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COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT REPORT

[…]

Accompanying the document

Proposal for a Regulation of the European Parliament and of the Council

establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013

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1. INTRODUCTION

1.1 Political Context

Founded in 1968, the **Customs Union** manages the external border of the EU by enforcing the rules governing the cross-border movement of goods, including by imposing a common tariff on goods imported from third countries. It is the basis and the guardian of the EU Single Market, allowing goods to move freely within the Union. It is a European success story that shaped the early stages of European integration and today enables the prime position of the EU in global trade as one of the largest trading blocs in the world.

At its core are the exclusive competence of the Union to regulate, and a common legal framework (the Union Customs Code ([1]), UCC), which is implemented by the customs authorities of the Member States. For ensuring their missions, customs authorities use an increasingly complex set of IT systems that also allow the economic operators to fulfil their obligations by digital means.

Customs traditionally collect **customs duties** and other taxes on imports, and despite the global decline in tariffs, the collection of duties remains economically significant (EUR 24.8 billion in 2021). 75% of the collected customs duties are destined to the EU budget, representing 8% of the Union budget for 2021.

The role of customs has evolved over time to cover also **non-financial tasks**. During the last 20 years, non-financial sectoral legislation applicable to goods (so-called 'prohibitions and restrictions') has increased exponentially, in line with growing expectations regarding security, sustainability, safety, health and the protection of human rights. In close cooperation with other competent authorities, customs are the 'first line of defence' to protect EU citizens against non-compliant, dangerous, or counterfeited goods from third countries, and EU businesses from unfair competition. Customs further contribute to the fight against smuggling of illegal goods and terrorism and defend the EU values and way of life.

Due to its **strategic** position at the external border, customs are directly involved in managing crisis situations, to ensure the smooth functioning of supply chains and to either facilitate or restrict the flow of goods. Cooperation between customs administrations of countries of export and of import is key for securing international trade. The withdrawal of the United Kingdom from the EU and the Covid-19 pandemic presented a significant challenge for businesses and customs. The trade sanctions in response to Russia's invasion of Ukraine ([2]) highlighted the major contribution of customs to the security and strategic autonomy of the EU. The capacity to determine and enforce which goods enter and leave the Union is of strategic importance.

Box 1 – Impact of recent events on the Customs Union

The **withdrawal of the United Kingdom** effectively changed the boundaries of the EU Customs Union in 2021 and increased the realm of extra-EU trade. The Customs Union had to adapt in multiple ways to handle the withdrawal by the end of the transition period on 31 December 2020 (staff increases, logistics, operators registered). All customs IT systems automatically disconnected UK as a Member State on 31 December 2020 at 23.59 and recognized it as a third country on 1 January 2021 at 00.00. The fourth largest Member State in terms of imported items is now Ireland, which accounts for more than 8% of all items

([1]) Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1–101) and its delegated and implementing rules.

([2]) At the time of writing, for an overall view of the EU sanctions against Russia see here; for a detailed list of the customs-related measures see here.

declared at import. The combined effect of the withdrawal of the United Kingdom and the surge in low value consignments result in the number of import declarations multiplied by more than 20.

The **eruption of Covid-19** in February 2020 required adopting urgent measures for trade. This included measures on duty and tax relief, simplified formalities and an agreement on control priorities and a common approach to risks at the border. This was vital to accelerate the delivery of urgently needed goods while identifying and blocking substandard or non-compliant goods (masks, medicine, sanitizers etc.). ([3]) Customs authorities sent 950 alerts on fake products. In 2021, the customs authorities enforced the mechanism for monitoring the export of vaccines. The pandemic and the associated lockdown and restriction measures severely affected the EU external trade in goods in 2020. The public consultation revealed that the contribution of the Customs Union in responding to the Covid-19 pandemic and its socioeconomic consequences is widely perceived as positive by the respondents to the public consultation (it is very, quite, or fairly positive for 63.8% of them, while it is negative for only 21%).

The implementation and enforcement of **sanctions the EU adopted against Russia and Belarus in response to the war in Ukraine** put a new emphasis on the security dimension of customs work, both for import restrictions and export controls. The humanitarian support for Ukraine, as well as the facilitation of grain exports demanded resolute work by the customs officers.

As any individual seaport, airport or land border crossing point is the entrance to the whole EU, the protection provided by customs in one Member State is at the service of the entire Union. The Customs Union is only as strong as its weakest link. Yet, there are significant differences in the human and financial resources, training, risk analysis capabilities and levels of control of the national customs administrations.

The Customs Union's capacity to keep pace with modern developments is increasingly under pressure. New safety and security threats, the rise of environmental and human rights-related concerns, and the dramatic increase of e-commerce trade flows are posing a significant challenge and squeeze customs authorities.

Meanwhile big data, new technologies and digitalisation are opening new opportunities for handling and exploiting data for the benefit of all participants in the economy. While customs authorities continue to strive to develop solutions, the current completion of the IT systems required by the UCC will not be enough to ensure the full use of data in order to respond effectively to existing and future challenges.

Considering current and future challenges and the evolving role of customs, the President of the European Commission committed 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'* by proposing as one of her political priorities ([4]) '*a bold package for an integrated European approach to reinforce customs risk management and support effective controls by the Member States'*. In September 2022, the Commission laid down a Customs Action Plan ([5]), as a first step until 2025, to turn President von der Leyen's Political Guidelines into tangible benefits for European citizens, businesses, and society.

The present initiative on the revision of the Union customs legislation proposes an integrated European approach to reinforce customs, looking at the customs processes, the data management and governance framework. It builds on the Customs Action Plan and is part of the Commission Work Programme 2022, under the priority **'An economy that works for the**

([3]) For an overview of the measures taken by the European Commission in the customs and tax area, see COVID-19 Taxud Response (europa.eu).

([4]) A Union that strives for more - My agenda for Europe: political guidelines for the next European Commission 2019-2024.

(5) Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee, Taking the Customs Union to the Next Level: a Plan for Action (COM (2020) 581 final).

people'. By strengthening the EU's ability to enforce domestic requirements on imported goods, thereby ensuring a level playing field, this initiative will also contribute to other Commission priorities such as **promoting our European way of life, a European Green Deal, a Europe fit for the digital age** and **a stronger Europe in the world**.

Figure 1 illustrates the scope and relevance of the Customs Union for broader EU policies and the transversal importance of the Customs Union as a shared strategic asset.

Figure 1 - Policy contribution of Customs Union - illustrative examples – source DG TAXUD

Economy and Finance	Single Market and Sustainability	Security
• Tariffs • Quotas • Anti-dumping • Excise • VAT • Intellectual Property Rights	• Ecodesign • Phytosanitary • Waste • Toy Safety • F-gases • REACH • Forced Labour • Deforestation	• Sanctions, export controls • Drugs/Precursors • New psychoactive substances • Counter-terrorism • Firearms • Explosives

There is a close nexus between effective customs controls and the implementation of the EU trade policy, including trade defence (Column 1). Similarly, there is a strong connection between the contribution of customs to the Single Market and the objectives of the EU competition policy, for ensuring a level playing field in the competition between producers in the EU and abroad (Column 2). Unless the Customs Union performs optimally, EU producers who respect all the rules and regulations applying in the Single Market are not competing on a level playing field necessary for securing EU jobs and growth. At the same time, traders need to operate smoothly, simply, and quickly, without unnecessary breaks in the supply chain. A balance must be found between customs controls and facilitation for legitimate traders.

1.2 Legal context

The Union Customs Code (UCC) is the main legal and IT framework for customs processes in the EU customs territory. The Union Customs Code is composed of a basic act and a wide range of detailed implementing acts and delegated acts. The customs authorities must also contribute to enforce numerous different EU policies applicable at the external borders. ([6]) Below are listed the most relevant pieces of existing or proposed legislation to which this initiative is related:

- On the financial side, the legislation on **own resources for the EU budget** identifies customs duties as a direct source of revenue for the Union ([7]), while another set of rules regulate how these are made available to the Union. ([8])

(6) The Directorate-General for Taxation and Customs Union (European Commission) published in 2021 an integrated list of the EU policies requiring specific controls on goods at the border, including prohibitions and restrictions imposed on imports, exports or goods in transit.

(7) Traditional Own Resources or TOR - Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom (OJ L 424, 15.12.2020, p. 1).

(8) Council Regulation (EU, Euratom) No 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements (Recast) (OJ L 168, 7.6.2014, p. 39).

- Also on the financial side, the **VAT** rules apply on imported goods and foresee specific measures on cross-border business-to-consumer (B2C) e-commerce sales from third countries. ([9])

- On the non-financial side, the **Market Surveillance Regulation** ([10]) provides the legal framework for risk-based controls of non-food products sold on the EU market, in particular through a systematic cooperation and exchange of information between Market Surveillance Authorities and customs authorities for detecting unsafe or non-compliant products entering the Single Market. Customs will also be called to implement the revised **General Product Safety Regulation** ([11]) and the new rules aimed to effectively ban the placing on the Single Market of products made wholly or in part by **forced labour**, ([12]) once the respective proposals are adopted.

- In the field of **environmental legislation**, Customs are involved in the enforcement of numerous rules *inter alia* on chemicals ([13]), the protection of species of wild fauna and flora ([14]), the fight against climate change by minimising the use and emissions of dangerous substances ([15]) ([16]). Customs will also be called on to apply new EU rules to curb deforestation ([17]) and treat waste shipments ([18]). Moreover, the Sustainable Products Initiative ([19]) proposal calls on Customs to cross-check the customs declaration with the information on the imported goods contained in the newly created *digital passport for products*, to reduce the negative life cycle environmental impacts of products placed on the Single Market. The proposal to establish a **Carbon Border Adjustment Mechanism** ([20]) will help ensure that the EU's climate objectives are not undermined by the risk of carbon leakage and encourage producers in non-EU countries to green their production processes. The mechanism applies to imported goods, and customs supports the enforcement.

([9]) Council Directive (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods (OJ L 348, 29.12.2017, p. 7).

([10]) Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019).

([11]) Proposal for a Regulation of the European Parliament and of the Council on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council, and repealing Council Directive 87/357/EEC and Directive 2001/95/EC of the European Parliament and of the Council (COM(2021)346).

([12]) Proposal for a Regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the Union market (COM (2022) 453 final).

([13]) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC.

([14]) Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein (OJ L 61, 3.3.1997, p. 1).

([15]) Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases and repealing Regulation (EC) No 842/2006 (OJ L 150, 20.5.2014, p. 195).

([16]) Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer (OJ L 286, 31.10.2009, p. 1).

([17]) Proposal for a Regulation of the European Parliament and of the Council on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 (COM (2021) 706).

([18]) Proposal for a Regulation of the European Parliament and of the Council on shipments of waste and amending Regulations (EU) No 1257/2013 and (EU) No 2020/1056 (COM/2021/709 final).

([19]) Proposal for a Regulation of the European Parliament and of the Council establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC (COM/2022/142 final).

([20]) Proposal for a Regulation of the European Parliament and of the Council establishing a carbon border adjustment mechanism (COM (2021) 564).

- On the **enforcement side**, the legal basis for mutual assistance among national authorities and with the European Commission regarding the application of customs and agricultural legislation provides for relevant measures. They include the rules for preventing, investigating, and prosecuting customs fraud ([21]) and the operational cooperation framework between Member States' and EU's law enforcement authorities and bodies aimed to ensure security inside the EU against e.g., drug and illicit firearms trafficking. ([22])

- The new **Digital Services Act** sets clear obligations for digital service providers to tackle illegal content, which results in strengthened traceability and checks on traders in online marketplaces to ensure products placed on the Single Market are safe. ([23])

1.3 Background work that will feed the initiative

A **foresight report** published in 2020 elaborated four scenarios of **how customs in the European Union could look in 2040**, ([24]) resulting in a vision where in 2040 customs in the EU *'fully protect society, the environment and the EU economy through effective facilitation of legitimate trade, and intelligent, risk-based supervision of supply chains…are proactive, working seamlessly with our stakeholders and are committed to innovation and sustainability… and are seen to act as one'.* The foresight report recommends addressing the governance challenge of the Customs Union by giving preference to a joint, central structure in order to speak with one voice, to leverage technological advancements and to make the most effective use of customs' data. Business support and trade facilitation should be delivered through a fully integrated IT customs system, the Single Window Environment for Customs ([25]) and a common EU sanctions system.

The Commission adopted the **Customs Action Plan** (CAP) ([26]) as its response to the foresight report and to implement the political guidelines of President von der Leyen. The plan sets out a series of actions for a more coherent and stronger Customs Union to be completed by 2025. The actions focus on four areas of intervention: risk management, e-commerce, compliance, and the Customs Union acting as one. The CAP precedes, prepares, and announces the reform:

- Under Action 7 of the CAP, the Commission conducted an evaluation of the implementation of the UCC ([27]), which revealed a number of problems.
- Action 17 announces a Reflection Group '*to consider how to make the Customs Union smarter, more agile, more technologically advanced and more crisis-proof',* and an

([21]) Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ L 82, 22.3.1997, p. 1).
([22]) More information on Operational cooperation (europa.eu)
([23]) Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (Text with EEA relevance) (OJ L 277, 27.10.2022, p. 1–102).
([24]) Ghiran, A., Hakami, A., Bontoux, L. and Scapolo, F., The Future of Customs in the EU 2040: EUR 30463 EN, Publications Office of the European Union, Luxembourg, 2020.
([25]) Regulation (EU) 2022/2399 of the European Parliament and of the Council of 23 November 2022 establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013 (OJ L 317, 9.12.2022, p. 1–23).
([26]) Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee "Taking the Customs Union to the Next Level: a Plan for Action", COM/2020/581 final. This includes measures to make EU customs smarter, more innovative and more efficient and proposes steps such as improved use of data, better tools and equipment, the promotion of compliance, more cooperation within the EU and with customs authorities of partner countries and better preparation for future crises.
([27]) Commission staff working document on the interim evaluation of the implementation of the Union Customs Code (SWD/2022/0158 final).

impact assessment '*on the pros and cons of an agency approach covering a number of customs domains'*.

Furthermore, the present initiative takes account of the recommendations by the **Wise Persons Group**. This independent group conducted stakeholder hearings and produced a report on the challenges facing the Customs Union**.** ([28]) The report concludes that *'the Customs Union is not "fit for purpose'* and that *'the EU Single Market is at risk'. 'These shortcomings call for an urgent structural change, which, building on the reforms already undertaken, would bring the Customs Union to the next level.'* The group presented ten concrete, inter-related recommendations as a package: they address the need to use and cross-check all sources of data, to enhance drastically the cooperation with other authorities, to provide a centralised customs governance, to enhance relationships with the economic operators through more facilitation in exchange of greater transparency and responsibility, to cope with e-commerce, to develop green customs, customs training, and a focus on the revenue gap.

Finally, the current initiative also aims to further address the shortcomings identified by the **European Court of Auditors** regarding specific issues in the legal framework and implementation for import procedures ([29]), delays in IT development ([30]), and insufficient harmonisation in customs controls that hamper the EU financial interest ([31]), beyond the immediate steps already taken.

2. PROBLEM DEFINITION

2.1 What is the problem?

The current system is not satisfactory. It is burdensome for legitimate trade. And customs authorities struggle in their mission to protect the EU, its financial interests, citizens, enterprises, the Single Market, and the environment. There are five problem areas:

(i) **Customs authorities struggle in their mission to protect the EU**

Since only a small share of imports and exports can be physically controlled, customs collect and analyse relevant information to identify risks and to determine the control action. This makes the **risk management** a determining factor in each Member State. However, customs risk management today is not entirely adequate to allow the customs authorities to fulfil its mission at EU level, because national risk management is defined according to the national circumstances, priorities and IT system capabilities without an EU dimension of risks, even if there is a common risk framework.

- On financial risks, the European Court of Auditors identified structural challenges on the risk management of financial risks: ([32]) the lack of uniform application of customs controls and of harmonised risk management and analysis hampers EU financial interests. It limits the correct establishment and collection of the customs duties. This

([28]) The Wise Persons Group on the challenges facing the Customs Union was composed by 12 high-profile members with experience, in the public or the private sector, of customs matters, e-commerce, risk management, the international supply chain, IT and data analytics internal market legislation and international trade law. The group, led by Mrs. Arancha González Laya, former Minister of Foreign Affairs, European Union and Cooperation of Spain, conducted hearings with 48 interlocutors and an open consultation. The report was published on 30 March 2022.

([29]) ECA special report No 19/2017: Import procedures: shortcomings in the legal framework and an ineffective implementation impact the financial interests of the EU

([30]) ECA special report No 26/2018: A series of delays in Customs IT systems: what went wrong?

([31]) ECA special report No 4/2021: Customs controls: insufficient harmonisation hampers EU financial interests

([32]) ECA special report No 4/2021: Customs controls: insufficient harmonisation hampers EU financial interests

results in a loss of revenue to the EU budget (section 2.2) and fails to protect EU production and legitimate trade from unfair competition.

- On non-financial risks, the current risk management framework does not adequately address the increasing number of non-financial issues of concern for EU citizens in a globalised world (human rights, labour rights, sustainability, environmental protection, health, safety, peace, and security, etc.). The current performance on prohibitions and restrictions is weak. For example, Member States reported very low figures of refusals in the field of product compliance. ([33]) As a result, non-compliant products enter the EU Single Market, some of which might entail safety and security risk with potentially severe consequences. Customs supervision helps detect criminal activities that exploit legitimate trade flows (section 2.2).

An additional difficulty is that customs must **work with other authorities** across a wide range of challenges, but the quality and effectiveness of this co-operation is often sub-optimal and varies across the EU. The UCC interim evaluation reveals that '*the fact that the specific rules are the responsibility of other authorities (European or national / regional) is considered as a source of problems when coordination is missing*.' ([34]) The boundaries between the roles of Customs (generalists) and the large number of sectoral authorities (specialists) are defined in the sectoral legislation and are not always aligned with customs operational concepts. Customs is in the lead for co-ordinating controls at the border, but at EU level, there is no common risk management, strategy building or coordinated action with other competent authorities. Even at national level, the performance of this co-operation is weak. For example, in the field of product compliance, Member States report ([35]) a high share of cases where customs stop goods but must release them again because the sectoral authority did not respond within the legal deadline. ([36])

The cooperation problems between customs and non-customs authorities are confirmed by the business respondents in the public consultation, who consider that a more effective sharing of information and data between national customs administrations and other authorities enforcing product requirements on imported goods is the third most important priority (very important for 114 (59%), quite important for 48 (25%)). Customs in the EU rely also on cooperation with and information from countries outside the EU. The potential of cooperation with the EU's closest partners could be exploited more effectively, in particular through the exchange of information leading to better risk assessment and fighting the infringement or circumvention of trade rules. This has become more apparent in the context of the enforcement of the sanctions adopted vis-à-vis Russia following its attack on Ukraine.

([33]) Source: 'Report on controls on products entering the Union market with regard to product compliance in 2021' drawn up in accordance with Article 25(6) of Regulation (EU) 2019/1020 on market surveillance and compliance of products; This report is marked as sensitive and accordingly not publicly available in accordance with the provisions of Article 4 of Regulation (EU) 1049/2001.

([34]) 'The necessary coordination to ensure that prohibitions and restrictions are enforced consistently (e.g. in terms of data requirements, document formats, digitalisation, the timing and arrangements for carrying out controls, etc.) between customs and the competent authorities and the competent authorities for the sectoral legislation (such as market surveillance, phytosanitary requirements etc.) is limited, as it is mainly organised only via consultation activities.' UCC interim evaluation

([35]) Source: 'Report on controls on products entering the Union market with regard to product compliance in 2021' drawn up in accordance with Article 25(6) of Regulation (EU) 2019/1020 on market surveillance and compliance of products; This report is marked as sensitive and accordingly not publicly available in accordance with the provisions of Article 4 of Regulation (EU) 1049/2001.

([36]) EU Regulation 2019/1020, customs must release goods it suspended, if the market surveillance authorities have not requested to maintain suspension or reached other conclusions.

(ii) **Compliance with customs formalities is burdensome for legitimate trade**

For every consignment, traders and carriers must collect the information several times and submit it to customs through dedicated IT systems, as described in the driver (section 2.3). The cost of these formalities for trade was recently brought into focus by Brexit. The Netherlands estimated in 2018 that the additional costs due to customs formalities between the Netherlands and the UK would range between EUR 387.2 million and EUR 627 million per year, and that simplifying or eliminating some formalities could reduce this. In 2019, UK priced the administrative burden of completing customs declarations for its trade in goods with the EU at £ 7.5 billion. ([37]) The cost for trade is assessed in Annex 9, section 3.3.

(iii) **The customs model is not fit for e-commerce**

Today, e-commerce represents more than twice the number of traditional trade transactions for only 0.4 % of the value. ([38]) This high number of transactions for a low value represents a challenge both for customs, which cannot properly supervise them, and for operators, which must comply with several reporting obligations per parcel.

Parcels valued up to EUR 150 that are directly sent from a third country to a consignee in the EU are **exempt from customs duties**. ([39]) Until 2021, there was also a VAT exemption on imported goods. However, the Council decided to eliminate the VAT exemption to protect Member States' tax revenue, to create a level playing field for the businesses concerned and to minimise burdens on them. ([40]) Accordingly, from July 2021, all imported goods are subject to VAT and covered by a digital customs declaration, including for goods valued up to EUR 150 for which no customs duties are due.

However, despite each parcel from July 2021 being reported to customs, customs authorities do not have the information to efficiently control whether the imported goods comply with EU non-financial requirements. Even checking compliance with financial requirements is challenging for customs. There is evidence of the systematic abuse of the 150 EUR threshold through undervaluing and splitting consignments. A study conducted by Copenhagen Economics in 2016 estimated that about 65% of the e-commerce consignments are undervalued in terms of customs duties. ([41]) In its special report on import procedures ([42]), the European Court of Auditors (ECA) concluded that the current customs IT clearance systems are not able to prevent the importation of goods that are ineligible for the customs duty relief, and this is not compensated for by ex-post controls and investigation plans. ([43])

([37]) HMRC impact assessment for the movement of goods if the UK leaves the EU without a deal (third edition) - GOV.UK (www.gov.uk)

([38]) 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 declarations for a value of EUR 1 250 billion. In contrast, the Commission Surveillance system (SURV) recorded 490 million customs declarations related to e-commerce consignments, for a total declared value of EUR 4.8 billion. The amount of the value for e-commerce consignments is estimated to be higher than EUR 4.8 billion, because this only concern consignments accompanied by customs declarations. In fact, between July and October 2021, certain postal consignments with a value up-to EUR150 could be declared by any other act, i.e. without a formal customs declaration. In addition, some Member States had initial problems with the SURV reporting of the simplified declaration data for e-commerce consignments (so called 'H7 declaration').

([39]) Article 23 of Duty Relief Regulation (Council Regulation 1186/2009 (Official Journal L 324 of 10/12/2009, p.1).

([40]) Council Directive (EU) 2017/2455, see footnote 9.

([41]) Copenhagen Economics (2016), E-commerce imports into Europe: VAT and Customs treatment.

([42]) ECA Special Report No. 19/2017 Import procedures: shortcomings in the legal framework and an ineffective implementation impact the financial interests of the EU

([43]) ECA Special Report no 12/2019, points 81-88.

Competition is therefore distorted. The duty exemption favours third country e-commerce operators over traditional trade and EU retailers, which must pay customs duties when importing in bulk, and encourages the establishment of e-commerce distribution centres outside the EU.

(iv) **Limited data quality, access, and analysis**

Customs risk analysis and controls rely on data. While most exchanges today are fully digital, there are problems with the collection, analysis and sharing of data. The declarant or representative compiles and submits information about a consignment from different supply chain actors, making data integration difficult and compromising data coherence and quality. The current customs processes require the data to be submitted to different national and common systems and the related Member States. ([44]) The Wise Persons Group also noted '*the different IT systems are often not interconnected. Data are not transferred from a declaration to another.*' ([45]) The information requested in a customs declaration focuses primarily on financial risks. Introducing additional information requirements, for example about the manufacturer, requires significant modifications to the 27 national IT systems. Indeed, the data is processed in separate national IT systems for each type of declaration. Therefore, the information is fragmented across different data bases and systems, making it difficult to ensure coherence and data integrity, which is essential in customs risk management, particularly for risk analysis at EU level. This reduces the capacity of customs to address undervaluation, non-compliance, or security risks (section 2.3).

Furthermore, the lack of a comprehensive legal framework in the UCC on exchange and use of data hampers its adequate sharing between national customs and with the Commission, with other authorities, or with partner countries. Overall, the UCC IT systems are designed for exchanging messages on a specific process step. This leads to exchanges of data elements without context which often makes them meaningless for data analysis.

The European Court of Auditors identified several reasons for the increased cost and additional time necessary to build the UCC systems. ([46]) The UCC evaluation draws a mixed picture of the IT implementation, with positive aspects on the centrally developed components. ([47])

(v) **Member States diverge significantly in the application of the customs rules**

There is increasing evidence of these divergent practices in similar situations and despite applying the same rules, the Union Customs Code (UCC). In 2021, the ECA published its

([44]) For the UCC IT architecture see Commission Implementing Decision (EU) 2019/2151 of 13 December 2019 establishing the work programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code (OJ L 325, 16.12.2019, p. 168). Other customs systems exist beyond the UCC, such as in the field of risk management and prohibitions and restrictions.

([45]) The Wise Persons Group therefore recommended a new approach to data: rather than relying principally on customs declarations, to 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. See report of the Wise Persons Group on the reform of the EU Customs Union

([46]) One of the aspects is the implementation approach 'The development approach selected was mostly decentralised. This was despite the fact that centralised implementation was the most cost efficient option' ECA Special Report 26/2018, A series of delays in Customs IT systems: what went wrong?

([47]) 'The general view of the stakeholders (especially of the businesses) consulted in the context of the external study for achieving the full harmonisation of customs procedures and processes would be to rely entirely on common, centralised trans-European IT systems and to avoid the decentralised approach, which is not seen as ideal, mainly for its complexity. However, as national customs systems already existed before the UCC with significant investments from the Member States to cover their needs, the starting point for developing the IT systems has not always allowed the choice of the centralised approach: the transition costs would have been too high while the common solutions would not meet all needs and requirements as well as the existing national ones.' UCC evaluation

report ([48]) on '*Customs controls: insufficient harmonisation hampers EU financial interests'* concluding that Member States differ significantly in the way they carry out risk management and customs controls, warning that '*This could allow non-compliant operators to target EU points of entry with lower levels of controls*'. The same conclusion results from two of the actions outlined in the CAP, namely the interim evaluation of the UCC [(49)] in 2021 and the Commission report on the methods and penalties for addressing non-compliance with the customs legislation. ([50]) These reveal that the UCC rules on simpler methods for providing information to customs, on risk management, on monitoring economic operators considered trustworthy (Authorised Economic Operators, AEO) and on penalties leave the Member States considerable discretion so that divergent practices emerge, and infringing the same UCC rule may entail an administrative penalty in one Member State and constitute a criminal offence in another. ([51])

Businesses confirm the divergent application of the UCC. In a large survey for an external study on AEO (almost 2000 replies), 28% of the 900 trustworthy operators active in more than one Member State consider that some of the benefits can vary significantly from one Member State to another. ([52]) In the public consultation, business representatives regularly dealing with multiple customs offices found that Member States execute similar operations in different ways also in other areas such as timing of clearance procedure, approach to representation, and interpretation of basic definitions and rules. For these business respondents, the most important goals to achieve in a customs reform are **customs to act as one**, in order to improve predictability for businesses, and simpler processes.

Every national customs administration is responsible for its part of the Customs Union and the Customs Union does not have structural capabilities with a mandate to identify common priorities and allocate efforts to pursuing these priorities through coordinated action. The voluntary cooperation and limited joint actions have not delivered a uniform approach. This is even more obvious where the EU needs to react to geopolitical developments. The Customs Union is not sufficiently fit for the challenges posed by globalisation and digitalisation, nor has it been prepared for the green transition.

The five problem areas are related and limit customs' ability to fulfil its role, with negative consequences (section 2.2). Although there are external factors, the cause of these problems can be found in the customs processes, data analysis and the governance framework (section 2.3 on drivers).

([48]) ECA Special Report 04/2021, paragraph 62.

([49]) See the conclusions of UCC evaluation, page 51 onwards.

([50]) Commission report to be published.

([51]) For example, Article 51 UCC provides for the following infringement: "Failure of an economic operator to keep the documents and information related to the accomplishment of customs formalities by any accessible means for the period of time required by customs". As penalty to this violation, 12 Member States impose an administrative sanction, 5 Member States provide for both criminal and administrative sanctions, one Member State does not provide for a sanction and 9 Member States provide for criminal sanctions.

([52]) Study on the Authorised Economic Operator programme, Oxford Research, Ipsos, Wavestone, CT Strategies and Economisti Associati, 2022. The final report is not yet accepted. Of the 863 replies (out of 1973 total replies) to the question if AEO benefits were implemented differently between Member States, over half (53%) were not able to respond, while for 28% benefits across Member States differed at least to some extent (for 18% there were no noticeable differences).

2.2 Why is it a problem?

Because of these problems (i) not all **customs duties** are collected, (ii) dangerous, non-compliant or counterfeit products still enter or exit the EU Single Market, and (iii) **illegal goods** are smuggled into the EU.

(i) Loss of revenue

Customs duties on imported goods are a Traditional Own Resource for the EU budget and contributed EUR 18.6 billion in 2021. Where goods are imported without paying the full and correct customs duty (and VAT on import), this undermines the financial interests of the EU and its Member States. This is often referred to as the 'customs gap'. ([53]) While a precise quantification is not yet available, a recent example gives an impression of the scope. Investigations by OLAF discovered that textiles and footwear from China were imported on falsely low values for years, including by abusing the 'customs procedure 42' - a business facilitation under which customs duties are paid at importation and VAT is paid later in the Member State of destination. ([54]) As mentioned above, imports are often undervalued. Furthermore, not all duties assessed are paid - the established and estimated amount of unpaid duties was EUR 523.8 million in 2021. Another example is a recent pilot reporting exercise involving 20 Member States. During post-release controls, irregularities amounting to EUR 512.6 million in duties and VAT at import in 2021 were detected. ([55])

(ii) Non-compliant and dangerous products enter the EU Single Market

This concerns rules and standards in the EU, which also apply to goods that are imported. For example, rules on product safety, chemicals, food, contact materials, and other health or environmental considerations. There are serious weaknesses in the control of products entering the EU, which puts at risk the safety and security of EU citizens. Notified problems are three times more often identified on imported than on EU-manufactured products. ([56]) Studies and enforcement actions on the EU market consistently show the high non-compliance rates of imported products in different manufacturing sectors, such as chemicals ([57]) or toys ([58]), with

([53]) The Commission is working on a methodology to estimate this amount, which results from phenomena such as undervaluation, misdeclaration of the origin and misclassification of the goods, and smuggling.

([54]) The largest of OLAF's investigations concerned imports through the UK between 2013 and 2016. See European Court of Justice Case C-213/19 *European Commission v United Kingdom of Great Britain and Northern Ireland*. The abuse of customs, procedure 42 was also regularly highlighted by the European Court of Auditors (see ECA, Special Report no 13/2011, Does the control of customs procedure 42 prevent and detect VAT evasion? ECA Special Report no 19/2017; ECA Special Report no 12/2019).

([55]) Customs Union Performance (CUP) report 2021.

([56]) According to data from RAPEX/Safety gate from 2011 to 2021, between 75 and 77% of the total notifications concerned products with an origin outside the EU/EEA. This figure seems stable over the years: from 2010 to 2016, while imported products represented 30% of EU consumption, 75% of them were the object of an alert in RAPEX/Safety Gate (see also: Commission staff working document refit evaluation Accompanying the Proposal for a Regulation of the European Parliament and of the Council laying down rules and procedures for compliance with and enforcement of Union harmonisation legislation on products (SWD/2017/0469). In addition to the above, more than half of respondents to public consultations carried out in this context have experienced non-compliance of products imported from non-EU countries and agree on making more controls on products entering the EU.

([57]) Based on the latest REACH and CLP enforcement report, up to 28% of imports are not compliant with REACH and the Classification, Labelling and Packaging (CLP) Regulation. The Commission Communication on chemicals strategy for sustainability towards a toxic-free environment currently states that almost 30% of the alerts on dangerous products on the market involve risks due to chemicals, with almost 90% of those products coming from outside the EU20. According to a recent CEFIC (European Chemical Industry Council) report, in 2020 80 % of non-compliant articles containing banned or restricted chemicals comes from outside the EU/EEA.

([58]) Over the period 2016-2021, dangerous toys found on the EU market represented more than a fourth of total RAPEX / Safety Gate alerts, with a significant proportion of unsafe toys originating from non-EU countries (85% from China alone). See Impact assessment study on a possible revision of the Toy Safety Directive 2009/48/EC – VVA, CSES and Asterisk Research and Analysis, September 2022.

particular concerns in the area of e-commerce. ([59]) In the public consultation on this reform, 128 respondents (68%) considered it easy to buy non-compliant or counterfeit goods online. ([60])

In 2019, consumers suffered financial loss of a total estimated value of EUR 19.3 billion from purchasing unsafe products that they would not have purchased if they knew these products were unsafe and should not have been on the market in the first place; ([61]) this loss is expected to reach EUR 20.8 billion by 2025 and almost EUR 22 billion by 2034. ([62]) Total detriment to EU consumers and society from product-related injuries and premature deaths is estimated to be EUR 76.6 billion per year; perhaps 15% of accidents could have been prevented if the products were safe (implying preventable damage due to product-related accidents of around EUR 11.5 billion per year). ([63])

An OECD study on counterfeited goods estimates that for 2019, imports of counterfeit and pirated products into the EU amounted to EUR 119 billion – **up to 5.8% of all EU imports**. ([64]) From 2017 to 2019, there were almost 230 000 seizures of dangerous goods entering the EU. ([65]) The study estimates the global problem at 2.5% of world trade. About one third of counterfeited and pirated goods are dangerous fakes (food, medicine, cosmetics, toys, etc).

Imports of counterfeit and pirated products into the EU translate into a loss of profit, jobs and revenues of legitimate businesses. ([66]) This issue is particularly relevant for small and medium size enterprises (SMEs): for example, an estimated 99% of the EU's toy companies were SMEs as of 2020, employing about 2/3 of the sector; this industry faces persistent unfair competition from non-compliant toy imports. A case study on toys is included in Annex 9.

Also, exports must comply with the rules. For example, the EU controls the export of dual-use items to prevent the proliferation of weapons ([67]), waste shipments to ensure that waste is managed in an environmentally sustainable way ([68]) and, further to the Covid-19 pandemic, monitors the export of vaccines to third countries. ([69])

([59]) See for example BEUC, Two-thirds of 250 products bought online fail to meet safety tests, February 2020; Products from online marketplaces continue to fail safety tests, March 2022.

([60]) Furthermore, only 10.4% of the respondents consider that the Customs Union has a very positive contribution in ensuring compliance with EU standards (animal and plant health, product safety, environment protection), and just 3% of them think the same regarding compliance with intellectual property rights and industrial protection rules.

([61]) Impact assessment accompanying the document 'Proposal for a Regulation of the European Parliament and of the Council on general product safety' (SWD (2021) 168 final), p.11.

([62]) *Ibid,* p.31

([63]) *Ibid,* p.11.

([64]) OECD/EUIPO (2021), Global Trade in Fakes: A Worrying Threat, Illicit Trade, OECD Publishing, Paris.

([65]) OECD/EUIPO (2022), Dangerous Fakes: Trade in Counterfeit Goods that Pose Health, Safety and Environmental Risks, Illicit Trade, OECD Publishing, Paris,

([66]) The European Union Intellectual Property Office has estimated lost sales in 11 sectors in the EU as a result of counterfeiting. These losses totalled more than EUR 83 billion per year during the period 2013-2017. In addition, more than 671 000 jobs in legitimate businesses were lost, and the Member States lost EUR 15 billion per year in tax revenue (European Union Intellectual Property Office, 2020 status report on IPR infringement).

([67]) Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (recast) (OJ L 206, 11.6.2021, p. 1).

([68]) Commission Regulation (EC) No 1418/2007 of 29 November 2007 concerning the export for recovery of certain waste listed in Annex III or IIIA to Regulation (EC) No 1013/2006 of the European Parliament and of the Council to certain countries to which the OECD Decision on the control of transboundary movements of wastes does not apply (OJ L 316, 4.12.2007, p. 6).

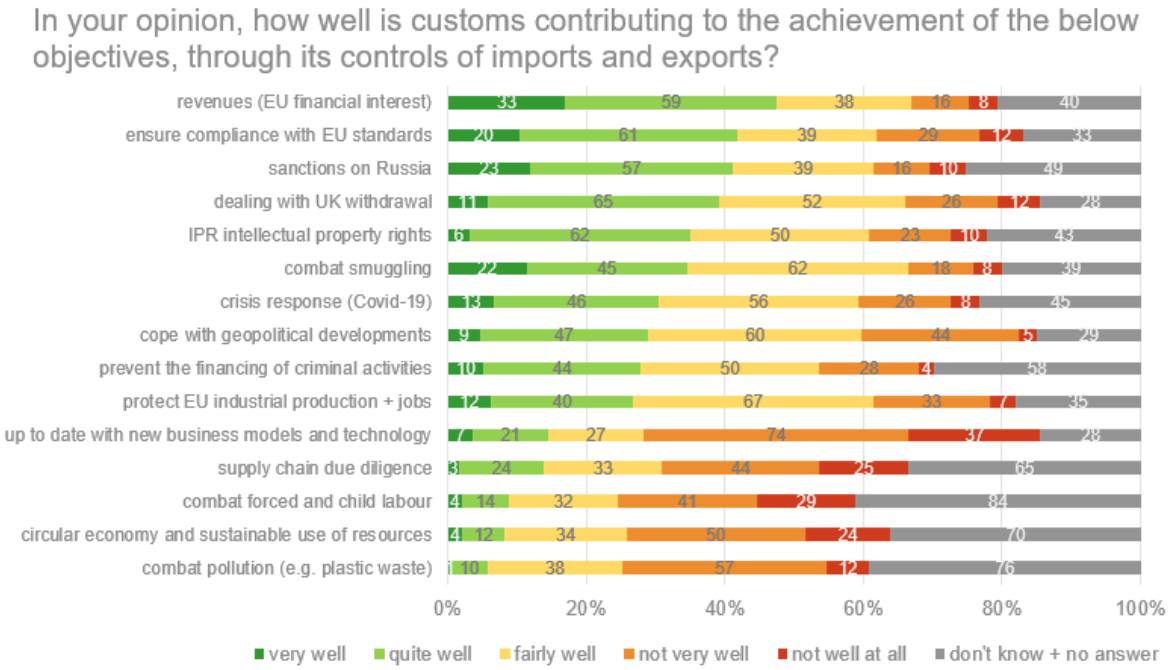
([69]) Commission Implementing Regulation (EU) 2021/2071 of 25 November 2021 subjecting certain vaccines and active substances used for the manufacture of such vaccines to export surveillance (OJ L 421, 26.11.2021, p. 52).

(iii) Criminal activities exploit trade flows to smuggle illegal goods

Criminal networks exploit trade flows, smuggling drugs, weapons or cultural goods. Customs controls detect increasing numbers of illegal goods. In 2021, a record of 592 tonnes of drugs were seized, and a record amount of 4.7 billion pieces of tobacco products. The 6.496 pieces of firearms seized are an increase of 58% compared to 2020, the seized ammunition grew by 460%. Other fraud schemes include infringement on intellectual property, or undeclared movements of cash. E-commerce flows are also exploited by criminals. ([70]) Smuggling routes adjust to increased control activities of customs in one country. Customs risk management and the cooperation with law enforcement bodies are key. ([71])

These problems are perceived by customs administration and public stakeholders. In the Reflection Group on the customs reform, most Member States shared the impression that customs today is squeezed, with a dramatic increase in declarations in e-commerce on the one hand, and a continuous increase of tasks regarding prohibitions and restrictions on the other. Business and civil society stakeholder expressed their views on the current situation in the public consultation. The feedback from 194 respondents has a good distribution across the EU and includes SMEs (details Annex 3). Overall, the opinions of respondents show room for improvement for different policy aspects.

Figure 2 – Results of the public consultation on customs contribution to different policy objectives - Source DG TAXUD



([70]) Counterfeiters have taken advantage of the new business opportunities generated by the rise of e-commerce in multiple ways. Distribution of counterfeit goods is done increasingly online, and although some counterfeiters use the dark web, the majority of counterfeit activities happens in legitimate surface web platforms. IP criminals use legal business structures to obscure their operations. Moreover, counterfeit items are increasingly entering the EU in the form of small parcels. These trends have been intensified during the COVID-19 pandemic, as criminal networks adapted to the changing demand and took advantage of new business opportunities. See EUIPO & Europol (2022), Intellectual Property Crime Threat Assessment 2022, Publications Office of the European Union, Luxembourg| Europol (europa.eu)

([71]) In this context, see the European Multidisciplinary Platform Against Criminal Threats (EMPACT), the EU flagship instrument for multidisciplinary and multiagency operational cooperation to fight organised crime at an EU level. It is based on an integrated approach to EU internal security, involving measures that range from external border controls, police, customs and judicial cooperation to information management, innovation, training, prevention and the external dimension of internal security, as well as public-private partnerships where appropriate.

2.3 What are the problem drivers?

The key problems above have three main drivers: (i) inadequate and complex customs processes in the UCC, (ii) a fragmented UCC digitalisation model and (iii) a fragmented and inefficient governance. They occur against a backdrop of external developments which accentuate the challenges of the system: more declarations, because of the rise of e-commerce trade, and more tasks, because of additional prohibitions and restrictions.

(i) The inadequacy and excessive complexity of the customs processes

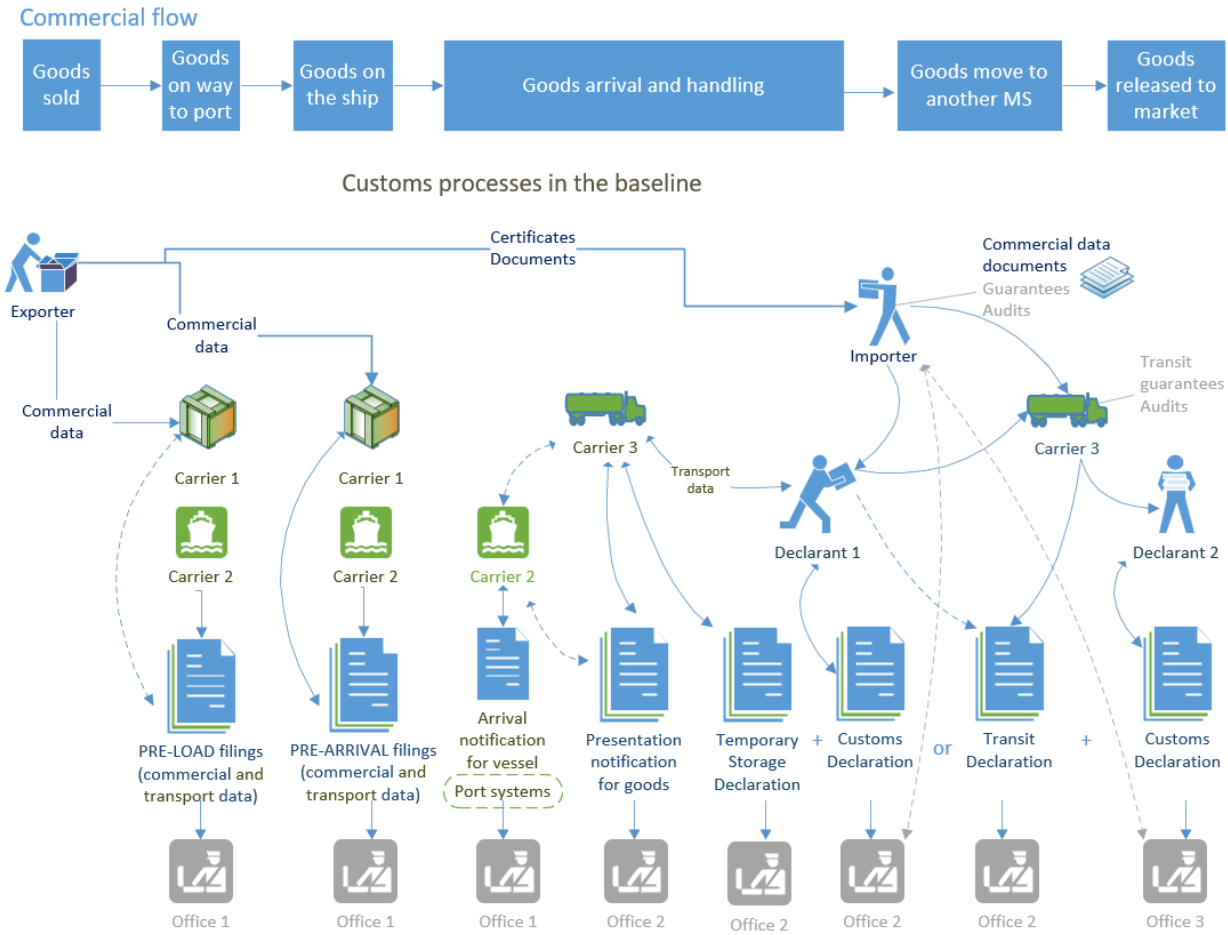
The Union Customs Code (UCC) is the main legal and IT framework for customs processes in the EU customs territory. In essence, the UCC defines who must (or may) do what and when ([72]) and, as explained in the legal context, is the basis to apply other pieces of legislation, such as the Duty Relief Regulation and VAT. As the UCC evaluation highlights, the UCC's most innovative feature is requiring that all communications between customs authorities, economic operators and the Commission be digital. The modernisation triggered by the 2016 UCC reform mostly consisted in digitalising existing customs processes. This in turn means that each step of the customs processes depends on an IT system. This section and the next will illustrate how this feature, while being positive in a digital world, has unintendedly caused (part of) the difficulties of customs to fulfil its mission, the poor data quality and the high administrative compliance costs for businesses.

As the ECA noted already in 2017, ([73]) the **entry process** of foreign goods into the Union is particularly complex. Traders must provide information to the customs authorities on each consignment at five different steps: (i) before the goods are loaded for or arrive in the Union, (ii) when the plane or the vessel arrives, (iii) when they present the goods to customs, (iv) if the goods are temporarily stored and (v) when the goods are to be placed on the Union market.

([72]) The UCC also provides rules on common rules on the customs authorities' decisions, on how to calculate the customs debt and on the use of guarantees.

([73]) SR_CUSTOMS_EN.pdf (europa.eu)

Figure 3 – Illustration of current customs procedures for one consignment on import - Source DG TAXUD



Each step serves a different purpose and for that reason part of the information that the operator must provide for each consignment varies from one step to another. Yet, the process results in requirements which are both inadequate and excessive, particularly where they apply to the billions of e-commerce parcels:

- **The customs duty exemption for goods valued up to EUR 150 and no VAT exemption**. The customs duty exemption for low-value goods was enacted in 1983 and increased in 1991 and in 2008. A VAT exemption for imported goods also existed. Both were justified in the excessive administrative burden for charging low customs duties or VAT on low value goods. The Council decided to eliminate the VAT exemption for low-value imported goods and to provide a One Stop Shop (IOSS) for e-commerce intermediaries selling foreign goods to European consumers, allowing them to collect the import VAT at the moment of sale instead of collecting it when the goods enter the Union market. To check whether VAT was charged at the moment of the sale or needs to be collected at the border, all parcels must be declared to customs upon arrival to the EU. According to the Commission evaluation ([74]) of the VAT rules, eliminating the VAT exemption for low value imports has been a success. In the first 6 months, Member States collected EUR 1.9 billion in VAT and both the tax and customs authorities now have data on e-commerce transactions. However, the difference between VAT and customs rules on e-commerce renders the system very complex for all involved (VAT applicable on all goods, customs duties applicable from EUR 150; VAT collected and declared at sale by platforms but checked at arrival when postal and express operators declare the goods to customs).

([74]) See Commission Staff Working Document impact assessment report accompanying the proposal for a Council directive amending Directive 2006/112/EC as regards VAT rules for the digital age (SWD(2022) 393 final).

Platforms complain that VAT is sometimes charged twice. Express couriers and postal operators argue that they must declare goods for which they have no data because they are not part of the original sale. Consumers often refuse the goods because postal operators charge an unexpected fee for compliance with customs formalities. ([75]) Customs complain that their IT systems cannot cope with the volume of declarations and that it is not worth to check whether the parcels are artificially undervalued below EUR 150 to claim a very limited amount of duty to the consumer, or for which there is no customs duty to collect.

- **Difficulty to follow consignments in the EU**: the UCC allows economic operators to combine and replace the five steps of the import process. This responds to different business needs (goods entering a Union port just for transhipment need different information than those being placed in the Union market). The multiple options make it very difficult for customs to follow the movement of the consignment in the Union.
- **Unclear responsibilities**: the UCC allows several actors to provide the information in each step. The carrier, the importer, the representative, the holder of the goods, the holder of the procedure or even 'any person able to provide the required information' may submit the information. No operator bears the full responsibility for the entire supply chain, making it difficult for customs to properly address non-compliance. Literature ([76]) identified the lack of clarity of the role of the declarant, who assumes responsibility for the financial obligation, the customs duties, but leaves to the importer the responsibility for the non-financial requirements, in line with the non-customs legislation ([77]). In e-commerce, the EU consumers having ordered the goods online become the declarants and the importers, even if in most cases no duties are due because the goods are below EUR 150. Yet, the non-customs legislation is not intended to impose compliance requirements on consumers and generally the consumers are not providing the information to customs.
- **Rigid data format**: By contrast, the UCC defines in exact detail in a unique format the information to be provided at each step for each consignment. The UCC interim evaluation signals the huge effort in harmonising the data requirements to facilitate the interoperability of the IT systems across all Member States, the harmonised application of the rules, and alignment with international customs data models. However, it also notes that traders perceive it as an increasing burden because they need to update their systems and because national customs authorities still require certain additional data elements. Furthermore, that information is normally sufficient for customs to calculate the customs debt but not to assess compliance with other requirements. For that purpose, essential data elements are missing, such as the manufacturer and the supplier of the goods. Furthermore, the combined nomenclature (CN), under which customs classify and identify goods based on WCO international standards, is not systematically used for the definition and classification of manufactured products in EU sectoral legislation. It makes it difficult to identify specific products in customs procedures and to link CN codes with specific requirements applicable to these products in non-customs legislation.
- The ambiguous definition of the person responsible for the information, combined with the rigid definition of the information to be provided often results in the **poor quality of the data** that customs receive, as there is no certainty that the information is being required from the operator best placed to have it. An example is e-commerce, where the postal or express operator, on behalf of the consumer, informs customs about the value of the goods,

([75]) A survey conducted by PostNord concluded that the clarity on the final price is an important factor when ordering goods from outside the EU e-commerce-in-europe-2020.pdf (postnord.se)

([76]) Tom WALSH, European Union Customs Code, 2015, Kluwer, p.110. Frank HEIJMANN, Customs: Inside Anywhere, Insights Everywhere, Trichis, p. 358.

([77]) Article 4 of Market Surveillance Regulation, for instance.

based on information that the sender has given in the origin country. However, that foreign sender has often not taken part in the original transaction between the European consumer and the EU-based e-commerce intermediary so it might provide a lower value.

- Finally, for some steps, the UCC does not clearly define the **consequences** of not providing the information. This is then entirely left to the Member State's legislation ([78]) and introduces an important element of distortion in the Customs Union. Part of the UCC solution to that problem is a "reward" to reliable traders, the AEOs. These trustworthy traders enter a partnership with customs to have access to simpler customs procedures in exchange for carrying out certain tasks. However, monitoring their compliance has become challenging, as revealed by the UCC interim evaluation (section 2.2.).

These mismatches make the customs authorities' task to collect and protect difficult. To balance needs and resources, the UCC requires the Member States to base their controls on automated risk management. The Member States must therefore carry out risk management and decide what to control and they do so based on national systems and national data, without an EU-wide perspective. According to the UCC, the Commission's role is to prepare common risk criteria in legal implementing acts, operating some IT systems, and sharing risk information. The Commission may also organise common priority control areas.

By contrast to the entry process, the UCC **exit process** is simpler. It requires economic operators to provide the customs authorities with information on goods exiting the Union on only two steps: (i) the exporters must provide customs with certain information once it is known that the goods are to exit, so that customs can react if necessary and (ii) the carrier must inform about the exit of the goods from the Union.

Finally, the efforts in harmonising rules have resulted in **rigidity for crisis management**. For instance, during the COVID crisis, most Member States were allowing operators to defer the payment of taxes without guarantees except for customs debts, because the UCC often requires a guarantee for referral and does not foresee any "*force majeure*" clause.

(ii) Fragmented and complex customs digitalisation

Access to all relevant data to exploit it by cross-checking using artificial intelligence is a major objective pursued in all domains by governments and companies, empowering them to trace behaviours and habits and further adapt their strategies. Big data is today driving the digital revolution.

Customs is a pioneer in digitalization. From 2003, ([79]) there is the ambition of creating a simple and paperless environment for customs and trade. Today 99% of traders' information to customs is digital and customs systems react automatically, in less than 5 minutes for 87.3% of the cases.

As mentioned above, one of the main goals of the UCC is to complete this achievement by requiring a fully electronic environment for the customs authorities and economic operators, to complete customs formalities via the deployment of a number of electronic systems. While

([78]) According to the UCC, Member States must foresee effective, proportionate and dissuasive penalties for failure to comply with the customs legislation.

([79]) The Council Resolution introducing a paperless environment for customs already called on the Commission to draw a multiannual aiming at creating a European electronic environment. The same principle is in the Decision on electronic customs in late 2008 [*Decision No 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless environment for customs and trade* (OJ L 23, 26.1.2008, p.21)]. The Modernised Customs Code (MCC) also required electronic customs (Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code) (OJ L 145, 4.6.2008, p. 1–64)]. The MCC was recast into the UCC to adapt it to the Lisbon Treaty.

originally foreseen to be completed by 2020, the date for final delivery of the UCC IT systems has been postponed to 2025 due to delays in implementation both at Commission and Member States level, linked to the complexity of the developments. Both the ECA ([80]) and the Commission ([81]) found that the ambitious tasks proved more complex than initially envisaged, due to their decentralized nature, the lack of resources and the changing scope in projects. However, once implemented, the UCC IT systems will significantly improve the customs electronic environment, particularly for economic operators active in various Member States. While in 2022 an economic operator wishing to complete the formalities for the aforementioned entry and exit processes throughout the Union needs connection to national 189 IT systems, in 2025 it will 'only' need 111 connections, a decrease of 41%.

This figure shows that the UCC digitalization model, while bringing significant benefits and being therefore necessary to complete, remains complex and fragmented. The model has contributed to the poor data quality for customs to fulfil its mission, to the divergent implementation of the customs rules and to high businesses' administrative compliance costs, as follows:

- The UCC foresees a specific, normally national, IT system for each step of the process that was illustrated in figure 1. Those **national IT systems** are not necessarily interconnected, not even within one Member State. Operators have therefore limited (if any) possibilities to save in compliance by reusing the data on a specific consignment for several steps.
- Economic operators provide the information on several national IT systems, which are **similar but not identical**. For operators, there are 27 separate customs IT environments, even if there is only one Customs Union. A notable exception is the Commission-built IT system to provide the pre-loading and pre-arrival information, Import Control System or ICS2, which provides a unique trader portal for the entire Union. The Commission has also built a series of trans-European systems to connect the national interfaces to enable operators to complete some formalities from a single location (one stop shop). However, until all national interfaces are updated in 2025, the operators will not perceive that benefit.
- The national IT systems produce **national databases**. Therefore, neither the Member States nor the Commission have an overview of the consignments or the operators for risk management purposes. Member States conduct their risk analysis based on national data. The Commission has no access to those data, not even to the data stored on the trans-European systems that the Commission has built and manages. The exceptions are the statistical collection of trade data called 'surveillance' and a secured system to exchange information on specific risks (CRMS). ([82])
- Maintaining and managing these 27+1 parallel IT environments is **costly** for the EU and Member States. Any change or adaptation is lengthy, requiring a minimum of 2 years.
- From a personal data protection point of view, the UCC digitalisation model was in line with the spirit of Directive 95/46/EC ([83]), but it has shown its limits under the new paradigm established by the General Data Protection Regulation, where obligations for data controllers and processors are more detailed, and the exercise of data subjects' rights is fully harmonised.

([80]) See European Court of Auditors Special Report No 26/2018: *A series of delays in Customs IT systems: what went wrong?*

([81]) Regulation (EU) 2019/632 of the European Parliament and of the Council of 17 April 2019 amending Regulation (EU) No 952/2013 to prolong the transitional use of means other than the electronic data-processing techniques provided for in the Union Customs Code (OJ L 111, 25.4.2019, p. 54).

([82]) The data are in Annexes 23-01, 23-02 and 23-03 of the UCC Implementing Act.

([83]) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regards to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

- The IT systems were conceived with the **financial role** of customs in mind. The information therein is therefore sufficient to calculate the customs duties, but it is not adequate for enforcing the non-financial requirements. The *EU Single Window Environment for Customs* initiative intervenes in this area, by ensuring that certain Union non-customs systems (agriculture, for instance) are made interoperable with national customs systems and that information on the compliance of non-customs formalities is exchanged between them. However, such intervention is strongly dependent on how the sectoral policy is designed, including whether IT tools exists. In addition, the EU Single Window Environment for Customs does not deal with risk management and the associated identification of priorities of controls.

(iii) Fragmented Customs Union governance structure

The governance of the Customs Union is largely unchanged since its creation in 1968. There has been no significant evolution in its strategic and operational management, making it less able to face current and future challenges.

The responsibility for the implementation of the customs legislation is shared between the Member States and the Union. The Lisbon Treaty established that the Customs Union is an exclusive competence of the EU and that the internal market is a shared competence. Therefore, the EU has exercised its competences by adopting a common legal framework, the Union Customs Code (UCC).

Member States implement the customs rules and processes. ([84]) The Commission is empowered to adopt, subject to a positive opinion from the Member States in the Customs Code Committee, implementing acts to establish more uniform conditions for the implementation. The Commission also has the power to adopt delegated acts following consultation of Member States in the expert group with the scrutiny of the Council and the European Parliament. ([85])

The Customs Policy Group, an expert group composed of the directors general of national customs administrations, advises the Commission on strategic customs policy issues, and facilitates the exchange of views between the Commission and the Member States on customs policy; it is not a decision-making forum. ([86]) In the Council, the Customs Union Working Party, beyond its legislative role, meets regularly though not systematically in the formation of customs directors general (the so-called '*High-Level Working Party'* on Customs or HLWP) to discuss governance matters.

The aforementioned legal and legislative process and strategic *fora* have proven insufficient to achieve a 'real' Customs Union in which legislation is applied uniformly by all Member States and risks are equally covered wherever the goods enter or leave the customs territory based on common, coordinated action. Additional policy and governance instruments have therefore been put in place for better operational **coordination and cooperation**, and to support more uniform implementation of the rules on the ground:

([84]) Pursuant to Article 291 TFEU, Member States remain responsible for implementing and applying legally binding Union acts, including the customs legislation. That same provision allows that Union acts empower the Commission to adopt implementing rules where uniform conditions are needed for implementing Union legislation. This is often referred to as 'Comitology'.

([85]) Register of Commission expert groups and other similar entities (europa.eu).

([86]) See Commission Register of Expert Groups, code E00944.

- The Commission develops guidance and coordinates the sharing of risk information but is limited by the powers conferred to it in the operational domain and by the lack of 'critical mass' ([87]) for performing these tasks.
- The Customs Control Equipment programme, ([88]) provides financing to equip the customs offices with detection control equipment at the border. The Commission is entrusted with the implementation of the programme.
- The Customs programme for cooperation in the field of customs ([89]), also provides financing to facilitate and enhance customs cooperation between national customs authorities, and to build their administrative, human and information technology (IT) capacity. The Commission is entrusted with the implementation of the programme. Part of the fund is used to finance *Expert Teams,* a structured form of enhanced operational cooperation on a thematic or geographical basis. Participation is however voluntary and therefore concerns only interested Member States. Expert teams are further limited by their lack of administrative and legal status and are not competent to take decisions on participants. Finally, the administrative and budgetary management is a significant burden for Member States. Despite these limitations, the positive and tangible results of several expert teams have shown the Customs Union would benefit from more and better organised operational coordination and cooperation. The Customs Eastern and South-Eastern Land Border Expert Team (CELBET) ([90]) made progress on a common approach to risk management, joint controls, border crossing points' diagnostics, common training and centres of excellences, and cooperation with border guards and neighbouring countries. Considering the limitations inherent to expert teams and driven by their positive experiences within CELBET, the customs Directors General from the 11 participating Member States unanimously called for the creation of an EU customs agency in November 2021.

Overall, the current governance structure is not fit for purpose. *De facto,* the Customs Union is managed by means of legislative and non-legislative tools that are not designed for that scope and making it difficult to adapt the customs systems and procedures in cases of crisis. A political prioritisation of areas for common, coordinated action in risk management does not exist. Priorities are determined mainly at national level, according to national political preferences, and not following a Union approach required for a homogenous enforcement of the rules and an appropriate protection of the Single Market by Customs. Over time, the multiplication of committees, expert groups, project groups and expert teams dealing with customs matters has resulted in a major co-ordination challenge, further fragmenting the governance. There are many layers of customs activity but there is no strategic coherence. The operational management of the Customs Union is not coordinated and depends on the willingness of Member States to cooperate.

([87]) In this context, critical mass means sufficient operational experts with the tools and mandate to organise and drive delivery of operational results; to bring the necessary step change in operational approach to "get things done".

([88]) Regulation (EU) 2021/1077 of the European Parliament and of the Council of 24 June 2021 establishing, as part of the Integrated Border Management Fund, the instrument for financial support for customs control equipment (OJ L 234, 2.7.2021, p. 1).

([89]) Regulation (EU) 2021/444 of the European Parliament and of the Council of 11 March 2021 establishing the Customs programme for cooperation in the field of customs and repealing Regulation (EU) No 1294/2013 (OJ L 87, 15.3.2021, p. 1).

([90]) https://www.celbet.eu/

2.4 How likely is the problem to persist?

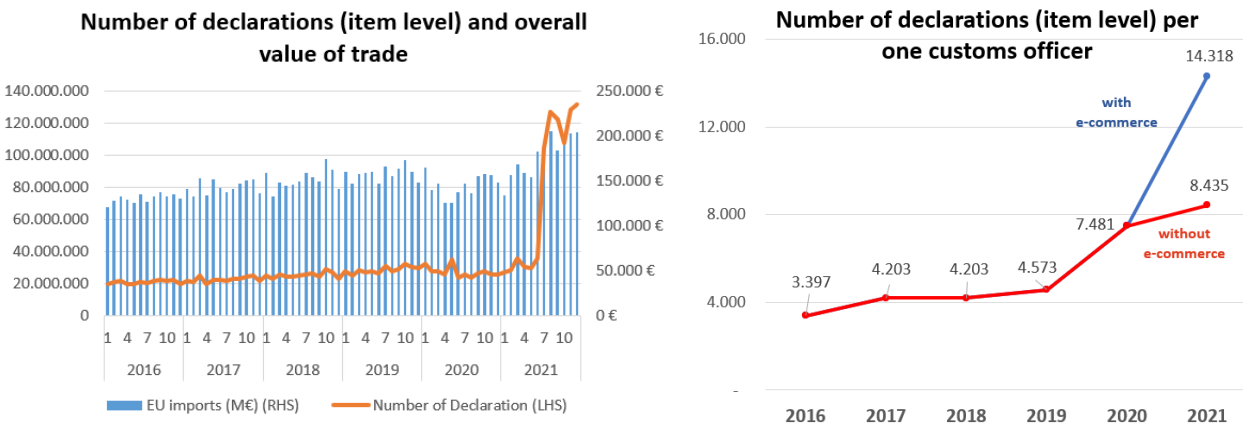
A number of actions foreseen in the Customs Action Plan will have a certain positive effect towards 2025. The Union Customs Code includes a simplification for trade that is still under development (centralised clearance). Furthermore, the Customs Action Plan has successfully implemented the Customs Control Equipment Instrument, the interoperability study for law-enforcement, and the EU Single Window environment for customs. They all bring some improvements and are included in the dynamic baseline (section 5.1) against which the current initiative will be evaluated.

However, the previous sections show that the problems derive from **structural elements** of the Customs Union. The divergence between Member States has its roots in the national responsibilities for parts of the Customs Union, without an EU perspective. The fragmentation of data is directly linked to the approach to IT systems and to the individual customs processes. Despite the consistent efforts to 'act as one', the cooperation between customs authorities has not reduced the divergent operational implementation. The cooperation with other authorities remains inefficient, and predominantly at national level. More effort in the same system does not bring a solution. The independent Wise Person Group similarly concluded in 2022: *'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 **trends** identified in the foresight report affecting the work of customs in 2040, such as larger trade volumes, increasingly complex non-customs regulatory environment for products, growing use of technology and enlarged access to, use and analysis of data implying new skills for customs officers, do not align with the current capacity of customs.

The urgency becomes also visible in the dramatic increase of declarations. And while the number of controls increased, the proportion of goods controlled dropped. In July 2021, a new customs reporting obligation on e-commerce became applicable. This made a trend visible that is confirmed by two different reporting systems:

Figure 4 Evolution of customs declarations (2016-2021) – Source DG TAXUD°



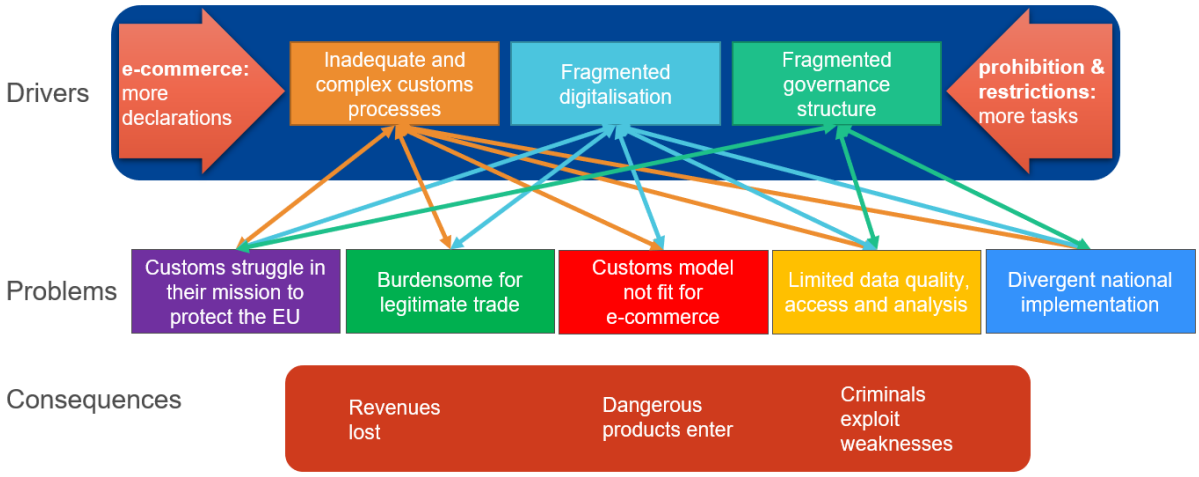
On the left hand, the statistical reporting in the 'Surveillance 3' system shows that the number of declarations (orange) surges with the new reporting obligation for low value parcels in July 2021 from 35 million to over 100 million. It further shows this increase is not caused only by the overall increase in trade (blue). On the right hand, the internal reporting of customs administrations under the 'Customs Union performance' project shows the increase in declarations for one customs officer on average. The increase is steadier because of the reporting decisions in each Member State. For the year 2021, the blue line visualise the

additional challenge e-commerce presents for customs supervision and compliance with both the financial and non-financial rules. The red line makes it apparent that e-commerce adds to a trend of an already increasingly strained customs system.

Without addressing the customs processes, the IT customs environment and the governance, the current difficulties customs have in performing their duties are thus likely to increase significantly.

PROBLEM TREE

Problem tree – Source DG TAXUD



3. WHY SHOULD THE EU ACT?

Article 3(1) TFEU establishes that the Customs Union is an exclusive competence of the EU. This carries the consequence that only the Union can legislate and adopt legally binding acts. The Member States can do so only if empowered by the Union or for the implementation of Union acts. In addition, the internal market is a shared competence pursuant to Article 4(2)(a) TFEU. In shared competences, the Member States can adopt legally binding acts only where the Union has not exercised its competence. In the customs area, rules regulate the Customs Union (tariff, quotas and alike) and the internal market (i.e., abolition of internal frontiers and achievement of free movement of goods). For that reason, the Union Customs Code (UCC), is based also on Article 114 TFEU. In either case, to the extent the EU has exercised its competences by adopting common rules, Member States are precluded from adopting their own customs legislation. Any revision of that framework should therefore occur at Union level.

The UCC is based also on Articles 33 and 207 TFEU, according to which, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, take measures in order to strengthen customs cooperation between Member States and between the latter and the Commission. In addition, Article 207 gives the European Parliament and the Council the right to adopt measures defining the framework for implementing the common commercial policy. Given the broad scope of the initiative as described in the above sections, the revision of the UCC will include trade facilitation and supervision aspects that go beyond the cooperation between customs authorities, in accordance with the applicable international framework for trade policy with third countries.

However, the common rules and processes established at EU level in the UCC must be implemented by Member States. As previously detailed, the existing framework has encountered problems in terms of uniform implementation and harmonisation, generating a fragmentation of processes, practices and approaches that puts the Customs Union at risk. Such fragmentation and related consequences cannot be solved at national level. A revised, comprehensive, and detailed set of rules ensuring that customs can act as one and implement the rules in the same way is necessary.

4. OBJECTIVES: WHAT IS TO BE ACHIEVED?

4.1 General objective

Customs is the only comprehensive capability of the EU to supervise international supply chains and all goods crossing the external borders. The customs authorities supervise the flow of goods in and out of the EU for ensuring compliance with a broad range of requirements across different policy domains. Customs authorities are therefore at the centre and the guardians of the Single Market. After being cleared in one Member State, goods move freely within the Customs Union. As a result, the Customs Union is only as strong as its weakest link. The proposed reform aims at ensuring a framework that better allows customs authorities' action across all the EU, to act as one, to be effective in identifying and stopping non-compliant goods and customs duties avoidance and efficient in carrying out those controls with the lowest possible burden both for the authorities and for trade.

The general objective captures the inherent need to achieve the right balance. Firstly, customs need to efficiently and effectively **protect the Single Market, citizens, and values of the EU** by ensuring compliance with a dramatically increasing series of non-financial requirements.

Secondly, customs need to ensure **proper, effective and timely collection of customs duties and taxes due**. This includes deterring customs fraud and undervaluation and thereby preventing the loss of revenue for both the EU budget and the Member States.

Finally, customs should facilitate legitimate trade as this contributes to growth and prosperity in the EU. It is vital that the flow of legitimate trade is not unduly disrupted. Customs processes and rules must ensure that all traders - including SMEs – can comply with the rules as smoothly as possible. The framework provided by the Customs Union must achieve the right balance between ensuring effective controls across all the various types of risks and facilitating legitimate trade with as little cost and administrative burden as possible.

4.2 Specific objectives

The way in which the reform can help the Customs Union better achieve its overall objectives can be decomposed into 5 specific objectives of equal importance and weight:

SO.1. Strengthen EU customs risk management. Customs are able to correctly decide whether to stop a good from entering the EU when they have sufficient and timely information available. The system must be able to build on its experiences to stop similar goods from entering the Single Market at another time or through another entry point. Customs intervention must therefore develop **risk management** of the whole supply chain in real time, with an EU perspective, through the analysis of risks and threats in a constantly updated way and identify the measures and controls to be performed at the border crossing points of entry

and exit of the EU territory. A solid co-operation framework with authorities responsible for other policy areas, and with international trading partners is necessary for this purpose. This will also help better manage current and future crises in a world marked by increasing geopolitical tensions.

- For **financial risks**, this will allow customs to identify fraud and undervaluation, and improve duty collection.
- For **non-financial risks**, this will improve the customs contribution to enforcement of prohibitions and restrictions and contribute to EU safety and security.

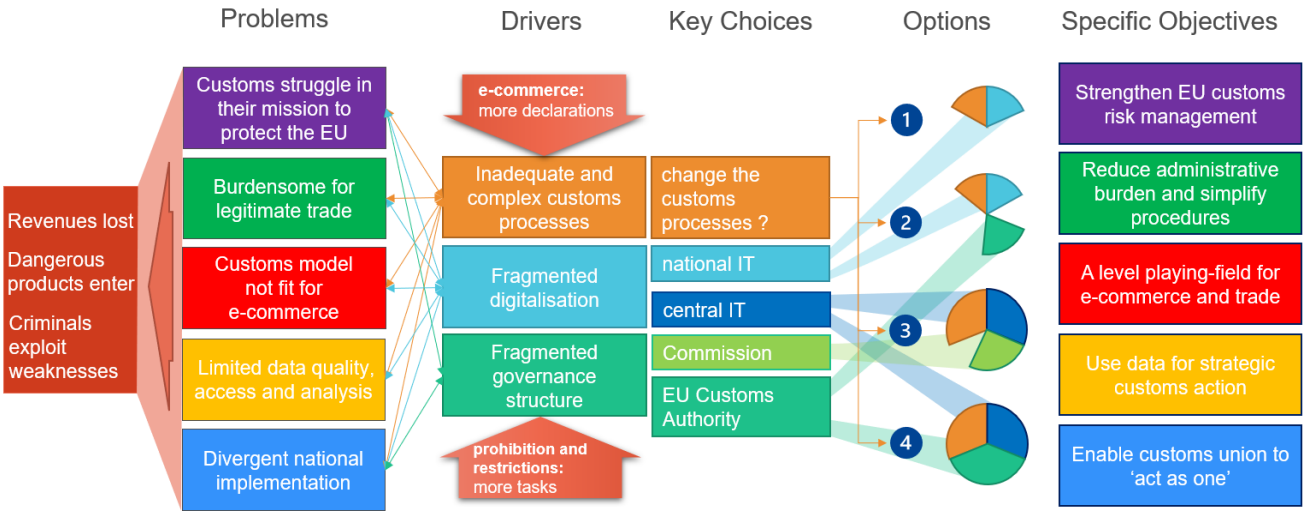
SO.2 Reduce the administrative burden and simplify the procedures for traders, consumers, and customs authorities, without jeopardising effective customs supervision.

SO.3 Ensure a level playing field between e-commerce and traditional trade as regards customs, in line with the VAT rules.

SO.4 Enhance access and use of data for strategic customs action. Ensuring timely and flexible data management will support better risk management, better crisis response, better measurement of the Customs Union performance and simpler rules for trade. Customs attention must shift from individual consignments, towards the global supply chain to identify problems and risks. Building intelligence from connecting the supply chain data will help strengthen customs supervision and customs risk management. A **data-driven approach is needed**, to place the emphasis more on the collection of first-hand data from commercial systems, web platforms and other sources, and to reduce reliance on third-party declared data. Customs need to **access and tap into the wealth of data** from all types of sources, in a centralised way and orchestrate uniformly the use of data for the Customs Union **to act as one**.

SO.5 Enable the Customs Union to act as one by ensuring effective EU-wide protection, irrespective of where the good crosses the border and adopting EU-wide approaches that are more than the sum of individual national efforts. A strong, uniform mechanism and response to **crisis** needs to be established.

4.3 Intervention logic



5. WHAT ARE THE AVAILABLE POLICY OPTIONS?

This Impact Assessment evaluates four different reform options with an increasing degree of ambition. In designing policy options, it is important to recall that the UCC provides a complete Customs Union ecosystem. It provides in detail for how the Customs Union works, with the rights and obligations of private and public sector stakeholders and with the processes that are needed to handle and supervise goods moving to, through and from the EU. The reform objectives are inter-dependent, and the reform options must be systematically coherent.

For these reasons, the options are mapped, identified, and assessed as viable reform packages, taking account of how the measures taken would work together. Each package addresses the problems, drivers and objectives identified (in a different manner and to a different extent).

Three major policy choices will largely determine the extent to which the Customs Union gets the desired capacity to collect, protect and simplify as one. These provide the major structural elements (building blocks) around which options are packaged. They are:

- **To what extent should customs processes be reformed?** The choice is between continuing the processes in the baseline or changing them as a starting point for the rest of the reform. Although the principles for reforming the customs processes are similar in every option, the way they are implemented varies depending on the other two policy choices (data management and governance). The reformed customs processes can only be implemented to the full extent, if they are accompanied by a centralised approach to the collection, use and processing of data (O3, O4). In case centralisation of data is not implemented, these components will be less effective as explained in section 6 (O1, O2).
- **To what extent should the customs data management approach be reformed?** Data management addresses how information is provided, stored, analysed, and used to drive customs operations. In the current decentralised approach, every Member State develops its own IT solutions for the different declarations, in line with common criteria for interoperability. A new approach to customs processes requires a better analysis and use of customs data. An important policy choice is whether to build these capacities individually in national systems (O1, O2) or together in a centralised Data Space (O3, O4).
- **To what extent should the governance of the Customs Union be reformed?** Different possibilities to strengthen 'acting as one' are considered in the reform:
    - Strengthen the existing governance model based on cooperation (O1)
    - Introduce an EU Authority for the Custom Union (O2, O4)
    - Strengthen the role of the Commission (O3)

5.1 What is the baseline from which options are assessed?

This impact assessment builds on a dynamic baseline, which assumes that both the ongoing implementation of the Union Customs Code IT systems and all the Customs Action Plan are completed by 2025.

The Commission's **Customs Action Plan** (CAP) adopted by the College in 2020, acknowledges that despite the major modernisation of EU customs legislation in 2016 (the UCC), there is evidence of problems and warned that '*there are great risks of losses of revenues for the EU budget, of threats to the safety and security of EU citizens, and of excessive burdens on legitimate trade, if action is not taken to reinforce the activity of national customs authorities across the EU.*' ([91]) The CAP precedes, prepares and announces the

([91]) customs-action-plan-2020_en.pdf (europa.eu), p.1.

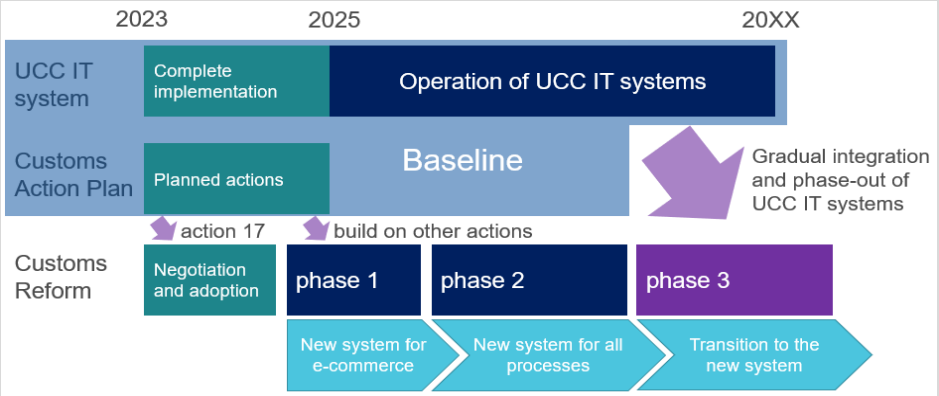
reform. It points towards the main areas where legal change would be needed and brings forward in parallel some practical actions within the current legislative limits (Overview in Annex 9.1).

Indeed, in 2025, if nothing else changes, the problems and drivers are likely to persist (see section 2.4) and customs will have difficulties to perform the increasing list of tasks, in a more and more complex world. While customs managed to cope in recent crises, like the UK withdrawal, the Covid-19 pandemic, or the Russia invasion of Ukraine resulting in sanctions against Russia and Belarus, it is not guaranteed that a future crisis situation can be handled.

In the baseline, Member States carry out risk management in national systems and with national data, without an EU-wide perspective. The Commission role is to provide common risk framework. The customs processes, data management and governance in the baseline are described in the drivers in section 2.3. Member States and the Commission complete the UCC IT systems and need to maintain and constantly update them. The Member States, the Commission and the economic operators will therefore continue to incur in a series of administrative costs that are further detailed in section 6.

Box 2 – Baseline and timeline of the customs reform

In the baseline, the UCC IT systems are completed as foreseen by 2025, and continue to operate with associated costs. The Customs Action Plan is implemented by 2025. All options proposed below are implemented in three phases. The exact years are specified for every option in the assessment.



5.2 Description of the policy options

5.2.1 Option 1: A package of simpler processes

General considerations

The key customs **process** components to be considered, in view of the reform objectives, are:

- The **process steps** as such, and the extent to which these could be reduced or simplified (see further the baseline analysis in Annex 5, section 1)
- The **roles** of the different trade actors, and how they fit with compliance responsibilities (see further Annex 5, sections 2.5 and in an operational view, section 2.7)
- The way **data** is provided and used for effective customs supervision
- Specific process treatment for more **reliable operators**
- Specific process treatment for **e-commerce** flows of goods
- The way in which **penalties** are applied across the EU to deter non-compliance

An important consideration for this analysis is the **interdependence** of each component above. Any valid option has to address the elements together.

As regards **process steps**, the relevance of each step was re-examined. Account was also taken of the commercial reality that any supply chain involves certain actors, including carriers (with various level of subcontracting), and principals (importers, exporters), which have different business roles and possess different information in the normal course of their business. It is also to be noted that supply chains are diverse, with different features depending on the modes of transport used and on commercial choices. Global postal traffic, for example, has some specific roles for origin and destination postal offices, which are not found in other supply chains. Deep-sea maritime traffic has its own distinctive features, including layers of subcontracting of transport, routings involving calling at several EU and non-EU ports, and *de facto* integration of port community systems in customs compliance. Any remodelling of customs process needs to enable operators to clearly discharge their responsibilities, across a diversity of commercial practices. A given carrier needs to know, for example, whether it is carrying goods which have not been released to free circulation, and to know unequivocally when its accountability to customs passes to the next carrier in the chain. Customs likewise need to know who is responsible for goods at a given moment. This means that the approach to simplifications must enable communication to some degree between customs and the different operators at the relevant points in the supply chain, so that all actors can fulfil their role and always know who is responsible to customs until the goods are released to the market.

As regards **roles**, a weakness in the current system is that the persons accountable to customs for each process step are not necessarily the persons best placed to fulfil substantive compliance obligations. The commercial reality is that the persons who motivate the traffic (exporters and importers) are best placed to assume responsibility for financial and non-financial compliance. Alternative roles, including the current "declarant" role or the carrier role, have greater difficulty in fulfilling this responsibility in so far as they do not have full insight to the commercial transaction. In light of the objectives of the reform, the most appropriate change at the level of roles is to attribute compliance responsibility to importers and exporters in the first instance (while providing for default responsibility for intermediaries in specific scenarios such as transhipment to ensure that the responsibility as such is always covered). This change would also open the door to further simplification. As the importers and exporters are also in possession of the information necessary for substantive compliance, and could account for some aspects (such as duty payment and certain product compliance requirements) on a full supply chain basis, it is possible to consider alternative compliance approaches, and place much less reliance on the provision of detailed declarations for all compliance issues at every process step.

Regarding the modalities for provision of **data**, the issue is partly formal (the regulatory requirement as such) and partly operational (commercial practices and the existing legacy of information environments). From the formal perspective, it is possible to provide for a rebalancing of information provision obligations, to match information requirements, in terms of scope and timing, better with who can and should fulfil them. It is also possible to require that information, once submitted, should be re-used in all customs processes across the EU. The extent to which this can be offered, and the relative costs and benefits of offering it in a transnational environment where different national customs authorities and trade have to communicate across the flow of goods, depend strongly on the available IT systems. To give a concrete example, if a carrier provides information to the customs office of first entry to the EU, that information is not going to be available to other offices and used in other processes unless the IT systems exist to make it so. One approach is to rely on current national systems to

be developed to handle this. Another approach is to provide for a single data entry point for traders which supports the re-use and integration of data.

Regarding **reliable operators**, consideration was given to different approaches. The first key ingredient in any future formula is the way in which reliability is demonstrated. Here, the options are essentially to strengthen the existing system, by further clarifying the way in which compliance assurance is provided and enhancing monitoring, or to introduce an alternative or complementary approach based more on transparency and accountability. The second issue is the nature of the benefits which can be offered, in the areas which have a business relevance, i.e. procedural burden, facilitation of controls and provision of financial guarantees. A third aspect is the practical understanding of the existing scheme (AEO) and in particular its use as a badge of trust between traders and for purposes of international mutual recognition agreements, currently limited to 'AEO S' (recognition for security and safety purposes). Each option needs to present a balanced package. In addition, each option needs to ensure that overall, the customs supervision remains effective.

In that light, it was considered whether it would be possible to exempt reliable traders from providing **any** data in the supply chain. A complete exemption in respect of their supply chains would not be possible as this would open the door to their exploitation by organised smuggling groups without any possibility for customs to target their controls on such traffic. The necessary balance on this procedural aspect could be obtained however by ensuring a minimum provision of advance cargo data and consignment identification *as such* by carriers, and connecting this with reliable importers. This would enable a greater shift in the information provision burden of importers away from the supply chain, and should apply in all options.

Regarding **e-commerce,** the essential process issue is how to include e-commerce flows in the scope of customs duty and customs supervision measures. Options could include requiring consumers, postal operators, carriers, or e-commerce intermediaries to provide additional information and take responsibility for ensuring compliance both financial and non-financial requirements. Involvement of tens of millions of consumers in provision of customs duty calculations or demonstration of compliance with product standards would be undeliverable in practice. Involvement of transport intermediaries in substantive compliance is possible in principle, but their access to the underlying commercial transactions in practice is insufficient and is demonstrated by the shortcomings inherent to the constraints of the current rules where customs declaration requirements are based on the information available to these operators (notably postal operators and courier companies). E-commerce intermediaries (notably, platforms) are best placed to assume responsibility as they have both a substantive role in determining what is imported or exported, and the depth of commercial data necessary to identify the goods for fiscal and non-fiscal compliance purposes. In so far as they act on behalf of third party vendors, it is reasonable nonetheless (and consistent with other EU policy measures) to expect that they would use the technical means at their disposal to respond to advice which public authorities may provide regarding non-compliant supply chains which use their services. E-commerce intermediaries do not always possess full supply chain information however – in this respect, the role of transport intermediaries remains important, both in providing supply chain information to customs, and handling practical interventions such as operational controls. Again, consideration of the commercial reality limits the practical options. The viable policy options need to take as a common principle that compliance responsibility is attributed to e-commerce intermediaries, and that transport intermediaries will continue to provide supply chain data to customs and facilitate customs controls and risk mitigation measures within their capacities.

Taking the above considerations into account, it would not be appropriate or realistic to attempt to present and assess options for each process element independently. The approach taken in this assessment is to prepare coherent, viable packages integrating changes in processes, the information environment and governance, taking account of interdependencies.

