COMMON POSITION (EC) No 8/2005

adopted by the Council on 29 November 2004

with a view to adopting Regulation (EC) No …/2005 of the European Parliament and of the Council of … amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code

(2005/C 38 E/03)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 26, 95, 133 and 135 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee [1],

Acting in accordance with the procedure laid down in Article 251 of the Treaty [2],

Whereas:

(1) Regulation (EEC) No 2913/92 [3] lays down the rules for the customs treatment of goods that are imported or to be exported.

(2) It is necessary to establish an equivalent level of protection in customs controls for goods brought into or out of the customs territory of the Community. In order to achieve this objective, it is necessary to establish an equivalent level of customs controls in the Community and to ensure a harmonised application of customs controls by the Member States, which have principal responsibility for applying these controls. Such controls should be based upon commonly agreed standards and risk criteria for the selection of goods and economic operators in order to minimise the risks to the Community and its citizens and to the Community's trading partners. Member States and the Commission should therefore introduce a Community-wide risk management framework to support a common approach so that priorities are set effectively and resources are allocated efficiently with the aim of maintaining a proper balance between customs controls and the facilitation of legitimate trade. Such a framework should also provide for common criteria and harmonised requirements for authorised economic operators and ensure a harmonised application of such criteria and requirements. The establishment of a risk management framework common to all Member States should not prevent the Member States from controlling goods by spot-checks.

(3) Member States should grant the status of authorised economic operator to any economic operator that meets common criteria relating to the operators' control systems, financial solvency and compliance record. The status of authorised economic operator, once granted by one Member State, should be recognised by the other Member States, but does not confer the right to benefit automatically in the other Member States from simplifications provided for in the customs rules. However, the other Member States should allow the use of simplifications by authorised economic operators provided they meet all the specific requirements for use of the particular simplifications. In considering a request to use simplifications, the other Member States need not repeat the evaluation of the operator's control systems, financial solvency or compliance record, which will already have been completed by the Member State that granted the operator the status of authorised economic operator, but should ensure that any other specific requirements for use of the particular simplification are met. The use of simplifications in other Member States may also be coordinated by agreement between the customs authorities concerned.

(4) Simplifications under the customs rules should continue to be without prejudice to customs controls as defined within the Community Customs Code, notably relating to safety and security. Such controls are the responsibility of the customs authorities and, while the status of authorised economic operator should be recognised by those authorities as a factor during risk analysis and in the granting of any facilitation to the economic operator with regard to controls relating to safety and security, the right to control should remain.

(5) Risk-related information on import and export goods should be shared between the competent authorities of the Member States and the Commission. To this end, a common, secure system should be set up, enabling the competent authorities to access, transfer and exchange this information in a timely and effective manner. Such information may also be shared with third countries where an international agreement provides for this.

---

[1] OJ C 110, 30.4.2004, p. 72.

[2] Opinion of the European Parliament of 20 April 2004 (OJ C 104 E, 30.4.2004), Council Common Position of 29 November 2004 and position of the European Parliament of … (not yet published in the Official Journal).

[3] OJ L 302, 19.10.1992, p. 1. Regulation as last amended by the 2003 Act of Accession.

(6) The conditions under which information provided by economic operators to customs may be disclosed to other authorities in the same Member State, other Member States, to the Commission, or to authorities in third countries should be specified. For this purpose, it should be clearly indicated that Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [1] and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data [2] apply to the processing of personal data by the competent authorities as well as by any other authority receiving data pursuant to the Community Customs Code.

(7) 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 brought into or out of the customs territory of the Community, except for goods passing through by air or ship without a stop within this territory. Such information should be available before the goods are brought into or out of the customs territory of the Community. Different time frames and rules may be set according to the type of goods, of transport or of economic operator or where international agreements provide for special security arrangements. In order to avoid security loopholes, this requirement should also be introduced with regard to goods brought into or out of a free zone.

