



# **PUTTING MORE UNION IN THE EUROPEAN CUSTOMS**

## **Ten proposals to make the EU Customs Union fit for a Geopolitical Europe**

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Report by the Wise Persons Group on the Reform of the EU Customs Union – Brussels March 2022

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## LETTER FROM THE WISE PERSONS

**T**he words of European Commission President Ursula von der Leyen back in 2019 “*It is time to take the customs union to the next level, equipping it with a stronger framework that will allow us to better protect our citizens and our single market*” resonate strongly today as the EU mounts a resolute response against Russia’s invasion of Ukraine.

By sharing one external border with third countries, the EU’s Customs Union is the foundation of its single market and its might in international trade. Under existing arrangements, responsibility for customs policy is at the level of the European Union whereas implementation and controls on the ground are the responsibility of Member States. Customs facilitate legitimate trade, collect customs revenues, and protect European citizens against safety and security risks including smuggling, crime, terrorism and illicit financial flows.

Since its birth in 1968 the Customs Union has seen changes both in the form of legislative reforms – through the Union Customs Code – as well as common investments in IT to better connect European customs. More recently, the EU has significantly increased its budget to finance investments in IT infrastructure and equipment for national customs. Customs have also benefited from national reforms to help them cope with change. Customs have demonstrated incredible responsiveness to address the challenges generated by Brexit and the COVID-19 crisis.

Customs are essential also in managing crises at the European borders, as we see today. They are the custodians of many of the sanctions imposed on third countries, such as the recent ones on Russia and Belarus. By working together with other border agencies and law enforcement authorities, Customs today protect European borders against risks related to the war in Ukraine and help facilitate the delivery of humanitarian support. A strong Customs Union with a protective “one external border” is essential to Europe’s strategic autonomy and to Europe’s security and defence.

However, despite the overall success of the Customs Union, the world economy, international trade and geopolitics have evolved in a dramatic way and have in fact moved on much faster than the adaptations of the Customs Union. Security and safety concerns have risen to the fore. Brexit and the Covid-19 pandemic have been two accelerators of these changes. Evidence gathered by the Wise Persons Group on Customs shows that dangerous, non-compliant products still enter the EU market every day and that we leave billions of Customs duties and taxes uncollected. The reality is also that European Customs do not yet currently function “as one”. This leaves the Customs Union at the mercy of its weakest link. Incremental changes introduced over the years were necessary and our group notes the real and important efforts made in recent years to strengthen both the legal and technical framework for customs administration, which will make a difference to the strength of the Customs Union. Nonetheless, in a fast-changing world, these are insufficient to address the scale of the challenges faced by Customs. The Customs Union is not “fit for purpose”.

### **This report identifies the root causes of the problem:**

First, the last decade has witnessed major changes in trade and technology, which have exacerbated pre-existing difficulties. The volumes of trade have significantly increased, and the nature of trade has changed with the expansion of e-commerce in the form of millions of small packages to be processed at the EU borders.

Second, the expectations on Customs’ role have evolved from those related to revenue collection to include citizens demands to ensure that the values that they cherish - sustainability, safety, human rights, health – as well as security concerns are upheld, and in recent years this trend has been accelerating.

Third, the vast majority of – if not all – stakeholders interviewed for this report complain about a systematic absence of common implementation of customs measures, different control practices across border entry points, both within and across Member states, differences in control priorities, and differences in methods and sanctions for non-compliance. These challenges speak of 27 borders rather than one common border. The poor availability and quality of the data submitted to Customs and the insufficient level of data sharing across Customs and with other administrations has led to fragmentation and makes it extremely difficult to properly manage risks at both national and EU level. Finally, investments in Customs capacity have not followed the pace and size of increasing requirements placed on them.

These shortcomings call for an urgent structural change, which, building on the reforms already undertaken, would bring the Customs to the next level. The recommendations contained in this report constitute a sort of “moonshot” – a highly ambitious programme – to ensure the Customs Union is fit for a more geopolitical world in which revenue is secured, trade is easy, fair, sustainable and safe, and citizens are protected against security risks.

We make ten recommendations, which, taken together, address the two main shortcomings we have identified – how to manage electronic commerce and how to ensure a strong management of EU-wide risks. In doing so, we have respected the existing allocation of competences in the EU. They comprise the following:

- 1/** The European Commission should by the end of 2022 table a **package of reform proposals**, including of the Union Customs Code, implementing the recommendations contained in this report, relating to processes, responsibilities and liabilities, and governance of the European Customs Union.
- 2/ A new approach to data:** rather than relying principally on customs declarations, introduce a new approach to data, focussed on obtaining better quality data based on commercial sources, ensuring it is cross-validated along the chain, better shared

among administrations, and better used for EU risk management. Clarify which private actors – including e-commerce platforms - must provide data, with costs for non-compliance. Provide businesses with a single data entry point for customs formalities and a single window/portal.

- 3/ Set up a comprehensive framework for cooperation**, including data sharing between European Customs, with Market Surveillance Authorities, other Law Enforcement bodies and tax authorities for a comprehensive management of risks at EU level.
- 4/ A European Customs Agency** should be set up to provide EU value-added services to the Commission and the Member States. Its governance should respect the existing allocation of competences.
- 5/ Introduce a System-Based Approach** centred on a reformed Authorised Economic Operator scheme expanded in scope, multi-layered and more effective, to better facilitate trade with confidence.
- 6/ Build a new framework of Responsibility and Trust: an ABC model (Authorised, Bonded or subject to greater Control)**, in which operators would seek Authorised Economic Operators status to gain commercial access to the EU market. Failing this, a bond provided to an AEO, against which the EU authorities may levy a significant charge for mis-declaration or rule breaches. Small non-commercial consignments would continue to be sent through the usual processes, but without priority and subject to a level of controls that reflects their “non-trusted” status.
- 7/ Remove the customs duty exemption threshold of EUR 150 for e-commerce** and provide some simplification for the application of Customs duties rates for low value shipments.

**8/ Implement a package of measures to green EU Customs.**

**9/ Properly resource, skill and equip Customs** to ensure their capacity to fulfil their missions.

**10/ Introduce an annual Customs Revenue Gap Report** based on an agreed methodology and data framework to better manage Customs revenues collection.

These recommendations – taken as a package given the manner in which they are inter-related – would provide for the resilient Customs Union that the EU needs.

Our task ends here and now is the time for the European Commission, Member States and the European Parliament, within their respective roles and prerogatives, to show political leadership and expeditiously follow up on these recommendations, for which we are proposing a timetable. We thank Commissioner Gentiloni for the trust he has placed in us and stand ready to provide support in taking forward these recommendations.

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## INTRODUCTION

In her Agenda for Europe, the European Commission President Ursula von der Leyen identified the reform of the Customs Union as a political priority for her mandate

*“It is time to take the customs union to the next level, equipping it with a stronger framework that will allow us to better protect our citizens and our single market. I will propose a bold package for an integrated European approach to reinforce customs risk management and support effective controls by the Member States”.*<sup>1</sup>

In September 2021, Paolo Gentiloni, EU Commissioner for Economy, invited a Wise Persons Group on Challenges facing the Customs Union to provide innovative ideas and suggestions on how to tackle the challenges facing the Customs Union. The present report is addressed to the Commission, through Commissioner Gentiloni, to the European Parliament and to the Council for their consideration.

The Wise Persons Group composed of twelve members from across the EU auditioned representatives of relevant stakeholders during more than 50 hours to identify challenges and possible recommendations. The Group has conducted hearings with a wide range of public and private sectors’ experts, including online platforms, consumers associations, NGOs, seaports, airports, postal operators and express courier companies, logistics companies, academics, international organisations (WTO, WCO, World Bank), third countries Customs Administrations, as well as EU Member States and European Commission’s services.

The group also considered the stakeholders’ comments received via the open public consultation as well as a series of reports that have been recently published, including the foresight exercise Customs2040 by the European Commission<sup>2</sup> and the report on Customs controls by the European Court of Auditors.<sup>3</sup>

The present report looks at the success of the Customs Union in providing the foundations to the Single Market and to the EU’s formidable international trade performance. An efficient Customs Union is fundamental to protect citizens from non-compliant and dangerous goods, to remove from the EU market goods that do not meet European environmental and labour standards, to protect European companies from unfair competition, to protect the EU and Member States’ budgets, to contribute to the Green and Digital transitions. In sum, to contribute to Europe’s prosperity and security and to building its strategic autonomy.

However, a combination of forces is today putting these objectives at risk. A number of external factors such as the changing volumes and nature of trade with the explosion of e-commerce, advances in technology, increased expectations on security, safety and sustainability by Europeans, geopolitical tensions and conflicts, constitute priorities to be urgently addressed by Customs. At the same time, intrinsic characteristics of the Customs Union, such as its fragmented governance, weight on its capacity to adapt to those changes.

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1) Von der Leyen, Ursula (2019), A Union that Strives for More – My agenda for Europe, <https://www.europarl.europa.eu/resources/library/media/20190716RES57231/20190716RES57231.pdf>, page 16.

2) European Commission, Joint Research Centre, Ghiran, A., Hakami, A., Bontoux, L., et al., The future of customs in the EU 2040: a foresight project for EU policy, Publications Office, 2020, <https://data.europa.eu/doi/10.2760/978164>

3) European Court of Auditors (2021), Special Report 04/2021: Customs controls: insufficient harmonisation hampers EU financial interests, <https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=58256>

In the last years, a set of incremental reforms have been adopted, which although helpful, have been insufficient to address these fundamental transformations that have accelerated with Covid and Brexit and have taken a new meaning with the war in Ukraine. Customs' transformation has lagged in comparison with other policy areas such as police and justice, which have put more Union at their core. As a result, we are approaching the limits of the current incremental approach. There is a need for systemic change both in terms of Customs processes and in putting more Union in the European Customs. This is today an urgent matter of strategic sovereignty and reinforced resilience.

The COVID crisis, Brexit and the war in Ukraine show the crucial role that Customs play in protecting the European borders and contributing to its strategic autonomy. This is the time to go for an ambitious reform that will help Customs better deal with crises and protect citizens against security threats, that will be future-proof and that will contribute to the twin green and digital transitions. This report is intended to be a catalyst for systemic change, centred around a set of recommendations for the Customs Union of the future and for the national Customs and other agencies working to protect the EU's borders while facilitating trade, EU competitiveness and structural changes wished for by EU citizens. Their horizon is 2030.

**The Customs  
Union  
We Want**





## THE CUSTOMS UNION WE WANT

In these troubled geopolitical times, the EU is committed to build its strategic sovereignty and reinforce its resilience. Protecting the European borders through the strengthening of the Customs Union would be an important contribution toward this endeavour.

The EU crucially depends on a well-functioning Customs Union to protect its citizens against harmful and dangerous products, to maintain the integrity of the internal market, to promote an ambitious trade agenda with third country partners, to ensure a level playing field for business and to collect revenues for EU and Member States' budgets. The success of the EU ambitions related to people's welfare, sustainable societies and trade prosperity may be jeopardised if Customs fail to properly protect the EU border at all its entry points. The Union's border is as strong as its weakest entry point.

To effectively respond to these expectations, the Customs Union needs to guarantee having one European customs border – instead of 27 – that provides better protection for European citizens, ensures seamless trade and improves effective revenue collection.

To fulfil its mission, Customs must be resilient, future-proof and make their full contribution to the EU policy agenda such as the Green Deal, Digitalisation, and the EU business competitiveness.

It must be **resilient** to crises, to sudden increases of volumes of goods and rapid changes of trade patterns. It must also be capable to respond to new demands stemming from the need to protect EU core values and principles.

Customs must also be **future-proof** by making today the investments that will allow Europe to have the capacity and the tools to respond to long-term challenges.

More broadly, Customs must contribute to the **Green Deal and Digital Transition** by ensuring the effective implementation of the EU's legislation on sustainability and climate change and by contributing to emissions reduction through more streamlined customs procedures, among others; the digitalisation of customs would reflect the EU's choice for making this transformation work for people and business; finally Customs should also contribute to **EU business competitiveness** by ensuring a level playing field between domestic and foreign economic operators, for which a public-private partnership approach would be crucial.

Finally, a reformed European Customs Union can lead the way internationally to promote global reforms of customs rules and procedures.

# The Customs Union Today





## THE CUSTOMS UNION TODAY

### 1. THE CUSTOMS UNION: OVER 50 YEARS POWERING THE EUROPEAN SINGLE MARKET

The Customs Union was one of the European Union's earliest achievements and remains a crucial asset in the global environment of the 21st century. Born in 1968, it means that all EU members apply the same tariffs to goods imported into their territory from the rest of the world and apply no tariffs internally among themselves. They also apply a common set of rules to handle the trade of goods that arrive, leave, or transit via the European Union's borders and they have completely removed all controls in trade between them. The fact that goods can enter the EU market through any point also means that controls at that entry point by a national Customs authority is de facto done on behalf of all Member States. The Customs Union is the basis of the EU's internal market, allowing goods to move freely internally by controlling their external import and export. Non-EU Member States like Monaco and San Marino are also part of the Customs Union, as are partly Andorra and Turkey.

**Responsibility for Customs policy is at the level of the European Union:** it is one of the exclusive competences of the EU. The European Commission proposes EU Customs legislation and monitors its implementation. The main vehicle to do this is the Union Customs Code (UCC). It also works to ensure the development and implementation of IT systems and training materials, the effective interconnection of national Customs administrations and the coordination of Customs laboratories. The Commission proposes legislation both on fiscal and non-fiscal matters and supervises its implementation which is more structured for fiscal matters.