A final consideration is the approach to **penalties for non-compliance with customs legislation**. Variations across the EU in the approach to administrative penalties in particular could undermine in practice the improvements provided for in the revised legislation. For example, it is not realistic to expect data quality to improve systematically if there are little or no consequences for providing inaccurate data in some Member States and strong penalties in others. Such variations also risk motivating distortion of traffic towards enforcement environments which would be perceived as weaker. All options should therefore be accompanied by a common approach to administrative penalties.

The first Option package - Option 1 - envisages a coherent reform addressing all the key elements above. Given the commercial realities, the main choices would in fact be common for all options, but their practical delivery would vary very significantly when they are combined with additional measures for the information environment and the governance. In Option 1, they are implemented within the existing governance structure and within the national IT environments.

Customs Processes

As the reform aims to strengthen customs supervision and reduce the burden for traders, option 1 contains a package of changes to customs processes, to solve the identified main issues in the customs processes in the UCC. This is at the heart of customs activities. They result from requests put forward by the ECA, from the internal reflection and evaluation experience within the Commission and strategic insights provided in the Wise Persons Group report. Key ideas underlying the solutions proposed were discussed and welcomed in principle by the Member States in different discussions. The processes are explained in detail in **Annex 5**.

The first issue identified is the multiplicity of steps in the import process explained in the drivers. This option proposes to completely **remove some steps in the import process** to make it more similar to the export process. The importer and the carriers would provide information to customs before the goods arrive to the Union. Customs perform risk analysis on the basis of that information and, once the goods have arrived, request a control only if necessary. The operator would not need to systematically present the goods to customs or provide information on the consignment several times. Customs would not need to accept every piece of information from operators. By contrast, the obligation to provide certain minimum pre-loading and pre-arrival information (advance cargo data) must remain.

The second issue identified was the lack of a single responsible operator per consignment**.** **Removing the role of declarant** and clarifying the role of the **importers and exporters** addresses this issue. Importers and exporters motivate the traffic of the goods and so they become responsible for providing the information to customs, for paying the applicable duties and taxes, and for ensuring compliance with other requirements. One operator per consignment becomes the single liable person both for financial and non-financial risks. The **carriers** are also key. They have essential information on the route, the means of transport, the loading and arrival times and the weight of the goods. Customs needs that information and also needs the carriers to be gatekeepers, to contribute to ensure that importers and exporters (and, if not them, the carriers themselves) provide data on the consignments, and to support controls.

Additional information that is relevant for customs to fulfil its role is used for the risk analysis. This includes cross-checking information with other competent authorities on specific risks. Economic operators are required to share more information about their supply chains, including on the manufacturer and supplier. Carriers are required to share information on the container status. Specific information requirements in other EU legislation, for example a digital product passport, would also be applied by customs and used for the risk analysis. Furthermore, the framework for administrative cooperation with international trading partners and the provision for the exchange of customs information are strengthened.

This links with the third identified issue, the impossibility to **link the import process steps and reuse the data**. This option envisages that, once the importer or exporter provides data on a consignment, the carrier is entitled to link its own information to the pre-existing data. The importer or exporter would also be able to use the data on one consignment for a similar one (or even beyond, see below possibilities for trusted traders). Customs would then have the overview on the consignment. However, the implementation of this possibility depends strongly on the digitalisation and governance model chosen in each option. Option 1 is based on a decentralised digitalisation model (see below) so each national IT environment would provide for the possibility to reuse data in its own way. The central level – in Option 1, the Commission – would then have to play a role in coordinating the interoperability across Member States, very similar to the baseline. By contrast, in options where there is either digital centralisation (O3 and O4) or a central governance structure (O2 and O4), implementing the reuse of data becomes easier.

The reuse of data is closely linked to another identified issue, that the UCC defines an excessively rigid format for data. To address this, this option proposes to remove the regulation of the data format from the UCC. This would open up the door to **more flexible data formats**, keeping in mind that the data should be sufficiently structured and precise to allow that customs carries out an automated risk analysis; it may be noted that ambiguous data can lead to inefficiencies such as false positives (wasted interventions) or false negatives (missed risks). Again, the implementation of this feature depends both on the digitalisation and governance models chosen, as explained above.

This new model of customs processes puts e-commerce intermediaries and traditional traders importing in bulk on a more equal footing with the following additional legal modifications:

- The customs duty exemption for goods up to EUR 150 has been identified in section 2.2 as providing a competitive advantage to foreign retailers as opposed to EU retailers and in section 2.3, as a source of complexity, uncertainty, and poor data in the completion of customs formalities and as being prone to fraud. This option would **eliminate the customs duty exemption for goods up to EUR 150** and to the highest possible extent would align the customs rules with VAT rules to address those problems.

- When it comes to responsibilities, under the current UCC rules the consumer is considered the importer and therefore any customs action against parcels, be it for undervaluation or for non-compliance of the goods with other non-financial requirements, has a very limited impact. This option follows the VAT model and makes electronic platforms **"deemed importers**", requiring them to charge customs duties at the moment of the sale without modifying Member States' liability for the EU budget. If customs encounters a problem in a parcel, customs can therefore act against the platform and investigate whether it concerns an isolated case or a systemic problem. In addition, customs could contribute to enforce the new rules on responsibility embedded in the Digital Services Act. The idea to make electronic platforms liable for complying with customs results from discussions between

the Commission with Member States and e-commerce platforms. ([92]) Making the e-commerce intermediaries "deemed importers" and having them charging the customs duties at the moment of the sale would align the customs treatment with the VAT regime for distance sales. This would not change Member States' responsibility for making available the Traditional Own Resources.

Calculating the applicable duty is a complex task based on three factors of the good: (i) its tariff classification among more than 1 000 codes; (ii) its customs value and (iii) its origin. Applying this method in e-commerce would often result in a disproportionate administrative burden and collection costs both for customs and businesses. To avoid this, option 1 proposes to provide e-commerce intermediaries with the possibility to apply **a simpler duty calculation method** based on only 4 different buckets ([93]), each of them with a different duty rate. Applying the bucketing system should not result in lower revenues than applying the standard calculation but would be easier. To keep the approach simple, only goods subject to harmonised excise duties ([94]) would be excluded from the facilitation. It would apply higher duty rates than the standard ones in order to account for potential revenue losses resulting from commercial policy measures such as from anti-dumping duty, countervailing duty, and specific agricultural duties. In order to prevent the misuse of the approach that would only apply in relation to goods sold directly to consumers in the EU, it would be necessary to introduce a safe-guard mechanism that would allow the Commission to intervene if a systematic abuse is identified. The bucketing system would be based on the *erga omnes* duty rates and does not take into account the originating status of the goods. However, if the economic operator wishes to benefit from preferential tariff rates by proving the originating status of the goods, he/she can do so by applying the standard procedures. Canada successfully applies such a simplified system since 2012 ([95]) and the Global Express Association refers to it as a benchmark in its position paper on 'Tax/Duty Collection on Imported Low Value Shipments ([96]). Taking the above elements together, the revised and simplified set of processes under this Option, for 'standard' operators, is depicted in Figure 5 below.

([92]) Customs 2020 Project Group on the Import and Export Customs Formalities related to Low Value Consignments and its Subgroup on Platforms Register of Commission expert groups and other similar entities (europa.eu).

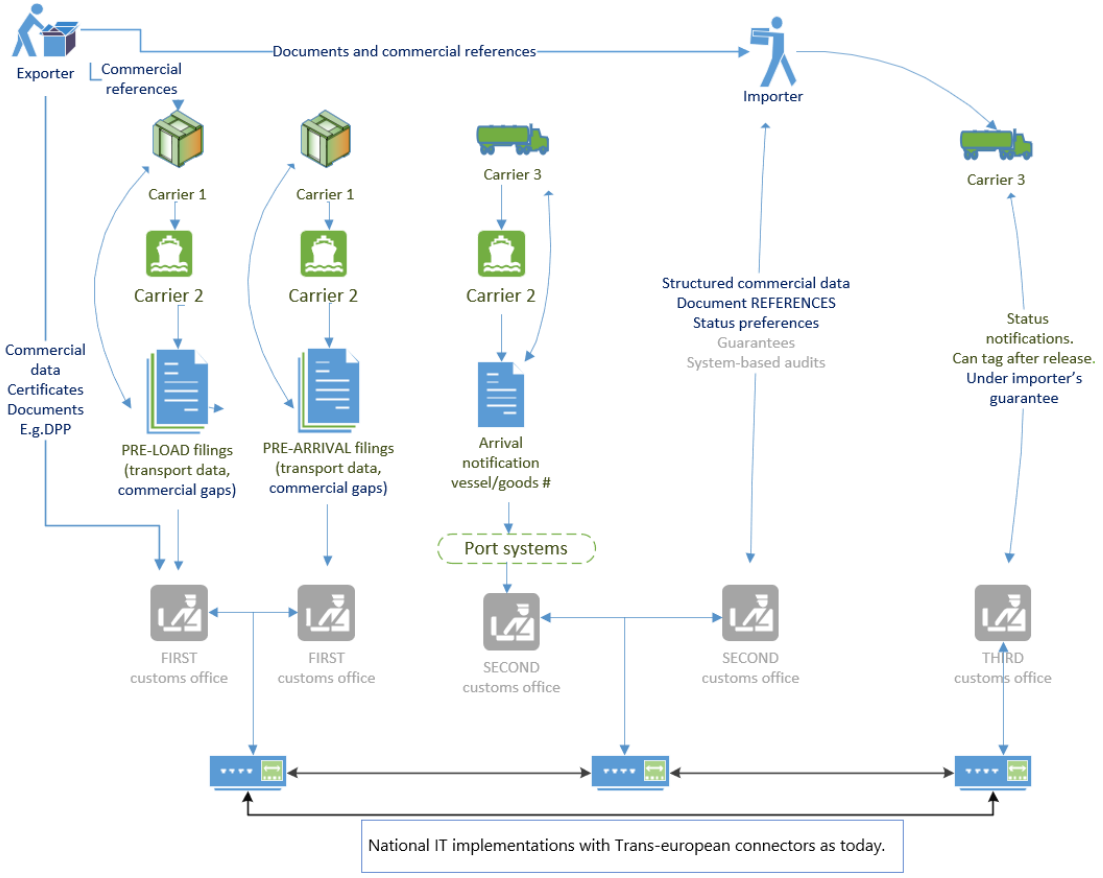
([93]) The four potential buckets would be 4 buckets with respective ad valorem duty rates of 5% (e.g. for toys, games, houseware articles), 8% (e.g. for silk products, carpets, glassware), 12% (e.g. for cutlery, electrical machinery) and 17% (e.g. for footwear) and containing goods based on their 6-digit Harmonised System code number that remains a requirement for pre-arrival cargo requirements under the legislative proposal for revising the Union Customs Code. Goods having a 0% erga omnes duty rate would continue to benefit from zero duties.

([94]) Article 1(1) of Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (recast) (OJ L 58, 27.2.2020, p. 4–42)

([95]) See https://www.wto.org/english/tratop_e/msmes_e/canada_sept21_e.pdf

([96]) See GEA PROPOSAL ON DUTY-TAX COLLECTION ON IMPORTED LOW VALUE SHIPMENTS.pdf (global-express.org)

Figure 5 – Illustration of simpler customs procedures for a consignment on import - Source DG TAXUD



Another problem identified is the lack of penalties, which is compensated by a reward system to trustworthy operators or AEO. This system however has proven difficult to monitor. To address this problem, the package of simplification would modify the possibilities for **trusted traders:**

- **AEO** traders can operate under a ***trust and check*** approach if they have their electronic system interacting with the customs' systems on a constant basis and thereby allowing customs to have access to all relevant data directly from the operators' systems. They can **self-monitor** the compliance of their goods and calculate and pay duties periodically, without submitting transaction-based customs declarations per consignment. Pre-loading and pre-arrival information per consignment would still be required but carriers could rely on the information previously submitted by these trusted importers. Customs would be able to perform risk analysis and check information on a continuous basis and request a control whenever they estimate it necessary and even under certain conditions remove the traders' ability to "self-release" goods. The quality, coherence and accuracy of the received information will allow monitoring the operator's trustworthiness.
- In return for transparency and system-to-system exchange of information, the trusted/AEO+ operators would experience **fewer and more targeted customs** interventions in the supply chain, when these are necessary. Furthermore, subject to the prior agreement of the other competent authorities, these traders could carry out certain **controls** generally performed by those authorities.
- **The existing possibilities to reduce guarantees** for these traders would be enhanced.

The last three measures in the package are also intended to render customs processes easier but focus on the customs authorities, as follows:

- The UCC would be more precise on the **cooperation between customs and other authorities**, opening up the possibility to agree on joint management criteria, to do joint monitoring of trustworthy operators, to coordinate intervention, to set up a time-limit for reacting to specific consignments, to address supply chains as a whole and to exchange data. The implementation of these possibilities highly depends on the digitalisation and governance model chosen in each option.
- The Commission would have proper **access to data** in national systems to get and process some data in line with its role in risk management and for anti-fraud purposes but the core of digitalisation rests with the Member States, as explained below.
- The UCC envisages a mechanism to address **crisis scenarios**, which would allow moderation of the effect of some rules. In this option, the Commission would be entitled to adopt an urgent implementing decision to explain those flexibilities.

Many stakeholders support simpler customs processes. The public consultation confirmed that respondents 150 (77%) agreed with the need to simplify how information is provided to customs and to reduce administrative burden and formalities. The majority of respondents also strongly agree [132 (68%)] or tend to agree [26 (13%)] with making more use of commercial information. *'A new partnership with trusted traders and other competent authorities for better risk management, including reinforced advance cargo information'* was supported by 101 (52%) who strongly agree and 49 (25%) who tend to agree. Finally, enhancing co-operation between customs and non-customs authorities (notably Market Surveillance Authorities, Law Enforcement Authorities, Tax Agencies) was among the most supported elements of the reform options with 106 (55%) strongly agree and 47 (24%) tend to agree.

These measures should be accompanied by a **common approach to administrative penalties**, to ensure that these are used in an effective, proportionate and dissuasive manner across the EU. This should take the form of a framework establishing a minimum core of customs infringements and non-criminal sanctions, and include a common list of acts or omissions that should constitute customs infringements in all Member States, and provide for minimum amounts of pecuniary charges as well as the possibility of revocation, suspension or amendment of customs authorisations. It should concern only non-criminal sanctions without preventing Member States for providing for criminal sanctions. This framework will help underpin the proper implementation of the revised processes, and will also help ensure that perceived differences in national enforcement environments do not motivate distortions in traffic flows. The common framework for penalties should apply in all options as an integral part – this description is therefore not repeated. A common attempt to address customs infringements and sanctions was considered in a proposal for a Directive in 2013 ([97]) but was finally withdrawn by the Commission ([98]) because it failed to be adopted by the co-legislators. ([99])

In the Reflection Group, Member States welcomed the exploration of different customs processes, but asked for detailed explanations in the impact assessment. Participants converged on the importance of risk management, including at a European level. The structural cooperation with other authorities was considered with interest. The topic was further discussed in the Customs Policy Group on 14.12.2022.

([97]) Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the Union legal framework for customs infringements and sanctions, COM/2013/0884 final.

([98]) Withdrawal of Commission proposals 2020/C 321/03 (OJ C 321, 29.9.2020, p. 37–40).

([99]) Only the European Parliament adopted a first reading position (European Parliament legislative resolution of 5 July 2017 on the proposal for a directive of the European Parliament and of the Council on the Union legal framework for customs infringements and sanctions (COM(2013)0884 – C8-0033/2014 – 2013/0432(COD))

The above-mentioned customs processes are also included in all subsequent options. They are not repeated below unless a specific feature needs to be signalled. Some elements of the processes described in option 1 will see the intervention of another actor in subsequent options 2 and 4: the European Customs Authority.

Data management

Digital and automated processing of information is necessary to handle the large amount of goods entering and leaving the Customs Union every hour. In option 1, the simpler processes as described above would require substantial changes to the **national customs IT environments.** The advantage of having national customs IT environments is that each Member State can adapt it to its specific needs, and the continuation of established links and formats for exchanging information with other non-customs IT systems within one Member State. The challenge is the interoperability of those national IT environments at EU level. The fragmentation across different systems and capacities would continue to provide a challenge for the EU risk analysis.

The national customs IT environments would need to ensure that the following functionalities are available:

- submission of information by different actors in the supply chain. Capacity to connect the different elements and recognize whether the information was already provided elsewhere to overcome the fragmentation of data across the individual national declaration systems;
- handling more data, as additional information on the goods, such as its manufacturer, would be required to check compliance with non-financial requirements;
- handling of information provided by e-commerce platforms;
- be built around the data (as compared to the declaration process) to improve the customs supervision and risk management;
- real-time comparison of data;
- exchange of data both between customs administrations and with other competent authorities;
- international exchange of data with customs authorities in the country of export / import.

Governance

In this option, the coordination of customs action would be strengthened within the existing governance framework with the Commission, Council and Member States as main actors.

A mechanism that would involve Member States in deciding on a regular basis on non-financial policy priorities for customs supervision and risk management would be set up. This common focus could help streamline the approach of Member States in the areas of risk management and controls. The operational implementation would however remain solely at national level as would operational, real-time risk analysis and risk management, leaving room for divergence in approaches.

Similar to the dynamic baseline, enhanced collaboration projects and expert teams would be supported by the customs programme.

Implementation timeline

The implementation of this option would be split in three phases. Y1 is the first year of entry into force of the new legal framework (20 days after publication in EU Official Journal):

- Phase 1 (Y1-3) – Member States build the national IT solutions for e-commerce reporting
- Phase 2 (Y4-8) – E-commerce intermediaries start reporting to national customs and Member States continue adapting their IT environment to the new customs processes
- Phase 3 (Y9-11) – traders progressively start operating in the new national IT environment

From Y12, all traders operate in the new national IT environments and can apply the new processes.

5.2.2 Option 2: An EU Customs Authority for coordination

In option 2, the **Customs processes** and **data management** would in essence be as described in option 1, but an EU Customs Authority would coordinate their implementation, leading to more synergies.

Governance

In addition to the current actors in the baseline and option 1, a European Customs Authority ('the Authority') in the form of an EU agency would be introduced (**Annex 8**).

Similar to Option 1, non-financial policy priorities for customs supervision and risk management would be introduced. The implementation of the priorities would however be done by the Authority and Member States. While Member States would continue to do risk analysis in their national IT environments, the Authority would support and coordinate the approach of Member States in the areas of risk management and controls. The Authority would further conduct preparatory work for the Commission for the prioritisation exercise. The Authority would prepare crisis response protocols and procedures that it would activate on political and policy demand and would support the Member States in their delivery, monitoring the results. The Member States would be involved in the Authority.

The Authority would coordinate cooperation between the Member States, define a common content of training and uniform implementation of rules, including guidance on processes and working methods and common interpretation of classification, valuation and origin. The Authority would exploit the legal possibilities of cooperation between customs and other authorities. The Authority would conduct performance measurement activities for the Customs Union.

In addition, the Authority would support the deployment of the funds of the expected future successors, including the activities related to the maintenance and operation of the EU IT systems connecting the national customs environments, and the Customs Control Equipment Instrument (CCEI).

It may be noted that, the tasks for the Authority in this option would be more limited than the operational Authority in option 4.

Implementation timeline

The implementation of this option would be split in three phases. Y1 is the first year of entry into force of the new legal framework (20 days after publication in EU Official Journal):

- Phase 1 (Y1-3) – Member States build the national IT solutions for e-commerce reporting. The Commission undertakes some preparatory activities to form the EU Customs Authority.
- Phase 2 (Y4-8) – E-commerce intermediaries start reporting to national customs and Member States continue adapting their IT environment to the new customs processes. The Authority progressively recruits and starts functioning.
- Phase 3 (Y9-11) – traders progressively start operating in the new national IT environment. The Authority is fully functional.

From Y12, all traders operate in the new national IT environments and can apply the new processes. The Authority is fully functional.

5.2.3 Option 3: A central EU Customs Data Space, managed by the Commission

The **Customs processes** would in essence be as described in option 1, but the introduction of an EU Customs Data Space facilitates their application, particularly for the *trust and check*.

Data management

In line with the overall Commission strategy for data ([100]), the Commission would build and manage a Customs Data Space. A Data Space is an integrated set of interoperable electronic services for collecting, processing and exchanging relevant information. It is secured and allows data sharing by a set of stakeholders, including raw data and non-harmonised formats, matching them and producing results that can be used for different purposes, including risk management and performance measurement. (For further details, see Annex 7 section 4.4).

The Data Space would facilitate the collection of information from different sources along the supply chain (manufacturers, insurers, carriers, importers). It would use the information for improved customs risk management, which is the very core of customs supervision. This engine would operate 24/7 in real-time and be supported by modern data analysis tools and artificial intelligence. It would facilitate the exchange of information with other relevant actors. It would allow for better cooperation, both between customs administrations and with other competent authorities. It would enable information exchange and access between customs authorities, the Commission services (including OLAF), economic operators and other authorities according to their role, while respecting data protection. The real-time comparison of data is of particular importance for the supervision of non-financial risks.

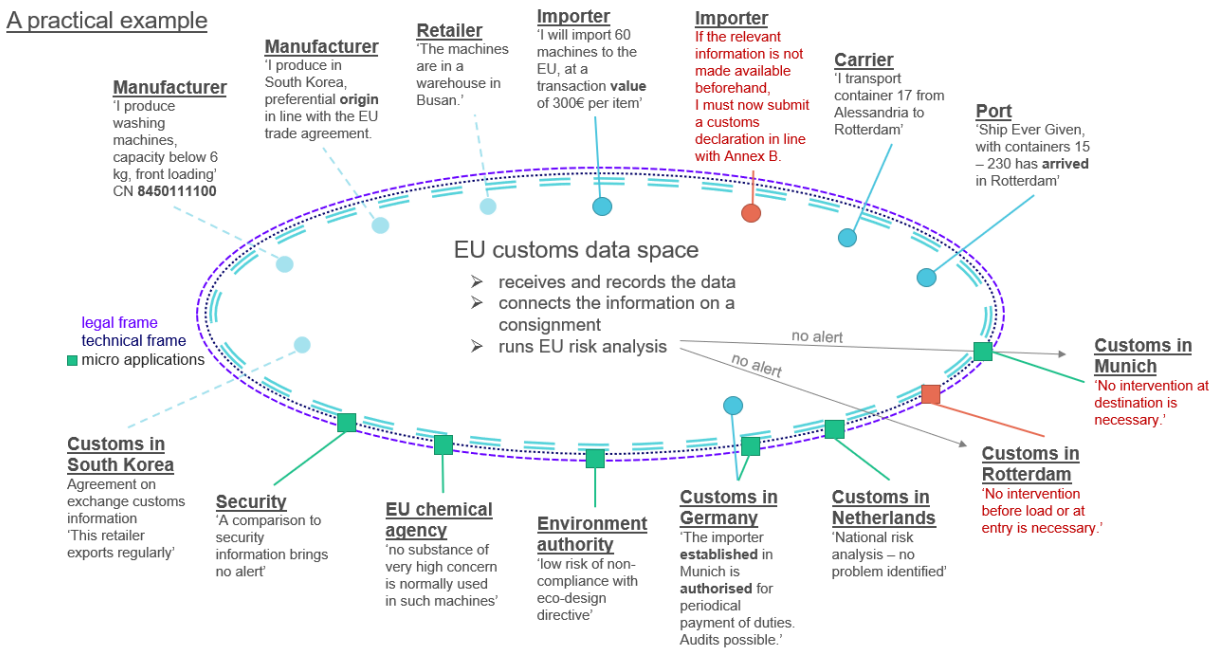
In practical terms, the Data Space consists of a legal framework, which clarifies access rights and obligations. A technical framework that specifies how different actors can connect and interact with the Data Space. And a core, where the information is stored, processed, and analysed. According to the evolving needs, so-called micro-applications can use the relevant data for a specific purpose. They are much more flexible and cheaper to develop than the current IT solutions.

The example below shows the collection of information (blue circle) from different actors in the supply chain of the import of a consignment of washing machines from South Korea. The information from third country manufacturers and retailers helps the importer documenting compliance. For instance, information on the product can be submitted once and re-used for

([100]) See the 2020 Commission communication 'A European strategy for data', COM/2020/66 final.

different shipments. The Data Space allows central risk management and the exchange of information with competent authorities via micro-applications (green box). The micro-applications allow specific authorities, not only customs authorities, to use certain – legally defined – data from the Data Space, or to provide their information to the Data Space, to better enforce the growing list of prohibitions and restrictions. This strengthens the cooperation between customs administrations, with specialized authorities, and with international partners. It shows how the Data Space can support both the simpler processes for trade, and the strengthened capacity of customs and their cooperation with other authorities.

Figure 6 – Illustration of a practical example in the EU Customs Data Space – Source DG TAXUD



In the past, centralised approaches to IT development were often discarded, due to a certain path dependency. In the rigid IT systems, focused on process compliance and the exchange of messages, the compatibility with the existing national structure was considered more important than the synergies and savings from a central development. The option of a single centralised system is considered here because two aspects are different from previous cases. First, the size and ambition of the reform is significant enough to overcome the path dependency and develop a better system instead. And second, the Data Space allows consideration of national particularities in the respective micro applications. It is not a one-size-fits-all approach, but a common platform on which the specific solutions can be developed.

Many stakeholders support a single customs IT environment. The public consultation asked which policy changes should be considered in the reform. Most support was expressed for the 'simplified provision of data' and 'information exchange between customs and other authorities' with 139 highly positive (72%) and 30 positive (15%) and 125 highly positive (64%) and 40 positive (21%) respectively. Asked about the impact on their association, 'a single EU customs information environment' received most support with 122 replies seeing it as highly positive (63%) and 43 as positive (22%).

From the trade perspective, the Data Space modifies the delivery of the simplified processes:

- Traders can deal with all customs processes (including release in any Member State) through a single EU portal rather than through separate national systems for each MS
- The processes are uniform regardless of entry point

- The Data Space connects data for a consignment across all steps and across the EU
- EU accounts are offered to support compliance management (e.g., for managing documents or their references and guarantees, and enabling further facilitation services to be rolled out for sectoral policies, in addition to Single Window formalities).
- E-commerce platforms provide information to one environment rather than 27.

Among Member States consulted in the Reflection Group, there was general convergence that data needs to be at the centre of customs' operations to make the Customs Union fit for the digital age. Although views differed whether such a data-driven approach could best be implemented through a centralised or decentralised model, most Member States were in favour of a centralised approach, acknowledging difficulties with the current IT model in terms of timely implementation, data availability and data fragmentation. E-commerce was mentioned as main priority to focus on and start with, in general, but also in this regard. While a few preferred their national IT environment, most participants pushed for a longer-term data/IT vision and strategy towards more centralisation. Most also emphasized the need for an operational risk management layer at EU level and that the reform should ensure optimal access and use of data at central level, allowing also better risk analysis at national level.

From the customs perspective, the Data Space improves the use and usefulness of the information:

- First, it allows for a real-time EU risk management.
- It includes risks and fraud patterns previously covered by the national perspective.
- New information requirements or new data sources can be integrated and used for better risk analysis. For example, integrating the container status data.
- It gives all customs administrations an EU wide perspective on activities that concern them.
- The collaboration framework with other authorities is facilitated by a common Data Space and the cross-checking of relevant information.
- Identified risks are directly visible to all relevant administrations, to address circumvention.
- It facilitates coordinated action on a specific risk across different Member States and supports crisis response.

This option proposes a gradual **transition**, starting with the central implementation by the Commission. Member States customs IT systems are gradually integrated or phased out, as more functionalities switch to common or customised applications in the Data Space. Annex 7 explains the Data Space in detail and outlines a transition roadmap that would take 10 years to the final migration of a national system.

Governance

From the governance perspective, this option would mainly work like Option 1: The Commission prepares a common risk management approach and co-operation framework to help national customs and other authorities to work together for risk management and controls. Non-financial policy priorities for customs supervision and risk management are introduced as per Option 1.

In Option 3, the role of the Commission would however be reinforced because it manages the EU Customs Data Space. This would enable the Commission to drive joint analytics projects involving customs and other authorities. It would elaborate Common Risk Criteria and operational risk indicators for direct application on the EU data flows and would work closely with the Member States on this. The Commission would arrange for risk information from other authorities to be integrated directly in EU-wide strategic and operational risk analysis.

These factors would lead to a significant improvement in the quality of risk analysis. Nevertheless, the Commission's capacity to support and deliver such deep operational work, and to conduct the necessary operations would need to be strengthened. If not, the significant investment in the data management environment may be under-exploited, and the governance structure would lack an actor with the clear organisational mandate and critical mass to deliver to the full potential.

Implementation timeline

The implementation of this option would be split in three phases. Y1 is the first year of entry into force of the new legal framework (20 days after publication in EU Official Journal):

- Phase 1 (Y1-2) – the Commission builds the seed of a Data Space for e-commerce. Deploying one solution requires a year less than deploying 27 solutions.
- Phase 2 (Y3-5) – E-commerce intermediaries start reporting to the Commission Customs Data Space and the Commission continues building it for the rest of operators.
- Phase 3 (Y6-9) – traders progressively operate in the Data Space and national IT systems progressively phase out

From Y10, all traders operate in the Commission Data Space.

5.2.4 Option 4: An EU Customs Authority for coordination and operations, managing an EU Customs Data Space

Customs processes would be reformed as described in option 1. However, a central Data Space and an operational EU Customs Authority would implement the changes.

Data management is built around a central Data Space, as described in option 3. In option 4, a European Customs Authority would however manage it. (For further details, see Annex 7 section 4.5).

Governance

Non-financial policy priorities for customs supervision and risk management would be introduced and implemented as per Option 2.

The list of tasks of the European Customs Authority would cover the coordination activities and tasks to support the deployment of EU funds as described in Option 2. In addition, the Authority's tasks would be broader on risk management and co-operation, data management and supporting the delivery of simplified processes. The Member States would be involved in the Authority.

With the central Data Space, the Authority would have a prominent role in processing and managing data for allowing its use by stakeholders according to their access rights such as the Commission services (including OLAF), Member States and other authorities. It would enable the Authority to drive joint analytics projects and conduct real-time operational risk management for the Customs Union in support of Member States. The Authority would be able to directly design, test and implement operational risk indicators to be used on EU-level data flows and analyse operational results to provide periodic information and indicators for performance measurement.

The authority would organise co-operation with other authorities at EU level for all policy priorities within a structured co-operation framework allowing the development of joint

supervision strategies. Cooperation with other authorities and OLAF ([101]), which organises anti-fraud operations, would be described in the relevant legislation. Its investigative competences would not be affected. The Authority prepares crisis response protocols and procedures that it activates on political and policy demand and supports the Member States in their delivery, with direct and immediate implementation of monitoring and targeting activities on an EU-wide basis using the EU Customs Data Space.

In the Reflection Group, Member States expressed a clear preference that if a new additional EU layer is introduced, it should manage the new centralised IT environment as opposed to the latter being managed by the Commission. In general, they considered more centralisation in areas like data management, risk management and training essential to make the Customs Union future-proof. Other areas for increasing cooperation were suggested: (i) organising joint customs controls and operations, (ii) establishing national/regional centres of excellence that could execute tasks (e.g. joint training) for the benefit of all or similar Member States and (iii) establishing an intra-EU mobility programme for customs officers, allowing them to work in a different Member State for a certain period.

Public stakeholders equally see a role for the Authority in managing the IT. In the public consultation, respondents expressed support for reforming the EU customs governance to provide for an EU layer, as long as it would not bring additional burden for economic operators. Asked about the specific tasks for such EU layer, respondents considered:

- Training of customs officers – 113 (58%) strongly agree, 42 (21%) tend to agree
- IT management – 97 (50%) strongly agree, 48 (25%) tend to agree
- Financing of customs equipment – 85 (43%) strongly agree, 43 (22%) tend to agree
- EU crisis response – 79 (41%) strongly agree, 56 (29%) tend to agree
- EU-wide risk management – 73 strongly agree (38%), 58 (30%) tend to agree
- Identification of risk priorities at political level – 57 (29%) strongly agree, 63 (32%) tend to agree

Implementation timeline

The implementation of this option would be split in three phases. Y1 is the first year of entry into force of the new legal framework (20 days after publication in EU Official Journal):

- Phase 1 (Y1-2) – the Commission builds the seed of a Data Space for e-commerce; EU services prepare the set-up of the EU Customs Authority (recruitment, set-up, etc).
- Phase 2 (Y3-5) – E-commerce intermediaries start reporting and the EU Customs Authority takes over the building and management of the Customs Data Space for the rest of operators.
- Phase 3 (Y6-9) – traders progressively operate in the Data Space and national IT systems progressively phase out. The Authority is fully functional.

From Y10, all traders operate in the Data Space. The Authority is fully functional.

([101]) The European Anti-Fraud Office, OLAF, carries out independent external administrative investigations for strengthening the fight against fraud, corruption and any other activity adversely affecting the Union's financial interests, as well as any other act or activity by operators in breach of Union provisions.

5.3 Discarded policy options

5.3.1 Full integration into one EU customs service

A first discarded option is the most ambitious one, the full integration of all national customs administrations in one, single EU customs service in the form of an agency. All national customs staff would be shifted to the EU level and employed by the EU customs service, which would decide on the allocation of the resources according to the needs of the Customs Union.

The service would, in addition to the tasks of the Authority under Option 4, take over all customs related tasks remaining at national level and become the sole EU Customs Authority. Additional synergies and economies of scale could be generated, reducing the number of central services, like human resources, procurement, contract management, etc.

The EU customs service would become the single actor implementing customs legislation and policy. As it would also perform the operational controls and audits previously conducted at national level, the financial liability to make available traditional own resources would also shift to the EU level.

This option would clearly bring significant benefits. The Customs Union is one, with one single EU external border. The costs for the EU budget would be very high, but Member States' role in collecting the customs duties would also disappear. If an EU Customs Authority in line with options 2 or 4 performed its tasks efficiently and effectively, it could generate *spill over effects* to other operational tasks still exercised at national level and, in the end, gradually lead to full integration into one EU customs service.

However today, full integration of all national customs into a single EU customs service is not politically feasible because it would not be supported by a vast majority of Member States. A comprehensive cost-benefit analysis of all costs linked to the full disintegration of national customs administrations was not possible for this impact assessment.

5.3.2 Other discarded options

Options requiring financial investments for a central digitalisation or for an EU layer without reforming the customs processes are not analysed in detail because those options are considered inefficient.

When analysing to what extent the **processes for e-commerce** need to be modified, the options to decrease or increase the EUR 150 customs duty exemption have been discarded. The reason is that none of the identified problems (distortion of competition, complexity, uncertainty, difficulty to control and fraud) is linked to the amount exempted but to the very existence of the exemption. The analysis carried out by PriceWaterhouseCoopers in the framework of the study on "*An integrated and innovative overhaul of EU rules governing e-commerce transactions from third countries from a customs and taxation perspective"* (running since November 2021) ([102]). The study follows up action 9 of the Customs Action Plan whereby the Commission endeavoured to examine the effects of e-commerce on customs duty collection and on the level playing field for EU operators, including possible arrangements for customs duty collection on the lines of the new VAT collection approach under the Import One-Stop-Shop ('IOSS'). The study assessed the possible implications of changing the EUR 150 duty relief threshold and took account of the results of the exploratory consultation which ran from 16 December 2021 until 10 March 2021 and the outcome of the targeted questionnaire addressed to Member States' customs authorities. In its assessment of the three options regarding possible changes to the duty relief threshold (removing, increasing to EUR 1,000, or

([102]) The final report is still being assessed at the time of writing the impact assessment.

lowering to EUR 22), the study concluded that the removal of the customs *de minimis* would result in the largest revenue increase, and would level the playing field between foreign sellers and the domestic market to the greatest extent. It would also remove fraud or evasion of customs duty payment resulting from the splitting of consignments and reduce the incentive for undervaluation. Therefore, removal of the customs *de minimis* would result in the greatest number of benefits.

This conclusion was in line with the recommendations of the Wise Persons Group that claimed in its report that the EUR 150 threshold provides the wrong incentives both in terms of trade (unfair competition) and of environmental sustainability (higher emissions footprint due to splitting of consignments), and therefore proposed its removal. Another discarded possibility is to have the consumers declaring to customs the goods that they buy on-line, because it is considered burdensome for them while the ones placing goods in the Union market are the e-commerce intermediaries, not the consumers.

When considering the **data management**, a hybrid model between decentralisation and centralisation, by which a Member State or a group of Member States develops a digital solution for the others has also been discarded. Previous experience shows that in general Member States have difficulties to accept IT solutions developed in another Member State and/or that public procurement across Member States is very complex.

In relation to the **governance**, it was considered whether **existing agencies** such as FRONTEX, EUROPOL, EU-Lisa and CEPOL could potentially host a dedicated department for customs, but this has been discarded because none of them covers all aspects that customs deal with and distributing the customs elements in several specialized EU agencies seriously risks further fragmentation in the Customs Union (Annex 8, section 3.4).

6. WHAT ARE THE IMPACTS OF THE POLICY OPTIONS?

6.1 Methodology of assessment and baseline

All options are assessed in the same manner against the following categories of impact:

Quantitative:		
1	Costs - Member States	Investment in new or updated IT (one-off)
		Cost of maintaining IT (recurrent)
		Customs Staff (recurrent)
2	Costs - EU Services	Investment in new or updated IT (one-off)
		Cost of maintaining IT (recurrent)
		Customs Staff (recurrent)
3	Costs - Business	Compliance costs (administrative savings, net of additional e-commerce duty costs; recurrent; in practice, in all options *reductions*).
4	Benefits - Quantitative	e-commerce revenue (new revenue from removing threshold)
		Cigarettes revenue (illustrative scenarios: preventing loss)
		Consumer savings from eco-design (illustrative scenarios)
Qualitative:		
5	Efficiency	Overall efficiency
6	Effectiveness	Against the General Objective, and each specific objective.
		Protection outcomes (based on case studies in Annex 9 addressing single market and sustainability, security and revenue)
7	Coherence	Overall policy coherence, and strategic capability
8	Proportionality	Overall proportionality

Quantitative estimates are based on assumptions outlined in Annexes 7 (for IT) and 9, using current prices. As with any forecast covering a 15-year period the figures cannot be regarded as certain to materialise. They are nonetheless useful as indicative measures of the scale of difference in outcomes that can be expected across the options based on objective differences in the capabilities they bring. As regard IT estimates in particular, the final costs would depend on outcomes of detailed specification exercises and of procurement activities. This report takes a best estimate of costs, which provides a good indication of the relative position of the options, but for which the absolute values cannot be robustly quantified at this stage for 15 years into the future. The timing of materialisation of estimated savings depends in part on the migration approaches preferred in practice by the Member States and the economic operators; the programming of this migration cannot be determined at impact assessment stage, but would be developed with the appropriate external consultations only after the legal text is adopted. The figures for cigarettes revenue (prevention of loss) and consumer savings from ecodesign, are **illustrative scenarios** based on improved enforcement and are **not** included in the estimation of net impact. (Further details relating to this analysis are found in Annex 9, sections 5.2.3 and 6.6.2).

Qualitative assessment of impact is based on a score from (*) to (*****), where (*) indicates a low achievement of the objectives and (*****) a high achievement. (Detailed analysis underpinning the quantitative analysis is found in Annex 9, sections 4, 5 and 6).

Social and environmental impact is also described. This is not included in the tables, which are used to provide a more direct assessment of specific issues based on case studies. (Further analysis underpinning this assessment analysis is found in Annex 9, section 5). **Macroeconomic** impacts are not directly estimated (this is explained further below).

This section explains the assessed impact of each option. It includes **tables** for each option addressing points 1-4 above, and describes the impacts for points 5-8. To avoid duplication, the summary tables on points 5-8 are presented only in section 7, where options are compared.

Approach to quantification of costs for the Member States and the Commission

In the baseline with respect to which the impact of the options is assessed, **Member States and the Commission** have two main cost impacts: (i) the cost of building (one-off) and maintaining (recurrent) the customs IT systems and (ii) staff costs.

(i) Direct administrative costs - IT

There are no reliable data on the total IT costs of **Member States**. These differ significantly from one to another. To overcome that problem, a statistical approach was chosen. In 2008, the Commission and a group of Member States validated the *EU customs reference architecture*, which depicted the current UCC customs processes, mapped the IT systems necessary to automate them and provided input on the potential cost by assigning a number of staff (full-time equivalent – FTEs) to develop them. This basic architecture supports the calculations of the baseline scenario in this analysis. Informal consultations with Member States and the figures that the Member States have reported ([103]) to the Commission for specific IT projects show that the estimation is good enough as order of magnitude (without implying, of course, that each Member States spends exactly the same amount on IT). More details are provided in Annex 7, section 5.1.

For the **Commission**, the 2021 costs were considered as a good representation of the UCC implementation and operational costs, so they are used as the basis.

(ii) Direct administrative cost impact - staff

To convert Member State FTE numbers to cost estimates, the Eurostat Total Labour Cost figure for 2020 (EU 27) was used. To convert EU services FTE to cost estimates, the average EU costs relating to staff were used, assuming a ratio of 2:1 between establishment plan posts and external posts.

Approach to quantification of costs for Economic operators

The complex customs processes as described in the driver in section 2.3 result in an administrative cost for the **economic operators**. For this analysis, this cost has been assessed using as benchmark the compliance that both the UK and the Netherlands government calculated for assessing the impact of Brexit. Therein, the cost is calculated by applying an hourly rate to the time spent on filing declarations for customs processes. In practice, the ultimate costs for each individual business would depend on their internal processes and information management structures, on the measures that they take and the extent to which they choose optional elements of the reform. As with IT costs, the overall estimate in this case

([103]) 2021 e-customs annual report
https://op.europa.eu/en/publication-detail/-/publication/7727d524-fd9b-11ec-b94a-01aa75ed71a1/language-en

should also be taken as indicative of the relative position of the options, bearing in mind that absolute values cannot be robustly quantified at this stage for 15 years into the future.

Consumers

As explained in section 2.3, in the baseline, consumers are considered the importers of the third country goods that they buy online and are brought to the EU. This means that legally speaking consumers are responsible for the compliance of the goods with EU legislation, including customs. In practice, however, the carrier generally fulfils the customs formalities on behalf of the consumer and, depending on the circumstances, charges a (sometimes unexpected) fee for that service. For this analysis, the fee for filing customs declarations that the consumer sometimes pays has been considered part of the administrative compliance costs of businesses because it is not possible to isolate and quantify the cases in which that cost is passed on to the consumer.

Approach to consideration of macroeconomic impacts

It would not be realistic nor credible to aim at estimating the precise macroeconomic impact of different options pertaining to the organisation of the Customs Union. However, it can be noted more generally that to the extent an option delivers on the general objective, it will also have a positive impact on key macroeconomic indicators such as GDP and employment. This is substantiated in this section which assesses qualitatively, in light of academic literature, the macroeconomic effects of simplified customs procedures.

One of the policy objectives is to simplify customs rules and processes. This objective, if attained, would reduce administrative costs of customs procedures. Economic theory and empirical research (Frankel and Romer, 1999; Dollar and Kraay, 2003; Alcalá and Ciccone, 2004) suggest that trade flows positively affect gross domestic product (GDP). Thus, facilitating trade through better customs procedures may have a positive effect on GDP. Engman (2005, OECD) evaluates the extent to which customs procedures' simplification increases trade flows. The author shows, through case studies, that higher trade transaction costs reduce foreign direct investments (FDI) because of the costs *per se* and high risk of doing business. Analysing several academic papers and using case studies, the author also concludes that higher trade transaction costs reduce trade flows. Hornok and Koren (2015) reach similar conclusion using a gravity model. They find that administrative barriers reduce trade volumes.

Trade freedom can also be expected to enhance competition, which increases GDP through innovation and productivity growth. Alcalá and Ciccone (2004) measure that trade flows have a positive impact on growth mainly through increased labour productivity. Moreover, Latorre et al. (2020) used a general-equilibrium model to show that new trade barriers arising from Brexit should result in GDP loss for the EU and the UK, with a stronger loss for the latter due to competition and productivity decrease. The UCC reform aims at positively affecting both imports and exports, which should keep the EU trade balance unaffected making it unlikely that options would result in significant macroeconomic effect through the trade balance.

Overall, the improvement and simplification of customs procedures increase trade flows, which positively impacts growth, mainly through increased FDI and enhanced competition. Furthermore, to the extent that international trade will be better supervised and therefore customs would be in a better position to detect and stop non-compliant goods, this type of trade should decrease and therefore legitimate competition should be further enhanced as well as the level playing field between domestic and foreign production.

Baseline

The table below summarises the estimated administrative costs that the Member States, the Commission and businesses have in the baseline and includes a 15-year projection. These costs are the benchmark to assess the options. Magnitudes in the tables for options are expressed as additions or deductions with respect to the figures below.

Total costs million EUR	*Expected evolution of costs in a do-nothing scenario*															
COSTS	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	Total (15 years)
Member States administrative costs																
1. Investment in new or updated IT (one-off)	246	251	256	261	266	272	277	283	288	292	297	303	309	316	322	**4.238**
2. Cost of maintaining existing IT systems (recurrent)	1.784	1.815	1.847	1.879	1.911	1.942	1.974	2.006	2.038	2.069	2.100	2.132	2.164	2.196	2.227	**30.084**
3. Customs Staff (recurrent)	3.848	3.848	3.848	3.848	3.848	3.848	3.848	3.848	3.848	3.848	3.848	3.848	3.848	3.848	3.848	**57.721**
4. TOTAL MS costs (1+2+3)	5.878	5.914	5.951	5.988	6.025	6.062	6.099	6.136	6.174	6.208	6.246	6.283	6.321	6.359	6.397	**92.043**
EU services administrative costs																
5. Investment in new or updated IT (one-off)	14	14	14	14	15	15	15	16	16	15	16	16	16	17	17	**229**
6. Cost of maintaining existing IT systems (recurrent)	88	90	91	93	94	96	98	99	101	102	104	105	107	109	110	**1.487**
7. Customs Staff (recurrent)	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	**564**
8. TOTAL EU costs (5+6+7)	139	141	143	145	147	149	151	152	154	155	157	159	161	163	165	**2.281**
Business administrative costs																
9. Cost of compliance with customs formalities (recurrent)	27.397	27.397	27.397	27.397	27.397	27.397	27.397	27.397	27.397	27.397	27.397	27.397	27.397	27.397	27.397	**410.955**
10. TOTAL (4+8+9)	33.414	33.452	33.491	33.530	33.569	33.608	33.647	33.686	33.725	33.760	33.800	33.839	33.879	33.919	33.959	505.279

As regards **IT**, is estimated that even after 2026, each **Member State** and the **Commission** will still incur per year at least EUR 15 million in developing new systems (one-off) and about EUR 85 million in maintenance. The accumulated effect in 15 years is presented below in the table, with a notable increase per year (lines 1, 2, 5 and 6 in the table).

As regards **staff**, in 2021 **Member States** employed around 82 700 customs officials. Details on the costs of these officials were not available for this assessment. Applying the Eurostat Total Labour Cost referred to above would suggest an annual cost in the region of EUR 3 848 million (line 3). For details, see Annex 9 – section 3.2.

As of 2021, the **Commission** employs between 250 and 270 staff to work on customs policy and legislation, to follow up the Committees, to produce guidance, to work on IT interoperability projects, to maintain databases, and to ensure a minimum coordination in the interpretation of customs legislation, including in the adoption of binding origin and tariff classification decisions. Other Commission services carry out complementary activities relevant for the Customs Union. In particular, the European Anti-Fraud Office, OLAF, exercises the Commission's powers to carry out external administrative investigations. The options do not affect those powers, so the costs are not included in the estimates. The relevant Commission annual staff cost is approximately EUR 38 million (line 7). See detail in Annex 9 – section 3.1.

As regards economic operators, the estimated cost using the method noted above would be in the region of EUR 27.2 billion per year in complying with the customs formalities (line 9). In 2021, that estimated cost of compliance would have represented about 0.59% of the total value of imports (EUR 2 500 billion); for export and transit, it would have been 0.24% of total value exports (EUR 2 938 billion). See detail in Annex 9, section 3.3.

6.2 Option 1: A package of simpler processes

The table below summarises the costs and the quantifiable benefits of option 1 (in essence, better and simpler customs processes) over a 15-year period. Overall, the option indicates that, while the costs for Member States and the Commission would increase, the operators would reduce their administrative compliance costs. Other benefits materialise in terms of additional revenue being collected from the removal of the EUR 150 exemption and consumers benefitting from safer products.

Member States administrative costs would significantly increase, both for IT and for staff:

- The new processes require re-engineering the national customs' IT systems. The impact for Member States is estimated to be in the region of an additional EUR 6.7 billion for adapting their national IT environments (line 1 in the table) in the first 9 years and an additional EUR 9.8 billion in maintaining them along the 15 years (line 2).
- The Member States would also have to make a one-off investment in training the staff as the new processes are different: they are based primarily on automated risk analysis of pre-arrival information, audits to operators and client compliance management, rather than on acceptance of declarations and clearance. This new way of working would require that national customs staff increases by about +1% with respect to the baseline because new risk managers, auditors and IT experts would be needed in national administrations. This entails an additional cost for Member States, reflected in line 3. Detail in Annex 9, section 3.2.

The **EU services administrative costs** would increase mildly compared to the baseline.

- In the first years, the Commission would need to invest EUR about 67 million more than in the baseline to connect the national IT environments supporting the new processes (line 5). By contrast, maintaining those connections is estimated to be less costly than maintaining the current UCC trans-European systems and for that reason the maintenance costs decrease with respect to the baseline by the end of the analysis period of 15 years, yielding a total increase of only EUR 29 million over the entire period (line 6).
- For staff, part of the existing Commission FTEs could be redeployed to the analysis of national data, to strengthen the Commission's role in risk analysis and to make the new national IT environments interoperable so the cost stays as in the baseline (line 7).

By contrast, the simpler processes would bring some **administrative savings to businesses** (see more detail in Annex 9 section 3.3), as follows (line 9):

- from year 4, once the Member States have adapted their customs IT environments to allow the platforms to directly report their transactions to customs, compliance cost for e-commerce will lower, as businesses would no longer have several reporting obligations per consignment. The duties stemming from the removal of the customs duty exemption for goods up to EUR 150 are considered as a cost to economic operators, reducing their savings – accordingly, *net* figures are presented in line 9;
- from year 10, all other traders could gradually operate under the new processes and see their customs compliance cost lowered too, so the estimated gradual reduction in their compliance cost with respect to the baseline is also reflected in line 9 from year 10.

From year 4, **removing the duty exemption for goods valued up to EUR 150** would bring additional customs duties of EUR 12 billion in 15 years. 25% of the additional revenues accrues to the Member States while 75% of it accrues to the EU budget.

The calculation of the revenue collected is based on the projection of e-commerce evolution included in the Impact Assessment of the Commission proposal on the VAT in the Digital Age ([104]) where the total value of cross-border e-commerce consignments from third countries is projected to increase from EUR 14 billion in 2014 to EUR 37 billion in 2029. The average customs duty rate considered in the estimation is 2.92% according to Commission data (Surveillance). Thus, 37 billion per 2.92% yields a collection of approximately EUR 1 billion per year, which is applied in all the options from the point in time when the system is in place to start the collection.

The improved information from economic operators under the new processes would also allow to prevent the loss of revenues stemming from fraudulent practices such as undervaluation or misclassification of the goods ('closure of customs gap'). However, quantifying this amount was not possible.

Consumers

As explained in section 5.2.1, Option 1 (and all the options analysed) proposes to modify the legislation to make the e-commerce intermediaries deemed importer of the goods that consumers order online from third countries because the intermediaries are in a better position to develop streamlined processes than the consumers. Therefore, these options benefit consumers, who would be relieved from a formal obligation and would no longer face unexpected compliance fees from the postal or express operators.

In addition, consumers indirectly benefit from the increased level of protection and/or facilitation of legitimate trade (for instance because they avoid fraudulent products and because reduced administrative burden on businesses can be expected to be passed on to consumers to a certain degree).

To illustrate the consumers' savings in this respect, Annex 9 uses a case-study, which analyses how the different options in the reform would help enforcing EU product sustainability (*Ecodesign*) and general product safety policies. These policies protect consumers from a range of harms and generate consumer savings, for which financial estimates have been prepared in other studies as noted in section 5.3 of Annex 9. As a portion of the harm addressed relates to products imported from outside the EU, a saving for consumers attributed to better detection of non-compliant imported products is estimated and included in line 13 of the table as an illustrative scenario.

Social and environmental impact

This option should have a positive social and environmental impact, although this is difficult to quantify. The additional information that operators provide to customs should place customs in a better position to enforce legislation pursuing social goals, such as the legislation banning forced labour, or environmental goals. Furthermore, the better enforcement of product

([104]) Commission Staff Working Document Impact Assessment report Accompanying the documents Proposal for a COUNCIL DIRECTIVE amending Directive 2006/112/EC as regards VAT rules for the digital age Proposal for a COUNCIL REGULATION amending Regulation (EU) No 904/2010 as regards the VAT administrative cooperation arrangements needed for the digital age Proposal for a COUNCIL IMPLEMENTING REGULATION amending Implementing Regulation (EU) No 282/2011 as regards information requirements for certain VAT schemes, SWD/2022/393 final.

requirements on imported goods might lead to a relocation of production into the Union. Finally, the removal of the EUR 150 duty exemption will put an end to the practice of splitting orders of a high value into several consignments lower than EUR 150 to profit from the duty exemption, with the consequent positive environmental effect on transport emissions.

However, this option does not meet some of the specific objectives:

- It falls short in *strengthening EU customs risk management (*)*. The national customs authorities' access to more and better information (including data from e-commerce platforms) would allow them to better manage risk, supervise the traders' flows better and cooperate more efficiently with other authorities. However, implementation across the EU would continue to vary. This option works better for tackling financial risks than non-financial risks. The reason is that, under this option, the Commission receives processing rights to Member State data, allowing analysis and identification of possible financial fraud trends, and shares the results with the Member States, which could then act, recalculate and recover unpaid duties. The Commission analysis would be carried out after the goods have entered the Union, not real-time stopping goods before or at the moment of entry. For non-financial risks, national customs and market surveillance authorities would work together at Member State level.
- It reduces *the administrative burden and simplifies the procedures (**)* but each Member State would adapt its IT environment at its own pace, with possibility that certain 'front runner' Member States move quicker than others leaving operators and consumers in laggard Member States at a disadvantage.
- It does *ensure a level playing field between e-commerce and traditional trade (***)*.
- It *enhances the access to and use of data (**)* thanks to the new processes. The national customs authorities get access to more and better information. However, at EU level there is very limited improvement compared to the baseline, which means that the potential of the wealth of data will not be fully exploited. As regards the protection of personal data, this option would not differ substantially from the baseline, as the decentralised digitalisation model would bring the same complexities and divergences in the national implementation of the GDPR. However, the simplification of customs processes could have a direct, beneficial impact on the administrative burden necessary for compliance with the GDPR, as the number of processes and their complexity will be reduced.
- It falls particularly short *in enabling the Customs Union to act as one (*)*. The common prioritisation for risk management and supervision at EU level would provide a joint focus for national customs administrations but the operational implementation would remain solely at national, meaning divergent approaches could persist.

Note: In the tables for each Option, row 9 - **"savings in compliance costs"** - refers to the overall aggregate "bottom line" estimation for businesses, after the increase in outlay on customs duty on e-commerce consignments is netted off against estimated ongoing administrative savings from the Option.

Increase with respect to baseline (million EUR)	*OPTION 1 - Phase 1 Building reporting tool for platforms*			*OPTION 1 - Phase 2 Adapting national IT environments to simpler processes*					*OPTION 1 - Phase 3 Operators applying simpler processes progressively*							
COSTS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
Member States - administrative costs																
1. Investment in new or updated IT (one-off)	1.101	1.045	1.040	1.035	1.030	433	428	422	416	413	-106	-112	-118	-124	-131	**6.772**
2. Cost of maintaining IT (recurrent)	-12	395	474	704	929	1.147	1.040	926	806	681	548	545	542	539	536	**9.800**
3. Customs Staff (recurrent)	10	10	10	19	19	19	19	19	83	83	83	83	83	83	83	**703**
4. TOTAL MS costs (1+2+3)	1.099	1.450	1.524	1.758	1.977	1.598	1.486	1.367	1.306	1.177	525	516	507	498	488	**17.274**
EU services administrative costs																
5. Investment in new or updated IT (one-off)	34	13	13	12	12	-1	-1	-1	-2	-1	-1	-2	-2	-2	-3	**67**
6. Cost of maintaining IT (recurrent)	-3	10	20	29	30	27	18	10	2	-6	-15	-24	-24	-23	-22	**29**
7. Customs Staff (recurrent)																**0**
8. TOTAL EU costs (5+6+7)	30	23	32	42	42	26	17	9	0	-7	-17	-26	-26	-25	-25	**96**
Reduction of the business administrative costs, even considering the increase in duties from removing EUR 150 threshold																
9. Savings in compliance costs				-1.171	-1.171	-1.171	-1.171	-1.171	-1.630	-1.661	-1.784	-1.784	-1.784	-1.784	-1.784	**-18.063**
10. TOTAL costs (4+8+9)	1.130	1.473	1.556	629	849	453	332	205	-324	-492	-1.275	-1.294	-1.302	-1.311	-1.320	**-693**
BENEFITS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
11. Revenue from removing EUR 150				1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	**12.000**
NET COST/ BENEFITS (10-11)	**1.130**	**1.473**	**1.556**	**-371**	**-151**	**-547**	**-668**	**-795**	**-1.324**	**-1.492**	**-2.275**	**-2.294**	**-2.302**	**-2.311**	**-2.320**	**-12.693**
Additional examples - illustrative scenarios not taken into account																
12. Revenue loss prevention - cigarettes				62	62	62	62	62	62	62	62	62	62	62	62	**744**
13. Consumers' saving - Ecodesign				322	322	322	322	322	322	322	322	322	322	322	322	**3.861**

6.3 Option 2: EU Customs Authority for coordination

The table below summarises part of the estimated costs and benefits of option 2 over a 15-year period, showing that it is very similar to option 1 but slightly more expensive.

The estimation of **Member States administrative costs** would be almost identical to option 1, as in this option Member States adapt their IT/data environment to the new processes and have to invest in staff to apply them (lines 1 and 2). While Member States would continue to do real-time risk analysis in their national IT environments, the Authority would support and coordinate the national approaches in the areas of risk management and controls. Therefore, the Member States would need slightly fewer national risk analysts and for that reason, the increase in staff costs with respect to the baseline is slightly lower than in option 1 (line 3).

The estimated **EU services administrative costs** would increase compared to both the baseline and option 1, as follows:

– The EU services would have to invest in connecting the national IT environment EUR 102 million more than the baseline (line 4) and in maintaining those connections EUR 177 million more than the baseline (line 5) in a 15-year period.
– The EU Customs Authority would be progressively created between years 1 and 7, until reaching a staff of approximately 176 FTE dealing with mainly coordination activities. In 15 years, the EU services would spend in staff EUR 141 million more than in the baseline (line 6) in 15 years. (Annex 9, section 3.1 for more details)

Additional customs duties on e-commerce are about EUR12 Billion over 15 years.

The **economic operators' administrative savings** are similar to option 1 and so is the revenue collection from removing the EUR 150 exemption. However, a higher (non-quantifiable at this stage) closure of the customs gap can be expected thanks to the Authority's coordinating role.

Consumers benefit from not facing unexpected compliance fees from the postal or express operators when ordering online goods, as in option 1. In addition, consumers indirectly benefit from the increased level of protection and/or facilitate legitimate trade. The illustrative case study on *Ecodesign* yields a consumer saving over 15 years of EUR 7,5 billion (line 13).

This option brings a **more positive social and environmental impact** than option 1 because the EU Customs Authority brings some uniformity in the treatment of non-financial risks in the Union, thereby ensuring a more similar level of impact of customs enforcement action.

Option 2 reaches a number of objectives:

- The creation of the authority is a step towards *strengthening EU customs risk management (**)*. The support and coordination by the EU Customs Authority would reinforce Member States' risk management and controls would become more effective.
- Option 2 *reduces the administrative burden and simplifies the procedures (**)* and the Authority would ensure more uniformity across Member States.
- Option 2 ensures a *level playing field between e-commerce and traditional trade (***)*.
- Option 2 *enhances the access to and use of data at EU level* (***) because the Authority would receive national data. This option performs as option 1 for personal data protection.
- Option 2 is stronger than option 1 in *enabling the Customs Union to act as one (***)* due to the coordinating role of the authority, even if the lack of direct access to the customs data limits its potential. Positive results on the authority's coordinating tasks could in the future also generate *spill-over* effects that lead to centralisation in other areas like the data management approach.

Increase with respect to baseline (million EUR)	*OPTION 2 - Phase 1 Building reporting tool for platforms*			*OPTION 2 - Phase 2 Adapting national IT environments to simpler processes*					*OPTION 2 - Phase 3 Operators applying simpler processes progressively*							
COSTS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
Member States - administrative costs																
1. Investment in new or updated IT (one-off)	1.101	1.045	1.040	1.035	1.030	433	428	422	416	413	-106	-112	-118	-124	-131	**6.772**
2. Cost of maintaining IT (recurrent)	-12	395	474	704	929	1.147	1.040	926	806	681	548	545	542	539	536	**9.800**
3. Customs Staff (recurrent)	10	10	10	7	4	1	1	1	76	76	76	76	76	76	76	**576**
4. TOTAL MS costs (1+2+3)	1.099	1.450	1.524	1.746	1.962	1.580	1.468	1.349	1.299	1.170	518	509	500	491	481	**17.147**
EU services - administrative costs																
5. Investment in new or updated IT (one-off)	36	15	15	15	14	2	1	1	1	1	1	1	0	0	0	**102**
6. Cost of maintaining IT (recurrent)	-3	10	23	34	36	34	27	20	13	6	-1	-9	-7	-4	-2	**177**
7. Customs Staff (recurrent)	0,7	1,4	2,2	5,8	7,2	13	13,9	12,1	12,1	12,1	12,1	12,1	12,1	12,1	12,1	**141**
8. TOTAL EU costs (5+6+7)	34	27	40	54	57	48	42	33	26	20	12	4	6	8	10	**420**
Reduction of the business administrative costs, even considering the increase in duties from removing EUR 150 threshold																
9. Savings in compliance costs				-1.171	-1.171	-1.171	-1.171	-1.171	-1.630	-1.661	-1.784	-1.784	-1.784	-1.784	-1.784	**-18.063**
10. TOTAL costs (4+8+9)	1.133	1.478	1.563	630	849	458	339	212	-306	-472	-1.254	-1.271	-1.278	-1.285	-1.293	**-496**
BENEFITS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
11. Revenue from removing EUR 150				1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	**12.000**
NET COST/ BENEFITS (10-11)	**1.133**	**1.478**	**1.563**	**-370**	**-151**	**-542**	**-661**	**-788**	**-1.306**	**-1.472**	**-2.254**	**-2.271**	**-2.278**	**-2.285**	**-2.293**	**-12.496**
Additional examples - illustrative scenarios not taken into account																
12. Revenue loss prevention - cigarettes				124	124	124	124	124	124	124	124	124	124	124	124	**1.488**
13. Consumers' saving - Ecodesign				536	536	536	536	536	536	536	536	536	536	536	536	**6.435**

6.4 Option 3: A central EU Customs Data Space, managed by the Commission

The table below summarises part of the costs and benefits of option 3 over a 15-year period.

The estimated **Member States administrative costs** would strongly decrease compared to the baseline:

- in 15 years, the investment in new or updated IT systems would decrease by in the region of EUR 1 942 million with respect to the baseline (line 1)
- the costs of maintaining the national customs IT environments over 15 years would decrease, resulting in a total of about EUR 16 billion less than the baseline, even considering the costs of phasing-out the existing national and trans-European IT systems (line 2)
- the centralised digitalisation would reduce the staff costs for Member States, which see a reduction in FTE requirements of about 0.6%, mostly in IT-related roles (line 3).

The **EU Services administrative costs** would be higher than the baseline, for building and operating the EU customs data space. The total cost of building the data space is explained in Annex 7, section 5.3. It is based on an estimation of the cost of building the capabilities that the Data Space must provide, using as reference the cost of building similar capabilities in some of the IT systems that the Commission currently builds and manages.

- Building the Data Space would require the Commission to invest about EUR 455 million in addition compared to the baseline in 15 years (line 5). Most of this investment would occur in the first 7 years.
- Operating the Data Space would require the Commission to spend about EUR 1 923 million more than in the baseline in 15 years (line 6).
- The Commission would also spend about EUR 143 million more than in the baseline on IT staff to be able to build the Data Space (line 7).

The investments would allow **economic operators** to benefit from **administrative savings**. They would have to incur some one-off adaptation costs to connect to the Data Space but these are not expected to be significant. By contrast, having a unique IT environment to be able to comply with all customs formalities across the EU would result in reduced administrative compliance costs in 15 years with respect to the baseline, as follows (detail in Annex 9, section 3.3):

- the reduction of the customs compliance cost in e-commerce despite the additional duties would be achieved a year earlier (reflected in line 9 from year 3) than in options 1 and 2, because the Commission needs less time than the 27 Member States to build the part of the Data Space used for e-commerce. The additional duties are netted off the savings;
- from year 6 and progressively until year 9 (again earlier than in options 1 and 2), all other traders could operate under the new processes and see their customs compliance cost lowered too (gradually reflected in line 9) due to the advantage of operating in a single IT environment as opposed to 27.

Additional customs duties on e-commerce traffic are estimated in the region of €13 Billion over 15 years, based on removing the duty exemption for goods valued up to EUR 150 from year 3.

The improved information from economic operators under the new processes and the centralisation of data in the Data Space would also allow to better prevent the loss of revenues stemming from fraudulent practices such as undervaluation or misclassification of the goods ('closure of customs gap'). However, quantifying this amount was not possible.

Consumers

Consumers benefit from not facing unexpected compliance fees from the postal or express operators when ordering online goods, as in option 1. In addition, consumers indirectly benefit from the increased level of protection and/or facilitate legitimate trade. The illustrative case study on *Ecodesign* yields a consumer saving estimate over 15 years of EUR 7,6 billion, reflected in line 13 of the table.

Social and environmental impact

This option would bring a more positive social and environmental impact than options 1 and 2 because the Commission having direct access to the customs data and working with non-customs authorities could result in better enforcement of the relevant social and environmental legislation.

Option 3 could deliver to an extent on all the **objectives**. However, the governance structure does not involve the national customs administrations sufficiently and there is no coordination of Member States activities. This could lead to greater distance between the customs officer on the ground and the decision-making at the centre.

- Having the Commission building and operating the EU Customs Data Space significantly contributes to *strengthening EU customs risk management (***)*. This would enable the Commission to drive joint analytics projects involving customs and other authorities. It would elaborate common risk criteria and operational risk indicators for direct application on the EU data flows and would work closely with the Member States on this. The Commission would arrange for risk information from other authorities to be integrated directly in EU-wide strategic and operational risk analysis. These factors would lead to a significant improvement in the quality of risk analysis. The combination of the EU visibility with the having a single liable person for customs purposes would strengthen the ability of customs and market surveillance authorities to cooperate to act on the supply chain and not only on individual consignments.

- Option 3 significantly *reduces the administrative burden and simplifies the procedures (***)*. In addition, it allows a central implementation of the AEO *trust and check* approach, thanks to the Data Space.
- Option 3 also *ensures a level playing field between e-commerce and traditional trade* (****) to a better extent than Options 1 and 2 and achieves it more cheaply and quickly because the reporting tool for platforms is not built 27 times.
- Option 3 strongly *enhances the access to and use of data at EU level (****)*. However, the significant investment in the Data Space may be under-exploited if the Member States are not involved in the use of the data wealth for the day-to-day customs operations. The Data Space would integrate personal data protection tools and controls, enabling each data controller to ensure data protection rights. This will have a positive impact also for data subjects that would be able to exercise their rights in a very similar manner across all Member States.
- Option 3 is stronger than option 1 in *enabling the Customs Union to act as one (**)* due to the reinforced role of the Commission but the Member States can perceive it as a top-down approach in which their involvement is very limited and there is no coordination of Member States' activities.

Increase with respect to baseline (million EUR)	*OPTION 3 - Phase 1 Build seed of data space for e-commerce*		*OPTION 3 - Phase 2 Build data space*			*OPTION 3 - Phase 3 Operators progressively operating in data space - phase out of national IT systems*										
COSTS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
Member States - administrative costs																
1. Investment in new or updated IT (one-off)	-118	-123	-1	-6	-11	-144	-149	-155	-161	-164	-170	-176	-182	-188	-194	**-1.942**
2. Cost of maintaining IT (recurrent)	-12	-169	-294	-445	-607	-774	-948	-1.147	-1.353	-1.568	-1.786	-1.803	-1.819	-1.832	-1.845	**-16.402**
3. Customs Staff (recurrent)				-8	-24	-41	-41	-41	-22	-22	-22	-22	-22	-22	-22	**-309**
4. TOTAL MS costs (1+2+3)	-130	-292	-295	-459	-642	-959	-1.138	-1.343	-1.535	-1.754	-1.978	-2.001	-2.023	-2.042	-2.061	-18.653
EU services - administrative costs																
5. Investment in new or updated IT (one-off)	27	39	90	89	89	60	7	7	7	7	7	7	6	6	6	**455**
6. Cost of maintaining IT (recurrent)	22	39	79	144	163	163	141	130	132	137	152	158	155	155	152	**1.923**
7. Customs Staff (recurrent)	0		3	6	9	13	13	13	13	13	13	13	13	13	13	**143**
8. TOTAL EU costs (5+6+7)	49	78	172	239	261	236	161	150	151	157	172	177	174	173	170	**2.522**
Reduction of the business administrative costs, even considering the increase in duties from removing EUR 150 threshold																
9. Savings in compliance costs			-1.171	-1.171	-1.171	-1.339	-1.506	-1.972	-2.140	-2.140	-2.140	-2.140	-2.140	-2.140	-2.140	**-23.306**
10. TOTAL costs (4+8+9)	-81	-214	-1.294	-1.390	-1.552	-2.061	-2.484	-3.165	-3.524	-3.737	-3.945	-3.963	-3.989	-4.008	-4.030	**-39.437**
BENEFITS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
11. Revenue from removing EUR 150	0		1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	**13.000**
NET COST/ BENEFITS (10-11)	**-81**	**-214**	**-2.294**	**-2.390**	**-2.552**	**-3.061**	**-3.484**	**-4.165**	**-4.524**	**-4.737**	**-4.945**	**-4.963**	**-4.989**	**-5.008**	**-5.030**	**-52.437**
Additional examples - illustrative scenarios not taken into account																
12. Revenue loss prevention - cigarettes				124	124	124	124	124	124	124	124	124	124	124	124	**1.488**
13. Consumers' saving - Ecodesign			54	536	536	536	536	536	536	536	536	536	536	536	536	**6.489**

6.5 Option 4: EU Customs Authority for coordination and operations, managing an EU Customs Data Space

The table below summarises part of the costs and benefits of option 4 over a 15-year period.

The estimated **Member States' administrative costs** would strongly decrease with respect to the baseline, even to a higher extent than in option 3:

- In 15 years, the Member States investment in new IT would decrease by EUR 3 090 million compared to the baseline (line 1).
- In 15 years, the recurrent cost in maintaining the national customs IT environments decreases even more, EUR 18 billion less than the baseline (line 2). The higher saving than in option 3 is because the involvement of the Member States allows a more ambitious centralisation so there would be less residual Member States IT activity.
- The economies of scale in centralised digitalisation would also impact the staff costs for Member States**.** They would see a reduction in FTE required of about 2.4%, mostly in relation to the IT-related and risk management roles, where the EU Customs Authority would also play an operational role (line 3).

The savings for the Member States derive from the additional **EU Services administrative costs**, as follows:

- Over 15 years, the EU services would invest additional EUR 559 million compared to the baseline in building the Data Space. This cost is unevenly distributed along the period: higher one-off investments are required in the first 7 years to build the Data Space (line 5). This cost is higher than in option 3 because the Commission's customs systems have to be disentangled from the tax systems and transferred to the Authority.
- Maintaining the Data Space requires an additional EUR 2 billion in the 15 years (line 6). It is more expensive than in option 3 because of the higher level of centralisation.
- During the 15-year period, the EU services must also provide an additional EUR 229 million for the Authority, which is progressively formed over a period of 8 years and stabilises in year 9 with a total estimated staff of about 250 FTE performing IT, data and risk management tasks, apart from the training, cooperation and some operational activities (line 7).

These investments would allow **economic operators** to benefit from **administrative savings**. They would incur some one-off adaptation costs to connect to the Data Space but these are not expected to be significant. By contrast, having a unique IT environment to be able to comply with all customs formalities across the EU will result in reduced customs administrative compliance costs estimated in 15 years with respect to the baseline, as follows:

- the customs compliance cost in e-commerce will lower as in option 3, even if the additional duties decrease the savings (line 9);
- from year 6 and progressively until year 9 (again earlier than in options 1 and 2 as reflected in line 9), all other traders could gradually operate under the new processes and gradually see their customs compliance cost lowered too. The savings are higher than in other options due to the advantage of operating in a single IT environment as opposed to 27 and to having a central operational authority in close link with the national customs on the ground, ensuring consistent treatment to operators across the EU.

Additional customs duties on e-commerce traffic are estimated in the region of €13 Billion over 15 years, as in option 3. The improved information from economic operators under the new processes, the centralisation of data in the Data Space and the operational role of the Authority would also allow a significant prevention of lost revenues stemming from fraudulent

practices such as undervaluation or misclassification of the goods ('closure of customs gap'). However, quantifying this amount was not possible.

Consumers

Consumers benefit from not facing unexpected compliance fees from the postal or express operators when ordering online goods, as in option 1.

In addition, consumers indirectly benefit from the increased level of protection and/or facilitation of legitimate trade thanks to the centralised data and operational capacity in the Authority. The illustrative case study on *Ecodesign* would yield a consumer saving over 15 years of EUR 18 billion, reflected in line 13 of the table.

Social and environmental impact

This option brings a more positive social and environmental impact than option 3 because the direct access to the customs data and the better cooperation at EU level between the EU Customs Authority and other non-customs authorities should allow customs to enforce better the pieces of legislation that pursue social and environmental goals.

Option 4 successfully reaches all the objectives:

- Having the authority building and operating the EU Customs Data Space and playing an essential role in operational, real-time risk management in cooperation with Member States will significantly *strengthen EU customs risk management (****)*.
- Option 4 significantly *reduces operator's administrative burden (****)* because it allows a central implementation of the *trust and check* approach for AEOs in the EU and has the critical mass to coordinate Member States activities to ensure uniform approaches at national level. The envisaged EU Customs Authority would not bring additional 'red tape' for trade as it would operate in the background and not have direct interaction with the traders. Traders would continue to deal with the national customs authorities and for some purposes, the trader could deal with only one national customs authority for all its EU operations.
- Option 4 also ensures a *level playing field between e-commerce and traditional trade (****)* and achieves it cheaper and in a shorter period because the reporting tool for platforms is not built 27 times. The analysis and use of that information is also done by the Authority.
- Option 4 definitively *enhances the access and use of data at EU level (****)*. The significant investment in the Data Space can be fully exploited because the EU Customs Authority, the Commission and the Member States could work with the wealth of data in real-time for the day-to-day customs operations. The same personal data protection considerations as in option 3 apply.
- Option 4 is also much stronger than options 1 to 3 in *enabling the Customs Union to act as one (****)*, as it not only would have the central management of the EU Customs dataspace and allow real-time EU data analytics and risk management, it would also coordinate Member States activities in many other areas.

Increase with respect to baseline (million EUR)	*OPTION 4 - Phase 1 Build seed of data*		*OPTION 4 - Phase 2 Build data space*			*OPTION 4 - Phase 3 Operators progressively operating in data space - phase out of national IT systems*										
COSTS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
Member States - administrative costs																
1. Investment in new or updated IT (one-off)	-182	-187	-128	-133	-139	-208	-213	-219	-224	-228	-234	-240	-246	-252	-258	**-3.090**
2. Cost of maintaining IT (recurrent)	-12	-179	-333	-503	-683	-870	-1.063	-1.272	-1.487	-1.711	-1.939	-1.965	-1.992	-2.014	-2.036	**-18.056**
3. Customs Staff (recurrent)				-29	-57	-86	-86	-86	-94	-94	-94	-94	-94	-94	-94	**-1.002**
4. TOTAL MS costs (1+2+3)	**-194**	**-366**	**-461**	**-665**	**-879**	**-1.163**	**-1.362**	**-1.576**	**-1.805**	**-2.033**	**-2.267**	**-2.299**	**-2.331**	**-2.360**	**-2.388**	**-22.149**
EU services - administrative costs																
5. Investment in new or updated IT (one-off)	31	46	102	115	115	62	9	8	8	9	8	8	14	13	13	**559**
6. Cost of maintaining IT (recurrent)	22	41	83	150	170	172	150	139	141	146	163	170	169	167	166	**2.048**
7. Customs Staff (recurrent)	1	1	2	6	9	13	16	20	23	23	23	23	23	23	23	**230**
8. TOTAL EU costs (5+6+7)	54	88	187	270	293	246	174	168	172	178	194	201	206	203	202	**2.837**
Reduction of the business administrative costs, even considering the increase in duties from removing EUR 150 threshold																
9. Savings in compliance costs			-1.171	-1.171	-1.171	-1.436	-1.701	-2.323	-2.589	-2.589	-2.589	-2.589	-2.589	-2.589	-2.589	**-27.094**
10. TOTAL costs (4+8+9)	-140	-278	-1.444	-1.565	-1.756	-2.353	-2.889	-3.732	-4.222	-4.444	-4.661	-4.686	-4.714	-4.745	-4.775	**-46.406**
BENEFITS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
11. Revenue from removing EUR 150			1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	**13.000**
NET COST/ BENEFITS (10-11)	**-140**	**-278**	**-2.444**	**-2.565**	**-2.756**	**-3.353**	**-3.889**	**-4.732**	**-5.222**	**-5.444**	**-5.661**	**-5.686**	**-5.714**	**-5.745**	**-5.775**	**-59.406**
Additional examples - illustrative scenarios not taken into account																
12. Revenue loss prevention - cigarettes				248	248	248	248	248	248	248	248	248	248	248	248	**2976**
13. Consumers' saving - Ecodesign				1.287	1.287	1.287	1.287	1.287	1.287	1.287	1.287	1.287	1.287	1.287	1.287	**15.444**

6.6 Governance view

The impact of governance structures (in terms of costs and benefits) is not assessed separately because a reform of the governance alone would not sufficiently address the reform objectives. Viable reform options need to integrate governance elements with measures linked to the other key policy choices, mainly customs processes and data management.

The table below nevertheless summarizes the estimated impact of the different options by 2034 on the staff required by the three governance actors - the Commission, the national customs administrations, and the EU Customs Authority (where relevant) – for performing the tasks assigned to them. The year 2034 is chosen because this is the year at which the Authority would reach cruising speed and the estimated impact on staffing levels would be stabilised.

	COM	Authority	Member States
Baseline	250-270		82 699
Option 1	250-270		84 459
Option 2	168	146-176	84 318
Option 3	347		82 232
Option 4	170	225-250	80 706

In Option 1, improvements would be done with the current governance, however the actors involved would remain the same as in the baseline: the Commission and national customs administrations. Due to the need to implement the revised data management approach and customs processes at national level, more resources would be needed than in the baseline scenario.

The potential for reducing staff at national level in option 4 is due to the economies of scale that would come with introducing an EU Customs authority that can pool resources and coordinate operational cooperation between national customs authorities and, in addition manage the EU customs data space and perform real-time risk analysis at EU level to streamline and complement national risk management approaches. It does not imply or require that Member States would decide to reduce customs numbers accordingly, it shows it could help them function more resource-efficiently and effectively. The Authority would have the staff needed to perform the tasks assigned to it according to the description of the option. A similar shift in staff needs would happen in the Commission, as the Agency would take over and expand some Commission tasks.

Option 2 also introduced an EU Customs Authority. However, as the revised customs processes and data management approaches mainly need to be implemented at national level, more staff is needed at national level. The Authority's tasks would be more limited in scope, focusing on supporting and coordinating activities for risk management (no real-time risk analysis) and operational cooperation.

In Option 3, an EU Customs Data Space would be developed and operated by the Commission, which would also assume some risk management activities. This requires

increasing the Commission staff assigned to risk management-related activities in the baseline. The Commission staff for IT must also increase, to manage the budget to build the Data Space and to develop the data projects. The investment at the Commission should however have the opposite effect on the Member States, which should see their IT administration staff requirement decreasing.

6.7 Impact on Small and Medium-Sized Enterprises

The reform is not expected to generate any adverse effects on SMEs (further details are presented in Annex 3). The key elements of the reform are in line with SMEs' expectations and priorities, as respondents from this category have predominantly stated that their needs are (i) more similar application of the rules by national customs authorities, (ii) simpler customs processes and (iii) more effective data sharing among authorities. The most significant change with impact on SMEs will be the reform of customs procedures, which will bring benefits in the form of simplification for economic operators who opt for the *Trust and Check* scheme.

It is expected that current AEO can qualify for this model to benefit from simpler procedures. They may have a transition advantage as they already comply with strict requirements. In that respect, it is worth noting that 60 to 70% of current AEO are micro, small or medium sized companies and that on average 75% of international trade is handled through AEOs.

For non-AEO who would not opt for *Trust and Check*, the reform of the customs processes should not result in a disadvantage. In the worst-case scenario, their operations would be similar to the baseline and in the best-case scenario they could get more efficient assistance by intermediaries, because the simpler processes make the customs agents' services easier.

EU SMEs producing in the Union also have an interest in a well-performing and improving Customs Union to help tackle the unfair competition represented by goods not complying with EU rules and standards being imported to the EU market (see for example the *Toy Safety* case in Annex 9, in an industry where an estimated 99% of the EU's toy companies were SMEs as of 2020, employing about 2/3 of the sector, and facing persistent unfair competition from non-compliant toy imports).

7. HOW DO THE OPTIONS COMPARE?

Efficiency

The table shows the costs per analyzed option.

Cost of the Customs Union per option in 15 years	Costs				
	MS (line 4)	EU services (line 8)	Business (line 9)	Total	Relative change
Baseline	92.043	2.281	410.955	505.279	
Option 1 – A package of simpler processes	17.274	96	-18.063	504.585	-0,1%
Option 2 – EU Customs Authority for coordination	17.147	420	-18.063	504.783	-0,1%
Option 3 – A Commission EU customs data space	-18.653	2.522	-23.306	465.842	-7,8%
Option 4 - EU Customs Authority data space	-22.149	2.837	-27.094	458.873	-9,2%

The baseline costs estimate how much Member States, EU services and businesses would spend in implementing the current processes, digitalization model and governance in the next 15 years in a do-nothing scenario. Options 1 and 2 require both the Member States and the EU services to spend more. It shows that the package of simplifications in option 1 reduces the burden for economic operators and levels the playing field for international trade but it comes with a very high cost, particularly for the Member States, which must adapt their national IT environments. Option 2, by introducing the EU Customs Authority to coordinate the Member States' action, comes with a higher overall cost than option 1; the EU budget would absorb the Authority cost. The investment at the centre however results in a better performance on the reform objectives (below).

By contrast, options 3 and 4 are efficient. The increased expenditure by the EU services results in very significant estimated savings for the Member States and business, particularly in option 4, which results in a total decrease of costs of 9%. This is mainly because, by centralising the data management through the creation of the Data Space show important economies of scale.

As to the benefits, all options increase to a higher or lesser extent the revenue collected, the protection of the EU businesses, values and standards and reduce administrative burden for businesses but option 4 is the option bringing the highest benefits.

Quantifiable benefits per option in 15 years	Benefits				
	Collection (lines 9)	Protection (revenue - cigarettes scenario - line 12)	Protection - ecodesign scenario - consumer saving - line 13)	Simplification (savings line 9)	Total
Option 1 - A package of simpler processes	12.000	744	3.861	18.063	34.688
Option 2 - EU Customs Authority for coordination	12.000	1.488	6.435	18.063	37.986
Option 3 - A Commission EU customs data space	13.000	1.488	6.489	23.306	44.283
Option 4 - EU Customs Authority data space	13.000	2.976	15.444	27.094	58.514

Effectiveness

Section 6 has shown that while all options achieve the objectives to a certain extent, Option 1 falls short on building a risk management at EU level, on the use of data and on customs authorities acting as one. Option 2 reached better those objectives, particularly acting as one, but still not as effectively as options 3 and 4. Both options 3 and 4 are effective but integrating the Member States in the operational risk management at EU level through the EU Customs Authority brings better results. Yet, the analysis shows that option 3, while being effective and reaching all the objectives, relies on the Commission, which cannot fully exploit the capabilities of the Data Space because Member States are not directly involved in running it, while they conduct the controls and the operations on the ground.

By contrast, option 4 fully taps into the potential of the Data Space by introducing a new governance actor that brings together the work of the Commission and the Member States, the EU Customs Authority. Option 4 is therefore the most efficient and the most effective option.

Effectiveness	Option 1	Option 2	Option 3	Option 4
Overall (General Objective)	*	**	***	****
SO 1 – Strengthen EU customs risk management	*	**	***	****
SO 2 – Reduce burden and simplify procedures	**	**	***	****
SO 3 – Level playing field - e-commerce	***	***	****	****
SO 4 – Data access/use for strategic customs action	**	***	****	*****
SO 5 – Enable the Customs Union to act as one	*	***	**	****

Coherence

A practical examination of how each option would perform in connection with major EU policies connected with trade in goods, and in particular those with Single Market, sustainability, or security dimensions, was carried out through the use cases included in Annex 9 (sections 4-6). As all options promote structured co-operation between customs and sectoral policies in order to improve their outcomes from customs action at the border, and all options align customs and VAT rules, all options are coherent as such.

Where the options differ is in their strategic capability to enable the customs union to support delivery of the Union's acquis to the broadest extent possible at the external border. Option 1 would bring additional attention to a small number of priorities but does not create any new operational co-operation capabilities compared with the baseline and does not provide a basis for systematic co-operation. In Option 2, the co-operation framework with certain policies would benefit from the mandate and co-ordination of the EU Customs Authority but would still lack the tools to align customs and sectoral efforts consistently across the external border. Option 3 provides a better basis for co-operation, including EU visibility – the Data Space is a major new capability, but its common policy exploitation would be limited by governance constraints in practice (the Commission would not have the relevant operational mandate or capacity). In Option 4, the EU Customs Authority would be able to use the Data Space to organise and drive a much more systematic co-operation with a much wider range of sectoral policies. This Option brings a step change in which the Customs Union can be positioned and managed as a strategic capability of the Union with the critical mass and EU-wide operational view and toolset to support many related policy priorities at once and translate joint strategies into consistent action. Option 4 provides the highest level of coherence.

