

## COMMENTS PAPER

### Report of the Wise Persons Group on the future of EU Customs

CLECAT overall welcomes the conclusions of the Wise Persons Group's [report](#), calling for urgent fundamental and wide-ranging reforms to the legislative framework and functioning of the EU Customs Union. CLECAT outlines below its observations concerning the WPG's recommendations:

- **Package of legal proposals:** The report recommends that the European Commission proposes a comprehensive reform of the legislative framework, the working and governance of the EU Customs Union before the end of 2022. Whereas CLECAT appreciates the level of ambition of the WPG, we consider the timeline to be very challenging. The Commission must ensure that proper assessment is carried out on all aspects concerning the legislative framework, governance, and process improvements, to deliver on a customs union of tomorrow that is fit for purpose. Any proposals for reforms must respect the better regulation principles and be based on a meaningful consultation with all relevant stakeholders, including the trade community.
- **A system-based approach based on a new AEO scheme:** System-based management of compliance is perhaps one of the most far-reaching changes in customs clearance and provides benefits to both customs and economic operators. Regarding the new AEO mode, CLECAT is of the view that the new customs-to-business partnership should build on the simplifications and benefits for trade that already exist under the UCC, some of which still need to be delivered and uniformly implemented across the EU. In this respect, CLECAT warns for the risk of deepening the existing imbalance between compliance and facilitation and the unrealised potential of the AEO programme. CLECAT also highlights the need to ensure equal treatment and equal benefits to compliant companies, including customs intermediaries.
- **Better coordinated border management:** CLECAT supports the view that there is a need for improved coordination between Customs and other border authorities in view of the large increase of non-fiscal customs tasks. This will contribute to more effective and efficient border controls. It is also increasingly important to make a clear distinction between the various prohibitions and restrictions that customs enforce, and carry out, where possible, controls inland. This will contribute to better organized and targeted risk-based controls and avoid disruptions in ports and border crossings.
- **Centralised governance:** An EU Customs Agency can serve as a central and joint governance structure that will contribute to better harmonisation of customs operations and improved IT implementation, as well as better cooperation between customs and other border authorities. Its roles and responsibilities, however, need to be vigorous and clearly defined.
- **New approach to data and single customs portal:** A more sophisticated understanding and management of risks is needed to support better targeted customs controls. Data from new sources should supplement data already provided, and related risk analysis processes should not interfere with existing well-functioning supply-chain processes. A single EU portal for customs

formalities is desirable but needs to be properly developed, and in line with the UCC implementation and available capacities.

- **Green customs:** Greening customs will require a substantive change in the functioning of customs and ensuring adequate resources to support the effort. The EU should lead the change and become a standards-setter for green customs. There are many possible ways for customs to support environmental protection and the fight against climate change.
- **Capacity building:** CLECAT is pleased with the recognition that customs require serious investment in training and capacity building, which should also include appropriate human resource policy to attract new talents and skills to the sector.
- **De minimis threshold of €150:** In CLECAT's view, the review exercise should also explore the possibility of increasing the *de minimis* threshold for payment of customs duties. An increase could support trade facilitation and at the same time boost the competitive position of EU trade.
- **Annual Customs Revenue Gap Report:** This may allow for better management of the application of customs legislation and consideration of the need for fit-for-purpose future customs rules. The reports should be shared with trade for visibility and transparency.

## Introduction

At the end of March, the Customs Wise Persons Group to the European Commission published its [report](#) entitled '*Putting more Union in the European Customs*' on the future of the EU Customs Union. The Group concludes that EU Customs needs an urgent structural change which, building on the reforms of the last decade, will take Customs to the next level and prepare them to address modern challenges, such as new trade models and growing trade volumes, technological developments, the green transition, the new geopolitical context and security risks. The Group advocates for fundamental and wide-ranging reforms in 5 areas including revised and simpler customs legislation, a new framework of responsibility and trust, streamlined procedures and reduced administrative burden, a new approach to data and a more effective governance.