The European Commission also organises the framework of cooperation with Market Surveillance Authorities and their interactions with Customs. A similar role is played by the European Commission to organise the cooperation between Customs and relevant Law Enforcement authorities. Customs are a vital partner for the European Police Office, Europol, in battling organised crime. To that aim, they also liaise with the European Anti-Fraud Office (OLAF), with Frontex, the European border and coast guard agency, and with Eurojust, the European network of judicial authorities that underpins European cooperation on criminal justice cases. The recent creation of the European Public Prosecutor's Office increases their duty to cooperate. Finally, the European Commission also works with Customs to ensure the collection of own resources.

**Implementation of Customs Union rules is the responsibility of Member States.** Over 90,000 customs officers working in more than 2,000 customs offices across the EU Member States, manage the day-to-day operations, in the spirit of acting as if they were one.<sup>4</sup>

Implementing the Customs Union relies on close partnerships with and between Member States, including primarily national Customs but also on other actors such as Market Surveillance Authorities and Law Enforcement Authorities.

**Customs are responsible for revenue collection:** Traditionally, national Customs offices collect customs duties and indirect taxes at import (excise duties, VAT and other national indirect taxes and duties). **Import duties remain an important source of income for the EU.**

4) [https://ec.europa.eu/taxation\\_customs/customs-4/eu-customs-union-facts-and-figures/eu-customs-union-unique-world\\_en..](https://ec.europa.eu/taxation_customs/customs-4/eu-customs-union-facts-and-figures/eu-customs-union-unique-world_en..)



In 2020, close to EUR 25 billion were collected in customs duties, of which about EUR 20 billion went to the EU budget, representing around 11% of it.<sup>5</sup> In total, an estimated EUR 82.8 billion were collected in taxes and duties on imports, including B2C VAT.<sup>6</sup> This highlights the broader financial interest of Member States to have efficient border controls.

**The role of customs has evolved over time to cover controls related to the safety and security of European citizens.** Customs officers supervise goods traffic in the EU, mainly at external borders, which means seaports, airports, and land border crossing points, but also within the EU territory. By so doing, they protect consumers from non-compliant, dangerous and counterfeited goods, from health hazards, or from animal diseases. They prevent accidents and provide a first line of defence against risks in the supply chain, including the fight against organised crime, smuggling, drug trafficking and terrorism. In fact, security aspects were first introduced into EU customs legislation in the aftermath of the terrorist attacks in September 2001 in the United States.<sup>7</sup> Customs are indeed vital to counter the resurgence of terrorist threats. Among those, the use of containers to smuggle nuclear material or radiological devices could have devastating direct effects and would bring international trade to a halt. Imported goods sold in Europe, from toys to food and medicines, are safer thanks to Customs. Customs also keep an eye on sensitive exports such as dual use goods or cultural products. Furthermore, as part of the EU's responsibility towards the rest of the world, they also prevent illegal exports of waste. Indeed, protecting the environment features among the many tasks performed by Customs. This includes for example controlling trade in rare species of animals as well as exotic timber from endangered forests. This role will be greatly expanded under environmental and social legislation being considered in Europe, in particular a European carbon border adjustment mechanism and a ban on products made by child and forced labour.

5) [https://ec.europa.eu/taxation\\_customs/customs-4/eu-customs-union-facts-and-figures/customs-duties-mean-revenue\\_en](https://ec.europa.eu/taxation_customs/customs-4/eu-customs-union-facts-and-figures/customs-duties-mean-revenue_en)

6) See appendix.

7) [https://ec.europa.eu/taxation\\_customs/customs-4/customs-security/customs-security\\_en](https://ec.europa.eu/taxation_customs/customs-4/customs-security/customs-security_en)

8) [https://ec.europa.eu/info/sites/default/files/about\\_the\\_european\\_commission/eu\\_budget/eu-budget-glossary-2019\\_en.pdf](https://ec.europa.eu/info/sites/default/files/about_the_european_commission/eu_budget/eu-budget-glossary-2019_en.pdf)

#### CUSTOMS AND OWN RESOURCES

Customs protects the EU and Member States' budgets by ensuring the effective collection of own resources<sup>8</sup>, a revenue flowing automatically to the European Union budgets. They include

- (a) The traditional own resources,
- (b) The own resources based on value added tax (VAT), and
- (c) The own resources based on GNI.

Traditional own resources include mostly customs duties on goods imported into the EU as well as levies and anti-dumping duties. Member States are allowed to keep 25% of customs duties for administration costs and to serve as an incentive to ensure a diligent collection of the amounts due. The remaining part goes to the EU budget. The Commission has a supervisory role in the proper collection of own resources, supporting the reinforcement of customs controls to combat fraud, and carrying out audits and inspections in the Member States to ensure that the collection of traditional own resources is carried out in accordance with EU customs legislation, the financial rules laid down in the Own Resources Decision (Council Decision No 2020/2053) and the Council Regulation on implementing measures for own resources. Moreover, Member States are financially responsible for any losses due to possible administrative errors on their side. An additional layer of control is ensured by the European Court of Auditors. The European Anti-Fraud Office, which is part of the European Commission, further investigates fraud against the EU budget. The European Public Prosecutor's Office has competence to investigate, prosecute and bring to judgment crimes against the EU budget.



Customs cooperate with Market Surveillance Authorities. These authorities are a constellation of more than 600 bodies, placed under the responsibility of a dozen concerned national Ministries – from environment to industry or health - with a regulatory framework that depends on the topic, and with limited cooperation among them. There are two main regimes for controlling goods – food and health products, and non-food products. In the former – more uniform, centralised and largely digitalised with centralised IT systems – Sanitary and Phyto-Sanitary authorities and EU-level inspectors execute the whole or most of the elements of controls and they notify Customs when a consignment can be released. In the non-food sector – less uniform – controls are generally carried out by Customs, and Market Surveillance Authorities are notified by Customs of suspected non-compliance and serious risks and take a decision that will then be enforced by Customs. Customs control priorities at EU borders remain defined at national level and there is no prioritization at the EU level.

Customs also play a vital role in collecting trade statistics, essential to the proper understanding and management of our economies.

**For businesses involved in international trade, the Customs Union means the promise of common and streamlined procedures across the EU.** Regardless of where in the EU the goods are declared, common rules should be applied in the same way and, once the goods have cleared customs, they can circulate freely or be sold anywhere within the EU Customs territory.

The EU is the world's largest trading block, accounting for about 15% of world trade, worth close to EUR 4 trillion. So, in global terms, the EU Customs Union is a heavy-weight in international trade. Its negotiating position thus outweighs that of any single Member State acting on its own. Each year, close to 700 million items enter the EU, more than 350 million are declared for export to third countries and another 15 million transit via the Customs Union.

9) [https://ec.europa.eu/taxation\\_customs/customs-4/eu-customs-union-facts-and-figures/eu-customs-union-unique-world\\_en](https://ec.europa.eu/taxation_customs/customs-4/eu-customs-union-facts-and-figures/eu-customs-union-unique-world_en)

10) [https://ec.europa.eu/taxation\\_customs/authorised-economic-operator-ao\\_en](https://ec.europa.eu/taxation_customs/authorised-economic-operator-ao_en)

That means close to 33 items declared every second for a customs value of about EUR 150,000. In 2020, the four main trading partners (China, US, UK, and Switzerland) account for half of EU external trade. The largest part of this trade is done by sea (over 50%), followed by air (around 30%) and road (around 20%).<sup>9</sup>

The European Commission, together with Member States and in a dialogue with the business community, has made efforts to simplify and harmonise customs procedures, it has helped Customs automatise and it has worked to advance a one-stop-shop for traders. Trusted traders that make specific efforts related to customs compliance, record-keeping, financial solvency and security and safety standards may apply for certification as 'Authorised Economic Operators' (AEO) and hereby benefit from simpler procedures.<sup>10</sup>

The Customs Union also has an important international dimension. EU rules related to the Customs Union are framed by the relevant international disciplines of the World Trade Organisation (WTO) and the World Customs Organisation (WCO). The numerous trade agreements negotiated by the EU also contain provisions related to cooperation in the area of Customs with third countries.

The Customs Union is therefore a key pillar of the EU's Single Market and trade success contributing to create jobs and growth and protecting citizens and EU businesses. Customs are at the heart of this success. The dedication and flexibility of Customs officers have been key to this success. They have also been crucial to the management of two recent major disruptions in trade: the Covid-19 pandemic and the impact of Brexit. They are today being challenged by geopolitical tensions, including the war in Ukraine.

**A group of Customs are moving ahead in establishing a structured operational coordination around a central service provider:** 11 Member States have decided to structure their operational coordination on Customs matters by setting up CELBET.



#### NON UNION GOODS

Other goods

#### UNION GOODS

- ▶ wholly (or partially) obtained/produced in the customs territory of the Union (CTU) or;
- ▶ brought into the CTU from third country and released for free circulation.

The different IT systems are often not interconnected  
Data are not transferred from a declaration  
to another

### 1. DISPATCH OF GOODS IN THIRD COUNTRY

#### PRE-ARRIVAL/ENTRY

Goods brought into the customs territory of the EU have to be covered by an entry **SUMMARY DECLARATION (ENS)** to be lodged by the carrier at the customs office of first entry before the arrival of the goods. The time-limits and data elements required depend on the mode of transport. The ENS has to be lodged in the ICS2 system.

Security  
and safety  
risk  
analysis

### 3. ARRIVAL OF THE MEANS OF TRANSPORT

The operator must inform the customs office of first entry of its arrival (**NOTIFICATION OF ARRIVAL**). Depending on the Member States it can be done via the port system or another system.

### 4. PRESENTATION OF THE GOODS/TEMPORARY STORAGE

Goods have to be presented to the Customs Authority. There are several ways of presenting the goods: **VIA A TEMPORARY STORAGE DECLARATION** (for non-union goods), through a **CUSTOMS DECLARATION** (if goods are placed under a customs procedure) or via a **PROOF OF UNION STATUS** (for union goods). Non-Union goods, are held in temporary storage and remain under customs supervision of the Customs Authority where the goods have been unloaded, until they are placed under a customs procedure or re-exported.

### 5. TRANSIT, IF APPLICABLE

When non EU-goods need to move from the temporary storage place to another place(e.g. to clear the goods at another place), it can be done in several ways. One of them is via the transit procedure. A **TRANSIT DECLARATION** must be filled in in the transit system.

Risk  
analysis  
on transit

### PLACING GOODS UNDER A CUSTOMS PROCEDURE

When the operator chooses to place the goods under a customs procedure, a **CUSTOMS DECLARATION MUST BE LODGED**. A regular import will be covered by the release for free circulation procedure (standard procedure) and the declaration must be lodged in the declaration system of the Member States where the goods are cleared (27 different systems). The UCC foresees also the use of special procedures such as transit, storage, specific use and processing, depending on the needs of the operator.

6. The **TYPE AND NUMBER OF DATA ELEMENTS NEEDED** in the declaration will depend on the type of customs procedure chosen and the level of simplifications granted to the operator. Information in the standard declaration are related to the goods, the transport, the value, the accompanying documents, the calculation of taxes and duties and the seller and the buyer.

The Customs Authority will calculate the applicable **CUSTOMS DUTIES** based on the customs value of the goods, the origin of goods and the applicable tariff. A financial cover is required to ensure the collection of the customs duties and other charges. Customs authorities will verify that the goods **COMPLY WITH EU CUSTOMS AND OTHER EU LEGISLATION.**

Risk  
analysis on  
financial  
risks, P&R,  
remaining  
security  
and safety  
issues



### CELBET: COOPERATION IN ACTION

Customs Eastern and South-Eastern Land Border Expert Team (CELBET) is an initiative of 11 EU Member States: Finland, Estonia, Latvia, Lithuania, Poland, Hungary, Slovakia, Croatia, Romania, Bulgaria and Greece under the Customs 2020 programme.

The main objective of the expert team is to strengthen and improve operational co-operation using a new way of working, deeper sharing of information and pooling of human resources.

The Expert Team uses work done by various project groups, elaborating these outcomes further to achieve synergy between different activities at the regional level.

The expert team, working under the supervision of DG TAXUD, provides expertise to member Customs and makes proposals based on practical experience of operational co-ordination and results achieved for further improvement of the operational management of EU Eastern and South-Eastern land border.

More specifically, the expert team provides solutions for better targeting of risks, uniform performance measurement standards, flexible use and sharing of resources, training of customs officers, interaction and coordination with relevant border services (including those of third, neighbouring countries) and last, but not least, addressing funding challenges related with control infrastructure and equipment.

CELBET helps to improve the control of external border and preventing the entry of dangerous goods that could be harmful to people or to our environment or to the EU's, the Member States' and citizens' financial interest. The improved controls also contribute to smoother and faster border crossing.

The expert team is working in six areas: risk management, customs controls, equipment and procurement, training, evaluation/performance measurement, co-operation with border guards and neighbouring countries.

Source: <https://www.celbet.eu/about>

### 2. THE CUSTOMS UNION HAS UNDERGONE REFORMS OVER TIME

Over the years Customs have engaged in reforms to adapt to changing circumstances.

One of them was the modernisation of Customs rules through the adoption of the Union Customs Code (UCC)<sup>11</sup>, together with its corresponding Delegated and Implementing Acts. The UCC package entered into force on 1st May 2016, replacing the previous framework for Customs legislation. The UCC aims at modernising and simplifying Customs procedures and offering more uniformity to businesses. The UCC is accompanied by an ambitious IT Work Programme to better connect Customs. While the substantive provisions of the UCC entered into force on 1st May 2016, a transition period (now lasting until 31st December 2025) was introduced to fully implement the required IT transformations.