Proportionality

The reform addresses problems which Member States cannot solve on their own. Action at Union level is essential to reform Customs Union processes, data management and governance to address the problems identified. The choice of instrument (Regulation) is essential because the Customs Union must provide legal certainty for trade and public authorities, to ensure the smooth flow of legitimate trade and at the same time provide for effective, risk-based intervention by public authorities to implement major elements of the EU acquis, notably in the areas of the Single Market, security and own resources.

No option goes further than is necessary to achieve the objectives. Option 1 places a higher burden on national administrations to develop and deploy simplified processes but lacks the governance framework and data management elements which are important in enabling effective uniform implementation. Option 2 addresses the governance framework but is constrained by the legacy information environment. Option 3 brings the relevant information environment but lacks the governance structure needed to get the full return on investment in terms of policy delivery. Option 4 provides most balanced set of measures, combining reform of customs processes with a common data management environment and an EU governance layer. These elements are mutually reinforcing, which enables Option 4 to provide also the largest reduction of burden on both public authorities and private sector operators. All options support continued national decision-making, with Option 4 providing the highest quality support from EU measures.

Relevant findings from public consultation

In the public consultation, the participating stakeholders considered the impact of the policy measures proposed in the questionnaire as overwhelmingly positive: Providing for a single EU customs information environment, building partnership with reliable and trusted traders that can use commercial information, better cooperation of customs and non-customs authorities and reforming the EU customs governance were all considered highly positive for their organisation by 55-60% of the respondents (122, 118 and 111 out of 194 replies respectively) and as positive by additional 20% (43, 41, 47 respectively). No more than 10% of respondents (between 3 and 14 replies) considered any of the measures as limited or high negative for their organisation. (Annex 2)

The table below summarises how the options compare relative to the baseline scenario, using the score assigned in the analysis of the impacts.

Million EUR – change compared to baseline	Option 1	Option 2	Option 3	Option 4
QUANTITATIVE COSTS/BENEFITS (€M/15yrs)				
EU Services – direct implementation administrative costs				
Information Technology				
5. One-off	67	102	455	559
6. Recurrent	29	177	1 923	2 048
Other costs (staff)				
7. Recurrent	baseline	141	143	230
Member States – direct implementation administrative costs				
Information Technology				
1. One-off	6 772	6 772	-1 942	-3 090
2. Recurrent	9 800	9 800	-16 402	-18 056
Other costs (staff)				
3.Recurrent	703	576	- 309	- 1002
Business/Trade				
9. Recurrent (net of additional e-commerce duty costs)	-18 063	-18 063	- 23 306	-27 094
Revenue collection				
11. Revenue collection removing EUR 150 exemption	12 000	12 000	13 000	13 000
NET BENEFITS	**12 693**	**12 496**	**52 437**	**59 406**
Additional benefits scenarios - illustrative (not taken into account):				
12. Cigarettes (revenue loss prevention scenario)	744	1 488	1 488	2 976
13. Ecodesign example - consumer saving	3 861	6 435	6 489	15 444
QUALITATIVE BENEFITS				
Effectiveness				
Overall (General Objective)	*	**	***	****
SO 1 – Strengthen EU customs risk management	*	**	***	****
SO 2 – Reduce burden and simplify procedures	**	**	***	****
SO 3 – Level playing field - e-commerce	***	***	****	****
SO 4 – Data access/use for strategic customs action	**	***	****	*****
SO 5 – Enable the Customs Union to act as one	*	***	**	****
Protection outcomes (case studies)				
Single Market and Sustainability	*	**	**	****
Security	*	**	**	****
Revenue	*	**	***	****
Efficiency				
Overall efficiency	*	**	**	****
Proportionality				
Overall proportionality	**	**	***	****
Coherence				
Overall policy coherence	*	**	***	*****
Strategic capability	*	**	***	*****

8. PREFERRED OPTION

8.1 Option 4

Option 4 is the preferred option: a reform of the customs processes, implemented in a central EU Customs Data Space that is managed by a new EU Customs Authority. The three components reinforce each other to deliver better results, and lead to synergies across the Customs Union. The impact assessment and comparison in chapter 7 conclude that this option is most efficient. The investment in central structures significantly reduces the cost for Member States and businesses. It also concludes that it is most effective option to achieve the specific objectives:

1. The supervision capacity of customs is strengthened. The revised processes give a better visibility on the supply chain of goods in and out the EU. The EU Customs Data Space enables real-time EU risk management on financial and in particular non-financial risks, where the cooperation with specialised authorities can take place. The EU Customs Authority brings the critical mass to work with the Data Space to its full potential. It ensures the customs authorities act as one and on common priorities and facilitates cooperation with other authorities at EU level.
2. The administrative burden for legitimate trade is significantly reduced. The revised processes are simple and flexible. The information is collected from the right source. The EU Customs Data Space delivers this in a single system for trade. One system, instead of the projected 111 in the dynamic baseline, is a cost saving for trade and key demand for the reform. The EU Customs Authority delivers on the request for better coordination between national customs administrations and with other competent authorities.
3. E-commerce playing field is levelled with traditional trade. The rules no longer mismatch the VAT provisions. The revised processes allow e-commerce actors to provide their information in a simple and adequate manner. The option for simplified classification and valuation in buckets makes the duty calculation more accessible. The EU Customs Data Space facilitates the interaction between e-commerce actors and customs, at EU level. The Authority ensures the uniform implementation and can address weak spots of the Customs Union.
4. The access and use of data for strategic customs action is improved. The revised processes allow operators to provide better data quality and more supply-chain information. Thanks to the EU Customs Data Space, the customs data is not fragmented across different national systems. It is designed and built around the data analytics capacity. It allows other partners to contribute and cross-check their data, facilitated at EU level by the EU Customs Authority.
5. The Customs Union acts as one. The revised processes are delivered in a central EU Customs Data Space, and by a central actor in the EU Customs Authority. This facilitates the uniform implementation in all Member States and addresses the problem of divergent application. The Authority has access to real-time information in the Data Space and can operationally manage the Customs Union together with the Member States.

The risks and challenges are diverse across the Customs Union and different land, air or maritime borders. Importantly the centralisation in option 4 is not a 'one size fits all approach' but strengthens the capacity of customs across the EU with common tools. The EU Customs

Data Space allows for EU and national risk management, for cooperation at EU and national level. It can take additional information into account (digital product passports, certificates, etc.) to check compliance with new and future requirements.

The option addresses the challenges identified by the wise persons group and is future proof, in line with the foresight report.

The capacity to act together as a Customs Union strengthens the strategic autonomy and resilience of the EU. The EU Customs Authority brings together the EU and Member State level. The political prioritisation in the Council allows customs to act as one, on the same objectives.

Overall, this option puts customs in a better position to fulfil its mandate and to cooperate with partners across the relevant policy areas to protect the Single Market: security, health, environment, climate, etc. It strengthens the revenue collection and capacity to fight EU wide fraud patterns.

Risks

The implementation of the central components in the EU Customs Data Space and the EU Customs Authority require investment from the EU budget. Resources to initiate the work in phase one should be available right after the co-legislators adopt the Commission proposal. As soon as the first phase is completed and the duties from removing the EUR 150 exemption accrue to the EU budget, the Data Space for the other operators would be built. The full financial benefits, with better revenue collection and reduced collection costs for Member States will be fully perceived after 9 years. The anticipated implementation is split in three phases:

- Phase 1 (Y1-2) – the Commission builds the seed of a Data Space for e-commerce and undertakes some preparatory activities to form the EU Customs Authority.
- Phase 2 (Y3-5) – E-commerce intermediaries start reporting and the EU Customs Authority takes over the building and management of the Customs Data Space for the rest of operators.
- Phase 3 (Y6-9) – traders progressively operate in the Data Space and national IT systems progressively phase out. The Authority is fully functional.
- From Y10 – all traders operate in the Data Space. The Authority is fully functional.

As of 2028, the Data Space and the EU Customs Authority would need to be funded under the next MFF, as well as the maintenance and operations of the current IT system. The risk of insufficient funding allocated under the next MFF would delay the implementation of the reform, including the improved revenue collection and e-commerce revenue, as well as the significant cost savings for Member States. The mitigation measure to use the customs programme funding the operation and maintenance of the current IT system to build the Data Space, comes with performance risks. There is no mitigation measure for funding the EU Customs Authority.

The recent political agreement in negotiations between the European Parliament, Council and Commission on a Carbon Border Adjustment Mechanism (CBAM) opens up possible synergies with an EU Customs Authority.

8.2 REFIT (simplification and improved efficiency)

The preferred option significantly simplifies customs processes via a better interaction between customs and economic operators focused on operators and supply chains instead of the multiple formalities needed to carry out the individual transactions as they are foreseen today. Both platforms and traditional traders offering customs visibility over their supply chains will enjoy simpler and faster procedures, by providing customs with access to their commercial data. The simplification and centralisation of functions at several levels are expected to result in cutting red tape and simplifying processes and procedures for operators. Therefore, the preferred option has the potential to greatly reduce administrative compliance costs for economic operators.

8.3 Application of the 'one in, one out' approach

As noted above, the preferred option has the potential to significantly simplify customs processes and to reduce administrative burden and administrative compliance costs for economic operators. Estimated savings identified could amount to **EUR 40 billion over 15 years** (which would represent net savings, once offset against increased customs duty payments on e-commerce parcels, of **€27 billion).** These savings relate primarily to an overall aggregate reduction in the time needed to complete import processes, and to a lesser extent to a removal of current formalities for those who choose to use duty-suspensive movements from Member State of entry to destination Member State (see Annexes 3 and 9 for more details)

The main direct **one-off** administrative costs for companies would relate to the investment in preparing adaptations to their IT systems software to communicate with the new EU Customs Data Space**.** Unfortunately, precise data on these costs are not available However, it is considered that the net impact for economic operators would be highly positive, because the one-off costs involve adapting to interface with a single EU customs data environment in place of one customs IT environment per Member State of operations. The number of data provision points is reduced and the data is provided to one single EU interface. Data can be provided in advance and re-used (instead of being repeatedly provided). The data requirements are rebalanced to better fit commercial practices (data is in principle required from those who are best place to give it, data is accepted in multiple formats, and the declarant role is removed). The overall IT effort required across economic operators is reduced on a permanent basis. While no specific data is available on these costs, recent experience with the reform of the Import Control System supports this view – businesses were strongly in favour of the shift of paradigm from multiple national interfaces and processes to a single shared interface and process, on grounds of reduction of cost and complexity. One-off development IT costs to connect to Data Space are expected to be counteracted by a lower-cost IT model for the future. In this regard, the joint industry statement issued on 7th June 2018 ([105]) stated as follows:

> '*These legal provisions and in particular the 'multiple filing' requirements make the principles and proposed elements underpinning ICS 2 essential. Economic operators need a unified and coherent EU system with a common set of processes and a shared*

([105]) STATEMENT OF INDUSTRY SUPPORT FOR THE ICS 2 SYSTEM. Supported by: Airlines for Europe (A4E); the European Association for Forwarding; Transport, Logistics and Customs Services (CLECAT); the Community of European Railways (CER); the European Express Association (EEA); EurTradeNet (ETN); the European Shippers Council (ESC), the International Air Transport Association (IATA) and the World Shipping Council (WSC).

IT architecture. The proposed Common Repository, the Shared Trader Interface / Harmonised Trader Interface with the same specifications, and the single access and identity management system are imperative to implementing the UCC without disrupting trade. These systems features are the logical and necessary consequence of the UCC and IA/DA provisions. The alternative of a fragmented Member State based ICS 2 system would be incoherent and inefficient, and would impose insupportable costs on both Member States and economic operators.'

Minor indirect one-off administrative costs for companies would relate to **training.** Quantification of training costs was also not possible. These would concern a shift to in focus of training towards simpler customs processes, implemented uniformly through a single interface instead of through multiple national environments. This would particularly benefit those which deal with different national processes and environments. As with IT, this would reduce the overall training effort required across economic operators on a permanent basis. Consequently, the net impact should be positive.

9. HOW WILL ACTUAL IMPACTS BE MONITORED AND EVALUATED?

The baseline *Customs Union Performance* programme annually collects, and analyses aggregated information provided by the Member States about customs activity, trends, and performance in the EU to support evidence-based policy. One of the main outcomes of the analysis is the Customs Union Performance Annual Report, addressed to the Member States only, which provides conclusions and recommendations on main developments in the Customs Union, based on the analysis of Key Performance Indicators linked to the EU strategic objectives: protection, competitiveness, facilitation, control, and cooperation. The CUP indicators address several types of activities, ranging from the amount of customs duties collected, the use of simplifications, the role of the AEOs in customs processes, to actions in the field of customs controls and detection of illicit trade.

The collection of CUP data is currently voluntary, which raises questions about data quality, completeness, and consistency, as well as issues regarding data ownership and confidentiality. The UCC reform would further develop the CUP programme to support the monitoring and evaluation of the present initiative, improving indicators in the area of risk analysis and control inputs and outputs, and protection, collection, and simplification outcomes. In the preferred options, the EU customs Data Space would enable policy impact to be monitored and measured based on EU-wide operational data. This would significantly improve performance measurement, linking EU policy priorities directly to the **Customs Union's** inputs, outputs, and outcomes at the operational and strategic levels, providing accurate, timely information for operational decision-making and policy management.

As part of this reform, the CUP would receive a legal basis, allowing the publication of an annual report on the performance of the Customs Union at Border Crossing Point level, leveraging the current implementation of the Customs Control Equipment Instrument. This will address the lack of effective tools for oversight at the Commission's disposal, as indicated in the UCC evaluation. In the preferred option 4 where a more central digitalisation model is foreseen with an operational EU Customs Authority, the data for monitoring would be directly accessible. The Commission could include some of the following success indicators in the annual CUP reports.

Objective	*Indicator*
Improve revenue collection via operational risk management at EU level	Revenue collection on goods valued above EUR 150 Rate of unpaid duties Number of risk management strategies with other authorities (in charge of e.g. tax and antifraud) Seizures
Improve detection of non-compliant imported products via operational risk management at EU level	Number of supervision strategies with other authorities (in charge of e.g. antifraud, market surveillance, food, animal and health protection, product safety) Seizures
Make trade flows smoother for trusted operators	Number of *Trust and Check* traders Percentage of trade handled by *Trust and Check* traders Number of processes required to trade goods Number of audits carried out on *Trust and Check* traders Number of *Trust and Check* traders authorisations suspended
Collect revenue from e-commerce	Revenue collection on consignments valued up to EUR 150 Number of consignments valued up to EUR 150
Exploit data for strategic customs action	Volume and type of data available Number of data errors and interventions Interoperability with additional data sources (time and scope)
Enhance uniform implementation and practices (‘avoid port shopping')	Number and feedback on controls Minimum standards for risk management Number of EU risk signals, risk analysis results, control recommendations and control results Number of control recommendations
Empower customs authorities to act in the same way	Number and quality of trainings Number of joint activities, projects, workshop

The Commission would monitor the implementation of the reform on a regular basis. An evaluation of the initiative would be performed in 2035 and every five years thereafter.

Annexes

Annex 1 - Procedural Information

LEAD DG, DECIDE PLANNING/CWP REFERENCES

The initiative on the Reform of the Union Customs Legislation was carried out under the leadership of the Directorate-General for Taxation and Customs Union (DG TAXUD). The agenda planning is PLAN/2021/12806. The initiative is included in the Commission Work Programme 2022, Annex II on REFIT initiatives (n°19). ([106])

ORGANISATION AND TIMING

The main framework for customs legislation in the EU is the Union Customs Code (UCC) ([107]), which was adopted in 2013 and applicable since 1st May 2016. DG TAXUD started gathering feedback for the impact assessment on a reform of this framework in March 2022, after the publication of a report by the Wise Persons Group on 'Putting more union in the European Customs – Ten proposals to make the EU Customs Union for a Geopolitical Europe'. ([108])

An Inter Service Steering Group, chaired by the Secretariat General (SG) of the European Commission, was convened three times between June and September 2022 (see table below) to support the steering of the project and to integrate views of other Commission services. The inter service group included: Directorate-General for Budget (DG BUDG), Directorate-General for Human Resources (DG HR), the Directorate-General for Informatics (DG DIGIT), European Anti-Fraud Office (OLAF), the Directorate-General for Internal Market, Industry, Entrepreneurship and Small and Medium-sized Enterprises (DG GROW), Directorate-General for Agriculture and Rural Development (DG AGRI), Directorate-General for Mobility and Transport (DG MOVE), Directorate-General for Energy (DG ENER), Directorate-General for Environment (DG ENV), Directorate-General for Climate Action (DG CLIMA), Directorate-General for Communication Networks, Content and Technology (DG CNECT), Directorate-General for Maritime Affairs and Fisheries (DG MARE), Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA), the Directorate-General for Health and Food Safety (DG SANTE), the Directorate-General for Migration and Home (DG HOME), Directorate-General for Justice and Consumers (DG JUST), Directorate-General for Trade (DG TRADE), Directorate-General for European Neighbourhood Policy and Enlargement Negotiations (DG NEAR), Directorate-General for Eurostat (DG ESTAT), European External Action Service (EEAS), Legal Service (SJ).

A brief chronology of significant milestones leading to the adoption of the draft impact assessment is provided below.

([106]) 2022 Commission Work Programme – key documents | European Commission (europa.eu)

([107]) Regulation (EU) N° 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269 of 10.10.2013)

([108]) PUTTING MORE UNION IN THE EUROPEAN CUSTOMS: Ten proposals to make the EU Customs Union fit for a Geopolitical Europe, Report by the Wise Persons Group on the Reform of the EU Customs Union – Brussels March 2022.

Table 1: Chronology of the initiative

Date	Activity
16/12/2021	Political validation of the initiative
31/03/2022	Presentation of the Wise Persons Group's Report
28-29/04/2022	High Level Seminar of European Customs Directors General on the Wise Persons Group (WPG) report conclusions
09/06/2022	1st meeting of the inter service steering group
30/6/2022	2nd meeting of the inter service steering group
20/07/2022	Publication of the Call for Evidence
20/07/2022 - 19/09/2022	Period of the public consultation (8 weeks)
14/09/2022	Third meeting of the inter service group
28/09/2022	Submission to Regulatory Scrutiny Board
26/10/2022	Presentation to Regulatory Scrutiny Board
28/10/2022	Opinion of the Regulatory Scrutiny Board
27/01/2023	2nd Opinion of the Regulatory Scrutiny Board

CONSULTATION OF THE RSB

The draft impact assessment report was submitted to the Commission's Regulatory Scrutiny Board (RSB) on 30 September 2022. Following the meeting on 26 October 2022, the RSB issued a negative opinion on 28 October 2022, suggesting several areas for further improvement. The revised report was resubmitted on 21 December 2022. The Board issued a positive opinion with reservations on 27 January 2023. The RSB recommendations along with the changes introduced in the text are summarised below:

Table 2: Consultation of the Regulatory Scrutiny Board (1st and 2nd opinions):

1st RSB Opinion	Changes introduced in the revised version
(B) Summary of findings	
(1) The report does not sufficiently explain the coherence with other policy initiatives. It does not clearly reflect the progress in implementing the Customs Action Plan in the dynamic baseline. It does not present a clear and fully developed intervention logic.	The original report failed to explain the difference between the dynamic baseline (where the CAP and the UCC had been completed) with option 1, which proposed small adjustments to the existing legislation. In the revised report, option 1 has been removed and the option to integrate all customs

	administrations into an EU service is discarded. It is clearly explained that the customs action plan is considered a part of the dynamic baseline. The connection to recent initiatives like the EU single window for customs is better explained. A new intervention logic links more clearly the three drivers, processes, data and governance, and the key policy choices in the options.
(2) The report does not identify, assess and compare the options (or their most relevant combinations) in a consistent way that brings out clearly the key policy choices. It does not sufficiently consider the feasibility of the options and the related funding risks.	The original report presented three governance alternatives: the Commission, a Board and an agency. And it opened the door to a combination of those alternatives but that combination was not assessed. The revised report will present two alternatives: the Commission and an Authority that takes the form of an agency, with more or less tasks. The possibility to combine options is no longer there and this facilitates the rest of the assessment and the comparison. The revised report also includes a preferred option. As to the related funding risks, the revised report proposes an implementation pace of the measures which takes into account that the reform generates additional revenues, from e-commerce trade and better enforcement of duties and related VAT. The central customs Data Space would bring significant savings to Member States, but requires investments under the EU budget, as would an EU Customs Authority. The funding risks of the preferred option are clearly signalled.
(3) The impact analysis is not sufficiently comprehensive and does not clearly present the costs and benefits of the options (or their combinations).	The new approach to both data management and governance framework has a direct cost to the EU budget. The costs are presented over a 15-year timeframe, to account for the phase-in of staff, or the peak in IT investment. This approach has improved the presentation and comparability. The above-mentioned changes are integrated in a revised impact assessment, and across the technical annexes with the detailed assessment. The technical formulations in the impact assessment were revised.
(C) What to improve	
(1) The report should better justify the urgency and rationale to act now. It should establish clearer links to the evidence from the interim evaluation and European Court of Auditors	The urgency to act now is demonstrated in chapter 2.4 on "how likely is the problem to persist", notably by illustrating the drastic increase in declarations due to e-commerce and

recommendations. The report should better describe the coherence of the UCC revision with other non-customs policy initiatives and policy areas.	growing tasks for customs enforcing prohibitions/restrictions stemming from sectoral legislation (most recent examples deforestation, forced labour). The revised version reflects more prominently the evidence found by ECA and in the UCC evaluation, both pointing to substantial reform needs, despite and in parallel to ongoing reform efforts (see also point 2). The role of customs in non-customs files is key to this initiative; this aspect is more prominently explained.
(2) The report should provide a more robust and dynamic baseline. In particular, it should clarify how the changes coming from the 2016 UCC reform, related work in non-customs policy areas and implementation of the Customs Action Plan are reflected in the baseline analysis and why they will not be sufficient to address the identified problems. It should clearly delineate whether the initiative is a continuation of the Plan or a shift in the paradigm.	In the revised version, the introduction explains better how the customs action plan is a first follow-up to the foresight report. Its activities are set to take place until 2025. Moreover, the dynamic baseline was entirely redrafted to better include the Customs Action Plan (CAP). The CAP, as a first follow-up to the 2040 foresight report, assessed that the 2016 UCC reform is needed but insufficient for addressing current and emerging challenges, pointing to the need for substantial reform. This is also explained in the section 2.3 on the drivers. Most of the CAP actions are of preparatory nature, paving the way for the reform, others (e.g. Action 17 on governance reform) are subject of this impact assessment. The reform proposal is therefore consistent and in continuation of the CAP. The revised dynamic baseline takes into account both completion of the 2016 UCC reform and, to the extent that the initiatives announced therein are not subject of this Impact Assessment, also the CAP by 2025.
(3) The report should present a clearer intervention logic by better connecting the drivers, problems, objectives and options/measures. It should clarify whether the identified specific objectives have the same weight and whether there is an implicit revenue generation objective. The rationale should be clearer on how the revision would contribute to fulfilling the Green Deal objectives.	The revised intervention logic works out the three strands: 'customs processes', 'data management' and 'governance framework'. The drivers are identified as the causes of the problems and it is explained how the solutions provided in the options are linked to the drivers. The general objective has been redrafted, clearly separating the protection, collection and simplification as one. The collection of revenue is part of the general objective. Although the reform will generate additional revenue, in particular from removing the e-commerce exemption below 150 €, it is not an objective as such. The level playing-field and alignment with VAT rules are the main political considerations on e-commerce. The Green deal objective has been subsumed in the protection general objective. The revised text clarifies that the five specific

	objectives are equally important: (i) strengthen EU risk management both for financial and non-financial risks; (ii) reduce the administrative burden; (iii) level the playing field on e-commerce; (iv) enhance access to and use of data; (v) act as one.
(4) The report should better explain how the options were mapped, identified and designed. It should clearly outline how each option would work in practice. It should present the options (and their combinations) in a way that brings out clearly the available policy choices. The option descriptions should be much clearer on the extent to which the options and measures are cumulative or exclusive. The combination of options that are considered the most relevant ones (also in view of the legislative discussions) should be identified upfront and subsequently assessed.	The new, improved intervention logic by drivers provides a much clearer picture of the options. The revised report clearly explains that there are three main policy choices to make: - To what extent do we reform the customs processes? The question there is how far we simplify the rules. It proposes a series of technical options. - To what extent do we reform the management of customs data? The question is whether to implement the new customs processes individually in national IT environments (O1+2) or together in a centralised Data Space (O3+4). - To what extent do we reform the governance of the customs union? Different possibilities to strengthen 'acting as one' are considered in the reform. In broad terms, the key policy choices are: o strengthen the current cooperation approach (O1) o create a customs agency for coordination (O2) o strengthen the role of the Commission (O3) o create a customs agency for operations (O4) The revised report assesses all relevant options and indicate a preferred option. It now considers four policy options, without sub-options. All four options aim to simplify customs processes, but the level and impact will depend to some extent on the approach taken on data management and governance. Option 1 will focus on the reform of processes without ambitious changes of data management and governance. Option 2 will complement the process simplification with an EU Customs Authority tasked with the management of community programmes and operational support (coordinating authority) without centralising data management. Option 3 combines the process simplification from Option 1 with a central EU Customs Data Space, managed by the Commission. Option 4 tasks an EU Customs Authority with the management of the central

	EU customs Data Space and carry out risk, crisis and data management/data analytics. It would also manage community programmes and provide operational support (operational authority).
(5) The report should elaborate on the feasibility of the options, including by assessing more thoroughly the related funding risks. It should clarify which mitigating measures and alternative funding solutions, including staged policy approaches, have been considered to minimise such risks.	The report clearly explains the funding risks of the preferred option. The revised report proposes an implementation pace of the measures which takes into account that the reform should generate additional revenues, from e-commerce trade and by better tackling customs fraud. The central customs Data Space would require investments under the EU budget, as would an EU Customs Authority. The funding risks of the preferred option are nevertheless clearly signalled.
(6) Based on a clear presentation of a consistent set of options the report should provide a cost benefit analysis that informs the decision-making process. It should clearly present the costs and benefits and the net impacts of each option and/or the most relevant combinations thereof. It should consistently use them (and the relevant qualitative analysis) when comparing the effectiveness, efficiency and proportionality of the options	In the revised report, the options are presented along three strands, as per revised intervention logic: customs processes, data, governance. The main report includes a table per option with the cost-benefits over a period of 15 years which also includes a net calculation. As rightly noted, some benefits are not quantifiable so a consistent qualitative analysis is provided per option, supported by the use cases in Annex 9, sections 4, 5 and 6. The effectiveness analysis is linked to the objectives. A summary table on cost and benefits is added under each option.
(7) The impact analysis should be further developed. The report should provide a more detailed assessment of the effectiveness and efficiency of the proposed governance structures. It should better explain the impacts on consumers in terms of the likely cost pass through and on Member States in terms of (customs) revenues and (collection) costs. It should better explain the assumptions underpinning the analysis of the IT costs and the costs and benefits to businesses. It should also better reflect macro-economic impacts of the initiative.	The redefinition of the policy options makes the assessment of the effectiveness and efficiency of the proposed governance structures more straight-forward. The analysis clarifies that the current customs compliance obligations for e-commerce are currently so burdensome that, even if the EUR 150 duty exemption is removed, the operators' compliance cost will be reduced and therefore there should not be any negative impact on consumers. It is difficult to provide a big picture on macro-economic impacts. The revised report takes a measured approach, providing examples where available. Assumptions in the analysis of IT costs improved in Annex 7. The detailed assessment of the governance structures is improved in Annex 8. Costs and benefits to businesses and impact on consumers on e-commerce are better explained

	in Annex 9.
(8) Report should better present the views of different stakeholder categories, including affected non-customs authorities of the Member States as well as those of other relevant EU actors.	In the revised version, the stakeholder views are better distinguished, including where it corresponds to a non-customs authority. The Wise Persons Group extensively consulted the non-customs authorities their findings are also included therein. DG TAXUD has not conducted any direct consultation with non-customs authorities.
(9) The report should clearly present the monitoring and evaluation arrangements. It should be clear how the success of the initiative would look like and how it would be measured.	The revised report includes a preferred option, which allowed the indication of the monitoring and evaluation arrangements. These are now included in the revised version in chapter 8. The more tangible/output oriented operational objectives will also facilitate measurement of success.

2nd RSB Opinion	Changes introduced in the revised version
(B) Summary of findings	
(1) The report does not describe the options in sufficient detail.	See below (What to improve, item 1)
(2) The analysis for the One In, One Out approach does not have a sufficiently level of granularity.	See below (What to improve, item 3)
(3) The report does not provide a clear picture of the net impacts of the initiative, in particular regarding the impacts of the proposed government structures.	See below (What to improve, items 4 and 5)
(C) What to improve	
(1) The description of the options needs further clarification. The report should provide more information on the options content and how would they work in practice. In particular, the report should better explain where the set of options on customs processes comes from, and how the individual measures were identified. As the option is presented to be a pre-requisite for the following reform of the data space management and governance, the report should clarify the available policy choices within this block. The report should also better explain the origin and rationale for the measures related to the Authorised Economic Operator 'trusted trader' arrangements.	Implemented, primarily through substantial improvements in section 5.2

(2) The report should elaborate on how the options on e-commerce were identified, particularly what the reasoning for the removal of the EUR 150 exemption is. Making electronic platforms 'deemed importers' and introduction of a 'bucketing system' for duty calculation also require more explanation, especially regarding the range of policy choices available to the Commission.	Implemented, primarily through substantial improvements in section 5.2.1 and 5.3.2
(3) The report should better explain the analysis for the One In, One Out approach. It should distinguish between adjustment and administrative costs and clearly present cost savings (including in Annex 3) and further explain how they were calculated.	Implemented, through substantial improvements in section 8 and Annex 3
(4) The overall presentation of the impact analysis should be clarified. The delineation between costs and benefits should be clearer (including non-quantifiable) to give a better picture of net impacts. The report should be clear what estimates were calculated for illustrative purposes only and they should not be included in the total figures. The assumptions underpinning the analysis of the IT costs (including robustness of expected savings for Member States) and costs for businesses still need a better explanation. The report should also ensure the analytical consistency throughout.	Implemented, through substantial improvements in sections 6 and 7, and corresponding Tables in Annex 9 (including re-structuring to provide analytical consistency throughout).
(5) The report should provide a more detailed impact analysis of the proposed governance solutions by bringing in the key elements of the analysis from the Annexes.	Implemented, through substantial improvements in sections 5.2 to clarify the basis of assessment of the options, and how governance is assessed in that context, and a new section 6.6. directly addressing governance data.
(6) The impacts on the customers still need to be clarified. In particular, regarding the removal of the EUR 150 duty exemption, the report should better describe the benefits and explain who exactly will pay the extra custom duties that will provide significant revenues to the Member States and EU budget.	Implemented, primarily through substantial improvements in section 5.2.1 and 5.3.2
(7) The report should also explain when an ex-post evaluation is planned to assess the success of the initiative. The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.	Implemented, in section 9

EVIDENCE, SOURCES AND QUALITY

Evidence was gathered from existing documentary sources including legislation and other policy documents, customs and trade statistics, evaluations and reports on relevant policies and information on related initiatives. The documents listed below were particularly relevant as they were based on extensive consultations and analysis about the situation existing before the present initiative, and thereby provide context and evidence for the initiative's underlying rationale.

- Communication on the governance of the customs union ([109]);
- Customs Action Plan ([110]);
- Foresight report on the future of Customs in 2040 ([111]);
- Wise Persons Group report ([112]);
- Evaluation of the UCC implementation ([113]);
- E-customs reports 2017-2021 ([114]);
- European Court of Auditors (ECA) Special Reports 19/2017, 12/2019 and 4/2021 ([115]);
- Impact assessments carried out by the European Commission on the following initiatives:
  - Establishment of the EU Single Window Environment for Customs ([116]);
  - Setting eco-design requirements for sustainable products ([117]);
  - Proposal for a regulation on general product safety ([118]) ;

([109]) Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee Developing the EU Customs Union and Its Governance (COM/2016/0813 final).

([110]) Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee Taking the Customs Union to the Next Level: a Plan for Action (COM(2020) 581 final).

([111]) Ghiran, A., Hakami, A., Bontoux, L. and Scapolo, F., The Future of Customs in the EU 2040, Publications Office of the European Union, Luxembourg, 2020, The Future of Customs in the EU 2040 (JRC121859).

([112]) See footnote 3.

([113]) Commission Staff Working Document on the interim evaluation of the implementation of the Union Customs Code (SWD/2022/0158 final/2).

([114]) European Commission, Directorate-General for Taxation and Customs Union, E-customs annual progress reports 2017 2018 2019 2020 2021.

([115]) ECA special report No 19/2017: Import procedures: shortcomings in the legal framework and an ineffective implementation impact the financial interests of the EU; ECA special report No 26/2018: A series of delays in Customs IT systems: what went wrong?; ECA special report No 4/2021: Customs controls: insufficient harmonisation hampers EU financial interests.

([116]) COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT Accompanying the Proposal for a Regulation of the European Parliament and of the Council establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013 (COM(2020) 673 final, SWD(2020) 238 final).

([117]) COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT Accompanying the document Proposal for a Regulation of the European Parliament and of the Council establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC (COM(2022) 142 final, SWD(2022) 82 final).

([118]) COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT Accompanying the document Proposal for a Regulation of the European Parliament and of the Council on general product

- European Monitoring Centre for Drugs and Drug Addiction European Drug Report 2021: Trends and Developments ([119]);
- Serious Organised Crime Threat Assessment (SOCTA) – Europol;
- Drug precursor developments in the European Union 2019 report ([120]);
- Enforcement report of the EU chemical regulations REACH and CLP ([121]);
- Organisation for Economic Co-operation and Development and European Union Intellectual Property Office, *Global Trade in Fakes: A worrying threat, 2021 ([122])*;
- European Union Intellectual Property Office, 2020 status report on IPR infringement ([123]);
- Eurostat Labour Cost Survey 2020;
- Ecodesign impact accounting annual report 2021 ([124]).

Additional evidence was gathered through the following activities:

a) Consultation of Member States customs administrations in a Reflection Group ([125]) composed of the Directors Generals of national customs authorities, specifically set-up to look at the various building blocks of the reform package in three dedicated meetings (15/06, 6/07 and 21/09/2022). This Reflection Group was preceded by a High-Level Seminar that took place in France on 28 and 29 April 2022 to exchange views on the *Wise Persons Group* report.

b) Consultation of trade associations members of the Trade Contact Group in one ad-hoc meeting on 12/07/2022, ([126]) followed by an invitation to submit written comments.

c) Commission officials in several DGs working with various regulatory requirements applicable at the borders; continuous exchange of expertise and best practices took place among affected Commission DGs on dedicated topics to build the internal expertise needed for this impact assessment. In particular, such collaboration allowed building use cases in the various environments of fiscal and non-fiscal legislations that customs have to implement in liaison with other authorities (Market Surveillance Authorities, Law Enforcement Bodies, Tax Agencies) for assessing the impact of the options (see Annexes 6 and 9).

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safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council, and repealing Council Directive 87/357/EEC and Directive 2001/95/EC of the European Parliament and of the Council (COM(2021) 346 final, SWD(2021)168 final).

([119]) European Monitoring Centre for Drugs and Drug Addiction, European Drug Report 2021: Trends and Developments, June 2021.

([120]) European Monitoring Centre for Drugs and Drug Addiction, Drug precursor developments in the European Union, November 2019.

([121]) https://op.europa.eu/en/publication-detail/-/publication/199c348e-00e9-11ec-8f47-01aa75ed71a1

([122]) https://www.oecd.org/publications/global-trade-in-fakes-74c81154-en.htm

([123]) European Union Intellectual Property Office, 2020 Status report on IPR infringements - Why IP Rights are important, IPR infringement, and the fight against counterfeiting and piracy, June 2020.

([124]) European Commission, Directorate-General for Energy, *Ecodesign impact accounting annual report 2021 : overview and status report*, Publications Office of the European Union, 2022 Ecodesign impact accounting annual report 2021 - Publications Office of the EU (europa.eu)

([125]) The Customs Reflection Group is a subgroup of the Commission Customs Policy Expert Group. See Commission Register of Expert Groups, code E00944.

([126]) The composition of the group and the meetings minutes of the 60th and 61st plenary meetings of the Trade Contact Group are available in the Commission Register of Expert Group, code E02134.

d) External expertise used for the impact assessment:

(i) A study on the interim evaluation of the implementation of the UCC was conducted by a consortium led by Economisti Associati for supporting the Commission interim evaluation of the UCC. It comprised of an implementation review of legal and IT aspects of the UCC followed by an evaluation drawing on stakeholder interviews, a public consultation and desk research. ([127])

(ii) A study on the Authorised Economic Operator (AEO) programme, the EU's 'trusted trader' scheme that seeks to establish customs-to-business partnership to strengthen the security of supply chains. The study aims to assess the programme in terms of effectiveness, efficiency, relevance, coherence and EU added value, and to explore options for improving its quality, particularly through strengthening the link between the AEO programme and processes and systems for customs risk management. ([128])

(iii) A study on e-commerce was conducted by Price Waterhouse Coopers to explore and assess, from a holistic perspective, options for an innovative overhaul of the customs and taxation rules applicable to e-commerce goods imported into the EU. ([129])

The diagram below illustrates the methods used to provide evidence for the preparation of the impact assessment.

Figure 1: visualisation of the inputs for the impact assessment ([130])

([127]) Study to support the interim evaluation of the implementation of the Union Customs Code, Oxford Research, Ipsos, CASE, Wavestone and Economisti Associati, 2021.

([128]) Study on the Authorised Economic Operator programme, Oxford Research, Ipsos, Wavestone, CT Strategies and Economisti Associati, 2022. The requests for services to produce this study is not yet finalised and the final report is not yet accepted.

([129]) Study on an integrated and innovative overhaul of EU rules governing e-commerce transactions from third countries from a customs and taxation perspective, Pricewaterhouse Coopers EU Services, 2022. The requests for services to produce this study is not yet finalised and the draft final report are not yet accepted.

([130]) Where not otherwise specified, figures and tables were produced by DG TAXUD.

Annex 2 - Stakeholder Consultation (Synopsis Report)

This synopsis report provides a summary of the stakeholder consultation activities carried out in the scope of the impact assessment. It serves both to present the outcome of the consultation activities and to show how the input has been taken into account.

1. CONSULTATION STRATEGY

The consultation strategy was included in the call for evidence published on 20 July 2022. ([131]) It was designed in order to gather views from a broad range of stakeholders on the problems that the reform of customs legislation aims to tackle, the potential policy options to be covered, as well as the scope and technicalities attached to each alternative. The views collected through the consultation activities were used to inform the present impact assessment.

The strategy acknowledged the importance of feedback from public authorities, trade stakeholders and the wider public. On this basis, it defined the groups to be consulted via the following methods:

- Targeted consultations with national customs authorities in the Reflection Group, created within the Customs Policy Group (see infra);
- Targeted consultation with trade representatives of the Trade Contact Group (see infra);
- An open public consultation (see infra).

Overall, feedback was sought and collected from the following stakeholders:

a) Member States' customs authorities;

b) Other Member States' public authorities that rely on customs to control or implement their policies at the border (e.g. market surveillance, antifraud, data protection, health and safety compliance, sectoral regulatory bodies);

c) Economic operators dealing with cross-border goods movement, both in terms of individual companies and as represented by national, European and/or international trade and business associations. They can be grouped as follows:

   - Large, medium, small and micro companies that import or export goods into and from the EU;
   - Professionals in the trade supply chain: shipping and transport companies that organise and take care of the physical movement of goods, or arrange commercial transportation (freight forwarders and logistics companies); customs and other

([131]) https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13316-Revision-of-the-Union-Customs-Code_en

intermediaries, who are involved in the fulfilment of customs procedures on behalf of clients; port and airport operators, terminal handlers, warehouse operators;

- Manufacturers, retailers and wholesalers who are active in the business of purchasing and/or selling goods from third country;

d) Other interested groups such as academics/researchers, professional consultants and interested citizens.

2. METHODOLOGY AND TOOLS FOR PROCESSING THE DATA

The consultation activities allowed for the collection of qualitative and quantitative information and data, which were processed and analysed systematically using appropriate techniques. Qualitative data (including from submissions and contributions sent to the Commission) was coded according to key themes, then reviewed and analysed from different angles and presented in narrative form. Quantitative data (survey responses) was processed using Excel and Commission's public consultation dashboard tool and analysed using statistical methods such as frequency counts, cross-tabulations and simple trends. Results are presented in terms of tables, charts and graphs.

3. RESULTS OF THE CONSULTATION ACTIVITIES

3.1 Feedback on the call for evidence

The call for evidence aimed to outline the context of the problem, introduce policy options for targeted EU level intervention, the potential impact of the initiative on other policy areas, and the main features of the consultation strategy. Stakeholders were able to provide feedback until 19 September 2022. In total 86 contributions were received on the call for evidence, one of which was duplicated. Most of the feedback was provided by business associations (45.3%), companies (38.4%) and non-governmental organisations (8.14%). The other contributions came from two academic and research institutions, two EU citizens, as well as one public authority and a consumer organisation. Two contributions from two different countries from seemingly the same association are identical. Out of 13 contributions from Denmark, 10 contributions came from a single company; the rest of the responses came from Belgium (26), Poland (16, one of which duplicated)), Germany (11), United Kingdom (7), France (5), Netherlands (2), Hungary (2) Finland (2), Latvia (1) and Italy (1).

Among the contributions that did not provide feedback specifically on the call for evidence, it is worth mentioning there were twenty requests for amending specific provisions of the UCC in the following areas: special procedures, customs representation, guarantees, formalities on the exit of goods in relation to road and rail transport, inclusion of freight and insurance costs in customs clearance, currency conversion, allocation of and possibility to modify freight costs post-acceptance of customs declarations, creation of a master data system for the importer and exporter, customs debt in relation to temporary storage and warehousing, invalidation of the customs declaration. Five of twenty requests, submitted by NGOs, concern the revision of Article 12 UCC to allow for public disclosure of customs data in order to ensure accountability for possible human rights and environmental harm. Moreover, two PhD thesis were submitted, respectively on reforming the enforcement of Union customs law and on the management of e-commerce.

The main **problems** more frequently expressed by the contributors largely correspond to the elements included in the call for evidence. Mainly large companies indicated the

administrative burden on traders that results from the current customs legislation architecture; this includes, for example, the requirements to provide several times for different purposes the same or similar information about customs operations and multiple reporting in tax-customs related matters such as for IOSS and for the Central Electronic System of Payment (CESOP). ([132]) Contributors also pointed in significant numbers to the **non-uniform approach** taken by the customs authorities in the same or across different Member States in applying customs legislation (different implementation and interpretation of the same rules; differences in control procedures, and different application of sanctions for non-compliance). Contributors having the AEO status frequently complained about the insufficient concrete benefits granted to them. Among both, large and small size contributors, there were shared concerns about the challenges of **e-commerce flows,** including the increasing volume of goods traded online but also the increasing illicit trade for buying online counterfeit goods.

Regarding potential policy measures indicated in the call for evidence as part of a customs reform, the contributors supported in particular the concept of a centralised model for the digitalisation of customs processes and requirements and for data harmonisation. Many contributors supported the idea of measures to achieve the EU Green Deal's objectives also in the customs area, for example by way of fiscal measures to tax road transport, by introducing customs requirements for recycled or re-usable products within supply chain and by using the Harmonised System for applying more favourable customs duties to sustainable or recycled products imported from third countries. A better cooperation with market surveillance and other non-customs authorities involved in customs movements is also viewed as a positive development, in particular if a clearer and more efficient information sharing is foreseen. There was support for solutions addressing the problems resulting from the e-commerce transactions and the lack of appropriate resources of customs authorities to properly carry out their tasks, as well as considering moving from the current transaction-based model to a system-based approach for reliable economic operators.

3.2 Public Consultation

The public consultation was launched on 20 July until 19 September 2022, simultaneously with the call for evidence. It remained open for a total of eight weeks and 5 days. The shorter period compared to the standard 12-week duration was justified by the limited time frame within which the initiative has to be finalised due to its politically sensitive character and relative urgency.

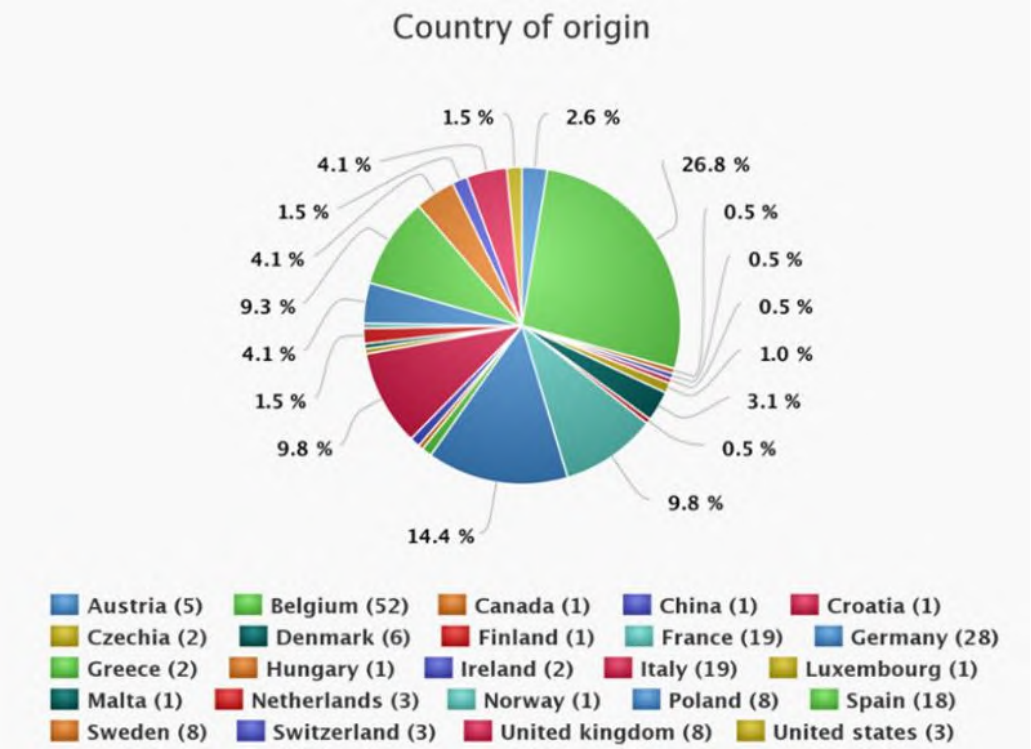
A questionnaire was available online in all official EU languages and promoted via internet and social media among the members of trade associations, relevant national authorities, citizens and other stakeholders. It consisted of 38 questions, divided into five sections. These focused on respondents' profiles, their interactions with customs, views on the customs union, on the issues at stake and on the potential policy options and related impacts. A factual summary report will be published on Have Your Say and DG TAXUD website.

The survey received 192 responses. The majority (80.4%) of respondents to the survey represented business interests, directly (49.5%, companies) or indirectly (30.9%, associations), predominantly in the following sectors: industrial production, customs representation, logistics/carriers, import/export of goods. Most replies were given by large organisations (34.5%), followed by micro (25.3), medium (14.9%) and small (14.4)

([132]) Central Electronic System of Payment (CESOP) (europa.eu)

enterprises. EU citizens represented 10.3% of respondents, while organised civil society (NGOs, consumer organisations, trade union) represented 4.6% of respondents. Only one public authority at regional level and one non-EU citizen participated to the consultation. The countries of origin can be seen in the chart below.

Figure 1: country of origin of the respondents to the public consultation

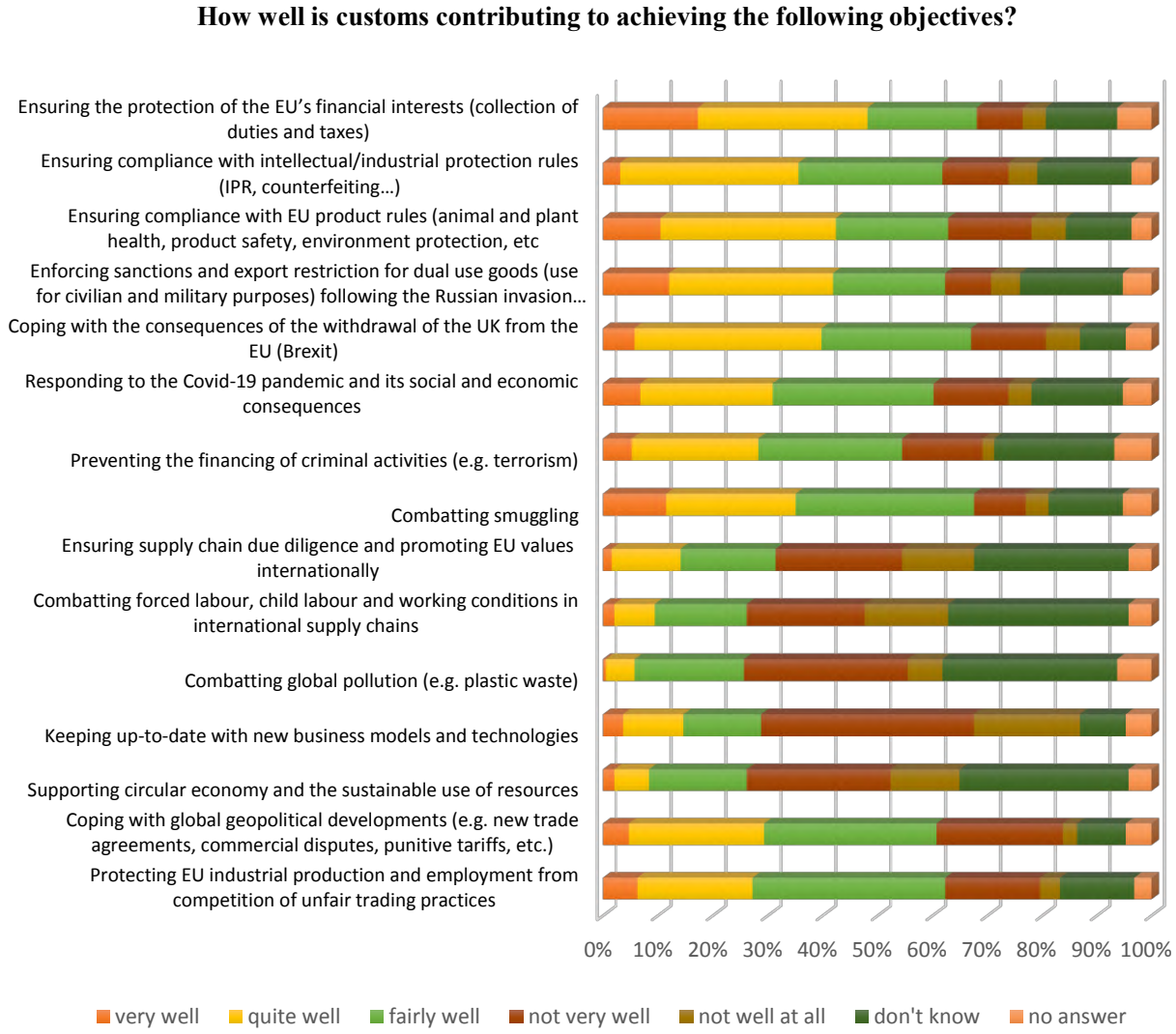


General results

Interactions with customs: 77.2% of respondents are involved in customs operations or procedures daily or almost daily; among them, a vast majority of respondents (76.7%), largely business associations or companies, deal regularly with multiple customs offices or Member States. They find that Member States execute similar operations in different ways, for example on customs valuation, frequency and level of controls, timing of clearance procedure, approach to representation and to facilitations, interpretation of basic definitions and application of UCC simplifications. The customs issues that create most administrative burden to the respondents are: classification of goods (62.4%), determining their origin (58.7), adapting to IT environment to manage customs processes (51.3%), determining the value of goods (50.2%), getting or handling supporting documents for import or export (44.9%).

Overall views on the customs union: respondents were asked how well customs is contributing to achieving a set of objectives, most of which corresponding to its mission. Results presented in the chart below show that customs are doing overall well but there are certain areas in which the perception is negative, such as for customs not keeping-up with new business models and technologies, not combatting pollution, not **ensuring supply chain** due diligence and promoting EU values internationally (e.g. human rights, environmental protection), and relatedly not combatting enough child/forced labour or inhuman working conditions in the international supply chain.

Figure 2: contribution of the customs union to achieving a set of relevant objectives



As for the needs and priorities of respondents regarding a possible reform of the customs union, customs acting as one is largely seen at the most important (79.58% of replies), followed by simpler rules for simpler processes (64.92%) and more effective protection against non-financial risks (better enforcement of EU safety, environmental and IPR rules on imported goods, for 59.69%).

Views on the issues at stake: respondents were asked about specific issues that could be addressed by a customs reform to solve current challenges:

- Reduce administrative burden: a very large majority of respondents (almost 80%) replied that they see the need to simplify how information is provided to customs so as to reduce their administrative burden and formalities.

- Customs' role in enforcing prohibitions and restrictions: a large majority (68.1%) finds it easy to buy online non-compliant goods from third countries. More respondents (46.8%) face competition from imported goods that do not respect EU rules than those who do not face such competition (41.5%). Probably for this reason, 68.1% see the need for a more efficient framework for cooperation between customs and other authorities responsible for market surveillance, law enforcement, anti-fraud, for sharing data on the products entering

or exiting the EU. However, 56.9% think that no additional information on imported goods should be required by customs, although this may be necessary to better tackle illicit trade.

- Customs' contribution to green agenda: 93 respondents replied to the open question asking about potential measures for customs to contribute to reaching the EU Green Deal's objectives. These include reduction/elimination of import VAT and customs duties on sustainable or recycled goods, creation of specific CN codes to identify such goods, full digitalisation for reducing the use of paper documents, implementation of CBAM, facilitations for operators that voluntarily reduce their carbon footprint in their activities (in transport, this concerns phasing-out road transport, favouring multimodal infrastructure and reducing waiting times at customs control points to reduce fuel consumption and emissions), priority to tackling wildlife trafficking.

Views on the potential policy options and related impacts: among the policy changes and mechanisms that could be included in a reform of the customs union, respondents *strongly agree* to include the following, in order of preference:

1. Simplifying customs formalities for reliable and trusted traders established in the EU (69.47%);

2. Enhancing co-operation between customs and non-customs authorities (55.79%), in particular regarding information exchange (65.97%), operational coordination (59.47%) and improved enforcement of prohibitions and restrictions (47.37%);

3. A new partnership with trusted traders and other competent authorities for better risk management, including reinforced advance cargo information (53.16%);

4. Providing for an EU-level customs information environment (54.21%), in which the most favoured features would be a simplified provision of data (enabling re-use of data, avoiding duplications, etc.) for 73,16% of replies, data management capabilities (64.21%) and the concept of 'single window' for the handling of non-customs formalities (63.16%);

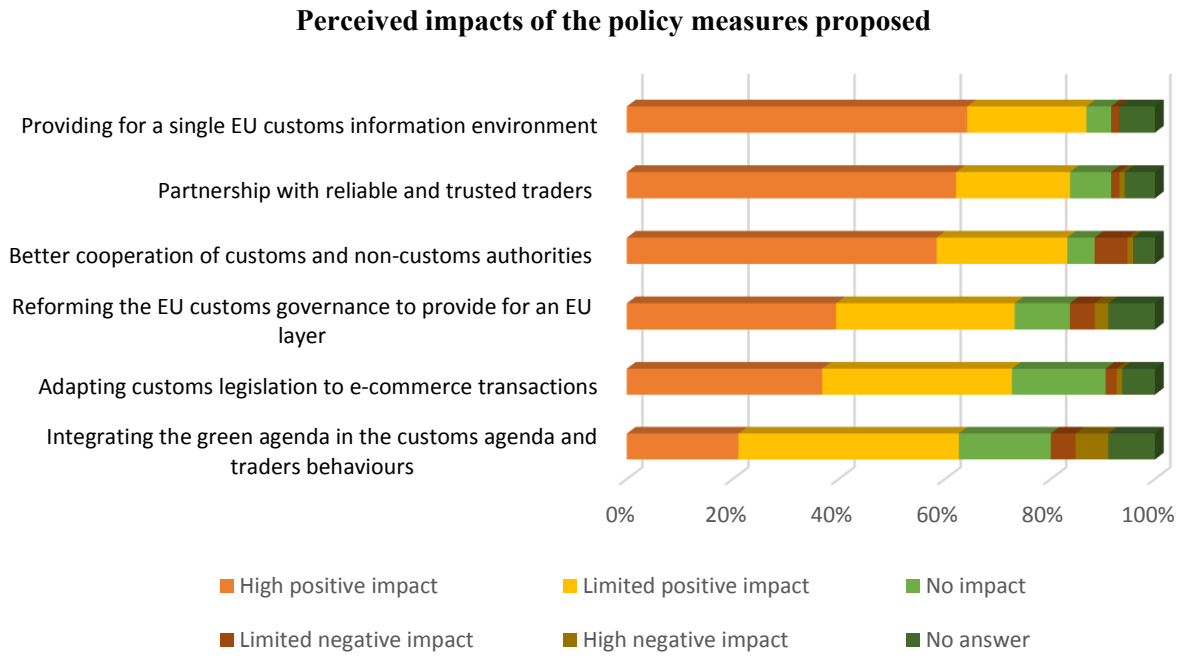
5. Adapting customs legislation to e-commerce transactions, for example by strengthening supervision of business-to-consumer flows and liability of involved actors for all fiscal and non-fiscal rules (52.11%);

6. 35.79% strongly agree about reforming the EU customs governance to provide for an EU layer (with another 23% that tend to agree, about 4.5% disagree, the rest did not provide an opinion); *but* if such EU layer would exist, it should be tasked in particular with the training of customs officers (59.47%), IT management (51%), financing of customs equipment (44.74%) and EU crisis response (41.5%);

7. Integrating the green agenda in the customs agenda should absolutely be part of a reform only for 31%, while 27.8% tend to agree to this and 6.31% disagree.

The following chart shows the **impacts** of such potential policy measures as perceived by the respondents.

Figure 3: perceived impacts of the policy measures proposed



Results by main stakeholder category

a) Business associations, organisations and companies (156 respondents)

The most important **needs** identified by the business respondents regarding a possible reform of the customs union are for customs authorities acting as one (very important for 80.6% of respondents), for having simpler rules for simpler customs processes together with more effective sharing of information and data between national customs administrations and other authorities (both, very important or quite important for almost 85%). Regarding the latter, however, almost 59% of them are against including additional information on specific products or EU standards in customs processes. Better adaptation of customs to global, commercial or political developments and crisis is also a very important need for almost 46%, quite important for 41.2%.

Business respondents consider that customs authorities are contributing overall well to achieving most of the **objectives** related to its mission. However, in their opinion customs is not doing very well or not well at all in keeping up to date with new business models and technologies (63%), in supporting circular economy and sustainable use of resources (40%), and also in promoting EU values internationally in the supply chains and in combatting forced labour, child labour and working conditions therein (both areas 36%).

There is no significant opposition to any of the **policy measures** proposed as potential elements of a customs reform. Several measures received a very large support among business respondents: i) simplifying customs formalities for reliable and trusted traders established in the EU (75 % strongly agree); ii) enhancing co-operation between customs and non-customs authorities via information exchange (67.5% strongly agree) and operational coordination (61.7% strongly agree); iii) providing for an EU-level IT customs environment, based on

simplified provision of data (79.2% strongly agree), data management capabilities (69.4% strongly agree), single window concept for handling non-customs formalities (67.5% strongly agree; iv) a new partnerships with trusted traders (strongly agree 53.9%, tend to agree 26.6%); v) an EU layer in customs governance dealing in particular with training of customs officers (strongly agree 60.3%) and IT management (strongly agree 54.5%, tend to agree 23.3%). Despite their opinion that customs is not doing enough in the environmental area, the least strong support was for integrating the green policies objectives in the customs agenda (only around 28% strongly agree to this, 30% tend to agree and 21% are neutral).

The **impacts** of the policy measures proposed would have overall a positive effect. The highest positive impacts for business respondents would come from a single EU customs IT environment (67.5% of replies), the new partnership with reliable and trusted traders (65.6%) and better cooperation with other authorities (61.7%).

b) EU citizens and consumers (21 respondents)

The most important **needs** of EU citizens and consumers regarding a possible reform of the customs union are customs authorities acting as one (very important for 81% of respondents), more effective sharing of information and data between national customs administrations and other authorities enforcing product requirements on imported goods (very important for 76%), simpler rules for simpler customs processes (very important for 71%), more effective protection against non-financial risks, e.g. better enforcement of EU safety, health, environmental and IPR rules on imported goods (very important for 66.6%) and more effective tools to tackle smuggling, illicit or fraudulent trade (very important for 62%).

Overall, citizens and consumers think that customs is contributing well to achieving its **objectives**. Similarly to business respondents, citizens consider that the less positive contribution of customs is in keeping up-to-date with new business models and technologies (overall not well for almost 43%), in supporting circular economy and sustainable use of resources and in combatting forced labour, child labour and working conditions therein (both areas overall not well for 38%), in promoting EU values internationally in the supply chains (overall not well for 28.5%) and in ensuring compliance with EU specific requirement on products (overall not well for around 28%).

There is no significant opposition to any of the policy measures proposed as potential elements of a customs reform. Citizens and consumers expressed large support for the following measures (strongly agree to include): adapting customs legislation to e-commerce flows (81%), enhancing co-operation between customs and non-customs authorities via improved enforcement of prohibitions and restrictions and information exchange (both 71.4%), operational coordination (61.9%), simplified provision of data (71.4%) and single window concept for handling non-customs formalities (61.9%) in the new EU customs IT environment, a new partnerships with trusted traders (66.6%). Finally, if a new EU layer for customs governance introduced, this category of respondents think it should be tasked primarily with providing training of customs officers (66.6%), financing of customs equipment (52,4%) and EU-level risk management (47,6%).

The impacts of the policy measures proposed would have overall a positive effect on citizens and consumers. The highest positive impacts for them would result from better cooperation with other authorities and the adaptation of customs legislation to e-commerce flows, followed by a new customs governance based on an EU layer tasked with a broader mandate.

The least positive effect would come from integrating the green agenda in customs rules and policy.

3.3 Feedback from targeted consultations

In addition to the feedback on the call for evidence and the public consultation, a range of targeted consultation activities were organised during the work on the impact assessment to gather views of expert stakeholders This included discussions in the context of the Reflection Group and of the Trade Contact Group. ([133])

a) The ***Reflection Group,*** composed by the directors general of the Member States customs administrations and steered by the Commission, held three meetings to discuss specific topics related to a customs reform.

   The **first meeting** (15/6/2022) was dedicated to discussing two topics. On the first (a new partnership with the economic operators/possibility of introducing a system-based approach for customs processes), most Member States were in favour of some kind of action in this area and to alleviate the burden of data provision, in particular for reliable traders, while signalling the need for standardisation and legal certainty. Many Member States saw the system-based approach option as an evolution of the AEO programme and of current simplifications, but some of them doubted its practical feasibility. There was general support for increasing responsibility and liability of e-commerce platforms and obtaining data from them to better identify consignments for controls. On the second topic (strengthening customs supervision and risk management), there was general support for introducing an EU layer of risk analysis, including via a specific EU body, as well as for achieving the full implementation and use of ICS2. The use of e-commerce data was seen as a key element for improving risk analysis, as well as the need for data to be processable in real time by customs (not only viewable).

   The **second meeting** (6/7/2022) focused firstly on discussing an **enhanced cooperation framework between customs and other authorities**, in a context where customs authorities deal with a large and increasing range of prohibitions, restrictions and regulatory compliance issues derived from non-customs legislation. The participants emphasised the central position of customs in goods supervision in relation to the increased importance of non-fiscal tasks, on one side, and citizen's expectations for more protection, on the other. Many suggested the need to integrate customs aspects and concerns in the early making of sectoral legislation and for better co-ordination among the EU actors involved, to avoid e.g. problems of interpretation when different formalities and definitions are formulated in different pieces of legislation. Regarding data, some participants stressed the need for an EU model for control of prohibitions and restrictions, since current experiences in data sharing with authorities such as market surveillance and law enforcement only exist at national level. It was suggested that by putting together available customs data (ICS2, Surveillance, H7 declarations etc.) it could be possible to perform centralised risk management (common risk analysis, joint analytics capabilities) so as to support Member States and to facilitate appropriate sharing and co-operation with other agencies for operations.

([133]) See Annex 1 section 4.

During this meeting, possibilities to evolve towards '**green customs**' were also discussed. Regarding the possibility to reduce the environmental impact of customs processes, it was suggested by some participants to impose environmental obligations on traders (for example by introducing a pre-certification model for trusted traders to foster compliance with prohibitions and restrictions). Other suggestions related to: i) the assessment by customs of the environmental impact of some procedures, such as inward and outward processing, re-exportation and destruction of goods, ii) abolishing the customs duties threshold in e-commerce to avoid multiple consignments, iii) exploiting free trade agreements and lower duty rates for green products to support the green transition, while avoiding protectionist measures.

The **third meeting of the Reflection Group** (21/09/2022) focused on '**a shift in the data paradigm'** and '**governance'**. There was convergence that data needs to be at the centre of customs' operations to make the customs union fit for the digital age. All Member States also recognized the need to fully implement the UCC IT systems. Most Member States preferred a centralised over a decentralised model for implementing a potential new data-driven approach. For those Member States, the preferred option would be for a new EU layer to manage the central IT environment rather than the Commission. E-commerce was mentioned by all Member States as main priority to focus on in this regard. Most participants emphasized an additional, operational risk management layer at EU level is needed and argued it should have optimal access to and availability of data to be efficient and effective. If Member States get access to these data, their national risk management would also be enriched.

Many Member States considered more centralisation in areas like data management, risk management and training important. Broad support was also expressed for organising and coordinating joint customs operations and controls at EU level, creating national/regional centres of excellence, and exploring possibilities for intra-EU mobility programmes for customs staff. While acknowledging the customs union needs to 'act as one' and legislation needs to be implemented in a harmonized way, several Member States highlighted that the desired more centralised approach in several areas should have the necessary granularity that allows for some operational flexibility to deal with specific circumstances.

Based on the very good results of the CELBET expert team, focused on enhanced operational cooperation between Member States at the eastern EU land border, several Member States considered it useful to expand this type of cooperation to other border types and transport modes. Member States participating in CELBET however emphasized the high administrative burden that comes with coordinating and managing the expert team is not sustainable in the long run and a more permanent structure would be needed to host CELBET activities. While a relatively small number of Member States were sceptical about the need to create a new, operational EU layer in the form of an agency between Member States and the Commission, many others clearly expressed support for such an approach.

b) The **Trade Contact Group** met on 12 July 2022 to discuss the positions and suggestions of the trade associations and organisations regarding potential avenues for reforming customs legislation. Following a presentation of the recommendations issued by the Wise Persons Group, the Commission presented the main elements for a potential reform of the customs legislation (a new approach to data for better customs supervision, a system-based approach to customs operations for trusted traders, reinforced risk management

including in cooperation with non-customs authorities, a new governance for the customs union). The main outcome of the discussion can be summarised as follows:

- General support for the introduction of a system-based approach for trusted traders, with one suggestion to build it on an improved AEO programme.

- Positive views on the new approach on data management, since the rapid expansion of e-commerce and increase in transactions is not manageable with current customs model. Concerns about the new approach relate to i) the need for a link with the IT systems of economic operators and with the customs declarations system, which is not always possible, ii) ensuring the quality of information provided by the different traders involved in the supply chain in the absence of a single source that has all the requested data, iii) need to align customs rules for data provision with those in other legislation, e.g. maritime law.

- Governance: mixed views on the creation of an EU layer/agency, which for some trade representatives can turn into an additional administrative burden and create duplications with the national authorities, while for other an agency should focus on the harmonisation of legislation.

- Other topics: the current UCC does not allow for flexible solutions in case of crisis or emergency situations.

3.4 Ad hoc contributions

Further to the meeting of the Trade Contact Group on 12 July 2022, 10 of its members sent individual ad-hoc contributions on this initiative, while a wide majority also participated to the public consultation and call for evidence. These are EU-level stakeholders representing the following interests: national industry and employers' organizations, customs logistics operators, express couriers, customs representatives and brokers, alcohol traders, tobacco manufacturers, retail and wholesale sector companies, national chambers of industry and commerce, ship brokers and agents, semi-conductor industry, a consumers' association. Contributions include positions and reactions to the ten recommendations issued by the Wise Persons Group, which are linked to the present initiative but not exactly corresponding to the scope and content of the proposal for a customs reform.

4. TAKING ACCOUNT OF FEEDBACK RECEIVED

A concerted effort was made to ensure that the views and concerns of affected stakeholders were carefully considered throughout the impact assessment exercise. This was particularly the case for the analysis of the problem and the development and analysis of the policy options, where the arguments presented in the impact assessment are broadly in line with stakeholder views. Regarding potential solutions proposed by stakeholders, namely in the call for evidence and the public consultation, only those falling into the scope of the customs legislation were considered as relevant in the analysis of this impact assessment.

Annex 3 - Who is affected and how?

Note: this section provides summary information in the format required by Better Regulation standards. Please note this relies on more detailed information on specific topics contained in Annexes 5-10. Annex 9 in particular provides a detailed cost-benefit analysis.

1. PRACTICAL IMPLICATIONS OF THE INITIATIVE

1.1 EU Services

As part of reform, there would be a significant change on how the European Commission's customs IT is handled. The Authority would build, implement and manage the new EU Customs Data Space. It would take care of technical development, application and service delivery, user support, data governance and security and business continuity. It would take over from the Commission the bulk of development and business operation of existing trans-EU IT systems.

The Commission's current role in supporting customs to customs and cross-authority co-operation, operational support and co-ordination and operational capacity-building would be largely replaced and deepened by the Authority. The Commission would retain its policy and legislative roles and its competences under the Treaties. It would continue to bring forward legal measures where needed to enable the sharing of data, to support a co-operation framework with other policies, to establish some common risk criteria, to monitor the implementation of the legislation, and to take necessary technical measures (for example, classification regulations and TARIC measures). The Authority would help to develop and streamline (cross-authority) strategies , including building intelligence, innovating, preparing for crisis and supervising together. EU analytics and synchronised operations improve policy performance for all co-operating services.

The Authority would use the new Data Space to deepen and broaden the EU-level effort on key activities including risk management, training, performance monitoring and evaluation (bringing its critical mass, focus and organisational/co-ordination mandate to the key tasks that need to be performed 'as one'). The Authority would also monitor the common implementation of simplifications for traders, including those granted the *Trust and Check* approach, and prepare mini-applications to support trade facilitation services, as well as managing the overall trade interface with the customs union. Certain activities within these fields are currently not carried out at all or only to a very limited extent.

The Authority would thus play a key (and deeper) role in achieving a more effective and uniform implementation of the customs rules and processes. It would bring a genuine strategic capability. This would help deliver EU protections and facilitations systematically to the benefit of citizens, businesses and all EU policies and services concerned. The EU would in addition benefit from better prevention of revenue loss (a significant reduction in the custom gap), and from the increased collection of customs duties arising from the removal of the EUR 150 threshold.

1.2 Member States customs administrations

The Authority would take over the biggest part of the IT development, maintenance and management of the EU Customs Data Space. Therefore, the customs IT workload in Member States would significantly decrease over the years, as they would only keep national specific developments.

Customs data analytics and risk analysis would be performed at central level in the Authority. National analysis would continue to contribute to common analysis including in the area of security screening. The central capacities could also be used to apply national targeting routines. Data exchange between the national environments and the EU Customs Data Space would ensure the link with operations in the field is maintained and that Member States would be able to re-use data relating to their customs operations in their national processes if necessary. A long-term data strategy for customs could be better organised and pursued.

Member States would gain from a reduction in full-time-equivalent staff requirements due to common execution of tasks in the Authority, particularly in the areas of risk management, IT and overall customs management functions. This does not require a reduction in numbers as such - national customs administrations would be able to use their resources more efficiently. In the case of AEO traders the emphasis would shift more towards client management and auditing rather than physical border controls and customs declaration processing (with additional programme management support from the Authority and facilitated on an EU basis through functionality in the EU Customs Data Space). As the Authority would provide operational support and coordination and would invest in operational capacity building, training, equipment and working methods would require less investments at national level.

Member States would benefit from the better delivery of customs and EU policy value. The shared interests in protection of citizens, consumers, trade and business reflected in common policies on product standards, security, safety, health, etc. would be achieved more effectively, efficiently and systematically across all points of entry, reducing the possibilities for illicit trade to circumvent enforcement in one Member State by finding entry through another external border.

The Member States would also benefit from better prevention of revenue loss (a greater reduction in the custom gap) and from the increased collection of customs duties arising from the removal of the EUR 150 threshold.

1.3 Businesses and Trade

Operators would benefit significantly from a fundamental change in the customs processes, which would be delivered directly through the EU customs Data Space.

All traders would benefit from simplification and rationalisation of the steps in the customs processes. The number of data provision points is reduced and the data is provided to one single EU interface instead of through 27 national interfaces and processes. Data can be provided in advance and re-used (instead of being repeatedly provided). The data requirements are rebalanced to better fit commercial practices (data is in principle required from those who are best place to give it, data is accepted in multiple formats, and the declarant role is removed). The Authority reinforces cooperation among customs authorities also at the border, on the ground, and supports the uniform implementation of simpler processes.

Some additional information would be provided (notably the manufacturer of the goods). However the effort required to provide additional information is more than compensated by the simplification and reduction in customs processes.

Improvements in customs targeting would improve protection of legitimate businesses against non-compliant supply chains and supply chain security threats, and reduce unfair competition, through better enforcement of regulatory measures. This improves protection of jobs, innovation, and investment. Moreover, the resilience of supply chains in crisis scenarios (such as disease outbreaks or security incidents) would be strengthened significantly by providing for immediate, specific and uniform targeting of risky flows while minimising the scope and scale of disruption, and by maintaining crisis-readiness on a 24/7/365 basis, underpinned by long-term co-operation with other relevant authorities.

Trusted Traders would benefit from an improved partnership with customs. These traders would meet conditions similar to current AEO requirements and would also provide additional transparency by systematically making data available to customs systems. This data could be re-used by carriers in advance cargo information processes, and the goods flows could be 'self-released' on arrival (in principle the goods would keep moving, with the advance cargo processes providing the means for customs to intervene if that were to become necessary). Trusted traders would benefit from fewer and more targeted customs controls, would generally receive advance warnings and as far as possible have checks and formalities deferred to convenient locations. In so far as agreed with other authorities, some non-fiscal checks could also be moved away from the border and performed by the Trusted Trader. Guarantee requirements would be reduced. While these Traders will provide more direct information to customs, this will be curated from their own commercial records and will simplify their overall compliance task compared with the baseline in terms of time spent on declarations (and also in terms of supply chain interventions and controls by customs).

For **e-commerce** the removal of the customs duty exemption threshold would mean more customs information would have to be provided – although data is already provided on all imported goods according to the new VAT e-commerce rules as from July 2021. However, experience shows that the vast majority of e-commerce imports (around 90% of declarations) is declared with a reduced dataset that supports primarily basic VAT needs. This data set is narrow in scope and is not sufficient to support a full risk analysis for all relevant risks. The EU Customs Data Space would provide a single interface that would facilitate both the provision of information from the e-commerce intermediaries and the processing of that information for customs authorities.

Compared with the baseline for e-commerce, postal operators and couriers would benefit from a reduced administrative burden. As regards e-commerce intermediaries, these may already be indirectly bearing at least part of the carriers' cost for filing customs declarations. By directly dealing with customs compliance, the platforms will benefit from the fact that they will offer a final price to their clients and will most likely see a reduction in the complaints and returns motivated by unexpected customs administrative costs at the border, reducing the friction currently experienced in their supply chains. Overall, the preferred option should result in lower administrative costs for economic operators, particularly at import. It would almost eliminate the need for launching the current "internal transit" procedure and the associated declarations in cases where goods are moved from the Member State of entry to the Member State of release.

1.4 SME Test – Summary of results

Specific attention was given to the potential impact on Small and Medium-sized Enterprises (SMEs) (see also section 6.8 of the Impact Assessment report):

(1) Preliminary assessment of businesses likely to be affected
Economic operators of all sizes can be in contact with customs and are in theory thus impacted by a reform of the customs union. As an indication, only among the companies having applied for the Authorised Economic Operator (AEO) scheme, 69.8% identify as either micro-, small or medium-sized enterprise (SME). In addition, those SMEs operators not benefitting from the AEO scheme, would nevertheless enjoy the simplification measures applicable to all traders, such as pre-release of goods, single submission of data and data re-use.
(2) Consultation with SMEs representatives
In the public consultation, the Commission has received more than 50 replies from SMEs and business associations representing SMEs. The questionnaire provided was the same across the different group of business respondents, regardless the size. Additionally, a large number of contributions from such entities has been received in the context of the Call for Evidence. About 29% of the respondents identify as AEOs. A large part of the respondents report daily or almost daily interaction with customs (80.4%). Many (78.4%) are also in the situation of dealing regularly with more than one customs office or Member State. As most important issues causing administrative burden for SMEs, the following were identified: • classification of goods, determining the origin, valuation of goods; • getting or handling documents for import or export (certificates, supporting documents, permissions, etc.); • adapting to IT environment to manage customs processes. As most important needs and priorities regarding a possible reform of the customs union, respondents mentioned: 1. Customs authorities in EU27 acting as one (uniform application of rules and of customs controls, no divergences, no weak border points): 84.3%. 2. Simpler rules for simpler customs processes, less formalities (including for goods sold online): 74.5%. 3. More effective sharing of information and data between national customs administrations and other authorities enforcing product requirements on imported goods: 62.7%. A large majority (82.4%) agreed to the need to simplify how information is provided to customs and to reduce administrative burden and formalities. Policy measures that received the highest support rates from SME respondents were: 1. *Simplifying customs formalities for reliable and trusted traders* established in the EU by

making more use of commercial information rather than of burdensome administrative requirements (72.6%)

2. *Enhance co-operation between customs and non-customs authorities* (notably Market Surveillance Authorities, Law Enforcement Authorities, Tax Agencies) (overall 56.8%) through for example:
    - information exchange (68.6%);
    - operational coordination (62.7%).
3. *Providing for a fully-fledged EU customs information environment*, (overall 52.9%) with emphasis on, for example:
    - simplified provision of data (enabling re-use of data, avoiding duplications, etc.) (76.4%);
    - streamlined handling of non- customs formalities (single window) (64.7%);
    - data management capabilities (62.7%).

(3) Measurement of the impact on SMEs

The reform of the customs union is not expected to generate any adverse effects on SMEs. The key elements of the reform are in line with SMEs expectations and priorities, as stated under (2), in particular the emphasis on simpler processes.

The most significant change will be the reform of customs procedures, which will bring benefits in form of simplification for all economic operators, such as pre-release of goods under certain circumstances, clearer attribution of responsibilities, rebalanced data requirements based on the role of the operator in the supply chain, or single submission and data re-use. Moreover, AEO traders having an electronic system interacting with the customs' systems on a constant basis (offering full visibility over their supply chain and commercial records) will be able to **self-release** their goods and calculate and pay duties periodically, without submitting transaction-based customs declarations per consignment.

In more general terms, it needs to be underlined that many EU businesses, independently of their size, have an interest in a well-performing and improving customs union, as they are confronted with unfair competition from outside the EU, when goods not complying with EU rules and standards are imported and enter the EU market. The use case on toy safety, presented in Annex 9, provides a very relevant example, as the vast majority of economic operators in that sector are SMEs.

The reform is thus expected to have a positive impact on businesses, including SMEs, not to create additional administrative burden. SMEs would benefit from the overall cost savings estimated in this assessment either directly, where they complete customs formalities themselves, or indirectly, where their customs formality service providers are able to offer a lower-cost service. As figures were not available for the allocation of customs formality costs between SMEs and non-SMEs, it was not possible to quantify the specific impact on SMEs. Subject to the availability of relevant indicator data, SME participation in the reformed customs processes would be analysed through the Data Space.

4) Assess alternative options and mitigating measures

n/a, as no particular adverse impact on SMEs could be identified.

1.1 Citizens – Consumers

The removal of the EUR150 customs duty threshold may create a slight upwards price pressure for consumers of goods worth below that amount. Despite that the liability for the collection and payment of customs duties will in most case ([134]) lie with the e-commerce intermediaries as 'deemed importers', the additional costs might be passed on to the consumers. However, the evidence collected suggests that this would not necessarily discourage consumers from buying third country goods on line. Consumers' replies made in the framework of the exploratory consultation ([135]) carried out in the framework of the study on 'an integrated and innovative overhaul of EU rules governing e-commerce transactions from third countries from a customs and taxation perspective' suggest that for about 40% of the respondents a price increase of about 5% will not at all change their incentive to order online from outside the EU, provided that the increase in the price can be paid at checkout. Nevertheless, in case the increase would be collected separately, for example at the delivery of the parcel, 92% of the respondents stated that they would purchase less from foreign platforms, among them 40% would even stop ordering goods from a foreign platform.

On the other hand, simplification and stabilisation of processes will increase supply chain efficiency, and the impact on costs and prices will be determined by competitive factors. Citizens and consumers will benefit from more **transparent and predictable processes for e-commerce** purchases from outside the EU and fewer surprise requests for duty payment and for logistics services charges for handling these as well as visits to post-offices compared with the baseline, alleviating the current experience of surprise charges and delays. This is important because longer delivery times, problems related to the return of goods, high shipping costs and potential additional costs arising after the purchase of the goods were the main concerns expressed by consumers in the framework of the exploratory consultation carried out in the framework of the study on 'an integrated and innovative overhaul of EU rules governing e-commerce transactions from third countries from a customs and taxation perspective'.

For the share of consumers that operate in several jurisdictions (cross-border workers, for instance), the simplification of processes will be supported by a central system.

Citizens and consumers will benefit significantly from **better and more visible protection** under EU policies from the consequences of harmful and fraudulent products (as illustrated in the use case on Ecodesign) because of a systematic EU-wide improvement in the detection of harmful supply chains.

([134]) Currently the use of the VAT Import-One-Stop-Shop (IOSS) is voluntary, however the experience shows that all major e-commerce stakeholders have signed up to use it. Besides, based on the information available in Surveillance, the e-commerce imports are focused on eight big players that facilitate over 90% of total IOSS imports. The mandatory use of IOSS is part as proposed under the VAT Digital Age would further expand the use of the IOSS *vis-à-vis* other VAT collection methods as regards e-commerce imports.

([135]) Customs consultations (europa.eu)

3. SUMMARY OF COSTS AND BENEFITS

3.1 Explanatory notes

The assessment of costs and benefits is prepared in detail in Annex 9 (supported by further detail on specific topics in Annexes 5, 6, 7, and 8). This section summarises the position in relation to the **preferred option**. Full detailed tables on costs and benefits, quantitative and qualitative, for each option, are presented in Annexes 7 and Annex 9 along with the methodology applied.

As regards benefits, the figure for *sample use case* relates to one illustrative case study. The overall benefits across all the practical use cases would of course be much more significant but a full quantification of all benefits is not possible, given that customs are involved in delivering more than 350 regulatory policies in addition to broader safety, security and revenue collection tasks.

All figures are **relative to the baseline (+ or -)** and **cumulative totals** for a **15-year** period. Figure 7 in the Impact Assessment text outlines the baseline for 15 years as follows:

COSTS	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total (15 years)**
Member States administrative costs																
1. Investment in new or updated IT (one-off)	246	251	256	261	266	272	277	283	288	292	297	303	309	316	322	**4.238**
2. Cost of maintaining existing IT systems (recurrent)	1.784	1.815	1.847	1.879	1.911	1.942	1.974	2.006	2.038	2.069	2.100	2.132	2.164	2.196	2.227	**30.084**
3. Customs Staff (recurrent)	3.848	3.848	3.848	3.848	3.848	3.848	3.848	3.848	3.848	3.848	3.848	3.848	3.848	3.848	3.848	**57.721**
4. TOTAL MS costs (1+2+3)	5.878	5.914	5.951	5.988	6.025	6.062	6.099	6.136	6.174	6.208	6.246	6.283	6.321	6.359	6.397	**92.043**
EU services administrative costs																
5. Investment in new or updated IT (one-off)	14	14	14	14	15	15	15	16	16	15	16	16	16	17	17	**229**
6. Cost of maintaining existing IT systems (recurrent)	88	90	91	93	94	96	98	99	101	102	104	105	107	109	110	**1.487**
7. Customs Staff (recurrent)	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	**564**
8. TOTAL EU costs (5+6+7)	139	141	143	145	147	149	151	152	154	155	157	159	161	163	165	**2.281**
Business administrative costs																
9. Cost of compliance with customs formalities (recurrent)	27.397	27.397	27.397	27.397	27.397	27.397	27.397	27.397	27.397	27.397	27.397	27.397	27.397	27.397	27.397	**410.955**
10. TOTAL (4+8+9)	33.414	33.452	33.491	33.530	33.569	33.608	33.647	33.686	33.725	33.760	33.800	33.839	33.879	33.919	33.959	505.279

I. Overview of Benefits (total for all provisions)		
Description	***Amount***	***Comments***
Direct benefits		
Better tackling of revenue loss	closure of customs gap	Customs duties
Removal of €150 threshold	€13 Billion	See Annex 9
Single market and sustainability	++++	Sample use case – Ecodesign example - illustrative scenario of €15.444 Billion
Security	++++	
Crisis	++++	
Strategic capability	+++++	Next level: Customs union managed/acts as one, fit for future
Compliance cost reductions for economic operators	€40 Billion	Duties are considered below a regulatory fee and reducing savings in Annex 9 section 3.3
Implementation cost reductions for national customs administrations	2.4%	See Annex 9 section 3.2
Indirect benefits – *not applicable*		
Administrative cost savings related to the 'one in, one out' approach*		
Reduction in recurrent costs for economic operators	€40 Billion (cumulative net saving over 15 years)	See Annex 9 section 3.3. Average €2.67 billion per year over 15 years. Not including savings in IT costs, which were not quantifiable for this assessment.

II. Overview of costs							
		Citizens/Consumers		**Businesses**		**Administrations**	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
	Direct administrative costs (IT)	neutral	neutral	Cost of Connection to 1 EU customs Data Space (compensated by lower future one-off costs – see explanation below)	See explanation below. Savings.	EU services + €0.559 Billion. Member States saving €3.090 Billion	EU services + €2.048 Billion. Member States saving €18.056 Billion
	Direct administrative costs (other)	neutral	neutral	Not applicable	Not applicable		EU services + €0.230 Billion. Member States saving €1 Billion
	Indirect administrative	Not applicable	Not applicable	One-off training costs to shift to	Not applicable	Not applicable	Not applicable

	costs (other)			operating under common and simplified EU customs processes and systems, offset by permanently reduced training effort across economic operators			
	Indirect adjustment costs	neutral	neutral	Not applicable	Not applicable	Not applicable	Not applicable
	Direct regulatory fees and charges	Not applicable	Not applicable	Not applicable	€13 Billion (e-commerce platforms) (€1 Billion annually)	Not applicable	Not applicable
	Direct enforcement costs	Not applicable	Not applicable	Not applicable	Not applicable	Included in Direct administrative costs	
	Indirect costs	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Costs related to the 'one in, one out' approach							
Total	Direct adjustment costs			Not applicable			
	Indirect adjustment costs			Not applicable			
	Administrative costs (for offsetting)			As above: Cost of Connection to 1 EU customs Data Space, and shift in training effort to reformed processes, will be compensated by lower future one-off costs – see explanation below			

The reference to compliance and administrative costs (and cost savings) in this Assessment addresses only *administrative costs*. In the case of economic operators, the focus in particular is on *ongoing unit declaration costs*, which is a suitable proxy and for which relevant data is available in calculating the cost of doing business in the context of other relevant analyses.

