

Exchange of customs-related information with Third Countries

Fields marked with * are mandatory.

Introduction

This Commission has identified a deeper and fairer internal market as a key priority, and as one of the European Union's best assets in times of increasing globalisation. In the Single Market Strategy, the Commission put forward a number of measures to deepen the internal market.

Over the last decade customs worldwide has been driven by the need to handle **rapidly increasing trade volumes** combined with **rising security and safety risks**. Globalisation combined with the **increased cross-border flow of small low-value consignments** challenges customs resources not only when ensuring the collection of customs duties, but also as regards their role in ensuring security and safety of the single market and its inhabitants and guaranteeing the protection of Intellectual Property Rights (IPR). At the same time customs has to offer procedures promoting competitiveness through facilitation and acceleration of trade. Through international cooperation and bilateral agreements with third countries we strive to facilitate legitimate trade while ensuring the collection of customs duties and minimising the security and safety risks.

Cooperation and exchange of customs-related information with third countries (countries or territories outside the customs territory of the Union) **play an increasingly important role in the area of the Customs Union and common commercial policy**. Customs related information refers to all information acquired by the customs authorities in the course of performing their duty. This includes for example data provided to customs authorities via declarations or applications, information gathered by customs in the course of verifications and controls as well as information on persons with a certain status (e.g. Authorised Economic Operators (AEO)) and persons involved in a given transaction / movement and data on means of transport. Exchanges of such information help monitoring the correct application of customs legislation, can improve customs risk management and may accelerate legitimate trade, ensure a better protection of the financial interests of the EU and the Members States (collection of import duties and taxes, including VAT and excise duties), enhance the security and safety of the Union and its citizens through preventing and detecting of illegal trade and have a positive influence on the reduction of corruption at the external borders.

That is why, in 2014, the Commission put forward an EU Strategy and Action Plan for customs risk management [1]. Among others, it focuses on tapping the potential of international customs cooperation, including the exchange of customs information.

There are various initiatives in place that allow customs authorities in the EU and third countries to exchange certain customs information in specific circumstances. These are either based on international agreements and decisions adopted by bodies set up by international agreements, such as:

- customs cooperation and mutual administrative assistance agreements on the basis of which the customs authorities of the Parties shall assist each other by providing appropriate information which helps to ensure the proper application of customs legislation and the prevention, investigation and combating of any breach of customs legislation; that assistance can be on request or spontaneous;
- customs and trade facilitation chapters included in free trade agreements which provide for trade facilitation and customs cooperation on a bilateral basis, administrative cooperation regarding the management and verification of the preferential origin of goods, sometimes exchange of information on goods suspected to infringe IPR, as well as mutual administrative assistance against fraud, if not covered by an agreement above;
- agreements on trade facilitation and security and agreements on transit where agreements like the Common Transit Convention provide for the exchange of information on the transit operation itself and also for the purpose of enquiries on the proper discharge or irregularities in the functioning of the procedure;
- Joint Customs Cooperation Committee decisions on mutual recognition of authorised economic operator ((AEO)/trusted trader programmes) in which two parties agree to recognise the AEO authorisation issued under the other programme and provide reciprocal benefits to AEOs of the other programme, or;
- non-legally binding arrangements or pilot projects, for For example the Smart and Secure Trade Lanes (SSTL) pilot project with China provides for an advance exchange of data on goods exported by certain participating companies from some places in some Member States and China and Hong Kong China, with a view to improving risk management [2]).

Such a set of different acts and lack of a single legal base and infrastructure for systematic exchanges of customs related information raises a question about possible **limitations on the scope and functioning of the information exchange with third countries' customs administrations and other parties involved in the international supply chain** as it does not allow for general and systematic exchanges, but needs ad hoc solutions which require lengthy and complex negotiation processes and create administrative burden.

An increasing number of third countries have requested or proposed the Commission and individual Member States to develop and strengthen customs cooperation, in particular through systematic advance exchange of customs related information. Member States are facing pressure from third countries to enter into arrangements in the area of common commercial policy on a bilateral basis, but cannot do so as the topic falls under exclusive EU competence.

