

## Replies to the Public Consultation, in the context of the Wise Persons Group, on the challenges facing the Customs Union

#	Subject	Message	Date of submission	Country of residence	Contributor
1	UPS Europe contribution for the EU Wise Persons Group on Challenges Facing the Customs Union	<p>Pursuant to our participation at the hearing with the Wise Persons Group on October 8th 2021, we welcome the opportunity to provide additional input. Our feedback is based on our unique position as express integrator. We would also like to stress the unique feature of the international express delivery process and operational flow: we move goods within a very short time span resulting in overnight delivery, also in an international context. Our customers' global and EU supply chain models rely on just in time delivery. This has certain implications for data processing and related risk assessment processes that need to be taken into account in the development of new customs processes.</p> <p>This document provides our input on the following questions:</p> <ol style="list-style-type: none"> <li>1. What would be an efficient system for controlling risks created by an increasing number of small parcels that facilitates trade while ensuring safety and security?</li> <li>2. What is the best means to ensure collection of customs duties and VAT on Ecommerce goods?</li> <li>3. How could date be collected along the entire value-chain to improve the management of financial and non-financial risks?</li> </ol> <p>In order to respond to the above questions, we would like to refer to some guiding principles to be adhered to in the development of new concepts related to these questions:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> There is a need to maintain a balance between Trade Compliance and Trade Facilitation</li> <li><input checked="" type="checkbox"/> It is important to separate aviation security procedures (IED1 /Bomb in the box) from Customs Risk</li> </ul> <p>Assessment procedure</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> We must consider the cost/benefit of new and alternative customs procedures</li> <li><input checked="" type="checkbox"/> In order to increase efficiency, VAT collection should be separated from the customs and duty related processes</li> <li><input checked="" type="checkbox"/> We also have some specific recommendations on the overall Governance, Legislative Process and Process Improvements that will contribute significantly to fixing the concerns raised in the 3 specific questions</li> <li><input checked="" type="checkbox"/> These recommendations will in our view contribute to making customs administrations more efficient, allowing them to dedicate resources to the issues reviewed by the WPG</li> <li><input checked="" type="checkbox"/> These recommendations will also help to simplify customs processes, making the overall process more transparent from a trade compliance perspective whilst improving the efficiency of customs and other administrations</li> </ul> <p><b>1. What would be an efficient system for controlling risks created by an increasing number of small parcels that facilitates trade while ensuring safety and security?</b></p> <p>We recommend:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> To increase the involvement, the liability and the responsibility of platforms and other parties involved in the transactions such as payment service providers</li> <li><input checked="" type="checkbox"/> The EU to work at bilateral and multilateral level to foster cooperation with other countries and trading partners ensuring that: <ul style="list-style-type: none"> <li>o required controls are executed at the "source": export countries and at shipper's premises</li> <li>o intelligence information is shared between national authorities, including those of non-EU countries</li> </ul> </li> <li><input checked="" type="checkbox"/> The EU and Member States to share information with trusted economic operators, in order for them to flag suspicious transactions</li> <li><input checked="" type="checkbox"/> To relieve trusted economic operators, operating in good faith, from liability</li> </ul> <p>The EU has developed the Import Control System 2 (ICS2) to increase the safety and security for shipments entering the EU. This system has two components. The first release covers aviation security, the second phase covers – amongst others - product safety and conformity. In order to balance the twofold objective of ICS2 (Aviation Security vs Customs Risk Assessment), there is a need to make a distinction on the kind of threat – IED vs product safety and conformity.</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> For IED cases – we work within the current safety framework – Import Control System 2 Release 1</li> </ul>	Tue, 02/11/2021	Belgium	Association Representative - UPS Europe

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	<p> <input type="checkbox"/> UPS has implemented the Import Control System 2 Release 1 successfully for all its volume on October 1st. With this, the EU has mirrored the US ACAS setup  <input type="checkbox"/> Despite the legal obligation – postal carriers currently only comply for between 50 and 70% of their volume  <input type="checkbox"/> Other modes of transport will only need to adhere to the new legislation in 2023  <input type="checkbox"/> UPS will implement ICS 2 Release 2 in 2023 and as such is compliant with the Union Customs Code.                  We expect that the Commission will ensure that other modes of transport will do the same.  <input type="checkbox"/> There is a need to reconsider the liability and responsibility of the customs declarant in terms of safety and conformity, as customs declarations are based on data and invoices provided by the shipper and customs declarants do not have access to the physical packages (unless under customs supervision). Customs declarants often do not have the required detailed subject matter expertise in order to examine whether the description of the goods on the invoice is genuine and authentic.  <input type="checkbox"/> We do not see a reason to go beyond the current concept but want to point out that a consistent safety and security approach needs to cover all modes of transport, otherwise it will be highly ineffective.             </p> <p> <b>2. What is the best means to ensure collection of customs duties and VAT on ecommerce goods?</b>                  We recommend the Wise Persons Group to evaluate the following measures  <input type="checkbox"/> Decouple the collection of VAT from the collection of import duties  <input type="checkbox"/> Request the evaluation of the effect of an increase of the 'de Minimis duty threshold'  <input type="checkbox"/> Assess a separation of the collection of duties and VAT, allowing duties and VAT to be handled by the respective agencies  <input type="checkbox"/> Make IOSS made mandatory for B2C transactions, taking the VAT collection out of the customs brokerage process  <input type="checkbox"/> Consider new concepts to further simplify the import procedures for low value B2C and C2C shipments as per the Simplified Duty Collection concept promoted by the GEA (Global Express Association).             </p> <p> <u>Customs duties</u>  <input type="checkbox"/> We encourage the WPG to request an assessment on whether the current de Minimis amount of 150 Euro (that dates back to 2009 and since then has not been indexed) - can be increased, similar to the US (800 US\$) or Australia (1000 AUD). The de Minimis is a threshold that exempts shipments from payment of import duties. It is applied in most developed countries.  <input type="checkbox"/> An increase of the de Minimis threshold would make undervaluation less relevant and increase trade facilitation and at the same time increase the competitive position of European Union trade. We would like to point out that already today, 27 % of commodity lines are exempt from import duties. The high number of duty free items results from the many Free Trade Agreements between the European Union and its trading partners.  <input type="checkbox"/> Moreover, decreasing import duties would have a favourable effect on the global competitiveness of European trade. More than 58 % of the EU's total physical imports are raw materials and components used for further industrial processing. On the other hand, around 56 % of the EU's total physical exports are finished products.  <input type="checkbox"/> We encourage the Group to review the Global Express Association's proposal for simplified duty collection for low value B2C and C2C imports. Although this approach would require a significant overhaul of current procedures, it takes the interests of customs administrations, national revenue administration, traders and operators into account. The approach has also proven to be successful in other parts of the world.             </p> <p> <u>VAT</u>  <input type="checkbox"/> Where - as part of the EU's Customs Union - import duties are identical for a particular product in each member state, import VAT is dictated by a different set of rules that is far less harmonized at the EU level and allows Member States much more discretion.  <input type="checkbox"/> The import VAT percentage for a particular product consequently varies depending on the member state in which the product is imported.  <input type="checkbox"/> Import VAT is destined exclusively for the collecting member state's national budget. A single customs authority is therefore responsible for managing imports according to different sets of complex customs and taxation rules.  <input type="checkbox"/> This situation creates a substantial compliance burden not only for the actual importers but also for other stakeholders involved in the import process. This includes customs brokers and freight forwarders who work on behalf of importers or individual consumers.  <input type="checkbox"/> We believe that this compliance burden could be reduced considerably if customs authorities were responsible solely for collecting import duties. Import VAT could meanwhile be collected by a different governmental agency. This separation in responsibilities – which some member States already allow - would still protect the member state's financial interests but at a lower cost for importing companies and consumers.             </p>			
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	<p><u>Business to consumer transactions</u></p> <ul style="list-style-type: none"><li>☑ The VAT reform on July 1st has provided the framework to solve the above challenges in putting the liability for VAT processing of distant sales transactions to the supplier of the goods.</li><li>☑ The supplier (or deemed supplier – the platform) will charge the VAT applicable to the shipment on the sales invoice</li><li>☑ The supplier will then pay and process all VAT payable in a monthly declaration to the VAT authorities of one Member State as per the IOSS-system.</li><li>☑ Currently, this scheme is not mandatory and is limited to transactions where the intrinsic value of the shipment does not exceed 150 Euro.</li><li>☑ We recommend making the IOSS scheme mandatory for all Business to Customer Transactions, independent of the value.</li></ul> <p><u>Business to business transactions</u></p> <p>☑ Parallel to this, we recommend that for Business to Business transactions, postponed accounting becomes mandatory. Postponed accounting defers the processing of the VAT to the importers VAT declaration.</p> <p>By making IOSS mandatory for B2C transactions and by making postponed accounting mandatory for B2B transactions – while increasing the ‘de Minimis’ level on import duties – the EU would move away from a transactional to a systemic collection process, paving the way for a more robust, less fraud sensitive collection mechanism.</p> <p>The burden on economic operators, customs declarants and customs authorities would significantly decrease, allowing customs authorities to focus on their essential tasks.</p> <p><b>3. HOW COULD DATA BE COLLECTED ALONG THE ENTIRE VALUE-CHAIN TO IMPROVE THE MANAGEMENT OF FINANCIAL AND NON-FINANCIAL RISKS?</b></p> <p>We recommend:</p> <ul style="list-style-type: none"><li>☑ That the current work stream on broadening the data set used for customs risk management is given priority using sources that can provide useful information</li><li>☑ That additional data sources such as traders, platforms and payment service providers are considered for data collection on B2C shipments to supplement current data sets provided by UPS and other carriers</li><li>☑ That express carriers are not expected or required to collect additional data beyond what is currently required</li><li>☑ That the customs risk assessment procedures resulting from analysis of additional data:<ul style="list-style-type: none"><li>o Do not interfere with the time-sensitive express operations at origin</li><li>o Result in a pragmatic and effective cooperation between stakeholders to ensure greater trade compliance and management of financial risks</li></ul></li><li>☑ The current Practice for Express Operators allows implies closed and integrated IT systems and processes that allow them to manage the end to end cycle of every shipment. These systems are used to provide the customs authorities with the data required to monitor the movements of all packages.</li><li>☑ Express operators do not have access to commodity production or pricing data – and need to rely on due diligence checks on their supply partners.</li><li>☑ Customs authorities should work bilaterally or multilaterally with other countries / trade blocks – in order to assess compliance of economic operators before shipping – moving from transactional to systemic validations.</li><li>☑ For E-commerce transactions processed through a platform – the platform should be responsible for validating compliance on behalf of its customers.</li></ul> <p><b>4. ADDITIONAL RECOMMENDATIONS AND SUGGESTIONS (BACKGROUND ON GOVERNANCE, LEGISLATIVE PROCESS AND PROCESS IMPROVEMENTS)</b></p> <ul style="list-style-type: none"><li>☑ The above questions all refer to issues that result from the fundamental disconnects in the current customs framework. Providing solutions to the above issues will not work as long as basic, structural inconsistencies are not addressed.</li><li>☑ The EU customs legislative framework is defined by the Union Customs Code (UCC). The UCC mainly ensured that existing procedures were maintained and were digitized almost one-to-one, without a new design of processes, which means that every box, every stamp, every piece of paper from before, now has to be entered into the computer, without any substantial process redesign.</li><li>☑ There is no free movement of goods for shipments entering the European Union at the First Point of Entry. Goods entering the EU through our hub in Cologne and destined for another EU Member State, need to be physically forwarded to a customs office in the Member State of destination. Clearing these goods at the First Point of Entry would allow for a significant simplification of transportation flows, reducing flight and truck movements,</li></ul>			
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	<p>resulting in significantly less fuel consumption.</p> <p>The fact that the rules of the Union Customs Code are based on the supply chain practices from more than 20 years ago means that the processes do not reflect any ambition in terms of sustainability.</p> <p>☒ The envisaged centralized clearance for import does not reflect the needs of our industry related to B2B shipments below 150 Euro. As a result, it lacks pragmatism and like many other simplifications with the Union Customs Code, contains too many exceptions to allow for an effective use and application.</p> <p>☒ The UCC rules are too complex and they are interpreted differently depending on the member state. This complexity has a counterproductive effect on compliance and the ability of economic operators to comply with the legislation.</p> <p>☒ As an example – as a result of the different interpretation by Member States on the VAT reform as from July 1st – UPS customers needed to change their supply chain from one Member State to the other – a costly and unnecessary process. What is possible in Member State A, is not possible in Member State B. When we brought this case to the European Commission, arguing that certain Member States applied an incorrect interpretation of the new rules, DG Taxud agreed with our interpretation but was not prepared to instruct Member States to apply this incorrect interpretation in a harmonized and consistent manner.</p> <p>☒ Also, not all Member States have the required IT infrastructure in place allowing customs declarants to submit the shipments that are subject to the new rules in a compliant manner.</p> <p>☒ The preparation of the Union Customs code started 20 years ago – and it will be not fully implemented until 2025 and beyond. From a process and an IT point of view, the technology is outdated.</p> <p>☒ The European Union needs to take a new approach, ensuring customs legislation is fit for today's and tomorrow's supply chain, instead of yesterday's.</p> <p>☒ In order to make the customs union effective, recommendations in terms of governance, the legislative and process improvements should be considered.</p> <p>In addition to the specific recommendations already listed, we would like to provide following recommendations for the future development of the procedures strengthening the Customs Union and related procedures.</p> <p><u>Governance</u></p> <ol style="list-style-type: none"> <li>1. Create one European Customs Agency, instead of having 27 customs administrations</li> <li>2. Ensure all customs rules and procedures are the same and are interpreted the same in and by all Member States</li> <li>3. Create a single market for excise goods</li> </ol> <p><u>Legislative process</u></p> <ol style="list-style-type: none"> <li>4. Harmonize prohibitions and restrictions across Member States</li> <li>5. Simplify rules so that they are easy to understand, easy to apply and easy to control</li> <li>6. Allow economic operators to file all their customs declarations with the European Customs Agency at any customs office in the EU</li> <li>7. Improve the turnover time of customs legislation</li> </ol> <p><u>Process improvements</u></p> <ol style="list-style-type: none"> <li>8. Have one single electronic window that ensures the release and clearance for customs and other government agencies.</li> <li>9. Increase the de Minimis value on duties from 150 Euro to a justifiable level and consider a novel approach to Low Value Shipment processing e.g. GEA proposal</li> <li>10. Decouple collection of import duties and VAT - VAT should be collected through IOSS or deferment accounts</li> <li>11. Reduce the administrative burden on customs authorities and economic operators</li> <li>12. Allow economic operators to use any official language to submit their customs declaration and other data.</li> </ol> <p><u>Governance</u></p> <ol style="list-style-type: none"> <li>1. Create one European Customs Agency, instead of having 27 customs administrations</li> </ol>			
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	<p>The legal process takes too long (+15 years for the current legislation to be implemented. The current legislation is not fit for purpose, as it does not address the reality of today's and tomorrow's supply chain.</p> <p>There is a need for a central, joint governance structure ensuring the harmonization of customs operations across the European Union, that can create and rapidly adjust legislation based on the needs of governments and economic operators and that takes use of emerging technology.</p> <p><u>2. Ensure all customs rules and procedures are the same and are interpreted the same in and by all Member States</u></p> <p>EU customs legislation is implemented by regulations. A "regulation" is a binding legislative act. It must be applied in its entirety across the EU. Evidence shows that Member States interpret the Union Customs Code differently, which causes a non-uniform level playing field. This results in unpredictability and lack of standards.</p> <p>A recent example is the VAT reform legislation that came into force on July 1st 2021, where some Member States apply the legislation (art. 221,4 Implementing Act) in a different way than others – causing trade to change its supply chain and clear goods in other Member States.</p> <p><u>3. Create a single market for excise goods</u></p> <p>According to the member states, different products are subject to excise with different excise rates. There is no free movement of goods in the EU for excise goods. Excise goods should be regulated centrally and there should be no need for restrictions to movements within the European Union</p> <p><u>Legislative process</u></p> <p><u>4. Harmonize the prohibitions and restrictions</u></p> <p>There are EU wide prohibitions and restrictions and there are national prohibitions and restrictions. Examples of these – amongst many others – are gambling devices, knives, human hair, cosmetics.</p> <p>That makes it impossible to provide economic operators with one rule set when exporting to the EU.</p> <p><u>5. Simplify rules so that they are easy to understand, easy to apply and easy to control</u></p> <p>The aim of the Union Customs Code was to:</p> <ul style="list-style-type: none"><li><input checked="" type="checkbox"/> Streamline customs legislation and procedures</li><li><input checked="" type="checkbox"/> Offer greater legal certainty and uniformity to businesses</li><li><input checked="" type="checkbox"/> Increase clarity for customs officials throughout the EU</li><li><input checked="" type="checkbox"/> Simplify customs rules and procedures and facilitate more efficient customs transactions in line with modern-day needs</li></ul> <p>The opposite has happened. Economic operators are facing an inflation of rules and thousands of pages of base act, implementing acts, delegated acts and transitional delegated acts. The current legislation is not fit for purpose.</p> <p><u>6. Allow economic operators to file all their customs declarations with the European Customs Agency at any customs office in the EU</u></p> <p>Currently, we file at least 5 declarations shipments before we can release a shipment. We submit data for safety and security prior to loading, safety and security data prior to arrival, present the goods to customs on arrival at the first point of entry in the EU, present the goods to the member state of destination and file an import clearance in the member state of destination. This is done for each and every single shipment, regardless of the value or the contents of the goods. Customs declarations for the same shipment have to been submitted to different customs offices in different member states, also requiring shipments to be presented to these customs offices, forcing us to unnecessary move goods and create undesired negative CO2 effects.</p> <p>The Union Customs Code aims to simplify this dispersed and outdated process through centralized import clearance – however this will not apply to all goods and transactions, so the above objective will not be met.</p> <p><u>7. Improve the turnover time of customs legislation</u></p> <p>It takes years for customs legislation to adapt to new supply chain realities, government needs or technological developments. The process should be re-designed, enabling authorities to react swiftly to the opportunities and requirements as described in this paper.</p>			
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	<p><u>Process improvements</u> By implementing the following process improvements, the EU has an opportunity to achieve greater efficiency for customs authorities while also supporting smooth and reliable supply chain processes. These processes should be adopted and where applicable also included as trade facilitation priorities in Free Trade Agreements negotiated by the EU with other countries. This would deliver benefits to EU importers today while supporting EU SMEs in their export processes.</p> <p><u>8. Have one single electronic window that ensures the release and clearance for customs and other government agencies.</u> Currently a customs declaration can be subject to multiple controls through different channels by various government agencies. There is a need for a facility that allows parties involved in trade and transport to lodge standardized information and documents with a single entry point to fulfil all customs and other government agencies related regulatory requirements. Individual data elements should only be submitted once.</p> <p><u>9. Increase the de Minimis value on duties from 150 Euro to a justifiable level</u> See answer on question 2 - We encourage the Group to request an assessment on whether the current 'de Minimis' amount of 150 Euro – that has been implemented with Regulation 1186/2009 setting up a Community system of reliefs from customs duty - can be increased, similar to the US (800 US\$) or Australia (1000 AUD). This would reduce the opportunity for undervaluation and increase trade and it would increase the competitive position of the European Union.</p> <p><u>10. Decouple collection of import duties and VAT - VAT should be collected through IOSS or deferment accounts</u> We recommend the Wise Persons Group to evaluate the following measures o To the assess a separation of the collection of duties and VAT, allowing duties and VAT to be handled by the respective agencies o Making IOSS made mandatory for B2C transactions, taking the VAT collection out of the customs brokerage process.</p> <p><u>11. Reduce the administrative burden on customs authorities and economic operators</u> There is an inflation of customs declarations – independent from the value or content of the goods. This makes it challenging for customs declarants to timely and correctly submit customs declarations and for the customs authorities to adequately control these declarations.</p> <p><u>12. Allow economic operators to use any official language to submit their customs declaration and other data</u> Only a few Member States allow the use of English as the language to submit import customs declarations and other accompanying documentation. This unnecessarily causes additional cost and red tape in the customs clearance process In our opinion, the above recommendations should be taken in consideration by the Wise Persons Group, as the challenges described above prevent the Customs Union from being effective. The current customs legal framework does not offer greater legal certainty and uniformity to businesses, nor does it increase clarity for customs officials throughout the EU. The Union Customs Code has failed to complete the shift to a paperless and fully electronic customs environment, nor has it reinforced swifter customs procedures for compliant and trustworthy economic operators (AEO). The European Union cannot allow itself to have legislative cycles of more than 25 years. The Customs Union currently fails to meet two major objectives of the European Commission: the outdated customs rules do not fit the Green Deal neither does its customs systems show a Europe that is fit for the digital age. The European Union needs to move further and faster. It needs to be ambitious and work towards a more effective Customs Union. In order to do so, the governance, legislative framework and its internal processes need to be re-assessed and improved. Only by making fundamental changes, the Customs Union will allow for effective revenue collection and will be able to protect its citizens, whilst increasing the competitiveness of legitimate European trade. We hope that you will consider our views and are available for further – more detailed – testimony.</p> <p><u>UPS' Europe Background</u> <input checked="" type="checkbox"/> Founded in the US in 1907, UPS has been active in the European Market since 1976 <input checked="" type="checkbox"/> We currently employ over 45.000 people in Europe</p>			
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		<p><input checked="" type="checkbox"/> We have a commercial and operational presence in all EU Member States, collecting and delivering goods on behalf of our EU and non-EU customer base</p> <p><input checked="" type="checkbox"/> Our international air hub is located in Germany (Cologne Bonn Airport)</p> <p><input checked="" type="checkbox"/> Most imports from non-EU origins such as Asia, the UK, the US and ROW enter the EU through this hub. These shipments are presented to customs in Cologne but are sent in transit to the final member state of destination, where they are customs cleared and delivered to the consignee.</p> <p><input checked="" type="checkbox"/> We Operate an extensive Air and Road transportation network in a hub and spoke mode</p> <p><input checked="" type="checkbox"/> Since the early 90-ties we have developed a unique delivery network in the EU, leveraging the benefits for the Single Market and Customs Union, approaching the EU as one market – borderless transportation</p> <p><input checked="" type="checkbox"/> Through its membership of AmCham EU and the European Express Association, UPS is a member of the Trade Contact Group of DG Taxud. Through our subject matter experts, we contribute to many working groups of DG Taxud, aimed at introducing new customs legislation</p>			
2	Ecommerce and customs 2040	<p>I wish to provide some input to the discussions on the future of customs. Most relate to ecommerce.</p> <p>1) It may be useful to have a straw man model of what customs are likely to be required to do in 2040 and work back from that</p> <p>2) Customs need to be strategically included in EU and Member State strategic and disaster management plans. The pandemic pressures illustrate why this is necessary.</p> <p>3) The role of ecommerce platforms should be carefully examined and considered. These are potent multipliers for both efficiencies and inefficiencies in cross border ecommerce governance.</p> <p>4) The role and influence of non-supply chain data intermediaries such as landed cost engines should be examined and considered. These provide critical data for transporters before the presentation of a shipment to customs. They are also increasingly used to correct import customs relevant data provided by transporters and postal authorities. All intermediated records should be tagged to ensure customs can have a clear comparative view of the actual quality of supply chain data.</p> <p>5) Consideration should be given to ensuring that the Digital Market Act can assist in registering non transport data intermediaries due their increasing importance in volume processing and influence on customs processes.</p> <p>6) Direct to consumer ex EU ecommerce is growing rapidly. The contents of these shipments are not captured for inclusion in the Harmonised Index of Consumer Prices at a member state or EU level. This skews the HICP which in turn influences calculations of inflation rates and other fiscal instruments. Direct to consumer customs imports should be included in HICP through data model alignments.</p> <p>7) An extended use and inclusion of Harmonised codes should be examined to align reporting of domestic retail and import activities.</p> <p>8) Freezones should be examined for regularisation and standardisation of customs processes in all Member States. This is increasingly important with the repatriation of ecommerce fulfilment and the management of repair and return items.</p> <p>9) The international and EU data models for customs need to be examined and expanded to ensure they are fit for purpose in capturing factor and embedded carbon data at a content level for shipments and consignments. This would include a review of ICS 3 and 4. This will be critical for consumer carbon accounting, CBAM and Micro CBAM.</p> <p>10) Consideration should be given to data transfer and data standards. The requirement on non EU ecommerce platforms to transfer EU customer data to home countries is of special concern.</p> <p>11) The issue of free shipping and its use in VAT avoidance should be examined. Free shipping is driving ex EU cross border ecommerce and is effectively VAT free on imports.</p>	Thu, 11/11/2021 - 1:48	Belgium	Private Person
3	The Internet cooperation within the EU	<p>Dear María Arancha González Laya, My idea is to create the European Union's alternative to Google etc that would operate only in the territory of the EU to boost cooperation and e-commerce among the Members States (and maybe later on in the territory of the associated Members as well) of the EU according to the EU laws, directives etc.</p> <p>That's just an idea, though :)</p> <p>Best wishes from Vilnius</p>	Sat, 11/13/2021 - 23:28	Lithuania	Private Person
4	Participation in the wise person group in Customs	<p>I am an Spanish Lawyer specialised in Customs Law for more than 25 years. I belong to a customs family (my grand grand father and grand father were working as a Managers and Inspectors in the Spanish Cuatoms Auberities). My father setted up a law firm specialised in customs law and We advice the many companies in Spain and also I am the lawyers of the Association of Customs Brokers in Spain, so I would lime to participate on my behalf and also on their representation: Consejo General de agentes de aduanas de España.</p>	Sun, 11/14/2021 - 21:55	Spain	Private Person
5	Customs import	<p>Good day,</p> <p>One of the biggest goals of the customs union should be the ability to arrange imports for companies in other countries. In an ideal world my Dutch</p>	Wed, 11/17/2021 -		Association Representative