As regards **direct one-off administrative costs**, these relate essentially to the development of IT connections to the Data Space. However, this is expected to be more than compensated for by the move to a permanently lower cost IT model and reduction of ongoing IT costs, and a

lower cost of adaptation and adjustment to any future policy changes. For example, if a new data requirement or formality were to be introduced, traders would handle it through one interface adjustment instead of up to 27 interface adjustments. It was not possible to quantify the IT costs or benefits in this assessment, but as the benefits will quite obviously outweigh the costs over time, the omission is conservative and tends to understate rather than overstate the benefits of the initiative.

Regarding **indirect one-off administrative costs**, it was also not possible to provide a quantitative estimate. These are considered to be relatively very small. Some training would be needed to get used to the new customs processes. However, training is an ongoing need, and the traders' investment in this adjustment would again be more than compensated for by the permanently reduced training effort which would follow from simpler customs processes, implemented uniformly through a single interface instead of through multiple national environments.

It is worth noting that trade is always in favour of simplifications of the nature included in the preferred option (single EU interface for customs). It is useful to recall the joint industry statement issued on 7th June 2018 ([1]) in the context of the new Import Control System (ICS2):

> '*These legal provisions and in particular the 'multiple filing' requirements make the principles and proposed elements underpinning ICS 2 essential. Economic operators need a unified and coherent EU system with a common set of processes and a shared IT architecture. The proposed Common Repository, the Shared Trader Interface / Harmonised Trader Interface with the same specifications, and the single access and identity management system are imperative to implementing the UCC without disrupting trade […] The alternative of a fragmented Member State based ICS 2 system would be incoherent and inefficient, and would impose insupportable costs on both Member States and economic operators*.'

([1]) STATEMENT OF INDUSTRY SUPPORT FOR THE ICS 2 SYSTEM. Supported by: Airlines for Europe (A4E); the European Association for Forwarding; Transport, Logistics and Customs Services (CLECAT); the Community of European Railways (CER); the European Express Association (EEA); EurTradeNet (ETN); the European Shippers Council (ESC), the International Air Transport Association (IATA) and the World Shipping Council (WSC).

3. RELEVANT SUSTAINABLE DEVELOPMENT GOALS

III. Overview of relevant Sustainable Development Goals – Preferred Option(s)		
Relevant SDG	**Expected progress towards the Goal**	**Comments**
Goal 8 (Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all),	The thorough reform of the customs processes with the support of a more centralised digitalisation model is expected to contribute to the trade facilitation and in consequence to the economic growth. The multiplier effect from combining the better EU-level data flows with the organisational capability leads to a systematic improvement in the detection of harmful supply chains. This strengthen the level playing field, because illegal trade (e.g., counterfeit, unsafe products) is better detected and the legal trade (and by extension its investments and employment) is protected. The reformed customs processes including potential new requirements on environmental compliance could foster the transition towards a green economy and investments in the circular economy.	The European Green Deal placed the transition to a circular economy as critical to ensure the transition towards a digital, greener and more resilient industry. The Commission adopted the new Circular Economy Action Plan for a cleaner and more competitive Europe to mobilise the EU industry into achieving a climate neutral and more resource efficient economy by 2050.
Goal 9 (Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation),	The EU customs Data Space would offer the Commission and the Member States greater data management possibilities and enlarge the use of artificial intelligence at EU level. The reformed customs processes including potential new requirements on environmental compliance could foster the transition towards a green economy and investments in the circular economy, such as making transport infrastructure networks sustainable so as to drastically reduce greenhouse gas emissions and reduce the dependency of the transport sector on fossil fuels. Improved supply chain visibility and analytical tools, combined with better organisational capacity, could further	The EU strategy on artificial intelligence aims to build an ecosystem of excellence and an ecosystem of trust to boost development and uptake of AI within the EU.

	improve supply chain resilience in crisis scenarios.	
Goal 12 (Ensure sustainable consumption and production patterns)	The EU customs Data Space and the new EU actor in the governance structure, an EU Authority for customs, deepen co-operation between national customs administrations and drive the consistent and timely delivery of customs policies. The Authority would ensure operational coordination and real-time supervision of EU-wide transactions, supported by the fully-fledged EU data analytics and targeting capability. The benefits for the implementation of the EU policy are significantly higher due to these improvements. The EU customs Data Space and the new EU actor could contribute to the development of sustainable trade patterns (e.g. on waste, re-use and recycling) and support sustainable consumption (e.g. enforcement of the REACH regulation).	Several EU policies would benefit from the improved customs supervision Circular economy action plan (europa.eu), the proposal on the Ecodesign Regulation for Sustainable Products, the proposal on the Waste Shipment Regulation, the REACH Regulation.
Goal 15 (…sustainably manage forests, (…), halt and reverse land degradation and halt biodiversity loss)	The EU customs Data Space and the new EU actor in the governance structure, an EU Authority for customs, deepen co-operation between national customs administrations and drive the consistent and timely delivery of customs policies. The Authority would ensure operational coordination and real-time supervision of EU-wide transactions, supported by an EU data analytics and targeting capability. The benefits for the implementation of the EU policy are significantly higher due to these improvements. The EU customs Data Space and the Authority could contribute to the protection of terrestrial ecosystems (e.g. on deforestation) and biodiversity (e.g. enforcement of CITES).	Several EU policies would benefit from the improved customs supervision including the proposal for the Regulation on Deforestation and Forest Degradation, and the EU Biodiversity Strategy for 2030

Annex 4 - Analytical Methods

The methods used are described in detail in various parts of this document as follows:

- Stakeholder consultation: extensive public and targeted consultation activities were carried out, with the data analysed in different ways and fed into the impact assessment. The activities and analytical methods are described in Annex 2: stakeholder consultation.

- The cost estimation and model for IT assessment is based on a statistical approach, using a structure previously validated by the Member States and some indirect input. It is explained in detail in Annex 7, section 5.

- The cost estimation for the EU Customs Authority staff composition in Annex 8 is based on the average costs for estimates of 'Human Resources' in legislative financial sheets elaborated by DG BUDGET.

- The implications of the different options for national customs administrations are expressed in variation percentages with respect to the data that they have themselves provided. More details are available in section 3.2 of Annex 9.

- For a theoretical approximation of the different options' potential to prevent revenue losses (to close the customs gap), a 'scoring' mechanism based on some indicators was used as described in section 4 of Annex 9.

- To illustrate the benefits deriving from the options, a series of case studies have been developed in sections 4, 5 and 6 of Annex 9.

Annex 5 - Reform building block: reform of the customs processes

Foreword: Annexes 5 to 8 contain the description of the building blocks of the reform.

1. UNDERSTANDING THE BASELINE

The customs procedural requirements regulated in the Union Customs Code (UCC) and its delegated and implementing rules have developed over many decades, influenced by Union, national and international provisions as well as industry and supply chain practices and local customs infrastructure and management in different points of entry.

The resulting configuration of procedures has become complex. The customs procedural handling points along the lifecycle of a goods movement through the supply chain typically involve some form of 'declaration' which ensure continuity in supervision and accountability until the point of release.

Releasing goods for free circulation (i.e. importing) might require submitting five forms of declarations, which are to be filed by more or less defined actors. Some of the information required in these declarations is similar and therefore is often provided more than once by the person submitting them. The consequences of not filing those declarations are not always specified in the UCC, which provides that Member State must foresee effective, proportionate and dissuasive penalties for failure to comply with the customs legislation, introducing an important element of divergent application of the customs legislation. In more detail:

- Before arriving to the Union, the carrier, the importer, the consignee, a person acting on their name or their behalf, or anyone able to present the goods or have them presented to customs must file an **entry summary declaration (ENS)**. This includes postal and express parcels. The UCC does not specify the consequences of failure to file an ENS, even if in principle goods may be released only after risk assessment. By 2025 ([136]), a Union-wide system will have been fully deployed for filing ENS - the **Import Control System 2** (ICS2) - which provides a **single trader portal** instead of 27 national interfaces. The data set collected in ICS2 is designed for safety and security risk analysis in the supply chain, before import, and does not therefore include all the customs data which will eventually be provided for the shipment. Detailed information on classification, valuation or origin, for example, is provided later in customs declarations in the national systems, typically on behalf of the person clearing the goods rather than the carriers, not via ICS2.

([136]) Report from the Commission to the European Parliament and the Council pursuant to Article 278a of the Union Customs Code, on the progress in developing the electronic systems provided for under the Code SWD(2021)382 final. Originally, the deployment of ICS2 release 3 was supposed to take place in Q4 2024, however due to the interlinkages with the NCTS system and the delays faced in phase 6 of that project, release 3 of ICS2 has been extended to end of Q1 2025.

- On arrival in the Union, the carrier must **notify the arrival** of a vessel or aircraft. This notification does not apply to goods arriving by rail or road. The UCC does not specify the consequences of failure to notify. In practice, port community and airport systems require that notification for other purposes. By 2025, all the Member States will have deployed the national system for notification of arrival.

- Once arrived, the carrier, the importer, a person acting on his name or his behalf (customs representative), or a subsequent carrier must file a **presentation notification** and/or a **temporary storage declaration** if the goods are not to be immediately placed under customs procedure. However, this does not apply if the goods are in transit. By 2025, all the Member States will have deployed the national systems for presentation notifications and temporary storage (either as one system, or as two separate systems). Failure to file the temporary storage declaration means incurring a customs debt, pursuant to Article 79 UCC.

- If the goods are to be placed under a customs procedure (import, export, transit and the special procedures except free zones – see below) a **customs declaration** and a **presentation to customs** are required. Both transit and release for free circulation are customs procedures, so, where the goods enter the Union through a point that is not their final destination, often two customs declarations are necessary. By 2025, all the Member States will have updated the national declaration systems to the UCC requirements and have deployed the national interfaces for transit.

Any person able to provide the required information may file the customs declaration as long as this person is established in the customs territory of the Union (with some exceptions). These are the **declarants**. The postal and express operators declare many of the goods that they carry (mostly e-commerce goods), normally on behalf and in the name of the importers. Customs representatives can also be declarants.

However, non-customs legislation imposes compliance obligations on **importers** (Article 4 of Market Surveillance Regulation, for instance). The UCC also uses the term importer but the definition is to be found in Annex B of the UCC implementing act as '*Party who makes, or on whose behalf a customs clearing agent or other authorised person makes an import declaration. This may include a person who has possession of the goods or to whom the goods are consigned*'. In essence, the importer is whoever the declaration says it is and therefore, in e-commerce, the EU consumers who ordered the goods on line become the importers, even if in principle the non-customs legislation is not intended to impose the compliance requirements on them.

This makes the customs authorities' task difficult, particularly but not only in relation to e-commerce. According to the UCC, before releasing the goods for free circulation, 'restrictions' – which is the term used to refer to non-financial requirements – must be enforced, even if the customs declaration does not contain information to check many of them. Yet, the release for free circulation is conceived in the UCC as a guarantee of compliance.

The *EU Single Window Environment for Customs* initiative intervenes in this area, by ensuring that certain Union non-customs systems are made interoperable with national customs systems and that information on the compliance of non-customs formalities is exchanged between them. Thereby, it contributes to aligning a number of non-customs policies with customs processes on the operational level, by making sure that what is decided

by non-customs authorities is correctly translated in customs interventions. This supports a consistent approach by customs. However, such interventions are strongly dependent on how the sectoral policy is designed, including whether IT tools exists, and in the resulting complexity in interacting with customs. In addition, the EU Single Window Environment for Customs does not deal with issues such as risk management and the associated identification of priorities of controls. Moreover, in some areas, the Single Window Environment for Customs does not fit. For example, non-customs requirements may apply in relation to 'manufacturers', but the manufacturer is not a compulsory data element in a customs declaration. Although Member States can already connect to the EU Single Window – and some already are connected – the legal deadline is set for March 2025 for the Union non-customs formalities present in Part A of the Annex to the EU Single Window Regulation (Regulation (EU) No 2022/2399). Moreover, in 2031 it will be possible for the Commission to identify which, among the non-customs formalities listed in the Annex, can be subject to the "additional digital cooperation": this cooperation is also known as "Business-to-Government" and it will make it possible for economic operators to submit an integrated data directly at national level, which includes the data necessary for customs and non-customs purposes.

The reform builds on the EU Single Window and its capacity to facilitate the exchanges between customs and non-customs systems. In fact, despite not using the name "Data Space", the EU Single Window behaves exactly like a Data Space: it details the rules for the exchange of data between different systems, and mechanism by which more systems can participate to these exchanges. Therefore, insofar as the reform will modify the customs processes, these changes will have a practical impact on the EU Single Window, because its functioning relies on the current customs procedures. However, such changes will not alter the idea behind it. Moreover, the centralisation aspects of the EU Customs Data Space will improve the EU Single Window in two areas:

- on the Government-to-Government exchanges (those that will become mandatory from 2025), it would cut the need for Member States to adapt their own national systems to retrieve data from Union non-customs systems. Today, in average, two years are necessary for the Commission to analyse and put in place the interconnection between the EU Single Window and the Union non-customs systems, and another two years are required by Member States to adapt their systems. The centralisation brought by the Data Space would *de facto* allow to cut the two years necessary for Member States and halve the time to market of Single Window solutions;

- on the Business-to-Government aspects, a form of centralisation called "harmonised trader portal" was already analysed in the EU Single Window Impact Assessment (Option 5, page 29), but it was discarded due to its ambitiousness and the will not to change the UCC. The centralisation brought by the Data Space is an extension of that option.

Failure to file the customs declaration means incurring a customs debt, pursuant to Article 79 UCC, but the consequences of the goods not complying with **non-financial** requirements are not entirely clear. The UCC entitles the customs authorities to take some actions (confiscation, sale, destruction) but these are for a narrow range of cases. The Market Surveillance Regulation foresees a series of possibilities where doubts about the compliance of the goods with non-financial requirements arise, which are not reflected in the UCC.

The UCC provides a series of **simplifications** to lodge the customs declaration (simplified/supplementary declaration, entry into the declarant's records, centralised clearance

and self-assessment) to trustworthy traders that have been granted the status of Authorised Economic Operators (AEO). However, as the UCC interim evaluation shows, the impact of the simplifications varies depending on existing customs practices in the Member States prior to the UCC and the benefits are still limited. ([137]) Other difficulties have also been noted. For instance, customs cannot pull data from the declarants' records for risk analysis. This makes customs supervision very difficult, particularly where the obligation to present goods to customs is waived. ([138])

In the big picture, one key feature of the baseline is that the handling points sometimes involve **repeated submissions of similar data** by the same or different players. The most obvious example is the obligation for postal operators to submit an entry summary declaration data subset into ICS2 and a customs declaration in the national import system in respect of low value postal parcels. The dataset is almost identical for both declarations and the same Member State is responsible for risk management in most cases. Another key feature is that the operators which actually generate the traffic and which have the underlying commercial information (buyers, sellers, importers, manufacturers) are not the ones making the customs filings. This impacts the **availability and quality of data**, and also the **effectiveness and efficiency of the enforcement of non-customs obligations** where the person dealing directly with customs is not in a position to account for the regulatory requirements associated with the goods or the supply themselves. In the case of e-commerce, the distance between the transaction and the customs declaration increases further: European postal or express operators (carriers) declare goods sold by third country vendors to EU consumers, often via a web platform.

Export is in practice much more streamlined, requiring just an export declaration and a confirmation of exit of the goods. However, the UCC provisions dealing with the pre-departure declaration, the export declaration and the exit summary declaration have given rise to some difficulties of interpretation in the cases of export followed by transit. Although export declarations are to be filed in the national declaration systems, synchronisation between the customs declaration and the exit of the goods is achieved through a trans-European IT system, the Automated Export System. The UCC does not provide any specific consequence for failure to submit the export declaration because in practice no good is subject to export duty.

The UCC also provides for **special procedures** (schemes authorised by customs through which traders can move or process goods with suspension of, or relief from, customs duties):

- **Transit** is very streamlined, works at international level and a trans-European system ensures the links among the national declaration systems where filings are done. Transit procedures often rely on authorised operators (consignors and consignees).

- **Inward** and **outward processing**, **warehousing**, **free zones** and **temporary admission** sometimes rely for their supervision on the operator's commercial data, and sometimes on customs declarations. As mentioned above, placing goods in free zones does not require a customs declaration, and neither does the release for free circulation of certain goods after the inward processing, or the placement in temporary admission with an ATA carnet, for

([137]) The UCC evaluation (p.20) reflects that '*Economic operators considered the simplifications unattractive, partly because of the non-harmonised approaches being taken across Member States*.'
([138]) This difficulty motivated the amendment to Article 234(3) UCC IA in September 2019.

instance. In these cases, it is considered that the operator's data contain enough information for customs to supervise the goods through different means. Moreover, goods placed under outward processing may move within the Union without requiring the customs transit procedure. However, these procedures often require a guarantee because they entail a duty suspension. The UCC interim evaluation and other questionnaires run by the Commission services among the Member States show that the provision of the guarantee and moreover its monitoring (automated or not) is an area where significant differences exist among the Member States. However, the Commission does not receive data on the extent to which in practice Member States resort to the guarantees to collect unpaid duties.

In general, the Commission has no access to the data in customs IT systems (apart from the data collected in the Surveillance system) and is not explicitly allowed to complement the work of Member States in risk management (with limited exceptions for ICS2 analytics projects).

During the **public consultation**, submissions received from traders drew attention to a number of challenges experienced by traders in connection with the customs processes. These included the time and complexity involved in dealing with customs duty calculation elements, the need for early notification of data and formats for customs systems developments, and accountability challenges for intermediaries (notably, a lack of power of attorney for dealing with customs for e-commerce clients, and the problems arising where importers outsource their declarations but do not provide required documentation). Also raised were the requirements for guarantees for temporary storage, the challenge to have clear information on customs procedures, a non-unified approach by customs, and some duplication of information provision as well as difficulties for some operators to obtain some data. One submission suggested that the UCC reform should oblige customs to accept re-usable master data from customs covering certain details where stable such as insurance aspects, certificates, classifications, valuation points, freight costs, currency used). Another suggested mandatory fields for completion of the value elements in customs declarations. The request to further facilitate trade by trusted traders and provide more benefits for AEO (such as self-clearance) was also made. The idea of a digital transition allowing for a simplified and more efficient customs environment for traders and authorities was also raised, alongside a fully-fledged EU customs information environment (or as another respondent put it, 'no customs union without an IT union'). Increased harmonization and standardization of customs processes, especially for P&R and for the approach to sanctions policy for non-compliance, was also called for.

2. THE SHIFT IN PARADIGM PROPOSED IN OPTIONS 1 TO 4: SIMPLER PROCESSES AND A MORE EFFICIENT PARTNERSHIP WITH TRADERS

2.1 A new paradigm

The baseline as described above points towards two fundamental issues: how to improve the quality of information with which customs work, and how to reduce complexity in the trading environment (particularly for traders which can provide high compliance assurance).

For customs supervision to be effective and efficient, a shift in paradigm of customs information towards a **data-driven approach** is needed. Putting the emphasis on the collection of first-hand data on consignments from the operators' systems, online platforms and other sources would reduce reliance on third-party declared data and therefore **improve**

the availability and quality of that information, on one side, and **reduce complexity** in customs processes in general, on the other side.

A data-driven approach for customs information would include the following elements:

- Customs needs to collect data as early in the supply chain ideally in the importer or exporter's records (contracts, commercial documentation, data on e.g. producers, manufacturers and exporters in third countries) as possible so that risk analysis can be carried out and customs interventions arranged in advance. This would build on and expand the UCC entry into declarants' record concept. It is also important to provide for effective sharing and use of the data in harmonised processes, in particular, linking all data available on a specific consignment.

- Consignments need to be systematically screened for security threats *before* loading. In considering process reforms, it is useful also to keep in mind that serious safety and security threats often involve exploitation/hijacking of legitimate trade. This means that all consignments need some level of risk analysis to detect risks which may arise in the supply chain rather than from a specific operator.

- Customs shares these data with other competent authorities at the early stages of the movement of the goods, to allow more effective action on prohibitions and restrictions; this includes getting data on products from other authorities in order to be able to analyse their composition and complexity for carrying out meaningful risk analysis on the supply chains before the arrival or the departure of the goods. This aspect builds on the EU Single Window Environment for Customs, but goes beyond its scope to allow exchanges with more areas of non-customs legislation which are today not compatible with the Single Window.

In terms of responsibilities, the new paradigm assigns specific roles to the five main groups of players in customs processes:

- The **importer/exporter** is responsible for compliance with financial and non-financial requirements and data provision. The importer (i) is established in the Union customs territory or provides a guarantee otherwise, (ii) has the power to determine that goods from a third country are to be brought into or that Union goods are to be taken out of the Union customs territory and (iii) is the one releasing the goods for free circulation, or if a formulation closer to the Market Surveillance act is used, the one that places the goods on the Union market or for export. The principle could also be enacted that goods may be released, or in some cases even enter/exit the Union customs territory, only if there is an importer or exporter responsible for their compliance with applicable financial and non-financial requirements. The new approach does not preclude the use of intermediaries, such as customs representatives, by the importer to assist in their information provision. The current notion of 'declarant' disappears. The importer must know the requirements applicable to the products and ensure that financial and non-financial information (be this certificates or licenses to be validated in the customs Single Window, tests, manufacturer's details or other) is available for customs to check.

  To ensure that e-commerce intermediaries become importers, a notion of **deemed importer** should be introduced, in line with the VAT legislation and the recently adopted Digital Services Act (see section 2.4.3 below).

- The **transport layer** (carriers and other intermediaries) bring consignments across the borders, provide some data, and generally handle customs supervision actions in the supply chain. Transporters could be trusted with the obligation to check that the importer or exporter has provided customs with the information on the goods and to link that information with their own information on the specific consignment (see more details below).

- **Customs authorities** would have access to the data provided by importers/exporters and carriers, as mentioned above. In the options where a central Data Space is foreseen, access to the data in the Data Space would be clearly regulated (and ideally monitored by the Authority in Option 4). National customs authorities would have access to all data necessary for their customs supervision role (for example, the EU data of operators established in their territory, the data on goods entering and/or exiting the Union through their borders and the data on goods having as final destination or origin point in their territory).

- **EU-level access** (by the Commission and/or a new operational EU layer) would also be necessary for certain purposes, such as EU risk management support. The role of the EU layer is described further in the Options where present; in any event, access to data would comply with data protection requirements and of course be proportionate and for clearly defined purposes only).

- **Other authorities that co-operate with customs** under different perspectives:

  - **Market surveillance authorities**: Customs should receive information *ex-ante* from their side on the products that require special attention at entry into and exit out of the EU, in order to become familiar with these products and the points of attention. Customs in turn would provide information on the supply chain and in particular the traders importing or exporting such goods. It would allow both customs authorities and Market Surveillance Authorities to do joint risk analysis and target suspicious supply chains ahead of imports and exports.

  - **Security and other Law Enforcement bodies**, which co-operate with customs and rely to an extent on customs processes. Customs should be able to receive information from them and to prepare joint surveillance strategies, taking into account the risk priorities set out at political level.

  - **Tax authorities**: customs and tax administrations need to operate jointly to ensure the correct collection of customs duties, VAT and excise duties when applicable.

At the same time, the proposed shift in paradigm of customs information would open the door for effective **simplifications** at several levels in the customs processes to the benefit of the economic operators in the customs chain. The availability of more and better data on customs operations would allow customs authorities to ensure more effective supervision, better targeting the movement of goods or operators that pose risks, while letting the compliant trade cross the border smoothly. The data-driven approach would enable (i) **simpler processes for all traders**; (ii) **further simplifications for certain reliable traders (*Trust and Check* traders building on the AEO scheme)**, and (iii) **specific processes for e-commerce traders**.

The different policy options presented in this impact assessment, and in particular their respective elements on IT implementation and governance, will affect the efficiency and effectiveness of the practical implementation of the new paradigm outlined in this annex. The purpose of this Annex is not to analyse or compare those options, but to describe the basic features of the reform from the customs process and responsibilities point of view, which will be essentially the same across Options 1-4.

2.2 Reformed customs processes: potential simplifications for all traders

With a better access to and use of customs data, significant simplifications can be foreseen for all economic operators.

- **Simplification and rationalisation of the steps in customs processes.** Before arrival, the importer would provide to customs the adequate amount of advance cargo information required to allow a financial and non-financial risk analysis of the goods. If goods are not stopped before leaving the third country (e.g. for serious risks to safety or security), they will be transported to the EU. Customs would then receive an electronic signal informing them of the arrival of the goods at the border, without the need of an additional, formal arrival notification as foreseen today. Such electronic signal would make the link to the previously submitted information concerning the goods transported. In this scenario, the goods could even be automatically released within a given period after receipt the pre-arrival signal if customs does not intend to see and control the goods because they do not pose particular risks. If the presentation of goods would not be systematically necessary for the operator, customs would always retain the possibility to require it, if the risk analysis point to that direction.

- **Rationalisation and clarification of the responsibilities of the actors in the supply chain according to their business role**:

  - The **importer/exporter** would be ultimately responsible for complying with the financial and non-financial requirements and for providing customs with the necessary data on the goods.

  - **The carriers and other intermediaries** who bring consignments across the borders would provide their own data relating to the transport, ideally linking them to those submitted by the importer/exporter (see below).

- **With their responsibilities clarified, each actor provides the kind of data they normally have for their business,** thereby reducing the time and error cost that comes with sourcing, sharing, interpreting, and compiling data for customs.

  - **Importers/exporters** provide data on the goods, their values, their tariff classification, their origin, their manufacturer, the non-customs legislation applicable on those goods, at consignment level. The incentive to do so at the earliest stages of the movement, when it is known that the goods are meant to enter/exit the EU, is the possibility of a smoother movement of their consignments following an earlier risk analysis by customs.

  - **Carriers** rely on the data submitted previously submitted by the importer (if any) and add the transport data (such as route, arrival information, means of transport information) when submitting the advanced cargo information per consignment. If the

importer/exporter has not submitted the minimum advanced cargo information, the carrier will have to provide it in order to be able to move the goods.

– The legislation should contain a general principle stating that any person who brings goods into, or takes good out of, the customs territory of the Union must make, keep, and provide or make available [to the Data Space or relevant IT environment], for examination and inspection, information on that activity. The information should be sufficient for customs (i) to ascertain the correctness of any movement of goods; (ii) to determine the liability of any person for duty, fees and taxes that may be due in the Union and (iii) for ensuring compliance with Union or national legislation applicable on the goods.

  The information that customs need to be able to check the aforementioned three aspects could be further developed and more specific data requirements could also be included in delegated rules. The required information would be based on the existing Annex B of UCC delegated and implementing acts, enriched with some key data elements, such as the manufacturer of the goods. However, the formulation on information requirements for checking compliance with non-financial regulations should be flexible enough to be able to accommodate changing information requirements in non-customs legislation without the need to modify the customs legislation.

- **The relevant customs data is submitted once by the players involved and re-used for different purposes**, therefore **removing current duplications** in the data provision**.** For instance, the tariff classification of the goods is a piece of information necessary for several declarations in the movement of the same consignment (advanced cargo information, temporary storage, transit declaration, customs declaration) or valid for several consignments of the same type of goods. The customs IT environment should ensure that once this information has been provided to customs on a given consignment, it is possible to re-use it for several declarations on the same consignment and for declarations of different consignments of the same type of goods. The possibility to (re)use the information for several consignments is enhanced for trusted traders that have their systems connected to customs (see next section).

- **The data can be submitted in more than one format.** The format for providing the information would be made more flexible thanks to two elements. Firstly, the simplifications of the customs processes would reduce the amount of data required and its use. Secondly, where a central Data Space is used, the UCC would not need to regulate a unique format to provide the information relevant for customs operations but would define the data requirements in a semantic way, making possible both for customs and operators to use different technical possibilities and models to provide that information. The two elements, alone or combined would provide the necessary flexibility and the capacity to adapt to new technological developments and requirements. A flexible approach to the provision of data to customs by economic operators would allow that new information requirements (digital product passports, other goods taxonomies, licences, certificates) are more easily supervised and cross-checked by customs. Customs IT tools would ensure that different formats are translated into usable information for supervision of international trade.

2.3 Reformed customs processes for certain reliable traders (*Trust and Check* traders building on the AEO scheme)

The paradigm change in customs information should allow to establish an improved partnership between customs authorities and the operators that are already recognised as reliable, such as holders of the Authorised Economic Operator (AEO) status. In the reform, the AEO programme would be strengthened with a ***Trust and Check*** **approach** that would make trustworthy operators benefit from simpler processes than those that could be granted to all traders (see 2.2) in exchange for their becoming **transparent** vis-à-vis customs authorities, which is by sharing/giving access to their commercial information, and their IT systems.

These traders would benefit from a wider set of customs simplifications based on an approach integrating and expanding the current UCC simplifications and the concept of system-based approach as recommended by the Wise Persons Group. *Trust and Check operators* would share their commercial information in a system-to-system logic with customs, which would be empowered for more effective supervision by having access to real-time data on goods movements. In exchange, these operators would be allowed to perform part of the functions that customs perform today for ensuring compliance with the customs processes (collection of duties, letting goods move across the border, carrying out controls), which translates for them in not having to comply with burdensome formalities (lodging several types of declarations, placing guarantees) and in their goods not being stopped at entry or exit of the EU. The ***Trust and Check*** approach would also apply to SMEs that can offer transparent data to customs. Section 2.5 below offers a more detailed view of the functioning of the proposed new approach.

Conditions to obtain the status of the Trust and Check AEO trader

The *Trust and Check* approach can deploy its benefits only for the importers, exporters and carriers that meet the strict requirements to become AEO. Current AEOs would therefore have a transitional advantage to become *Trust and Check* traders. This includes the more than 11 000 SMEs (out of 18 000) that currently hold AEO status in the EU.

The AEO criteria require an operator (i) to have a solid record of compliance with customs legislation and taxation rules (lack of infringements), (ii) appropriate professional qualifications, (iii) financial solvency (if the operator requests some financial advantage such as periodic payments) and, above all, (iv) a high level of controls of the operations and the flow of goods, by way of a system managing commercial and, where appropriate, transport records, which allows appropriate customs controls.

In addition to the current AEO criteria, the *Trust and Check* approach would also require the operator (v) to have an electronic system that can interact with the customs' systems for exchanging information on a constant basis. This system-to-system connection would allow customs to have access to all relevant data on a given movement of goods directly from the operators' systems and to regularly extract and cross-check automated data on that movement. The *Trust and Check* approach is therefore intended to go a step further than the entry into the declarant's records, because it takes the information from the operator's system and converts it into usable information for customs real-time work, thus giving full visibility over the operators' customs flows.

Even assuming that most of these operators would already have reduced guarantees because they are already AEO, a more efficient monitoring of the guarantees (with or without a Data

Space) could reduce further the need for *Trust and Check* traders to provide guarantees, to the extent possible within international rules and taking into account Member States' liability vis-à-vis the EU budget. For instance, the operator of a temporary storage facility storing goods of a *Trust and Check* operator could rely on the latter's guarantee without the need to provide its own. Operators that arrange for providing customs automated real-time data on their consignments would not need to place them in internal transit and would therefore not need a transit guarantee. *Trust and Check* operators would be accountable if anything needs to be corrected (e.g. errors in calculation of customs duties). *Trust and Check* treatment would only be available in respect of the trade flows of accountable persons who can deliver compliance. This will address a weakness in the current structure, identified by the European Court of Auditors whereby simplified procedures may be used by AEOs for trade flows for which they do not have direct commercial knowledge (meaning *de facto* an unreliable trader can leverage the trusted status of a transport intermediary by proxy).

Under the *Trust and Check* importer's/exporter's responsibility, other commercial parties may also be delegated the possibility of providing required transaction-related information such as Digital Product Passports, manufacturer and commercial or transport references. In this context, there is also a role for the customs agents, who should be able to assist and provide the right support for clients not having IT tools.

Simplifications for *Trust and Check* AEO traders

This section describes the key innovations of the *Trust and Check* approach and related simplifications for trusted traders. Section 2.5 will detail how the process would work in practice along the supply chain.

Having complied with the requirement of having a system-to-system connection to customs, the ***Trust and Check* traders share with customs** details from commercial transaction records such as transaction values, buyers, sellers, consignees, classifications, manufacturers, product related information (prohibition and restriction) and commercial or transport references. Therefore, there is **automated provision of information** from the operator to customs that allows to latter to monitor the flows started by the former.

This information might be relevant for several consignments but traders will **upload it in their system and provide it or make it available to customs (and ideally other authorities) only once.** The operator will share it as early as possible in the supply chain, ideally before arrival or exit, for use in connection with the arriving or leaving consignments, respectively. This commercial information, which may be sensitive, would be provided directly to authorities (limiting therefore its external handling). The information (or a great part of it) becomes part of the overarching system under which each individual transaction is assessed. As regards products and transactions, the data received should for that reason be of **better quality** than what is received in current customs declarations.

Before arrival or exit, the carrier will have on these traders' goods pre-existing information that will make its own filing of the advanced/pre-departure cargo information easier and quicker and would allow at arrival to the border to move these traders' goods unless customs instructs otherwise, without the need of any additional declaration.

As a result of the automated provision of information, the operator would be authorised to **self-release** the goods, calculate and pay the customs duties periodically and monitor compliance with non-fiscal requirements, **rather than on submitting transaction-based**

customs declarations per consignment. Only the advance cargo information will still be required per consignment.

For the release of the goods, the UCC would only establish the **minimum information for the importer or exporter or carrier to submit to show compliance with fiscal and non-fiscal requirements**. This minimum information would be based on the existing Annex B, enriched with some key data elements, such as the manufacturer of the goods. However, the operator could choose to provide further information to customs, particularly the information necessary to show compliance with non-fiscal requirements for a series of consignments, without the need of a separate declaration (and acceptance) for each of them.

The flexible approach to the provision of data to customs by trusted economic operators would allow them to provide customs the information in several **formats** and not just a predetermined one. Since the operator's IT system is known and connected to customs because it is a reliable trader, the possibility to use different formats for the information provision is enhanced compared to non-Trust and Check traders (as mentioned in section 2.2).

In return for transparency and system-to-system exchange of information, the trusted operator would experience far **fewer and more targeted customs interventions** in the supply chain, when these are necessary. According to the case, they would generally receive advance warnings for controls and/or deferral of checks and formalities to convenient locations. They would comply with financial (and to the greatest extent possible, non-financial) obligations away from the physical border crossing points, based on commercial records and business controls rather than based on customs clearance formalities. Thus, if controls are needed, the customs authorities could move them away from the border to the operator's premises or final destination of the goods. As a result, their supply chains would benefit from greater predictability and lower friction (this would reduce their non-regulatory costs related to storage, demurrage, etc.).

Furthermore, some authorised importers/exporters subject to the prior agreement of the other competent authorities, also could carry out not only some customs controls, but also certain other ones generally performed by the other competent authorities. These control activities would be organised by the importer /exporter itself avoiding waiting for any of the authorities, meaning that also the flow of goods subject to prohibitions and restrictions would be more fluent and predictable.

Although the traders would by default be allowed to release their goods in their systems, without waiting for a formal acceptance by customs, the **customs authorities would always retain the possibility to select goods for a control and could** under certain conditions **remove the traders' ability to 'self-release' goods**. This would be reflected in an immediate customs' action that would prevent the trader from continuing self-releasing the goods.

By contrast, **operators that would not be eligible to the *Trust and Check* approach** (i.e. those that do not offer customs visibility over their supply chain via the system-to-system exchange of information) would not benefit from the above-mentioned smoother flows. They would be obliged to continue operating on a transaction-based approach and would have to provide information for importing or exporting goods for each and every consignment.

Hence, they would not be able to enter, exit or place the goods in a customs procedure until customs authorities have been provided the required information. On the consignment non-transparent traders would have to lodge comprehensive guarantees without reduction and

would undergo more controls, at the border or *a posteriori*. Trade flows of non-transparent operators would therefore be slower, more cumbersome and arguably more expensive.

Table 1: summary of the differences between the *Trust and Check* operators and other operators.

	Trust and Check	***Not Trust and Check***
Data for duties	Share part of the data in advance with customs (via Data Space in options 3 and 4). Account payment. Data re-used, including across different consignments	Give all details per consignment (single filing: via Data Space in options 3 and 4). Data re-used for the consignment.
Data and docs for non-fiscal formalities	Account-based (fed if applicable by SW)	Give all docs per consignment (also fed if applicable by SW)
Control planning	Pre-warned where possible. Agreements to carry out some controls elsewhere if needed.	Signal only on arrival
Control at border	Rare (e.g. hijacked consignment)	More common (according to risk)
Release inbound	Typically automated (no flag, no pause)	Also automated (more friction to extent more data, docs, risk)
Transfer between Member States pre-release	Carrier handles the status messages	Trader needs to be covered by 'transit'/guarantee
Guarantee level	Lower	Higher

2.4 Specific customs process for low value consignments (e-commerce)

As described in chapter 2 of the report, the current challenges faced by customs authorities are particularly acute as regards e-commerce supplies, i.e. low value consignments sent from third countries to private individuals/consumers in the EU.

The customs reform could bring solutions to these challenges by adapting the process to take into account the **specific features of B2C e-commerce flows**, as described in the sections below.

2.4.1 Removal of the threshold

In 2017, in the Council decided to eliminate the VAT exemption for imported goods valued up to EUR22 as from 2021. The reason was the need to adapt the VAT rules to the evolution deriving from the completion of the internal market, globalisation, and technological changes, which resulted in an explosive growth of electronic commerce and therefore of distance sales of goods. Such adaptation in the VAT field aims to protect Member States' tax revenue, to create a level playing field for the businesses concerned and to minimise burdens on them. Accordingly, from July 2021, all imported goods are subject to VAT and covered by a digital customs declaration, including for goods valued up to EUR 150 for which no customs duties are due.

However, the **customs duty exemption for goods below EUR 150** has been maintained, but left the door open for the systematic abuse of that threshold through undervaluing and splitting consignments. A study conducted by Copenhagen Economics in 2016 estimated that about 65% of the e-commerce consignments are undervalued in terms of customs duties. ([139]) Furthermore, as noted by the Wise Persons Group report, by pushing exporters to the EU to break consignments down into smaller packages the EUR 150 threshold provides the wrong incentives both in terms of trade (unfair competition) and of environmental sustainability (higher emissions footprint).

At the same time, in a digitalised customs environment where electronic data are available for all imported goods regardless of their value, keeping a duty exemption which was based on the disproportionate administrative burden does not seem justified any longer. Therefore, in the reform of the customs processes, the **customs duty exemption for goods up to the value of EUR 150 would be removed**.

Consumers would greatly benefit from more clarity on the final price when buying goods from outside the EU. Today, they are often confronted with high postal or courier fees upon delivery of the goods that are not known at the time of purchase, which diminishes consumers' satisfaction. Considering that the average duty rate is relatively low ([140]), the removal of the customs duty relief threshold is not expected to significantly increase prices but, by contrast, it will increase their transparency. As confirmed in a survey conducted by PostNord, ([141]) the clarity on the final price is an important factor for consumers when ordering goods from outside the EU.

2.4.2 Simplified customs duty calculation

The removal of the EUR 150 duty relief threshold would need to be replaced by a mechanism to ensure the collection of customs duties on all imported goods, regardless their value, could be offset by adequate simplifications. Under the current UCC rules, the EU consumer (the buyer of the goods) is the importer and therefore in principle the one responsible for complying with all customs formalities. However, this legal scheme does not correspond to

([139]) Copenhagen Economics (2016), E-commerce imports into Europe: VAT and Customs treatment.
([140]) The most typical goods purchased online with the average EU customs tariff rate are the following:
- electronics (2,20% or 0%),
- clothes (12%) and footwear (5,11%);
- toys (2,70%),
- food, groceries (~24,5%),
- books (0%).

([141]) e-commerce-in-europe-2020.pdf (postnord.se)

the reality where the platforms, sellers or other intermediaries (transporters, postal operators etc.) carry out the customs formalities for e-commerce goods on behalf of the importers.

The second measure considered in the reform is therefore **to make platforms liable for the collection of customs duties** by having them charged at the moment of the sale. This would align the customs treatment of low value consignments with the applicable VAT regime for online sales. Member States' responsibility for making available the Traditional Own Resources would not change.

The calculation of customs duty is a complex task based on three factors: (i) the tariff classification and the related duty rate; (ii) the customs value and (iii) the originating status of the goods. Applying the standard rules for duty calculation in e-commerce transaction would result in many cases in a disproportionate administrative burden both for the customs administrations and businesses in particular in respect of the revenues.

In order to facilitate the role of the e-commerce intermediaries/platforms, a simpler method to calculate the customs duties could be introduced.

The use of the simpler method will be optional: the importer would have the possibility to opt for the new method, or use the standard rules, even on a case-by-case basis (e.g. to benefit from more favourable tariff rates due to the preferential origin of the goods).

The simplified rules will apply to low value consignments up-to a total value of EUR 1 000, in accordance with the statistical threshold for extra-EU trade ([142]). The simplification would be primarily, but not exclusively used in relation to e-commerce goods. For example, citizens could also benefit from it if the value of the gift they receive from abroad exceeds the EUR 45 duty and VAT-free threshold, or SMEs importing low value goods for their business activities.

Simplified duty rate system ('bucketing system')

The concept of the simplified duty rate system, the so-called 'duty bucketing system' is based on a Canadian model that is in place since 2012 in relation to goods destined to private use (business-to-consumer or consumer-to-consumer goods) with a value up-to CAD500 (around EUR 340). ([143]) According to the approach there are a limited number of 'duty buckets' each of them including clearly specified categories of goods with a fixed duty rate. Within the bucketing system, the applicable duty rates for individual products may be slightly higher compared to the applicable rate based on the full commodity code.

The reform could foresee 4 buckets with respective *ad valorem* duty rates of **5%** (e.g. for toys, games, houseware articles), **8%** (e.g. for silk products, carpets, glassware), **12%** (e.g. for cutlery, electrical machinery) and **17%** (e.g. for footwear) and containing goods based on their 6-digit Harmonised System code number that remains a requirement for pre-arrival cargo requirements. Goods having a 0% *erga omnes* duty rate currently will continue to benefit from zero duties. The bucketing system would also account for potential revenue

([142]) Regulation (EC) No 471/2009 of the European Parliament and of the Council of 6 May 2009 on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95 (OJ L 152, 16.6.2009, pp. 23-29)

([143]) Canada's Low-Value Shipments Policy Regarding the Application of Customs Duties, WTO Working Group on Micro, Small and Medium-sized Enterprises September 2021.

losses, for example from anti-dumping duty, countervailing duty, and specific agricultural duty elements. Effectively, applying the bucketing system should not result in revenue losses for the EU and the Member States, but it would ease the compliance burden for operators (at a - potentially - slightly higher customs duty cost).

The bucketing system is based on the *erga omnes* duty rates and does not take into account the originating status of the goods. However, if the (deemed) importer wishes to benefit from preferential tariff rates by proving the originating status of the goods, he/she can do so by applying the standard procedures.

This simplification relates to the calculation of customs duties. It does not remove the need for classification of products for non-fiscal purposes and to enable effective risk management.

Simplified customs valuation rules

With the removal of the EUR 150 threshold, the notion of intrinsic value ([144]) will disappear and the valuation rules based on the WTO Customs Valuation Agreement will apply to all goods. In the baseline scenario, customs value is based on the transaction value and includes the costs of transport and insurance (practically often referred to as 'Cost, Insurance, Freight (CIF)-based') up-to the EU border and the UCC specifies the elements that have to be added or can be deducted from the customs value.

Under the simplified rules, the transaction value will still be considered as the basis for the customs value; however, there would be no possibility of additions or deductions regarding transport and insurance costs. Therefore, the customs value will be the net checkout price without duties and taxes but including transport and insurance costs up-to the destination. Consequently, arbitrary and theoretical ways of determining the customs value would be excluded. In case of successive sales, the price paid by the EU consumer should be decisive for determining the customs value. This price is easier to verify, as it can for example be checked against the invoice or sales confirmation as provided to the consumer or against information available from payment service providers.

2.4.3 Liability of the platforms

As briefly mentioned above, the reform would introduce stronger responsibility of the e-commerce intermediaries in relation to the customs formalities on the goods sold by them. The online **platforms would need to provide or make available to customs the information on the goods, calculate and collect the applicable duties at the moment of sale**, as under the VAT scheme of the Import One Stop Shop (IOSS). This would align the customs and VAT rules for the same type of transaction, bringing clarity and simplifications for both traders and customs authorities.

To ensure that **e-commerce intermediaries become importers**, a notion of **deemed importer** should be introduced, and the definition should be aligned with the VAT legislation and the recently adopted Digital Services Act, particularly as regards the existing mechanism for registration and the criteria for considering establishment in the Union. Periodically, the platform would pay the duties to the Member State of registration, which would make them

([144]) The intrinsic value is the actual value of the good and, contrary to the customs value, in principle it does not include any other costs such as transport, insurance and freight. The EUR 150 threshold for duty exemption is measured on the intrinsic value of goods.

available to the EU budget. The concept of 'deemed importer', however, would go beyond the **financial liability** for the collection of customs duties and VAT and would also cover **non-financial aspects**, within the limitations of the Digital Services Act.

As for the transport layer, the carriers would file **advanced cargo information** and notify the arrival of the goods. The information on arrival would be linked to the information previously provided at the moment of sale, moving compliance away from the border while empowering customs to intervene where necessary too. This possibility to link platform and carrier information is available today for any consumer buying goods online so customs should also be able to see it and benefit from it.

If such simplifications are implemented in a Data Space (Options 3 and 4), there would be solutions for EU wide supervision of both individual consignments for which information have been given by the traders and movements of thousands of similar shipments across the EU to identify trends and patterns. With this overall view of the trade flows, customs action could impact all similar goods, in case of misapplication of the applicable rules, and reduce room for fraud such as in case of wrong classification or undervaluation. In addition, as mentioned in the conclusions of the high-level seminar organised under the Slovenian Presidency of the Council, there is the need of *'fostering cooperation and sharing of data with other authorities, including market surveillance and other law enforcement authorities in order to strengthen compliance with non-financial risks'*, which would be greatly facilitated by a central digital solution for e-commerce.

2.4.4 Extension of IOSS – collection of customs duties on e-commerce goods

The removal of the EUR 150 *de minimis* threshold and the shifting of the liability to the platforms to collect the customs duty is a common element in all options. Such liability (the so-called 'deemed supplier' status) would be based on the current concept of the VAT Import-One-Stop-Shop ('IOSS'), a concept that has already proven to have a positive impact on the administrative burden for businesses, increase the efficiency and effectiveness of collecting the VAT due on the distance sales of imported low-value goods by reducing undervaluation following the experience gained during its first year of implementation.

The extension of the scheme to cover the collection of customs duties would not change the current rules for the registration of traders; they would need to register only once for IOSS and this would cover VAT and customs purposes.

Customs duty and VAT would both be charged at the moment of placing an order using the VAT rate of the Member State of the consumer and the simplified rules for the calculation of import duty.

Upon arrival to the EU of such e-commerce goods, there would be no need to pay VAT and customs duties, if valid EU-IOSS number is provided, customs can verify the payment of import duties and taxes prior to the release of the goods in the EU.

The platforms will be obliged to send commercial data to customs on a regular (e.g. daily) basis, but in any case prior to the arrival of the goods into the EU and, ideally before the lodgement of the entry summary declaration by the carrier so that the information could be used in risk analysis and the carrier would not have to obtain the commercial data in another manner. To maintain the possibility to import IOSS goods in any Member State regardless of the final destination of the goods, it is essential that the platform send the transactional data

into a central system. By accessing the data in the central system may allow the customs authorities at destination to perform risk analysis on national prohibitions and restrictions prior to the arrival of the goods.

The payment of customs duties will be made to the customs authorities of the Member States. The obligation to carry out post-release controls would lie with the Member States.

2.5 Supply chain processes – a closer look

The new paradigm is best understood by mapping the activities of the groups of players involved in the main events across the supply chain, as per the illustrative diagram below.;

Figure 1: visualisation of the events and of the customs-related activities of the players involved in the supply chain

	Transaction Pre-consignment	**Preload** Consignment. Security risks.	**Pre-arrival** Consignment. All risks.	**Arrival** (Entry Member State)	**Status** (consignment moves pre-release)	**Post-release** Consignment. Supply chain.
Importer	*T&C* clients: data, docs, linking references.		--	Give data, docs if not given earlier	Indicate or pre-indicate transit. Guarantee if not *T&C*.	Audits, Guarantees, etc.
Carriers (transport intermediaries)		Give ACI data (with link refs). React to customs.	Complete ACI. React to customs.	Notify and react to customs	Get transit status or start it. Notify arrival MS2	
Customs	Handle *T&C* data and supervision.	Assess risks. Feedback to Carrier	Assess. Plan Control	Control if needed. Status "released" (to carrier)	Support controls if any in MS2	Customs Debt. Audit. Investigate.
Other Authorities	Cooperate e.g. on *T&C* compliance approach	Support risk assessment. Interoperate.	Support risk assessment. Interoperate. Single Window	Support risk assessment and controls if any. Single Window		Enforcement for bad supply chains.

'T&C' = Trust and Check. ACI = Advance Cargo Information. MS = Member State.

2.5.1 Transaction phase/pre-consignment

Trust and Check **traders share with customs** details from **commercial transaction records** (transaction values, buyers, sellers, consignees, classifications, manufacturers, product related information/prohibition and restriction) and **commercial or transport references**. This information might be relevant for several consignments but traders will upload it in their system and provide it or make it available to customs only once. They will share it as early as possible, ideally before arrival/exit, for use in connection with the arriving or leaving consignments.

Other authorities might also have a role in *Trust and Check traders'* supervision. Customs and other authorities may agree on a supervision approach which pushes some non-financial product checks or documentation checks away from the border, for example if a *Trust and Check* trader is going to import the same kind of goods hundreds of times from the same

supplier. The extent to which this arises in practice would be determined through progress on co-operation frameworks (see Annex 6). This is a significant change compared with the current AEO programme by providing additional benefits in relation to non-financial compliance obligations.

2.5.2 Pre-loading

Before the goods leave the third country, the carrier should submit the advance cargo information that is necessary for the customs to carry out risk analysis for safety and security purpose. This is an obligation for all consignments to be brought into the customs territory, regardless of whether the importer is a *Trust and Check* operator or not.

At this moment, the carrier will be required to check in the customs systems whether the importer (or the exporter) has already provided information on the goods in the transaction phase. If so, the carrier will link its own information on transport (route, arrival information, means of transport details) to what has already been provided, and will have to provide any missing advance cargo information in order to be able to move the goods. If no information was previously filed, the carrier will have to submit the required advance cargo information (this is also the case for non-*Trust and Check* operators).

The consignment is created and is security-screened (to assist in detection of security threats such as an improvised explosive device concealed in air cargo). The importer will typically rely on the carrier to give customs the advance cargo data (which launches the consignment for customs purposes). Customs perform risk management and tell the carrier if there is a problem.

Up to this point, the process is the same as the baseline; what changes is that if any pre-consignment data was provided at the transaction stage, this will also be connected, to the consignment to allow better risk analysis. If a security question arises from the risk analysis, customs will interact with carriers on it. Security authorities may help with targeting. Any future interoperability between security and customs systems would have an operational application in this process.

2.5.3 Pre-Arrival

In the new paradigm, all risks should be assessed as far as possible before arrival. This will be the case for *Trust and Check* traders which will have provided more transparency already (in the context of their authorisation and the ongoing sharing of data).

The carriers complete the minimum advance cargo information filing (similar to baseline, supplementing what was provided on the consignment before loading).

Customs risk analysis will identify possible controls (if any) and they are planned.

Other authorities may contribute to targeting (for example, a market surveillance authority might share details of non-compliant toy suppliers).

Interoperability between customs and other systems would also have an operational application at this point in the processes. The Single Window Environment for Customs could be used to cover consignment formalities, such as certificates, licences or other.

2.5.4 Arrival and release

Customs must continue to be informed that the goods have arrived to the Union. In principle that obligation would continue to be fulfilled by the carrier in the customs IT systems. However, another possibility would be to integrate in the customs IT environments signals from port or airport community systems or, at land borders, connections to railways or motorways control systems to learn about the arrival of the goods.

It may further be noted that in practical terms, modern trade often involves subcontracting, groupage, etc and that a given arriving means of transport might involve more than one 'carrier' in commercial terms (where some of the space on the truck or vessel has been hired by a 'carrier' who has the relationship with the importer, for example). The transport operator will always notify arrival of the means of transport and the consignments for which it is carrier; it may be necessary to cater for supplementary linked notifications by additional 'carriers'.

In the case of *Trust and Check* traders, the practical implication is that goods can be released in most cases without provision of information on arrival – the transport notification, when connected with the importer's parameters in the customs system, will typically be sufficient to allow the goods to keep on moving. The *Trust and Check* trader's account in the customs system should hold connected transaction data, documents and reference data which provide sufficient assurance regarding compliance and accountability without the operational provision of additional documentation in the ports.

The importer or exporter, in its records provided to customs real time, will also be able to determine the status of the goods after arrival, whether they are union or non-union goods (and for the later whether they are in temporary storage or in transit). As the information is provided in advance, the desired status on arrival can also be indicated by the importer in advance, opening the way to instant release. By default (absent any indicator by the importer), they will be considered non-Union goods in temporary storage.

When an importer releases the goods into free circulation, it must pay the customs debt, in principle immediately. However, *Trust and Check* traders would be allowed to pay them periodically, under certain conditions, including a guarantee if necessary.

The carrier will receive status information automatically from the customs systems so that it knows immediately if there is any requirement to stop or control the goods.

There are two primary reasons for which customs interventions are not *fully* ruled out for *Trust and Check* traders (even though they are greatly reduced). Firstly, it can happen that supply chains or transports are exploited (hi-jacked) by criminal operators (which have nothing to do with the *Trust and Check* trader itself – well-known examples include the addition of cocaine to banana containers destined for major retailers). Secondly, some non-customs formalities need to be applied routinely based (again) on supply chain conditions rather than the operator's behaviour. While it is true that the EU Single Window Environment for Customs will streamline the provision and use of non-customs formalities by customs, it will not cover those non-customs formalities which have not been digitalised (at least partly) by the EU. In fact, for some categories of goods, the manual supply of documentation by the economic operator may continue to be required; this depends in part on the cost/benefit assessment that the digitalisation of a non-customs formality brings (e.g. Kimberly certification scheme for diamonds) and the extent to such digitalisation can be achieved by the

Union, or it should be achieved by Member States. The latter consideration prompts also the question on whether the cooperation between customs and non-customs authorities at national level is fully digitalised, thus bringing more facilitations for traders.

If the importer is not a *Trust and Check* trader or has not provided information at the earlier stages, it provides all the data and documentation required for the arrival of the goods and for their release, as well as a guarantee. This person needs to wait for customs reaction before letting the goods arrive into the EU customs territory and release them.

If a control is needed, customs can arrange it. Other authorities could be involved (they might have given signals or need to react to signals identified on arrival). The Single Window is also used to cover consignment formalities at this point.

Both for *Trust and Check* and other traders, the legal principle could be established that, under specific circumstances**, the release for free circulation of the goods is not deemed to be proof of conformity with Union law**. Accordingly, if there is cause to believe that the goods do not comply with the Union law applicable to them or that they present a serious risk to health, safety, the environment or any other public interest, Customs may inform the operator and suspend the release of goods for free circulation during a maximum period of time. The IT environment should allow for that possibility. Where more time is needed to assess whether the good comply or not with Union legislation, the operator could be allowed to release the goods for free circulation on the condition that it provides customs records of the subsequent distribution of those goods within the Union market.

2.5.5 Post-release

The importer remains liable for the customs debt (which the importer has guaranteed) and may be subject to post-release controls or audits. If the goods have been released for free circulation on the condition that information on subsequent distribution is provided, the importer will have to provide it.

The Member State customs has established the customs debt and is accountable for this in terms of Traditional Own Resources, and customs carry out audits, investigations etc. as needed (as per baseline). This position is not affected by any support which may have been provided at the EU level in any of the Options.

In cases where controls have resulted in detections, other authorities may also take follow-up actions. For example if one bad toy is found by customs, a Market Surveillance Authority might take action in relation to the supply chain, including interaction with the e-commerce platform (if relevant) on its responsibilities. The extent to which systematic follow-up is facilitated will vary with the Options, depending on the presence of a Data Space or not.

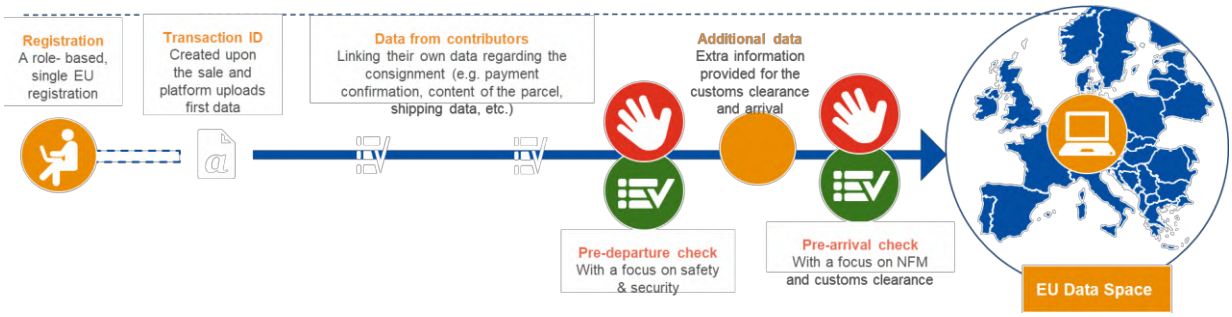
2.5.6 Information environment considerations

The practical implementation of the new approach (including the scope and modalities for sharing, using and re-using data) will depend on the information environment.

In Options 3 and 4, the EU customs Data Space would allow for a single interface and for use of the data in the trader's customs processes EU-wide. It would also allow for account configurations for each importer (storing, using and re-using relevant details such as guarantee levels, compliance documentation applicable to product flows, *Trust and Check* authorisation details, duty calculations, etc.). It would allow trade players to give the data that

they are best placed to give and to give it once. The linking of data provided by importers and carriers across different states of the supply chain and different Member States would be orchestrated in the Data Space.

Figure 2: visualisation of an operational scenario for e-commerce, with Data Space.



Source: Study on an integrated and innovative overhaul of EU rules governing e-commerce transactions from third countries from a customs and taxation perspective (PriceWaterhouseCoopers, 24-09-2022)

In Options 1 and 2, the implementation of the new paradigm would require substantial changes to the national customs IT environments and simultaneous development of the necessary IT capabilities within and between all Member States and the Commission.

2.6 Customs supervision considerations – a closer look

When reforming the customs process model, it is important to consider the structural impact of the change on the ability of customs to effectively identify and supervise trade, to select consignments for control at suitable intervention points, to ensure effective accountability, and to avoid unintended consequences (loopholes).

None of the options under consideration introduce any structural weaknesses compared with the baseline. All the options improve the structure and overall supervision capability, to different extents, with **the following relevant features**:

- All consignments coming to or through the customs territory of the EU must be identified to customs with minimum common standardised data requirements. Customs retain the right to carry out controls under the UCC, as currently.

- All consignments entering the EU do so under the responsibility (and financial guarantee) of an importer established in the EU (or not established but having an appropriate guarantee).

- Online platforms and marketplaces will provide commercial information (details of goods and transaction values) which will be available in time to use in customs risk analysis on consignment flows, and also for strategic risk analysis. This will strengthen supervision of e-commerce consignments substantially compared with the baseline. These additional data flows may not be available for every e-commerce consignment (e.g. direct web sales from smaller platforms which might choose not to engage with *Trust and Check*, dark web, etc.) – however the overall capacity to identify filter e-commerce flows into more and less risky will substantially improve,

and the financial liability and accountability of the major flows will be significantly strengthened, compared with the baseline.

- Any alleviation of the minimum data requirements is conditioned on *ex ante* demonstration of reliability through *Trust and Check* status.

From the perspective of **national customs administrations**, their involvement in customs risk management continues to be supported by real-time data flows, and they continue to be in a position to identify consignments for intervention at border crossing points or at other locations. Goods continue to remain under customs supervision (with clear commercial accountability) until the status 'released' is applied. In Options 3 and 4, the information would be created and processed at central level but can also be distributed to national environments to the extent necessary for common business processes (e.g. security screening of national data flows in co-operation with national security services) or national processes (e.g. local copies and processing for national formalities).

From the perspective of the **EU services**, their capacity to perform within their existing competences in the customs union is supported in all options. The investigative competences of OLAF would not be affected. The roles of the Commission and the Member States as per the *Making Available* Regulation ([145]) would not be affected.

Another key feature of this reform is that advance cargo information and clearance-oriented information are merged, enabling risk management for both financial and non-financial risks to be rationalised and carried out as far in advance of arrival as possible. Economic operators which are not *Trust and Check* will still have an interest in providing fuller information in advance, as this increases the likelihood of instant release on arrival.

Overall, customs authorities would be empowered to better supervise the goods entering and exiting the Union customs territory. Not having to react to declarations, even if this task is today highly automated, should liberate resources in customs to concentrate on a better and EU based risk management. Indeed, a meaningful and efficient customs reform would **bring significant improvements to the existing risk management in the EU.** In the new model, the customs authorities would at any moment be able to verify the importer's records, including by putting in place automated compliance checks. The new process structure does not in itself affect the responsibilities of customs for granting and supervising authorisations. That said, with Options 3 and, 4, the information environment and/or governance context for streamlining the granting and supervision of authorisations in a uniform across the EU would improve.

2.7 Big picture: Simplification

The baseline involves some repetitive creation, exchange and declaration of data across commercial players, transport intermediaries, and customs.

The charts which follow illustrate the difference, in one specific maritime transport scenario, between the baseline processes and the reformed processes. It is slightly simplified. The

([145]) Council Regulation (EU, Euratom) No 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements (Recast).

commercial flow is what happens on the business side. Goods are sold, they move to a port (by carrier 1), they get loaded on a ship (carrier 2), they arrive in an EU port and are handled, picked up by carrier 3, move on to another Member State by truck), and they are put on the market (by the importer).

Exporters and importers have to provide data and documents to their contracted carriers in the normal course of their business (irrespective of customs). These are typically used by the carriers to prepare some of the customs formalities (notably, the advance cargo information cycle, which supports pre-loading and pre-arrival risk assessment, as well as presentation and arrival notifications). Importers often use customs clearance agents to make customs (including transit) declarations, and have to make sure their agents (and transit carriers) have transport and commercial data needed to carry out these processes. The importer may be dealing with one agent handling the port of entry (perhaps linked to the carrier 3) and another (assumed in this scenario) in the Member State where the goods are released.

The ***baseline*** diagram gives an idea of the extent to which different exchanges of information have to be supported to implement the customs processes in the scenario.

What is immediately clear in the ***simplified customs processes*** scenarios is that the number of information transmission points is very significantly reduced, and the nature of the information to be provided is directly aligned with the roles and capacities of the players. In the Data Space scenario (Options 3 and 4) a single EU portal integrates and re-uses the data, maximising the simplification. Without the Data Space, the third diagram show that some national submission points are retained, and there is a more complex integration task to be managed between national customs administrations.

In *Trust and Check*, customs connect the data and enable it to be re-used (by carriers and by other customs offices). Transporters give transport notifications. Guarantees are reduced or waived. Customs duty and non-fiscal compliance formalities are handled as far as possible in the background. Interventions are minimal– in general, goods move.

In the non-*Trust and Check*, the importer is responsible for providing full information on arrival in a single custom filing if not already provided, per consignment, and providing guarantees. Carriers provide full advance cargo information, with a multiple filing approach. The importer or carrier would also have to provide a transit filing (covered also by guarantee). Even in non-*Trust and Check* scenarios, the customs union business is substantially simplified (procedural steps and their associated declaration requirements are removed, and in the Data Space scenarios, handled more efficiently across the EU).

Figure 3: visualisation of customs processes today (baseline)

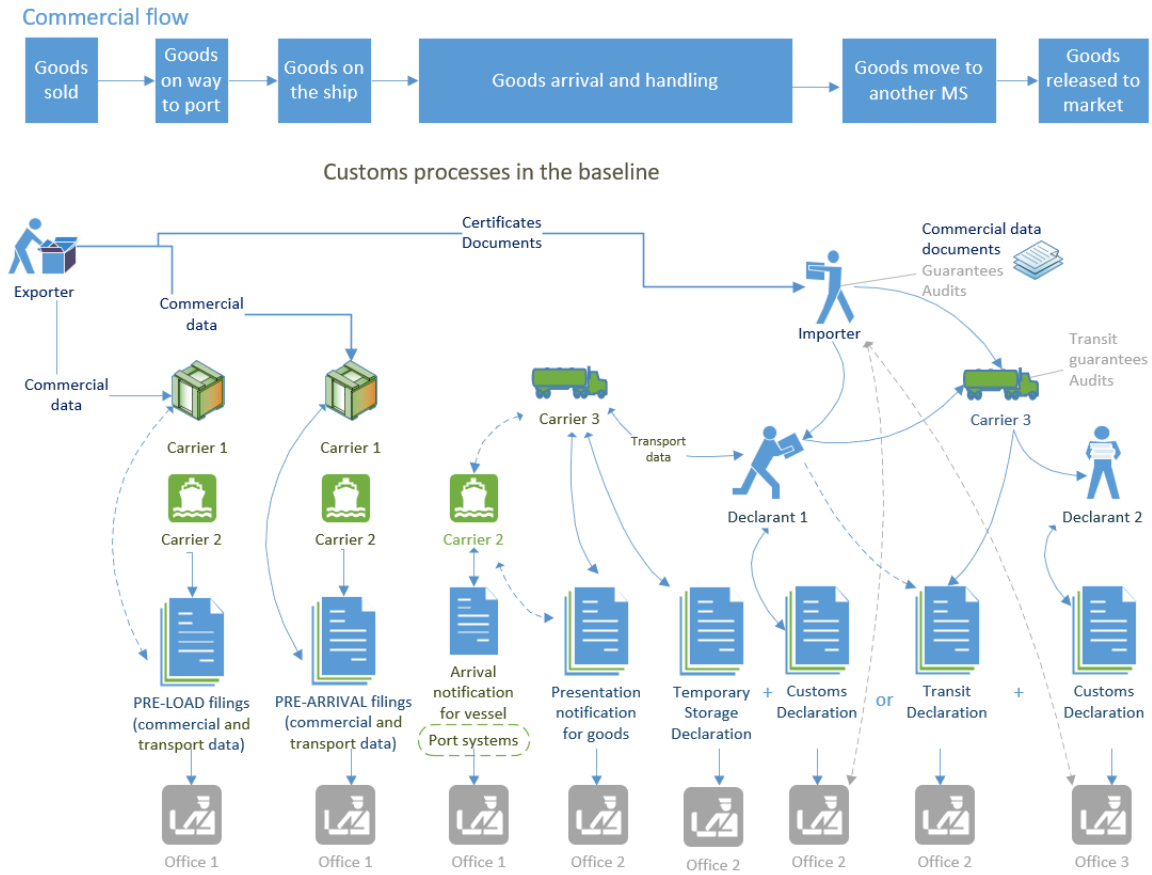


Figure 4: visualisation of the simplified customs processes in options 3 and 4 (with Data Space)

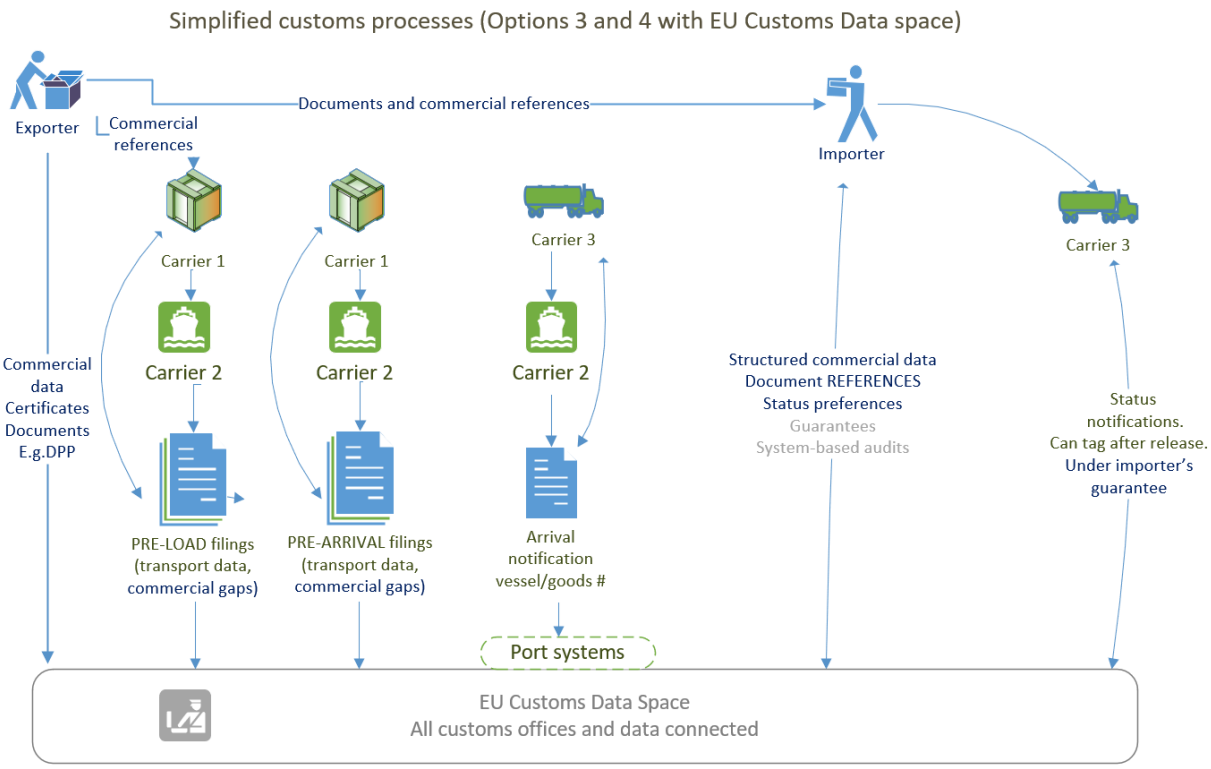
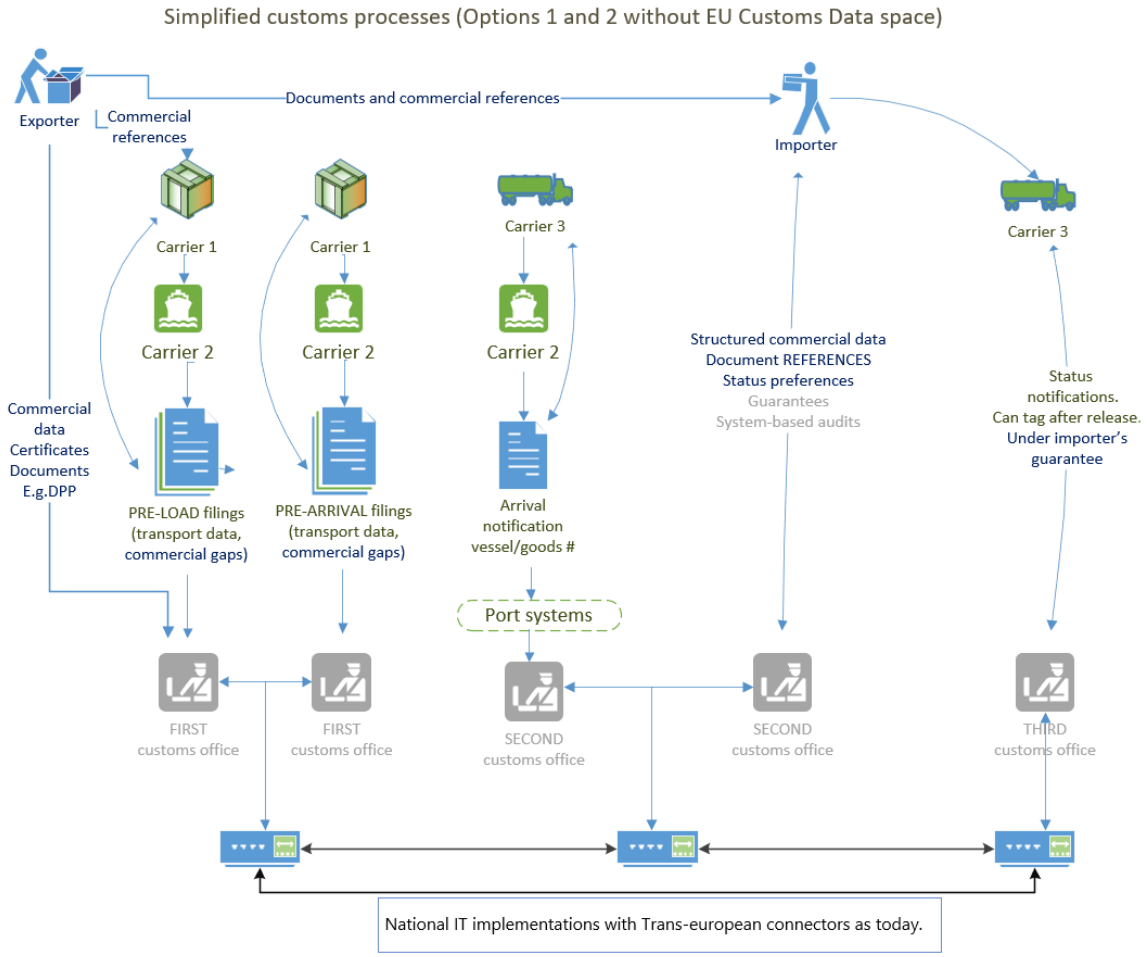


Figure 5: visualisation of the simplified customs processes in options 1 and 2 (no Data Space)



Annex 6 - Reform of the customs union: reforming co-operation – a new framework

Introductory notes – understanding this Annex

The subject of co-operation, by definition, addresses relationships between the customs union (covered by the reform proposal) and other functions, policies and authorities (not governed by customs legislation and of course not covered by the reform proposal).

As co-operation is also by definition between independent parties, it is not possible to fully define the outcomes of the framework in this impact assessment – clearly, the extent to which objectives are mutually agreed will depend on the engagement and the decisions of both customs and non-customs partners. The customs reform can prepare the ground for a better co-operation but cannot deliver it on its own.

The purpose of this Annex therefore is to identify the critical nexus points between customs and other authorities, and to provide a coherent structure (or framework) through which the handling of these relationships can be managed to the best strategic effect.

Where possible, key concepts (for example, 'supervision strategies' information sharing, and working together to develop risk indicators) are referred to in other parts of the impact assessment, including the use cases. Other concepts (e.g. embedding customs union concepts in other legislation) of course cannot be covered more directly in this impact assessment as reform of other legislation is not the subject.

1. UNDERSTANDING THE CONTEXT AND BASELINE

Under the UCC, **customs must systematically supervise** the goods crossing the borders and has the competences, procedures and infrastructure to intervene where needed in the supply chain. *De jure* and *de facto,* this is the EU's only comprehensive supply chain supervision capability. Customs is a major actor in the success of the Single Market, created with the abolition of Member States internal frontiers on 01.01.1993.

The mission of modern customs has evolved over the years to go beyond its original task of collecting duties. Nowadays customs should be considered the guardians of the external dimension of the internal market, and an essential pillar in protection of the public interest. Customs has to be the first efficient line of defence to ensure that products entering or leaving the EU are compliant with the EU rules, safe and secure for each citizen, while creating a level playing field for EU producers against non-EU ones. Customs capacities are of interest to all authorities which would like to ensure compliance with Union law and to intercept non-compliant, dangerous or counterfeited goods at or before arrival. Other authorities have an interest in working with customs for example to identify terrorist threats in real time before goods are loaded for transport, to implement trade policy or sanctions, to respond to international security or health crisis situations, or simply to improve their overall policy intelligence. Customs services are equally of interest to those who want to make trade run smoothly, lighten the administrative load for citizens and businesses, including SMEs,

promote economic growth, and collect taxes efficiently and fairly. Working with customs is therefore essential for the realisation of much of the value provided by many EU policies, and for certain policy areas it represents a fundamental driver.

INFO BOX 1: What are prohibitions and restrictions?

Customs is entrusted with a broad mission going beyond the traditional task of revenue collection. These additional tasks are usually detailed not in customs legislation but in sectoral laws. Customs authorities have to deal with safety and security threats and control product compliance requirements, food, health and environmental rules, counterfeits, cultural goods and much more. The core of this non-fiscal role is commonly referred to as the enforcement of prohibitions and restrictions (P&R). More than 350 prohibitions and restrictions under EU laws have been identified in connection with controls to carry out at the EU external borders ([146]). In order to meet this extended obligation, increased by the growing complexity and the expanding volume related to e-commerce, a high degree of cooperation with Market surveillance, law enforcement and other relevant authorities is fundamental.

In order to ensure the enforcement of prohibitions and restrictions and the **same level of protection throughout the EU**, both the policy design and the cooperation on cross-border issues need to have a strong operational dimension. This means ensuring that controls should be capable both legally and practically to cover the entire lifecycle of goods entering or leaving the EU.

In order to ensure that goods comply with Union legislation, customs interact with the sectoral authorities, who are responsible for the legislation and have the specific expertise to judge the compliance of those goods. In practice**, the interactions between the customs union and sectoral policies are not yet optimised**. While customs tasks are generally identified for major policies, they have tended to be added incrementally under different sectoral regulations, sometimes based on different operation logic depending on the nature of the goods and the applicable prohibitions and restrictions. For example, customs and other authorities play different roles when it comes to live animals by contrast with the case of toy safety. The limited customs involvement in policy making also means that the tasks of customs may be very well designed against a specific sectoral policy objective, without considering the whole range of tasks that customs have to perform also in other policy domains. Responsibilities have been introduced without a strong strategic connection to the actual capacities of customs, and without taking account of the full range of tasks allocated to customs or of ensuring a consistent, proportionate balance in procedures between what should be done at the border and what might be handled outside the real-time supply chain flow.

Customs authorities have to control the wide range of risks (financial, health, security, environmental or other). However, today there is **no prioritisation of these risks** at Union level, despite the fact that obviously not all risks should be tackled in the same manner. It also must not be ignored that customs can perform only a certain number of controls especially when it comes to physical checks.

A further key area is **IT systems and data**. Overall, the lack of proper tools, integrated across the different customs processes, prevents cooperation for an effective and efficient

([146]) https://op.europa.eu/en/publication-detail/-/publication/d2f48d8b-b0a4-11ec-83e1-01aa75ed71a1/language-en

enforcement of sectoral measures. **Sectoral IT systems** also exist only in a limited number of cases and, where they are in place, they have been developed for specific purposes relating to goods, based on sectoral operating structures, product categorisations and administrative competences. The EU Single Window Environment for Customs initiative intervenes in this area, by ensuring that Union non-customs systems are made interoperable with national customs systems. In this way it contributes to align non-customs policies with customs policies on the operational level, by making sure that what is decided by non-customs authorities is correctly translated in customs interventions. This supports a consistent approach and intervention logic by customs. However, such intervention is strongly dependent on how the sectoral policy is designed, and on the resulting complexity in interacting with customs. Also, the EU Single Window Environment for Customs does not deal with issues such as risk management and the associated identification of priorities of controls.

In many instances, **customs do not have the necessary information** about the features or composition of products and on the supply chain to be able to enforce sectoral requirements. The identification of the goods using the information available in the customs declaration that was developed to cater mainly for financial risks (customs classification, origin, etc.) is not fit for purpose when it comes to enforcing health or environment legislation. An additional complexity is that sectoral authorities developed their own sectoral product categorisations that are not aligned with customs classification. **The full potential of customs as a common asset, and especially of the sharing of available sectoral policy intelligence for risk management purposes by customs, is not being reached.** As things stand, the incremental development of co-operation has indeed resulted overall in an uneven engagement between customs and other policies and authorities. This lack of strategic co-ordination is costly when faced against the challenge of persistent and rapidly adaptable flows of illicit trade, which has been further amplified by the explosion in traffic volumes and trade actors in e-commerce. Regulatory enforcement and security are much harder to ensure in vast parcel flows. In this context it is useful to note that most market surveillance authorities do not have an effective mechanism for intercepting direct flows from outside the EU to consumers – the potential to leverage customs unique supervision capacity in a proportionate way for these flows is valuable.

The current UCC lays down a common risk management framework for customs controls as such including some baseline features on co-operation, where the same goods have to be controlled by customs and non-customs authorities (Article 47), In addition, it provides a **limited, general, optional provision for sharing information** between the Commission, the Member States customs authorities and other authorities. However, the practical conditions for using this Article limit its usefulness in supporting systematic inter-authority co-operation and it is rather difficult to get a comprehensive overview on any given consignment because the data can be fragmented over different systems, or used only in certain procedures. For traders, similar information must be submitted multiple times to multiple authorities (customs and others).

At the level of the EU, the existing (structured and ad hoc) **cooperation forms are rather limited** in scope, duration or participation. For instance: the **Commission** organises some UCC framed actions (notably common priority control areas, crisis response and risk information sharing); the customs programme supports piloting new forms of co-operation (e.g. CELBET) and OLAF organises anti-fraud operations. At **Council**, the Customs Co-operation Working Party (CCWP, now absorbed in Law Enforcement Working Party) facilitates ad-hoc time-limited operations, involving a small number of Member States.

(Europol and Frontex are associated to some of the actions). In addition, there are occasional **joint high-level events** for Border Guards, police chiefs and/or customs Directors General.

The explained challenges were echoed in the public consultation, as enhancing co-operation between customs and non-customs authorities was among the most supported elements.

2. REFORMING CO-OPERATION – A NEW FRAMEWORK

In the perspective of the evolution of the Single Market towards a smooth functioning, with the increase of legislation guaranteeing the EU way of life and values, it is more and more essential that customs authorities cooperate constantly with the Market surveillance and other relevant authorities in real time and benefit each other from their respective knowledge, specificities and skills. This is crucial to enabling effective enforcement of common policies and a key dimension in taking the customs union to the next level, as a key partner of the Single Market.

The **same level of protection in the EU** cannot be reached without a **solid cross-border and cross-authority co-operation framework**, built on clear strategic principles, such as:

- The contribution of customs in EU policies should be rationalised and streamlined. Common policy actors should see clearly what customs can offer under a figurative customs 'menu' and 'ordering' from the available options rather than preparing ad-hoc provisions.
- Customs remains in the driving seat for supervision of goods, and the customs information environment (which is the only comprehensive system for supervising the movement of goods crossing the EU external borders) should be the central hub to which sectoral systems connect, either by drawing information entirely from it, or by supplementing the information already present therein.

It is also useful to clearly segment the market from the customs perspective, and consider the three broad underlying streams of customs added value, as follows:

- Customs helps **enforce the single market and sustainability** – ensuring protection against non-compliant goods and supply chains in co-operation with a range of sectoral authorities; this is a growing area and critical both to European way of life and global sustainability. There is a need to rationalise the customs role and the service level offered at, versus away from, the border.
- Customs contributes to **security** (law enforcement and combatting organised crime trafficking in goods, and crisis management). This domain has special features in terms of operating conditions, partners (Europol/police, Frontex/border guards, counter-terrorism etc.) and sensitivities around operational data (which will never be fully centralised). It implies 24/7/365 supervision of supply chains, which can quickly convert to crisis management support where needed.
- Customs helps to **join up and facilitate processes** for citizens and businesses. It's not just about managing risks to policy delivery – it's also about managing the burden placed on law-abiding players. The addition of formalities to the customs process needs to be managed.

It is useful to briefly illustrate the paradigm change envisaged (taking account of specific detections of non-compliant products and considering also future consignments).

INFO BOX 2: the role of Market Surveillance Authorities

A Market Surveillance Authority identifies a specific dangerous product on the market, which is non-compliant with EU requirements. The product is manufactured in series outside of the EU, thus all products of the same series are likely to share the same problem.

Based on all the available information, supplemented by the Market Surveillance Authority, Customs is able to map the supply chains, and have an overview of how many of these faulty products have already entered the whole Single Market, regardless of where the non-compliance was identified.

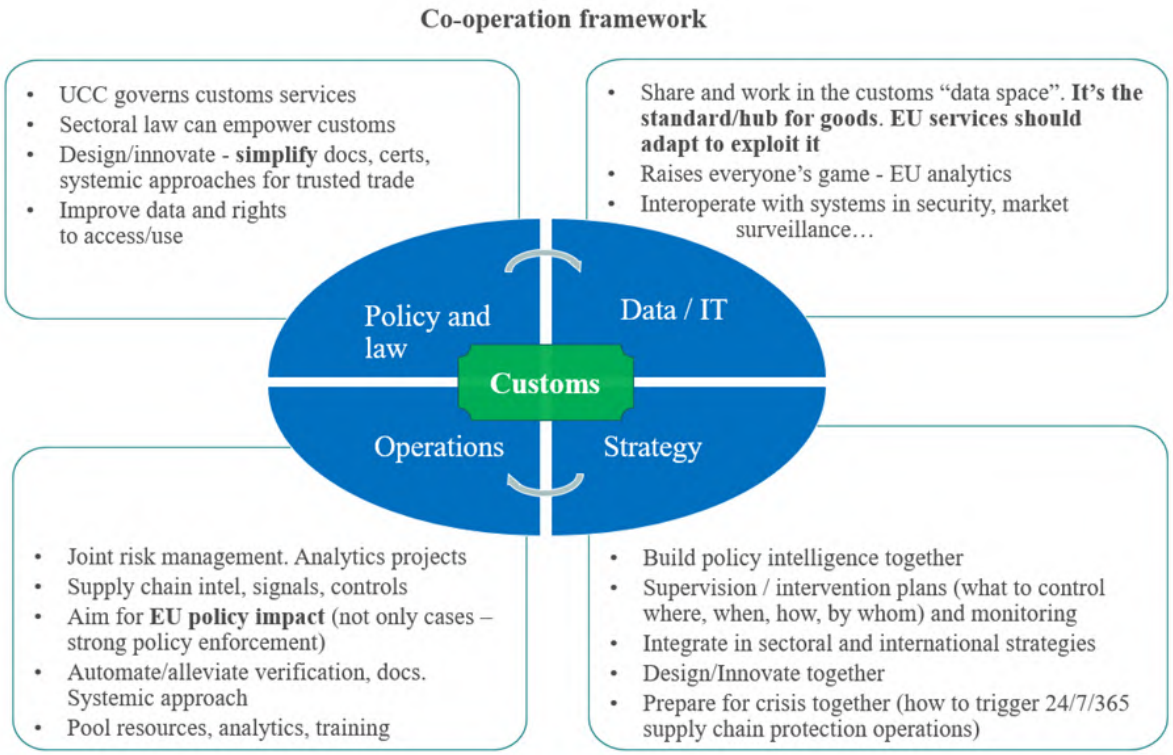
Customs could also use the intelligence from the Market Surveillance Authorities to fine-tune the risk management, improve the targeting and prevent those faulty products from entering into the EU market in the future.

