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**Opinion of the European Economic and Social Committee on ‘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’**

(COM(2023) 258 final – 2023/0156 (COD))

(C/2023/864)

Rapporteur: **Anastasis YIAPANIS**

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| Referral                  | Council of the European Union, 14.9.2023                           |
| Legal basis               | Article 114 of the Treaty on the Functioning of the European Union |
| Section responsible       | Section for the Single Market, Production and Consumption          |
| Adopted in section        | 4.9.2023                                                           |
| Adopted at plenary        | 20.9.2023                                                          |
| Plenary session No        | 581                                                                |
| Outcome of vote           |                                                                    |
| (for/against/abstentions) | 229/1/3                                                            |

## 1. Conclusions and recommendations

1.1. More than fifty years after the EU Customs Union was established and 10 years after the introduction of the Union Customs Code, the system remains largely fragmented. In order to safeguard Europe's competitive advantage in international trade, it is imperative for Member States (MS) to swiftly come to a consensus on allocating extra resources for customs reform.

1.2. The European Economic and Social Committee (EESC) highlights the need to attract specialised expertise for customs in non-traditional domains such as environmental protection, communication, customer support and social security, by promoting customs careers among the younger generation and implementing training and re-skilling programmes across all MS.

1.3. The Committee advocates for a clearly defined strategy to integrate AI into customs systems, while preserving ethical considerations at every stage of the process.

1.4. The EU and MS should promote information campaigns for awareness raising regarding the role and impact of customs activities on the daily lives of EU citizens.

1.5. To assist entrepreneurs in adhering to the regulations surrounding the EU's multiple packages of sanctions on Russia and Belarus, legally binding official interpretations are needed, alongside proactive measures from authorities to ensure compliance and address existing weak spots across the EU.

1.6. The EESC disagrees with the proposal to treat an application as denied if any customs authority misses the set deadlines for communicating its decision. Contrary to the EC proposal, applications should be considered accepted in such cases.

1.7. The Committee deems it essential to determine the authority responsible for assessing compliance with the conditions outlined in point (c) of the second subparagraph of Article 6(6) of the proposal, and observes the lack of clarity in point (f) of the same subparagraph. These aspects should be clarified directly within the Regulation itself, rather than through delegated acts as proposed for point (f).

1.8. The Committee urges for clarification regarding the composition, remit and potential budgetary impact of the crisis response cell that is to be permanently available during crises (Article 204).

1.9. A drafting error in line 3 of Article 201(1) should be corrected to '[...] implementation in the areas falling [...]'].

1.10. Improved accessibility to the authorised economic operator (AEO) programme for small businesses and the introduction of greater simplifications for AEO status-holders are vital, as the current benefits offered by AEO status do not sufficiently outweigh the costs associated with applying for and maintaining it.

1.11. To ensure complete coordination and interoperability, it is essential for MS to agree that the EU Customs Authority (EUCA) will develop the applications for connecting to the EU Data Hub. The Regulation should define precise access rules and confidentiality conditions to ensure the protection of sensitive information and establish clear accountability for entities and individuals granted access to such data.

1.12. A common data analytics system that includes data mining programmes must be set up within the EU Customs Data Hub, even before it becomes operational.

1.13. The EESC supports the establishment of the EUCA and acknowledges the need for a significant workforce to fulfil the various responsibilities outlined in Article 208 of this Regulation. User engagement and collaboration with civil society organisations are crucial to identify non-compliant goods entering the EU market. A reporting platform should be established within the EU Customs Data Hub, to raise concerns about conformity standards and facilitate communication with market surveillance authorities.

1.14. EU companies should be granted unrestricted access to all laws, regulations, guidelines, and pertinent advice concerning their customs-related operations. The EESC specifically asks for a dedicated role for the EUCA in supporting SMEs, as an addition to Article 208 of this Regulation.

1.15. The designated member of the EUCA Management Board appointed by the European Parliament, as outlined in Article 212(2), should be granted voting and equal rights. To ensure a fully democratic process, decisions should be taken unanimously, or, if that is not possible, based on a two-thirds majority vote, without giving the Commission the power to overrule. Furthermore, the decisions made by the Executive Board should not be contingent on the need for a positive vote from one of the Commission's representatives.

