

Customs Issues Update

Brussels 28/02/2017

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60 years since the signing of
the Treaty of Rome which laid the
foundations of the
Customs Union

25/3/1957



How the treaty was signed





Strategic way forward

- **press release 21/12/2016**
- *“Common threats require common actions from Europe. National Customs authorities have an important role to play across the EU to protect our interests. From **trade facilitation** and **border security** to **civil protection** and the **fight against the smuggling of illegal weapons and counterfeit goods**, the European Commission wants to equip national customs and their 120.000 dedicated people with the right tools to handle this crucial mission”*

P. Moscovici - Commissioner



Key priorities:

- 1) Encouraging common agreement on the application of the EU customs rules
- 2) Help customs administrations to make their work more effective
- 3) Upgrading and aligning new EU-wide systems to ensure the best possible cooperation
- 4) Promoting best practices to make it easier to cooperate and share information



How EU makes this work....

1) **Union Customs code**

- UCC modification & consolidation
- UCC guidance documents
- UCC learning module

2) **IT systems supporting UCC developments**

- UCC Work program
- Multi Annual Strategic Planning
- National Planning
- EU Customs Model
- BPM Business Process Modelling
- UCC project groups

3) **Fight against fraud**

1) Union Customs Code





UCC modification & consolidation

(1) modification to **art. 136 UCC**

Regulation 2016/2339 of the EP and the Council

goods that temporarily leave the EU customs territory when carried directly from one EU port to another EU port over a third-country territory without making a stop in between

- **only ENS and arrival notification do not apply**
- presentation of goods, declaration temporary storage, demonstrate the status of EU goods (see also regular regular shipping service) do apply



UCC modification & consolidation

(2) Consolidation

- Published in the Official Journal on 24 December 2016
- Easy tool **without legal effect**

(3) Pending issues:

Art 84 conditions for waiver/reduction of a comprehensive guarantee, rules for sealing of goods in transit, temporary storage management, art 98 release of guarantee, guarantee for TS after transitional period, operation of TS by more than one operator, art 15 provision of information with regard to customs representatives

(4) UCC IA and DA under revision

In different stages of the process

UCC - Guidance documents

- *General Guidance on customs decisions*
 - *Data Integration and Harmonisation*
 - *Authorised Economic Operators*
 - *Binding Tariff Information*
 - *Valuation*
 - *Debts and Guarantee*
 - *Import and Entry*
 - *Simplifications*
 - *Transit and Customs*
 - *Special Procedures*
 - *Export*
-
- Of an **explanatory** and illustrative nature.
 - There may also be **national** instructions

UCC – E-Learning module



2) IT-systems supporting UCC





Tools for managing IT development

- UCC Workprogram
- MASP Multi-annual strategic planning
- National planning
- EUCDM - European Customs Data Model
- BPMs -Business Process Models
- Project groups
- **Proposal on COMMISSION IMPLEMENTING REGULATION on technical arrangements for developing, maintaining and employing electronic systems for the exchange of information and for the storage of such information**



UCC Workprogram + MASP

- **UCC workprogram (commission implementing decision 2016/578)**
 - relates to the development and deployment of IT systems provided for in the UCC
 - closely linked to the UCC Transitional Delegated Act.
- to be read together with the **MASP**
 - Provides framework & timelines
 - strategic planning tool providing overview upto 2025
 - consolidating key milestones for multiple project plans



UCC Workprogram + MASP

Yearly review cycle →

- DG TAXUD internal review cycle followed by MS external review
- Aim = include major developments based on review comments and major events

Recent “sanity check” / analysis of feasibility of MASP/UCC WP version 2016

→ input from 18 member states

UCC Workprogram /MASP

Based on the responses: grouping & categorisation

- - high/medium/ low priority
- - feasibility

(1) TOP priority / considered feasible by > 70%:

AES Automated Export System, Transit system,
national import declaration systems → ensure high
commitment

(2) High priority /considered feasible by > 70%:

NA/PN/TSD Notification of arrival/presentation
notification/ temporary storage declaration system,
AEO, EORI → continue as planned