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		<p>customs office should have the ability to arrange an import of goods which arrive in Marseille (for an Dutch importer).</p> <p>Three things that are important for this(in my opinion):</p> <ol style="list-style-type: none"> <li>1. VAT should be organized not per country but as EU.</li> <li>2. There should be one customs-systems for the whole EU (like NCTS).</li> <li>3. AEO-certified customs-agents should get an automatic license to arrange import through the whole EU.</li> </ol> <p>As owner of a customs agency located in Netherlands and Belgium I'm aware of all the differences of procedures between these two countries and am sure that this should be on the high priority list to solve.</p> <p>Always ready to think about the future of customs.</p> <p>Kind regards</p>	12:00		Name of the association not provided
6	<p>Criteria comunes por todas las aduanas europeas</p> <p><i>Common criteria for all European customs offices</i></p>	<p>Buenos dias,</p> <p>Me pongo en contacto con ustedes ante la falta de criterios unificados por todas las aduanas. En España cada una tienen un criterio independiente aun al estar amparada por la misma normativa europea y nacional.</p> <p><i>[Translation from DG TAXUD]</i></p> <p><i>Good morning,</i></p> <p><i>I am contacting you due to the lack of unified criteria for all customs offices. In Spain each one has an independent criterion even though they are covered by the same European and national regulations.</i></p>	Thu, 11/18/2021 - 21:58	Spain	Private Person
7	<p>eCommerce and the Environment / Future Customs</p>	<p>We wish to place some thoughts before the group for consideration.</p> <p>These mainly deal with the evolving role of customs, the role of data intermediaries and the market dynamics of ex EU cross border ecommerce using postal operators and transporters.</p> <p>Future Customs</p> <p>We welcome the expansive vision of EU customs laid out in the 2020 publication "The Future of Customs in the EU 2040". It offers interesting strategic insights on the evolution of customs and assists businesses in their strategic planning.</p> <p>It also indicates new considerations and responsibilities that will influence the operation of cross border trade and ecommerce in particular. These are examined below.</p> <p>The importance of domestic and cross border delivery networks for the effective functioning of EU economies became clear during the pandemic. How they will evolve post pandemic is now a key question. Our belief is that changes will be required to the physical, virtual and process aspects of all domestic and cross border delivery networks.</p> <p>Key to maintaining efficient, effective and competitive delivery networks is the establishment of a level playing field for postal and commercial transporters. Essential to this is defining an equivalence position in relation to the data and processes required for similar treatment of postal and commercial transport ex EU imports. Such equivalence would reduce costs to EU consumers and businesses whilst increasing scale efficiencies for customs and fiscal yields to EU and national treasuries.</p> <p>The role of data intermediaries deserves to be considered in the evolution of customs processes. The role of such intermediaries, especially for postal operators, is becoming strategic. These data intermediaries, using advanced Artificial Intelligence and machine learning processes examine, filter and make customs compliant the data being provided to the importing postal operators. The revised data record is then returned to the postal operator for forwarding to customs authorities where it expedites the clearance of shipments and the calculation of monies due. Increased automated postal clearances will reduce the governance burden and cost to customs which has been a major impact from the revised VAT and Duties regime related to ex EU imports. Consideration of the roles and responsibilities of data intermediaries would contribute greatly to the development of new products, services, transparency and governance mechanisms to support cross border ex EU ecommerce and general trade.</p> <p>We are acutely aware of the emerging necessity to account for and report to customs the environmental impact of ex EU ecommerce and its associated transport. Our initial technical analysis of the challenges posed by this is that existing processes can be tailored to this goal. To do so will require the definition by the EU of a fixed carbon price or dynamic pricing mechanism plus an agreed calculation methodology to allow the allocation of a charge at the time of transaction or customs import of ex EU ecommerce items. Complete and accurate data speeds customs clearance, improves compliance through improved risk management and reduces the need for multiple handling. Customer satisfaction is improved, thus greatly reducing</p>	Sun, 11/21/2021 - 11:14	United Kingdom	Private Person



## Replies to the Public Consultation, in the context of the Wise Persons Group, on the challenges facing the Customs Union

		<p>the number of consignments needing to be returned to origin, further reducing carbon footprint of eCommerce. In addition we note the recent Dutch government initiative to investigate and sanction false sustainability and environmental claims by clothing companies. It is likely in the future that companies trading under false environmental credentials or green washing could be placed on the denied trader listings. This we also examined and found it again to be possible with a variation on existing processes.</p> <p>When looking at the physical networks we believe that there will be increased consolidations of volumes being imported to the EU. Consideration as to the detail that required data is specified and will be important as consolidated postal imports, which unlike those of commercial transporters is not detailed to the shipment or content level. This again raises the issue of the level playing field and whether it levels up to the standards of commercial transporters or down to those of postal operators.</p> <p>We look forward to the availability of the groups final report and wish to thank you for the opportunity to contribute.</p>			
8	Wise persons group	Better Customs union	Mon, 11/22/2021 - 11:22	Greece	Private Person
9	Thoughts about the future of Customs with respect to organisational and IT matters	<p>Dear members of the "Wise Person Group", First of all I would like to thank you for the possibility you provided with this platform to get into an open dialogue with you. I'm, in my function as the Chair of the Customs Committee of the International Port Community Systems Association (IPCSA), very grateful to have the opportunity to send you some comments based on our experiences out of our industry related to the latest developments in the EU customs world as well as some remarks where we see issues and bottlenecks for future activities within the Customs Union. I myself have already sent this remarks to DG TAXUD. In addition I think it is worth to mention the listed remarks also to your group as we are all interested in the same common goal = Strengthening the Customs Union and shaping it for the future!</p> <p>Before you can read my thoughts about the future in the further course of the text, I would like to take the liberty of briefly explaining myself and the field of activity of our association in order to put everything into the right context.</p> <p>I served for several years with the German Customs Administration before I left the administration in 2001 and continued my career in the private sector. My first project in the private sector was to provide technical (legal) support for the introduction of the "Summarische Anmeldung zum Zwecke der vorübergehenden Verwahrung" (summary declaration for temporary storage) in the Port of Hamburg using electronic means. At that time in very close cooperation with customs and on behalf of HHLA (Hamburg Harbour Logistics).</p> <p>In the course of the years, our Hamburg team was taken over by dbh Logistics IT AG Bremen. For 18 years now, I have been working there as a consultant for customs and foreign trade. dbh Logistics IT AG itself operates the Port Community System for the Bremen ports (Bremen, Bermerhaven,) and the Jade-Weser port in Wilhelmshaven and has the development of customs clearance software and everything that goes with it (export control, customs warehouse inventory management, calculation of origin, etc.) in its portfolio as one of its other important pillars. In this business area, my colleagues and I now serve far more than 2,000 companies across Europe.</p> <p>Furthermore, dbh Logistics IT AG is one of the founding member companies of the International Port Community Systems Association, of which I have been Chairman of the Customs Committee since 2013. In this function, I represent the association in Brussels, but also beyond that at various institutions (UNCEFACT, WEF, WCO - PSCG, .....). IPCSA represents about 50 Port Community System, Cargo Community System and Single Window operators worldwide. About 80 percent of the worldwide maritime trade volume passes through the system landscapes of the members mentioned and currently other transport means with their community systems are gaining immense importance within the association.</p> <p>Thank you for the patience up to here. Now, I guess it is more than the right time to step into the topic and give you some thoughts and ideas related to our common goal = the evaluation of the UCC and the as much as possible smooth organisation of customs flows with respect to future activities =</p> <p>1. General remarks on the use of ICT in the customs context</p> <p>Too often in the discussions I find that the ideas are limited to things that are too closely aligned with the current legal framework in terms of mindset and do not deal enough with what is actually to be achieved and with which means it is to be done. It is recognisable that a thinking in terms of principles is dominant, which is too much focused on "what we know and have always been done this way". To avoid misunderstandings at this point = it is not a matter of encouraging people to act in a non-compliant manner or of questioning legal principles in general.</p> <p>In order to look at this in more detail, I would like to draw on the findings from a break discussion in Brussels with colleagues from the trade side --&gt; In fact, the discussion was specifically about why the self-assessment from Article 185 of the UCC is useless and why the trade would like to see the self-assessment as a modern customs process finally implemented?</p> <p>I do not want to specifically analyse the self-assessment here yet. It is more about exploring the motivation behind the constant "We need it, we want</p>	Tue, 11/23/2021 - 11:29	Germany	Association Representative – International Port Community Systems Association (IPCSA)

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	<p>it!" and at the same time discussing the misconception of the business community about it. The idea is therefore established on the market that a one-off summary declaration should be made at the time of presentation of the goods after they have been brought into the customs territory and that the goods should then only be declared later with a periodic supplementary declaration to the competent customs office with regard to detailed information and the actual use (i.e. customs procedure), including self-calculation and payment of import duties. The argumentation is based on the very often stressed phrases "change from transaction-based model to system-based approach" or "more investment into trusted partnership".</p> <p>What is very often not included into that discussion is, how in today infrastructure the declarant has organised his flow for his customs requirements. It should also be mentioned here that there is a misinterpretation about the fact how an EIDR process can play the role of the self-assessment. In particular the different configurations of EIDR across the EU (every one of them is of course legally approved and valid) are the reasons for irritations.</p> <p>In continuation of the discussion in the mentioned coffee break we worked out, that the concerned EO's keep records in their ERP systems or other electronic solutions. So it was clear that something for the purposes of customs declarations are already recorded in the system landscape. At this point of the discussion the most difficult part of getting it right is in front of us = the physical transaction! To get to an agreement of the fact that for IT in the current world it is an easy turn to duplicate this records and immediately (automatically) submit it via the interface system-to-system connection to customs is a huge challenge. Too much of "old" performance thinking and also the wrong price models in the contracts with service providers are nearly each and every time mentioned as show-stopper. That's an issue when it comes to discussions with trade.</p> <p>Looking now on another aspect of the strict argumentation scheme it is very often the case that customs itself has also space for improvement. What I mean by that is the discussion around the possibilities of how to configure the systems and how to change the existing national legal framework. Competences and organisational structures that need to be reconsidered stand in the way of effective implementation of the processes. Why does a centrally managed customs declaration process still require the same strict organisation as in paper-based times? A customs officer of a national EU customs authority can decide everywhere whether to release the consignment of goods and whether or not to request an inspection.</p> <p>The goods remain in their legal course. They are presented at a customs office or designated place where they are ready for inspection and evaluation. If an officer who does not have immediate access due to distance decides for control measurements, then it is possible that he can rely on the administrative assistance and support of his colleagues on the spot. The final release is then carried out by the official originally responsible. Or it can be done automatically by the system if the decisions have already been made in advance (pre-clearance process) and no changes occur during the presentation process or if the official can rely on his extensive rule and risk engines and the release can also take place in this way with the help of timer mechanisms.</p> <p>I do not want to prolong my remarks unnecessarily and I am sure that much of this is for sure already well-known. Nevertheless, I think that this is not considered intensively enough across the EU. In order to ultimately build a bridge to where we (TAXUD, customs administrations, trade) could make life easier for ourselves and not just demand new simplifications in customs law like a mantra, the following points should be considered more intensively and more with the right willingness of an open dialogue with respecting the pentalogy of customs process ☒</p> <ul style="list-style-type: none"> <li>• Risk management based on the ENS</li> <li>• Arrival of goods in the customs territory of the EU</li> <li>• Presentation notification</li> <li>• Temporary storage</li> <li>• Declaration for placing goods under the customs procedure             <ul style="list-style-type: none"> <li>o Standard (full) or reduced dataset for the declaration</li> <li>o Release based on as much as possible automatically with the help of the right risk- and rule engines + timer and an effective and modern organisational structure (following 24/7 principles and a landscape of trusted partnership based on AEO's</li> <li>o If necessary supplementary declaration in the well-known periodic way</li> <li>o A smart possibility to amend declarations after their acceptance or even the release of goods</li> </ul> </li> </ul> <p>Reading that steps it creates immediately the question "What is new now?". A very valid observation. New could be how we are all going to put the right configurations in place and how we are going to integrate the existing and the upcoming IT solutions into our organisational structures respectively to adjust the organisational flow to the needs. I'm convinced that this would speed up the processes and would contribute to the fact that the main factors for trade are also solved in a sufficient way =</p> <ul style="list-style-type: none"> <li>• Release under a 24/7 principle with no extensive unexpected stops</li> </ul>			
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	<p>or delays</p> <ul style="list-style-type: none"> <li>• Correction mechanism for the declarations in an acceptable way (for both sides)</li> <li>• Single Window mechanism to submit the data for partner competent authorities in an efficient way</li> </ul> <p>Let's move on.....</p> <p>2. Simplifications vs. Self-assessment - What is really necessary?!</p> <p>As already mentioned under point 1, all parties involved should look more intensively at what is actually of urgency for the future maintenance of the respective process flow. I see it as the duty of the business community to take a more closer look at its own processes in order to draw the right conclusions for what is actually necessary. This task must not only be based on what is currently legally possible. Rather, it is a matter of analysing and discussing approaches in a creative and unbiased manner. The results should then be a basis for joint discussions with the customs administrations and TAXUD.</p> <p>And when I claim this from the economy, it should not be understood as a one-way street. Customs administrations also like to hide behind their organisational structures (not in general, by the way) in order not to have to allow progressive approaches. I am thinking, for example, of the discussions about the local competence and empowerment of customs offices.</p> <p>This concrete example shows that thinking in electronic dimensions should not be limited to the simple exchange of data (as replacement of the paper) and, in my opinion, should finally be re-designed.</p> <p>The result of this organisational dilemma is that over the years, customs law has received more and more supposed simplifications. Why supposed? Because, quite realistically, the effort required to monitor and ensure the smooth running of "simplified procedures" is immense. So the question should be asked more in the direction of why an authorisation to use a simplified procedure is requested? Or to put it another way: "Which components or advantages of a simplified procedure are the decisive ones for me in the company to require this procedure?"</p> <p>The old pattern of thinking around the "tried and tested" configuration of simplified procedures and their further continuation in more and more complicated form (dependence on opening hours; questioning timer mechanisms = how far do we go with it?; access to the applicant's records; etc.) unavoidably led, in my opinion, to the demand for a comprehensive "self-assessment". If the discussion had been more concerned with all aspects from the beginning, this demand would probably not necessarily be part of every discussion today.</p> <p>Conclusion = We should make the effort together and analyse all simplifications in customs legislation in such a way that a clear reference to the electronic age and the exchange of data sets is worked out, including all modern configuration possibilities. Furthermore, it must be made clear that there can be alternatives to the required "self-assessment" if the customs administrations also subject their mindset to a change process at this point. Does this require new efforts around IT related to new deployments or totally new systems? = No! I myself consider the introduction of a "self-assessment", as so often requested, to be unnecessary and not very effective (in particular because of the risk-management requirements).</p> <p>3. Centralised Clearance – a very important milestone and what should be adjusted in the customs legislation make CCI / CCE perfect Let me put it bluntly at the beginning = Centralised Clearance is or will be a success story! Looking at the landscape within the Customs Union and the challenge of the aforementioned principle of responsibilities and empowerment and VAT, it is more than remarkable that we have said goodbye to the SASP and that the legal as well as the technical foundations for this process have been created. Even if it is not an option for every EO, it is a milestone for globally operating companies, which can thus increase their quality in the design of customs clearance and logistical processes in general and to manage this activities in a centralised way.</p> <p>The first projects are already in the preparatory phase, although the technical developments on the private sector side have not yet begun to the same extent. It is therefore fair to say that there is a great deal of expectation and trust in this project.</p> <p>Despite this expectation, it is already clear that this part of the implementation of the UCC has been very well accepted by the business community. Is there nevertheless something that clouds the positive overall impression?</p> <p>Well, the list of procedures in Article 149 of the UCC-DA leaves the observer with one question upon closer study = Why is the transit procedure excluded?</p> <p>In particular, the companies that are thinking about switching to centralised clearance have usually organised their process today in such a way that the arrival or "dispatch / re-dispatch" of goods to / from their premises takes place within the framework of the use of an granted authorisation for</p>			
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	<p>“authorised consignee / consignor”.</p> <p>This now means that separate permits must be applied for and maintained for sites in other Member States to do this, or alternatively service providers must be engaged (which is not always desirable). Accordingly, it would be preferable if the future discussion could address this again and any further development could take transit into account at this point.</p> <p>4. EU Customs Single Window and the misunderstanding of what a Single Window approach is about (critical viewpoint into the direction of trade) Single Window and the eternal story about business unhappiness over a non-existent customs union in the meaning of IT landscape. This is how it could be briefly described when it comes to coffee talks on this topic. Here, too, it is worthwhile to engage with the approach a little more constructively.</p> <p>We can now refer to the various recommendations of the UN (recommendation 33 to 36 +(37)) and have a lively discussion about the actual content and design of a SW, and whether the EU Customs SW project does meet this requirements.</p> <p>Perhaps, continuing from where we are today, this is a good start towards fulfilling the vision of EU customs - to have one EU customs administration at the end. But let's stay in the here and now. So, should we get lost in criticism or should we look at whether this chosen approach is a useful addition to the current landscape and makes a significant contribution to the fulfilment of the Trade Facilitation mandate? The answer from my point of view, taking into account fair rules of the game, must clearly be YES.</p> <p>Anything that simplifies and speeds up the clearance process, i.e. makes it more efficient and effective for all parties involved, should not be questioned, as long as it cannot be seen as a waste of resources. This is not the case with this project. Thus, it is clear to me that it is a Single Window that has set itself the task of connecting all the subsidiary stages of customs clearance in the best possible way and serving them effectively.</p> <p>What could be bad about that?</p> <p>For the future, I see potential here in the direction of connecting more and more PCAs as well as expanding the national infrastructure with offering a more and more comprehensive service and, last but not least, possibly entering the next dimension of the common customs union (electronically).</p> <p>5. Future thinking – how to make progress on cross-border data exchange</p> <p>Last but not least, let's have a look into the future. I don't want to talk about megatrends and innovations at this point. We have seen Blockchain and Hyperloop flare up and now the fire has already been extinguished again and the discussions are running after other topics. Technology and innovation are important drivers for new developments. However, we must never forget which tasks we want to solve with them.</p> <p>A recurring subject is better connectivity for the purpose of cross-border data exchange. Here, I think it is important that we - i.e. the economic stakeholders - should be more involved. You will, I am sure, be aware that there are currently efforts to better organise data flows. “Tradelens” and other activities are in the starting blocks. We at IPCSA have also launched an initiative to enable data exchange between the participating PCSs, trade SW operators and associated cargo community systems operators worldwide. Cooperation with various customs authorities would be conceivable here and should be discussed in more detail in an open dialogue.</p> <p>One thing becomes clear = these initiatives and new constructs have of course emerged from trade in order to accelerate processes and improve quality in every respect. So why keep this available only for the private sector when there could be promising developments for cooperation with customs.</p> <p>Despite all the euphoria, it should not be forgotten that various new approaches (e.g. data pipeline discussions) sound interesting at first, but raise considerable doubts about their use under the current legal framework.</p> <p>Many of these innovations rely on pull rather than push mechanisms. However, these should currently be viewed rather critically with regard to legal requirements and the consequences thereof (e.g. the mere fact of when a good is considered to be presented or when all assessment bases for the calculation of duties can be finally recognised, etc.). Nevertheless, this is a good opportunity to think about the future development of EU customs law in this regard and to discuss this in the appropriate circles.</p> <p>This is generally a concern that we discuss internally again and again = the regular exchange with all institutions. In order to avoid misunderstandings, I would like to express our gratitude once again that rounds with the TCG exist in this format and that the members of the TCG are invited to participate in various meetings (e.g. ECCG) or working groups. This is great and cannot be criticised. There is just one small thing missing. That is the regular exchange on "shaping the future". Now the Wise Person Group has emerged from the "Foresight" project, and the business community can participate</p>			
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		<p>in its activities as and when needed. However, we are more interested in a very casual brainstorming mechanism that could lead to new insights and connection possibilities (and as a result could possibly provide input for the fate of the Wise Person Group for future steps). I see this as an item on the list of development opportunities for the future when we talk about further improving communication between TAXUD and the business community. Very much in the spirit of another facet of the Trusted Partnership.</p> <p>Furthermore, we should all show more interest in pilot projects. Too often, the handling of new ideas is too reserved because of the framework conditions of existing law. The motto should not be "the law doesn't allow it at the moment". Ways should be found to develop more motivation for pilots (maybe through new funding aspects at the European level).</p> <p>I could go on writing my little novel now, but I think I have already taxed your time and attention enough. I also believe that you can see from what I have explained that a constant uncomplicated dialogue is close to our hearts.</p> <p>As an association, we are always ready to play a constructive role in the joint development of the EU Customs Union. It is, I think, not surprising that this is such a great concern of ours, as "community" is already one of the key principles in our business content.</p> <p>Thank you for your valuable time and I look forward to further discussions (then also on very specific things and projects).</p> <p>For any further questions, remarks or necessary clarifications, please do not hesitate to contact me at any time.</p>			
10	InterDigital Inc. response Wise Persons Group on the challenges facing the Customs Union	<p>InterDigital Inc. is grateful for the opportunity to provide feedback to the Wise Persons Group developing innovative ideas and concepts that can contribute to a more coherent and stronger Customs Union.</p> <p>- Background to the operations of InterDigital. InterDigital is a research, innovation and licensing company, headquartered in Wilmington, Delaware, USA. We have more than 300 research engineers and scientists, of whom approximately half are based in our facilities in Rennes and London. We also maintain an office in Brussels to communicate with the European institutions and work with other European stakeholders. We are focused on developing the mobile and video technologies that are at the core of devices, networks, and services used worldwide. Our solutions create more efficient broadband networks, better video delivery, and richer multimedia experiences. Many of the technologies we develop have become part of global standards that underpin the digital ecosystem such as 3G, 4G, 5G, MPEG, HEVC and Advanced HDR. As a research, innovation and licensing company, InterDigital does not manufacture downstream products but rather seeks to monetize its cutting-edge innovations through licensing the vendors of smartphones and other products implementing our technologies.</p> <p>Given the global nature of digital technologies and the significant value of EU import from third countries of physical hardware integrating those technologies, we are directly affected by the customs arrangements in place between the EU and third countries, in particular China.</p> <p>- Monitoring the safeguarding of Intellectual Property rights If the EU wishes to remain in the global race with respect to the development and deployment of 5G and 6G applications, important steps need to be taken to protect European research and innovation and the ability of innovators to receive compensation for the use of their technologies.</p> <p>We are aware that the Wise Persons Group is going to prepare a report that should help address current and other future developments and challenges for the Customs Union, such as the steps the EU should take at the international level, to ensure that global customs rules are shaped according to the EU's values. Moreover, in your first meeting you reflected on the importance of creating a fair level playing field and noted that the broad mission of customs is complemented with a large range of sectoral requirements in domains such as industrial strategy. To this regard, we believe that intervention is needed in order to improve the ability of European innovators to protect and enforce their intellectual property, which is a crucial industrial strategic asset, and prevent third countries – especially Chinese – companies from gaining even more unfair advantage on their European counterparts.</p> <p>The challenge of Intellectual Property protection spans a broad range of global industries.</p> <p>We recognise that different types of economic operators will have different concerns around management and protection of Intellectual Property rights; however we trust that the experience of InterDigital will serve as a useful illustration.</p> <p>The integrity of, and respect for, the open standardization system and intellectual property rights are vital to the ability of international technology companies, and other innovative industries, to continue with their research.</p> <p>Manufacturers that produce and sell wireless devices that operate in accordance with 2G, 3G or 4G standards require licences from every owner of patents that has committed to make its standard essential patents ("SEPs") available for license. In return, contributors to standards commit to be prepared to grant licences to those SEPs on fair, reasonable and non-discriminatory (FRAND) terms and conditions. This decades-old system, where patent royalties earned on the sales of products were reinvested in the next generation of wireless research, and companies from around the world evenly competed and cooperated to drive the next generation of wireless services for consumers, has propelled the success of the mobile industry and</p>	Wed. 08/12/2021 - 17:36	Belgium	Association Representative - InterDigital Inc.