1.16. Should the proposal for the EUCA be approved, the EESC believes there is no need to wait until 2028 for its operationalisation (as stated in Article 238), and instead urges it to become operational two years after the entry into force of this Regulation. Shorter deadlines are also required for traders to utilise the EU Customs Data Hub (2032), as such delays prevent EU action being more targeted and immediately operative.

## 2. Introductory comments

2.1. Customs authorities face the challenge of striking a balance between expediting trade with efficient and streamlined procedures, and the imperative to enforce customs controls. More than fifty years after the EU Customs Union was established and 10 years after the introduction of the Union Customs Code, the system remains largely fragmented. A significant level of inconsistent interpretation of the rules still prevails among the various customs authorities. There is also a lack of effective coordination between customs authorities and other relevant national administrations responsible for implementing EU policies at the border.

2.2. To adequately address the evolving nature of modern supply chains and the expansion of e-commerce transactions, it is crucial for the EU to reform and adapt the customs system to the new realities we are facing today. Unless substantial restructuring takes place, the existing framework will fall short of achieving essential Lisbon Strategy objectives and jeopardise Europe's competitive advantage in international trade, which could be overtaken by nations implementing more assertive customs strategies.

2.3. Customs work has also expanded from the traditional revenue collection to new tasks such as enforcing prohibitions and restrictions imposed by complex sectoral legislation. MS must promptly reach an agreement on allocating additional resources for customs reform, reversing the trend of understaffing and acknowledging the significance of employing proper project-management techniques to facilitate change and acquire the state-of-the-art technological equipment.

2.4. The proposal for a Regulation <sup>(1)</sup> introduces new rules aimed at simplifying customs procedures, strengthening customs supervision and control capacity and facilitating more efficient collection of customs duties in all Member States, while reducing the administrative burden and unnecessary formalities. Over time, the collection of duties will transition from the location where the goods are declared to the place where the importer or exporter is based within the EU. Furthermore, the EU Customs Data Hub will supplant the current customs information technology infrastructure across MS, with the goal of reducing operating expenses and implementing an enhanced EU approach to risk management and customs checks.

### 3. General comments

3.1. The proposal for a Regulation replaces the existing Union Customs Code (UCC) and introduces a revised UCC with a complete reorganisation of its articles.

3.2. The EESC appreciates the consultation conducted by the European Commission between 20 July and 19 September 2022 on the revision of customs legislation with a large number of stakeholders, including national customs authorities, trade associations, federations and individual companies.

3.3. The EU's competitiveness is equally important to the EU economy as efficient customs controls, since trade generates value and prosperity, particularly in growing areas of the market such as e-commerce. The Committee notes the importance of equipping all customs authorities with state-of-the-art and interoperable customs equipment so that they are prepared for future challenges.

3.4. New technologies will assume a vital role in combating illicit trade, facilitating efficient controls, and bolstering cybersecurity. The EU must provide support by investing in research, innovation, and infrastructure development, including a fully interoperable framework. The EESC calls for a well-defined strategy for incorporating AI into customs systems and establishing fair conditions for the advancement of AI and robotics, ensuring ethical considerations are maintained throughout the process. The risk remains that the level of intrusive surveillance necessary for automation to effectively combat illegal trade might be deemed unacceptable by society as a whole.

3.5. The EESC notes that little emphasis has been placed on the human resources and skills needed to drive the proposed customs change forward. Like in other areas of public services, customs authorities face serious understaffing in most MS. The issue of different working conditions and remuneration among customs officers in the Member States persists. Although there is a clear demand for IT skills, customs must also seek specialised expertise in non-traditional domains, like environmental protection, communication, customer support, social security, etc. Attracting the young generation towards customs careers must be promoted by disseminating information about the benefits of working in the customs sector and introducing training and re-skilling programmes in all MS.

3.6. There is a lack of understanding among EU citizens regarding the importance of customs authorities in their everyday lives. It is crucial that efforts are made to shine a light on the role played by customs through information campaigns that raise awareness about the impact of customs on citizens' daily lives, YouTube videos that promote success stories, etc.

3.7. The current UCC IT systems and the future Data Hub contain highly sensitive data that is of the utmost importance for assessing duties and managing risks in international trade and for the overall functionality of the customs infrastructure. A significant obstacle lies in the willingness and trust of all stakeholders to engage in data exchange.

