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This document corrects SWD(2022) 158 final of 31.05.2022.  
Addition of the SEC reference - SEC(2022) 282 final - to the Opinion of the Regulatory  
Scrutiny Board.  
The text shall read as follows.

## **COMMISSION STAFF WORKING DOCUMENT**

### **EVALUATION**

#### **INTERIM EVALUATION**

*of the*

#### **implementation of the Union Customs Code**

{SEC(2022) 282 final} - {SWD(2022) 159 final}

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## Glossary

<i>Term or acronym</i>	<i>Meaning or definition</i>
AEO	Authorised Economic Operator
AEO-C	Authorised Economic Operator (Customs simplifications)
AEO-F	Authorised Economic Operator (Full authorisation)
AEO-S	Authorised Economic Operator (Security and safety)
AES	Automated Export System
BOI	Binding Origin Information
BTI	Binding Tariff Information
CBA	Cost-benefit analysis
CCC	Community Customs Code
CCI	Centralised Clearance for Import (electronic system)
CCIP	Community Customs Code Implementing Provisions
CCT	Common Customs Tariff
CD	Customs Declaration
CDMS	Customs Decisions Management System
CDS	Customs Decisions System
CEA	Cost-effectiveness analysis
CEG	Customs Expert Group
CEG GEN	Customs Expert Group General Customs Legislation Section
CUP	Customs Union Performance
DG AGRI	Directorate-General for Agriculture and Rural Development
DG GROW	Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
DG TAXUD	Directorate-General for Taxation and Customs Union
DG TRADE	Directorate-General for Trade
DSB	Dispute Settlement Body
EBTI	European Binding Tariff Information
EC	European Commission
ECA	European Court of Auditors

EIDR	Entry in the Declarant's Records
ENS	Entry Summary Declaration
EO	Economic operator
EORI	Economic Operators Registration and Identification
EP	European Parliament
EQ	Evaluation question
EU	European Union
EUROSTAT	European Statistical Office
F4F	Fit for Future Platform
FTE	Full-time equivalent
GATT	The General Agreement on Tariffs and Trade
GSP	Generalised Scheme of Preferences
GUM	Guarantee Management (electronic system)
HDR	Harmonised data requirements
IA	Impact Assessment
ICS	Import Control System
INF	Standardised Exchange of Information for Special Procedures
IT	Information technology
MASP-C	Multi-Annual Strategic Plan for Electronic Customs
MCC	Modernised Customs Code
MS	Member State
MSME	Micro-, small- and medium-sized enterprises
NA	Notification of Arrival
NCTS	New Computerised Transit System
NIS	National Import Systems
OLAF	European Anti-Fraud Office
PN	Presentation Notification
PoUS	Proof of Union Status
REX	Registered Exporter System
SASP	Single Authorisation for Simplified Procedures

SCM	Standard Cost Model
SP	Special Procedures
SURV3	Surveillance 3
TARIC	Integrated Tariff of the European Union database
TCG	Trade Contact Group
TFEU	Treaty on the Functioning of the European Union
TS	Temporary Storage
TSD	Temporary Storage Declaration
UCC	Union Customs Code
UCC-DA	Union Customs Code Delegated Act
UCC-IA	Union Customs Code Implementing Act
UCC-TDA	Union Customs Code Transitional Delegated Act
UK	United Kingdom
UUM&DS	Uniform User Management and Digital Signature
VAT	Value-added tax
WCO	World Customs Organization
WTO	World Trade Organization

## 1. INTRODUCTION

### Purpose, scope and methodology of the evaluation

The purpose of this evaluation is to provide an interim assessment of the implementation of the Union Customs Code (UCC)<sup>1</sup> at both EU and Member States' levels. Since its entry into force in 2016, the UCC is the main legal and IT framework for customs processes in the EU customs territory. The UCC aims:

- to protect the financial interests of the Union and the Member States
- to protect the safety and security of EU citizens and
- to maintain a proper balance between customs controls and facilitation of legitimate trade.

To accomplish these goals, the UCC aims, in particular, to achieve more simplicity and uniformity in the application of customs rules in order to enhance the competitiveness of European businesses and to provide a fully electronic environment for the completion of customs formalities by customs authorities and economic operators, via the deployment of 17 electronic systems (see Annex VI).

The Commission carried out this evaluation following a request of the European Parliament to take stock of the state of play of the implementation of the customs legislation and the delivery of electronic systems set out in the UCC and to ensure that the customs regulatory framework formed by the UCC is effective, proportionate and fit for purpose both for Member States and for trade operators.<sup>2</sup> In an initial report published on 22 January 2018<sup>3</sup>, the Commission found that the UCC had not encountered any major legislative problems during its first eighteen months of implementation, despite the major changes introduced. However, the Commission also acknowledged that the impact of the UCC would have to be assessed in a more comprehensive way.

The UCC package is composed of the basic Regulation (the UCC) and several delegated and implementing acts (see Annex VI). In line with the request from the European Parliament, the evaluation focuses on the **implementation** of the UCC package, i.e. the different activities and mechanisms progressing from its existence as a legal text to its correct interpretation, implementation, application and enforcement by the Commission and the Member States. More details about this approach are provided in section 2.1 and in the intervention logic in Annex VI.

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<sup>1</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1–101).

<sup>2</sup> European Parliament resolution of 19 January 2017 on tackling the challenges of the Union Customs Code implementation (2016/3024(RSP)) (OJ C 242, 10.7.2018, p. 41–43). See point 8.

<sup>3</sup> Report from the Commission to the European Parliament and to the Council on the implementation of the Union Customs Code and on the exercise of the power to adopt delegated acts pursuant to Article 284 thereunder, COM(2018) 39 final.

The **evaluation period** goes from 1 May 2016 (the date from which the UCC's substantial provisions started being applied) to end of December 2020 (original date by which all the UCC IT systems should have been deployed).

The **geographical scope** of the evaluation includes all Member States. While the United Kingdom was a Member State in the period considered, it is not included in the analysis due to the impossibility of collecting relevant data from its customs authority.

From a **methodological point of view**<sup>4</sup>, the main input for the evaluation comes from an **external study** carried out by Economisti Associati from August 2020 to November 2021<sup>5</sup> In addition, ad-hoc consultations were also carried out at meetings of the Trade Contact Group (TCG) and internally among Commission services. Finally, the opinion of the Fit for Future Platform (F4F) has also been taken into account in the analysis. It includes suggestions on simplifying and reducing potential unnecessary costs in the Code.<sup>6</sup> The methodology used in the supporting study was composed of two phases:

- A detailed overview of the UCC's practical implementation in terms of its **rules, procedures and IT systems**, mainly based on desk research and on the replies to a targeted questionnaires by the 27 customs authorities and by 21 economic operators representing EU level business associations and companies in the field of logistics, sea, air and rail transport, express operators, postal operators, shipping, airports and seaports operators between November 2020 and February 2021.<sup>7</sup>
- Given the impossibility of analysing every change introduced by the UCC and considering that not all changes were impactful, a sample of the most significant UCC provisions and changes (eight "**key issues**") was used for an in-depth analysis in the evaluation phase through the prism of the Better Regulation criteria (effectiveness, efficiency, relevance, coherence and EU added value). The choice of the eight topics was based on the outcome of the implementation review phase described above and an analysis by the Commission of the most impactful topics arising. The sample does not cover the standard rules on the main customs processes (import, export, transit) because the UCC's predecessor, the Community Customs Code, already codified those core rules. As the UCC digitalised these procedures and the related formalities, the issues selected for the evaluation were intended to cover the areas in which the UCC introduced substantial changes, such as rules on customs decisions, authorised economic operator, temporary storage, guarantees,

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<sup>4</sup> See Annex II on methodology and annex V on synopsis report.

<sup>5</sup> Study to support the interim evaluation of the implementation of the Union Customs Code, by Economisti Associati and others (2021). [Add link (once published)]

<sup>6</sup> Reference 2021/SBGR3/13. The Fit for Future Platform (F4F) is a high-level expert group bringing together Member States, the Committee of the Regions, the European Economic and Social Committee and stakeholders. It also includes a collaboration with the SME Envoy Network represented by the EU SME Envoy. It was established through Decision (2020)297716 that determines its mandate, role and the way it will work.

<sup>7</sup> The questionnaire was sent primarily to all customs authorities (response rate 100%). It was also sent to the 55 members of the Trade Contact Group (TCG) for additional feedback. Of the 55 TCG members, 21 responded: 16 EU-level business federations and 5 individual companies (sectors covered: manufacturing, retailing, shipping sector, port/airport operators, customs agents/brokers).



simplifications to the customs formalities and clearance processes and harmonised data requirements. In addition, the sample also includes the IT systems that were already deployed by 2020 (central IT systems) and an area in which the European Court of Auditors had identified problems (risk management).<sup>8</sup> Each of the eight topics was carefully selected and considered as representative of a broader group of related aspects rather than a single legal provision or IT system. More details are in section 4 and annex II.

Data and evidence for this second phase of the study include: i) the above mentioned implementation questionnaires; ii) 112 interviews with Commission officials (13), customs officials (61) and national economic operators (38 among federations and individual companies<sup>9</sup>) in a sample of 10 Member States; iii) a public consultation with 126 respondents, mainly economic operators (112), nearly half of which were large companies (250 or more employees); iv) and an IT costs assessment for five UCC systems. Given the practical difficulty with covering all Member States for the broad scope of the evaluation, the sample of Member States (Germany, Netherlands, France, Italy, Poland, Ireland, Sweden, Romania, Estonia, Luxembourg) aimed at ensuring a proper balance in terms of geographical location, population size, share of EU GDP; trade volumes and specific interest for customs purposes (i.e. exposure to e-commerce flows, external borders, level of IT development). In the public consultation, wherever possible, findings were cross-checked, either using input from different stakeholders or data collection methods, or secondary sources.

The assessment provided in this evaluation is intended to be as comprehensive as possible but is limited by certain specific factors, for which mitigation actions have been taken, as follows:

- The **very large scope of the UCC** package in terms of rules and processes covered, and for that reason the choice to focus on eight key issues;
- **Lack of systematic quantitative data** for the cost-benefit analysis (CBA) and subsequently the focus on qualitative assessment based on information provided in the questionnaires and in the interviews with customs officials and economic operators at EU and national level. Nevertheless, a quantitative analysis was performed in the assessment of efficiency and some quantified figures serve to illustrate the scale of benefits and costs in specific cases. The reasons for this limitation mainly relates to:
  - difficulties for the stakeholders consulted with distinguishing the costs of adaptation to the new UCC rules from the costs of running the usual customs

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<sup>8</sup> See European Court of Auditors Special Report 19/2017 “Import procedures: shortcomings in the legal framework and an ineffective implementation impact the financial interests of the EU”, and Special Report 04/2021: Customs controls: insufficient harmonisation hampers EU financial interests.

<sup>9</sup> The national economic operators interviewed operate in the following sectors: customs services 9, logistics 7, air transport 4, rail transport 3, sea transport 2, chemicals 3, automotive 2, manufacturing industry 8. Around 6 interviews with economic operators were held in each of the ten selected Member States, but two; the smaller Member States were proportionally represented in this exercise.

operations, as the need to adapt to new rules and IT systems has become a constant element in the customs environment;

- the conceptual challenge of quantifying in monetary terms the benefits that the new rules and IT system are progressively bringing, namely certain types of benefits such as increased clarity of rules;
  - the difficulties for the national administrations in accessing and providing detailed data on costs, for confidentiality reasons, capacity constraints or internal practices.
  - The lack of mandatory monitoring arrangements in the UCC for its implementation, except the reporting obligation on the progress made by Member States on the development of IT systems;
  - The delays in the IT implementation (notably in the upgrade of the National Imports and the deployment of the national component of the Automated Exports systems by the Member States)) are not a main cause but limit the possibilities for providing quantitative data as such (e.g. the system Surveillance<sup>3</sup> cannot work without data provided by the national systems).
- **Reliance on stakeholder feedback:** given the relative scarcity of relevant secondary data and the importance of stakeholder experiences for the implementation of the UCC, direct input from the widest possible spectrum of stakeholders was the main evidence source for the external study that provided the main input for this evaluation, via the consultation activities explained above. It is crucial to note that judgment criteria and indicators used in the evaluation include not only *opinions* of the stakeholders but also take into account the fact that those stakeholders are in possession of the *data* necessary for the analysis of the UCC implementation (especially customs authorities, who are the ones responsible for the implementation on the ground). Feedback expressed in the questionnaires, interviews and in the public consultation were cross-checked, wherever possible, either using input from different stakeholders or data collection methods, or secondary sources, including from the Customs Union Performance tool. Overall, this should ensure sufficient confidence in the findings of the evaluation, although these are not based on statistically representative samples or objectively ‘hard’ data.
  - **Partial implementation of the UCC package,** as the legal deadlines for the completion of certain IT projects will expire after the temporal scope of the evaluation. Instead, the evaluation covers five IT systems that were deployed by the end of 2020, in line with the temporal scope of the evaluation itself.
  - **New challenges:** Some of the findings of this evaluation refer to the absence in the UCC package of adequate solutions to the issues encountered by customs authorities when faced with matters such as e-commerce. The external study addressed this problem in the form of topical case-studies, offering a horizontal analysis of inter-related elements which emerged during the “main” line of research (see Annex 4 of the study).

## 2. WHAT WAS THE EXPECTED OUTCOME OF THE INTERVENTION?

### 2.1 Description of the intervention and its objectives

The UCC entered into force on 30 October 2013 although most of its substantive provisions took effect from 1 May 2016. The UCC provides for a comprehensive legal and IT framework<sup>10</sup> governing nearly all aspects of how EU customs operate, and covering all customs domains, procedures, declarations, decisions, systems, etc.

The UCC is the main legal and IT framework for customs processes in the EU Customs Union. The EU Customs Union is more than 50 years old. The Customs Union means that EU Member States apply a common system of customs duties to imports of goods from outside the EU customs territory. There are no customs duties and no customs controls at the borders between the EU Member States. Member States' customs authorities supervise all goods entering or leaving the EU customs territory, regardless of their mode of entry or exit.

The UCC repealed the 1992 Community Customs Code ("CCC")<sup>11</sup>. The CCC for the first time consolidated the EU's main customs regulations in one single text and converted the customs union from a space in which the same tariffs applied into an area of full regulatory integration. The CCC already regulated in detail the main customs procedures (release for free circulation, transit, customs warehousing, processing, temporary admission and exportation), the factors used to calculate customs duties (origin and value of the goods) and the customs debt.

Although a major achievement and a facilitation for businesses at that time, the procedures and practices under the CCC relied on the use of paper documentation. This was not suited to a modern, electronic business environment and to the increasing responsibilities of customs authorities at the border of the Union, in matters going beyond the traditional collection of duties (such as addressing security and safety challenges, illegal cash movements and counterfeit goods).<sup>12</sup> A first attempt to modernise customs took place through the adoption of a Decision on electronic customs<sup>13</sup> in late 2008. A second attempt was the adoption of the Modernised Customs Code ("MCC")<sup>14</sup>. Due to the new rules and procedures introduced by the Lisbon Treaty the Commission was obliged to recast the MCC before its planned application date, which led to the adoption of the UCC and its accompanying acts.

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<sup>10</sup> See Annex VI for the composition and content of the UCC package.

<sup>11</sup> Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1.)

<sup>12</sup> About 150 pieces of non-customs legislation applicable at the EU borders entered into force since 2016, while another 24 legal acts are currently under revision. Examples of such legislation concern the rules for the import of cultural goods the new regulation on market surveillance.

<sup>13</sup> Decision No 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless environment for customs and trade (OJ L 23, 26.1.2008, p.21).

<sup>14</sup> Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code) (OJ L 145, 4.6.2008, p. 1–64).

The UCC effectively applies from May 2016. The UCC codifies for the first time in the history of the Customs Union the mission of the customs authorities, thereby setting the general objectives of the Customs Union as such, namely: (1) to protect the financial interests of the Union and the Member States; (2) to protect the safety and security of EU citizens and (3) to maintain a proper balance between customs controls and facilitation of legitimate trade.

As the CCC already codified the main customs procedures, the UCC was never meant to introduce major substantial changes in those procedures but rather to consolidate them and adapt them to new realities, notably the use of electronic means. Accordingly, the specific objectives of the UCC are (1) to streamline and simplify the existing customs rules, procedures and processes; (2) full automation of all customs procedures and processes; and (3) to strengthen legal certainty, uniformity and predictability of customs rules.

The intervention logic of the UCC implementation is represented in annex VI.

The **main innovations** of the modern approach adopted in the UCC package included:

1. Principle that **all customs and trade transactions are to be handled electronically**;
2. No limitations on the right of **customs representatives** to provide services in a Member State other than his place of establishment, to ensure a level playing field;
3. **Harmonised and standardised application of customs controls** by the Member States, to ensure an equivalent level of customs control throughout the Union;
4. **Harmonised and predictable common rules on customs decisions** issued by the Member States, including on the issuing of customs authorisations and on binding customs decisions on tariffs and on origin;
5. Stronger rules and **criteria for granting the status of Authorised Economic Operator** (AEO) to compliant and trustworthy economic operators who can enjoy the possibility of using customs simplifications, benefit from facilitations relating to security and safety and more favourable treatment in respect of customs controls;
6. **Compulsory guarantees** for all customs procedures, so as to safeguard the EU's own resources and financial interests, coupled with the availability of reductions and waivers for AEOs;
7. New **simplifications of customs clearance processes** for operators fulfilling some or all of the criteria required for obtaining the Authorised Economic Operator status, such as the authorisations (see section 4.1.2).

Key to achieving the objectives of the UCC is the progression of customs to a **paperless, integrated and fully electronic environment**. To this end, the UCC established common rules and data requirements for customs pre-arrival and pre-departure declarations, notifications, applications and decisions, which are to be processed through the upgrade or development of **seventeen electronic systems** detailed in Annex VI.

The UCC initially provided for a transitional period ending on 31 December 2020 during which pre-existing electronic systems such as national import systems, and paper-based systems were accepted, while allowing sufficient time to develop or upgrade all the electronic systems that under the UCC should be used for the management of customs formalities. However, several factors led to delays in the IT implementation beyond the original deadline:

1. The end date of 2020 was chosen for financial reasons, as this was also the end date of the Multi-annual Financial Framework 2014-2020, although it was a very ambitious deadline from the outset.
2. The scale and complexity of the work to complete by 2020 was underestimated in terms of financial and human resources, including insufficient allocation of staff.
3. The late adoption at the end of 2015, as a result of the complexity of the provisions involved and the ensuing discussions with Member States and businesses, of the necessary delegated and implementing rules, including the common data requirements, resulted in the Commission and the Member States not being able to comply with the original planning for the IT developments.
4. There were technical reasons such as the harmonisation with the international data models and the need to ensure the necessary sequential development of the systems for their correct interoperability.<sup>15</sup>

The UCC was amended in 2019 to postpone the end of the transitional period from 2020 to 2022 for three national systems and to 2025 for six (trans-European) systems.<sup>16</sup> The UCC electronic systems are being deployed by 2025 as planned (see IT planning in Annex VI). In addition, to better monitor the process, the UCC now clearly requires Member States to provide the Commission with information regarding their progress on completing the IT work and, based on that, the Commission must produce annual progress reports.<sup>17</sup>

## 2.2 Points of comparison

In the absence of an impact assessment of the UCC, the baseline scenario below is partially “reconstructed” based on the **impact assessment on the proposal for the UCC’s predecessor, the Modernised Customs Code (MCC)**<sup>18</sup>, which dates back to 2003-2005, and on a **WTO dispute between the US and the EU on customs matters**.

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<sup>15</sup> See European Court of Auditors Special Report No 26/2018: *A series of delays in Customs IT systems: what went wrong?*

<sup>16</sup> Regulation (EU) 2019/632 of the European Parliament and of the Council of 17 April 2019 amending Regulation (EU) No 952/2013 to prolong the transitional use of means other than the electronic data-processing techniques provided for in the Union Customs Code (OJ L 111, 25.4.2019, p. 54).

<sup>17</sup> Reports from the Commission to the European Parliament and the Council pursuant to Article 278a of the Union Customs Code, on progress in developing the electronic systems provided for under the Code: for 2019, COM/2019/629, for 2020 COM/2020/806, for 2021 COM/2021/791.

<sup>18</sup> Commission Staff Working Document SEC(2005) 1543 - Annex to the Proposal for a regulation of the European Parliament and of the Council laying down the community customs code and to the Proposal for a decision of the European Parliament and of the Council implementing a paperless environment for customs and trade IMPACT ASSESSMENT (COM/2005/608/F) (COM/2005/609/F).

Both revealed a series of problems (mainly the need to shift to an electronic customs environment and to ensure a uniform application of customs legislation across the EU) for which Union action was needed, the UCC being the response to those needs.<sup>19</sup>

The **impact assessment on the proposal for an EU Modernised Customs Code** provides some indication of what the situation, in terms of the functioning of the Customs Union, was like before the UCC and what changes were needed to adapt the customs legislation to the reality of an electronic customs environment<sup>20</sup> and to simplify and restructure the rules contained therein. However, since the policy, trade and technological context had shifted in the intervening period, the original impact assessment can only serve as an indicative but not firmly established baseline for the UCC. Moreover, the MCC impact assessment did not quantify the scenarios and problems assessed therein, therefore it is not possible to report quantitative evidence from that analysis. Overall, the problems identified during preparatory works for the MCC oscillated around:

- a) **Paper-based processes and non-interoperable systems:** customs procedures and processes were, in the mid-2000s, mostly based on paper declarations. Although all Member States offered and economic operators used **electronic customs clearance**, electronic declarations and the electronic submission of supporting documentation were considered to be exceptions and required the approval of customs authorities. In addition, where electronic processes did exist, the different IT systems in the Member State could not communicate between them, due to the **lack of common rules** for electronic clearance (apart from the new computerised transit system – NCTS), and of **common standards for the use of IT** in the customs area.
- b) Insufficient trade facilitation and the need for **efficient, predictable and cost-effective customs formalities**, such as effective simplifications.
- c) **Scope for greater uniformity in implementation of rules and decisions:** in the Community Customs Code, certain operational and implementation issues were left to Member States' decisions, leading to divergent practices and additional burdens for economic operators. Further uniformity in the implementation of customs legislation, simplified and streamlined rules and more efficient procedures for adopting implementing provisions and guidelines were needed.
- d) **Legislation not in line with the new role of customs:** the Community Customs Code mainly dealt with procedures aimed at ensuring that customs duties were collected and provided for procedures allowing a suspension of duty liability. It did not reflect the **shift of customs work to new tasks** such as:

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<sup>19</sup> European Communities – Selected Customs Matters, Report of the Appellate Body, WT/DS315/AB/R.

<sup>20</sup> See in particular the [World Customs Organisation Data Model](#), an initiative of the WCO to simplify and standardize data requirements of cross-border regulatory agencies including customs. Version 1.0 of the Data Model was developed in 2002 based on a G7 initiative to simplify and standardize data requirements for reporting goods and cargo declarations to customs. Successive versions of the Data Model enlarged the scope of the initiative.

- enforcing prohibitions and restrictions imposed in order to ensure the non-proliferation of weapons of mass destruction, arms, dual-use items, the protection of cultural heritage, of industrial or commercial property, of the environment, including endangered species;
- ensuring that VAT and excise duties are paid at import and certifying exit for VAT and excise duty exemption;
- ensuring that the formalities for goods benefiting from export refunds are fulfilled.

The customs legislation in the pre-UCC era was scrutinised in the case “EC selected customs matters” taken by the United States against the European Communities before the WTO Dispute Settlement Body (DSB) in 2004-2006. The subject of the case was, amongst others, the alleged **lack of uniformity in the application of the customs law** adopted by the European Communities (now Union) and implemented by the Member States, as required by Article X:3(a) GATT.

Throughout the dispute, it was argued that different interpretations of EU customs legislation were identified in the areas of **classification of goods** (e.g. conflicting Binding Tariff Information (BTI) decisions on the same class of goods), **valuation** (e.g. lack of EU tools for ensuring uniform application of the rules, such as a binding IT system and limited ability of the Commission to impose uniformity or to reconcile different interpretations), and **customs procedures** (e.g. different approaches taken by Member States in carrying out audits after the release of the goods, varied assessments of the economic conditions necessary for granting the authorisation for the procedure “processing under customs control” (now inward processing), non-uniform requirements in the Member States for the application of the “local clearance” procedures).<sup>21</sup>

While the WTO appellate body found that it was “unable to complete the analysis with respect to the United States’ claim that the European Communities’ system of customs administration as a whole or overall is not administered in a uniform manner”, it nevertheless recommended that the European Communities take some action. The MCC (and therefore the UCC as its recast) was part of the Union response to that request. In particular, the creation under the UCC of an IT system, Binding Tariff Information (eBTI), to record the decisions on tariff classification adopted by the Member States addresses the problem of a disparities among Member States on tariff classification. Similarly, the simplification and redefinition of the special customs procedures and the

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<sup>21</sup> These problems were further scrutinised in an evaluation of the state of the Customs Union published in 2013, which identified several major challenges that were not being adequately addressed under the previous legislative framework, leading to recommendations where progress in those areas would be hoped for under the UCC. Especially relevant is the finding that “the level of uniformity in a majority of customs processes and procedures is not satisfactory”, and the related recommendations to make use of “more uniform IT systems and processes”, better data management and exchange between relevant actors, enhanced common monitoring arrangements, more coordination between customs and other authorities. The evaluation also recommended making the rules stronger where needed, but also simpler, in order to increase both uniformity and efficiency (Study on the Evaluation of the Customs Union, by PwC Belgium/PwC The Netherlands, 2013).

streamlining of the rules for issuing customs decisions are intended to address the criticism towards the lack of uniform application of the customs rules in these areas.

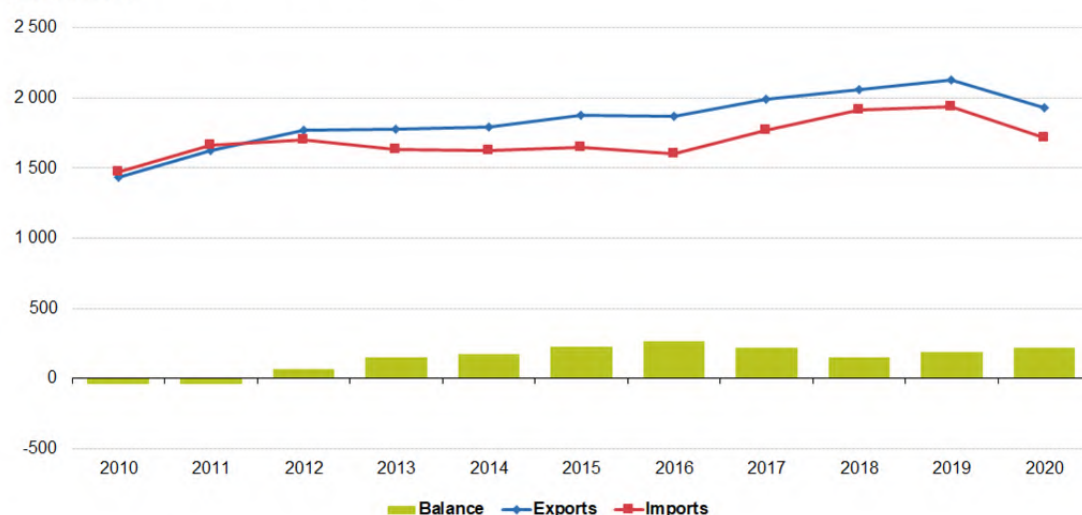
### 3. HOW HAS THE SITUATION EVOLVED OVER THE EVALUATION PERIOD?

#### 3.1. Current state of play

The European Union is one of the largest trading blocs in the world, alongside the United States and China, accounting for around 14% of global trade, equivalent to a value of EUR 3.6 trillion in 2020.

Looking at the trend over time, as of 2012 the EU trade balance recorded a continuous surplus that peaked at EUR 264 billion in 2016. The EU surplus decreased in 2017 and 2018 and started to increase again in 2019 and 2020. The increase in trade increases the need for efficient customs procedures.

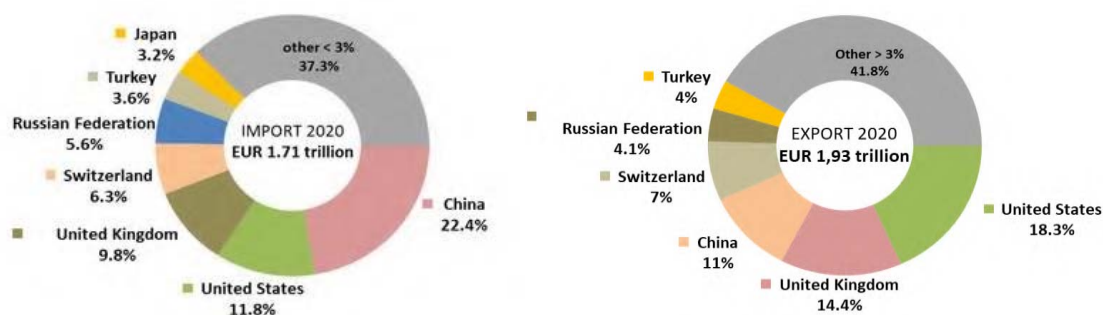
**Evolution of extra EU trade, 2010-2020**  
(EUR billion)



Source: Eurostat (Comext DS-018995)

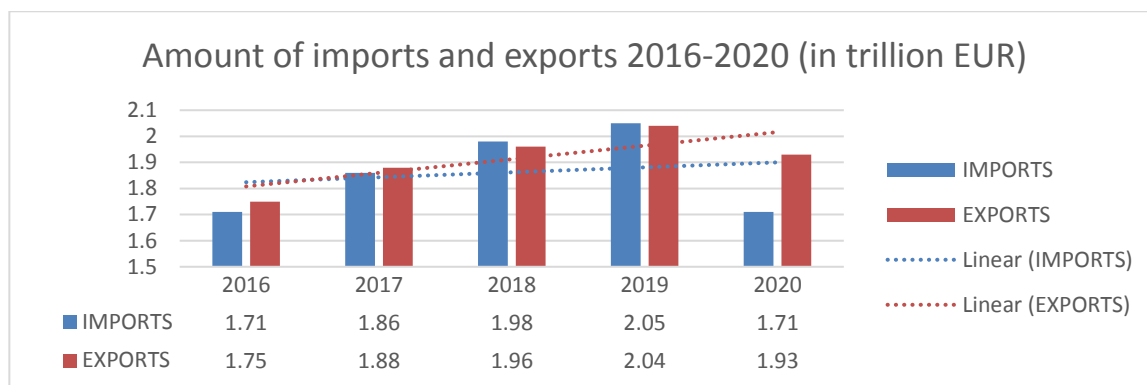
eurostat

Looking more closely, **half of EU external trade was primarily with four main partners** in 2020: China, the United States, the United Kingdom and Switzerland. These were the same as in 2016, with the difference that while the UK was a Member State, Russia was in the top 4 trade partners.

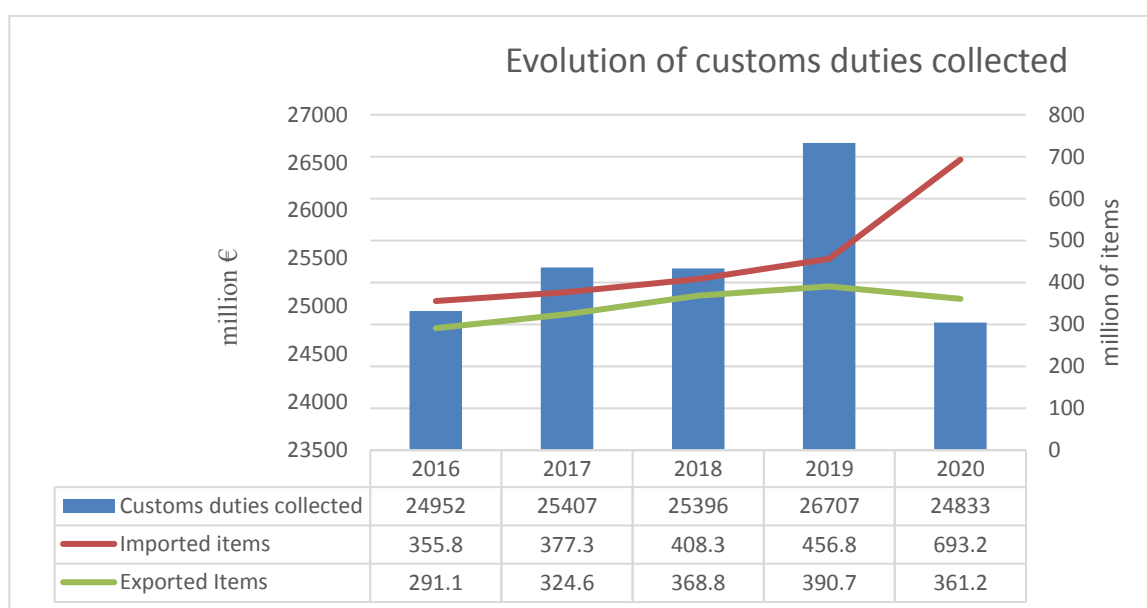




Since the UCC entered into force in 2016, a general increase can be observed for imports and exports of the EU, which is reflected in increasing volumes of transactions handled and a generally positive if irregular trend concerning the collection of customs duties.



Source: DG TAXUD data (for 2020, data are for EU27)



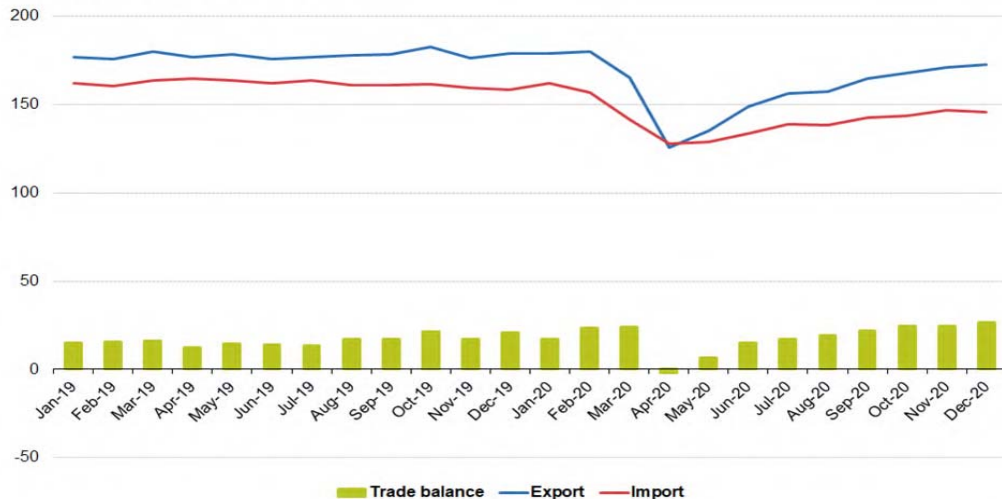
The evolution in the collection of customs duties shows a peak in 2019 and significant decrease in 2020, compared with the value of imports in the 2020 COVID-affected year. This can be explained by the fact that the average value of imported item decreased from EUR4 443 in 2019 to EUR2 581 in 2020. Most of those items were protective equipment against COVID-19 (see below), which was, in certain circumstances, exempt from duties.

### **New developments in the period covered by the evaluation**

Three developments arose during the evaluation period, all having a significant impact on how the situation(s) that the UCC was meant to regulate evolved during that time, namely: the COVID-19 pandemic, the increase of e-commerce and Brexit.

In 2020, EU trade was hit hard by the COVID-19 pandemic, as shown below.