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	<p>ensured technological advancement for every device.</p> <p>However, recently this virtuous circle has been broken. Some of the new participants – including Chinese telecommunications companies – have refused to take FRAND licences for current generations of wireless technologies, depriving current developers and patent owners of the royalties that drive new research. Such companies then use those withheld funds to obtain a competitive advantage over their competitors and to overwhelm the 5G standards with their own innovation.</p> <p>The challenges resulting from this troubling behaviour have a broad impact on international trade.</p> <p>The refusal to enter into fair licences strips EU businesses of their ability to compete in research and development. In our experience, this has allowed equipment manufacturers in particular industries to sell phones and other equipment into the European markets at prices that do not reflect the value of the patented technologies that they are infringing. This provides them with outsized profits that they use to expand their market share at the expense of companies that play fairly, and to get a competitive advantage in R&amp;D for the next generation of standards. This results in their individual or collective dominance of standards development processes and technologies.</p> <p>As you are aware, EU Member States have adopted legislation which allows the national customs authorities at the border to seize goods suspected of infringing IP rights at the border. However, in our view, and especially in relation to trade between the EU and China, we believe there is scope to further protect IP rights using customs and trade based mechanisms, to increase the level of certainty that goods imported, exported, or put under a specific customs regime are compliant from an IP licensing perspective.</p> <p>☑ Improvements to the Authorised Economic Operator (“AEO”) status to address the current IPR challenges</p> <p>The Authorised Economic Operator (“AEO”) certification scheme, or its equivalent, is used by a range of operators globally and by operators that take a wide range of roles throughout the supply chain e.g. manufacturers, exporters, importers, freight agents and customs brokers.</p> <p>We believe that the current challenges can be addressed in part through the AEO certification scheme. Our proposal is to include an IP licensing management criterion, which shall be applicable to certain sectors, to ensure that goods that are internationally traded are compliant in this respect. The criterion would require an AEO accredited operator to have procedures in place to satisfy itself that the goods it handles are IP-compliant.</p> <p>Article 25 of the Commission Implementing Regulation (EU) 2015/2447 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, sets out the conditions which an operator must meet in order to have a 'satisfactory system of managing commercial and transport records'.</p> <p>The criteria already include a requirement on the operator to have satisfactory procedures in place for the handling of import and export licences. In our view, the IP licensing management requirement would be a natural addition to the existing criteria contained within Article 25, notwithstanding that we appreciate import and export licensing has a different overarching objective.</p> <p>As the status is awarded to EU businesses that can demonstrate they meet a range of self-governance focused criteria in respect of trade compliance and can be regarded by the customs authorities as committed to the common objective of compliant international trade and supply chain security, the effective management of IP rights and obligations is behaviour that such businesses should already be exhibiting. The proposed requirement will build on the existing criteria that an importer or exporter has to meet, by confirming that it has processes and controls in place to minimise the risk that the goods it is handling do not have the appropriate licence.</p> <p>Although the AEO certification scheme within the EU does not contain an express requirement in relation to the respect for and effective management of IPR, we consider that there is no reason why this cannot be built into the existing criteria. The lack of adequate protection in this regard increases the risks for businesses that invest in innovation and global trade. The clear benefit to the inclusion of such a requirement is that it will provide an additional checkpoint and safeguard for businesses which are seeking to ensure that their IP rights are sufficiently protected and that companies implementing those IP rights do not gain an unfair advantage.</p> <p>On this basis, the inclusion of the additional limb to the criteria:</p> <ul style="list-style-type: none"> <li>a) is crucial to ensuring that, going forwards, businesses are willing and able to innovate, which ultimately provides benefits to consumers;</li> <li>b) would enable international trade to further economic growth;</li> <li>c) would complement the existing principles contained within the EU’s AEO certification scheme; and</li> <li>d) would be of great benefit to EU businesses and contribute to EU’s competitiveness and attractiveness as a research hub while contributing to the EU strategic autonomy goal.</li> </ul> <p>Our suggestion in relation to the AEO status addresses concerns about IP infringements by some non-EU electronic device manufacturers, including</p>			
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## Replies to the Public Consultation, in the context of the Wise Persons Group, on the challenges facing the Customs Union

		those in China, and we would welcome any additional measures that would help level the playing field and enable additional checks and balances to improve protection and enforcement of intellectual property.			
11	Customs-Related Supply Chain Challenges, Successes, and Best Practices	<p>The Opportunity ('What's Happening with My Shipment?') The response to the global pandemic has laid bare the weaknesses and gaps of the complex, global system that transports critical goods from farmers and manufacturers to consumers (who are often located thousands of miles away). Breakdowns in supply and clogged transportation flows have resurrected a multitude of issues the trade community has complained about for years— including that the international trading system too often relies on relationships, manual intervention, and a bit of good fortune to work. The Revised Kyoto Convention, entered into force in 2006 and moved the customs community well forward through the development and documentation of standards and recommended practices. The professional trade community recognizes the further economic potential if countries implement the Trade Facilitation Agreement by expanding the coordination of government regulatory processes and operations, committing to a comprehensive Single Window solution, and pursuing harmonization and interoperability in a way that allows low-risk shipments frictionless passage. Progress on educating the public and convincing government decision-makers about the need and the opportunity has been helped by the supply chain challenges getting so much attention over the last two years. New technologies, re-energized commitment to trade facilitation, and refined supply chain management strategies now make possible common Customs frameworks and related modernization efforts. It is critical to identify the actions and investments necessary to seize these opportunities. Only through commitment to change and a strong plan can we bring together the myriad political, operational, and legal innovations needed to build more resilient supply chains and increase transparency and alignment globally.</p> <p>The Need ('What's Wrong?')</p> <p>We expect efficiency, transparency, value for cost, and good service in our private commercial dealings. Our expectations of global supply chains are no different. However, when today's supply chains are under stress, these hopes are often more theoretical than actual. Customs administrations have evolved significantly over the last twenty years, but that is mostly in response to significant border security challenges. This security-driven evolution has often left modernization efforts at the 75% completion stage, thus missing the chance to deliver critical benefits for both private and public sectors. Incomplete modernization efforts have resulted in:</p> <ul style="list-style-type: none"> <li>• Paper (or .PDF) documents remaining a critical part of government processes;</li> <li>• Insignificant shipper incentive to provide electronic data for transmission to the government;</li> <li>• A mismatch between commercial processes and government trade oversight, requiring purpose-built documents to meet requirements;</li> <li>• Multiple systems needed for document/data submission, even where Single Windows exist;</li> <li>• Stand-alone Single Windows, which were intended to integrate across countries or regions;</li> <li>• Layering environmental, sustainability, and governance requirements on already complex trade processes, with an insignificant rationalization of required data or processes;</li> <li>• Use of manifest data to replace customs entry data;</li> <li>• Little comprehensive segmentation of low-risk trade through purpose-built processes or physical infrastructure; and</li> <li>• Little recognition of Authorized Economic Operator status outside a "home" country.</li> </ul> <p>The Solution ('What Can We Do?')</p> <p>Twenty years' worth of analysis has resulted in relatively broad consensus regarding the need for a common interagency regulatory framework with a shared strategy for consistent, uniform, and limited data models, using a common data standard and structure across regions. Governments should harmoniously commit to complete digitization and rationalization of commercial and government trade documents and data, decommissioning agency systems that collect trade data and documents outside the Single Window, and implementing AEO Mutual Recognition Agreements. Governments should have a clear, unambiguous, and sincere mandate and commitment to resource these efforts. The development of this framework and data strategy would require private and public sector experts to establish a shared vision and then address policy, regulatory concerns, programming requirements, business analysis, training, outreach, troubleshooting, process change, and communication at all levels. For improvements to take hold, we will need a practical path for escalation and resolution and a clear and practical work program with key milestones aligned with appropriate resources.</p> <p>It is essential to understand that technology development may sometimes move faster than policy, regulation, or stakeholder preparedness.</p>	Mon 13/12/2021 - 15:30	United States	Private Person

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	<p>Stakeholders will need to align policy, regulations, data, and system functionality early and continuously at multiple levels.</p> <p>The Call ('What do we have to do to fix it?')</p> <p>There are several required elements for the success of global and regional modernization efforts among the public and private sectors:</p> <ul style="list-style-type: none"> <li>• The mandate for change must exist, along with a shared vision to guide the change;</li> <li>• There must be a "head of government" directive for interagency cooperation, particularly in the coordination of operational processes, data sharing, and system development;</li> <li>• A robust planning process must be implemented, outlining a flexible and staged approach to support this alignment, with transparent milestones and metrics;</li> <li>• There must be a framework to organize considerable public and private sector cooperation;</li> <li>• Resources must be provided for public and business technology investments; and</li> <li>• Policy, regulations, processes, and technology must be aligned at all levels and continuously re-examined for gaps.</li> </ul> <p>To be sure, risk management efforts may not always coincide with smooth processes, and technology does not solve all problems. Cargo holds happen due to system mismatches. System holds cannot be easily rectified when few know how to solve complex system or process issues or if there is no understanding of the root cause of the actual problem. Stakeholders will need to refrain from blaming the new system as the cause of a problem that existed (but was solved manually) before the transition, such as the manual border agency processes in many countries.</p> <p>Implementation will take commitment in time and resources from all parties to be effective. Success is more likely when the framework allows for implementation in stages, where stakeholders test, analyze, and review progress at each step. When private and public participants work together, the outcome should lead to release time predictability and consistency, improved compliance and security, better revenue collection, reduced supply chain costs, and improved performance overall.</p> <p>The Benefit ('What Do We Get Out of This?')</p> <p>Multinational traders face the challenge of meeting compliance and service obligations while managing the cost required to deliver value to the market.</p> <p>Global security concerns, economic uncertainty, and varying Customs and other government agency processes represent real business challenges. A drive toward clear, consistent, and standard rules across the global economy would make compliance with government requirements more realistic while reducing risk for private sector entities.</p> <p>Investment in technology is an integral part of developing a common Customs process and makes it possible to support the data collection, transmission, and analysis around compliance with common rules. Today's emerging and accepted technologies can help supply chain visibility, a targeted risk management approach that facilitates trade, improved revenue collection, compliance, and security in a way that was not possible even five years ago.</p> <p>The private sector will need to demonstrate quantifiable returns to make the business case for the investment required to participate in modernization efforts. Such returns will likely reduce manual resources and administrative costs occasioned by inconsistent processes. Standard procedures at the border should contribute to consistent and predictable release cycles that help traders reduce inventory carrying costs and working capital needs, and, ultimately, improve profitability.</p> <p>The benefits of a common Customs framework and modernization efforts are clear from a public sector perspective. For effective border coordination, Customs is seen as a nation's indispensable border control authority for managing international trade and for processing import and export activities at a nation's border—but it must also work cooperatively with other agencies regarding trade-related regulatory requirements. Governments will benefit from the modernization of processes and a common framework for trade digitization, allowing for more effective risk assessment, more efficient use of scarce resources, and improved revenue collection.</p> <p>A Final Word (or Three)</p> <p>The ratification of the Trade Facilitation Agreement in 2016 indicates a strong desire for a common Customs framework, demonstrated by tremendous investment in international negotiations, standards development, and implementation planning. By extension, this framework must include other government agencies with equities in the trade process. Much work remains to tie the moving parts together. Still, it is work worth pursuing, particularly if economies commit to implementing this framework and begin to see the benefits of increased transparency, more efficient and trade-</p>			
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		<p>consistent processes, and resilient supply chains. We must review and test the policy, regulations, process, and technology at each stage in a controlled manner across regions and government agencies to ensure that the technology is seen as an improvement.</p> <p>Modernization efforts should begin with a shared vision and then use a staged approach, developed through private and public sector collaboration. This will enable the trade community and government alike to take full advantage of the opportunities of modernization and to validate over time that the government's trade processes have been simplified and that inefficiencies or variables that were previously manual and subjective are not exacerbated through automation. Automating a flawed process does not make that process better.</p> <p>Expeditors is a global logistics company employing over 18,000 trained professionals in over 330 locations across six continents. The company satisfies the increasingly sophisticated needs of international trade through customized solutions and seamless, integrated information systems. Its services include Customs brokerage, the consolidation and forwarding of air and ocean freight, vendor consolidation, cargo insurance, time-definite transportation, order management, warehousing, distribution, and customized logistics solutions. Expeditors is present in 22 countries in Europe and files over 2,000,000 customs declarations a year.</p>			
12	European Express Association (EEA) Comments to the Wise Persons Group	<p>It is now clear that E-commerce has become just regular trade. The pandemic has accelerated trends that were already there. Lockdowns forced people to go online because they could not go to the shop. This has led to a significant growth in E-commerce globally, including in the EU. It is likely that E-commerce will continue to grow and replace more traditional ways of conducting cross border trade. At the same time, traditional challenges remain – notably an ongoing fragmentation of the EU Customs Union which creates additional costs and uncertainty for businesses, and the need for greater focus on trade facilitation, to enable importers and exporters and better manage the resources of government authorities.</p> <p>EU authorities rightly emphasise the need for enhanced risk management to ensure the safety and security of EU citizens. However, enhanced trade facilitating measures can be complementary to this goal, by enabling legitimate trade, simplifying requirements for businesses of all sizes and freeing up resources for border authorities to focus on combatting illegitimate trade. Of paramount importance is that these smart solutions are applied equally in all 27 EU Member States and we move away from the current patchwork of implementation of regulations and procedures.</p> <p>The recent implementation of the EU VAT E-commerce Directive was instructive.</p> <p>Divergent interpretations of the new rules across the EU27, a lack of availability to trade of technical specifications in advance, open-ended transition periods and poor communication by EU Member States contributed to a highly uneven implementation of the new rules. Many Member States have still not fully implemented the new VAT e-commerce rules – placing huge demands on traders who have had to adapt on the go. Greater leadership from the European Commission in coordinating EU Member States' implementation of new customs rules is required.</p> <p>Meanwhile, tangible benefits are needed to give EU traders a competitive advantage and to accelerate the economic recovery:</p> <ul style="list-style-type: none"> <li>• Further consideration should be given to the EU's transaction-based customs duties and taxes collection models. Given the growth in E-commerce these models are now outdated and other options including off-the-border solutions should be considered for economic operators with a demonstrated record of compliance.</li> <li>• Such options could be linked to the EU AEO program and bring measurable benefits, combined with other facilitating measures such as a demonstrated reduction in the amount of customs inspections for trusted traders and a simplified, harmonized approach across the EU. This will move the AEO program beyond positive perception and provide genuine competitive advantage.</li> <li>• Innovative solutions such as the proposal put forward in Switzerland to eliminate customs duties for industrial products should also be reviewed. Smart technological solutions such as the EU Single Window, that combines the requirements of not only Customs but all border agencies, and the use of pioneering technologies such as block-chain, can further assist in this effort and complete the critical transition to a fully electronic EU customs environment.</li> <li>• The EU should consider allowing economic operators to file all their customs declarations with the European Customs Agency at any customs office in the EU, and use any official language to submit their customs declarations and other data.</li> <li>• The EU should harmonize prohibitions and restrictions across Member States and have a manageable list that can be used by E-commerce platforms and carriers. Equally it should consider creating a single market for excise goods, and allow to manage their processing over the Union Scheme. The rules should be simplified so that they are easy to understand, easy to apply and easy to control.</li> <li>• The EU should consider increasing the De Minimis value on duties from €150 to a justifiable level and consider a novel approach to Low Value Shipment processing e.g. decoupling of the collection of import duties and VAT, with VAT collected away from the border.</li> <li>• Although aspirational as of today, in order to support the future harmonization of formalities and the smooth implementation of EU legislation, it would be good to consider creating one European Customs Agency, replacing 27 customs administrations, improving the turnover time on new</li> </ul>	Tue. 14/12/2021 - 19:01	Belgium	Association Representative - European Express Association (EEA)

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		<p>customs legislation and ensuring harmonised application in the Member States.</p> <ul style="list-style-type: none"> <li>Finally, the EU needs to move away from its current strategy which demands the provision from trade of more and more data, earlier and earlier in the process. Instead, it should focus on capturing the right data, from the right party, at the right time. New actors in international trade that are traditionally not under regulatory oversight of border authorities, such as payment providers and online platforms, are often better positioned to provide this data than express operators, who already provide end-to-end data coverage.</li> </ul> <p>Furthermore, while the EU has registered full commitments for the WTO Trade Facilitation Agreement (TFA), the Commission should critically look at the situation on the ground in Member States, identify potential gaps and support EU Member States to bridge any potential gaps between reality and commitments undertaken. Implementation requires more than adopting a legislative framework.</p> <p>The EEA is ready to play its part in shaping the future of Customs in the EU. The EU needs to rapidly accelerate modernization and become a world leader for cross border trade, in partnership with economic operators. We need to embrace new ideas and concepts that are fit for purpose, protect EU citizens, and support economic growth and development that ultimately play a part in lifting people out of poverty. In our view, an open and constructive dialogue to commonly resolve challenges and co-create regulations and solutions for the future is the best way to ensure sustainability and cross border controls that enable, not hinder, trade.</p>			
13	Contribution from Tobacco Europe: Wise Persons Group on the challenges facing the Customs Union	<p>A Collaborative Approach to Targeting Illicit Trade in Cross-border e-Commerce WISE PERSONS GROUP-CHALLENGES FACING THE CUSTOMS UNION</p> <p>Dear Members of the Wise Persons Group, Tobacco Europe AISBL represents the common views of British American Tobacco (BAT), Imperial Brands (IMB), and Japan Tobacco International (JTI).</p> <p>We appreciate the initiative of the Wise Persons Group with respect to the challenges facing the customs union.</p> <p>We would like to contribute to this initiative by proposing clarifications on certain issues which are of concern for our members if not addressed appropriately and call for greater collaboration between the private and public sector (EU customs and law enforcement authorities).</p> <p>Our recommendations are:</p> <ol style="list-style-type: none"> <li>An assessment of the impact of a decrease of the customs duty 'de Minimis' threshold: e-commerce has created new distribution channels for illicit and counterfeit traded goods. A decrease of the customs duty 'de Minimis threshold' can contribute to the reduction of the illicit trade supply chains.</li> <li>The 'wise persons' group in collaboration with the private sector should evaluate and determine whether new and emerging technologies can support the customs union in controlling the safety and security risks associated with e-commerce. These new and emerging technologies may include blockchain and artificial intelligence (AI) solutions.</li> </ol> <p>The following sections provide further details regarding the current challenges and proposed solutions.</p> <p>We would welcome the opportunity to meet at your convenience in order to outline in more detail our recommendations. Should you need any additional information or clarification in the meantime, please do not hesitate to contact us.</p> <p>We hope that the content provided in this submission contributes to the ongoing work of the Wise Persons Group.</p> <p>The Challenges of Cross-Border E-Commerce</p> <p>1.1. The Growth of E-Commerce in Europe</p> <p>Global Retail e-commerce has grown significantly over the past years as consumers increasingly choose to shop online for the greater choice and value for money. E-commerce has created new opportunities for the global economy, creating new consumption behaviours, jobs, and methods of trade. In the wake of the COVID-19 pandemic, consumers' reliance on e-commerce has surged following the global lockdown measures. Particularly in Europe, cross-border e-commerce has doubled in value between 2019 and 2021 from €108 billion to over €220 billion<sup>1</sup>. EU companies generate around 20% of their revenues from e-commerce and European cross-border transactions are predicted to grow at twice the rate of domestic e-commerce<sup>2</sup>. The Accenture Growth Analytics engine estimates a five-year growth rate of over 110% for all Consumer Packaged Goods (CPG) sold online in the EU from 2019 to 2024.</p> <p>The fastest growing CPG categories are packaged food, soft drinks, and excisable goods such as tobacco, with compound annual growth rates of 19.4%, 19.2% and 18.4%, respectively.</p> <p>The changing trade environment due to the rapid expansion of cross-border e-commerce is impacting all EU Member States and a more inclusive, proactive and innovative collaboration between the public and private sectors is required to overcome the various challenges that go along with it.</p>	Wed 15/12/2021 - 09:52	Belgium	Association Representative - Tobacco Europe

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	<p>1.2. Supply Chain Challenges in The Cross-Border Trade of CPGs</p> <p>The proliferation of CPGs via e-commerce, coupled with the lockdown measures introduced by the EU Member States, have led to serious supply chain challenges. As EU customs authorities and national postal operators still rely on labour-intensive manual clearance of packages<sup>3</sup>, they have been struggling to cope with the increasing frequency of shipments and temporary unavailability of staff. The current, largely manual, real-time clearing process is both inefficient and prone to human error, which makes it impossible for customs authorities to check every single consignment. In addition, newly added complexities in regulations, such as the prioritisation of essential goods (i.e., COVID-19 vaccines and personal protective equipment (PPE)) over non-essential goods (such as CPGs), have put added pressure on EU customs authorities and postal operators. This is compounded by an inadequate integration between electronic customs declaration systems and postal services, which leads to significant delays and inefficiencies, effectively turning them into bottlenecks for cross-border trade.</p> <p>The small, low-value consignments delivered by post or express courier are the most difficult for customs to monitor as the declarations currently rely on the sender to fill in the correct information. Poor quality of information, inaccurate data (due to misdeclarations) and the lack of adequate monitoring technologies in place have made the CPG trade, and particularly the trade in excisable goods, a target for fraud, counterfeiting and illicit trade.</p> <p>Private entities, such as express couriers, have also been a target for fraud. According to the OECD, law enforcement agencies have indicated a significant growth in the use of both postal and courier streams by criminal networks as a delivery method for illicit trade<sup>4</sup>. A lack of information sharing with customs authorities leads criminal networks to exploit these weaknesses and use express couriers to move counterfeit goods.</p> <p>1.3. Challenges for Excisable Goods Companies and Governments</p> <p>Companies trading in goods with high excise duties, such as tobacco, vapour products, nicotine pouches, alcohol, and energy, are a major target for illicit trade. Illicit trade can come from both the smuggling of products across borders without the payment of taxes (contraband) and the illegal manufacturing of such products, often with illegally produced trademarks (counterfeit). The anti-competitive practices posed by the influx of contrabands and counterfeits (whether produced domestically or smuggled) lead to losses of excise, VAT, and import tax revenues for EU Member States as well as losses in profits for businesses.</p> <p>EU authorities and the industry have been taking steps to collaboratively address this challenge. In 2010 for instance, EU law enforcement agencies have coupled their efforts with policies and technologies provided by the tobacco industry to reduce the number of cigarettes illegally entering the EU<sup>5</sup>.</p> <p>However, the reduction of smuggled cigarettes across EU borders was replaced by a growth in the illegal manufacturing of counterfeit cigarettes, possibly manufactured within the EU itself. In many cases consumers are tricked into buying identical looking but non-genuine products online. The KPMG 2020 Stella Report<sup>6</sup> has shown an 87% increase in counterfeit cigarette consumption in the EU between 2019 and 2020. Counterfeits now represent 30.1% of illicit consumption in the EU. This trend is thought to have been exacerbated by the COVID-19 pandemic, which reduced the opportunity for consumers to cross borders and buy cheaper products, therefore increasing demand for illegal locally manufactured cigarettes and those sent in smaller packages.</p> <p>The Royal United Services Institute (RUSI) has revealed that criminal networks are increasingly adopting a low-volume, high-frequency approach to smuggling counterfeits, thereby minimising financial losses incurred in the event of a seizure<sup>7</sup>. As these products were not subject to the same (if any) level of quality or regulatory scrutiny during their manufacturing process, they pose significant health and safety threats to consumers. In addition, it puts EU businesses at a competitive disadvantage with a loss of market share and revenues, and makes governments lose out on custom duties and tax revenues.</p> <p>The industry has experienced several instances whereby counterfeits have hampered its e-commerce operations for its Next Generation Products (i.e., NGP – vapour products and nicotine pouches) in the EU market. For instance, Italian customs officers have confiscated two illegal shipments of e-liquids in April 2021, posted from the UK<sup>9</sup>. These counterfeit devices, which involve inhalation, have not undergone the same rigorous quality control procedures as their genuine counterparts and pose serious health and safety hazards to unaware consumers. Unregulated and illegal e-liquids seized at borders often contain high traces of heavy metals, such as aluminium and lead, that exceed the legal limits.</p> <p>Citizens expect under the EU's General Product Safety Directive (GPSD) that the products they purchase in the EU, including via e-commerce, meet all statutory safety requirements under national or European law. The circulation of these illicit products pose a reputational risk to both EU customs authorities and businesses. In many EU markets, the illicit trade in excisable goods account for over 20% of the market, effectively causing a significant loss of both company and tax revenues alike.</p>			
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	<p>Deep-Dive into Solutions and Best Practices</p> <p>1. EU customs duty 'De Minimis' threshold</p> <p>De minimis shipment value rules have been set in place by EU to exempt consignments below a certain value threshold from custom duties and taxes. As such, customs duties are not due for e-commerce shipments imported from outside the EU of which the value does not exceed 150 euros. The goal of this measure was to reduce the number of cross-border consignment inspections by authorities. However, with the growth of cross-border e-commerce, the growing number of low value consignments has put this practice into question as people started exploiting the de minimis regulation by under-declaring the value of goods.</p> <p>We acknowledge that e-commerce has created new distribution channels for legitimate trade. However, counterfeiters have also successfully exploited these channels- i.e. illicit traded goods are dispatched in small parcels with a value below the customs duty 'de minimis' threshold. There is little risk of detection for illicit goods, since the quantities of goods shipped in small parcels are intermingled with legitimately traded items. Therefore, the illicit trade implications should be considered before increasing the 'de Minimis duty threshold'.</p> <p>In order to tackle this problem, we believe that a lower customs duty 'de Minimis' threshold can facilitate more targeted customs audits through better customs risk management.</p> <p>2. New technologies and public-private sector cooperation</p> <p>a. Proposed Near-Term Solutions</p> <p>Cross-border goods movements have a physical, information and financial layer, each intertwined with one another. In order to effectively address illicit trade, authorities need to have a grip on all three. A range of existing and nascent solutions and approaches enable them to do so. These solutions follow the guiding principles of a collaborative mindset across jurisdictions and organisational siloes, common standards, interoperability between systems, a data-driven culture, and the flexibility to learn and adapt at pace.</p> <p>Inspection Feedback Loop</p> <p>Currently, most of the risk intelligence in the EU takes place at the Member State level. To address the challenges related to e-commerce and the excisable goods trade, we recommend Member States and DG TAXUD incorporate a real-time Inspection Feedback Loop. This entails using the findings from physical inspections to recalibrate the existing risk-management rules and algorithms, both at Member State and DG TAXUD level, and to advance from a deductive to a prescriptive risk management model.</p> <p>The centralised Analytics Hub the EU is currently building (see Section 2) is a step in the right direction. However, we recommend following the Circular Risk Management Process to ensure its correct implementation. The steps outlined below are to be repeated in a loop with a systematic recalibration of the risk management process from a linear to a circular process:</p> <ol style="list-style-type: none"> <li>1. Context: Gather risk intelligence using a plethora of data sources available to Customs (e.g., declaration data, trader data, tax data) to gain a deep understanding of the stakeholders and trade context.</li> <li>2. Identify: Identify for which purpose the gathered data can be used. Once the data sources are examined, they can be ingested into a data ecosystem out of which the risk intelligence team can derive insights for the development of new risk models.</li> <li>3. Analyse: A decision engine then performs the risk analysis at the transaction, trader, and supply chain levels.</li> <li>4. Assess: Based on the analysis, the engine assesses whether risk interventions are required.</li> <li>5. Control: The decision engine generates recommended actions and notifies the relevant parties (intel officer, Member States, ...). This feedback is internalised for future reference.</li> <li>6. Audit: Post-Clearance Audits are performed by customs to verify the accuracy and authenticity of declarations and adherence to customs regulations. Lessons learned are taken from inaccurate clearances to evolve the risk model.</li> <li>7. Enforce: Customs officers can take the recommended risk intervention/mitigation actions, choose an alternative action based on their expertise, or escalate to specialised teams. The actions undertaken, such as customs seizures and associated penalties, will be used to recalibrate the existing rules and algorithms.</li> </ol> <p>Circular Risk Management Process</p> <p>Blockchain Solutions</p> <p>The EU Commission is uniquely positioned to put in place a digital infrastructure that establishes trust and interoperability across networks. The EU Commission has recently launched its Blockchain Strategy<sup>27</sup>, which supports blockchain on the policy, regulatory and budget fronts. The Strategy foresees building the European Blockchain Services Infrastructure (EBSI): a blockchain infrastructure that will be interoperable with private</p>			
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	<p>sector platforms<sup>28</sup>. Amongst its use cases is the secure sharing of data amongst EU authorities on VAT identification numbers and import one-stop-shops amongst customs and tax authorities. EBSI would provide the EU with the comprehensive insight on trade supply chains required for intelligent risk management and trade facilitation.</p> <p>Industry blockchain initiatives exist, however have struggled to move beyond the pilot stage due to a lack of a clear governance structure. According to a study by the European Parliamentary Research Service (EPRS), several blockchain initiatives (including a pilot blockchain project undertaken by a European Customs Authority and industry experts, as well as other use cases in customs processes, trade finance and logistics), have revealed the need for stakeholder involvement to articulate a shared ecosystem vision that encompasses business, technology and operations<sup>29</sup>. This can only be realised through closer and more pro-active government involvement, to ensure business- and technology-related decisions are taken appropriately and swiftly.</p> <p>Blockchain solutions have also been explored to tackle illicit tobacco supply chains. Fiscal markers are outdated and present a series of challenges affecting actors across the supply chain. To reduce illicit trade and mitigate fiscal leakages, a blockchain platform can optimize supply chain visibility by:</p> <ul style="list-style-type: none"> <li>• Removing the need for physical shipping documents with a reduction of data duplication and operating costs while increasing supply chain visibility.</li> <li>• Connecting end-to-end value chains and bringing about increased visibility that will help tackle inefficiencies by eliminating costs and delays with third party players and enable customs authorities to execute more targeted interventions and seizures<sup>30</sup>.</li> <li>• Fighting illicit trade on excisable goods to reduce the government's tax gap, without damaging industry or trade.</li> </ul> <p>AI-Augmented Inspections</p> <p>Surveillance systems have evolved, with the data captured by today's systems being far too large for humans to manage efficiently. Image and video analytics software are created to analyse the constantly growing volumes of video feeds and help resolve and prevent incidents. With these analytics software, customs authorities could benefit from more efficient surveillance systems, highly intelligent surveillance capabilities and better use of human security and management staff.</p> <p>AI-Augmented Inspections may use data on known characteristics of counterfeit products (e.g., from COPIS) and compare these with data on genuine products to train algorithms to identify potential counterfeits in images and video footage from X-ray scanning or physical inspections, such as when a border officer opens a package that had been flagged for inspection.</p> <p>A case in point are Video Analytics Platforms, which apply analytics to data received from video feeds to deliver insights that support fast and accurate decisions. With these tools, customs authorities can take fast and accurate decisions on intervention/seizure actions based on alerts generated by Deep Learning (Machine Learning and AI). They allow authorities to see business processes from a new perspective, gain real-time insight into operations and interactions so they can take immediate action, and leverage granular "ground truth" data for longer-term trend analyses. The more information these solutions process, the more targeted the recommended actions can become via Deep Learning<sup>31</sup>.</p> <p>Five operational pillars, one comprehensive solution Multiple-Source Data Integrations Modern risk management approaches require a focussed methodology centred around a data-driven network. Highly relevant sources of data include regulatory/voluntary trade and logistics data, customs in-house data, national authorities' data, and EU and global community data. These data can feed into supply chain data networks (e.g., TradeLens, NxtPort), national customs and police systems, and EU systems to form interpretable goods, logistics, financial and economic operator data. In addition, these approaches are required to address criminal networks' use of encrypted communication platforms, dark web marketplaces and crypto payments. These new sources of information can only be unlocked and interpreted by modern analytics skills and tools.</p> <p>Through the EU Customs Action Plan, DG TAXUD has already set out to establish a central Analytics Hub to collect, analyse and share customs data that support critical decision-making and help identify weak spots in the EU's external borders. The Analytics Hub will be using data from the EU Customs Surveillance database in 2022 and will be using data from COPIS (counterfeit goods seizures), AFIS (anti-fraud), and VAT payments by the end of 2023. While it focuses on safety and security, we recommend considering a broader scope of data sources to further enrich the EU's data-led investigation capabilities.</p> <p>1. Collaboration with surveillance cyber security authorities</p> <p>For instance, the US Customs and Border Protection (CBP) agency has set up a Data Science Division to improve its border monitoring capabilities by leveraging technology for quicker security risk detections. They intend to leverage data retrieved from ground sensors, video surveillance systems and aerial platforms and to use Machine Learning capabilities for algorithmic targeting and situational awareness improvements<sup>33</sup>. Thanks to these efforts, the CBP will be able to classify risks much quicker, to identify what's coming before it gets to the border, and to be able to take the necessary actions.</p> <p>As such, EU customs authorities' risk management efforts can be enhanced by engaging in:</p>			
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## Replies to the Public Consultation, in the context of the Wise Persons Group, on the challenges facing the Customs Union