By engaging in the UCC reform, Member States and the European Commission have shown their ability to partner to implement much needed reforms. In addition, and to support these reforms, the budget allocated for the transformation of Customs has increased to EUR 2 billion in the Multiannual Financial Framework 2021-2027, to cover IT costs and a new customs control equipment programme.

The forthcoming evaluation of the UCC underlines that the possibilities for synergies need to be more exploited, including interoperability of systems and complementarity of rules especially in the field of non-fiscal risks where goods must show compliance at the border with legislation that is formulated by other actors than Customs. It also underlines the need for increased cooperation at both national and EU level.

In 2020, the Commission services, with the expertise of its Joint Research Centre, have engaged with Member States and other stakeholders in a discussion on "*The future of customs in the EU 2040 – A foresight project for EU policy*".

11) [https://ec.europa.eu/taxation\\_customs/customs-4/union-customs-code\\_en](https://ec.europa.eu/taxation_customs/customs-4/union-customs-code_en)



The report includes a vision for EU Customs in 2040 suggesting among others to have a centralised, joint governance structure to operationally manage the Customs Union, to harmonise IT systems and in the longer term to have one EU IT system as well as the development of a “single window” for customs procedures.<sup>12</sup>

In late 2020, the European Commission proposed the establishment of an “EU Single Window Environment for Customs”<sup>13</sup>, that will make it easier for different authorities involved in goods clearance to exchange electronic information submitted by traders.

On 1st July 2021, the Import One-Stop Shop (IOSS) was introduced. This electronic portal can be used by businesses to comply with their VAT e-commerce obligations on distance sales of imported goods. The IOSS allows suppliers and e-commerce platforms selling imported goods to buyers in the EU to collect, declare and pay the VAT to the tax authorities, instead of making the buyer pay the VAT at the moment the goods are imported into the EU. If the seller is not registered in the IOSS, the buyer has to pay the VAT directly on importation.

All these are steps in the right direction that were designed taking into account the reality of over a decade ago but that today fall short of the quantum leap needed to adjust to the change in circumstances.

### 3. HOWEVER, THE CUSTOMS UNION HAS NOT EVOLVED AT THE SAME PACE AS THE TRANSFORMATIONS IN THE WORLD ECONOMY

In the last decade, the world economy and international trade have undergone enormous changes, in particular with the significant increase in trade of China and other Asian economies. Events have in fact moved on much faster than the adaptations of the Customs Union. In addition, the promise of harmonised rules and procedures to be applied by all Member States has not yet materialised.

Serious divergences remain between national Customs authorities in the application of rules and procedures and customs face growing difficulties to control borders. As a result, there is a growing gap between the legislative ambitions of the European Union to fulfil the expectations of its citizens both in terms of offering protection, safety and security and moving towards a greener and more digital

#### THE VOICE OF THE CONSUMER: BEUC

In 2020, several BEUC members conducted a pan-European test of 250 electrical products sold by major e-commerce platforms (incl. toys, smoke detectors, and phone chargers). **66% of the purchased products sold on e-commerce platforms – many of which imported – did not comply with basic EU product safety rules.** In some cases, they could result in electric shock, fire or suffocation.

BEUC, Is it safe to shop on online marketplaces? Consumer research finds 66% of 250 tested products to be unsafe, February 2021

12) The future of customs in the EU 2040 – A foresight project for EU policy, Luxembourg, publication office of the European Union, 2020

13) [https://ec.europa.eu/taxation\\_customs/eu-single-window-environment-customs\\_en](https://ec.europa.eu/taxation_customs/eu-single-window-environment-customs_en)



### CEFIC – CHEMICAL INDUSTRY

**92% of chemicals non-compliant with REACH** in consumer products come from outside the EU/European Economic Area (EEA). This is the key finding of the CEFIC analysis of data reported through the EU's rapid alert system (RAPEX) 'Safety Gate'. Restricted **phthalates, mostly found in children's toys**, are the most frequent case of non-compliance at 25%.

The finding confirms an urgent need for EU member states to step up enforcement of REACH in **imported goods**.

Sylvie Lemoine, Cefic Executive Director Product Stewardship: "We have the strictest chemical legislation in the world. But it will only fully work to the benefit of people and environment if properly enforced".

CEFIC, Newsroom, More Than 90% Of All Chemicals In Consumer Products Non-Compliant With REACH Come From outside of the EU

economy, on the one hand, and the current operational capacity of Customs on the ground on the other hand. There is a growing gap between what the Customs Union should or wants to deliver and what it actually delivers. As a result, the EU's Single Market is at risk, and this could be a matter of sovereignty for Europe.

Customs represent the authority to control financial fraud, illegal traffic, and non-compliant products. However, fraudsters, traffickers, and malevolent operators are constantly challenging this ambition. **Evidence gathered during the work of the Wise Persons Group shows that dangerous, non-compliant products still enter the EU market every day.**

Reports by the EU's anti-fraud office - OLAF - and audits performed by the European Court of Auditors show that fraud remains large and serious.

### THE EUROPEAN CHEMICALS AGENCY (ECHA)

**"the majority of inspected products sold online breach EU chemicals laws"**. 78 per cent of the nearly 6,000 online products they inspected were non-compliant with at least one requirement under relevant European Union (EU) chemicals legislation. The products included both professional and consumer products and articles, including textiles, leather, childcare articles, toys and jewellery.

ECHA, December 2021.



December 2020, a cross-border investigation into the **illicit production of cigarettes**, prevented the loss of approximately €80 million in duties and taxes in five EU countries and led to the seizure of 95 million illegal cigarettes and 300 tonnes of tobacco.

In 2021, an investigation of a sophisticated EU-wide fraud scheme involving the **import of goods from China** and impacting at least **11 Member States** revealed a suspected **€14 million fraud in underpaid** custom duties and an estimated **€93 million in VAT evaded**.

1 week operation (with EUROPOL) covering 15 Member States resulted in **the seizure of at least 2100 cylinders** of illicit HFCs – hydrofluocarbons – for an estimated value of over **10 millions euros**. Illicit imports of these gases circumvent EU rules and can cause significant damage to climate.



**OLAF**  
**Pay-off of**  
**acting together**

European customs and police authorities have seized nearly **1.8 million litres of wine and alcoholic beverages suspected to be counterfeited** in a targeted action led by OLAF, coordinating the action of 19 EU Member States.

In March 2021, **5 million dangerous toys worth over €16 million** seized in operation supported by OLAF in cooperation with 20 Member States.

### **COVID-19 fake and sub-standard medical products seized under OLAF's investigation**

Over 100 million medical supplies related to the COVID-

19 pandemic stopped (fake test kits, substandard face masks, hand sanitiser, spray cans, counterfeit antiseptic disinfectants etc.).

Source: OLAF



#### EUROPEAN COURT OF AUDITORS

##### Customs controls: insufficient harmonisation hampers EU financial interests\*

“The framework (for tackling financial risks) is not leading to uniform application of customs controls. The rules for Member States are not sufficiently stringent. Member States still have different risk management practices, they do not systematically share information on risky importers with other Member States, they identify and treat risk signals in different ways. The current framework sets general criteria and indicators for Member States to apply in their risk analysis, leaving it up to them to create detailed risk profiles to select imports for controls. In some Member States, a significant number of EU imports are not subject to an automated risk analysis.”

“There is no appropriate EU-wide analysis of financial risks in customs, based on data from all EU imports. The framework has not yet changed Member States’ processes sufficiently to properly safeguard the EU’s financial interests.”

\*European Court of auditors, Special Report Customs controls: insufficient harmonisation hampers EU financial interests, 04/2021

The gross loss of Traditional Own Resources relating to import in the EU of textiles and footwear from the People’s Republic of China was estimated by the Commission at almost **EUR 2.7 billion** (including collection costs) for the period 2011-2017.

source: [https://ec.europa.eu/anti-fraud/media-corner/news/olaf-welcomes-european-court-justice-ruling-uk-undervaluation-case-2022-03-10\\_en](https://ec.europa.eu/anti-fraud/media-corner/news/olaf-welcomes-european-court-justice-ruling-uk-undervaluation-case-2022-03-10_en)

**The reality is that European Customs do not yet function “as one”**. Important incremental changes introduced over the years, including the UCC initiative, have proven necessary but insufficient to address the scale of the challenges faced by Customs. **There is an urgent need for a systemic change to move to the next stage and ensure that the Customs Union is “fit for purpose”**.



#### 4. HOW DID WE GET HERE? THE ROOT CAUSES OF THIS PROBLEM

**First**, the last decade has **witnessed major changes in trade and technology, which have exacerbated pre-existing difficulties**. The **volumes of trade** have significantly increased. Between 2010 and 2020, extra-EU imports have increased by 16.5 percent while exports have grown by 34.6 percent.<sup>14</sup>

But the **type of trade has also changed with the expansion of e-commerce**. Business, trading partner, logistics actors and consumers have quickly seen the many opportunities created by the digital transformation of the last decades. The traditional containerised goods brought in big quantities via sea, air or road has now been accompanied by an exponential rise in **e-commerce** with millions of small consignments coming primarily via air and rail. From July to December 2021 – the first six months of compulsory customs declaration for all goods imported into the EU irrespective of their value – traditional trade in goods represented over 220 million import declaration for a value of EUR 1,250 billion. In contrast, it is estimated that e-commerce represented 490 million customs declarations for a total value of EUR 4.8 billion.<sup>15</sup> So, e-commerce represents more than twice the number of traditional transactions for only 0.4% of the value.

The wave of cross-border **e-commerce has swept over an unprepared world**, and it is adding to the pre-existing difficulties for Customs. In the past, Customs were already facing difficulties in managing an increased volume of trade and were struggling to carry out the necessary controls. However, at least, the detection of a suspicious product very often allowed stopping the entire consignment.

With the expansion of e-commerce, Customs face an increasingly difficult task. For citizens and businesses, e-commerce means greatly expanded new opportunities, as we have witnessed during the covid-19 crisis. For Customs, however, e-commerce means an exponential and unmanageable flow of millions of small individual consignments to be controlled and checked for fiscal and non-fiscal requirements. Many “buyers” and “sellers” on digital platforms have limited knowledge of customs regulations and are generally unknown to customs authorities. The declared value of B2C shipments is frequently incomplete or inaccurate, often intentionally, with many falling below the “de minimis” value threshold of €150 for customs duties. These misdeclarations of value do not only affect the assessment of customs duties but also VAT to be collected on those goods. Evidence also suggests that the probability that small consignments will contain non-compliant or dangerous goods is very high. It is not only that checking each parcel is impossible; it is that even checking all those that are identified as presenting a risk is unmanageable. This is a major game changer for Customs’ capacity to protect citizens and the financial interests of the EU and its Member States.

**Second**, Customs are usually known for collecting duties and taxes. The persistent undervaluing of goods imported, misdeclarations of values, and splitting of consignment to stay below the threshold, all of this aggravated by the increase in trade volumes, are depriving the EU from substantial revenues. Unfortunately, despite serious attempts on the part of the Wise Persons Group, the available data does not allow to estimate the gap in revenues collected by Customs. As already stated by the European Parliament, “*the measurement presents difficulties first and foremost because there are not yet reliable and comprehensive data sets available to measure the customs gap*”.<sup>16</sup>

14) Source: Eurostat. [https://ec.europa.eu/eurostat/statistics-explained/images/4/46/Extra-EU\\_main\\_features\\_2020.xlsx](https://ec.europa.eu/eurostat/statistics-explained/images/4/46/Extra-EU_main_features_2020.xlsx)

15) Source: DG TAXUD using Surveillance data. This is the number and value of goods below EUR 150 declared using the simplified declaration “H7”, which is mostly used to declare parcels up to EUR 150 under the IOSS scheme. Note that e-commerce goods can also be declared with the standard customs declaration ‘H1’ declaration, but the calculation here excludes them, so the proportion of e-commerce can be seen here as a low-bound estimate.

16) European Parliament (2019), DG for Internal Policies, Protection of EU financial interest on customs and VAT: Cooperation of national tax and customs authorities to prevent fraud, March 2019, page 43. [https://www.europarl.europa.eu/RegData/etudes/STUD/2019/636470/IPOL\\_STU\(2019\)636470\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2019/636470/IPOL_STU(2019)636470_EN.pdf)

## The Customs Union Today



This in itself should be a matter of concern since as the saying goes “what you can’t measure, you can’t manage”. Anecdotal evidence on recoveries made by Member States following controls and audits suggest that it could potentially be in billions of euros.

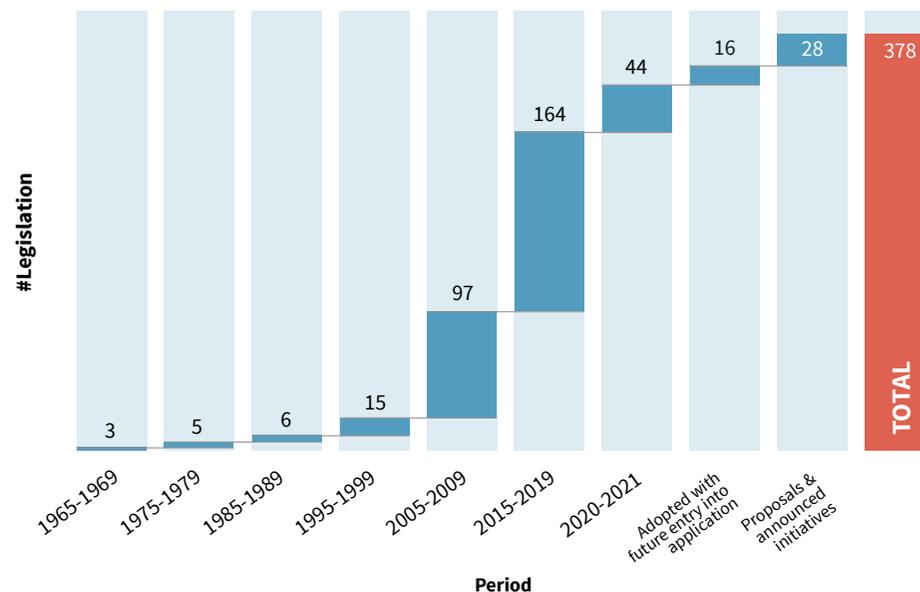
The conservative estimate of duties not collected on imports of a declared value below EUR 150 is **close to EUR 1.5 billion**. The abolition of the threshold for VAT but not for customs duties on low-value goods seems inconsistent and may raise issues of fairness.