In this way Customs and Market Surveillance Authorities could work in synergy to ensure, in their respective competences that all trade flows used to sell the faulty product are adequately policed, and prevent harm to EU consumers or businesses.

Taking these considerations into account, the co-operation framework should be active in four areas as indicated in the figure below, supplemented by a fifth element – governance – which will have a major influence on effectiveness of data/IT, operations and strategy. Even if all options proposed include measures to increase cooperation with other authorities in the four areas, the implementation of these possibilities highly depends on the digitalisation and governance model chosen in each option.

The collaboration framework with other authorities would be largely facilitated by a common Data Space (option 3 and 4) and the options that include an element reinforcing the governance are expected to achieve the best results, as strong governance implies rationalised across policy priorities (option 2 and 4).

Figure 1: cooperation framework between customs and non-customs authorities



2.1 Policy and law

- Customs should have a more prominent role in **policy/legal design** of sectoral legislation when it comes to its application at the EU external borders. Customs and sectoral legislation should be jointly innovated, taking into account the whole range of tasks that customs have to perform to minimise burdens for good citizens and to have a realistic use of customs supervision tools.

- The **UCC** would provide a menu of services which customs can offer (modular approach). Each sectoral policy should be designed by selecting the most appropriate services from customs, e.g. target, control, hold the goods until the sectoral authority checks, etc. It should reserve the possibility for customs to base their controls on risk management, tap into the intelligence built by sectoral authorities, choose the less possible intrusive type of control, and decide on how to balance supervision tools at or away from the border.

- **Empower customs in sectoral legislation**. A recent example is the change in *Aviation Security* regulations to give a customs request for screening or a customs 'do-not-load' instruction a legal meaning in that legislation too, not only in customs. In future, it should be considered how to maximise the return on a customs action or decision for the benefit of another policy. For example, if a clear breach of sectoral legislation is found, consider the possibility to allow that finding to be used across related supply chains and in all MS.

- **Provide for data to be shared and used**, and address GDPR issues at the outset. A related issue is to **improve the data and ensure its interoperability** – so that it supports for example effective and efficient prohibitions and restrictions enforcement. Customs should be able to tap into the data and intelligence built by sectoral authorities, and sectoral authorities should be able to do the same with the customs intelligence, as opposed to today, where each authority may work in its own domain, and where information is rarely shared and cross-checked across different domains.

2.2 Data and IT

- As regards prohibitions and restrictions, it is paramount to equip customs with adequate **data and data management capabilities**. Today, the EU Customs Data Model does not have elements necessary to enforce sectoral requirements. Customs needs more data on products and on the supply chain from various sources, e.g. from trade, Member States, other authorities, partner countries, and others. It is option 3 and 4, where the Data Space is foreseen, where all the information could be processed most efficiently, 24/7, supported by artificial intelligence. These processed data can be cross-checked against a wide range of sectoral requirements and with the help of data analysis, usable information could be extracted for numerous purposes, e.g. risk management, crisis management, statistical and other purposes. The Data Space should be used to enable the sharing, interoperation and use of structured, useable data, and to implement **EU analytics** (raising common capabilities for all).

- The customs information environment is **the EU hub for** goods traffic. The relevant authorities can contribute directly, facilitating the work on prohibitions and restrictions. On the other hand the customs data could be opened to sectoral authorities to allow them to both use and supplement customs data.

- The Data Space is also intended to enable the information exchanges between Customs, Economic Operators and Non-Customs authorities and to facilitate the evolution of these exchanges in a faster and more cost-efficient manner.

The final stage of the reform is also foreseen to bring the integration with the other authorities to its full value, including policy areas which are not suitable to be integrated in the EU Single Window Environment for Customs, thus fully enabling the collaboration with other authorities described in the reform.

2.3 Prepare a strategy for tackling each policy

- **A political prioritisation should identify areas for EU coordinated action**. In these areas, the control and enforcement action should be intensified and operationally coordinated. At the same time, the political prioritisation should be complemented by a certain risk appetite for other areas.

- The customs **supervision / intervention strategy** should be interlinked with the sectoral and international strategies, addressing how the available intervention tools will be used, and how results will be monitored. Use the common data picture in the customs information environment to improve understanding of flows, risks, what kind of operations should be planned, etc.

- **Rationalise and streamline customs services**, providing tailored services and proportionate, least operationally disruptive controls reflecting the different type and level of risks.

- Work together to find new ways of doing things. For example, consider whether for very reliable operators, some of the controls that would otherwise have happened in a port could be handled through self-assessment. Consider how formalities (e.g. documents) could be dealt with by use of data submitted for other purposes and cross-validation.

- Prepare for crises (primarily related to health and security). These are unpredictable, but advance investment in sectoral-specific preparations with key partners would be necessary if customs capabilities are to be effectively deployed on an urgent basis.

2.4 Deliver operational work together

- Customs and other authorities should work together on **risk management**, in particular on sharing information that helps building analytics coordinating and better targeting controls.

- This could involve creating multidisciplinary teams, not necessarily on a permanent basis. Shared data is rarely ‘perfect’ for customs action – it is a challenge to convert it to targeting elements, and it is important to have the minimum necessary structured information on events to do analysis.

- Depending on the service level, operations may create intelligence, operational signals (‘here’s what’s coming, here’s a risk’), and specific interventions or controls.

- The supervision strategy should have prepared the ground for maximising impact and follow-up on cases; in general, the aim should be for a systematic **EU response** to bad supply chains, not just cases or individual consignments. In other words, the EU reaction should be on a system base, rather than on a transaction base. It should also prepare the ground for alleviating certain formalities at the border or automate them as much as possible.

- Customs and other authorities should provide for pooling of resources, analytics and training so that controls that address similar problems are not repeated, and the expertise of each authority is used with maximum efficiency.

2.5 Strong customs governance

As an overarching requirement, this framework needs a **strong customs governance.** When referring to customs governance there are two main underlying issues:

- Political prioritisation: that is, effectively preparing the supervision strategies, determining at any given time which threats and problems receive prioritisation, with a consequent focus on resources;

- Operational prioritisation and delivery governance: that is, setting and rationalising the level of service which customs will provide from the UCC menu, organising operations, driving joint teams, pursuing data sharing and integration, organising pooling of equipment, training, measuring and adapting performance, research and innovation. In short, all the management of the day-to-day operations.

A European Customs Authority would exploit the legal possibilities of cooperation between customs and other authorities, including preparation the ground of common non-financial priorities for customs supervision and risk management (option 2). Under option 4, the Authority would have an even more prominent role, organising co-operation with other authorities at EU level for all policy priorities within a structured co-operation framework centred on data exchanges.

Annex 7 - Reform of the customs union: description of the concept of Data Space and the operating model

This annex provides a focused view on the IT implications of the initiative aimed at reforming the EU customs legislation. It covers the following content:

a) **EU IT customs landscape today**: Introduction to the current EU IT customs landscape and their characteristics and perceived limitations.

b) **The new IT Paradigm (Data Spaces)**: Description of the proposed new IT paradigm proposed as part of some of the reform policy options (Data Spaces).

c) **Data Spaces Transition Roadmap**: Description of a tentative roadmap for the transition from the current landscape to an EU Customs Data Space.

d) **Reform options impact on EU customs IT**: Description of the impact on IT of each of the 6 options of the reform.

e) **Cost estimation model and method**: describing the approach assumptions and references used to estimate the IT costs of the different options.

It should be noted that all along this annex, the impact and costs assessment are focused only on IT programs, services, operations and infrastructure and do not include other administrative costs, which are covered in annex 9.

1. EU IT CUSTOMS LANDSCAPE TODAY

The EU is a heavyweight in international trade. Every minute, 4693 tonnes of goods enter or leave the customs union on average. To supervise these flows, customs rely on an elaborate set of IT systems and automated checks: they are the engine room of the customs union.

The UCC aims at digitalising customs processes and achieving a high degree of automation, but it did not alter the design of those processes, which have their origins in the processing of paper declaration forms. **Each customs process is automated individually by each Member State, in nationally developed IT systems**. These national systems implement the same Union customs procedures, alongside national ones. To ensure that national systems of a Member State could exchange data with the national systems of another Member State, the Commission developed the trans-European systems. On top of these trans-European systems, the Commission developed some centralised systems as well to provide core support functionalities related to data management. This architecture is naturally fragmented.

Customs IT systems in the UCC are developed taking into account processes and **transactions related to:**

- **Trader interfaces:** through which economic operators can submit customs declarations and receive related information. With very few exceptions (such as the Import Control System version 2, ('ICS2'), these interfaces are entirely under the responsibility of Member States.

- **Customs process systems**: that automate customs procedures and orchestrate the related exchanges of information. Also these systems are under the responsibility of Member States, with the trans-European layer ensuring the orchestration when customs procedures affect several Member States.
- **Customs central systems**: that provide supporting functionalities to manage horizontal issues. A good example of these systems is the TARIC system, the multilingual database run by the Commission that integrates all measures relating to EU customs tariff, commercial and agricultural legislation.

In parallel to the IT systems that share the three elements described above, the **ICS2** and the **EU Single Window Environment for customs** further complement the UCC IT scenario.

ICS2 implements a central Shared Trader Interface and central Common Repository developed by the Commission, which store all data related to the Customs Entry Process, thus behaving like a centralised system. However, for its other functions ICS2 functions like the other trans-European systems in some respects. It orchestrates the implementation and operation of entry processes and risk analysis processes, which are primarily implemented in national systems; a shared analytics layer ("ICS2 Safety and Security Analytics") will support the advance cargo risk analysis process in ICS2 from Release 2.

The EU Single Window Environment for Customs, aims at simplifying the interconnection of national customs systems with the Union non-customs systems developed centrally by the Commission. The goal of the Single Window is to allow national customs systems to retrieve and send relevant data to Union non-customs systems developed by the Commission. In doing so, the Single Window reaches two results: first, to avoid each Member State having to interconnect its own systems directly with the Union non-customs systems; and, second, to avoid that each Union non-customs system has to be interconnected with potentially 27 different customs systems. However, the Single Window pays its dividends only when sectorial policies have a centralised system, or a central repository where information can be fetched and distributed: other cases are outside of its scope of application.

The UCC IT architecture has the advantage of allowing national administrations to tailor customs systems to their national needs and specificities. However, on the other hand, these divergences have an impact in the IT implementation of EU customs legislation, and in the costs borne by Member States. From the Commission's perspective, national implementations call for complex governance and technical solutions to ensure that the trans-European systems can be effective at connecting the national customs systems.

The issues with the current IT paradigm in EU customs can be summarised as follows:

- IT implementation is centred on process automation, which means that each system design is based on the automation of a single 'business designed' customs process. Moreover, those processes are not natively digital: they often represent the digitalised version of paper-processes, which are automatized by digital means.
- Interoperability of processes was considered often as an afterthought. Also, there are still limitations in the harmonization of processes ([147]).

([147]) For instance, the various processes supported by the Customs Decisions Management Systems are all variants related to management of authorizations. Whilst the UCC already made a big step by moving from 27 different national processes for each of the 22 decisions to EU harmonised processes, there are still

- EU customs IT is highly distributed with an almost non-existent level of reusability between Member States and very small ratio of centralised implementations. Hence, for most of the IT systems created to implement customs processes, development and operational costs are multiplied by 27, plus the costs borne by the Commission for the trans-European part.
- The various systems have many interdependencies. Changes to one system lead to a waterfall of consequences on other interdependent systems.

As a result of the above, the implementation of large changes in a customs process or data elements at EU level in line with what the UCC allows for, imply projects of up to 7 years duration and very large overall costs.

2. THE NEW IT PARADIGM – DATA SPACES

The consideration of a new information management paradigm focuses on two aspects: first, on the objective of enabling a real partnership with the economic operators, based on a commonly structured, secured and less burdensome information exchange; second, on alleviating the IT management difficulties of the existing model.

The reform proposes a new approach to access and use the wealth of existing data, which builds on the reformed customs processes and maximizes their efficiency and effectiveness. It consists in giving the customs union the possibility to use all existing information from all sources with state-of-the-art technology, to analyse it and to use for customs purposes.

The concept is called Data Space. It can be defined as a platform (a combination of systems and services) that connects and analyses data in whatever format from all types of sources in a push or pull mode. Data sources are trade, Member States, other authorities, partner countries, open sources and others, and are processed in an 'engine' functioning 24/7 supported by artificial intelligence. From this processing and with the help of data analysts, usable information is extracted for risk management, crisis management, performance measurement, statistical and other purposes. Information is accessed on a need-to-know basis. Access rights to data are predefined to ensure the confidentiality of personal and commercial information. Data is flagged already at the input, thus allowing the identification of personal data or sensitive information, which would prompt the application of special handling procedures.

There are a few key benefits that will be brought by this new architecture when compared to implementing 27 IT systems for UCC processes:

1. It will provide a structured and easily accessible way to store and manage data, making it easier to find, retrieve, and manipulate. It will improve data management.
2. It will support data sharing and interoperability, allowing different systems and applications to access and use the same data. It will increase data accessibility and interoperability.
3. It will support data-intensive operations and decision-making, providing the necessary infrastructure to support complex data analysis and data-driven decision-making. It will enhance decision-making and data analytics.

different processes for what is fundamentally the same need, leading to enhanced complexity. This affects both the training of Member States and traders, and the automation of such processes.

4. It will be scalable and flexible, allowing customs to adapt their data management systems to support changing business needs.
5. It will reduce data duplication and inconsistencies, as it will provide a single, centralized repository for data that can be accessed and updated by multiple systems and applications.

Data Spaces and data-driven architectures differ from traditional IT systems and process-oriented architectures in a few key concepts.

First, Data Spaces and data-driven architectures are focused on the organization and management of data, whereas traditional IT systems and process-oriented architectures address individual processes and systems. Data Spaces and data-driven architectures provide a structured way to store, access, and manipulate data, whereas traditional IT systems and process-oriented architectures focus on execution of individual business processes.

Second, Data Spaces and data-driven architectures are designed to support data-intensive operations and decision-making, whereas traditional IT systems and process-oriented architectures are designed to support specific information processing and business operations. Data Spaces and data-driven architectures can handle large volumes of data and complex data relationships, whereas traditional IT systems and process-oriented architectures may struggle to handle the same levels of complexity and scale.

Third, Data Spaces and data-driven architectures rely on distributed and decentralized components, whereas traditional IT systems are typically monolithic and hierarchical.

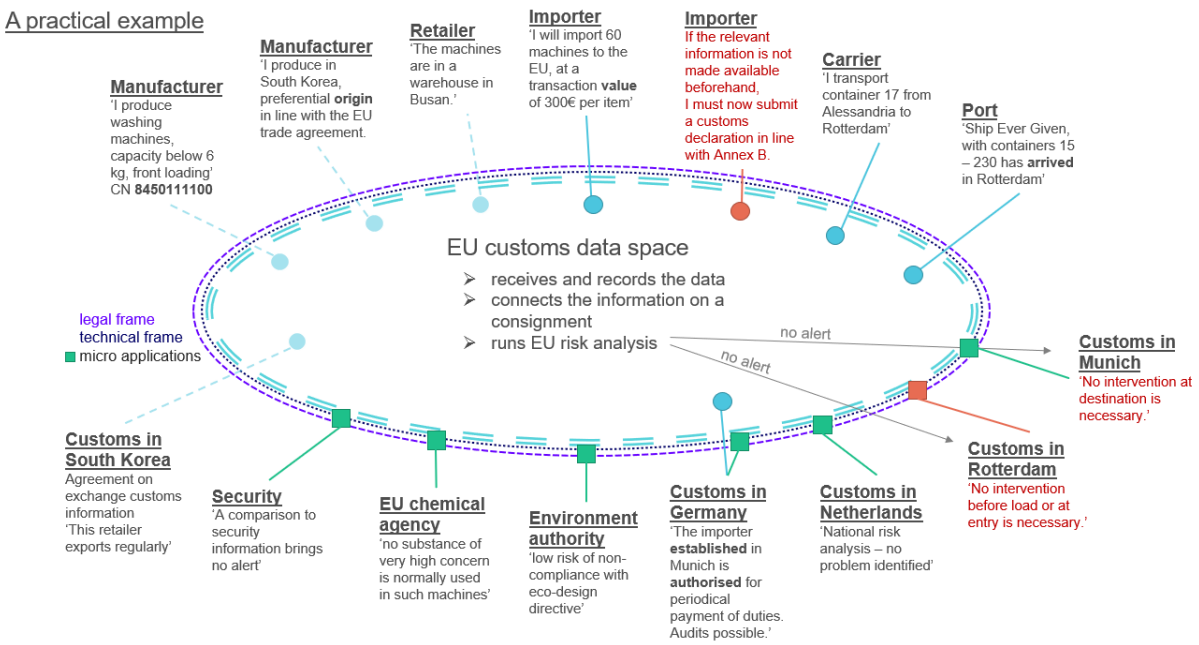
In practice, having a Data Space does not translate into the absence of IT systems, on the contrary. Each UCC IT system has been developed with the purpose of fulfilling a customs process in its entirety. What the use of a Data Space do, instead, is regulate how the information flows, and allow for the creation of very small and modular IT systems, that fulfil very specific parts of an overall customs process. The small IT applications allow for a simplified compliance with several requirements such as the GDPR, while remaining highly scalable.

2.1 How will the EU Customs Data Space work in practice?

The Data Space can collect the relevant information in a flexible manner. In the example below, information is provided from different actors involved in the supply chain. The importer (in red) is responsible for declaring the import of goods, in case the information was not made available beforehand.

In the Data Space, the information is stored and made available across the platform for authorised users and procedures. The system connects the dots for a specific consignment. Systems developed for risk analysis can use the available information and benefits from the higher data quality. EU wide risks, circumvention or re-routing of goods become visible. The risk analysis can take more contextual information into account and build trade intelligence.

Figure 1 – Data Space practical example



Small modular applications and data processing components can build on the available data, for example for national risk analysis. The same approach can enable other authorities, or international partners and take their information into account. The data can be cross-checked against a wide range of criteria and requirements. In the example, no problem is detected, and the import can go ahead without any customs intervention.

To highlight some of the significant benefits: The relevant authorities can contribute directly in the background, facilitating the work on prohibitions and restrictions. The supply chain information provides a meaningful structure, facilitating the supervision of low-value consignments or e-commerce. The system is future proof for upcoming developments. For example, should a digital product passport become obligatory for certain products, this information can be collected, used and shared, without the need to develop a dedicated IT system, or to write legislation for the IT technical aspects.

2.2 Data management modalities, interoperability, and modes of exchange.

The architecture of the customs Data Space is based on the principles of a data-driven, and event-based architecture. Data-driven means that data is at the center and processes are specifically designed to exploit such data. Event-based means that processes are defined by considering the change of status of certain data. The difference with the current IT paradigm is that processes are fully designed upfront: those processes are meant to generate events, the events generate data, which is then consumed for several purposes. In this paradigm, the event is generated artificially, to trigger other processes. In the data driven, event-based architecture, the events are real-world events that are tracked and from which processes are triggered.

Customs declarations exist to ensure that customs are formally notified by a declarant of a customs' formality. Such declarations include the description of the consignment as well as other information. Customs are automatically alerted about a consignment arriving because the Data Space is notified by a 'change of status' of the goods in the logistic chain. The Data

Space contains the consignment information as required in legal terms, which is submitted only once.

A data driven architecture is agnostic: it is not based on a specific protocol, format or commercial product. This approach will allow business needs and applications to evolve through time without being locked-in or limited by the underlying services. This architecture will natively include some horizontal features such as interoperability, security, usage of standard protocols, meta-data management, data streaming, event management and scalability. It will be aligned with existing initiatives of the European Commission such as the European Data Governance Act ([148]) and the principles of Interoperable Europe ([149]).

The following example addresses the concerns on how the European and the national levels could operate in practice.

In future customs operations data is managed centrally. Yet, national customs authorities may still have to enforce national legislation. To do so, they will access all the relevant information directly from the EU customs Data Space, according to their rights. This access can be ensured using a user-to-system interaction: concretely, the national customs officers use an application to read such data. However, the same result can be achieved with a system-to-system approach: the EU customs Data Space will have secure data services that are open for the different actors. The actor is identified at the moment of connection, and in case it has the rights to see the data required, it will be able to do so. This access could be further extended in a tailored manner, to other non-customs authorities that also need access to specific customs data.

Artificial Intelligence and machine learning processes require large datasets and/or large sequence of recorded events. Without these, machine learning processes cannot be applied, and no added value can be retrieved using Artificial Intelligence mechanisms. The creation of the customs Data Space is the first seed for applying frontier technologies in the customs domain.

This is in line with other European Commission initiatives, such as the coordinated plan on Artificial Intelligence ([150]) that is quoted below:

'Further developments in AI require a well-functioning data ecosystem built on trust, data availability and infrastructure. The General Data Protection Regulation (GDPR) 32 is the anchor of trust in the single market for data. It has established a new global standard with a strong focus on the rights of individuals, reflecting European values, and is an important element of ensuring trust in AI. This trust is especially important when it comes to the processing of healthcare data for applications driven by AI. The Commission would like to encourage the European Data Protection Board to develop guidelines on the issue of the processing of personal data in the context of research. This will facilitate the development of large cross-country research datasets that can be used for AI.

AI needs vast amounts of data to be developed. Machine learning, a type of AI, works by identifying patterns in available data and then applying the knowledge to new data. The larger a data set, the better AI can learn and discover even subtle relations in the data. Once trained, algorithms can correctly classify objects that they have never seen, in more and more cases with accuracies that

([148]) https://digital-strategy.ec.europa.eu/en/policies/data-governance-act
([149]) https://ec.europa.eu/info/publications/interoperable-europe-act-proposal_en
([150]) https://digital-strategy.ec.europa.eu/en/library/coordinated-plan-artificial-intelligence

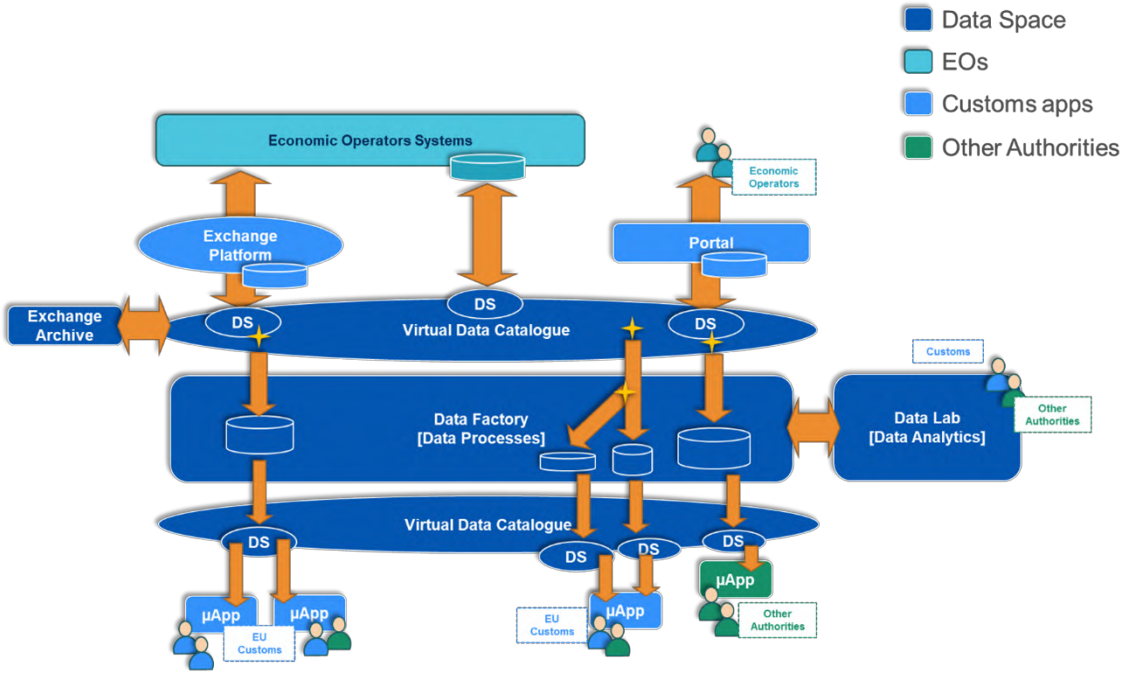
exceed those of humans. Hence, access to data is a key ingredient for a competitive AI landscape, which the EU should facilitate in full respect of personal data protection rules.'

The technological innovation cannot be looked at independently from the governance aspects that the reform will bring. The strategic management of the customs union will include aspects that will govern IT domains such as interoperability, data semantics, service provisioning, security, APIs (Application Programming Interface), access rights, etc. This governance layer is a key point to consider and is a central part of the reform described thoroughly in the impact assessment. Not only it will address the pure IT questions but also will orchestrate and integrate processes, co-operation with other authorities, and customs actors, defining data requirements, data exchanges, roles and responsibilities.

2.3 The EU customs Data Space in technical terms

The following diagram depicts a high-level view of a potential customs Data Space.

Figure 2 - Overview of a possible customs Data Space implementation



In the context of EU customs, the Data Space is intended to enable the information exchanges between customs, economic operators and non-customs authorities and to facilitate the evolution of these exchanges in a faster and more cost-efficient manner.

The Data Space has a systemic approach to information exchanges and processing. This can affect the way operators provide information to customs. Today, customs declarations have three functions:

- They provide a **set of information pertaining to a process or a physical item;**
- They serve **as a procedural trigger for certain processes;**
- They constitute **an undertaking of responsibility** for the declarant.

The Data Space deals with all the three aspects above, in a different manner. The information related to a physical item does not necessarily have to be embedded in a form, the procedural triggers for certain processes are based on real-world events, and the undertaking of responsibility can be more fine-tuned to the actual information provided and the bearer of such information.

This approach allows the re-use of data and its consumption by different customs processes. A natural consequence would also be the **significant reduction (if not even elimination) of multiple submission of the same data:** if data is available/retrievable, there is no point in submitting it again.

The key factor in achieving these results lies in the establishment of a horizontal data platform that provides data management capabilities (interfaces, streaming, event management, storage, meta-data management, etc.). Data processes and applications are built on top of this platform. In other terms, instead of dealing with large monolithic IT systems, the reform aims at de-compiling bigger systems into smaller, scalable applications.

Concerning the interactions with external stakeholders, these will be achieved through services for technical message exchanges, data virtualisation or service interfaces. These bring interoperability features that are open to the stakeholders participating, so that each stakeholder can integrate the technical message exchanges in its own system depending on its size or technical capacity (individuals, SMEs or large traders). Its actual modes will be implemented using open standards, and technologies such as those defined for example by Interoperable Europe.([151])

In practice, a large retailer based in the EU, could connect its own warehousing system with the EU customs Data Space. Whenever goods are moved between a warehouse outside the EU to one inside the EU (or vice-versa), the relevant events will be captured, and customs will be informed accordingly.

Customs IT systems design will be centred on information needs around which the procedures can be built and managed. The processes for handling the data can then be designed so that the provision of data is correctly matched with whom effectively holds such data (e.g. the provision of different data elements by different actors in the supply chain of data at different times, which is more in line with the timeliness of the information availability and the respective responsibilities of these actors).

A Data Space requires a solid layer of standardisation for common data structures alongside a strong information governance. This means defining both the actual basic data model covering the information obligations, alongside the subject of those obligations. Stakeholders would then provide the information according to this data model using meta-data techniques which allow for traceability of data sources and personal data together with more flexibility on the modalities used to retrieve or receive such information.

In practice, instead of defining the name of an importer as a set of 72 alphanumeric characters (including its definition on the text of law), it would be enough to identify semantically what

([151]) Proposal for a Regulation of the European Parliament and of the Council laying down measures for a high level of public sector interoperability across the Union (Interoperable Europe Act), COM(2022) 720 final.

an importer is and ensure that the data elements bear the necessary meta-data highlighting e.g., if the name of the importer has to be considered personal data or not.

The Data Space provides services through a catalogue. For instance, persons bearing an obligation of information (traders, customs/non-customs authorities) could pick from the catalogue the most convenient mode to make the data available to the Data Space. Moreover, providing data following a specific meta-data/metamodel (e.g. using contextual information and linking attributes), allows the stakeholders to provide the data according to their own data model: the stakeholder's data model will have an attached meta-model in the background that allows the Data Space to correctly interpret the information provided. Functionally, this is a big advantage because it does not force the entire re-development of existing stakeholder's systems. Furthermore, this entails that stakeholders do not have to modify their entire data structure if a new element is added to the Data Space. Yet, if a new data element is required, the stakeholder responsible for providing it will have to add it to its data model.

The data available in the Data Space according to the data model can then be used for the intended purpose as defined in the legal provisions. All data exchange and usage needs to be authorized, monitored and auditable to ensure the respect of the data governance provisions and, at the same time, to ensure non-repudiation of the data provided and received, given the potential liabilities linked to the information exchange. The data becomes accessible only if all the above conditions are fulfilled.

There are two main types of usage for the data services:

- **Data projects:** The 'raw data' received from the sources may need to be restructured, aggregated, analysed or prepared for the direct policy needs such as risk analysis, value calculation, crisis management, or to feed a secondary data store for other purposes (EO management, statistical analysis, guarantee management…).
- **Micro-applications:** The raw or processed data can be made available to specific applications implementing small functions or procedures serving the operational activities of customs, other competent authorities, or the traders themselves and providing user interfaces and portal functionalities. Micro-applications ([152]) can be implemented in an agile and flexible way.

If the changes are in procedures or functionalities, those are applied on the corresponding micro-applications, which are decoupled from the 'raw data' and do not affect the whole system or the data model. In practice, and differently from today's system, a change in one micro-application would not trigger a chain of changes in all the other micro-applications. In case multiple micro-applications are affected, this approach improves the granularity of the changes, making it easier to identify the consequences of a data model change.

Data services can be centralised and made available to all relevant users. They are customisable, to allow local specificities, or complemented with customs development by some individual users to fulfil unique needs that are not shared by other users. A collaborative development and deployment platform would provide a high added value for this purpose.

([152]) Micro-application refers to IT components implementing a limited number of user interface and workflow functionalities. The small size of the applications allows for a more dynamic and agile IT environment serving Customs policies and operational procedures. Examples: an application implementing customs authorisation workflow or an application allowing customs officers to register controls results.

In a Data Space context, existing systems will necessarily have to evolve, to be able to use the common data and the event management capabilities. The approach intends to propose a more flexible and modular way to implement those systems and processes allowing on the one hand to manage the complexity in a more agile manner and on the other hand ensure that data interoperability is applied by design, hence avoiding formation of silos.

One of the key goals of the reform is to address the fragmentation of customs, together with the ever-increasing complexity created by the prohibitions and restrictions. A customs Data Space would coherently address both questions, something that cannot be achieved at national level with the same degree of effectiveness.

The majority of items in the prohibitions and restrictions relate to product requirements which, from a data perspective, are completely invisible to customs: this happens because the EU customs data model does not take into account elements such as the energy consumption of a fridge, or the noise produced by an engine. Integrating such requirements in the current UCC systems is very cumbersome: it requires creating a specific TARIC measure, and adapting the entire UCC data model, with the result that adding a couple of descriptors to a product could take several years. The Data Space bypasses this problem in two different ways:

- First, the flexibility in the management of the data model, allows to create specific metadata for the required descriptors of a good rather swiftly;
- Second, the possibility to analyse at EU level all the imports of those goods, considering new descriptors, would enable a much more efficient targeting of consignments by customs.

For those prohibitions and restrictions that are not pure product requirements, and for which a Union non-customs formality exists, the EU Single Window can be used. However, the Single Window does not deal with risk management, but with the facilitation of exchanges of information between customs and non-customs authorities. Therefore, it does not increase or decrease the detection capabilities of customs: it adds a layer before that detection, for which the goods are identified (and assessed) from the perspective of non-customs authorities for the purposes of specific formalities. Customs is then presented with the outcome of this process, and it can take its own decisions accordingly. For instance, EU Single Window is used for the phytosanitary domain: however, such use does not allow customs to differentiate between certain species of seeds which are, on the contrary, very well identified by EU phytosanitary measures because they pose exponentially different risks. The Data Space could help as well on this front, by increasing the identification capabilities of customs to spot those consignments where products are falsely declared to escape the non-customs authorities' nets.

Traders interacting with the customs Data Space will experience simplification. They will have a uniform approach to the European customs Data Space, instead of having to interact with multiple national authorities and multiple IT systems. For SMEs dealing with trade, the interaction with the Data Space will ensure better scalability of their business and access to customs controls in a uniform manner, as opposed to today's interaction with 27 different customs systems. This takes the ICS2 and EU Single-Window Business-to-Government concepts further and is in line with the principle of once-only, reducing the administrative burden on citizens and businesses.

2.4 Governance

The governance of the customs Data Space is logically inherited from the governance of European customs authorities themselves and represents its singular most critical aspect for its successful implementation. Therefore, the governance should cover the policy side as well as the IT implementation. In particular, it should:

- Define the Data Space participating roles and responsibilities, specifying the rights and obligations of the stakeholders.
- Define the types of data, the level of granularity and rights to access it.
- Implement and monitor traceability and audit capabilities of all Data Space activities.
- Manage the customs data model and ensure its alignment with EU legislation and international agreements.
- Determine rules and conditions for the processing of data in the Data Space.
- Define the metamodel that must be embedded in the data exchanged in the Data Space (e.g.: personal data identifiers, data ownership, processing limitations, sources and objective of the data, data quality qualifiers…)
- Ensure non-repudiation of all data received and processed.
- Define and enforce the archiving policy for preserving historical data.
- Act and report on governance non-compliance.

Moreover, for the aspects not already addressed in the legislative text of the reform, the governance layer should further define and govern key questions regarding the Data Space security plan, SLA requirements, GDPR compliance, data sovereignty, stakeholder management and support to all connected activities.

3. OVERVIEW OF TRANSITION TO CUSTOMS DATA SPACE

The UCC systems represented a large investment for both the Member States and the Commission. It is only logic that these should not be decommissioned immediately after implementation. It is not what is proposed by the reform.

The creation of the customs Data Space is subject to a transition period, during which, existing UCC Systems will coexist with the Data Space. This entails a double cost of maintaining two models in parallel and is rooted in the fact that the reformed customs processes will not be in force immediately. This double existence is necessary to ensure continuity and will bring the benefits of the new model gradually without disrupting customs operations. Eventually bringing technical simplifications, faster development processes and improved efficiency to customs IT. The transition period spans over 12 years, which are enough to ensure a return on investments in IT investment for the UCC systems.

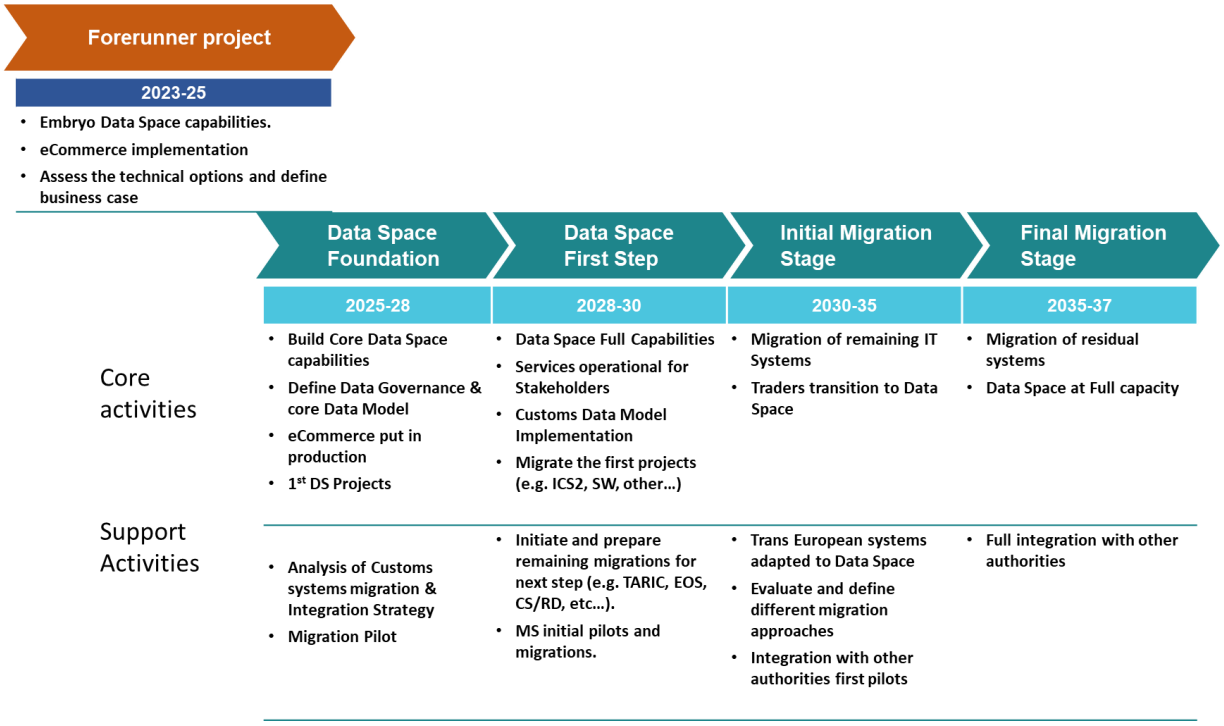
The technical approach for the transition would be based on an incremental use of the current customs systems for the data management capabilities of the Data Space. For example, current systems databases could be integrated in the Data Space to allow data availability while the systems process is being adapted.

In a ‘do nothing’ scenario the UCC systems would still have to be upgraded for technological evolutions and changed to accommodate policy changes which are steadily increasing in

number and complexity. The same is applicable to trans-European platforms and systems. The cost of these changes is high and takes a lot of time.

To answer this question, a tentative roadmap has been laid down to illustrate the essential steps that a transition would entail. This is a draft overview that will require further assessments and planning to define and detail a full-fledged roadmap.

Figure 3 - Draft overview of a Data Space transition roadmap



The above roadmap starts in 2025, once the UCC implementation is complete and the IT projects on Member State's customs administrations are over; however, the transition period would be shifted right depending on the year of adoption of the reform package. The transition would begin with a central implementation activity by the Commission, followed by a gradual implementation and transition by the Member States. A constant, synergic consultation with the Member States will be key to identify which services and processes can be migrated, the priorities and sequence of action.

Before adoption a forerunner project could be launched to address the issues related to e-commerce. This inception period would assess in detail and in practical terms the best technical options for the implementation of an EU customs Data Space, defining a business case and performing a market analysis for suitable technologies.

2025-2028 – Data Space foundation

The core embryo of the Data Space capabilities would take stock of a forerunner project, which may not be necessarily linked to the reform, but that requires and makes use of data interoperability. E-commerce could be considered a good candidate, but others can be considered as well, in areas such as interoperability with other systems in the Justice and Home Affairs area, or integration with the Digital Product Passport initiative.

This period should be used to start the analysis of dependencies and preconditions for customs systems to be integrated in the Data Space, so that a migration strategy can be defined.

During this period, the data governance and core data model to be used in the future Data Space for customs will be defined, analysing the gaps and re-usability of the existing EU customs data model. A pilot could be implemented to ensure that a solid model is in place.

2028-2030 – Data Space first steps

This period starts with a Data Space at its core, capable of providing some basic functionalities. The key objectives of this initial phase fall along three important lanes:

a) Scaling and consolidating the Data Space services, including a solid infrastructure and operational model with the appropriate security conditions. This should also allow for self-service provisioning of data services, data projects and applications integration.
b) Implementation of specific functional services for stakeholders: portal, interfaces and applications integrated in the Data Space and allowing a use of the Data Space for customs according to the new policy model defined in the reform.
c) Implementation of the newly defined customs data model in the form of data and meta-data structures, data processing and data engineering, making use of the data model for integrating data on economic operators on the one hand and enabling the use of this data by customs authorities, on the other hand.

The three lanes above should go in parallel using iterative and agile mechanisms that allow ensuring consistency between the solution provided and the needs, and to establish a culture of agile development on the Data Space governance, development, and operations.

Systems such as ICS2, EU CSW-CERTEX, customs decisions or other centralised systems are good candidates to be migrated to the Data Space. This could be done with little or no impact to the processes themselves or their actual interfaces as the Data Space will reuse and improve these interfaces (STI, EUCTP).

The term migration is not to be understood technically (as an IT system being migrated from one platform to another), but it implies a potential rebuild from the ground up of an IT system; this issue is taken into account in the costing assumptions.

Other central support systems will be required to migrate as they provide essential reference data to the Data Space. These systems include, for example, TARIC, EOS and CS/RD.

Some Member States systems and economic operators might want to launch initial pilot projects to start using the Data Space or to enable their migrations strategies. At the end of this phase, it is expected that all Member States have defined their migration strategy and planning.

2030-2035 – Initial migration stage

The migration phase implies the actual integration of customs systems into the Data Space to adapt to the new legislation. There are different possibilities to approach the migrations depending on the existing systems' architecture on each Member States.

The key intention is to separate process from data implementation in IT systems. In many cases this is already a reality in Member States customs systems, and in those cases the effort will be mainly twofold: integrating the data within the Data Space (exposing data views using the Data Space services) and adapting the systems processes and functions to the new policy legislation. For cases where the current implementation is a monolithic system (such as for example customs declaration management systems) the separation of data and processes might be more complex; consequently the best choice might be to first bring the system's data onto the Data Space and then gradually transform and migrate the processes by creating new components or re-using common components.

A migration strategy does not entail IT activities only: it impacts the customs actors and the operations themselves. Thus, the main pillar of the migration strategy for each Member State and for an EU authority should be to minimise this impact.

The following migrations approaches are indicative and not necessarily feasible or applicable for all Member States. It is important to envisage different strategies (or a mix of them) where each specific situation is evaluated to ensure the lowest impact and the smoothest transition. The decision on the correct approach should be taken after thorough analysis and when the implementation of the Data Space takes place.

- **Outside-In Approach:** having implemented in the previous phase the core Data Space capabilities (data intake and processing, data model structures, risk analysis, customs officials basic interfaces, etc.), economic operators could be allowed to start at their convenience to supply information to customs using the Data Space; at the start probably trusted EOs would pave the way, but then other economic operators could join into the Data Space, taking into consideration the implementation of the *Trust and Check* scheme.

  This will imply a learning process requiring an agile approach of implementation and evolutive maintenance, to ensure a correct adaptation of the system to the different needs of the Member States. The self-service data projects, and application platform are the key elements to enable this evolution.

  Another important aspect is that national system are always allowed to integrate their functions and/or data with the Data Space, thus enabling a temporary or long-term national implementation to coexists with the Data Space approach itself. For example, it could be foreseen that the guarantee management system of a Member State consumes or provides data on guarantees data within or outside the Data Space.

- **Inside-Out Approach:** This approach follows a reverse process. In this case national systems start integrating with the Data Space to feed information received from economic operators and other national processes. This means allowing the Data Space to view data from national systems and creating data processes in the Data Space that make use of that data, according to the newly defined customs data model. This way a national system could feed the Data Space and benefit from the integration with other EU data.

  Once the process is established, Member States could start migrating users (customs officials and other users) to this new process and consume data through micro-applications.

  This would open the way for a second phase, where also the economic operators can switch to the Data Space interfaces, benefiting from more mature customs applications, adapted to the new customs model.

- **Domain approach:** this approach consists of a sequential migration of the different systems or domains from the less critical to the most critical ones. Depending on the domain, this can be done following any of the two approaches presented above. This allows gaining experience on the adaptations necessary for the Data Space integration and addressing the most critical ones with the acquired experience. For example, a Member States might decide to migrate the Temporary Storage process, or the entry system followed by the transit process and finally the export and import ones.

During this stage the key centralised trans-European systems become capable of exchanging data according to the Data Space paradigm while the trans-European systems that rely on a distributed model will be adapted to the new paradigm via data processes and rules.

Also, several use cases for integration with other authorities with high value and low dependencies should be already implemented and integrated with customs activities in the Data Space.

At the end of this stage, the Data Space has reached its full capacity and implements most of the reformed customs policy.

2035-2037 – Final migration stage

Some residual processes and customs activities (mostly supported by legacy systems and involving national integrations with other functions) will be more difficult to migrate onto the Data Space. This final stage is envisaged to allow for these exceptions to complete the migration.

The final stage is also foreseen to bring the integration with the other authorities to its full value, including policy areas which are not suitable to be integrated in the EU Single Window Environment for Customs, thus fully enabling the collaboration with other authorities described in the reform.

4. IMPACT OF THE REFORM OPTIONS ON EU CUSTOMS IT COSTS

The following sections describe the impact of the options on the IT aspects of EU customs both for Member States, the Commission or an authority, depending on the assessed option, on a timeframe of 15 years.

Using the above architecture as the future implementation of the Data Space, the cost estimations were performed considering two types of costs:

a) the cost of central systems developed and operated by the European Commission; and,

b) the cost of national systems developed and operated by Member States.

The information available for estimating a) is more accurate when compared to the one available for b).

Central systems' operational and development costs are based on actual IT costs borne by DG TAXUD in the last 5 years. Data Space cost are based on the cost of IT systems having similar capabilities implemented by TAXUD, such as: Shared Trade Interface (STI), Safety and Security Analytics (SSA), EU Common Trader Portal (EUCTP), Serv4Dev development services. The relevance of the aforementioned IT Systems comes from the fact that they make the shift to central EU customs processes in these areas, and give a practical experience with

some very relevant issues (common validation, orchestration of processes across different Member State users, giving trade a single EU communication point and supporting that, links to national customs environments, the nature of analytics tools and working methods needed to enable multi-disciplinary exploitation of data, etc.)

National systems costs were estimated through a methodology used in the past to estimate IT development costs together with 9 Member States. This estimation was validated by this group of Member States, and it considers the workload required to develop a new customs system. It is very difficult to provide exact figures on Member State's customs IT spending. In fact, these figures depend on a wide range of factors such as interdependencies with other IT systems within each Member State, structure of the overall customs systems and type of delivery (in-house, outsourced, or mixed).

The analysis is also based on the management of projects of DG TAXUD in developing the large trans-European IT systems, which spans from building and delivering the infrastructure, up to the actual coding of those systems, without neglecting the legislative and non-legislative aspects. However, such an approach presents some limitations: a) the specificities of each Member State and the lack of IT cost data entail a certain degree of estimation; b) IT is an ever-changing domain, with costs quickly changing (licencing, infrastructure, equipment, labour force): therefore, any estimation provided in this report has to be understood in today's economic terms.

Creating this approach using a decentralised model (options 1 and 2) will require an extra complexity of having 27 implementations that are interoperable, sharing a common calendar and requiring the alignment on development definitions.

There are a few caveats which concern the robustness of the assessment results. The first concerns the long period covered. In fact, technology is changing fast, and this key factor strongly influences IT implementations and costs. However large organisations are usually rather slow on adopting new technologies and hence it is taken as an assumption in all options and scenarios that the technological basis of implementation will not change drastically. Nevertheless, it is considered likely that the technology advances will rather facilitate the implementation of data driven systems. ([153])

Another important aspect to consider is that the cost estimation assumes a certain political stability during that period. For example, it is possible that the EU might be expanded beyond 27 Member States in the 15-year period considered; this would quantitatively affect the global cost estimation.

The estimations of the different options' IT costs took into consideration the same assumptions in terms of effort, time, organisation, and technology. For that reason, more important than the total cost of each option is the relative comparison of each of the options. With a good level of confidence, we can say if one option is more costly than or equally costly as another option. The assumptions made within each option and how they vary from one to the other are stated in the corresponding chapter.

It is finally considered in some of the options that the Commission and some national customs administrations are close to saturation of their administrative capacity for IT management.

([153]) Data processing and analytics technologies could be argued to be the most rapidly advancing ones in terms of practical implementations.

Those scenarios where the IT responsibilities for the Commission increase significantly either in the medium or long term might not be feasible without an increase of administrative capacity.

For the EU baseline and the options not implying a paradigm change the estimations assumed a continuity and could be extrapolated from the IT expenditures of the last 5 years (2017-2021).

For the options envisaging the EU customs Data Space, the costs were calculated based on the costs of existing trans-European systems (costs entirely borne by DG TAXUD from infrastructure to software and maintenance) and were adjusted to envisage the necessary adaptation for those systems to operate within a Data Space in terms of complexity and volumetrics.

The yearly costs were calculated by lines of activity based on gradual implementation of Data Space capabilities while phasing out of traditional systems and implementing the central functionalities via data and application projects.

The creation of the customs Data Space is subject to a transition period, during which, existing UCC Systems will coexist in a complementary manner for the reasons explained earlier.

4.1 Baseline from which options are assessed

The baseline is presented to allow comparisons and implies no significant changes from the policy perspective and the completions and continuation of the current programs with no change on the IT governance and approaches.

In terms of program roadmap, the scenario assumes the completion of the UCC systems implementation in 2025.

For this baseline we considered two types of costs:

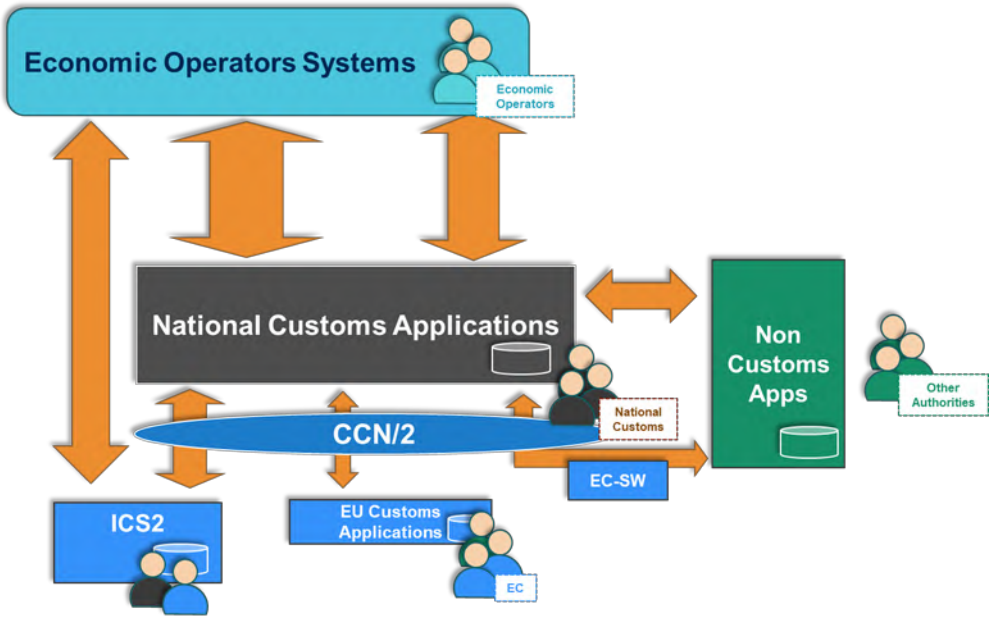
- Operational Expenditure (OPEX) for the day-to-day operations and maintenance of IT systems. These relate to recurrent costs.
- Capital Expenditure (CAPEX) for developing, creating and implementing IT Systems. These relate to one-off investments.

In this baseline, OPEX and CAPEX were estimated assuming continuity of existing UCC systems – including ICS2 -, trans-European systems and some post-UCC projects required in any case after 2025. The costs are extrapolated from the current costs estimated as described in the previous chapter and are considered to be borne by the commission and by Member States as the distributed approach would be continued.

The following diagram provides a very simplified view of the IT architecture if the current model is to be maintained. As depicted in the figure, the weight of customs processes automation and trader interfaces implementation stays in the Member States. ([154])

([154]) This excludes the current interfaces to trade offered by EC as ICS2 Shared Trader Portal, the EU Customs Trader Portal used for Customs Decisions, INF, BTI, etc.

Figure 4-Overview of baseline customs systems implementation



For each of the options, some assumptions had to be made regarding OPEX and CAPEX expenditures both for the Commission, the Member States or the EU Customs Authority. The policy options naturally have consequences in terms of the IT Systems required and these changed the assumptions taken for each option.

As said earlier, the objective is to obtain comparable results and an understanding of the costs' order of magnitude when comparing different options to each other.

The list of assumptions considered for each option will be presented at each point. For the baseline the assumptions are the following:

- **Member States CAPEX (one-off investments)**
  - UCC end of implementation in 2025 when investments will be ½ of current ones; from adoption year onwards annual investments of about 1/3 of current ones are assumed for future programs with a 2% annual increase.
  - Same assumptions apply to trans-European systems development costs.
- **Member States OPEX (recurrent maintenance costs)**
  - UCC operational activity (maintenance and operations) with a 2% annual increase.
  - Future programs maintenance and operations annual OPEX estimated at 30% of their CAPEX.
- **Commission CAPEX**
  - UCC end of implementation 2025; in the last year (2025) 1/2 investment considered.
  - Future programs start 2025, roofed at 1/3 of current CAPEX.
- **Commission OPEX**
  - UCC OPEX continues (maintenance and operations) + 2% yearly.
  - Future programs OPEX 30% of their CAPEX.

The results according to the aforementioned assumptions are represented in the tables and graphs below.

The tables mark in green the adoption year for the customs reform to facilitate comparison with the options. Years marked in dark orange to identify reference initial years of the following MFFs.

The following graph and table depict the baseline annual IT costs in million EUR for all 27 Member States based on the above assumptions.

Figure 5 - Baseline Member States costs

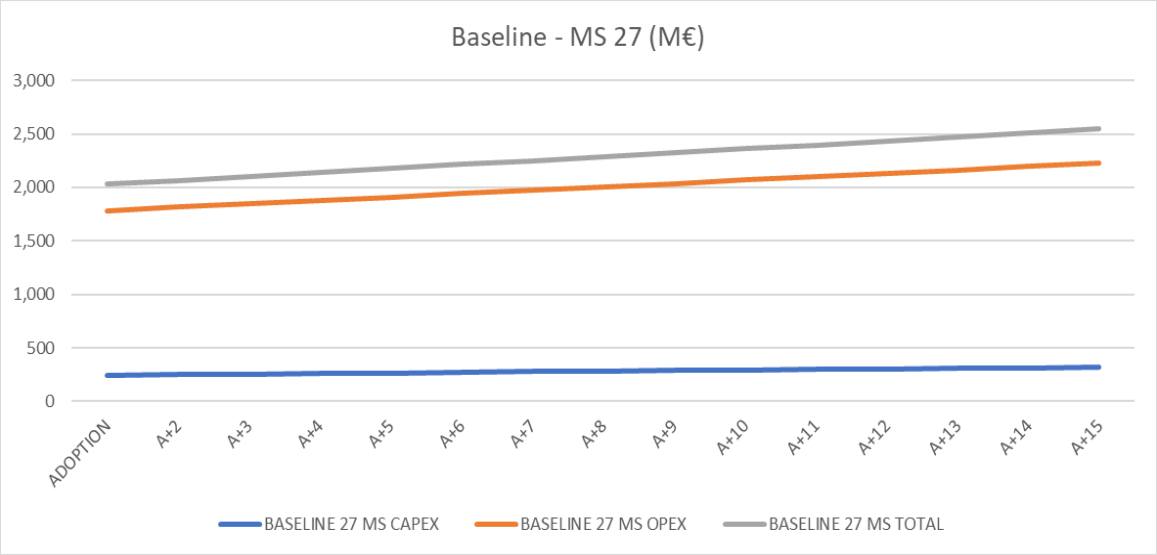


Table 1 - Baseline Member States costs

COST TYPE	ADOPTION	A+2	A+3	A+4	A+5	A+6	A+7	A+8	A+9	A+10	A+11	A+12	A+13	A+14	A+15	TOTAL
CAPEX	246	251	256	261	266	272	277	283	288	292	297	303	309	316	322	**4.238**
OPEX	1.784	1.815	1.847	1.879	1.911	1.942	1.974	2.006	2.038	2.069	2.100	2.132	2.164	2.196	2.227	**30.084**
TOTAL	**2.030**	**2.066**	**2.103**	**2.140**	**2.177**	**2.214**	**2.251**	**2.288**	**2.326**	**2.360**	**2.398**	**2.435**	**2.473**	**2.511**	**2.549**	**34.322**

Similarly, the following graph and table provide the baseline IT annual costs affecting the EU Budget.

Figure 6 - Baseline Commission costs

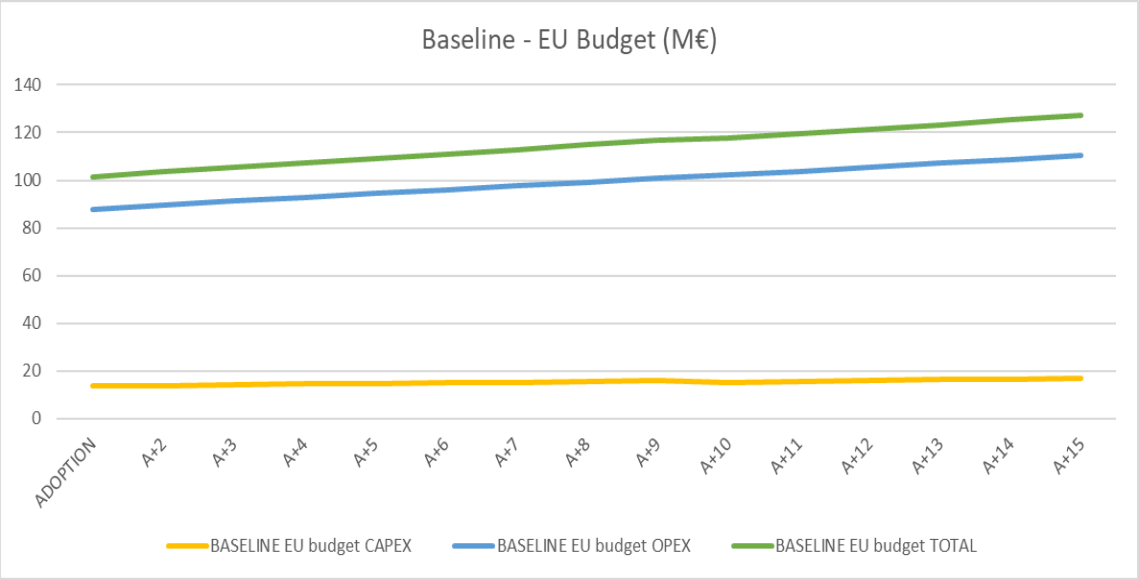


Table 2 - Baseline Commission costs

COST TYPE	ADOPTION	A+2	A+3	A+4	A+5	A+6	A+7	A+8	A+9	A+10	A+11	A+12	A+13	A+14	A+15	TOTAL
CAPEX	14	14	14	14	15	15	15	16	16	15	16	16	16	17	17	**229**
OPEX	88	90	91	93	94	96	98	99	101	102	104	105	107	109	110	**1,487**
TOTAL	**102**	**103**	**105**	**107**	**109**	**111**	**113**	**115**	**117**	**118**	**119**	**121**	**123**	**125**	**127**	**1,717**

The baseline annual cost evolution for IT both for Member States and EU budget a reduction on investments from 2025 onwards parallel to stable slowing increasing of operational costs.

The total number provided in the table consider the whole period including the years before adoption. The comparison of the baseline figures to the options' figures depend on the actual date of adoption.

The **15 years** estimated considered would amount to a total of **34 Billion EUR for the 27 Member States** and **1.7 Billion EUR for the EU Budget**.

The table below presents the total figures using the same period as is used further down in the options, to facilitate comparison:

Table 3 – Baseline Member States and Commission costs

MS/EU	COST TYPE	ADOPTION	A+2	A+3	A+4	A+5	A+6	A+7	A+8	A+9	A+10	A+11	A+12	A+13	A+14	A+15	TOTAL
27 MS	TOTAL	2,030	2,066	2,103	2,140	2,177	2,214	2,251	2,288	2,326	2,360	2,398	2,435	2,473	2,511	2,549	34,322
EU budget	TOTAL	102	103	105	107	109	111	113	115	117	118	119	121	123	125	127	1,717

4.2 Option 1 – A package of simpler processes

This option contains a package of changes to customs processes, to propose a series of solutions to the identified main issues in the customs processes in the UCC. The processes are explained in detail in **Annex 5**. It brings a change on the information paradigm and the customs processes in relation with the economic operators. This option is different from the baseline as it considers there is a paradigm change on how data is used in customs processes.

The existing systems are considerably impacted by this change. As the policy approach taken is a decentralised one, it is assumed the changes are to be applied by the Member States in their own systems. Additionally, it also impacts Commission systems as they will have to adapt on their side to the new paradigm. In practice a decentralised implementation of Data Space platforms has to be put in place by 27 + 1 (Member States + Commission).

The costs estimations are based on the following considerations:

- UCC systems development costs (CAPEX) for both Member States and Commission will be discontinued already on the adoption year. There is nevertheless need for a gradually decreasing OPEX (10 % yearly during 10 years) for these systems during the transition period.
- In the adoption year new projects will be launched based on the new architecture. This will require an investment as assumed in the traditional trans-European implementation for both Member States and Commission. On Member States, there is an additional effort on the implementation of national Data Spaces. This is assumed to take 5 years.
- In the adoption year the transition period is launched for Member States declaration systems mainly which will involve the gradual implementation of all data and associated application projects.
- The current systems will have to be operated in parallel to the new ones, so their OPEX stays for another 5 years. During this period, it is considered that OPEX is required for both legacy and new systems. The larger operational costs will be at Data Spaces (platforms) level while the operational costs of applications will be reduced.
- Operational costs at Commission level will stay similar to current levels with the creation and migration to new interoperability mechanisms with Member States.

For the cost estimations, the assumptions considered for option 1 were the following:

- **Member States CAPEX**
  - UCC end of implementation in 2025 and no more UCC investments in adoption year onward.
  - UCC TES systems development stops in 2025 however an additional year of investment is considered for evolutive maintenance.
  - National Data Spaces implemented in 5 years, starting in the adoption year.
  - Transformation program (legacy to Data Space systems) implies implementation of about 38 application projects and 40 data projects per year for 10 years starting on adoption date.
  - New programs as eCommerce, Single Window, etc. imply 15 each of EU data projects and applications projects per year.

- **Member States OPEX**
  - UCC decreasing during the phase out period, as existing IT systems are replaced by Data Space applications, over a period of 10 years starting on adoption year. Same for TES system maintenance.
  - Data Spaces and new programs applications and data projects maintenance and operations costs accumulate along the years as they are implemented (annual OPEX assumed 15% of CAPEX per project).
- **Commission CAPEX**
  - UCC TES end of implementation 2026; in the last year (2026) ½ investment considered.
  - 10 data projects and 10 application projects per year in the long term to cover the transformation effort.
  - 20 data projects and 20 application projects/year for a period of 5 years starting in the adoption year form implementing new programs.
- **Commission OPEX**
  - UCC OPEX continues, gradual reduction as migration occurs. 20% is left for residual central IT systems.
  - Development by Commission of 10 Commission data processes and applications per year in Member States Data Spaces.

The graphs and table below provide the results on the annual costs based on the above assumptions considering 15 years from the date of adoption of the reform. The green and orange markers in the tables are identifiers of the date of adoption in order to facilitate comparison with the baseline.

Figure 7 – Option 1 Member States costs

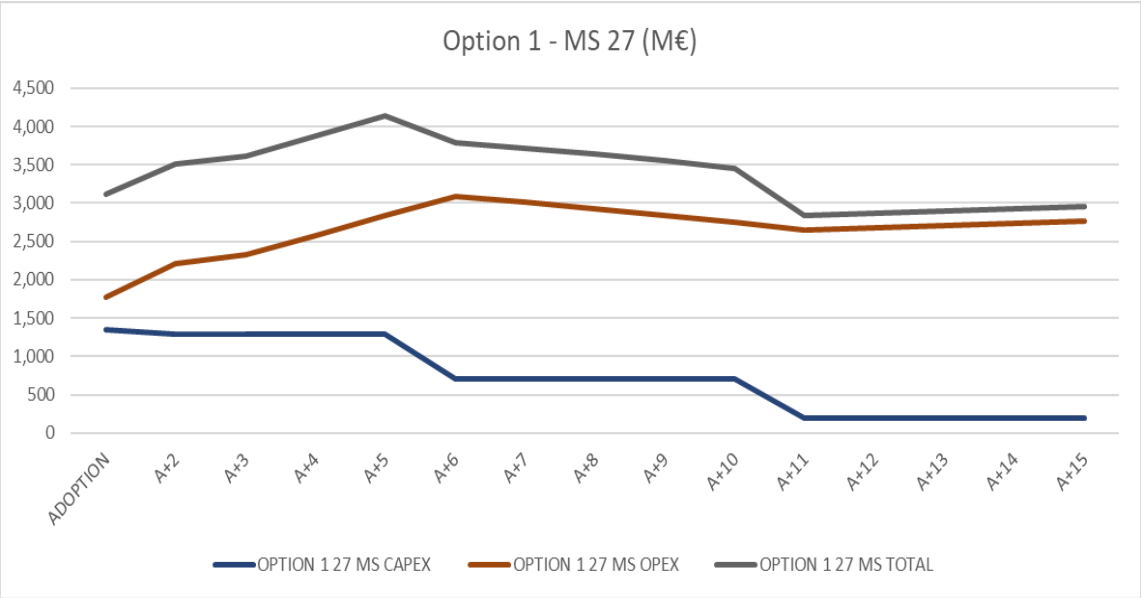


Table 4 - Option 1 Member States costs

COST TYPE	ADOPTION	A+2	A+3	A+4	A+5	A+6	A+7	A+8	A+9	A+10	A+11	A+12	A+13	A+14	A+15	TOTAL
CAPEX	1,347	1,296	1,296	1,296	1,296	704	704	704	704	704	191	191	191	191	191	**11,010**
OPEX	1,772	2,211	2,321	2,583	2,839	3,089	3,014	2,932	2,844	2,749	2,648	2,677	2,706	2,734	2,763	**39,883**
TOTAL	**3,119**	**3,507**	**3,617**	**3,879**	**4,135**	**3,793**	**3,718**	**3,637**	**3,548**	**3,454**	**2,840**	**2,868**	**2,897**	**2,926**	**2,954**	**50,893**

Figure 8 - Option 1 Commission costs

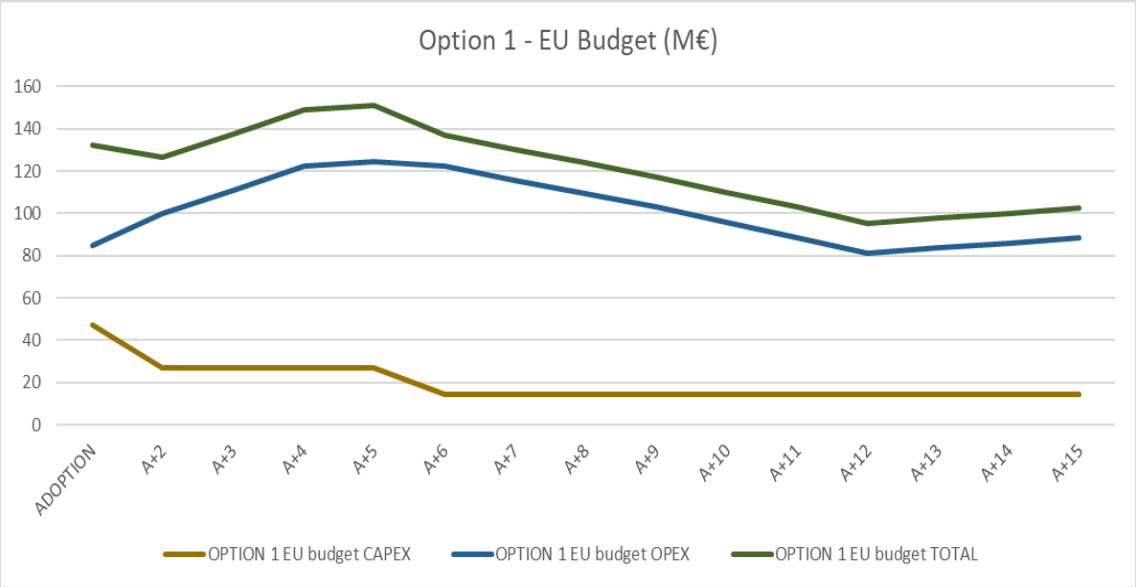


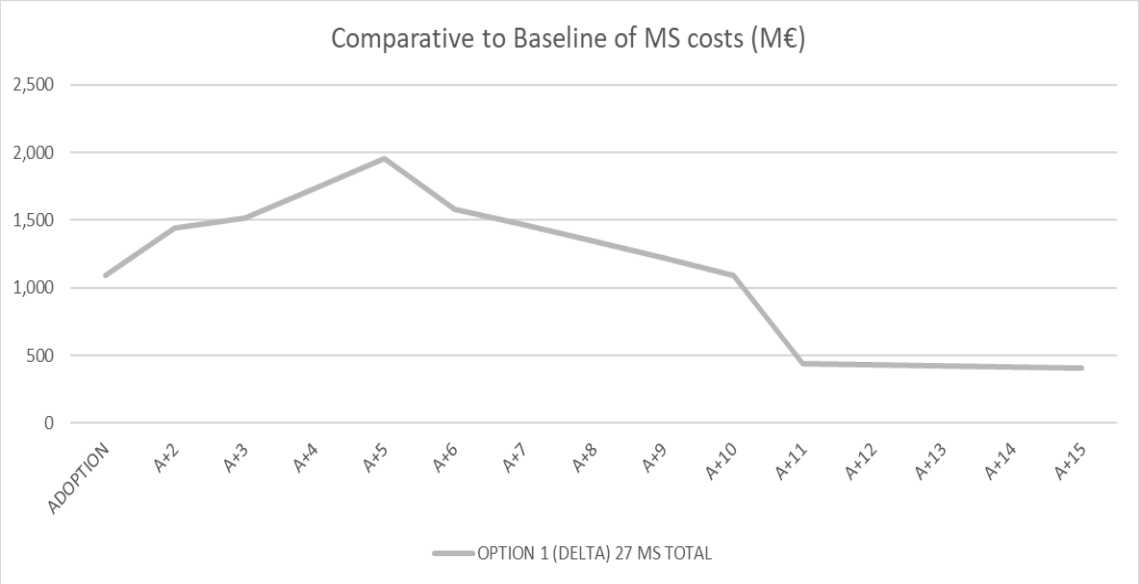
Table 5 - Option 1 Commission costs

COST TYPE	ADOPTION	A+2	A+3	A+4	A+5	A+6	A+7	A+8	A+9	A+10	A+11	A+12	A+13	A+14	A+15	TOTAL
CAPEX	47	27	27	27	27	14	14	14	14	14	14	14	14	14	14	**296**
OPEX	85	100	111	122	124	123	116	110	103	96	89	81	84	86	88	**1,516**
TOTAL	**132**	**126**	**138**	**149**	**151**	**137**	**130**	**124**	**117**	**110**	**103**	**95**	**98**	**100**	**103**	**1,812**

The consequences of this option on IT costs are a notable increase for Member States globally given the effort required to implement and migrate to each of their Data Spaces and a relative stability for the EU budget as the effort involved in integrating national Customs Systems (trans-European interoperability) would decrease as National Data Spaces would mostly assume this task.

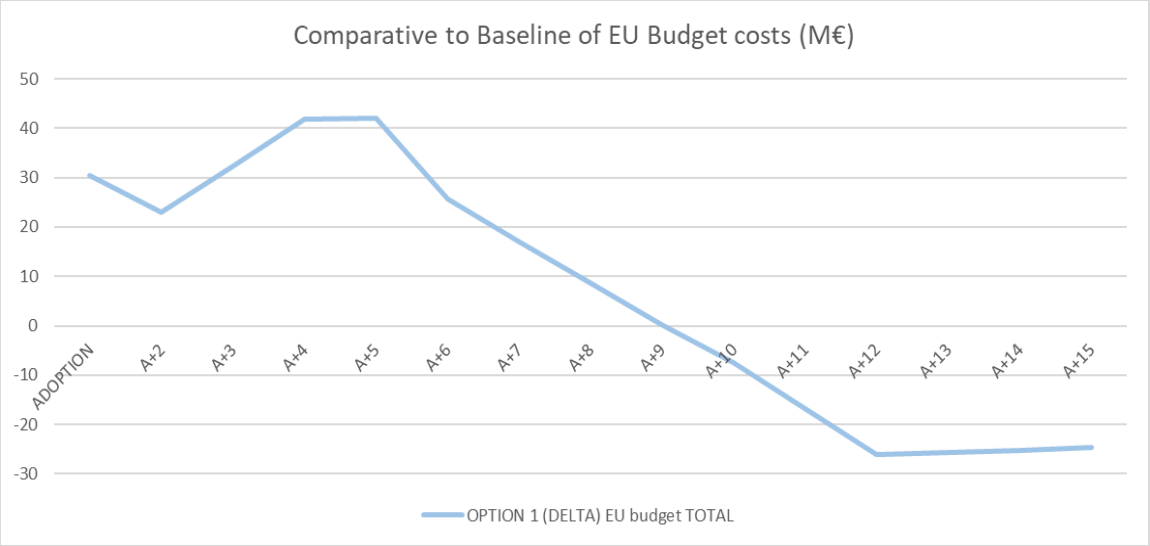
The following two graphs provide the delta between this option and the baseline for Member States and for the EU budget.

Figure 9 - Option 1 Member States costs comparison to baseline



Compared to the baseline this option would imply additional expenses for all the 27 Member States for a total of 16 571 million EUR. The main differences in annual costs would be during the first 10 years after adoption considering the Data Spaces implementation and the transformation effort.

Figure 10 - Option 1 Commission costs comparison to baseline



For the EU budget the initial years after adoption will require an increase as compared to the baseline in order to cover the integration of Commission systems with the Member States Data Spaces and in the longer term a reduction of costs compared to the baseline. This is a reflection that the core effort in this option is assumed by the Member States and the central coordination and interoperability effort is reduced. Nevertheless, in total the overall cost for the 15 years is 96 million EUR more than in the baseline.

4.3 Option 2 – EU Customs Authority for coordination

This option brings a change on the information paradigm as in option 1. It differentiates from the baseline in the same way as option 1, the major difference being the introduction of an EU Customs Authority in the form of an agency

As in option 1, existing IT systems are considerably impacted by this change. As the policy approach taken is a decentralised one, it is assumed the changes are to be applied by the Member States in their own systems. Additionally, it also impacts Commission systems as they will have to adapt on their side to the new paradigm. In practice a decentralised implementation of Data Space platforms has to be put in place by 27 + 1 (Member States plus Commission).

The costs estimations are based on the following considerations:

- Development costs (CAPEX) for both Member States and Commission will be continued until 2025 to complete the UCC implementation. In 2025, only 1/2 investment is considered and then no more development on current systems. There is nevertheless a need for OPEX during the transition period.

- In 2026 new projects will be launched based on the new architecture. This will require an investment as assumed in the traditional trans-European implementation for both Member

States and Commission. On Member States, there is an additional effort on the implementation of national Data Spaces. This is assumed to take 5 years.

- In adoption year the transition period is launched for Member States declaration systems mainly which will involve the gradual implementation of all data and associated application projects.

- The current systems will have to be operated in parallel to the new ones, so their OPEX stays for another 5 years. During this period, it is considered that OPEX is required for both legacy and new systems. The larger operational costs will be at Data Spaces (platforms) level while the operational costs of applications will be reduced.

- Operational Costs at the level of the EU services will stay similar to current levels with the creation and migration to new interoperability mechanisms with Member States.

For the cost estimations, the relevant assumptions considered for option 2 were the following:

- **Member States CAPEX**
  - UCC end of implementation in 2025 and no more UCC investments in 2026.
  - UCC TES systems development (UCC) end in 2026.
  - National Data Spaces implemented in 5 years, starting from the adoption year.
  - EU data projects and application projects/year: 15 of each per year.
- **Member States OPEX**
  - UCC OPEX decreasing during the phase out period, as existing IT systems are replaced by Data Space applications, over a period of 10 years.
  - UCC TES systems maintenance experience a gradual reduction as national Data Space take over, over a period of 10 years.
- **Commission CAPEX**
  - UCC end of implementation 2025; in the last year (2025) 1/2 investment considered.
  - Commission implementing 5 data and application projects and applications per year.
- **Commission OPEX**
  - UCC OPEX continues, gradual reduction as migration occurs. 20% is left for residual central IT Systems.
- **Authority CAPEX**
  - 20 data projects and 20 application projects/year for a period of 5 years starting in the adoption year.
  - Development of 10 EC data processes and applications per year in Member States Data Spaces.
- **Authority OPEX**
  - Authority operates & maintains the created data and application projects.

The graphs and tables below provide the results on the annual costs based on the above assumptions considering 15 years from the date of adoption of the reform. The green and orange markers in the tables are identifiers of the date of adoption in order to facilitate comparison with the baseline.

Figure 11 – Option 2 Member States costs

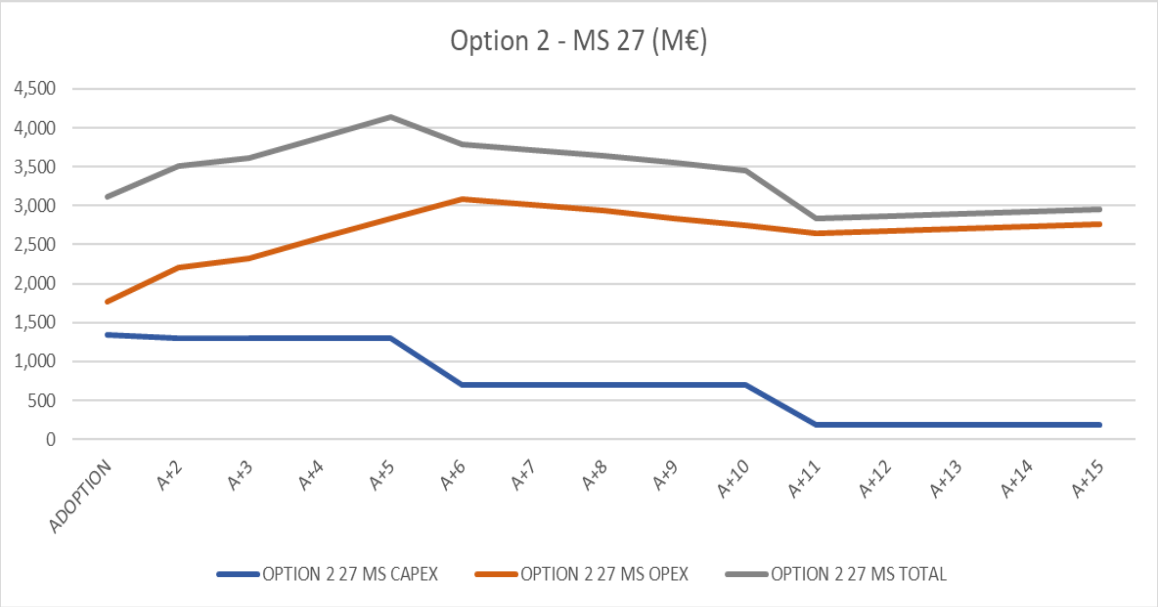


Table 6 – Option 2 Member States costs

COST TYPE	ADOPTION	A+2	A+3	A+4	A+5	A+6	A+7	A+8	A+9	A+10	A+11	A+12	A+13	A+14	A+15	TOTAL
CAPEX	1,347	1,296	1,296	1,296	1,296	704	704	704	704	704	191	191	191	191	191	**11,010**
OPEX	1,772	2,211	2,321	2,583	2,839	3,089	3,014	2,932	2,844	2,749	2,648	2,677	2,706	2,734	2,763	**39,883**
TOTAL	**3,119**	**3,507**	**3,617**	**3,879**	**4,135**	**3,793**	**3,718**	**3,637**	**3,548**	**3,454**	**2,840**	**2,868**	**2,897**	**2,926**	**2,954**	**50,893**

For Member States this option results on costs basically identical to Option 1; a continuous investment effort that reduces in the long term with an overall yearly cost stabilising a bit below current values in the long term.

Figure 12 – Option 2 EU services' costs

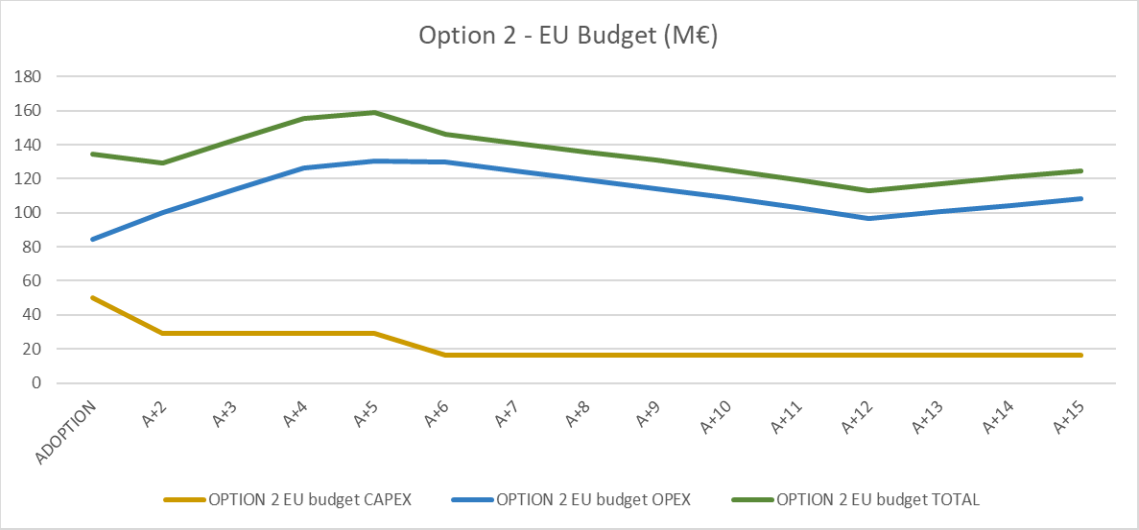
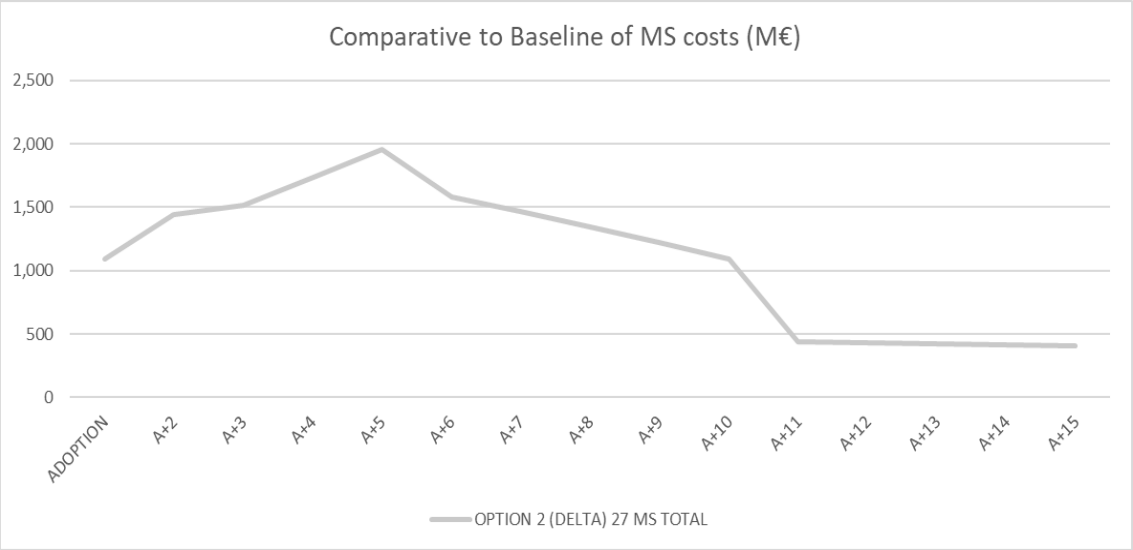


Table 7 - Option 2 EU services' costs

COST TYPE	ADOPTION	A+2	A+3	A+4	A+5	A+6	A+7	A+8	A+9	A+10	A+11	A+12	A+13	A+14	A+15	TOTAL
CAPEX	50	29	29	29	29	17	17	17	17	17	17	17	17	17	17	**331**
OPEX	85	100	114	127	130	130	124	119	114	109	103	97	101	104	108	**1,664**
TOTAL	**134**	**129**	**143**	**156**	**159**	**146**	**141**	**136**	**131**	**125**	**119**	**113**	**117**	**121**	**125**	**1,995**

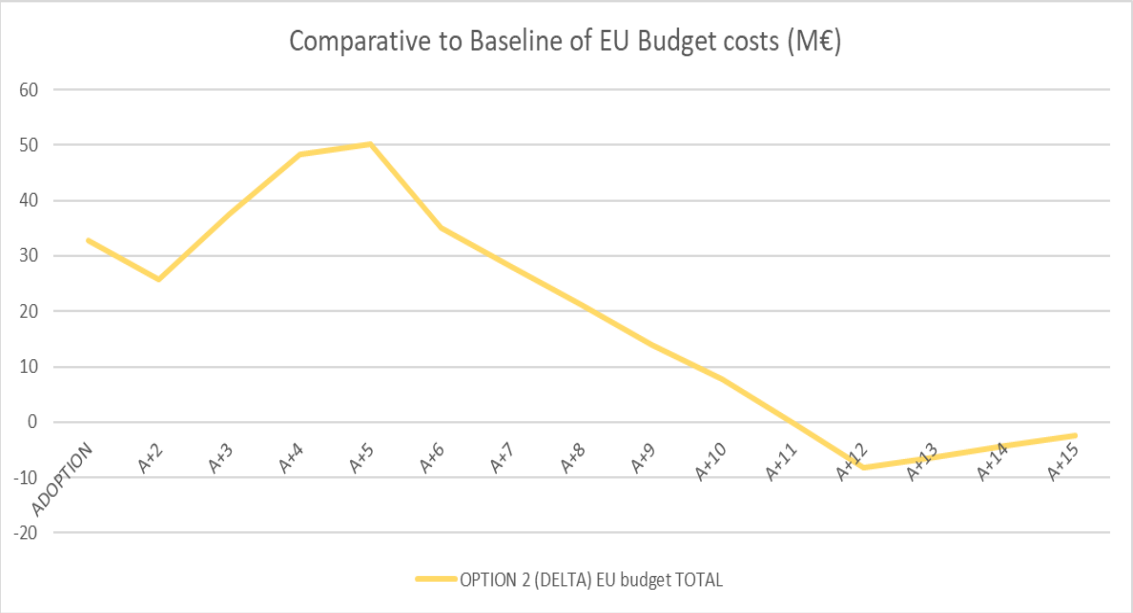
For the EU budget this option is similar to option 1 with a fundamental difference related to the costs of setting systems for the EU Customs Authority.

