

**ELECTRONIC CUSTOMS INITIATIVE:  
FIRST COMMENTS FROM EUROPEAN COMMERCE  
SEPTEMBER 2002**

EuroCommerce and the Foreign Trade Association (FTA) expressly welcome the initiative launched by the European Commission aimed at simplifying customs procedures and making the maximum use of information technology (Electronic Customs).

Although the EU Customs Code with its over one thousand articles and its implementing provisions is effective throughout the Community, there is still no uniform EU-wide application of customs legislation. This applies also to the legislation of closely inter-related fields such as foreign trade, excise taxes and agriculture. In addition, computerised systems for customs procedures in most Member States differ more or less widely. This makes them partly incompatible and has led to isolated solutions.

This *status quo* reflects policy in the late 1980s, at a time when the Commission of the European Communities asked its Member States to ensure IT infrastructure merely through frame guidelines. However, the Commission realised afterwards that, because of the different levels of development and different systems in some countries, computerisation and harmonisation of customs procedures was practically impossible.

In the light of progress made in the area of information technology and to take account of the principles of the internal market, the Commission felt challenged to develop a homogeneous Electronic Customs concept.

This concept is ambitious. EuroCommerce and the FTA explicitly support it. To make Electronic Customs a success, however, much work will be required by the EU, by its Member States and by the economic operators. Therefore, strong political support is as crucial as the availability of budgetary means and a well-functioning partnership between public and private stakeholders right from the beginning.

In this paper, EuroCommerce and the FTA intend to contribute to the quality and efficiency of the work of the CCG. To this end, we recommend, on the basis of Commission document TAXUD/820/2001-DE-Rev.3 (as endorsed by the Customs Policy Group on 10<sup>th</sup> July 2002) that right from the outset a number of aspects to which trading companies attach major importance should be taken into account.

## **I. Amending the EU Customs Code**

### **1. Electronic Declarations and Messages**

As a substantial element of its Electronic Customs strategy, the Commission suggests embodying the principle of electronic declarations and messages in the Customs Code. Verbal declarations or declarations on paper would then become the exception.

European Commerce welcomes this new approach. In this framework, a careful review of all relevant articles of the Customs Code would be desirable, including necessary amendments.

Conventional customs declarations, however, should remain possible at least in the foreseeable future.

### **2. Less Customs Procedures**

The Commission suggests reducing the number of customs procedures from currently thirteen to three:

- Import,
- Export,
- Suspensive procedure
  - to be divided into further variants that are, however, in some cases also related to import (e.g. temporary admission) and export (e.g. outward processing traffic).

Regarding the suspensive procedure, it will have to be examined which of the likely variants are really indispensable. This project would only be feasible if the suspensive procedure could meet the finalities of the existing Customs warehousing procedures, temporary admission etc. It is anticipated, however, that additional data elements will be needed for using the respective variants. This could *de facto* devalue the impact of the simplification.

In any case, less customs procedures must not result in lower standards in legal certainty and user-friendliness.

### **3. Further Changes**

European Commerce welcomes the Commission's considerations to reform the Customs Code beyond the Electronic Customs initiative. This should be further pursued. Since implementing the initiative may be difficult enough, the discussion at this stage should not centre on a Customs Code reform. Focussing considerations too much on a Customs Code reform would imply the danger that less attention would be paid to Electronic Customs than it deserves.

## **II. Administrative Reforms**

In the opinion of European Commerce, a single EU customs authority is neither needed nor desirable. Rather should customs procedures be standardised wherever this is feasible within a reasonable timeframe and appropriate interfaces should be created to ensure sufficient interoperability. This includes that decisions taken in one

EU Member State must apply bindingly throughout the EU, e.g. with regard to the Single European Authorisation.

The first step of this vast reform project must be the harmonisation of customs information and equal implementation in all Member States. Indeed, not all the companies in Europe already have access to the same information. And even if this information should be the same, the interpretation by national authorities can still vary.

Thus, the TARIC database available on EUROPA website is a good example of well-functioning EU information.

On the other hand, the BTI database (binding tariff information) is still far from being perfect. It is however of primary importance that the same product imported in different Member States is subject to the same tariff classification and thus the same customs treatment.

There is another example in the field of technical standards. CCA agreements theoretically enable companies to import the same product into the entire European Union as soon as there is an approval by one laboratory in Europe.

Thus, the starting point should be harmonising customs information (which would be feasible within two or three years), then the customs treatment throughout Europe, in particular by means of the data-processing tool.