The topic has already been discussed in various fora (e.g. Club meeting of Customs Directors General in May 2008, Customs Policy Group (Full Members) meeting of July 2009) and at different high level seminars in Vilnius (November 2010), Budapest (April 2011), Krakov (October 2011), Kiev (October 2012) and Druskininkai (October 2013) with a focus on the EU Eastern neighbours.

In addition, Member States stressed the importance of enhanced exchange of Customs related information with third countries in their Council Conclusions of 19 December 2016 and explicitly invited the Commission "to consider coming forward, by the end of 2017, with proposals for a policy framework and where necessary Union legislation on enhancing the exchange of information between the Customs Authorities of the EU Member States and those of third countries in the area of common commercial policy".

Against this background the European Commission is considering to taking an initiative with a view to further address this topic.

[1] https://ec.europa.eu/taxation_customs/general-information-customs/customs-security/smart-secure-trade-lanes-pilot-sstl_en

[2] COM(2014)527

Purpose of this consultation

This consultation aims to gather views from stakeholders on the possible need for EU action to introduce a more effective tool to exchange customs related information with third countries and in case there is, on how this tool could be designed and what its scope should be.

This consultation aims at gathering views in particular on the following:

- whether there the current situation regarding exchange of customs related information with third countries is sufficient and to assess whether the EU should act;
- objectives to be met through exchanging customs-related information with third countries;
- potential benefits and risk for the customs authorities, economic operators and the EU of systematic exchange of customs-related information with third countries;
- scope, format and conditions of the possible information exchange; Possible options for the exchange of customs related information with third countries and their impacts.

It is to be noted that any exchange of customs related information with third countries is not only dependent on the policy framework itself, but will also depend on the willingness of third countries to cooperate in this area and the Union's political willingness as well as the technical capacity to do so (human resources, interoperability ICT systems) and, depending on the final shape of the framework, subsequent agreements to make sure the exchange materialises. These aspects are not the focus of the envisaged initiative; therefore the concrete impacts of the initiative will depend on future action on these other parameters.

The results of the public consultation will be published, together with the responses provided.

This consultation is open to all stakeholders and will be complemented by further targeted consultations with Member States customs administrations, members of the Trade Contact Group as well as and international partners (third countries) and international organisations, such as World Customs Organisation (WCO).

Glossary

Customs authorities

Customs administrations of the Member states responsible for applying the customs legislation and any other authorities empowered under national law to apply certain customs legislation.

Customs-related information

All information acquired by the customs authorities in the course of performing their duty such as data provided to customs authorities via declarations or applications, information gathered by customs in the course of verifications and controls as well as information on persons with a certain status (e.g. Authorised Economic Operators (AEO)) and persons involved in a given transaction / movement and data on means of transport.

Annexes A and B of the Union Customs Code Delegated Act (UCC DA[1]) lists the data included in a customs declaration or application as well as common data requirements for declarations, notifications and proof of the customs status of Union goods.

Economic operator

A legal or natural person who, in the course of his or her business, is involved in activities covered by the customs legislation.

Information Exchange

All exchanges of information, such as declarations, applications or decisions, between customs authorities and between economic operators and customs authorities.

Risk management

The systematic identification of risk, including through random checks, and the implementation of all measures necessary for limiting exposure to risk.

Third countries

Countries or territories outside the customs territory of the Union.

Trade facilitation

The simplification, modernisation and harmonisation of export and import processes to make it easier for traders to move goods across borders.

[1] Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code

Practical matters

Methodology employed for this public consultation

This survey will be also published in **French** and **German** on 24 July 2017.

In the first part of this consultation we would like to collect some data about you/ your organisation /company or the public authority which you represent. Please make sure you are aware of and agree with the specific privacy and confidentiality statement associated with this consultation which can be consulted in the right hand column of this page.

Parts of this consultation might not apply to you or you might not feel you have any input to provide. If this is the case, please select the option 'Don't know / No opinion' for such questions.