	<ul style="list-style-type: none"> <li>• Web crawling and dark web investigations of online communication platforms and marketplaces to identify risk (e.g., use of certain words in posts and articles) and persons of interest (e.g., based on watchlists) in connection to actors involved in cross-border trade transactions</li> <li>• Hacking into encrypted communication platforms allegedly used by criminal actors.</li> <li>• These added sources will enable advanced analytics and simulation modelling to improve the current risk identifications and rules generation processes. These capabilities exist at the national level but are fragmented and usually operate beyond the cross-border trade context. The EU therefore would benefit from establishing a central EU capability focussing on cross-border trade to complement and collaborate with existing national capabilities. In addition, the EU could collaborate with EU industries for their technology expertise, thereby enhancing the customs staff's digital literacy and ensuring the correct implementation of surveillance technologies.</li> </ul> <p>2. Collaborations with Payment Services Providers Engaging with payment providers to access payment information of online purchases, will enable customs to execute, consolidate and audit payments easier, ultimately facilitating trade. It helps identify areas of risk and collecting customs and other taxes at the point of purchase. In the EU Customs Action Plan, DG TAXUD has already put forward plans to introduce new customs reporting requirements for online payment provider platforms such as PayPal and Amazon Pay. The new payment data reporting obligations on payment service providers, set in Council Directive (EU) 2020/28434, will be imposed as of 1 January 2024.</p> <p>3. Data-intelligence platforms As the financial crime landscape continues to evolve, businesses are pioneering the use of data science and Artificial Intelligence to protect themselves against financial crimes. Ripjar's Torch is an example of a scalable platform that allows entities to better identify, monitor and mitigate financial crime risk by means of Machine Learning and AI-driven platforms. The platform allows entities to fuse, enrich, automate, and analyse any source of data, which can then be used to automate key processes and facilitate smarter investigations. The Torch platform has been used by compliance officers across global banking, capital markets and insurance institutions for anti-money laundering purposes.</p> <p>Data-intelligence platform use cases There are also other solutions in the market that leverage advanced technologies to map out financial crime, such as the Oracle Financial Services Crime and Compliance Studio, Quantexa Syneo Financial Crime and Fraud solution, Comarch Anti-Money Laundering software, etc. However, when aiming for large-scale implementations of these novel technologies, it is important to appeal to entities with deep industry experience and proven track records of next-gen technologies to facilitate these implementations.</p> <p>3.1.1. Trusted Supply Chains Building upon the use of AEOs under the EU Customs Risk Management Framework (CRMF) to facilitate legitimate trade for economic operators, we propose customs authorities to expand the notion of trusted traders to trusted supply chains. This involves two key aspects:</p> <p>1. Monitor not only the compliance of a singular economic operator, but compliance of the entire supply chains. Most customs agencies' current risk management practices are focused on Transaction and Trader Risk. For this solution, we need to look beyond this – i.e., towards the end-to-end Supply Chain Risk. Data analytics methods, such as Social Network Analysis (SNA), use networks and graph theory to understand social structures and can use the data sources available to Customs (e.g., declaration data, trader data, supply chain data, and other public/private data) to gain in-depth insights on traders and the supply chains they operate in. These insights then provide the possibility to determine a risk level to the supply chain. In the context of interoperability, the larger the dataset used for SNA, the more accurate the results. As such, this method can be enriched by including data from other EU and Member State systems, such as counterfeit data from COPIS, known criminal identifications from AFIS VAT payments data, data from the Union Customs Code (UCC) systems (expected to be fully realised by end 2025), and data from other verified EU authorities. Graphical representation of a social network Another example related to trusted supply chains is the Global Business Identifier (GBI) initiative<sup>26</sup> launched by the CBP. The goal of this initiative is to identify and track principal players in the global supply chain by creating unique identifiers that represent a company's primary legal entity and ownership, its specific business, its global locations, and the supply chain role it takes up within a transaction. The system has facilitated the identification of high-risk shipments.</p> <p>2. Enable actors involved in trusted supply chains to self-assess risk in their supply chains. Under the Union Customs Code (UCC), Authorized Economic Operators (AEO) can be given the possibility to perform certain customs formalities and assessments that are normally done by customs authorities<sup>36</sup>. When authorised, these self-assessments would allow traders to perform risk assessments and verify their compliance with the customs regulations. Authorised traders perform these self-assessments based on the guidelines specified by customs authorities, and under their supervision.</p>			
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## Replies to the Public Consultation, in the context of the Wise Persons Group, on the challenges facing the Customs Union

	<p>The prerequisite for being authorised to self-assess should involve the traders' ability to monitor risk across their end-to-end supply chain. These businesses however still need to collaborate with customs to ensure the definitions of risk and compliance are in line with current policies.</p> <p>Concluding Remarks</p> <p>There are currently several risk management plans and initiatives in place to provide customs authorities with the right priorities to risk management in e-commerce and trade in excisable goods. However, there is a need to further strengthen the actual implementation of risk management activities at a national customs level.</p> <p>The industry calls for increased collaboration between the private (businesses) and public sector (EU customs and law enforcement authorities). Together, they can:</p> <ul style="list-style-type: none"> <li>• Achieve more coherent and stronger Customs Union.</li> <li>• Address the challenges brought about by the growth in e-commerce and the fight against criminal networks and fraud.</li> <li>• Establish policies and solutions that are both effective in addressing illicit trade as well as safeguarding the interests of EU citizens' and the economic competitiveness of EU businesses.</li> </ul> <p>References</p> <ol style="list-style-type: none"> <li>1. OECD, "Connecting Businesses and Consumers During COVID-19: Trade in Parcels", Jul 2020, link to article: <a href="#">Connecting Businesses and Consumers During COVID-19: Trade in Parcels (oecd.org)</a></li> <li>2. Statista, "E-commerce in the European Union – statistics &amp; facts", Oct 2021, link to article: <a href="#">E-commerce in the European Union – statistics &amp; facts (statista.com)</a></li> <li>3. World Customs Organization, "WCO Study Report on Cross-Border E-Commerce", Mar 2017, link to report: <a href="#">wco-study-report-on-e-commerce.pdf (wcoomd.org)</a></li> <li>4. OECD, "Role of Small Shipments in Illicit Trade and Its Impact on Enforcement", 2018, link to report: <a href="#">Role of Small Shipments in Illicit Trade and its Impact on Enforcement (OECD-ilibrary.org)</a></li> <li>5. European Commission, "Contraband and counterfeit cigarettes: frequently asked questions", Jul 2010, link to webpage: <a href="#">Contraband and counterfeit cigarettes: frequently asked questions (ec.europa.eu)</a></li> <li>6. KMPG, "Illicit cigarette consumption in the EU, UK, Norway and Switzerland – 2020 Results", Jun 2021, link to report: <a href="#">Illicit cigarette consumption in the EU, UK, Norway and Switzerland – 2020 Results (stopillegal.com)</a></li> <li>7. Babuta, A., Haenlein, C., Reid, A., "E-Commerce, Delivery Services and the Illicit Tobacco Trade", Apr 2021, link to paper: <a href="#">E-Commerce, Delivery Services and the Illicit Tobacco Trade (rusi.org)</a></li> <li>8. Sueddeutsche Zeitung, "Customs ensures untaxed tobacco product by mail", Jan 2021. Link to article: <a href="#">Kriminalität - Dresden - Zoll stellt unversteuerte Tabakwaren im Postversand sicher - Panorama - SZ.de (sueddeutsche.de)</a></li> <li>9. ADM Lombardia, "Comunicato Stampa, Milano 1: Scoperte Spedizioni di Liquidi da Inalazione di Contrabbando Porvenienti dal Regno Unito", Apr 2021. Link to article: <a href="#">44055dfa-b781-4830-8dbc-e795316fb11b (adm.gov.it)</a></li> <li>10. WCO, "Cross-Border E-Commerce Framework of Standards", Jun 2018, link to framework: <a href="#">Cross-Border E-Commerce Framework of Standards (wcoomd.org)</a></li> <li>11. Aigner, S., "Mutual recognition of Authorised Economic Operators and security measures", Mar 2020, link to article: <a href="#">Mutual recognition of Authorised Economic Operators and security measures (worldcustomsjournal.org)</a></li> <li>12. CBP, "CBP and Trade Partners are Taking Action to Secure eCommerce Supply Chains", Jan 2020, link to webpage: <a href="#">CBP and Trade Partners are Taking Action to Secure eCommerce Supply Chains (cbp.gov)</a></li> <li>13. WCO, "USCBP latest initiatives to strengthen enforcement capacity for e-commerce shipments", Oct 2021, link to article: <a href="#">USCBP latest initiatives to strengthen enforcement capacity for e-commerce shipments (mag.wcoomd.org)</a></li> <li>14. European Commission, "Customs Risk Management Framework (CRMF)", Oct 2021, link to framework: <a href="#">Customs Risk Management Framework (CRMF) (ec.europa.eu)</a></li> <li>15. European Commission, "Taking the Customs Union to the Next Level: a Plan for Action", Sep 2020, link to communication: <a href="#">Taking the Customs Union to the Next Level: a Plan for Action (eur-lex.europa.eu)</a></li> <li>16. European Commission, "Import Control System 2 (ICS2)", n.d., link to webpage: <a href="#">Import Control System 2 (ICS2) (ec.europa.eu)</a></li> </ol>			
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14	Ecommerce Europe’s contribution to	Introduction Ecommerce Europe welcomes the opportunity to contribute to the Wise Persons Group (WPG) consultation on the challenges facing the Customs Union.	Wed 15/12/2021 - 13:50	Belgium	Association Representative - Ecommerce



## Replies to the Public Consultation, in the context of the Wise Persons Group, on the challenges facing the Customs Union

<p>the WPG consultation on the challenges facing the Customs Union</p>	<p>Recently, the EU Customs Union is facing important external challenges, such as the increase in international import and export flows of goods, the boost to digitalisation and e-commerce, Brexit, and more. Additionally, the EU customs authorities are increasingly responsible for a wide range of tasks, including transport security, product safety and sustainability. In this context, it is of utmost importance to ensure that customs processes and controls become more efficient and harmonised, as this could reduce the costs and time to process imports, facilitate the international cross-border trade, and minimise the delivery days and unexpected costs for EU consumers.</p> <p>Furthermore, increased customs control capabilities and proactive control measures through the use of technology as data become available in advance are equally key, in order to minimise safety risks for customers, to help fight customs, duty and VAT fraud and to protect and grow revenues for governments.</p> <p>Therefore, Ecommerce Europe would like to share its contribution to the consultation and provide the WPG with structured feedback that reflects on the key topics identified by the WPG.</p> <p>1. E-commerce – ensuring effective VAT and customs duty collection</p> <p>The EU VAT E-commerce Package has incrementally reformed the way VAT is collected, particularly on low value consignments. The legislation includes the introduction of an Import One Stop Shop system (IOSS) which facilitates the process to collect and remit VAT on imported shipments with a value not exceeding €150. We believe the IOSS should be further strengthened in its functioning and performance, in particular by removing inconsistencies between national customs authorities and addressing remaining misalignments between VAT and customs legislation. For example, the customs' IT systems in several key import landing countries are not ready to recognise IOSS numbers in H7 customs declarations which causes double VAT taxation for shipments declared under an H7 customs declaration even though these shipments are IOSS eligible.</p> <p>In addition, the current system is prone to misuse of IOSS numbers. This is due to the optionality of the IOSS, the fact that IOSS numbers cannot be kept confidential, but also the lack of transparency of IOSS holders to customs authorities (customs authorities can only verify the validity of an IOSS number, but not the actual holder). Another root cause for potential misuse is the fact that there is no end-to-end system in place to link IOSS merchant/marketplace level identifier with the transaction level identifier for each shipment. As a result, IOSS numbers can be misused (intentionally or not) by businesses to avoid paying VAT at the customs border. This will lead to reconciling differences between IOSS returns and EU customs data. In addition, this will drive new unlevel playing fields and lost VAT overall.</p> <p>When it comes to customs duty collection, customs data currently available is too limited and often of insufficient quality to effectively support customs enforcement. This is caused by the fact that several data fields in the customs declaration are optional to complete, and for some fields it is not clear which information needs to be provided. We believe customs duty collection could be further improved by data sharing rules for parties involved in the e-commerce supply chain, and by effectively using this data.</p> <p>Additional enhanced data sharing by actors in the e-commerce supply chain (e.g., logistics operators, parcel delivery operators) can help address the detection of undervaluation, VAT and customs fraud, and the detection of non-financial risks.</p> <p>Improvements in data sharing should be accompanied by appropriate liability and enforcement measures. While designated postal operators have taken steps in the right direction regarding the mandatory sharing of customs data, these carriers remain exempt from liability for customs declarations under Article 23.3 of the Universal Postal Union (UPU) Convention. To promote compliance and improve effective customs duty collection, all carriers must be accountable for declarations. This in particular, as several designated postal operators collect additional charges when lodging customs declarations, even presenting H7 super reduced datasets to customs authorities.</p> <p>Recommendations:</p> <p>The IOSS system could be improved by introducing a VAT relief mechanism for the double paid VAT due to customs IT readiness issues. It is important to address this issue as a matter of priority as it undermines the functioning of the IOSS.</p> <p>Furthermore, the green lane status of IOSS eligible shipments through supporting national customs should be improved. This would enable the national IT systems to handle IOSS for all customs declaration types, including H7 customs declarations.</p> <p>Possibly, the security of the IOSS ID and end-to-end integrity of the existing IOSS programme should be strengthened. This should happen before considering expanding the scope of the IOSS further.</p> <p>Additionally, remaining misalignments between VAT and customs legislation must be resolved, for example between the IOSS VAT scope and the new customs competent office rule under article 224(1) of the UCC/IA leading to non-IOSS eligible shipment &lt; 150 EUR, such as B2B and excisable products, requiring direct clearance in the final delivery country leading to capability issues with brokers and customs logistics partners.</p> <p>Regarding the sharing of data for customs duty collection, data sharing should be centralised via a one digital customs interface within the EU, based</p>		<p>Europe's</p>
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## Replies to the Public Consultation, in the context of the Wise Persons Group, on the challenges facing the Customs Union

	<p>on the EU harmonised custom data model and digitalised One-Stop Shop approach. Responsibility for the correctness of the data shared should also be balanced, and take into account that for example marketplaces largely depend on data provided by the seller and marketplaces cannot verify the accuracy of most of these.</p> <p>Finally, the European Commission should assess the pros and cons of introducing reciprocal data sharing possibilities for businesses, as this would help identify bad actors. The assessment should take into consideration the interplay of such an introduction with other data-related legislations at EU level.</p> <p>2. Lack of a uniform approach among Member States</p> <p>Increased harmonisation and simplification of customs processes across the EU are key to facilitate trade whilst ensuring that bad actors cannot direct their import flows towards countries with lower risk perception. At the same time, businesses are regularly confronted with a non-unified approach by the customs authorities of different Member States in terms of the interpretation and practical application of customs legislation. Combined with a highly diverging risk perception across Member States, this results in:</p> <ul style="list-style-type: none"> <li>o very significant differences in pre-clearance and clearance processes as well as average lead times and inspection rates across Member States and – also – among various customs offices within single Members States.</li> <li>o a tariff classification of a good approved in one Member State is challenged by another Member State’s authority. This today happens despite a binding tariff information in place.</li> </ul> <p>Another example of where harmonisation of customs systems and processes is urgently needed are the lists of goods subject to Prohibitions &amp; Restrictions (P&amp;R). The lists vary across the different Member States and trigger complex documentation requirements for businesses. In addition, the lists are not transparently available in each Member State, making it very difficult for businesses to anticipate the customs treatment at the EU border. Shipments containing P&amp;R goods are currently also triggering double VAT taxation as an H1 customs declaration is required for these, and customs authorities are unable to recognise IOSS numbers in this type of declaration. We recommend the EU Commission to address this issue by increasing transparency of the P&amp;R lists, while working towards an EU harmonised P&amp;R list on longer term.</p> <p>Additionally, a key mechanism to increase efficiency of the EU Customs Union should be to further facilitate trade by trusted traders, as this will support compliant and legitimate businesses while allowing customs authorities to focus more on fraud and non-compliance risk areas. This could be achieved by allowing enhanced benefits for Authorised Economic Operators (AEO). The AEO programme needs to be incrementally improved in terms of simplifications or reductions it provides from clearance processes and lead times by – especially – factual departure from transaction-based approach and bolder move to a process-based approach, which is more than feasible already given the development of the IT infrastructure both on customs’ and traders’ side.</p> <p>Another key simplifier that should urgently be operationalised for AEO traders is a centralised customs clearance capability which envisages a decisive role of the Member State of identification only. AEO traders should also have access to post-entry data to check for any inconsistencies with for example Import One Stop Shop return data. It should also allow for goods to be released by AEO trusted traders without the involvement of the customs authorities at the border (self-clearance, organised in a similar way as VAT reporting and payments), in order to ensure that trade operate smoothly, particularly in the case of just-in-time consignments; depart from transactional base clearance and develop periodical reporting only, especially for AEO, as new enhanced benefit.</p> <p>3. Smarter management (“governance”) of the Customs Union</p> <p>There is a need for more cooperation and horizontal alignment among national customs authorities to support mutual learning and consistency in tackling current challenges. The focus of future reforms should be to simplify the current UCC legal framework, and to centralise and harmonise customs processes. It is critical to determine which aspects (customs legislation, training, set-up and maintenance of IT systems, data analytics, equipment) merit an EU level integration, and which ones are best organised at Member State level or Member State cluster level.</p> <p>It is important that reforms are balanced between customs’ enforcement and control on the one hand, and trade facilitation and administrative simplification needs on the other. A risk-based approach is key to achieve this balance, allowing customs authorities to focus on the higher risk areas while facilitating trade for trusted traders. The EU Single Window Environment for Customs is already an important step to enhance cooperation and coordination between different authorities, and will support the automated verification of non-customs formalities for goods entering or leaving the EU.</p> <p>Consideration should be given to set up a unified EU Customs authority across the EU.</p>			
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## Replies to the Public Consultation, in the context of the Wise Persons Group, on the challenges facing the Customs Union

15	Wise Persons Group Feedback	<p>The American Chamber of Commerce to the EU welcomes the initiative from the European Commission to establish the 'Wise Persons Group on Challenges Facing the Customs Union (WPG). We take the opportunity to provide the WPG with our ideas for customs reforms that would benefit the EU Member States, the EU as a whole and society at large.</p> <p>The withdrawal of the UK from the EU, the new E-commerce VAT rules and COVID 19 have caused an uncontrolled explosion in the number of customs declarations. Historically, customs clearance processes covered Business to Business transactions. Within this framework, importers, exporters and customs brokers were familiar with the rules.</p> <p>Today, the supply chain has changed. In a Business to Consumer environment, that subject matter knowledge is not always available. Economic operators find it challenging to understand and apply very complex customs rules. For customs authorities, the complexity of the rules make it challenging to control economic operators.</p> <p>An effective customs Union should have simple, clear and easily understandable rules, that anyone can understand, can apply and can control. To this end, our position, which is available in full on the <a href="#">AmCham EU website</a>, covers our recommendations on the different topics the WPG is reviewing such as, the safety and security risks of E-commerce, collection of customs duties and VAT on e-commerce goods as well as governance, legislative process and process improvements.</p>	Wed 15/12/2021 - 15:03	Belgium	Association Representative – The American Chamber of Commerce to the EU
16	Polish Confederation Lewiatan	<p>We welcome the EU's ambition to take the EU's Customs Union to the next level to seize the opportunities raised by the rise of digitalisation and omnichannel commerce more generally. The EU Customs Union is facing important external challenges, such as the increase in international import and export flows of goods, the rise of Ecommerce and Brexit. At the same time, EU customs authorities are increasingly responsible for a wide range of non-fiscal tasks, such as economic/IPR compliance (counterfeiting), safety (e.g. weapons, drugs), goods compliance (CE marks), environmental compliance, etc. We therefore welcome the Wise Persons Group (WPG) initiative to share its views on these opportunities and challenges, and we look forward to learn about the unique perspectives this group brings to the discussions on these important reforms.</p> <p>We have a shared interest to make customs processes and controls more efficient and harmonized as this reduces the costs and time to process imports, facilitates international cross-border trade and minimizes delivery delays and unexpected costs for EU customers. Increased customs control capabilities and proactive control measures through the use of technology are equally key, as well as enhancement of customs relevant data in order to minimize safety risks for customers, to help fight customs, duty and VAT fraud and to protect and grow revenues for Governments.</p> <p>We have structured our feedback in line with the key topics of reflection for the WPG.</p> <p>1. Ecommerce - ensuring effective VAT collection</p> <ul style="list-style-type: none"> <li>• The Ecommerce VAT Package effective as from 1 July this year has incrementally reformed the way VAT is collected on ecommerce goods, particularly low value imported goods (&lt;150EUR). The legislation includes an EU wide option for online merchants and marketplaces to collect and remit VAT on imported shipments with a value not exceeding 150 EUR through the so-called Import One Stop Shop system (IOSS), instead of paying VAT upon import clearance of the shipment. We believe it should be a matter of priority to strengthen the functioning and performance of the IOSS system, in particular by removing inconsistencies between national customs authorities and addressing remaining misalignments between VAT and customs legislation.</li> </ul> <p>For example, the customs' IT systems in several key import landing countries are not ready to recognize IOSS numbers in H1 customs declarations which causes double VAT taxation for shipments declared under an H1 customs declaration even though these shipments are IOSS eligible.</p> <ul style="list-style-type: none"> <li>• In addition, the current system is prone to misuse of IOSS numbers. This may be due to the optionality of the IOSS, the fact that IOSS numbers cannot be kept confidential, but also the lack of transparency of IOSS holders to customs authorities (customs authorities can only verify the validity of an IOSS number, but not the actual holder). Another root cause for potential misuse is the fact that there is no end-to-end system in place to link IOSS merchant/marketplace level identifier with the transaction level identifier for each shipment. As a result, IOSS numbers can be misused (intentionally or not) by businesses to avoid paying VAT at the customs border. This will lead to reconciling differences between IOSS returns and EU customs data. In addition, this will drive new unlevel playing fields and lost VAT overall.</li> <li>• Recommendations:             <ul style="list-style-type: none"> <li>o On short term, the IOSS system should be improved by introducing a VAT relief mechanism for the double paid VAT due to customs IT readiness issues.</li> </ul> </li> </ul> <p>It is important to address this issue as a matter of priority as it undermines the functioning of the IOSS.</p> <ul style="list-style-type: none"> <li>o On medium term, the following actions are recommended:</li> </ul>	Wed 15/12/2021 - 17:02	Poland	Association Representative - Polish Confederation Lewiatan