In addition, as already touched on, the expectations on Customs’ role have dramatically evolved to include many additional dimensions. **There are growing additional expectations regarding security (bombs, weapons, explosives, ammunitions, dual use goods, drugs and drug precursors, etc.), regarding the safety of goods (compliance with food, feed and phytosanitary and medicinal standards, with product compliance and safety obligations, etc.), regarding the fight against cigarette smuggling and illicit cash flows, regarding illicit trade in cultural goods or regarding the protection of intellectual property rights.** Over the years, the number and complexity of sectoral legislation has been rapidly increasing. Back in the 1990s, the legislation on Prohibitions and Restrictions was limited to a set of well-defined bans and authorisations (for nuclear substances, firearms, drug precursors, etc.) and the compliance and safety requirements of products focused essentially on three key categories: toys, medicines and foodstuffs. Nowadays, there are more than 350 pieces of EU legislation dealing with prohibitions and restrictions and covering a wide range of diverse policy areas. It is expected that more will come in the near future with the policy agenda on the EU Green Deal and the EU desire to contribute to fairer working conditions worldwide by fighting against imports made by child and forced labour. **This exponential growth of legislation on non-fiscal risks rightly responds to the increasing wishes of EU citizens to ensure that the values that they cherish (sustainability, safety, security, human rights, peace and security, health, etc.) are upheld. This is nevertheless not without consequences as Customs struggle to cope with such a wide range of specialised risks.**

## PUTTING MORE UNION IN THE EUROPEAN CUSTOMS

### Ten proposals to make the EU Customs Union fit for a Geopolitical Europe

#### Evolution of EU prohibitions and restrictions legislation



Source: compilation by DG TAXUD

**Third**, the vast majority of – if not all – stakeholders interviewed for this report complain **about a systematic absence of common implementation of customs measures, different control practices across border entry points, both within and across Member states, differences in control priorities, differences in investigative capacities (control deliveries, undercover activities), and differences in methods and sanctions for non-compliance.** The same consignment of goods subject to antidumping measures or to prohibitions and restrictions may be checked or not depending on where it enters the EU. Some Customs authorities appear to apply more stringent controls than others do, and sanctions applied in case of irregularities



differ from one Member State to another. Fraudsters are quick, sophisticated, and agile at identifying gaps and loopholes and they will seek to find the weakest link. The uneven implementation of customs rules in the EU sadly offers plenty of opportunities for abuse (such as mis-declaring goods, providing fake invoices, misusing free zones, and abusing simplifications). These divergences also undermine the credibility of the EU with respect to its trading partners. **Customs are not acting as one. Today the level of protection of citizens and Member States depend on the place where goods are controlled, and fraudulent and negligent businesses enjoy a significant low-risk advantage over honest and compliant firms and individuals. This is a serious issue.**

In terms of cooperation, it is interesting to make the comparison between the functioning and responsibility in the Schengen agreement for the movement of people and those resulting from the existence of an EU Customs Union for the control of imported goods. There is also a very strong link between the setup of the Schengen area and the internal market: it is partly because the waiting time at the borders for carriers (the identity of truck drivers had to be checked) had become unbearable that it was decided to create the Schengen area. But, unlike the Customs Union, the Schengen area has experienced innovative mechanisms for more union and cooperation, even though its creation is more recent (1990) and the applicable substantive law much less unified.

A **fourth** area that poses significant problems is that of data. The **poor availability and quality of the data submitted to Customs, the lack of a common data warehouse, and the low level of data sharing across Customs administrations leads to fragmentation and makes it extremely difficult to properly manage risks through data analytics at both national and EU level.** This is a major inhibitor in a digital world where any transformation is highly dependent on the quality and availability of data. While the implementation of the UCC legal provisions is overall on track, the implementation of the IT systems still lags behind. This delay bears on the anticipated benefits of the changes introduced by the UCC. It also inhibits the synergies and coordination between Customs authorities and other Market

Surveillance and Law Enforcement Authorities acting at the borders, notably when it comes to prohibitions and restrictions. The lack of alignment of procedures and standards (notably for data collection and sharing) is also an obstacle for digitalisation.

**Fifth**, Customs administrations struggle to perform their duties because they often lack the skills required to **use modern technologies for analytics, detection and controls, which now also have to cover a wider range of risk areas.** In many instances, they do not have access to state-of-the-art equipment and technology. Investments in customs capacity have not followed the increasing requirements placed on Customs and staffing has been broadly constant over time.

**Brexit and the Covid-19 pandemic have further challenged Customs:** the former has increased the burden of Customs in neighbouring countries and the volume of traffic to be checked; the latter has led to a massive increase of trade in low-value consignments and of traffic of sub-standard and dangerous goods in the health area, from personal protective equipment, masks, and from medicines to medical devices. Thanks to valiant efforts on the part of Customs officers, Customs have been able to be responsive and efficient and dealing with these changes. However, the Brexit and the Covid-19 have somewhat diverted the attention and slowed down the pace of reforms.

**More recently, Customs are also been challenged to address the multiple implications of the war in Ukraine at the European border,** including ensuring that the sanctions are being properly implemented. The crisis has shown the need to strengthen security at the border by addressing existing shortcomings and to improve the co-ordination between Customs and other border agencies, law enforcement authorities and tax administrations to protect the European interests, support the humanitarian efforts and more broadly to provide a holistic response to a crisis.



### 5. THE URGENT NEED FOR STRUCTURAL CHANGE

The above-mentioned root causes have resulted in a Customs Union that is not fit for purpose. EU and national leaders cannot stand over the current situation: if Customs continue to operate in the current manner, we cannot expect radically different results. The current system – if not brought to the next level – represents too high a risk of a major security or safety threat materialising. European businesses that respect the legislation are unfairly disadvantaged compared to non-compliant third country imports. We should also not underestimate the risk of discrediting the EU legislator if the legislation adopted has a limited impact given the shortcomings on enforcement or even enforceability on the ground. **There is an urgent need for systemic change.**

**The areas that are most in need of repair relate to the following:**

■ **Data: the information base - the data - is deficient and EU-wide IT tools still underdeveloped.** Despite considerable efforts by the Commission and the Member States, customs systems are still mostly used to make more effective a traditional approach to customs clearance. Data currently used is declarative, often flawed, not easily cross-validated against other data sources, sometimes inconsistently shared, and not available when required to all parts of the system.

Customs clearance works based on the information provided by economic operators, largely of a declaratory nature, often unrelated to commercial documentation and reality. Exporters can and do make incorrect declarations. Importers may be firms or individuals without the capacity or interest to ensure that declarations are accurate. While a lot of information is available from different parts of the end-to-end trade chain, from producers, to importers, sellers, buyers, logistics operators and intermediaries, in invoices and trade, transport, finance and insurance contracts, these are not connected into data points and the intelligence that can be generated is limited. As a result, Customs currently spend too much time and resources checking the correctness of “declarative” information and is often unable to confirm the correctness of the data and is certainly incapable of controlling all suspicious cases.

There is in addition a serious problem with the **incentives** of the different players in the value chain. Those with the most information – producers, exporting firms, wholesalers, commercial platforms – are all remote and insulated from the Customs offices that will make decisions and from the consequences of mis-declaration. The people who work most closely with Customs – like customs agents, shipping handlers, logistics firms, truck drivers and shipping companies – are mostly working for hire, and while they know how to present the forms, they do not validate the information they present, mainly because they are not allowed themselves to verify the contents of the shipment. Even where risks are identified and goods are stopped, the consequences for fraudsters may be negligible. This is a problem exponentially increased in e-commerce, since any loss due to goods seized or returned is small, and prosecutions or fines are unlikely and burdensome for Customs.

Customs processes and data requirements are burdensome. Data requirements are often redundant, collecting data that is not always relevant for controlling risks while missing data needed to effectively fulfil Customs tasks.

A number of data and information required for customs clearance (e.g. certificates of conformity, certificates of origin, invoices) are still not digitalised.

Data between, within and across Members States is also inconsistently shared. National IT systems are still fragmented and not connected. The EU has not yet completed its Single Window. Businesses cannot benefit from a single data entry point and Customs administrations are not sharing their data in a common data warehouse.

■ **The reliance on a cumbersome Transaction-Based as opposed to a System-Based Approach:** where Customs procedures and controls revolve primarily around individual transactions rather than operators. The system today is “bunged up” by having to process huge numbers of small transactions.



In addition, the current system allows too many untrustworthy operators to send consignments not meeting EU requirements without serious consequences for their actions. In fact, the incentives in the system do not promote trust neither between operators and national Customs nor between national Customs offices. There are few incentives for accurate declaration and few disincentives for inaccurate declaration. In this respect, the “Authorised Economic Operator” status needs a revamp as it is narrowly defined, does not provide sufficient incentives, and is not fit for addressing the challenges posed by e-commerce. Binding information procedures on tariff and origin also require a review.

- There are 27 Customs in the EU, but **no EU Customs “acting as one”**. **There is a widespread lack of uniform implementation of customs legislation by Member States with different interpretation of the same rules, differences in control procedures and different sanctions for non-compliance.** It is recognised that the EU aims to be strong in its diversity and that the subsidiarity principle – which requires that authority be exercised at the national level where appropriate – is an important tenet of the EU’s legal and political framework. This must be respected, and Customs policies must be developed in sympathy rather than in conflict with the reality that EU borders are also national borders, that Customs administrations are sometimes deeply integrated with national taxation, and cooperate closely with Market Surveillance Authorities and other Law Enforcement systems while also serving the EU policy imperatives. Policy must reflect this dual nature, while remaining in sympathy with the broad political preferences of citizens and their representatives.

But, as in most other policy areas, **the EU approach of acting to generate EU added value through policy making, co-ordination and action at the Union level, is a key to enhance the welfare of citizens.** Customs deal with the physical point of contact between the EU and its markets, and the rest of the world. Customs controls are in many ways the “moment of truth” in which EU values and EU policy in

relation to trade, security, safety, and relationships with the rest of the world are put into effect. **It is already clear that purely national approaches to implementation will not deliver the required protection of borders, citizens or common values for the EU Customs Union.** The coordination mandate currently entrusted to the Commission has proven insufficient and inadequate to address the kind of community-based risk management that a Customs Union requires. Member States must act in a more coordinated way to avoid benefits – or inefficiencies – arising in one Member State being at the expense of others.

It is one thing if firms choose to route their business through the most efficient Customs hubs – one could even argue that there is some real public benefit in that – but **there cannot be a public benefit in non-compliant or dangerous goods being shipped through the Customs route that is least likely to be effective in its controls.** If a Customs administration identifies a risk and addresses it through more effective enforcement, it cannot be in the future that the exporters will simply send their goods into the EU via a different route. The assessment and understanding of risks, and intelligence about risks arising in practice, must be commonly shared and EU policies and their implementation must ensure that equivalent customs risks, wherever they arise in the EU, are met with equivalent levels of enforcement. Sanctions for non-compliance vary between Member States, notably because of different judicial systems.



Also, in this respect, data poses a particularly acute challenge. **Data sharing within the Customs Union, among national Customs offices and with the EU and with Market Surveillance Authorities, is still incomplete, fragmented and uncoordinated, and response is at the whim of Member States which themselves have some mixed incentives.** As a result, there is yet no central data warehouse or data sharing mechanism that can support a European-wide risk management system. Such absence cannot be argued on grounds of data protection: an EU-wide data sharing mechanism can be made compatible with common protocols on data protection as was done for instance for administrative cooperation and combatting fraud in the field of value-added tax<sup>17</sup> and direct taxation.<sup>18</sup>

Legitimate attempts to recoup monies from administrations, which have not gathered revenues as they should, come years after the fact and there is a disincentive for administrations to identify their own failings, since to do so risks inviting penalties at the national level.

- **Customs contribution to the Green Deal lacks visibility.** Being at the heart of the supply chain movement of goods, Customs has a responsibility and a unique position to contribute to the EU political agenda on the Green Deal. It will effectively have to ensure that the objective of sustainability is respected. Moreover, it can lead internationally in the efforts to reform the WCO harmonised system nomenclature so that it can promote trade in environmentally-friendly goods.

17) See for instance article 55(5) of Council Regulation 904/2010 of 7 October 2010.

18) See article 25 of Council Directive 2011/16/EU on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC, lastly modified by Council Directive (EU) 2018/822 of 25 May 2018.

- **Customs are in need of serious investments.** The exponential increase in the demands on Customs has not been accompanied with commensurate investments in people, relevant skills, in particular those related to the use of big data analytics, systems and equipment. The lack of means for Customs is likely to discourage staff, decrease the attractiveness of customs as employer and deter the best from entering the career, thus worsening the situation. This is also taking place in a context of ageing Customs officers.
- It should finally be noted that European legislation proposed by the Commission should also see the coordination ab initio of the relevant services dealing with Customs matters to ensure legislative design fully incorporates an adequate implementation dimension, and to avoid applying responsibilities to Customs services without considering the means to address them.