## CLECAT comments on the Wise Persons Group Recommendations

### Recommendation 1

*The European Commission by the end of 2022 tables a package of reforms, including of the UCC, implementing the recommendations relating to processes, responsibilities and liabilities, and governance of the EU Customs Union.*

CLECAT considers that the envisaged timeline for delivering the customs reform is extremely challenging and creates risks of jeopardising the goals of this important initiative. The Commission must ensure that **proper assessment** is carried out on all aspects concerning the legislative framework, governance, and process improvements, to deliver on a customs union of tomorrow that is fit for purpose. It is also important to ensure that any proposal for reforms fully respects the **better regulation principles** and is based on a **meaningful consultation** with all relevant stakeholders, including the trade community.

CLECAT notes that, while the UCC aimed to streamline and clarify customs rules and procedures, these goals have not been realised. Economic operators are facing regular complex legislative amendments, hundreds of pages of supporting legislation, and transitional provisions. The current legislation needs to be restructured and simplified if better **clarity and legal certainty** are to be achieved, and the Commission needs to ensure that any future legal reforms support these objectives. CLECAT highlights that a future package of rules needs to be **easy to access and understand, easy to apply and enforce**.

## **Recommendation 2**

*Introduce a new approach to data, focused 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. Provide businesses with a single data entry point for customs formalities and a single window/portal. Data to be stored and properly managed in a central data warehouse.*

CLECAT agrees that the expanding responsibilities of Customs administrations require a **more sophisticated understanding and management of risks**. More effective collection and sharing of information between Member States is needed, as well as data analysis at EU level, which will be supported by the proposed 'data warehouse' to facilitate better targeted customs controls. This requires the deployment of **state-of-the-art customs control equipment**.

Data that will be gathered from new additional sources, such as platforms, payment systems etc., should **supplement data already provided** by customs intermediaries, and the related risk analysis processes **should not interfere with existing well-functioning supply chain processes**.

CLECAT considers the proposal for single data entry point for customs formalities and a single window/portal highly ambitious and requires thorough assessment. With the ongoing implementation of the UCC, which will go until 2025 and beyond, both trade and customs are facing a "wave" of changes to national systems and interfaces, that require considerable investments in human and financial resources. Such a single window/portal implies an enormous change in IT, just after the UCC implementation. While a **centralised EU solution is highly desirable**, CLECAT notes that preparations for designing the IT infrastructure and the underlying processes should start as soon as possible. With entirely new systems, the opportunity should immediately be taken to centralise and harmonise as much as possible, while using the best and most future proof technology. At the same time, we strongly urge the Commission to allow trade with some time to 'adapt and take stock of their own needs: this is not just a matter of costs, but also an issue of capacity, since time invested in adapting to government systems cannot be spent to improve companies' own systems, processes and services.

CLECAT would also like to highlight that the true benefits of IT changes in terms of costs and efficiency can and should in the first place be created by **improving and harmonising the processes that are supported by IT**. As long as Member States' authorities do not apply the possibilities provided by the UCC and other relevant legislation in a uniform way, the original objectives and true benefits of single window/portal will remain marginal. Without a preceding improvement and alignment of processes, economic operators would still be required to deal with diverging local practices and unfortunately, such a centralised solution would be no more than just another IT change. CLECAT therefore highlights the need to ensure that any future EU-wide solution is implemented in a proper and effective way, otherwise it would be questionable whether the benefits would outweigh the efforts already put into the ongoing implementation of the UCC and the costs of change.

### Recommendation 3

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

CLECAT fully supports the call for a comprehensive framework of cooperation and data sharing among border authorities, towards better coordinated border management. The focus of Customs' activities has shifted from the traditional task of collecting duties to protecting society, environment and economy, and this trend is likely to continue in the future. The large increase in non-fiscal customs tasks creates the need for improved **coordination between Customs and other border authorities**. The reality is that today, border authorities often work in silos, using unaligned systems and processes, leading to inefficient handling of cross-border trade and procedures. This complex regulatory setting generates burdensome reporting obligations for economic operators involved in cross-border trade.

In this context, the initiative for **EU Single Window environment for Customs**, which is welcomed by CLECAT, has the potential to modernise customs and border processes and enhance efficiency and simplifications for the trade community. If effectively implemented, it can streamline exchange of information and customs controls and ultimately improve trade facilitation by simplified processes, time saving, faster clearance and reduction of administrative burden and costs for businesses.