**Extra EU trade in goods, 2019 - 2020**  
(EUR billion, seasonally adjusted data)



Source: Eurostat (online data code: ext\_st\_27\_2020msbec)

eurostat

In March 2020 several Member States asked for a flexible application of the UCC customs provisions relating to the customs decision-making process, duty collection, customs procedures and customs formalities so as to address problems deriving from the disruption of trade flows, delays, restrictive measures for the movement of persons taken by the Member States and the related unavailability of staff. The Commission provided customs guidance in the form of guidelines and other explanatory documents to illustrate the solutions offered by the Code to address the exceptional circumstances at play, in the absence of clear exceptions based on force majeure allowing for deviations from the regular application of UCC requirements.<sup>22</sup>

As regards e-commerce, the UCC was conceived for a business model mainly based on traditional trade, done by cargo vessels sailing the seas to move large quantities of similar goods into and outside the EU customs territory. While this model still largely exists today, the dramatic increase in **e-commerce** transactions<sup>23</sup>, in which low value consignments are individually shipped from third countries to the final consumers in the Union, is today one of the main challenges faced by customs authorities and by the customs legislation they are called to apply. In order to solve urgent problems which had emerged in this area regarding the collection of VAT, new VAT e-commerce rules were adopted in 2017<sup>24</sup>, introducing a new set of fiscal requirements aimed at regulating the flows of low value consignments, which are those with a value below EUR150. Customs provisions had to be adapted to support the enforcement of the VAT rules and

<sup>22</sup> Guidance on Customs issues related to the COVID-19 emergency ([DG TAXUD Website](#))

<sup>23</sup> Data from Eurostat shows that 73% of internet users in the EU shopped online in 2020, with 79% of 25 – 54 year olds purchasing goods or services for private use online in 2020, as compared with 66% of the same age group in 2016 and 61% in 2013, when the UCC was adopted.

<sup>24</sup> Council Directive (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods (OJ L 348, 29.12.2017, p. 7).

requirements for e-commerce movements.<sup>25</sup> The new rules apply from July 2021 and are therefore outside the evaluation period. However, preliminary analysis of the implementation for the new rules shows a massive increase in volume of import traffic with approximately 660 million import declarations lodged for low value consignments only in the period July-December 2021<sup>26</sup> (for comparison, the total number of imported items was around 690 million in the full year 2020). E-commerce transactions are also problematic as regards compliance with prohibitions and restrictions applied in the EU linked to non-financial risks.<sup>27</sup>

A third event, unforeseen at the time of the UCC's drafting, which has had an impact on the implementation of the UCC, is the **UK's withdrawal from the European Union**. Member States' customs authorities were obliged to devote resources to preparing for the impact of their trade with the UK shifting from intra-Union trade, for which no customs formalities are required, to third-country trade for which full import and export formalities are required. Some Member States doubled the number of customs declarations that their systems had to process.<sup>28</sup>

The difficulties in dealing with customs formalities partly explain why in the first four months of 2021, export value to the UK (€89,6 billion) decreased by 1% and import value from the UK (€33 billion) decreased by 43% in relation to the same interval in 2020 (€90,1 billion and €57,4 billion, respectively).

### **3.2. State of implementation of the UCC package (legal and IT aspects)**

This section includes an **overview of the state of the implementation of the UCC legal provisions and IT systems in the period 2016-2020**.

Given the lack of sufficiently accurate, up to date and comparable data, input for the implementation review was comprised mainly of (i) desk research and (ii) responses to questionnaires that all Member State customs authorities and a sample of EU level business organisations and individual economic operators answered, as explained in

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<sup>25</sup> Amendments to the UCC delegated and implementing acts are available on [UCC - Legislation \(europa.eu\)](https://eura.europa.eu/ucc-legislation)

<sup>26</sup> An internal DG TAXUD survey, utilising a conservative EU-wide estimate, based on replies from postal and express couriers' in 24 Member States on their e-commerce consignments during 2018, found some useful, higher than expected, indicators of volumes and revenue from e-commerce flows (3 to almost 6 times the estimation done for the VAT package, which estimated that total online expenditure on goods and services in 2015 was EUR 540 billion across the EU-28. [Commission Staff Working Document Impact Assessment Accompanying the document "Proposals for a Council Directive, a Council Implementing Regulation and a Council Regulation on Modernising VAT for cross-border B2C e-Commerce", SWD(2016) 379].

<sup>27</sup> See for example ECHA's Forum REF-8 project report on enforcement of CLP, REACH and BPR duties related to substances, mixtures and articles sold online [https://echa.europa.eu/documents/10162/17088/project\\_report\\_ref-8\\_en.pdf/ccf2c453-da0e-c185-908e-3a0343b25802?t=1638885422475](https://echa.europa.eu/documents/10162/17088/project_report_ref-8_en.pdf/ccf2c453-da0e-c185-908e-3a0343b25802?t=1638885422475)

<sup>28</sup> Source: Surveillance system. Surveillance data are created based on customs declarations that may be modified, corrected or deleted, according to the applicable UCC rules. Therefore, the information in the text is provided as an indication and may contain errors.

Section 1. The written consultation sought opinions on the six main areas that the UCC had modified (namely, customs procedures and declarations; customs decisions and AEO authorisations; centralised systems related to the rules on tariff, origin, valuation; customs debt and guarantees; formalities for the entry of goods and temporary storage; special procedures) and covered in total 24 sets of legal provisions.

### *Implementation of the UCC legal provisions*

Given the many and diverse provisions under review, it is difficult to draw simple, general conclusions about the state of implementation. However, **national customs authorities indicate that progress with implementation of the legal provisions is largely on track** within the frame of deadlines as currently defined, while keeping in mind that the timeframe for certain provisions has been extended in line with the delays to related IT projects. **Economic operators showed more concern** about the progress made, but this likely relates to communication issues, which prevent them from being fully aware of the periodic amendments that have been made to the UCC provisions.

**Table 1: How would you rate the overall state of implementation of the UCC in your country with regard to the deadlines as they are defined at the time of writing?**

Application of the legal provisions	Ahead of schedule	On track	Somewhat behind schedule	Facing significant delays	Don't know	No response
<b>National customs authorities</b>	-	20 (74%)	4 (15%)	-	-	3 (11%)
<b>Economic operators</b>	-	6 (29%)	5 (24%)	2 (10%)	2 (10%)	6 (29%)

Source: *Economisti Associati (2021)*; Base: 27 Member States, 21 economic operators (TCG members).

Concerning the difficulties in implementing the above mentioned 24 sets of legal provisions, customs authorities and economic operators indicated that **no sets of legal provisions are – on average – generating ‘major’ difficulties and challenges**. They found on average ‘minor’ challenges in implementing all sets of provisions. Authorities and economic operators also expressed broadly similar views, with exceptions mostly reflecting their differing roles in the customs ecosystem. For example, the reduction in the types of customs warehouses created more difficulties for economic operators that needed to adjust their business processes (see Annex VII).

Based on desk research, questionnaires and interviews with customs authorities and traders in the selected ten Member States, the 24 **sets of UCC legal provisions can be categorised into four groups**, according to the difficulties in implementing the provisions and to the uniformity of how they have been/are implemented by the Member States.

**Table 2: Difficulties with implementation by category of provisions**

	None to minor implementation difficulties	Moderate to major implementation challenges
<b>Relatively uniform understanding</b>	<b>Group 1</b> <ul style="list-style-type: none"> <li>Increased scope of compulsory guarantees</li> </ul>	<b>Group 3</b> <ul style="list-style-type: none"> <li>Harmonised data requirements</li> <li>Changes for low-value consignments</li> </ul>

/ application	<ul style="list-style-type: none"> <li>• Guarantees that are valid in more than one Member State</li> <li>• Assessment of a customs debt / establishing reference amount</li> <li>• Time limits for customs decisions</li> <li>• Binding nature of BTI and BOI decisions</li> <li>• Possibility to lodge BTI / BOI applications for any customs procedure</li> <li>• Deletion of the concept and list of sensitive goods</li> </ul>	<ul style="list-style-type: none"> <li>• Review of pre-existing authorisations</li> <li>• Lodgement and treatment of ENS and other ‘Pentalogy’ steps</li> <li>• Comprehensive guarantees</li> <li>• Reduction in the types of customs warehouses</li> </ul>
Relatively large discrepancies between Member States	<p style="text-align: center;"><b>Group 2</b></p> <ul style="list-style-type: none"> <li>• Rules for temporary storage</li> <li>• New AEO criterion</li> <li>• Decisions on extinguishment of a customs debt</li> <li>• Right to be heard</li> <li>• Simplification of the rules on free zones</li> </ul>	<p style="text-align: center;"><b>Group 4</b></p> <ul style="list-style-type: none"> <li>• Simplifications (i.e. EIDR, self-assessment and SASP)</li> <li>• Reduced / waived guarantees</li> <li>• Electronic declarations</li> <li>• Use of electronic transport docs as transit declarations</li> <li>• Common provisions for special procedures</li> <li>• Rules for customs valuation</li> </ul>

Source: *Economisti Associati (2021)*

The first group is comprised of seven sets of provisions relating mostly to legislative changes that are independent of IT developments and that have been implemented largely to plan, in a relatively uniform way across Member States. For example, in the case of the **increased scope of compulsory guarantees**, the **introduction of guarantees that are valid in more than one Member State** and the **imposition of time limits for customs decisions**, the targeted consultation **customs officials** confirmed that these crucial provisions are being applied in a uniform way, while no major problem arose in terms of implementation.

The second group includes provisions where the Member States have adopted different approaches but where implementation has nonetheless posed few or only minor challenges so far. For example, during the interviews several Member States complained about the lack of clarity and guidance for applying the **new ground for the extinguishment of a customs debt**, but none to date had experienced a situation where this new ground would actually need to be applied. Different approaches based on more uniform rules without significant problems also relate to temporary storage and to the **new AEO criterion on practical standards of competence or professional qualifications**.

Group 3 contains provisions that have been problematic despite largely harmonised rules, because they entail more complex, interrelated changes, and/or rules concerning delays to IT developments. In case of the **harmonised data requirements**, given the varied starting points of each Member State and the frequent changes for adapting the IT systems, hardly any Member States have been able to apply the common requirements

introduced by the UCC. This problem has been solved with the new Annexes B that was published in March 2021.<sup>29</sup> Other sets of provisions in this group are based on similar dynamic. For example, several Member States pointed to difficulties in applying **comprehensive guarantees**, in part because the IT developments are still ongoing. With regard to the **lodgement and treatment of ENS**, customs administrations are facing disruption both due to the fluctuating IT specifications, and reliance on the on-going ICS2 IT project. Overall, the difficulties in implementing these sets of provisions highlight the difficulty of applying harmonising rules and practices in areas where Member States previously had more discretion, which has led to some friction.

The last group consists of provisions where a lack of clarity and/or divergent interpretations of the rules have already caused **significant problems**. These were especially acute (particularly for economic operators) with regard to several **simplifications**, namely the possibility to lodge customs declarations via an entry in the declarant's records (EIDR), the self-assessment authorisation and the Single Authorisation for Simplified Procedures (SASP, the predecessor of the centralised clearance). Economic operators considered the simplifications **unattractive**, partly because of the non-harmonised approaches being taken across Member States. For example, since **EIDR** corresponds closely to simplifications already available at national level before the UCC, those Member States that already had processes in place could implement the new rule seamlessly, but for those who had not, the alignment was more challenging and the risk of divergent practices augmented. In case of **self-assessment**, this has not been applied in any Member States, which seems at least partly because national customs authorities are not sure how it should be implemented. For **reduced and waived guarantees**, some customs authorities reported a lack of clarity in how to apply this possibility for AEOs in practice, which lead inevitably to discrepancies across Member States. Economic operators cited difficulties in the area of **electronic customs declarations**, because these continue to depend on IT systems and requirements that vary by country. Despite the efforts to improve legal clarity for some of these sets of provisions, e.g. for the interpretation of rules on customs valuation, for other areas proper guidance and clarity is still lacking. One of the most significant UCC simplifications, **centralised clearance**, is evidently awaited by stakeholders as a major benefit, but is dependent on the completion of the IT project Centralised Clearance at Import (CCI).

### *Infringements*

Compliance by Member States with the provisions of the UCC has been mostly commendable. In the years 2016 – 2020, 156 complaints were registered in CHAP<sup>30</sup>, 13

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<sup>29</sup> Commission Delegated Regulation (EU) 2021/234 of 7 December 2020 amending Delegated Regulation (EU) 2015/2446 as regards common data requirements, and Delegated Regulation (EU) 2016/341 as regards the codes to be used in certain forms (OJ L 63, 23.2.2021, p. 1); Commission Implementing Regulation (EU) 2021/235 of 8 February 2021 amending Implementing Regulation (EU) 2015/2447 as regards formats and codes of common data requirements, certain rules on surveillance and the competent customs office for placing goods under a customs procedure (OJ L 63, 23.2.2021, p. 386).

<sup>30</sup> CHAP is an application for handling complaints and queries from citizens and legal entities concerning the application of Community law by Member States.

EU Pilots were launched<sup>31</sup> leading to 5 infringement or potential infringement procedures. Of these 5, 3 were resolved and closed before reaching the stage of issuance of a letter of formal notice, and 2 are yet to be launched. The categories of provisions that were most frequently the subject of proceedings concerned the value of goods for customs purposes (Article 69 UCC, four proceedings), followed by the limitation of the customs debt (Article 103 UCC, three proceedings).<sup>32</sup>

### *Implementation of the UCC IT systems*

At the end of 2020, the Commission can report the successful completion of eight systems out of seventeen. The remaining nine IT systems will be deployed progressively until 2025<sup>33</sup>. A detailed list and planning of the systems is included in Annex VI.

Around **half of the consulted Member States reported that the overall state of implementation of the UCC IT systems was on track, while less than a third acknowledged it was somewhat behind schedule**. However, the latter finding likely refers to work on the systems that were delayed legally, whose scheduled dates for completion are in 2022 and 2025. Economic operators were less optimistic, with three quarters of respondents to the questionnaires reporting some or even significant delays. However, their opinion could relate to economic operators' reduced awareness of the details of the IT projects and continued focus on the original deadlines.

**Table 3: How would you rate the overall state of implementation of the UCC [with regard to the development and deployment of the IT systems] in your country with regard to the deadlines as they are defined at the time of writing?**

Development and deployment of the IT systems	Ahead of schedule	On track	Somewhat behind schedule	Facing significant delays	Don't know	No response
National customs authorities	-	13 (48%)	10 (37%)	-	-	4 (15%)
Economic operators	-	3 (14%)	7 (33%)	2 (10%)	3 (14%)	6 (29%)

Source: *Economisti Associati (2021)*

Stakeholders were also consulted on specific difficulties with the implementation of the main IT changes introduced by the UCC.

The group of systems that was deemed to have given rise to the most significant implementation problems by both Member States and economic operators include the **National Import Systems** (due at the end of 2022), **Automated Export System** (AES, due in 2023), **Centralised Clearance at Import** (CCI, phase 1 in 2023, phase 2 in 2025) and **Proof of Union Status** (PoUS, due in 2024/25). This was followed by a group of systems that have already been deployed: **Customs Decisions System** (CDS), **Trader**

<sup>31</sup> A further 15 EU Pilots were initiated in 2020, though they were not officially opened until 2021, which is outside the temporal scope of the evaluation.

<sup>32</sup> Of the EU Pilots opened in 2021, and outside the temporal scope of this evaluation, article 103 is by far the forerunner, relating to 11 of the actions.

<sup>33</sup> According to the UCC Work Programme, and to the latest version of the Multi-Annual Strategic Plan for Customs (MASP-C). See Annex VI and COM(2020) 806 final.

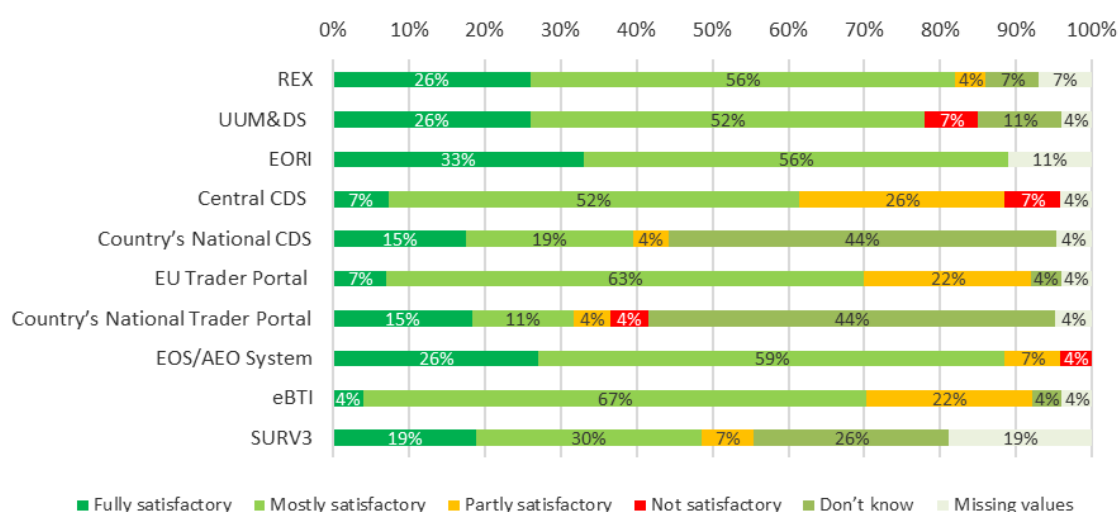


**Portal**, and the **Economic Operator System/Authorised Economic Operator database (EOS/AEO)**. The third group of systems that, according to respondents from both groups, has caused “moderate” difficulties on average is the **Import Control System 2 (ICS2)**, for which, after the questionnaire was completed, the first release was deployed on 15 March 2021, final release in 2024).

Overall, difficulties encountered by Member States and economic operators were fairly consistent, the main difference being that customs authorities perceived the implementation of **the IT systems for notification of arrival, presentation notification and temporary storage (NA, PN and TS)** to be far more problematic than economic operators (presumably because the latter are largely unaffected by them, for the time being at least).

Regarding the **eight IT systems that have already been deployed in the period 2016-2020**, customs authorities encountered only **minor challenges and are very satisfied with EORI, the EOs/AEO system, REX, and UUM&DS**.

**Figure 3: Are the following new/upgraded IT systems functioning satisfactorily?**



Source: *Economisti Associati (2021)*

## 4. EVALUATION FINDINGS (ANALYTICAL PART)

### 4.1. Preliminary remarks

The findings below are based on the specific findings for the eight topics selected for in-depth analysis. These topics are meant to be a balanced choice reflecting i) the UCC changes that stakeholders perceive as most important, ii) changes that produced real benefits or posed significant challenges and iii) changes that are already implemented and from which data and evidence can be collected. The sample is therefore considered as indicative of the overall performance of the UCC to date, in spite of the limited quantitative data.

**Table 4: List and description of the eight key issues covered by the evaluation**

Key issue/change	Brief description
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Key issue/change	Brief description
<b>Harmonised data requirements</b>	<p>The UCC has harmonised the information that is required in the different customs declarations and decisions (data requirements) throughout the EU. They are defined in great detail in the UCC delegated and implementing regulations (Annexes A and B). This is to facilitate the interoperability of the IT systems, the harmonised application of the rules, and alignment with international customs data models. However, due to frequent changes to the Annexes, and significant delays with the development of some crucial IT systems, the harmonised data requirements are not yet fully applied by the Member States. The requirements were revamped and stabilised in 2021.</p> <p><i>Before the UCC, electronic declarations and in particular the electronic submission of supporting documentation were considered to be exceptions. Moreover, where electronic processes did exist, the different IT systems in the Member States could not communicate between them, due to the lack of harmonisation of the data elements and their structure, and of common standards for the use of IT in the customs area. There were more data elements optional for different Member States.</i></p>
<b>Harmonised rules and procedures for customs decisions</b>	<p>The UCC comprehensively recast and streamlined the rules and procedures regarding the various types of customs decisions (UCC Art. 22-37). This includes new time limits for decisions upon application. A new, trans-European IT system (CDS) to harmonise the processes for application and management of customs decisions, in particular authorisations, was deployed in 2017 and upgraded in 2020.</p> <p><i>Before the UCC, each type of customs decision and authorisation was regulated by separate rules, which sometimes were repetitive and most of the procedural rules were dependent on the national law. There was not a dedicated IT system at EU level for submitting and processing the applications for decisions and for some of the decisions no specific deadlines for customs authorities to issue decisions, generating divergent practices across the Union.</i></p>
<b>Obtaining and monitoring Authorised Economic Operator (AEO) status</b>	<p>Authorised Economic Operators are operators being recognised a high level of trustworthiness for customs purposes. The UCC introduced a new criterion to become AEO related to possessing proven practical standards of competence or professional qualifications was introduced (UCC Art. 39(d)). Other AEO criteria were strengthened by adding additional conditions (UCC Art. 39(a), (b), (c) and (e)). The AEO IT system was upgraded to align the business processes related to AEO applications, authorisations and their management with the UCC changes.</p> <p><i>The AEO concept is based on standards introduced by the World Customs Organisation (WCO) and was introduced in EU law in 2008 through the 'security amendments' to the Community Customs Code. Traders who voluntarily meet specific conditions work in close cooperation with customs authorities to assure the common objective of supply chain security and are entitled to enjoy benefits throughout the EU. The experience gained during the implementation of the AEO programme indicated a need to strengthen some of the AEO requirements. At the end of 2020, there were 14,868 operators authorised as AEO, which were involved in 74,3% of the total Union imports and 83% of the total Union exports. AEO are therefore relevant to a very significant part of Union trade.<sup>34</sup></i></p>

<sup>34</sup> At the end of 2020, there were 14,868 operators authorised as AEO, which were involved in 74,3% of the total Union imports and 83% of the total Union exports. AEO are therefore relevant to a very significant part of Union trade. The number of economic operators that were granted the AEO status decreased from 15574 in 2016 to 14868 in 2020, due to a strong decline in applications (almost by half) between 2019 and 2020 (source: Customs Union Performance 2020).

Key issue/change	Brief description
<b>Risk management and controls</b>	<p>Risk management is the whole of the activities that seek to ensure that customs controls are based on electronic risk analysis with the purpose of identifying and evaluating the risks, and developing the necessary counter-measures, based on criteria developed at national or Union level. The UCC provides the legal base package to establish an EU Common Risk Management Framework and common action in this area (UCC Art. 46-50s). However, the UCC also provides significant room for Member State discretion. The focus of the evaluation was on whether the UCC provides an adequate framework for achieving a uniform level of controls that ensures the safety and security of the EU and its residents.</p> <p><i>Certain core common provisions on risk management and controls existed even before the UCC, however the majority of the operational rules were left to the discretion of national implementation. There were very limited provisions allowing for the exchange of information between Members States and with the Commission, including for areas like security and safety.</i></p>
<b>Centralised IT systems for the implementation of rules on customs tariff, origin and valuation</b>	<p>The UCC Work Programme foresees three IT centralised systems to support the implementation of UCC rules on customs tariff, origin and valuation, namely EBTI, REX and SURV3.</p> <p><i>These three IT systems did not exist before the UCC.</i></p>
<b>Guarantees and guarantee management</b>	<p>The UCC requires mandatory guarantees in more situations, as well as more situations where the guarantee must also cover import VAT and excise duty.</p> <p><i>Before the UCC, there were more cases where Member States could decide at national level whether to require a guarantee or not. This resulted on one hand, in different treatment of economic operators and on the other hand, in problems for collecting the customs debt when incurred.</i></p>
<b>Changes to temporary storage requirements</b>	<p>The UCC introduced new rules for temporary storage (which is the situation in which goods are before they are declared for any other procedure), including the need for an authorisation to run temporary storage locations, the maximum duration of that situation, allowing movements between temporary storage facilities and ability to make declarations in advance.</p> <p><i>Before the UCC, most of the rules governing temporary storage were national. The period for which goods could stay in temporary storage was also much shorter, which was considered problematic for certain business models as well as for customs authorities. It was also not possible to move goods between different temporary storage facilities without placing the goods under transit.</i></p>
<b>Customs Simplifications</b>	<p>The UCC introduced several new simplifications to the customs clearance process:</p> <ul style="list-style-type: none"> <li>a) entry in the declarant's records (EIDR) authorises the holder to lodge a customs declaration in the form of an entry into the declarant's own records, provided that the particulars of that declaration are at the disposal of the customs authorities in the declarant's system when the declaration is lodged;</li> <li>(b) centralised clearance authorises a holder to lodge, or make available, at the customs office where he is established, a customs declaration for goods, which are presented to customs at another customs office within the customs territory of the Union;</li> <li>(c) self-assessment authorises an AEO to carry out certain customs formalities that are to be carried out by the customs authorities, to determine the amount of import duty payable, and to perform certain controls under customs supervision.</li> </ul> <p>Other customs simplifications are the reduction or waiver of comprehensive guarantees and the permission to move goods to another Member State while they are still under temporary storage without using transit.</p> <p><i>There were a number of customs simplifications even before the UCC (e.g. local clearance procedure and simplified declarations). However, their use</i></p>

Key issue/change	Brief description
	<i>was not harmonised across the Member States, which resulted on the one hand in different treatment of economic operators and on the other hand in weaknesses in the level of controls.</i>

#### **4.2. To what extent was the intervention successful and why? [RELATED CRITERIA TO ASSESS: EFFECTIVENESS, EFFICIENCY, COHERENCE]**

The implementation of the UCC legal and IT framework in the first five years after its entry into force is only partially successful. The UCC provided some tangible progress in improving the customs environment. However, such achievements are not evenly distributed across all the topics analysed in the evaluation and were realised at significant costs, in the expectation of future benefits that have not fully materialised in the period covered by this evaluation, for different reasons that will be examined in this chapter. This concerns in particular the provisions which rely on the deployment of IT systems that were delayed. In addition, the UCC implementation did not fully tap into the potential synergies with related policies and proper coordination between customs authorities and other relevant national administrations in charge of applying EU policies at the border.

To analyse whether the UCC has been successful a comparison is made between its achievements in the period under consideration and the expectations of the legislator when the intervention was adopted, which are reflected in the objectives of the UCC. Such comparison also takes into consideration the benefits brought by the UCC against a description of the costs implicit in the implementation of the intervention.

##### **4.2.1 Effectiveness and Efficiency**

The UCC was expected: (a) to streamline and simplify customs rules and processes, (b) to provide legal certainty and predictability and (c) to create a paperless customs environment. The evaluation demonstrates that the UCC was in part successful in contributing to the achievement of these specific objectives, which translated into some tangible, direct benefits for the stakeholders involved in customs activities, in terms of simplification of customs clearance. However, the overall success is limited by structural, sometimes inevitable factors (e.g. Covid-19 pandemic, Brexit) that required shifts in implementation planning, relatively high initial costs and by transitional challenges that are expected to be solved over time. Brexit, in particular, necessitated significant advance preparatory work, commencing in 2017, to ensure customs operators and authorities would remain fully operational after the consequences of the UK's withdrawal from the European Union took effect.

The technical nature and interdependencies between various customs processes and rules makes it difficult to assess whether the problem is at Union level or at the Member States level. Unclear and/or complex legal provisions are to be associated with the Union level. However, the review shows that Member States and economic operators also found

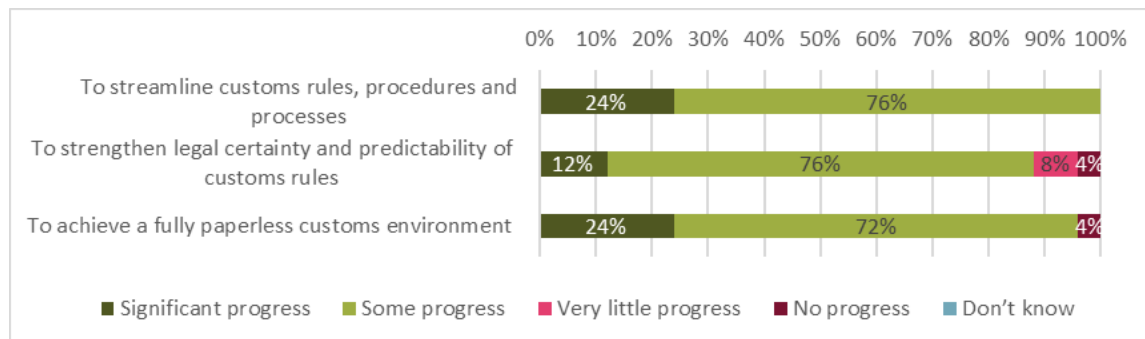
moderate to major difficulties in the implementation of rules of relatively uniform understanding (e.g. harmonised data requirements).

The examination of the individual topics or groups of provisions covered by the evaluation provides a detailed insight into the general findings under the criteria of effectiveness and efficiency (see also Annex II). As regards the latter, it must be noted that in addition to limited availability of quantitative data, another factor that complicated the assessment is that at the current point in time significant transition and adaptation costs have already been incurred, but the gradual deployment of the IT systems (and hence the full implementation of many rules and requirements) is still in progress, meaning the most significant expected benefits will materialise once those systems are operational.

### ***Objective to streamline and simplify customs rules and processes***

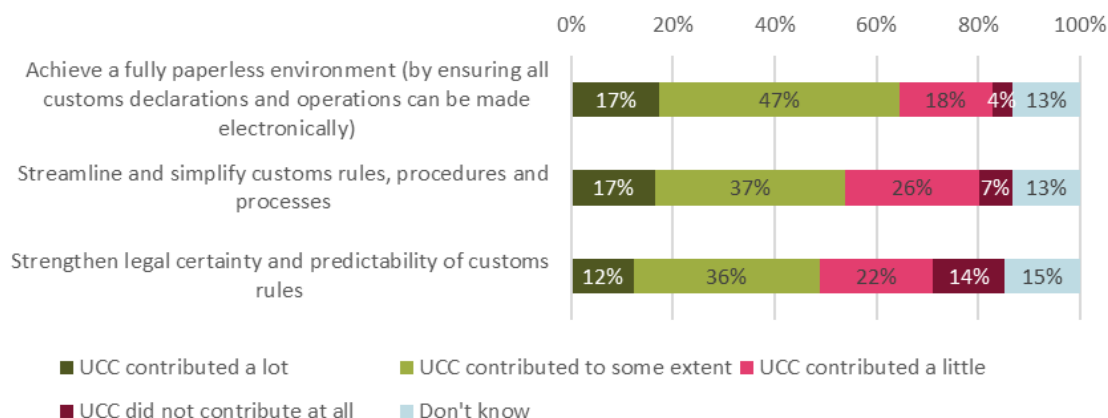
The extensive consultation activities showed the **UCC succeeded in streamlining customs rules in certain areas**, insofar as it has rationalised, structured and framed the provisions better than under the Community Customs Code, and eliminated some redundant or unnecessary provisions. Referring to streamlining, three quarters of Member States reported some progress against this objective, with 24% of them saying that progress was significant (Figure 4). For around half of the respondents to the public consultation (65, mainly economic operators), the UCC contributed to the rationalisation of customs legislation in some or in a significant way (Figure 5).

**Figure 4: How much progress do you think has been made towards the specific objectives of the UCC since its substantive provisions entered into force on 1 May 2016?**



Source: Implementation questionnaire, Economisti Associati (2021) (2021) ; Base: 25 national customs authorities.

**Figure 5: To what extent did the UCC and its implementation to date contribute to progress towards these objectives?**



Source: Public consultation – UCC Interim evaluation (2021).

There are several examples of the progress made by the UCC towards streamlining customs rules:

- **Customs decisions:** the UCC has replaced, with a set of common rules located among the general provisions, rules that previously differed depending on the type of decision and were included in the different parts of the old Community Customs Code. Rules are now implemented through a new, trans-European IT system - the Customs Decision System (see *infra*, page 36), which harmonises the processes for application and management of customs decisions, in particular authorisations.
- **Temporary storage:** the introduction of the 90-day maximum duration and the possibility to authorise a movement of goods from one temporary storage facility to another without a transit procedure, was assessed positively.
- The **harmonised framework for guarantees** increased uniformity in the approaches of customs administrations to implementation.
- The **harmonised data requirements** are seen by stakeholders as broadly fit for purpose, comprehensive, logically structured, and reasonably clear, although their frequent changes affected the legal certainty on the common data requirements (see *infra*).

However, the **success is less evident regarding the simplification objective**. According to interviews with customs officials, a few specific areas were seen as simplified, while other **elements have become more complex**, which can be attributed to the fact that complex situations require more detailed rules. The reasons for this are both general (the need to deal with an increasingly complex global trade context), and structural, as the legal package is a vast, highly technical framework of rules that maintains a certain level of complexity, as too did its predecessor.<sup>35</sup> The amount of practical simplification of the customs clearance processes achieved by the UCC legal framework and its implementation to date has fallen well short of the expectations of economic operators, which was confirmed by many of the interviewed customs authorities. In particular,

<sup>35</sup> Economisti Associati (2021), page 51.

- **Customs decisions:** the common requirements simplified the process both across different types of applications, but also across Member States, contributing to the reduction in differences in the requirements and processes.
- **Centralised IT systems** supporting the implementation of UCC rules on customs tariff, origin and valuation: customs authorities and economic operators agree that they have successfully streamlined and simplified the related rules.
- The **harmonised data requirements** has led to certain elements being defined in more detail and broken down in a more granular way, which has increased their overall complexity. If for some customs administrations this was seen as inevitable and ultimately beneficial, economic operators perceive it as an increasing burden mainly related to the need to update their systems and to the fact that national customs authorities may require certain additional data elements.
- The **90-day maximum duration for temporary storage**, while reportedly making the monitoring simpler for some customs authorities (due to having only one maximum duration), has made the situation more complex for most economic operators consulted by imposing requirements for a guarantee, the need to obtain an authorisation and to designate a specified location for temporary storage.
- For example, for some customs authorities and economic operators the new, more **detailed criteria and conditions introduced by the UCC to obtain the AEO** status have added complexity without giving operators access to significant additional simplifications.
- Similarly, provisions on **guarantees** were clarified and streamlined to a certain extent but for stakeholders the new rules did not become simpler than under the previous code. The additional cases where the provision of a guarantee is mandatory, as well as where the guarantee must cover import VAT and excise duty made it simpler for economic operators operating in several markets, but increased perceptions of complexity among those active in a single or small number of Member States.
- **Customs simplifications:** economic operators and customs authorities overwhelmingly agreed that **the UCC had not brought any significant new or enhanced simplifications for traders**. Of the two which were deemed to have the highest potential to generate significant benefits, self-assessment has turned out to be impossible to implement, and EU-level centralised clearance for import will only be deployed in 2023.<sup>36</sup> Such difficulties are due to failures of implementation at both a UCC and national level. On the one hand, due to parallel developments in other policy areas and their crossover with customs, e.g. various prohibitions and restrictions, the actual scope of customs simplifications had to be narrow, thus making them less attractive for both national authorities and economic operators. On the other hand, in the area of customs simplifications, the UCC contains a lot of ‘may’ provisions so that the actual implementation is to a large extent dependent on the discretion of Member States. The targeted consultation of customs authorities

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<sup>36</sup> On the other hand, at the end of 2020, the total number of valid authorisations for the use of simplifications for import and export (EIDR, use of simplified declarations) was just over 30 thousand (excluding the United Kingdom 29 080). Source: Customs Union Performance 2020.

confirmed that further clarity and guidance for such “optional” provisions are needed if they are to be fully implemented and their potential to be fully realised.

- **Other aspects:** economic operators pointed that the increase in the number of authorisations required as a result of the UCC and other aspects have become more burdensome under the UCC.<sup>37</sup>

As for the costs, in addition to the inevitable **one-off costs** regarding familiarisation and training on certain new rules and requirements necessary to bring a large number of staff up to date, the **recurring administrative, compliance and enforcement costs of customs procedures and processes have not increased or decreased significantly**.

Anecdotal evidence from the questionnaires and interviews include the experience of two customs authorities, one spending EUR14 per hour for 100 hours of workshops for informing and training economic operators about the new customs decision rules and the CDS, and another one mentioning a total of 50 hours for training on customs decisions at EUR13 per hour. One economic operator reported an expenditure of EUR8.000 for training its staff on the AEO requirements as restructured by the UCC. Member States incurred costs related to the **adaptation to** the new rules, in particular the mandatory **re-assessment of authorisations** issued before the UCC, with one Member State reporting around 1,000 full audits to re-assess all AEO authorisations issued before 2016)<sup>38</sup>, and in some cases for **training** of customs officials. It can be assumed that a large number of customs administrations and economic operators incurred similar costs, although other customs authorities did not share precise and comparable data.