Figure 13 - Option 2 Member State costs compared to baseline



Compared to the baseline this option would imply additional expenses for all the 27 Member States for a total of 16 571 million EUR. The main differences in annual costs would be during the first 10 years after adoption considering the Data Spaces implementation and the transformation effort.

Figure 14 - Option 2 EU services' costs compared to baseline.



As in option 1 for the EU budget the initial years after adoption will require an increase as compared to the baseline in order to cover the integration of central systems with the Member States Data Spaces and in the longer term a reduction of costs compared to the baseline. This is a reflection that the core effort in this option is assumed by the Member States and the central coordination and interoperability effort is reduced. Nevertheless, in total the overall cost for the 15 years is 279 million EUR more than in the baseline.

4.4 Option 3 – A central EU customs Data Space, managed by the Commission

This option, as options 1 and 2, changes the information paradigm, the customs processes and the relations with economic operators. It differs from options 1 and 2 by making the implementation central, by the European Commission, instead of having a distributed implementation by 27 Member States.

The costs estimations are based on the following considerations:

- The Member States development effort is severely reduced throughout the implementation period and considered zero after 12 years.
- Data Space implementation by Commission is assumed to cost 100% more to cover cross-EU specificities (languages, users trainings, etc.) and integration needs. The Data Space OPEX is assumed to cost 150% more to cover increase capacity and support needs.
- The implementation as in the previous scenarios is gradual starting with the e-commerce and single window from the adoption year and incorporating all other programs sequentially from adoption year.
- Development costs (CAPEX) for both Member States and Commission will end in 2025 to complete the UCC implementation.
- In the adoption year new projects will be launched centrally based on the new architecture which will require an investment as assumed in the traditional implementation for both Member States and Commission with the addition at Commission side of the implementation of an EU Data Space. This is assumed to take 5 years.
- Two years after adoption year the transition period is launched for Member States declaration systems. It is assumed will involve a large reduction in CAPEX for Member States as compared to the baseline given the reinforced centralisation element. This brings larger Commission CAPEX and OPEX costs estimated at 3 times the current ones.
- The current systems will have to be operated in parallel to the new ones, so their OPEX stays for another 10 years adding to the OPEX of the new ones. The larger operational costs will be at Data Space (platform) level while the operational costs of applications will be reduced.
- Operational costs at Commission level will notably increase compared to current levels with the migration to new interoperability mechanisms with Member States systems.

For the cost estimations, the relevant assumptions considered for option 3 were the following:

- **Member States CAPEX**
  - UCC end of implementation in 2025 and no more UCC investments in 2026.
  - UCC TES systems development (UCC) end in 2026.

  - EU Data Space 5 years implementation starting on the adoption year (2x factor for implementation). First two years after adoption gradual embryonic start of Data Space as part of e-commerce.
  - Member State implementation of new programs using EU Data Space: 10 new data projects and 10 app projects/year per Member State for 5 years.
  - Member States transition starting 2 years after adoption date for a duration of 12 years assuming 10 data and application projects per year.
- **Member States OPEX**
  - UCC OPEX decreasing during the phase out period, as existing IT systems are replaced by Data Space applications, over a period of 10 years.
  - UCC TES systems maintenance experience a gradual reduction as the Data Space takes over, over a period of 10 years. Residual OPEX costs for specific national components participating to the Data Space.
- **Commission CAPEX**
  - UCC end of implementation 2025; in the last year (2025) 1/2 investment considered.
  - Development of 50 data and application projects ([155])/year for a period of 5 years starting in 2026 to implement new programs.
  - Development of all core data processes and application in 10 years.
- **Commission OPEX**
  - UCC OPEX continues, gradual reduction as migration occurs. 20% is left for residual central IT Systems.
  - Build of all data processes and application in 10 years. After that period, it is considered that 40 projects per year will be implemented centrally.

The graphs and tables below provide the results on the annual costs based on the above assumptions considering 15 years from the date of adoption of the reform. The green and orange markers in the tables are placed in order to facilitate comparison with the baseline.

([155]) Please refer to section for a definition of Data and Application projects.

Figure 15 - Option 3 Member States costs

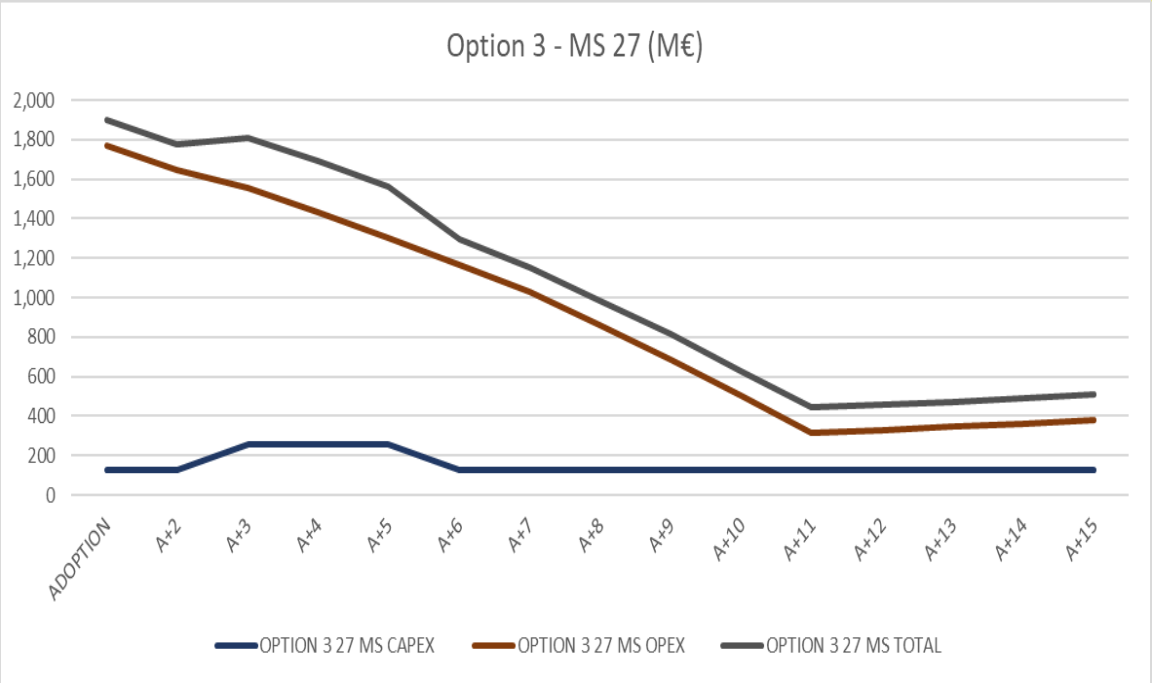


Table 8 - Option 3 Member States costs

COST TYPE	ADOPTION	A+2	A+3	A+4	A+5	A+6	A+7	A+8	A+9	A+10	A+11	A+12	A+13	A+14	A+15	TOTAL
CAPEX	128	128	255	255	255	128	128	128	128	128	128	128	128	128	128	**2,296**
OPEX	1,772	1,647	1,553	1,434	1,304	1,168	1,026	859	685	501	314	329	344	363	383	**13,682**
TOTAL	**1,900**	**1,774**	**1,808**	**1,689**	**1,559**	**1,296**	**1,154**	**986**	**812**	**628**	**442**	**457**	**472**	**491**	**510**	**15,978**

As can be seen this option implies a large reduction of IT costs for the Member States; this is the natural consequence of the centralisation of systems. There are of course certain investment to be made to cover the transition activity and participate in mid-term projects.

Figure 16 - Option 3 Commission costs

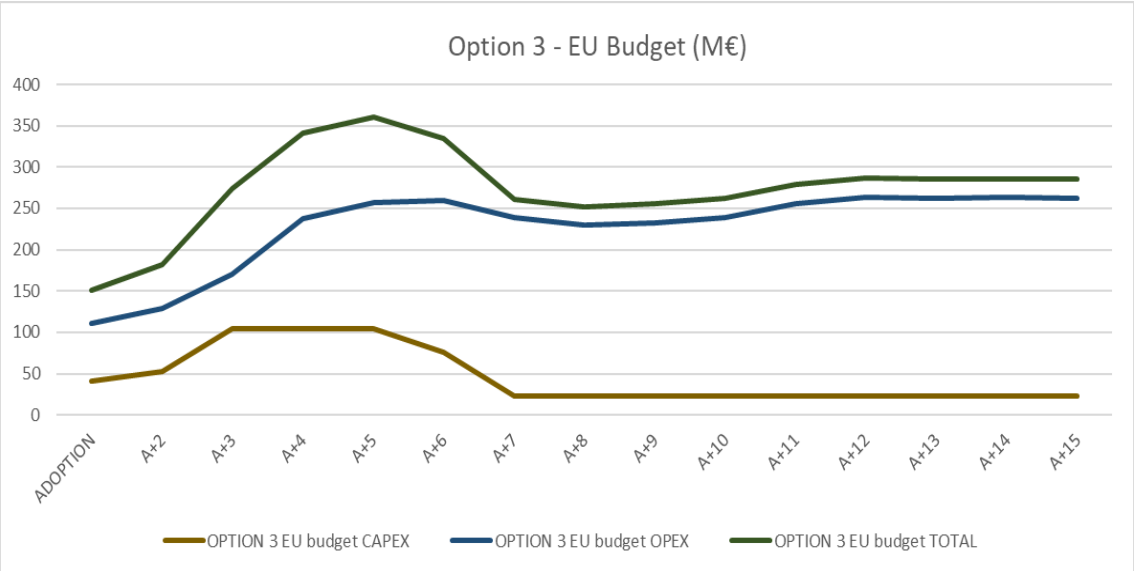


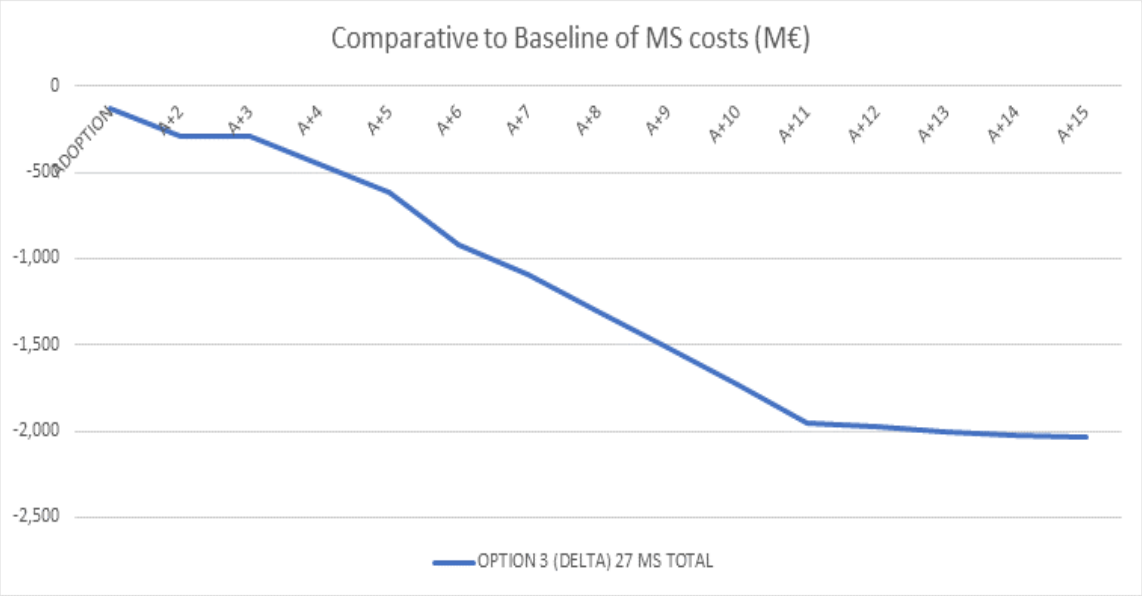
Table 9 - Option 3 Commission costs

COST TYPE	ADOPTION	A+2	A+3	A+4	A+5	A+6	A+7	A+8	A+9	A+10	A+11	A+12	A+13	A+14	A+15	TOTAL
CAPEX	40	53	104	104	104	75	23	23	23	23	23	23	23	23	23	**685**
OPEX	110	129	171	237	257	259	239	230	233	239	256	263	262	263	262	**3,410**
TOTAL	**151**	**181**	**274**	**341**	**361**	**335**	**262**	**252**	**256**	**262**	**279**	**286**	**285**	**286**	**285**	**4,095**

For the EU budget this option implies a significant increase on annual IT costs most specially in the first years after adoption in order to cover the implementation of the Data Space infrastructure and the initial years of the transition where data projects and application projects will need to be implemented centrally gradually replacing the Member States systems.

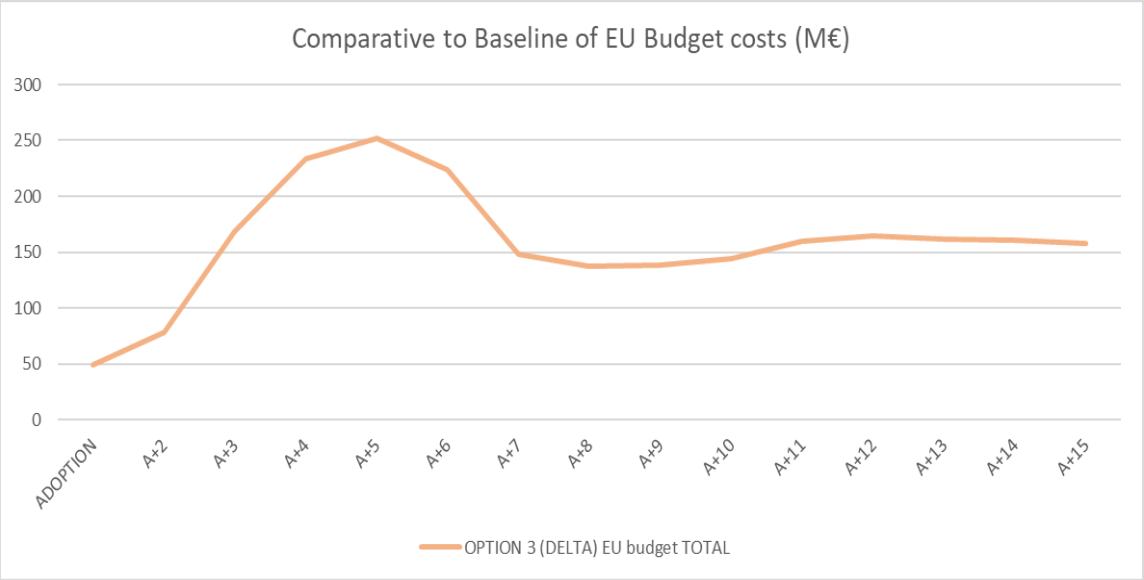
The following two graphs depict the delta of this option as compare with the baseline for Member States and for the EU budget respectively.

Figure 17 - Option 3 Member State costs compared to baseline



For Member States this option leads to saving of over 2 000 million EUR in IT costs annually for the 27 Member States. In total the savings for the considered period as compared to the baseline are of up to 18 billion euros.

Figure 18 - Option 3 Commission costs compared to baseline



The situation for the EU budget is inversed, as in this case the effort increases specially in the mid-term where higher investments are required than in the baseline to implement the infrastructure of the central Data Space. In the long term this scenario implies an additional 150 million EUR annual IT cost for the EU budget compared to the baseline on the same years.

4.5 Option 4 – EU Customs Authority for cooperation and operations, managing an EU Data Space

This option is comparable to option 3. However, the digital implementation is at EU level, implemented by an EU Customs Authority. It differentiates from option 3 by making the implementation central, instead of being implemented by the Commission.

It follows the same assumptions as in option 3 above, with following differences:

- Slightly more ambitious centralisation, more central projects, and less residual Member States activity.
- Data Space implementation is gradual as in Option 3 but implemented by the EU Customs Authority in 2026 (no fundamental changes in costs).

For the cost estimations, the assumptions considered for Option 4 were the following:

- **Member States CAPEX**
  - UCC end of implementation in 2025 and no more UCC investments in 2026.
  - 5 data projects and 5 application projects per year. Considering the first two years for e-commerce and then a gradual increase.
  - Member States self/local implementation in EU Data Space: 5 new data projects and 5 application projects/year per Member State.
- **Member States OPEX**
  - UCC OPEX decreasing during the phase out period, as existing IT systems are replaced by Data Space applications, over a period of 10 years.

- **Commission CAPEX**
  - UCC TES systems development ends in 2026.
- **Commission OPEX**
  - UCC TES systems maintenance experience a gradual reduction as the Data Space takes over, over a period of 10 years.
  - UCC OPEX continues, gradual reduction as migration occurs. 20% is left for residual central IT systems.
- **EU Customs Authority CAPEX**
  - EU Data Space implemented in 5 years, starting on adoption year. The period from 2026-2027 used for embryonic start of Data Space with a forerunner project: e-commerce. Implementation of 10 projects per year.
  - 70 data projects and 20 application projects/year for a period of 5 years starting in 2026.
  - Build of all data processes and application in 10 years. After that period, it is considered that 50 projects per year will be implemented centrally.

The graphs and tables below provide the results on the annual costs based on the above assumptions considering 15 years from the date of adoption of the reform. The green and orange markers in the tables are identifiers to facilitate comparison with the baseline.

Figure 19 - Option 4 Member States costs

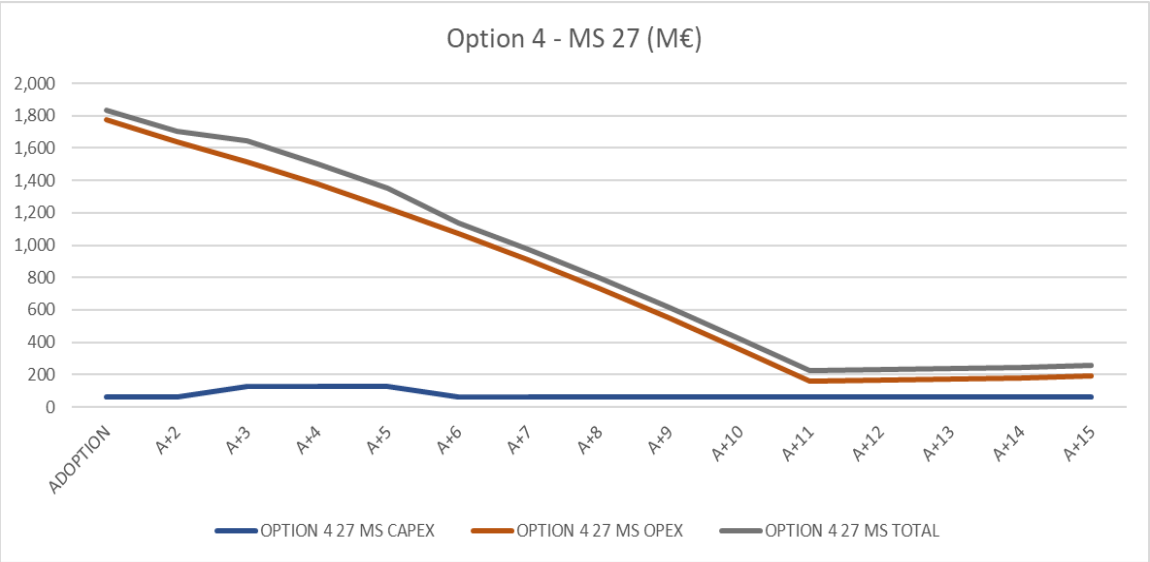


Table 10 - Option 4 Member States costs

COST TYPE	ADOPTION	A+2	A+3	A+4	A+5	A+6	A+7	A+8	A+9	A+10	A+11	A+12	A+13	A+14	A+15	TOTAL
CAPEX	64	64	128	128	128	64	64	64	64	64	64	64	64	64	64	**1,148**
OPEX	1,772	1,637	1,515	1,376	1,228	1,073	911	734	551	357	161	167	172	182	191	**12,027**
TOTAL	**1,836**	**1,701**	**1,642**	**1,504**	**1,355**	**1,136**	**975**	**798**	**615**	**421**	**225**	**230**	**236**	**246**	**255**	**13,175**

For Member States the reduction of costs in the long term is even larger than for Option 3 given that the centralisation is assumed to be even greater than in option 3. Nevertheless for Member States the scenario and savings are very similar.

Figure 20 - Option 4 European Union costs (Commission and EU Customs Authority)

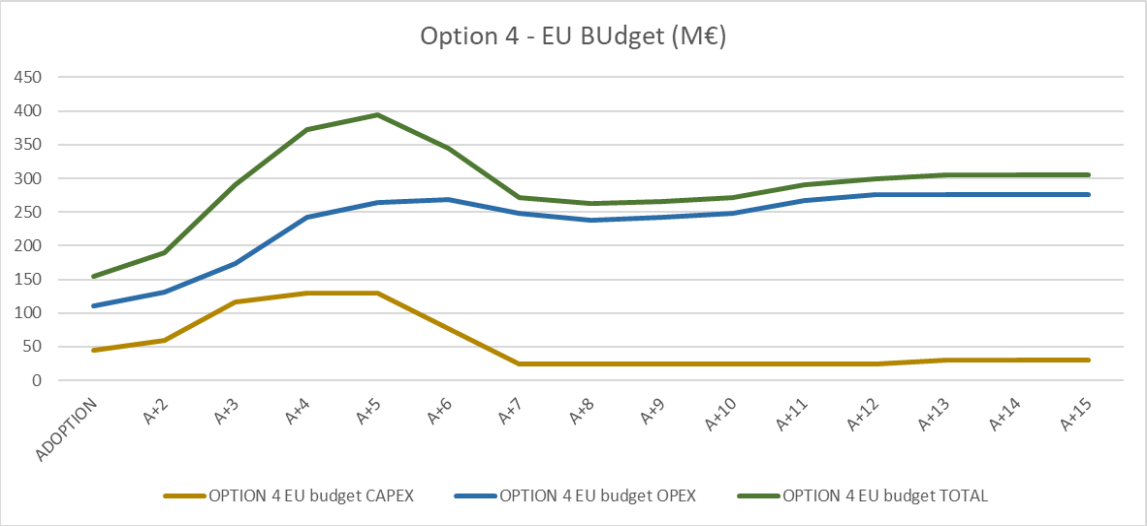


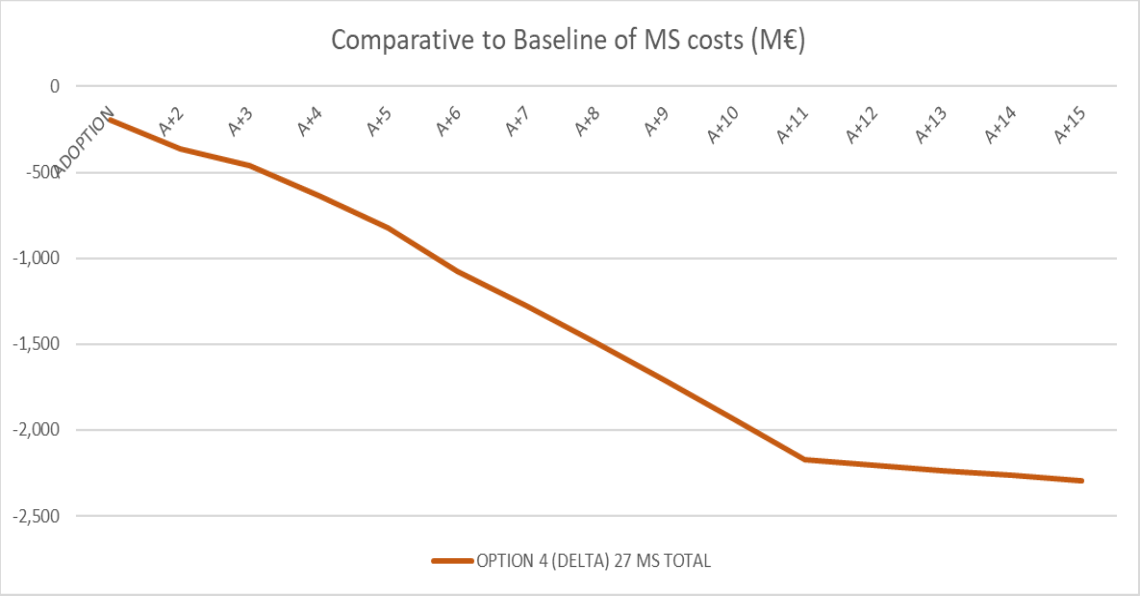
Table 11 - Option 4 European Union costs (Commission and EU Customs Authority)

COST TYPE	ADOPTION	A+2	A+3	A+4	A+5	A+6	A+7	A+8	A+9	A+10	A+11	A+12	A+13	A+14	A+15	TOTAL
CAPEX	44	60	116	129	129	77	24	24	24	24	24	24	30	30	30	**788**
OPEX	110	131	174	242	264	268	248	238	242	248	267	276	276	276	276	**3,536**
TOTAL	**155**	**190**	**290**	**372**	**394**	**344**	**272**	**262**	**266**	**272**	**290**	**300**	**306**	**305**	**306**	**4,324**

For the EU budget this option implies as in Option 3 a strong investment for the implementation of the Data Space infrastructure and a long-term stabilisation on the yearly IT costs in about 300 million EUR.

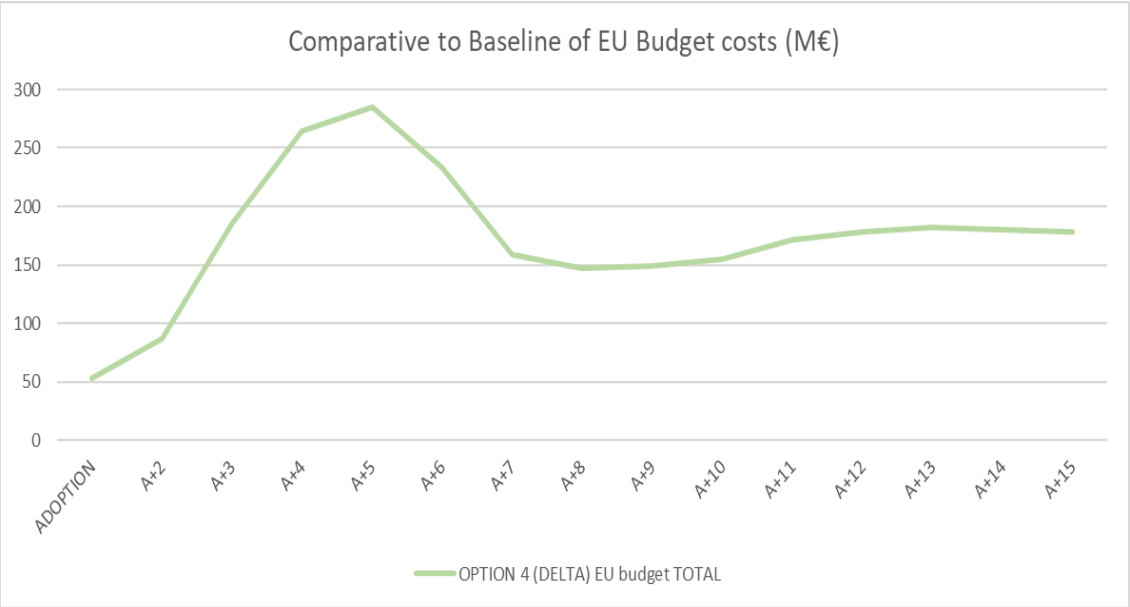
The difference to the baseline is represented in the two graphs below, the first for Member States and the second for the EU budget.

Figure 21 - Option 4 Member States costs compared to baseline



For all 27 Member States, as seen above, the yearly savings increase gradually reaching a value of almost 2.3 billion euros per year. The total saving for the total 15-year period is estimated at about 21 billion euros.

Figure 22 - Option 4 European Union costs (Commission and EU Customs Authority)

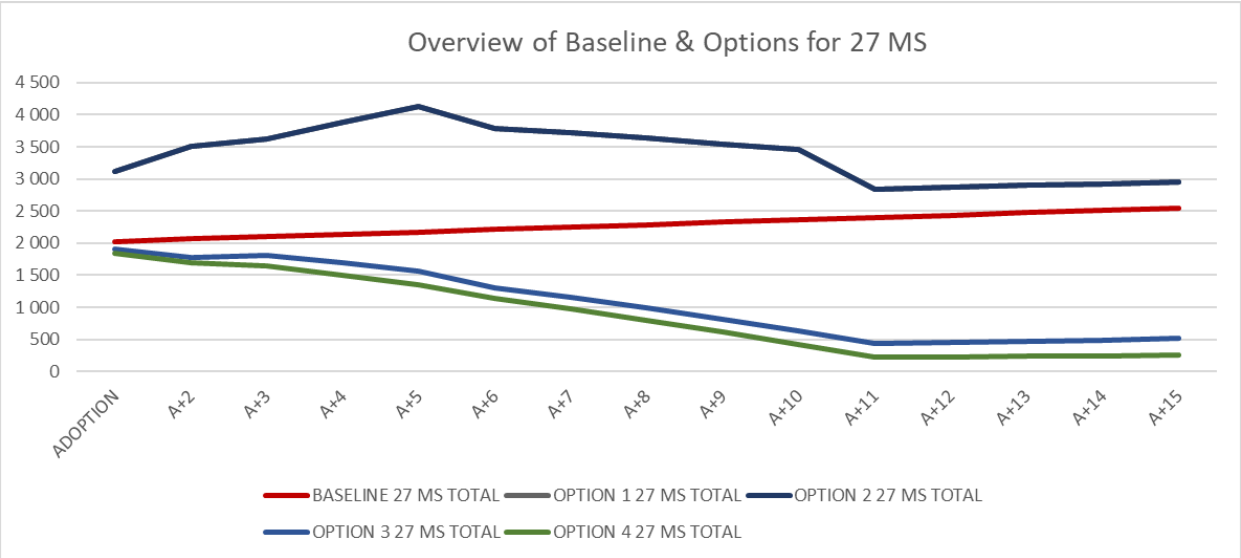


For the case of the EU budget (Commission and EU Customs Authority) the estimations results are again very similar to option 3 but with a slight increase that covers the additions effort to set the base EU Customs Authority's infrastructure and systems and pay for the administrative systems.

4.7 Summary of the options

The following diagram shows a comparative evolution of yearly costs for all 27 Member States of each option relative to the baseline.

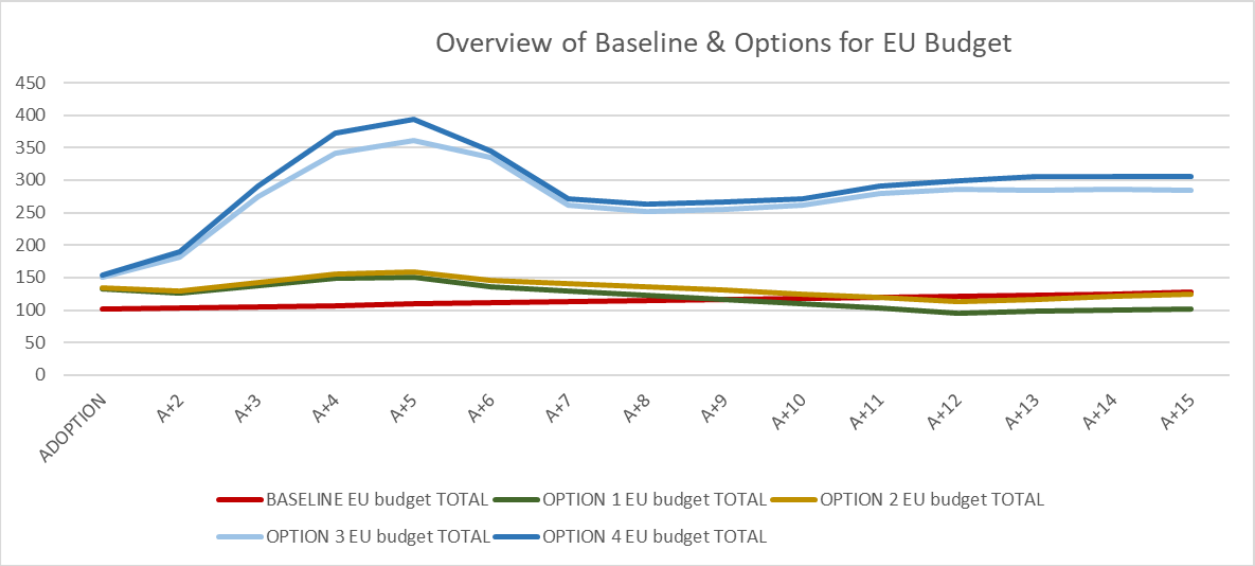
Figure 23 - Overview of Member States costs on all options and baseline



As can be seen the impact of the options in Member States IT costs is either:

- Options 1 and 2: a temporary increase of costs to implement the Data Spaces in the Member States with a long-term stabilisation just over the baseline estimation, or
- Option 3 and 4: a drastic decrease in IT costs in the long term as compared to the baseline.

Figure 24 - Overview of European Union costs on all options and baseline



For the EU budget the options also show two distinct scenarios:

- Options 1 and 2 leading to rather similar or slightly lower costs than the baseline and
- Option 3 and 4 leading to correspond greater increases in central budget.

The costs impacts can be seen in the following table comparing IT costs at global, Member States and central levels on the baseline and the different options for the 15-year period considered.

Table 12 Overall IT costs compared per option and stakeholder

Cost in million EUR	Baseline	Option 1	Option 2	Option 3	Option 4
27 Member States	34 322	50 893	50 893	15 978	13 175
Average per MS	1 271	1 884	1 884	591	487
Central EU	1 717	1 812	1 995	4 095	4 324

It could be argued that technology and or methodology evolutions would allow in the long-term reduction of overall costs as per estimated here. For example, the use of cloud technologies, information management innovations, application development solutions etc. will without doubt appear in the market and enable easier and/or faster and/or cheaper IT systems, affecting the overall cost estimations. Nevertheless, these new technologies would affect similarly all scenarios and the relative comparison would be similar.

More importantly, the assessment provided herein should be considered in context of the overall policy options themselves to weigh them in agreement with the overall policy benefits. No doubt, IT costs and dependency on information technology is a fundamental factor to

weight in and affect greatly the overall picture but while its footprint can be minimised it can only be done to limit. **IT is the fundamental tool of EU customs today and investments are necessary for it to become most effective.**

5. COST ESTIMATION MODEL AND METHOD FOR THE ICT ASSESSMENT

The purpose of this chapter is to explain the logical reasoning, assumptions and calculation that lead to the cost estimations provided above.

5.1 Estimation of Member States costs

This analysis was confronted with a lack of baseline data to use for the Member States' IT costs. This adds to the fact that the IT costs in Member States are very different, and any calculation would be clearly off with respect to the real situation in many of them.

For this reason a statistical approach was made based on indirect input and using a structure previously validated by the Member States. That structure is the EU customs reference architecture defined by a working group with the participation of 9 Member States and later validated by the ECG. ([156])

The customs reference architecture is based on a matrix representation of EU customs functions and data groups versus customs processes; it depicts the current procedural approach of EU customs and it enabled to map IT systems automating any customs capability.

([156]) Published to the ECG in CIRCABC on April 2012 and presented in the ECG226 meeting on EU Customs Reference Architecture on 16/07/2012 (https://circabc.europa.eu/ui/group/74357351-7c61-4729-8f4b-cd92c213ba34/library/b5b3a3ad-f81b-4a08-8c98-4af0f6650ded/details).

Figure 25 - EU Customs reference architecture

EU Customs Reference Architecture

		Business Areas	Core Processes								tomer Relationship Manager				Risk & Fraud			Post-Clearance Controls				Supporting Services		
		Business Processes / Business Functions	Entry	Import	Export	Exit	Transit	Storage	Processing	Specific Use	Operators Management	Authorisations / Decisions	INF / PoCS	Guarantee Management	Risk Management	Physical Inspections	National Fraud Investigation	Appeal & Rectification	Auditing	Other Inspections	Debt Management	Tariff Management & Classification	Enterprise Information Maintenance	Business & Trade Statistics
Functions	Communication Functions	International Communication	FIITIE	IE	IE		FIPLIEEE			IE	ITPLIE	ITPL		PL	FIIEEE		FIIEEE					IE		
		External Communication	NLFISEITPLIEDKEE	NLFISEITPLIEDKEE	NLFISEITPLIEDKEE	NLFISEITPLIEDKEE	NLFISEITPLIEDKEE	NLFIITPLIEDKEE	FISEITPLIEDKEE	FISEITIEDKEE	NLFIITPLIE	NLFIITIE	IE	FIITPLIE	FIPLIE	NLIE	NLFISEIE	NLFISEITIE	FIIE	IE	NLFISEIE	NLSEIE	NLIE	PLIE
		EU Level Communication	NLFISEITPLIEDKEE	FIIEEE	ITPLIEDK	NLFISEITPLIEDKEE	NLFISEITPLIEDKEE	FIDK	IT		NLFISEITPLIEDKEE	NLFISEITPLIEDKEE		NLIE	NLFISEITPLIEEE	ITPLIE	NLFIITPLIEEE		IE			NLSEITPLIEEE	NLSEITIEEE	NLSEITIEEE
		National Communication	NLFIITIEDKEE	NLFIITPLIEEE	NLFISEITPLIEEE	NLFISEITIEEE	FIITPLIEEE	FIITPLIEEE	FIITPLIEEE	FIITPLIEEE	NLFIITIEDKEE	FISEITPLIEEE	IT	FIITIE	FIITPLIEEE	NLFIIE	FIITIE	FIITIE	FIITIE	FIITIE	FIITPLIEEE	FIITIE	FISEITIEDKEE	NLFIITPLIEEE
	Clearance Functions	Declaration Management	SEIT	NLFISEITPLIEDKEE	NLFISEITPLIEDKEE	SEITIEDK	NLFISEITPLIEDKEE	NLFIITPLIEDKEE	FISEITPLIEDKEE	FISEITPLIEDKEE								FIIT	IT	IT		EE	EE	
		Notification Handling	NLFIITPLEE	NLFISEITPLIEDKEE	NLFISEITPLIEDKEE	NLFIITPLIEDKEE	NLFIITIEDKEE	NLFIPLIEDKEE	FIPLIEDKEE	FIIEDKEE								FIIT						
		EU Safety & Security	NLFISEITPLIEDKEE		SEITPLIEDK	NLFISEITPLDKEE	SEITPLDKEE		SEITPL	SE					IT	ITPL	ITPL	IT						
		Risk Assessment	NLFISEITPLIEDKEE	NLFISEITPLIEDKEE	NLFISEITPLIEDKEE	NLFIITPLDKEE	NLFIITPLIEDKEE	NLFIITPLDKEE	FISEITPLIEDKEE	FISEITPLIEDKEE					ITPLIEDKEE	ITPLDKEE	ITPLIEDK	FI	NLFIDK					
		Physical Inspections & Anti Fraud Control	FIITPLIEDKEE	NLFIITPLIEDKEE	NLFIITPLIEDKEE	FISEITPLIEDKEE	NLFIITPLIEDKEE	FIITPLIEDKEE	FIITPLIEDKEE	FIITPLIEDKEE					ITPLDK	NLFISEITPLIEDKEE	NLFISEITPLIEEE	FIPL	NLFIPLIE	NLFIPLIE	PL			
		Duty Calculation		NLFISEITPLIEDKEE	NLSEITPLDK		ITDK	ITPLDKEE	FISEITPLIEDKEE	FISEITPLIEDKEE				EE		IE	IE	NLFIEE	IEEE	IE				
		Customs Duties & Taxes Collection		FIITPLIEDKEE	ITPL		IT	IT	FIITPL	FIITPL				ITIE				FIIT	ITIEEE	ITIE	NLFIPLEE			
	Support Functions	Risk Intelligence	EE	EE	EE	EE	EE	EE	EE	EE					NLFISEITPLIEEE	PL	NLFIITPLIE		IE	IE				
		Financial Management		FIITIEEE	IT		NLFIITIEEE	FIITEE	FIITIEEE	FIITIEEE	IE			NLFISEITPLIE				FIEE	SEEE		NLFIITPLDKEE		EE	
		Laboratory	FI	FIPLIE	FIPL				FI	FI					PL	NLFISEITIE	PL	FIIE	SEIT	SEIT		SEPL	PL	PL
		Manage Decisions & Authorisations and Customs Documents	DK	DKEE	DKEE	DKEE	DK	DKEE	DKEE	DKEE	PLIEDK	NLFISEITPLIEDKEE	FIEE							FI	PL	PL		
		Manage Tariff and CN Information	DK	DK	DK	DK	DK	DK	DK	DK	IE											NLFISEITPLIEEE		
		Maintain Trader Registration Data	DK	DK	DK	DK	DK	DK	DK	DK	NLFISEITPLIEDKEE	PLIEDKEE		EE	PL									
		Maintain Reference & Specimen Data	PLEE	PLEE	PLEE	PLEE	PLEE	PLEE	PLEE	PLEE	PL	PL			PL					PL		PLEE	NLFISEITIEDKEE	
		Trade Statistics Management & Reporting	NLEE	NLFIIEDKEE	NLFIIEDKEE	NLEE	NLFIEE	NLDKEE	FIDKEE	FIDKEE	NL										PL			NLFISEITPLIE
		Business Statistics Management & Reporting	NLFIPLDKEE	NLITPLIEDKEE	NLFIITPLIEDKEE	NLFIPLDKEE	NLFIPLEE	NLFIPLDKEE	FIPLDKEE	FIPLDKEE	NLITDK	NLITDKEE		NLIT	NLFIITPL	NLFIIT	NLFIIT	FIPL	FIPL	FIPL	NLFIPL	NL		NLFISEITPLIEEE
		Facilities & Services & Resources	NLFIPLEE	NLFIPLEE	NLFIPLEE	NLFIPLEE	NLFIPLEE	NLFIPLEE	FIPLEE	FIPLEE	NLPL	NLPL	PL	NLPL	NLPL	NLFIPLIE	NLPLIE	NLPL	NLFIPLIE	NLFIPLIE	NLPL	NLPL	NLPLEE	NLPL
Data Areas		Customs Declarations	SEIT	NLFISEITPLIEDKEE	NLFISEITPLIEDKEE	SEITIEDK	NLFISEITPLIEDKEE	NLFIITPLDKEE	FISEITPLIEDKEE	FISEITPLIEDKEE	FIIE	FIITIE		FIIE	FISEITPLIEDK	NLFIITIEDK	FIITIE	FIITIEEE	NLFISEITIEEE	NLFISEITIEEE	ITPLDK			PLIEDK
		Safety & Security Declarations	NLFISEITPLIEDKEE		FIPLIEDK	NLFISEITPLDKEE	FISEDKEE		PL		IE	FIITIE			FIITPLIEDK	NLFIITIEDK	FIITIE	FIITEE	NLFIEE	NLFIEE				PLDK
		Supporting Documents	NLFIITIEEE	NLFIITPLIEEE	NLFIITPLIEEE	NLFIITIEEE	FIITIEEE	FIITPLIEEE	FIITPLIEEE	FIITPLIEEE		FIITIE		FIIT	FIITPLIE	NLFIITIE	FIITIE	FIITIEEE	NLFIITIEEE	NLFIITIEEE	PL			
		Notifications	NLITPLEE	NLFISEITPLIEEE	NLFISEITPLIEEE	NLFIITPLIEEE	NLFIITPLIEEE	NLFIPLIEEE	FIPLIEEE	FIPLIEEE		FIIT			FIIT	NLFIIT	FIIT	FIITEE	NLFIEE	NLFIEE	PL			PL
		Guarantee Data		FISEITPLEE	SEITPL		NLFISEITPLIEDKEE	FIITPLIEEE	FIITPLIEEE	FIITIEEE		FIITIE		FISEITPLIEDKEE	FIIT	IT	IT	FIITEE	FIITEE	FIITEE	NLFIITPL		IT	
		Payment Data		FISEITPLIEDKEE	SEITPL		IT	IT	ITPLEE	FIITPLEE	IE	FIIT		FIITPLEE	FIITPLIE	IT	FIIT	FIITEE	FIITEE	FIITEE	NLFISEITPLDKEE		IT	PL
		Risk Data	NLFISEITPLIEDKEE	NLFISEITPLIEDKEE	NLFISEITPLIEDKEE	NLFIITPLDKEE	NLFIITPLIEDKEE	NLFIITPLDKEE	FISEITPLDKEE	FISEITPLDKEE	IE	FIITIE		FIIT	NLFISEITPLIEDKEE	NLFISEITPLIEEE	NLFISEITPLIE	FIIEE	NLFISEITIEEE	NLFISEITIEEE				PL
		Tariff & CN Data	FISEITPLIEDKEE	NLFISEITPLIEDKEE	NLFISEITPLIEDKEE	FISEITPLIEDKEE	NLFISEITPLIEDKEE	FIITPLDKEE	FISEITPLIEDKEE	FISEITPLIEDKEE		FIITIE		FIIT	FIITIE	FIITIE	FIITIE	FIIEEE	FIIEEE	FIIEEE		NLFISEITPLIEDKEE	IT	IE
		Reference & Specimen Data	NLFISEITPLIEEE	NLFISEITPLIEEE	NLFISEITPLIEEE	NLFISEITPLIEEE	NLFISEITPLIEEE	NLFIITPLEE	FISEITPLEE	FISEITPLEE	NLFISE	NLFISEIT		NLFISEIT	NLFISEITPLIE	NLFIIT	NLFIIT	NLFIIEEE	FIIEEE	FIPLIEEE	NLPL		NLFISEITIEDKEE	DK
		Business Statistics & Reports	NLFIITIEDKEE	NLFIITIEDKEE	NLFIITIEDKEE	NLFIITIEDKEE	NLFIITIEDKEE	NLFIITDKEE	FIITDKEE	FIITDKEE	NL	NLIT		NLIT	FIITPLIE	NLFIIT	NLFIIT	NLFIITPLEE	FIPLEE	FIPLEE	NLFIPLEE	NLPLEE		NLFISEITPLDK
		Decisions & Authorisations and Customs Documents	NLFISEITPLIEDK	NLFISEITPLIEDKEE	NLFISEITPLIEDKEE	NLFISEITPLIEDK	NLFISEITPLIEDK	NLFIITPLIEDKEE	FISEITPLIEDKEE	FISEITPLIEDKEE	SEITPLIEDK	NLFISEITPLIEEE	EE	FIITIE	FISEITIE	NLFIITIE	FIIT	NLFIITIEEE	NLFISEITIEEE	NLFIITIEEE	ITPL			
		Economic Operators	NLSEFIITPLIEDKEE	NLSEFIITPLIEDKEE	NLSEFIITPLIEDKEE	NLSEFIITPLIEDKEE	NLSEFIITPLIEDKEE	NLFIITPLIEDKEE	FISEITPLIEDKEE	FISEITPLIEDKEE	NLFISEITPLIEDKEE	NLFISEITPLIE		NLFIITIE	NLFISEITPLIEDK	NLFIIT	NLFIIT	NLFIITIEEE	NLFISEITIEEE	NLFIITIEEE	NLFIITPL			PLDK

The mapping was done by the Member States participating in the project and the result is in the colouring of the chart. The intensity of the colour in a cell relates to how many Member States have systems automating that function and is assumed to relate to the complexity or functional weight of the capability in question. A similar action was done considering the data groups involved in the development.

This allows to measure the relative complexity of each vertical process and use it as reference point for relative costs of implementing or maintaining each process automation system.

During the modernised customs code cost assessment exercise, Member States provided input on the potential cost expressed in FTEs involved in fully redeveloping some of the processes above.

Assigning the different inputs as minimum and maximum for those processes and extrapolating on its relative complexity, we could calculate an estimate of minimum and maximum total CAPEX costs of (re-)development of the different customs system processes.

Adding a range of maintenance and operational costs; between 15% and 25% of the total implementation cost is assumed to be the yearly costs of operations for a system (OPEX). Yearly CAPEX cost was assessed based on an average of 5 years of implementation of any of the customs process automation systems.

The result drove to a rough estimation of about 82 million EUR of IT costs in average per Member State. Informal consultations and assessments lead to similar figures, which in turn allowed to conclude that the estimation is good enough in order of magnitude, when compared to the current effort of UCC implementation and operation.

The above baseline estimation of Member States costs is used for the calculations of the costs of the options whenever traditional implementations were considered. In general, a 2% yearly increase of costs was added both for annual OPEX and CAPEX.

The eCustoms costs have been covered in the estimations based on the eCustoms reports of 2017 to 2020. An average has been made of those years together with an adjustment to 27 Member States given that the number of Member States costs reported is not constant along the years. The eCustoms covers the budget involved in the development and maintenance effort to update the existing customs systems to the UCC requirements but does not show the complete IT costs of Member States in other systems nor operations, infrastructure, or other IT service management activities.

A rough assessment of the cost of future programs was done by comparing to a fraction of the current UCC implementation costs as estimated above. As mentioned in the previous chapters, future programs are assumed to be less ambitious than the current UCC which has a rather large impact in IT customs in general. In the worst-case scenario, it is assumed to have 3/4 of UCC eCustoms budget and in less ambitious scenario 1/3 of that. These assumptions affect the longer-term costs of implementations and related operations.

Finally, variations due to legacy phase-out, updates and renovation of systems were embedded in the operational and maintenance costs. In some cases, these renovations would clearly require temporary additional budget, which were not considered in the estimations.

5.2 Estimation of Commission and European Customs Authority costs

In the case of Commission IT spending, the cost information is available.

The Commission customs IT costs (TAXUD not including administrative costs) for 2021 were considered as a good representation of the UCC implementation and operational costs. The values in the estimation were extrapolated from there. As done with Member States estimations, a 2% yearly increase was incorporated in the extrapolation.

The application of the estimations followed the same logic and principles, as for the Member States costs in the different options. These were applied in the options where traditional implementations are considered.

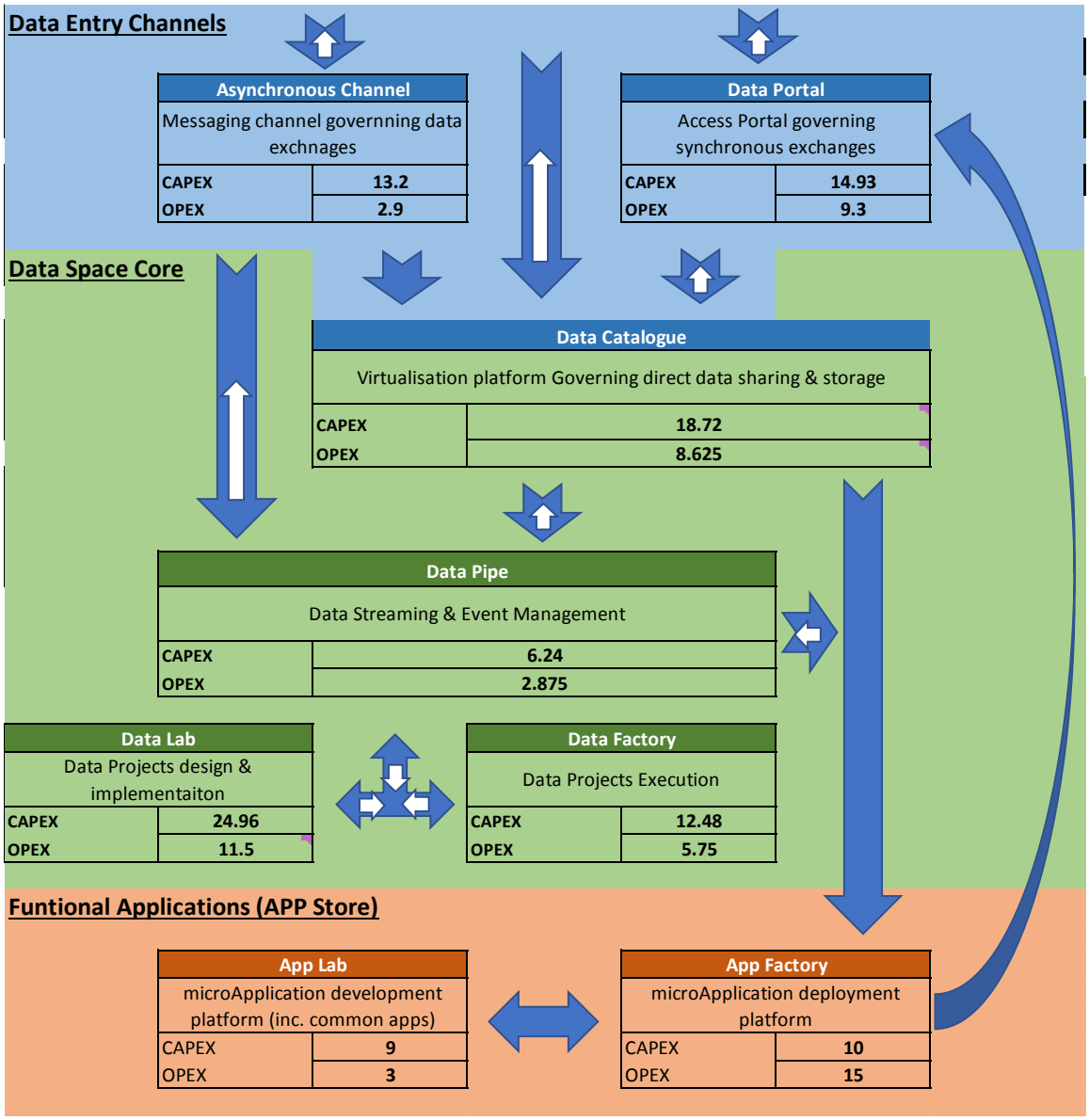
In the options where an EU Customs Authority is foreseen, a 25% increase of operational costs is added to the total budget, for a duration of 2 years. These and the total costs are shared by the Commission and the EU Customs Authority, to cope with the handover/takeover exercise. This is the worst-case scenario on costs but set in a best-case scenario in timing. In fact, a two-year period for the take-over of IT responsibility is considered a minimum.

5.3 Estimation of Data Space costs

The estimation of the Data Space implementation cost both for a central version and a Member States implementation have been estimated based on the capabilities considered necessary for its implementation and, when possible, extrapolation form existing systems providing that capability in the Commission.

The following figure summarizes the different capabilities and the estimated costs for each; in each case the CAPEX is the total cost of implementation while the OPEX is the yearly cost of operating and maintenance.

Figure 26 - Customs Data Space costs estimation



The following diagram represents the six major capabilities considered where implementations exists and the extrapolation factor ([157]) used to assess the Data Space implementation cost (CAPEX) and operational and maintenance costs (OPEX).

([157]) The extrapolation factor here implies the multiplication factor in terms of sizing and complexity (and therefore in costs) for the CAPEX and/or OPEX of the systems implementing that capability.

Table 13 - Capabilities considered for Data Space estimations

Reference Costs	CAPEX	OPEX	CAPABILITY	Extrapolation Factor		Portion
STI+TAPAS	6.6	1.45		CAPEX	OPEX	
	13.2	2.9	Asynch Channel	2	2	-
EUCTP	1.493	0.93				
	14.93	9.3	Data Portal	10	10	-
SSA	31.2	5.75				
	18.72	8.625	Data catalogue	2	5	0.3
	6.24	2.875	Data Pipe	2	5	0.1
	24.96	11.5	Data Lab	2	5	0.4
	12.48	5.75	Data Factory	2	5	0.2

5.4 Estimation of data projects and micro-applications costs

The costs and sizing of data projects and micro-applications were done again based upon the EU customs reference architecture. In both cases (data and applications projects) it was assumed that one data project corresponds to 5 data complexity units in the EU Customs Reference Architecture chart (Figure 25 - EU Customs reference architecture); similarly for micro-applications which would correspond to 5 functional complexity units in the chart.

This would imply a total of 388 data projects and 416 application projects to cover the whole customs chart. In general terms this is equivalent to the automation of customs processes and functions covered in the Customs Reference Architecture chart. Application projects represent the automation of the processes and user interactions while the data projects represent the automation of data processing.

The profiles and man-days of each profile for the implementation of a data project and a micro-application were estimated as follows.

Table 14 - Person-days estimations for project and applications implementation

ROLES	MAN Days for Data Project Implementation within 1 year									
	Data Sources		Data Model / Outcome		Data Services		Data Streaming		Data Processing	
	min	max	min	max	min	max	min	max	min	max
Busines Analyst	5	10	5	10	2	7	5	10	5	10
Data Analyst	10	20	5	10	5	10	10	20	10	30
Data Scientist	5	10	5	10	5	10	5	10	20	30
Data Engineer	10	20	10	20	5	10	10	20	5	10
Total Man Days	30	60	25	50	17	37	30	60	40	80
Average Man Days	45		37.5		27		45		60	

ROLES	MAN Days for Project Implementation within 1 year									
	Data Sources		User Interface		Functions		IT Implementation		Deploy & Operate	
	min	max	min	max	min	max	min	max	min	max
Busines Analyst	5	10	5	10	5	10	2	5	2	5
UI Specialist	1	3	10	20	5	15	5	10	1	3
IT Analyst/Develope	5	10	5	20	10	20	20	60	5	15
Operations Expert	2	10	5	10	2	5	5	10	5	15
Infra Expert	5	10	2	5	2	5	10	20	5	10
Total Man Days	18	43	27	65	24	55	42	105	18	48
Average Man Days	30.5		46		39.5		73.5		33	

The average values were used for all calculations. It is assumed that the same type of team will cover the project maintenance (introduced as OPEX) at a ratio of yearly effort of 15% from the implementation effort.

Annex 8 - Introducing an EU Customs Authority

1. WHY A NEW EU CUSTOMS AUTHORITY?

A new EU Customs Authority would:

- Strengthen the uniform implementation of customs legislation, to create a level playing field and protect the EU economy and revenues, legitimate trade, the single market, citizens and the planet.
- Empower customs to enforce an increasing number of provisions for health, safety, climate and other standards, and in the context of an increasing atomisation of trading in small consignments.
- Coordinate and supervise operational cooperation to increase efficiency and delivery of results.
- Pool and provide technical expertise and data analysis to national customs with clear risk signals.
- Facilitate decision-making on political priorities at Union level based on sound knowledge of and data on the customs union.

In the current situation, there are:

- Areas at Commission level of recurrent, technical and operational nature for which it has neither the mandate nor the critical mass necessary to arrange delivery of the customs union contribution and resolve the divergence and fragmentation in implementation on the ground,
- Areas at national customs administration level, which would benefit from pooling expertise and resources,
- New areas that currently lack central operational support.

2. ROLE AND TASKS OF THE COMMISSION IN RELATION TO AN EU CUSTOMS AUTHORITY

In the customs domain, which is an exclusive competence, the Treaties already equip the EU (i.e. the Council, the European Parliament and the Commission), with sufficient regulatory powers to establish the legal framework. The Commission would keep the powers conferred to it by the Treaties, retaining its current power of initiative (to propose legislation) and its role in monitoring its effective implementation (leading to potential infringement procedures).

The implementation would have to be carried out by the Authority on the one hand and the Member States customs authorities on the other hand. So far, such tasks are shared between the Commission (which contributes in some areas to implementation and provides a very detailed level of guidance and practical actions aimed at a common understanding, also using the Customs programme and the Customs Control Equipment Instrument) and the Member States (which implement the legislation and its guidance).

With the setting-up of an Authority, the Commission could concentrate on its core tasks, which is to design the law and policy and ensure its implementation as guardian of the Treaties.

More particularly, the Commission would ensure the following tasks:

a) **Strategy/Policy/Legislation.** It would entail the following activities:

- Prepare, propose and table legal acts for customs legislation – currently the Union Customs Code and its subsequent modifications as well as implementing and delegated acts.
- Identify on a yearly basis the strategic orientation of the customs policy. Such a task could be made in collaboration with the Member States at high level.
- Follow closely the establishment of the annual and multiannual work programmes of the Authority and provide formal opinions on them.
- Monitor on a yearly basis the work done by the Authority. The Commission could participate to monitoring activities performed by the Authority in the Member States. In any case, the Court of Auditors would have the competence to audit Member States customs authorities, as well as the Authority.
- Prepare and table the annual/multiannual work programmes of the financing programmes under the MFF (CCEI, Customs and Fiscalis, this latter for excise duties and VAT aspects) and control their implementation by the Authority.
- Conduct infringement procedures.
- Ensure the overall communication about the customs union.
- Ensure the continuity of the process by preparing the MFFs.

b) **Own resources**: the Commission would follow up on the collection of traditional own resources and would also keep the possibility of doing budgetary missions in the Member States as well as keeping its anti-fraud investigations powers.

c) **Prohibitions and restrictions**: the Commission would ensure that collaboration with Market Surveillance Authorities is set up in particular at the stage of preparation of legislation implying action and supervision by customs authorities.

d) **Security and safety**: the Commission would ensure that its services work towards an effective collaboration between customs and other areas of law enforcement. The Agency should then include EU Law Enforcement Agencies, such as Frontex and Europol, in the cooperation framework it should set up and maintain with other authorities.

e) **International relations**: the Commission would remain, as per today, in charge of:

- the negotiation and the implementation of the customs aspects of the Free Trade Agreements
- the negotiation and the implementation of partnership agreements
- the preparation of common positions for negotiations of international agreements and in international organizations
- overall, political and policy discussions with the customs authorities of third countries.

3. DIFFERENT POSSIBLE ROLES FOR THE EUROPEAN CUSTOMS AUTHORITY

Options 2 and 4 include the creation of an EU Customs Authority. In both options, the Authority would be an agency, involve Member States, and the implementation of the non-financial policy priorities for customs supervision and risk management would be done by the Authority and Member States.

The Authority would perform tasks related to coordination and capacity building (see 4.2) and the management of community programmes (see 4.3) in both options. However **the role of the Authority is different in options 2 and 4 regarding the data management approach** and, building on that, how the Authority would fulfil its role in **EU data analytics risk and crisis management:**

- **In option 2**, the current decentralized digitalisation model would be continued. The Authority would maintain, and upgrade the current common components of the current IT architecture and legacy. Member States would continue to implement the national components and to run the current IT systems. In parallel, they would also move towards a data-centred approach, by implementing national Data Space solutions. The Authority would get (ex-post) access to national data for risk management purposes. This additional EU layer of risk analysis would reinforce the coordinated action and would help streamlining the approach of Member States in the areas of risk management and controls. The main, real-time risk analysis would however continue to be carried out by Member States in national IT environments. The European Customs Authority would use the improved access to data at EU level to prepare the ground for the Commission to propose priorities.
- **In option 4,** the national IT environments are replaced by an EU common dataspace. This allows the Authority to, in addition to the coordination and capacity building activities, performs operational activities consisting in developing and managing the central Data Space, exploiting and analyzing the data, and performing real-time risk analysis in support of Member States. The centralization of the data at EU level enables the Authority to optimally exploit them to prepare trends assessments and prepare the ground for the Commission's proposal on priorities for risk management.

4. THE TASKS OF THE AUTHORITY

4.1 Digitalisation, Risk and Crisis management

Digitalisation

*Under **option 4**,* the Authority would be in charge of developing and managing the central EU customs Data Space as described in Annex 7. More precisely:

- Direct developments, management and maintenance would be managed by the Authority, (supported by procurement of required framework contracts), including data projects and applications development, data management capabilities and business support services, according to and in alignment with the policy definition, business needs and operational decisions. This would include providing design, development and maintenance of data services and processes, algorithms, user interfaces, system interfaces, workflow capabilities, *inter alia*. This activity further

includes architecture, programme and project management, business support and governance coordination including the data governance.

- In particular, the Authority would manage the systems implementing the single entry point and the related data and applications projects.

- These technical activities and the associated funds, likely provided by a future Customs programme, would be delegated to the Authority by the Commission via a contribution agreement.

The existing Member States applications would be gradually integrated to be eventually included in the proposed Data Space approach. The model would entail a severe reduction of Member States activities and budget while there would be a smaller increase of central costs managed by the Authority. A residual number of activities at Member States can still take place which are estimated to be no larger than 10% of today's needs.

Under Option 2, the current decentralized digitalisation model would be continued. The Authority would maintain, and upgrade the current common components of the current IT architecture and legacy. Member States would continue to implement the national components and to run the current IT systems. In parallel, they would also move towards a data-centred approach, by implementing national Data Space solutions.

Timing

Option 4:

The existing TAXUD applications and support would be handed over to the Authority. During a migration period of about 12 years from the entry into force of the new regulation, the existing IT architecture and legacy would be operated, while the EU Data Space would be implemented in parallel.

The end-goal would allow for the phasing out of the IT systems, i.e. after a maximum of 12 years, after which customs processes would be run based on data management via the portal/platform rather than based on multiple parallel IT systems. During the 12 years period of transformation, Member States would operate the national IT Systems not yet transitioned to the Data Space.

Related necessary procurement activities to support the development of the Data Space should start as soon as the Authority is established and staffed. IT procurement processes are likely to take 1 to 2 years.

Option 2:

The existing TAXUD applications and support would be handed over to the Authority. This should be done gradually over approximately 2 years.

Resources

Option 4:

Compared to the baseline scenario, the Authority under option 4 would manage the setting-up, the functioning and the maintenance of the EU Data Space. This would be achieved partly

with in-house resources and partly by relying on outsourcing work to contractors, in various framework and specific contracts. The focus would be on the tasks related to data projects and data management. A significant part of the work would constitute in contract management tasks (procurement, administration, technical follow-up). An overview of staff per option is in Annex 9.3.

Risk management

Non-financial policy priorities for customs supervision and risk management would be introduced. The Authority's involvement in the prioritization exercise is threefold:

- The Authority will conduct trend analysis and assessments feeding into the Commission' proposal for policy priorities for risk management.
- Afterwards, the Authority will do preparatory work for the implementing provisions (Common Risk Criteria etc.) to be adopted through comitology.
- Finally it would have responsibility for implementation of the risk management priorities and implementing provisions (CRCs) into operational risk profiles, risk signals, etc., either in a coordinating (Option 2) or day-to-day operational capacity (Option 4).

For this particular aspect of risk management, there is a crucial difference between option 2 and option 4, determined by the policy choice on Data management (see 3. Different possible roles for the European Customs Authority)

Effective real-time EU risk management can only be achieved with the introduction of an EU Customs Data Space that can provide the information necessary for the Authority's risk management on a constant basis. Such effective real-time capabilities with a Data Space would also have beneficial consequences for the cooperation framework with the non-customs authorities for fiscal and non-fiscal risks.

This Data Space is not envisaged under Option 2. In Option 2, the authority will only get (ex-post) access to national data for risk management purposes. This additional EU layer of risk analysis would reinforce the coordinated action and would help streamlining the approach of Member States in the areas of risk management and controls. The main, real-time risk analysis would however continue to be carried out by Member States in national IT environments.

In Option 4, both the Authority and national Customs administrations would apply the operational risk management tools in real-time in the EU Customs Data Space. Under Option 4, the Authority will be responsible for preparing the integration/linking of all available data on each transaction/consignment entering/leaving the Union with all relevant information for risk assessment. This entails the full overview and traceability of all consignments entering or leaving the Union customs territory.

This section may be read in conjunction with sections 4-6 of Annex 9 which provide a more detailed, practical illustration of how Options 2 and 4 would be expected to perform.

Options 2 and 4 – Risk management co-ordination

The Authority would:

- Develop common methodologies for assessing risks to support national risk management.

- Provide draft regulatory technical standards on common risk criteria and priority control areas; identify priority control areas and recommend customs authorities to perform more intense controls for a specific period; the priority risk areas would include both financial and non-financial aspects as well as security risks.
- Analyse data (ex-post) on all EU and national/local risk profiles and the associated control results to ensure a comprehensive overview on all risk information available.
- Issue manuals on harmonized standards of inspections and develop guidance material reflecting best practice in relation to customs controls; elaborate operational risk indicator materials to support the national implementation of the criteria.
- Perform research and innovation activities (new technologies etc.) in the areas of data analytics and risk management.
- Liaise with other EU agencies/law enforcement authorities for intelligence and information sharing which would contribute to tackling supply chain risk enforced by the various authorities involved. It would set up operational cooperation with the other EU agencies with a view to efficiently address emerging and identified risks, improve risk profiling and carry out joint audits/control actions (with Europol, Frontex, *inter alia*). Cooperation with other non-customs authorities could also serve the Authority to create new EU level risk signals, e.g. based on chemicals assessments developed by ECHA. The Authority would be in charge of managing the non-financial risks (cf. Annex 6 of this Impact Assessment) and therefore strengthen the overall risk analysis capabilities by translating the complexity of prohibitions and restrictions into operational risk signals.

Option 4: Real-time risk operational management

The Authority would:

- Organise **joint analytical projects** involving both customs and partner authorities, to bring together sectoral knowledge (in for example, market surveillance or security domains) and use the EU Customs Data Space to analyse EU imports (including e-commerce flows) to identify good and bad supply chains. The analysis would systematically include data from all customs processes, risk information, risk analysis and control results.
- Directly design, test and implement **operational indicators** to be used on EU-level data flows, including for the implementation of EU common risk criteria and common priority control areas. It would where appropriate create risk profiles (([158])); issue risk warnings and control recommendations to the Member States. It would arrange signals to be available at the right time for action (including if necessary before loading, potentially saving transport and control efforts) and also for a more systematic, consistent EU-wide intervention across supply chains. With the richer operational data picture in this option, which it manages at EU level, the Authority would be able to significantly improve the discovery of bad supply chains.
- Take a **continuous improvement** approach to indicators, working with Member States and partner authorities to understand which indicators are working well, less well, and why. It would take adapt them immediately to new trends or *modus operandi.* It would

([158]) The expression 'risk profiles' is used in this case to refer to the range of indicators, profiles and other algorithms created using modern analytics methods for application on the common flow of data to identify potentially risky movements or supply chains.

also be able to prepare deeper EU risk indicators to better detect non-compliant or dangerous supply chains.

- In the case of an urgent priority targeting operation, the Authority would arrange for immediate deployment of customs targeting, pan-EU, and rapid delivery of sample cases for enforcement (indicator would be prepared in hours or days rather than months or years).
- Directly arrange the **integration of valuable new data** sources. In particular, as e-commerce platform information would be available in the dataspace, the Authority would systematically integrate it at consignment level and operator (importer) account level.

Timing

The Authority could start its risk management activities upon its creation.

Option 4

In Option 4, it would increase in speed and efficiency alongside the development of the Customs Data Space estimated to be fully in place 12 years after adoption if this option is retained.

Resources

It is estimated that:

- in **option 4**, risk management will be performed in the Authority by an increased number of FTEs (50), as compared to the baseline. The risk analysts will work initially on national data shared by the Member States customs, and later directly on the information from the EU Customs Data Space. This will necessarily improve the risk management. The costs of increasing the staff would be partially mitigated by the transfer of some FTEs from COM, while a small number of staff members will remain at the Commission in order to maintain in-house expertise to follow the Authority's work and to ensure the preparation of political priority setting. These options will also entail a decrease of staff needed at Member States level, as an important proportion of risk management work would be carried out for common benefit at Authority level, reducing duplication of national efforts on (e.g.) establishing and deploying risk profiles across EU data flows.
- In **option 2**, most resources dealing with risk management will be transferred from the Commission to the Authority. However, without a Data Space, the ambition and capacities in this area would not be significantly higher than in the baseline, and the human resources allocated to this area would increase only slightly.)

Crisis management

- The **Commission** would, through comitology, adopt the implementing provisions defining the criteria for considering that a crisis exists and the procedures and protocols to be applied. The legislation would define the criteria for activating the 'crisis management mode', including an empowerment for the Commission to adopt an implementing decision that would define the framework applicable in case of crisis (derogations, exceptions, conditions) and empower the Authority to act in coordination with the national customs authorities.

- The **Authority** would:
  - analyse and understand potential crisis scenarios and impacts on an ongoing basis. It would prepare for effective and efficient protection against any specific threat, including:
    - Mitigation of threat as such (speed, precision, comprehensiveness).
    - Supply chain resilience (e.g. avoiding panic shutdowns of transport infrastructure and flows, where it is possible to better target and filter the risk factors).
    - Collection and evaluation of all relevant information and identification of the options available to prevent, eliminate or reduce the risk as rapidly as possible and make a proposal to the Commission, for the Commission to take the final decision.
  - define the procedures and protocols to be applied when a crisis occurs, whatever its nature is (inter alia sanitary, terrorist, climatic, political, war), within the said framework, in cooperation with Member States, traders and other involved authorities;
  - trigger, organize and supervise the implementation of the protocols and procedures, when such crises occur. It would receive the results of the activation of these protocols and procedures applied by customs authorities. For example, customs officials from one Member State could be sent to another one for helping in a specific situation and for a given time span;
  - manage the relevant systems;
  - monitor the application of relevant measures, analyze the responses of national customs and economic operators, ensure the follow up, and report to the Commission for further action at policy/political level.

Under Option 4, the Authority would in addition:

- Directly implement customs crisis risk analytics on the operational supply chain data flows using the tools in the Data Space, based on the pre-defined protocols and based on close co-operation with Member States and other relevant authorities; the Authority would co-ordinate the operational targeting effort to ensure that crisis-relevant information is collected and deployed immediately and consistently in EU-wide trade filtering (identifying high-risk consignments for possible intervention while helping to ensure that low-risk traffic can continue to flow);
- Directly monitor and adapt operational targeting as the situation develops, on a 24/7/365 basis, and host on-site multidisciplinary teams where necessary in the crisis context
- Use the Data Space to prepare and test crisis response routines with partner authorities in high-priority domains (notably aviation and other transport security and health events)

Timing

The elaboration of protocols and procedures could start as soon as the Authority is formed. Before that time, the current crisis management system could be continued.

Resources

In the baseline scenario, crisis management is done by the Commission, by temporarily freeing resources usually assigned to other tasks. A team could do this in a more structured way in an Authority.

Under options 2 and 4, the Authority would devote part of its staff to the crisis management cell in order to fulfill the above-mentioned tasks. If appropriate staff is provided to serve for 24/7/365 risk management support, part of it could be diverted to crisis mode on demand.

4.2 Coordination and capacity building tasks

This heading presents a series of tasks that an Authority would perform under the preferred option 4 but also under option 2.

Performance measurement

The Authority will carry out the measurement and follow-up of the **customs union's performance** (including Member States customs authorities and BCPs**)**. It would build on the work done today in the Commission but would leverage additional strategic and operational information.

The performance measurement system would rely on the collection of data from the Member States (and other sources) on a compulsory and predefined basis. The results of the performance measurement exercise will be presented to the Member States and the Commission. This should allow the Commission to take informed policy decisions on which domains or sectors would require more attention (virtuous circle) and enable the Authority and Member States to identify in which areas operational follow-up is needed. For the latter, the Authority could set up a dedicated performance review of (a) specific Member State(s), for example under a business review process.

The Authority would also conduct statistical analysis for different purposes.

Under **Option 4**, the Authority would **in addition** use the Data Space for the systematic, granular evaluation of policy delivery for customs risk management operations, for the implementation of customs processes including *Trust and Check* and for the collection of customs revenues. The Agency would use the Data Space to prepare relevant statistical, strategic and operational evaluation information for stakeholders on a pan-EU basis, including for a Customs Union contribution to sectoral strategies and threat assessments.

Timing

This activity should take place as of the setting up of the Authority. It would logically see an enhancement if and when the envisaged Data Space would become operational. Before the creation of the Authority, the Commission could continue its current activities in this field.

Resources

The Commission allocates few resources today to measure customs performance based on data voluntarily provided by the Member States.

Making it compulsory and ensuring consistent measurement in all the Member States and border crossing points (BCPs), the Authority would take over some of these resources. A few resources should however remain at the Commission to assess the performance measurement results and to take informed policy decisions based on the results.

Cooperation with other authorities and law enforcement bodies

The Authority should **cooperate on the ground with other authorities and law enforcement bodies** such as Europol, Frontex, the EPPO, Tax authorities, Market Surveillance Authorities, customs authorities and law enforcement bodies of third countries with a view to performing joint audits, joint operations and investigations, joint training, and for the sharing of equipment. To support sectoral EU policies, the Authority should cooperate with other competent authorities and with other EU agencies (e.g., ECHA), for example to translate a new chemicals priority list developed by ECHA into customs operational risk signals, in a structured way. It would act as an interlocutor facilitating dialogue and operational cooperation with these bodies and could pool expertise to enable more efficient and effective customs supervision and risk management for financial and non-financial risks.

The Authority could support work on international cooperation, helping neighboring countries to adopt EU acquis, share expertise and facilitate a structural exchange of information with selected trading partners, within the framework created by the co-legislators.

Timing

This activity should take place as of the setting up of the Authority.

Resources

In the baseline scenario, this activity is performed only to a limited extent. Resources at the Authority should be sensibly increased in comparison.

Training and human capacity framework

The Authority would be in charge of **defining the content of the training and the human capacity framework for both the customs officials of the MS and for the trade**. For that, the Authority should use, update, complete and maintain the existing tools already developed by the Commission and some Member States and define a common core of training to be translated into all EU languages; it would also imply a common basic training in English.

It would imply a large work of compiling and defining the content of an ideal training upon recruitment and professional training over the career. This is important not only to attract and keep talented staff and to raise the level of knowledge of customs officials to the highest and most harmonized level, but also to adequately train traders often in charge of complex procedures without knowing the basics of a complex customs legislation. To this end, partnership with the academic world would be useful. ([159])

In particular, the Commission already developed and implemented, on a voluntary basis, in some Member States:

([159]) To be noted that some Universities are now launching the concept of a European Training Law Academy by putting together the programmes of series of universities across the EU for giving adequate training to customs brokers and trade.

- The Human Competency Framework for customs officials
- The Human Competency Framework for trade
- E-learnings on UCC and IT systems
- E-books
- CLEP: Common Learning Education Programme and Centres of excellences (e.g. PL for Xray training, SK and CZ for dogs, FI for car search and others to come).
- EU recognition system for universities, giving them an EU label if the content of their training is sufficiently compliant with the EU customs law. Launched in 2018 in a pilot mode, it allowed so far a number of universities to obtain it.

Some Member States have very detailed training programmes, for example in specialized customs schools or university programmes, which should also be compiled and used by the Authority for defining the common programme.

The content of the common programme would be prepared by the Authority. When ready and in order to make it compulsory, it would have to be adopted by the Commission. It would then be implemented by Member States in their own language(s) and organisations (national schools or universities or other). The Authority would monitor the implementation of the common programme. The same approach would be followed for the Human Competency Framework.

The Authority would maintain and further develop e-learnings and e-books and maintain a platform on which these e-tools could be retrieved and completed over time. An existing platform, the Customs and Tax EU Learning portal, could be considered. It could be divided in 2 different platforms, one for Customs and another for Taxation.

A common network of international trainers could organize trainings for other Member States, using the CLEP programme. To allow pooling of expertise, the Authority could consider putting in place and monitor centres of expertise for training, that would be located and operated in a Member State but would be accessible by officials of fall EU customs administrations.

Timing

Such activities could be transferred to the Authority as soon as it is created.

Resources

In the baseline scenario the Commission allocates limited resources to the customs voluntary training programme. A more comprehensive activity coordinating training and ensuring similar implementation in all the Member States, could be implemented in the Authority with slightly more resources.

Monitoring of Customs authorities and BCPs

The Authority should proceed to **monitoring Member States customs authorities and BCPs**. The monitoring started in 1994 by the Commission accompanied by several MS to share best practices, check whether the implementation of the legislation presented issues and help for finding solutions. But it became very limited over time and almost stopped in the

2010s, due to lack of time/resources. Monitoring should resume and would allow Member States and Border Crossing Points diagnostic (based the pilot project under CELBET) allowing a close knowledge of their situation and sharing of information/best practices.

It should be done by the Authority together with Member States (peer reviews). Reports should be compiled by the Authority, communicated to the Commission and to the department managing data. All Member States and Border Crossing Points should be visited and checked regularly against a blueprint measuring their capacity building and formulating recommendations.

In agreement with the Commission, the Authority would define the methodology to apply and the areas to cover.

Timing

This activity should take place as of the setting up of the Authority.

Resources

In the baseline scenario, this activity is not performed.

Joint controls and operations

The Authority could, sometimes in cooperation with other authorities/agencies, **coordinate, plan, support and evaluate joint controls and operations** to address a specific risk for a short, dedicated time period and manage the necessary links and coordination with relevant anti-fraud activities and customs investigations. The joint controls and operations would be performed by the Member States customs authorities.

The feedback results should be given to the Authority for its evaluation. The Authority should coordinate the implementation of Priority Control Areas and maintain the overall coordination, planning and support for external border risk-based customs controls activities among Member States including participation in joint operations and multidisciplinary actions. It could align and integrate the interaction between the risk-based customs control regime and customs antifraud activities including liaison with OLAF and EPPO as applicable.

Timing

The activity can start immediately from the set-up of the Authority.

Resources

In the baseline scenario, this activity is not performed, and would thus require new resources at the Authority.

Guidance on processes and working methods

The UCC has harmonized the provisions in several areas of customs legislation. When the implementation of these rules raises questions by Member States and trade representatives, the Commission **drafts guidance documents on the interpretation of the legislation**, **solutions to practical problems** and **manuals**.

The Commission should keep the competence for drafting interpretative guideline documents on customs legislation, in cooperation with the Member States, trade representatives and other authorities.

The Authority should be in charge of preparing operational guidance or explanatory documents and manuals on the practical application of customs processes and formalities, and on the working methods to be used by MS, for example in order to ensure the same approach in conducting physical and documentary controls. Such preparation can take place in project groups managed by the Authority. The Authority could also develop common standards.

Timing

This activity could start as part of an embryo of the Authority that would be located in the Commission.

Resources

Due to the fact that one of the goals of the reform is to make the customs procedures simpler, it is estimated that the Authority would require less resources to develop and update guidance than currently allocated in the Commission. Furthermore, they would not be dealing with this activity on a permanent basis, but project related.

Some complementary activity in this field, especially when more legislation-related issues are concerned, should remain at the Commission.

In Member States, having a central capability might eliminate the need for most national guidance but the need to translate the documents into all languages would remain.

Classification, valuation, and origin

The Authority could proceed to the elaboration of common interpretation of classification, valuation and origin cases, thus taking the role initiated by the Binding Tariff Information Expert Team, pooling Member States' expertise to resolve complex cases of divergent tariff classification and pursuing the same approach for valuation and origin cases.

However, the Commission keeps its legislative and non-legislative powers as per TFEU: it prepares and adopts the annual updates to the CN regulation and the amendments to the legal acts in respect of valuation and origin issues. The Commission would therefore continue to adopt the implementing decisions on the tariff classification of goods and on the origin of specific goods. The Authority would prepare the ground for the Commission's mission. Member States would issue Binding Origin Information (BOI), Binding Tariff Information (BTI) and the future Binding Valuation Information (BVI).

The Authority could play an important role in the monitoring of the issued decisions, to ensure no contradicting decisions are issued in different Member States. The customs authorities of Member States are competent to implement these common rules. The Authority could ensure the analysis, monitoring and reporting to the Commission of BTI, BOI and future BVI decisions, under the supervision of the Commission who would do the policy analysis of those results.

The Authority could manage operational activities now carried out by Member States, such as administrative cooperation for the verification of preferential origin (digitalisation, exchange

of info, inter alia), also on behalf of Member States. The Authority could update and manage the TARIC, REX databases (for REX, including the related administrative cooperation with third countries) and the electronic proof of origin (not established yet).

The Authority could be competent for defining the unit prices on perishable goods (a procedure which the Commission defines every year such prices based on the market prices of two reference Member States). The current procedure is heavy, its automation difficult, and Member States not always cooperative, while an Authority could have a more efficient role.

The Authority may also take over the coordination of the Customs Laboratories European Network (CLEN), which includes the laboratories providing the scientific expertise needed to enforce customs legislation.

The possibility that the Authority issues these decisions centrally has been discarded because of the amount of staff needed to do so. However, under option 6, the Authority would issue BOI and BTI decisions (and BVI in the future), which are now issued by the Member States. This would ensure full harmonization of these decisions across the EU, by removing any possible divergence in the assessment of the relevant binding information, but would require a very staff-strong Authority (see numbers of decisions below). If the Authority would issue such decisions, it should be decided which entity would monitor them and to which entity appeals would be done.

Timing

This activity could start as an embryo of the Authority.

Resources

Of the resources currently employed in the Commission some should remain for the adoption of the relevant implementing decisions, while a large part could be transferred to the Authority.

Authorisations

Currently Member States grant all authorizations, while the Commission's role is to monitor the compliance of Member States with EU law and the IT management of central applications.

The Commission would keep the power to define in legislation the criteria to become trusted trader and to monitor the compliance of Member States with EU law.

The applications would be addressed to Member States, but filed in a central application managed by the Authority. In terms of support to the Member States, the Authority would manage and centralize the list of *Trust and Check* scheme applicable to trusted importers and exporters in line with the requirements of full commercial transparency.

The Authority would also manage and centralize the list of the operators that do not comply with the scheme. The delivery of this approach would depend on the development of the relevant functionalities in the customs Data Space, enabling the Authority and/or national customs to configure the scope of the *Trust and Check* scheme to financial accounting and to certain pre-defined routine controls for each operator and to manage them operationally. Therefore, such a modification in the approach – if decided – should be developed at the same

path as the move to a data management of the supply chain. Possibly there, the Authority should have a phase in/phase out role to play.

In a more advanced scenario, other authorities' authorizations could also be centralized to some extent. A first step could be a single economic operator account where at least some data could be automatically reused during the authorization processes. The benefit for the economic operators is that the same data would be submitted only once.

Member States would perform the audit of applicants, which can be more or less resource-consuming depending on the final criteria to become trusted trader but would require some IT audit and the Authority could support the Member States on that.

The Authority could coordinate the consultation procedure among the involved Member State. Member States would prepare the final report and adopt a decision. A possibility of appeal by operators could also be envisaged so that the Authority makes arbitrages in case of controversy (not grant/further evidence needed).

As to monitoring of authorizations, Member State would continue to perform the physical checks on operators, but the Authority could configure the scope of the *Trust and Check* approach to financial accounting and to certain pre-defined routine controls for each operator.

Timing

This activity implies that the Authority has established its procedures and working methods with the Commission and the Member States and most notably its access to the necessary IT infrastructure.

It could start as of the setting-up of the Authority but would take full speed over time.

Resources

Only part of this task related to authorizations is carried out in the baseline. When an Authority is created, a few resources should remain at the Commission for the adoption of legal acts, including negotiation of agreements with third countries.

4.3 Programme management tasks

This heading presents a series of tasks that an Authority would perform under the preferred option 4 and under option 2.

Customs Control Equipment Instrument

The Commission could delegate the tasks to manage the implementation of the Customs Control Equipment Instrument to the Authority. Based on the work programme adopted by the Commission for customs control equipment, the Authority would be in charge of the needs assessment, the evaluation of the proposals by the Member States, the signature of the grant agreements, the guidance and the implementation of joint procurement equipment and the verifications of the use of the equipment.