3.8. Regarding the EU's numerous packages of sanctions on Russia and Belarus, the EESC notes that there is a need for official interpretations that carry legal weight to assist entrepreneurs in conducting their business in alignment with the regulations, along with proactive measures by authorities to ensure compliance with these regulations. Weak spots still exist across the EU and are exploited to circumvent sanctions and facilitate illegal trade.

### 4. Specific comments

4.1. The Committee considers the 30-day deadline for a customs authority to simply verify whether the conditions for the acceptance of an application for a decision are fulfilled to still be long, and takes the same view regarding the 120-day deadline for taking a decision after the application is accepted. This is not in line with the objective of streamlining the customs system, and the deadlines should be further reduced.

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<sup>(1)</sup> COM(2023) 258 final.

4.2. Furthermore, the EESC does not agree with the proposal to consider an application denied if the customs authority fails to respect the set deadlines for communicating its decision. This is unlawfully detrimental to the applicant and also facilitates a lack of responsibility on the part of the customs authority. Contrary to the current proposal, the Committee thinks it more suitable that any application should be considered accepted if the customs authority fails to respect the set deadlines.

4.3. The Committee deems it necessary to establish which authority decides whether the conditions set out in point (c) of the second subparagraph of Article 6(6) of the proposal are met. Furthermore, the ambiguity in point (f) of the same second subparagraph of Article 6(6) leaves room for any kind of interpretation. The EESC deems that these aspects should be clarified within the Regulation itself, and not by means of delegated acts (as is proposed for point (f)).

4.4. The EESC deems it necessary to establish within this Regulation the 'reasonable period of time' within which the authorities are to be deemed to have released the goods where they have not selected them for any control, as mentioned in paragraph 6 of Article 60, rather than adopt delegated acts in accordance with Article 261.

4.5. The Committee calls for clarification on the make-up, remit and possible budgetary implication of the crisis response cell that is to be permanently available during crises (Article 204).

4.6. The EESC notes a drafting error in line 3 of Article 201(1), and suggests that the wording be changed to '[...] implementation in the areas falling [...]'].

4.7. Enhanced accessibility to the AEO programme for small businesses and the implementation of greater simplifications for AEO status-holders are essential. The current benefits provided by AEO status are disproportionately limited compared to the costs associated with applying for and maintaining the status. Furthermore, the Committee finds the criteria for granting the status of AEO set out in Article 24 to be vague and subject to interpretation.

4.8. Customs authorities are to conduct a thorough examination of AEOs' operations and internal records at least once every three years. The willingness of companies to grant customs authorities direct access to their enterprise resource planning (ERP) systems remains uncertain and will depend on the EC's ability to offer a strong assurance that confidential information will be protected.

4.9. The Commission's proposal for the new UCC introduces 'Trust and Check traders' as of 2032, when the data hub is available, and proposes to replace the AEO simplification scheme in 2037, with all traders using the data hub compulsorily as from that date. The EESC considers that the timeframe for implementing the new concept of traders could be reduced, should the data hub be available before 2032. A well-functioning customs union must be based on a transparent and simple system that disincentivises fraud, with only compliant and reliable traders having access to the widest degree of simplifications, while all traders could benefit from a single interface via the data hub.

4.10. Counterfeit goods must be destroyed in meticulously regulated expert facilities, due to their unknown composition. The establishment of a network of approved and audited facilities for the destruction and recycling of counterfeit goods is necessary.

4.11. There is substantial evidence of the systematic exploitation of the EUR 150 threshold which exempts customs duties, creating an unfair advantage for e-commerce operators from third countries over traditional trade and EU retailers. The Committee notes that MS would benefit from increased collection of customs duties arising from the removal of the EUR 150 threshold, but this would add to the burden on online platforms and potentially increase the price of goods for the final consumers. In turn, businesses (especially SMEs) will experience reduced registration requirements across multiple Member States for VAT purposes. MS will benefit from reduced administrative costs, as traders engaged in distance sales of goods imported into the EU above EUR 150 will have the option to declare and pay the applicable VAT through the IOSS scheme.

#### EU CUSTOMS DATA HUB

4.12. The EESC considers that for the sake of full coordination and interoperability, Member States must agree that the EUCA develops the applications that will be used by all MS to connect to the EU Data Hub, rather than develop them themselves, as suggested possible in Article 30(1) of the proposal.