### **III. One Stop Shop and Single Authorisation**

European Commerce is particularly pleased with the inclusion of the One Stop Shop concept (as equivalent to "Single Window") into the harmonisation and computerisation of customs procedures. Customs shall become trading companies' exclusive contact point for all aspects of cross-border goods traffic (e.g. licenses, excise duties, special provisions for agricultural products etc.).

Thus, to the benefit of both importers and exporters, the One Stop Shop would bring about reduced time and personnel expenditure for the completion of formalities. However, implementing this concept straightaway requires close co-operation between national authorities and the Directorates-General TAXUD, AGRI and TRADE.

Moreover, combination with a single authorisation will enhance the One Stop Shop concept. In certain Member States, central customs clearance at the trader's premises and on the basis of a single authorisation already exist. They function impeccably. Formalities are centralised in only one customs office at the national level. So, why should this not be possible at European level?

The European One Stop Shop may be the ultimate step of the ambitious Electronic Customs initiative, but it points the way to the future.

### **IV. Data Elements**

The Commission suggests harmonising all data elements for all customs procedures and related transactions. Data exchange should be based on international standards and the (re-)use of data throughout the trade chain. In principle, these suggestions may be welcomed.

## **1. Harmonising and Minimising Data Requirements**

Harmonisation of data requirements (in the EU and abroad) is indeed a major condition for simplifying customs procedures and their application. It is just as important as minimising data elements. All parties involved must contribute to this aim: the G8, the European Commission, EU Member States and the private sector. They should be complemented by national administrations who still consider certain data elements indispensable. In any case, harmonisation must not lead to a situation where more data elements are required than so far.

The reduction of import data from 800 to approximately 100 data elements obtained in the framework of the G7-Initiative is already a considerable achievement. However, EuroCommerce and the FTA are of the opinion that this number must still be further reduced. In order to achieve the intended degree of simplification, the current number of data elements should at least be halved.

## **2. Confidentiality and Responsibility**

If data is used from the other end of the trade chain (e.g. from the country of exportation) and goods have been resold meanwhile, it is important that the original seller and his price are not disclosed to the final buyer. Otherwise, the prospects for the future of a whole business branch in the EU - the transit trade - would be disastrous. European Commerce expects that the Community will continue to protect confidentiality of data.

An additional issue is the responsibility for the correctness of these data. If this had always to be taken by the declarant, the problem of importer's good faith protection would automatically re-appear.

## **3. Bearing of Costs**

An answer also needs to be given to the question who will bear the costs of data transfer and processing. There is plenty of data available; the problem is the instruments and costs to transfer, distribute, control, assign and store them.

## **4. Transfer Into Archives**

Finally, all customs-relevant data should be transferred electronically into archives at the declarant's premises. This presupposes however that documents from the supplier countries are transmitted electronically.

## **V. Unique Consignment Reference (UCR)**

"For the security" of the supply chain, the World Customs Organisation (WCO) proposes to use a Unique Consignment Reference (UCR), consisting of 35 alphanumeric characters to be used for a given consignment starting at exportation throughout the supply chain - warehousing, transporting, importation. The underlying assumption is to have an audit trail from source to destination.

On account of the variety of international transaction and transportation techniques, however, the UCR is not apt to fulfil its purported aim. Moreover, unresolved problems of data protection, data security and liability persist.

This becomes clear in the simple example of a container consolidating an average of 20 partial consignments: the UCR aggregate would already amount to 20 times 35 characters. For all members of the supply chain, UCR would only constitute additional data to be declared, transferred and stored with the resulting costs and possible delays. UCR was originally a UN/CEFACT recommendation of some 20 years ago that does not correspond to business needs and has, therefore, never been adopted by international trade.

The conclusion is that UCR is neither relevant nor practicable. Therefore, European Commerce is strongly opposed to such a requirement. The Community has already found the solution for the security of the supply chain, which lies in the proven institution of the authorised trader.

## **VI. Border and Inland Customs Offices**

According to the Commission's proposal, customs authorities at the external border of the European Union will increasingly gain importance. A complete or simplified electronic declaration is to be given both to the customs office

- at the point of entry and
- to the customs office at the place where the importer is established.

In the light of the importer's risk profile, a decision will be taken on whether the commodity can be released already at the border or further controls need to be carried out at the inland customs office.