Regarding guarantees, customs authorities and economic operators faced relatively minor one-off costs to implement and apply the new rules. However, the increased scope of compulsory guarantees requiring reference amounts to be calculated and monitored, has led to **increased recurring administrative as well as compliance costs for economic operators**, with most interviewees describing the former as more significant than the latter, since the reference amounts need to be monitored even if the guarantee is waived (which was the case for many interviewees). The majority of economic operators who provided information on the guarantee regime reported an increase in administrative burdens due to having to spend more time on determining and monitoring the reference amount, with one estimating they now need an additional 0.25 full-time equivalents (FTEs) to comply with the changed rules. On the other hand, the **compliance costs** (in terms of the capital outlay) were described as minimal or non-existent by most interviewees, since their total stock of guarantees increased only marginally or not at all under the UCC. Compliance costs would presumably be more significant for non-AEOs, who typically cannot have guarantees waived but who formed a relatively small share of our sample. There are also **enforcement costs** for national customs authorities (some, but not all, interviewed customs administrations reported increased recurring costs for processing guarantees, due to an increase in the number of authorisations and/or the

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<sup>37</sup> Economisti Associati (2021), page 56.

<sup>38</sup> In 2020, the total number of AEO authorisations reassessed by the Member States (EU27) was 424, while another 292 was undergoing a reassessment (Source: CUP report 2020).



average time spent per guarantee in determining and monitoring the reference amount), but these have been at least partly outweighed by the benefits, which included harmonisation of the rules across the EU, which saves time for customs officials. The increased scope of compulsory guarantees also contributes to securing the collection of customs duties, and hence to protecting the financial interests of the EU and its Member States, although there was some disagreement among interviewees about the extent of this, with some arguing that guarantees were already compulsory for higher-risk procedures pre-UCC, and their extension to more (less risky) procedures offers only minor benefits in this respect.

There is a shared general expectation among stakeholders that, once all IT systems are fully operational, and all relevant UCC processes fully digitalised and harmonised, this will lead to substantial cost savings for both economic operators and customs.

In terms of **benefits**, in the areas where the rules have become more rational and well-structured, they are easier to comprehend and apply, with **time savings associated to the use of the Customs Decision System**, e.g. processing times and the tracking of time limits prescribed by the UCC rules for both customs officials and traders having to enforce or comply with said rules. According to them, this applies to customs decisions, rules on classification and valuation handled by central IT systems, guarantees management and special procedures. However, in the bigger picture, such savings are minor, whereas potentially more significant savings from substantially simpler rules have not materialised.<sup>39</sup> Further details are provided in the section on the detailed findings on the UCC selected key issues in section 4.2.

#### ***Objective to provide legal certainty and predictability***

The UCC has **marginally contributed to strengthening the legal certainty and predictability of customs rules, procedures and processes**. The interviews to the national customs authorities reveal that this is the specific objective in respect of which the **least significant progress has been made**. Three quarters of national customs authorities reported that ‘some’ progress had been made, but only three saw ‘significant’ progress, and the same number saw very little or even no progress (Figure 4 above). Similarly, almost half of the respondents to the public consultation (mainly businesses) indicated that customs in the UCC had made ‘significant’ or ‘some’ progress towards strengthened legal certainty and predictability, while over a third saw very little or no progress, and only a small or no UCC contribution (Figure 5 above).

Nearly all customs officials interviewed agreed that, to a greater or lesser extent, the UCC legal framework has contributed to enhanced certainty and predictability via three main mechanisms:

- 1) by defining certain aspects more clearly and precisely in the legal text. As an example, the new **AEO legislation** is considerably more detailed and comprehensive in relation to the conditions to be fulfilled to obtain the AEO status and this provides

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<sup>39</sup> Economisti Associati (2021), page 86.



legal certainty. Certainty also came from non-legal texts: while the provisions regarding compliance with taxation rules had initially raised some interpretation issues that culminated in a case before the European Court of Justice<sup>40</sup>, the AEO guidelines clarified the issue and thus strengthened the clarity of the provisions.<sup>41</sup>

- 2) by harmonising rules and elements that had previously been left to the discretion of Member States. For example, the binding **time limits for taking customs decisions** imposed by the UCC were seen by many stakeholders as a significant improvement, eliminating the possibility of applicants having to wait an unknown and potentially indefinite period of time for customs to process their applications (which reportedly was not a frequent occurrence before the UCC, but the uncertainty around the time frames was sometimes a burden on traders). With the **harmonised new rules on guarantees**, there is less room for interpretation and possible divergences, fewer exceptions, and more uniformity across Member States. Through the introduction of **more detailed and specific rules on temporary storage**, the UCC has increased legal certainty and predictability for economic operators, who can now expect the same treatment regardless of the Member State in which they operate. Regarding **customs simplifications**, the UCC has clarified the application of certain simplifications, such as the use of simplified declarations and EIDR, reducing divergence between Member States to a certain extent. The amended rules on EIDR increased harmonisation, providing an advantage to businesses operating in multiple Member States.
- 3) indirectly, via the process of the intense deliberations and discussions about the UCC involving the Commission and Member States in various fora, during which many uncertainties were addressed and resolved.

Two factors explain why the UCC has not increased the legal certainty in other areas. Firstly, some rules or elements were unclear. Several economic operators reported a lack of clarity, ambiguity and/or discrepancies in the way the **criteria for reductions and waivers of guarantees** are assessed, reference amounts monitored, and release of guarantees handled, which could have serious financial implications for traders, in particular for warehouse or temporary storage facility operators. Moreover, several Member States and some economic operators underlined that, despite the UCC's harmonisation efforts, different approaches remained in the EU in relation to **monitoring and audits for AEOs**. Such divergences were also identified by the ECA in its recent reports on import procedures and e-commerce, which found that the AEO monitoring practices in some Member States may imperil the protection of the EU's financial interests.<sup>42</sup> This problem was also highlighted in the F4F opinion. In the field of customs simplifications, the **lack of clarity regarding self-assessment** and the uncertainty around its application in practice has meant that this simplification has not been used in a

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<sup>40</sup> C-496/17, Deutsche Post AG vs Hauptzollamt Köln.

<sup>41</sup> The Guidelines on Authorised Economic Operators are available on the [website of DG TAXUD](#).

<sup>42</sup> Special report No 19/2017: Import procedures: shortcomings in the legal framework and an ineffective implementation impact the financial interests of the EU; Special Report no 12/2019: E-commerce: many of the challenges of collecting VAT and customs duties remain to be resolved.

single Member State to date, creating confusion and perplexity.<sup>43</sup> Reportedly, while the UCC defined self-assessment quite flexibly, allowing operators to perform controls, the sectoral legislation would need to provide a legal basis for traders to perform such controls under customs supervision. This concern was also highlighted in the F4F Platform opinion, which advised the development of a comprehensive concept of self-assessment as a simplification with clear and visible advantages for operators.

A different consideration applies in the area of **customs risk management**: the related strategy, action plan and other common actions taken in the years 2016-2020, such as new common risk criteria being introduced in several fields or the possibility to define priority control areas and the sharing of risk information through risk information forms (RIFs), increased legal certainty to a certain extent. Nevertheless, as the UCC continues to afford the Member States considerable discretion in how they apply the provisions on risk management and controls, the evaluation found that there is no uniform application.

Secondly, the gradual deployment process for some IT systems and the delays with the full implementation of the harmonised data requirements led to an element of non-uniformity and lack of clarity across the Member States. Even if the harmonised data requirements and the new structure of the Annexes B leave very little room for legal uncertainty, the main factor that affected legal certainty according to customs officials and operators consulted are the frequent changes to Annexes B, due to the need to align the common data requirements to the progressive deployment of the UCC IT systems, while solving other technical problems. This led to a lack of uniformity and predictability in the short term but problems were solved with the revamped Annexes B published in March 2021.<sup>44</sup> The constant addition of new requirements in the rolling-out of IT systems has been pointed out in the F4F Platform opinion as a source of additional burden in terms of financial and human resources, disrupting the implementation as planned.

In addition, to solve problems which emerged after the entry into force and to deal with new initiatives, eight amendments to the delegated and implementing acts, and changes to the timetable for the deployment of the IT systems were necessary between 2014 and 2020 (see Annex VI for more details about the content of the above-mentioned amendments). These changes had a negative impact on legal certainty during the transition period.

The Commission also issued **guidance documents to clarify** most of the controversial issues and to ensure more harmonised practices in the Member States. Those actions were carried out within the framework of the customs expert group and Customs 2020 joint actions. Such **guidance is considered by both Member States and trade representatives as very helpful in enhancing uniformity and legal certainty**, despite

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<sup>43</sup> Economisti Associati (2021), page 63.

<sup>44</sup> Commission Delegated Regulation (EU) 2021/234 of 7 December 2020 amending Delegated Regulation (EU) 2015/2446 as regards common data requirements, and Delegated Regulation (EU) 2016/341 as regards the codes to be used in certain forms (OJ L 63, 23.2.2021, p. 1). Commission Implementing Regulation (EU) 2021/235 of 8 February 2021 amending Implementing Regulation (EU) 2015/2447 as regards formats and codes of common data requirements, certain rules on surveillance and the competent customs office for placing goods under a customs procedure (OJ L 63, 23.2.2021, p. 386).

their non-binding nature. However, in a few specific areas, the interpretation and application of the UCC provisions has not yet entirely stabilised and further guidance might be needed.<sup>45</sup>

Overall, the evaluation found that, insofar as important sets of rules such as those on risk management, prohibitions and restrictions and – to a certain extent – the harmonised data requirements are not applied uniformly, there appears to be a problem of legal certainty that could not be rectified exclusively by the e.g. increased clarity/certainty of the customs decisions rules, where the most progress has been achieved. The non-uniform application in certain areas, on the other hand, is as a result of unclear rules and the resulting level of discretion left to Member States in their implementation.

There might have been **costs** related to repetition of processes that were not completed correctly due to a lack of clarity (additional investment of time to seek to clarify questions or reconcile apparently contradictory information, or invest financial and human resources in court cases to have differences of interpretation adjudicated) but these are difficult to quantify. The clarified AEO criteria and conditions were not associated with any tangible benefits for stakeholders. Instead, customs authorities and economic operators were confronted with non-negligible one-off costs during the implementation phase mainly for the reassessment of AEO authorisations, training and adaptation of internal processes. Example of costs range from EUR 8,000 reported by one economic operator for training staff on the AEO requirements to EUR100,000 reported by another for upgrading the system used for self-monitoring its AEO status.

When it came to clarifying rules and criteria, the UCC facilitated a more consistent and harmonised interpretation and application across the EU with tangible **benefits** for stakeholders: customs officials that were consulted stated that they need to invest less time in figuring out how to apply certain rules, are subject to a reduced risk of legal challenge and litigation, and find it easier to exchange information with or deal with applications from other Member States. Economic operators (especially those that are active in several Member States) also confirmed that they achieved savings from the increased use of standardised processes and data, and can make better informed decisions, because there are fewer divergent practices in different Member States to get their heads round potentially helping organise their dealings with customs more efficiently. At the same time, the transition from the CCC to the UCC legal and IT framework has reportedly generated (and to some extent still generates) uncertainties and a non-uniform application of the new rules and requirements, which has had the exact opposite effect on stakeholders consulted in this evaluation.

### ***Objective to create a paperless customs environment***

By requiring that “all exchanges of information [...] shall be made using electronic data-processing techniques” (Article 6(1) UCC), the **UCC prioritises the digitalisation of**

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<sup>45</sup> For example, the rules for customs valuation, the definition of an exporter (with the need to potentially align the definition of exporter in the context of export of dual-use goods), and multiple filings in the context of the formalities related to the entry of goods.

**customs processes based on interoperable systems for the actors involved** as the main tool to achieve its objectives. The shift to paperless customs was for Member States the most important feature of the UCC (Figure 4) and the biggest challenge in its implementation, because of the complexity of the activities involved: developing harmonised data requirements that could serve as a ‘common language’ for interoperable systems and data sharing, making the IT changes needed to implement those requirements and ensure interoperability via major upgrades to existing systems and the development and implementation of new IT systems to digitalise processes that were previously paper-based or analogue. As previously mentioned, for customs authorities and economic operators the effort needed to implement the harmonised data requirements, especially by making them mandatory also for national import systems, that were previously under the control of national authorities, and compliant with the UCC requirements, coupled with delays to the deployment of many trans-European IT systems meant that they have only been implemented to a very limited extent. Stakeholders agreed that the requirements will eventually make an important contribution to the objective of the paperless environment, but that this will come later in the implementation process.

The timeframe for realising the necessary IT developments was always ambitious and proved impossible to achieve, as described in section 2.1. Eight systems were completed by 2020, with those that have not yet been deployed including those which are expected to make the biggest difference to the digitalisation of customs, such as UCC-compliant upgrades to national import and export systems, ICS2 and UCC CCI.

Against this backdrop, stakeholders were well aware of the original ambition and considered that the UCC has nevertheless **facilitated progress towards the envisaged paperless customs environment**, although such process is not complete. The large majority of Member States (72%) feel that ‘some’ progress had been achieved, while for 24% of Member States the progress was ‘significant’ (Figure 4). There are however nuances. For half of the national customs officials consulted, satisfactory progress was made despite the immensely challenging nature of the tasks faced, but the other half of customs authorities raised important **concerns** related to uncertainty about the future as well as criticism of the decisions taken.<sup>46</sup> Criticism referred to practical problems experienced, such as IT projects that had not proceeded according to original schedules and first releases of certain IT systems (e.g. CDS) that were not able to execute the expected business processes, but also to the frustration stemming from the frequent amendments and changes to technical specifications of several IT projects. A factor of concern for some Member States is the uncertainty regarding whether all Member States would enact the changes necessary to make the paperless and interoperable customs environment a reality, since some tend to prioritise national projects, at the potential detriment of uniformity in the level of controls.<sup>47</sup> An important finding is that in the Member States where the IT infrastructure was previously less advanced, the UCC has

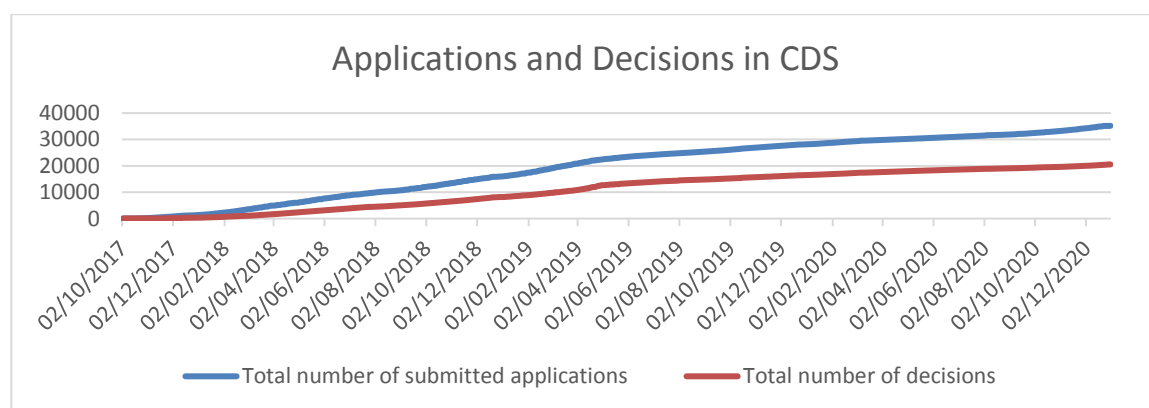
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<sup>46</sup> Economisti Associati (2021), page 64.

<sup>47</sup> Ibidem.

prompted significant progress on all fronts, thanks to the digitalisation and resulting factual and procedural improvements. In evaluating the trans-European central systems delivered to date by the Commission (including REX, CDS and EBTI), the external study concluded that they have generated tangible benefits, making clear that **where developments can be centralised, there is significant added value in these** as described in section 4.3. Some progress towards paperless customs was achieved also in the area of simplifications, insofar as it encouraged some Member States to implement the UCC principle of electronic customs declarations, including when linked with a simplification, although these were already used in other Member States. In the Member States where a similar measure was not already in place, the simplification of EIDR also increased digitalisation, although it is not widely implemented in all Member States.

The **Customs Decision System (CDS)** did not exist before the UCC and for the first time allows economic operators to process 22 types of customs decisions allowing automatic data validation. It is widely recognised as a step-change compared to the old Community Customs Code, even if some Member States allow the continued existence of both a central EU system and national systems, which means that economic operators working in multiple Member States still need to deal with different national portals. However, the automatic validation of authorisations from CDS into the national clearance systems is a totally new and important feature for the functioning of national import systems, because authorisations are now valid across the EU. According to the study, greater impacts could be achieved if the scope of CDS were to be increased beyond the current 22 types of authorisations, which is possible in principle. However, the graph below illustrates the cumulative number of applications submitted and decisions taken on a monthly basis from October 2017, the date of commencement of this IT system, to December 2020, showing that the system is increasingly being used. The more than 20,000 decisions taken have a Union-wide validity and therefore contribute to a consistent and predictable application of Union law.



The **EOS/AEO system** digitalised and streamlined the process for dealing with AEO applications, even if there are some national differences depending on whether individual Member States provide access to the system via the EU Trader Portal or national portals. It is also important to point out that the process is not entirely digital, as paper documents and correspondence were also required for some aspects of the application process in some Member States.

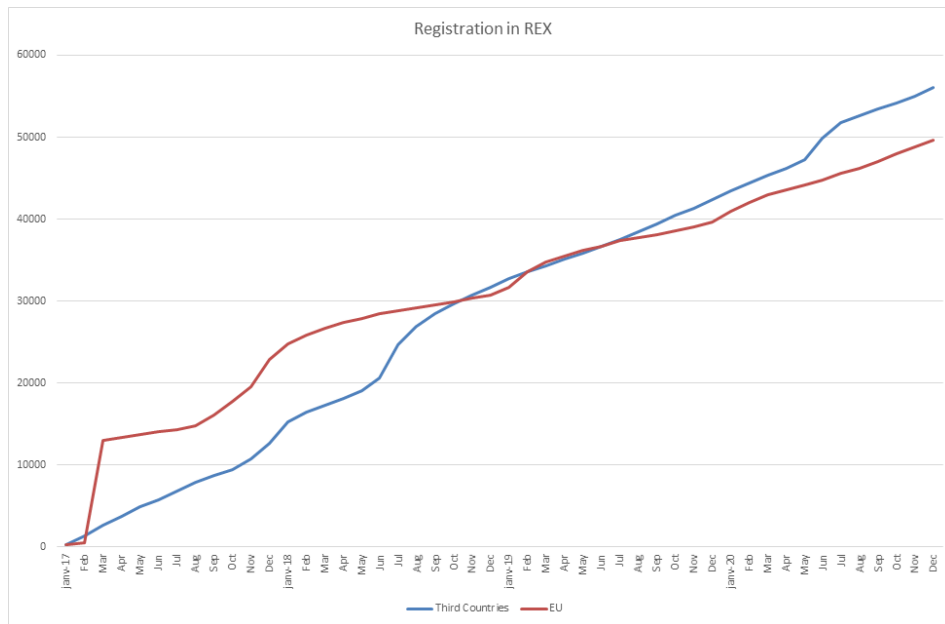
The **Registered Exporter system (REX)** provides a Union-valid database of exporters in third countries (beneficiary countries of the GSP, Overseas Countries and Territories, partner countries in some preferential agreements) that are entitled to declare the origin of the goods they produce or trade. Importers, freight-forwarders, customs brokers or any other operator in the Union can therefore check therein that their foreign counterpart is effectively entitled to declare the origin of its goods. This assurance significantly reduces the risk for the Union operator importing the goods, as the origin of the goods is one of the factors used to calculate the duties and assess non-financial risks inherent in some products. REX therefore provides legal certainty to the economic operators.

The REX system also provides a database of registered exporters established in the Union, who are entitled to declare the origin of the goods exported to partner countries of some preferential agreements, with the benefit of having a centralized database of registered exporters and a common registration procedure in the Union that did not exist before. The graph below shows the registrations over time from 2017 to 2020 both for the Union and for third countries and therefore the growing success of the system. In total, at the end of 2020 more than 100,000 operators have registered to provide valid proofs of origin.<sup>48</sup> This system facilitates the procedure for certification of origin because the registration procedure is much simpler and faster (few days instead of several months) than it was for obtaining the status of approved exporter, the predecessor of REX. To certify the origin of goods, there is no intervention needed by the competent authorities, as exporters themselves declare the origin, free of any charges. In some beneficiary countries, such as the third countries benefitting from the Generalised System of Preferences, this is a significant simplification, as it can save time and costs (in certain countries, exporters are charged to obtain a certificate of origin). The REX system facilitates business operations also because the status of the exporter (validity of its registration) is visible for the importer using the proof of origin. This is thanks to the central database of registered exporters, used by the importers, but also by the competent authorities to perform appropriate controls.

**Figure 7: Evolution of registrations in the REX system**

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<sup>48</sup> In January 2022, the registered exporters are 75299 for the EU, 64253 for GSP beneficiary countries and 360 for EU partner countries (Switzerland, Norway, Turkey).



**EBTI** provides a central database for BTI applications, effectively digitalising the process in a harmonised way and allowing customs authorities to verify the decisions on binding tariff information made by the Member States. It reduces the time for issuing decisions and avoids duplications or errors. EBTI ensures the Union-wide validity of the BTIs as well as their binding character, for 3 years throughout the EU, regardless of where they are issued. They are binding on all EU customs administrations and the BTI holder. It replaced a paper-based process. According to stakeholders, the system is helpful in guaranteeing full compliance with relevant UCC provisions and ensuring a harmonised approach. EBTI provides economic operators with legal certainty when calculating the price of import or export transactions and secures a uniform application of the Common Customs Tariff, in line with the objectives of the UCC to achieve more simplicity and uniformity in the application of customs rules.

**SURV3** allows the Commission to collect data from the electronic declarations lodged in the Member States. SURV3 exploits the digitalisation in order to improve the Commission's surveillance capacity by providing relevant information on import/export flows. SURV3 is very valuable for the Commission because it provides essential data for monitoring the functioning of the customs union.

Among the **one-off costs** incurred by stakeholders to implement the UCC rules the **IT development costs are the most significant**. These include the definition of the IT specifications by the Commission and the Member States, the development (often in collaboration with external contractors), testing and deployment of the various UCC systems. Many economic operators have their own IT infrastructure and interfaces for customs, and so also incur IT development costs as they adapt their own systems to be interoperable with the new / updated EU and national systems and data requirements. At EU level, according to the final evaluation of Customs 2020, IT costs account for a significant share of the programme budget: the cost for the development (not including operation) of IT systems that are included in the UCC Work Programme amounted to a little over EUR 50 million over the seven-year period covered by the programme. In

particular, the one-off development costs went from EUR 2.6 million for REX to EUR 14.1 million for CDS, as detailed below.<sup>49</sup> At national level, costs reportedly vary significantly from system to system, and from country to country, but frequently amount to several million euros per Member State for the most significant systems (such as the updated national import systems, which are not covered by this evaluation). In anecdotal evidence regarding the CDS, one Member State reported costs in ensuring compatibility of CDS with the national IT decisions system amounting to nearly EUR 350, 000 and over 11,000 hours of work. Economic operators reported the transition to EBTI had minor cost implications for them. Table 5 indicates the costs for the development of the systems by the Commission.

**Table 5: Member States costs for the development of CDS, EBTI, SURV3 and REX**

System	2014	2015	2016	2017	2018	2019	Total
CDS	€17 313	€158 152	€569 631	€1 281 853	€2 191 375	€691 885	<b>€4 910 209</b>
eBTI	€7 449	€44 759	€39 476	€50 942	€60 726	€102 225	<b>€305 577</b>
SURV	€194	€24	€70 448	€39 310	€1 738	€4 349	<b>€116 063</b>
REX in mill.		€ 0.705	€1.915	€2.110	€ 0.657	€ 0.327	<b>€ 0.088</b>

*Source: Commission e-customs progress reports (N=between 24 and 28 Member States)*

**Table 6: Costs to the Commission for REX, EBTI and SURV3**

IT System	Costs in millions of Euros	
	One-off Development Costs	Annual Maintenance Costs (Estimate)
REX	€ 2.60	€ 0.52
EBTI	€ 3.35	€ 0.67
SURV3	€ 6.99	€ 1.40

Beyond the development costs, the cost of training and awareness raising for customs officials and/or traders on the new systems was described as negligible by all but one of the customs administrations that provided information (the latter indicated a cost of EUR 1400 just for workshops for informing traders on the new CDS). In a similar vein, some economic operators reported that the process of applying for decisions has become significantly faster as a result of the new rules and the CDS, but also that they had incurred one-off costs related to having to upgrade internal IT systems.

In spite of the structured change management mechanism that was put in place by the Commission in order to cope with the UCC's complex multi-dimensional IT implementation, national customs administrations still described the process as very challenging. The work on IT implementation frequently stretched both their financial and their human resources to the limit, especially where there were changes to the technical specifications and/or data requirements that required adaptations at the national level,

<sup>49</sup> A detailed assessment of the cost of a selection of centralised IT systems (CDS, AEO, EBTI, SURV3 and REX) is provided in Annex 5 of the study by Economisti Associati.



frequently at rather short notice, sometimes forcing developers to revisit work that had already been done and start again (with obvious cost implications).

As for the **benefits** of an electronic customs environment, these are evident for the stakeholders consulted: the electronic exchange and storage of customs information reduces the need for economic operators to provide same data several times and improves risk analysis, which allows for better-targeted controls and speedier treatment for legitimate compliant traders. The progress accomplished to date already has tangible benefits for these stakeholders. The digitalisation and harmonisation of processes via centralised or interoperable national systems can lead to **time savings** for the customs officials interviewed, since access to and exchange of relevant data is facilitated, and economic operators consulted, in so far as access to only one central, rather than several national systems is required, can increase certainty and predictability (since more information is accessible online), and ultimately result in faster customs processes. As for specific benefits resulting from the digitalisation of the customs processes:

- For CDS, three customs administrations reported savings in relation to processing times and the tracking of time limits (one interviewee described the savings resulting from the introduction of streamlined procedures as “huge”), and two Member States indicated reductions in the time taken to consult other Member States in case of multi-country decisions (which frees up resources for other activities).
- The EOs/AEO system has proved to be very beneficial for customs authorities, who frequently need to process and check the status of operators, while it is more of a minor benefit for businesses, for whom making an AEO application is not a regular action.
- For REX and EBTI, the savings are very difficult to quantify, as they relate mainly to the fact that most Member States no longer need to develop and maintain their own national systems but can instead directly access the centralised EU databases. This brings reduced time for verification and ensures increased harmonisation and certainty for economic operators. Additionally, some savings result from the transition from a paper-based to an electronic system, although this also reduces the ability to correct errors without restarting the application process.

As the harmonised data requirements are an *enabler* of digitalisation and interoperability as opposed to a legal provision or an IT application as such, it is **not possible to quantify their benefits or costs *per se***. The main costs are related to the development of the IT systems, where the frequent changes to Annexes B appear to have increased the costs for some stakeholders at least.<sup>50</sup> The benefits will only materialise to a significant extent once Annex B is applied fully and consistently across the EU. In general, the benefits and costs of the harmonised data requirements as such cannot be separated from those related to the IT systems.

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<sup>50</sup> Economisti Associati (2021), page 83.

Overall, while very substantial transition costs have already been and are still being incurred, many of the most significant expected benefits (e.g. better risk management thanks to ICS2, or reduced burdens for traders thanks to Centralised Clearance at Import) have yet to materialise. Therefore, it is impossible to conclude on the UCC's benefit-cost ratio since it depends primarily on the course of action in the coming years. According to the information collected and the stakeholders, opinions and the study findings, the expectation is that the benefits will ultimately justify the costs.<sup>51</sup>

### *Contribution to the general mission of customs*

Through its specific objectives described above, **the UCC was expected to contribute to the general mission of customs** (protect the financial interests of the Union and its Member States, protect the Union from unfair and illegal trade, ensuring the safety and security of the EU residents, and the protection of the environment, in close coordination with other authorities), while maintaining a proper balance between customs controls and facilitation of legitimate trade.

A large majority of Member States (around 90%) considered in the questionnaires that the UCC did not bring significant progress **in how well equipped the EU and Member States are for achieving the mission of customs**. Only three Member States felt that they and the EU were 'much better equipped' to achieve their mission. However, this is attributed by customs authorities to the fact that the most important changes depended on IT systems that are not yet operational while being absolutely necessary for dealing, for example, with the challenges of e-commerce, which has become an urgent issue. As a result, **only incremental benefits could have been expected at this stage of implementation**. Relatedly, few respondents in the public consultation identified significant progress in achieving the general objectives (around 10%), while the majority noted some or 'very little progress (57% to 60%)'. A significant number of respondents (15% to 25%) did not know, showing perhaps the difficulty for individual businesses of making judgements about the high-level achievements of the Customs Union.<sup>52</sup>

As to what extent the UCC implementation to date contributed to the **achievement of the mission of customs**, the following can be said based on the findings of this evaluation on the UCC implementation:

- As regards the **protection of EU financial interests**. In terms of the initiatives pursued, the changes to the rules on guarantees and the establishment and application of financial risk criteria (FRC) appear to have had an immediate, direct impact on efforts towards the proper collection of customs duties and the detection of customs fraud, with the EU able to hold Member States liable for identified lost revenue. In the case of e-commerce<sup>53</sup>, where substantial new requirements were introduced, namely the need to submit customs declarations for goods worth not more than EUR 150, the goal is tackling under-valuation and VAT fraud, and to level the playing

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<sup>51</sup> Economisti Associati (2021), page 94.

<sup>52</sup> Public consultation, Annex V of this SWD.

<sup>53</sup> Economisti Associati (2021), Annex 4.1 on e-commerce.

field for EU traders. Despite this, in terms of actual results of controls activities, Commission experience and findings from a 2021 European Court of Auditors report on customs controls<sup>54</sup> highlighted that a sufficient level of harmonised controls has not yet been attained and Member States act in different ways, in particular in implementing the new customs financial risk framework, whose provisions are not sufficiently detailed to ensure uniformity. In addition, data on amounts of unpaid duties (see section 3), on illegal goods seized, and amounts of undetected customs duties have been roughly stable since 2016, implying that the levels of control have not changed much.

- As regards the **protection of the safety and security of the citizens**, the deployment of the system ICS2<sup>55</sup> and the adoption of the new risk management framework are expected to contribute to the objectives of protecting financial interests and ensuring safety and security<sup>56</sup>. However, the UCC in general does not include specific treatment of goods subject to prohibitions and restrictions. To achieve further simplification, extensive coordination with other competent authorities would be necessary in this respect, which was lacking during the UCC negotiations<sup>57</sup>. Both customs authorities and economic operators demanded flexibility at the beginning of the COVID-19 pandemic, such as a temporary reduction in controls or waiving of certain rules with strict temporary limits. However, that is not possible under the UCC. This was echoed by the F4F Platform opinion, which suggested that more flexibility in the application of rules and exceptions based on *force majeure* should be considered to ensure a uniform and efficient response across the EU in case of future crisis, as opposed to burdensome and possibly divergent case-by-case solutions.
- No specific contribution came from the UCC changes analysed in this evaluation in relation to the objective of **facilitating legitimate trade**. Economic operators regularly complain and confirmed in the questionnaires, interviews and public consultation that major innovations, such as centralised clearance, have not yet been implemented because they rely on IT projects that are still ongoing; other simplifications described earlier, such as self-assessment, are not in use because of legal uncertainty about their application in practice. On a more positive note, specific changes nevertheless resulted in incremental benefits for traders, such as the new

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<sup>54</sup> European Court of Auditors, Special Report 04/2021: Customs controls: insufficient harmonisation hampers EU financial interests, 30/03/2021, page 35.

<sup>55</sup> ICS2 is deployed gradually, in three releases depending on the mode of transport of the consignment. Release 1 for postal and express consignments is operational from 15 March 2021. Release 2 for all air cargo movements will follow as of March 2023 and the deployment of ICS2 will be completed in 2024 covering all modes of transport.

<sup>56</sup> ICS2 will collect security and safety data about all goods entering the EU prior to their arrival. Such advance cargo information and risk analysis will enable early identification of high-risk consignments and other security threats and help customs authorities to intervene at the most appropriate point in the supply chain. By increasing the structured approach to customs risk management, the new customs risk management strategy will make controls more effective and reduce financial and non-financial risks to the EU and its citizens, whilst ensuring competitiveness of legitimate EU business. It will aim at allowing customs to act, react and be seen as one.

<sup>57</sup> Economisti Associati (2021), Annex 4.2 on non-financial risks.

provisions on customs decisions, the systems EBTI and REX, and the simplification of EIDR.

#### 4.2.2 Coherence

In assessing the coherence of the UCC implementation, the evaluation focused on **the consistency and complementarity between the UCC and EU policies and legislation in other areas** that are applied at EU borders, in terms of the compatibility of intended aims as well as practical coordination and synergies, or, conversely, examples of duplication or missed opportunities (external coherence). Since customs and other policies require information from economic operators, this should be handled in the most efficient way possible ideally with procedural coordination, data-sharing and interoperable systems between authorities. In addition, the choice to analyse external coherence from a practical angle is aligned with the Customs Action Plan, which foresees a number of actions aimed at improving and increasing both harmonisation between customs authorities in the EU and collaboration across policy areas over the coming years. For these reasons, also considering the already large scope of the evaluation and the need to prioritise the analysis on *implementation*, internal coherence, which concerns how the different parts of the UCC relate to each other, is not part of the analysis that follows.

From the perspective of coherence, the **objectives** of ensuring safety and security and protecting the financial interests of the EU and Member States aligned well with the objectives of a number of relevant EU policies and legislation that regulate goods. These include some 300 EU legal acts on prohibitions and restrictions<sup>58</sup> that may be imposed on imports, exports or goods in transit when they are justified on a limited number of grounds, but also policies on climate change, environmental protection and diversity, intellectual property rights, product safety, dual use goods, and the protection of human and animal health. In these cases, and especially in light of the digitalisation of customs processes mandated by the UCC, the objectives pursued by non-customs legislation are considered consistent with the UCC objective to keep Europe safe and secure. However, to avoid those constituting additional barriers to, rather than facilitating, trade, coordination mechanisms appear to be essential to ensure the achievement of the different objectives at stake. In this respect, the biggest concern among stakeholders was about a **lack of such practical coordination on the ground between customs and non-customs authorities**.

A good example of the tension is the **EU Single Window environment for customs**<sup>59</sup>, aimed at smoothing clearance for certain goods that are subject to prohibitions and

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<sup>58</sup> See, for information, the Integrated EU prohibitions & restrictions list, published in Q1 2022, outside the temporal scope of this evaluation. European Commission, Directorate-General for Taxation and Customs Union, *Integrated EU prohibitions & restrictions list: indicative calendar and list as of 1.1.2022 legal notice*, 2022, <https://data.europa.eu/doi/10.2778/163387>.

<sup>59</sup> Proposal for a Regulation of the European Parliament and of the Council establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013, COM(2020) 673 final.

restrictions by facilitating the exchange of information on non-customs regulatory requirements between competent authorities. Although very much in favour of the initiative, customs authorities consulted for this evaluation found it regrettable that the Single Window was not addressed in the UCC, which would have integrated the Single Window into the broader customs framework and served to improve coordination of business processes and digital data requirements across the wide range of non-customs policies covered by the initiative.

