

Adapting Europe's Customs Union to the new reality





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Foreword



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Customs is critical to international trade and security. Not only does it manage goods at borders, it plays an important role in assuring safety, fighting fraud and securing revenue. The efficiency of customs procedures significantly affects the economic competitiveness of a country or region, as it stimulates growth in trade and cross-border e-commerce. By streamlining customs procedures in the EU, we can strengthen and develop Europe's economy and society.

The 2021-2027 EU customs programme aims to ensure safety and security within the Union while facilitating legitimate business activities. It encourages cooperation between customs authorities and seeks to strengthen the internal market in order to safeguard the financial and economic interests of the EU and its Member States. The programme aims to contribute to an economy that works for the people and to take the customs union to the next level by equipping it with a stronger framework. However, in order to achieve these goals, the EU needs to provide a legal framework that aligns with the future of supply chains by accounting for new realities and clearly outlining the roles that all stakeholders must play to best capitalise arising technologies.

The American Chamber of Commerce to the EU (AmCham EU) shares the EU's goals in the field of customs. We support the development of clear, simple and effective customs legislation, which will benefit consumers, companies, customs authorities and the economy at large. In order to incentivise a modernised and forward-looking customs framework, AmCham EU has outlined key recommendations for European policymakers. Through these efforts we can enable business growth across the EU, improve public health and satisfaction, and contribute to a more vibrant European economy.

Executive summary

Customs administrations operating in the modern global economy are faced with a complex range of challenges. Their prime responsibilities remain the collection of revenues and the protection of the society. These demanding tasks must be performed effectively and efficiently to facilitate the flow of legitimate goods, the collection of revenues and the protection of the society. For this to be possible, the legislative landscape for customs must be simplified and harmonised. AmCham EU calls on stakeholders to implement the following recommendations:

1. Develop best-in-class customs procedures

Moving the duty and tax collection process away from the border, centralising the clearance of goods and enhancing facilitation for trusted traders, can take the Customs Union to the next level and allow the EU to seize global opportunities. The role of the importer of record should be clarified and strengthened as the single person liable for customs.

2. Ensure Europe remains at the forefront of the global e-commerce revolution

The expansion of digital commerce has demonstrated that the current customs rules are not fit for the realities of today's supply chain. By allowing customs authorities to access data from payment providers and platforms, reducing the liability of the customs declarant and encouraging free trade agreements, Europe can remain competitive in the e-commerce revolution.

3. Align customs policies with the EU's ambitious sustainability objectives

Ensuring the Union Customs Code's centralised clearance is implemented and using the Single Window's standardised lodging and electronic submission of documents can help manage enterprises more efficiently and save resources.

4. Take advantage of the latest emerging technologies

The use of new technologies like blockchain, data analytics and cognitive computing can allow economic operators to submit data through a single system in one Member State and help customs authorities monitor and enforce rules rather than become gatekeepers.

5. Support an ambitious and sustainable long-term European customs strategy with trade facilitation as key driver

The value of trade facilitation for business should be recognised and integrated into the fabric of EU customs planning by following the Future of Customs in the EU 2040 foresight exercise and the recommendations of the Wise Persons Group.

Introduction

The past years have highlighted the importance and fragility of international supply chains. The COVID-19 pandemic and the effects of the war in Ukraine have left global supply chains highly disrupted and have demonstrated the need for streamlined customs procedures around the world. Among many other roles, strong and stable customs rules can facilitate legitimate trade, collect revenue and protect society and the environment.

Given its cross-sectorial importance, customs significantly boost economic growth and productivity and help raise standards of living by removing technical barriers to trade. Through more efficient customs procedures, trade transaction costs can be reduced and goods can be delivered quicker. Achieving safe, flexible and efficient customs processes in the face of shrinking budgets and diverging national measures is a challenge faced by global customs authorities.

In the EU, customs legislation has been managed under the EU Customs Union since 1968, which laid the foundations for the Single Market and outlined the EU's involvement in international trade. The EUCU harmonises customs duties for goods from outside the EU, avoids internal tariffs and aligns customs authorities across the region.