UCC Workprogram /MASP

(3) Medium Priority/considered feasible by **only 29%:**

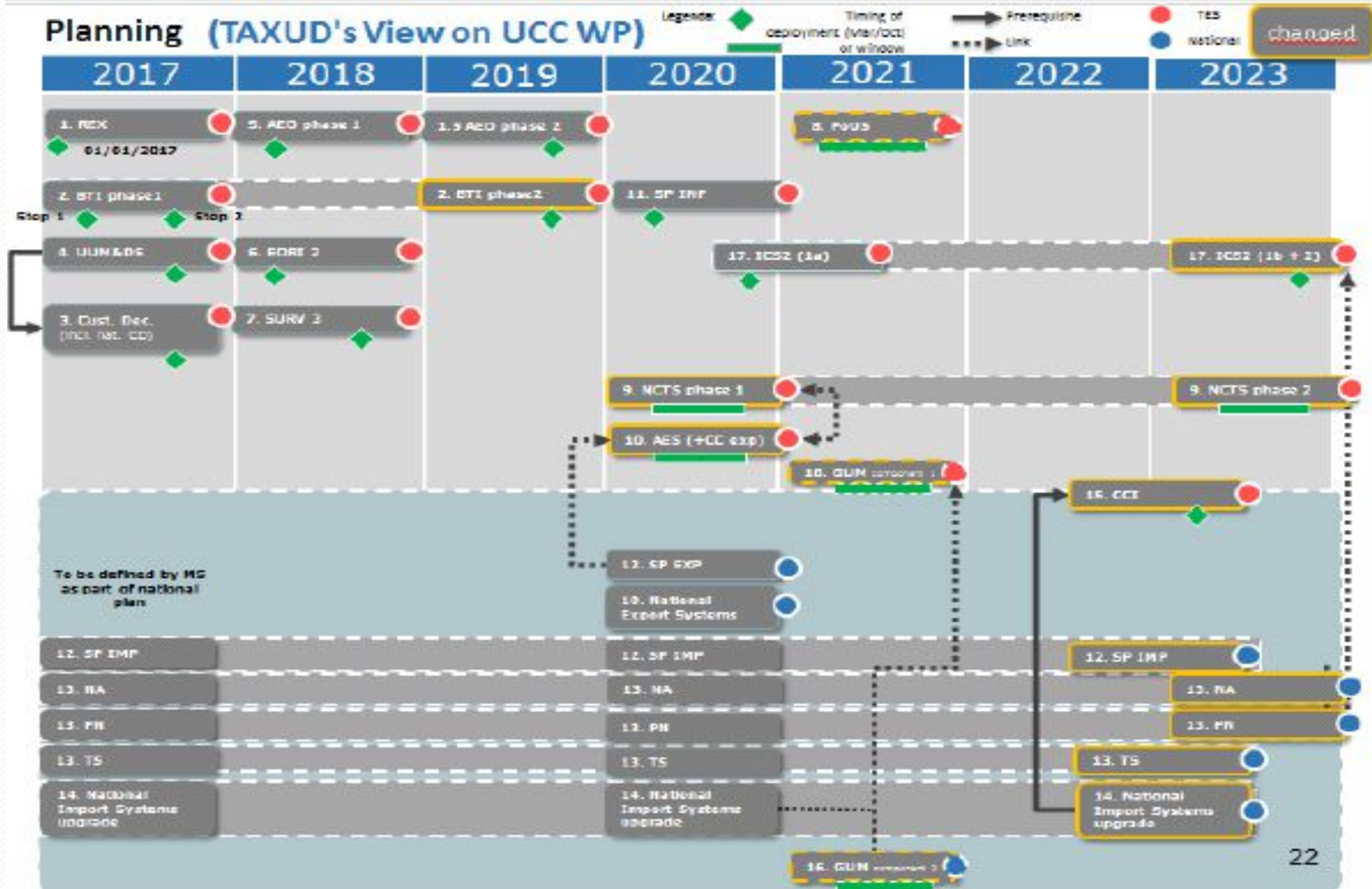
ICS2 Import Control System 2 → continue but define a realistic timing **beyond 2020**

(4) Low priority / considered feasible by 50%:

Smart & Secure trade lanes, Proof of Union Status system

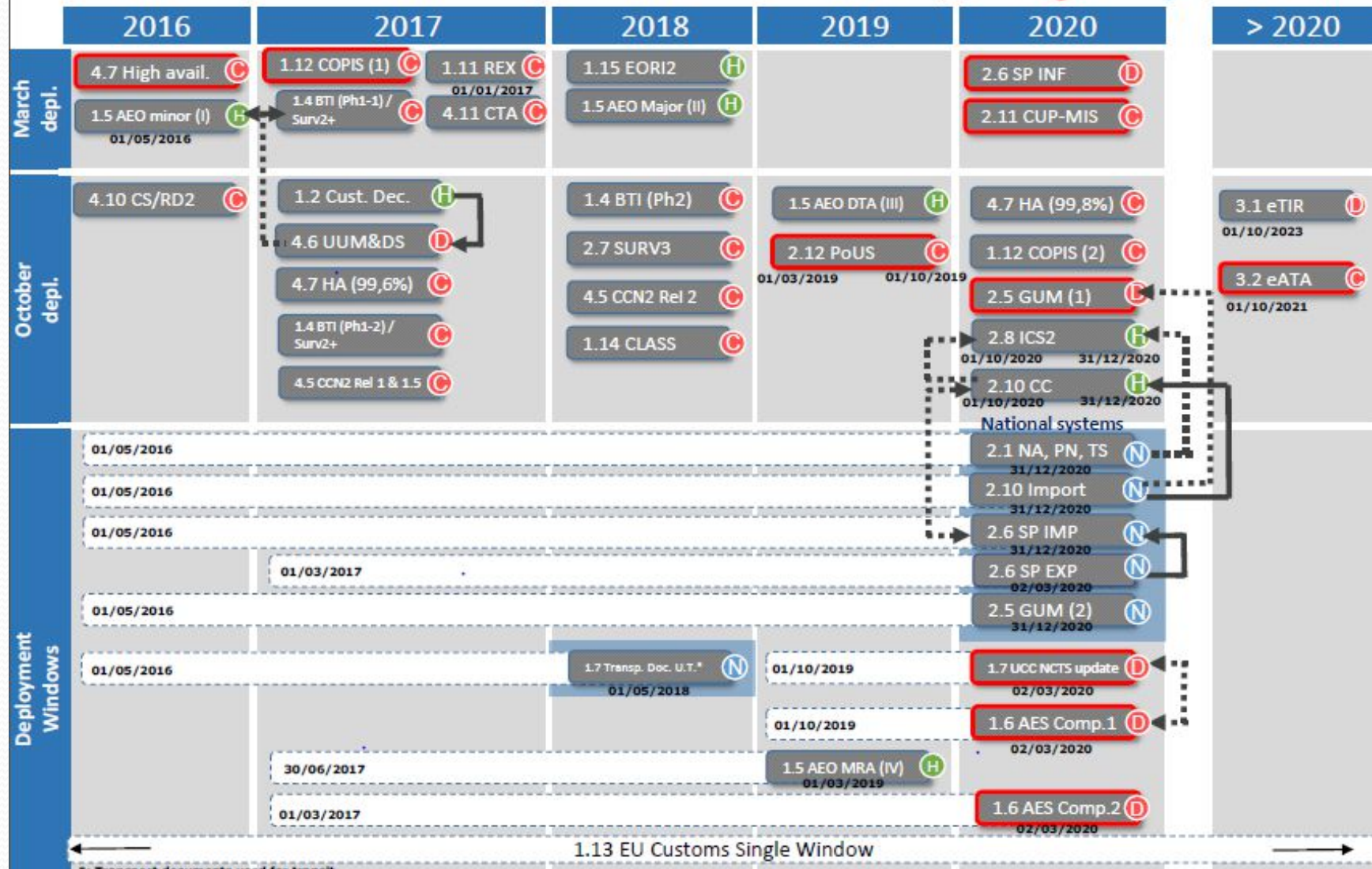
- If business case agreed : continue
- If business case not yet agreed : decide on case by case basis

Planning (TAXUD's View on UCC WP)



Planning overview Disclaimer: v1.3

Legenda: → Prerequisite C Central H Hybrid delayed
 ... Link D Distributed N National





