Council of the European Union

Brussels, 22 May 2023
(OR. en)

**9596/23**
**ADD 2**

**Interinstitutional File:**
**2023/0156(COD)**

**UD 110**
**CODEC 917**
**ENFOCUSTOM 57**
**ECOFIN 452**
**MI 429**
**COMER 57**
**TRANS 194**
**FISC 95**

**PROPOSAL**

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|---|---|
| From: | Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director |
| date of receipt: | 17 May 2023 |
| To: | Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union |
| No. Cion doc.: | SEC(2023) 198 |
| Subject: | Regulatory Scrutiny Board Opinion : Revision of the Union Customs Code<br>- Impact assessment |

Delegations will find attached document SEC(2023) 198

Encl.: SEC(2023) 198

EUROPEAN COMMISSION

27.1.2023

SEC(2023) 198

# REGULATORY SCRUTINY BOARD OPINION

Revision of the Union Customs Code

{COM(2023) 258}

{SWD(2023) 140-141}

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB/

# Opinion

## Title: Impact assessment / Revision of the Union Customs Code

## Overall 2nd opinion: POSITIVE WITH RESERVATIONS

**(A) Policy context**

The EU Customs Union is a single trading area, with no tariffs or non-tariff barriers to trade, and with a common external tariff. National customs services in the EU Member States work together to manage daily operations of the Customs Union. The European Commission is responsible for the EU customs legislation and monitors its implementation. The Union Customs Code (UCC) provides a comprehensive legal framework for customs rules and procedures in the EU customs territory. The UCC legal package entered into force on 1 May 2016, repealing and replacing the previous framework for customs legislation.

Building on interim evaluation on the UCC implementation this report aims to support the revision of the UCC to respond to new challenges and opportunities, such as digitalisation or e-commerce. It also explores options to simplify the customs processes and change the governance structure.

**(B) Summary of findings**

**The Board notes improvements to the revised report responding to the Board's previous opinion.**

**However, the report still contains significant shortcomings. The Board gives a positive opinon with reservations because it expects the DG to rectify the following aspects:**

**(1) The report does not describe the options in sufficient detail.**

**(2) The analysis for the One In, One Out approach does not have a sufficiently level of granularity.**

**(3) The report does not provide a clear picture of the net impacts of the initiative, in particular regarding the impacts of the proposed government structures.**

This opinion concerns a draft impact assessment which may differ from the final version.

**(C) What to improve**

(1) The description of the options needs further clarification. The report should provide more information on the options content and how would they work in practice. In particular, the report should better explain where the set of options on customs processes comes from, and how the individual measures were identified. As the option is presented to be a pre-requisite for the following reform of the data space management and governance, the report should clarify the available policy choices within this block. The report should also better explain the origin and rationale for the measures related to the Authorised Economic Operator 'trusted trader' arrangements.

(2) The report should elaborate on how the options on e-commerce were identified, particularly what the reasoning for the removal of the EUR 150 exemption is. Making electronic platforms 'deemed importers' and introduction of a 'bucketing system' for duty calculation also require more explanation, especially regarding the range of policy choices available to the Commission.

(3) The report should better explain the analysis for the One In, One Out approach. It should distinguish between adjustment and administrative costs and clearly present cost savings (including in Annex 3) and further explain how they were calculated.

(4) The overall presentation of the impact analysis should be clarified. The delineation between costs and benefits should be clearer (including non-quantifiable) to give a better picture of net impacts. The report should be clear what estimates were calculated for illustrative purposes only and they should not be included in the total figures. The assumptions underpinning the analysis of the IT costs (including robustness of expected savings for Member States) and costs for businesses still need a better explanation. The report should also ensure the analytical consistency throughout.

(5) The report should provide a more detailed impact analysis of the proposed governance solutions by bringing in the key elements of the analysis from the Annexes.