A large part of these tasks are regulated through the Union Customs Code (UCC), which the European Commission seeks to reform as a means to make customs rules fit for the future. In this context, the following brochure underlines the key roles of customs procedures and provides recommendations on how they can best be improved and strengthened. In challenging times, standard simplified customs procedures and systems can benefit business and consumers alike.

What are the roles and responsibilities of customs?

Today's customs authorities have a wide range of roles and responsibilities that extend far beyond those we have become familiar with when travelling across borders. Most of us are only aware of the tip of the iceberg, but what lies beneath?

In general terms, responsibilities of customs authorities can be divided into two categories: **fiscal** tasks and **non-fiscal** tasks.

Fiscal tasks

The traditional responsibilities of customs authorities are to assess and collect various types of duties, import value added tax (VAT) and fines. This process has become much more complicated in recent years and requires substantial knowledge of national and EU customs legislation. For instance, there could be up to 26 different import VAT rates on car parts depending on the country of import.

Non-fiscal tasks

These tasks comprise a range of other activities performed by customs that have become more important in recent years. Such tasks are meant to ensure safety and security, but also to simultaneously facilitate and manage the flow of goods, data and people.

The first set of non-fiscal tasks includes minimising security threats by assessing risks based on the data submitted when goods arrive or depart. This is done by combining data obtained at an international, intra-EU and intra-national level in order to create risk profiles. These profiles then inform customs decisions on the priority order in which goods need to be checked either at the border or inland. This process allows customs to allocate their resources to the high-risk areas while increasing the efficiency of the clearance process for low-risk shipments.

The second set of non-fiscal tasks focuses on detecting and apprehending counterfeit products and illegal imports, preventing smuggling and fraud, conducting sanitary controls on food and feed products, ensuring



1,900+

EU customs offices, worked 24 hours a day and 365 days a year to handle the import, export or transit of over 1,178 million articles in 2021.¹

goods meet health and environmental standards, prosecuting infringements and collecting trade data. In 2021, the EU reported detaining fake goods with a retail value of €1.9 billion at its external borders, while the number of detained items increased by almost 31 % compared to 2020.

The new --- customs reality

The new customs reality

The role of customs authorities has changed dramatically in the past two decades. The trend towards non-fiscal tasks, which had started before the 2000s, has accelerated and added successively more responsibilities to customs processes, ranging from supply chain security and environmental and health standards checks, to preventing smuggling and facilitating trade.

Recent global crises such as the COVID-19 pandemic and the war in Ukraine place additional burdens on customs. The early days of pandemic created uncertainty about the safety of carrying out controls by customs officers at the premises of companies. Later on, special protocols were drawn up by customs authorities to respect the safety measures of companies and the EU temporarily waived all customs duties and VAT for medical equipment imported from non-EU countries to help meet the unparalleled demand spike for goods such as personal protective equipment. The EU also introduced sanctions and trade restrictions against Russia after its invasion of Ukraine in 2022. These measures increase pressure on customs and create significant bottlenecks. They also reveal the insufficient coordination between the different customs authorities and other relevant entities, and they demonstrate the different and difficult implementation processes of the EU customs legislation. Adapting to new realities and measures with short lead times requires extra effort and time spent.

The e-commerce revolution and the restrictions imposed because of COVID-19 have also transformed the role of customs by moving international trade into our living rooms through online shopping. The rise in popularity of online shopping has required the EU to reevaluate the way e-commerce is taxed and how to ensure speed and flexibility while maintaining safety and security, especially since it enables more counterfeit products to enter the market, which prevents the consumers from knowing the origins of these goods.

Following the ambitious objectives of uniformity, modernisation and simplification of customs rules set out in the UCC, the EU has pursued the implementation of the EU Single Window. For traders simultaneously active in multiple countries throughout the EU, this avoids the additional burden of interacting with up to 27 different IT systems and face 27 interpretations of customs procedures, VAT rules and approaches to safety and security. While larger corporations have the resources to deal with inconsistencies and local differences, these challenges often overwhelm smaller companies.