National planning

- Information on EU-website (obligation for member states following out of UCC WP – for EU to publish)
- **No requirement for MS to make planning available to trade!!**
 - Missing data for some member states
 - Different implementation schedules for the same system in different member states
 - All timelines are provisional
 - Some timelines running beyond 2020
 - Has to be kept updated by member states



EU customs data model

- 23/12/2016: **ECDM version 1.1 has been published.**
- Technical instrument that models the data requirements of annex B UCCDA and UCCIA
- Source of information for development of trans-European systems and MS national systems
- Contains mapping of data requirements against WCO Data Model (= fully compatible)
- Backbone = data provided by operators to customs through declarations/notifications,
- extend scope to response messages / communications between MS
- **Guidance document DIH 16/003 final**

Business Process Models

Graphical illustration on

- how the IT systems supporting the UCC will work
- interactions between operators and customs

Based on UCC legal provisions

4 levels
from
abstract
to
very detailed



Business Process Models

Created for DGTAXUD but **also useful for trade**

- level 4: will provide functional details of IT systems to be build or modified by **operators**
- w.r.t. development **national** IT systems
- for checking consistency of the national IT systems and procedures with the UCC

Level 1-2-3 published, level 4 will follow

<https://itsmtaxud.europa.eu/businesspublisher/login.do?login=anonymous&password=anonymous>

If this does not work → contact your local customs

https://ec.europa.eu/taxation_customs/sites/taxation/files/eu-customs-bpm-userguide.pdf



5. UCC Project groups

Member states + trade representation (always the same...)

- **ICS2** – no starting period of 3 months but big bang!!)
 - **Proof of Unions Status system** – about business case
 - **Centralised Clearance (C2020)**
 - **EU Customs Single Window (C2020)** – with DGMove!
Focus mainly on G2G, no intention for “real EU” CSW
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- Difficult processes
 - Lack of resources
 - budgetary constraints
 - Governance issues