(6) The impacts on the customers still need to be clarified. In particular, regarding the removal of the EUR 150 duty exemption, the report should better describe the benefits and explain who exactly will pay the extra custom duties that will provide significant revenues to the Member States and EU budget.

(7) The report should also explain when an ex-post evaluation is planned to assess the success of the initiative.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

**(D) Conclusion**

**The DG must revise the report in accordance with the Board's findings before launching the interservice consultation.**

**If there are any changes in the choice or design of the preferred option in the final version of the report, the DG may need to further adjust the attached quantification tables to reflect this.**

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|---|---|
| Full title | Impact assessment on the Revision of the Union customs legislation |

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|---|---|
| Reference number | PLAN/2021/12806 |
| Submitted to RSB on | 21 December 2022 |
| Date of RSB meeting | Written procedure |

**ANNEX: Quantification tables extracted from the draft impact assessment report**

*The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.*

*If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.*

| **I. Overview of Benefits (total for all provisions)** | | |
|---|---|---|
| ***Description*** | ***Amount*** | ***Comments*** |
| ***Direct benefits*** | | |
| Better tackling of revenue loss | closure of customs gap | Customs duties |
| Removal of €150 threshold | €13 Billion | See Annex 9 |
| Single market and sustainability | ++++ | Sample use case - Ecodesign example - illustrative scenario of €15.444 Billion |
| Security | ++++ | |
| Crisis | ++++ | |
| Strategic capability | +++++ | Next level: Customs union managed/acts as one, fit for future |
| Compliance cost reductions for economic operators | €40 Billion | Duties are considered below a regulatory fee and reducing savings in Annex 9 section 3.3 |
| Implementation cost reductions for national customs administrations | 2.4% | See Annex 9 section 3.2 |
| ***Indirect benefits*** – *not applicable* | | |
| ***Administrative cost savings related to the 'one in, one out' approach**** | | |
| Reduction in recurrent costs for economic operators | €27 Billion (cumulative net saving) | See Annex 9 section 3.3 (€1.2B to €2.6B net per year net after e-commerce cost noted below) |

| **II. Overview of costs** | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | **Citizens/Consumers** | | **Businesses** | | **Administrations** | |
| | | **One-off** | **Recurrent** | **One-off** | **Recurrent** | **One-off** | **Recurrent** |
| | Direct administrative costs (IT) | neutral | neutral | + | - | EU services + €559 million. MS saving €3.090 | EU services + €2.048 Billion. MS saving €18.056 Billion |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | | | Billion | |
| | Direct administrative costs (other) | neutral | neutral | + | saving (see benefits) | | EU services + €230 Million. MS saving €1 Billion |
| | Direct regulatory fees and charges | Not applicable | Not applicable | Not applicable | €13 Billion (e-commerce platforms) (€1 Billion annually) | Not applicable | Not applicable |
| | Direct enforcement costs | Not applicable | Not applicable | Not applicable | Not applicable | Included in Direct administrative costs | |
| | Indirect costs | Not applicable | Not applicable | Not applicable | Not applicable | Not applicable | Not applicable |
| ***Costs related to the 'one in, one out' approach*** | | | | | | | |
| **Total** | Direct adjustment costs | | | | | | |
| | Indirect adjustment costs | | | | | | |
| | Administrative costs (for offsetting) | | | One-off development IT costs to connect to Data Space counteracted by lower-cost IT model for future (one Data Space instead of 27) | | | |

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB/

# Opinion

## Title: Impact assessment / Revision of the Union Customs Code

## Overall opinion: NEGATIVE

**(A) Policy context**

The EU Customs Union is a single trading area, with no tariffs or non-tariff barriers to trade, and with a common external tariff. National customs services in the EU Member States work together to manage daily operations of the Customs Union. The European Commission is responsible for the EU customs legislation and monitors its implementation. The Union Customs Code (UCC) provides a comprehensive legal framework for customs rules and procedures in the EU customs territory. The UCC legal package entered into force on 1 May 2016, repealing and replacing the previous framework for customs legislation.

