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COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

Customs reform: Taking the Customs Union to the next level

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1. INTRODUCTION

> *It is time to take the Customs Union to the next level, equipping it with a stronger framework that will allow us to better protect our citizens and our Single Market. I will propose a bold package for an integrated European approach to reinforce customs risk management and support effective controls by the Member States.* Ursula von der Leyen, President of the European Commission, July 2019[1].

The Customs Union is a true success story of European integration and prosperity: the European Union benefits strongly from being connected with the rest of the world through international trade, while goods can move freely within the EU Single Market, the world's largest integrated single market area[2]. In 2021, the value of EU trade with other countries amounted to EUR 4.3 trillion, accounting for 14% of world trade, while up to 56 million jobs in the EU are dependent on intra-EU trade[3].

Customs are the guardian of the EU's external border for goods and for the security of our supply chains. Customs supervises all goods entering or leaving the Customs Union, 24 hours a day and 365 days a year, processing 691.5 million import declarations, 17.5 million transit movements, and 486.3 million export declarations in 2021[4]. Customs identify risks, based on trade and security intelligence and carry out controls to ensure that EU rules are enforced. In 2021, customs collected more than EUR 50 billion per year in taxes and around EUR 25 billion in customs duties. 75% of the duties collected goes to financing the EU budget, representing 8% of the revenue of the EU's budget. At a time when financing needs for public investment have increased, it is of strategic importance to equip customs in the EU with the tools to protect the EU's and Member States' financial interests. At the same time, customs tariffs and other trade measures protect the EU against unfair trade practices. Increasingly, the role of customs in protecting the EU goes beyond tariffs, by enforcing, together with other authorities, standards e.g., on health, environment, security, and safety, especially through prohibitions and restrictions[5], for example trafficking in illegal drugs and firearms.

The early 2020s have been marked by tectonic shifts in the geo-political landscape leading to disruptions in global supply chains, re-emphasising the need for the EU to identify and reduce its strategic dependencies. This should be done through a mix of measures, as laid out in the EU Green Deal Industrial Plan[6]. For EU businesses to prosper in this new era and to keep and develop production capacities within the Single Market, notably in critical industries, a level playing field with non-EU producers is key. International competition can only work to the mutual benefit of trading partners when rules are applied and enforced. Addressing unfair competition and production methods that undermine the EU's health, safety and security standards or exploit the environment or forced labour, benefits the EU and its trading partners.

A well-functioning Customs Union is thus fundamental to the EU's competitiveness, sustainability and resilience. A reformed and strengthened Customs Union will preserve the

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[1]   Political Guidelines for the Next European Commission 2019-2024, page 16.
[2]   Measured in purchasing power parity, IMF World Economic Outlook.
[3]   International trade in goods - Statistics Explained (europa.eu).
[4]   EU Customs Union – unique in the world (europa.eu).
[5]   European Commission, Directorate-General for Taxation and Customs Union, Integrated EU prohibitions and restrictions list: indicative calendar and list as of 1.1.2022 legal notice, Publications Office of the European Union, 2022.
[6]   Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee and the Committee of the Regions A Green Deal Industrial Plan for the Net-Zero Age, COM (2023) 62 final.

integrity of the Single Market, helping to maintain EU competitiveness in the twin green and digital transitions. This means that effective monitoring and control of supply chains for goods at the EU's external border is, more than ever, of strategic importance for the EU.

2. CUSTOMS IN TRANSITION AND UNDER PRESSURE

> *European Customs do not yet currently function 'as one'. This leaves the Customs Union at the mercy of its weakest link. Incremental changes introduced over the years were necessary [...]. Nonetheless, in a fast-changing world, these are insufficient to address the scale of the challenges faced by Customs. The Customs Union is not 'fit for purpose'* **Wise Persons Group on the future of customs**[7]

Throughout recent crises, and despite the limitations of the current framework, customs have successfully and swiftly delivered. Customs have played an essential role in the EU's coordinated and forceful response to the unprovoked Russian invasion of Ukraine: from enforcing export bans - including on dual use and military goods - and import controls, to supporting humanitarian aid via duty reliefs and green lanes. This came only a year after the decisive role of customs during the COVID-19 pandemic in monitoring the transit of life-saving vaccines and medical equipment, while adapting to disrupted and shifting global supply chains. At the same time, the end of the transition period following the withdrawal of the United Kingdom from the EU effectively changed the boundaries of the Customs Union in 2021; a tremendous challenge which customs have successfully managed.