CLECAT further notes that it is increasingly important to make a **clear distinction between the various customs non-fiscal tasks**. While those tasks are equally important, not all are equally pressing and need to be inspected at the time the goods cross the border. For example, inspection of goods from the perspective of social or environmental interests could be carried out later in the process, based on the accounts of a company. These goods, as such, do not pose a serious threat to EU citizens.

The workload and burdens for inspection authorities and the risk of supply chain disruptions already put far too great a strain on available capacities and traffic flows and lead to congestions. It is anticipated that an increase in prohibitions and restrictions will continue in the near future. Border inspections will then be unachievable. **Enforcement/compliance can be facilitated adequately on risk-based methodologies inland**. In such cases, sanctions can also be imposed when goods are already in the EU, with no danger to consumers or personnel. The major benefit for both Customs and the business community is that by handling the compliance with prohibitions and restrictions in a better targeted and smarter manner will ease the pressure on the main ports and border crossings.

### Recommendation 4

*A European Customs Agency should be set up to provide EU value-added services to the Commission and the Member States.*

CLECAT welcomes the recommendation for a European Customs Agency, which will serve as a central and joint governance structure that will secure the **harmonisation of customs operations** across the EU. An agile and well-functioning EU customs agency, with vigorous and clearly defined roles and responsibilities, will contribute to **improved uniformity** in the interpretation and implementation of customs rules and procedures, and contribute to the timely and smooth development of the customs IT systems.

Furthermore, an EU customs agency will support and standardise operational capacities and availabilities of technical equipment on the ground. There is also a need for an application of **common standards** to be applied regarding human resources and capacity building and training, where the proposed EU agency can be expected to play an important role. This agency could further **support dialogue and cooperation between different government agencies** active at the EU borders.

#### **Recommendation 5**

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

The report proposes a transition towards a more effective system-based partnership with economic operators, that is based on **trust** and customs services dealt with per entity, relying on an account management system. CLECAT supports the recommendations of the WPG and notes that system-based management of compliance is perhaps one of the most far-reaching changes in customs clearance. Moving away from transaction processing in the customs clearance of goods provides benefits to both customs authorities and economic operators. Trade data, payments and the like should be arranged on a periodic rather than per transaction basis with economic operators that have demonstrated a record of compliance. Compliant companies should also benefit from reduced customs inspections, carried out away from the border.

In this context, CLECAT highlights the need to recognise the role and importance of customs intermediaries and ensure that they can equally benefit from the new system of account management and associated facilitations, alongside traders. It is also pertinent to provide equal treatment of companies that use the services of customs intermediaries. This is particularly important for small and medium sized enterprises (SMEs) that often do not possess the necessary knowledge and expertise and use the services of professional customs intermediaries to handle their customs formalities.

#### **Recommendation 6**

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

First and foremost, CLECAT highlights the importance of ensuring that the new AEO scheme is open to the whole range of economic operators that can currently benefit from being AEO-certified, notwithstanding their different activities and responsibilities in the international supply chain, relevant from a customs perspective. We should at all costs avoid discrimination and unequal opportunities for businesses, as well as any barriers to SMEs.

The AEO status has been designed to allow traders to benefit from a range of simplifications of customs formalities if they in return take strengthened measures to ensure compliance and cooperation with customs. Yet, CLECAT still observes **lack of proper and uniform implementation** of the AEO programme across the EU. Some Member States are reluctant or unable to implement existing simplifications under the UCC. Furthermore, these diverging practices by national customs

authorities **distort the level playing field** for compliant companies. Companies have to invest a lot of administrative and financial resources in order to obtain AEO status and very often they are discouraged from the programme simply because they do not see the real benefit. For European companies, the AEO status is a matter of competitiveness, and it is therefore essential to ensure that there is a partnership that is mutually beneficial. Companies need a **balance between the costs and benefits associated with being AEO-certified**.

Therefore, CLECAT stresses that **before reforming the EU customs-business partnership, it is crucial to ensure that the potential of the AEO programme as originally intended, has been realised**, and that the foundations on which we can continue to build on are solid. CLECAT notes that, for the new partnership, the WPG's report does not foresee any additional trade facilitations beyond the current legislation. The already existing imbalance between compliance and facilitation will be deepened, pushing the idea of a well-functioning trust-based partnership between customs and trade further away.