(8) Regulation (EEC) No 2913/92 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION

Article 1

Regulation (EEC) No 2913/92 is hereby amended as follows:

1. Article 4 shall be amended as follows:

— the following points shall be inserted:

'4a. "Customs office of entry" means the customs office designated by the customs authorities in accordance with 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;

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, including appropriate risk-based controls, are to be carried out;

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, including appropriate risk-based controls are to be completed;

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 completion of exit formalities, and appropriate risk-based controls.';

— point 14 shall be replaced by the following:

'14. "Customs controls" means specific acts performed by the customs authorities in order to ensure the correct application of customs rules and other legislation governing the entry, exit, transit, transfer and end-use of goods moved between the customs territory of the Community and third countries and the presence of goods that do not have Community status; such acts may include examining goods, verifying declaration data and the existence and authenticity of electronic or written documents, examining the accounts of undertakings and other records, inspecting means of transport, inspecting luggage and other goods carried by or on persons and carrying out official inquiries and other similar acts.';

— the following points shall be added

'25. "Risk" means the likelihood of an event occurring, in connection with the entry, exit, transit, transfer and end-use of goods moved between the customs territory of the Community and third countries and the presence of goods that do not have Community status, which

— prevents the correct application of Community or national measures or

[1] OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).
[2] OJ L 8, 12.1.2001, p. 1.

— compromises the financial interests of the Community and its Member States or

— poses a threat to the Community's security and safety, to public health, to the environment or to consumers.

26. "Risk management" means the systematic identification of risk and implementation of all measures necessary for limiting exposure to risk. This includes activities such as collecting data and information, analysing and assessing risk, prescribing and taking action and regular monitoring and review of the process and its outcomes, based on international, Community and national sources and strategies.';

2. the following section and Article shall be inserted:

'Section 1A

Authorised economic operators

Article 5a

1. Customs authorities, if necessary following consultation with other competent authorities, shall grant, subject to the criteria provided for in paragraph 2, the status of "authorised economic operator" to any economic operator established in the customs territory of the Community.

An authorised economic operator shall benefit from facilitations with regard to customs controls relating to security and safety and/or from simplifications provided for under the customs rules.

The status of authorised economic operator shall, subject to the rules and conditions laid down in paragraph 2, be recognised by the customs authorities in all Member States, without prejudice to customs controls. Customs authorities shall, on the basis of the recognition of the status of authorised economic operator and provided that the requirements relating to a specific type of simplification provided for in Community customs legislation are fulfilled, authorise the operator to benefit from that simplification.

2. The criteria for granting the status of authorised economic operator shall include:

— an appropriate record of compliance with customs requirements

— a satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls

— where appropriate, proven financial solvency and

— where applicable, appropriate security and safety standards.

The committee procedure shall be used to determine the rules:

— for granting the status of authorised economic operator

— for granting authorisations for the use of simplifications

— laying down which customs authority is competent to grant such status and authorisations

— for the type and extent of facilitations that may be granted in respect of customs controls relating to security and safety, taking into account the rules for common risk management

— for consultation with, and provision of information to, other customs authorities;

and the conditions under which:

— an authorisation may be limited to one or more Member States

— the status of authorised economic operator may be suspended or withdrawn; and

— the requirement of being established in the Community may be waived for specific categories of authorised economic operator, taking into account, in particular, international agreements.';

3. Article 13 shall be replaced by the following:

'Article 13

1. Customs authorities may, in accordance with the conditions laid down by the provisions in force, carry out all the controls they deem necessary to ensure that customs rules and other legislation governing the entry, exit, transit, transfer and end-use of goods moved between the customs territory of the Community and third countries and the presence of goods that do not have Community status are correctly applied. Customs controls for the purpose of the correct application of Community legislation may be carried out in a third country where an international agreement provides for this.

2. Customs controls, other than spot-checks, shall be based on risk analysis using automated data-processing techniques, with the purpose of identifying and quantifying the risks and developing the necessary measures to assess the risks, on the basis of criteria developed at national, Community and, where available, international level.

The committee procedure shall be used for determining a common risk management framework, and for establishing common criteria and priority control areas.

Member States, in cooperation with the Commission, shall establish a computer system for the implementation of risk management.

3. Where controls are performed by authorities other than the customs authorities, such controls shall be performed in close coordination with the customs authorities, wherever possible at the same time and place.