However, these crises also highlighted the indisputable need for a structural modernisation to make EU Customs a strategic capability of the European Union. Under the current Union Customs Code Regulation (UCC)[8] and its resulting governance framework, customs legislation and common tariffs are an exclusive EU competence, while Member States are responsible for implementation, most importantly by means of performing risk management and controls on the ground. According to the European Court of Auditors (ECA), this setup leads to substantial and largely undesirable discrepancies in the application of customs legislation across Member States, weakening the Customs Union, hampering the EU's financial interest and allowing *non-compliant operators [to] target EU points of entry with lower levels of controls*[9]. These same weaknesses and gaps are also exploited by non-compliant trade and by organised criminal operations, undermining the security of the EU and the integrity of the Single Market. Independent studies consistently show the high non-compliance rates of imported products in different manufacturing sectors, such as chemicals[10] and toys[11]. Non-compliant products entering the EU hamper the competitiveness of compliant businesses and pose serious risks to the health and lives of EU consumers, with product-related injuries and premature death causing unmeasurable pain for those affected. A recent report found that 95% of products sold via online marketplaces are non-compliant with chemicals laws in different ways[12]. In this regard, societal costs are estimated at EUR 76.6

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[7]   Putting more Union in the European Customs: Ten proposals to make the EU Customs Union fit for a Geopolitical Europe, Report by the Wise Persons Group on the Reform of the EU Customs Union, Brussels March 2022.
[8]   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).
[9]   ECA Special Report 04/2021: Customs controls: insufficient harmonisation hampers EU financial interests.
[10]   Based on the latest REACH and CLP enforcement report, up to 28% of imports are not compliant with REACH and the Classification, Labelling and Packaging (CLP) Regulation. According to a recent CEFIC (European Chemical Industry Council) report, in 2020 80% of non-compliant articles containing banned or restricted chemicals comes from outside the EU/EEA.
[11]   In 2016-2021, dangerous toys found on the EU market represented more than a quarter of total RAPEX / Safety Gate alerts, with a significant proportion of unsafe toys originating from non-EU countries (85% from China alone).
[12]   EEB report on Online Platforms: Role and Responsibility in Ecodesign policy.

billion per year[13].

Customs are increasingly burdened with an ever-growing range of tasks. In the last years the EU has agreed a significant number of very ambitious legislation setting environmental, safety, health, social and digital standards that shape the way businesses operate within and beyond the Single Market. Recent examples include the updated General Product Safety Regulation [14], the Regulation to minimise EU-driven deforestation[15], the Regulation to prohibit products made with forced labour[16], the EU Carbon Border Adjustment Mechanism[17] and the European Accessibility Act[18]. To date, goods need to comply with over 370 pieces of EU legislation that customs have a duty to enforce. The steady increase of tasks related to the enforcement of EU legislation on prohibitions and restrictions, has resulted in significant pressure on customs. Moreover, without a central supply chain supervision, the EU does not have full visibility and control over which goods enter and leave the Single Market. This weakens not only the credibility of the EU's sectoral policies, but also limits the EU's power as a geopolitical actor.

This challenge is intensified by a drastic increase in trade volumes, **largely driven by the extraordinary growth of e-commerce which generates an exponential number of small packages of low-value goods**. The 2017 VAT e-commerce reform, which aimed to respond to the sharp growth of e-commerce, introduced several simplifications for the collection of tax on e-commerce transactions and removed the VAT exemption on imported goods[19]. While the reform did not remove the EUR 150 customs duty exemption, it introduced the obligation to lodge an electronic customs declaration, leading to 1 billion additional customs declarations in 2022, coming on top of the standard customs declaration, which have already almost doubled from 376.8 million items in 2019 to 691.5 million items in 2021. Moreover, maintaining the customs duty exemption for goods up-to EUR 150 has left the door open for the systematic abuse of that threshold through undervaluing and splitting of consignments. About 65% of the e-commerce consignments are undervalued[20] with a view to avoiding customs duties, while studies suggest that 66% of products purchased online do not meet EU safety requirements[21]. Finally, the difference between the VAT and customs treatment of e-commerce goods renders the system complex for the parties involved. Today, customs do not have today the means to properly enforce the rules of international trade on cross-border e-commerce. A tailor-made customs regime for e-commerce is needed.

The 2013 Customs Reform establishing the UCC, in force since May 2016, moved EU Customs to a paperless, integrated and fully electronic environment. The IT deployment

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[13]   Impact assessment accompanying the document 'Proposal for a Regulation of the European Parliament and of the Council on general product safety' (SWD (2021) 168 final).
[14]   Proposal for a Regulation of the European Parliament and of the Council on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council, and repealing Council Directive 87/357/EEC and Directive 2001/95/EC of the European Parliament and of the Council (COM(2021)346).
[15]   Proposal for a Regulation of the European Parliament and of the Council on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 (COM (2021) 706).
[16]   Proposal for a Regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the Union Market (COM(2022)453).
[17]   Proposal for a Regulation of the European Parliament and of the Council establishing a carbon border adjustment mechanism, COM/2021/564 final.
[18]   Directive (EU) 2019/882 of the European parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019, p. 70).
[19]   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).
[20]   Copenhagen Economics (2016), E-commerce imports into Europe: VAT and Customs treatment.
[21]   https://www.beuc.eu/publications/beuc-x-2021-004_is_it_safe_to_shop_on_online_marketplaces.pdf

of the reform is ongoing and will be completed by the end of 2025. It focuses on digitising existing processes without changing underlying principles. However, as already indicated in the Communication 'Taking the Customs Union to the Next Level: A Plan for Action'[22], which was broadly supported by the Council in its Conclusions of December 2020, the ongoing completion of the UCC roll-out is needed but insufficient for addressing emerging challenges. Equally, the European Parliament stressed the importance of fully digitising Customs IT systems by 2025 but called for further reform to improve the UCC and adapt it, in particular to address 'the challenges and risks arising from e-commerce'[23]. The current approach of connecting national IT systems at EU level is reaching its limit. Not only is it expensive to develop and maintain 27+1 IT systems, and for trade to connect to different national systems, but the speed of adaptation to change is slow and customs data remains fragmented.