If you have a preference for one or more policy options suggested, please select it/them. In order to help us understand your answer, we would also like to learn why this particular option carries your preference. Although this information is optional, we encourage you to succinctly explain your choice in the space provided with each option or alternatively, in a response to the last question of the document "Final remarks".

Filling in the questionnaire should normally take 15-20 minutes.

Important notice on the publications of responses

Please note: In order to ensure a fair and transparent consultation process, we strongly recommend the use of our online questionnaire.

Contributions received are intended for publication "as submitted", respondent by respondent and question by question, on the Commission's websites. Below, you have the possibility to indicate whether you agree to the publication of your individual responses under your name, or anonymously.

Furthermore, the European Commission will prepare a synopsis report summarising all responses received (including those by respondents not agreeing to publication of their individual contribution).

Should you have a problem completing this questionnaire or if you require particular assistance, please contact: TAXUD-INFOXCHANGE-PUBLIC-CONSULTATION@ec.europa.eu

- * 1 Do you agree to your individual contribution being published?
- Yes, I consent to all my answers being published **under my name**
 - Yes, I consent to all of my answers/personal data being published **anonymously**
- * 2 I declare that none of the information I provide in this consultation is subject to copyright restrictions
- The information provided is **not subject** to copyright restrictions
 - The information provided is **subject** to copyright restrictions

3 Please explain:

500 character(s) maximum

General information

* 4 Are you responding as or on behalf of:

- private citizen
- law firm, tax consultancy, tax advisor
- financial institution
- trade/business/professional association
- company - other than the categories offered above
- academic institution, think-tank
- non-governmental organisation, consumer association
- public authority, public institution, including national or regional parliament
- other

5 If other, please specify:

* 6 Please indicate **your name, or the name of your company, organisation or institution** for which you respond to this consultation:

100 character(s) maximum

7 Please indicate your email-address (optional):

100 character(s) maximum

* 8 In case we have questions regarding answers or remarks you have provided, **can we contact you?**

- Yes
- No

*9 **Where do you live, or where is the headquarter of your company or organisation** (main headquarters in case of multinational companies), or where is your public authority located?

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- United Kingdom
- Other

10 If other, please specify:

*11 Is your organisation or the entity you represent included in the **EU Transparency Register**?
(Click here for [more information on the Transparency Register](#))

- Yes
- No

12 Please indicate your Register ID number:

* 13 In case your are responding on behalf of a company, please indicate the current number of employees

- 1-9 employees (incl. self-employed)
- 10-49 employees
- 50-249 employees
- 250 and more employees

* 14 In case your are responding on behalf of a company, please indicate the size of your company in terms of either the **annual turnover, or the balance sheet** total, whichever you consider more relevant.

(This information is needed solely to distinguish small and medium sized companies from large ones among the respondents)

- less than EUR 2 million
- EUR 2 million or more

Experience and involvement in customs matters

15 Are you or the company you are representing involved in customs matters and in case of yes in which form?

- No
- Yes

16 If yes, please specify:

500 character(s) maximum

17 Do you have experience in the exchange of customs-related information with third countries and in case of yes, with which country/countries, on what basis and what were the concrete experiences?

- No
- Yes

18 If yes, please specify:

500 character(s) maximum

Current situation in the area of exchange of customs related information with third countries and possible need for EU action

19 To what extent do you think that the current set up of exchange of customs related information between the EU and third countries' customs authorities is sufficient? (Please specify the reasons)

- Not sufficient at all
- Rather insufficient
- Neutral
- Rather sufficient
- Completely sufficient

20 Please explain your answer:

500 character(s) maximum

21 Do you see need for further EU action in this area with a view to provide an enhanced policy framework for systematic exchanges of customs related information with third countries?

- Yes
- No

22 Please explain your answer:

500 character(s) maximum

Possible problems linked to exchange of customs related information with third countries

23 Do you think that the current set up of exchange of customs related information with third countries leads to the following consequences and if so to which extent?

