



## PRESS RELEASE

### **CLECAT and ESC call on Policymakers to carefully reflect on unforeseen Consequences of the EU Customs Reform**

Brussels, 29 January 2024. European associations representing the interests of cargo owners and shippers (ESC) and Freight Forwarders and Customs Agents (CLECAT) are warning Members of the European Parliament (EP) of the unforeseen consequences of the EU Customs Reform proposal. The associations representing the large majority of European businesses in transport and trade repeatedly express their support for the overall objectives of the reform but warn that the programme is incredibly ambitious, and that MEPs should not become subject of wishful thinking as the benefits of a central EU Data Hub may not materialise, especially for SMEs which do not have the means to become Trust and Check Traders (T&C).

The European Commission told the IMCO Committee of the EP last week that the Customs Reform aims to simplify and harmonise processes and ease the administrative burden for European Traders. An EU Customs Data Hub will be created and a new status for companies that offers enhanced customs facilitation called 'Trust and Check.'

The Commission's premise is that direct, real-time access to the central database through traders' IT systems, self-release of goods, self-assessment of duty, and the new centralised layer for analysing customs and product-related data of incoming goods will speed up clearance processes, decrease bureaucracy, and increase compliance.

One of the key elements of the reform is based on the presumption that the majority of companies will opt for the new T&C status, allowing them to self-release goods after calculating customs duties themselves, without physically presenting them to Customs. T&C is an enhanced version of the current Authorised Economic Operator (AEO) status, a scheme slowly gaining global recognition. However, as it is subject to a rigorous authorisation process and requires substantial business infrastructure, it is today only moderately utilized by EU traders. According to the 2023 report of the European Court of Auditors, 18.210 AEO authorisations were in use in the EU's Customs Territory in 2022. This is a very small percentage of European companies involved in foreign trade.

Since the Commission adds more conditions for granting the T&C status (such as direct access to the traders' IT system and real-time tracking of shipments), the associations question the ability or willingness of many companies, especially SME's to apply for the status as they will have neither the IT infrastructure nor the in-house expertise to utilise the benefits of the customs facilitations linked solely to the T&C status.

In the new system, each consignment of goods will be linked to one business or person in the EU who is liable for compliance with duty payments and product rules. Importers and exporters will become solely responsible for paying the applicable duties and taxes and ensuring compliance of the goods with EU standards and legislation. This may look very attractive for administrations and consumers, but CLECAT and ESC warn legislators that the reform proposal has not fully grasped the complexity of the supply chain and the ability of all its actors involved to fulfil all the new requirements.

The basic assumption of the Commission's proposal is that traders will benefit from facilitations by making available their business data to the EU Data Hub. This assumption overlooks the fact that the information required for even the simplest customs procedure contains far more data elements than are readily available in business IT systems. Today most traders, SME's and large companies, rely on the expert competence of customs representatives, who often act as an integral part of the forwarder/logistics service moving the goods. The responsibilities are well defined in the most commonly used form of representation, the so-called direct customs representation. The process is clear and heavily regulated: the importer holds and provides the product- and transaction-specific information, and the customs intermediary is responsible for its processing and submission according to customs law. It is a system that seemingly did not need fixing: each data owner is responsible for their own part, within the safe realm of their own expertise.

However, the customs reform proposal claims that data accuracy can be improved by either making the importer fully responsible or by mandating full importer responsibility to the customs intermediary, who will then be called an 'indirect representative' - an importer in all but name. Under the reform proposal, direct representation becomes limited and with some of the new facilitations: as good as abolished.

As a further change, non-customs related expertise on product safety, carbon emissions, deforestation, child labour, etc., is expected of indirect customs representatives, with the full responsibility for the accuracy of data based on often confidential and multi-layered international trade transactions and production processes. Understandably, customs intermediaries are highly reluctant to take on board these new obligations, not because they are unwilling to become responsible, but because they cannot guarantee the accuracy of product-specific data and especially not for hundreds of clients from hundreds of various industries.

This leaves companies without customs representation and the need to find resources for their own authorisations, guarantees, expertise and IT systems. Especially exposed in this process are SMEs, who are least likely to have the resources to replace the 'umbrella' of facilitations and infrastructure their logistics service provider or customs broker gave to them, typically under direct representation.

In conclusion CLECAT and the ESC warn for unforeseen consequences of the reform.

- the imposition of new obligations on customs representatives will likely lead to a decrease in their willingness to accept these responsibilities. These **factors will slow down trade, as companies struggle to find the necessary resources and expertise.**
- If the only meaningful facilitations are limited to T&C status and only a minority of traders are able to obtain it, the whole system-based clearance concept becomes mute, as the majority of transactions remain transaction-based which could even slow down cargo flows at border crossing points for those benefiting from the new facilitations.
- **SMEs are the biggest potential losers of the reform**, both on the logistics service provider side and on the trader side. Neither SME customs brokers nor SME importers are likely to be able to afford the infrastructure needed to accommodate the new requirements.

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