## Replies to the Public Consultation, in the context of the Wise Persons Group, on the challenges facing the Customs Union

	<p>☑ Improve the green lane status of IOSS eligible shipments through supporting national customs to enable their IT systems to handle IOSS for all customs declaration types, including H1 customs declarations.</p> <p>☑ Strengthen the security of the IOSS ID and end-to-end integrity of the existing IOSS program before considering to expand the scope of the IOSS further.</p> <p>☑ Resolve remaining misalignments between VAT and customs legislation, for example between the IOSS VAT scope and the new customs competent office rule under article 224(1) the UCC/IA leading to non-IOSS eligible shipment &lt; 150 EUR, such as B2B and excisable products, requiring direct clearance in the final delivery country leading to capability issues with brokers and customs logistics partners.</p> <p>☑ The standard customs procedures for non-IOSS import should be enhanced in order to secure import duties collection for these goods.</p> <p>2. Ecommerce – ensuring effective customs duty collection</p> <ul style="list-style-type: none"> <li>• Customs data currently available is too limited and often of insufficient quality to effectively support customs enforcement. This is caused by the fact that several data fields in the customs declaration are optional to complete, and for some fields it is not clear which information needs to be provided.</li> <li>• We believe customs duty collection can be further improved by data sharing obligations for parties involved in the ecommerce supply chain, and by effectively using this data. In addition, as from 2024, Payment Service providers will also start sharing data via the ‘Central Electronic System of Payment information’ (CESOP). Additional enhanced data sharing by actors in the Ecommerce supply chain (e.g. logistics operators) can help address the detection of undervaluation, VAT and customs fraud, and the detection of non-financial risks.</li> <li>• Improvements in data sharing must be accompanied by appropriate liability and enforcement measures. While designated postal operators have taken steps in the right direction regarding sharing customs data, these carriers remain exempt from liability for customs declarations under Article 23.3 of the Universal Postal Union (UPU) Convention. To promote compliance and improve effective customs duty collection, all carriers must be accountable for declarations.</li> <li>• We believe the following considerations should be taken into account for defining data sharing obligations: <ul style="list-style-type: none"> <li>o An EU harmonized and digitized One-Stop Shop approach is strongly preferred, i.e. data sharing should be centralized via a one digital customs interface within the EU;</li> <li>o Responsibility for the correctness of the data shared should be balanced, and take into account that for example marketplaces largely depend on data provided by the seller and marketplaces cannot verify the accuracy of most of these;</li> <li>o Data privacy and confidentiality should be safeguarded;</li> <li>o Level playing field: additional data sharing obligations and liability should apply broadly, irrespective of the place of establishment or business model;</li> <li>o Actionable datapoints: the datapoints that should be shared should be actionable, scalable and should contribute to more effectively manage financial and non-financial risks. It is key to identify an effective matching data key to link between the data provided by different actors. Required datapoints should be determined based on a risk based approach;</li> <li>o It should also be considered whether sharing data can be reciprocal, as this would allow business to identify bad actors.</li> </ul> </li> </ul> <p>3. Lack of a uniform approach among Member States to combating fiscal and non-fiscal risks</p> <ul style="list-style-type: none"> <li>• Increased harmonization and simplification of customs processes across the EU are key to facilitate trade whilst ensuring that bad actors cannot direct their import flows towards countries with lower risk perception. While moving towards more uniform application of Customs law, the EU must be aiming at the highest quality solutions that allow meeting facilitation and control goals at the same time and avoid, by all means, equaling to the common denominator among the Member States.</li> <li>• Businesses are regularly confronted with a non-unified approach by the customs authorities of different member states in terms of the interpretation and practical application of customs legislation. Combined with a highly diverging risk perception across member states, this results in: <ul style="list-style-type: none"> <li>o very significant differences in pre-clearance and clearance processes as well as average lead times and inspection rates;</li> <li>o across member states and – also –among various customs offices within single members states;</li> <li>o a tariff classification of a good approved in one member state is challenged by another member state’s authorities. This today happens despite a binding tariff information in place. We thus urge the EC to continue its work on strengthening single market institutions such as BTI together with enhancing the work on a binding valuation information.</li> </ul> </li> <li>• Another example of where harmonization of customs systems and processes is urgently needed are the lists of goods subject to Prohibitions &amp;</li> </ul>			
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## Replies to the Public Consultation, in the context of the Wise Persons Group, on the challenges facing the Customs Union

	<p>Restrictions (P&amp;R). The lists vary across the different Member States and trigger complex documentation requirements for businesses. In addition, the lists are not transparently available in each Member State, making it very difficult for businesses to anticipate the customs treatment at the EU border. IOSS shipments containing P&amp;R goods are currently also triggering double VAT taxation as an H1 customs declaration is required for these, and customs authorities are unable to recognize IOSS numbers in this type of declaration, even though P&amp;R shipments are IOSS eligible (see above section 1). We recommend the EU Commission to address this issue by increasing transparency of the P&amp;R lists, while working towards an EU harmonized P&amp;R list on longer term.</p> <p>4. The substantial growth of non-fiscal tasks attributed to customs authorities</p> <ul style="list-style-type: none"> <li>• A key mechanism to increase efficiency of the EU Customs Union should be to further facilitate trade by trusted traders, as this will support compliant and legitimate businesses while allowing customs authorities to focus more on fraud and non-compliance risk areas.</li> <li>• This should be achieved by allowing enhanced benefits for Authorized Economic Operators (AEO). The AEO program needs to be incrementally improved in terms of simplifications or reductions it provides from clearance processes and lead times by – especially – factual departure from transaction based approach and bolder move to one based on processes, which is more than feasible already given the development of the IT infrastructure both on Customs’ and traders’ side.</li> <li>• Another key simplifier, which goes hand in hand with uniform approach mentioned in point 3, that should urgently be operationalized for AEO traders is the centralized customs clearance capability designed in a way that would truly be centralized (i.e. with the decisive role of the MS of identification only). AEO traders should also have access to post-entry data to check for any inconsistencies with for example Import One Stop Shop return data.</li> <li>• It should also allow for goods to be released by AEO trusted traders without the involvement of the customs authorities at the border (self-clearance, organized in a similar way as VAT reporting and payments), in order to ensure that trade operate smoothly, particularly in the case of just-in-time consignments; depart from transactional base clearance and develop periodical reporting only, especially for AEO, as new enhanced benefit.</li> <li>• In addition, we note that Requirements introduced in the Market Surveillance Regulation were explicitly geared at guaranteeing “that products placed on the Single Market, including products traded online, comply with high common EU rules, are certified and meet the quality and safety standards.” The Market Surveillance Regulation took meaningful steps to address precisely these concerns, including through the clarification and introduction of tasks of economic operators regarding products subject to a broad range of harmonized legislation, but it has only entered into force on 16 July 2021. The EC is also working on a revision of the General Product Safety Directive, expanding the notion of responsible person. Before making any further regulatory changes, sufficient time should be given to evaluate the implementation and the enforcement of the current system should be improved. Access to better quality data as well better data sharing will be key to help enforcement against bad actors.</li> <li>• Liability for other non-financial risks such as counterfeit should remain with parties in the supply chain who are best placed to assess this risk, i.e. the importer, whether that is sender, recipient or carrier depending on circumstance.</li> </ul> <p>5. Smarter management (“governance”) of the Customs Union</p> <ul style="list-style-type: none"> <li>• There is a need for more cooperation and horizontal alignment between national customs authorities to support mutual learning and consistency in tackling current challenges.</li> <li>• The focus of future reforms should be to simplify the current UCC legal framework, and to centralize and harmonize customs processes. It is critical to determine which aspects (customs legislation, training, set-up and maintenance of IT systems, data analytics, equipment) merit an EU level integration, and which ones are best organized at Member State level or Member State cluster level.</li> <li>• It is important reforms are balanced between customs’ enforcement and control on the one hand, and trade facilitation and administrative simplification needs on the other. A risk based approach is key to achieve this balance, allowing customs authorities to focus on the higher risk areas while facilitating trade for trusted traders.</li> <li>• The EU Single Window environment for Customs initiative that the EC launched in October 2020 is already an important step to enhance cooperation and coordination between different authorities, and will support the automated verification of non-customs formalities for goods entering or leaving the EU.</li> <li>• Consideration should be given to a removal of the EU Customs Tariff (as the revenue from duties may not actually justify resources needed to collect).</li> <li>• Consideration should be given to set up a unified EU Customs authority across the EU.</li> </ul>			
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## Replies to the Public Consultation, in the context of the Wise Persons Group, on the challenges facing the Customs Union

17	Future Customs IT collaboration - Key propositions by ETCIT	<p>The Expert Team on new approaches to develop and operate Customs IT system (ETCIT) would like to provide the following key propositions on future Customs IT collaboration, a topic highly relevant to the challenges the WPG is set to tackle:</p> <ul style="list-style-type: none"> <li>• The decision to move into electronic customs was a major game changer for the Customs Union as this proved to be a challenge for both the Member States and the Commission.</li> <li>• The need for alternative ways of developing Customs IT systems requires new approaches. In the longer term, this will reduce Member States' costs, complexity and time needed to develop, improve and maintain Customs IT systems in the future.</li> <li>• The Expert Team on new approaches to develop and operate Customs IT systems (ETCIT) offers an established structure for collaboration that will provide in depth analysis and propose solutions for sustainable IT collaboration to support the policy roadmap of the Customs Union.</li> <li>• ETCIT's strategic focus in developing collaboration methods is verified on an operational level through pilot projects within and beyond the implementation of the Multi Annual Strategic Plan (MASP-C).</li> <li>• Member States have repeatedly confirmed a clear interest and support for IT collaboration, and ETCIT has received support for future pilot projects and other collaborative activities in the area of Customs IT.</li> <li>• As an important aspect of IT collaboration, awareness and commitment must be created at the highest management level so that ways of collaboration can be shaped.</li> <li>• ETCIT has established a network of Customs Administration's CIOs to frame regular strategic discussions on collaboration in Customs IT.</li> <li>• A solution for a sustainable function should be established, supporting IT collaboration among participating Member States and the Commission.</li> <li>• ETCIT offers to the Wise Persons Group to consider ETCIT as a tool to coordinate and deliver IT related recommendations.</li> </ul> <p>The WPG will be provided with an extended contribution, containing further background information on ETCIT and its work.</p>	Wed 15/12/2021 - 17:19	Sweden	Association Representative - Expert Team on new approaches to develop and operate Customs IT system (ETCIT)
18	EuroCommerce Contribution to the Wise Persons Consultation	<p>EuroCommerce is the voice for six million retail, wholesale, and other trading companies that engage in a full range of cross-border supply chain activity, from SME entrepreneurs importing fashion items through to major corporates in cutting edge retail such as eCommerce. Our members include national commerce federations in 31 countries, Europe's 27 leading retail and wholesale companies, and federations representing specific sectors of commerce.</p> <p>A frictionless customs environment, wherever possible, is important for EU-merchants. Since the mid-1990s, the application of customs has witnessed a growing relationship between the key stakeholders. In that respect, there was a growing recognition of the economic impact of customs operations on wealth creation and a desire to improve the structure for the benefit of all. Since then, the Customs Code has experienced a significant modernisation. That process, started at the turn of the 21st century, laid down ambitious targets to modernise customs law and create more consistent application across the EU. This improved various elements but did not address other areas as beneficially as it could have, such as the creation of Authorized Economic Operators (AEO). An important element of that modernisation was the eCustoms programme. Electronic systems have been coming online across a range of customs tasks over recent years. Due to the technical and legal complexities, many of the crucial eCustoms systems are only just coming on stream or are being built for introduction over the next three years, such as ICS, AES, CCI (phases 1 &amp; 2) and the 'Single Window for Customs'.</p> <p>The dynamics created by the EU's structure made customs modernisation, especially the development of electronic systems, a very challenging process for all involved. But one could argue the targets set for that process were really designed to play 'catch-up' with other major, modern trading blocks that were working already with such systems. In some respects, the EU's partners have already moved on in their thinking. Consequently, the EU's recent ambition to take the EU's Customs Union to the next level to seize global opportunities, especially those created through the rise of digitalisation and omnichannel commerce is welcome. The EU Customs Union is facing important external challenges, such as the increase in international import and export flows of goods, the rise of eCommerce and Brexit. The lessons these events have taught dictate the EU should examine responsive legislation and systems that can swiftly adapt to events or fast-moving market developments. At the same time, EU customs authorities are increasingly responsible for controlling a wide range of non-fiscal tasks, such as economic/IPR compliance (counterfeiting), safety (e.g., weapons, drugs), goods compliance (CE marks), environmental compliance, etc.</p> <p>With the recent initiatives on the application of the UCC, the Customs Action Plan and now the Wise Persons Group (WPG), we believe the EU must now start looking actively and strategically to 'get beyond the curve' in customs matters. This WPG reflection process must be ambitious and lead to real, tangible results and aim to make the EU a world leader in innovative and responsive customs laws and systems that interconnect effortlessly with overlapping areas, such as VAT and Excise.</p> <p>Against that background, we welcome the Wise Persons Group initiative to share its views on these opportunities and challenges. We look forward to</p>	Wed 15/12/2021 - 18:53	United Kingdom	Association Representative - EuroCommerce

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	<p>learning about how trade may engage with the WPG. A clear and regular method of engaging will be important. Trade has often said it is a resource that could be better used creating legislative and technical initiatives. We believe the unique perspectives the WPG brings to the discussions on customs reform and innovation should involve regular stakeholder contact from the start of its work to help create durable and consistent solutions. We all have a shared interest to make customs processes and controls more efficient and harmonised. This reduces the costs and time to process imports, facilitates international cross-border trade, and minimizes delivery delays and unexpected costs for EU customers. Increased customs control capabilities and proactive control measures using technology are equally key, together with harnessing and enhancing relevant customs data to minimise consumer safety risks, help fight fraud (customs, duty, and VAT) and protect own resources and national revenues.</p> <p>But a clear strategy should be established for developing the resulting themes and concepts into responsive legislative and technical initiatives alongside existing challenges. In this respect, there are several customs areas that are incohesive in application at the EU-level. That was largely created by the dynamics of the current structure. Even with modernisation, there can be substantial burdens on stakeholders trying to operate their businesses within the rules. We believe these types of situations must be eradicated if the EU's customs structure is to truly deliver for the benefit of all stakeholders. Here are some eCommerce examples, highlighting the challenges facing the WPG.</p> <p>First, the eCommerce VAT Package that entered into force on 1 July has incrementally reformed the way VAT is collected on eCommerce goods, particularly low value imported goods (&lt;150EUR). The cornerstone was the 'Import One Stop Shop' (IOSS) instead of paying VAT upon import clearance of the shipment. It was a massive step, but there were still crucial operational weaknesses that must be addressed. Due to the structure of the EU, the package immediately faced national IT inconsistencies as well as misalignments between VAT and customs legislation. The results are some customs authorities' systems are not recognising IOSS numbers in H1 customs declarations. This has led to double VAT taxation for shipments declared under an H1 customs declaration, even though these shipments are IOSS eligible. Additionally, the optional nature of the IOSS can lead to misuse because customs authorities can only validate the IOSS number, not the holder.</p> <p>We discuss this and solutions in more detail at annex. But remedies include an urgent VAT relief contingency mechanism to avoid double taxation. Modifications to national systems so they can handle all customs declaration types and modifying appropriate legislation, so Customs and VAT requirements dovetail more neatly together.</p> <p>Next, believe customs duty collection can be enhanced and made more effective by improving data sharing obligations for the parties involved in the eCommerce supply chain. We believe customs data that is currently available is too limited and often of insufficient quality to support customs enforcement effectively. This is because several data fields in the customs declaration are optional, and the information required can be unclear as well.</p> <p>Of course, we recognise improvements in data sharing must be accompanied by appropriate liability and enforcement measures. It would also require work with the Postal Union so all carriers are accountable for declarations. But we believe such steps would be an important element for making data more accountable and the overall system more effective at detecting undervaluation and fraud. Again, this is discussed in more detail at annex.</p> <p>But looking at forward, we believe improving a consistent and harmonised approach within EU customs is essential for the future. We recognise the subsidiarity nature of applying the customs code and that much work has taken place already to improve the situation. But too many trade distortions are still being created where economic operators are receiving contradictory direction locally or face unnecessary controls or duties levied wrongly. This can create significant differences in pre-clearance and clearance processes as well as average lead times and inspection rates across member states and even between offices within single members states. Differences in interpretation can lead to a tariff classification approved in one member state being challenged by another member state's authorities. This is a real problem and is happening still, despite a binding tariff information in place.</p> <p>Another example of where harmonization of customs systems and processes is urgently needed are the lists of goods subject to Prohibitions &amp; Restrictions (P&amp;R). The lists vary across the different Member States and trigger complex documentation requirements for businesses. In addition, the lists are not transparently available in each Member State, making it very difficult for businesses to anticipate the customs treatment at the EU border. And in a circular reference to our first example, IOSS shipments containing P&amp;R goods are currently also triggering double VAT taxation as an H1 customs declaration is required for these. But customs authorities are unable to recognize IOSS numbers in this type of declaration, even though P&amp;R shipments are IOSS eligible.</p> <p>We thus urge the EC to continue its work on strengthening the application and interpretation of single market regimes, such as BTI together with enhancing the work on a binding valuation information. We also recommend the European Commission addresses the P&amp;R issue by increasing transparency of the P&amp;R lists, while working towards an EU harmonized P&amp;R list on longer term. We should also welcome consideration of some form of fast-track arbitration service. Currently the traders can get assistance from the Commission at the EU-level or take legal action at the EJC. Both are a long process. In the first instance, the Commission relies on the good will of the Member State it has questions for and in the second there is an</p>			
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	<p>expensive process that can take years. Some form of mid-way EU arbitration service at the Commission, with a legal basis to help traders, could provide a solution, especially for SMEs.</p> <p>The substantial growth of non-fiscal tasks undertaken by Customs authorities means their time and resources for traditional customs activities are tighter. We have often raised our view that a key mechanism to increase efficiency of EU Customs, and release resources is to further facilitate trade by trusted traders. This would support compliant and legitimate businesses and release customs authorities to focus more on fraud and non-compliance risk areas.</p> <p>A simple, but effective way to achieve this in the early to mid-term is to provide enhanced benefits for Authorized Economic Operators (AEO). The Commission is aware the AEO program needs to be incrementally improved in terms of simplifications or reductions it provides for clearance processes and lead times. We believe a departure from transaction-based approach towards a process-based is now a serious option given the development of the IT infrastructure both on Customs' and traders' side. We recognise the developments in CCI, but another key simplifier that goes hand in hand with the harmonised approach mentioned in point 3, is a centralised customs clearance capability designed in a way that would truly be centralised (i.e., with the decisive role of the MS of identification only). AEO traders should also have access to post-entry data to check for any inconsistencies with, for example, IOSS return data.</p> <p>Truly trusted traders should be allowed to release their goods without the involvement of the customs authorities at the border (self-clearance, organized in a similar way as VAT reporting and payments). This would remove points of friction, particularly in the case of just-in-time consignments.</p> <p>Overall, we should advise for better assessment and evaluation in non-fiscal tasks. For example, we note that Requirements introduced in the Market Surveillance Regulation were explicitly geared at guaranteeing "that products placed on the Single Market, including products traded online, comply with high common EU rules, are certified and meet the quality and safety standards." The Market Surveillance Regulation took meaningful steps to precisely address these concerns. This included clarification and introduction of tasks of economic operators regarding products subject to a broad range of harmonized legislation. But that only entered into force on 16 July 2021. The Commission is also working on a revision of the General Product Safety Directive, expanding the notion of responsible person. Before making any further regulatory changes, we caution sufficient time should be given to evaluate the implementation and the enforcement of the current system and if and where it should be improved. Access to better quality data as well as better data sharing will be key to help enforcement against bad actors.</p> <p>Liability for other non-financial risks such as counterfeit should remain with parties in the supply chain who are best placed to assess this risk, i.e., the importer, whether that is sender, recipient or carrier depending on circumstance.</p> <p>Smarter, better governance has been touched on already under a harmonised, more consistent approach. More cooperation and horizontal alignment between national customs authorities is crucial to support mutual learning and consistency in tackling current challenges.</p> <p>It is important reforms are balanced between customs' enforcement and control on the one hand, and trade facilitation and administrative simplification needs on the other. A risk-based approach is key to achieve this balance, allowing customs authorities to focus on the higher risk areas while facilitating trade for trusted traders. Future The EU Single Window environment for Customs initiative that the EC launched in October 2020 is already an important step to enhance cooperation and coordination between different authorities and will support the automated verification of non-customs formalities for goods entering or leaving the EU.</p> <p><b>ANNEX</b></p> <p>1. eCommerce - ensuring effective VAT collection</p> <p>The ECommerce VAT Package effective as from 1 July this year has incrementally reformed the way VAT is collected on eCommerce goods, particularly low value imported goods (&lt;150EUR). The legislation includes an EU wide option for online merchants and marketplaces to collect and remit VAT on imported shipments with a value not exceeding 150 EUR, through the Import One Stop Shop system (IOSS), instead of paying VAT upon import clearance of the shipment. We believe it should be a matter of priority to strengthen the functioning and performance of the IOSS system by removing inconsistencies between national customs authorities and addressing remaining misalignments between VAT and customs legislation. For example, several customs authorities' IT systems cannot recognise IOSS numbers in H1 customs declarations. This causes double VAT taxation for shipments declared under an H1 customs declaration, even though these shipments are IOSS eligible.</p> <p>In addition, the current system is prone to misuse of IOSS numbers. This is due to the optional nature of the IOSS, the fact that IOSS numbers cannot be kept confidential, but also the lack of transparency of IOSS holders to customs authorities (customs authorities can only verify the validity of an IOSS number, but not the actual holder). Another root cause for potential misuse is the fact that there is no end-to-end system in place to link IOSS merchant/marketplace level identifier with the transaction level identifier for each shipment. As a result, IOSS numbers can be misused (intentionally</p>	
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		<p>or not) by businesses to avoid paying VAT at the customs border. This will lead to reconciling differences between IOSS returns and EU customs data. In addition, this will drive new unlevel playing fields and lost VAT overall.</p> <p>Recommendations:</p> <ul style="list-style-type: none"> <li>• In the short term, the IOSS system should be improved by introducing a VAT relief mechanism for the double VAT payments created by customs IT readiness issues. It is important to address this issue as a matter of priority as it undermines the functioning of the IOSS.</li> <li>• On medium term, the following actions are recommended: <ul style="list-style-type: none"> <li>☐ Improve the green lane status of IOSS eligible shipments through supporting national customs to enable their IT systems to handle IOSS for all customs declaration types, including H1 customs declarations.</li> <li>☐ Strengthen the security of the IOSS ID and end-to-end integrity of the existing IOSS program before considering expanding the scope of the IOSS further.</li> <li>☐ Resolve remaining misalignments between VAT and customs legislation, for example between the IOSS VAT scope and the new customs competent office rule under article 224(1) the UCC/IA leading to non-IOSS eligible shipment &lt; 150 EUR, such as B2B and excisable products, requiring direct clearance in the final delivery country leading to capability issues with brokers and customs logistics partners.</li> </ul> </li> </ul> <p>In the longer term, we support the EU Commission plans to investigate mandating the IOSS VAT scheme for marketplaces acting as deemed supplier, if not for all operators. We support the need to address level playing field concerns and closedown the scope for bad actors to simply pivot to non-IOSS registered platforms.</p> <p>2. eCommerce – ensuring effective customs duty collection</p> <p>We believe currently available customs data is too limited and often of insufficient quality to effectively support customs enforcement. This is caused by the fact that several data fields in the customs declaration are optional to complete, and for some fields it is not clear which information needs to be provided.</p> <p>We believe customs duty collection can be further improved by data sharing obligations for parties involved in the eCommerce supply chain, and by effectively using this data. Marketplaces using the IOSS are already reporting VAT data through this system. From 2024, Payment Service providers will additionally start sharing data as well via the ‘Central Electronic System of Payment information’ (CESOP). Further enhanced data sharing by actors in the eCommerce supply chain (e.g., logistics operators) can help address the detection of undervaluation, VAT and customs fraud, and the detection of non-financial risks.</p> <p>Improvements in data sharing must be accompanied by appropriate liability and enforcement measures. While designated postal operators have taken steps in the right direction regarding sharing customs data, these carriers remain exempt from liability for customs declarations under Article 23.3 of the Universal Postal Union (UPU) Convention. To promote compliance and improve effective customs duty collection, all carriers must be accountable for declarations.</p> <p>We believe the following considerations should be considered for defining data sharing obligations:</p> <ul style="list-style-type: none"> <li>• An EU harmonized and digitized One-Stop Shop approach is strongly preferred, i.e., data sharing should be centralized via a one digital customs interface within the EU.</li> <li>• Responsibility for the correctness of the data shared should be balanced and consider that marketplaces, for example, depend largely on data provided by the seller and cannot as a marketplace verify the accuracy of most of these.</li> <li>• Data privacy and confidentiality should be safeguarded</li> <li>• Level playing field: additional data sharing obligations and liability should apply broadly, irrespective of the place of establishment, business model, etc.</li> <li>• Actionable datapoints: the datapoints that should be shared should be actionable, scalable and should contribute to financial and non-financial risk management more effectively. It is key to identify an effective matching data key to link between the data provided by different actors. Required datapoints should be determined based on a risk-based approach.</li> <li>• It should also be considered whether sharing data can be reciprocal, as this would allow business to identify bad actors.</li> </ul> <p>-----</p> <p>Universal Postal Union Convention Article 23.3: “Member countries and designated operators shall accept no liability for customs declarations in whatever form these are made or for decisions taken by the Customs on examination of items submitted to customs control.”</p>			
19	The Customs	Wise Persons Group – Public consultation We welcome the EU’s ambition to take the EU’s Customs Union to the next level to seize the opportunities	Wed 15-12-	Poland	Association