3. THE NEXT LEVEL – CORE PRINCIPLES AND KEY FEATURES OF THE REFORM

To bring a step change to the Customs Union that will stand the test of time in the coming decades, the Commission has now tabled the most ambitious and comprehensive reform of the Customs Union since its birth in 1968, founded on three core principles:

1. An **efficient Customs Union** with simplified and modernised customs procedures, so that legitimate businesses can benefit from trading opportunities with certainty that their competitors also play by the wide range of rules enforced under the customs umbrella, no matter where the goods enter the EU.

2. A **geopolitical Customs Union**, capable of better defending the financial interest of the EU and its Member States as well as EU's security, safety, health, economic or environmental interests and values, to coordinate trade restrictions and shape international customs cooperation, by pooling competence and expertise at central level in the EU Customs Authority.

3. An **agile and future-proof Customs Union**, adapting flexibly to changes in supply chains, be it the twin green and digital transitions in the ongoing decade, or future developments in supply chain management. This will be supported by the new EU Customs Data Hub which is designed to evolve with new requirements in customs operations over time, unlike traditional IT systems that are built for specific processes and purposes only.

Box 1: The Customs reform in a nutshell

This reform seeks to establish a more cost-efficient and effective cooperation framework governing the Customs Union, based on a **new partnership among EU customs authorities and between customs and business,** with two overarching objectives:

(i) **Reduce compliance costs** for administrations and businesses through simplified and modernised procedures (chapter 4)

(ii) Enable EU Customs to **better protect the financial and non-financial interest of the EU and its Member States as well as the Single Market,** based on common, EU-wide risk management and more harmonised controls (chapter 5)

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[22]   Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee, Taking the Customs Union to the Next Level: A Plan for Action (COM (2020) 581 final).

[23]   European Parliament resolution of 18 January 2023 on the 30th anniversary of the single market: celebrating achievements and looking towards future developments (2022/3015(RSP)).

These two objectives are inherently linked: The more control capabilities are strengthened; the more procedures can be simplified. The more procedures are simplified, the more resources can be freed up to tackle illicit trade. To deliver on this ambition, the reform proposes to set up two key enablers: the EU Customs Authority and the EU Customs Data Hub.

The key function of the **EU Customs Authority** (see also Box 5) will be to **pool expertise and competences** that are currently scattered across the EU, to steer, coordinate, and support national customs authorities in the EU. This will enable strengthened supply chain supervision, with customs authorities at EU and national level **'acting as one'** when it comes to controlling the EU's external border for goods.

The new **EU Customs Data Hub** (see also Box 3) will be the face and the engine of the Customs Union and a prerequisite for strengthening supervision and simplifying procedures. It will over time integrate and replace the existing Customs IT infrastructure and at the same time enhance interoperability with related policy fields (see also chapter 6). Thereby, the EU and its Member States will **save billions in IT development and maintenance costs annually** compared to the status quo[24].

Traders will see an annual reduction of compliance costs of around EUR 2.7 billion per year due to the simplified procedures. Moreover, the reform will secure several billions of additional public revenue in the EU, by reducing tax and customs fraud and tackling undervaluation. The tailor-made e-commerce regime will also bring additional revenue, estimated at EUR 1 billion per year.

4. SIMPLER CUSTOMS PROCEDURES – A NEW PARTNERSHIP BETWEEN CUSTOMS AND BUSINESS

The reform covers three layers of simplifications: A first set of measures will reduce formalities for all traders, yet without reducing customs' control capabilities. A second set of simplifications will be applicable only to a selected group of 'Trust and Check traders', building on and improving the existing concept of *Authorised Economic Operators (AEO)*[25]. Lastly, the reform will put in place a tailor-made customs regime for e-commerce, to reduce the compliance costs linked to processing e-commerce and establish full transparency for consumers. Transparency is the overall guiding principle of this reform: the more transparent traders are with customs about their supply chains, the less interference is needed on the ground. This represents a fundamental shift in the relationship between customs and business that will reduce administrative formalities and unnecessary red tape while boosting risk management capabilities.

Box 2: Major simplifications for businesses and authorities

Key simplifications of this reform include:

- **Single EU interface. Customs data will only need to be submitted to the EU Customs Data Hub, as opposed to multiple interfaces from the 111 separate systems in place across the EU today**. Because information is gleaned from stable supply chain data, supporting documents only need to be submitted once for multiple consignments. The obligation to submit standardised declarations will be removed and replaced by the

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[24] The benefits and cost savings are even more pronounced compared to a counter-factual scenario of an un-coordinated national roll-out of data hubs, further fragmenting the Customs Union.
[25] AEO status is a certified standard authorisation issued by customs administrations. It certifies that an economic operator has met certain standards in relation to, e.g., safety and security, compliance with customs rules, and financial solvency.

obligation for the relevant actors to make available the relevant information on time. In such a way, compliant goods could flow without any customs intervention[26].