With the proposed new ABC model for AEO, the WPG links trust in supply chain partners to a higher liability for the AEO, materializing in more severe sanctions for incorrect data provided. We would like to (continue to) use the internal and administrative organization of an AEO as the benchmark for trust. An AEO-certified company should be given the opportunity to learn from mistakes and adapt its internal business rules accordingly as long as it is fully transparent to customs. An imminent response by customs with sanctions does not fit in the spirit of the collaboration between customs and AEOs and would undermine the partnership. Incorrect declarations, which may occur even within the highest standard of compliance, should not be used as the one and only criterion for reliability.

Additionally, the introduction of an ABC model assumes that there will be even more AEO companies. CLECAT stresses that the model of linking business confidence to higher liability and strong penalties will have a negative impact on the EU economy, especially concerning the 'B' (bonded). Furthermore, we believe that the 'C' (subject to greater controls) will cover not only small non-commercial shipments, but also a relatively large number of business-to-business consignments. The size of this group will also depend on the details of the reformed AEO and especially on the customs agents that will provide security for non-AEO economic operators.

### **Recommendation 7**

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

CLECAT agrees with the proposal that the current *de minimis* threshold of €150 for payment of customs duties should be reviewed. In CLECAT's view, however, the review exercise should also **explore the possibility of increasing the threshold**. An increase of the *de minimis* threshold could increase trade facilitation and at the same time boost the competitive position of EU trade. There is already a high number of duty-free imports resulting from the many EU trade agreements with third country trading partners. The recent decision of Switzerland to unilaterally abolish import duties on almost all industrial goods serves as a good example. The elimination of customs duties has the potential to increase competitiveness by lowering import costs, simplifying administrative requirements for consumers and at the same time allowing customs authorities to focus on other important tasks relating, for instance, to safety and security and regulatory compliance.

### **Recommendation 8**

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

Greening customs will require a substantive change in the functioning of customs and ensuring that adequate resources available to support the effort. CLECAT believes that the EU should lead the change and become a standards-setter for green customs.

Customs can contribute to green objectives in several ways, for example, via the change of customs processes overall: **less paper-based procedures** and **more efficient controls** through better targeted controls based on **risk management** and **use of modern technology**. Another way is via inclusion of the **“green” concept in the harmonised nomenclature**, identifying products with a positive effect on the environment so they could benefit from reduced duty rates. Customs can also address **illicit trade in dangerous goods**, for instance, hazardous waste and dangerous chemicals, as well as in endangered species, and prevent the spread of plant and animal diseases. Additionally, customs controls could be carried out in a more sustainable way: **efficiently planning of inspections to reduce emissions** could be considered, as well as possibilities for **remote inspections**. As scanning technology is continuously advancing, physical checks could often be replaced by scanning, reducing the need for travel.

Customs also has a role in **facilitating green supply chains** - faster clearance and efficient border management can contribute to increasing the efficiency of supply chains. Green supply chain management is considered an environmental innovation integrating environmental thinking into supply chain management.

### **Recommendation 9**

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

CLECAT agrees with the recognition by the WPG that Customs administrations need serious investments. With the exponential growth of new non-fiscal responsibilities, as well as advancements in technology and increased digitalisation, Member States and the EU have the responsibility to ensure that Customs are properly resourced, trained, and equipped to have the capacity to adequately carry out their roles and responsibilities.

This also includes appropriate human resource policy which can attract new talents and skills to the sector, whilst providing appropriate reskilling to customs officers who have to be up to date with the latest developments. The lack of resources dedicated to Customs administrations is likely to decrease their attractiveness, leading to lack of sufficient human resources.

### **Recommendation 10**

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

Such annual assessment may allow for better management of the application of customs legislation and consideration of the need for fit-for-purpose future customs policies. CLECAT recommends sharing of the reports with trade for visibility and transparency purposes.



CLECAT looks forward to contributing to a meaningful consultation with the Commission and other relevant stakeholders on the recommendations of the Wise Persons Group and follow-up initiatives on the preparation of the package of proposals reforming the EU Customs Union.

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