4. In the context of the controls provided for in this Article, customs and other competent authorities, such as veterinary and police authorities, may communicate data received, in connection with the entry, exit, transit, transfer and end-use of goods moved between the customs territory of the Community and third countries and the presence of goods that do not have Community status, between themselves and to the customs authorities of the Member States and to the Commission where this is required for the purposes of minimising risk.

Communication of confidential data to the customs administrations and other bodies (e.g. security agencies) of third countries shall be allowed only in the framework of an international agreement and provided that the data protection provisions in force, in particular Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (*) and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (**) are respected.;

(*) OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).
(**) OJ L 8, 12.1.2001, p. 1.'

4. Article 15 shall be replaced by the following:

'Article 15

All information which is by nature confidential or which is provided on a confidential basis shall be covered by the duty of professional secrecy. It shall not be disclosed by the competent authorities without the express permission of the person or authority providing it. The communication of information shall, however, be permitted where the competent authorities are obliged to do so pursuant to the provisions in force, particularly in connection with legal proceedings. Any disclosure or communication of information shall fully comply with prevailing data protection provisions, in particular Directive 95/46/EC and Regulation (EC) No 45/2001.';

5. In Article 16 'control by the customs authorities' shall be replaced by 'customs controls';

6. The following Articles shall be inserted under Chapter 1 of Title III:

'Article 36a

1. Goods brought into the customs territory of the Community shall be covered by a summary declaration, 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.

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

Customs authorities may allow the summary declaration to be lodged 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 accept, instead of the lodging of the summary declaration, the lodging of a notification and access to the summary declaration data in the economic operator's computer system.

3. The summary declaration shall be lodged before the goods are brought into the customs territory of the Community.

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 in the first indent and

— the conditions under which the requirement for a summary declaration may be waived or adapted,

in accordance with the specific circumstances and for particular types of goods traffic, modes of transport and economic operators and where international agreements provide for special security arrangements.

Article 36b

1. The committee procedure shall be used to establish a common data set and format for 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 the person who brings the goods, or who assumes responsibility for the carriage of the goods into the customs territory of the Community.

4. Notwithstanding the obligation of the person referred to in paragraph 3, the summary declaration may be lodged instead by:

(a) the person in whose name the person referred to in paragraph 3 acts; 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 paragraphs 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:

(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.

Article 36c

1. The customs office of entry may waive the lodging of a summary declaration in respect of goods for which, before expiry of the time limit referred to in Article 36a(3) or (4), a customs declaration is lodged. In such case, the customs declaration shall contain at least the particulars necessary for a summary declaration and, until such time as the former is accepted in accordance with Article 63, it shall have the status of a summary declaration.

Customs authorities may allow the customs declaration to be lodged at a customs office of import different from the customs office of entry, provided that this office immediately communicates or makes available electronically the necessary particulars to the customs office of entry.

2. Where the customs declaration is lodged other than by use of data processing technique, the customs authorities shall apply the same level of risk management to the data as that applied to summary declarations made using a data processing technique.';

7. in Article 37(1) 'control by the customs authority' shall be replaced by 'customs controls' and in Article 38(3) 'the control of the customs authority of' shall be replaced by 'customs controls by';

8. Article 38(5) shall be replaced by the following:

'5. Paragraphs 1 to 4 and Articles 36a to 36c and 39 to 53 shall not apply to goods which temporarily leave the customs territory of the Community while moving between two points in that territory by sea or air, provided that the carriage is effected by a direct route and by regular air or shipping services without a stop outside the customs territory of the Community.';

9. Article 40 shall be replaced by the following:

'Article 40

Goods entering the customs territory of the Community shall be presented to customs by the person who brings them into that territory or, if appropriate, by the person who assumes responsibility for carriage of the goods following such entry, with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territory of the Community without a stop within this territory. The person presenting the goods shall make a reference to the summary declaration or customs declaration previously lodged in respect of the goods.';

10. In Title III, Chapter 3 shall be retitled 'Unloading of goods presented to customs';

11. Articles 43 to 45 shall be deleted;

12. Article 170(2) shall be replaced by the following:

'2. Goods shall be presented to the customs authorities and undergo the prescribed customs formalities where:

(a) they have been placed under a customs procedure which is discharged when they enter a free zone or free warehouse; however, where the customs procedure in question permits exemption from the obligation to present goods, such presentation shall not be required;

(b) they have been placed in a free zone or free warehouse on the basis of a decision to grant repayment or remission of import duties;

(c) they qualify for the measures referred to in Article 166(b);

(d) they enter a free zone or free warehouse directly from outside the customs territory of the Community.';

13. Article 176(2) shall be replaced by the following:

'2. Where goods are transhipped within a free zone, the records relating to the operation shall be kept at the disposal of the customs authorities. The short-term storage of goods in connection with such transhipment shall be considered to be an integral part of the operation.

For goods brought into a free zone directly from outside the customs territory of the Community or out of a free zone directly leaving the customs territory of the Community, a summary declaration shall be lodged in accordance with Articles 36a to 36c or 182a to 182d, as appropriate.';

14. Article 181 shall be replaced by the following:

'*Article 181*

The customs authorities shall satisfy themselves that the rules governing exportation, outward processing, re-exportation, suspensive procedures or the internal transit procedure, as well as the provisions of Title V, are respected where goods are to leave the customs territory of the Community from a free zone or free warehouse.';

15. in Article 182(3), first sentence, the words 'Re-exportation or' shall be deleted;

16. under Title V (Goods leaving the customs territory of the Community) the following Articles shall be inserted:

'*Article 182a*

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 time limit referred to above

— 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,

in accordance with the specific circumstances and for particular types of goods traffic, modes of transport and economic operators and where international agreements provide for special security arrangements.

Article 182b

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 under the customs rules, 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 electronically the necessary particulars 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 apply the same level of risk management to the data as that applied to declarations made using a data processing technique.

Article 182c

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 summary declaration to be lodged 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 accept, instead of the lodging of a summary declaration, the lodging of a notification and access to the summary declaration data in the operator's computer system.

Article 182d

1. The committee procedure shall be used to establish a common data set and format for 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:

(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.'

Article 2

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

Article 5a(2), Article 13(2) 2nd subparagraph, Article 36a(4), Article 36b(1), Article 182a(2) and Article 182d(1) shall be applicable from..... (*).

All other provisions shall be applicable once the implementing provisions on the basis of the Articles referred to in the second subparagraph have entered into force. However, electronic declaration and automated systems for the implementation of risk management and for the electronic exchange of data between customs offices of entry, import, export and exit, as stipulated in Articles 13, 36a, 36b, 36c, 182b, 182c and 182d, shall be in place three years after these Articles have become applicable.

Not later than two years after these Articles have become applicable, the Commission shall evaluate any request from Member States for an extension of the three-year period referred to in the third subparagraph for electronic declaration and automated systems for the implementation of risk management and for the electronic exchange of data between customs offices. The Commission shall submit a report to the European Parliament and to the Council and propose, where appropriate, an extension of the three-year period referred to in the third subparagraph.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, …

For the European Parliament
The President
…

For the Council
The President
…

(*) the date of entry into force of this Regulation.

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

On 25 July 2003, the Commission submitted to the Council the abovementioned proposal, which is based on Articles 26, 95, 133 and 135 of the Treaty.

The Economic and Social Committee delivered its Opinion on 26 February 2004 ([1]).

The European Parliament delivered its Opinion at first reading on 20 April 2004 ([2]), adopting 26 amendments to the proposal. The Commission has accepted the majority of them, but is unable to accept six of the proposed amendments.

The Commission presented to the Council on 4 May 2004 an amended proposal on the above subject.

On 29 November 2004, the Council adopted its common position in accordance with Article 251(2) of the Treaty.

II. OBJECTIVE

The objective of the proposed Regulation is to establish, on the basis of commonly agreed standards and risk criteria, an equivalent level of protection in customs controls for goods entering and leaving the Community. This should be achieved by introducing a system of pre-arrival and pre-departure declarations, while enhancing the use of information technology.