- **Customs One-Stop-Shop. Trust and Check Traders will have one *single* customs administration as a partner while operating across the EU.** Instead of having to deal with up to 27 national customs administrations with different practices, traders will exchange with one customs administration in the place of their establishment, facilitated by the EU Customs Data Hub. This approach may be extended to all traders after a thorough review in 2035.
- **Simpler and more transparent e-commerce import processes.** Platforms will be considered the importers of the goods they sell and must report those sales to customs. This will ensure full transparency for EU citizens, who no longer risk facing unexpected compliance fees from the postal or express operators.
- **A simplified 4-bucket method to calculate duties for low-value goods.** The reform will introduce a new system for low-value consignments that substantially simplifies the classification and valuation of low-value goods, without creating loopholes for fraud. This will enable the removal of the customs duty exemption for goods worth up to EUR 150, which is currently a source of customs and VAT fraud.

Customs processes reflect the complex reality of international trade, involving a multitude of actors such as suppliers, traders, transporters and service providers. Today, information is collected in multiple declarations for each consignment of goods no matter its size, and at different stages: before entry or exit, at arrival, for temporary storage and for placing the good under a customs procedure. Declarants need to be familiar with up to 27 different national IT environments. They may also need to provide supporting documents related to the origin or manufacture of goods depending on their nature, such as when their production may be at risk of breaching EU prohibition and restriction legislation (e.g., the geo-localisation of the forest to fight against deforestation or information on manufacturers convicted for forced labour). The formalities and various processes have an administrative overhead and come at a cost to trade.

At the same time, customs can only enforce the rules when they know in advance which goods are departing or arriving and can decide whether and where interventions and checks are necessary. In an ideal world, procedures for compliant trade flows would therefore be simple, accessible and fully automated. Customs would then be able to focus their resources to better target risks and carry out controls in the least disruptive way. For this to happen, customs' attention must shift from a focus on the process compliance of individual consignments, towards a focus on the problems and risks of overall supply chains, based on the information available to them. This customs reform will therefore strengthen customs' capability to supervise supply chains and intervene, wherever necessary (see also chapter 5). Interoperability with other relevant databases, enabling links such as those between the EU Customs Single Window Certificates Exchange and the Digital Product Passport[27] registry, will be instrumental in facilitating customs and enforcement checks by providing standardised information in electronic form.

Box 3: The EU Customs Data Hub - embracing the industrial data revolution

The EU Customs Data Hub will be the face and the engine of the Customs Union. It will collect, process, connect and store all relevant data, thereby redefining the way in which information is provided, used for customs supervision and shared with partner authorities. It

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[26] This excludes goods which are subject to restrictions.
[27] As introduced in the proposal for a Regulation establishing a framework for setting ecodesign requirements for sustainable products and repealing Directive 2009/125/EC (COM(2022) 142 final).

will also run EU-level risk analysis. The EU Customs Data Hub is a key enabler and pre-requisite for:

- **The simplified procedures and reduced compliance costs** for businesses and authorities alike. Information can be provided to customs by connecting directly to the EU Customs Data Hub, instead of multiple national systems. It allows for multiple-filing and stable information can be provided once and reused for subsequent imports or exports.

- **A common, EU-wide risk analysis underpinning control recommendations**, based on centralised data, more efficiently and effectively protecting the EU's external border for goods (chapter 5). The information provided to the EU Customs Data Hub will be used for EU and national risk analysis. Beyond the EU Customs Authority, national authorities as well as the Commission, OLAF, European Public Prosecutor's office (EPPO), and under certain conditions Europol and Frontex will have access to the EU Customs Data Hub, substantially strengthening their analytical capabilities. This enables an EU-wide overview of risks and means that risks can be tackled across the EU, regardless of where goods enter, thereby supporting EU and national risk management.

4.1 Simplifications for all traders

In the current system, customs formalities are usually taken care of by a declarant, who is not necessarily the importer or the exporter. In the new system, each single consignment will be linked to **one single operator, who will be liable for compliance with duty payments and product rules.** Importers and exporters will be responsible for paying the applicable duties and taxes and ensuring compliance with the various procedural and legislative requirements.

In this **innovative new partnership**, businesses will be able to provide the information they usually need to provide to customs on their imports and exports directly via one IT interface – the EU Customs Data Hub. Different actors involved in moving the goods, such as transporters or warehouse operators, will also enter their relevant data elements via the new tool. Emphasis will be placed on the collection of first-hand data from trade and commercial systems, web platforms and other sources with a complementary reduction in reliance on third-party data and in customs processes in general. Stable information on supply chains that is not expected to change in the short term can be provided once and reused for subsequent imports or exports. Over time, this will develop into a full overview of businesses' supply chain and activities.

This partnership will not create any new loopholes that criminal activities could exploit: customs will have all the real-time information they need on which goods are coming and when (see also chapter 5). Customs risk analysis will be strengthened by collecting better data on the supply chain and introducing EU-level risk analysis to fight cross-border fraud and that, under certain conditions, may feed into the threat assessment analyses developed by other Union agencies, including Europol and Frontex, within their respective competencies. Customs will have a bird's-eye view of ongoing trade and supply chains. Together with partner authorities they could intervene on any given consignment according to its risk analysis before loading, at entry, during transport or at destination.