Similar considerations apply to the rules on **prohibitions and restrictions in the UCC**. In this area, the limited competence given to customs in Articles 134 and 267 UCC is not considered by customs authorities as problematic as such, but the fact that the specific rules are the responsibility of other authorities (European or national / regional) is considered as a source of problems when coordination is missing. The **necessary coordination** to ensure that prohibitions and restrictions are enforced consistently (e.g. in terms of data requirements, document formats, digitalisation, the timing and arrangements for carrying out controls, etc.) between customs and the competent authorities and the competent authorities for the sectoral legislation (such as market surveillance, phytosanitary requirements etc.) is **limited**, as it is mainly organised only via consultation activities. For example, in principle, the drive for digitalisation of the customs environment would facilitate better data collection and sharing, including with regard to prohibitions and restrictions, and thereby enhance risk analysis for controls of these goods. However, interviewees doubted this, pointing to the fact that the UCC's **harmonised data requirements include no new elements that are directly relevant to the enforcement of prohibitions and restrictions**. Similarly, a lack of interoperability, and residual paper documents required to comply with many policies, were seen to act as an **obstacle for further digitalisation** of customs procedures and the implementation of simplifications.

Relatedly, coherence with relevant policies and **full data sharing at Union level, particularly for anti-fraud purposes**, would greatly benefit **customs risk management at Union level**, as well as a risk management and control framework dedicated to non-financial risks that takes into account the particular risks raised by e-commerce. In that respect, in the opinion of Commission and customs officials interviewed,<sup>60</sup> the simplified declaration for low-value consignments ('super-reduced' data set H7 declarations) does not contain enough data elements to conduct a proper risk analysis. Similarly, the case study on prohibitions and restrictions found that lacking coordination and interoperability between the IT systems of customs and other competent authorities prevented relevant data from being shared and used for risk purposes.<sup>61</sup> These problems were seen to be holding the UCC back from achieving its potential in this area.

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<sup>60</sup> Economisti Associati (2021), Annex 4.1 on e-commerce and 4.2 on non-financial risks.

<sup>61</sup> Additional synergies were indicated to potentially come from interoperability with IT systems for reporting on risks, CRMS and the Anti-Fraud Information System (AFIS), and regarding product safety with RAPEX (the EU's Rapid Exchange Information System used to exchange information on dangerous products), and the tools of the European Food Safety Authority (EFSA)

More positively, the deployment of the IT systems ICS2 is expected to enhance safety and security through better customs authorities' access to high-quality data, leading to better risk analysis.<sup>62</sup> The Commission is also in the process of developing common risk criteria for cash control<sup>63</sup>, and reflecting on common risk criteria for product safety and intellectual property rights protection. These initiatives should lead to further contributions to the general objectives and coherence as implementation of the UCC continues.

Another group of policies that should ideally be coherent with the UCC and vice versa, also highlighted in the F4F opinion, are those aimed at ensuring the **proper collection of taxes** like VAT and excise, such as the fight against tax fraud and smuggling, which are consistent with the UCC objective of protecting the financial interests of the EU and its Member States. This is however improving in the area of VAT, as shown in section 3 on implementation, where the role of **customs authorities in enforcing the VAT e-commerce package is very essential**. The application of these rules from 1 July 2021 could not and cannot happen without significant coordination between customs and tax authorities, as facilitated by joint Customs / Fiscalis workshops, and joint participation in other relevant fora bringing together officials at the management and operational levels. The Commission also appointed a Single Point of Contact for e-commerce in each Member State, and prepared detailed guidance in collaboration with customs and tax authorities and the trade community. Despite these efforts, Member States face serious challenges in organising the IT and physical capacity necessary to handle the dramatically increased volume of declarations and related controls and in ensuring the necessary coordination with tax authorities.<sup>64</sup> The fact that e-commerce is not addressed explicitly in the UCC further increases the challenges for customs. Although some rules in relation to the import of low value consignments were modified in order to enable the implementation of the VAT e-commerce package, the study highlighted that “the issues faced are of such a unique nature and scale that additional action – and resources – would likely be needed. The problems mostly came from a perceived inability to conduct sufficient and effective controls using the existing framework.”<sup>65</sup> Recognising the shortcomings of the legal framework, the Customs Action Plan envisages a number of initiatives that on the one hand aim to enhance the cooperation and data sharing between customs and tax authorities, and, on the other hand, leverage the role and revisit the liabilities of e-commerce platforms. A general problem has emerged in light of the

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<sup>62</sup> According to the 2019 UCC Work Programme, the first release of ICS2 was deployed on 15 March 2021, while release 2 and analytics has a deployment window from Q1 to Q4 2023, and release 3 from Q1 to Q4 2024.

<sup>63</sup> COMMISSION IMPLEMENTING DECISION C(2022) 1801 of 24.3.2022 laying down measures for the uniform application of controls by establishing common cash movements risk criteria and standards pursuant to Regulation (EU) 2018/1672 of the European Parliament and of the Council on controls on cash entering or leaving the Union” has been completed and sent to Member States customs authorities through their Permanent Representations. It is an EU restricted document, therefore it has no number in the Official Journal.

<sup>64</sup> Economisti Associati (2021), Annex 4.1 on e-commerce.

<sup>65</sup> Economisti Associati (2021), Annex 4.1 on e-commerce

coordinated application of coherent policies concerning the General Data Protection Regulation<sup>66</sup> and data-sharing between customs and other authorities, at national and EU levels, because of uncertainty around possible legal obstacles to sharing certain relevant data.

As results from the preceding analysis, the issue of data availability, data quality and data use is crucial for an analysis of positive coherence concerning related policies applied at EU borders. In this respect, the evaluation also analysed to what extent the **lack of accurate, comparable and sufficiently detailed data for the evaluation of the performance of customs activities** has had an impact on the good functioning of the Customs Union. In order to develop customs policy and legislation on robust evidence, the Commission launched the **Customs Union Performance (CUP)** project in 2014, a framework for collecting, compiling and reporting on customs performance data collected at Member States level according to a standardised set of indicators.<sup>67</sup> The information is included in an annual report destined to the Commission services and national customs authorities.

Since the **CUP does not have a legal base in the UCC**, the voluntary nature of the collection of CUP data causes certain deficiencies for the process and raises questions about data quality, completeness and consistency. In addition, there are issues regarding data ownership and confidentiality (the Commission compiles and analyses the data, property of the Member States, whose permission is necessary whenever the data is to be used) and stability of the voluntary arrangements, which are subject to the Member States' willingness to provide the data or not. More comprehensive reporting obligations through a specific legal framework could improve benchmarking and eventually approximation of practices between different jurisdictions, while providing important aggregated information contributing to analytical capabilities for specific areas like risk assessments but also improving the overall possibility to evaluate the performance of the Customs Union. According to the external study, the problem at EU level seems to be **“the ‘unofficial’ nature of the CUP, and its awkward fit alongside the exclusive EU competence for the Customs Union. In practice, this means that the EU is responsible for the body of customs rules and processes, which generally are enshrined in legislation, while lacking the tools for oversight.”**<sup>68</sup>

However, very few **national customs administrations perceived** the lack of a legal base as an urgent problem, mainly considering **the current arrangements reasonable in terms of usefulness of the information provided and efforts required for the data collection at national level**. In addition, at the High-Level Seminar on the Customs

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<sup>66</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

<sup>67</sup> The indicators cover five key areas, namely basic parameters (indicators such as numbers of declarations, customs revenue, staff, etc.), controls, protection (e.g. seizures of various kinds), facilitation (e.g. number of authorisations granted) and cooperation (e.g. agreements between various actors).

<sup>68</sup> Economisti Associati (2021), page 76.

Union Performance in Vienna in 2018, the Member States appeared divided on whether a legal base for the CUP would be desirable and acceptable.

Thus, the **evaluation could not gather enough evidence to conclude whether the current voluntary framework is sufficient or not.** However, “the imbalance between the Commission’s responsibilities for implementation and lack of tools for oversight would suggest that action is needed. Ideally, this would consider the problems identified at EU level while taking into account competing preferences and incentives for the Member States”, by exploring for example “whether a performance-measurement system based on a *limited* number of indicators would be acceptable, and how to increase Member State buy-in by making the results of any data collection and analysis more useful for them.”<sup>69</sup>

#### **4.3. How did the EU intervention make a difference? [RELATED CRITERION TO ASSESS: EU ADDED VALUE]**

The European Union has exclusive competence in the area of customs because this is an essential component for the proper functioning of the internal market, which allows any business established in the EU to trade in goods and invest throughout the EU. Thanks to the Customs Union, duties on goods from outside the EU are generally paid when the goods first enter the EU customs territory, then goods can circulate freely within the customs territory and customs authorities oversee imports and exports from and to third countries, acting as though they were one. It is the UCC that sets out the common set of rules applicable to these movements of goods, while Member States are responsible for its implementation; a high level of uniformity is therefore desirable to ensure the good functioning of the internal market. In other terms, if customs is an exclusive competence of the Union, the UCC as the legislation regulating customs processes is inherently necessary. Since such legislation has to be implemented by Member States, a detailed set of rules ensures that customs administrations can act as one and implement the rules in the same way. In such a context, a proper legal framework providing the necessary harmonisation and uniformity has, by itself added value. The need for the latter was confirmed by some of the results of this evaluation as well. In most of the areas where implementation problems were identified there was a demand from both customs authorities and economic operators for more clear, harmonised and uniform rules at Union level.

In view of this, the analysis of the EU added value of the UCC should focus on the division of labour and responsibility between the EU and the Member States as regards its implementation of the legal rules and of the IT package, and whether this is appropriate or could be improved. The assessment also includes the role of the Customs financial programme’s joint actions and training activities in contributing to the correct UCC implementation.

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<sup>69</sup> Ibidem.



The findings on the effectiveness of the UCC showed that the UCC has clarified and harmonised **certain customs rules**, and **reduced room for interpretation and facilitates their consistent, uniform application across the EU**. This is particularly true for the harmonised rules on customs decisions, the more detailed conditions for obtaining the AEO status, the specific rules on temporary storage and the new guarantees regime. Such improved uniformity has produced, according to stakeholders, tangible effects, for example the reduction of BTI shopping thanks to the clarification that BTI decisions are binding on both customs and traders, supported by the EBTI system.

Nevertheless, the insufficient harmonisation and varied interpretation of rules continues to be a problem, as it emerged from the public consultation especially from the side of business operators. There are essentially four sources for the persistent lack of uniformity in the UCC implementation:

1. **Partial implementation:** in several cases, non-uniformity is due to the uneven pace of implementation of the UCC provisions. The harmonised data requirements are an obvious example: the application of Annex B depends on the deployment of IT systems, and both the technical specifications for these and the data requirements themselves have been subject to changes over the last few years. As a result, depending on the schedule of their IT development, different Member States currently apply different parts of Annex B. The revision of the Annexes B adopted in 2021 is meant to solve these issues and provide for a stable framework for the coming years.
2. **Intended optionality:** several UCC provisions allow customs authorities to act in a certain way if they so wish (so-called “may provisions” as opposed to the “shall provisions”); as a result, it may happen that different customs administrations take different approaches in the same area. While this is strongly criticised by economic operators that have to deal with customs in more than one Member State, for some customs administrations it is also important to have some flexibility to apply certain provisions in a way that reflects their national circumstances and priorities. In addition, due to the opposition of a minority of Member States to fully harmonise the simplifications, there was no choice at the time but to allow at least those Member States who wanted to proceed in that direction to do so.
3. **Unintended lack of clarity:** stakeholders identified areas where the UCC simply does not provide the necessary clarity. Examples include the provisions regarding AEO compliance with taxation rules, whose interpretation had to be settled by the European Court of Justice. In many cases, uncertainties were clarified via guidance documents,<sup>70</sup> which were widely described as helpful by stakeholders. The regular consultation of customs authorities and economic operators by the Commission has permitted a gradual solution to some of these problems, but due to the volume and complexity of the legal package it is not surprising that some ambiguities remain, and need to be solved.

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<sup>70</sup> See [UCC - Guidance documents \(europa.eu\)](https://ec.europa.eu/eurofisc/ufi/ucc_guidance_documents_en).

4. Non-uniformity of national customs practices can also relate to aspects where Member States have traditionally had a high level of discretion, and **where the UCC has not introduced new provisions** or mechanisms. This is the case for AEO (the rules define the criteria and conditions for obtaining AEO status, but do not regulate how Member States should verify the compliance with these over time), customs risk management (while the UCC calls for a uniform level of control, the application of the Customs Risk Management Framework is determined at national level), and the enforcement of prohibitions and restrictions (the UCC provides the legal basis, but does not contain any provisions to regulate *how* customs are to enforce them).

In light of this, it can be said that the UCC has not provided for full harmonisation of customs processes. However, since some level of flexibility is deemed to be necessary by the actors called to apply the rules on a daily basis in an effective way, the UCC was called upon to strike a balance.

Regarding the **implementation of the IT systems**, the question on the EU added value can be considered through the lens of the type of approach chosen by the Member States for completing the different IT projects. The general view of the stakeholders (especially of the businesses) consulted in the context of the external study for achieving the full harmonisation of customs procedures and processes would be to rely entirely on common, centralised trans-European IT systems and to **avoid the decentralised approach, which is not seen as ideal**, mainly for its complexity. However, as national customs systems already existed before the UCC with significant investments from the Member States to cover their needs, the starting point for developing the IT systems has not always allowed the choice of the centralised approach: the transition costs would have been too high while the common solutions would not meet all needs and requirements as well as the existing national ones.

Similarly to the implementation of the legal provisions, if full centralisation would be optimal in theory, but is not achievable in practice, the question is about **the effective and efficient implementation of the decentralised approach**.

As regards the trans-European central systems delivered to date by the Commission (including REX, CDS and EBTI), the external study concluded that they have generated tangible benefits, making clear that **where developments can be centralised, there is significant added value in these**, and the Commission can provide systems that are fit for purpose and ensure full compliance with the UCC. The centralised approach not only enables the full harmonisation of the requirements and processes, it is also more resource efficient in terms of development and operations because a central system replaces 27 individual IT solutions and is maintained centrally by the Commission. Consequently, it has a lower environmental footprint than a decentralised approach building on national IT systems. Moreover, it prevents the varied degree of implementation of IT systems between Member State avoiding diverse transitional measures across the EU and saves costs for businesses that need to connect to a single system instead of developing 27 interfaces to interact with Member States' IT systems. CDS is an interesting case study in both EU added value and its limitations: after significant problems with the first release (which was not fully aligned with the relevant delegated and implementing provisions),

the second release of the system in 2020 has been found to function well. However, its benefits appear much greater in those Member States that have chosen to use the central system for all decisions. By contrast, in Member States that use the CDS only for ‘multi Member State’ decisions, and their national trader portal for ‘single Member State’ decisions, the benefits for traders are much more limited, as they result in having to use two different systems (the national one for the majority of decisions, and the CDS only for the decisions that can potentially be valid in several, or all, Member States).

Finally, the extent to which and how the joint actions and training activities funded via the Customs programme support the UCC implementation should be analysed. Customs 2020 is the EU cooperation programme that enables national customs administrations to create and exchange information and expertise. It allows for the joint development and operation of major trans-European IT systems, as well as establishing networks by bringing together national officials from across Europe. Customs 2020 covered the period 2014-2020 with a budget of EUR 522.9 million. Its successor, Customs 2027, has a budget of EUR 950 million for the period 2021-2027.

The evaluation of the Customs 2020 programme provided by a separate study<sup>71</sup> found for example that the programme’s main tools to support the effective implementation of Union law (primarily the UCC) were the IT capacity building activities. Joint actions also supported the effective implementation of Union law by ensuring the development of the IT systems was in line with Member States’ needs and with the UCC. The human competency building activities provided courses on all major UCC systems deployed under the Customs 2020 programme, ensuring that stakeholders have access to training materials allowing them to operate the systems effectively.

Many of the customs officials consulted as part of the UCC evaluation referred to **joint actions funded by the programme as being very important and useful to discuss challenges with the interpretation and application of many of the new UCC provisions**, and to develop joint approaches to areas that gave rise to uncertainties or ambiguities. Positive experiences were in particular the project groups that contributed to the development of IT systems (e.g. on the revision of Annex B, in particular with regard to national import systems), the production of guidance documents (e.g. on customs formalities and on the e-commerce low value consignments), the development and fine-tuning of the legislation around customs decisions and of the CDS, the development of extensive guidance documents on AEO (monitoring of authorisations, professional qualifications).

The detailed analysis of the eight UCC ‘key issues’ provides **strong evidence to suggest that the joint actions funded via the Customs programme have supported the UCC implementation**, in particular as regards the second (strengthening legal certainty and predictability) and third specific objectives (facilitating progress towards the digitalisation of customs).

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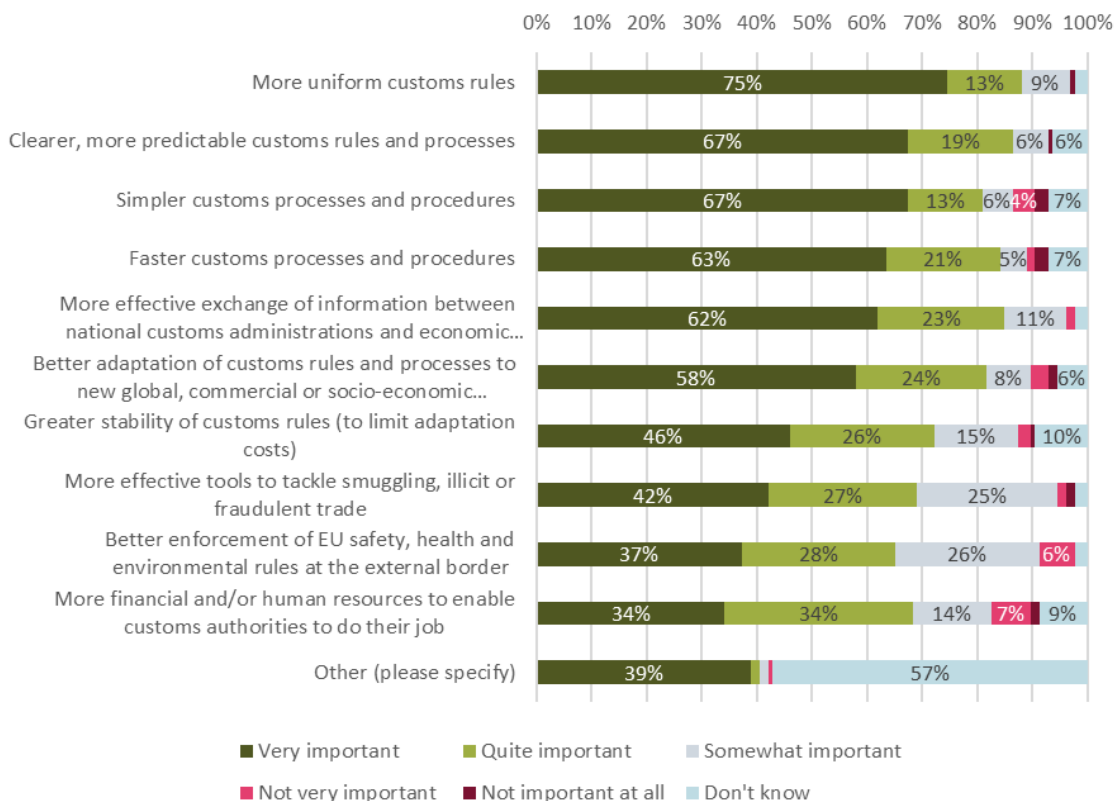
<sup>71</sup> [Reference of the C2020 evaluation study, once finalised]

#### 4.4. Is the UCC still relevant?

The evaluation looked at whether the UCC package is still relevant in respect of the evolving needs of the key stakeholders and the extent to which those needs are still reflected in the UCC's general and specific objectives.

According to the results of the public consultation, the most important **needs** of respondents regarding EU customs rules and processes are **(1) more uniform customs rules; (2) clearer, more predictable customs rules and processes; (3) simpler customs processes and procedures** and **(4) better exchange of information**. Faster customs processes and better adaptation to new developments and circumstances, were also found to be very important by more than half of respondents. It is important to note that the large majority (73%) of respondents to the public consultation were companies or business associations. Needs of the other categories of respondents (including citizens, NGOs, and public authorities) were very similar to those of business respondents but include other priorities, such as more effective tools to tackle smuggling and fraud and more resources for customs. The consultation activities did not provide strong indications that there are any significant needs that would fall outside the scope of the UCC's objectives.

**Figure 8: As of today, what are your (or your organisation's) most important needs and priorities regarding EU customs rules and processes?**



Source: Public consultation - Interim evaluation of the Union Customs Code (UCC) (2021) - Base: 126 respondents

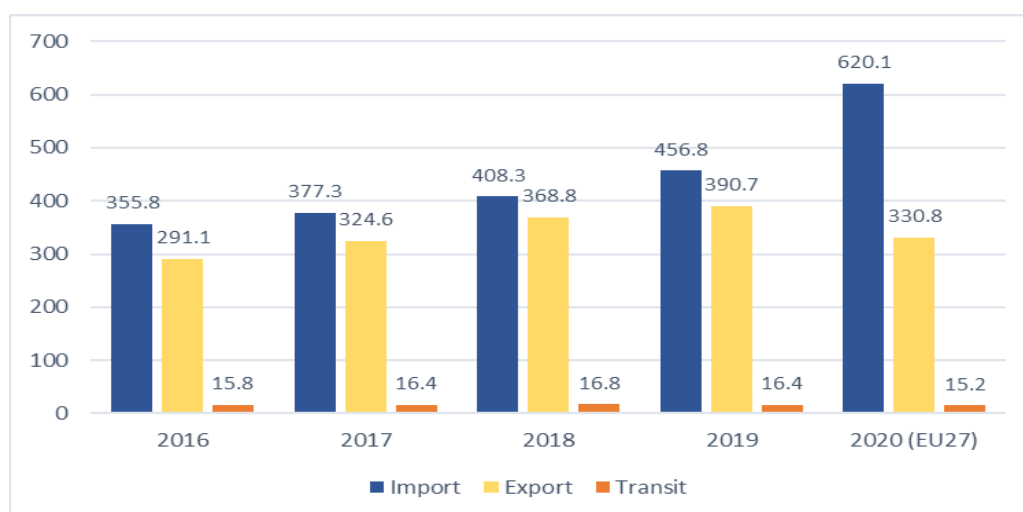
For over half of respondents, **all the needs listed were more important now than when the UCC was adopted in 2013**, especially more uniformity in customs rules and processes across the EU, together with faster customs processes and procedures and

simpler customs rules and procedures, which are two of the aspects that had become more important over time. Respondents also underlined the increased importance of the effective exchange of information between customs and economic operators. Hardly any respondents felt that any of the needs had become less important in the last eight years.

As results from the findings of the evaluation regarding the effectiveness of the UCC, the needs indicated by the respondents in the public consultation, and confirmed by all stakeholders in the targeted consultation, largely correspond to the goals for which the UCC was designed: uniformity, clarity and simplicity of rules and digitalisation for faster processes. In particular, the aspects of the UCC which better reflect, on one hand, the aforementioned needs, and on the other hand, achieve some of the UCC's goals, are reflected by the UCC innovations that effectively achieved some progress. As described in section 4.2.1, such progress relates in particular to the streamlining and harmonisation of customs decisions, of guarantees and some special procedures, but also the creation of centralised IT systems for the implementation of the provisions on origin, valuation and binding tariff information.

For **customs authorities**, in addition to the needs and priorities listed above, an additional need is to have the capacity for **dealing with the growing number of customs declarations and procedures** (as shown in figure 9 below). This is due to the longer-term trend of higher trade volumes, to Brexit and to the recent changes for small consignments, because customs declarations are now required for a vast number of e-commerce shipments arriving in the EU from third countries, which were exempted from this obligation under the old rules. This growing volume and the related increasing responsibilities of customs on prohibitions and restrictions reinforces the need for efficient electronic customs processes and systems. A similar, unmet need of customs authorities relates to the capacity for dealing with increased challenges relating to the “**density**” of EU initiatives, i.e. the need to implement the complex UCC legal and IT framework while also dealing with a series of other significant developments, whether anticipated (e.g. the VAT e-commerce package), or impossible to anticipate (e.g. Brexit, COVID-19 pandemic).

**Figure 9: Workload of Customs Union concerning customs procedures (EU28, unless otherwise indicated)**



*Units: for import and export, million items; for transit, million movements*

*Source: European Commission, Customs Union Performance (CUP)*

For the **economic operators**, unmet needs stem from the complex IT developments, including the transition to the new/updated IT systems, but also the frequent changes to the specifications and data requirements that were made between 2016 and 2020, which had been costly and burdensome. Such changes were necessary to ensure the complex transition across all the domains and related systems at central, national and trade levels was done correctly and to keep the framework aligned to the WCO data model. The resulting delays in the deployment of several systems, and the uneven situation that currently exists across the EU with regard to the operation of different systems and the applicable data requirements, explains to some extent the fact that most economic operators believed that uniformity, simplicity, clarity and speed were even more important today than they were when the UCC was adopted.

In light of these needs and priorities, for the large majority of representatives of both customs authorities and economic operators the **general and specific objectives of the UCC were and continue to be highly relevant when put in relation with their needs.**

The UCC's **general objectives** (protecting the financial interests of the Union and its Member States, protecting the EU from unfair and illegal trade, ensuring the security and safety of the Union and its residents, and the protection of the environment, maintaining a proper balance between customs controls and facilitation of legitimate trade) are deemed to **provide an appropriate overarching framework**, with consensus on the fact that the UCC needs to facilitate the achievement of and an appropriate balance between all four of these.

As for the specific objectives, reflecting the main improvements expected from the UCC legal and IT framework there was also agreement among stakeholders that **all three specific objectives were and continue to be highly relevant, since they are closely related to the most important needs.** Overall, the specific objective that was deemed **most important** by most customs authorities as well as economic operators was the **facilitation of a fully paperless customs environment.** This requires not only the *existence* of IT systems that are capable of handling all customs declarations and operations, but also the *interoperability* of these systems to enable an effective exchange of information between customs administrations and traders throughout the EU. Such an environment is ultimately expected to contribute to more consistent, simpler and faster customs processes and procedures, and to support all four of the general objectives. The **strengthening of legal certainty and predictability** is closely related to the need for more uniform as well as clearer customs rules, while **streamlining and simplification** is also directly relevant to the manifest need for clearer, simpler rules and procedures.

## **5. WHAT ARE THE CONCLUSIONS?**

Upon a request by the European Parliament, the evaluation provides an interim assessment of the implementation of the Union Customs Code (UCC) from its effective

application in 2016 until 2020 (half way until its full completion by 2025). It evaluates the implementation of the legal provisions and the delivery of the IT systems in terms of its effectiveness, efficiency, relevance, coherence with related policies and EU added value.

The UCC is the main legal and IT framework for the EU Customs Union customs processes. It is a vast, complex and wide-ranging bundle of legal acts adopted at EU level that govern a large number of procedures and processes implemented by the Member States' customs authorities.

The main conclusion of the evaluation is that the UCC implementation has so far contributed to the general objectives of protecting the financial interests of the Union and the Member States and protecting the safety and security of the Union's citizens only to a certain extent. The evaluation cannot conclude on the third general objective of the UCC, the facilitation of legitimate trade, because the main legal provisions and IT systems intended for that purpose are not yet applicable.

As for the three specific objectives the UCC was called upon to achieve, the UCC implementation has succeeded in streamlining the customs rules, procedures and processes in certain areas but has not simplified them. In the streamlined areas, the perception is one of enhanced legal certainty and predictability, but that perception does not extend to the UCC as a whole, mostly because numerous rules are still not uniformly applied across the Member States. The full automation of the customs processes is still in the process of being achieved and the length and complexity of that ambitious process has caused a certain "fatigue" among customs administrations and economic operators alike, even if significant milestones have already been accomplished.

The evaluation has been supported by an evaluation study which itself has been mainly based on desk research and field research using a number of tools such as a Public Consultation, targeted surveys and interviews. A broad range of stakeholders (the customs authorities of all the Member States, Commission officials, industry associations representing customs brokers, operators in the field of customs logistics, sea, air and rail transporters, express and postal operators, shipping, airports and seaports operators, chemicals, automotive industry, manufacturing industry) were involved in these activities in order to gather the most representative results. The Commission has also conducted targeted consultations.

The main limitations that the evaluation has faced are related to the availability of data allowing for the quantification of the costs and benefits of the new elements of the UCC. Both Member States and economic operators have found it difficult to isolate the costs of adaptation to the new rules from the costs of running the usual customs operations because the need to adapt to new rules and IT systems has become a constant element in the customs environment. For the same reason, it is difficult to quantify in monetary terms the benefits that the new rules and IT system are progressively bringing, particularly at a time in which many of them, arguably the most relevant, are still under development. In order to mitigate these limitations, certain IT systems have been used to illustrate or show-case specific benefits and this, together with the available qualitative

data was analysed in order to identify overall trends in the collection of customs duties or number of customs declarations.

The more specific findings of this evaluation are summarised below.

### **Implementation in progress**

The 17 UCC IT systems should have been developed by end 2020, according to the original schedule established by the basic regulation at the time of its adoption in 2013. However, given the magnitude of this task and the numerous challenges encountered by the Member States and the Commission, the original planning had to be amended in order to introduce a more realistic schedule. The end of this planning is currently 2025.

The customs authorities and economic operators consider that the legal provisions of the UCC are overall on track but that some difficulties remain with the implementation of the **IT systems. Eight systems were successfully deployed by 2020** and are working satisfactorily according to stakeholders, **four more were deployed in 2021** while five systems are to be deployed gradually by end 2025.

The real challenge for the Member States has been their capacity to deal with frequent changes and with the very high “**density**” of initiatives to be carried out in parallel. In addition to the implementation of the new UCC legal rules and IT projects, other tasks affected the work of customs in the period considered, namely the VAT e-commerce package and the measures necessary to address unexpected developments such as the COVID-19 pandemic and the withdrawal of the United Kingdom from the Union.

### **Success of the intervention**

**The implementation of the UCC’s legal and IT framework in the first five years after its entry into force is only partially successful.**

Given the vast areas covered, eight (8) issues and four (4) cases studies guided the analysis to assess whether the UCC had streamlined and simplified the customs rules and processes, provide legal certainty and predictability and create a paperless customs environment.

**The provisions on harmonised data requirements, the uniform rules for customs decisions, the centralised IT systems, rules on Authorised Economic Operators (AEO), the rules on guarantees and on special procedures and the requirements for temporary storage have been streamlined and rationalised** denoting clear progress. By contrast, the rules intended to provide simpler methods for lodging the customs declarations (simplifications) were not improved in this respect, either because they did not change from the previous Code or because they do not yet result in actual simplifications. The two UCC innovations deemed to have the highest potential to generate significant benefits for trade facilitation, **self-assessment and EU-level centralised clearance for import, have not yet been implemented**, due to a lack of clarity and the postponement of the relevant IT system ‘Centralised Clearance for Import – UCC CCI’.



In the areas mentioned above, where there is an **increased harmonisation** compared to the previous legislation, there is also a perception of higher legal certainty and predictability.

By contrast, a **lack of uniform application has also affected the perception of legal certainty**. This applies in particular to **AEO monitoring practices**, where the absence of specific rules undermines the ‘trustworthiness’ of AEO traders, and to **risk management**. In this area, the introduction of common risk criteria improved the applicable framework but the lack of more detailed rules in the UCC continues to leave the Member States considerable discretion and therefore divergent practices emerge. In the case of **harmonised data requirements**, the lack of legal certainty was due to frequent changes necessary to develop and adapt them, requiring major efforts from the Member States and attracting criticism but they are recognised as a precondition for effective digitalisation and system interoperability.

Concerning the creation of the **paperless customs environment, progress to date is partial, due to the reasons outlined above on the completion of the UCC IT systems**. Five central trans-European UCC IT systems deployed by 2020 were analysed in the evaluation showing that **tangible benefits were generated, in particular by the Customs Decisions System (CDS)**, which allowed the digitalisation of the processes for several types of customs decisions and authorisations and to a lesser extent the AEO system, EBTI and REX. Additional progress will depend on the ongoing IT developments that are expected on a rolling timetable running to 2025.

As for the **general objectives of the UCC**:

- On the *protection of the financial interests of the EU and its Member States*, there has, overall, been a **relatively stronger focus on protecting the EU’s financial interests**, with a number of measures having direct impacts on the efforts to collect customs duties and detect customs fraud, such as the increased scope of compulsory guarantees and the establishment and application of the financial risk criteria. Nonetheless, **the aforementioned lack of uniformity still exists in risk management and control practice**, due to the legal room for discretion at national level combined with different priorities and resource levels and the lack of standards to measure the effectiveness of controls. The evaluation also found **implementation problems in the field of e-commerce**: the dramatic increase in low-value consignments shipped directly to consumers poses certain financial risks (see below for non-financial risks). The new rules that entered into force in July 2021 assist with collecting valuable information on undervaluation and misdeclaration in this type of commerce.
- On the goal of *ensuring the safety and security of the EU and its residents*, the UCC introduced a few changes, such as the obligation to file information allowing for the analysis of the security risk of goods prior to their arrival into the Union, but achieved limited progress. The completion of a crucial IT system [the Import Control System (ICS2), whose first release was deployed in March 2021] and the appropriate legal basis to process data is **expected to generate significant benefits** in that respect

and to facilitate the application of new common risk criteria for safety and security. However, the UCC did not introduce major changes in the area of **prohibitions and restrictions**. The evaluation revealed that the **UCC implementation did not fully tap into the potential synergies with related policies** and proper coordination between customs authorities and other relevant national administrations in charge of applying EU policies at the border is lacking. This limits the effectiveness and efficiency of control. Economic operators and customs authorities perceive insufficient coordination for the purpose of aligning requirements, standards (particularly regarding data collection and sharing) and procedures between customs and “non-customs” systems and processes. The evaluation also found **challenges in the field of e-commerce**. The customs authorities admittedly lack the capacity to sufficiently control a significant proportion of the consignments to block the most dangerous goods, while it is unclear if the newly introduced simplified customs declaration contains enough data to allow for risk analysis of customs and security-related aspects.

- On the objective of *facilitating legitimate trade*, the UCC ‘game-changers’- **trade facilitations for economic operators have not yet been implemented**, as explained above. Against this picture, some **incremental improvements** have materialised to date, namely simplifying and speeding up various processes with the support of IT systems such as CDS, EBTI and REX. Overall, the still ‘potential’ nature of many UCC benefits reinforces a recurrent theme in the evaluation, namely that much of the implementation effort necessarily precedes the realisation of the anticipated benefits.

In the cases in which this distinction is possible, the evaluation shows that both customs and economic operators incurred **significant one-off transition costs**, mainly due to IT developments and the need to re-assess all authorisations issued before the entry into force of the UCC, but the UCC has not led to any substantial changes to **administrative, compliance or enforcement costs** overall. The **direct benefits** include minor time savings for stakeholders as a result of clearer, more rational and well-structured rules and criteria in certain areas, and of the IT systems that have been deployed so far, as well as enhanced legal certainty and uniformity of interpretation and application of certain provisions.

A recurring theme of the evaluation is the very common expectation that, once all IT systems are fully operational, and all relevant UCC processes fully digitalised and harmonised, this **will lead to substantial cost savings** for both economic operators and customs.

### ***The role of the Union in this intervention***

The European Union has exclusive competence in the area of customs, therefore customs legislation is adopted at EU level and implemented together by the Member States and the Commission. The Customs Union requires that the customs rules are, and continue to be, defined, at Union level. In this respect, the EU added value applies to the balance between the Union-established requirements for the desired levels of uniformity and

efficiency, and the flexibility provided to the Member States for dealing with individual situations and priorities.

In connection with this, the findings on the effectiveness are valid. The UCC **succeeded** in certain areas. However, the **insufficient harmonisation** and **varied interpretation** of rules continues to be a problem in other areas.

For the **IT systems**, the evaluation shows positive results and stakeholder satisfaction towards the systems that have been developed with a **central approach**. Meanwhile, the support provided by the Customs 2020 and successor Customs financial programmes has been an essential catalyst in the implementation of the IT projects, but also for the correct application of the legal provisions.

### ***Is the UCC still relevant?***

The evaluation showed that the UCC is still relevant. The evaluation did not point to any significant needs that could not be encapsulated in one or more of the specific and general objectives of the current UCC framework. The evaluation shows that the most pressing challenges that customs are faced with today are the capacity to handle the huge volume of customs declarations and procedures from e-commerce operations, and the increasing responsibilities of customs mainly related to prohibitions and restrictions.