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<p>Action Plan - supporting EU customs to protect revenues, prosperity and security</p>	<p>raised by the rise of digitalisation and omnichannel commerce more generally. The EU Customs Union is facing important external challenges, such as the increase in international import and export flows of goods, the rise of Ecommerce and Brexit. At the same time, EU customs authorities are increasingly responsible for a wide range of non-fiscal tasks, such as economic/IPR compliance (counterfeiting), safety (e.g. weapons, drugs), goods compliance (CE marks), environmental compliance, etc. We therefore welcome the Wise Persons Group (WPG) initiative to share its views on these opportunities and challenges, and we look forward to learn about the unique perspectives this group brings to the discussions on these important reforms.</p> <p>We have a shared interest to make customs processes and controls more efficient and harmonized as this reduces the costs and time to process imports, facilitates international cross-border trade and minimizes delivery delays and unexpected costs for EU customers. Increased customs control capabilities and proactive control measures through the use of technology are equally key, as well as enhancement of customs relevant data in order to minimize safety risks for customers, to help fight customs, duty and VAT fraud and to protect and grow revenues for Governments.</p> <p>We have structured our feedback in line with the key topics of reflection for the WPG.</p> <p>1. Ecommerce - ensuring effective VAT collection</p> <ul style="list-style-type: none"> <li>• The Ecommerce VAT Package effective as from 1 July this year has incrementally reformed the way VAT is collected on ecommerce goods, particularly low value imported goods (&lt;150EUR). The legislation includes an EU wide option for online merchants and marketplaces to collect and remit VAT on imported shipments with a value not exceeding 150 EUR through the so-called Import One Stop Shop system (IOSS), instead of paying VAT upon import clearance of the shipment. We believe it should be a matter of priority to strengthen the functioning and performance of the IOSS system, in particular by removing inconsistencies between national customs authorities and addressing remaining misalignments between VAT and customs legislation.</li> </ul> <p>For example, the customs' IT systems in several key import landing countries are not ready to recognize IOSS numbers in H1 customs declarations which causes double VAT taxation for shipments declared under an H1 customs declaration even though these shipments are IOSS eligible.</p> <ul style="list-style-type: none"> <li>• In addition, the current system is prone to misuse of IOSS numbers. This is due to the optionality of the IOSS, the fact that IOSS numbers cannot be kept confidential, but also the lack of transparency of IOSS holders to customs authorities (customs authorities can only verify the validity of an IOSS number, but not the actual holder). Another root cause for potential misuse is the fact that there is no end-to-end system in place to link IOSS merchant/marketplace level identifier with the transaction level identifier for each shipment. As a result, IOSS numbers can be misused (intentionally or not) by businesses to avoid paying VAT at the customs border. This will lead to reconciling differences between IOSS returns and EU customs data. In addition, this will drive new unlevel playing fields and lost VAT overall.</li> </ul> <ul style="list-style-type: none"> <li>• Recommendations:             <ul style="list-style-type: none"> <li>o On short term, the IOSS system should be improved by introducing a VAT relief mechanism for the double paid VAT due to customs IT readiness issues.</li> </ul> </li> </ul> <p>It is important to address this issue as a matter of priority as it undermines the functioning of the IOSS.</p> <ul style="list-style-type: none"> <li>o On medium term, the following actions are recommended:             <ul style="list-style-type: none"> <li>§ Improve the green lane status of IOSS eligible shipments through supporting national customs to enable their IT systems to handle IOSS for all customs declaration types, including H1 customs declarations.</li> <li>§ Strengthen the security of the IOSS ID and end-to-end integrity of the existing IOSS program before considering to expand the scope of the IOSS further.</li> <li>§ Resolve remaining misalignments between VAT and customs legislation, for example between the IOSS VAT scope and the new customs competent office rule under article 224(1) the UCC/IA leading to non-IOSS eligible shipment &lt; 150 EUR, such as B2B and excisable products, requiring direct clearance in the final delivery country leading to capability issues with brokers and customs logistics partners.</li> </ul> </li> </ul> <p>On longer term, we support the EU Commission plans to look into mandating the IOSS VAT scheme, if not for all operators, at least for marketplaces acting as deemed supplier and this to address level playing field concerns and close the ability for bad actors to simply pivot to non-IOSS registered platforms.</p> <p>2. Ecommerce – ensuring effective customs duty collection</p> <ul style="list-style-type: none"> <li>• Customs data currently available is too limited and often of insufficient quality to effectively support customs enforcement. This is caused by the fact that several data fields in the customs declaration are optional to complete, and for some fields it is not clear which information needs to be provided.</li> <li>• We believe customs duty collection can be further improved by data sharing obligations for parties involved in the ecommerce supply chain,</li> </ul>	<p>2021 23:49</p>	<p>Representative – Name of the association not provided</p>
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## Replies to the Public Consultation, in the context of the Wise Persons Group, on the challenges facing the Customs Union

	<p>and by effectively using this data. Marketplaces using the IOSS are already reporting VAT data through this system. In addition, as from 2024, Payment Service providers will also start sharing data via the 'Central Electronic System of Payment information' (CESOP). Additional enhanced data sharing by actors in the Ecommerce supply chain (e.g. logistics operators) can help address the detection of undervaluation, VAT and customs fraud, and the detection of non-financial risks.</p> <ul style="list-style-type: none"> <li>• Improvements in data sharing must be accompanied by appropriate liability and enforcement measures. While designated postal operators have taken steps in the right direction regarding sharing customs data, these carriers remain exempt from liability for customs declarations under Article 23.3 of the Universal Postal Union (UPU) Convention. To promote compliance and improve effective customs duty collection, all carriers must be accountable for declarations.</li> <li>• We believe the following considerations should be taken into account for defining data sharing obligations:             <ul style="list-style-type: none"> <li>o An EU harmonized and digitized One-Stop Shop approach is strongly preferred, i.e. data sharing should be centralized via a one digital customs interface within the EU.</li> <li>o Responsibility for the correctness of the data shared should be balanced, and take into account that for example marketplaces largely depend on data provided by the seller and marketplaces cannot verify the accuracy of most of these.</li> <li>o Data privacy and confidentiality should be safeguarded</li> <li>o Level playing field: additional data sharing obligations and liability should apply broadly, irrespective of the place of establishment, business model, etc..</li> <li>o Actionable datapoints: the datapoints that should be shared should be actionable, scalable and should contribute to more effectively manage financial and non-financial risks. It is key to identify an effective matching data key to link between the data provided by different actors. Required datapoints should be determined based on a risk based approach.</li> <li>o It should also be considered whether sharing data can be reciprocal, as this would allow business to identify bad actors.</li> </ul> </li> </ul> <p>3. Lack of a uniform approach among Member States to combating fiscal and non-fiscal risks</p> <ul style="list-style-type: none"> <li>• Increased harmonization and simplification of customs processes across the EU are key to facilitate trade whilst ensuring that bad actors cannot direct their import flows towards countries with lower risk perception. While moving towards more uniform application of Customs law, the EU must be aiming at the highest quality solutions that allow meeting facilitation and control goals at the same time and avoid, by all means, equaling to the common denominator among the Member States.</li> <li>• Businesses are regularly confronted with a non-unified approach by the customs authorities of different member states in terms of the interpretation and practical application of customs legislation. Combined with a highly diverging risk perception across member states, this results in:             <ul style="list-style-type: none"> <li>o very significant differences in pre-clearance and clearance processes as well as average lead times and inspection rates across member states and – also – among various customs offices within single members states.</li> <li>o a tariff classification of a good approved in one member state is challenged by another member state's authorities. This today happens despite a binding tariff information in place. We thus urge the EC to continue its work on strengthening single market institutions such as BTI together with enhancing the work on a binding valuation information.</li> </ul> </li> <li>• Another example of where harmonization of customs systems and processes is urgently needed are the lists of goods subject to Prohibitions &amp; Restrictions (P&amp;R). The lists vary across the different Member States and trigger complex documentation requirements for businesses. In addition, the lists are not transparently available in each Member State, making it very difficult for businesses to anticipate the customs treatment at the EU border. IOSS shipments containing P&amp;R goods are currently also triggering double VAT taxation as an H1 customs declaration is required for these, and customs authorities are unable to recognize IOSS numbers in this type of declaration, even though P&amp;R shipments are IOSS eligible (see above section 1). We recommend the EU Commission to address this issue by increasing transparency of the P&amp;R lists, while working towards an EU harmonized P&amp;R list on longer term.</li> </ul> <p>4. The substantial growth of non-fiscal tasks attributed to customs authorities</p> <ul style="list-style-type: none"> <li>• A key mechanism to increase efficiency of the EU Customs Union should be to further facilitate trade by trusted traders, as this will support compliant and legitimate businesses while allowing customs authorities to focus more on fraud and non-compliance risk areas.</li> <li>• This should be achieved by allowing enhanced benefits for Authorized Economic Operators (AEO). The AEO program needs to be incrementally improved in terms of simplifications or reductions it provides from clearance processes and lead times by – especially – factual departure from transaction based approach and bolder move to one based on processes, which is more than feasible already given the development of the IT infrastructure both on Customs' and traders' side.</li> </ul>			
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		<ul style="list-style-type: none"> <li>• Another key simplifier, which goes hand in hand with uniform approach mentioned in point 3, that should urgently be operationalized for AEO traders is the centralized customs clearance capability designed in a way that would truly be centralized (i.e. with the decisive role of the MS of identification only). AEO traders should also have access to post-entry data to check for any inconsistencies with for example Import One Stop Shop return data.</li> <li>• It should also allow for goods to be released by AEO trusted traders without the involvement of the customs authorities at the border (self-clearance, organized in a similar way as VAT reporting and payments), in order to ensure that trade operate smoothly, particularly in the case of just-in-time consignments; depart from transactional base clearance and develop periodical reporting only, especially for AEO, as new enhanced benefit.</li> <li>• In addition, we note that Requirements introduced in the Market Surveillance Regulation were explicitly geared at guaranteeing “that products placed on the Single Market, including products traded online, comply with high common EU rules, are certified and meet the quality and safety standards.” The Market Surveillance Regulation took meaningful steps to address precisely these concerns, including through the clarification and introduction of tasks of economic operators regarding products subject to a broad range of harmonized legislation, but it has only entered into force on 16 July 2021. The EC is also working on a revision of the General Product Safety Directive, expanding the notion of responsible person. Before making any further regulatory changes, sufficient time should be given to evaluate the implementation and the enforcement of the current system should be improved. Access to better quality data as well better data sharing will be key to help enforcement against bad actors.</li> <li>• Liability for other non-financial risks such as counterfeit should remain with parties in the supply chain who are best placed to assess this risk, i.e. the importer, whether that is sender, recipient or carrier depending on circumstance.</li> </ul> <p>5. Smarter management (“governance”) of the Customs Union</p> <ul style="list-style-type: none"> <li>• There is a need for more cooperation and horizontal alignment between national customs authorities to support mutual learning and consistency in tackling current challenges.</li> <li>• The focus of future reforms should be to simplify the current UCC legal framework, and to centralize and harmonize customs processes. It is critical to determine which aspects (customs legislation, training, set-up and maintenance of IT systems, data analytics, equipment) merit an EU level integration, and which ones are best organized at Member State level or Member State cluster level.</li> <li>• It is important reforms are balanced between customs’ enforcement and control on the one hand, and trade facilitation and administrative simplification needs on the other. A risk based approach is key to achieve this balance, allowing customs authorities to focus on the higher risk areas while facilitating trade for trusted traders.</li> <li>• The EU Single Window environment for Customs initiative that the EC launched in October 2020 is already an important step to enhance cooperation and coordination between different authorities, and will support the automated verification of non-customs formalities for goods entering or leaving the EU.</li> <li>• Consideration should be given to a removal of the EU Customs Tariff (as the revenue from duties may not actually justify resources needed to collect);</li> <li>• Consideration should be given to set up a unified EU Customs authority across the EU.</li> </ul>			
20	Response to the consultation	<p>We support the goals primarily outlined in the ‘Taking the Customs Union to the Next Level Action Plan.’ We believe that digitization brings both opportunities and challenges, that equally demand the EU customs framework to be modernized. The EU customs authorities are not only faced with increased import and export flows of goods, but also challenges related to the rise of e-commerce, Brexit and expanding scope of duties. The scope of customs authorities’ duties is expanding to cover a wide range of non-fiscal tasks, such as counterfeit, compliance, environmental and safety issues. Keeping this in mind, we welcome the Wise Persons Group (WPG) initiative as an opportunity for all relevant stakeholders to exchange insights and modernize the EU customs union to create a robust and efficient system.</p> <p>Efficient customs system will benefit everyone – the businesses, who will be able to conduct their operations more swiftly, the customers, who will receive their goods more expeditiously, and the authorities, who will need to invest less resources into mundane tasks. Correct use of technology and development of customs relevant data is in our opinion key to this process.</p> <p>Therefore, we would like to draw the Commission’s attention to a few key issues as potential topics WPG.</p> <p>First, WPG should focus on effective and fair VAT collection in e-commerce.</p> <p>In order to do so, it is paramount to remove inconsistencies between national customs authorities and addressing remaining misalignments between VAT and customs legislation. Moreover, IOSS could be improved in systemic terms by the introduction of a double paid VAT relief mechanism, preventing the misuse of IOSS numbers, and strengthening security of the IOSS ID.</p>	Thu 16-12-2021 13:02	Poland	Association Representative – Name of the association not provided

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		<p>Second, WPG could take on the scope of data that is currently available to customs. Customs data currently available is too limited and often of insufficient quality to effectively support customs enforcement. This is caused by the fact that several data fields in the customs declaration are optional to complete, and for some fields it is not clear which information needs to be provided. What is important here, is that we should not do so by obliging e-commerce platforms or merchants to report more data, but use data in various systems that are already in place more effectively. Finally, we should expect compliance from all parties in the e-commerce supply chain, rather than impose ever-increasing obligations on European actors. Certainly problematic in this regard are e-commerce platforms from third countries such as China. In order to improve compliance in this regard, one must refer to Art. 23.3 of the UPU convention, which exempts carriers from liability for customs declarations. To us it is clear that to promote compliance and improve effective customs duty collection, all carriers must be accountable for declarations.</p> <p>Third, one of the priorities of WPG should be the lack of uniform approach among Member States to combating fiscal risks. In order to unlock the potential of the digital single market, it is necessary to increase harmonization and simplification of customs processes across the EU. Entrepreneurs regularly face hurdles arising from a non-unified approach by the customs authorities. Combined with a diverged customs culture across Member State, it results in differences in pre-clearance and clearance processes, delays and multiple inspections. We encourage the Commission to strengthen the role of EU authorities in this regard and decrease the possibilities of challenging decisions approved by one customs authority by another in line with the principle of the one-stop shop.</p>			
21	BEUC's view on the challenges facing customs	<p>Dear members of the Wise Persons Group on Customs, On behalf of the European Consumer Organisation (BEUC), I wish to submit our view on the challenges facing the Customs Union.</p> <p>BEUC is the umbrella group in Brussels for 46 independent consumer organisations. Our main role is to represent them to the EU institutions and defend the interests of European consumers.</p> <p>Our daily work involves making sure the EU takes policy decisions that improve the lives of consumers. This covers a range of topics including competition, consumer rights, digital rights, energy, redress and enforcement, financial services, food, health, safety, sustainability, and international affairs policy.</p> <p>Our input on the challenges facing customs comes from the view of product safety.</p> <p>1) The challenge for consumers in terms of customs policy Our members are testing products on a regular basis to check if they comply with EU product safety rules, and rules related to the use of chemicals. The results have been highly concerning in terms of products sold online. For example, in 2020, several BEUC members conducted a pan-European test (<a href="https://www.beuc.eu/publications/two-thirds-250-products-bought-online-marketplaces-fail-safety-tests-consumer-groups/html">https://www.beuc.eu/publications/two-thirds-250-products-bought-online-marketplaces-fail-safety-tests-consumer-groups/html</a>) of 250 products sold by major e-commerce platforms (incl. toys, smoke detectors, and phone chargers). Many were imports. 66% of the purchased products did not comply with basic EU product safety rules. In some cases, they could result in electric shock, fire, chemical exposure, or suffocation. Further research from the BEUC network can be found in this document (<a href="https://www.beuc.eu/publications/unsafe_and_illegal_activities_online.pdf">https://www.beuc.eu/publications/unsafe_and_illegal_activities_online.pdf</a>), which is regularly updated with new information.</p> <p>We are aware many products enter the EU in small parcels, with a single e-commerce hub able to receive millions of parcels a day. The sale of unsafe products is also a global problem: This is why BEUC works with its sister organisations ICRT (international consumer research and testing), ANEC, and Consumers International on the matter.</p> <p>2) How to better protect consumers We have a number recommendations for the Wise Persons Group:</p> <ul style="list-style-type: none"> <li>&gt; Cooperate with third countries Product safety and customs should be a topic of cooperation with any country the EU negotiates a trade or cooperation agreement with. This could particularly be the case for the EU-US cooperation agenda.</li> <li>&gt; The need for a robust legal framework BEUC advises the EU to ensure a robust legal framework with a high level of consumer protection, strong enforcement architectures, and clear liability in case something goes wrong.</li> </ul> <p>For the time being we see the following EU legislation as most relevant to achieve a better consumer protection in this context:</p> <ul style="list-style-type: none"> <li>• The review of the General Product Safety Regulation: see</li> </ul>	Fri 21-12-2021 09:52	Belgium	Association Representative - European Consumer Organisation (BEUC)

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	<p><a href="https://www.beuc.eu/publications/beuc-x-2021-107_general_product_safety_regulation_a_useful_tool_to_ensure_product_safety.pdf">https://www.beuc.eu/publications/beuc-x-2021-107_general_product_safety_regulation_a_useful_tool_to_ensure_product_safety.pdf</a></p> <ul style="list-style-type: none"> <li>• the Digital Services Act (platform regulation): see <a href="https://www.beuc.eu/digital-rights/online-platforms">https://www.beuc.eu/digital-rights/online-platforms</a></li> <li>• the forthcoming review of the Product Liability Directive (which deals with what happens when a defective product harms a person): see <a href="https://www.beuc.eu/publications/beuc-x-2020-024_product_liability_position_paper.pdf">https://www.beuc.eu/publications/beuc-x-2020-024_product_liability_position_paper.pdf</a></li> </ul> <p>We need to adapt to the challenge of unsafe products being sold online as the level of consumer protection must not depend on the sales channel (offline vs. online) or the size of a company.</p> <p>Special consideration must be given to the role of online marketplaces as they are the ones who open the door for companies to reach European consumers. This is an entirely new dimension, which also opens the door to fraudsters and non-diligent traders. Yet, marketplaces carry nearly no responsibility for the content listed and thus sold via their platform. These online intermediary services are the reason why e-commerce particularly from third countries is growing so much.</p> <p>But unfortunately, if the General Product Safety Regulation will be finalised in its current form, very little will improve for consumers with regard to unsafe products in online markets. What we urgently need is to define online marketplaces as ‘economic operators’. Without including them, the general safety requirement that only safe products are allowed to be put on the market would not even apply to them. Moreover, we need to go even further and define them as importers in cases where no other economic operator takes responsibility. This must include the possibility for authorities to oblige online marketplaces to carry out recalls from end-consumers, including for products from third-party sellers which did not go previously through a European based fulfilment centre.</p> <p>A revision of the Product Liability Directive should make it clear that all professionals involved in the supply chain (including online marketplaces) are jointly liable when things go wrong. Online marketplaces should no longer be seen as passive intermediaries as they have an important role when it comes to limiting the circulation of defective products and hence preventing harm. Unfortunately, it seems that the European Commission is currently not favouring such an approach.</p> <p>&gt; The importance of the enforcement architecture We must ensure that only compliant products or services are produced or placed on the EU Single Market, including from online sources, and imports from third countries.</p> <ul style="list-style-type: none"> <li>• This means we must ensure our domestic rules will be enforced against foreign traders as against domestic ones. To this end, enforcement authorities need to be empowered and be able to act, including against online marketplaces.</li> <li>• Enforcement authorities are severely under-resourced and therefore not able to effectively enforce EU chemicals legislation.</li> <li>• We consider that a fee-based enforcement system could help and should serve (at least) two purposes:             <ol style="list-style-type: none"> <li>1. To reduce dependency on public finances, a fee-based enforcement system should be introduced whereby enforcement authorities can recover the costs they incur when performing official checks and inspections, including at border control posts.</li> <li>2. To create stronger incentives for compliance, fees should be calculated to reward operators with a consistently good record of compliance – this is also already the situation under EU food law (specifically the Official Controls Regulation).</li> </ol> </li> <li>• We need to better equip customs authorities to do their job, with financial, human resources and IT means. For instance, Member States use a small part of the customs duties they collect to feed into their national budget. There should be a conditionality to direct the money to customs. This is a recommendation supported by the EU high level roundtable on the chemical strategy (<a href="https://ec.europa.eu/environment/news/chemicals-strategy-high-level-roundtable-adopts-joint-report-enforcement-and-compliance-2021-11-26_en">https://ec.europa.eu/environment/news/chemicals-strategy-high-level-roundtable-adopts-joint-report-enforcement-and-compliance-2021-11-26_en</a>).</li> </ul> <p>3) How to enhance cooperation between authorities</p> <p>In a single market, cooperation between authorities is key to keep consumers safe.</p> <ul style="list-style-type: none"> <li>• There are a few new elements: When customs authorities have a doubt regarding the level of safety of a product, they need to alert the market surveillance authority and block the product, based on the new Market Surveillance Regulation (MSR) from 2019. The market surveillance authority then needs to come back to customs within 4 days, otherwise customs have the legal obligation to release the good for free circulation. The MSR is however for harmonised products only and has become fully applicable since July 2021. It includes yearly reporting duties of the Member States to provide statistical data covering controls performed by the authorities with regard to product safety and compliance. We must keep an eye on this.</li> <li>• The Regulation also foresees that an authorised representative must be available in the EU, to facilitate cooperation and enforcement between non-EU producers and the authorities. We have severe doubts that this concept can bring a lot of improvement, as it may be easy to betray,</li> </ul>			
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		<p>and just having a contact person in the EU does not mean the law can be enforced properly against rogue traders.</p> <p>From what we see, something is not working concerning the responsibilities in the supply chain and between authorities. Otherwise, we would not have such high level of non-compliance.</p> <ul style="list-style-type: none"> <li>• That is why we recommend establishing a systematic cooperation of the Consumer Safety Network with other European networks, such as the Consumer Protection Cooperation Network (CPC) and the European Data Protection Board (EPBD) and other European bodies, in particular when it comes to assessing the safety of products.</li> <li>• Regarding international cooperation, the Commission should envisage cooperation agreements between the EU and third countries' customs authorities and authorities in charge of market surveillance, chemicals and consumer protection. A good example is the administrative arrangement signed between the EU and Canada to cooperate on product safety that allows the exchange of data and joint investigation (<a href="https://ec.europa.eu/info/sites/default/files/aa_final_en-eu_version.pdf">https://ec.europa.eu/info/sites/default/files/aa_final_en-eu_version.pdf</a>).</li> </ul> <p>4) Conclusion</p> <p>In sum, we are convinced that something needs to be done to better protect consumers from non-compliant imported goods.</p> <p>Solutions are within the EU's reach:</p> <ul style="list-style-type: none"> <li>• Improving EU laws (platform liability) &amp; guarantee their enforcement</li> <li>• Better equipping authorities and customs agents to do their job</li> <li>• Improving cooperation between authorities and between countries</li> </ul> <p>Thank you for your time. BEUC remains available to answer any questions.</p>			
22	Waste	<p>Establish enhanced intra-EU cooperation between Custom Authorities, Europol and Member State Police and Custom offices to efficiently and effectively prevent, deter, detect and combat illegal management and transboundary trade of waste, plastic, toxic, radioactive and electronic waste in particular, between Member States and especially exiting the EU towards developing countries, at the same time facilitating legal and controlled movement of such materials from developing countries towards the EU to be safely managed and disposed of in legal and environmentally sound manners.</p>	Mon 03-01-2022 10:22	Italy	Private Person
23	EU Customs Union	<p>More than 50 years after the establishment of the Customs Union, the EU integration can benefit from the unification of EU customs through i.e. a Federation of EU Customs. Legal basis are already there, integrated border management not.</p>	Fri 21-01-2022 12:44	Italy	Private Person
24	Same legislation and Language harmonising	<p>Seems that each country has own ways to proceed and submit same EU legislation. Exporter and Importer should have standard procedure to follow, now there's barriers between each Member state. If one Member State is approved some procedure, all other Member States must automatically approve the same. Now we have 27 models to act.</p> <p>Also all Customs should give English help to make procedures much easier. Now it's impossible.</p>	Mon 24-01-2022 15:37	Finland	Association Representative – SA-TU Logistics Oy
25	Custom unions - goods between Finland and Åland Island	<p>Åland is situated in an archipelago in the Baltic Sea belonging to Finland. Åland's autonomous status means that those provincial powers normally exercised by representatives of the central Finnish government are largely exercised by its own government.</p> <p>Since 01.09.2021, all goods and packages between Finland and Åland must be cleared through customs. This is incredibly time consuming for companies on Åland. We would like a system where you do not have to clear each package per day. Instead, you could, for example, make a summary per month.</p>	Tue 25-01-2022 07:39	Finland	Association Representative - Holmbergs Ab
26	Challenges facing the Customs Union	<p>I would like to join</p>	Tuesday, January 25, 2022 7:55 AM	Finland	Association Representative – Name of the association not provided
27	Custom	<p>Since the Åland Islands is a part of Finland we would recommend that goods between these parts not need to be declared. The large amount of goods</p>	Tue 25-01-	Finland	