4.2 Simplifications for 'Trust and Check traders'

A small group of selected 'Trust and Check traders' will benefit from even greater simplifications that would reduce to a minimum paperwork and formalities[28]. Transparent trade flows will be able to move via 'green lanes' without formal customs

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[28] By contrast, the obligation to provide certain minimum pre-loading and pre-arrival information must remain.

interaction and free of administrative burden, while customs will request a control only if necessary. The concept of 'Trust and Check traders' builds on the current AEO status while upgrading and strengthening it. Like AEOs, 'Trust and Check traders' will have to comply with a number of criteria aimed at ensuring that they are *trustworthy* operators such as a clean legal record, a high level of control of their operations and supply chain, and financial solvency. In addition, they will need to operate an electronic system, which makes available real-time data on the movement of their consignments and their compliance with all relevant requirements through the EU Customs Data Hub.

As EU Customs will have a **full supply chain overview for these 'Trust and Check traders'**, they could be authorised by customs to self-monitor the compliance of their goods under certain conditions, release the goods on behalf of the customs authorities and pay duties periodically, without submitting transaction-based customs declarations per consignment. Customs will be able to perform risk analysis and check information on a continuous basis and request a control whenever they deem it necessary. The quality, coherence, and accuracy of the received information will allow monitoring the operator's trustworthiness. If needed, customs could revoke or suspend the trust and check authorisation if the 'Trust and Check traders' do not meet anymore the criteria to be authorised or in case of misconduct.

4.3 A tailor-made customs regime for e-commerce

Building on the successful VAT modernisation[29]**, this reform sets up a tailor-made customs regime for e-commerce**[30]. Back in 2017, EU Member States agreed to remove the VAT exemption for imported goods valued up to EUR 22 as from 2021, with a view to adapting VAT rules to the realities of distance sales of goods triggered by the extraordinary growth of e-commerce. Before this reform, e-commerce was a big blind spot. Low-value goods were not declared to customs, resulting in a complete lack of supply chain supervision. Since July 2021, all imported goods are subject to VAT and covered by a digital customs declaration. This includes goods valued up to EUR 150 for which no customs duties are currently due.

New procedures will be put in place to further simplify the current regime and align it with VAT rules for e-commerce. As customs do not have the means to properly enforce the rules of international trade on cross-border e-commerce, **digital platforms will be made 'deemed importers'** (instead of consumers) and considered responsible for all customs formalities and payments. They will charge the customs duties at the moment of sale and pay them to the respective Member States as they already do for VAT[31].

Moreover, a simplified method for calculating the applicable import duties for low-value goods sold through distance sales to consumers will be introduced in the reviewed Common Customs Tariff. Together with the use of the EU Customs Data Hub, this simplified method is expected to offset a potential increase in administrative costs of the e-commerce regime. It will be based **on 4-tier bucketing system** with respective *ad valorem* duty rates[32] of 5% (e.g., for toys, houseware articles), 8% (e.g. for silk products, glassware), 12% (e.g. for cutlery, electrical machinery) and 17% (e.g. for footwear). This will simplify rules, similarly to what

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[29]   Footnote 9. See also VAT EU legislation (europa.eu).

[30]   The new rules will take into due account multilateral negotiations in the WTO or digital partnerships concluded with Japan, Korea and Singapore.

[31]   Platforms will also be responsible for ensuring that distance sellers are registered with producer responsibility organisations those goods that are subject to extended producer responsibility, in order to ensure a level playing field with other sellers.

[32]   'Duty levied as a percentage of value of the services or goods being imported, rather than on their weight or the number of units'.

is already practised by international partners such as Canada[33], while closing a loophole, which currently leads to foregone revenue of at least EUR 1 billion for EU budgets.

As customs will receive relevant information from the platform on all sales, **the new rules will also allow customs to better enforce compliance with product requirements**. If customs encounter a problem related to a parcel, they could further investigate whether it concerns an isolated case or a systemic problem. In addition, customs could contribute to enforcing the new rules on responsibility embedded in the **Digital Services Act**[34].

Finally, the new rules will clarify responsibilities in the import process, thereby increasing transparency in e-commerce. This will shield EU citizens from unpleasant surprises, like unexpected costs and burdensome customs formalities. Consumers will have transparency on the full cost of their online purchase and pay for it in one go, as they already do for VAT. Moreover, they will have more confidence that the products they buy will not harm them or the environment, giving business an incentive to produce sustainably.

5. SUPPLY CHAIN SUPERVISION AS A GEO-STRATEGIC CAPABILITY – A NEW APPROACH TO MANAGING RISK AT THE EU'S BORDER FOR GOODS.