European Commerce welcomes this division of labour between customs authorities as well as the availability of imported commodities in good time. At the external borders of the European Union in its present shape, however, extensive controls may provoke major delays.<sup>1</sup> Such cases could arise e.g. when a comparison of data contained in an electronic customs declaration with those of the commodity to be imported shows slight diversions that can be discovered on the spot but only with a considerable expenditure of time. Whenever necessary, also communication between the customs office of importation and the various inland customs offices may turn out to be time-consuming and labour-intensive.

Early release (and rapid availability) of the goods would however imply the advantage that the goods can be sent to different locations within the EU immediately after importation and without any formalities while the accounts are done centrally at one single customs office of settlement. The Electronic Customs concept should explicitly foresee this possibility.

The Commission's proposal departs from the assumption that each consignment belongs to one importer. In reality, however, consolidated consignments are carried across the borders that belong to a multitude of importing companies, the size of a partial consignment becoming smaller and their number increasing because of the effects of e-commerce. The division of responsibilities between border and inland customs offices would be unmanageable in such cases, remaining the option of the traditional transit operation.

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<sup>1</sup> Since the reform plans may not realistically be expected to be put in place before 2007, the external borders of the EU will have been moved eastwards by then. As a consequence, movements of goods will go down. Intensive trade solutions with Switzerland will require agreed solutions. The problem of limited sea port capacities will however persist.

Moreover, it needs to be examined in how far correct customs declarations can be assured before goods enter into the Community. Should this not be possible, a transit procedure would have to be carried out between the customs office at the point of entry and the inland customs office. In that case, there would be no true rationalisation. This problem could be addressed by simplifying the customs tariff system radically and/or by adequately reducing the number of CN codes.

Furthermore, the suggested procedure requires an ingenious risk analysis as well as drawing up continuously up-dated risk profiles of the declarants. This could boil down to a sort of "translucent" customs agent. In addition, an electronic exchange of risk data among all customs administrations - which would be a major condition for such transparency - could bring about problems in the field of communication (language). At most, these difficulties could be addressed by coding risk profiles, which would, however, involve a considerable error rate.

## **VII. Languages**

It is not sufficient to ensure meeting the technical requirements for communication between the European Commission, the customs and other administrations, the Member States and the economic stakeholders. With view to the enormous variety of languages within the European Union - which will additionally increase at the time of the Enlargement - it may become essential to use only one single language for external trade relations. Indeed, this would presumably encounter considerable political resistance and legal hurdles.

## **VIII. Access to Company Data**

The principle of centralised customs clearance and self-assessment for authorised traders should reduce controls at the frontier customs office as much as possible. For this purpose, the Commission deems that customs authorities need to fall back more than so far on companies' internal data.

Self-assessment may be welcomed as a matter of principle. However, the idea of granting customs administrations access also to the declarant's system is open to rightful criticism, i.e. with view to data protection law. First of all, this cannot be an obligation, but only be an option for operators and there can be no question of unlimited access. The accessible data would have to be clearly defined and must be relevant for the customs procedure in question. The declarant would have the right to keep them separately. Moreover, it needs to be examined in how far such access to company data would be compatible with general data security and relevant rules on the protection of data privacy.

In any case, appropriate measures must be taken in order to prevent company data from coming to the knowledge of unauthorised persons.

## **IX. Procedural Aspects**

European Commerce would like to express its appreciation for the timetable set by the Commission including the early establishment of the new Customs Contact Group (CCG). However, further clarity on the forthcoming working programme in detail should be provided in good time.

The new Electronic Customs & Trade Facilitation website recently published by DG TAXUD is a good instrument to complement the forthcoming reform activities as it provides necessary transparency including timely availability of documentation.

## **X. Conclusion**

EuroCommerce and the FTA expressly welcome and support the Commission's Electronic Customs initiative providing harmonisation and computerisation of customs procedures.

European Commerce is keen to emphasising its readiness to contribute actively to concretising and further developing this reform project on the basis of the existing proposals. Such contributions must include in particular sharing practical experiences with the public institutions involved in order to ensure adequate consideration of the Commerce perspective. Furthermore, it is important to reconcile the discussion on technical items with broader political aspects, too.

At the end of the day, Electronic Customs must bring about radical simplification in comparison with current procedures and cost savings for all stakeholders. With this in mind, it can result in a tailor-made solution, addressing the needs of both customs and trade in a partnership approach.

EuroCommerce and the FTA represent the Commerce sector - international trade, wholesale and retail - vis-à-vis the EU.

European Commerce is a prosperity developer, generating 13% of the Union's GDP and employing 22.5 million people. It stands for 4.7 million companies delivering every day products of best price and quality to 370 million consumers.