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	regarding goods between Finland and Åland Islands	are for many companies very tough and costly to handle and we hope that these goods not have to be cleared / customs as long as it is between regions in the same country. If that solution is not possible we recommend at monthly summary per supplier. If this matter is connected to the handle of VAT is there a lot of different ways to handle the VAT between the regions; the accounting has already good solutions for this and which also can be developed with good cooperation.	2022 12:10		Association Representative - Name of the association not provided
28	EU Wise Persons Group Introductory remarks by WTO DDG Anabel González 20 January 2022	<ul style="list-style-type: none"> <li>• Dear Madame Chair, It is a real pleasure to join your meeting today. I would like to focus my remarks today on the three questions that you asked me to address. First, how important is the proper functioning of customs for trade policy and what are the complementarities and dependencies between customs and trade? Second, how can countries effectively deal with the dramatic increase in e-commerce and are there interesting country experiences to mention? And finally, how to ensure better access to trade and customs data from third countries.</li> <li>• I do so from the perspective of the multilateral trading system and the WTO, where I currently serve as Deputy Director-General. But my remarks will also build on my past experiences as Director of the World Bank Trade and Competitiveness Global Practice and as Trade Minister of a small country for which trade with the EU has been and continues to be critically important.</li> <li>• Before I touch on some of the details, let me share some big picture observations. It is clear that the international trade landscape is undergoing a profound transformation, brought about by many forces, from the pandemic, to new technological developments, to geopolitical tensions, to climate change. All of these are giving rise to important changes in the direction and structure of trade.</li> <li>• Take the impact on trade of COVID-19. As a result of the pandemic, in 2020 we witnessed some of the largest reductions in trade and output volumes since World War II. Of most relevance for customs is the change in the structure of merchandise trade: trade in several products plummeted, not least fuels, aircrafts, cars, mechanical machinery and steel, while trade in some other products, notably personal protective equipment and pharmaceutical products, food, and domestic appliances and electronics, increased. The structural changes caused by the COVID-19 pandemic in the course of a single year were similar in magnitude to changes typically seen over a period of five years.</li> <li>• Meanwhile, the distance travelled by imported products has continued to grow, mostly as a result of China and other Asian countries filling supply gaps resulting from lockdowns and altered demand in other regions. These shifts occurred despite significant supply chain disruptions, which continue to this day in the form of congested ports and shipping networks, shortages of containers, warehouses and labour and sky-high shipping rates.</li> <li>• While some of these changes, especially supply chain disruptions may be transitory, others display some traits of longer-term shifts or are likely to result in long-term adjustments. In addition, the combined impact of the pandemic, rapid technological change, global warming, geopolitical tensions and other factors is giving rise to important challenges, including a heightened risk of illicit trade, but also opportunities. For example, the digital economy and electronic commerce have opened the door to global trade for millions of small businesses in many countries that until now remained on the sidelines of global trade. This creates significant potential for catch-up growth between developed and developing countries.</li> <li>• Against this backdrop, it is clear to me that customs will have to adjust, innovate and even anticipate future changes. This is why I consider the work of the Wise Persons Group so important – you are well positioned to articulate out-of-the-box, long-term and ambitious proposals essential to guide future reforms to ensure that the Customs Union can meet the challenges of the 21<sup>st</sup> century while expanding its positive contribution to EU trade and the global trading system.</li> <li>• <u>On the first issue that I want to address – the relationship between trade and customs:</u> my starting point is that the role of customs in "underpinning" trade to make it seamless, safe and secure is of critical importance, as this function of customs contributes more than perhaps any other to maximizing the benefits of international trade. Yet, fulfilling that key "underpinning" role is becoming increasingly complex, as customs is continuously being asked to do more. That's certainly the case in the EU, where alongside the collection of customs duties and taxes –</li> </ul>	Fri January 21, 2022 3:28 PM		WTO DDG Anabel González



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		<p>customs' traditional role – customs administrations are being asked to take on an increasingly important role in areas touching on everything from product and food safety standards, to climate change and deforestation, to waste management, to veterinary regulations, to fake goods, to drug precursors, to endangered species, and even labour standards and human rights.</p> <ul style="list-style-type: none"> <li>• Finding the appropriate balance between trade facilitation, safety and security has therefore become significantly more challenging and thus requires action on a number of fronts, not least a greater coordination between customs and other agencies; enlarged access to, use and analysis of data; increased use of technology; closer partnerships with supply chain participants; and greater cooperation with third countries. The EU, as the most advanced customs union in the world, is well positioned to address these challenges and leverage the opportunities given its long history of cooperation and sharing of common experiences.</li> <li>• Yet, it is equally true that as a customs union, the challenge facing customs administration in the EU to "act as one" are particularly acute. Customs policy is defined at the EU level, but is implemented by 27 different customs authorities, which leads to divergences in implementation on issues such as interoperability, risk management and data sharing difficulties.</li> <li>• This also presents a potential problem for the EU's trading partners, as illustrated in past Reviews of the EU's trade policies at the WTO. For example, during the 2017 trade policy review of the European Union, several WTO members noted that some EU member states lagged in terms of thorough and well-functioning inspection systems targeting illegal waste shipments in ports or on the sites of waste producers and collectors. This situation seemed to have resulted in exporters of illegal waste seeking out the member states with the most lenient controls to export their waste in a practice known as "port hopping". A subsequent evaluation of the Waste Shipment Regulation carried out by the European Commission noted that the Regulation had been generally effective in delivering its objectives to protect the environment and human health from the adverse effects of waste shipments. Nonetheless, the evaluation also found that different ways of applying and enforcing the Regulation, often combined with different interpretations of its provisions and different inspection regimes, had hampered its optimal implementation throughout the European Union. The evaluation further noted that these factors discouraged legal shipments of good quality waste materials to adequate recycling facilities. Regarding the export of wastes, especially non-hazardous wastes, outside of the European Union, the evaluation noted that an important shortcoming was the insufficient control of the conditions under which these wastes were managed in the destination countries, especially in developing countries. The evaluation also stated that illegal shipments of waste within and outside the EU remained a considerable problem.</li> <li>• Looking ahead, doubling down on trade facilitation will be critically important. The WTO Trade Facilitation Agreement provides a framework for expediting the movement, release and clearance of goods, including goods in transit, while establishing measures for effective cooperation between customs and other authorities on trade facilitation and customs compliance issues. The Agreement contains provisions on the key tools that modern customs services rely on to perform their functions, including risk management, single window, measures for authorized operators and post-clearance customs audit, among many others.</li> <li>• New technologies are already influencing the way customs use these various tools. For example, customs authorities in several parts of the world are involved in a number of projects and proof-of-concepts involving blockchain to bring improvements in a host of areas, from information exchange and interoperability at national and international levels to the development of international Single Window interconnectivity, to ensuring proper validation of certificates, to information sharing on Authorized Economic Operators, to ensuring access to logistics related information in view of tracking and tracing goods along global supply chains.</li> <li>• A recent survey conducted by the WTO and the WCO showed that, of several disruptive technologies, data analytics and artificial intelligence were having the biggest impact on customs operations today. More specifically, AI and related technologies are already being used for data mining for intelligence purposes and risk management; post clearance audits and controls; developing AI based models for interpreting X ray images; enhancing efficiency in using financial and tax data more widely and strategically in order to improve compliance and performance in terms of public revenue collection and the fight against smuggling; for chatbots to answer online public enquiries; tariff classification; potential anomalies in high revenue areas, such as excise goods; undervaluation and overvaluation anomaly detection; and many more.</li> </ul>			
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## Replies to the Public Consultation, in the context of the Wise Persons Group, on the challenges facing the Customs Union

	<ul style="list-style-type: none"><li>• In considering these technologies it is important to keep in mind that their adoption also poses challenges, not least in terms of lack of expertise and good practices, lack of availability and quality of data and legal issues around data protection laws that limit the extent to which data can be used.</li><li>• Thinking more broadly about policy formulation, going forward it will be important to ensure that customs is closely involved in the early phases of the design of trade policy, both at the national, EU and global levels. We have a substantial precedent at the WTO, where in the context of the Environmental Goods Agreement negotiations, customs officials worked alongside their trade counterparts to define a list of environmental goods that would not only be credible from an environmental perspective, but would also ensure that the products in the list could be identified by their objective characteristics and "classified" at the border, so that the final agreement would be workable for customs administrations. Although the negotiations were suspended and the list was not adopted, the work that led to it was a successful example of collaboration between trade and customs authorities at the global level.</li><li>• <u>Moving on to my second point which is about electronic commerce.</u> The dramatic increase in electronic commerce calls for fresh approaches to ensure that customs can fulfil its roles as trade facilitator and enforcer of safety and security rules at the border. In 2020, retail e-commerce sales worldwide amounted to 4.3 trillion dollars. Social distancing, lockdowns and other measures adopted to combat the pandemic have led consumers to ramp up online shopping, with e-retail revenues projected to grow to 5.4 trillion US dollars in 2022.</li><li>• The exponential growth of electronic commerce has led to the so-called parcelization of trade. The number of cross-border B2C online transactions is increasing, while their average value is decreasing, generating more frequent international flows of lighter and cheaper parcels. For instance, a study conducted by the WTO some years ago found that already in 2017, 84 per cent of cross-border goods purchased online weighed 2kg or less, and almost 60 per cent of them cost less than 50 euro. While e-commerce may provide new opportunities to export for retailers, and a wider choice and lower prices for consumers, the overwhelming quantity of e-commerce parcels is a big challenge for customs authorities. Their clearance systems are often designed to tackle large container shipments, not small parcels. An increase in volume of shipments is sure to stretch customs authorities around the world, especially in places where infrastructure is outdated. Let's remember that time delays at the border do not just hurt e-commerce firms, whose business models revolve around fast deliveries, but also impact flows of traditional goods, as customs' resources would be thinly spread. E-commerce also heightens the risks of illicit trade in the absence of adequate controls. The US Drug Enforcement Administration has warned that illicit drugs enter the United States on a large scale through online sales delivered by postal services.</li><li>• WTO members have sought to react to these trends. 86 WTO members, including the EU, the United States and China, are negotiating global rules on electronic commerce. This is a very ambitious endeavour, which covers a broad range of issues, from facilitating electronic transactions, to enhancing consumer and business trust in e-commerce, to promoting cross-border data flows. The rules, once completed, would enhance predictability for electronic invoicing, signatures and contracts; they would accelerate the shift to paperless trade and they would define common principles on the availability of government data. Last month, the chairs of the e-commerce talks set the end of 2022 as the deadline to achieve agreement on most issue under negotiation.</li><li>• A key tool that is important to help customs address many of these challenges is the electronic exchange of information between customs administrations and e-commerce operators, not least postal operators. In a survey conducted by the WCO a few years ago, many survey participants highlighted the importance of implementing advance electronic data systems to allow customs authorities to capture the necessary information on low-value consignments to enhance security, make revenue collection more efficient and facilitate trade. The survey listed Australia as an example of a country with such a data exchange programme. The Universal Postal Union and WCO have issued standards and recommendations on the automated exchange of data.</li><li>• Customs authorities have also used public-private partnerships to enhance their capacity to fulfil their dual role as trade facilitators and enforcers of trade rules at the border in the context of electronic commerce. The partnership between the customs authorities of Hong Kong, China and</li></ul>			
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		<p>five major express courier operators is a case in point. Under the partnership, the five operators pledge to strengthen their partnership with customs authorities to combat smuggling activities, while the customs authorities commit to train the operators' employees on the latest modus operandi used by smugglers, on the type of information in the shipment documentation and other indications that could raise suspicions, and on how specific items appear on X-ray images.</p> <ul style="list-style-type: none"> <li>• Another tool to help Customs meet some of the challenges posed by low value shipments is the simplification of entry procedures for low value shipments. Recent changes made by the EU in this area were discussed at the last Review of EU Trade Policies, held in 2020. Several WTO members sought clarification on the EU's new VAT rules, which became applicable at the beginning of last year, and which resulted in the abolition of the VAT exemption on low value goods below 10 or 22 euro, depending on the country. That means that all goods imported into the EU, irrespective of value, are now subject to VAT. Goods not exceeding 150 euro remain exempt from customs duties. Also, during the Review, the EU informed WTO members that it had created a new customs declaration containing three times less data elements than the standard customs declaration. The purpose is to implement the customs aspects of the VAT e-commerce package in a way that would ensure a balance between appropriate customs controls and the facilitation of legitimate trade.</li> <li>• Other WTO members have decided to follow different approaches with respect to the simplification of entry procedures for low value shipments. For example, some countries define two thresholds. First, a de minimis threshold, under which no taxes or duties are collected. And a second threshold for high value or duty goods that must be processed through the normal, formal entry process. Goods that have a value or duty rate falling between the two thresholds are still charged duties and taxes, but they benefit from a simplified entry and collection process. The simplest version of this two-threshold model would set out a fixed tax rate for all the goods that fall within the middle category between the 2 thresholds. Australia and New Zealand use this fixed rate system for their consumption taxes. Both countries maintain a very simple registration process for foreign vendors and do not require a fiscal representative in the country.</li> <li>• Canada has a different model for the goods that fall in the middle threshold. For those goods, Canada groups the classification headings and subheadings of the Harmonized System under 3 "buckets" and gives each bucket a dummy HS classification number to which it assigns a flat duty rate of say, 0, 8 or 20 per cent. For example, a women's suit that has a value within the middle threshold would be classified simply as "textiles" rather than the specific HS breakout, and would pay the flat duty rate for the relevant HS "bucket". This greatly simplifies classification and duty calculation for these goods. The Global Express Association recommends that WTO members agree on principles for a two-threshold model in the context of the current talks on electronic commerce.</li> <li>• <u>Turning to my third and final point</u> – how to ensure better access to data from third countries. Better access, use and analysis of third country data is critically important to generate intelligence in support of essential customs activities such as risk management, and to inform trade policy analysis and decision-making. Avenues to gain access to third country data include bilateral approaches between customs authorities, partnerships with actors along the supply chain, data pipelines with trusted partners and access to public and private data platforms. Pursuing these approaches at the EU level rather than the level of individual EU member states would lead to greater coherence.</li> <li>• Customs administrations could also build on existing multilateral approaches to improve access to third country data. At the WTO, we are working tirelessly to improve trade policy transparency through enhanced data collection and sharing. In one of our projects, we are working with customs authorities in several pilot countries to automate their trade and tariff data notifications to the WTO secretariat. This project will deliver benefits to all members through the availability of more reliable and up-to-date information. The EU has much to contribute to this project given its vast experience with data collection and sharing between its 27 member states and I look forward to engaging with you on this important issue.</li> <li>• WTO members can also leverage the WTO Agreement on Trade Facilitation for improved data exchange with their trading partners. The implementation by all WTO members of the Agreement's provisions on risk management and single window, among others, would promote and simplify the collection and digitization of data and provide a more solid basis for the exchange of reliable and up-to-date data between customs administrations.</li> </ul>			
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		<ul style="list-style-type: none"> <li>Moving closer to that goal will require a greater focus on technical assistance and support for capacity building to support the implementation of the Agreement in developing and least developed countries. Around half of developing and least developed countries have indicated that they need technical assistance to implement the Trade Facilitation Agreements risk management requirements. Regarding the implementation of the single window provisions, that figure goes up to two-thirds.</li> <li>Let me conclude by saying that, at a time when governments, businesses and societies around the world are considering ways to build back better from the pandemic-induced crisis, now is an excellent time to think big about what an ambitious and large-scale reform of EU customs would look like, not just to respond to the transformation of the trade landscape, but also to be ahead of the curve. The EU, as a leading global trader, is in a strong position to show the way ahead and ensure that trade can continue to be a force for good not just in the EU but around the world. Thank you.</li> </ul>			
29	Challenges facing the Customs Union	<p>In order for the Customs Union to be more effective, one of the main challenges it has to deal with is the uniform application of customs formalities in the individual EU member states. Unfortunately, despite the dominance of the Customs Code and related regulations, there is a different interpretation and application of customs procedures at national level in different EU Member States. Even within one country, different practices can be found between two customs offices. All this calls into question the meaning of a single customs legislation, a single customs union, a single market ... One of the reasons we can identify for this is the existence of national information systems that are built to meet the common requirements for achieving the end result from an action (import, export or transit), but not as an algorithm to achieve this result. It may be difficult or impossible to achieve, but the development of unified operational information systems for import, export and transit processing would eliminate the problem of different practices in the EU. It is not uncommon for practitioners to ask a colleague from another EU member state - how do you do that? Why should such a question exist? We have the Customs Code of the Union, it must be applied uniformly throughout the EU, but despite this rule, the reality is different.</p> <p>This reality leads to differences in the competitiveness of importers and exporters from different Member States due to the different administrative requirements of their customs authorities.</p>	Fri 28-01-2022 09:07	Bulgaria	Association Representative - National Organization of Customs Agents (NOCA)
30	Inseguridad jurídica representante aduanero en España	<p>En España se está generando la constante vulneración de la seguridad jurídica del representante aduanero porque la autoridad aduanera local se permite publicar instrucciones de obligado cumplimiento en su Web sin que éstas "normas" se expongan previamente a opinión pública, incluso amenazando con revocar decisiones de autorizaciones aduaneras si no son llevadas a cabo.</p> <p><i>[Translation provided by DG TAXUD] In Spain, there is a constant violation of the legal security of the customs representative because the local customs authority is allowed to publish mandatory instructions on its website without these "rules" being previously exposed to public opinion, even threatening to revoke decisions on customs authorisations if they are not carried out.</i></p>	Fri 28-01-2022 19:53	Spain	Private Person
31	Customs procedures in the EU	<p>In our view, if the customs territory of the Union is to be a truly common territory, it is essential to harmonise not only taxation but also inspection procedures, security restrictions, trade defence and the application of measures and restrictions.</p> <p>When challenges such as centralised customs clearance or common e-commerce arise, we are perplexed by the arbitrary and disjointed functioning of the different member states.</p> <p>How is it possible that health inspection criteria at borders are non-existent for certain goods in many countries and, for example, in Spain, restrictive controls and certifications are applied, hindering essential trade and causing traffic diversions that do not obey logistical criteria and undermine the proper functioning of Community trade. Operators must choose to import these products in other countries, where there are no such controls and, from there, they can move freely in the rest of the customs territory of the Union.</p> <p>We are talking about health and food safety, which are not trivial.</p> <p>Nor is it normal that the export restrictions that regulate certain regulations and that are due to sanctions, control of uses, etc. are only applied de facto in very few states. This is another example of what happens in Spain, which imposes filters on exports and requires certain certifications,</p>	Sat 29-01-2022 10:39	Spain	Association Representative Colegio Oficial de Agentes de Aduanas y Representantes Aduaneros de Irún

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		<p>resulting in delays in customs clearance that are a comparative disadvantage compared to the rest of the EU countries, almost all of which do not hinder exports.</p> <p>With regard to customs fiscal responsibility, we also observe that some countries, including Spain, place an unsustainable burden of responsibility on customs representatives, compared to other countries, where the responsibility falls on the operators, importers and exporters. Here too, it is essential to harmonise common criteria that are applied uniformly.</p> <p>We are a long way from being a compact and logical customs bloc. And, in our experience, in particular "a more coherent division of responsibilities between the EU-level and Member States" as proposed would lead to even more pronounced customs disunity.</p> <p>The key to the EU's customs success is to implement single criteria, with uniform application and to reduce the scope for individual member states' interpretation, avoiding the application of particular legislation.</p> <p>Thank you very much for this opportunity.</p>			
32	Burdensome procedures	<p>Unfortunately there are quite many different kind of burdensome procedures causing extra workload for both Customs and operators. These procedures might also be national and not applicable for all the Member States. E.g. Social security number requirements for B2C customer for both import and export, Oral export declaration requirements, Keeping records and reporting in temporary storage, Complicated import clearance of multipiece shipment, Fallback procedures for both export and import.</p> <p>Same simple rules for all the states and operators would help us all to concentrate on the basic things. Thank you.</p>	Mon 31-01-2022 14:15	Finland	Association Representative - DHL Express
33	Revolutionary secure & efficient EU customs with AELER's Unit One	<p>AELER's proposal is to integrate Unit Ones capabilities into the Customs Union procedures in order to address effectively the megatrends Custom authorities are currently confronted with, while producing a positive impact in numerous actors &amp; processes along the supply chain.</p> <p>In the context of digitalization and automation along the supply chain in container logistics, in AELER we see great potential in increasing the efficiency of customs processes using the capabilities of intelligent containers, such as Unit One. Providing information like open door detection or the route in the right point in time, the process of green lighting a container - as well as avoiding unnecessary physical inspections - can be accelerated. This reduces the efforts needed around cross borders trade while offering a new level of security for all involved actors. This affects full container cargo and it can specially have a benefit impact on customs around consolidated cargo, which is growing due to e-commerce. On top of that, Unit One reduces the energy consumption compared to standard steel containers up to 20%. Thanks to its extra-payload it also supports a better utilization of resources, since - depending on the use case - seven container instead of eight are needed for the same transported cargo. Last but not least, Unit One and its ecosystem has been selected by the solar impulse foundation as innovative state-of-the-art technology that collaborates to achieve more sustainable container operations.</p> <p>We believe that Unit One capabilities and its ecosystem brings revolutionary potential to innovate and accelerate customs processes in the EU, with the mentioned above benefits for all participants.</p> <p><a href="http://www.aeler.com">www.aeler.com</a>  <a href="https://solarimpulse.com/solutions-explorer/smart-container">https://solarimpulse.com/solutions-explorer/smart-container</a></p>	Mon 31-01-2022 17:13	Italy	Association Representative – AELER Technologies SA
34	Issues to solve in the customs Union	<p>The first issue to be assessed in the customs Union is the regime of responsibility of the customs representatives. They shall not be responsible of duties and VAT debts of their clients.</p> <p>Customs Representatives carry out their activity as collaborators of the Administration, arranging declarations and communications which are the base of controls. However, in the free exercise of their commercial activity and collaborators of Customs, are liable for debts of the clients. Customs representatives should not be financiers of their clients.</p> <p>Another main topic is the lack of a uniform approach among Member States to combating fiscal and non-fiscal risks in imported goods and the scope for using the availability of large data to ensure a more uniform application of risk management rules.</p> <p>The differences in the criteria applied triggers a kind of unfair competition between countries. The decision to import goods through one or another</p>	Mon 31-01-2022 18:07	Spain	Association Representative – FETEIA-OLTRA (the Spanish Federation of freight forwarders)