> **Box 4: Key capabilities of the new EU risk management framework**
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> The reform will introduce a new governance framework for EU risk management, involving Member States, the Commission, the new EU Customs Authority (see also Box 5) as well as market surveillance and other relevant authorities. Importantly, the new partnership with businesses underpins this new governance framework.
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> The reform will establish four capabilities that are crucial to deliver risk management to protect the EU's common border for goods:
>
> 1. A **central risk analysis capability** at the core of the **new EU Customs Authority**, exploiting the new wealth of data in the **EU Customs Data Hub**;
> 2. A mechanism to ensure a **more harmonised implementation of risk management and controls** across the EU's common border for goods;
> 3. A **cooperation framework of various authorities** managing the Single Market and the Customs Union.
> 4. A process for forming **a common view on risk prioritisation**

To balance needs and resources, customs controls are largely based on automated and targeted risk management. Currently, Member States employ national systems with national data to do this, without EU-wide supply chain supervision. At the moment, neither Member States nor the Commission have a complete EU-wide overview of the consignments, operators or supply chains for risk management and control purposes.

The ECA has identified structural challenges and shortcomings in the management of **financial risks** that hamper the EU's financial interests. Risk management in the EU *lacks important features, such as: an EU-wide analysis, based on data from all EU imports; appropriate data-mining techniques; and appropriate methods to address financial risks for imports resulting from e-commerce* and *Uniform application of customs controls by Member States is necessary to prevent fraudulent importers from targeting border entry points with a lower level of controls.*

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[33]   See https://www.wto.org/english/tratop_e/msmes_e/canada_sept21_e.pdf.
[34]   Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (Text with EEA relevance) (OJ L 277, 27.10.2022, p. 1–102).

Customs are even less equipped to manage **non-financial risks:** the current risk management framework does not adequately capture the increasing number and complexity of EU laws that require customs to check product compliance of imports. Synergies with related policies remain untapped. There is no common approach to prioritising non-financial risks. Instead, risks are currently prioritised in an unstructured and haphazard way, leading to 27 different national approaches to controlling the EU's border for goods and opening the door for rerouting, circumvention and fraud.

Put simply, the **EU Customs Union lacks an effective EU risk management framework** to protect the EU border for goods. Five guiding principles form the conceptual basis for a holistic EU risk management framework, striving for common standards while acknowledging specific national/regional/sectoral characteristics:

1. **Customised risk management**, balancing central principles and national/regional/sectoral specificities and managing non-financial and financial risks;
2. **Dynamic risk management**, adapting to a constantly changing risk landscape and detection tools;
3. **Inclusive risk management**, building on cooperation with other authorities and 'Trust and Check traders';
4. **Data-driven risk management**, exploiting efficiently and comprehensively all available data;
5. **Effective risk management**, ensuring a more harmonised application of customs controls across the single external border.

There are no customs borders between Member States and the controls by one customs officer serve all Member States. A decision on the control intensity related to certain risks - for instance the enforcement of sanctions against Russia - has an impact on the entire EU. EU risk management needs therefore to be based on a **common EU-27 prioritisation of risks.** For financial risks, the Commission already establishes certain priority control areas and common risk criteria, to be implemented by Member States. With the increasing number of non-financial risks to be managed by customs, this reform introduces a similar process for those non-financial risks. This risk prioritisation will guide the EU Customs Authority (see also Box 5) in executing operational risk management at EU level and Member States' customs authorities for their control decisions. As this is also a political matter, it could in the future be subject of exchanges on weighing of risk and prioritisation at a political level in the Council.

Given the different types of non-financial risks (safety, security, environmental, etc.), the most efficient enforcement strategy depends on the nature of the sectoral legislation. Across all non-financial risks, **closer strategic and operational cooperation between customs and non-customs authorities** (e.g., market surveillance authorities, law enforcement authorities. border management authorities and tax authorities) is much needed. Such coordination should start with more inclusive and holistic policy making, by taking account of the roles and possible synergies of the respective authorities upstream. This should pave the way for a more strategic approach to enforcing product standards in the Single Market. Such a strategic approach needs to be complemented operationally with data sharing and joint risk analysis[35]. The EU Customs Data Hub, building on the EU Single Window Environment for Customs (EU CSW) and the new Import Control System (ICS 2), will enable the joint use of data, going beyond the automated cross-checking of authorisations or exchange of documents, with the goal of developing common risk management strategies. The introduction of the Digital

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[35] To facilitate this cross-domain collaboration the EU Customs Data Hub will be built in close alignment with the European Interoperability Framework (COM(2017) 134 final) and the related cooperation framework as proposed by the Commission with the Interoperable Europe Act (COM (2022) 720 final).

Product Passport will complement this by enabling digital identification of products, on an individual, batch or model basis, and ensuring access to data regarding its provenance, presence of hazardous substances or critical raw materials and other information relating to its composition and sustainability. Furthermore, information from other competent authorities on restricted chemical substances, or on non-compliant supply chains detected in any Member State, can directly feed into the common risk analysis, improving the intelligence for the control decisions of all Member States[36].

Box 5: Tasks of the EU Customs Authority

First, the EU Customs Authority will pool customs expertise at central level to carry out EU risk management, exploiting for risk analysis purposes the wealth of constantly updated data in the EU Customs Data Hub. Based on this analysis, the EU Customs Authority will issue **control recommendations** to national customs authorities, which those will have to apply or justify not applying. **Common risk management,** translating into a more harmonised application of customs controls, will help create a true common external border for goods. This will be key in tackling 'border shopping', a prevalent practice undermining the integrity of the Single Market whereby traders target the weakest link of the EU's external border to allow illicit products to enter the Single Market. **EU and national risk management will inform and reinforce each other.** National customs authorities will continue performing national risk analysis and management tailored to the risks profile of a given Member State, based on starkly improved intelligence provided by the EU Customs Data Hub and the collaborative networks it will support.