+48%

of the value of goods was transported by sea between the EU and the rest of the world. It is the most used form of transport for goods in and out of the EU.²



As a result, SMEs often shy away from, or simply opt out of, exporting. Once the EU's Single Window is completed, companies will benefit from simplified regulatory formalities such as decreased clearance times and direct automated document exchange between authorities, which avoids the need to present documents in person.

Other new systems and processes have been implemented to prevent acts of terrorism, and the concept of a 'trusted trader' has been developed further. The EU's Authorised Economic Operator programme, whereby traders or other economic operators are certified as compliant with certain supply chain security standards, has become a must-have for most European traders.

14%

of the total EU budget is made up by the customs duties from imported goods.³

Authorised Economic Operator (AEO)

An AEO is an organisation that willingly meets a range of criteria set by the EU. Meeting these requirements entitles the organisation to work in close cooperation with customs authorities and allows them to enjoy benefits while trading in the EU and with countries with which the EU has a mutual recognition of AEO.

There are two types of AEO status. AEOCs are economic operators authorised for customs simplification while AEOSs are economic operators authorised for security and safety. Having both AEO C as well as AEO S combines the benefits of both under AEO F status (Full). Depending on the type, being an AEO can grant benefits such as easier admittance to customs simplifications, fewer physical and document-based controls with priority treatment if so selected or prior notification of selection for controls.

Voices of --- customs policy



What are the benefits of customs rules harmonisation?

Businesses currently must grapple with 27 EU customs borders, needing connections with more than 100 IT systems to file all necessary declarations.

Different interpretations of the rules can lure illicit operators who can pick where to try to enter the Single Market with counterfeit or dangerous products, undermining European production.

This is inefficient and harmful, both for operators and for customs supervision. Harmonisation and simplification of customs processes can reduce compliance costs for legitimate businesses and keep out the bad ones. Centralisation of certain tasks, for example risk analysis, will also allow customs to supervise trade more efficiently.

Harmonisation is not an objective in itself. We do not strive for full harmonisation, but a more efficient allocation of tasks and responsibilities in the Customs Union.

In a changing world, which emerging issues do you identify in customs policy and how can they be addressed?

Three major developments put pressure on EU customs.

The first is the increasing volume of trade flows due to the exponential growth in ecommerce: import declarations having almost doubled since 2019, putting a strain on current EU customs capabilities.

The second is the growing set of EU standards requiring customs supervision at the EU's external border, beyond the traditional financial controls. Whether it comes to controlling dangerous chemicals, enforcing

deforestation rules or ensuring products made by forced labour cannot enter the EU, customs is the first line of defence, needing to coordinate closely with security, health and environmental authorities.

The third is the shifting geopolitical landscape, which is increasingly reshaping global and regional supply chains, and introducing new logistical and safety risks to which customs policies must adapt.

What do you hope to achieve through the Union Customs Code reform?

To start with, our proposals will aim to make EU customs simpler. They will do this by building on a new approach to responsibility and trust between businesses and authorities. This is key to preserving trade facilitation against the background of growing external threats.

To protect the Single Market more effectively, we will set out more efficient and coordinated risk management, notably of non-financial risks, including a more integrated cooperation framework of customs with market surveillance and law enforcement authorities.

Lastly, we will seek to ensure that EU customs strengthen their crisis management, so that they contribute more effectively to Europe's security and defence. EU customs must act as a Union-wide system, rather than just the sum of Member States' individual efforts.



Paolo Gentiloni
Commissioner for Economy,
European Commission





What are the benefits of customs rule harmonisation?

Customs legislation is a key player in the international supply chain, as it applies standards meant to simplify and harmonise border procedures. Harmonisation means efficiency and enhanced economic growth and competitiveness. It holds benefits for both businesses and governments in terms of time and cost savings.

When customs administrations apply transparent, predictable, simple and efficient border procedures that follow international standards and do not vary substantially from country to country, this results in reduced costs for trading across borders, along with less delays and less waiting time at borders. This boosts the country's attractiveness for trade and investment.

In a changing world, which issues do you identify in customs policy and how can they be addressed?