Building on interim evaluation on the UCC implementation this report aims to support the revision of the UCC to respond to new challenges and opportunities, such as digitalisation or e-commerce. It also explores options to simplify the customs processes and change the governance structure.

**(B) Summary of findings**

**The Board notes additional information provided in advance of the meeting and commitments to make changes to the report.**

**However, the Board gives a negative opinion, because the report contains the following significant shortcomings:**

**(1) The report does not sufficiently explain the coherence with other policy initiatives. It does not clearly reflect the progress in implementing the Customs Action Plan in the dynamic baseline. It does not present a clear and fully developed intervention logic.**

**(2) The report does not identify, assess and compare the options (or their most relevant combinations) in a consistent way that brings out clearly the key policy choices. It does not sufficiently consider the feasibility of the options and the related funding risks.**

**(3) The impact analysis is not sufficiently comprehensive and does not clearly present the costs and benefits of the options (or their combinations).**

**(C) What to improve**

(1) The report should better justify the urgency and rationale to act now. It should establish clearer links to the evidence from the interim evaluation and European Court of Auditors recommendations. The report should better describe the coherence of the UCC revision with other non-customs policy initiatives and policy areas.

(2) The report should provide a more robust and dynamic baseline. In particular, it should clarify how the changes coming from the 2016 UCC reform, related work in non-customs policy areas and implementation of the Customs Action Plan are reflected in the baseline analysis and why they will not be sufficient to address the identified problems. It should clearly delineate whether the initiative is a continuation of the Plan or a shift in the paradigm.

(3) The report should present a clearer intervention logic by better connecting the drivers, problems, objectives and options/measures. It should clarify whether the identified specific objectives have the same weight and whether there is an implicit revenue generation objective. The rationale should be clearer on how the revision would contribute to fulfilling the Green Deal objectives.

(4) The report should better explain how the options were mapped, identified, and designed. It should clearly outline how each option would work in practice. It should present the options (and their combinations) in a way that it brings out clearly the available policy choices. The option description should be much clearer on the extent to which the options and measures are cumulative or exclusive. The combination of options that are considered the most relevant ones (also in view of the legislative discussions) should be identified upfront and subsequently assessed.

(5) The report should elaborate on the feasibility of the options, including by assessing more thoroughly the related funding risks. It should clarify which mitigating measures and alternative funding solutions, including staged policy approaches, have been considered to minimise such risks.

(6) Based on a clear presentation of a consistent set of options the report should provide a cost benefit analysis that informs the decision-making process. It should clearly present the costs and benefits and the net impacts of each option and/or the most relevant combinations thereof. It should consistently use them (and the relevant qualitative analysis) when comparing the effectiveness, efficiency and proportionality of the options.

(7) The impact analysis should be further developed. The report should provide a more detailed assessment of the effectiveness and efficiency of the proposed governance structures. It should better explain the impacts on consumers in terms of the likely cost pass through and on Member States in terms of (customs) revenues and (collection) costs. It should better explain the assumptions underpinning the analysis of the IT costs and the costs and benefits to businesses. It should also better reflect macro-economic impacts of the initiative.

(8) Report should better present the views of different stakeholder categories, including affected non-customs authorities of the Member States as well as those of other relevant EU actors.

(9) The report should clearly present the monitoring and evaluation arrangements. It should be clear how the success of the initiative would look like and how it would be measured.

*Some more technical comments have been sent directly to the author DG.*

| **(D) Conclusion**<br>**The DG must revise the report in accordance with the Board's findings and resubmit it for a final RSB opinion.** | |
|---|---|
| Full title | Impact assessment on the Revision of the Union customs legislation |
| Reference number | PLAN/2021/12806 |
| Submitted to RSB on | 7 October 2022 |
| Date of RSB meeting | 26 October 2022 |