## ANNEX I: PROCEDURAL INFORMATION

### 1. *Lead DG, Decide reference and, if relevant, Work Programme reference. Derogations granted and justification*

DG TAXUD; PLAN/2019/5876.

### 2. *Organisation and timing.*

The chronology of the evaluation can be summarised as follows:

- **Inter-service steering group:** created on 26 March 2020, with the participation of DG TAXUD, DG AGRI, DG BUDG, DIGIT, EEAS, ESTAT, DG GROW, DG HOME, DG JUST, DG MOVE, OLAF, DG SANTE, DG TRADE and SG. DG MARE and DG NEAR were invited but did not participate in the group.
- **Meetings of the interservice steering group:** the interservice steering group met six times on **22/9/2020, 27/10/2020, 13/01/2021, 31/03/2021, 22/09/2021, 9/12/2021.**
- **Terms of reference for the external study:** finalised on 08/06/2020.
- **Roadmap:** published on 18/6/2020.
- **External study:** carried out between September 2020 and December 2021.
- **Public consultation:** from 26 April 2021 to 19 July 2021.
- **Staff Working Document:** submitted to the Regulatory Scrutiny Board on 5 January 2022 with the associated documents; to be published once finalised and endorsed by the Commission [*date of publication will be added once defined*].

### 3. *Consultation of the Regulatory Scrutiny Board*

The Regulatory Scrutiny Board was consulted and discussed the evaluation at a meeting on 2 February 2022. It issued a positive opinion with comments on 4 February 2022 (ARES(2022)829582). The comments were taken into account in the revised version of the evaluation.

### 4. *Evidence used together with sources and any issues regarding its quality (i.e. has the information been quality assured?)*

The evidence used in this evaluation collected through **desk research** was derived from the following sources:

- **Commission documents:** main sources included:
  - Impact Assessment on the proposal accompanying the Modernised Customs Code plus annexes (COM(2005) 608 final, COM(2005) 609 final, SEC/2005/1543).
  - Communication on the EU Strategy and Action Plan for customs risk management: Tackling risks, strengthening supply chain security and facilitating trade (COM/2014/527).

- European Parliament resolution of 19 January 2017 on tackling the challenges of the Union Customs Code implementation and Commission response (2016/3024 (RSP - P8\_TA(2017)0011)).
  - Council Conclusions on the Follow up of the Union Customs Code (OJ C 357, 29.09.2016, p.2).
  - Report from the Commission to the European Parliament and the Council on the implementation of the Union Customs Code and on the exercise of the power to adopt delegated acts pursuant to Article 284 thereunder (COM(2018)39 final).
  - Annual Reports from the Commission to the European Parliament and the Council pursuant to Article 278a of the Union Customs Code, on progress in developing the electronic systems provided for under the Code, adopted in 2019 and 2020 (COM(2019)629 final; COM(2020)806 final).
  - Report from the Commission to the Council and to the European Parliament Third Progress Report on the implementation of the EU Strategy and Action Plan for customs risk management, COM(2021)9 final and SWD(2021)2 final.
  - **Statistical data** on international trade and customs activities from Eurostat.
  - Annual Reports of the Customs Union Performance (CUP) for 2016, 2017, 2018, 2019, 2020. The CUP reports are marked as "EU limited" and can only be used on a "need to know" basis; the data used in this evaluation are non-confidential and publicly available on [DG TAXUD website](#).
- **Fit for Future Platform Opinion** adopted on the 10 December 2021 (Ref. 2021/SBGR3/13).
- **Reports from the Court of Auditors** on customs issues, namely:
- Special Report No 19/2017: Import procedures: shortcomings in the legal framework and an ineffective implementation impact the financial interests of the EU
  - Special Report no 26/2018: A series of delays in Customs IT systems: what went wrong?
  - Special Report no 12/2019: E-commerce: many of the challenges of collecting VAT and customs duties remain to be resolved (
  - Special Report no 04/2021: Customs controls: insufficient harmonisation hampers EU financial interests.

The **other sources of evidence** used in the evaluation include:

- **Evidence from Member States** in the context of the external study (opinions and figures): preliminary **interviews**, replies to written **questionnaires** submitted

to all 27 Member States' customs authorities between November 2020 and February 2021, 112 interviews in a sample of 10 Member States between April and July 2021 (Germany, Netherlands, France, Italy, Poland, Ireland, Sweden, Romania, Estonia, Luxembourg). Evidence from Member States include detailed **data on the development of the IT systems** covered by the evaluation.

- **Evidence from economic operators** in the context of the external study (opinions and figures): preliminary **interviews**, replies to written **questionnaires** submitted to the members of the Trade Contact Group between November 2020 and February 2021, **targeted interviews** of national operators and companies in a sample of 10 Member States between April and July 2021. Additional evidence was gathered by the Commission at a **dedicated meeting of the Trade Contact Group** on 30 September 2021 (cfr [Register of Expert Groups](#)).
- **Evidence from public consultation:** contributions from business representatives, individual companies, citizens, public authorities and NGOs.

The **quality** of the evidence is mixed. The external study by Economisti Associati is based on comprehensive information collection, review, desk research and stakeholder interaction, but it focuses on qualitative analysis due to the difficulty in gathering quantitative data. Nevertheless, the evidence and information gathered by the contractor was cross-checked from different sources. The other consultation activities carried out could not fill the gap of the quantitative data. Overall, the level of quantification in the evaluation analysis suffers from the limited availability of relevant quantitative data (e.g. confidential business data) and from a dearth of fully comparable indicators to cover the scope of the evaluation.

## **5. Use of external expertise.**

The evaluation is supported by an **external study**, carried out by a consortium led by Economisti Associati (Specific Contract N° 06 under Framework Contract TAXUD/2019/CC/150, for a “Study to support the interim evaluation of the implementation of the Union Customs Code” – TAXUD/2020/DE/315). The study provided evidence and findings on the implementation of the Union Customs Code that form the basis for the assessment made in this Staff Working Document. The methodology for the data collection was discussed and agreed with the Commission.

The Commission discussed the state of play of the evaluation with the **Customs Expert Group – General Customs Legislation section** on 25 June 2021.

This Staff Working Document also considered the views from EU-wide trade representatives' organisations regarding the practical implementation of UCC provisions and customs processes therein that were expressed at the above mentioned meeting of the Trade Contact Group on 30 September 2021.

### *Short description of methodology*

As the main input for the evaluation comes from an **external study** carried out by Economisti Associati<sup>72</sup>, the methodology used in this Staff Working Document is partly dependent on the one on which the study is based. In this respect, since the objective of the evaluation is to analyse the state of implementation of the UCC package in light of its objectives, the methodology used in the supporting study was composed of two sequential phases:

- **Implementation review:** the foundation of the study is a detailed understanding of the UCC's practical implementation in terms of its **rules, procedures and IT systems** (depicted in level 1 of the figure below). The data collection was mainly based on desk research and the replies to comprehensive written questionnaires submitted by all 27 customs authorities and 21 economic operators from the Trade Contact Group members and their affiliates between November 2020 and February 2021.
- **Evaluation:** the most significant provisions and changes introduced by the UCC (eight “**key issues**”, see *infra*) resulting from the analysis of the implementation review and the impacts of the UCC as a whole were the object of the evaluation phase of the study. Additional data collection and a deeper analysis were used for the UCC to be evaluated according to its specific and general objectives (levels 2 and 3) and in light of the five Better Regulation criteria. Data and evidence came from desk research, a targeted consultation with both Commission officials and customs authorities in a sample of 10 Member States<sup>73</sup>, a public consultation and an IT costs assessment for five systems (CDS, REX, EORI, EBTI and EOs/AEO).

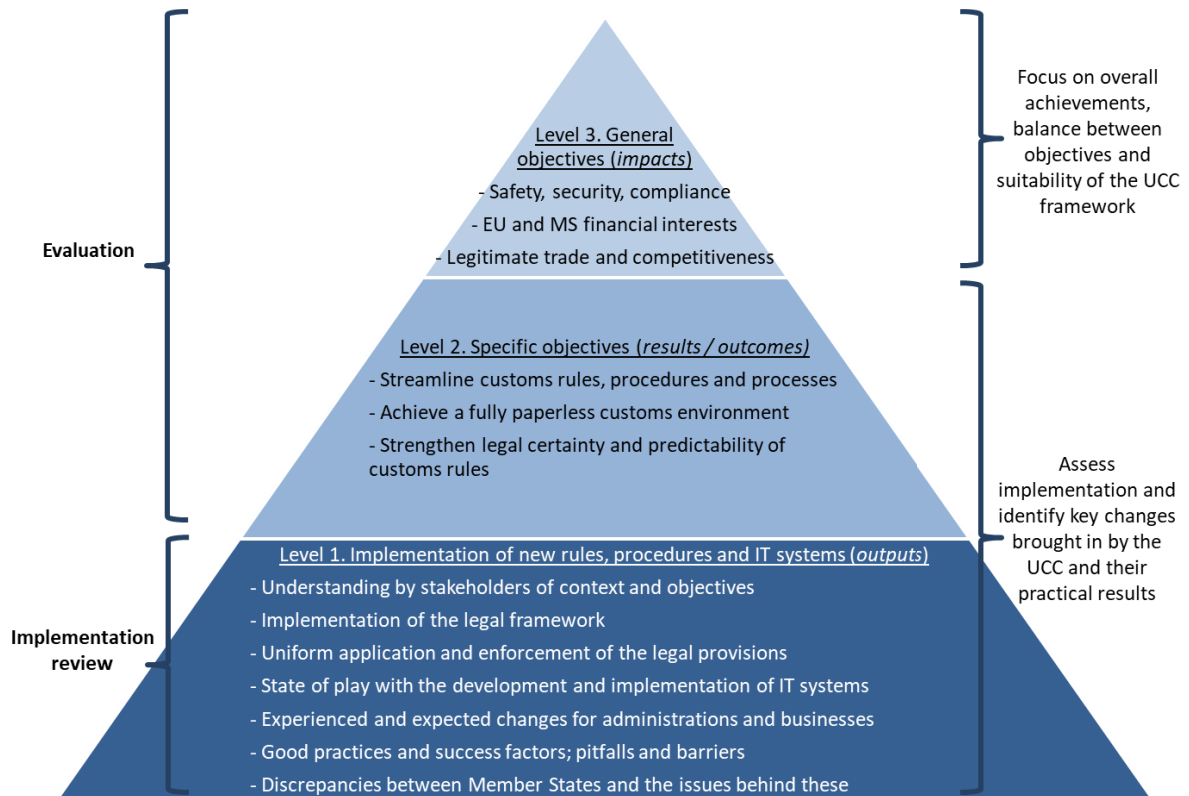
The figure also shows how the two-phase approach is relevant for analysing the UCC objectives: the specific objectives pursued with the adoption of the UCC indicated as Level 2, and its general objectives and impacts (as defined in Article 3 UCC) as Level 3.

**Figure 10: Conceptual design of the study**

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<sup>72</sup> Study to support the interim evaluation of the implementation of the Union Customs Code.

<sup>73</sup> Germany, Netherlands, France, Italy, Poland, Ireland, Sweden, Romania, Estonia, Luxembourg.



Source: Economisti Associati

The **eight key issues** through which the UCC was analysed cover a set of operational, significant UCC topics in terms of impacts and implementation difficulties, as described in the following table.

**Table 7: List of the UCC key issues and changes covered by the evaluation**

No	Key issue/change	IT system(s) covered	Brief description
1	Harmonised data requirements	None	Since the introduction of the UCC, the data requirements are harmonised throughout the EU (and defined in great detail in UCC-DA and UCC- IA, Annexes B). This is to facilitate the interoperability of the IT systems, the harmonised application of the rules, and alignment with international customs data models. However, there have been frequent changes to Annexes B, and significant delays with the development of some crucial IT systems, meaning the harmonised data requirements are not yet fully applied.
2	Harmonised rules and procedures for customs decisions	CDS	The rules and procedures regarding the various types of customs decisions were comprehensively recast and streamlined (UCC Art. 22-37). This includes new time limits for decisions upon application. A new, trans-European IT system (CDS) to harmonise the processes for application and management of customs decisions, in particular authorisations, was deployed in 2017 and upgraded in 2020.
3	Obtaining and monitoring AEO status	AEO system	A new AEOC criterion related to possessing proven practical standards of competence or professional qualifications was introduced (UCC Art. 39(d)). Other AEO criteria were strengthened by adding additional conditions (UCC Art. 39(a), (b), (c) and (e)). The AEO IT system was upgraded to align the business processes related to AEO applications, authorisations and their management with the UCC changes.



No	Key issue/change	IT system(s) covered	Brief description
4	Risk management and controls	None <i>While CRMS falls under this issue, it was not in the scope of this study. ICS2 was still in development and thus also not covered.</i>	UCC Art. 46-50, along with provisions in the DA and IA establish a common approach to customs risk management in the form of the EU Common Risk Management Framework, as well as providing a legal base for common action in this area. Since there is significant room for Member State discretion, the focus was on whether the UCC provides an adequate framework for achieving a uniform level of control and for dealing with emerging and future challenges.
5	Centralised IT systems supporting the implementation of UCC rules on customs tariff, origin and valuation	EBTI, REX and SURV3	This issue focused on three supporting IT systems, all of which use a centralised approach and which support the implementation of UCC rules on customs tariff, origin and valuation, namely EBTI, REX and SURV3.
6	Guarantees and guarantee management	None <i>While GUM falls under this issue, it was still under development and thus not examined.</i>	Recent changes to guarantees include the introduction of more situations where the provision of a guarantee is mandatory, as well as more situations where the guarantee must also cover import VAT and excise duty.
7	Changes to temporary storage requirements	None <i>While national TS systems relate to this issue, they are under development and has not been examined for the study.</i>	The rules for temporary storage have undergone several important changes regarding the need for authorisation, duration, movements between temporary storage facilitates and ability to make declarations in advance.
8	Simplifications	None	The UCC introduced several simplifications that are already in place, namely simplified declaration, SASP (as a precursor to centralised clearance for import), EIDR and self-assessment (though the latter has not been implemented in practice). Some attention was also devoted to the preparatory work on the centralised clearance for import (CCI) system and related provisions. Centralised clearance for export is being introduced as part of the AES system, but is still in development and was not examined.

In addition to the written questionnaires in the first phase and the 112 targeted interviews conducted by the contractor, data collection activities also included a public consultation from April to July 2021 and discussion in the context of the Trade Contact Group (TCG), a Commission expert group composed of trade representatives.<sup>74</sup> ***Limitations and robustness of findings***

The **UCC package is a very large and complex bundle of legal acts** amounting to more than 950 articles and 1000 pages of legislation. It is therefore unrealistic for the evaluation to cover every aspect of the UCC's vast scope in equal detail, also considering that many adopted changes are corrections, adjustments and adaptations of legal provisions, which do not constitute substantial innovations. With this in mind and for the analysis to be manageable and useful, it was necessary to reduce the scope of the

<sup>74</sup> See Annex 1 for procedural details.

assessment to the most important aspects and changes. This was done by basing much of the evaluation on an in-depth assessment of the eight key issues identified above. Other elements that justify this choice are the partial state of implementation of the UCC package, part of which depends on future IT developments, and the availability of data and evidence.

One of the main limitations of the evaluation resides in the **lack of systematic quantitative data for the cost-benefit analysis (CBA)**. Despite a systematic approach to defining costs and benefits and gathering data on them, the consultation activities provided very limited quantitative information. There were several reasons for this, related to the marginal or incremental nature of many of the changes, the conceptual challenge of translating certain types of benefits (such as increased clarity) into quantifiable values, and the difficulty for interviewees to access and provide detailed data on costs. The latter was partly an unwillingness to spend the significant time needed to access and collate certain types of data (e.g. on IT expenditure or human resources) for the period of the study, partly an issue of confidentiality. Due to these factors, the contractor was not able to deliver the intended partial CBA, as planned in the inception phase of the study. Instead, a large amount of relevant data for the assessment of efficiency was provided, including qualitative data on the nature and significance of key benefits and costs, as well as some quantified figures that are not representative enough to base a CBA on, but that could serve to illustrate the scale of benefits and costs in specific cases. Given the difficulties in obtaining relevant evidence for quantitative analysis, the focus is put on qualitative assessment.

Relatedly, due to the importance of stakeholder experiences for the implementation of the UCC, as well as the relative scarcity of relevant secondary data, **direct input from stakeholders was the most important** type of evidence source for the study. To ensure the validity of the results, the consultations were carried out so as to cover the widest possible spectrum of potential interests, priorities and experiences. Interviews were carried out among a large sample of customs authorities and economic operators, with a focus on a fairly large sample of 10 Member States, while the EU-wide coverage of the implementation questionnaire and public consultation allowed for the results to be validated among a broader audience. On the side of economic operators, a variety of sectors and profiles were covered, as well as both representative groups and individual companies. While the names of organisations and Member States are not mentioned, the *type* of stakeholder and whether a certain view or experience is widespread or not, are also made explicit. Wherever possible, findings were triangulated, either using input from different stakeholders or data collection methods, or secondary sources. Overall, this should ensure sufficient confidence in the findings of the evaluation, although findings are not based on statistically representative samples or objectively ‘hard’ data.

As mentioned, an important limitation of the evaluation relates to the fact that the **implementation of part of the UCC package is in fact still in progress**, because the legal deadlines for the completion of certain IT processes will expire well after the temporal scope of the evaluation. This is particularly true for IT systems such as Centralised Clearance for Import (CCI) and Import Control System 2 (ICS2), which are

not yet in place at the time of writing but are expected to bring crucial benefits for authorities and traders alike, once fully implemented (respectively 2023 and 2024). Other IT systems designed to facilitate the work of the involved parties are also planned to be in place by end 2025: GUM and NCTS Phase 6. Instead, the evaluation covers five IT systems that were deployed by the end of 2020, in line with the temporal scope of the evaluation itself. These are CDS, REX, EORI, EBTI and EOs/AEO.

Some of the findings of this evaluation refer to the absence in the UCC package of adequate answers to the **new challenges** encountered by customs authorities. This concerns in particular the insufficient solutions provided by the UCC for the treatment of e-commerce transactions and for prohibitions and restrictions. The external study addressed this problem in the form of case-studies, offering a horizontal analysis of inter-related elements that emerged during the “main” line of research. However, since these topics are not part of the evaluation’s scope as such, such analysis is neither comprehensive nor complete, although useful to understand how new business models and evolving tasks impact on an established legislative framework.

### *Specific findings on the eight key issues covered by the evaluation*

To complete the Annex on methodology, this section includes the individual analysis of each of the **eight main UCC changes or significant provisions covered by the evaluation** that detail the general findings on the UCC’s effectiveness, efficiency and coherence in the report.

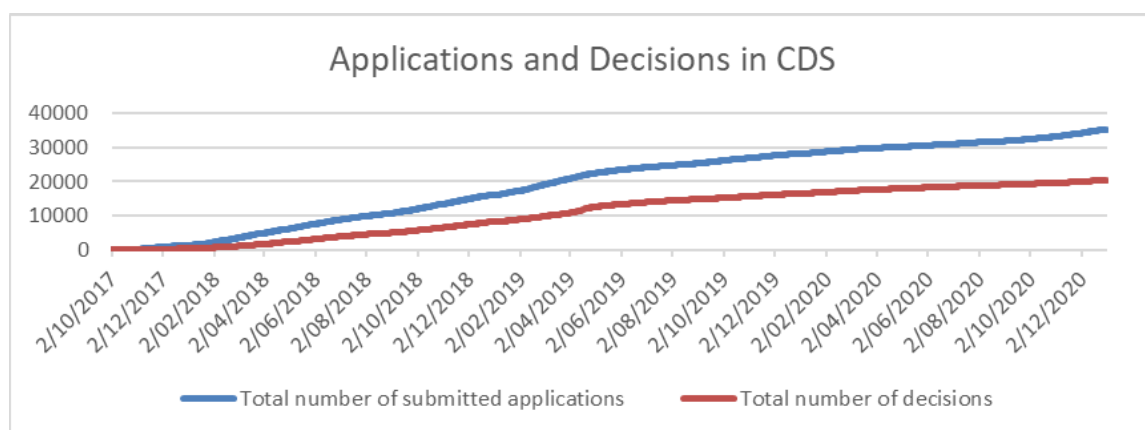
**a) Rules and procedures for customs decisions:** aimed at streamlining the rules and procedures regarding the various types of customs decisions, including uniform new time limits for issuing decisions upon application. Rules are implemented through a new, trans-European IT system to harmonise the processes for application and management of customs decisions, in particular authorisations, the **Customs Decision System**.

In this area, the UCC has successfully streamlined and simplified the rules, increased legal certainty and contributed to creating the paperless customs environment because the UCC replaced, with a set of common rules located among the general provisions, rules that previously differed depending on the type of decision and were included in the different parts of the CCC. According to customs authorities, the new provisions simplified the process both across different types of applications, by setting common requirements, but also across Member States, contributing to reducing differences in the requirements and processes for customs decisions. In particular, the binding time limits imposed by the UCC were seen by many stakeholders as significant, eliminating the possibility of applicants having to wait an unknown and potentially indefinite period of time for customs to process their applications (which reportedly was not a frequent occurrence before the UCC, but the uncertainty around the time frames was sometimes a burden on traders).

The enhanced clarity and level of detail of the new rules on decisions upon application have contributed to improving legal certainty.

The **Customs Decision System (CDS)** processes 22 types of customs decisions allowing automatic data validation, and it is widely recognised as a step-change compared to the CCC, even if some Member States allow the continued existence of both a central EU system and national systems, which means that economic operators working in multiple Member States still need to deal with different national portals. According to the study, greater impacts could be achieved if the scope of CDS were to be increased beyond the current 22 types of authorisations, which is possible in principle. However, the graph below illustrates the cumulative number of applications submitted and decisions taken on a monthly basis from October 2017, the date of commencement of this IT system, to December 2020, showing that the system is increasingly being used. The more than 20,000 decisions taken have a Union-wide validity and therefore contribute to a consistent and predictable application of Union law.

**Figure 6: Evolution of applications and decisions in the Customs Decisions systems**



In terms of **costs and benefits**, the main elements indicated by stakeholders **mainly related to the deployment of the CDS**, especially by the customs administrations of countries that chose the central approach reported savings. The streamlining of the revised legal rules on customs decisions were welcomed but not associated with tangible benefits in practice. Regarding **benefits**, three customs administrations reported savings in relation to processing times and the tracking of time limits (one interviewee described the savings resulting from the introduction of streamlined procedures as “huge”), and two Member States indicated reductions in the time taken to consult other Member States in case of multi-country decisions (which frees up resources for other activities). Another Member State indicated that they expected time savings to accrue once the initial teething phase was concluded. As for **costs**, one Member State reported costs in ensuring compatibility of CDS with the national IT system amounting to nearly EUR350,000 and over 11,000 hours of work. The cost of training and awareness raising for customs officials and/or traders was described as negligible by all but one of the customs administrations that provided information. In a similar vein, some economic operators reported that the process of applying for decisions has become significantly faster as a result of the new rules and the CDS, but also that they had incurred one-off costs related to having to upgrade internal IT systems.

**b) Authorised Economic Operator:** the UCC did not simplify the rules for obtaining and monitoring AEO status but increased legal certainty and predictability while contributing to the creation of an electronic customs environment. At the end of 2020, there were 14,868 operators authorised as AEO, which were involved in 74,3% of the total Union imports and 83% of the total Union exports. AEO is therefore relevant for a very significant part of Union trade.<sup>75</sup>

For some customs authorities and economic operators the **new/more detailed criteria** and conditions introduced by the UCC have **added complexity** without giving AEOs access to significant additional simplifications. In return, the new legislation is considerably **more detailed and comprehensive** in relation to the conditions to be fulfilled to obtain the AEO status and this provides legal certainty. While the provisions regarding compliance with taxation rules had initially raised some interpretation issues that culminated in a case before the European Court of Justice<sup>76</sup>, the AEO guidelines clarified the issue and thus strengthened the clarity of the provisions. Nevertheless, several Member States and some economic operators underlined that, despite the UCC's harmonisation effort, different approaches remained in the EU in relation to monitoring and audits for AEOs. Such divergences were also identified by the ECA in its recent reports on import procedures and e-commerce, which found that the AEO monitoring practices in some Member States may imperil the protection of the EU's financial interests.<sup>77</sup> Such problem was also highlighted in the F4F opinion.

The **EOS/AEO system** digitalised and streamlined the process for dealing with AEO applications, even if there are some national differences depending on whether individual Member States provide access to the system via the EU Trader Portal or national portals. The system has proved to be very beneficial for customs authorities, who frequently need to process and check the status of operators, while it is more of a minor benefit for businesses, for whom making an AEO application is not a regular action. It is also important to point out that the process is not entirely digital, as paper documents and correspondence were also required for some aspects of the application process in some Member States.

As mentioned, the clarified AEO criteria and conditions were not associated with any tangible benefits for stakeholders. Instead, customs authorities and economic operators were confronted with non-negligible **one-off costs** during the implementation phase mainly for the reassessment of authorisations, training and adaptation of internal processes.

**c) Centralised IT systems** supporting the implementation of UCC rules on customs tariff, origin and valuation, all of which use a centralised approach. In this area, the

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<sup>75</sup> The number of economic operators that were granted the AEO status decreased from 15574 in 2016 to 14868 in 2020, due to a strong decline in applications (almost by half) between 2019 and 2020 (source: Customs Union Performance 2020).

<sup>76</sup> C-496/17, Deutsche Post AG vs Hauptzollamt Köln.

<sup>77</sup> Special report No 19/2017: Import procedures: shortcomings in the legal framework and an ineffective implementation impact the financial interests of the EU; Special Report no 12/2019: E-commerce: many of the challenges of collecting VAT and customs duties remain to be resolved.

customs authorities and the economic operators agree that the UCC has successfully streamlined and simplified the rules, increased legal certainty and contributed to creating the paperless customs environment.

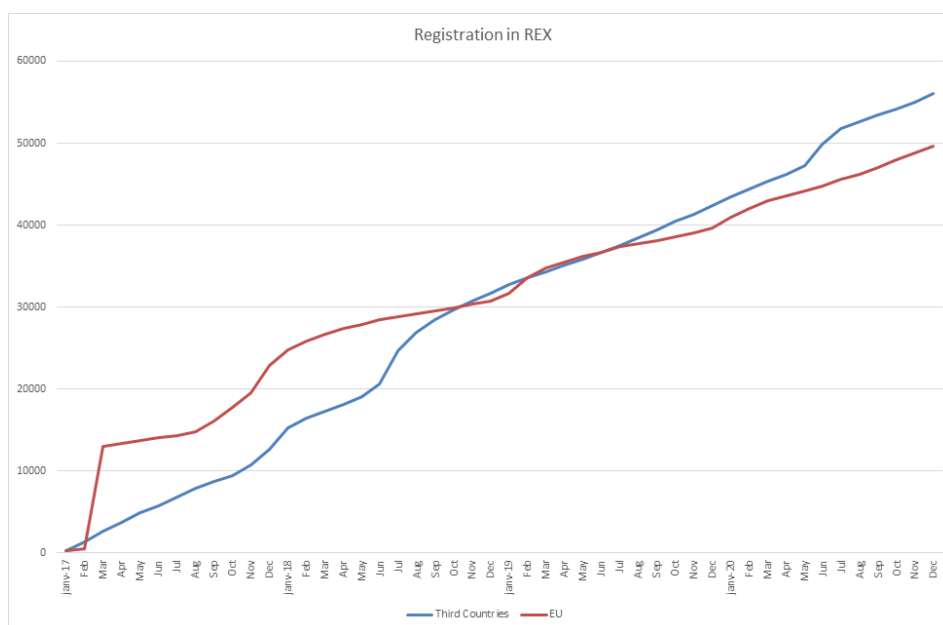
Three systems were analysed under this point: **REX**, **EBTI** and **SURV3**.

The Registered Exporter system (REX) provides a Union-valid database of exporters in third countries (beneficiary countries of the GSP, Overseas Countries and Territories, partner countries in some preferential agreements) that are entitled to declare the origin of the goods they produce or trade. Importers, freight-forwarders, customs brokers or any other operator in the Union can therefore check therein that their foreign counterpart is effectively entitled to declare the origin of its goods. This assurance significantly reduces the risk for the Union operator, as the origin of the goods is one of the factors used to calculate the duties and assess non-financial risks inherent in some products. REX therefore provides legal certainty to the economic operators.

The REX system also provides a database of registered exporters established in the Union, who are entitled to declare the origin of the goods exported to partner countries of some preferential agreements, with the benefit of having a centralized database of registered exporters and a common registration procedure in the Union.

The graph below shows the registrations over time from 2017 to 2020 both for the Union and for third countries and therefore the growing success of the system. In total, more than 100,000 operators are registered to provide valid proofs of origin.

**Figure 7: Evolution of registrations in the REX system**



**EBTI** provides a central database for BTI applications, effectively digitalising the process in a harmonised way and allowing customs authorities to verify the decisions on binding tariff origin made by the Member States. It reduces the time for issuing decisions and avoids duplications or errors. EBTI ensures the Union-wide validity of the BTIs as well as their binding character, for 3 years, throughout the EU, regardless of where they

are issued. They are binding on all EU customs administrations and the holder. It replaced a paper-based process. According to stakeholders, the system is helpful in guaranteeing full compliance with relevant UCC provisions and ensuring a harmonised approach. EBTI provides economic operators legal certainty when calculating the price of import or export transactions and secures a uniform application of the Common Customs Tariff, in line with the objectives of the UCC to achieve more simplicity and uniformity in the application of customs rules.

**SURV3** allows the Commission to collect data from the electronic declarations lodged in the Member States. SURV3 exploits the digitalisation in order to improve the Commission's surveillance capacity by providing relevant information on import/export flows. SURV3 is very valuable for the Commission because it provides essential data for monitoring the functioning of the customs union.

In terms of **costs and benefits of the centralised IT systems** that have already been deployed (REX and EBTI), the savings are very difficult to quantify, as they relate mainly to the fact that most Member States no longer need to develop and maintain their own national systems but can instead directly access the centralised EU databases. This brings associated benefits, in terms of reducing the time required for verification and ensuring increased harmonisation and certainty for economic operators. Additionally, there are some savings resulting from the transition from a paper-based to an electronic system, although it also reduces the ability to correct errors without restarting the application process. The costs are shown above.

**d) Temporary storage:** the provisions introduced by the UCC in this area were streamlined to a certain extent but not also simplified, although they are significantly clearer than under the previous Code.

The main changes in this area were the introduction of the 90-day maximum duration for temporary storage, which is a **streamlining** of the rules, and the possibility to authorise a movement of goods from one temporary storage facility to another without a transit procedure. This is intended to simplify the process for economic operators and customs authorities. Yet, while some customs authorities reported that monitoring has become simpler (due to having only one maximum duration), according to most economic operators consulted the changes have made the situation more complex by imposing requirements for a guarantee, the need to obtain an authorisation and to designate a specified location for temporary storage.

Through the introduction of **more detailed and specific rules** on temporary storage, the UCC has increased legal certainty and predictability for economic operators, who can now expect the same treatment regardless of the Member State in which they operate. However, this comes at a cost for operators, since they have to obtain an authorisation and a guarantee for temporary storage, unlike in the pre-UCC era.

Regarding the move to paperless customs, the Temporary Storage (TS) IT system, is expected to be deployed by the Member States by end 2022 and was not analysed in this

evaluation. Once this system is operational, it is expected to bring progress towards the objective of creating the electronic customs environment.<sup>78</sup>

For the changes to the temporary storage requirements, the limited evidence collected suggests that most customs administrations found the **transition costs** to have been 'significant'. **Ongoing costs** related to monitoring the authorisations and guarantees that are now required were also significant for some Member States. There is not enough data to be able to reach firm conclusions with regard to the costs and benefits for economic operators. Based on the data available, a mixed picture emerges with regard to the transition costs, which can sometimes be significant (e.g. a multi-national company described significant differences depending on the requirements imposed by different Member States, with the most significant transition costs related to the need to invest in new or upgraded IT systems for temporary storage in certain countries). Recurring costs tend to be negligible, as are the resulting benefits for economic operators from the changes to the rules on temporary storage.<sup>79</sup>

e) **Guarantees:** the UCC introduced changes to include additional cases where the provision of a guarantee is mandatory, as well as where the guarantee must cover import VAT and excise duty. Overall, provisions in this area were clarified and streamlined to a certain extent but not also simplified.

The UCC introduced a set of provisions which set out a harmonised framework for guarantees which in turn provided **increased uniformity** in the approaches of customs administrations and therefore has arguably made it simpler for economic operators operating in several markets, while increasing perceptions of complexity among those active in a single or small number of Member States. However, for stakeholders the new rules did not become simpler than under the previous code.

With the harmonised new rules, from a legal point of view, there is less room for interpretation and possible divergences, fewer exceptions, and more uniformity across Member States. However, several economic operators reported a lack of clarity, ambiguity and/or **discrepancies in the way the criteria for reductions and waivers** are assessed, reference amounts monitored, and release of guarantees handled. This caused some worries about the potential for sudden changes, which could have serious financial implications for traders, warehouse or temporary storage facility operators, etc.<sup>80</sup>

The guarantee process is expected to be fully digitalised and harmonised once the GUM project with its central and national component is fully deployed, at the latest by end 2025.<sup>81</sup> At the time of writing, the rules have been harmonised but the extent of digitalisation varies according to the national practices in place.

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<sup>78</sup> According to the 2019 UCC Work Programme, the deployment window for the TS system runs from Q2 2016 to Q4 2022.

<sup>79</sup> Economisti Associati (2021), page 84.

<sup>80</sup> According to the 2019 UCC Work Programme, the deployment window for the phase 1 of UCC CCI runs from Q1 2022 to Q4 2023, while the window for phase 2 runs from Q4 2023 to Q4 2025.

<sup>81</sup> According to the 2019 UCC Work Programme, the deployment window for GUM component 1 runs from Q4 2023 to Q2 2025, while the component 2 window is defined by MS and runs to Q2 2025.



Regarding costs, customs authorities and economic operators faced relatively **minor one-off costs to implement and apply the new rules**. However, the increased scope of compulsory guarantees requiring reference amounts to be calculated and monitored, has led to **increased recurring administrative as well as compliance costs for economic operators**, with most interviewees describing the former as more significant than the latter, since the reference amounts need to be monitored even if the guarantee is waived (which was the case for many interviewees). The majority of economic operators who provided information on the guarantee regime reported an increase in administrative burdens due to having to spend more time on determining and monitoring the reference amount, with one estimating they now need an additional 0.25 FTEs to comply with the changed rules. On the other hand, the **compliance costs** (in terms of the capital outlay) were described as minimal or non-existent by most interviewees, since their total stock of guarantees increased only marginally or not at all under the UCC. Compliance costs would presumably be more significant for non-AEOs, who typically cannot have guarantees waived but who formed a relatively small share of our sample. There are also **enforcement costs** for national customs authorities (some, but not all, interviewed customs administrations reported increased recurring costs for processing guarantees, due to an increase in the number of authorisations and/or the average time spent per guarantee in determining and monitoring the reference amount), but these have been at least partly outweighed by the benefits, which included harmonisation of the rules across the EU, which saves time for customs officials. The increased scope of compulsory guarantees also contributes to securing the collection of customs duties, and hence to protecting the financial interests of the EU and its Member States, although there was some disagreement among interviewees about the extent of this, with some arguing that guarantees were already compulsory for higher-risk procedures pre-UCC, and their extension to more (less risky) procedures offers only minor benefits in this respect.

**f) Harmonised data requirements (HDR):** aimed at facilitating the interoperability of the IT systems, the harmonised application of the rules, and alignment with international customs data models. Annexes B of the UCC DA and IA contain the common data requirements for the exchange and storage of information between customs authorities as well as between customs authorities and economic operators. This is to ensure the horizontal harmonisation necessary for interoperability between the customs electronic systems used for the different types of declarations, notifications and proof of customs status of Union goods. The UCC streamlined the rules in this area to a certain extent but did not also simplify them; the frequent changes to the Annexes B reduced legal clarity and predictability in the transitional phase.