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		member estate shall not be the different application of the customs regime.			
35	Dogana - customs UCC	<p>I'm an Italian customs advisor. I think is very very important, for economic operator, have a certainty and uniform customs rule application in EU member state. i work with many international company and the customs practice, for the same authorization, is very different in each country. I can give an effective contribute to this wise person group, if you want!</p>	Thursday, February 3, 2022 9:40 AM	Italy	Private Person
36	Commentaires en réaction à la consultation publique de la Commission européenne visant à alimenter le Groupe des Sages en charge de la réflexion sur l'avenir de l'Union douanière	<p>La Commission européenne a lancé une consultation publique, ouverte jusqu'au 31 janvier 2022, visant à alimenter le Groupe des Sages en charge de la réflexion sur l'avenir de l'Union douanière. Cette consultation publique est l'occasion de faire valoir auprès de ce groupe la vision de la douane française concernant l'avenir de l'Union douanière.</p> <p>Les éléments suivants sont organisés autour des 4 thèmes de réflexion identifiés dans le cadre des travaux du Groupe des Sages : le e-commerce, la gestion des risques, le contrôle des réglementations non douanières et la gouvernance de l'Union douanière.</p> <p><b><u>1/ Le e-commerce</u></b> Depuis le 1<sup>er</sup> juillet 2021, le dispositif de traitement du e-commerce transfrontalier, du point de vue douanier et fiscal, a été mis en œuvre avec succès, grâce au déploiement en France d'un nouvel outil spécifique pour le dédouanement des envois n'excédant pas 150 euros (Delta H7) et l'utilisation pour 91 % de ces déclarations du dispositif facultatif du IOSS<sup>14</sup>. Toutefois, les objectifs de lutte contre la fraude fiscale et contre les trafics illicites appellent des actions complémentaires.</p> <p><b>a) Un mécanisme de collecte de la TVA qui fonctionne mais le recul manque pour apprécier pleinement son efficacité et sa fiabilité</b> Les recettes encaissées ces derniers mois confirment le bon fonctionnement du mécanisme de collecte de la TVA. Toutefois, cela ne garantit pas que tous les montants qui auraient dû être versés l'ont été. Quelques fragilités ont ainsi été identifiées, telles que l'usurpation d'un numéro IOSS et sa mention dans la déclaration en douane permettant de bénéficier de l'exonération de TVA à l'importation sans pour autant assurer qu'elle ait été réellement perçue lors de la vente en ligne. De même, nous avons encore besoin d'un retour d'expérience sur une comparaison entre les données fiscales (montants collectés par le IOSS) et douanières (montant des exonérations de TVA à l'importation du fait de la taxation en amont via le IOSS) pour nous éclairer sur la robustesse du dispositif et apprécier son efficacité dans la sécurisation des recettes de TVA.</p> <p><b>b) L'extension du mécanisme du IOSS est souvent préconisée, mais elle suppose une démonstration de sa fiabilité et des études d'impact sur la sphère des droits de douane.</b> Le succès du IOSS plaide pour une extension de ce mécanisme de collecte de l'impôt sous réserve d'aménagements permettant de mieux maîtriser les risques de fraude. Cette généralisation pourrait comprendre une ou l'ensemble des mesures suivantes, qui devront au préalable faire l'objet d'une analyse des prérequis, des impacts et des bénéfices :</p> <ul style="list-style-type: none"> <li>• <u>Rendre obligatoire et systématiser l'usage du IOSS pour les plateformes et/ou les assujettis réalisant des ventes à distance pour les envois d'un montant n'excédant pas 150 euros.</u> Cela simplifierait le fonctionnement de la TVA sur les flux du e-commerce de faible valeur et améliorerait la cohérence du dispositif par l'exonération systématique de la TVA à l'importation associée à ces importations. Cela suppose toutefois une étude préalable des motivations, peut-être légitimes, des acteurs du e-commerce qui choisissent de ne pas adhérer aujourd'hui au IOSS.</li> <li>• <u>Supprimer le plafond de 150 euros pour l'utilisation du IOSS aux fins de collecte de la TVA.</u> Cela constituerait un facteur de simplification très significatif pour les entreprises et les administrations fiscales dans leur gestion de la TVA. Toutefois, cette mesure aurait pour conséquence de faire entrer le IOSS dans le champ douanier, car au-delà de la franchise de droits de douane, la marchandise importée se verrait appliquer le droit de douane et les mesures de politique commerciale, nécessitant la fourniture d'un jeu de données plus étayé que le jeu de données super-réduit (déclaration H7) et fiable que celui actuel de la déclaration H7. Cela implique donc une étude d'impact approfondie sur les modalités de taxation et de collecte des droits de douane (avec IOSS ou pas).</li> <li>• <u>Supprimer la franchise de droits de douane de 150 euros et donc taxer les importations au premier euro en matière de droits de douane.</u> Cela constituerait également un facteur de simplification et serait l'aboutissement du projet d'égalité de traitement des envois du e-</li> </ul>	February 11, 2022 11:01 AM	France	Association Representative – Autorités françaises - Douanes françaises

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	<p>commerce et des envois de fret traditionnel. Cette mesure, comme la précédente, aurait pour conséquence de faire entrer le mécanisme de collecte de la taxe dans le champ douanier traditionnel. L'application de droits de douane et leur garanti et des mesures de politiques commerciales nécessiterait toutefois un jeu de données beaucoup plus conséquent que le jeu de données H7 (donnée origine indispensable par exemple) et supposerait également des autorisations douanières, comme la mise en place d'une garantie, et de modifier le fait générateur (s'agissant pour la TVA de la vente de la marchandise par un opérateur tiers alors que pour les droits de douane, le franchissement de la frontière). Une telle mesure nécessiterait également une évaluation de la charge induite pour les douanes européennes s'agissant de la collecte de ressources propres. Par ailleurs, cette analyse doit être menée en accord avec la DG BUDG afin qu'elle s'articule avec l'interprétation de la Commission sur les règles communautaires de mise à disposition des ressources propres.</p> <p><b>c) Pour une plus grande efficacité des contrôles douaniers et fiscaux</b></p> <p><b>Afin d'être plus efficaces, les contrôles douaniers et fiscaux sur les envois du e-commerce nécessitent des données plus nombreuses et plus fiables, une évolution du cadre juridique et le recours à de nouvelles technologies de détection non intrusive.</b></p> <p>Les contrôles actuellement menés sur ce flux le sont sur la base d'une analyse de risque permettant la sélection automatisée de certains colis sur la base de critères de sélections appliqués à la trentaine de données figurant sur la déclaration en douane H7. Pour autant, le ciblage est insuffisant en raison de la trop faible quantité de données et de leur faible fiabilité. Un objectif des prochaines années pourrait être d'accroître le nombre et la qualité des données à disposition des douanes. Cela ne doit pas nécessairement passer par un ajustement du jeu de données de la déclaration H7 déposée par le représentant en douane enregistré (RDE), mais plutôt par l'obtention de données sur la transaction en ligne directement auprès des plates-formes, afin d'enrichir la déclaration en douane, ce qui implique de les recueillir auprès d'autres acteurs que le représentant en douane enregistré.</p> <p>L'amélioration de la fiabilité des données accessibles à la douane suppose d'impliquer davantage les plates-formes dans le processus de transmission d'informations ou de déclaration. Actuellement, le modèle déclaratif du Code des douanes de l'Union (CDU) fait reposer la responsabilité du dépôt de la déclaration en douane sur le déclarant, et donc sur l'opérateur de fret express ou postal, le plus souvent, dans le cadre du e-commerce. Or, dans le modèle du e-commerce, c'est le vendeur ou la plateforme de vente en ligne qui dispose des données les plus complètes et fiables concernant la transaction. Aussi, la mesure suivante pourrait être explorée : <b>mettre en place à l'égard des plates-formes ou des vendeurs en ligne de nouvelles obligations déclaratives à l'importation ou de transmission systématique d'informations relatives à la transaction. Une expérimentation de transmission directe de données entre plates-formes et administrations douanières volontaires (dont la France) avait été proposée par la Commission européenne. Ce pilote est aujourd'hui à l'arrêt. Il est important que ces travaux reprennent rapidement et qu'une expérimentation puisse être lancée à court terme.</b></p> <p>Par ailleurs, <b>la minoration de valeur des importations dans l'UE</b> constitue un enjeu important en matière de lutte contre la fraude fiscale dans le e-commerce, risquant de générer un manque à gagner important en matière de perception de la TVA et de protection des intérêts financiers de l'UE (abus de la franchise de droits de douane de 150 euros). Pour autant, le traitement de ce risque comporte plusieurs difficultés : d'une part, le difficile ciblage des flux potentiellement frauduleux en raison de la fiabilité relative des données et du faible jeu de données, et d'autre part, le difficile établissement d'une nouvelle base d'imposition selon une méthodologie conforme aux règles européennes. En effet, les conditions de remise en cause de la base d'imposition à la TVA déclarée sont très difficiles à réunir au moment de l'importation par les administrations douanières et fiscales. De plus, les règles de reconstitution de la valeur prévues par le CDU et de l'OMC ne sont pas adaptées au fractionnement des flux qui caractérise le e-commerce. C'est pour cette raison que deux pistes pourraient être explorées : <b>une clarification de la notion de « valeur intrinsèque » de la marchandise, créée à l'occasion du paquet TVA e-commerce, et une simplification de la reconstitution de cette valeur intrinsèque.</b></p> <p>Enfin, <b>le recours à l'imagerie RX permettrait de détecter les marchandises illicites ou dangereuses dans le fret express et postal</b>, permettant de lutter contre l'introduction des marchandises prohibées ou dangereuses dans l'UE. Des scanners sont depuis longtemps en place dans les entrepôts des</p>			
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	<p>transporteurs, mais ils sont à l'écart du flux physique et des colis, et ils ne traitent que des colis que des douaniers ont extraits du flux et leur ont présenté. Les technologies les plus récentes permettent désormais d'envisager un scan systématique des colis pendant leur circulation sur les chaînes de tri des entrepôts des transporteurs en aéroport, avec un recours à l'intelligence artificielle permettant d'analyser le contenu des colis. La mise en place de cette technologie pourrait prendre en compte et coordonner les initiatives privées dans le domaine de la lutte contre la contrefaçon afin de pouvoir tirer avantage de ces avancées technologiques sans éparpiller les moyens des administrations douanières et ainsi gagner en efficacité. Toutefois, outre la question du coût d'acquisition d'un grand nombre d'appareils, se pose la question de leur implantation dans les entrepôts, qui reste conditionnée à l'accord du transporteur de fret express ou postal, en l'absence de base légale le contraignant à accepter l'implantation d'outils douaniers de détection. <b>Des évolutions pourraient être envisagées, comme cela a été fait en matière de sûreté aérienne</b> : de la même façon que les gestionnaires d'aéroport sont tenus d'installer les équipements de sûreté nécessaire à l'inspection-filtrage de 100 % des passagers et bagages, et reçoivent pour cela le produit de taxes d'aéroport, la lutte contre les trafics de marchandises illicites ou dangereuses pourrait justifier un dispositif contraignant d'inspection de 100 % des marchandises importées, accompagné d'un mode de financement propre.</p> <p><b>2/ La gestion des risques</b></p> <p><b>Au sein de l'UE et entre les États membres, sont constatés une appréciation non uniforme du risque douanier ainsi que des moyens très différents d'une douane à l'autre concernant les capacités d'analyse de risque.</b> Ce constat conduit la Commission européenne à prendre des initiatives pour assurer une plus grande homogénéité de la réalisation et de la qualité des contrôles douaniers aux différents points d'entrée de l'UE. Par ailleurs, l'augmentation croissante des contrôles à réaliser, du fait notamment de la multiplicité des réglementations non douanières appliquées par la douane, nécessite <b>une centralisation au niveau de l'UE afin d'assurer une cohérence de l'ensemble des contrôles.</b></p> <p><b>S'il est pertinent de donner une dimension européenne à l'analyse de risque, il semble également très important qu'elle ne soit pas uniquement mise en place et partagée entre la DG TAXUD et les États membres, mais également avec les autres directions générales de la Commission européenne, et tout particulièrement avec la DG BUDG,</b> en vue des audits communautaires à venir. Il convient, en effet, d'éviter la situation rencontrée en 2021 où la DG BUDG n'a pas pris en compte les analyses de risque et les ciblage réalisés par les États membres lorsqu'elle leur a adressé des demandes de mises à disposition de ressources propres traditionnelles (RPT) selon une analyse de risque basée sur des données moins précises que les données exploitées par les douanes européennes.</p> <p>Toutefois, il est indispensable que ces initiatives prennent en compte certaines limites, afin de ne pas être contre-productives. <b>Le développement d'une analyse de risque et d'un ciblage au niveau de l'Union ne doit pas conduire à remettre en cause le principe d'une analyse de risque et d'une prescription des contrôles réalisée au niveau national, tout comme les contrôles.</b> L'expérience française, fondée sur le Service d'analyse de risque et de ciblage (SARC) de la Douane, démontre que, même au niveau d'un seul État, le ciblage issu de l'analyse de risque ne peut pas être appliqué indistinctement à tous les bureaux de douane du pays mais doit être adapté aux flux locaux. Ainsi, <b>une analyse de risque et un ciblage européens pourraient compléter l'action des États membres sous la double réserve de ne pas procéder à des prescriptions directes de contrôle ou de ne pas fixer des taux de contrôle obligatoires qui s'imposeraient aux services des douanes</b> alors même que ces prescriptions de contrôle pourraient ne pas se révéler pertinentes dans un contexte local spécifique. La Commission ne doit pas considérer ces adaptations nationales, voire locales, des prescriptions communautaires, comme une défaillance des États membres susceptibles de mettre en jeu leur responsabilité financière à l'égard du budget de l'UE.</p> <p>Par ailleurs, <b>il convient que les initiatives européennes en matière d'analyse de risque européenne se fondent sur les initiatives déjà mises en place au niveau des États membres,</b> de manière à tirer profit de l'ensemble des institutions et de l'organisation déjà en place.</p>			
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		<p><b>3/ Le contrôle des réglementations non douanières</b></p> <p>Les douanes européennes constatent une multiplication constante des contrôles de conformité des marchandises qui doivent être réalisés par les douanes sur la base de réglementations non douanières. Cette tendance pose plusieurs questions, notamment sur l'articulation entre l'ensemble de ces contrôles, ainsi qu'entre les douanes et les autorités de surveillance du marché.</p> <p>La question de l'articulation entre la douane et les autorités de surveillance du marché est moins prégnante en France, car la douane française est elle-même enregistrée comme autorité de surveillance du marché ayant une compétence générale à l'importation. La douane est ainsi autonome pour la réalisation des contrôles de conformité à l'importation. Par ailleurs, elle peut s'appuyer sur l'expertise réglementaire des autorités compétentes, comme la Direction générale de la concurrence de la consommation et de la répression des fraudes (DGCCRF), la Direction générale du Trésor (DGT), l'Agence nationale de sécurité du médicament et des produits de santé (ANSM), etc.</p> <p>Toutefois, la question de l'articulation de tous ces contrôles entre eux persiste en raison de leur multiplicité et de leur complexité. Afin de résoudre cette difficulté, il convient de concentrer les efforts au niveau de l'UE et au niveau national sur les axes suivants :</p> <ul style="list-style-type: none"><li>• <b>Réaliser le ciblage le plus pertinent possible pour limiter les freins à la fluidité des échanges tout en préservant les impératifs de protection du consommateur et de l'environnement ;</b></li><li>• <b>S'appuyer sur l'expertise des laboratoires d'analyse dans la gestion du risque.</b> Pour cela, il importe de renforcer les capacités des laboratoires au niveau de l'UE compte tenu de leur rôle essentiel dans l'évaluation et la maîtrise des risques dans le cadre des contrôles de conformité, par exemple par la mise en place d'installations d'essai de l'Union (règlement 2019/1020) ou l'octroi de financements par l'instrument financier relatif aux équipements de contrôle douanier (IFECD). Pour autant, <b>certaines initiatives de l'UE ne prennent pas suffisamment en compte les contraintes du contrôle douanier</b> : à titre d'exemple, l'opération annuelle de la Commission européenne qui identifie et cible des produits qui vont faire l'objet d'une campagne de contrôles spécifiques de normes par des laboratoires accrédités, dont les services communs de laboratoires (SCL), avec une prise en charge intégrale des coûts et frais induits par l'Union (CASP) impose des délais de traitement des demandes d'analyse qui paraissent le plus souvent incompatibles avec les contraintes du contrôle douanier qui ne doit pas aboutir à une immobilisation prolongée des marchandises ;</li><li>• <b>Les dispositions réglementaires européennes, qui précisent les contrôles à réaliser à l'importation, doivent être conçues dans un sens de facilitation des opérations de contrôle et de fluidité des flux.</b> Ainsi, l'obligation pour un opérateur de présenter un document d'ordre public à l'importation ou d'être enregistré dans une liste d'opérateurs agréés doit pouvoir être contrôlée à chaque fois que possible, via des échanges automatisés entre les systèmes nationaux de dédouanement et les bases de données externes. Les négociations en cours sur le règlement visant à mettre en place un <b>guichet unique européen</b> vont dans ce sens ;</li><li>• Les réglementations non douanières prévoyant des contrôles à l'importation ou à l'exportation présentent une grande disparité dans leur mode de contrôle de la conformité des marchandises à leurs exigences. <b>Il serait souhaitable que les différentes directions de la Commission œuvrant à l'élaboration des textes prévoyant des contrôles portant sur des réglementations non douanières au moment du dédouanement disposent d'un cadre harmonisé dans lequel organiser leur projet de texte et impliquent la DG TAXUD plus en amont dans l'élaboration des textes ;</b></li><li>• La multiplication des réglementations non douanières devant être contrôlées par la douane au moment du passage frontière suppose, lors de l'élaboration des textes par la Commission européenne, <b>une meilleure prise en compte des capacités d'action des administrations douanières.</b></li></ul> <p><b>4/ La gouvernance de l'Union douanière</b></p> <p>L'Union douanière fait aujourd'hui face aux nouveaux enjeux et difficultés particulières suivants :</p> <ul style="list-style-type: none"><li>• <b>La crise de la COVID-19 a révélé plusieurs enjeux pour les douanes européennes et l'Union douanière.</b> Il a fallu assurer la fluidité de l'approvisionnement en matériel médical tout en bloquant aux frontières les produits potentiellement dangereux pour les consommateurs.</li></ul>			
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		<p>De plus, les mesures mises en œuvre dans le cadre de la gestion de la crise ont dû être coordonnées et uniformisées, afin de s’assurer qu’elles ne puissent pas être contournées. Enfin, les douanes européennes ont dû travailler dans l’urgence sur de gros volumes pendant une période relativement longue, alors même qu’elles étaient confrontées à l’indisponibilité partielle de leurs personnels en frontière en raison de la pandémie.</p> <ul style="list-style-type: none"> <li>• <b>La réglementation douanière n’est pas appliquée de manière complètement uniforme selon les douanes nationales</b>, ayant pour principale conséquence une concurrence entre États membres, douanes et infrastructures portuaires ou aéroportuaires d’entrée sur le territoire douanier de l’Union (TDU).</li> <li>• <b>La mission de lutte contre la fraude de l’Union douanière manque d’un échelon européen</b>, qui permettrait de coordonner les actions des États membres et de les orienter afin de renforcer le rôle de l’Union douanière dans la lutte contre la criminalité organisée. À titre d’exemple, les modalités de coopération prévues dans la Convention de Naples II sont faiblement utilisées, bien qu’elles ont fait leurs preuves en termes d’efficacité au plan opérationnel en matière de lutte contre la grande criminalité organisée. Par ailleurs, il ressort, de façon précise et documentée, que les organisations criminelles ont de plus en plus recours à la corruption d’agents publics et privés. D’après le rapport SOCTA 2021 d’Europol, près de 60 % des groupes criminels signalés font usage de ce levier pour faire prospérer leurs activités. Parmi les secteurs les plus touchés, on retrouve notamment celui des transports, ainsi que celui des prestations de services au sein des plateformes logistiques européennes dans l’objectif de faciliter le franchissement des points de passage frontaliers, étape stratégique avant la dissémination des produits stupéfiants au sein des territoires européens. L’absence d’un mécanisme d’évaluation et de mécanisme de détection ou d’identification de ces complicités constitue un manque pour l’Union douanière, dans sa dimension de lutte contre la fraude.</li> </ul> <p>Afin de répondre à ces différentes problématiques et de prendre en compte ces éléments de contexte, une gouvernance renforcée au niveau européen – bien qu’il soit trop tôt pour dire si cela doit prendre la forme d’une agence des douanes européenne – doit être envisagée pour investir les missions suivantes :</p> <p><b>1. Gérer les situations de crise impactant les douanes de plusieurs États membres</b></p> <p>La crise sanitaire de la COVID-19 a démontré le besoin pour les douanes européennes de disposer en situation de crise d’un cadre réglementaire européen pour agir en situation extrême. Cela s’est révélé d’autant plus vrai dans un contexte où les administrations elles-mêmes voyaient leurs ressources touchées par la pandémie et les priorités évoluer vers une concentration des efforts sur certains domaines (ex : contrôle de masques et matériels médicaux).</p> <p>Cette crise a donc fait émerger un double besoin :</p> <ul style="list-style-type: none"> <li>• <b>disposer d’un instrument juridique permettant des mesures d’urgence, voire d’exception pour une gestion de crise en frontière ;</b></li> <li>• <b>définir au niveau européen les grandes modalités d’un plan de continuité d’activité pour les crises où les douanes elles-mêmes seraient empêchées</b> (attaques sur leurs personnels, pandémies, crises graves dans un ou plusieurs États membres...). Cette idée pouvant rejoindre un concept de plan confidentiel à disposition des douanes européennes lançant la mobilisation sur les frontières extérieures et intérieures de l’UE.</li> </ul> <p>Cela a été fait durant la crise de la COVID-19 mais à un niveau insuffisant et avec retard ; la Commission a par exemple refusé la mise en œuvre de tout dispositif de force majeure au sens des dispositions réglementaires relatives à la mise à disposition du budget de l’UE des ressources propres traditionnelles pendant le plus fort de la crise de mars à mai 2020.</p> <p>En complément de l’instrument juridique, il serait utile de <b>disposer d’un coordinateur européen formé à la gestion de crise</b>. En effet, la crise actuelle a également révélé que les douanes devaient disposer, pour apporter une réponse coordonnée et harmonisée à une situation se présentant dans plusieurs États membres, d’un centre de gestion de crise européen dont la fonction serait de :</p> <ul style="list-style-type: none"> <li>• faire remonter les questions et les problématiques que la crise pose à une ou plusieurs douanes européennes ;</li> <li>• apporter une réponse commune, applicable partout où nécessaire ;</li> <li>• faire circuler l’information entre cellules de crise nationales afin de s’assurer d’un niveau uniforme de connaissance et compréhension des</li> </ul>			
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		<p>situations ;</p> <ul style="list-style-type: none"><li>• assurer la communication de crise en partenariat avec les points de contact désignés dans les États membres.</li></ul> <p><b>2. Assurer une application uniforme de la réglementation douanière et notamment du CDU</b></p> <p>Plusieurs autorisations ou facilités douanières, prévues dans le CDU, ne sont pas accordées de manière encore suffisamment harmonisée par l'ensemble des douanes européennes. On peut citer l'exemple du statut d'opérateur économique agréé (OEA) malgré la publication de lignes directrices par la Commission européenne. C'est également le cas des rescrits prévus par le CDU comme les renseignements tarifaires contraignants ou renseignements contraignants sur l'origine, pour lesquels il est difficilement acceptable qu'une douane d'un État membre ait une position différente d'une autre sur une marchandise donnée. <b>Une coordination européenne renforcée, sans que la délivrance de ces autorisations et rescrits soit pour autant remontée au niveau européen</b>, pourrait être mise en place afin de garantir une application plus uniforme des critères d'attribution et de détermination de ces autorisations/facilités, <b>sur la base, par exemple, de bonnes pratiques mises en place par les États membres</b>.</p> <p>Malgré des textes réglementaires de plus en plus précis, les opérateurs économiques rapportent régulièrement des interprétations divergentes entre États membres : il serait nécessaire de disposer d'<b>une structure d'arbitrage</b>, réactive et souple, se réunissant en fonction des questions évoquées, en sus des comités actuels qui se tiennent périodiquement.</p> <p>Cette structure devrait pouvoir intégrer, en tant que de besoin, l'avis de plusieurs directions de la Commission européenne afin que les interprétations articulent les divers objectifs communautaires et leur interprétation par les services de la Commission, s'agissant, par exemple, de la libre circulation des marchandises, de la fluidité du commerce et de la protection des intérêts financiers de l'UE.</p> <p><b>3. Optimiser le pilotage des systèmes d'information</b></p> <p>Le principe de dématérialisation de toutes les formalités douanières édicté par le CDU met en évidence la difficulté de coordonner de multiples projets informatiques. Leur supervision est aujourd'hui renforcée par la DG TAXUD de la Commission, en réponse, notamment, aux exigences du Parlement européen.</p> <p>Cette gouvernance peut encore progresser, en particulier en associant davantage tous les États membres à une mise en œuvre mieux partagée.</p> <p><b>4. Renforcer la lutte contre la criminalité organisée</b></p> <p>Le rôle des douanes dans la lutte contre la criminalité organisée gagnerait également à une gouvernance renforcée au niveau européen, en assurant les missions suivantes :</p> <ul style="list-style-type: none"><li>• <b>mettre en place un système d'évaluation de la porosité des ports et aéroports</b> à travers, par exemple, un dispositif d'audit et de notation des places portuaires et aéroportuaires, permettant de valoriser les installations vertueuses, notamment au regard de la problématique de la corruption des agents publics et privés ;</li><li>• <b>œuvrer à la facilitation et à la promotion de la mise en œuvre des formes spéciales de coopération</b> (partage de bonnes pratiques et d'expériences, soutien logistique dans leur mise en œuvre) ;</li><li>• <b>soutenir et renforcer l'implication des administrations douanières dans EMPACT</b>, cycle européen de lutte contre la criminalité organisée, où nombre d'entre elles sont encore peu impliquées, malgré le rapprochement progressif.</li></ul> <p><b>Pour autant, ces réflexions sur une gouvernance renforcée ne doivent pas s'accompagner d'un abandon par les États membres, au profit des instances de l'UE, de toute compétence, notamment celles relatives aux contrôles, au recouvrement et aux sanctions, en cas d'infraction à la législation douanière.</b> Si l'on constate une absence d'harmonisation et d'uniformité des contrôles de sécurité ou des marchandises entre les États membres, ces divergences ne semblent pas dues uniquement à l'absence d'harmonisation des contrôles réalisés et notamment des pouvoirs de contrôle. Elles semblent plutôt s'expliquer par <b>un défaut d'harmonisation des priorités de contrôle et des investissements en équipements et en ressources</b>. Enfin des spécificités nationales doivent pouvoir être prises en compte.</p> <p><a href="#">11</a> IOSS – Import One Stop Shop : la TVA est collectée par les plateformes ou les e-commerçants enregistrés, qui la reversent aux administrations fiscales des pays d'enregistrement, qui la répartissent entre administrations fiscales des pays de consommation.</p>			
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