III. COMMON POSITION

1. GENERAL

In its common position, the Council broadly supports the proposal's objective, which is to improve the security of trade-flows into and out of the Community by introducing appropriate risk-based controls and by using an improved system of data communication and information sharing.

2. EP AMENDMENTS

The Council took the following positions on the amendments adopted by the European Parliament:

— The Council has accepted *Amendments 1, 3, 4, 7 and 11 to 23 and 26*,

— *Amendment 2*: the Council considers that a reference to customs controls on goods leaving the Community should be inserted into the text (cf. common position on Amendment 24),

— the Council has not accepted the modifications proposed in *Amendment 5*, and prefers the text in the proposal of the Commission. However, the Council can accept the suggested insertion of a reference to international agreements in that recital,

— *Amendment 6* dealing with the definitions of different types of customs offices has not been accepted by the Council since it lacks some essential elements such as the reference to the designation by the customs authorities in accordance with the customs rules and the reference to risk-based controls at different types of customs offices,

— *Amendment 8*: The Council prefers to specify the types of movements of goods to which the present rules apply. This should be done in line with the text used in the proposed definition of'customs control'. The reference to '*the entry, exit, transit, transfer and end-use of goods*' should therefore be used in the definition of 'risk' as well as in Article 13 (Amendment 10). The Council has accepted the deletion of the definition of 'authorised economic operator' given that this concept has been inserted in the new Article 5a (Amendment 9),

([1]) OJ C 110 of 30.4.2004, p. 72.
([2]) OJ C 104 E, 30.4.2004.

— *Amendment 9*: The Council welcomes the amendment on the 'authorised economic operator' and considers the new Article 5a as one of the key elements of the draft Regulation. However, in its common position, the Council has refined the concept of the 'authorised economic operator' by introducing a differentiation between the recognition of the status of 'authorised economic operator' by Member States other than the Member State which initially granted that status and the authorisation for such operators to benefit from simplifications provided for in the customs rules. Through this differentiation, Member States would not have to repeat evaluations on the status of 'authorised economic operator' already carried out in the originating Member State but would nevertheless be able to examine whether an operator fulfilled the criteria linked to a specific type of simplification provided for in the customs rules. In addition, the Council has inserted a reference to 'financial solvency' as one of the criteria for accreditation as an 'authorised economic operator' in Article 5a(2). Finally, the Council has adapted the rules and conditions to be laid down by the Committee procedure in line with the modifications on the concept of 'authorised economic operator'.

— *Amendment 10*: the Council has not accepted this amendment. In its common position, the Council restricted the exchange of information between authorities in one Member State and customs authorities in another Member State or the Commission to cases where this is required for the purposes of minimising risk as defined in Article 4 No 25,

— *Amendment 24*: the deletion of the proposed Article 182b, providing for the establishment of the detailed rules to be laid down in relation to summary declarations for export, has not been accepted by the Council. The system of pre-departure declaration should not only apply in those cases where the exporter is obliged by the third country to provide security-related information but apply as part of a general system of security-related advance information,

— *Amendment 25*, deleting the references to Articles 182a and 182b and thereby suppressing the necessity for a summary declaration for goods leaving the EU customs territory from a free zone, has been rejected by the Council since it considers that this could result in security loopholes in the system of pre-departure declarations.

3. **New elements introduced by the Council**

In addition to the items on which the European Parliament has delivered its Opinion and on which the Council common position is reflected above, the Council inserted two recitals clarifying its approach relating to the recognition of authorised economic operators and the simplifications granted to them (new recitals 3 and 4).

IV. **CONCLUSION**

The Council's common position is in line with the objective of the proposed Regulation, which is to improve the security-management concept for the EU's external borders, in particular by introducing risk-based controls and extensive use of information technology. In addition, it strikes a balance between the aim of strengthening security by better-targeted border-controls and the additional administrative burden for economic operators created by the obligation to deliver advance information to enable such controls. As also suggested in the Opinion by the European Parliament, the Council opted for the introduction of an increased possibility for economic operators to benefit from simplifications provided for under the customs rules if, at the same time, they fulfil the necessary requirements. However, the Council supports the proposal of the Commission in upholding the symmetry between controls for imports into and exports from the Community.