Annexes B are considered by stakeholders as broadly **fit for purpose, comprehensive, logically structured, and reasonably clear**, thus leaving **very little room for legal uncertainty**. However, the data requirements are neither different in nature, extent and scope, nor simpler or significantly more harmonised than under the old customs code: in this respect, the UCC has maintained legal certainty in the transition to fully electronic declarations. The ‘digitalisation’ of the data requirements has required certain elements to be defined in more detail and broken down in a more granular way, which has

**increased their overall complexity.** If, for some customs administrations this was seen as inevitable and ultimately beneficial, economic operators perceive it as an increasing burden mainly related to the need to update their systems and to the fact that national customs authorities may require certain additional data elements.

The main factor that affected legal certainty according to customs officials and operators consulted are the **frequent changes to Annexes B**, due to the need to align the common data requirements to the progressive deployment of the UCC IT systems and solve other technical problems. This led to a lack of uniformity and predictability in the short term but problems were solved with the revamped Annexes B published in March 2021<sup>82</sup>. The constant addition of new requirements in the rolling-out of IT systems has been signalled in the F4F Platform opinion as a source of additional burden in terms of financial and human resources, disrupting the implementation as planned.

HDR are a **pre-condition for a paperless customs environment** as they serve as a ‘common language’ for interoperable systems and data sharing, as confirmed by both customs authorities and economic operators. The external study found that the effort needed to implement the requirements, especially by making national import systems that were previously under the control of national authorities compliant with the UCC requirements, coupled with delays to the deployment of many trans-European IT systems and the requirements’ own long gestation, means that they have only been implemented to a very limited extent.<sup>83</sup> Stakeholders agreed that the requirements will eventually make an important contribution to the objective of paperless environment, but that this will come later in the implementation process.

As the harmonised data requirements are an *enabler* of digitalisation and interoperability as opposed to a legal provision or an IT application as such, it is **not possible to quantify the benefits or costs of the HDR *per se***. The main costs are related to the development of the IT systems, where the frequent changes to Annexes B appear to have increased the costs for some stakeholders at least.<sup>84</sup> The benefits will only materialise to a significant extent once Annex B is applied fully and consistently across the EU. In general, the benefits and costs of the HDR as such cannot be separated from those related to the IT systems.

**g) Simplifications<sup>85</sup>:** the UCC introduced three main simplifications for the customs clearance of the goods: (a) entry in the declarant's records (EIDR) authorises the holder to lodge a customs declaration in the form of an entry into the declarant’s own records,

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<sup>82</sup> Commission Delegated Regulation (EU) 2021/234 of 7 December 2020 amending Delegated Regulation (EU) 2015/2446 as regards common data requirements, and Delegated Regulation (EU) 2016/341 as regards the codes to be used in certain forms (OJ L 63, 23.2.2021, p. 1). Commission Implementing Regulation (EU) 2021/235 of 8 February 2021 amending Implementing Regulation (EU) 2015/2447 as regards formats and codes of common data requirements, certain rules on surveillance and the competent customs office for placing goods under a customs procedure (OJ L 63, 23.2.2021, p. 386).

<sup>83</sup> Economisti Associati (2021), page 63.

<sup>84</sup> Economisti Associati (2021), page 83.

<sup>85</sup> At the end of 2020, the total number of valid authorisations for the use of simplifications for import and export (EIDR, use of simplified declarations) was just over 30 thousand (excluding the United Kingdom 29 080). Source: Customs Union Performance 2020.

provided that the particulars of that declaration are at the disposal of the customs authorities in the declarant's system when the declaration is lodged; (b) centralised clearance authorises a holder to lodge, or make available, at the customs office where he is established, a customs declaration for goods, which are presented to customs at another customs office within the customs territory of the Union; and (c) self-assessment authorises an AEO to carry out certain customs formalities that are to be carried out by the customs authorities, to determine the amount of import and export duty payable, and to perform certain controls under customs supervision. In addition to simplified declarations, customs simplifications also include the reduction or waiver of comprehensive guarantees, the permission to move goods to another Member State while they are still under temporary storage (i.e. before they are put under a customs procedure).

According to the external study, the UCC has clarified the *application* of certain simplifications, such as the use of simplified declarations and EIDR, reducing divergence between Member States to a certain extent. The amended rules on EIDR increased harmonisation, providing an advantage to businesses operating in multiple Member States. Conversely, the lack of clarity regarding self-assessment and the uncertainty around its application in practice has meant that this simplification has not been used in a single Member State to date, creating confusion and perplexity.<sup>86</sup> The problem is reportedly the fact that, while the UCC defined self-assessment quite flexibly, allowing operators to perform controls, the sectoral legislation would need to provide a legal basis for traders to perform such controls under customs supervision. This concern was also been highlighted in the F4F Platform opinion, which advised the development of a comprehensive concept of self-assessment as a simplification with clear and visible advantages for operators.

Economic operators as well as customs authorities overwhelmingly agreed that **the UCC had not brought any significant new or enhanced simplifications for traders**: of the two which were deemed to have the highest potential to generate significant benefits, self-assessment has turned out to be impossible to implement, and EU-level centralised clearance for import will only be deployed in 2023. Moreover, economic operators pointed to other aspects that continue to or have become more burdensome under the UCC, such as the increase in the number of authorisations required as a result of the UCC.<sup>87</sup>

**Some progress towards paperless customs was achieved in the area of simplifications**, insofar as it encouraged some Member States to implement the UCC principle of electronic customs declarations, although these were already used in other Member States. Residual paper-based processes were mostly attributed to goods subject to prohibitions and restrictions, which are regulated in legislation other than the UCC. Respondents to the public consultation also rated the mandate for electronic declarations

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<sup>86</sup> Economisti Associati (2021), page 63.

<sup>87</sup> Economisti Associati (2021), page 56.

as the most positive UCC change that had been implemented to date.<sup>88</sup> In the Member States where a similar measure was not already in place, the simplification of **EIDR also increased digitalisation**, although it is not widely implemented in all Member States.

The **costs** for implementing the UCC simplifications are assessed by customs authorities and economic operators in divergent ways. Divergences between the Member States in terms of changes in the number of controls, and improvements to processing speeds for customs declarations reported by customs and some economic operators, suggests the impact of the simplifications varied depending on existing customs practices in the Member States prior to the UCC. Indeed, some economic operators reported significant but not quantifiable net benefits, while others cited substantial costs ‘merely’ to deal with new requirements and thereby maintain the status quo. For example, it appears that, in some Member States, the UCC rules on EIDR made this simplification accessible to more economic operators, whereas in others it largely cemented the status quo, and in yet others, it was reported that they complicated the application of EIDR by introducing new restrictions and limitations. For the time being, the benefits as well as costs that have been incurred as a result of these are highly context-dependent.<sup>89</sup>

**Risk management** is the whole of the activities that seek to ensure that customs controls are based on electronic risk analysis with the purpose of identifying and evaluating the risks, and developing the necessary counter-measures, based on criteria developed at national or Union level. The UCC provides the legal base package to establish an EU Common Risk Management Framework. However, the UCC also provides significant room for Member State discretion. The focus of the evaluation was on whether the UCC provides an adequate framework for achieving a uniform level of controls that ensures **the safety and security** of the EU and its residents.

The conclusion is that the EU risk management strategy and action plan and other common actions<sup>90</sup> taken in the years 2016-2020, such as new common risk criteria being introduced in several fields or the possibility to define priority control areas and the sharing of risk information through risk information forms (RIFs), improved the situation. However, as the UCC continues to afford the Member States considerable discretion in how they apply the provisions on risk management and controls, **there is no uniform application**.<sup>91</sup>

**Coherence with relevant policies and full data sharing at Union level, particularly for anti-fraud purposes, would greatly benefit risk management at Union level**, as well as a risk management and control framework dedicated to prohibitions and restrictions that takes into account the particular risks raised by e-commerce. In that respect, in the opinion of Commission and customs officials interviewed,<sup>92</sup> the simplified

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<sup>88</sup> Annex V of this SWD, page 91.

<sup>89</sup> Economisti Associati (2021), page 56.

<sup>90</sup> See the recent Report from the Commission to the Council and the European Parliament – Third Progress Report on the implementation of the EU Strategy and Action Plan for customs risk management COM((2021) 9 final.

<sup>91</sup> Economisti Associati (2021), page 60.

<sup>92</sup> Economisti Associati (2021), 4.1 on e-commerce and 4.2 on non-financial risks.

declaration for low-value consignments ('super-reduced' data set H7 declarations) does not contain enough data elements to conduct a proper risk analysis. Similarly, the case study on prohibitions and restrictions found that lacking coordination and interoperability between the IT systems of customs and other competent authorities prevented relevant data from being shared and used for risk purposes.<sup>93</sup> These problems were seen to be holding back the UCC from achieving its potential in this area.

More positively, the deployment of the IT systems ICS2 is expected to enhance safety and security through better customs authorities' access to high-quality data, leading to better risk analysis.<sup>94</sup> The Commission is also in the process of developing common risk criteria for cash control, and reflecting on common risk criteria for product safety and intellectual property rights protection. These initiatives should lead to further contributions to the general objectives and coherence as implementation of the UCC continues.

Risk management has **not generated significant costs nor benefits** for customs administrations in this area. Administrations have incurred costs in order to implement the financial risk criteria, but these were not dependent on changes to the provisions introduced by the UCC. The costs and benefits of the ongoing deployment of ICS2 are not considered here because the system had not been deployed by 2020.

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<sup>93</sup> Additional synergies were indicated to potentially come from interoperability with IT systems for reporting on risks, CRMS and the Anti-Fraud Information System (AFIS), and regarding product safety with RAPEX (the EU's Rapid Exchange Information System used to exchange information on dangerous products), and the tools of the European Food Safety Authority (EFSA)

<sup>94</sup> According to the 2019 UCC Work Programme, the first release of ICS2 was deployed on 15 March 2021, while release 2 and analytics has a deployment window from Q1 to Q4 2023, and release 3 from Q1 to Q4 2024.

**ANNEX III. EVALUATION MATRIX AND, WHERE RELEVANT, DETAILS ON ANSWERS TO THE EVALUATION QUESTIONS (BY CRITERION)**

**Table 8: Evaluation questions matrix – Relevance**

Sub-questions	Judgement criteria: extent to which...	Indicators
2.1 What are the needs of stakeholders in relation to the UCC's general and specific objectives, and how have these evolved since the UCC was adopted?	<ul style="list-style-type: none"> <li>The needs of customs authorities / economic operators / citizens are covered by the general and specific objectives of the UCC</li> </ul>	<ul style="list-style-type: none"> <li>Perceived relative importance (now and when the UCC was adopted) of each of the UCC's general and specific objectives</li> <li>Level of agreement among stakeholders that the UCC general and specific objectives are appropriate</li> <li>Perceived relative importance (now and when the UCC was adopted) of issues falling under the UCC's specific and general objectives, namely: <ul style="list-style-type: none"> <li>Clearer, more predictable customs rules and regulations</li> <li>More uniform rules and processes across different EU Member States</li> <li>More effective exchange of information between national customs administrations and traders</li> <li>More effective tools to tackle smuggling, illicit or fraudulent trade</li> <li>Better enforcement of EU safety, health and environmental rules</li> <li>Faster and/or simpler customs processes and procedures</li> <li>Greater stability of customs rules (to limit adaption costs / allow for long-term planning)</li> </ul> </li> <li>Existence of needs specifically related to emerging and future challenges in terms of geopolitics (such as trade wars and Brexit), changing business models and new technologies (such as growing e-commerce, new detection technologies, 3D printing etc.) and unforeseen exceptional circumstances (most notably the COVID-19 pandemic)</li> <li>Level of agreement among stakeholders that the UCC general and specific objectives cover their needs</li> <li>Existence of needs falling outside the scope of the UCC's general and specific objectives</li> </ul>
2.2 In light of stakeholder needs, does the UCC provide an appropriate legislative and IT framework?	<ul style="list-style-type: none"> <li>The views of customs authorities / economic operators were reflected in the policy development process</li> <li>Customs authorities / economic operators consider the UCC legal and IT framework suitable, including with regard to emerging and future challenges</li> </ul>	<ul style="list-style-type: none"> <li>Level of stakeholder agreement that consultation fora for policy development (namely the Customs Expert Group (CEG), Customs Code Committee (CCC), Customs Policy Group (CPG), Electronic Customs Coordination Group (ECCG) and the Trade Contact Group (TCG)) are adequate and sufficiently responsive</li> <li>Level of stakeholder agreement that the UCC legal and IT package reflects their views and expectations, including with regard to amendments and revisions after its original adoption</li> <li>Level of stakeholder agreement that the design and structure of the UCC legal and IT framework: <ul style="list-style-type: none"> <li>Were appropriate at the time of its adoption</li> <li>Remain appropriate in light of emerging and future challenges</li> </ul> </li> <li>Level of stakeholder agreement that the design of the UCC legal and IT framework is an improvement on its predecessor (the CCC)</li> </ul>

**Table 9: Evaluation questions matrix – Effectiveness**

Sub-questions	Judgement criteria: extent to which...	Indicators
3.1. To what extent has the UCC legal package contributed to simplifying and streamlining customs rules, procedures and processes?	<ul style="list-style-type: none"> <li>• Overall, UCC rules are perceived by relevant stakeholders as simpler than their CCC equivalents</li> <li>• Specific new / updated rules, procedures and processes have contributed to a simpler customs environment</li> <li>• Tangible benefits have resulted from simplified / streamlined rules, procedures or processes</li> <li>• Potential to simplify UCC rules further (in line with REFIT objectives)</li> </ul>	<ul style="list-style-type: none"> <li>• Level of stakeholder satisfaction with the extent of simplification and streamlining of the UCC legal package as a whole</li> <li>• Titles / elements / aspects of the UCC that are deemed simpler than their CCC equivalents</li> <li>• Stakeholder expectations as regards simplification that has yet to materialise (e.g. centralised clearance)</li> <li>• Level of stakeholder agreement that specific key changes simplify / streamline rules or processes</li> <li>• Specific customs processes that have been simplified by these changes (for authorities and/or traders)</li> <li>• Tangible effects of specific key changes, e.g.: <ul style="list-style-type: none"> <li>○ Reduced admin. burden for EOs due to comprehensive guarantees</li> <li>○ Faster customs decisions due to harmonised rules</li> </ul> </li> <li>• Elements / aspects of the UCC that stakeholders perceive as excessively and unnecessarily complex</li> <li>• Potentially unnecessary regulatory costs of specific key changes</li> </ul>
3.2. To what extent has the UCC legal package contributed to strengthening legal certainty and predictability of customs rules, procedures and processes?	<ul style="list-style-type: none"> <li>• Overall, UCC rules are perceived by relevant stakeholders as providing greater legal certainty and predictability than their CCC equivalents</li> <li>• Specific new / updated rules have contributed to strengthening legal certainty, consistency and predictability of procedures and processes</li> <li>• Tangible benefits have resulted from clearer, more consistent and predictable rules</li> </ul>	<ul style="list-style-type: none"> <li>• Level of stakeholder satisfaction with the clarity and accessibility of the UCC legal package overall (i.e. are the rules easy to find and understand?)</li> <li>• Level of stakeholder agreement that overall, the UCC provides greater legal certainty and predictability than the CCC</li> <li>• Stakeholder expectations as regards improvements that have yet to materialise</li> <li>• Level of stakeholder agreement that specific key changes enhance legal certainty and predictability</li> <li>• Specific customs processes that have become more consistent / predictable as a result of these changes</li> <li>• Rules or processes that have become less consistent and/or predictable due to the UCC</li> <li>• Level of stakeholder agreement that overall, customs rules are applied in a more harmonised and uniform way across the EU MS</li> <li>• Tangible effects of specific key changes, e.g.: <ul style="list-style-type: none"> <li>○ More consistent application of AEO criteria across MS</li> <li>○ More consistent application of rules due to harmonised data</li> </ul> </li> </ul>

Sub-questions	Judgement criteria: extent to which...	Indicators
		<ul style="list-style-type: none"> <li>requirements <ul style="list-style-type: none"> <li>○ Fewer irregularities / complaints from EOs as regards customs decisions</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>• The UCC has successfully addressed current key issues and challenges</li> </ul>	<ul style="list-style-type: none"> <li>• Extent to which key events or developments (e.g. COVID-19) could be effectively dealt with under existing UCC rules</li> </ul>
3.3. To what extent have the UCC legal and IT package contributed to achieving a paperless customs environment?	<ul style="list-style-type: none"> <li>• Overall, the UCC legal and IT framework is perceived by relevant stakeholders as having facilitated progress towards a fully electronic customs environment</li> </ul>	<ul style="list-style-type: none"> <li>• Level of stakeholder satisfaction with the UCC IT package</li> <li>• Level of stakeholder agreement that the UCC has contributed to achieving a fully paperless customs environment</li> <li>• Stakeholder expectations as regards improvements from systems that have yet to be deployed (e.g. ICS2, CCI)</li> </ul>
	<ul style="list-style-type: none"> <li>• Sufficient progress has been made with the deployment of new / upgraded IT systems, considering the difficulties encountered</li> </ul>	<ul style="list-style-type: none"> <li>• Level of stakeholder satisfaction with the implementation of the UCC IT Work Programme,</li> <li>• Extent to which key challenges for the completion of the remaining IT systems are being addressed</li> </ul>
	<ul style="list-style-type: none"> <li>• Tangible benefits have resulted from new / upgraded IT systems</li> </ul>	<ul style="list-style-type: none"> <li>• Level of stakeholder agreement that the UCC IT systems that have been deployed / upgraded to date contribute to: <ul style="list-style-type: none"> <li>○ More effective and/or efficient customs processes (cp. objectives in E-Customs Decision, Art. 2)</li> <li>○ Better interoperability between different systems</li> <li>○ Reinforced collaboration between national customs authorities</li> </ul> </li> <li>• Tangible effects of specific key systems, e.g.: <ul style="list-style-type: none"> <li>○ More efficient / consistent management of authorisations due to CDS</li> <li>○ Implementation and transition costs of CDS (under different national approaches)</li> </ul> </li> </ul>
3.4. To what extent has the UCC contributed to helping EU customs achieve their mission?	<ul style="list-style-type: none"> <li>• The UCC legal and IT framework has contributed to protecting the financial interests of the EU and its MS, and to protecting them from unfair and illegal trade</li> </ul>	<ul style="list-style-type: none"> <li>• Level of stakeholder agreement that progress has been / is being made against this objective</li> <li>• Extent to which simplification (cp. EQ 2.1), enhanced legal certainty and predictability (cp. EQ 2.2), and/or new / upgraded IT systems (cp. EQ 2.3) have contributed to a more effective fight against customs fraud</li> <li>• Tangible effects of specific key changes (cp. examples under previous EQs) on the fight against customs fraud</li> </ul>
	<ul style="list-style-type: none"> <li>• The UCC legal and IT framework has contributed to ensuring the security and safety of the Union and its residents, and the protection of the environment</li> </ul>	<ul style="list-style-type: none"> <li>• Level of stakeholder agreement that progress has been / is being made against this objective</li> <li>• Extent to which simplification (cp. EQ 2.1), enhanced legal certainty and predictability (cp. EQ 2.2), and/or</li> </ul>



Sub-questions	Judgement criteria: extent to which...	Indicators
		<ul style="list-style-type: none"> <li>new / upgraded IT systems (cp. EQ 2.3) have contributed to more effective risk management and/or customs controls</li> <li>• Extent to which the UCC equips customs to effectively ensure compliance with prohibitions and restrictions</li> <li>• Tangible effects of specific key changes (cp. examples under previous EQs) on customs' ability to ensure security and safety</li> </ul>
	<ul style="list-style-type: none"> <li>• The UCC legal and IT framework has contributed to maintaining a proper balance between customs controls and facilitation of legitimate trade</li> </ul>	<ul style="list-style-type: none"> <li>• Level of stakeholder agreement that progress has been / is being made against this objective</li> <li>• Extent to which simplification (cp. EQ 2.1), enhanced legal certainty and predictability (cp. EQ 2.2), and/or new / upgraded IT systems (cp. EQ 2.3) have contributed to trade facilitation</li> <li>• Tangible effects of specific key changes (cp. examples under previous EQs) on burden reductions for economic operators</li> <li>• Comparison of the significance of any such effects with those on effectiveness of controls (cp. the judgment criteria above)</li> </ul>
	<ul style="list-style-type: none"> <li>• The balance between positive and negative effects of the UCC and its implementation to date is positive</li> </ul>	<ul style="list-style-type: none"> <li>• Consideration of aggregated costs and benefits of specific key changes (to the extent this is possible)</li> <li>• Qualitative analysis of the level of progress made against each objective, and the main reasons, success factors and barriers</li> <li>• Identification and exploration of any unintended / unexpected impacts</li> </ul>
	<ul style="list-style-type: none"> <li>• The Customs Union Performance (CUP) tool and its DCIs and KPIs are relevant and useful for assessing the performance of the Customs Union</li> <li>• The actual data collected and made available by MS under the CUP contributes to improving the functioning of the Customs Union</li> <li>• Extent to which the lack of a legal basis for a tool for evaluating the performances of the Customs Union affects one or both of the previous criteria</li> </ul>	<ul style="list-style-type: none"> <li>• Extent to which CUP data can be used to evaluate the functioning of the Customs Union and thereby the effectiveness of the UCC</li> <li>• Stakeholder assessment of the CUP tool</li> <li>• Reasons why CUP data and analysis have not been used more to identify and address performance issues</li> <li>• Level of stakeholder support for creating a stronger legal basis for performance measurement</li> </ul>
3.5. To what extent has the lack of accurate and comprehensive tools for evaluation of the performance of customs activities had an impact on the good functioning of the Customs Union, and how could it be improved?		

**Table 10: Evaluation questions matrix - Efficiency**

Sub-questions	Judgement criteria: extent to which...	Indicators
4.1. What are the most	<ul style="list-style-type: none"> <li>• Specific new or updated rules and systems have generated tangible direct regulatory</li> </ul>	<ul style="list-style-type: none"> <li>• Tangible benefits of specific key changes (as per effectiveness, sub-questions 2.1, 2.2 and</li> </ul>

Sub-questions	Judgement criteria: extent to which...	Indicators
significant <i>direct</i> costs and benefits for stakeholders from the rule changes and IT systems introduced by the UCC to date?	<p>benefits and cost savings (for types of costs see below) for customs administrations and EOs</p> <ul style="list-style-type: none"> <li>• Specific new or updated rules and systems have generated tangible direct costs (administrative, compliance, hassle or enforcement costs) for customs administrations and EOs</li> <li>• The UCC legal &amp; IT package as a whole and the way it is implemented has generated significant adaptation / transition costs for customs administrations and EOs</li> </ul>	<p>2.3), e.g.:</p> <ul style="list-style-type: none"> <li>○ Reduced admin. burden for EOs due to comprehensive guarantees</li> <li>○ More efficient / consistent management of authorisations due to CDS</li> </ul> <ul style="list-style-type: none"> <li>• Tangible administrative, compliance, hassle or enforcement costs of specific key changes (as per effectiveness, sub-questions 2.1, 2.2 and 2.3)</li> <li>• IT development and operations costs of specific key new / upgraded systems</li> <li>• Adaptation / transition costs related to other elements (e.g. training, changes to business processes) of the UCC legal &amp; IT package</li> </ul>
4.2. What are the main wider, <i>indirect</i> costs and benefits for stakeholders from the UCC and its implementation to date?	<ul style="list-style-type: none"> <li>• Specific new or updated rules and systems have generated indirect benefits (macro-economic or societal benefits)</li> <li>• Specific new or updated rules and systems have generated indirect costs (indirect compliance costs or other negative impacts)</li> <li>• The UCC legal &amp; IT package as a whole and the way it is implemented has generated wider benefits and/or costs</li> </ul>	<ul style="list-style-type: none"> <li>• Evidence of wider benefits resulting from specific key changes, e.g.: <ul style="list-style-type: none"> <li>○ Non-quantifiable benefits from increased certainty / transparency / uniformity</li> <li>○ Non-quantifiable benefits in terms of more effective controls</li> </ul> </li> <li>• Evidence of wider, indirect costs resulting from specific key changes, e.g.: <ul style="list-style-type: none"> <li>○ Non-quantifiable costs for businesses of lack of clarity re the interpretation of specific UCC rules or processes</li> <li>○ Non-quantifiable costs citizens in terms of less effective controls</li> </ul> </li> <li>• Stakeholder views on wider, indirect impacts (benefits and costs related to e.g. changes in trade flows) of the UCC legal and IT framework</li> <li>• Trends in key trade and customs indicators, and qualitative exploration of the contribution of the UCC to these trends</li> </ul>
4.3. Overall, are the costs proportionate to the benefits? How could the UCC's cost-effectiveness be improved?	<ul style="list-style-type: none"> <li>• The UCC legal &amp; IT framework has generated significant benefits to date</li> <li>• The UCC legal &amp; IT framework is likely to generate significant additional benefits when fully implemented</li> <li>• The costs of the UCC and its implementation appear justified in view of the benefits</li> <li>• Opportunities to minimise costs and maximise benefits are being taken advantage of</li> <li>• Further opportunities to minimise costs and maximise benefits, including simplification and burden reduction, exist</li> </ul>	<ul style="list-style-type: none"> <li>• Level of stakeholder agreement that overall, the (present and expected future) benefits outweigh the costs</li> <li>• Benefit-cost ratios for specific key changes or systems introduced by the UCC</li> <li>• Qualitative considerations related to the relationship between benefits and costs of the UCC legal &amp; IT framework, and areas for improvements</li> <li>• Specific provisions, aspects or areas where analysis suggests the costs of UCC changes outweigh the benefits</li> <li>• Stakeholder suggestions and priorities for burden reductions</li> <li>• Likely feasibility of addressing these priority areas with a view to further simplification and burden reduction</li> </ul>

**Table 11: Evaluation questions matrix – Coherence**

Sub-questions	Judgement criteria: extent to which...	Indicators
4.1 Which non-customs policy	<ul style="list-style-type: none"> <li>• EU policies and measures in fields other than customs affect border management</li> </ul>	<ul style="list-style-type: none"> <li>• Existence of policies with a high potential for mutual reinforcement and / or risk of overlap</li> </ul>

Sub-questions	Judgement criteria: extent to which...	Indicators
areas and policies are most important for customs to achieve its objectives and mission?		<p>/ duplication with the UCC. The mapping will cover at least the fields of:</p> <ul style="list-style-type: none"> <li>○ DG TAXUD: combatting tax fraud and smuggling;</li> <li>○ DG CLIMA climate change ;</li> <li>○ DG ENV: environmental protection and biodiversity;</li> <li>○ DG GROW: intellectual property rights, product safety, industrial policy and the Single Market;</li> <li>○ DG JUSTICE: the protection of the EU's financial interests by means of criminal law, data protection;</li> <li>○ DG HOME: the fight against terrorism;</li> <li>○ OLAF: the fight against fraud;</li> <li>○ DG SANTE: the protection of human health and animal health;</li> <li>○ DG TRADE: international trade.</li> </ul>
4.2 To what extent are the identified policies and measures coherent with the UCC?	<ul style="list-style-type: none"> <li>• The identified policies and measures display aims and objectives that are consistent with those of the UCC</li> </ul>	<ul style="list-style-type: none"> <li>• Level of consistency of aims and objectives of the UCC and identified policies and measures</li> </ul>
	<ul style="list-style-type: none"> <li>• The rules and processes of the identified policies and measures complement and mutually enforce those of the UCC</li> </ul>	<ul style="list-style-type: none"> <li>• Level of consistency between UCC rules and those of the identified policies</li> <li>• Level of formal and practical coordination in the implementation of the UCC and identified policies</li> <li>• Existence of procedural synergies and / or redundancies experienced by stakeholders</li> </ul>
	<ul style="list-style-type: none"> <li>• Data and information requirements and practices complement those of the UCC</li> </ul>	<ul style="list-style-type: none"> <li>• Level of use of data that is collected for customs purposes and / or vice versa (e.g. for risk analysis)</li> <li>• Compatibility of data formats with the UCC data model</li> <li>• Existence of information or data that economic operators can provide only once for multiple purposes (or the opposite, where similar data must be provided multiple times)</li> <li>• Level of interoperability between IT systems for identified policies and UCC systems</li> <li>• Existence of protocols for customs and authorities responsible for identified policies to share information and data</li> </ul>

**Table 12: Evaluation questions matrix – EU added value**

Sub-questions	Judgement criteria: extent to which...	Indicators
6.1. Does the UCC provide a suitable framework for the correct and consistent implementation of customs rules and processes?	<ul style="list-style-type: none"> <li>• The UCC legal provisions enable a uniform level of control and application of the customs rules and processes;</li> <li>• The UCC legal provisions provide the Member States with sufficient flexibility to adapt to national circumstances and needs.</li> </ul>	<ul style="list-style-type: none"> <li>• Level of consistency in the application of the rules and processes covered as part of the sample of key issues</li> <li>• Level of data sharing and coordination in the areas covered by the sample of key issues</li> <li>• Level of consistency in customs performance in the areas covered by the sample of key issues</li> <li>• Existence or absence of ‘jurisdiction shopping’</li> <li>• Level of stakeholder agreement that the UCC strikes the right balance between harmonisation and flexibility with regard to national circumstances</li> <li>• Level of stakeholder agreement that the UCC provides a suitable framework for data sharing and coordination</li> <li>• Existence of justifications for the areas that are not currently harmonised</li> </ul>
6.2. Does the UCC strike the right balance between the EU and national levels when it comes to IT development and deployment?	<ul style="list-style-type: none"> <li>• The approaches taken to developing and implementing the different UCC systems: <ul style="list-style-type: none"> <li>○ Have enabled an acceptable level of harmonisation and consistency in the implementation of UCC legal provisions;</li> <li>○ Have facilitated an acceptable level of interoperability between systems;</li> <li>○ Have allowed for an efficient development and implementation of the systems;</li> <li>○ Have avoided problems with integration and functionality;</li> <li>○ Have maximised benefits for economic operators.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Level of consistency in the implementation of legal provisions supported by individual UCC systems</li> <li>• Level of interoperability between UCC systems and (1) customs systems in other Member States and (2) national IT infrastructure</li> <li>• Costs of implementing UCC systems developed using different approaches</li> <li>• Existence of problems with the integration and / or functionality of systems developed using different approaches</li> <li>• Costs for economic operators to integrate and use systems developed using different approaches</li> <li>• Level of stakeholder agreement that the approach taken to different systems was appropriate</li> <li>• Level of stakeholder agreement with the overall allocation of responsibilities for the UCC systems</li> </ul>
6.3. To what extent and how do the joint actions and training activities funded via the Customs programme support the UCC implementation?	<ul style="list-style-type: none"> <li>• Joint actions and training activities funded under the Customs programme: <ul style="list-style-type: none"> <li>○ Have supported the correct and uniform implementation of the UCC rules and processes;</li> <li>○ Have supported the correct and efficient development and implementation of the UCC systems;</li> <li>○ Have facilitated support for more ambitious and harmonised approaches to legal and IT developments.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Level of success of the Customs programme’s outputs (discussion fora, guidance documents, implementation tools, training modules etc.) in supporting the development and implementation of the UCC legal provisions and the IT systems (based on findings from the programme evaluation)</li> <li>• Level of stakeholder agreement that the Customs programme’s actions have been integral to developing and implementing the UCC legal provisions and IT systems</li> <li>• Level of stakeholder agreement that the Customs programme’s actions have increased the ambitiousness of legal and IT developments under the UCC</li> </ul>

**ANNEX IV. OVERVIEW OF BENEFITS AND COSTS [AND, WHERE RELEVANT, TABLE ON SIMPLIFICATION AND BURDEN REDUCTION]**

Table 1. Overview of costs and benefits identified in the evaluation <sup>95</sup>									
	Citizens/Consumers		Businesses		Administrations		Other		
	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	
Cost or Benefit description:									
<p><b>Costs:</b></p> <p><b>Direct compliance costs</b></p> <p><b>1) IT development costs</b></p>		Not applicable		One economic operator reported spending €100,000 to upgrade a system used for self-monitoring its AEO status.	Significant problems for the interviewed economic operators, many of whom reported having had to invest heavily in adapting their own IT systems to the new rules and requirements (e.g. for upgrading internal systems to the Customs Decision System and to the temporary storage systems).	Not available for all Member States.  One authority reported costs in ensuring compatibility of CDS with the national IT system of nearly €350,000 and over 11,000 hours of work.	Costs vary significantly from system to system, and from country to country, but frequently amount to several million euros per Member State for the most significant systems (such as the updated national import systems). Few MS maintaining national systems connected to the EU systems report significant	At EU level, around €50 million from Customs 2020 programme for 5 IT systems, as follows: CDS €14.1 million (annual maintenance costs €2.8 million); AEO €6 million (annual maintenance costs of EUR 1.2 million); REX €2.6 million (estimated annual maintenance costs €500.000; EBTI € 3.35	

<sup>95</sup> Where there is a prior impact assessment, the table should contain as a minimum the costs/benefits identified in the IA with the information gathered on the actual cost/benefit. As available, the table should include the monetisation (€) of the costs/benefits based on any quantitative translation of the data (time taken, person days, number of records/equipment/staff etc. affected or involved represented in monetary value – see Standard cost model, for example). For all information presented, it should be included in the comments section whether it relates to all Member States or is drawn from a subset. An indication of the robustness of the data should be provided in Annex II on Methodology and analytical models used.

							ongoing costs, due to the necessary frequent updates.	million (estimated annual maintenance costs €670.000); SURV3 €6.99 million (estimated annual maintenance costs €1,40 million).	
2) Familiarisation, training and/or process adaptation costs	One-off			One economic operator reported investing €8,000 in staff training on the AEO requirements.	Overall costs for adaptation to new rules was negligible, except for customs brokers who invested heavily in adaptation process and training.	In one Member State, 50 hours were spent on training officials on customs decisions, with an average hourly cost of €13. Another one reported spending 100 hours on workshops for economic operators to share information and guidance about the new rules	Overall costs for adaptation to new rules were negligible. Some MS had to adapt internal processes to implement UCC. Costs related to training on new rules on customs decisions, guarantees, temporary storage significant only for some Member States.		

						and the CDS (average hourly fee of €14).			
<b>Enforcement costs:</b> (costs associated with activities linked to the implementation of an initiative such as monitoring, inspections and adjudication/litigation)	One-off	Not applicable		Not applicable		Not available	Administrative costs for the mandatory reassessment of all authorisations issued before 2016 by customs authorities(in one case, around 1,000 full audits to re-assess all AEO authorisations issued before 2016).		
<b>Indirect costs</b>  <b>3) Costs of dealing with transitory uncertainties</b> (doubts about the correct implementation of new rules, leading to longer processes, duplications, time investment to clarify issues etc)	One-off	Not applicable		Not available	Impossible to estimate the extent to which problems of interpretation occurred, but costs could be non-negligible for some operator in specific case (e.g. German AEO was asked for detailed info about a large	Not available	Impossible to estimate the extent to which problems of interpretation occurred, but in general considered to be negligible.		



					number of staff by the customs authorities as part of the re-assessment of its authorisation)				
<b><u>Costs:</u></b> <b>Direct compliance costs</b> <b>1) Administrative burdens</b> (cost of information obligations imposed by the UCC e.g. submission and processing of customs declarations and notifications, applications for authorisations and for other decisions.)	<b>Type: recurrent</b>			Not available	Recurring administrative/ compliance costs of customs procedures and processes have not increased or decreased significantly.	Not available	Recurring administrative/ compliance costs of customs procedures and processes have not increased or decreased significantly.		
<b>2) Compliance costs</b> (substantive obligations imposed by the UCC on businesses, above and beyond the mere provision of information)	<b>recurrent</b>	Not applicable		For one economic operator, significant increase in the time spent per guarantee on monthly monitoring of the reference amount (estimated at 0.25 FTE to comply with the new rules)	Increased costs for operators for determining and monitoring the reference amount of comprehensive guarantees. Substantial costs to deal with new rules on simplifications, not compensated by benefits (because most of them depend on IT developments)	Not applicable			
<b>Enforcement costs:</b> (costs	<b>recurrent</b>	Not		Not applicable		Not available	Some costs due		

associated with activities linked to the implementation of an initiative such as monitoring, inspections and adjudication/litigation)		applicable					to the increase in the number of authorisations and/or average time spent per guarantee in determining and monitoring the reference amount.		
<b><u>Benefits:</u></b>  <b>Direct benefits</b>  <b>1) Rules streamlined and rationalised</b>	<b>recurrent</b>	Not available		Not available	Where rules have become more rational, they are easier to apply, with potential time savings for traders, such as customs decisions, guarantees, special procedures.	Not available	Where rules have become more rational, they are easier to apply, with potential time savings for customs officials to enforce (e.g. in relation to processing times and the tracking of time limits of decisions).		
<b>2) Clearer and more predictable rules</b>	<b>recurrent</b>	Not available		Not available	For operators active in several Member States, savings from the increased use of standardised processes and data; in general, clearer rules lead	Not available	Customs need to invest less time to understand how to apply rules, face less risks of legal challenge and find it easier to		

					to better informed decisions, due to less divergent practice in the different MS.		exchange information or deal with applications from other Member States.		
<b>3) Progress toward the paperless customs environment</b> (via the five trans-European systems completed to date CDS, AEO, REX, EBTI, SURV3)	<b>recurrent</b>	Not available		Not available	Harmonisation of processes via IT centralised or interoperable systems produced savings for traders (access to a single central system lead to faster processes; reduced processing times, reduced monitoring costs)	Not available	Harmonised processes via IT centralised or interoperable systems produced savings for customs (easier access/exchange of customs data, reduced processing times, reduced monitoring costs and reduced fraud (and related costs))		
<b>Indirect benefits</b> - UCC contribution to enabling customs to better achieve their mission	<b>recurrent</b>	Not available		Not available	Many of the expected benefits for traders in <b>trade facilitation</b> depend on IT systems that are yet to become operational (e.g. centralised clearance for	Not available	A number of measures have led to tangible improvements in terms of <b>protecting the financial interests</b> of the EU and its Member States (e.g. comprehen		

					imports, the harmonised data requirements, and the possibilities of comprehensive guarantees facilitated by the GUM system).		sive guarantees), but more benefits will depend on IT developments (e.g. ICS2 for more safety and security).		
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**TABLE 2: Simplification and burden reduction (savings already achieved)**

Report any simplification, burden reduction and cost savings **achieved already** by the intervention evaluated, including the points of comparison/ where available (e.g. REFIT savings predicted in the IA or other sources).

