for the carriage of the goods, out of the customs territory of the Community; or
 - (b) any person who is able to present the goods in question or to have them presented to the competent customs authority; or
 - (c) a representative of one of the persons referred to in points (a) or (b).
4. The person referred to in paragraph 3 shall, at his request, be authorised to amend one or more particulars of the summary declaration after it has been lodged. However, no amendment shall be possible after the customs authorities:

1. Deletion

2. Deletion

3. Deletion

3. Deletion

- (a) have informed the person who lodged the summary declaration that they intend to examine the goods; or,
- (b) have established that the particulars in questions are incorrect; or,
- (c) have allowed the removal of the goods.