It would also measure the performance realized with the use of the equipment that would nourish the collection of data described above. This is in the current settings of the Customs Control Equipment Instrument regulation (CCEI).

The preparation, drafting and process for adoption of the legislative basis and work programmes would remain within the Commission, while their implementation would be the responsibility of the Authority.

The Authority could as well coordinate equipment-related studies to be carried out by other economic operators, through the drafting of the Terms of Reference, desk research work, evaluating tenders, etc.

Potential further evolution

Having legal personality, the Authority could later go one step further and be given the power to buy equipment and to ensure that it is used according to the needs in each Border Crossing Point (BCP). For identifying such needs, the Authority would have at its disposal information on each BCP updated regularly by all information stemming from all sources, and processed using artificial intelligence (see above). In such a new setting, the equipment would be really common to the Customs Union and could be even shared between BCPs according to needs on a temporary basis (e.g. mobile equipment, easy to move).

The Authority would coordinate the efficient use of the equipment, including support for the use of the equipment (training), maintenance, joint procurement, co-sharing and interoperability of customs control equipment.

Such an extended role would require additional human resources as considerable coordination and logistic efforts would be needed.

Timing

The activity could in principle start from the inception of the Authority, but current on-going activities should not be disrupted.

Resources

The resources currently allocated to this task in the Commission would be transferred to the Authority.

Customs programme

The Commission could delegate the tasks to manage the implementation of the future Customs Programme to the Authority.

An Authority could work to implement the Regulation, the Multi-annual Work Programmes and policy directives/guidance adopted and defined by the Commission for the cooperation activities, relating to the organisation and management of such activities. It would comprise the organisation of meetings and similar events, of project-based structure collaboration, and support actions such as studies and any other actions provided for in the work programme and necessary for its due implementation. It would also contemplate the monitoring, reporting and evaluation of the activities.

The Commission would remain responsible for the legal basis (Customs Regulation) and would prepare and adopt the Multiannual Work Programme. The Commission could make the selection of studies needed.

The Authority would manage the implementation of the Multiannual Work Programmes and proceed to the monitoring, reporting and evaluation of the activities. Programmes will usually have the Responsible Authorising Officer and Authorising Officer by Sub-Delegation responsibilities also move to the Authority's Head. On studies, the Authority's tasks could include drafting the Terms of Reference, desk research work, evaluating tenders; overall, the customs Authority would be responsible for following up on them.

The Member States would participate to cooperation activities.

Timing

The activity could in principle start from the inception of the Authority, but current on-going activities should not be disrupted.

Resources

The posts allocated to this task in the Commission in the baseline scenario would be transferred to the Authority.

5. OTHER AGENCIES

In relation to the governance structure aspect in particular, it was considered whether **existing agencies** such as FRONTEX, EUROPOL, EU-Lisa and CEPOL could potentially host a dedicated department for customs but this has been discarded because none of them covers all aspects that customs deal with and distributing the customs elements in specialized EU agencies seriously risks further fragmentation in the customs union.

- **FRONTEX**. FRONTEX operates at the border and has certain functions (risk analysis research and innovation, training) for which best practices and information could be shared with customs. However, the integration of customs into an existing agency with different competences like FRONTEX could cause loss of customs' identity and make customs' activities subordinate to established activities like border control, return operations etc. Another big obstacle is the current regulatory framework of FRONTEX that does not allow the Agency to 'govern' fiscal customs tasks, such as customs and excise duties. The different legal basis in the EU treaties would be a challenge, with FRONTEX based on the chapter on border checks, asylum and immigration (TFEU Art 77, 79) and the Schengen acquis; and the Union Customs Code as area of exclusive competence (TFEU Art 33, 114, 207). The feasibility study of CELBET concluded against this option.

- **EUROPOL**, the 'EU Agency for Law Enforcement Cooperation'. Many Member States customs authorities already collaborate with and/or participate in EUROPOL (e.g. via liaison officers). At policy level, the European Union Serious and Organised Crime Threat Assessment (EU SOCTA) by Europol with contribution from customs authorities updates EU law enforcement community and decision-makers on developments in serious and organised crime and the threats it poses to the EU. The EU SOCTA is very useful to customs too. Providing customs access to EUROPOL data and analysis results (and vice versa) and ensuring interoperability of IT systems is key to efficiently tackle organised crime in areas of mutual concern. EUROPOL's sole focus on enforcement and fighting organised crime would however make it difficult to reconcile with one of the key elements of the mission of customs authorities: finding the right balance between facilitating

compliant trade and customs controls and enforcement. Europol's Regulation is based on Article 88 TFEU, which limits the cooperation to the prevention and detection of crime. By contrast, the fight against crime is only one of the roles of customs authorities and this is also recognised in the TFEU, as the legal basis for customs cooperation in general is in Article 33 TFEU, within the chapter on internal market, as part of the one of the fundamental freedoms in the internal market, the free movement of goods. Creating a customs department in Europol would therefore necessitate a thorough amendment to the existing Europol Regulation, which has only recently been agreed and, which will strengthen the capability of Europol to carry out research, operational co-operation and analytics and should increase the potential value added from customs-Europol co-operation.

Besides multidisciplinary agencies described above specialised agencies like **EU-Lisa** and **CEPOL** could also be considered for more EU integration in specific customs domains.

- **EU-Lisa**, the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice, manages the large-scale IT systems that are essential instruments in the implementation of the asylum, border management and migration policies of the EU. In this regard, and similarly to the case of FRONTEX and EUROPOL, the legal base of EU-Lisa is based on Title V of the TFEU and in particular on the fact that the Council can adopt measures to ensure administrative cooperation between the relevant departments of the Member States as well as between those and the Commission in the areas of freedom, security and justice. The customs union is a different area of competence and that puts in question the **legal feasibility** of such an option. In addition to this limitation, EU-Lisa is exclusively focused on providing IT services and solutions and could thus only host the development and operational management of the EU customs Data Space and not the analytical capabilities that would be required at EU level to improve the performance of the customs union. In this regard, an option that disaggregates exclusively the IT services assigning them to a specialised IT agency, could be questioned both from the **efficiency and relevance perspective** compared to two alternative options that are already considered and analysed in detail in this impact assessment (Option 3 where both the development of the EU customs Data Space and the improved governance capabilities are located at the Commission or Option 4 assigning them to an agency).
- **CEPOL** (European Union Agency for law enforcement training) already provides support with customs-related training but could not assume any of the other essential tasks.

Annex 9 - Assessment of costs and benefits

1. INTRODUCTION AND METHODOLOGY

This section evaluates the costs and benefits of each policy option, at current prices, per stakeholder group. It supports Sections 6 and 7 of the Impact Assessment as well as Annex 3.

The affected stakeholder groups are:

- Public administrations - EU services;
- Public administrations - Member States customs authorities;
- Businesses and trade;
- Citizens and consumers.

1.1 Approach taken to assessing costs per stakeholder

As customs processes are data-driven, the main compliance and implementation costs arising from the policy Options stem from:

- information technology costs to build and run systems;
- effort or service cost to prepare and exchange information and to handle formalities.

1.1.1 Public administrations (Member States and EU services)

The estimation of **IT** costs is detailed in Annex 7, and the figures are re-used here.

Other costs are expressed in terms of the change in Full-Time Equivalent (FTE) staff.

One-off costs relate mainly to training on new processes. These are also covered in the FTE numbers. The training functions would exist in any event and the portfolio would be rebalanced from old processes to new processes. The full FTE change is therefore reported in the recurrent costs line. No separate one-off costs line is prepared.

1.1.2 Business and trade

Specific cost information is not systematically available for business and trade compliance. Consideration was given to surveying all trade stakeholders to develop estimates. However, the representativeness and robustness of an industry survey on overall administrative costs would be doubtful given the cost and activity structure for customs processes in modern supply chains. Some players carry out formalities themselves, some hire intermediaries, some pay ‘all-in’ cargo or goods prices and do not have transparency on customs specific costs.

For these reasons, the approach taken to estimating costs focused on extrapolation from existing aggregate estimates for customs administrative costs as described in section 3.3. For avoidance of confusion, this assessment addresses ongoing administrative costs (which might

be referred to by trade as "compliance costs"). It does not address one-off adjustment costs, which primarily relate to IT adaptation and training. As explained in the text, these would be more than compensated by reductions in the cost structure for both IT (single interface instead of 27) and training (the adaptation is to simpler, more uniform customs processes).

1.1.3 Citizens and consumers

With the advent of online business-to-consumer sales in particular, **citizens and consumers** are also increasingly participating in the customs processes which are in the scope of the reform through their time, and through non-regulatory charges which they pay to intermediaries. Since 1 July 2021 in particular, consumers have been confronted with the high fees that (notably) postal operators in some cases charge for completing the customs formalities on those goods at the moment of delivery. These formalities are completed as a result of the removal of the VAT threshold, because the customs processes serve to check whether VAT was charged at the moment of sale or needs to be collected upon arrival of the goods, even if there is no customs duty. These fees are very often not known by consumers when buying goods online from third countries, and may be as high as EUR 35. They are not regulatory charges.

A robust quantification of the baseline is not possible in this domain as the commercial charge data is not published. Nonetheless, in all of the options assessed, all changes brought to existing customs formalities in the options simplify the processes and reduce supply chain costs. Consequently no specific cost estimate is prepared for citizens and consumers. This is further explained in section 3.4.

1.2 Approach taken to assessing benefits

The benefits of each policy option will differ in terms of:

- effective and efficient delivery of the General and Specific Objectives as such
- the outcomes enabled in terms of
  - better collection of revenue;
  - better protection for EU citizens and businesses envisaged by EU policies which depend to an extent on customs enforcement work, including prohibitions and restrictions, the Single Market and security;
  - reduction in administrative burden; and
  - overall policy coherence and strategic capability (including adaptability and time to market).

A qualitative assessment is made on the efficiency and effectiveness of each option for the **general and specific objectives.** The evidence gathered for the outcomes enabled – both the quantitative data and the more practical illustration of the key enabling factors in each option - is helpful in that context.

As regards **better collection** outcomes, a dedicated section 4.2 in this Annex shows how each option would improve the situation compared to the baseline. This concerns both the improvement in the prevention of revenue loss (assessed qualitatively), and the specific revenue collection arising from the removal of the €150 customs duty threshold.

For **better protection**, a small representative sample of **use cases** is used to evaluate how each reform option would perform. This does not fully quantify the benefits, but is sufficient for comparison of the options. The cases in **section 5** focus on the customs role in enforcing important EU policies applied to and through trade in goods, under a heading 'Single Market and Sustainability'. The cases in **section 6** look at how customs tackles the exploitation of supply chains by organised crime and terrorism under the heading 'Security'. Quantitative scenarios are prepared where the available data, including data from domain-specific impact assessments, allows an estimate to be made of the degree to which the harm countered by the policy in question relates to imports.

The impact of **savings** from reform of customs processes is addressed in **section 3.3.** The savings come primarily from simplification of processes. Further savings would arise from a reduction in the time taken for customs to process consignments for release, or in a reduction of unnecessary controls due to better targeting; however these are not quantified because as things stand, the vast majority of goods are released very quickly. 95.7% of import declarations are cleared within one hour under the standard procedure (see: Customs are business friendly (europa.eu). The procedural reforms themselves are described in Annex 5.

For **policy coherence**, a qualitative assessment is made of how the options are coherent with other EU policy objectives as relevant. The case studies in sections 5 and 6 in particular look directly at the role of the reform in supporting other EU policies.

For overall **strategic capability**, a qualitative assessment is made on how the reform would enable the Customs Union to be managed 'as one' as a strategic policy capability. This gives a single overall rating, taking account of how each option improves on the baseline, on the following key dimensions:

- capability to prepare and deliver a co-operation framework with other policies to support their delivery in border operations;
- capability to make strategic plans for priorities and organise their delivery 'as one';
- capability to see the EU-wide trade flows (visibility) in operational detail;
- capability to see EU-wide policy performance and have a granular view on how controls and simplifications are being applied);
- capability to adapt to future needs and changing business models (notably, the readiness of the customs union information environment to integrate different information sources, and support flexible action against risks; time to market);
- critical mass - to handle many priorities in parallel and prepare for crisis.

2. TIMING ASSUMPTIONS

2.1 Assumptions for the phased deployment of the reform

The timing for deployment of the elements included in the Options described in Chapter 5 of the impact assessment affects timing of costs and benefits. Highlights:

- Simplifications are available on an EU basis from Year 9 (Y9) in Options 1 and 2, with a gradual migration window from Y6. They are available from Y6 in Options 3 and 4. The EU-wide build of E-commerce processes takes a year longer in Options 1 and 2.
- As from Y4, Authority activities begin to enable some freeing up of Member State FTE resources. The scenarios are noted in section 2.2. ['RM' = risk management].

The assumptions, based on experience in trans-European customs change management, do not imply confirmed timelines, but do illustrate major anticipated differences.

	Option 1	Option 2	Option 3	Option 4
Phase 1 Y1-Y2	**e-commerce** build (national).	**e-commerce** build (national). **Authority** preparation for Risk management (RM) and crisis management tasks.	**e-commerce** completed with dataspace. Preparatory work for a year before UCC adoption [in Options 3 and 4].	**e-commerce** completed with dataspace. **Authority** preparation for all tasks except simplifications support.
Phase 2 (Y3-8 for Options 1-2; Y3-Y5 for Options 3-4)	**e-commerce** completed in all MS- Y3. **Simplifications** build (national). COM support RM processes (JAC using SURV and ICS2 systems).	**e-commerce** completed in all MS-Y3. **Simplifications** build (national). **Authority** preparation for simplifications support. **Authority** as RM and crisis support (using SURV and ICS2 systems).	**Simplifications** build (Data Space). Pilots. COM support RM processes (JAC using commerce data, SURV, ICS2) and COM prepares for Data Space.	**Simplifications** build (Data Space). Pilots. **Authority** preparation for simplifications support. **Authority** builds dataspace and does RM, crisis, performance monitoring, CCEI, Customs Programme.
Phase 3 (Y9-15 for Options 1-2; Y6-15 for Options 3-4)	**Simpler processes** (build and trans-European interconnection continues) start to be phased in. Pilots. Migration window to basic level across full EU Y9 (national support). COM supports RM for **additional risks** over time (JAC).	**Simpler processes** (build and trans-European interconnection continues) start to be phased in. Pilots. Migration to basic level across full EU Y9 (national support). **Authority** supports RM for **additional risks** over time.	**Common EU simpler processes** deployed in dataspace Y6 (advanced – trusted model) (national support). COM support builds up on RM processes on Data Space (JAC).	**Common EU Simpler processes** deployed in dataspace Y6 + **Authority** supports delivery. **Authority** role on all tasks is **broader and deeper** (all customs processes integrated, **all priority risks** addressed).

2.2 Customs Action Plan

The Commission's **Customs Action Plan** (CAP) adopted by the College in 2020 identified a series of measures that are considered as "*a first step towards achieving the vision generated in the foresight exercise*". The CAP is preparatory to the customs reform covered in this impact assessment. An interim evaluation of the UCC was carried out under Action 7, and the assessment of a Customs Agency (Action 17) is addressed in this assessment. The actions in the Customs Action Plan are scheduled for completion by 2025. Their status and relevance is summarised in the table below.

The assessment of costs and benefits takes full account of the CAP. The baseline assumes implementation of all non-legislative actions. In so far as the CAP actions point to possible legislative actions, those are all addressed in the policy options (the CAP is not a legislation programme and does not in itself produce legal changes in the baseline).

No	*Activity*	*Link with the customs reform*
1	*EU Joint Analytics Capabilities (JAC)*	The JAC carries out specific projects, within the limits of the baseline legislation, data and governance. These projects are useful learning experiences which will assist with the practical preparation of risk management in each Option.
2	*Revised risk management strategy*	The risk management strategy includes short-term and long-term actions. The long-term actions are part of the customs reform
3	*Using VAT data for customs purposes*	Specific risk management project that illustrates the kind of outcome that a more structured cooperation between customs and other authorities could bring in a reformed customs union
4	*Revisit role and obligations of e-commerce actors*	The legislative and digital changes needed to reinforce the role of certain e-commerce actors are part of the customs reform
5	*Stepping up the AEO programme*	The legislative changes needed to reinforce the AEO programme are part of the customs reform.
6	*EU Single Window environment for Customs*	Parliament and Council adopted the proposal on 23 November 2022. The implementation of the SW is part of the dynamic baseline considered for the reform
7	*Union Customs Code evaluation*	Published on 31 May 2022. It feeds the impact assessment for the customs reform
8	*Common system of customs sanctions*	The report summarizing the findings of the expert group is to be published and feeds the customs reform
9	*Legal framework to combat customs fraud*	Regulation 515/97 will not be reviewed but one of the objectives of the customs reform is to better combat customs fraud
10	*Import of non-compliant and dangerous products*	The improvement on the baseline brought by the reform is described in the use cases in Section 6
11	*Monitor the functioning of preferential trade arrangements*	Not directly linked to the customs reform

12	*International cooperation in customs matters, in particular China*	Not directly linked to the customs reform [the legislative changes needed to allow an automated exchange of information with third countries will be part of the customs reform]
13	*IT cooperation with security and border management authorities*	Increasing cooperation and exchange of information between customs and non-customs authorities is one of the goals of the customs reform
14	*Customs Union Performance*	The legislative changes needed for an effective measurement of the customs union performance are part of the customs reform
15	*Modern and reliable customs control equipment (CCEI)*	The CCEI could be the embryo of an EU wide customs equipment capability in a reformed customs union
16	*Cooperation under the Customs programme (MFF 2021-2027)*	The Customs programme funds the expert teams that serve as inspiration for a strengthened cooperation among the Member States in a reformed customs union
17	*Smarter management of the customs union – assessing the possibility of an agency*	The wise persons group delivered its report on 31 March 2022 and the Reflection Group with the Member States was launched thereafter to feed the customs reform

3. COSTS

This section analyses the incremental cost compared to baseline for each option, for the affected stakeholders:

- Public administrations – EU services;
- Public administrations – Member States customs authorities;
- Businesses and trade;
- Citizens and consumers.

3.1 Public administration - EU services

Total EU staff for Customs Union	**Baseline**	**Option 1**	**Option 2**			**Option 3**	**Option 4**		
Number of FTEs at COM and EU Authority if applicable	COM	COM	COM	Authority		COM	COM	Authority	
	250-270	250-270	168	35	risk management	347	170	50	risk management
				5	crisis management			9	crisis management
				5	cooperation			10	cooperation
				60	data management			115	data management
				19	Training & common processes			19	Training & common processes
				22	horizontal services			22	horizontal services
				0-30	operational coordination			0-25	operational coordination
				146-176	total			225-250	total
Total estimated administrative cost, assuming 2/3 temporary agents and 1/3 contract agents (current prices, Million EUR/year)	37.6	37.6	24.3	25.4		50.2	24.6	36.2	
			Total Option 2 49.7				Total Option 4 60.7		

Explanatory notes:

- In Option 1, improvements would be done with the current governance. The staffing at the Commission would therefore be stable as compared to the baseline.

- In Option 2, an Authority in the form of an agency would be created. The Authority would be in charge of risk management (preparing decisions on risk priorities and implementation of risk management provisions) and crisis management activities and would take over other activities as explained in Annex 8. However, under this option no EU Customs Data Space would be created. As a result, less staff would be required for IT and Data management, than in Options 3 and 4. On the other hand, certain activities would then have to be less ambitious due to less data availability and would consequently require less resources.

- In Option 3, an EU Customs Data Space would be developed and operated by the Commission, which would also assume some risk management activities. This requires increasing the Commission staff assigned to risk management-related activities in the baseline (analytics connected to ICS2 and Surveillance, and the management of the exchange of risk information between the Commission and the Member States using existing IT systems) by at least 50%. The Commission staff for IT must also increase, to manage the budget to build the dataspace and to develop the data projects. It is assumed that the Commission FTEs dealing with UCC implementation in the baseline (+/- 57) are re-assigned to developing the Data Space. However, that number of FTEs must at least double for an effective management of the different data projects necessary to implement the customs functions in the Data Space. The investment at the Commission should however have the opposite effect on the Member States, which should see their IT administration staff requirement decreasing by 50% (an estimated decrease of 1065 FTE, as explained below in section 3.2).

- In Option 4, an Authority in the form of an agency would be created. The Authority would be in charge of risk management (preparing decisions on risk priorities and implementation of risk management provisions) and crisis management activities and would take over other activities as explained in Annex 8. A minimum of 250 staff members would be required for providing continuous support to the Member States on risk management, the Data Space and a minimum of training and operational activities that would allow a uniform implementation of the simpler customs processes and cooperation. In the case of higher ambitions, a higher staffing need could also be envisaged. However, the creation of an Authority would allow the Commission to reduce its staff considerably (about -36.8%). It would also allow the Member States to reduce their staff requirement compared with baseline by about 1 993 FTEs, notably due to the Customs Authority providing risk management and IT development activities (see below section 3.2).

Annualised cost estimate:

All values are estimates, relative to baseline.	*Phase 1*		*Phase 2*			*Phase 3*										
COSTS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
EU Services - direct implementation costs																
Recurrent (staff)																
Change in FTE level from baseline																
Option 1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Option 2	5	10	15	40	50	90	96	84	84	84	84	84	84	84	84	
Option 3	0	0	20	40	60	87	87	87	87	87	87	87	87	87	87	
Option 4	5	10	15	40	60	90	110	140	160	160	160	160	160	160	160	
Cost estimate																
Option 1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Option 2	0,7	1,4	2,2	5,8	7,2	13	13,9	12,1	12,1	12,1	12,1	12,1	12,1	12,1	12,1	141
Option 3	0	0	2,9	5,8	8,7	12,6	12,6	12,6	12,6	12,6	12,6	12,6	12,6	12,6	12,6	143,4
Option 4	0,7	1,4	2,2	5,8	8,7	13	15,9	20,2	23,1	23,1	23,1	23,1	23,1	23,1	23,1	229,6

3.2 Member States

This section addresses the **non-IT** costs for the EU Member States, based on the change in Full-Time Equivalent (**FTE**) staff from the baseline. The **IT costs** are quantified separately in Section 7.

The FTE calculation for the baseline uses the aggregated EU 27 figures for national customs authorities' staff taken from the 2021 data on Customs Union Performance.

The tables below shows the estimated FTE impact of all policy options, in the relevant function categories needed by customs authorities. As explained in section 3.2.1, these function categories are used by the Member States and the Commission in the annual Customs Union Performance exercise – as such, they represent a common understanding.

IT staff might in some cases be part of horizontal services in the Ministry rather than within national customs administrations. In the Customs Union performance information collection, Member States were asked in this case to include the staff which executes the tasks on customs' behalf in these figures. For this exercise it is assumed that 15% of the staff in the function category 'Management & Administration' is IT staff.

The figures are intended to represent the aggregated change in requirement for FTE required or enabled by the options. It should be emphasised, that where the Authority models indicate a reduction in FTE, this means that compared with the baseline the Member States would need to expend lower efforts on the tasks concerned due to economies of scale. It does not imply or require that Member States would decide to reduce customs numbers accordingly. Indeed, as the consultation shows, national customs administrations are struggling to deal with the challenges and increasing workload they have to face with limited resources, meaning an important consideration in reform is the extent to which it helps customs function more resource-efficiently and effectively. Increase or decrease of FTE staff numbers *per se* is not a reform objective.

It may also be noted that national customs authorities do not all have the same organisational structure, or operational conditions, meaning the options would not have the same effect in every administration. How the number of staff would evolve in practice is a matter of national administrative competence, taking account of national responsibilities for effective implementation of the agreed common policies and legislation.

Estimated impact of all policy options on staff (FTEs) in different function categories needed by MS customs authorities compared to baseline

This table provides the estimated position based on full scale implementation. (S*ource of baseline figures = CUP Annual report 2021 data*).

Function categories	**Phasing assumptions** These are based on section 2 for timing of changes to baseline and are also used to prepare annualised estimate in next table.	**Total staff**	**Risk assessment**	**Customs clearance activities**	**Audits**	**Other Post-Release Control (O-PRC)**	**Other customs control activities**	**Customs policy and procedures**	**Management/ Admin. – IT part**	**Management/ Admin Non-IT**
Baseline		82 699	3 812	19 432	1 877	3 024	31 311	9 039	2131	12 073
Option 1	IT management from Y1 (+213) Risk assessment from Y4 (+191) Full scale activities from Y9	84 459 (+2.1%)	4 003 (+5%)	9 716 (-50%)	4 693 (+150%)	3 326 (+10%)	37 909 (+21%)	10 395 (+15%)	2 344 (+10%)	12 073
Option 2	IT management from Y1 (+213) Risk assessment Y4, Y5, Y6 (-191, 1/3 change per year). Full scale activities from Y9	84 318 (+2%)	3621 (-5%)	9 716 (-50%)	4 693 (+150%)	3 326 (+10%)	37 909 (+21%)	10 395 (+15%)	2 344 (+10%)	12 314 (+2%)
Option 3	Risk assessment from Y4 (+191) IT Management from Y4 (-1065, 1/3 per year) Full scale activities from Y9 (end of transition window)	82 232 (-0.6%)	4 003 (+5%)	9 716 (-50%)	4 693 (+150%)	3 326 (+10%)	37 909 (+21%)	9 446 (+4,5%)	1066 (-50%)	12 073
Option 4	Risk assessment Y4, Y5, Y6 (-762, 1/3 change per year) IT management from Y4 (-1065, 1/3 per year) Full scale activities from Y9 (end of transition window)	80 706 (-2.4%)	3 050 (-20%)	9 716 (-50%)	4 693 (+150%)	3 326 (+10%)	37 909 (+21%)	9 378 (+3.8%)	1066 (-50%)	11 568 (-4.2%)

Annualised cost estimate:

All values are estimates, relative to baseline.	*Phase 1*		*Phase 2*			*Phase 3*										
COSTS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
Member States - direct implementation costs																
Recurrent (staff)																
Change in FTE level from baseline																
Option 1	213	213	213	404	404	404	404	404	1760	1760	1760	1760	1760	1760	1760	**14 979**
Option 2	213	213	213	149	85	22	22	22	1619	1619	1619	1619	1619	1619	1619	**12 272**
Option 3				-164	-519	- 874	-467	-467	-467	-467	-467	-467	-467	-467	-467	**-6 574**
Option 4				- 609	-1218	-1827	-1827	-1827	-1993	-1993	-1993	-1993	-1993	-1993	-1993	**- 21 159**
Cost estimate																
Option 1	10	10	10	19	19	19	19	19	83	83	83	83	83	83	83	**703**
Option 2	10	10	10	7	4	1	1	1	76	76	76	76	76	76	76	**576**
Option 3				-8	-24	-41	-41	-41	-22	-22	-22	-22	-22	-22	-22	**- 309**
Option 4				-29	- 57	-86	-86	-86	-94	-94	-94	-94	-94	-94	-94	**- 1002**

For conversion of FTE numbers to cost estimates, the most recent Eurostat Total Labour Cost figure of €46,928 was used (2020 figure for EU 27). The statistical classification label is *Public administration and defence; compulsory social security; education; human health and social work activities; arts, entertainment and recreation; other service activities*. Source: Statistics | Eurostat (europa.eu)

Eurostat explanatory notes extract: *Labour Costs refer to the total expenditure borne by employers for the purpose of employing staff. They include employee compensation, which is mainly comprised of gross wages and salaries in cash and in kind and employers' social security contributions, vocational training costs, other expenditure, such as recruitment costs and spending on working clothes, and employment taxes regarded as labour costs minus subsidies received. These labour cost components and their elements are defined in Commission Regulation (EC) No 1737/2005 of 21 October 2005, implementing Council Regulation (EC) No 530/1999 concerning structural statistics on earnings and labour costs as regards the definition and transmission of information on labour costs.* See Labour costs survey - NACE Rev. 2 activity (lcs_r2) (europa.eu).

3.2.1 Definition of function categories:

This section is based on the *Customs Union Performance* programme (CUP), which provides a common framework for analysing customs staff levels across all Member State. The labels in the table are based on the functional definitions used in the CUP Guidance. Their meaning is briefly explained below.

Risk assessment: risk assessment and pre-selection of customs and entry/exit summary declarations.

Customs clearance activities include:

- handling of (customs) declarations: entry/exit summary, import, export, warehousing, transit, etc.
- documentary controls of (customs) declarations
- physical control of goods
- handling declarations in passenger traffic

Audits:

- for the baseline, this includes Post-release audits
- in all Options the task of audits for the *Trust and Check* approach is added

Other Post-Release Control activities

- for the baseline, this includes other specific controls after goods are released
- in all Options this activity also takes place to support the *Trust and Check* approach including controls for other policy reasons where provided for in a co-operation framework

Other control activities include:

- mobile controls, surveillance controls - border and internal traffic
- investigation and preparing prosecution or penalties in relation to offences against customs laws
- customs control of external border crossing (e.g. baggage controls, x-ray, detection portals, customs dogs, etc.)

Customs policy and procedures: policy development and advice, legislative management and subsequent internal instructions to the customs offices

Client management, including:

- authorisations for different procedures, including pre-audits
- appeals or opinions on the application of the customs procedures
- client information service(s)
- facilitation/ consultation
- Other, such as:
  - customs laboratories
  - origin, customs valuation, customs tariff (BTI/BOI)

Customs management and administrative support:

- Management, such as:
  - organization (all levels incl. DG)
  - staffing management
  - information management (e.g. planning; IT-projects, management data and analysis)
  - training management
  - staff health & safety issues
- Other, such as:
  - training
  - logistics
  - archiving
  - treasury or financial administration
  - procurement
  - equipment and IT systems maintenance
  - public relations
  - co-ordination of business plans and budgets
  - accounting
  - statistics

Additional note:

Overall customs staff numbers also handle issues such as information verification and requests and physical control of means of transport in the supply chain, as well as physical/documentary controls triggered through advance cargo information (ACI) processing, which are not separately quantified.

3.2.2 Assumptions underlying the FTE adjustment calculation for each Option:

The phasing of the impact on each activity is addressed directly on the table. This describes the substantive changes in so far as they tend to either require increased FTE effort or free up FTE efforts for the Member States. IT costs are addressed in Annex 7.

Option 1:

An increased role for Commission in risk management will also imply in this option more staff in 'risk assessment' and control activities. However, since customs processes are reformed via implementation of the *Trust and Check* model:

- A big shift in staff from 'Customs clearance activities' to 'Other customs control activities' (which include operational controls triggered through advance cargo information processing) and 'Audits' and 'Other post-release controls' (which include audits and other checks to assess, implement and follow up on the *Trust and Check* model). The net effect of this shift is neutral.
- A substantial further increase for staff in 'Customs policy and procedures' for client management (not only in e-commerce but in general to assist operators in

implementing the *Trust and Check* approach) and to follow-up on legal work linked to risk management, 'trust and check' model, drafting national instructions etc.

- More staff in 'Management and administration – IT part' to deal with IT systems that allow that information is submitted only once and re-used for different purposes and analysis by the customs authorities.

Option 2:

From the perspective of national customs, this option has a similar impact on staff compared to Option 1 in general. However, the activity of the Authority in common risk management would free up time in the risk assessment category, estimated at 5%, primarily for co-ordination of common approaches, co-operation frameworks and organisation of analytics on available common systems (SURV, ICS2).

Option 3:

An increased role for Commission in risk management will also imply in this option more staff in 'risk assessment' and control activities.

Customs processes are reformed via implementation of the Trust and Check model, implying the impact described for Option 1. A further change in Option 3 is the introduction of a new common customs information environment (EU Customs Data Space) to support implementation. This Data Space is implemented and managed by the Commission. It is assumed that national customs administrations would carry out further specific IT implementations (not relevant for this section of the analysis) and that the Data Space would be gradually extended and integrate evolved versions of the current central interfaces and systems. Most Member States' IT systems will be gradually phased out as more functionalities switch to common or customised applications in the Data Space. The Staff needed in 'Management and administration – IT part' would therefore significantly decrease.

The increase in staff required for 'Customs policy and procedures' is assumed to be at about 30% of the level required in Option 1, as the Data Space significantly eases administration.

Option 4:

This option combines a reform of the customs processes with reform of the digitalisation model, which would become more centralised. In addition, a new EU actor in the governance structure, an EU Customs Authority is introduced. The Authority would develop and manage the EU Customs Data Space, deepen co-operation and drive the consistent and timely delivery of customs policies. The main difference with respect to the previous option is that the Authority would take over the role of developing and managing the Data Space that will progressively replace the Member States IT systems. Room will remain for Members State implementations if necessary but these are expected to be lighter and built using existing functions and services established by the Data Space managed by the Authority.

- A big shift in staff is needed from 'Customs clearance activities' to 'Other customs control activities' (which include operational controls triggered through advance cargo information - ACI - processing) and Audits and other post-release controls (which include audits and other checks to assess, implement and follow up on the *Trust and Check* model). Again, as with Option 1 the net effect of this shift is neutral.

- A significantly lower number of staff compared with baseline would be required for 'risk assessment' as a significant part of this work would shift to the Authority, complementing the national risk management.
- A decrease in the staff for 'management and administration' as training would largely be taken on by the Authority at EU level. Assumption: training staff is at average 30 FTE per MS implying an EU total of 810 in the baseline (included in 'management and admin – rest'). Considering the Authority could take over these tasks partially we could expect a decrease by 50% (405 FTEs).
- If the Authority takes over additional tasks, such as drafting guidance, instructions, etc, less staff at national level would be required for this but the table above does not show that development yet.

The increase in staff required for 'Customs policy and procedures' is assumed to be at about 25% of the level required in Option 1, as the Data Space significantly eases administration and the Authority further streamlines operation of the processes.

3.3 Business and trade

3.3.1 One-off costs – the cost of training for adapting to the new customs processes

The cost for training businesses and traders on the new processes is considered negligible and does not necessarily need to be borne by the traders themselves. To take an indicator, the budget for training at the Commission for producing customs on-line courses in all languages, which were seen by a total of almost 3 million economic operators between 2016 and 2021, amounts to EUR 12 578 300.

The downside of these courses is that they cannot take into account the national particularities. However, having more uniform and simpler customs processes would allow to produce courses valid for all Member States. Moreover, if an Authority could prepare and distribute them, the cost for operators would be zero.

3.3.2 Recurrent costs: the financial burden of complying with customs formalities

Complying with customs formalities entails a financial burden for business and traders, and under certain circumstances also for consumers (notably certain e-commerce transactions, see below section 3.4).

Specific cost information is not systematically available for business and trade compliance activities. The cost of complying with all the customs formalities (i.e. declarations) needed for a specific import process may be borne by a single operator or by several, depending on the private arrangements among them. Transport operators traditionally comply with the customs formalities directly while importers and exporters might pay a transport or cargo price that includes compliance with customs formalities (without necessarily having full transparency on the customs business elements), might carry out some formalities directly, or might hire the services of intermediaries (customs agents) to act on their behalf.

With these overlaps and variables, the approach taken to estimate the costs of complying with customs formalities is based on the estimated time ([160]) needed to comply with all the formalities for import and export, and monetise that time, without distinguishing between types of actors (carriers, importers or representatives). The cost per customs process is multiplied by the number of annual import and export declarations in the EU, thereby getting a proxy of the overall business cost for complying with customs formalities in the EU. The cost of having to provide guarantees to secure certain duty-suspensive procedures is not considered as this is difficult to estimate globally because it is linked to the financial situation of the operator, its volume of operations etc. ([161])

The estimations herein combine data from three studies, which provide a certain cost per declaration, based on the time needed to compile the information and fill it in, and a certain hourly rate, as follows:

a) *The 2008 US government study supporting the introduction of the mandatory filing of safety and security declarations ([162])*. It considers that each shipment costs between $4 and $390. This study does not consider how automation has in general decreased compliance costs all over the world so no specific figure has been taken from it;

b) *The 2018 Dutch government study assessing the customs impact of Brexit in the Netherlands*. Based on a very detailed analysis of the UCC processes as described in Annex 5, it calculates a total cost per shipment between €78.20 and €126.70, where both the export and import formalities are considered. The report distinguishes between import and export, insourced declarations and declarations outsourced to customs agents. It also takes into account the effect of simplifications to file the declarations. The calculations were prepared by an external contractor and have been audited. For their similarity with the present analysis and their reliability, the figures of this study are taken as basis for the estimations below; and

c) *The 2019 UK government study assessing the customs impact of Brexit in UK ([163])* follows a very similar methodology to the Dutch study but considers one customs formality (the customs declaration) and not the whole processes. It results in a cost per declaration between £15 and £56, £15 being the estimated price for customs declarations for e-commerce. That price is the only available to calculate the cost of customs formalities for e-commerce.

([160]) The World Bank series Trading across Borders - Doing Business - World Bank Group measures certain customs performance indicators such as the border compliance and documentary compliance, in terms of time spent to complete them. However, in a global context, the indicators for most of the European Union Member States are so good that they cannot be used to estimate an improvement in customs performance. Other examples focusing on customs costs exclusively are from 2001. See for instance Dynamic Effects of the 'New Age' Free Trade Agreement between Japan and Singapore (purdue.edu)

([161]) The scale of this cost would also be relatively very small compared with the aggregate estimates.

([162]) E8-27048.pdf (govinfo.gov)

([163]) Customs Costs Post-Brexit. Long Version - Briefings For Brexit (briefingsforbritain.co.uk). https://www.gov.uk/government/publications/hmrc-impact-assessment-for-the-movement-of-goods-if-the-uk-leaves-the-eu-without-a-deal/hmrc-impact-assessment-for-the-movement-of-goods-if-the-uk-leaves-the-eu-without-a-deal-third-edition#section-c and Impact of non-tariff measures as a result of Brexit. KPMG Report sponsored by Ministry of Economic Affairs and Climate Policy and Ministry of Agriculture, Nature and Food Quality, The Netherlands, 2018

NTB Step	NTB cost range		Average	NTB Step	NTB cost range		Average
Entry summary declaration	4,2	**7,7**	**5,95**	Export declaration	**30,5**	**47**	**38,75**
Import declaration	40	**65**	**52,5**	Outward clearance declaration	**3,5**	**7**	**5,25**
TOTALS	**44,2**	**72,7**	**58,45**	**TOTALS**	**34**	**54**	**44**

The costs per declarations provided in the studies have been applied to the baseline scenario as follows:

- For standard import, export and transit procedures: the average of Dutch cost for import and export outsourced declarations (EUR 58.5 and EUR 44) is multiplied by the number of standard import declarations in 2021.
- For import and export simplified procedures: the lowest Dutch cost for import and export (EUR 44.2 and EUR 34) is multiplied by the number of simplified import declarations in 2021.
- For import e-commerce: UK standard cost for parcel declarations converted into EUR (EUR 15) is multiplied by the fraction of H7 declarations without indicating the VAT number for Import One Stop Shop (IOSS) from July 2021 to June 2022 (as there was no obligation to declare goods up to EUR 150 before July 2021).
- For import e-commerce IOSS declarations: 1/3 of the UK standard cost for parcel declarations converted into EUR (EUR 5) is multiplied by the fraction of H7 declarations indicating the VAT number for Import One Stop Shop (IOSS). The cost of filing parcels declarations under IOSS is reduced by 2/3, because carriers charge a lower fee for declaring those goods as there is no need to collect VAT on them.

The table below summarises the calculations and shows the estimated impact of the policy measures proposed in the 4 options over a 15-year period, as follows:

- In the **baseline**, economic operators' cost for complying with customs formalities in the EU amounts to EUR 27.4 billion per year. For import, the cost of compliance represents 0.59% of the total value of imported goods (which is EUR 2 507 billion). For export and transit, the cost of compliance represents 0.21% of total value of exported goods (which is EUR 2 938 billion).
- **In options 1 and 2**, the customs processes are fundamentally modified to ensure that the information submitted by operators is reused, starting by e-commerce. However, the IT implementation of the new processes remains national (even if at least to a certain extent interoperable). As a consequence, in these options:
    - Even if the additional customs duties are factored in as an additional cost for businesses, *e-commerce operators* benefit from a reduction of their administrative costs from the year in which the different national customs

reporting tool for intermediaries (platforms) are operating, which is estimated in year 4 after the adoption of the proposal. The most significant savings will be for the flows that are currently not using the Import One Stop Shop (IOSS) to collect VAT, because these are the ones currently experiencing extremely high compliance fees, particularly in relation to the declared value of the goods. For that reason, the savings are very significant.

  - The compliance savings derived from the simplifications for *other operators* (both AEO and non AEO) are noticeable only after a significant number of Member States have deployed their IT solutions for the new processes and this, given the 27 different implementations, is estimated to happen progressively between Y9 and Y11. The savings for these operators are considered moderate (2%-3%) because there would still be 27 IT environments. The savings would only affect the *import* processes because the export process is already sufficiently streamlined and coordinated and can only be improved marginally.
  - By Y15, the overall saving amounts to EUR 1.78 billion per year.

- **In option 3**, operators may interact with the customs (and other) authorities through a single EU Customs Data Space, built by the Commission. Building a single central digital instead than 27 makes the savings accrue earlier than in options 1 and 2:
  - The benefits for e-commerce operators are considered but they accrue a year earlier, in Y3.
  - The savings for other operators start being available from Y6, when a certain number of operators could start interacting with customs through the Data Space, until Y9, when most operators should be integrated. Due to the advantage of operating EU-wide through a single customs IT environment, the savings are considered higher than in options 1 and 2: about 5% less of the time needed to complete the import process even if more data is requested. As to transit, the possibility to safely follow the movement of the goods in the EU through the Data Space should importantly reduce the need for transit declarations, with a saving of 50%.
  - It is therefore estimated that this option result in an annual cost saving for the operators trading with the EU of EUR 2.13 billion.

- **In option 4**, the customs processes are fundamentally modified, and the operators submit information once in the EU Customs Data Space managed by the Authority. As a consequence, in these options, the increase in cost due to the additional information required is not only compensated by a single method to provide the information across the EU but also by the existence of a central operational entity that reinforces cooperation among customs authorities also at the border, on the ground. This scenario, which has the same timeline as option 3, should however result in lower administrative costs for economic operators than in option 3, estimated as follows:
  - A reduction of 5%-8% of the time to complete the import process, including some physical controls for traditional/AEO traders, respectively.
  - The possibility to safely follow the movement of the goods in the EU through the Data Space under the Authority coordination should further reduce the need for transit declarations, with a saving of 60%.

- It is therefore estimated that these options result in an annual cost saving for economic operators of EUR 2.58 billion per year with respect to the baseline.

OPTION	Yearly costs of declarations (thousand EUR)				Impact on compliance costs along implementation timeline (thousand EUR)												
	Procedure	# Decl.	Average cost	Compliance costs	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15
Baseline	IM standard	99.955.389	58	5.842.392													
	IM simplified	206.697.268	44	9.136.019													
	IM eCommerce (no IOSS)	58.440.000	15	888.821													
	IM eCommerce (IOSS)	915.560.000	5	4.641.622													
	EX standard	73.973.885	44	3.254.851													
	EX simplified	89.368.201	34	3.038.519													
	TRA standard	17.500.000	34	595.000													
	TOTAL			**27.397.225**	**27.397.225**	**27.397.225**	**27.397.225**	**27.397.225**	**27.397.225**	**27.397.225**	**27.397.225**	**27.397.225**	**27.397.225**	**27.397.225**	**27.397.225**	**27.397.225**	**27.397.225**
Options 1 and 2	**Procedure**	**Estimated saving**	**Average cost**	**Compliance costs**	**Y3**	**Y4**	**Y5**	**Y6**	**Y7**	**Y8**	**Y9**	**Y10**	**Y11**	**Y12**	**Y13**	**Y14**	**Y15**
	IM standard	-2%	57	5.725.545							-87.636	-93.478	-116.848	-116.848	-116.848	-116.848	-116.848
	IM AEO+	-3%	42	8.639.946							-372.055	-396.859	-496.073	-496.073	-496.073	-496.073	-496.073
	IM eCommerce (no IOSS)	-66%	5	296.274		-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548
	IM eCommerce (IOSS)	-33%	3	3.063.471		-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152
	IM customs duties			1.000.000		1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000
	Total (no changes in EX/transit)			**24.613.605**	**0**	**-1.170.699**	**-1.170.699**	**-1.170.699**	**-1.170.699**	**-1.170.699**	**-1.630.390**	**-1.661.036**	**-1.783.620**	**-1.783.620**	**-1.783.620**	**-1.783.620**	**-1.783.620**
Option 3	**Procedure**	**Estimated saving**	**Average cost**	**Compliance costs**	**Y3**	**Y4**	**Y5**	**Y6**	**Y7**	**Y8**	**Y9**	**Y10**	**Y11**	**Y12**	**Y13**	**Y14**	**Y15**
	IM standard	-3%	57	5.667.121				-43.818	-87.636	-131.454	-175.272	-175.272	-175.272	-175.272	-175.272	-175.272	-175.272
	IM AEO+	-5%	42	8.639.946				-124.018	-248.037	-372.055	-496.073	-496.073	-496.073	-496.073	-496.073	-496.073	-496.073
	IM eCommerce (no IOSS)	-66%	5	296.274	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548
	IM eCommerce (IOSS)	-33%	3	3.063.471	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152
	IM customs duties				1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000
	TRA standard	-50%	17	297.500						-297.500	-297.500	-297.500	-297.500	-297.500	-297.500	-297.500	-297.500
	TOTAL (no changes in export)			**24.257.681**	**-1.170.699**	**-1.170.699**	**-1.170.699**	**-1.338.535**	**-1.506.372**	**-1.971.708**	**-2.139.544**	**-2.139.544**	**-2.139.544**	**-2.139.544**	**-2.139.544**	**-2.139.544**	**-2.139.544**
Option 4	**IMPORT**	**Estimated saving**	**Average cost**	**Compliance costs**	**Y3**	**Y4**	**Y5**	**Y6**	**Y7**	**Y8**	**Y9**	**Y10**	**Y11**	**Y12**	**Y13**	**Y14**	**Y15**
	IM standard	-5%	56	5.550.273				-73.030	-146.060	-219.090	-292.120	-292.120	-292.120	-292.120	-292.120	-292.120	-292.120
	IM AEO+	-8%	40	8.367.105				-192.228	-384.457	-576.685	-768.914	-768.914	-768.914	-768.914	-768.914	-768.914	-768.914
	IM eCommerce (no IOSS)	-66%	5	296.274	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548	-592.548
	IM eCommerce (IOSS)	-33%	3	3.063.471	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152	-1.578.152
	IM customs duties				1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000	1.000.000
	Standard	-60%	14	238.000						-357.000	-357.000	-357.000	-357.000	-357.000	-357.000	-357.000	-357.000
	TOTAL (no changes in export)			**23.808.493**	**- 1.170.699**	**- 1.170.699**	**- 1.170.699**	**- 1.435.957**	**- 1.701.216**	**- 2.323.474**	**- 2.588.733**	**- 2.588.733**	**- 2.588.733**	**- 2.588.733**	**- 2.588.733**	**- 2.588.733**	**-2.588.733**

3.3.3. Economic operators - IT cost perspective

Depending on each of the different options, the connectivity, and ways to interact with the Customs will be different. In the existing model and option 1, the interactions with Customs Administrations vary in terms of interfaces, national administration, and IT systems. ICS2 is the notable exception with a single trans-European interface to which operators must connect independently of the Member State or border crossing.

Sections 3.3.1 and 3.3.2 provide an overall **quantitative** total cost of business estimate, without distinguishing between IT and non-IT costs. This impact assessment does not attempt a breakdown of business costs between IT and other costs, as it would not be possible to build the estimate robustly from survey data (as explained in section 1.1.2).

The discussion presented below provides a **qualitative** comparison between each option and the expected complexity for economic operators. This comparison shows how options compare between themselves in terms of expected complexity of implementation for economic operators. It is not a full IT cost assessment based on assumptions and scenarios, as it was performed in annex 7.

From a trade perspective this is what can be expected when comparing the different options:

a) Options 1 and 2 would mean a system-based approach, without customs declarations but using national implementations. During a transition period, the current IT systems would be operated and maintained but, after this transition period, Economic Operators would have to adapt and modernize their IT Systems to the new reality. Given that this architecture is based in national implementations, there would not be a single European access point for economic operators. The number of implementations required will be proportional to the number of Member States with whom there would be interactions.

b) Options 3 and 4 would mean a single centralized implementation, without requiring individual customs declarations. In this case, it would only be required to have a single implementation to a Europe-wide dataspace. As in the previous option, during a transition period, the current IT systems would be operated and maintained. After this transition period, Economic operators would have to gradually adapt and modernize their IT Systems to the new reality. Given that this would be a single implementation, compared to at least 27 potential interfaces on the options 1 and 2, the investment required would be smaller.

When considering options 1 and 2, alternative entry points and interfaces are made available for the traders wishing to switch according to their calendar and preferences. Traditional traders will keep using the current technical interfaces in the mid-term, while new traders, wanting to invest in new systems could connect immediately to the national dataspaces.

In options 3 and 4, there is a single Data Space platform with EU wide interfaces for the Economic Operators. This interface would be put in place for forerunner projects (e.g., e-commerce) which will use the new paradigm. On a second phase, other Economic Operators will be given the option to use the new interface for all Customs interactions; National Declaration Interfaces will stay alive for several years to allow smooth transition but will eventually be phased out. Development costs will certainly be required in order to participate in the dataspace. The dataspace will be based in industry standard

technologies and with normalised dataspace platform services. These services, together with software libraries and generic sample software can be made available to Member States and Trade to build their own applications.

In options 3 and 4 it is considered that the net impact for economic operators would be highly positive, because the adjustments involve adapting to interface with a single EU customs data environment in place of one customs IT environment per Member State of operations. The number of data provision points is reduced and the data is provided to one single EU interface. Data can be provided in advance and re-used (instead of being repeatedly provided). The data requirements are rebalanced to better fit commercial practices (data is in principle required from those who are best place to give it, data is accepted in multiple formats, and the declarant role is removed). The overall IT effort required across economic operators is reduced on a permanent basis. While no specific data is available on these costs, recent experience with the reform of the Import Control System supports this view – businesses were strongly in favour of the shift of paradigm from multiple national interfaces and processes to a single shared interface and process, on grounds of reduction of cost and complexity. One-off development IT costs to connect to Data Space are expected to be counteracted by a lower-cost IT model for the future. In this regard, the joint industry statement issued on 7th June 2018 ([164]) stated as follows:

> *'These legal provisions and in particular the 'multiple filing' requirements make the principles and proposed elements underpinning ICS 2 essential. Economic operators need a unified and coherent EU system with a common set of processes and a shared IT architecture. The proposed Common Repository, the Shared Trader Interface / Harmonised Trader Interface with the same specifications, and the single access and identity management system are imperative to implementing the UCC without disrupting trade. These systems features are the logical and necessary consequence of the UCC and IA/DA provisions. The alternative of a fragmented Member State based ICS 2 system would be incoherent and inefficient, and would impose insupportable costs on both Member States and economic operators*.'

It should be noted that this investment will not be only about connectivity. In *a Trust and Check* model, traders will have to prepare and arrange the data elements in their internal systems and provide it according to their obligations in different steps of the logistical chain. These will require new developments with an expected IT impact for traders which choose to join *Trust and Check*.

In summary, from trade perspective, options 3 and 4 and will require changes and adaptations as part of the landscape change introduced by the new EU customs Data Space. For options 1 and 2, given that there will be 27 national implementations, the complexity and costs associated will be similar when operating in a single Member State but larger when dealing with multiple ones.

The different options are compared in order of magnitude when compared to the baseline in the table further below.

([164]) Statement of industry sopport fro the ICS 2 system. Supported by: Airlines for Europe (A4E); the European Association for Forwarding; Transport, Logistics and Customs Services (CLECAT); the Community of European Railways (CER); the European Express Association (EEA); EurTradeNet (ETN); the European Shippers Council (ESC), the International Air Transport Association (IATA) and the World Shipping Council (WSC).

Information Technology (IT) costs – *qualitative view*					
		1	2	3	4
For business/trade	One-off	++	++	+	+
	Recurrent	≈	≈	-	-

3.4 Citizens and consumers

A robust quantification of the baseline is not possible in this domain as the charges are not systematically published, and the underlying patterns have been temporarily distorted by the COVID 19 pandemic. Consequently, no specific cost estimate is prepared for citizens and consumers. However, no option involves increasing consumer and citizen compliance and implementation costs from the baseline.

Citizens and consumers – IT cost perspective

As in previous section, the discussion presented below provides a qualitative comparison of the impacts of each option and the expected complexity for citizens and consumers. This comparison shows how options compare between themselves in terms of expected complexity of implementation for economic operators. It is not a full IT cost assessment based on assumptions and scenarios, as it was performed in annex 7.

Both citizens and consumers are not expected to develop their own IT systems to interact with the Customs administrations. For such actors, Customs will have to provide the portals to deal with the formalities in a seamless and transparent manner. Today, such interaction is managed by freight forwarders, private customs agents and/or postal operators. The Customs administrations are not interacting directly with the recipient of the goods (although the intermediaries sometimes require end customers to provide information and payment online).

It is considered that all options, from IT perspective alone, are comparable to the baseline. Citizens rely on service providers/customs representatives. As such the IT impact of the policy option is for the service provider, not for the consumer. The impacts for the service provider fall in the category of economic operators, addressed in the previous subchapter.

Nevertheless, the IT changes introduced are expected to bring improvements. All options would create customs portals available for citizens and consumers, allowing them to have a view on the information required during the different stages of the import process. Likewise, the customs administrations would share transparently the status and information available at any moment of the process. Options 3 and 4 bring an additional improvement when compared to the baseline and to national implementations. In these Options, customs would offer a single user-experience for any interaction with any customs administrations and EU-wide view on individual customs activities for citizens, independently of the language, member-state, or border control point.

The scale of the impacts is summarized below using scores that compare each option to the baseline.

Information Technology (IT) costs – *qualitative view*					
		1	2	3	4
For citizens/consumers	One-off	≈	≈	≈	≈
	Recurrent	≈	≈	≈	≈

4. BENEFITS: PREVENTION OF REVENUE LOSS

4.1 Understanding the baseline

The total collected customs duties for the 27 Member States in 2021 is EUR 24.8 billion, 8% higher than the amounts collected pre-Covid in 2019 and around 15% higher than the amounts collected in 2020 by the same Member States. After the deduction of the 25% retention rate, this resulted in the transfer to the EU budget of around EUR 18.6 billion as traditional own resources (TOR), to which the contribution of the UK (EUR 460 million), related to previous years, is added.

Customs duties make up 8% of the total 2021 EU budget (including the budget for Next Generation EU) and amounted to 12% of own resources for 2021. **The average rate of customs duties was 1.23% in 2021** (value for EU27). If the effect of the products that entered the Union market at zero duty is not considered, the average rate on dutiable products is 5.5%.

Table15: Average value (EUR) and average rate of collected customs duties per imported item (EU/EU27+UK, 2011-2021)

Customs duties	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020*	2020 (EU27)	2021 (EU27)
EUR / item	93.2	86.6	75.0	67.1	66.8	70.1	67.3	62.2	57.9	35.8	34.7	35.5
average rate (%)	1.28%	1.20%	1.21%	1.22%	1.34%	1.46%	1.37%	1.28%	1.30%	1.39%	1.26%	1.21%

Note: 2020: EU27 + UK considered together*
Source: DG BUDG and CUP-Network data.

The goods imported in 2021 can be segregated into 3 groups, depending on the amount of duty applied. This shows that 7.6% of the goods (measured by value) account for 63% of the duties.

This section analyses the effect on revenue (traditional own resource or TOR) collection of the different options, distinguishing two separate effects: (1) prevention of revenue losses, that is, the potential of the options to reduce the losses that arise when duties are incorrectly declared on imports, including e-commerce imports above EUR 150, and (2) duties collected as a result of the removal of the EUR 150 duty relief threshold. For the revenue losses, the calculation is explained below.

4.2 Revenue losses

There is no reliable estimation of the revenue losses, the so-called **customs gap** which would be relevant starting point for the baseline case. The Commission services are working on a methodology to estimate the customs gap, but this work is not yet finished. It may be noted that a definitive figure would not be available as evasion of customs duties is by nature concealed and sometimes well-organised; modus operandi continuously evolve.

In the absence of a reliable estimate, some elements of the customs gap can be considered to assess the potential for the reform options to reduce the loss of revenues in imports to the EU. For that purpose, four main contributors to lower payment of customs duties and the consequent loss of revenues are considered, namely:

- **Undervaluation**: declaring the goods below their correct customs value so that the basis on which customs duties and VAT is applied is lower. Undervaluation is considered more relevant in the categories of goods where duties apply. However, a study conducted by Copenhagen Economics in 2016 estimated that about 65% of the

e-commerce consignments are undervalued for VAT purposes, regardless of the duty exemption. ([165]) There have also been cases of systematic undervaluation of certain categories of goods, resulting in important revenue losses in customs duties. ([166]) Fighting this phenomenon requires EU-wide analysis of declared imports, better quality data (access to the source of the information, such as contracts) and the possibility cross check different sources of information (value given for customs purposes with value provided for insurance purposes). It requires EU-wide visibility and a systematic customs response to tackle supply chains which adapt to detection, change *modus operandi,* shift entry points, etc.

- **Misdeclaration of origin**: declaring a wrong origin of the goods, to benefit from a preferential rate or to avoid antidumping or countervailing duties. OLAF investigations indicate that misdeclaration of origin is particularly relevant (i) in the area of trade defence measures, because they are country specific and the anti-dumping duties are very high and, to a lesser extent, (ii) in imports from countries with preferential tariffs. Although the joint monitoring action of trade defence measures by the complainant Union industry and the relevant Commission services (OLAF and DG TRADE) helps reducing the fraud in that area, there are indications that fraud persists. An experimental pilot project run by OLAF and JRC, using the ConTraffic system (currently Container Status Messages – CSM) ([167]) estimated that *'there must have been in 2011, for EU27, more than 1 500 cases of false declarations of origin which resulted in loss of revenue for the EU for the total value of at least 25 Mio € and likely to exceed 100 Mio €'*.
- **Misclassification of** the **goods**: wrongly classifying the goods to benefit from a lower duty rate happens predominantly in the 'Duty free imports' category, which represents 78% of total imports. A very large number of operators, in order to ensure legal certainty on the classification of their imports, apply and obtain Binding Tariff Information (BTI) decisions. The valid BTI decisions in 2021 were around 130 000. BTI decisions are binding both for the economic operator and for the customs authorities. The Commission does not currently have sufficient data to check whether operators do apply the BTI decisions upon import, but this is expected to improve within the baseline scenario timeline. Economic operators or other interested parties may consult currently valid BTI decisions via the EBTI-3 system. This public database is by far the most viewed of customs systems with a number of annual hits exceeding 50 million.
- **Contraband or smuggling**: introduction of goods without declaring them to customs. This phenomenon is not considered in the calculations below as no general method has been found to estimate it.

([165]) Copenhagen Economics (2016) E-commerce imports into Europe: VAT and Customs treatment.

([166]) The largest of OLAF's investigations concerned imports through the UK between 2013 and 2016. See European Court of Justice Case C-213/19 European Commission v United Kingdom of Great Britain and Northern Ireland.

(167) To tackle this fraud the Commission has developed initially the ConTraffic research prototype and later the Container Status Messages (CSM) module of the Anti-Fraud Information System. These tools provide information on container routes as well as risk assessment services to customs authorities. The systems are used in a pilot exercise to generate fraud signals which are sent to the relevant Member States based on detected mismatches between the country of origin/dispatch declared by the importer and the identified container route.

4.3 How would the options perform?

The core issue in this case is the improvement of EU-wide customs financial risk management. In the case of customs duties, the customs declaration currently contains in principle all the elements necessary for calculation of the duties. Data is declared in relation to each of the main elements which contribute to the duty calculation (notably currencies, valuation elements, product classifications and origins). The duties have to be either paid or guaranteed before goods are released and the responsible person is identified in the declaration. Risk management for customs duty risks is more developed than for non-financial risks, although still needs deep improvement according to the European Court of Auditors. These features lead to specific considerations for financial risk management, by contrast with the management of non-financial risks.

The purely theoretical assessment of the impact of each option on tackling revenue losses assigns the options a score against three elements that are considered necessary to improve the effectiveness of the customs controls and thereby tackling the aforementioned phenomena of undervaluation, misclassification and wrong declaration of origin. The analysis focuses on three key elements that would be of very high relevance in improving the situation:

- EU profiling, that is, the possibility to use EU data, as opposed to the baseline where mostly national data are considered for calculating reference prices, for instance;
- Better quality data, that is, the collection of more and better quality data on the transactions/goods from the operators, which can be cross-checked to detect inconsistencies; the capacity to systematically integrate and cross-reference other relevant data sources (risk information, container status messaging, basic information on the history of economic operators, etc) is also relevant.
- Coordinated action, that is, the possibility to act against fraud at more than national level ('act as one').

4.3.1 Option 1

Under this option, the Commission receives processing rights to Member State data, allowing analysis and identification of possible fraud trends, and shares the results with the Member States. This analysis would be carried out essentially 'off-line', by the Commission's analytics capabilities. The Commission would not participate directly in operational targeting, which takes place in national systems, but would be able to provide EU risk profiles on economic operators for use by the Member States. For that reason detections of irregularities could increase by 10%**.** In other words, it could be reasonably assumed that having access to Union-wide data for risk management purposes would allow detecting 1 every 10 fraudulent transactions.

As the risk analysis would be based on the reformed customs processes and more efficient and complete information flows from economic operators, national customs authorities would have more visibility on operators' customs dealings. The data quality would improve and consequently the rate of detection should also improve. Given that the new processes focus on the supply chain rather than on specific transactions only, it can be reasonable estimated that the detection rate at national level doubles compared to option 1, because customs action can serve to detect at least two fraudulent transactions from the same operator.

The Commission could obtain more feedback on results of the follow-up but would not have operational visibility as only the Member States would have access to the granular operational data (risk analysis, hits, control decisions, results) and therefore the improvement delivered from central support would be limited. Neither the ability to detect gaps and inconsistencies across the Member States, nor the ability to understand performance, would significantly advance (the Commission would know the results but not why they occurred, how selectivity was applied, what other factors influenced operational decisions, etc.). Experience in the development of Common Risk Criteria under the UCC suggests that development of common indicators would continue to take approximately a year (non-binding guidance) and approximately 2 years (if formalised as an amendment to the Commission Implementing Decision on financial risk criteria minimum harmonisation by the MS).

Effectiveness and efficiency of implementation across the EU would continue to vary. A consistent response across the Member States even to identified fraudulent supply chains would not be achieved, and detections would not keep pace with adaptation of non-compliant sources (changing of routes, etc.).

4.3.2 Option 2

Under this option, the EU Customs Authority receives processing rights to Member State data, allowing analysis and identification of possible fraud trends, and shares the results with the Member States.

This analysis would be carried out essentially 'off-line', by the Authority, which would not participate directly in operational targeting, which takes place in national systems, but would be able to provide EU risk profiles on economic operators for use by the Member States. For that reason detections of irregularities could increase by 10%**.** In other words, it could be reasonably assumed that having access to Union-wide data for risk management purposes would allow detecting 1 every 10 fraudulent transactions.

As the risk analysis would be based on the reformed customs processes and more efficient and complete information flows from economic operators, national customs authorities would have more visibility on operators' customs dealings, because these would operate under the trust and check principle with national IT systems. The data quality would improve and consequently the rate of detection should also improve. Given that the new processes focus on the supply chain rather than on specific transactions only, it can be reasonable estimated that the detection rate at national level doubles compared to option 1, because customs action can serve to detect at least two fraudulent transactions from the same operator.

As the risk analysis would be based on the reformed customs processes, the data quality and filtering of legitimate trade would improve and consequently the rate of detection would also rise by an additional 10%.

The Authority would centrally coordinate at strategic level joint analyses of intelligence and identify Union-wide risks and trends and thereby significantly increase the detection of fraud cases. However the effectiveness of this would be limited by the extent to which MS would agree to share information received from trusted operators and from e-commerce platforms, as well as operational risk analysis and control results connected at consignment level. Thus, the effectiveness and efficiency of implementation across the EU would continue to vary, but to a lesser extent, increasing by a further 5% the detection/action against irregularities.

4.3.3 Option 3

Compared with Options 1 and 2, this option improves the information environment for the Commission, which would have access to the data in the EU Data Space and this would allow a better EU risk profiling on economic operators. For that reason, detections of irregularities increase more than in the previous options, by 15%. Effectiveness and efficiency of implementation across the EU would continue to vary.

As the risk analysis would be based on the reformed customs processes, the data quality would improve and consequently the rate of detection would also rise by an additional 15%. However, the possibility to have coordinated action at more than national level remains residual.

In essence, it is estimated that having a central IT environment with Union-wide data would allow detecting three every 10 fraudulent transactions, or three transactions of the same fraudulent operator, thereby preventing the loss of revenues.

4.3.4 Option 4

Under this option, the Authority would use the EU customs Data Space to create analytics, designing operational targeting indicators and performance feedback to be applied to inbound traffic and would provide control recommendations and under certain circumstances even control instructions to the Member States. These would result in high-impact controls across the Member States, and distribution of actions to suitable intervention points (such as the destination Member State according to customs information) and support convergence of enforcement. It would support mutual training. The scope of the targeting would include all supply chain steps, as the customs information environment would have information on all customs processes up to release.

The Authority would analyse operational results to provide periodic information and indicators for performance of this EU policy (outcomes from customs supervision). This information would be systematic and granular, showing where actions had been taken and the results of EU-supported action.

The Authority could further improve targeting through a structured collaboration (based on exchange of information, generation of intelligence and co-operative operational planning) with tax authorities, Europol and OLAF and through participation on behalf of EU customs in relevant policy actions, either on the initiative of the Authority, or on the initiative of Europol or OLAF. Co-operation between the Authority, Europol and OLAF would be described in the relevant legislation.

Outcomes under this option would therefore be improved compared with Options 1-3. The combination of capabilities (EU profiling, better data and EU co-ordination) reinforce each other. Option 4 combines the speed, focus and critical mass advantage of the operational Customs Authority setting with direct management of the customs information environment and therefore leads to a better result in terms of revenue collection. 15% increase in the detection rate due to EU risk profiling would add to the 15% increase due to better quality data and 10% increase in effectiveness due to coordinated action.

BENEFITS: SINGLE MARKET AND SUSTAINABILITY (PROTECT AS ONE)

The customs reform options would contribute in different ways to supporting delivery of major EU policies in the area of the Single Market and sustainability.

This covers a wide range of specific initiatives, prohibitions and restrictions. As there are more than 350 pieces of legislation of relevance for customs border activities, and it is not possible (or necessary) to assess each individually. In this Annex, the approach taken is to review the impact of the options for three different cases in detail.

- The **Toy Safety** case shows why the reform options have an impact as such
- The **Ecodesign** case builds on this illustration to show how the reform options would work against a broader range of product compliance priorities and includes some quantification scenarios based on the availability of relevant information in this case.
- The **Bamboo** case takes a deeper dive into one very specific product issue to give a more comprehensive illustration of how customs and non-customs issues interact and looks more closely at specific dimensions including the information quality challenge, and at what specifically happened operationally in this case.

The analysis is based on the features of each reform option as described in Chapter 5 of the Impact Assessment body and Annexes 7 and 8, taking account of how they are integrated and work together in each specific option. As these cases are mainly about better protection, the emphasis is on how the features enable better detection, through progress on specific objectives 1, 4 and 5 respectively (enabling better risk management, in a better information environment, 'as one' wherever goods enter the EU). The descriptions are not replicated here.

The examples selected could equally have been replaced with other important areas such as **REACH, forced labour, waste shipments, F-gas, Intellectual property rights, commercial policy, cultural goods, or deforestation**. Further examples would highlight the comprehensive value of customs reform, but would not change the relative assessment of the policy options.

As different stakeholders will have interests in different cases, each case is described in a manner that it can be read independently. This involves some repetition of key themes as the principles of reform apply in essentially the same way across each case.

In practice the customs union needs to support many cases at once. Looking across the range of cases (each of which needs specific expertise and co-operation approaches), it is possible to better understand the relevance of *critical mass*.

The summary indicators presented after each use case are used to compile the tables in Chapters 6 and 7 in the Impact Assessment. The qualitative scoring system rates the additional benefit on a scale from * to ***** as follows:

Qualitative rating	Benefit impact (additional benefits compared with baseline)
*	low
**	low-moderate
***	moderate
****	moderate-high
*****	high

5.1 Toy Safety

5.1.1 Context and customs relevance:

The Toy Safety Directive (2009/48/EC) lays down the safety and other requirements that toys must meet before they can be placed on the market in the EU (irrespective of whether they were produced inside or outside the EU). Market surveillance is carried out in accordance with Regulation 2019/1020.

Customs controls are carried out under the Union Custom Code **before** products enter the Union market. This means that Customs is the only barrier against entry of non-compliant toys produced outside the EU, and customs reform has clear potential to complement and reinforce the practical implementation of toy safety policy. ([168])

The safety risks in question are very significant. Researchers have estimated that exposure, for instance to endocrine disruptors can lead to serious developmental harm even with very low doses, and to substantial health-related societal costs in the EU between EUR 46 and 288 billion per year ([169]). Risks are often only visible long term. Parents are generally unaware of these risks in toys or of their severity. The importance of preventing them entering the supply chain in the first place is clear.

As regards non-compliance, data from the EU Rapid alert system (Safety Gate/RAPEX) consistently shows toys as one of the top categories of dangerous products reported as found on the EU market. Over 2016-2021, toys represented 27.4% of total Safety Gate alerts. Most alerts were serious risks (mainly chemical and choking).

Imports are a serious part of the problem. In the period mentioned above, 85.6% of reported dangerous toys originated from China. An earlier analysis indicated that imported products represent 30% of EU consumption but 75% of products presenting serious risks ([170]) as reported in RAPEX / Safety Gate from 2010 to 2016. Furthermore, the Commission Communication on Chemicals Strategy for Sustainability Towards a Toxic-Free Environment notes that almost 30% of alerts on dangerous products (not only Toys) on the market involve risks due to chemicals. Of these, almost 90% of those products coming from outside the EU. ([171])

Online sales of toys are increasing and reach over 25% in some EU countries. ([172]) Consumers and business alike have called for better control of online shops. ([173]) In February 2021, the European consumer organisation BEUC found that in its sample online purchases, 66% of 250

([168]) The upcoming proposal for a Toy Regulation (TR) will aim to further strengthen the protection of children against possible risks in toys, and further complete the Single Market for toys. See TSD evaluation . See also*:* Binder E. and Huemer M.-A. (2021). The EU Toy Safety Directive, Briefing by the European Parliamentary Research Service .

([169]) As mentioned in the Toy Regulation impact assessment – see I. Rijk, M. van Duursen, and M. van den Berg, Health cost that may be associated with Endocrine Disrupting Chemicals — An inventory, evaluation and way forward to assess the potential health impact of EDC-associated health effects in the EU, Institute for Risk Assessment Sciences, University of Utrecht, 2016.

([170]) Commission Staff Working Document Refit Evaluation SWD(2017)469 final, p. 41.

([171]) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Chemicals Strategy for Sustainability Towards a Toxic-Free Environment, COM(2020) 667 final.

([172]) See for instance https://www.spring-gds.com/support/market-insights/toys-market-insights/)

([173]) The CLP Impact Assessment concluded that 23% of the toys assessed in online sales were non-compliant (Draft of Technical Support to the Commissions Impact Assessment for the Revision of the Regulation on Classification, Labelling and Packaging of Substances and Mixtures (CLP), page 113).

tested products were unsafe. ([174]) As EU companies sell a significant amount via their own websites **it is likely that compliance in online sales from outside the EU is significantly lower.**

The **SME relevance** of the EU toy industry is notable: in 2020, 99% of the companies were SMEs, employing around two thirds of employees in the sector. ([175]) This adds a clear SME dimension to the benefits of reducing unfair competition from non-compliant imports through better enforcement.

Other relevant features of the Toy Safety policy domain include the **need to respond quickly to new risks** (short-term demand 'hype' can mean that non-compliant toys flood the market quickly); the need to ensure effective controls at the external borders of **all Member States** and the **resource pressures** faced by national market surveillance authorities. Consumer associations and business both call for better collaboration between enforcement authorities, including customs and MSAs, across Member States. ([176])

The introduction of a **digital product passport** embedding the declaration of conformity (available to customs and required for release to free circulation) for Toys should help deepen this collaboration and make it easier for MSAs and customs authorities to determine which products are non-compliant. The product passport could be issued only if it contains a declaration of conformity and other required documents; customs would be able to check during import procedures whether products are accompanied by a valid passport. Beyond these automated checks, risk-based physical controls by customs will remain necessary to identify non-compliant toys in cooperation with the competent market surveillance authorities.

Of particular relevance in this case is the complementary impact expected from **other regulatory initiatives**. Under Article 4 of the **Market Surveillance Regulation ([177])** toys - as products with a high risk of non-compliance - can only be placed on the EU market by an economic operator established in the EU (e.g. manufacturer, importer or authorised representative of these toys). Economic operators without an establishment in the EU, thus have to appoint someone to handle MSR compliance. Fulfilment service providers can also have obligations for toys as an established operator of last resort (if none of the others is present in the EU) (Article 4 (2) d)). The proposed **General Product Safety Regulation** (GPSR) ([178]) and the **Digital Services Act** (DSA) ([179]) envisage a further strengthening of the compliance environment and of the responsibilities on inter alia e-commerce intermediaries to take measures to prevent online sale of non-compliant products.

([174]) See https://www.beuc.eu/publications/beuc-x-2021-004_is_it_safe_to_shop_on_online_marketplaces.pdf)

([175]) https://globaltoynews.com/2021/02/05/the-european-toy-market-2020-and-digital-trends-2021/

([176]) most recently, in the Trade Contact Group of July 12th, 2022, the European Consumer Association BEUC suggested that a customs Agency should co-ordinate customs and market surveillance checks

([177]) Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011, OJ L 169 of 25.06.2019.

([178]) European Commission (2021). Proposal for a Regulation of the European Parliament and of the Council on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council, and repealing Council Directive 87/357/EEC and Directive 2001/95/EC of the European Parliament and of the Council, COM(2021) 346 final of 30.06.2021.

([179]) Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act)

In this context, this case study looks at **how customs reform policy options would improve the contribution of risk-based import supply chain supervision** to reducing the number of non-compliant and unsafe toys entering the EU market, including via online sales, and more generally supporting the functioning of the internal market for toys and the competitiveness of EU industry including SMEs.

In relation **to online B2C consignments,** in particular, it is important to note that these pass directly from the non-EU vendor to the consumer. **The only available intervention channel for detection of specific cases is *de facto* the customs system** (national market surveillance authorities are not able to intervene in third countries and presumably would not visit private EU homes to consider the compliance of an online to purchase by an individual). Any efforts to tackle these B2C flows systematically will depend in part on the capacity to identify samples in the customs data flows and intercept them *en route*.

A final relevant point of context: **non-compliant suppliers will continuously adapt** to detection by changing their supply chains and entry points. Systematic detection of serious players is not simple. It demands sustained, adaptive targeting using all available information sources in cross-analysis.

5.1.2 How would the options perform?

This comparison is based on the features of each reform option as described in Chapter 5 of the Impact Assessment body and Annexes 7 and 8. The descriptions are not replicated here. This section shows why the features have an impact.

It is assumed in all options that Toy Safety is selected as a policy priority for customs supervision and risk management, proposed by the Commission and adopted at Council level.

Option 1

The Commission (with the support of its analytics capabilities per the baseline, and with the new political mandate above) prepares a **common risk management approach** and **co-operation framework** to help national customs and market surveillance authorities to work together. Market surveillance authorities are encouraged to share risk information with customs for targeting. Common targeting indicators are prepared, taking approximately a year for non-binding guidance and approximately 2 years if the indicators are formalised as a Commission Implementing Decision for binding implementation to provide for minimum harmonisation by the Member States. The start date for this activity would depend on available resources. Option 1 does not create a new operating capacity on the customs side, and does not increase the number of priorities which can be pursued in parallel. For the purposes of this assessment it is presumed to start operationally in Y3 (the third year after adoption – see section 2 for *Assumptions for phased deployment of the reform*).

Most targeting would continue to be done in national customs declaration systems on the same basis as today, with some strategic support from the Commission's analytics capabilities. In the specific case of **advance cargo information** flows, the shared ICS2 system could help improve the identification of potentially non-compliant supply chains before consignments arrive at the border. However, the contribution of ICS2 would be limited by its data scope (classification information – essential in the identification of product types - is limited to HS6 codes and is not obligatory for certain flows, meaning not all toy flows or toy passport scenarios would be identifiable). It would also be limited by the data governance context (the scope and scale of national participation and in data integration in this analytics project would be voluntary). Additional data on manufacturers would not be available in ICS2.

New and better data would be provided from e-commerce platforms and customs could use this to improve controls (assuming this data is available as from Year 4). However, each national customs authority would continue to carry out risk analysis based on its own capabilities, and the data would remain **fragmented** across MS rather than exploited as a full EU supply chain picture. The extent to which the new e-commerce data would be integrated in national processes would vary.

Improved transparency from traders participating in a *Trust and Check* procedure could help with filtering out reliable traders, thereby reducing the need for interventions on those traders at the border. However, the new processes enabling these facilitations would be run only in national environments and the timing and scope of their delivery would vary. The development of *Trust and Check* facilitations themselves are assumed to be phased in over Years 6-9 – see section 2. In practice, the conditions in this option would not enable a significant systematic shift in how trusted traders are handled across the EU for such non-financial formalities within the assessment period (it limits the progress which might be possible under the co-operation framework with a more joined-up approach).

This option would not give a strong basis for a more systematic EU follow-up at the border. It would not be possible to ensure a 'block' (or 'do-not-transport') on future consignments for the full external border in the customs systems as the advance cargo information would not be systematically enriched with the more detailed data which is handled in the national environments.

Overall, a small improvement in detection of specific consignments and supply chains would nonetheless be delivered. Effectiveness and efficiency of controls across the EU would continue to vary, and detections would not keep pace with adaptation of non-compliant sources. Customs would not be in a position to organise quick, co-ordinated pan-EU responses to rapidly emerging (new 'hype') threats. The national investments in the new information flows would be under-exploited, and the ability of MS to protect each other and the full single market in common customs supervision would not significantly increase compared with the baseline.

Option 2

In this option, the **main difference** from Option 1 is that a common risk management approach is developed and co-ordinated by the Authority.

The Authority would work with market surveillance authorities on the development of the **co-operation framework.** It would host multi-disciplinary events and ongoing processes to engage both customs and market surveillance authorities in developing a common co-operative supervision strategy for toy safety issues. It would arrange **joint analytical projects** involving both customs and market surveillance authorities, to analyse all available information using available capabilities (primarily the tools developed for the analytics capabilities, notably those in ICS2 analytics and Surveillance). It would promote the central sharing by market surveillance authorities of risk information for common use in this context.

The Authority would use this work to prepare inputs to be used by the Commission in its proposal for common risk criteria (as an Implementing Act under the UCC). Once the criteria are adopted (following a vote by the Member States) the Authority would elaborate operational risk indicator materials to support the national implementation of the criteria. It would also configure operational indicators to be used in ICS2 analytics. The Commission would make

any necessary proposals for implementing acts to support information sharing and processing in this context.

The effectiveness and efficiency of this would be limited by the extent to which MS would agree to share information which they received directly in their national environments from trusted operators and from e-commerce platforms. Progress would also be limited by the division of responsibilities for data governance in this mode. Data protection arrangements would need to be agreed across the different systems and the process for Member States customs (as data controllers) agree to include their flows in the scope of a targeting project for toys would be lengthy and duplicative. The Authority would not have the full EU customs picture in terms of data provided to customs or in terms of risk analysis or control results arising. Outside of the advance cargo information, the Authority would not be in a position to prepare, test or implement common indicators directly on the real-time flow of customs operations. As with Option 1, it would not be possible to ensure a 'block' on future consignments across the border in the customs systems

Nonetheless, as compared with Option 1, the Authority would be able to co-ordinate an important step forward in common understanding and approach by working closely with Member States customs authorities and benefiting from the political prioritisation of this work. The involvement of all Member States directly in the structure of the Authority, coupled with the political mandate from the Council, would improve 'buy-in' to the Authority's support role. Effectiveness and efficiency would also be improved by enabling the Authority to flag problems to platforms as an EU actor.

Option 3

From the governance perspective, this option would work like Option 1: The Commission (with the support of its Joint Analytics Capabilities per the baseline, and with the new political mandate) prepares a **common risk management approach** and **co-operation framework** to help national customs and market surveillance authorities to work together.

Compared with Option 1, Option 3 has however a much better **data management environment** for policy action. This would enable several important changes:

- The Commission would arrange **joint analytical projects** involving both customs and market surveillance authorities, to analyse the full EU picture for all relevant supply chains. This picture would systematically include data from all customs processes, risk information, risk analysis and control results. It would be able to systematically include such other information as may be made available from the central register of Digital Product Passports for toys.
- The Commission would use this work in preparing its proposal for Common Risk Criteria in an Implementing Act under the UCC. Once the criteria are adopted (following a vote by the Member States) the Commission would elaborate operational risk indicators for direct application on the EU data flows. It would work closely with the Member States on this.
- The Commission would arrange for risk information from Market Surveillance authorities (for example – non-compliant manufacturers whose toys were detected on the market) to be integrated directly in EU-wide strategic and operational risk analysis. This would enable a systematic approach to be taken to tackling these supply chains wherever they enter. It would also enable detection of related non-compliant supply chains (identifying sources, different customers, and other potentially non-compliant cases not yet discovered).

These factors would lead to a significant improvement in the quality of risk analysis, and the combination of the EU visibility with the assignment of liability to the importer role would strengthen the systematic value of intervention – customs and market surveillance authorities would both get a better return from their controls and inspections.

However this option has some limitations derived from the **governance** model. The Commission's capacity to support and deliver such deep operational work, and to conduct the necessary data governance operations and agreements with the Member States, is limited. It would not be in a position to take on a full operational co-ordination mandate without a significant expansion in staff numbers. This would equally be an issue in the development and implementation of the co-operation framework and supervision strategy for toy safety issues with Market Surveillance authorities – the Commission could host a limited number of multi-disciplinary events but would not have the capacity to support a sustained operational co-operation. The significant investment in the data management environment may be under-exploited, and the governance structure would lack an actor with the clear organisational mandate and critical mass needed to organise a timely EU adaptation to adaptive non-compliant suppliers.

Option 4

This option combines the governance reform of Option 2 (Authority) with the data management reform of Option 3 (dataspace). These elements are mutually reinforcing in this context, as the Authority would have the organisational mandate and operational critical mass needed to 'drive' a sustained, systematic approach to targeting non-compliant toy imports.

The Authority would work with market surveillance authorities on the development of the **co-operation framework** and would assign a file-manager for this purpose. It would host sustained multi-disciplinary processes to engage both customs and market surveillance authorities in developing a supervision strategy for toy safety issues. It would arrange rapid mutual training of experts on concepts and on the shared EU customs tools. The supervision strategy would clarify the situations in which a control would be appropriate, designed for maximum impact so that control results produce actionable cases for known, **and newly discovered**, supply chains. This would also provide for structured sampling in e-commerce flows (a major gap area currently), and distribution of actions to suitable intervention points (such as the destination Member State according to customs information) to support convergence of enforcement across the EU. It would provide for scenarios where a direct operational 'do-not-transport' signal in the risk analysis systems would be justified. The Authority would also promote the central sharing by market surveillance authorities of risk information and take care of its integration in operational analysis.

It would underpin this work with **joint analytical projects** involving both customs and market surveillance authorities, to bring together market surveillance knowledge and customs knowledge and analyse all EU imports (including e-commerce flows) to initially identify good and bad supply chains (starting point). The analysis would systematically include data from all customs processes, risk information, risk analysis and control results.

The Authority would be able to directly design, test and implement **operational indicators** to be used on EU-level data flows. With the richer operational data picture in this option, which it manages at EU level, the Authority would be able to significantly improve the discovery of bad supply chains. It would arrange signals to be available at the right time for action (including if necessary before loading, potentially saving transport and control efforts).

The Authority would analyse operational results to provide periodic information and indicators for **performance** of EU Toy Safety policy (outcomes from customs supervision). This information would be systematic and granular, showing where actions had been taken for a given product and highlighting the added value of EU action in protecting EU business and consumers from harmful toy traffic. It would support the Commission in its evaluation of performance and policy delivery and adapting the Authority work plan.

The Authority would take a **continuous improvement** approach to indicators, working with Member States and Market Surveillance authorities to understand which indicators are working well, less well, and why. It would take adapt them immediately to new trends or *modus operandi.* It would also be able to prepare deeper EU risk indicators to better detect non-compliant toys (it could organise projects for example to detect cases where a toy passport is present but its content or its context suggests a high risk that it was not properly issued, based on advanced data analytics methods and deeper datasets than available to it under option 2, and the necessary critical mass in terms of data science expertise).

In the case of an urgent Toy safety priority targeting operation (e.g. seasonal 'hype'), the Authority would arrange for immediate deployment of customs targeting, pan-EU, and rapid delivery of sample cases for enforcement (indicator would be prepared in hours or days rather than months or years).

This option would also help reduce the delays or blockages which would arise in other options from data fragmentation and **data governance** issues. As the Authority would be directly managing the data, it would able to get it used much more quickly, comprehensively and efficiently than would be the case in Options 1-3. The Authority would have the relevant operational mandate and controller role needed to initiate and manage processing operations within well-defined legal parameters. This would reduce the need for multiple duplicative assessments and agreements on the same processing operation.

In this Option, it would also be easier for the Authority to arrange the **integration of valuable new data** sources. In particular, as e-commerce platform information would be available in the dataspace in this option, the Authority would systematically integrate it at consignment level and operator (importer) account level. The Authority would also rapidly prepare an interoperability 'mini-app' to better exploit Toy passport data obtained via the single window (going beyond presence/absence of passport) in all relevant data flows. Economic Operators would also be able to include Toy Passport information and product identifiers in their central customs accounts, removing the need for transactional checks for trusted operators and freeing market surveillance and customs resources.

If necessary, the Authority could bring forward inputs to be used by the Commission in a proposal for **common risk criteria** as an Implementing Act under the UCC. However given the direct uniform implementation of indicators, the granular performance visibility, it may be that this step would not be necessary in this specific case. The agile the use of common indicators by the Authority may be sufficient. As with Option 2, the involvement of all Member States directly in the structure of the Authority would, coupled with the political mandate from the Council, would improve 'buy-in' to the Authority's operational support role.

Overall, **outcomes** under this option would be significantly improved compared with 1-3. It enables a larger step forward in the common detection of non-compliant toy supply chains, a more systematic approach to be taken to tackling these wherever they enter the EU, and a better detection of related non-compliant supply chains (identifying sources, different customers, and other potentially non-compliant cases not yet discovered).