	Citizens/Consumers/Workers		Businesses		Administrations		[Other...] _ specify	
	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment
The UCC has <b>streamlined and rationalised customs rules and procedures in a number of areas</b> to a considerable extent. Where the rules have become more rational and well-structured, they are easier to comprehend and apply, with potential time savings for both customs officials and traders having to enforce or comply with said rules. This applies in particular to the <b>harmonised, clear and predictable rules on customs decisions and related Customs Decision System (CDS)</b>								
<b>Type: recurrent</b>	Not applicable		Monetisation/quantification not possible	Economic operators reported the process of applying for decisions has become significantly faster as a result of the new rules and the CDS	Monetisation/quantification not possible	Member States that chose the central approach reported savings related to processing times, tracking of time limits and reduction in the time taken to consult other customs administrations in case of multi-country decisions (via the CDS).		
The above statement also applied to the <b>centralised IT systems for the implementation of the rules of tariff and customs valuation (REX, EBTI, SURV3)</b>								
<b>Type: recurrent</b>	Not applicable		Monetisation/quantification not possible	Centralised systems ensure increased harmonisation of procedures across Member States and certainty for economic operators; some savings as a	Savings very difficult to quantify, as related mainly to the fact that most Member States no longer need	REX and EBTI reduce the time required for verification of declarations due to the harmonisation of procedures across Member States in these areas.		

				result of transitioning from a paper-based to an electronic system	to develop and maintain their own national systems but can directly access the centralised EU systems.			
The UCC has <b>contributed to strengthening the legal certainty and predictability of customs rules, procedures and processes in certain areas</b> (in addition to customs decisions: guarantees, AEO conditions, some special procedures, harmonised data requirements). By clarifying rules and criteria, it has facilitated their more consistent and harmonised interpretation and application across the EU.								
<b>Type: recurrent</b>	Not applicable		Monetisation/quantification not possible	Traders that are active in several Member States can achieve savings from the increased use of standardised processes and data, and can make better informed decisions due to common practices in different Member States.	Monetisation/quantification not possible	Customs officials need to invest less time in figuring out how to apply certain rules, are subject to a reduced risk of legal challenge and find it easier to exchange information with or deal with applications from other Member States.		

<b>PART II: II <u>Potential</u> simplification and burden reduction (savings)</b> <i>Identify further potential simplification and savings <b>that could be achieved</b> with a view to make the initiative more effective and efficient without prejudice to its policy objectives<sup>96</sup>.</i>								
	Citizens/Consumers/Workers		Businesses		Administrations		[Other...] _ specify	
	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment	Quantitative	Comment
<b>Customs simplifications (EU level centralised clearance at import, self-assessment): new simplifications introduced by the UCC with the greatest potential benefits for traders have not yet been fully or at all implemented and/or partly depend on future IT developments. Once fully implemented, the expected benefits should be available to traders and administrations.</b>								
<b>Type: recurrent</b>	Not applicable		Monetisation/quantification not possible	The impact of UCC simplifications varies depending on existing customs practices in the Member States prior to the UCC (e.g. <b>EIDR</b> worked better in the MS where this existed before 2016), thus more work to ensure harmonised implementation is needed. <b>Centralised clearance</b> not beneficial to traders until the related IT system will be completed.	Monetisation/quantification not possible	Uneven implementation of EIDR (in some MS the UCC rules made EIDR accessible to more traders, but in others it maintained status quo, and in yet others, it reportedly complicated the application of EIDR by introducing new limitations). Unclear rules on self-assessment prevent its		

<sup>96</sup> This assessment is without prejudice to a possible future Impact Assessment.

				<b>Self-assessment</b> is awaited by traders but clearer rules and approach are lacking to make it a reality		application in practice.		
<b>Other most significant expected benefits (e.g. better risk management thanks to ICS2, efficient management of guarantees, harmonised management of temporary storage) depend of the completion of relevant IT systems. It is therefore necessary to continue the upgrade/deployment of such systems according to the schedule for the missing benefits to materialise.</b>								
<b>Type: recurrent</b>	Not applicable		Monetisation/q uantification not possible	Many of the expected reductions of the burdens for traders depend on IT developments that are yet to be completed (including the harmonised data requirements, and the possibilities of comprehensive guarantees facilitated by the GUM system).	Costs for developing the IT systems (e.g. GUM, ICS2- not covered by this evaluation)	The system ICS2 is expected to bring major benefits in terms of better risk management with regard to the entry of goods into the EU.		



**Table 13: Timing of consultation activities**

Date	Actions
June-August 2020	Publication of the Evaluation Roadmap and request for feedback
November 2020-February 2021	Written questionnaires on the implementation of the UCC package to customs authorities and economic operators
April-July 2021	Public consultation
June 2021	Discussion in the Customs Expert Group – general legislation section
May-August 2021	Targeted consultation in the selected 10 Member States with customs officials, business representatives at EU and national level, Commission officials (112 in depth interviews in total)
September 2021	Plenary meeting of the Trade Contact Group to discuss views of trade representative at EU level on UCC implementation and problems
February 2022	Discussion in the Customs Expert Group – general legislation section

### Stakeholders identified

- **National customs authorities:** customs authorities in the EU Member States are the main actors responsible for implementing the UCC on the ground, while also playing an integral role in the policy development process. In light of the breadth of the UCC, this means that the study needed to cover not only EU customs authorities in a general sense, but to obtain detailed input concerning specific implementation choices, experiences and ideas for improvement. Aside from participation in a number of project groups supported by the Customs programme, all EU customs authorities are represented in the Customs Expert Group (CEG), which provided a forum for consultation twice during the study as well as facilitating contacts for the study team at national level.
- **Economic operators:** the international trade ecosystem involves thousands of economic operators who must comply with customs rules and who thus experience directly whether envisaged improvements are having the desired effects and whether changes to the rules are having positive or negative impacts. Sectors covered include logistics, sea, air and rail transport, express operators, postal operators, shipping, airports and seaports operators, chemicals, automotive industry, manufacturing industry. Their interests vary significantly depending on their size (large firms or SMEs), sector and role in the supply chain, highlighting the importance of broad consultation. Representative organisations are also important due to their specialist knowledge of the technical issues at stake. For this purpose, the Trade Contact Group (TCG) brings together 55 organisations across a wide range of interests. As with the

CEG, the TCG was able to act during the study both as a consultation forum and a door opener for more extensive contacts.

- **Commission services:** officials from DG TAXUD and all other DGs were invited to take part in an inter-service steering group (ISSG), which provided ongoing feedback on the study as well as facilitating the consultation activities. Since the Commission had an important role in steering the study, its views are not summarised and presented in this synopsis report.
- **EU citizens** were also identified as relevant, given the implications of safe and secure borders and the smooth flow of trade. They were invited to provide feedback on the inception impact assessment and to contribute to the public consultation. However, very few citizens offered their input, making it impossible to provide any general findings from this group.
- **Individual contributions** were sent to the Commission from two law firms, respectively from Germany and Netherlands. The first suggested an alignment of the definition of exporter in the UCC with the definition included in the dual use regulation. The second suggested an amendment to Article 116 UCC in relation to customs debt.

### **Consultation methods and tools**

Stakeholders were consulted via several complementary methods that aimed to ensure the right balance between breadth / representatives and the need for highly detailed information which are described below. With regard to validity and complementarity between the tools, the consultations were carried out so as to cover the widest possible spectrum of potential interests, priorities and experiences. Interviews were carried out among a large sample of customs authorities and economic operators, with a focus on a fairly large sample of 10 Member States, while the EU-wide coverage of the implementation questionnaire and public consultation allowed for the results to be validated among a broader audience. On the side of economic operators, a variety of sectors and profiles were covered, as well as both representative groups and individual companies. This speaks to a high level of confidence in the results. However, it should be borne in mind that most of the stakeholder input is not based on statistically representative sample.

**Evaluation roadmap.** Prior to the launch of the study, an evaluation roadmap was published and opened for feedback, from 19 June 2020 until 17 July 2020. This received four submissions, of which two were from EU-level representative organisations, one from an individual company providing legal advice to companies and one from an anonymous citizen. The feedback was taken into account in its own right, as well as helping the study team to define issues for investigation as part of the other consultation activities.

**Familiarisation interviews.** A series of 15 familiarisation interviews were conducted in September and October 2020 with Commission officials from all units in DG TAXUD Directorate A (Customs), officials from other relevant units within DG TAXUD, four Member State customs representatives, and two trade representatives.

**Implementation questionnaire.** The first part of the study entailed a comprehensive implementation review based primarily on questionnaire responses provided by Member State customs authorities and a sample of trade representatives and economic operators. The questionnaire was launched by email during the second week of November 2020 to all Member State customs authorities and to the 55 members of the Trade Contact Group (TCG). By mid-February 2021, all **27 Member State customs authorities**, and **21 trade representatives and economic operators** had submitted their response.

**Targeted consultation.** The targeted consultation formed the main data collection tool for the ‘evaluation’ part of the study, which focused on a set of eight ‘key issues’ where the UCC had introduced especially significant changes, as well as including a number of high-level, strategic interviews. The targeted consultation was mostly comprised of in-depth interactions by videoconference with customs officials and economic operators in a diverse sample of 10 Member States, as well as Commission officials. In total, about **112 formal interviews were carried out between May and August 2021**, while the consultation also included numerous follow-up and ad hoc discussions with stakeholders from the Commission and other organisations. The breakdown by Member State and main stakeholder group is presented below, showing a good geographical spread. For economic operators, the interviews also achieved a balance between sectors of activity and company sizes.

**Table 14: Targeted consultation sample**

No	Member State	Region	Size*	% of imports EU	% of exports EU	No. of interviews <sup>97</sup>	
						Customs authorities	Economic operators
1	Germany	NW	L	17.8	27.1	8	8
2	Netherlands	NW	M	15.1	8.2	8	3
3	France	NW	L	9.1	10.5	4	6
4	Italy	S	L	8.4	10.3	9	5
5	Poland	CE	L	3.6	2.3	5	5
6	Ireland	NW	S	1.5	3.9	4	0
7	Sweden	NW	M	2.1	3	7	5
8	Romania	CE	M	1.1	0.8	6	1
9	Estonia	CE	S	0.2	0.2	5	3
10	Luxembourg	NW	S	0.2	0.1	5	2
	Commission	N/A				13	N/A

<sup>97</sup> Counted among the interviews are a few stakeholders who preferred to provide their feedback in written form.

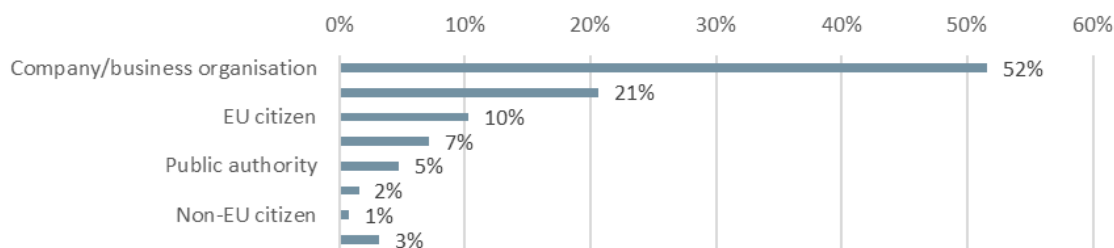
<b>Total by stakeholder group</b>	<b>74</b>	<b>38</b>
<b>Grand total</b>	<b>112</b>	

\* *L* > 30 million inhabitants, *M* 10-30 million inhabitants, *S* < 10 million inhabitants.

Source: Author's own elaboration. Size of Member State (population), Eurostat. Share of extra-EU imports and exports 2019, Eurostat.

**Public consultation.** This was carried out between 26 April 2021 and 19 July 2021. It aimed to reach primarily customs stakeholders, thus making it possible to gather feedback from more economic operators and customs authorities than would have been possible to engage otherwise using targeted methods. The public consultation also provided an opportunity for other stakeholders, primarily EU citizens, but also (non-customs) public authorities, third countries, and international organisations, to express their views. In total, the public consultation received **126 contributions, with 73% comprised of individual businesses or business associations.** Despite promoting the consultation in a variety of fora, just 13 replies came from 'EU citizens', likely owing to the specialised and technical nature of the subject matter. This meant that the views of citizens could not be considered as a group for the analysis. A breakdown of respondent types is provided in the figure below.

**Figure 11: Types of respondents**



Source: Public consultation - Interim evaluation of the Union Customs Code (UCC) (2021)

Base: 126 respondents

## Results of consultation activities

A summary of the consultation activities is presented below, in terms of the main criteria assessed for the study – implementation, relevance, effectiveness, efficiency, coherence and EU added value.

### Implementation

**National customs authorities.** Customs authorities largely expressed satisfaction with the state of UCC implementation so far. This showed from answers to the questionnaire, in which a large majority (about 75%) considered the UCC legal provisions to be on track. Around half said the same for the IT systems, with most of the rest in both cases signalling minor delays. However, the situation differed depending on the provisions in question. Customs authorities considered relatively straightforward and harmonised legal changes to be fairly easy to implement, while having more difficulty with complex changes, especially the more important innovations compared to the past and / or provisions linked to new IT projects. They also pointed to the challenge of dealing with

frequent changes and an extremely high ‘density’ of initiatives at the same time, including both different parts of the UCC and other projects affecting border management.

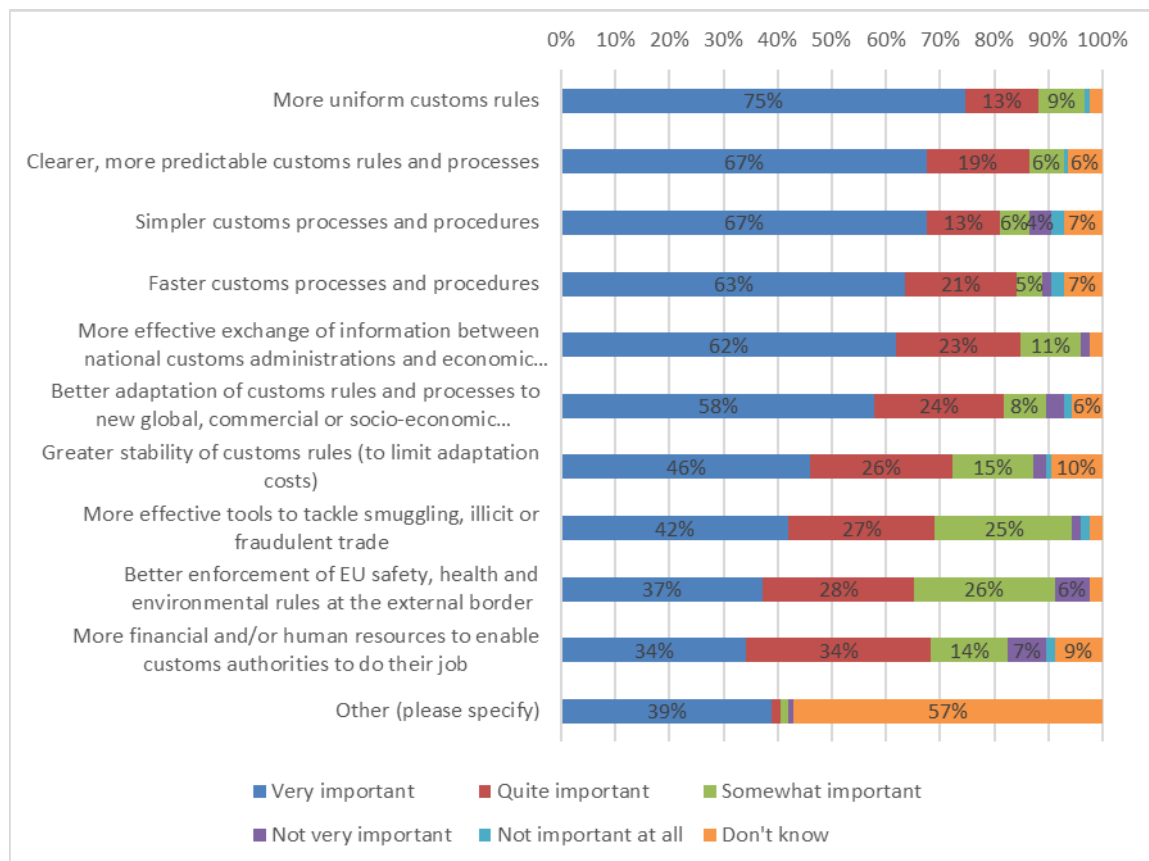
**Economic operators.** A similar dynamic emerged for economic operators as with customs authorities. Few difficulties were noted among the relatively straightforward provisions, while problems were concentrated in the more complex ones that were not yet fully implemented or in force. Since these included many of the ‘headline’ innovations of the UCC and changes expected to most benefit economic operators (e.g. EU centralised clearance for import), they expressed less positive views than customs authorities: only a third considered implementation of the legal provisions on track, while the remaining two thirds pointed to delays, were unsure or did not answer. For the IT systems, the figures were 14% and 86%.

## **Relevance**

**National customs authorities.** The extensive consultation with customs authorities revealed many needs of both a long-term nature (e.g. more uniform customs rules) and related to more immediate events and trends (e.g. Brexit, the COVID-19 pandemic). But none of these appeared outside the scope of the UCC’s general or specific objectives, indicating that these continued to be relevant for customs authorities. With regard to the appropriateness of the UCC legal and IT framework, customs authorities were generally positive in terms of its structure, clarity and coherence, as well as visibility and communication. While there was some criticism of its complexity, this was considered unavoidable because of the nature of the issues at stake. However, it is worth noting that customs authorities from a few Member States wanted a ‘revolution’ in customs that would move from the current ‘transaction-based’ approach to customs to a ‘system-based’ approach focused on regular audits rather than screening every consignment.

**Economic operators.** The views of economic operators are well encapsulated in the public consultation, of which 73% were businesses or their representatives. Asked about their needs and priorities, respondents pointed to a wide range of needs, all of which are covered under the UCC’s objectives (see figure below). This indicated the continued relevance of the objectives, as did the fact that respondents considered these aspects to have become more important during the years since the UCC was adopted. Regarding the appropriateness of the UCC legal and IT framework, views largely mirrored those of national customs authorities, with interviewees acknowledging that, despite its complexity, the UCC is quite well designed and structured.

**Figure 12: As of today, what are your (or your organisation’s) most important needs and priorities regarding EU customs rules and processes?**

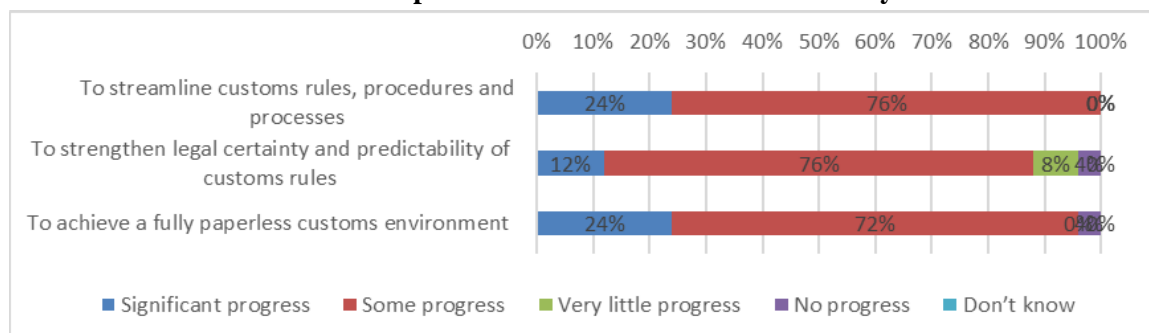


Source: Public consultation - Interim evaluation of the Union Customs Code (UCC) (2021); Base: 126 respondents

## Effectiveness

**National customs authorities.** With regard to progress towards its **specific objectives**, national customs authorities noted substantial, but uneven, progress. This was reflected in responses to the implementation questionnaire (see figure below): for all three objectives, the vast majority of Member States noted ‘some’ progress, with relatively few indicating ‘significant’ progress, or indeed ‘little’ or ‘no’ progress.

**Figure 13: How much progress do you think has been made towards the specific objectives of the UCC since its substantive provisions entered into force on 1 May 2016?**



Source: Implementation questionnaire, UCC Interim evaluation (2021). Base: 25 national customs authorities

Regarding **streamlining and simplification**, customs authorities noted that, while a number of rules had been rationalised, structured and better framed in the UCC, few

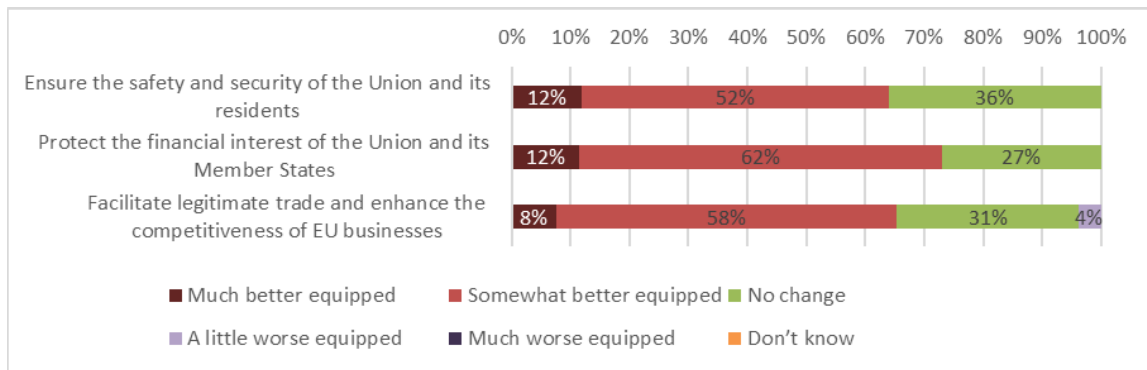
changes had served to make the rules or procedures simpler (aside from in a few specific areas). This was largely considered inevitable, given the variety and breadth of customs procedures and the complex context.

In the area of **legal certainty and predictability**, customs authorities agreed that, to a greater or lesser extent, the UCC legal framework has contributed to the objective, (1) by defining certain aspects more clearly and precisely in the legal text (e.g. the AEO criteria and conditions); (2) by harmonising elements that had previously been left to the discretion of Member States (e.g. time limits for customs decisions to be taken, certain elements regarding guarantees); and (3) indirectly, via the process of the intense deliberations and discussions about the UCC involving the Commission and Member States in various fora, during which many uncertainties were addressed and resolved. However, authorities differed in their assessment of the progress made: some felt that legal certainty had increased significantly, while others emphasised that the gains were only minor in an already quite certain and predictable EU customs environment.

As for the **paperless customs environment**, all but one Member State responding to the questionnaire noted progress towards the objective of achieving a fully paperless customs environment. However, around half of the interviewees from customs authorities raised important concerns, voicing uncertainty about the future as well as criticism of the decisions taken. This was attributed to several factors, including specific issues experienced, doubts about whether all Member States would enact the necessary changes and questions about whether more advanced approaches (such as the above-mentioned shift to a 'system-based' approach to customs) were needed.

Views on the **general objectives** were similar, reflecting their long-term nature as well as the partial state of implementation. As per the questionnaire (see figure below), the vast majority of customs authorities noted relatively minor changes either 'no change' or 'somewhat better equipped') in how well equipped the EU and Member States were to achieve their mission with regard to the different objectives. In addition, only a few respondents felt that the EU and Member States were 'much better equipped' to achieve its mission vis-à-vis any of the objectives, with most of the rest considering that the EU and its Member States were 'somewhat better equipped' to achieve their mission. Finally, views did not vary much by objective, aside from a slightly greater sense of progress on the objective to protect EU and Member State financial interests [through the proper collection of customs duties]. Explored further in the interviews with senior customs officials, it seemed that the reason for noting only minor impacts was that the most important changes introduced by the UCC depended on IT systems that were not yet operational. However, some interviewees also attributed the limited impact so far to delays. Regarding the balance between objectives, there was a feeling that the implementation had been focused on the provisions related to improving trade and controls more than facilitating trade.

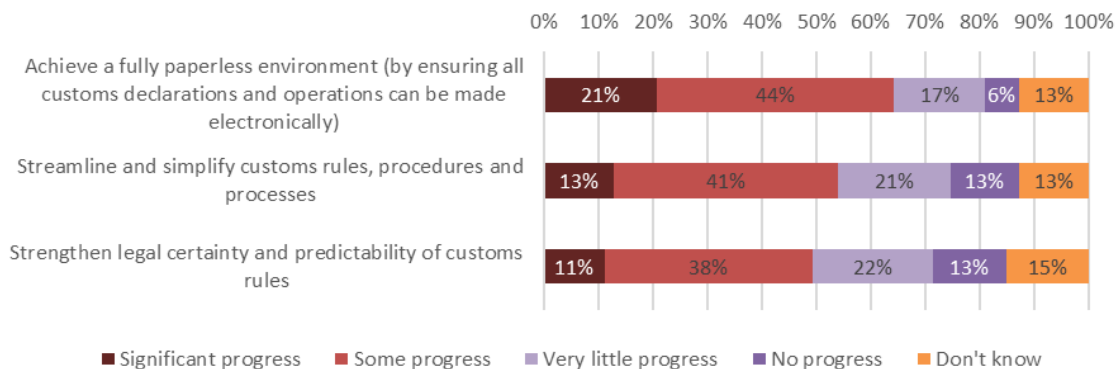
**Figure 14: Compared to the situation before May 2016, would you say that the EU and its Member States are better or worse equipped to achieve their mission?**



Sources: Implementation questionnaire, UCC Interim evaluation (2021); Base: 25 national customs authorities

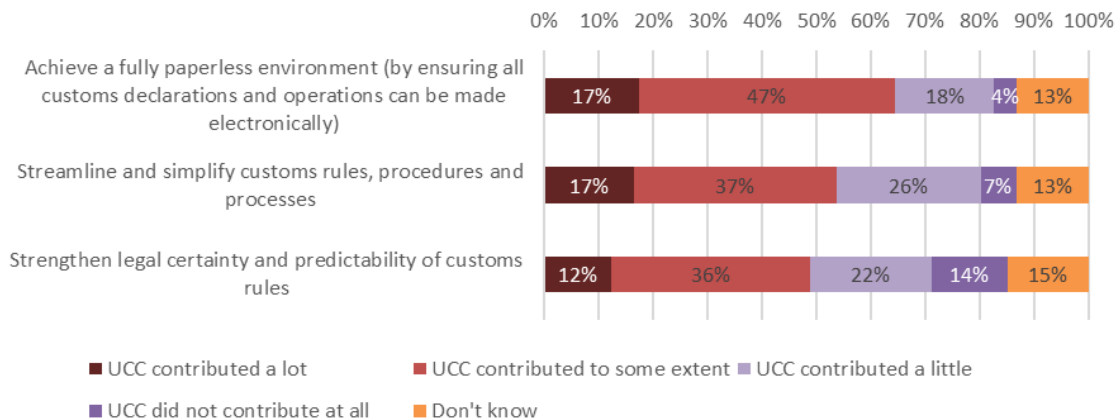
**Economic operators.** The views of economic operators were consistent with customs authorities in terms of progress towards the specific objectives, as shown in the figure below, and explained their positions in similar terms. Namely, a degree of streamlining was seen to have occurred, in addition to partial progress towards the paperless customs environment. However, the legal framework remained complex, while legal certainty had improved in some areas and not in others.

**Figure 14: In your view, how much progress did customs in the EU make towards the following objectives since the UCC entered into force (2016-2020)?**



Source: Public consultation – UCC Interim evaluation (2021); Base: 126 respondents

**Figure 15: To what extent did the UCC and its implementation to date contribute to progress towards these objectives?**

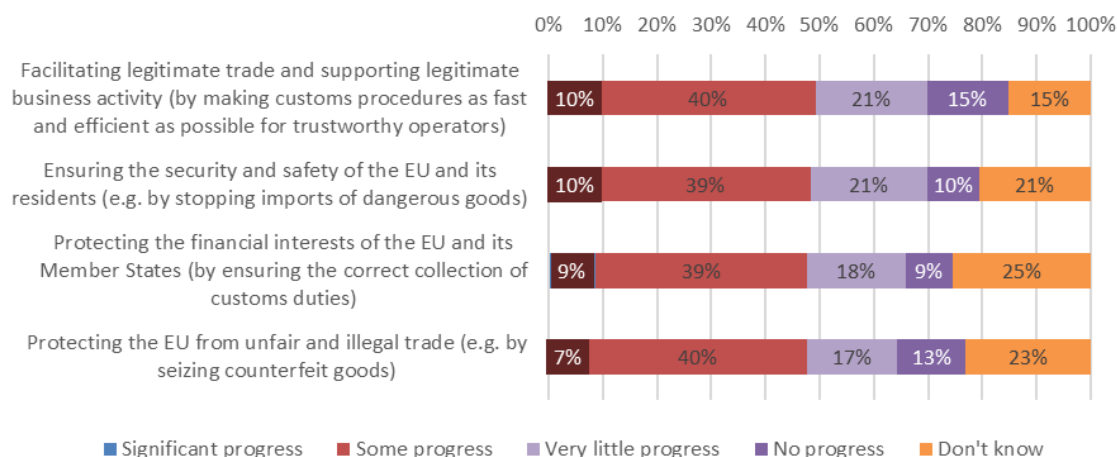




Source: Public consultation – UCC Interim evaluation (2021); Base: 121 respondents

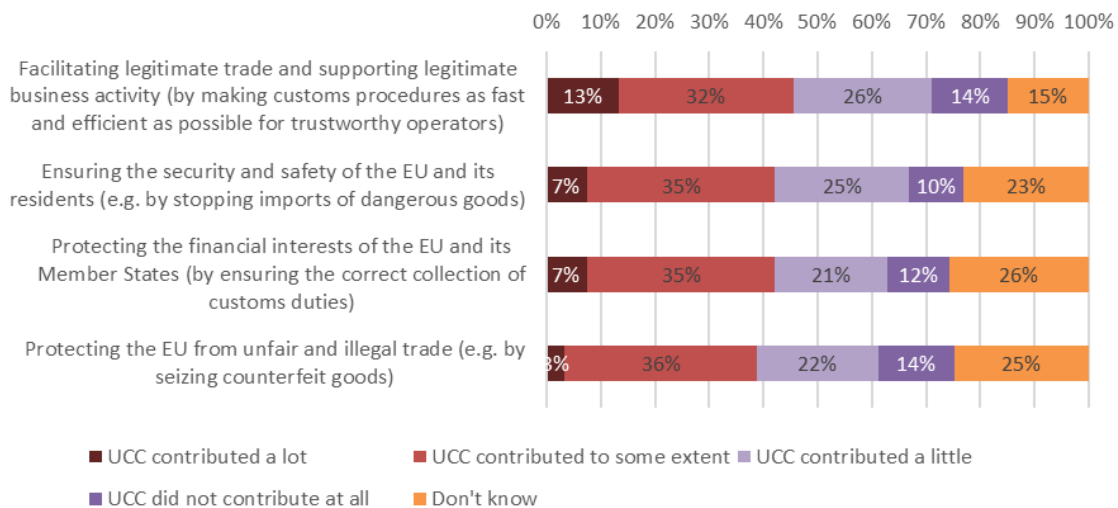
As shown in the public consultation, economic operators also held similar positions to customs authorities with regard to the **general objectives**. Relatively few respondents identified ‘significant’ progress, while the majority noted ‘some’ or ‘very little’ progress. Small proportions also noted ‘no’ progress. Considerable numbers of respondents (from 15% to 25%) were also unsure, indicating the difficulty for individual businesses of making judgements about the high-level achievements of the Customs Union. There was also no great variation in views for the different objectives. However, the proportions of ‘extreme’ responses noting both ‘significant’ progress and ‘no’ progress, and attributing this to the UCC, was larger for the trade facilitation objective than for the others. These contradictory responses are difficult to parse using the consultation results alone. But the feedback in the interviews with economic operators indicated that views on progress towards and the balance between the objectives have been shaped by the way the UCC has affected their specific operations and supply chains.

**Figure 16: In your view, how much progress did customs in the EU make towards the following objectives since the UCC entered into force (2016-2020)?**



Source: Public consultation – UCC Interim evaluation (2021); Base: 126 respondents

**Figure 17: To what extent did the UCC and its implementation to date contribute to progress towards these objectives?**



Source: Public consultation – UCC Interim evaluation (2021); Base: 121 respondents

## Efficiency

**National customs authorities.** Customs authorities emphasised the very high one-off IT development costs needed to implement the UCC, which frequently stretched them to the limit. In contrast, other one-off costs, e.g. for familiarisation and training, were considered marginal and easily absorbed. In terms of changes to ongoing costs, customs authorities pointed to some incremental cost reductions. These related to minor time savings for stakeholders as a result of clearer, more rational and well-structured rules and criteria in certain areas, and of the IT systems that have been deployed so far, as well as enhanced legal certainty and uniformity of interpretation and application of certain provisions. However, they explained that more substantial gains – particularly with regard to trade facilitation – will have to wait for all of the remaining IT systems to be deployed and the related provisions have been implemented.

With regard to overall cost effectiveness, both respondents to the implementation questionnaire and interviewees highlighted the importance of digitalisation. Given that customs authorities are incurring large upfront costs for systems that have not yet been implemented, they did not feel that the UCC's benefits yet outweighed the costs. Rather, this would depend on whether the pending IT projects proceed in line with the current timelines and end up fulfilling expectations. Customs authorities also pointed to a tension between increased clarity, predictability, streamlining and simplicity in certain areas, and insufficient harmonisation, non-uniform interpretation, and excessive complexity in others.