The global trade landscape is changing rapidly. As a result of a change in consumer habits, we are witnessing an exponential growth in the cross-border movement of small and low-value packages, which is overwhelming customs. In addition, the e-commerce business models are evolving rapidly and customs are not always aware of all the aspects of emerging business model in the e-commerce environment.

Accelerated digitalisation in international trade is another trend that transpired in recent years. Digitalisation of trade documents, online ordering of and payment for goods and services mean truly digital data, whose potential is not yet fully harnessed by customs. Throughout 2022 and beyond, the WCO is investing in enabling customs to operate in a fully digital environment and create an operating model that captures and exploits data from across the

trade ecosystem. Tapping into data from supply chain stakeholders and open-source information platforms can provide powerful solutions to the emerging issues related to the growth in trade volumes and complexity of business models. Enhanced use of advance cargo information, as well as customs-to-customs sharing of data, can reinforce customs risk management and contribute to the facilitation of legitimate trade and the protection of society from various threats.

Moreover, customs should not lag behind in terms of automation of procedures and the deployment of advanced technologies.

Lastly, customs should play its role in implementing the green agenda of governments, through the greening of customs activities, but also through support for the transition towards sustainable and greener supply chains.

How will the EU's Customs Code reform benefit trade?

The Wise Persons Group on the Reform of the EU Customs Union explored these and other issues related to the uniform implementation of the EU customs legislation and the Customs Union governance. We hope the Union Customs Code reform will provide a good practice in addressing the current challenges faced by customs, which we can tap into in our work at the global level.



Kunio Mikuriya
Secretary General,
World Customs Organization



What are the benefits of customs rule harmonisation?

Customs rules harmonisation is essential for reducing bureaucracy, time- and cost-consuming administration for all enterprises. The Customs Union represents one of the core elements for properly functioning internal market. The role of customs includes the enforcement of more than 60 EU non-customs legal acts at the external borders of the EU. These cover specific policies across a wide range of areas. Therefore, this generates burdensome reporting obligations for traders that - in most cases - require additional documentation over and above the basic customs declaration. Our mission is to keep the legislation as low as possible to meet the goals in the area of customs clearance.

In a changing world, which issues do you identify in customs policy and how can they be addressed?

We recognise changes to customs legislation and IT, and challenges regarding the new trade models and growing trade volumes in recent years. Reform plans set out in the Customs Action Plan advocate for more fundamental and wide-ranging reforms, to be implemented by 2030. These include revised and simpler customs legislation, a new framework of responsibility and trust, streamlined procedures and reduced administrative burden, a new approach to data and more effective governance. Particular emphasis should be put on the need for a paradigm shift to ensure that EU Customs contributes to Europe's security and defence and act as a Union-wide system.

What do you hope to achieve through the Union Customs Code reform?

The main goals of this reform are to make the whole system less complicated, clearer and more transparent, and to fix the issue of the legal bases for the Customs Single window. This can be achieved by providing a centralised solution and single entry point for customs and non-customs declarations, setting a unique framework for cooperation between Member States and the European Commission, envisaging the reduction of administrative burdens, ensuring equal treatment of economic operators, and the fight against fraudulent activities. We also need to ensure sufficient protection for a digitally secure and safe environment for the exchange of data within and between Member States. Finally, we want to ensure the operational planning and implementation timeline of all e-Customs IT projects via a Multi-Annual Strategic Plan for electronic Customs.



Ivan Štefanec

Member of the European Parliament

Recommendations

Modern and well-functioning customs procedures are crucial to Europe's continued competitiveness in the global economy and in the current uncertain economic environment. Given the continuously increasing complexity of global trade, we must secure access to the best products and services from around the world without jeopardising safety and security.

With this in mind, AmCham EU offers key recommendations for policymakers.

1. Develop best-in-class customs procedures

Overview

The UCC is a far-reaching exercise to develop EU customs rules that fully incorporate modern electronic processes. However, implementing this framework is only part of the challenge. New opportunities are rapidly emerging, which reshape the global trade landscape and must be seized to maximise the region's trade potential.