4.13. The EESC appreciates the access facilitated to necessary data within the EU Customs Data Hub for the European Anti-Fraud Office, the European Public Prosecutor's Office, national tax authorities, market surveillance authorities and other relevant authorities. However, it calls for a system that will protect sensitive data from being released outside this context and full accountability for the entities and persons that will have access to sensitive data within the Hub.

4.14. Furthermore, the Committee considers that each authority should designate a specific contact point, person or persons, and calls on the Commission to make this mandatory through implemented acts, as mentioned in Article 31(14), including full accountability for the authority's contact point, person or persons with access to sensitive data. This Regulation should establish specific access rules, confidentiality rules, and conditions for the utilisation of the EU Customs Data Hub.

4.15. The Committee welcomes the obligation for customs authorities to maintain a constant dialogue with economic operators and authorities involved in international trade in goods, and to promote transparency, including by making application forms freely available, as mentioned in Article 39 of the proposal for a Regulation.

4.16. Exchanging customs information with international partners, as proposed by the European Commission, must be done with full respect for the data privacy of EU citizens and business.

#### CUSTOMS RISK MANAGEMENT

4.17. Since both national customs authorities and the EUCA will be tasked with performing risk management activities using the data available in the EU Customs Data Hub, the Committee sees fit to have a common data analytics system for interpreting such large amounts of data, including data mining programmes in the EU Customs Data Hub.

4.18. The EESC has already stated that 'mastering the large amount of data available would represent an immediate and major improvement over the current customs system and would also facilitate a better and conclusive response to the growing challenges. It would also enable intelligent supervision of supply chains and enhanced foresight capabilities' <sup>(2)</sup>. Data analytics programmes must be set up even before the EU Customs Data Hub becomes operational.

4.19. Cooperation with civil society organisations and individual citizens is necessary to discover goods that are still entering the EU market and which do not respect conformity standards or where there is enough reason to believe that the goods do not comply with the relevant EU legislation. A platform for reporting these infringements should be established to report issues of non-compliance to market surveillance authorities.

#### EU CUSTOMS AUTHORITY

4.20. The EESC is in favour of the creation of the EUCA and the specific roles proposed by the Commission. It remains doubtful that Member States will agree to this proposal and notes that it will need a large number of staff if it is to perform all the roles proposed in Article 208 of this Regulation.

4.21. It is highly important that the EUCA will be able to provide best practices for national customs authorities and monitor their implementation, as well as perform data management and processing activities. The EESC has already stated that these are very much needed for the national customs authorities and the EU is best placed to put them in place <sup>(3)</sup>.

4.22. EU companies should be granted unrestricted access to all laws, regulations, guidelines, and pertinent advice concerning their customs-related operations, regardless of their location within the EU. The EUCA should have a specific role in designing simplified guidelines and manuals for SMEs and support their familiarisation with customs legislation and formalities. The EESC specifically asks for a designated role for the EU Customs Agency in supporting SMEs, which should be added to Article 208 of this Regulation.

<sup>(2)</sup> Opinion of the European Economic and Social Committee on '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) (OJ C 220, 9.6.2021, p. 56).

<sup>(3)</sup> OJ C 220, 9.6.2021, p. 56.

4.23. The EESC considers that the member designated by the European Parliament within the Management Board of the EUCA, as proposed in Article 212(2), should have the right to vote, and that all of the other members of the Board should have equal rights. It is not clear or mentioned if the members of the EUCA Management Board are to be remunerated for their work, nor the origin of the funding.

4.24. The EESC considers that all of the decisions of the Managing Board should be taken by unanimity. If that is not possible, decisions should be taken on the basis of a majority of 2/3 of the votes, and the Commission votes should never have the power to overrule. All of the members of the Board should have equal voting power. Similarly, the decisions within the Executive Board should not be conditioned by the need for one positive vote from one of the Commission's representatives.

4.25. Should the EU Customs Authority proposal be given the green light, the EESC sees no reason to wait until 2028 for it to become operational (Article 238) and urges that it become operational two years after the entry into force of this Regulation (even one year after could be possible). The same goes for the deadline of January 2032 for traders to utilise the EU Customs Data Hub. It is exactly these kinds of delays that prevents EU action being more targeted and immediately operative, leading in most cases to a loss of momentum.

Brussels, 20 September 2023.

*The President*  
*of the European Economic and Social Committee*  
Oliver RÖPKE

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