	No consequences	Small consequences	Moderate consequences	Serious consequences	Very serious consequences
Losses in public revenue caused by the illicit traffic of goods	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Less fluid trade lanes for legitimate trade	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Illicit trafficking of goods endangering the security and safety of EU residents	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Illicit trafficking of goods infringing IPR	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

24 Please explain your answers:

500 character(s) maximum

Objectives and potential benefits of the exchange of customs related information with third countries

25 Do you think that systematic exchange of customs-related information with third countries would contribute to achieving the following strategic objectives and if so to which extent?

	No contribution	Limited contribution	Moderate contribution	High contribution	Very high contribution	No opinion
Improved security and safety of the supply chain	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Trade facilitation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Protection of financial interest of the EU	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

26 Please explain your answers:

500 character(s) maximum

27 Do you think that the systematic exchange of customs-related information with third countries could have one or more of the following impacts for **customs administrations**?

	I completely disagree	I somewhat disagree	I neither agree, nor disagree	I somewhat agree	I completely agree	No opinion
Additional source of data for risk analysis	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Possible improvement for the common EU-wide risk management in the area of security and safety	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Smoother and faster trade in goods	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
More effective customs checks	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
More efficient handling of customs resources through concentration on high-risk movements of goods	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Additional source of data to fight against fraud, in particular undervaluation, counterfeiting and piracy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Potential risks in terms of data protection / privacy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other risk (please explain below)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

28 Please explain your answers:

500 character(s) maximum

29 Do you think that the systematic exchange of customs-related information with third countries could have one or more of the following impacts for **economic operators**?

	I completely disagree	I somewhat disagree	I neither agree, nor disagree	I somewhat agree	I completely agree	No opinion
Smoother and faster trade in goods	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
More effective customs checks	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reduced border clearance times	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Additional source of data to fight against fraud, in particular undervaluation, counterfeiting and piracy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Potential risks in terms of data protection / privacy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other risk (please explain below)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

30 Please explain your answers:

500 character(s) maximum

31 Do you think that the systematic exchange of customs-related information with third countries could have one or more of the following impacts on the **EU residents**?

	I completely disagree	I somewhat disagree	I neither agree, nor disagree	I somewhat agree	I completely agree	No opinion
Less cross-border crime and fraud	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Enhanced security and safety	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Simplification of customs procedures	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Faster delivery of merchandise coming from third countries	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Danger to compromise fundamental rights and confidentiality of data	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
None of the above	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other risk (please explain below)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

32 Please explain your answers:

500 character(s) maximum

Scope, format and conditions of the potential information exchange

33 As regards the scope of information shared with third countries which of the following possibilities would you consider to be most suitable? (multiple answers are possible)

- unilateral** exchange - EU shares the data with third countries
- unilateral** exchange - third countries share the data with the EU
- bilateral** exchange
- multilateral** exchange

34 Please explain your answers:

500 character(s) maximum

35 As regards the frequency of information exchange with third countries which of the following formats would you consider suitable?

- Ad hoc exchange on a case by case basis
- Systematic exchange

36 Please explain your answers:

500 character(s) maximum

37 Which of the following options regarding the future policy on exchange of customs related information with third countries should be further pursued?

	Not at all	Rather not	Neutral	Rather yes	Definitely yes	No opinion	Other
Continue the current regime of case by case agreements at EU level	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Multilateral instrument (e.g. a convention), to which third countries could adhere	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Annexing "Protocols on exchanges of customs information", to already existing bilateral agreements	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Systematic inclusion of general provision in future bilateral EU agreements on customs matters with third countries	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Establish a legal framework allowing the EU to exchange information without the need for an agreement and empowering Member States to enter into bilateral information exchanges subject to specific conditions	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please explain)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

38 Should you wish to provide additional comments on the proposed options, in particular their possible impacts, please include them here:

1000 character(s) maximum

Final remarks

Thank you taking part in that questionnaire. Your contribution is appreciated.

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, please upload your additional document(s) here:

39 Please upload your file