**10 Recommendations  
for a “Moon-Shot”  
for Customs**





### TEN RECOMMENDATIONS FOR A “MOON-SHOT” FOR CUSTOMS

This section outlines a set of recommendations for reforms that – taken as a package given the way they are inter-related – would provide for the Customs Union that the EU needs. They call for the European Commission to bring forward a package of reform proposals that include these fundamental changes. Given the urgency, the implementation should begin in 2022 and have 2030 as a set horizon.

#### RELAUNCHING THE CUSTOMS UNION

Customs’ legislative structure, methods of operation and capacity are facing enormous challenges. Huge efforts to cope with the e-commerce explosion and more recently with Brexit, Covid-19 and the war in Ukraine have showed the strengths and reactivity of Customs. We do not believe that failings are in general arising from a lack of resolve. And a set of reforms have been introduced and are being rolled out. But these are simply not enough.

Already, the EU is entrusting more and more responsibilities to Customs and this will only increase the challenges. However dedicated are the various Member States’ Customs, we cannot expect them to meet their challenges by simply applying the existing, now insufficient, techniques with more vigour. Moreover, given the evidence we have heard that Customs rules are at best applied inconsistently, and that traders are systematically seeking to use weak points among the Member States to evade

duties and to import goods that do not meet EU standards, it is clear that asking each Member State to develop its own systems will not be a sufficient basis for progress. A fundamental re-design is required for EU Customs and will need to be applied on an EU-wide basis.

Customs provide important services also at a national level. They are each managed on a model designed nationally, and often are engaged in tasks in one Member State that go beyond the range of tasks assigned to Customs in other Member States. For this reason, the principle of subsidiarity should apply within the new design. In introducing its reforms, the EU should engage in a dialog with its trading partners, and in particular with those with whom it is in a Customs Union.

#### A CHANGE OF PARADIGM ON DATA

Data is at the heart of many of the issues arising in relation to EU customs at present. A system needs to be designed around a modern understanding of the possibilities of data systems to deliver added value, much more than the sum of the parts. The new system, for reasons of economy, efficiency and effectiveness for the EU mission, should be managed centrally and shared in common.

#### RECOMMENDATION 1

The European Commission by the end of 2022 tables a package of reforms, including of the Union Customs Code, implementing the recommendations contained in this report, relating to processes, responsibilities and liabilities, and governance of the European Customs Union.

## Ten Recommendations for a “Moon-Shot” for Customs



## PUTTING MORE UNION IN THE EUROPEAN CUSTOMS Ten proposals to make the EU Customs Union fit for a Geopolitical Europe

It should provide a service to the Member States’ Customs, as well as receiving data from them. In the long-term, data shall be transmitted by those who hold it into a central data warehouse accessible to Customs administrations. An obligation for national Customs authorities to provide the data to the central level should also be adopted. It should be protective of privacy rights but determined to protect the EU’s borders and citizens. Businesses should have a one point of data entry and access to a single window/portal. The system could benefit from third countries’ data sharing agreements.

Moreover, the EU needs to be in a position to trust the data it receives, and it currently cannot do so with confidence in all cases. Existing Authorised Economic Operator status allows for firms to apply for a more trusted status, but it is entered into by only a limited number of firms and many firms choose not to seek this status as they perceive the costs to be higher than the benefits. It does not include many of the platforms, which are the hub of modern e-commerce, and adherence to AEO requirements is monitored inconsistently. If data is to be at the centre of a new system, it needs to be generated by trusted, verified firms, and there needs to be a significant cost, including loss of trusted status, for repeated breaches. For firms too small or unwilling to operate as AEOs, there will need to be some trusted operator to vouch for them, including by willingness to act as guarantor/bonder for the good behaviour of the non-authorised firms. Details are provided below.

19) This may be a longer-term project, but in a future where Customs will be expected to understand not just a product, but its composition, its origins and the context of its manufacture, such tracking will become important.

The time has come to re-imagine what can be done with data. In doing so we must of course ensure that data is used properly, that privacy rights and protections are respected, and that data collection should be made more efficient by ensuring that unnecessary data are not collected. But we should aim for the following, at least:

- Better primary data: Collect data from those who have control of it and make them liable for accurate declarations.
- Better Validation of data: Collect data from those who have information which can be used to validate declarations (manufacturers, shippers, agents, and especially e-commerce platforms and payment systems). Their data can be used to cross-check, reducing the incentive or opportunity for exporters to mis-declare.
- Better data sharing: enhance data sharing arrangements within the European Customs administration system for better EU-wide risk management; one single window/portal.
- Develop advanced tracing systems over time (product passports, blockchain based solutions), that will greatly assist traders, and Customs, by tracking packages through the value chain but also facilitate data for compliance with prohibitions and restrictions requirements<sup>19</sup>.

### RECOMMENDATION 2

Introduce a new approach to data, focussed on obtaining better quality data based on commercial sources, ensuring it is cross-validated along the chain, better shared among administrations, and better used for EU risk management. Clarify which private actors – including e-commerce platforms - must provide data, with costs for non-compliance. Provide businesses with a single data entry point for customs formalities and a single window/portal. Data to be stored and properly managed in a central data warehouse. The existing budget for 2021-2027 could be refocused for these goals.

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### Such enhanced data systems will generate considerable benefits:

- Data will be better quality because collected closer to the source.
- Data will be more accurate because of new cross-validation systems with errors and fraud much reduced.
- Data will be entered through a single data entry point – stored in a central data warehouse – and all relevant information for operators will be available in a single window/portal.
- Data will be better used for risk management through data analytics and data modelling ensuring consistency across the EU.

### A new approach to data is required

#### TRADITIONAL DATA APPROACH

- ▶ Customs data is generated for customs purposes and it is separate from commercial data of economic actors
- ▶ Comes from operators (shippers/customs agents etc) not familiar with the contents of consignments
- ▶ Fraudulent/negligent data cannot be penalized because not coming from the source of fraud
- ▶ No cross-verification against other systems
- ▶ Managed mostly on a national basis, so not verifiable with other customs authorities
- ▶ Risk data does not feed into EU systems directly, and is not informing Member States' customs on an ongoing basis – information sharing is not complete

#### NEW DATA APPROACH

- ▶ Customs data will come from the business systems of AEOs and be based on underlying commercial data
- ▶ Other data will be gathered from other sources (platforms, payment systems, etc) to cross-check anomalies for risk assessments, using blockchain when appropriate
- ▶ Data will be integrated on common/shared systems, so that all Member States' customs can access
- ▶ Penalties/costs applied for fraudulent or negligent data
- ▶ Economies of scale for customs services, and more effective, less variation
- ▶ Benefits at EU and national level in less fraud, better risk management, less unfair competition

### FOSTERING COOPERATION BETWEEN CUSTOMS AND MARKET SURVEILLANCE AUTHORITIES, LAW ENFORCEMENT BODIES AND TAX ADMINISTRATIONS

Cooperation is essential for ensuring the proper functioning of the Customs Union. It starts with good cooperation within the European Commission among services relevant for Customs matters. Any legislation with an impact on Customs proposed by the Commission should reflect the feasibility of its implementation at the border. The cooperation and complementarities between Customs and Market Surveillance Authorities, other Law Enforcement bodies and tax administrations, including on data sharing, is also of the essence. The tasks of Customs have grown more complex with the increase in the number of legislation on prohibitions and restrictions, which require specific expertise and the need

to coordinate with a large and increasing number of Market Surveillance Authorities. There is a need for a system that ensures a holistic management of risks at EU level, while respecting that there may be national specific risks, a certainty that risky consignments are adequately checked with similar vigour across border entry points and the organisation of the cooperation with Market Surveillance Authorities and other Law Enforcement Authorities.

### RECOMMENDATION 3

Setting up of a comprehensive framework for cooperation, including data sharing between European Customs, with Market Surveillance Authorities, other Law Enforcement bodies and tax authorities for a comprehensive management of risks at EU level



### REBUILDING THE ROLE OF THE CENTRE: THE NEED FOR A EU CUSTOMS AGENCY

It has become clear that the efforts of Member States’ Customs services, however serious, are inconsistently applied according to different administrative procedures and standards. This must of course have regard to local conditions, but EU duties and protections must apply in a consistent manner. Who is responsible for this? Who is responsible for helping Member States to apply the rules, where they have capacity issues? Who is responsible for ensuring that the equipment and facilities, including scarce IT and data technologies, that will be required by Customs services are going to be available and procured in the most appropriate and economical way?

The European Commission provides an obvious answer, and it already takes on some of these responsibilities. But its special position, both as proposer of legislation and surveyor of the work of the Member States’ Customs services’ efforts, together with the nature of the capacities and resources within the Commission are not designed to fill all these roles. We need the Commission, of course, but there is also a need for a new entity at the centre, to service and co-ordinate the efforts of Member States. Many European policies, some more recent than the Customs Union such as Schengen, have faced similar problems and specific entities – agencies, authorities or otherwise – have been set up to ensure a more integrated cooperation. In the Customs domain, 11 Member States – under the CELBET initiative – are already moving in this direction on their own initiative.

But more importantly, still, the new approach to data outlined above simply requires a central entity – such as an agency –

to develop and implement the new systems, in cooperation with the Member States, and to manage the systems on behalf of the EU and the Member States in the future. The role of the Centre must change. It is unlikely that the ambitions of the EU and its Member States for the Customs system, for border protection and for the Single Market can be met otherwise. The option to assign this responsibility to an existing body (for example Frontex) was dismissed given the different nature of the tasks as well as the focus of the later on operations on the ground.

We envisage that the Commission would initiate the work required to meet the recommendations of this group and would continue to be responsible – as per the Treaty – to propose new legislation as required, including common standards and risk appetite for the European Customs administration system as a whole. Moreover, its central task to provide thought leadership on the future of Customs in the EU would remain.

But there would also be a new central body responsible for the following main tasks:

- Implement the EU-wide Risk management framework, including contributing to identification of priority fiscal and non-fiscal risks.
- Supervision of Authorised Economic Operators.
- Data management: including processes for ensuring trustworthiness of data, rigorous validation and control systems; developing and managing a centralised data warehouse system and coordinating data sharing.

### RECOMMENDATION 4

A European Customs Agency should be set up to provide EU value-added services to the Commission and the Member States. Its governance should respect the existing allocation of competences.

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- Development and financing of future IT infrastructure underpinning the data and deployment of AI - powered analytical capacities; protection against cybercrimes.
- Joint procurement of equipment.
- Supporting the competence of Member States’ Customs administrations in human capacity development and training.
- Operating a rapid reaction mechanism to respond to crises.
- Providing a forum for exchange of experience and knowledge-sharing as well as for peer reviews.
- Contributing to the global discussion on operational customs matters in international fora.
- Supporting Customs on the ground upon request by the Member State.

Such an agency would complement the role of the Commission and support the work of the Member States. The existing practices of customs shopping would greatly reduce; EU added value would be delivered through better co-ordination and doing at the centre those tasks that need to be integrated, while guarding subsidiarity; it would ensure cost effectiveness through economies of scale and better revenue collection. Most important, however, is that the required new approach to data cannot work without central support.

We are not recommending that the new entity would deploy operational capacities on the ground taking over the border protection work of the Member States’ Customs, because of the principle of subsidiarity. We believe that, appropriately, the new central body can drive EU added value, while respecting the roles of the Member States. Everyone should benefit. Citizens would be better protected and businesses would gain in legal certainty.

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The governance of the entity should reflect the existing allocation of competences between the Commission and the Member States. The design could be inspired by the examples of similar bodies, such as the European Authority for Anti-Money Laundering and Countering the Financing of Terrorism.

Clear boundaries and complementarities would need to be agreed between this agency and other EU authorities (e.g. EUROPOL, FRONTEX, Market Surveillance Authorities).

### RESPONSIBILITY AND TRUST – TOWARDS A SYSTEM-BASED APPROACH

The current system of Customs clearance based on transactions should be replaced by a System Based Approach centred on a reformed Authorised Economic Operators scheme, who in exchange for greater facilitation (some sort of fast lane) assumes more responsibilities for compliance.

#### **A new system needs:**

- To reform the Authorised Economic Operators scheme and include a broader range of economic actors.
- Beneficiaries should be able to deal with customs services on a per entity, not per transaction basis. While it will continue to be necessary to identify, in advance, shipments that are being sent into the EU, especially so that dangerous goods can be prohibited from entry in advance, other aspects of the relationship between actors and Customs can be dealt with on an account management basis. Trade data, payments and the like can all be arranged on a periodic rather than per transaction basis, with some cash-flow advantage to the trusted partner, and an administrative advantage to the Customs system.



#### RECOMMENDATION 5

Introduce a System-Based Approach centred on a reformed Authorised Economic Operator scheme expanded in scope, multi-layered and more effective, to better facilitate trade with trust.

