

## Consultation response

# European Commission communication on EU strategy for customs risk management

AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate US investment in Europe totalled more than €3 trillion in 2020, directly supports more than 4.8 million jobs in Europe, and generates billions of euros annually in income, trade and research and development.

AmCham EU welcomes the initiative of the European Commission to hold a public consultation regarding the Roadmap on the Communication on the EU Strategy for Customs Risk Management. We support the ambition to update and strengthen the customs risk management strategy both for financial and non-financial risks, such as product safety, illicit goods and counterfeits. We believe the following elements should be key to such strategy: and would stress that input from businesses is key as it affects their daily operations.

E-commerce transactions are growing exponentially in economies worldwide and bring clear opportunities for legitimate businesses. Therefore, we welcome the EU initiative to update and strengthen the existing customs risk management profile which allows a more efficient approach to tackling financial and non-financial risks for all types of commerce.

## 1. Strengthening the EU Authorised Economic Operator (AEO) programme

- A key mechanism to increase efficiency of EU customs should be to further facilitate trade by trusted traders, as this will support compliant and legitimate businesses, while allowing customs authorities to focus more on fraud and non-compliance risk areas. We therefore support the objective put forward by the EU Commission in its report to the Council and the EU Parliament to strengthen the Authorised Economic Operator (AEO) programme.
- AEO certification is viewed as a competitive advantage, demonstrating professionalism and quality of service. However, the programme needs to go beyond positive perception and deliver additional benefits for businesses. Moreover, a fully harmonised approach needs to be attained across the EU, where both the certification and implementation process can still vary by Member State.
- Reforms for AEO traders should include:
  - Centralised clearance solely via a supervising customs office.
  - Moving from transactional based controls to process based controls.
  - Clearance procedures based on entry in declarant's records needs to become a standard. Meanwhile, other ways of clearing of goods (today's standard and simplified declarations) should only serve as back-up solutions for AEO trusted traders.
  - Self-assessment needs to become commonly available to AEO traders who wish to make use of this simplification, especially in respect of determining the amount of import and export duty payable, as well as performing certain controls under customs supervision.
  - AEO traders should have access to post-entry customs clearance data to identify inconsistencies with, for example, Import One Stop Shop (IOSS) reporting.
  - The formal process to obtain various AEO authorisations should be incrementally shortened and simplified while maintaining sufficient guardrails.
  - To boost exports out of the EU, consider introducing simplified confirmation of export by an AEO/trusted trader.
  - A demonstrated reduction in the number of customs checks for AEO-certified traders, where the frequency of checks can depend on the approach of local customs authorities.
  - For the EU's AEO mutual recognition agreements with third countries, the inclusion of provisions that enable a reduction in the number of checks for fiscal purposes for qualifying shipments, rather than simply prioritising these shipments for faster release.

- Further simplifications for other trusted traders should be considered, such as for those operators/marketplaces using the IOSS to collect and remit VAT on imported consignments not exceeding EUR 150 sold by third parties.

## 2. Harmonisation and simplification of customs processes

- Further work is needed to ensure harmonised application of the UCC, its secondary legislation and local processes/guidelines in Member States. The non-unified approach by the customs authorities of different Member States in terms of the interpretation and practical application of customs legislation combined with a highly diverging risk perception across Member States results in:
  - Very significant differences in pre-clearance and clearance processes as well as average lead times and inspection rates across member states. This is regardless of similar risk elements such as content, origin, valuation, importer and exporter or routing.
  - A valuation method or classification approved in one Member State is challenged by another Member State's authorities. This today happens despite a binding tariff information in place. We urge the Commission to adopt a framework enabling binding valuation rulings.
- We see the above as an executional gap requiring further efforts by EU's overarching policymakers to drive standardisation in the processes and approaches by the authorities of different Member States, or to re-think the EU customs union governance structure and make it fit for the future challenges.
- There is an urgent need for an EU harmonised and transparent list of prohibited and restricted goods, to limit possible unintended use of simplified procedures (either H7 dataset or entry in the declarant's records) for customs clearance of certain goods, especially within the e-Commerce flows. However, specific situations for companies dealing with prohibited and restricted goods should be considered in order to allow them to benefit from simplified customs procedures as long as they fulfil the AEO criteria.
- Alongside the requirement for harmonisation of processes, it should be explored how, based on uniform requirements, all economic operators, especially trusted traders/AEO certified companies, can share data with customs authorities to the extent that higher efficiency of all processes is achieved. Inevitably, moving from transactional based controls to process based controls would be the first step on this path.

## 3. Efficiently address the increased e-commerce flows

- The EU customs environment should be adapted to the trends and needs in the consumer business, where same/next day deliveries have become industry standards. Customs processes should be simplified, and clearance times should be shortened while maintaining risk control capabilities.
- The EU customs risk strategy should also be informed by an evaluation of the functioning of the Import One Stop Shop (IOSS) as an import VAT reporting and remittance mechanism as from 1 July 2021. More specifically, remaining undervaluation effects (below the EUR 150 threshold) and misuse of IOSS numbers should be measured and mitigated by implementing end-to-end customs data sharing mechanisms. Mandating the IOSS for eligible shipments should be explored.
- Further integration between customs risk profiles and external databases available at the EU and global level can increase the efficiency of customs inspections and audits. For example, databases such as EUIPO or WCO Customs Enforcement Network (CEN) should be considered during this integration.
- Advanced tools such as data analytics, algorithms and machine learning can be used to combat non-financial risks (such as product safety, illicit trade and counterfeit goods). This requires the development of internal know-how and expertise of the customs authorities.

- Mirror statistics is a tool that compares import (or export) statistics of a country X and the statistics of one or more countries on their exports to (or imports from) country X is known as mirror analysis. Data can typically be downloaded from the United Nations (COMTRADE) and World Bank (World Integrated Trade Solution -WITS) platforms. This is a useful tool that can identify anomalies in declarations. Therefore, we believe it can be further integrated into the framework of risk management.
- Private sector (eg trade associations, companies, etc) are working together with the law enforcement agencies and customs to support legal actions against illicit traders and proactively share intelligence on developments and trends. This collaboration should also apply to how current rules are changed and impacted. Therefore, enhanced co-operation between customs and private sector is critical for an efficient management of customs risk profiles.

## 4. Conclusion

As the EU looks to update its risk management framework, the business community recommends to focus on harmonising and streamlining current approaches and making better use of existing data to ensure an efficient system that applies EU-wide, rather than developing comprehensive new initiatives or establishing new data requirements that would add to an already complex risk-management environment that can vary from country-to-country.

AmCham EU welcomes the possibility to provide feedback on the roadmap and looks forward to further engagement as the strategy develops.