Problem definition

As many deadlines are repeatedly pushed back and various customs processes have become complicated to enforce uniformly, implementing the UCC continues to prove challenging. New technologies that reshape traditional methods of customs clearance have also emerged. Fully embracing these new methods could facilitate the flow of goods and services, freeing up valuable resources for customs and saving costs for businesses and consumers.

Recommendation

Develop best-in-class customs procedures, including by moving the duty and tax collection process away from the border, centralising the clearance of goods and enhancing facilitation for trusted traders. The role of the importer of record as the single liable person for customs should be clarified and strengthened.

74%

of goods (measured in volume) traded between the EU and the rest of the world in 2021 were transported by sea.⁴

2. Ensure Europe remains at the forefront of the global e-commerce revolution

Overview

As the COVID-19 crisis showed, e-commerce brings new opportunities for citizens and businesses. However, many buyers and sellers on digital platforms have limited knowledge of customs regulations and are generally unknown to customs authorities.

Problem definition

The expansion of e-commerce has demonstrated that the current customs rules do not address the realities of today's supply chain. For instance, they do not allow the customs authorities to run adequate risk assessments or to ensure a correct collection of import duties and VAT.

Recommendation

Ensure Europe remains at the forefront of the global e-commerce revolution by balancing the needs of businesses and consumers while maintaining safety and security. In order to resolve the issue at its source, free trade and other agreements should be encouraged. Additionally, customs authorities should be able to access data from payment providers and platforms by leveraging as much as possible existing data sharing mechanisms already in place under the 2021 e-commerce VAT changes and under the VAT payment service providers PSP data sharing mandate that will become effective from 2024. Early consultation of stakeholders (from the sector as well as the e-commerce value chain) will be critical to the success of an ambitious reform. It will ensure that solutions can be found that are workable from the perspective of both business as well as tax and customs authorities. Ultimately, this will lead to the desired assurance of compliance and overall results in terms of trade facilitation. Pilot testing should also be initiated and policy options should be evaluated in a solid impact assessment.

3. Align customs policies to the EU's ambitious sustainability objectives

Overview

Today's world trade sits at the intersection of disruptive trends, such as rapid urbanisation and e-commerce growth, and its associated challenges, including congestion and climate change. Through continuous transformation, customs should capitalise on disruption to shape a future in which more people prosper, enterprises run more efficiently and resources are preserved for future generations.

Problem definition

Climate change is the challenge of our time. International trade can provide solutions and therefore is part of the global warming policy frameworks, together with border management. Being the main enforcer of cross-border trade-related regulations, customs authorities, and in particular the EU Customs Union, can ensure that international trade contributes to accelerating progress in achieving these goals. For instance, while the UCC requires all communication between customs authorities and economic operators to be electronic, this is not always met. Examples of this are trucks which need to bring paper copies of commodities on board and show them to customs authorities. This produces massive amounts of paper waste for a process that could be easily automated.

Recommendation

The UCC's centralised clearance should be more rapidly enforced. This system would allow customs clearance and physical release of the goods at the first point of entry into the EU rather than moving goods in transit between Member States. Although the UCC entered into force in May 2016, important steps to implement

centralised clearance have not yet been taken, and will only be available as from 2025.

The Single Window (SW) should also be used to tackle this issue, as it allows parties involved in trade and transport to lodge standardised information and documents with a single-entry point to fulfil all import, export and transit-related regulatory requirements. If information is electronic, then individual data elements should be submitted only once. The Single Window should therefore be used to allow customs clearance and physical release of goods at the first point of entry into the EU rather than moving goods in transit between Member States.

37

items per second were declared on average in 2021.⁵



4. Take advantage of the latest emerging technologies

Overview

The UCC plans to move customs formalities into a fully paperless environment. The use of electronic systems for all interactions between economic operators and customs authorities reduces administrative costs and red tape and supports European competitiveness. In order to implement this legislation the Commission, Member States and trade stakeholders have to deploy systems that allow economic operators to exchange data quickly and efficiently with customs authorities. They should therefore increase the use of the latest emerging technologies.