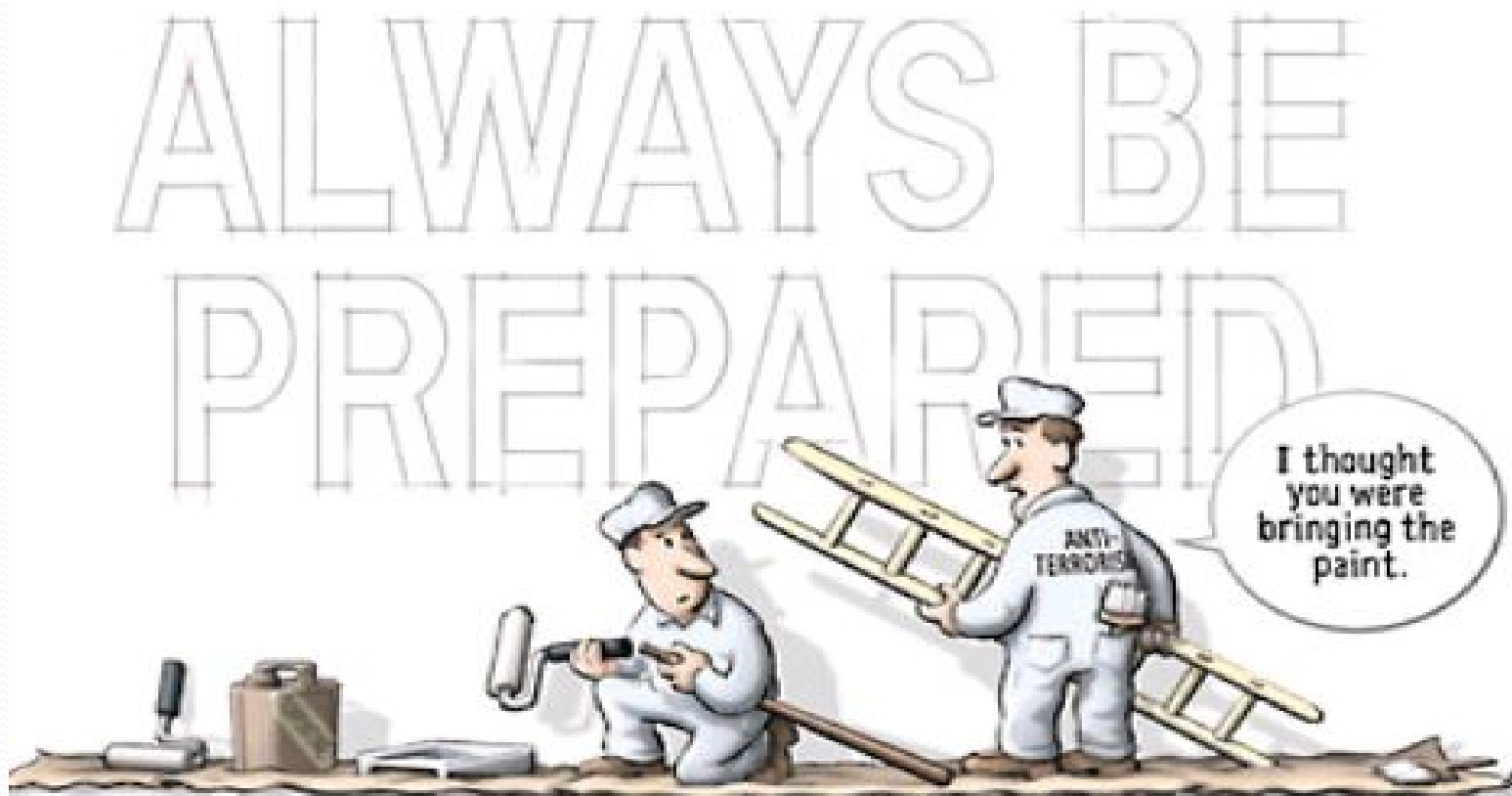
Proposal technical arrangements

- **COMMISSION IMPLEMENTING REGULATION on technical arrangements for developing, maintaining and employing electronic systems for the exchange of information and for the storage of such information**

Specification of arrangements

- for testing and deployment, maintenance, change and release management
- concerning data protection, data ownership, data access, data migration, storage of information and security of the systems.

Why is this important?





Why is this important?

- Once a planned system is operational, current transitional rules for that procedure/process will no longer apply: **be prepared**
- Companies need to be aware of the UCC IT planning and implementation steps and schedules!
 - ➔ both EU systems and national systems
 - ➔ technical and functional specifications
 - ➔ testing possibilities
 - ➔ ensure timely switch to the new system

3) Fight against fraud

Detector dog Alfie helped Revenue officers seize 60,000 cigarettes in Rosslare Europort yesterday revenue.ie/en/press/2017/...



Proposal directive legal framework customs infringements

Goal = to harmonise sanctions in EU

Has been re-engineered

- - not for criminal sanctions
- - mitigating /aggravating circumstances
- - **no strict liability (important principle!)**

Report was adopted by the EP on 25/10/2016 (CI2016/154)

Following step in legislative process: Council ➔ not officially started its work.... Pressure by EP for position.

Misdeclaration in ENS / TSD

Actions taken towards European Commission

W.r.t. strict liability for **carrier** (art 79 3a UCC)

- Joint letter to the Commission by Maersk / CMA /MSC that strict liability is in contradiction with some basic principles of union law that are valid in many other cases
- Now followed by other major container carriers

W.R.T. liability for **agent** “who was /should have been aware” (art 79 3b UCC)

- remains to be proven as per UCC cfr. Papismedov case law
- Now also in Germany?
- Question to the commission if proofs needs to be delivered before court for each individual case, while agent is set free on basis of the same facts and legal principles?

The future of the Customs Union?





BREXIT

- 18/1/2017 May said she wants to end up with “a customs agreement with the EU” before the EU membership ends (cfr. 2 year time frame for the withdrawal negotiations)
- 20/1/2017 Mr Moscovici said that contrary to British Prime Minister Theresa May's demand for a free trade agreement within two years, negotiations on a future trade relationship could only happen “at the end of the two year time frame for the withdrawal negotiations”



BREXIT

Increase of administrative work for transporting goods to UK

No re-use of data in MSW?

even in case of a favourable free trade agreement there will be issues about the customs status of cargo when transporting goods into / out of UK

Controls at border: goods/persons can be stopped at UK/EU border or in an EU or UK port

How will transition take place, will there be chaos, will everything be clear

Financial consequences?

→ How long will legal uncertainty last???



Thank you for your attention!