Second, **the EU Customs Authority will coordinate operational crisis management**. Under the applicable EU legislation, the EU Customs Authority will develop protocols and procedures for different crisis scenarios and ensure their application. The EU Customs Authority will also be the **central customs interlocutor for non-customs authorities** (e.g., market surveillance, law enforcement authorities, including EUROPOL) tasked with preserving the integrity of the Single Market [37]. While the EU Customs Data Hub will provide the IT and underpinning data, ensuring integration of innovate data sources such as the Digital Product Passport, the EU Customs Authority will ensure operational cooperation and coordination with relevant entities including EU Agencies such as Europol and Frontex. There are strong synergies between these two tasks, as the new EU risk management capability in the EU Customs Authority will also enable much more rapid, effective, and comprehensive targeting of crisis-related risks and a stronger multi-agency cooperation than is currently possible.

Third, **the Commission may task the EU Customs Authority with developing and maintaining the EU Customs Data Hub** and overseeing the migration and integration of existing customs IT systems over time. Moreover, if deemed appropriate, the Commission may delegate the execution of future Customs programs financed via the EU budget.

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[36]   For example, direct access to the database of the European Chemicals Agency (ECHA) would allow for controlling the existence of a valid registration number for each substance manufactured or imported by one legal entity for a quantity of 1 tonne or more. Without such registration, placing on the market is not allowed. Similarly, access to the ECHA database would allow customs services to check authorisation decisions when the Commission has granted an exemption for substances prohibited under the REACH legislation. Currently, customs authorities often face problems in checking this information as authorisation decisions are addressed to the user and not to the importer of the substance.

[37]   It will also strengthen cooperation with authorities investigating criminal offenses and/or supporting criminal investigations as well as with Frontex mandated to detect, prevent and combat cross-border crime at the EU external borders.

6. TIMELINE OF THE REFORM

The reform will be rolled out in steps over the coming 10 to 15 years. This will ensure consolidation of the 2016 reform before the benefits of the new model gradually materialise without disrupting customs operations. While some key provisions of the new UCC Regulation will apply shortly after adoption, there will be a transition period during which some of the current practices would continue.

The EU Customs Data Hub will be developed and rolled out over time, building on some and integrating other existing customs IT systems and the Digital Product Passport, including those to be implemented under the ongoing UCC IT reform. The EU Customs Data Hub will be first put in place in a core form to help in dealing with the most pressing issue, e-commerce. The tailor-made customs regime for e-commerce will apply from 2028 onwards, when the EU Customs Data Hub will go into a first, limited operational phase. In a second step, customs IT systems that are already centralised[38] will start to be migrated to the EU Customs Data Hub, after which the migration of the remaining, national IT systems could take place. Traders may start using the EU Customs Data Hub as of 1 January 2032 and will be obliged to do so from 1 January 2038 onwards.

The EU Customs Authority shall assume its tasks on 1 January 2028 and will be immediately operational as regards its responsibilities in risk and crisis management. It will gradually expand its scope in sync with the roll-out of the EU Customs Data Hub, while it may in the future be tasked with responsibilities going beyond to what is stipulated in this reform proposal. Until 2028, Commission Services will continue their risk management activities that are consistent with and help pave the way for the implementation of the present reform. The roll-out of key infrastructure, such as ICS2 and the Customs Risk Management System (CRMS2), and strengthened data analytics capabilities within the Commission, will not only help better manage the EU Customs Union in the short term, but will also make sure that the EU Customs Authority is equipped to perform its tasks right from the start.

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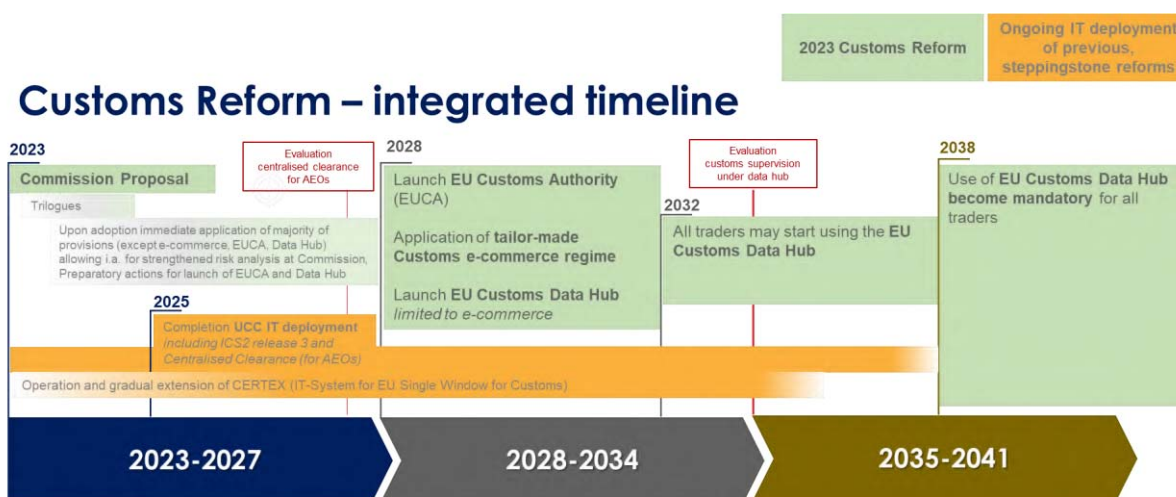
[38]   These include: CRMS2, ICS 2, EU CSW-CERTEX, CCI.