- Beneficiaries should get fast Customs processing, but subject to ongoing external audit, and risk-based Customs control, and with financial costs or loss or suspension of the AEO status in case of consistent rule-breaking or mis-declaration. The basis for the trust should be ongoing verification of their systems, and occasional checks by Customs systems. Rule breaking noted by Member States’ Customs authorities would be reported into the central data warehouse systems, so that the risk attached to any given trusted partner can be scored on an ongoing basis.
- Strong liability schemes, with strong penalties in case of non-compliance.
- Non-beneficiaries of the reformed AEO system would need some arrangement to ensure that they are trustworthy to trade with the EU market. As an exception to the AEOs, they would be able to trade with the EU by providing a bond in relation to the goods they move across EU borders. The bond would require to be guaranteed by a AEO and mis-declaration will be reported by controlling Member States’ Customs authorities to the central body, which will make a charge against the bond. Such a charge would be considerably greater than the amount of the misdeclaration, to reflect the likelihood that the mis-declared item caught by a Customs control is in fact representative of a significantly larger number of consignments which were not checked, to ensure that there is a real disincentive to the traders being prepared to accept losses on a small number of mis-declared items, while taking the profit on a much larger number of items which were not sampled for checking. AEOs who consistently allowed fraudulent operators to avail of their bond guarantee services will be liable and will be removed from the Authorised list. In this way, commercials

actors exporting to the EU would either be trusted directly or would be treated as trusted because they are “represented” by another AEO which vouches for them financially. This is particularly relevant for e-commerce platforms.

Economic actors will lose money, or a valued AEO status, or both, if they show themselves to be dishonest or negligent.<sup>20</sup>

- In reforming the AEO scheme, three issues need to be considered. One is the network of Mutual Recognition Agreements (MRA) that the EU has with some third countries on AEOs. The second is the IOSS system introduced in 2021. Third, the specific needs of SMEs.

There will remain a small number of personal or non-commercial packages which are not appropriate for commercial treatment. But these will likely be higher risk and will be subject to a higher level of control.

#### RECOMMENDATION 6

Introduce a new ABC model (Authorised, Bonded or subject to greater Control), in which operators would seek Authorised Economic Operators status to gain commercial access to the EU market. Failing this, a bond provided to an AEO, against which the EU authorities may levy a significant charge for mis-declaration or rule breaches, may allow access to the market. Small non-commercial consignments would continue to be sent through the usual processes, but without priority and subject to a level of controls that reflects their “non-trusted” status

20) There will have to be appeal arrangements, fair treatment rules and so forth. But these will be operated on an entity basis, not a per transaction basis.

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### SO, IT’S ABC – AUTHORISED, BONDED OR SUBJECT TO GREATER CONTROL

The management of AEOs and the levying of charges against bonds and guarantees, would be managed by the agency. This means that the costs of non-compliance would be levied on a consistent basis at the EU level. Criminal sanctions for customs offences or for serious crimes like drug or smuggling of weapons would be available to the national authorities exactly as at present.

If we are putting so much trust in AEOs, how can we be sure that they will comply with the rules – especially since many of them may be outside the EU? Well, it is already the case that many public systems rely on putting trust into the hands of operators, then verifying compliance and applying costs for non-compliance. The model proposed would be inspired by the three lines of defence model and be composed of several layers of controls. (1) Trusted operators who want to retain status and avoid financial costs would develop and execute their own internal controls over goods crossing borders, (2) The design, implementation and effectiveness of these internal controls will be periodically externally ver-

#### RECOMMENDATION 7

Remove the customs duty exemption threshold of EUR 150 for e-commerce and provide some simplification for the application of Customs duties rates for low value shipments

fied and validated, (3) Customs authorities will perform checks based on risk analysis on data submitted by the operators.

### EXEMPTION THRESHOLDS

At present, supplies of goods over EU borders below the threshold of EUR 150 are not subject to customs duties. This reflects a desire not to penalize non-commercial activities and to keep the system relatively simple for individual citizens. However, since a customs declaration is nonetheless required, it is arguable that the thresholds do not achieve the desired aim in terms of simplification. Indeed, since there is no similar VAT exemption, the customs exemption does not even save the importing person the trouble of making a payment with their credit card via the relevant shipping company.

At the same time, the thresholds do create an incentive for exporters to the EU to break consignments down into smaller packages so that they can effectively trade free of customs duties. This creates an unfair competition and provides the wrong incentives both in terms of trade and in terms of environmental sustainability.

Simplification might nonetheless be assisted by providing for a simplification in the application of Customs duties rates for low-value shipments.

#### RECOMMENDATION 8

To implement a package of measures to green EU Customs

# Ten Recommendations for a “Moon-Shot” for Customs



## PUTTING MORE UNION IN THE EUROPEAN CUSTOMS Ten proposals to make the EU Customs Union fit for a Geopolitical Europe

### GREEN CUSTOMS

Customs have an important role to play in helping the EU delivering its Green Deal agenda. It goes without saying that Customs themselves need to contribute via the greening of their own operations. The digitalization of procedures described above will also be an element of this contribution. The uniform application of Customs rules across the European Union would remove the incentives for customs shopping and the associated transport goods across the EU. The removal of the de minimis threshold should also remove the perverse incentive to split consignments (in particular those from e-commerce) into small packages leading to a higher emissions footprint. Finally, Customs have an important role to play by ensuring that prohibitions and restrictions related to sustainability are properly implemented on imported products. The tracing of goods for environmental purposes could take advantage of new technologies such as blockchain, which could progressively be made mandatory in European legislation.

But this agenda could also be broadened. The EU could take the lead in the reform of the WCO Harmonized System Nomenclature, the global common system to classify goods for customs purposes, to ensure it is kept up to date and relevant. Part of these reforms would allow for the proper classification

#### RECOMMENDATION 9

Properly resource, skill and equip Customs to ensure their capacity to fulfil their missions.

of environmentally friendly products that the EU wants to promote in international trade.

### EU CUSTOMS FIT TO LEAD THE CHANGES

With the exponential growth of new non-fiscal responsibilities, Member States and the EU have the responsibility to ensure that Customs are properly resourced, trained, and equipped to have the capacity to fulfil their mission, including proper investigative powers. It also requires a human resource policy which is able to attract new talents and new skills to the job, whilst providing adequate reskilling to customs officers who have to be state of the art in complex matters as diverse as chemicals, drug precursors, electronics, food composition, complex fiscal schemes, etc.

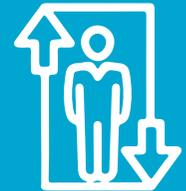
### BETTER MANAGE REVENUE COLLECTION

Efforts at calculating the Customs Gap by the Wise Persons Group have failed due to the poor quality of data and the absence of methodology. It is of particular concern as one cannot manage what one cannot measure. It should be noted that such computation is done for VAT.

#### RECOMMENDATION 10

Introduce an annual Customs Revenue Gap Report based on an agreed methodology and data framework to better manage Customs revenue collection.

**Appendices**





## **APPENDIX 1: GLOSSARY**

**AEO:** Authorised Economic Operator

**BEUC :** European Consumer Organisation

**CEFIC:** European Chemical Industry Council

**CELBET:** Customs Eastern and South-Eastern Land Border Expert Team

**Eurojust:** European Union Agency for Criminal Justice Cooperation

**Frontex:** European Border and Coast Guard Agency

**OLAF:** European Anti-Fraud Office

**UCC:** Union Customs Code

**VAT:** Value-Added Tax

**WCO:** World Customs Organisation

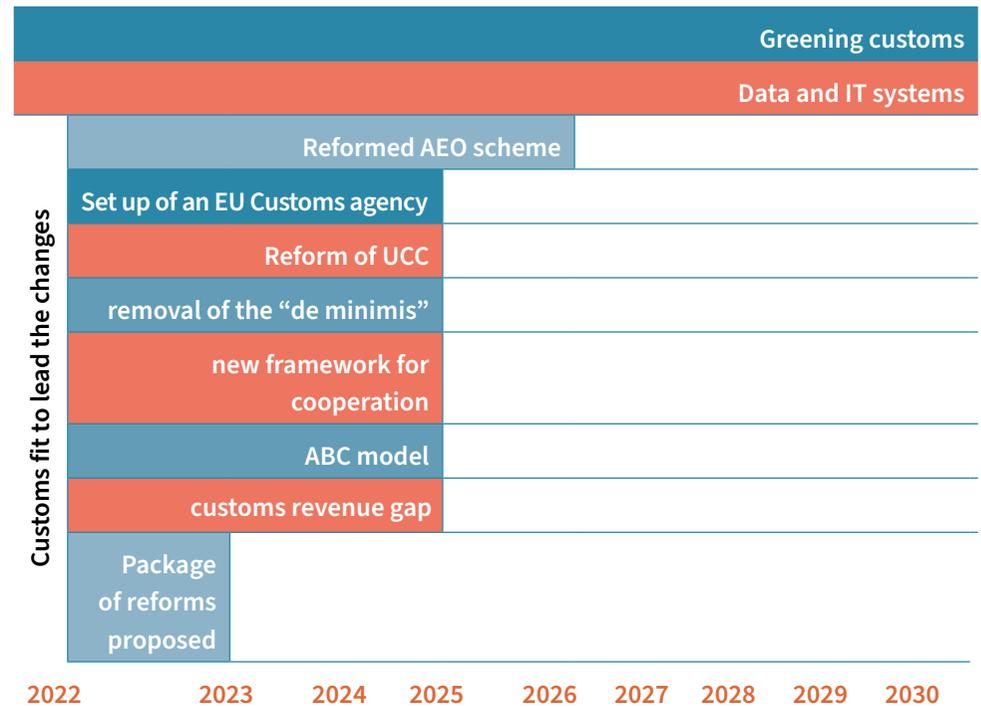
**WTO:** World Trade Organisation

## APPENDIX 2: TIMELINE FOR IMPLEMENTATION

In considering the implementation of the recommendations, the following should be considered:

- 1) A budget of EUR 1 billion has already been allocated under the existing MFF (2021-2027) which should be refocused to implement the recommendations of this report, in particular those related to data and IT systems. The next MFF should include allocations for the full implementation of the package of reforms to be implemented by 2030.
- 2) A set of measures can be frontloaded, in particular those related to revenue collection (the estimated value of the removal of the “de minimis” threshold is around EUR 1,5 billion).

### TIMELINE FOR IMPLEMENTING THE PROPOSED RECOMMENDATIONS





## APPENDIX 3: SUMMARY OF PUBLIC CONSULTATION

The Wise Persons Group opened a webpage for the public to share their views on the reform of the European Customs Union. The webpage was opened between 5th October 2021 and 31st January 2022.

36 contributions were received. 11 contributions come from individual persons and 25 from companies, associations and international organisations. The respondents come from sectors as diverse as postal and express courier, customs services agents, port systems, logistic companies, e-commerce, business associations or international organisations.

Most contribution points to problems linked to the non-uniformity of Customs rules and procedures across Member States. Those procedures are seen by most respondents as burdensome and disconnected from business trade operations. An increased use of IOSS, a reassessment of the de minimis threshold and a simplification of the duty collection system are the points most raised for e-commerce. For risk management, the issue of access to the right data from the right party at the right time is seen as crucial. There is a perceived inadequate integration process between market participants and Customs when it comes to data. Many respondents suggest more responsibilities from actors in the chain, notably platforms or carriers. At the same time, many respondents are concerned by the difficulty for these actors to know the content of packages and parcels. Many respondents suggest streamlining, rationalising and expanding the scope of data collected by Customs. For the review of procedures and data collection, it is suggested to take advantage of the possibilities created by modern technologies. Several respondents also report on the need to better segment low-risk trade and increase the role of AEOs. Turning to non-fiscal risks, the main concern of respondents is the lack of a harmonised list of prohibitions and restrictions at the EU level and that national lists not only differ across Member States but are also difficult to access. Respondents also stressed that Single Windows are not always interoperable and integrated. Finally,

on governance, many respondents call for more centralisation at the EU level. Here again, the non-uniformity in the application of rules and procedures (including tariff classification) across Member States is of major concern.

### WE NOW TURN IN MORE DETAILS INTO THE RESPONSES.

On the issue of e-commerce, some participants suggest better data sharing between Customs authorities and economic operators and among Customs authorities, including from third countries. The suggestion has also been made to increase the liability and responsibility of platforms, while the alternative suggestion is been made to increase the liability and responsibility of carriers. Some respondents suggest decoupling the collection of customs duties and the collection of VAT (in addition, some respondents suggest to have one single import VAT rate), to make the IOSS system compulsory for B2C, and to reassess the de minimis threshold (as to possibly increase it to corresponding levels in third countries or to decrease it to counter illicit trade). A simplified duty collection system is also been proposed (with buckets), notably for low value B2C and C2C shipments. The idea is raised that more efficient and quicker clearance would have a positive impact on customer's satisfaction and could reduce the number of returned items, having a positive environmental impact.

Some respondents point nevertheless to a number of problems with the current functioning of the IOSS, such as the recognition of IOSS numbers in declarations and potential misuses of IOSS numbers (Customs authorities can only recognize the validity of an IOSS number, not the actual holder). The numbers can then be used for fraud and avoiding VAT payments at the border.



On the issue of risk management, the suggestion to separate aviation security procedures from other customs risk is made. Some participants also suggest that more controls could be made at source, on the export side. Another respondent stresses the need to integrate transit better into current processes. Some respondents also voice the difficulty/impossibility of (some) customs declarants to verify the safety and conformity of goods as the information is provided by shippers and these customs declarants do not have access to the physical packages without customs supervision. Several respondents stress the crucial need for better data and additional data sources (for example, intermediaries, platforms) and access to commercial data. Closer looks at current private initiatives to exchange commercial data between commercial operators could lead to opening these data exchanges to Customs. There is an inadequate integration process between market participants and Customs. One participant names the goal “getting the right data from the right party at the right time”. It is also shared by some respondents that risk management needs to build on modern technologies such as deep learning, video analytic platforms, web crawling and dark web investigations, smart containers, etc. New payment data reporting obligations on payment service providers could also be of use. Some respondents indicate the difficulty to obtain end-to-end data from third country suppliers (which may command multilateral trade agreements at countries’ level) and the need to ensure that the data collection process does not interfere with the speed of trade. Some replies express that false sustainability and environmental claims will need to be looked at more closely, others stress the growing need to control IP infringements of imported products.