This would further strengthen the **systematic value of intervention** and the return that customs and market surveillance authorities would get from their controls and inspections. The impact-per-inspection for market surveillance authorities would be increased and the number of wasted inspections (which produce no systemic impact) would be reduced. The very limited MSA resources would be better targeted and re-oriented towards meaningful supply chain enforcement covering more supply chains more intelligently even if only with the same number of checks. Any follow-up action, including requests for removal of suppliers from e-commerce platform, product recalls or market alerts, investigations, penalties or denials of authorisation to load or import for persistent offenders would be based on the richer EU-wide data picture, and the importer liability provisions. This would help overcome differences in visibility of import supply chains across different national MSAs. It would also enable a better return on investment in the data management environment.

Compared with Options 1-3, this option will also reduce the duration of exposure to this harm for children and its impact and increase the likelihood that some demand will shift to compliant products **(including legitimate EU SMEs).**

5.1.3 Summary indicators

The indicators below assess the benefits qualitatively in terms of the degree of improvement on the baseline (structure as signalled in section 1.2). The overall baseline assumption is that non-compliance continues to be an important issue (new sources continue to emerge).

BENEFITS (Qualitative)	**Option 1**	**Option 2**	**Option 3**	**Option 4**
Effectiveness				
Overall (General Objective)				
SO 1 – Strengthen EU customs risk management	*	**	***	****
SO 4 – Data access/use for strategic customs action	*	**	***	****
SO 5 – Enable the Customs Union to act as one	*	***	**	****
Protection outcomes - *Single Market and Sustainability:*				
Consumers: Reduced child health risk	*	**	**	****
Consumers: Reduced non-compliant **e-commerce** imports	*	**	**	****
Business and Trade: Reduce unfair competition for EU industry and SME (reduced imports of non-compliant toys)	*	**	**	****
Efficiency				
Avoided unnecessary inspections and controls; transfer of effort to higher impact interventions	*	**	***	****
Coherence with other EU policy objectives				
Toy Safety	**	***	****	*****
Market Surveillance Regulation	**	***	****	*****
Digital Services Act	**	***	****	*****
Chemicals Strategy (a Toxic-Free Environment)	*	*	*	**
Fundamental rights (detection of toys with privacy risks)	*	*	*	**
Strategic capability				
Co-operation framework support	*	***	***	*****
Strategic planning support	*	**	***	*****
EU-wide trade flow visibility	*	**	****	****
EU-wide performance visibility	*	**	****	****
Adaptability (time to market)	*	**	***	*****

5.2 Eco-design and General Product Safety

5.2.1 Context and customs relevance:

This use case concerns policies in two groups: *Ecodesign* and *General Product Safety.*

The Commission's proposal for an **Ecodesign for Sustainable Products Regulation** aims to significantly improve the circularity, energy performance and other environmental sustainability aspects of products. It enables performance and information requirements for almost all categories of physical goods placed on the EU market. This is a much wider range of products, compared to the current Directive on energy-related products. The problem it addresses is that consumption and production are not sustainable and not adequately addressed by existing EU product and internal market rules. Non-compliance remains a significant issue.

The Regulation would improve the information environment for the policy. The digital product passport would store relevant sustainability information, with a central register as back-up (indexing rather than directly storing the data). It would also improve implementation governance by enabling prioritisation and grouping of products for development of product-specific measures based on EU added value (product by product, not all at once). It would provide for core indicators and for monitoring of results. Member States would implement biennial plans for their priorities.

The relevance of imports to the problem has not been directly quantified. However, evidence shows for example that a large amount of imported goods are not compliant with chemical legislation. ([180]) More broadly, the Commission's Impact Assessment for the Sustainable Products Regulation proposal highlighted how *'the EU is a net importer of embedded environmental impacts in traded goods'*. ([181]) It is clear from that assessment that import flows are highly relevant to the Ecodesign objectives.

The **General Product Safety Directive** defines EU Rules on product safety. It applies to consumer products when there are no specific provisions with the same objective in the rules of EU Law governing the safety of the products concerned. Currently, the proposed **General Product Safety Regulation (GPSR)**, in line with the New Consumer Agenda of 2020, aims to update and modernise the general framework for the safety of non-food consumer products, to preserve its role as a safety net for consumers, to adapt the provisions to challenges posed by new technologies and online selling; and to ensure a level playing field for businesses.

The impact assessment for the proposed GSPR shows that **online sales** increased steadily since the current Directive's adoption ([182]). Parcel traffic imports to the EU has risen very rapidly –

([180]) Commission Staff Working Document – Impact Assessment accompanying the document Proposal for a Regulation of the European Parliament and of the Council establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC, SWD(2022) 82 final, part 3/4, page 164: *REACH and CLP enforcement report: up to 28% of imports are not compliant with REACH and the Classification, Labelling and Packaging (CLP) Regulation, CEFIC (European Chemical Industry Council) report 2020: 80 % of non-compliant articles, containing banned or restricted chemicals comes from outside the EU/EEA , Commission Communication on Chemicals Strategy for Sustainability Towards a Toxic-Free Environment : almost 30% of the alert.*

([181]) *Ibid,* p 166.

([182]) In 2002 only 9% of Europeans purchased online, while over 70% of them shop online at the time of publication. In the EU-27, retail sales via mail order houses or the Internet in April 2020 increased by 30% compared to April 2019, while total retail sales decreased by 17.9%.

from an estimated 150 million low value parcels imports in 2015 to an estimated EUR 2 billion in 2021. There are particularly important challenge relating to these sales. ([183]) Market surveillance authorities have difficulties in sampling and testing (due to lack of physical access to products) and in finding and contacting traders selling through online marketplaces. Product data in online listings is sometimes insufficient (no images of labels, bad quality pictures, and no technical data). Moreover, even where Member States have taken measures to recall unsafe products, investigations show that recalled products often continue to be sold or to reappear on the market in online sales channels.

The key issue to consider in this context (which is quite similar to the Toy Safety case in principle) is how a customs union reform might work in synergy for the delivery of these policies by helping to better identify products before they are placed on the market, and in particular to better identify and more consistently tackle non-compliant e-commerce supplies.

The harm, and potential savings, addressed by these policies are significant. To take just one example, many dangerous COVID-19 related products (e.g. dangerous masks, hand sanitisers) were found online - by 22 October 2020 they represented 16% of all COVID-19 notifications in Safety Gate/RAPEX from the beginning of the COVID-19 crisis.([184])

In this case, some relevant quantitative information is available for both policy groups.

The latest **Ecodesign Impact Accounting Annual Report** (EIAR 2021, for all products regulated under Ecodesign, Energy Labelling, ENERGY STAR* and Tyre Labelling) provides the following data: ([185])

- The combined measures entail an estimated EUR 63 billion (5%) saving in 2020 on consumer expenditure (EUR 80 billion energy cost saving, EUR 7 billion consumables saved, net of EUR 25 billion extra acquisition costs).
- In 2030 this increases to EUR 125 billion (8%). The consumer's monetary saving is estimated to be 0.4% (in 2020) and 0.9% (in 2030) of the GDP of the European Union (13 300 billion in 2020).
- As regards the competitiveness impact on EU industry, the report suggests that business revenues increase by EUR 22 billion in 2020 and EUR 31 billion in 2030 (5-6%), implying an increase of 323 000 direct jobs in 2020 and 433 000 in 2030.
- [The **2020** EIAR indicated an average household saving of EUR 210 in user expenditure in 2020, expected to increase to EUR 350 per year in 2030 compared to a scenario without Ecodesign and Labelling measures. This considers only the direct savings for products used in households. Additional financial benefits for households might arrive from the savings in the tertiary and industry sectors, if translated into lower tariffs, lower product prices, or higher wages.]

As regards the General Product Safety **Directive** (which has a narrower scope in terms of products than the current Regulation, and as such provides a very conservative basis), the Commission's Impact Assessment refers to the following:

([183]) The impact assessment on the General Product Safety Regulation provides additional perspective on the problem of **enforcement** of that Directive for products sold online. The lack of availability of responsible economic operators measures could be effectively addressed to in case products are directly imported from outside the EU is a major issue

([184]) SWD(2021) 168 final: Impact assessment accompanying the document 'Proposal for a Regulation of the European Parliament and of the Council on general product safety' (Annex 5: Evaluation) LexUriServ.do (europa.eu)

([185]) European Commission, Directorate-General for Energy, *Ecodesign impact accounting annual report 2021 : overview and status report*, Publications Office of the European Union, 2022, Ecodesign impact accounting annual report 2021 - Publications Office of the EU (europa.eu)

- Preventable damage to consumers: an estimated 15% of accidents would be preventable if products complied – monetised estimate of EUR 11.5 billion per annum ([186]).
- Ongoing health harm: product-related injuries and premature death – EUR 76.6 billion per annum. ([187])
- Financial loss to consumers - products they would not have bought if they knew these products were unsafe ('consumer detriment linked to the value of unsafe products') - estimated at EUR 19.3 billion in 2019. ([188]) This consumer detriment due to the loss of value of unsafe products was expected to reach EUR 20.8 billion by 2025 and almost EUR 22 billion by 2034 in the baseline scenario.

5.2.2 Scenario assumptions:

The figures above from the EIAR report and the GSPR Impact Assessment can be used in a scenario to estimate the potential impact of the customs reform on this policy area.

The table below takes the figures from those reports and applies a very conservative scenario by ignoring over 70% of the monetised harm. It assumes that imports account for 25% of consumption and are harmful at the same rate as EU production (although they are less likely to comply than EU production). This scenario yields an annual estimate of the import-related consumer cost of non-compliance of €10.725 billion. The issue for assessment then is to what extent reform could contribute to reducing this non-compliance cost, as a single indicator – that is considered in the sections which follow.

Harm category	**Time period**	**Estimate**	**Import attribution**
Product Safety			
Preventable detriment to Consumers and society (accidents avoidable if compliant)	Annual	**€ 11.5 B.** (GSPR Impact Assessment)	**€ 2.875 B**
Consumer Financial cost (would not have bought product if knew not compliant)	Annual	**€ 19 B** (low 2019 figure - 2020 was €23 B) (GSPR Impact Assessment)	**€ 4.75 B.**
Health harm (product-related injuries and premature death)	Annual	€ 76.6 B (GSPR Impact Assessment)	*Not taken into account*

([186]) GSPR Impact Assessment p. 11
([187]) GSPR Impact Assessment p. 58
([188]) GSPR Impact Assessment p. 10

Ecodesign and Labelling measures			
Health harm (product-related injuries and premature death)	Annual	€ 76.6 B (GSPR Impact Assessment)	*Not taken into account*
Business revenue gain	Annual	€21 B (low 2020 figure – estimated €29 B 2030	*Not taken into account*
Jobs gain	Persistent	433 000 Estimate in EAIR for 2030	*Not taken into account*
Consumer loss due to non-compliance	Annual	€125 Billion consumer savings Estimate in EAIR for 2030 (Consumables and Energy Costs net of extra acquisition costs) Assumption of 10% loss due to non-compliance (this assumption is used in EIAR report albeit with a strong qualification) **€12.5 Billion**	**€ 3.1 Billion**
Total consumer cost from non-compliant products taken into account for indicators	**Annual**		**€ 10.725 Billion**

5.2.3 How would the options perform?

The operational logic for contribution of the options in this case, as well as the timing assumptions for the start of benefits, are the same as in the Toy Safety case. These have been fully explained in section 5.1.3 and are not repeated here. The main distinction in this case is that the options address co-operation between customs and experts across a range of different product sectors (not just 'Toys'). This brings more into evidence the **'critical mass'** issue, and the relevance of the shift in capability which comes with Option 4 in handling multiple priorities and multi-disciplinary co-operations systematically and simultaneously.

Option 1 brings a small improvement in detection of specific non-compliant supply chains and positive filtering of transparent operators. It does not support a sustained, systematic EU-wide action on non-compliant supply chains as such, nor on the full range of products in scope. It is not capable of fully exploiting the wealth of data that the Eco-design reform will bring. Platform liability means enforcement improves – assuming platforms act on flags. For the purposes of this scenario, a reduction of import-related harm of 3% is attributed. Data quality problems will make it difficult for detection in this area in this option to reach the levels in the financial case.

Option 2 brings an improvement compared with Option 1, based on a more effective co-ordination mechanism working in essentially the same data management and process environment. Efficiency gain rather than major operational scope expansion. Scenario assumption of 5% increase in detection.

Option 3 brings a further improvement in detection based on a better data management environment and higher quality EU indicators, but otherwise faces the same governance constraints as in Option 1. Efficiency gain rather than major operational scope expansion. Scenario assumption of 5% increase in detection.

Option 4 combines the governance reform of Option 2 (Authority) with the data management reform of Option 3 (Data Space). These elements are mutually reinforcing in this context, as the Authority would have the organisational mandate and operational critical mass needed to 'drive' a sustained, systematic approach to targeting non-compliant imports. Authority staff will be able to prepare more precise targeting routines, more quickly, and to benefit from granular operational feedback, enabling more effective adaptation to changing modus operandi and to less efficient targeting indicators. It allows a deeper analysis of supply chain information both to better identify legitimate trade and to identify trans-European networks and connections which are not identifiable in national data flows alone. It can make better use of intelligence and of co-operation framework tasks. The combination of enablers in this option significantly increases detection compared with options 1-3, deepening the focus on higher-impact enforcement actions. Authority monitoring of compliance level and DPP use (and risk of misuse) based on operational data should further improve the compliance picture and management. The primary limitation would be data quality and the capacity of national authorities to carry out enforcement actions on a wide range of products in a short space of time. It is assumed that economic benefits in terms of jobs and competitiveness are not significant without the dataspace which comes in options 3 and 4 and which gives a sufficiently systematic view to enable some supply chains to be more systematically shut down. By contrast with the Toy Safety example, the dilution of efforts across a broader range of product priorities may dilute the impact of some options in this case further (as the efforts are not focused to the same extent on one issue). Scenario assumption of 12% increase in detection.

5.2.4 Summary indicators

5.2.4.1 Qualitative benefits

BENEFITS (Qualitative)	**Option 1**	**Option 2**	**Option 3**	**Option 4**
Effectiveness				
Overall (General Objective)				
SO 1 – Strengthen EU customs risk management	*	**	***	****
SO 4 – Data access/use for strategic customs action	*	**	***	****
SO 5 – Enable the Customs Union to act as one	*	***	**	****
Protection outcomes - *Single Market and Sustainability:*				
Consumers: Cost saving	*	**	**	****
Business and Trade: Jobs			**	***
Business and Trade: Competitiveness			**	***

Efficiency				
Avoided unnecessary inspections and controls; transfer of effort to higher impact interventions	*	**	***	****
Coherence with other EU policy objectives				
Ecodesign Directive and proposed Ecodesign for Sustainable Products Regulation)	**	***	****	*****
Market Surveillance Regulation	**	***	****	*****
General Product Safety (proposal)	**	***	****	*****
Digital Services Act	**	***	****	*****
Environmental policies (consumer emissions - EU Green Deal)	*	*	*	**
Strategic capability				
Co-operation framework support	*	***	***	*****
Strategic planning support	*	**	***	*****
EU-wide trade flow visibility	*	**	****	****
EU-wide performance visibility	*	**	****	****
Adaptability (time to market)	*	**	***	*****

5.2.4.2 Quantitative benefits scenarios

The harm-reduction scenario percentages suggested in section 5.3.2 are applied to *the consumer cost for non-compliant products* identified in the table in section 5.2.2. The harm reduction attributed to each option is then annualised in the table below.

All values are estimates, relative to baseline. In €Million.	*Phase 1*		*Phase 2*			*Phase 3*										
BENEFITS (consumer cost saving)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
Option 1 3% harm reduction from imports				322	322	322	322	322	322	322	322	322	322	322	322	**3 861**
Option 2 5% harm reduction from imports				536	536	536	536	536	536	536	536	536	536	536	536	**6 435**
Option 3 5% harm reduction from imports			54	536	536	536	536	536	536	536	536	536	536	536	536	**6 489**
Option 4 12% harm reduction from imports				1287	1287	1287	1287	1287	1287	1287	1287	1287	1287	1287	1287	**15 444**

For timing assumptions, see section 2. Key elements for this table:

- In Option 1 savings start in Y4. The e-commerce build is completed in Y3
- In Options 2 and 4 savings start in Y4, assuming the Authority's first tasks include this priority
- In Option 3, savings start in Y3 as the e-commerce build is completed in Y2. Scenario for this table is 10% of full-year savings attributed to Y3 based on initial targeting in e-commerce during second half of Y3.

The overall baseline assumption is that non-compliance continues to be an important issue (new sources continue to emerge).

These scenarios are not forecasts. They illustrate how significant capability differences between the options could be reflected in performance differences, taking account of small relative improvements and taking account of a small proportion of the potential benefit.

5.3 Bamboo

5.3.1 Context and customs relevance

In the context of the Single Use Plastic (SUP) Directive adopted in July 2019, consumers and businesses had an increased interest in sustainable alternatives to plastic.

This also affected food contact materials such as tableware articles that started being produced with plant-based materials. However, in contrast with tableware made entirely of plant-based material, some products are the result of a combination of plant-based powder or fibres (used as fillers to give volume to the product) and plastic resin that holds the ingredients together and gives them firmness and hardness.

Tableware is a **food contact material**; thus, the use of additives is possible only where an authorisation is in place ([189]). This is for a good reason: the additives may either present a public health risk per se or alter the final properties of the product, making it dangerous for human health. This is the case for bamboo-based products mixed with plastic: the bamboo deteriorates the migration properties of the host plastic (oftentimes melamine and formaldehyde), causing its premature deterioration and migration in the food the product it is in contact with.

With the internal market and free movement of goods in the EU, and the fact that many products were imported (mainly from China) and/or sold through e-Commerce, individual actions from Member States proved to be inefficient, showing also that although EU legislation on food safety is very strict, these kind of products managed to slip through the controls of both customs and market authorities. Since 2019, there has been a significant number of notifications (65) in the Rapid Alert System for Food and Feed (RASFF) ([190]) concerning bamboo-melamine food contact materials.

5.3.2 Understanding the baseline

As opposed to food, feed, animals and plants, food contact materials (FCM) are not subject to official controls at Border Control Posts, except for the import of polyamide and melamine plastic kitchenware originating in or consigned from the People's Republic of China and Hong Kong Special Administrative Region, China (CN code 3924100011, with 6.5% customs duties). For the latter, each consignment must be accompanied by a declaration of compliance and a laboratory report and be checked at Border Control Posts. Therefore, operators may be tempted to declare illegal FCM made with non-authorised ground bamboo filler as FCM, as entirely made of bamboo, under customs code 44191900 (0% customs duties). This would allow evasion of sanitary controls at borders, and of customs duties. This is all the more

([189]) Regulation (EC) No 1935/2004 lays down the general principles as regards food contact materials, and establishes an authorisation procedure for substances to be used in food contact materials. Ground bamboo, bamboo flour and similar substances are not listed in Annex I to that Regulation, hence their safety has not been assessed. As a consequence, placing food contact materials produced with bamboo powder in the EU market is illegal. Despite the lack of assessment in accordance with Regulation (EC) No 1935/2004, the European Food Safety Agency noted that when used as fillers in plastic, migration of the additive components may be higher than if the source material is used as bulk material and, in particular, when the additive is used at high levels, it may 8influence the migration properties of the host plastic (scientific opinion 10.2093/J.efsa.20195902 adopted by EFSA on 24 October 2019).

([190]) The Rapid Alert System for Food and Feed (RASFF) is the key tool of the European Union to enable swift reaction when risks to public health are detected in the food chain RASFF - food and feed safety alerts (europa.eu).

significant because in the absence of sanitary controls, **customs controls are the only barrier preventing dangerous FCM from entering the EU market.**

From May 2021 until April 2022, the Commission together with 21 Member States launched a year-long coordinated enforcement action named 'Bamboo-zling', aimed at controlling bamboo-based kitchenware present in the internal market in breach of food safety standards. The Commission issued a Risk Information Form to alert customs through the Customs Risk Management System (CRMS), which was used by Member States to update their risk profiles used in customs controls.

A total of 716 cases of plastic FCM containing unauthorised bamboo powder were notified by the participants in the course of the year-long action. 612 cases related to products found on the market, while 104 were goods rejected at the border. Of the total, 551 cases presented an e-commerce aspect, out of which only in 3 cases goods were rejected at the border.

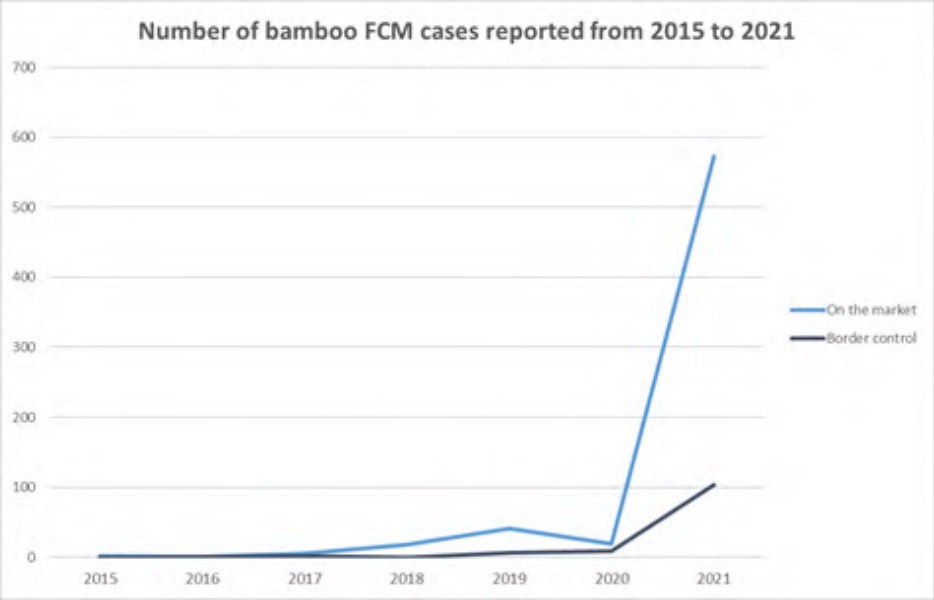


Table: 16outcome of the Bamboo-zling EU Coordinated Case. Source: IMSOC system

(each row indicates the number of consignments of faulty products identified during controls performed by a specific Member State on the market or at the border. Member States have been anonymised)

Bamboo	
Notification basis	
On the market	**Border control**
27	-
24	2
7	-
168	-
35	-
27	-
62	52
38	-
38	-
-	-
99	-
-	5
1	-
1	-
19	-
-	40
3	-
-	3
23	1
-	1
40	-
612	104
716	

Intelligence from the coordinated case

One consignment of 13422 units of tableware was wrongly declared under code CN 44191900, indicating food contact materials made entirely of bamboo. The description of the goods provided by the consignee showed that the product was made of melamine as structural material and vegetal fibres only used as filler/additive. With the wrong code, it avoided both tax duties and controls imposed on melamine/polyamide products originating from China. SANTE informed OLAF on 25/06/2021, proposing them to contact the national authorities for follow-up. On 29/11/2021, the national contact point informed the Commission that the consignment had been destroyed and OLAF informed accordingly.

5.3.3 A deeper look: where the current system is falling short

A first issue is represented by the fact that from an operational perspective, **customs do not act as one** – this is the default position unless a specific initiative is created under the UCC common risk management framework. Although the coordinated action on bamboo is not based on Article 108 of the Official Controls Regulation ([191]), the majority of Member States took part in it as such, but with quite different levels of control outcomes from the market and customs authority sides. By contrast with market authorities operating under the framework of the Official Controls Regulation, customs do not have a legal base to start a coordinated enforcement action, nor has the Commission the power to impose it. While the UCC does provide for the establishment of common priority control areas and common risk criteria, this involves the proposal and negotiation of implementing acts. These co-ordinated customs actions are applied exceptionally rather than by default and did not apply in this case. This means there was no 'EU' customs action corresponding to that of the market authorities, partly explaining the lower level of detections at the border).

A (related) second issue is the **'time to market'** of the (even partial) solution. From the moment where authorities in the Union (including the Commission) became aware of the problem, more than a year passed before the coordinated action was launched. Within the current legal framework and the COVID-19 pandemic this reaction time is remarkable, yet it is still very long. Moreover, that result was achieved with long and intense 'manual' coordination, as the example in the box above shows: to destroy one, individual consignment of 13422 units (read: tableware items) and ensure that all actors along the enforcement chain were informed, it was necessary to activate several administrative entities during the course of five months. This action did not involve creating any specific binding customs common risk criteria for the customs side, but if it had, the lead time for their establishment would have been around two years.

A third issue is the **information that customs can use to identify specific products**. The kitchenware presenting the bamboo problem is identified through TARIC codes 3924100011 (tableware and kitchenware containing polyamide or melamine, consignment from CN/HK), 392410019 (tableware and kitchenware containing polyamide or melamine, other), 3924100020 or 3924100090 (tableware and kitchenware of plastics other). These codes are far too broad to allow proper customs identification of non-financial risks, thus resulting in these products being practically invisible to customs. In addition, wrong usage of TARIC codes is a well-known mechanism for attempting to evade the correct customs duties.

([191]) The coordinated assistance and follow-up by the Commission foresees that where competent authorities in the Member States concerned are unable to agree on appropriate action to address a non-compliance, the Commission shall coordinate the measures and actions undertaken by competent authorities.

A fourth issue is the overall coherence of the system, for which the enforcement actions taken on the market have a different efficiency than the ones taken at the border and there is no co-operation framework to ensure co-ordinated delivery by customs and market authorities at the same time.

Finally, neither customs nor market authorities were equipped to target specific manufacturers and operators in a structured way across all supply points for the EU. Evidence from the coordinated action shows that information about operators was flowing between customs and market authorities, yet this information had to be assessed manually, despite the products concerned being very standardised in nature, and notwithstanding the fact that a positive hit on the market could have been immediately used to feed customs intelligence and target the same products in customs risk analysis (in so far as the declared data and the analytics techniques would support detection of consignments in customs flows).

5.3.4 How would the options perform?

The operational logic for contribution of the options in this case, as well as the timing assumptions for the start of benefits, are the same as in the Toy Safety case. These have been fully explained in section 5.1.3 and are not repeated here. The main distinction in this case is that the analysis takes account on the specific details emerging from a historic enforcement action.

Option 1

The Commission (with the support of its Joint Analytics Capabilities per the baseline, and with the new political mandate above) prepares a **common risk management approach** and **co-operation framework** to help national customs and market surveillance authorities to work together.

This Option brings a small improvement in detection of specific non-compliant supply chains and positive filtering of transparent operators (*Trust and Check* importers of bamboo). New data from e-commerce platforms could also be used by national customs to help with targeting (additional contextual information may help identify risky streams within TARIC codes which cover both compliant and non-compliant products).

However it does not support a sustained, systematic EU-wide action on non-compliant supply chains however. While this option would bring more coherence on the Commission side, it **would not significantly improve coherence in implementation on the ground**. The Commission's role under the UCC would not be equivalent to its role under Article 108 of the Official Controls Regulation (it does not have such a direct role in relation to controls). In practice, outcomes on the customs side would be similar to the Toy Safety case – in this case, this option would not ensure that market detections were translated into systematic identification of non-EU bamboo supply chains or their consistent targeting across the external border. It would not alter substantially how Member States operate on the ground and the tools used to detect bamboo-related products, and it would only facilitate an ex-post evaluation.

Introducing the concept of 'deemed importer' for the e-commerce platforms would bring added value, as the platform would be liable for the non-financial risks posed by the products they sell under the Digital Services Acts. However, the liability alone would not be a sufficient driver to address the problem of bamboo: platforms would still base their reactions on the detections by the market authorities in the internal market, with the risk of large volumes of bamboo kitchenware remaining in circulation undetected.

Option 2 brings an improvement compared with Option 1, based on a more effective co-ordination mechanism working in essentially the same data management and process environment. Efficiency gain rather than major operational scope expansion.

Option 3 brings a further improvement in detection based on a better data management environment and higher quality EU indicators, but otherwise faces the same governance constraints as in Option 1. Efficiency gain rather than major operational scope expansion.

The cooperation between customs and non-customs authorities will take place through the EU Data Space and will be enhanced by the use of AI. Commission officials and national experts would work together on assessing data in common targeting projects. Market surveillance authorities would be encouraged to share risk information for use in common targeting projects (not limited to one MS). This would allow tackling and identifying specific trade flows on non-authorised bamboo products, and flagging specific economic operators.

The Commission would be able to deploy ad-hoc features to tackle the issue of bamboo in a shorter amount of time, as compared to the decentralised digital model, however the analysis to define such features would still require time as the Commission will not have an operational role and would still need to consult Member States on these new features. The EU Data Space could be interoperated with the other platforms used by the Commission to coordinate controls in the food safety domain, such as RASFF, and re-use and cross-check such information, thus exponentially increase the intelligence upon which customs would then act on the ground.

In this option, the Commission will maintain an overall coordination role which will be constantly fed by first-hand information. The Commission could arrange for preparation of EU indicators and evaluate them, based on visibility of the customs data flows. However, the actions on the ground would still remain up to each Member State and subject to diverging practices.

The single advance cargo information layer would allow tracking consignments of bamboo-related products, and matching it with internal market controls without manual interventions, thus facilitating the action of the market authorities in the internal market. These supply chain flows could also be analysed across the EU to give a better picture of the size of the problem.

Overall, effectiveness and efficiency of implementation across the EU would continue to vary. The practical improvement would remain limited by the governance constraints (notably the extent to which each MS agrees to include their flows in the targeting work). This means the technical investment in the information environment would be under-exploited. The same governance constraints would limit the scope and speed of EU customs adaptation to illicit trade.

Option 4 combines the governance reform of Option 2 (Authority) with the data management reform of Option 3 (dataspace). These elements are mutually reinforcing in this context, as the Authority would have the organisational mandate and operational critical mass needed to 'drive' a sustained, systematic approach to targeting non-compliant imports.

The Authority would prepare the EU supply chain supervision strategy. It would arrange rapid mutual training of experts on concepts and on the EU customs tools. It would bring together bamboo and customs experts and analyse all EU imports (including e-commerce flows) to initially identify good and bad supply chains (starting point). The co-operation with bamboo experts would be supported on a more systematic basis than under Options 3 or 4 as the Authority would have a file manager for co-operation.

The Authority would make better use of intelligence and of co-operation framework tasks. The Authority would use the EU customs information environment directly to create a virtual analytics project involving bamboo and customs experts, to design operational targeting indicators and performance feedback to be applied to inbound traffic. The availability of additional information from operators including e-commerce platforms would enable the Authority to prepare common analytics tools aimed at identifying risky streams within TARIC codes which cover both compliant and non-compliant products. This ability to apply more advanced analytics techniques quickly and in a common operational manner is a major advantage in the context of the data quality problem described for this specific bamboo case in the baseline. The training function of the Authority would support the development of common technical understanding between customs and bamboo experts (important in supporting the effective and proportionate use of advanced analytics).

The synergies between customs, data science and bamboo experts and the management of the Data Space would enable these projects to deliver higher-impact controls across the Member States, including structured sampling in e-commerce flows (a major gap area currently), and distribution of actions to suitable intervention points (such as the destination Member State according to customs information) and support convergence of enforcement across the EU.

This option significantly improves the 'time to market' to deliver effective enforcement against unauthorised bamboo products. This option would be more adaptive – benefiting from granular operational feedback and insights on less efficient targeting indicators, and insights on changing modus operandi This will ensure that the problem of bamboo can be swiftly tackled in a consistent manner at operational level through the Authority, without prejudice to additional, specific actions that both the Commission and the Member States could carry out.

Similarly to option 3, the Authority could add features to the EU Data Space, with the added value of integrating operational experience and having an operational mandate, thus significantly cutting the time required to analyse new features of the EU Data Space, and implement them.

The combination of enablers in this option significantly increases detection compared with options 1-3. A deeper analysis of supply chain information and complementary data would enable better identification both of legitimate trade and of trans-European networks and connections which are not identifiable in national data flows alone, shifting the focus to higher-impact enforcement actions.

5.3.5 Summary indicators

The overall baseline assumption is that non-compliance continues to be an important issue (new sources continue to emerge).

BENEFITS (Qualitative)	**Option 1**	**Option 2**	**Option 3**	**Option 4**
Effectiveness				
Overall (General Objective)				
SO 1 – Strengthen EU customs risk management	*	**	***	****
SO 4 – Data access/use for strategic customs action	*	**	***	****
SO 5 – Enable the Customs Union to act as one	*	***	**	****
Protection outcomes - *Single Market and Sustainability:*				
Consumers: Reduced health risk	*	**	**	****
Consumers: Reduced non-compliant **e-commerce** imports	*	**	**	****
Efficiency				
Avoided unnecessary inspections and controls; transfer of effort to higher impact interventions	*	**	***	****
Coherence with other EU policy objectives				
Single Use Plastic Directive	**	***	***	*****
Environmental policies (persistent chemicals)	*	*	*	**
Strategic capability				
Co-operation framework support	*	***	***	*****
Strategic planning support	*	**	***	*****
EU-wide trade flow visibility	*	**	****	****
EU-wide performance visibility	*	**	****	****
Adaptability (time to market)	*	**	***	*****

BENEFITS: SECURITY (PROTECTION AS ONE)

6.1 Context and customs relevance

Following the events of September 2001, *the Security Amendment* to the Community Customs Code in 2005 brought about an important shift in operational emphasis in the implementation of the customs union in order to better protect the safety and security of the EU and its citizens.

Under the Union Customs Code, customs authorities have the right to comprehensive information on all goods coming to or through the EU, and are obliged to carry out risk-based customs controls in an EU customs common risk management framework. The broad definitions of the mission of customs and the concepts of customs risk and controls enable customs authorities to play an important role managing potential security risks, and put customs in the front line in particular for detecting or preventing the exploitation of goods supply chains by organised criminal or terrorist groups. Specific EU common risk criteria and standards for safety and security in general and aviation security in particular have already been established.

It is useful in this context to recall that customs risk analysis and control measures are operationally broad, ranging from requests for additional information or screening and verification through various kinds of physical intervention and ultimately to detention of goods or transport or instructions not to load goods in the first place. These control measures and actions taken by customs are directly regulated by the Union Customs Code and are clearly a vital element in any multi-layered strategy for tackling these phenomena. Law enforcement processes often happen in parallel or in follow-up to customs control processes. It is clear that the complex, diverse and specialised nature of these threats means that the greater the co-operation between customs and other authorities (particularly in the security and law enforcement domains), the more effective the EU's response can be. A key consideration for customs reform options therefore is the extent to which they can underpin better and more systematic data-driven co-operation with other security actors.

Before considering the options, this section presents a small number of specific organised crime examples (drugs precursors, cigarettes and narcotics), followed by a broader outline of some of the more horizontal challenges connected with the growth of small parcel traffic (including the counter-terrorism aspects for air cargo security and further organised crime issues with firearms and new psychoactive substances). These brief contextual orientations will allow for a clearer strategic assessment of how the options may be expected to perform in the security domain.

6.2 Drugs precursors

The production of drugs such as heroin, cocaine and amphetamine type stimulants requires the use of chemicals, which are referred to as drug precursors.

Drugs precursors supply chains have a number of key features in terms of technical sophistication and rapid evolution of the products concerned and the transnational scope and adaptability of organised criminal groups, which make them a particularly difficult threat to manage without a comprehensive picture of supply chain flows and a multidisciplinary approach to targeting.

Traditionally, drug precursors have had varied legitimate uses, for example, in the production of pharmaceuticals, cosmetics, plastics, perfumes and cleaning products and were traded in

significant volumes. To prevent the misuse of these precursors to produce drugs, a specific regulatory framework has been set up both at international and at EU level. ([192]) This essentially focuses on monitoring (by companies and authorities) of legitimate use to try to prevent 'diversion' to illicit channels.

Drug precursors may be scheduled substances (listed in the Annexes to the EU Regulations, with the list being changed over time) or non-scheduled substances (all the other substances identified as being used in the illicit production of drugs). Scheduled substances are subject to clear control measures (licenses/authorisations).

Organised crime groups have always tried to circumvent the controls implemented for scheduled substances, by substituting them with non-scheduled substances (in the case of going a step backwards in the production process these are sometimes called 'pre-precursors'). Until about 2010 also these non-scheduled substances had primarily only legal uses.

In 2019 an EMCDDA report analysed drug precursor developments in the EU. It found that in the past, a reduction in the availability of a particular precursor was sufficient to have an impact on the production of an illicit drug. Hence the significant reduction in the supply of MDMA at the end of the last decade; this coincided with a reduction in the availability of PMK and safrole around 2008 due to global precursor restriction efforts. The success of this supply reduction effort, however, led criminals to look for other ways to get their chemicals.

In the last decade so-called 'designer-precursors' have emerged; these are close chemical relatives of scheduled drug precursors that are purpose-made to circumvent controls by the authorities and do not have any known legitimate use. The tools of traditional drug precursor control such as licences and registrations, import and export authorisations and the requirement to notify suspicious transactions are largely ineffective to counter designer-precursors since these substances are never part of the licit supply chain/ channels. The modus operandi involves designer-precursors being misclassified as another product/chemical, packages are mislabelled, fake addresses and names of legal companies are used, etc.

There are hardly any limitations for developing new designer-precursors. Each time a new substance is identified and subsequently scheduled, organised crime groups seem to be able to slightly alter the molecular structure and come up with a new designer-precursor. The time needed for this is very short and in any case shorter than the period needed to schedule a substance. Within the existing legislative framework which is based on a time-consuming 'substance-by-substance scheduling' the authorities seem to be unable to keep up with the speed of innovation of the organised crime groups.

Crucially, though the 2019 analysis found that the traditional tools for tackling precursor control are not effective to counter the use of alternative chemicals in illicit drug manufacture, the key underlying message is the capability of illicit producers and traffickers to react quickly to circumvent controls and other measures. Recent evidence indicates that illegal trade in acetic anhydride, the main precursor substance used in the production of heroin and widely used in the legal chemical industry in the EU, has also increased. (SOCTA 2021). This underscores the adaptability of criminal organisations to respond to supply reduction measures and the

([192]) At international level the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, in particular Article 12 thereof, establishes a number of general control and monitoring measures and obligations. The EU is Party to this Convention and two EU Regulations, one focussing on external trade and another one on intra-EU trade, implement these international obligations at EU level.

requirement for control and enforcement measures that are comprehensive and sufficient in scope and agility to maximise effectiveness.

The European Union has also become a significant producer of some drugs, both for domestic consumption and for the global market (EMCDDA 2022). This is indicated by the dismantling of over 350 drug production facilities in the European Union in 2020. The scale of these operations is also changing. While methamphetamine production in Europe historically has been characterised by small-scale local 'kitchen' laboratories using precursor chemicals extracted from medicines (ephedrine and pseudoephedrine), large-scale sites using different production methods have now been detected in the Netherlands and Belgium. This area is also the main location for amphetamine and MDMA manufacturing using similar processes. Recent information showed the involvement and collaboration of Mexican cartels to produce large quantities of methamphetamine. This is raising concerns that Europe is now playing a more significant role in global supply of synthetic drugs.

Increasing diversity in the drug market is also signalled by the availability and use of non-controlled **synthetic cathinones**, sold as alternatives to controlled stimulants. Seizures of cathinones increased to 3.3 tonnes in 2020, up from 0.75 tonnes in 2019, and large seizures have continued to be reported in 2021 and 2022. ([193]) Most bulk quantities of synthetic cathinones seized in 2020 originated in India, where large-scale production of these substances appears to be a relatively new development. Prior to 2020, the origin of comparable consignments, where established, was China. ([194]) The latest data may indicate a more general shift to the greater involvement of other countries, with capacity within their chemical or pharmaceutical industries, in the supply of new psychoactive substances and possibly precursors to Europe. If so, it could have important implications for future drug control efforts. (EMCDDA 2022)

Methamphetamine produced in Mexico and Africa is also trafficked to Europe. The quantities trafficked range from small amounts in postal packages connected to darknet market purchases, to multi-tonne consignments imported from Mexico (sometimes for the EU market, sometimes for transhipment) (EMCDDA 2022). Changes in methamphetamine production and trafficking have created the potential for the drug to become more available in Europe. Given the harms associated with this drug and the major role it plays in drug problems internationally, Europe needs to be better prepared to identify and respond rapidly to any signs of further diffusion in production or use (EMCDDA 2022).

As of 2019 the **EU retail synthetic drugs market** was estimated to be valued at more than EUR 1.5 billion. (EMCDDA and Europol, 2019). There is a record high production of synthetic drugs in the EU and it is estimated that 90% of the synthetic drugs produced in the EU resort to the use of designer precursors. (Ad-hoc group report). To date, there is no evidence that the actual production of these designer-precursors takes place in the EU. All designer precursors are originating in third countries mainly in China; but there are reports indicating India as well.

([193]) This increase was largely driven by a small number of large-scale seizures of N-ethylhexedrone and two substances, 3-MMC and 3-CMC, which are structurally similar to the internationally controlled drugs 4-MMC (mephedrone) and 4-CMC (clephedrone). While 3-MMC and 3-CMC have been available on Europe's drugs market for several years, their availability seems to have increased around 2020.

([194]) However, in recent years, China has introduced legal controls for various substances, including 3-MMC and 3-CMC. As China has historically been a major source of new psychoactive substances detected in Europe

As indicated above, illicit producers and traffickers do adapt and react quickly to changes in the control environment in order to circumvent controls and other measures. It is clear that monitoring of the trade in drug precursors for legitimate use must continue to enable authorities and economic operators to prevent their 'diversion' from licit to illicit channels. There is a need to address the issue of non-scheduled substances, in particular designer-precursors. ([195])

For the purposes of this case study, they key issue is that **because designer-precursors are illegally imported or smuggled in from third countries, customs authorities, as the gatekeeper at the EU external borders have an important role to play to stop their entry.** DG TAXUD created an ad-hoc group with the aim to support the Commission in analysing the issue in-depth from an interdisciplinary array of backgrounds to assess possible policy avenues on how the matter should be tackled. Among the areas for action identified are strengthening customs risk management and to improve detection capabilities of Customs administrations.

In operational practice, **seizures of designer precursors show that the entry points are scattered all over the EU,** and then transported by road, perhaps to other Member States, to be used for drug manufacturing. In general, organised crime groups seek to find an entry-point where controls are less strict and/or where penalties are low. If an occasional seizure happens, organised crime groups will look for another entry point.

Tackling this phenomenon needs a more joined-up and agile capacity for customs risk management and cooperation with other law enforcement authorities and experts in the field. The systematic analysis of EU wide and global data is a pre-requisite to respond quickly to new trends and modus operandi; and for appropriate control responses throughout the external border and overall results in better targeting of the consignments of designer precursors.

6.3 Cigarette smuggling

Compared with drugs precursors, this phenomenon is easier to understand, but nonetheless remains difficult to effectively tackle.

Cigarette smuggling has been a major concern in Europe for some time. Although customs seize billions of cigarettes every year, the presence of illicit imported cigarettes on the market has tended to persist, driven by the continued market demand for cigarettes and the high price difference between licit and illicit traffic (in effect, illicit trade makes cigarettes available below the price levels set to discourage smoking).

Tobacco smuggling causes heavy yearly losses to the budgets of EU countries and the EU institutions in lost customs duties and taxes. It also undermines public health campaigns and violates the strict rules that the EU and its member countries have on manufacturing, distribution and sale (typically not complying with product regulation such as labelling) and presents specific risks for consumers. Furthermore, it is a source of revenue for organised criminal groups from Europe and beyond, and there are indications that in some instances it is also linked to financing terrorism

The annual report prepared by KPMG (commissioned by PMI) suggests that counterfeit and contraband cigarettes tends to be around 7%-8% of total cigarette consumption in the EU. The

([195]) On 30 November 2020 the European Commission adopted a Report on the evaluation of the EU drug precursors legislation. The main conclusion of the evaluation was that there is a need to address the issue of non-scheduled substances, in particular designer-precursors.

report suggests a possibly COVID-related decline in absolute numbers (and in particular connected with reduction in sea freight, an important smuggling mode). Nonetheless, KPMG suggests that for 2020 the estimate was still of the order of 34 Billion pieces for the EU27 and that '*Had these cigarettes been legally purchased in the countries in which they were identified, an additional c. €8.5bn in taxes would have been raised in the EU27*'. ([196])

Precise figures are not available for non-EU contraband (as origin country is not always marked), but the figures for 2020 suggest a range of 12.4-17.7 Billion pieces (this conservative range does not include any counterfeit cigarettes, of which some will certainly also have come from outside the EU). If the KPMG figures above are taken as an indication of the overall tax gap, a very conservative figure for the import tax gap might be taken in the order of EUR 8.5 billion x 12.4/34, i.e. EUR 3.1 billion.

When this figure is compared with the reported 3.6 Billion seizures in CUP figures for 2020, it may indicate that at least 70-80% of cigarette smuggling was not detected that year and that there is significant potential for further reducing the harm (health damage and revenue loss) caused by cigarette smuggling through better detection.

6.4 Drugs

The trade in illicit drugs remains the largest criminal market in the EU, estimated at a minimum retail value of EUR 30 billion per year in the EU (Security Union strategy). The overall assessment of EMCDDA (2022 report) is that drug availability and use remain at high levels across the European Union, although considerable differences exist between countries. It summarises its analysis of drug trends in 2022 as **'Everywhere, Everything, Everyone**'.

Direct impacts are seen in those who develop problems and need treatment or other services. Within the European Union, drug problems complicate other important issues such as homelessness, the management of psychiatric disorders and reducing youth criminality. Greater levels of violence and corruption driven by the drug market have been observed in some countries.

The **indirect consequences** may be more hidden but are equally important. They include:

- vulnerable young people being recruited into criminality,
- increased strain on health budgets, and
- the costs to society of communities that feel unsafe or where institutions are undermined by corruption and criminality.

An important part of the wider response needed to tackle this complex challenge is interdiction of supply of illicit drugs. Underlying the drug problems in Europe is the continuing innovation in the drug market, which has led to the overall high availability of an increasing number of different substances, often of high potency or purity. The 2022 report describes reducing both the importation of drugs into the European Union and production within the European Union as **key policy challenges**. Regarding importation into the EU, a matter of direct concern to customs supervision of the external border, the report finds that **large shipments continue to**

([196]) See also Report from the Commission to the Council and the European Parliament Progress report on the implementation of the Commission Communication Stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products - a comprehensive EU strategy (COM (2013) 324 final of 6.6.2013) [COM/2017/0235 final]. OLAF had suggested that if all cigarettes sold on the black market were sold legally, the budget of the EU and its Member States would receive above EUR 10 billion annually.

be detected that are transported using methods that often exploit commercial infrastructure, particularly intermodal container shipments. This has been accompanied by innovation in respect to new trafficking routes, methods for concealment and new production processes.

The situation is dynamic as *'developments in Afghanistan could change drug flows in ways that may have important future implications, and how the humanitarian crisis arising from the war on Ukraine could create new challenges for European drug services*'.

Along with the North American market, it is believed that the **European market for cocaine is among the largest in the world**. This development has been attributed to the potential for further growth in the consumption of cocaine, higher prices for cocaine compared to the North American market as well **as lower risks of interdiction and seizure**. ([197])

Most of the cocaine seized in the EU is transported by ship, primarily in maritime shipping containers. Cocaine is trafficked to the EU directly from the producing countries as well as from neighbouring countries of departure in South America. Cocaine trafficking affects all Member States. **After arrival at the main EU distribution hubs,** cocaine shipments are primarily trafficked **by road transport** in passenger vehicles and lorries **to local markets** (ref: EU SOCTA 2021).

The Balkan routes remain the main entry routes for heroin trafficked to the EU. **For the most part, heroin is trafficke**d along these routes in lorries **hidden among legal freight and cover loads or in concealed compartments** (EU SOCTA 2021).

In some Member States, synthetic opioids, such as fentanyl and its analogues, may be partially replacing heroin as the preferred substance due to its greater potency and cheaper price (EU SOCTA 2021).

Customs seize significant amounts of drugs every year. Aggregated figures for 2018-2020 are as follows:

Seizures in 2021 (592 tonnes, up 15% from 2020) are by far the largest reported since 2012 (CUP 2021).

Organised criminal modus operandi in this area typically involve **manipulation of legitimate or apparently legitimate traffic (as is seen in the occasional discovery of large quantities of cocaine in major supermarket chains in Europe) and rapid adaptation to detection** in any one port or Member State. In this context, improvement of detection in the supply chain implies comprehensive, sophisticated analytical methods with the full data EU traffic picture in view and with the capacity to systematically integrate complementary data sources (not only the declaration data) and to bring intelligence from partner authorities to bear in analytical

([197]) Global Initiative Against Transnational Organized Crime 2021, The cocaine pipeline to Europe.

processes at the relevant levels (national and common, as operationally appropriate). The concept of supervision strategy is equally important in this area as in an others, to ensure a joined-up approach to the development and improvement of intelligence on organised criminal chains, the identification of risky consignments, and the appropriate use of customs controls.

6.4 The parcel traffic dimension: a growing security risk factor

Parcel traffic in postal and express consignments presents a unique set of security challenges for the citizens, businesses and transport supply chains. The **sheer volume** of small consignments moving across the borders (billions annually) **and the prevalence of direct shipments to private persons** from outside they EU (which were not covered by electronic data requirements at all before 2021) make it very difficult to pick out risky parcels for intervention. This problem is relevant for all the security threats referred to above, and indeed for the internal market and sustainability examples mentioned earlier.

In this case, it us useful to illustrate this horizontal issue through some further short examples, namely aviation security, firearms, and new psychoactive substances.

The risk of an **improvised explosive or incendiary device** in air cargo continues to be of concern for counter-terrorism stakeholders. Following the Yemen incident of (in which a viable explosive device travelled in an express consignment from Yemen towards Chicago via Frankfurt), terrorist groups have maintained their interest in exploiting this method. As of March 2021, with the introduction of the first release of the reformed import control system (ICS2), customs now provides a comprehensive **pre-loading security risk analysis operation** for all postal and express consignment destined for the EU. This complements the existing Aviation Security Regulations, which were amended in parallel to provide that a customs request for additional screening or 'do not load' notification under the UCC now triggers an obligation on air transport operators and goods handlers to act under the AVSEC Regulations directly. The customs security screening operation is a complementary layer supplementing the AVSEC regime and involves close co-operation between customs, counter-terrorism and AVSEC authorities, and underpinning an urgent multidisciplinary crisis response in case of incident.

Another emerging area of concern is the **trafficking of firearms** and their components through postal and express courier movements, and of **new psychoactive substances**.

Customs Union Performance data indicates that in 2021, EU customs authorities seized 6 496 pieces of firearms (across all modes of transport), a 58% increase in 2020 (4 105 pieces), due to an especially important seizure in one Member State (Germany). This was the highest figure ever reported in CUP. The amount of seized ammunition also grew, up 460% from 2020, due to two large seizures in the Netherlands.

6.5 How would the options perform?

The operational logic for contribution of the options in this case, as well as the timing assumptions for the start of benefits, are in general the same as in the Toy Safety case, as explained in section 5.1.3. There are some important distinctions however, which imply some nuance in the assessment, notably:

- the nature of the co-operation relationships required and the general operational sensitivity; some security or criminal intelligence may need to be applied in national environments

(partner authorities are less likely to make details widely available for obvious reasons, whether within their own organisations or with third party authorities);

- the possibility that law enforcement actions other than customs control may be taken in certain circumstances (e.g. controlled deliveries based on national arrangements)
- greater sophistication in concealment and other elements of modus operandi in this area; greater difficulty of detection (more 'needle in a haystack' aspects)
- the need for intervention before loading in the case of serious security threats such as an explosive device, or on arrival or unloading for other threats in general
- the law enforcement and security domain naturally focuses more on co-operation in combating general serious trans-national offence categories rather than detailed harmonising legal acts typical of single market and sustainability policies.
- there is more customs experience with common risk criteria for safety and security in general, and for aviation security in particular – these are being implemented by the Member States, and an EU 'do-not-load' procedure is supported for aviation security through ICS2
- At the EU level, specific Agencies (such as Europol or Frontex) and Council fora (COSI, and the Law Enforcement Working Party – Customs section) are active in related areas.

Option 1

The examples described several instances of security threat (and of course more could have been listed) – drugs precursors, drug trafficking in containers, cigarettes, aviation security, and firearms, as well as the broader aspect of traffic in small parcels.

The use of ICS2 Safety and Security analytics could improve targeting and improvements in detection of specific consignments and supply chains would be delivered, limited however by the legal and governance context for the (fragmented) information environment which will continue to impede the sharing and integration of additional reference data in support of targeting. The pace of delivery of projects would not match the pace of adaptation of security threats (a particularly acute problem in this domain, where the concealment efforts are relatively sophisticated). Individual successes would not be converted to any significant, consistent improvement EU-wide interdiction. Effectiveness and efficiency of security controls across the EU would continue to vary largely as today. With this option customs would lack the framework/capacity to deliver and maintain up to date, agile, responsive EU level common risk management. Customs could continue with the current EU common Priority Control Area (PCA) approach in the security domain - it may be noted however that since the inception of the PCA concept in 2006, there have been a total of 6 PCAs, averaging one every two-three years.

Option 1 does not provide a basis for a significant improvement in outcomes in this case. It may support limited progress in certain areas (such as promoting greater voluntary collaboration between security and customs for intelligence-based targeting in the aviation security area, and supporting voluntary limited-scale pilot actions aimed at improving mutual co-operation between customs and other authorities). New data would be provided from e-commerce platforms and MS could use this to improve their understanding of parcel trade flows and to narrow somewhat the filter for flows which may involve security risks. However the ability of MS to protect each other in common customs supervision would not significantly increase compared with the baseline, taking account of the adaptation of illicit traffic.

The *Trust and check* procedure is much less relevant for security threats. An important modus operandi for organised crime is to 'hijack' legitimate supply chains (see – cocaine found in supermarket warehouses).

Option 2

In this option, the **main difference** from Option 1 is that a common risk management approach is developed and co-ordinated by the Authority.

The Authority would work with other EU Agencies and services and national authorities on the development of the **co-operation framework** on a risk-by-risk basis**.** It would host multi-disciplinary events and ongoing processes to engage both customs and partner authorities in developing operations and co-operation. It would arrange **joint analytical projects** involving both customs and partner authorities, to analyse all available information using available capabilities (primarily the tools developed for the Joint Analytics Capabilities, notably those in ICS2 analytics and Surveillance). It would promote the central sharing by partner authorities of risk information for common use in this context.

The effectiveness and efficiency of this would be limited by the extent to which MS would agree to share information which they received directly in their national environments from trusted operators and from e-commerce platforms. Progress would also be limited by the division of responsibilities for data governance in this mode. Data protection arrangements would need to be agreed across the different systems and the process for Member States customs (as data controllers) agree to include their flows in the scope of a targeting project for toys would be lengthy and duplicative. The Authority would not have the full EU customs picture in terms of data provided to customs or in terms of risk analysis or control results arising. Outside of the advance cargo information, the Authority would not be in a position to prepare, test or implement common indicators directly on the real-time flow of customs operations.

Nonetheless, as compared with Option 1, the Authority would be able to co-ordinate an important step forward in common understanding and approach by working closely with Member States customs authorities and benefiting from the political prioritisation of this work. The involvement of all Member States directly in the structure of the Authority would, coupled with the political mandate from the Council, improve 'buy-in' to the Authority's operational support role.

Option 3

This would deliver a better information environment for policy action. It would enable Commission officials and national experts to work together on assessing data in common targeting projects to the extent that MS customs agree. Based on current resource limitations and working methods, security and law enforcement partners could be encouraged to share risk information with national authorities for use in common targeting projects (not limited to one MS). Domain specialists (enforcement and technical) in the areas of cigarette smuggling, drugs precursors, new psychoactive substances, firearms, aviation security and narcotics could be invited to support the relevant projects with additional data and expert perspectives, within the limits of the Commission and Member States capacities to organise and support the necessary multidisciplinary projects.

Development of non-binding common indicators could be accelerated (covering the cases mentioned over 1-2 years). Interoperability, to include non-customs data in processing could be delivered more quickly than the baseline but its practical deployment would be affected by the

governance aspects (timing and scope of agreement of use of the data in connection with which MS flows).

Effectiveness and efficiency of implementation across the EU would continue to vary. However, as compared with options 1 and 2, the tools for detection of specific consignments would be better and targeting actions could be prepared more quickly.

The practical exploitation of the improved information environment and tools would be constrained by the extent to which Member States customs agree to include their flows in the scope of a targeting project in each of the cases. The legal and governance context for the information environment would likely continue to impede the sharing and integration of additional reference data in support of targeting, due to the decision-making structure which would still depend on voluntary agreement across MS (as controllers) to share data and the lack of an actor with a mandate to drive the setting up of analytics operations.

The technical improvement in the information environment would likely be under-exploited and the return on investment would be reduced. Adaptation speed in practice would not increase significantly due to the governance constraints. In so far as some Member States would significantly increase their national detection, the illicit supply chains may re-route quickly to those MS which do not, and the overall EU ability to detect such changes may have gaps (related to scope of projects) or delays (related to the time at which the common performance picture can be effectively analysed and shared).

Option 4

With this option, the Authority critical mass would allow for all six cases to be addressed in parallel rather than in batches in sequence.

The Authority would prepare the EU supply chain supervision strategy for each case. As part of this process it would bring together domain knowledge (technical and enforcement) and customs knowledge and analyse all EU consignments (including e-commerce flows). The Authority would arrange rapid mutual training of experts on concepts and on the EU customs tools. The supervision strategy would clarify the situations in which a control would be appropriate. This would take account of operational needs (for example, in the security domain, there may be cases where a controlled delivery, ‘do-not-load’ or other non-intrusive action is appropriate).

The Authority would use the dataspace directly to create virtual analytics projects for each case, bringing customs and security domain experts together, to design operational targeting indicators and performance feedback to be applied to inbound traffic. The scope of the targeting would include all supply chain steps, as the customs information environment would have information on all customs processes up to release.

The Authority could further improve targeting through a more structured, data-driven collaboration (based on exchange of information, generation of intelligence and co-operative operational planning for operations with EU-wide customs supervision impact) with Europol, OLAF (cigarettes) or Frontex. The Authority could participate on behalf of EU customs in relevant EU security and law enforcement policy actions, and could initiate customs actions and invite the EU services to participate in them.

The Authority will organise the development of the co-operation framework and support connections and mutual training between customs experts and the domain specialists. This concerns both enforcement and also technical specialists, as some domains, such as precursors,

demand very specific technical knowledge. The Authority would develop and sustain the relevant networks across the EU (it would have file leaders for risk management and horizontal co-operation in each case).

The Authority would look after data governance and role issues using pre-defined project definition tools with built-in data protection compliance working methods and system controls, enabling the data to be used on an EU-wide basis for common risk management, using EU customs data from all processes and linked data from other sources. It would work with partner services and authorities on specific issues relating to information security.

As a complementary measure, the Authority would rapidly prepare interoperability 'mini-apps' to connect customs data to data from each partner authority (as controller of the customs data, the Authority would be able to take the operational decision to carry out this processing operation). Constraints for interoperability would therefore be primarily on the partner authority side. The Authority could also ensure the systematic integration in real-time customs risk analysis of complementary data sources regarding supply chain movement (for example, container movement histories, commercial reference databases, etc.) which would assist in identifying legitimate supply chains at risk of exploitation by organised criminal groups.

As e-commerce platform information would be available in the customs information environment in this option, the Authority would systematically integrate it at consignment level and operator (importer) account level, further enriching analysis – improving the discovery of bad supply chains and the operational targeting.

The Authority would create more effective and efficient targeting indicators based on advanced contextual data analytics methods and deeper datasets as the Authority would have the critical mass – combination of data scientists and management of the EU Customs Data Space. This is particularly important in the context of security threats, which tend to use sophisticated concealment methods, and where one standard source of data may not be sufficiently informative.

The Authority would analyse operational results to provide periodic information and indicators for performance of this EU policy (outcomes from customs supervision). This information would be systematic and granular, showing where actions had been and highlighting the added value of EU action.

This activity would be a mix of continuous high-quality targeting, intense short-term urgent actions (responding to emerging risks), and a strategic analysis/review cycle with sustained, multidisciplinary attention to the six threat areas.

Outcomes under this option would be significantly improved compared with 1-3. Security threats and their full EU scope would be much better identified, including for e-commerce supplies [this visibility is not currently available to any authority].

In the case of an urgent priority targeting operation, the Authority would arrange for immediate deployment of customs targeting, pan-EU (indicators would be prepared in hours or days rather than months or years). The Authority would provide 24/7/365 support.

Compared with the baseline and Options 1-3, this option will also reduce the duration of exposure to this harm and its impact from a given supply chain.

Customs and trade control resources would be used more efficiently (fewer wasted checks).

6.6 Summary indicators

6.6.1 Qualitative benefits

Regarding consumer health protection: the effectiveness score lower in these examples than for Toy safety or in the prevention of revenue loss case, because of the differences in terms of consumption habits and risk tolerance.

BENEFITS (Qualitative)	**Option 1**	**Option 2**	**Option 3**	**Option 4**
Effectiveness				
Overall (General Objective)				
SO 1 – Strengthen EU customs risk management	*	**	***	****
SO 4 – Data access/use for strategic customs action	*	**	***	****
SO 5 – Enable the Customs Union to act as one	*	***	**	****
Protection outcomes - *Security:*				
Consumers: Reduced health risk (cigarettes, narcotics, NPS)	*	**	**	****
Protection outcomes – *Financial – revenue loss (cigarettes)*	*	**	**	***
Efficiency				
Avoided unnecessary inspections and controls; transfer of effort to higher impact interventions	*	*	*	****
Coherence with other EU policy objectives				
EU Serious and Organised Crime Threat Assessment (SOCTA)	*	*	**	***
Drugs precursors (([198]))	*	*	**	***
Civil Aviation Security (([199]))	*	*	**	***
Tobacco smuggling	*	*	**	***
Strategic capability				
Co-operation framework support	*	**	***	*****
Strategic planning support	*	**	***	*****
EU-wide trade flow visibility	*	**	****	****
EU-wide performance visibility	*	**	****	****
Adaptability (time to market)	*	**	**	****

([198]) Council Regulation (EC) No 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors (OJ L 22, 26.1.2005, p. 1).

([199]) Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 (OJ L 97, 9.4.2008, p. 72).

This also contributes to the EU's activity relating to international instruments such as the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and bilateral agreements with 3rd countries to prevent drug precursors' diversion by monitoring licit trade, and the WHO Convention on Tobacco Control (see further Illegal tobacco (europa.eu)).

6.6.2 Quantitative benefits scenarios

The overall baseline assumption is that cigarette smuggling continues to be an important issue as it has for the last decade and that concealment of large quantities in commercial transport continues to be an important *modus operandi*. If a similar approach is taken to the quantification in Ecodesign, and conservative (small) improvements in detection were to be attributed to the options according to their different effectiveness, impact scenarios might be identified as follows:

Baseline EUR 3.1B	Revenue loss prevention	Direct annual gain
Option 1	+2%	EUR 62 m
Option 2	+4%	EUR 124 m
Option 3	+4%	EUR 124 m
Option 4	+8%	EUR 248 m

The scenario is annualised in the table below. For timing assumptions, see section 2. In this case it is assumed that savings start from Y4 and this is a Council priority.

All values are estimates, relative to baseline. In €Million.	*Phase 1*		*Phase 2*			*Phase 3*										
BENEFITS (consumer cost saving)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
Option 1				62	62	62	62	62	62	62	62	62	62	62	62	**744**
Option 2				124	124	124	124	124	124	124	124	124	124	124	124	**1 488**
Option 3				124	124	124	124	124	124	124	124	124	124	124	124	**1 488**
Option 4				248	248	248	248	248	248	248	248	248	248	248	248	**2 976**

These scenarios are not forecasts. They illustrate how significant capability differences between the options could be reflected in performance differences, taking account of small relative improvements and taking account of a small proportion of the potential benefits.

SUMMARY TABLES: OVERALL COMPARISON OF THE COST AND BENEFITS OF THE OPTIONS

In the tables in this section, the expression "savings in compliance costs" refers to the overall aggregate "bottom line", industry-wide, after the increase in outlay on customs duty on e-commerce parcel consignments is netted off against the ongoing administrative savings which come from the reform.

7.1 Option 1 (quantitative)

Increase with respect to baseline (million EUR)	*OPTION 1 - Phase 1 Building reporting tool for platforms*			*OPTION 1 - Phase 2 Adapting national IT environments to simpler processes*					*OPTION 1 - Phase 3 Operators applying simpler processes progressively*							
COSTS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
Member States - administrative costs																
1. Investment in new or updated IT (one-off)	1.101	1.045	1.040	1.035	1.030	433	428	422	416	413	-106	-112	-118	-124	-131	**6.772**
2. Cost of maintaining IT (recurrent)	-12	395	474	704	929	1.147	1.040	926	806	681	548	545	542	539	536	**9.800**
3. Customs Staff (recurrent)	10	10	10	19	19	19	19	19	83	83	83	83	83	83	83	**703**
4. TOTAL MS costs (1+2+3)	1.099	1.450	1.524	1.758	1.977	1.598	1.486	1.367	1.306	1.177	525	516	507	498	488	**17.274**
EU services administrative costs																
5. Investment in new or updated IT (one-off)	34	13	13	12	12	-1	-1	-1	-2	-1	-1	-2	-2	-2	-3	**67**
6. Cost of maintaining IT (recurrent)	-3	10	20	29	30	27	18	10	2	-6	-15	-24	-24	-23	-22	**29**
7. Customs Staff (recurrent)																**0**
8. TOTAL EU costs (5+6+7)	30	23	32	42	42	26	17	9	0	-7	-17	-26	-26	-25	-25	**96**
Reduction of the business administrative costs, even considering the increase in duties from removing EUR 150 threshold																
9. Savings in compliance costs				-1.171	-1.171	-1.171	-1.171	-1.171	-1.630	-1.661	-1.784	-1.784	-1.784	-1.784	-1.784	**-18.063**
10. TOTAL costs (4+8+9)	1.130	1.473	1.556	629	849	453	332	205	-324	-492	-1.275	-1.294	-1.302	-1.311	-1.320	**-693**
BENEFITS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
11. Revenue from removing EUR 150				1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	**12.000**
NET COST/ BENEFITS (10-11)	**1.130**	**1.473**	**1.556**	**-371**	**-151**	**-547**	**-668**	**-795**	**-1.324**	**-1.492**	**-2.275**	**-2.294**	**-2.302**	**-2.311**	**-2.320**	**-12.693**
Additional examples - illustrative scenarios not taken into account																
12. Revenue loss prevention - cigarettes				62	62	62	62	62	62	62	62	62	62	62	62	**744**
13. Consumers' saving - Ecodesign				322	322	322	322	322	322	322	322	322	322	322	322	**3.861**

7.2 Option 2 (quantitative)

Increase with respect to baseline (million EUR)	*OPTION 2 - Phase 1 Building reporting tool for platforms*			*OPTION 2 - Phase 2 Adapting national IT environments to simpler processes*					*OPTION 2 - Phase 3 Operators applying simpler processes progressively*							
COSTS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
Member States - administrative costs																
1. Investment in new or updated IT (one-off)	1.101	1.045	1.040	1.035	1.030	433	428	422	416	413	-106	-112	-118	-124	-131	**6.772**
2. Cost of maintaining IT (recurrent)	-12	395	474	704	929	1.147	1.040	926	806	681	548	545	542	539	536	**9.800**
3. Customs Staff (recurrent)	10	10	10	7	4	1	1	1	76	76	76	76	76	76	76	**576**
4. TOTAL MS costs (1+2+3)	1.099	1.450	1.524	1.746	1.962	1.580	1.468	1.349	1.299	1.170	518	509	500	491	481	**17.147**
EU services - administrative costs																
5. Investment in new or updated IT (one-off)	36	15	15	15	14	2	1	1	1	1	1	1	0	0	0	**102**
6. Cost of maintaining IT (recurrent)	-3	10	23	34	36	34	27	20	13	6	-1	-9	-7	-4	-2	**177**
7. Customs Staff (recurrent)	0,7	1,4	2,2	5,8	7,2	13	13,9	12,1	12,1	12,1	12,1	12,1	12,1	12,1	12,1	**141**
8. TOTAL EU costs (5+6+7)	34	27	40	54	57	48	42	33	26	20	12	4	6	8	10	**420**
Reduction of the business administrative costs, even considering the increase in duties from removing EUR 150 threshold																
9. Savings in compliance costs				-1.171	-1.171	-1.171	-1.171	-1.171	-1.630	-1.661	-1.784	-1.784	-1.784	-1.784	-1.784	**-18.063**
10. TOTAL costs (4+8+9)	1.133	1.478	1.563	630	849	458	339	212	-306	-472	-1.254	-1.271	-1.278	-1.285	-1.293	**-496**
BENEFITS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
11. Revenue from removing EUR 150				1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	**12.000**
NET COST/ BENEFITS (10-11)	**1.133**	**1.478**	**1.563**	**-370**	**-151**	**-542**	**-661**	**-788**	**-1.306**	**-1.472**	**-2.254**	**-2.271**	**-2.278**	**-2.285**	**-2.293**	**-12.496**
Additional examples - illustrative scenarios not taken into account																
12. Revenue loss prevention - cigarettes				124	124	124	124	124	124	124	124	124	124	124	124	**1.488**
13. Consumers' saving - Ecodesign				536	536	536	536	536	536	536	536	536	536	536	536	**6.435**

7.3 Option 3 (quantitative)

Increase with respect to baseline (million EUR)	*OPTION 3 - Phase 1 Build seed of data space for e-commerce*		*OPTION 3 - Phase 2 Build data space*			*OPTION 3 - Phase 3 Operators progressively operating in data space - phase out of national IT systems*										
COSTS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
Member States - administrative costs																
1. Investment in new or updated IT (one-off)	-118	-123	-1	-6	-11	-144	-149	-155	-161	-164	-170	-176	-182	-188	-194	**-1.942**
2. Cost of maintaining IT (recurrent)	-12	-169	-294	-445	-607	-774	-948	-1.147	-1.353	-1.568	-1.786	-1.803	-1.819	-1.832	-1.845	**-16.402**
3. Customs Staff (recurrent)				-8	-24	-41	-41	-41	-22	-22	-22	-22	-22	-22	-22	**-309**
4. TOTAL MS costs (1+2+3)	-130	-292	-295	-459	-642	-959	-1.138	-1.343	-1.535	-1.754	-1.978	-2.001	-2.023	-2.042	-2.061	-18.653
EU services - administrative costs																
5. Investment in new or updated IT (one-off)	27	39	90	89	89	60	7	7	7	7	7	7	6	6	6	**455**
6. Cost of maintaining IT (recurrent)	22	39	79	144	163	163	141	130	132	137	152	158	155	155	152	**1.923**
7. Customs Staff (recurrent)	0		3	6	9	13	13	13	13	13	13	13	13	13	13	**143**
8. TOTAL EU costs (5+6+7)	49	78	172	239	261	236	161	150	151	157	172	177	174	173	170	**2.522**
Reduction of the business administrative costs, even considering the increase in duties from removing EUR 150 threshold																
9. Savings in compliance costs			-1.171	-1.171	-1.171	-1.339	-1.506	-1.972	-2.140	-2.140	-2.140	-2.140	-2.140	-2.140	-2.140	**-23.306**
10. TOTAL costs (4+8+9)	-81	-214	-1.294	-1.390	-1.552	-2.061	-2.484	-3.165	-3.524	-3.737	-3.945	-3.963	-3.989	-4.008	-4.030	**-39.437**
BENEFITS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
11. Revenue from removing EUR 150	0		1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	**13.000**
NET COST/ BENEFITS (10-11)	**-81**	**-214**	**-2.294**	**-2.390**	**-2.552**	**-3.061**	**-3.484**	**-4.165**	**-4.524**	**-4.737**	**-4.945**	**-4.963**	**-4.989**	**-5.008**	**-5.030**	**-52.437**
Additional examples - illustrative scenarios not taken into account																
12. Revenue loss prevention - cigarettes				124	124	124	124	124	124	124	124	124	124	124	124	**1.488**
13. Consumers' saving - Ecodesign			54	536	536	536	536	536	536	536	536	536	536	536	536	**6.489**

7.4 Option 4 (quantitative)

Increase with respect to baseline (million EUR)	*OPTION 4 - Phase 1 Build seed of data*		*OPTION 4 - Phase 2 Build data space*			*OPTION 4 - Phase 3 Operators progressively operating in data space - phase out of national IT systems*										
COSTS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
Member States - administrative costs																
1. Investment in new or updated IT (one-off)	-182	-187	-128	-133	-139	-208	-213	-219	-224	-228	-234	-240	-246	-252	-258	**-3.090**
2. Cost of maintaining IT (recurrent)	-12	-179	-333	-503	-683	-870	-1.063	-1.272	-1.487	-1.711	-1.939	-1.965	-1.992	-2.014	-2.036	**-18.056**
3. Customs Staff (recurrent)				-29	-57	-86	-86	-86	-94	-94	-94	-94	-94	-94	-94	**-1.002**
4. TOTAL MS costs (1+2+3)	**-194**	**-366**	**-461**	**-665**	**-879**	**-1.163**	**-1.362**	**-1.576**	**-1.805**	**-2.033**	**-2.267**	**-2.299**	**-2.331**	**-2.360**	**-2.388**	**-22.149**
EU services - administrative costs																
5. Investment in new or updated IT (one-off)	31	46	102	115	115	62	9	8	8	9	8	8	14	13	13	**559**
6. Cost of maintaining IT (recurrent)	22	41	83	150	170	172	150	139	141	146	163	170	169	167	166	**2.048**
7. Customs Staff (recurrent)	1	1	2	6	9	13	16	20	23	23	23	23	23	23	23	**230**
8. TOTAL EU costs (5+6+7)	54	88	187	270	293	246	174	168	172	178	194	201	206	203	202	**2.837**
Reduction of the business administrative costs, even considering the increase in duties from removing EUR 150 threshold																
9. Savings in compliance costs			-1.171	-1.171	-1.171	-1.436	-1.701	-2.323	-2.589	-2.589	-2.589	-2.589	-2.589	-2.589	-2.589	**-27.094**
10. TOTAL costs (4+8+9)	-140	-278	-1.444	-1.565	-1.756	-2.353	-2.889	-3.732	-4.222	-4.444	-4.661	-4.686	-4.714	-4.745	-4.775	**-46.406**
BENEFITS (quantitative)	Y1	Y2	Y3	Y4	Y5	Y6	Y7	Y8	Y9	Y10	Y11	Y12	Y13	Y14	Y15	**Total**
11. Revenue from removing EUR 150			1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	1.000	**13.000**
NET COST/ BENEFITS (10-11)	**-140**	**-278**	**-2.444**	**-2.565**	**-2.756**	**-3.353**	**-3.889**	**-4.732**	**-5.222**	**-5.444**	**-5.661**	**-5.686**	**-5.714**	**-5.745**	**-5.775**	**-59.406**
Additional examples - illustrative scenarios not taken into account																
12. Revenue loss prevention - cigarettes				248	248	248	248	248	248	248	248	248	248	248	248	**2976**
13. Consumers' saving - Ecodesign				1.287	1.287	1.287	1.287	1.287	1.287	1.287	1.287	1.287	1.287	1.287	1.287	**15.444**

7.5 Summary of costs and benefits – comparison of options (quantitative and qualitative)

Million EUR – change compared to baseline	Option 1	Option 2	Option 3	Option 4
QUANTITATIVE COSTS/BENEFITS (€M/15yrs)				
EU Services – direct implementation administrative costs				
Information Technology				
5. One-off	67	102	455	559
6. Recurrent	29	177	1 923	2 048
Other costs (staff)				
7. Recurrent	baseline	141	143	230
Member States – direct implementation administrative costs				
Information Technology				
1. One-off	6 772	6 772	-1 942	-3 090
2. Recurrent	9 800	9 800	-16 402	-18 056
Other costs (staff_				
3.Recurrent	703	576	- 309	- 1002
Business/Trade				
9. Recurrent (net of additional e-commerce duty costs)	-18 063	-18 063	- 23 306	-27 094
Revenue collection				
11. Revenue collection removing EUR 150 exemption	12 000	12 000	13 000	13 000
NET BENEFITS	**12 693**	**12 496**	**52 437**	**59 406**
Additional benefits scenarios - illustrative (not taken into account):				
12. Cigarettes (revenue loss prevention scenario)	744	1 488	1 488	2 976
13. Ecodesign example - consumer saving	3 861	6 435	6 489	15 444
QUALITATIVE BENEFITS				
Effectiveness				
Overall (General Objective)	*	**	***	****
SO 1 – Strengthen EU customs risk management	*	**	***	****
SO 2 – Reduce burden and simplify procedures	**	**	***	****
SO 3 – Level playing field - e-commerce	***	***	****	****
SO 4 – Data access/use for strategic customs action	**	***	****	*****
SO 5 – Enable the Customs Union to act as one	*	***	**	****
Protection outcomes (case studies)				
Single Market and Sustainability	*	**	**	****
Security	*	**	**	****
Revenue	*	**	***	****
Efficiency				
Overall efficiency	*	**	**	****
Proportionality				
Overall proportionality	**	**	***	****
Coherence				
Overall policy coherence	*	**	***	*****
Strategic capability	*	**	***	*****

Annex 10 - Acronyms and definitions

Acronym	Explanation
AEO	Authorised Economic Operator: EU trusted traders programme. Traders that meet certain criteria are entitled to enjoy benefits across the EU and can work in close cooperation with customs authorities to assure the common objective of supply chain security.
BCP	Border Crossing Point: Any crossing point authorised by the competent authorities for the crossing of external EU borders.
B2C	Business to Consumer: sale of goods or services directly to customers for their own use, rather than to businesses.
CAPEX	Capital Expenditures: money that is spent to acquire, repair, update, or improve a fixed company asset, such as a building, business, or equipment. It is different from an everyday business, which falls under the operating expense category (OPEX)
CCEI	Customs Control Equipment Instrument
CCI	Centralised Clearance at Import: simplification that allows economic operators to declare goods in one Member State (Supervising Customs Office) and present them in a different Member State (Presentation Customs Office). This allows economic operators to centralise the accounting and payment of customs duties for all their customs transactions in the Supervising Customs Office
CELBET	Customs Eastern and South-Eastern Land Border Expert Team
CEPOL	European Union Agency for Law Enforcement Training
CN	Combined Nomenclature
CPG	Customs Policy Group
CRMS	Customs Risk Management System
CUP	Customs Union Performance
Customs Declaration	The act whereby a person indicates, in the prescribed form and manner, a wish to place goods under a given

	customs procedure, with an indication, where appropriate, of any specific arrangements to be applied (as defined in Article 5(12) of Regulation (EU) 952/2013).
Customs Authorities	Customs administrations of the Member States responsible for applying the customs legislation and any other authorities empowered under national law to apply certain customs legislation (as defined in Article 5(1) of Regulation (EU) 952/2013).
Customs Controls	Specific acts performed by the customs authorities in order to ensure compliance with the customs legislation and other legislation governing the entry, exit, transit, movement, storage and end-use of goods moved between the customs territory of the Union and countries or territories outside that territory, and the presence and movement within the customs territory of the Union of non-Union goods and goods placed under the end-use procedure (as defined in Article 5(3) of Regulation (EU) 952/2013).
Customs formalities	All operations carried out by an economic operator or customs authorities to comply with customs legislation.
Customs fraud	Any act, which a person deceives, or attempts to deceive, the customs and thus evades, or attempts to evade, wholly or partly, the payment of import or export duties and taxes or the application of prohibitions or restrictions laid down by the regulatory provisions enforced or administered by the customs administrations.
Customs legislation	The body of legislation made up of all of the following: (a) the Code and the provisions supplementing or implementing it adopted at Union or national level; (b) the Common Customs Tariff; (c) the legislation setting up a Union system of reliefs from customs duty; (d) international agreements containing customs provisions, insofar as they are applicable in the Union (as defined in Article 5(2) of Regulation (EU) 952/2013).
Customs procedure	Any of the procedures (release for free circulation, special procedures, export) under which goods may be placed in accordance with the Union Customs Code.
Customs Union	The merger of two or more customs territories with the effect that (Art. XXIV GATT and Art. 23 EC Treaty)

	• customs duties and non-tariff barriers are eliminated between the members of the union for substantially all trade, and • a common customs tariff and common rules for non-tariff barriers are introduced for substantially all trade with non-member countries.
CWP	Commission Working Programme
DA	Delegated Act
Data model	The process of defining how the logical structure of a database is modelled, using text and symbols to represent the way data needs to flow.
Digitalisation	The method, practice, or process of converting (usually analog) information into a digital form, which is computer-readable.
DS	Data Space
DSA	Digital Services Act
EBTI	European Binding Tariff Information
ECA	European Court of Auditors
ECDC	European Centre for Disease Prevention and Control
ECHA	European Chemicals Agency
EEA	European Environmental Agency
EMCDDA	European Monitoring Centre for Drugs and Drug Addiction
ENS	Entry Summary Declaration
EO	Economic Operator: a person who, in the course of his or her business, is involved in activities covered by the customs legislation (as defined in Article 5(5) of Regulation (EU) 952/2013).
Economies of scale	A proportionate saving in costs gained by an increased level of production.
Export	The customs procedure for taking Union goods out of the customs territory of the Union (as defined in Article 269 of Regulation (EU) 952/2013).
Exclusive competence	Areas in which the EU alone is able to legislate and adopt binding acts (Article 3 of the Treaty on the Functioning of the European Union - TFEU).
ETCIT	Expert Team for Centralised IT customs applications
EU	European Union
EU-LISA	European Agency for the operational management of large-scale IT systems in the area of freedom, security

	and justice
EUROPOL	European Union Agency for Law Enforcement Cooperation
EU SWE-C	EU Single Window Environment for Customs
FCM	Food Contact Materials
FGAS	Fluorinated Gases
FLEGT	Forest Law Enforcement, Governance and Trade
FTE	Full Time Equivalent
FRONTEX	European Border and Coast Guard Agency
GDPR	General Data Protection Regulation
GHGs	Greenhouse Gases
GPSR	General Product Safety Regulation
IA	Implementing Act
ICS / ICS2	Import Control System
Import	The act of bringing or causing any goods to be brought into a customs territory.
Improved compliance	The principle of seeking to continually improve the level of voluntary compliance with customs legislation.
ICSMS	Information and Communication System for Market Surveillance
IOSS	Import One Stop Shop: the electronic portal to comply with the VAT e-commerce obligations on distance sales of imported goods from third countries since 1 July 2021. It allows suppliers and electronic interfaces 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 as it was previously the case (for products over 22 EUR).
IPR	Intellectual Property Rights
JAC	Joint Analytic Capabilities
JCO	Joint Customs Operations
JRC	Joint Research Centre
Labour costs	Sum of all wages paid to employees, as well as the cost of employee benefits and payroll taxes paid by an employer.

Level playing field	A set of common rules and standards that prevent businesses in one Member State undercutting their rivals and gaining a competitive advantage over those operating in other Member States.
Multi-Annual Strategic Plan for Customs (MASP-C)	Overall project management tool prepared by the EU Commission in partnership with Member States to ensure operational planning and implementation of all e-Customs IT projects.
One-off cost	A cost that is paid once and not repeated.
NCTS	New Computerised Transit System
NGO	Non-Governmental Organisations
NPS	New Psychoactive Substances
ODS	Ozone Depleting Substances
OECD	Organisation for Economic Co-operation and Development
OPEX	Operational Costs: money a company spends on an ongoing, day-to-day basis in order to run a business or system. Depending upon the industry, these expenses can range from the ink used to print documents to the wages paid to employees.
One-stop shop	Set of services provided by customs authorities in close cooperation with partner competent authorities whereby in respect of the same goods, customs and non-customs controls are performed at the same time and place, as referred to in Article 47 of Regulation (EU) 952/2013.
Partner competent authority	Any Member State authority or Commission services that have the legally delegated power to perform a designated function in relation to the fulfilment of the relevant Union non-customs formalities.
Phased implementation	A process of transition from an existing system to a new one that takes place in stages.
Phytosanitary	Relating to the health of plants, especially with respect to the requirements of international trade.
P&R	Prohibitions and Restrictions: A limited range of goods prohibited or restricted at import and export, including live or dead animals or plants, foodstuff, illegal or dangerous goods, products of endangered species, protected items of international heritage, firearms, weapons or explosives, medicines, etc.
Quota	Any pre-set quantity, authorised for importation or

	exportation of given goods, during a specified period, beyond which no additional quantity of these goods can be imported or exported. (WCO)
RAPEX	EU Rapid Alert System
RASFF	Rapid Alert System for Food and Feed
REACH	Registration, Evaluation, Authorisation and Restriction of Chemicals
Recurrent costs	The costs of maintaining and operating a given programme once the initial, one-off investment has been completed.
Release of goods	Act whereby the customs authorities make goods available for the purposes specified for the customs procedure under which they are placed (as defined in Article 5(26) of Regulation (EU) 952/2013).
Risk	The likelihood and the impact of an event occurring, with regard to the entry, exit, transit, movement or end-use of goods moved into or out of the customs territory of the Union and to the presence within it of non-Union goods, which would a) prevent the correct application of Union or national measures, b) compromise the financial interests of the Union and its Member States, or c) pose a threat to the security and safety of the Union and its residents, to human, animal or plant health, to the environment or to consumers(as defined in Article 5(7) of Regulation (EU) 952/2013).
Risk management	Systematic identification of risk, including through random checks, and the implementation of all measures necessary for limiting exposure to risk (as defined in Article 5(25) of Regulation (EU) 952/2013).
Sectorial legislation	Body of legislation aiming at the protection of health, safety, security, environment, cultural goods or imposing sanctions in the framework of the Common Foreign and Security Policy (CFSP) affecting the international movement of goods. Linked to prohibitions and restrictions.
SDG	Sustainable Development Goals
Single window (concept)	A facility that allows parties involved in trade and transport to lodge standardized information and documents with a single-entry point to fulfil all import, export, and transit-related regulatory

	requirements (UNECE Recommendation No 33).
M-SME	Micro, Small and Medium Enterprise
Supply chain	A logistical management system that integrates the sequence of activities from delivery of raw materials to delivery of the finished product into measurable components.
Supporting documents	Certificates, attestations, licences and permits issued by partner competent authorities to certify the fulfilment of Union non-customs formalities.
SURV	Surveillance IT system
TARIC	Tariff of the Community
TCG	Trade Contact Group: Commission expert group that provides a platform for consultations at Union level between the Commission and trade representatives (business associations, organisations and federations, companies) on the development and implementation of customs related issues and developments of customs policy.
TOR	Traditional Own Resource
TS	Temporary Storage
UCC	Union Customs Code: the legal package that defines the legal framework for customs rules and procedures in the EU customs territory. The UCC legal package entered into force on 1 May 2016, repealing and replacing the previous framework for customs legislation, contained in the Community Customs Code (Council Regulation (EEC) No 2913/92.
VAT	Value Added Tax
WTO	World Trade Organization
WCO	World Customs Organization