7. GOING BEYOND THE REFORM – MODERNISING CUSTOMS GLOBALLY

The 2021 Commission Communication 'Trade Policy Review - An Open, Sustainable and Assertive Trade Policy'[39] made the twin green and digital transitions a key pillar of EU trade policy. By the same token, customs modernisation must not stop at the borders of the EU Customs Union. The challenges posed by the climate emergency and e-commerce are global by default and require a thorough review of customs cooperation globally.

Multilateralism and rules-based trade remains a core component of the EU's global trade strategy. This is why reforming the World Trade Organization remains a key priority for the EU. Moreover, in 2021, the EU developed an ambitious vision to modernise the World Customs Organization (WCO)[40]. Embracing the industrial data revolution and promoting sustainable value chains, this has fed into the WCO Strategic Plan for 2022-2025, thereby shaping the global discussions on customs reform. Going forward, more needs to be done: the global customs community needs to engage in a structural reflection on reforming the WCO to make customs a strategic capability in the twin transition worldwide, taking inspiration from the EU customs reform.

To make world customs fit for the digital age, in 2022 the EU and its international partners endorsed a new '**WCO Data Strategy**', targeting the creation of a 'global data ecosystem'. This requires structured and comprehensive exchange of customs information at global level, while paying particular attention to the protection of commercial confidentiality and personal data. The EU Customs Data Hub will be a role-model in the global roll-out of the WCO Data Strategy. Inspiring international partners to set up similar, interoperable data management systems will substantially strengthen customs' abilities to efficiently monitor and control global supply chains.

In addition, the EU should take a leading role in developing a global green customs policy. There are several areas in which global customs can support **environmental objectives**. Besides greening customs administrations themselves[41], modernising the classification of goods in line with the objectives of the twin transitions should be part of the ongoing strategic review of the **harmonised system convention**[42] [43]. Options for greening the harmonised systems (HS) classification range from issuing lists of environmental goods, to changing the structure of the HS, or even alterations to the classification itself, on the basis of new environmental criteria. Such a revision could also help reinforce resilience and address potential supply challenges in sectors that are essential for the green energy transition. A standardised classification of environmental products would provide an important basis for countries to carefully calibrate tariffs and regulatory measures on these products and would prove an effective tool to strengthen the sustainability of EU trade policy in the WTO, in free trade agreements, and in new forms of engagement, including in net-zero partnerships.

Beyond multilateral cooperation, the EU also cooperates with non-EU countries based on bilateral trade agreements. The EU's large network of such agreements have been facilitating trade and also contain commitments on customs cooperation which work to our mutual

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[39] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions, Trade Policy Review - An Open, Sustainable and Assertive Trade Policy, COM/2021/66 final.
[40] The World Customs Organization (WCO) is an intergovernmental organisation working on customs-related matters such as commodity classification, valuation, rules of origin, supply chain security, and trade facilitation.
[41] For example, by developing the EU's EMAS-like standards also globally, under the umbrella of the WCO.
[42] Report of the WCO Exploratory Study on a Possible Strategic Review of the HS is expected in 2024.
[43] The Harmonised System is the multipurpose international product nomenclature developed by the WCO. It is used by most countries worldwide as the basis for their customs classification.

benefit by facilitating legitimate trade and identifying fraud, smuggling or criminal activities together.

However, many of these agreements are outdated when it comes to providing customs with the tools and information to monitor and control international supply chains. Today, information is exchanged with partner countries upon request. The EU Customs reform will facilitate, in particular via the EU Customs Data Hub, a more systemic exchange of customs information and even of risk signals. The future approach to international customs cooperation will also need to reflect the changing geopolitical landscape and the need to secure critical supply chains and control the circumvention of crucial EU policies, such as sanctions.

8. CONCLUSION

More than half a century after its foundation, the Customs Union remains a key pillar of EU integration. It is the foundation of the Single Market and its regulatory framework geared towards the twin green and digital transitions. The recent dramatic shifts in geo-politics and the world economy have changed global trade and exacerbate the need to modernise the Customs Union and its regulatory and governance framework.

This reform is the most ambitious and comprehensive attempt to make the Customs Union fit for the decades to come. To empower EU customs to best serve the EU, its citizens and businesses. To create a true Union of EU customs, acting as one.

EU industry needs a level playing field, and citizens and consumers want safe products, environmental and social standards. The Commission therefore calls on Member States and the European Parliament to swiftly agree on the proposals presented today so that citizens, businesses, and administrations can fully reap the benefits of operating in a Customs Union with an efficiently managed common border for goods.