Some respondents complain that they must fill at least 5 declarations (one on safety and security prior to loading, one data declaration on safety and security and a presentation of the good on arrival at the entry point, the presentation of the good at the Member States of destination, and finally the filing of the import clearance in the Member States of destination). They also complain that the clearing process is still mostly real time and manual, which is time-inefficient and prone to errors.

Some inconsistencies are been pointed such as the need to clear goods in a customs office of the Member States of destination instead of in the entering hub, which leads according to some respondents to unnecessary and environmentally-detrimental movements of goods by trucks and planes. Some respondents stress the need for Customs to be part of strategic and disaster management plans given their role at the borders. The opinion that low-risk trade is not enough segmented is voiced. Turning to AEOs, some respondents suggest allowing them to arrange import through the whole EU. One respondent also proposes to include as AEO criteria the IP licensing management criteria.

On the issue of non-fiscal risks, the lack of a harmonised list of prohibitions and restrictions is raised as a particular problem as rules may differ across Member States. In addition, the lists are not transparently available in each Member State. Respondents also flag the fact that multiple systems and data requirements exist even under Single Windows and that some Single Windows are stand-alone, without cross-country integration. In terms of non-compliant products, some respondents voice the idea that the current legislative framework is not adapted for protecting consumers under e-commerce and that the responsibility of platforms needs to be strengthened, notably under the product liability directive. It is also suggested to study the situation of EU food legislation that has introduced a system of fees calculated to reward operators with consistently good records of compliance. In addition, it is further suggested that customs duties could directly fund Customs offices as incentive. Respondents also suggest improving safety controls by establishing a systemic cooperation between of the Consumer Safety Network with other European networks and to follow the example of the EU-Canada administrative arrangement for cooperation, which allows exchange of data and joint investigations.



Some respondents stress the disconnection between customs procedures and the reality of business. This leads to extra requirements and procedures to bridge commercial processes and customs requirements. In addition, some respondents complain about the fact that the procedures under the UCC have been digitalised one-to-one (even if they still imply many papers and PDFs) instead of having been redesigned to take advantage of modern technologies (including blockchain and artificial intelligence). The rules are also seen as too complex, increasing in number and leading to high compliance costs.

Respondents indicated that a clear mandate for change shall be given and that the process shall be piloted to coordinate interagency cooperation, operational processes, data sharing and the development of systems. It also entails a planning process and resources.

On the issue of governance, the non-uniformity of the application of rules and procedures (including tariff classification) across Member States is also stressed. Some respondents voice the need for a European Customs Agency, a uniform application of the Customs rules and procedures as well as a single customs system where declarations could be made in any language of the EU at any entry point. Some comments extend to the need to include excise duties in the EU standardisation process. One respondent suggests studying the example of Switzerland, which has eliminated customs duties for industrial products.



## APPENDIX 4: SUMMARY OF THE HEARINGS OF INVITED EXPERTS

**The Wise person group auditioned stakeholders to gather stakeholder views before tabling a set of recommendations.** Seven meetings were held in Brussels from September 2021 to March 2022 to discuss key topics for the modernization of customs: the rise of e-commerce, the future of risk management, the effective management of customs' increasing range of non-financial tasks, and the future governance of Customs. During the meetings, the Group has been informed by the Commission about the work already carried out by existing project groups and subgroups, and recent relevant studies. The Group has conducted hearings with public and private sector experts (in IT and data management) and relevant stakeholders along the entire value chain, such as representatives of businesses (large and SMEs), individual companies including e-commerce, consumers associations, NGOs, airports, seaports, postal operators and express courier companies, logistics companies, academics, international institutional partners (WTO, WCO, World Bank), and Member States; (the list of invited experts and associations is included in annex). Extensive summaries of the hearings have been made available at the official webpage.

**As a summary from the hearings,** the pace of change in trade, the explosion of e-commerce, new advances in technology, increased expectations on security, safety and sustainability by European citizens has not quite been matched by evolutions in customs processes and systems. The above-mentioned root causes have resulted in a Customs Union that is growingly dysfunctional, too static, and not able to deal with emerging threats. A common complaint is the lack of uniform implementation of Customs legislation by Member States, with different interpretation of the common rules, differences in control procedures and differences in sanctions for non-compliance. In addition, Customs goals have changed, with a much greater role in non-fiscal protection, and regulation has become more complex. There is also today a greater need for near-real-time analysis, as distinct from post-release analysis with historical data.

There is a call by invited experts for simplified, modernised and future-proof legislation better able to cope with new developments. Several experts pointed that e-commerce and new business opportunities need to be accompanied by corresponding responsibilities from the actors along the value chain, that real disincentives for fraudulent or negligent declarations and trade facilitation for honest players (through the revision of the AEO system, new customs declaration processes and/or a system-based approach) should be developed. In addition, the hearings point at a need for a new data and risk management system, taking advantages of the possibilities created by modern technologies, in full compliance with data protection. Equally, non-fiscal risks need to be dealt with to better match the EU ambition to become environmentally and climate-friendly as well as to protect its citizens and businesses. This would require a change of governance, sometimes leading participants to call for an EU customs agency, in full respect with subsidiarity principle.

### THE NEED FOR A SIMPLIFIED, MODERNISED AND FUTURE PROOF LEGISLATION

**The hearings have indicated that rules are outdated and needs to be modernised.**

The sequence **of customs steps is too complicated and operators must provide the same information at multiple time for different systems. More user-friendly forms would improve voluntary compliance. A Single Window would, according to invited experts, offer a (1) single submission of data, (2) single and synchronous processing, and (3) single decision for release and a single mechanism for trader communication.**



**Some invited experts also see binding information procedures on tariff and origin as in need of review.** Businesses are particularly concerned with the multiplication of rules and call for a drastic simplification of customs procedures, a simpler tariff and duty rate system. The existing combined nomenclature is also not considered fit for new technology and new products. Most EU regulations on products require specific expertise (and there are often divergent interpretation of the same measures), which also put SMEs at disadvantage. Compliance can put a disproportionate burden on trade. **Therefore, several experts call for making the legislation clear and coherent (“better written rules”) as vital to allow for good faith compliance by all traders. They consider that Customs legislation must be more dynamic and future-proof to adapt to new products and new business processes.** When rules are complex, guidance and due diligence instructions could help companies to know what needs to be done.

**It was proposed by some experts that the EU could consider issuing binding tariff information at central level to resolve tariff classification issues.** Several invited experts have also called for a simplification of the duty rules for low-value import.

**Some stakeholders also suggested consideration of synergies between the VAT/IOSS and Customs processes, both in relation to the value assessment aspects and to the declaration and data processing work.** Discussions included whether the IOSS scheme could be extended to cover consignments over the EUR 150 threshold, whether VAT rates could be adapted for e-commerce, and whether Customs and VAT data could all be fed by operators into a single system.

**Businesses plead for a better exploitation of the existing possibilities for simplifications in the UCC.** Business facilitation schemes need in their view a revamp. The tools for simplification may be fit for large companies but are too costly for SMEs. The “Authorized Economic Operator” status” shows promise but needs to expand, be multi-layered and rendered more effective. The concept of reliable trader should make more use of risk segmentation. Also, some experts proposed that the concept

of reliable trader should not only look at the activities of the trader, but also at the networks where it operates (i.e. the entire trade and supply chain). They find that the benefits/incentives of reliable trader programs are less controls at clearance, a broader use of post-release controls and a more predictable, fast and resilient supply chain. They voiced that reliable traders could help customs to detect new risks and illicit goods.

**Several business experts ask for a system-based approach** to be considered as an alternative approach to a transaction-based approach. This would entail **more possibilities to apply self-assessments** and, when operators are compliant, businesses would benefit from **periodical submission of data and automatic release** of the goods instead of having to submit declarations for every transaction. **Businesses also think that controls do not necessarily have to occur at the borders (unless there is a risk for health)** and could occur at the importer’s premises to avoid trade disruption and overload at border posts.

**A large number of stakeholders suggest that access to data that exists in businesses’ databases or in their invoices but are currently not available to Customs, because outside of the declaration, could be a game-changer.** However, accessing this data requires **a change of paradigm away from traditional customs declarations towards an integrated chain of business data available to Customs authorities to control where and when necessary.**

**Finally, many stakeholders mentioned that the Customs Union need to adapt more quickly to the fast-changing trade environment.** It was expressed that developments of new structures and systems have been quicker in the field of law enforcement policies than in Customs. Many experts see an urgent need to build incentives for national systems to connect to the center and an urgent need for a clear mandate to define common risk appetite as a guarantee to EU citizens Security.



### ADDRESSING NEW RISKS CREATED BY E-COMMERCE AND RETHINKING PLATFORMS' RESPONSIBILITIES

The hearings have indicated that the digitalisation of the economy raises challenges for Customs. In particular, the fragmentation of consignments into low-value individual shipments and the issue of responsibility and liability of online platforms are issues raised by many experts as in need of solution.

E-commerce operators declare that they feel responsible for the products sold on their platform and carry out strong due diligence checks. Reference was made to strict on-boarding of suppliers for Customs and stringent checks against counterfeit goods. However, when it comes to ensuring product safety, experts stressed differences (possibly linked to the role of the platform).

Some participants reported that there is in fact **very little incentive for operators in general to improve compliance because there are very few adverse consequences in case of non-compliance**. It was suggested that platforms could take greater responsibilities for the compliance of the traffic flows which they enable (including those based outside the EU). Some experts consider that they should be registered in EU, with liability/responsibility for Customs matters.

The planned **Digital Services Act is expected to have a positive effect** by requesting online marketplaces to apply the “know your customer” principle. Further, it was suggested that the future revision of the Product Liability Directive could make it clear that all professionals involved in the supply chain (including online marketplaces) are jointly liable when products are not compliant and that 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.

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Some experts expressed concerns that trade is being (in part) routed to adapt to non-uniform risk management and control conditions, leading to logistical inefficiencies (additional transport and CO<sub>2</sub> emissions) on top of weakening controls. E-commerce is offering large possibilities to shift traffic into small quantities which are much harder to control and are beyond the threshold for duties.

The non-financial risks are also very important – both in terms of serious (potentially fatal) harm and security threats caused by dangerous products. There is also economic and social damage to consider: where EU industries have to work to high standards (e.g. consumer, environmental and employment protection) and e-commerce imports do not respect these standards, competition is unfair and systematically damages Union and national interests, including jobs and innovation.

### DIGITALISATION OF CUSTOMS

A recent survey conducted by the WTO and the WCO showed that data analytics and artificial intelligence were having the biggest impact on customs operations, including on dealing with non-fiscal risks.

Members noted that the majority of data that could be useful for customs risk analysis and controls is already collected and available in external non-Customs systems (e.g. IT systems of companies) and that IT techniques and tools to collect them exists as well. Improving access to data can be done by providing incentives for the exchange. One obstacle concern privacy/security rules.

The Commission is active in developing a framework for a **European Digital Identity** aiming at increasing interoperability and re-use of models. Digital passports for products from third country could be established within a reciprocity framework.



## NEW DATA AND RISK MANAGEMENT

Many participants to the hearings mentioned that the lack of a common EU approach in tackling financial risks and the persistence of an unequal implementation of controls at the EU borders create opportunities for fraudsters to abuse the system and illegally evade the payment of taxes and duties.

Evidence presented to the group suggests that data sharing within the Customs Union is incomplete and uncoordinated. Data sharing between operators and authorities was cited as key element to be improved by the large majority of experts. Some experts believed that IT is not the problem to obtain data – as technical solutions are available – and that the issue is a legislative and political one. **It was noted that a major inhibitor is the lack of trust between Member States when it comes to sharing data, sharing intelligence, relying on each other's IT tools.** The current legislative framework is not perceived as necessarily facilitate data sharing and the current exchange between authorities is limited by competitive concerns.

Consequently, there is yet no central data sharing mechanism that can support a European-wide risk management system. This leads to a limited focus when addressing risks (mainly isolated at national level) and the use of IT tools exclusively developed to respond to national needs (without cross-border dimension). The key point would be to have all necessary data from operators along the supply chain, to foster exchanges of data between customs and e-commerce platforms, and between countries of export and import. Data would be available centrally to Customs, other market surveillance and law enforcement authorities to allow a real-time mapping of risks in the EU and a quick common response.

Some experts expressed the opinion **that risk analysis is only harmonized in the textbooks but that there remain large divergences of interpretation on the ground. A minimum standard of controls was suggested, taking account of differences in control rates.**

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Another discussed difficulty is that Customs are generally unable to confirm the correctness of the declared data without opening the consignment. The information currently collected by Customs seems largely insufficient to assess the compliance of products. Important information is not available in the customs declaration. To add to the difficulty, there is little if no match between the customs nomenclature and product classification. The nomenclature is not dynamic enough and not connected to the reality of business world.

The experts voiced a need for an effective data-driven approach, implying clarity on the data needed, on who can and must provide it, and on how best to collect it. It is seen important to collect data as early in the supply chain as possible so that risk analysis can be carried out and customs interventions arranged in advance. It is also important to provide for effective sharing and use of the data in harmonised processes (in particular, linking all available data to a specific consignment declaration).

Improving the quality of data is also presented by experts as essential. Data quality can be improved by developing algorithms for checking the accuracy of data submitted or by creating incentives for filling in accurate data. Customs procedures also need to be simplified and data required from trade must be assessed and rationalised by deleting unnecessary data requests, eliminating redundant requests and adding the necessary but missing data elements.