Problem definition

In 2004, the Commission intended to replace paper-based customs procedures and processes. The aim of the Commission - the deployment of all required systems by December 2020 - was not met. In 2018, the European Court of Auditors highlighted that the delays were due to several factors, including changing project scope, insufficient resources allocated by the EU and Member States and a lengthy decision-making process due to the multi-layered governance structure. They also noted that the Commission did not report appropriately on delays, and that the Customs 2020 programme objectives and reporting arrangements were not suitable for monitoring the implementation.

This compromises efficient customs clearance and risk-based controls within the internal market. It runs against the policy of facilitating international trade and strengthening security and safety checks at the external borders of the Union. It also weakens the competitive position of the EU. Over the past decade, the Commission, Member States and trade stakeholders sought to cope with



15%

of global trade was performed by the EU in 2020, which amounted to €3.7 trillion.⁶

the implementation of multiple systems in multiple countries. This policy has failed. Customs authorities need to embrace a paradigm shift to ensure the effective roll-out of new policies.

Recommendation

By embracing new technologies like blockchain, data analytics and cognitive computing, customs authorities can move from gatekeeping to monitoring and enforcement; from data ownership to data access. Additionally, the role and liability of the customs declarant needs to be revised. Customs authorities should process a multitude of source data to validate their authenticity and relevance. This will require awarding trustworthy AEO supply chains through green lanes, pre-clearance and self-assessment; as well as enabling customs authorities to submit data to a single system in one Member State and one EU language.

5. Support an ambitious and sustainable long-term European customs strategy, with trade facilitation as key driver

Overview

International trade has changed significantly in recent years, and it continues to evolve rapidly. Maintaining the EU's leading role in global trade will require a clear and coherent long-term strategy that provides an effective balance between trade facilitation and security.

Problem definition

The lack of coordination between customs authorities prevents an EU-wide harmonised and streamlined control of goods. In the context of the complex regulatory environment and the difficult geopolitical situation the EU is facing, this reveals that the current Customs Union is not agile enough to face unexpected challenges and is unable to effectively counter future security and safety risks. The new landscape that the EU has now to navigate requires the EU customs ecosystem to remain relevant and effective in the long-term and to be prepared for future challenges and potentially increasing trade volumes.

Recommendation

Customs should act as enablers and guarantors of our economic security and prosperity. In order to improve effectiveness in multiple customs' areas such as data management and IT systems customs operations, business support to traders and international relations, it would be beneficial to have a centralised, joint governance structure to operationally manage the Customs Union.



430 million

cigarettes destined for illegal sale were seized by EU authorities in 2021.⁷

The EU's proposed 2040 Roadmap to take customs to the next level rightly focuses on securing the EU internal and external borders from new and evolving threats. The importance of trade facilitation for business should be recognised and integrated into the fabric of EU customs planning. Europe's long-term customs strategy should be ambitious, sustainable and built on the basis of the Future of Customs in the EU 2040 foresight exercise, as well as on the recommendations of the Wise Persons Group. In order to execute an ambitious and sustainable long-term European customs strategy, the Customs Union should act as one.

Conclusion

Clear, streamlined and adaptable customs legislation is crucial for successful trade policies. Adapting customs processes to change, in particular with the radical developments that the world's economy has seen in the past few years, can benefit national customs authorities, businesses of all sizes and consumers alike.

In order to create a simplified and harmonised customs legislative landscape, policymakers should work to develop best-in-class customs procedure, foster Europe's e-commerce leadership, align customs policy with the EU's sustainability objectives, take advantage of emerging technologies and establish a long-term customs strategy with trade facilitation as a key driver. It is also essential to attract young talent in the field to fill the need for sufficient human resources that can understand customs legislation, procedures and processes.

With the right customs tools, goods can move safely, efficiently and reliably across Europe, setting the scene of a new era of trade, economic growth and security.



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AmCham EU speaks for

American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled more than €3.7 trillion in 2022, directly supports more than 4.9 million jobs in Europe, and generates billions of euros annually in income, trade and research and development.

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