**Economic operators.** Economic operators have not borne IT development costs at anywhere near the level of other stakeholders, and thus did not express much concern about these, either in interviews or the public consultation. Some operators participating in interviews described the need to adapt internal processes or structures to cope with or take advantage of certain UCC rules, but did not consider these costs disproportionate and felt the benefits would outweigh them. As with customs authorities, economic operators did not consider recurrent administrative or compliance costs to have increased

or decreased significantly since the UCC's introduction, although incremental savings had been achieved in certain areas, in part due to the implementation of new IT systems. However, they were frustrated with what they described as the slow pace to implement certain facilitations and IT systems that were expected to generate concrete benefits for them, which they attributed to the partial state of implementation and limited focus on provisions focused on trade facilitation.

## **Coherence**

**National customs authorities.** While coherence with other policies was not addressed in the implementation questionnaire, customs officials were asked about it both at the strategic level and in terms of the eight key issues that the evaluation focused on. Senior customs officials interviewed generally agreed that the objectives to ensure safety and security and protect the financial interests of the EU and Member States aligned well with the objectives of other relevant EU legislation. They also felt that neither the UCC nor other EU legislation was designed in a way that would *explicitly* preclude close coordination in implementation. Increased digitalisation in the field of customs via the harmonised data requirements and UCC systems was also seen as a vital way of improving risk analysis, which was in turn seen to support the enforcement of other EU policies. With regard to the UCC's objective to facilitate legitimate trade, interviewees also did not consider that other competent authorities deliberately sought to hold up trade any more than was necessary to enforce their rules in force. However, they also saw themselves as bigger champions of trade facilitation than other competent authorities. The biggest concern was a lack of practical coordination on the ground between the authorities responsible for various policies, particularly but not only with regard to prohibitions and restrictions. All interviewees felt that coordination and collaboration needed to improve, with some suggesting that the customs domain could take more of a leading role.

**Economic operators.** The views of economic operators tended to echo customs authorities, in that they reported no conceptual inconsistency between the objectives of customs and other policies, but saw insufficient practical coordination on the ground. This was seen to increase compliance costs and cause delays, for reasons such as misaligned processes and the need to provide information multiple times or in multiple formats during goods clearance. They would welcome any efforts to improve coordination, building on initiatives such as the EU Single Window environment for customs.

## **EU added value**

**National customs authorities.** The uniformity mandated in the UCC calls on the national customs administrations of the EU to act as though they were one. Many of the customs authorities interviewed for the evaluation welcomed the enhanced level of uniformity and consistency fostered by the UCC, in areas such as the enhanced clarity and level of detail of the rules on decisions upon application (including binding time limits); the more detailed and clear conditions to be fulfilled to obtain the AEO status; the more detailed and specific rules on temporary storage; and the new guarantees

regime; as well as the clarification that BTI decisions are binding on both customs and traders, which has reportedly helped to reduce the practice of ‘BTI shopping’. However, customs authorities also acknowledged a continued lack of uniformity in other areas.

While this was sometimes attributed to the partial state of implementation, there were complaints about a lack of clarity in certain areas. The UCC also contains substantial room for discretion, e.g. in the field of risk management and controls and how AEOs are monitored. Depending on their own national priorities and capabilities, customs authorities were either satisfied with the current level of flexibility or wished for further harmonisation.

A similar dynamic held for the IT systems, which are split between a number of central systems, decentralised systems and national systems. Customs authorities acknowledged weaknesses to the hybrid model, and some pushed for further centralisation. However, most (especially from larger Member States) pointed to the heavy investments made in national customs systems, their alignment with national preferences and prerogatives, and the very high transition costs that would be expected from any wholesale drive for centralisation (not least considering the costs and difficulties to implement the current UCC Work Programme).

Finally, asked about the contribution of the Customs programme, many of the customs officials who were interviewed as part of the UCC evaluation referenced joint actions funded by the programme which had been very important and useful to discuss challenges with the interpretation and application of many of the new UCC provisions, and to develop joint approaches to areas that gave rise to uncertainties or ambiguities.

**Economic operators.** In comparison with customs authorities, economic operators tended to prefer increased harmonisation, since this would reduce the need for them to adapt to differing processes and IT systems across Member States. They expressed more frustration than most customs authorities about the lack of uniformity, and about the hybrid approach to IT system development, while rating the centralised IT systems that have been deployed very highly.

## ANNEX VI. THE UNION CUSTOMS CODE LEGAL ACTS, IT SYSTEMS AND PLANNING AND INTERVENTION LOGIC

The UCC package is composed of the main regulation, two delegated acts, two implementing acts and one implementing decisions. The rules and provisions contained in this package are defined, adopted and revised by the Commission in close and regular consultation with representatives of the Member States (mainly via the Customs Expert Group and the Customs Code Committee) and of economic operators (mainly via the Trade Contact Group). Other important consultation, collaboration and coordination fora include the Electronic Customs Coordination Group, as well as numerous project groups under the Customs 2020 financial programme on specific actions or issues.

The UCC package composition and content is described in the following table.

**Table 15: Legal acts of the UCC package**

Legal act	Adopted	Key content
Union Customs Code (UCC) "basic regulation"	Oct 2013	<p>The UCC defines the EU <b>legal framework</b> for</p> <ul style="list-style-type: none"> <li>- <b>customs rules</b>, such as rules on application of import and export duties, customs debts and guarantees, on customs status, on electronic systems and on simplifications</li> <li>- <b>customs procedures</b> for bringing goods into and taking them out of the customs territory, release for free circulation and special procedures, as well as rules for placing goods under a customs procedure, verification, release and disposal of goods.</li> </ul> <p>The UCC was amended three times:</p> <ol style="list-style-type: none"> <li>1) 2016: An amendment to Article 136 UCC concerning goods that have temporarily left the customs territory of the Union by sea or air. This amendment was necessary to ensure proper customs supervision in the case of certain goods which enter the Union through one port but continue their journey on a container ship to a second port in the Union and are only unloaded in that second port. As a result of the amendment, the goods must also be presented to customs in that second port.<sup>98</sup></li> <li>2) 2019: A package of technical amendments, a new article to provide relief from import duties on goods repaired or altered in the context of international agreements and a provision regarding the inclusion of Campione d'Italia in the customs territory.<sup>99</sup></li> <li>3) 2019: An amendment to Article 278 UCC to postpone the deadline for the upgrade or deployment of some of the UCC IT systems until 2025. The amendment aims at allowing customs authorities and economic operators to continue using transitional arrangements for the completion of a small number of customs formalities, until 2025</li> </ol>

<sup>98</sup> Regulation (EU) 2016/2339 of the European Parliament and of the Council of 14 December 2016 amending Regulation (EU) No 952/2013 laying down the Union Customs Code, as regards goods that have temporarily left the customs territory of the Union by sea or air (OJ L 354, 23.12.2016, p. 32)

<sup>99</sup> Regulation (EU) 2019/474 of the European Parliament and of the Council of 19 March 2019 amending Regulation (EU) No 952/2013 laying down the Union Customs Code (OJ L 83, 25.03.2019, p. 38)

Legal act	Adopted	Key content
		at the latest when the new or upgraded IT systems for the completion of those formalities will be in place <sup>100</sup>
UCC Delegated Act <sup>101</sup>	Jul 2015	<p>The Delegated Act supplements certain <b>non-essential elements</b> of the UCC, in provisions mirroring the structure of the UCC (titles, chapters). It is regularly amended to better implement the rules established in the UCC and adapt them to the needs of economic operators and customs administrations. It has been amended eight times:</p> <ol style="list-style-type: none"> <li>1) 2016: Correction of two provisions which accidentally omitted a facilitation provision of the CCC. <sup>102</sup></li> <li>2) 2018: A package of amendments including a revised definition of “exporter”; an extension of the time limit for taking a decision on repayment or remission of customs duties; the introduction of some flexibilities in the customs formalities applicable in the case of transactions between a Special Fiscal Territory and its mainland within the same Member State and making it possible for EU residents to import cars rented outside the EU for short periods such as holidays without paying import duties. <sup>103</sup></li> <li>3) 2018: An amendment to Article 84 in order to provide for more flexibility in relation to the criteria for a guarantee waiver or a guarantee reduction <sup>104</sup></li> <li>4) 2019: Amendments to introduce a new dataset for the declaration of certain low-value consignments (e-commerce), by modification of the column H7 of Annex B were added. <sup>105</sup></li> <li>5) 2020: Amendments to introduce new rules related to the waivers and time limits to lodge an entry summary declaration (ENS) and transitional provisions until the release of the Import Control System 2 (ICS2) are deployed. Also a new definition for the intrinsic value was introduced as well as some transitional provisions for postal operators and Member States to enable the smooth implementation of the VAT e-commerce rules and the creation of a new EU form</li> </ol>

<sup>100</sup> Regulation (EU) 2019/632 of the European Parliament and of the Council of 17 April 2019 amending Regulation (EU) No 952/2013 to prolong the transitional use of means other than the electronic data-processing techniques provided for in the Union Customs Code (OJ L 111, 25.04.2019, p. 54)

<sup>101</sup> Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1)

<sup>102</sup> Commission Delegated Regulation (EU) 2016/651 of 5 April 2016 correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 111, 27.4.2016, p. 1)

<sup>103</sup> Commission Delegated Regulation (EU) 2018/1063 of 16 May 2018 amending and correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 192, 30.7.2018, p. 1)

<sup>104</sup> Commission Delegated Regulation (EU) 2018/1118 of 7 June 2018 amending Delegated Regulation (EU) 2015/2446 as regards the conditions for a reduction of the level of the comprehensive guarantee and the guarantee waiver (OJ L 204, 13.08.2018, p. 11)

<sup>105</sup> Commission Delegated Regulation (EU) 2019/1143 of 14 March 2019 amending Delegated Regulation (EU) 2015/2446 as regards the declaration of certain low-value consignments (OJ L 181, 5.07.2019, p. 2)

Legal act	Adopted	Key content
		<p>302 for the movement of goods in the context of military operations.<sup>106</sup></p> <p>6) 2020: Amendments to adapt the time limits for lodging entry summary and pre-departure declarations for goods transporter by sea into the customs territory of the Union from the United Kingdom, in order to allow customs administrations to carry out a proper risk analysis for security and safety purposes, without causing major disruption to the logistical flows and processes of economic operators.<sup>107</sup></p> <p>7) 2021: An amendment to replace Annex B, which contains the common data requirements for the exchange and storage of information between customs authorities as well as between customs authorities and economic operators. The amendment clarifies the link between the different declarations, notifications and proof of the customs status of Union goods set out in Annex B and the customs electronic systems provided for in the UCC Work Programme, and to give Member States the possibility to use transitional measures until the update of the customs electronic systems in accordance with the UCC Work Programme is introduced.<sup>108</sup></p>
UCC Transitional Delegated Act <sup>109</sup>	Dec 2015	This Act establishes <b>transitional rules</b> for operators and customs authorities pending the upgrade / development of the relevant IT systems to create a fully electronic customs environment.
UCC Implementing Act <sup>110</sup>	Nov 2015	<p>The UCC Implementing Act sets out <b>uniform procedural rules</b> for the implementation of the UCC, in order to ensure its harmonised application by all Member States. Amended regularly, it also includes several annexes, such as Annex B containing formats and codes for the common data requirements, templates of certificates, etc.</p> <p>The UCC Implementing Act was amended seven times:</p> <p>1) 2017: Several provisions were amended to make the rules to issue a long-term supplier's declaration easier, to give exporters more time</p>

<sup>106</sup> Commission Delegated Regulation (EU) 2020/877 of 3 April 2020 amending and correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013, and amending Delegated Regulation (EU) 2016/341 supplementing Regulation (EU) No 952/2013, laying down the Union Customs Code (OJ L 203, 26.06.2020, p. 1)

<sup>107</sup> Commission Delegated Regulation (EU) 2020/2191 of 20 November 2020 amending Delegated Regulation (EU) 2015/2446 as regards the time-limits for lodging entry summary declarations and pre-departure declarations in case of transport by sea from and to the United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man (OJ L 434, 23.12.2020, p. 8)

<sup>108</sup> Commission Delegated Regulation (EU) 2021/234 of 7 December 2020 amending Delegated Regulation (EU) 2015/2446 as regards common data requirements, and Delegated Regulation (EU) 2016/341 as regards the codes to be used in certain forms (OJ L 63, 23.2.2021, p. 1-385)

<sup>109</sup> Commission Delegated Regulation (EU) 2016/341 of 17 December 2015 supplementing Regulation (EU) 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where the relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446 (OJ L 69, 15.3.2016, p.1)

<sup>110</sup> Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558)



Legal act	Adopted	Key content
		<p>to get a REX number for CETA and to ensure that International Road Transport is better secured in financial terms.<sup>111</sup></p> <p>2) 2018: Notably the procedural rules to facilitate the establishment of the preferential origin of goods were amended.<sup>112</sup></p> <p>3) 2019: Several provisions were amended mainly to expand the information that will be collected under the EU Surveillance system on goods released for free circulation so that Member States can comply with new VAT rules for e-commerce and new rules to fight VAT fraud. The new Regulation also modifies some rules on the exit of goods from the customs territory of the Union.<sup>113</sup></p> <p>4) 2020: Notably the procedural rules to reflect the gradual deployment of ICS2 were amended to determine the competent customs office for the release for free circulation of certain low value consignments and to introduce some procedural rules for the use of EU/NATO form 302 for the movement of military goods.<sup>114</sup></p> <p>5) 2020: Article 24 is amended for the sake of clarification in order to ensure a uniform implantation of the criterion laid down in Article 39(a) UCC, regarding the granting of the status of authorised economic operator (AEO).<sup>115</sup></p> <p>6) 2020: Modifications to Annexes 23-01, 32-01, 32-02, 32-03 and 72-04 to take account of the withdrawal of the United Kingdom from the Union.<sup>116</sup></p> <p>7) 2021: Annex B was replaced in order to harmonise the formats and codes for the common data requirements for the exchange and storage of information required for declarations, notifications and proof of the customs status of Union goods. The amendment also introduced transitional measures to facilitate the implementation of the new data elements in some specific situations.<sup>117</sup></p>

<sup>111</sup> Commission Implementing Regulation (EU) 2017/989 of 8 June 2017 correcting and amending Implementing Regulation (EU) 2015/2447 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 149, 13.6.2017, p. 19-56)

<sup>112</sup> Commission Implementing Regulation (EU) 2018/604 of 18 April 2018 amending Implementing Regulation (EU) 2015/2447 as regards the procedural rules to facilitate the establishment in the Union of the preferential origin of goods, and repealing Regulations (EEC) No 3510/80 and (EC) No 209/2005 (OJ L 101, 20.4.2018, p. 22-32).

<sup>113</sup> Commission Implementing Regulation (EU) 2019/1394 of 10 September 2019 amending and correcting Implementing Regulation (EU) 2015/2447 as regards certain rules on surveillance for release for free circulation and exit from the customs territory of the Union (OJ L 234, 11.9.2019, p. 1-13)

<sup>114</sup> Commission Implementing Regulation (EU) 2020/893 of 29 June 2020 amending Implementing Regulation (EU) 2015/2447 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 206, 30.6.2020, p. 8-26)

<sup>115</sup> Commission Implementing Regulation (EU) 2020/1727 of 18 November 2020 amending Implementing Regulation (EU) 2015/2447 as regards certain rules on Authorised Economic Operators (OJ L 387, 19.11.2020, p. 1-2)

<sup>116</sup> Commission Implementing Regulation (EU) 2020/2038 of 10 December 2020 amending Implementing Regulation (EU) 2015/2447 as regards the forms for guarantor's undertakings and the inclusion of air transport costs in the customs value, to take account of the withdrawal of the United Kingdom from the Union (OJ L 416, 11.12.2020, p. 48-51)

<sup>117</sup> Commission Implementing Regulation (EU) 2021/235 of 8 February 2021 amending Implementing Regulation (EU) 2015/2447 as regards formats and codes of common data requirements, certain rules



Legal act	Adopted	Key content
UCC Work Programme <sup>118</sup>	Apr 2014 (revised Apr 2016 and Dec 2019)	The Work Programme is an implementing decision that (1) defines the <b>projects for the 17 electronic systems provided in the UCC</b> ; (2) sets out an extensive plan for the implementation of those systems; and (3) governs the periods during which transitional rules are to be applied (pending the deployment of the new or upgraded systems). Detailed information on the status of each IT project is also provided yearly in the Multi-Annual Strategic Plan for Customs (MASP-C) <sup>119</sup> .
Impl. Reg. on Technical arrangements <sup>120</sup>	Jun 2019	This Regulation lays down <b>rules governing five of the 17 UCC electronic systems</b> : CDS, UUM&DS, EBTI, EORI, and EOS/AEO (which have been completed).

**Table 16: UCC IT systems included in the UCC Work Programme**

IT project	Content
<i>Trans-European Systems= to be developed or upgraded by the Commission in cooperation with the Member States, including central systems and systems that have a national component</i>	
<b>Registered Exporter System REX</b> (new)- centralised system	makes available up-to-date information on both registered exporters established in GSP countries (countries that benefit from the EU's Generalised Scheme of Preferences that provides preferential access to the EU market) and European Union operators exporting to GSP countries and certain other countries
<b>Binding tariff information BTI</b> (upgrade) – centralised system	aims to align with the UCC the database containing all binding tariff information that has been issued by customs authorities of Member States
<b>Customs decisions system CDS</b> (new) – centralised system	aims to harmonise across the Union the processes for customs decisions related to the application of customs legislation, by facilitating consultations during the decision-taking period and the management of the authorisations process
<b>Uniform User Management &amp; Digital Signature UUM&amp;DS</b> (EU Trader Portal, new) – centralised system	aims to provide direct and EU-harmonised trader access to different electronic customs systems as defined in the UCC
<b>Authorised Economic Operators – AEO</b> (upgrade) – centralised system	aims to improve the business processes related to AEO applications and authorisations taking account of the UCC changes

on surveillance and the competent customs office for placing goods under a customs procedure (OJ L 63, 23.2.2021, p. 386-531)

<sup>118</sup> Commission Implementing Decision (EU) 2019/2151 of 13 December 2019 establishing the latest version of the Work Programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code (OJ L 325, 16.12.2019, p. 68). See <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019D2151&from=EN>

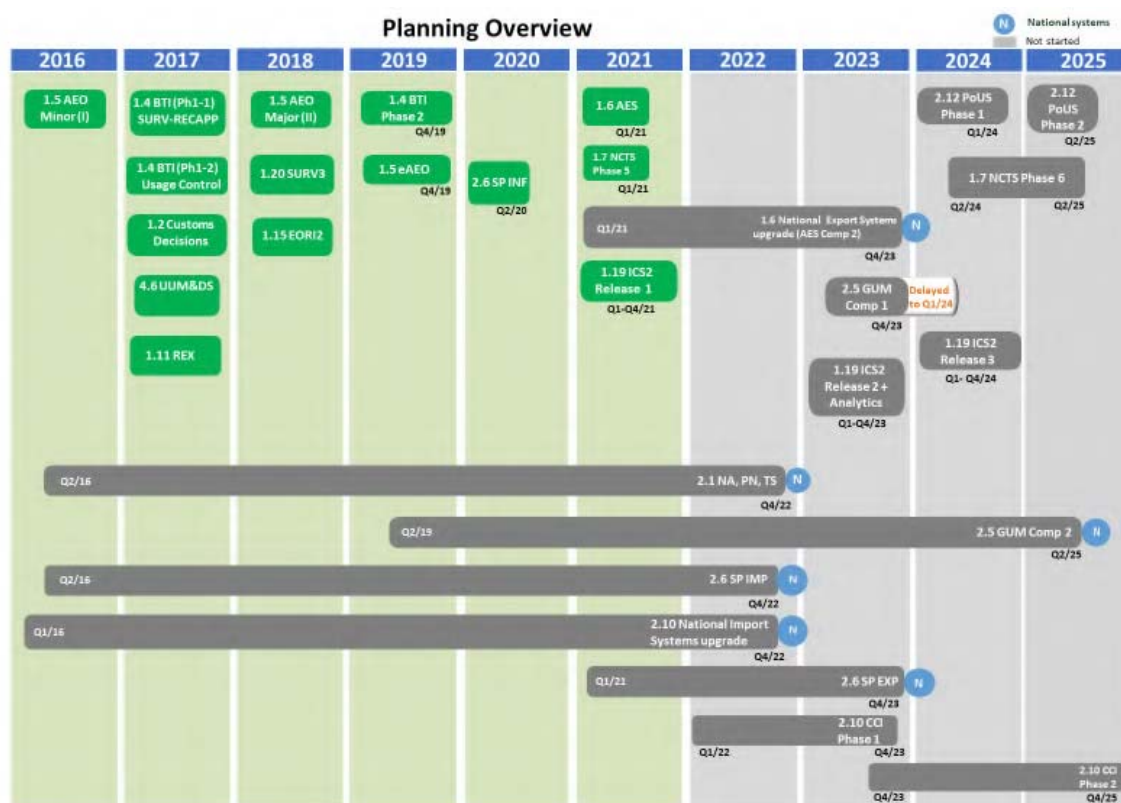
<sup>119</sup> See MASP-C, 2019 revision, particularly the Consolidated Project Fiches in Annex 2.

<sup>120</sup> Commission Implementing Regulation (EU) 2021/414 of 8 March 2021 on technical arrangements for developing, maintaining and employing electronic systems for the exchange and storage of information under Regulation (EU) No 952/2013 of the European Parliament and of the Council (OJ L 81, 9.3.2021, p. 37–64)

IT project	Content
<b>Economic Operator Registration and Identification System – EORI</b> (upgrade) – <i>centralised system</i>	minor upgrade of the existing system that enables the registration and identification of economic operators of the Union and third country persons active in customs matters in the Union
<b>Common customs tariff and surveillance – Surveillance</b> (upgrade) – <i>centralised system</i>	Upgrade of the existing database that records and centralises all EU trade data (imports and exports) provided on a daily basis by the national customs authorities;
<b>Proof of Union Status PoUS</b> (new) – <i>centralised system</i>	will store, manage and retrieve all declarations that traders provide to prove the Union status of their goods
<b>New Computerised Transit System NCTS</b> (upgrade) – <i>decentralised Trans-European movement system</i>	aligns the existing transit system to the new UCC requirements such as the registration of "en route" events, the alignment of information exchanges to UCC data requirements and the upgrade and development of interfaces with other systems
<b>Automated Export System – AES</b> (upgrade) – <i>decentralised Trans-European movement system</i>	aims to implement the UCC requirements for export and exit of goods (upgrade of both the existing trans-European system and of the existing National Export Systems)
<b>Standardised Exchange of Information for Special Procedures – INF</b> (new) – <i>centralised system</i>	new system to support and streamline the processes of data management and the electronic handling of data in the domain of Special Procedures
<b>Centralised Clearance for Import – CCI</b> (new) – <i>decentralised Trans-European movement system</i>	aims to coordinate between relevant customs offices the processing of customs declarations and the authorisation to release goods so that economic operators can centralise their dealings with customs authorities
<b>Guarantee Management – GUM</b> (new): – <i>centralised system</i>	aims to allow a real time allocation and management across the EU of comprehensive customs guarantees that traders lodge where there are risks that duties might not be paid
<b>Import Control System – ICS</b> (upgrade): – <i>Hybrid system</i>	aims to strengthen the safety and security of the supply chain by means of improving data quality, data filing, data availability and data sharing in regards to Entry Summary Declarations and related risk and control information
<b>National Systems to be developed by Member States</b>	
<b>Harmonisation and facilitation of special procedures – SP</b>	national systems will have to implement all UCC changes required for customs warehousing, end-use, temporary admission and inward and outward processing
<b>Notification of Arrival, Presentation Notification and Temporary Storage – NA, PN, TS</b>	defines the automation of processes at national level in respect of Notifications of Arrival of means of transport, Presentation of goods and declarations for Temporary Storage, as described in the UCC, and supports harmonisation across the Member States as regards the data exchange between trade and customs
<b>National Import Systems – NIS</b>	aim at implementing all process and data requirements deriving from the UCC which relate to imports

The 2019 version of the Work Programme takes into account this amendment of Article 278 UCC, which also includes the obligation for the Commission to publish annual reports on the progress in developing the electronic systems.<sup>121</sup> The picture below shows the current IT planning, with the systems already deployed in green and those that are being gradually developed in grey.

**Figure 18: current planning of the UCC IT systems**



The **intervention logic** set out below provides a graphical representation of the functioning of the UCC package towards its objectives. As mentioned in the introduction, the evaluation focuses on the *implementation* of the package, according to the political request on which the exercise is based. In addition, it should be noted that the alternative approach – developing an intervention logic for the *UCC per se* – would be very challenging to do, due to the extremely broad scope of the intervention. The UCC provides for a comprehensive legal and IT framework governing nearly all aspects of how EU customs operate, and covering all customs domains, procedures, declarations, decisions, systems, etc. Thus, attempting to depict all of the provisions, their relationships, causal linkages, and desired results in a readable visual format would be a very complex undertaking, the usefulness of which appears doubtful in proportion to the effort required.

The diagram below shows the main inputs (including the elements of the legal and IT package as well as the human, financial and technical resources required for its

<sup>121</sup> For 2020, Report from the Commission to the European Parliament and the Council pursuant to Article 278a of the Union Customs Code, on progress in developing the electronic systems provided for under the Code, COM/2020/806 final.

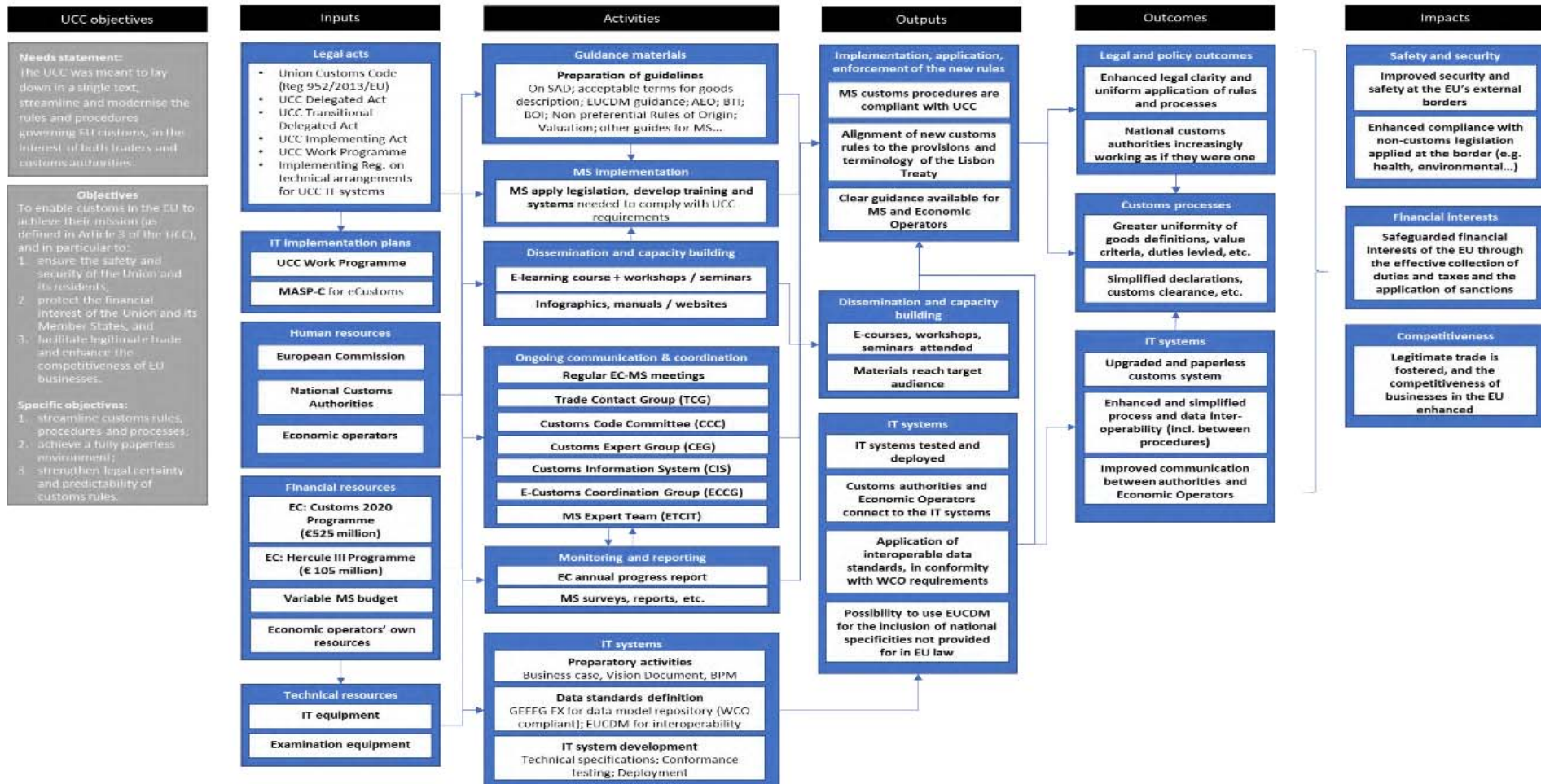
implementation), the activities to carry out, support, coordinate and monitor implementation; the direct outputs of these activities; and, at a relatively high level of aggregation, the main expected outcomes and ultimate impacts. It also contextualises these by highlighting the main objectives (left-hand side of the diagram) and some key assumptions needed for successful implementation (top of the diagram).

**Figure 19: Intervention logic of the implementation of the UCC**

- Member States take a sufficiently harmonised approach to implementation and enforcement;
- Member States provide high quality, complete and comparable information on implementation and compliance;
- Supporting IT systems are developed in a timely manner;
- UCC framework aligns with trade patterns and existing paradigms for sharing information and risk-based customs controls

## Assumptions

- Member States are able to connect with IT systems and exchange information;
- Member States and businesses have / are able to develop the capacities needed to implement the rules, procedures and systems effectively;
- The UCC strikes the right balance between enhancing safety and security and facilitating trade



## ANNEX VII. UCC STATE OF IMPLEMENTATION

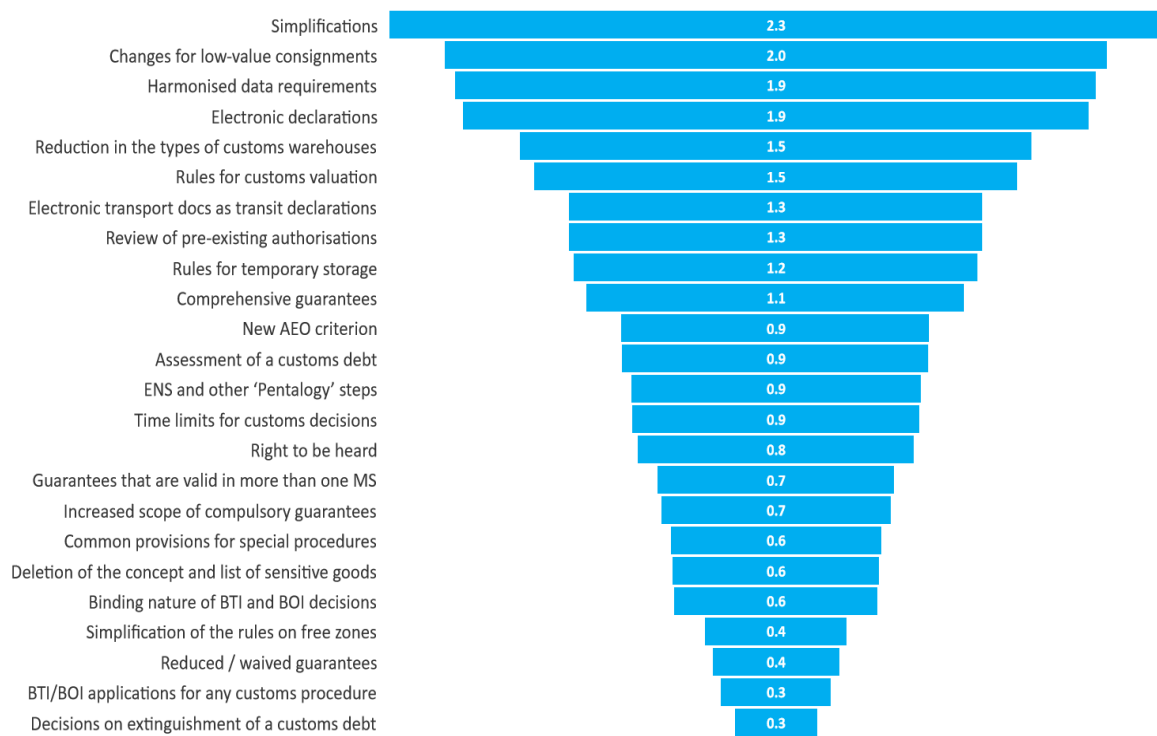
**Figure 20: Difficulties with implementation according to Member State customs**



### authorities

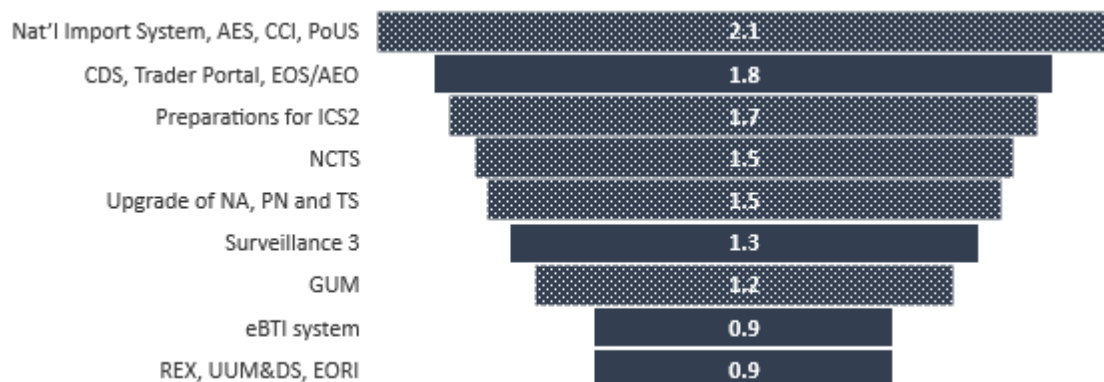
**Figure 21: Difficulties with implementation according to economic operators**





Source: Economisti Associati (2021)

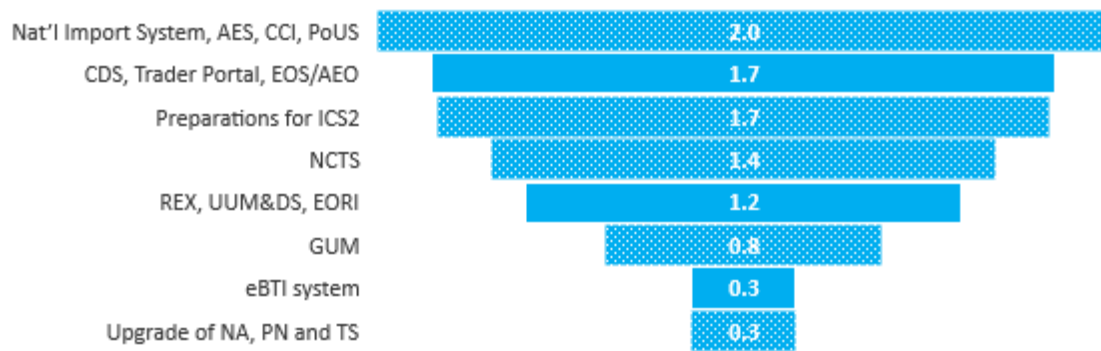
**Figure 22: Difficulties with implementation according to Member State customs authorities**



Bars in solid colour= IT systems that have already been deployed

Dotted bars= IT systems not yet deployed

**Figure 23: Difficulties with implementation according to economic operators**



Source: *Economisti Associati (2021)*