Members acknowledged that Customs risk analysis can be improved via the use of data analytics by (1) developing IT platforms for data sharing, (2) developing statistical methods to find anomalies/fraud patterns and (3) improving the use of data analytics in detection technology tools. Two main challenges were noted. First, automated customs data analytics accuracy is not 100% and efficient detection remains partly dependent on human judgement. It requires combining data analysis expertise with customs risk expertise and therefore require investing in specific trainings. Secondly, data are currently very fragmented (for instance logistic data on rail, road etc.) and IT systems have each their own standards.



### PROHIBITIONS AND RESTRICTIONS

**Over time, new concerns have been added to the traditional customs tasks, such as the interception of dangerous and counterfeit products, or products that do not comply with health or environmental standards.** Nowadays, goods still make up more than two-thirds of the value of EU external trade and Customs need to ensure that imported goods respect all EU standards (IPR, product safety, etc.).

**Experts said that ambitious EU policy objectives (trade, environment industrial policy) cannot be implemented without a strong, harmonised and uniform EU customs.**

**The Members were informed by consumer associations of alarming recent studies showing that consumers are confronted with a constant increase of dangerous and counterfeit goods due to the lack of compliance of safety standards or the use of chemicals in products.**

**The cooperation and complementarities between the Customs authorities and Market Surveillance Authorities (MSAs) was also discussed** as their role will continue to increase in the future. The hearings suggest that cooperation is not always working optimally and the compliance of goods to safety and other rules is not always adequately checked. The system in the non-food area suffers from a multiplicity of measures and regimes of controls depending on the type of goods. **The number of regulations related to products has increased exponentially in recent years** and require high standards and compliance measures to be respected by EU business. If goods coming from third countries do not respect those standards, this generates unfair competition for legitimate EU business.

**E-commerce is a catalyzer for these problems as it puts into question the current logic of controls.** Controls can indeed be performed either at the border or within the single market. Some themes for reflection presented in the auditions include roles and responsibilities (what needs to be done at the border by customs versus what could be done in the internal market by the market surveillance authorities,

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the responsibilities of economic operators in particular platforms), the prioritization of risks and actions (taking account of practical control capacities and the need for deep sectoral knowledge), and the use and interoperability of IT systems and data and of new technologies.

### GOVERNANCE

**From the perspective of the Customs Union to deliver outcomes “as one”, the current governance configuration involves several important challenges.** The large majority of interviewed stakeholders complain about a systematic absence of common implementation of customs measures and different control practices across border entry points within and across Member states. There is a call from these stakeholders for a uniform and forward-looking approach in the EU based on more harmonized and simplified procedures, with similar approaches to customs controls and an increased use of modern technology and use of data.

**At the strategic level,** the current division of roles and responsibilities across all involved bodies does not provide for a specific focal point for prioritisation and organisation of a common delivery, for clarifying the customs contribution in multi-agency risks and threats, or for developing and implementing bilateral and multilateral international co-operation.

**At the operational level,** some differences in national approaches to customs controls and significant weaknesses in fraud protection were noted. MSAs are the second line of defense but are constituted of more than 600 bodies, under the responsibility of a dozen of concerned Ministries and a regulatory framework that depends on the topic, with limited cooperation across MSAs with different focusses. Customs administrations also struggle to perform their duties given the resource limitations in terms of staff, equipment and capacity to use new technologies for detection and controls.



### THERE IS A NEED TO IMPROVE THE INCENTIVES TO MAKE THE SYSTEM WORK

**Taking account of the current Customs Union Governance conditions, interviewed stakeholders also reflected on the importance of considering contents** (what activities should be done at EU level versus what at Member State level; what is the best structure for the strategic and operational problems) before turning to the appropriate form (and learning in that context about experience of other EU actions).

**Stakeholders discussed areas of customs activity that would benefit from the Customs Union acting as one, and what would be the best structure, scope and approach for a future governance model to achieve this (taking account also of data governance issues, as these are foundational).**

**The data and risk management and IT aspects seem prima facie to emerge as key issues.** IT tools are fragmented with the sprawling of different IT interfaces to address specific risks. Fragmentation is a cost on business and adds to the inefficiency of integrated controls. Customs IT systems development requires many parallel projects which inter-connect national, common and external systems. Customs data is accordingly divided across different systems and controllers, limiting visibility and common risk analysis. Centralised systems have proven to be highly cost-efficient from an overall EU-perspective compared to distributed, hybrid and decentralised systems which entail lengthy processes (sometimes twice the time) and a multiplication of costs. **One needed development relates to an improved interoperability and use of information systems.**

**In addition, experts expressed the opinion that it is not possible to manage EU-wide risks without an EU risk analysis capacity.** More cooperation and trust are crucially needed between customs administrations if we want to succeed.

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**More broadly on compliance issues, the Members discussed with stakeholders whether priorities for controls could be better coordinated and managed at EU level.** Defining common priorities is tricky because each Member State has its own national priorities. If it is impossible to define EU priorities, the EU could at least define common criteria on how to prioritise. Members also discussed the opportunity to consider a dispute settlement mechanism to address divergence of approaches between Member States and allocate responsibilities for non-compliance.

**It was proposed that this should be accompanied by more investment in MSAs/ Customs cooperation by linking people (mentoring programme, building mutual understanding) and systems (creating interface between MSA and customs by identifying inter-operability needs between existing systems).**

**Some Customs authorities have 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 Wise Persons Group also discussed the experience of CELBET where 11 Member States have set up an expert team to build up and strengthen operational cooperation actions at the Eastern and south-eastern land border to act as one.** Within 5 years, CELBET has reached substantive results. These 5 years of experience has also shed light on some problems, such as the difficulties to share data and risk management results between Member States, the persistence of differences of rate of controls between border crossing points, and differences in performance between Member States, also due to different resources capacity and level of training of staff. It also points to the differences between Member States on the priorities to implement prohibitions and restrictions and the lack of common approach to sanctions, which hinder the effectiveness of joint actions. **CELBET claims for the development of a permanent separate customs entity, encompassing all Member States and all borders (land, sea, air) and enabling customs to act as one.**



## LIST OF INVITED EXPERTS

### (INVITED ASSOCIATIONS)

**Accenture**

**AFSCA** – Belgian Federal Agency for the Safety of the Food Chain

**Allegro**

**BEUC** – The European Consumer Organisation

**BusinessEurope**

**CEFIC** – European Chemical Industry Council

**CELBET**

**Delft Technical University**

**DG BUDG** (European Commission)

**DG CCRF** – French Ministry for Economy

**DG CONNECT** (European Commission)

**DG ENV** (European Commission)

**DG GROW** (European Commission)

**DG HOME** (European Commission)

**DG OLAF** (European Commission)

**DG SANTE** (European Commission)

**DG TAXUD** (European Commission)

**DG TRADE** (European Commission)

**DHL**

**Estonia Customs**

**European Court of Auditors**

**Europol**

**Frontex**

**Genoa Sea Port Authority**

**Global Express Association**

**Lego**

**Leipzig Halle Airport**

**Liège Airport**

**Lisbonne Airport** (ANA - Aeroportos de Portugal)

**Maersk Trade and Customs Consulting**

**Mc Kinsey**

**Paypal**

**Piraeus Port Authority / COSCO SHIPPING Lines** (Greece) S.A.

**Port of Marseille**

**Port of Rotterdam**

**Posta Slovenije**

**Mr. Andrea Renda** (Centre for European Policy Studies)

**Singapore Customs**

**SMEUnited**

**Swiss customs**

**TRAFFIC**

**UPS**

**Václav Havel Airport Prague**

**World Bank**

**World Customs Organisation**

**World Trade Organisation**

**Zalando**

**ZZI**



## APPENDIX 5: ESTIMATION OF TAXES COLLECTED AT THE EU BORDERS

This appendix makes an estimation of the taxes collected at EU borders.

The Tax Revenue Statistics collected by Eurostat contain data on tax and duties collection by Member States.<sup>21</sup> The aggregated information is also available in the Taxation Trends Report published by DG Taxation and Customs Union of the European Commission.<sup>22</sup>

The statistics provide information on taxes and duties on imports excluding VAT<sup>23</sup> as % of GDP. In 2020, it represented for the EU27 0.5% of GDP (stable over the reporting period 2008-2020). In monetary terms, this amounts to EUR 72.7 billion.

Note that this category includes both import duties (category D2121) and excises duties collected at borders (category D2122C) but excludes excises duties within the Member State (which are included in the other taxes on products, category D.214). Note that excises duties collected at borders include those levied on imports from other Member States. It also does not include some export duties and monetary compensatory, (category D.214k), which are recorded as capital taxes. Based on the National Tax Lists provided by Member States to Eurostat, we can see that category D.214k is in reality zero/non-existent in all Member States. In addition, taxes on international transactions (D.29d), taxes on pollution (D.29f) and the under-compensation of VAT (flat-rate system) (D.29g) have been considered as consumption taxes not part of this category.

They however seem to have so far little to do with trade of goods and are unlikely to be collected or assessed by Customs.

The other important tax that is collected at borders is VAT. A rough estimate of the amount of VAT collected at borders is obtained by multiplying the value of extra-EU imports of goods<sup>24</sup> by the respective national standard VAT rates.<sup>25</sup> Indeed, imports usually concern goods that are not subject to a reduced VAT rate. This amounts to EUR 360.5 billion for EU27.

However, the system of VAT is such that we need to distinguish between B2C transactions for which the VAT payment is final and B2B transactions for which the VAT paid by the VAT-registered importer is deductible as input VAT. C2C transactions are not subject to VAT. For a fair estimate, one needs to select B2C transactions only. To the best of our knowledge, the share of B2C in total transactions is not directly available in the statistics. We can reasonably assume that the share of extra-EU C2C trade in goods is negligible so that the market is split between B2B and B2C. Statista offers the share of B2B in e-commerce for a selection of developed countries for 2019<sup>26</sup>. It varies between 72% and 95%. We shall stress that the share of B2C in e-commerce is likely to be higher than its share in total trade of goods, that englobes industrial and chemical goods for example.

21) [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Tax\\_revenue\\_statistics](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Tax_revenue_statistics). The cut-off data is February 2022.

22) [https://ec.europa.eu/taxation\\_customs/taxation-1/economic-analysis-taxation/taxation-trends-european-union\\_en](https://ec.europa.eu/taxation_customs/taxation-1/economic-analysis-taxation/taxation-trends-european-union_en)

23) Category D.212 in the ESA2010 classification system.

24) Intra and Extra-EU trade by Member State and by product group [EXT\_LT\_INTRATRDR\_\_custom\_2099317] [https://ec.europa.eu/eurostat/web/products-datasets/-/EXT\\_LT\\_INTRATRDR](https://ec.europa.eu/eurostat/web/products-datasets/-/EXT_LT_INTRATRDR) Data extracted on 15/02/2022

25) [https://ec.europa.eu/taxation\\_customs/taxation-1/economic-analysis-taxation/data-taxation\\_en](https://ec.europa.eu/taxation_customs/taxation-1/economic-analysis-taxation/data-taxation_en)

26) <https://www.statista.com/statistics/1242150/b2b-e-commerce-share-in-total-e-commerce-sales/>



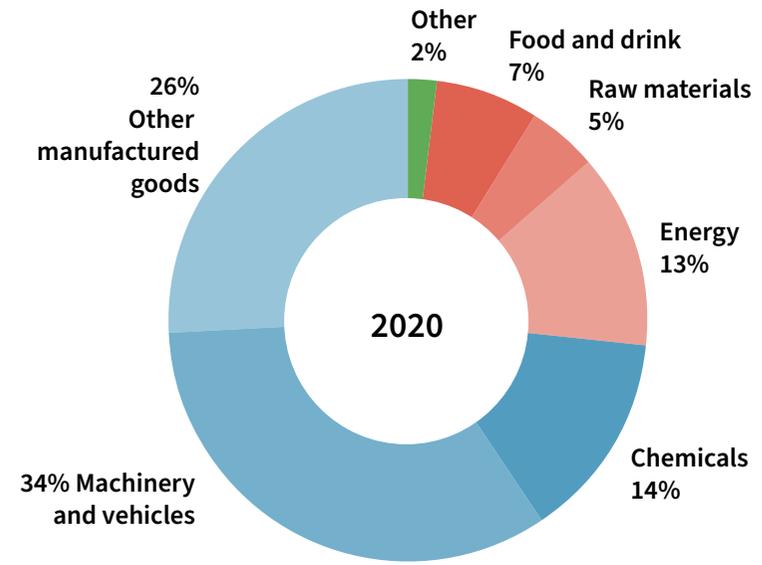
EU import of products is split in different categories. Food and drinks, raw materials, energy, chemicals and machinery and vehicles are unlikely to be subject to B2C extra-EU trade. Hence, only the categories ‘other manufactured goods’ and ‘others’, totalling 28% of trade are possibly containing B2C transactions. If we consider as an upper bond that B2C transactions for those is 10%, we obtain 2.8% of the trade. We apply this coefficient to our figures<sup>27</sup> to obtain a B2C import VAT collected of EUR 10.1 billion for EU27.

**This gives a grand total of EUR 82.8 billion for the EU27 for the tax, duties and VAT collected on imports.**

2020	Taxes and duties on imports excluding VAT (million EUR) (a)	Estimated import VAT (million EUR) – all transactions (b)	Estimated import VAT (million EUR) – B2C transactions (c)	Total (a)+(c)
EU-27	72,752	360,565	10,096	82,848

27) Assuming here that the share is similar across Member States.

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Source: Eurostat, [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Extra-EU\\_trade\\_in\\_goods#Evolution\\_of\\_extra-EU\\_trade](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Extra-EU_trade_in_goods#Evolution_of_extra-EU_trade) based on Comext DS-06332.

