



## **CONFIAD PAN EUROPEAN NETWORK**

### **CONFEDERATION INTERNATIONALE DES AGENTS EN DOUANE – INTERNATIONAL FEDERATION OF CUSTOMS BROKERS AND CUSTOMS REPRESENTATIVES**

#### **CONFIAD'S POSITION PAPER – COMMENTS ON THE ONGOING REFORM OF THE EU CUSTOMS UNION**

**November 2022**

This paper discusses the position of Confédération Internationale des Agents en Douane ("**CONFIAD**")<sup>1</sup> relating to the issues arising in the context of reforming the Union's Customs Code ("**UCC**").

The present submission has been prepared during the ongoing reform the UCC, and more specifically following the discussions during the recent 61<sup>st</sup> meeting of the Trade Contact Group under the DG TAXUD leadership which took place online on 20 October 2022. It was announced by the DG TAXUD that, in view of the internal procedures, it was unable to make available for comments a draft UCC proposal until the College of EU Commissioners considers it at its meeting, which is expected to be held on 7 December 2022. CONFIAD therefore respectfully asks the European Commission's services to consider its position on some elements of the UCC reform which will be explained below.

By way of background, CONFIAD was founded in 1982 as the organization of the European Customs Brokers, with the purpose of defending and coordinating the professional interests of its members, supporting the harmonization of the legislative, professional and customs regulations at European level. The members of CONFIAD are national associations representing customs brokers in nine EU Member States. CONFIAD has a permanent presence in Brussels and regularly contributes to the policy-making activities of the European Institutions in the areas of customs.

CONFIAD respectfully submits that, as part of its UCC reform activities, the European Commission should first of all ensure the uniform application and implementation of the EU customs law, at the same time ensuring that challenges arising from possible changes to the UCC, especially with regard to small and medium-sized enterprises ("**SMEs**") and intermediaries who are active in the field of customs, are properly taken into account.

The following three topics, in view of CONFIAD, should be given a particular attention on the part of the European Commission.

#### ***On the European Customs Agency and Uniform Application of EU Customs Law***

In its previous position paper of August 2022, when commenting on the Ten recommendations of the Wise Persons Group ("**WPG report**"), CONFIAD welcomed the creation of a European Customs Agency whose one of the priorities will be to deal with issues of the uniform implementation of the EU customs law across different Member States. Currently, there are issues with consistent application of risk

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<sup>1</sup> Transparency Register Number 900179622923-45.



assessment criteria in Member States, which undermine the uniformity of implementation of the EU customs law. The most proper way to do so is acting at the EU level.

For that reason, the role of the Agency would not be to replace national customs administrations, but to ensure, from the EU customs law perspective, that the European rules are coherently and consistently applied in day-to-day operations in Member States. In case of serious misinterpretations or violations of EU law, the European Customs Agency should be given a possibility to carry out audit of national customs administrations to remedy the shortcomings.

Also, operators and associations should be allowed to interact with the Agency by submitting requests for clarification or expressing their own positions on the uniform interpretation and application of the EU customs law. In its turn, the European Customs Agency may issue recommendations to customs administrations. A model of uniform application and application of customs rules may be the Harmonized System Committee under the World Customs Organization, which can, *inter alia*, “draft recommendations to secure uniformity in the interpretation and application of the HS.”<sup>2</sup>

The above-mentioned activities would ensure smoother, faster and more efficient customs processes by guaranteeing the observance of rights and compliance with obligations of participants of customs procedures.

### ***On a New Approach to the AEO Scheme***

In its August position paper CONFIAD submits that the system of authorized economic operators (“AEO”) has potentially reached its efficiency limits and needed to be upgraded in view of complexity of procedures for obtaining the AEO status and differences in the implementation across the Member States.

In view of that, CONFIAD welcomed the WPG’s “*multi-layered*” approach to the AEO system, and proposed a step further by creating a specific AEO Customs Representative role (“AEO CR”) which should be reserved for both legal or natural persons. The role would cover customs representatives/professionals who have a demonstrable high level of customs expertise, including those who are certified under European Standard EN 16992:2017 – Competency for Customs Representative, and are willing to offer cross-border customs services.

In CONFIAD’s view, the new status of AEO CR should be accompanied with a possibility to perform certain pre-audit and audit activities on behalf of national customs administrations in order to streamline and speed-up the processes for issuing customs decisions. These AEO CR’s powers are without prejudice to the customs administrations’ authority in financial and fiscal matters, but relate to customs procedures and simplifications, especially in the context of the provisions of services to SMEs.

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<sup>2</sup> Terms of Reference of the Harmonized System Committee, [http://www.wcoomd.org/en/wco-working-bodies/tarif and trade/harmonized system committee.aspx](http://www.wcoomd.org/en/wco-working-bodies/tarif%20and%20trade/harmonized_system_committee.aspx)



It is very important that a new AEO scheme does not exclude SME operators and intermediaries from the customs-related services market by giving advantages to bigger players to the detriment of smaller companies and individual professionals. The new AEO scheme should be favourable to SME operators who have specific business models and often do not meet, in whole or in part, criteria set out in Article 39 UCC. It is very important that a “*multi-layered*” system is to be properly and fairly implemented, especially at lower levels.

***On Single Window and Approach to Data***

CONFIAD supports the concept of Single Window even though it is of utmost importance to ensure that the Single Window becomes a truly pan-European project. It involves stepping back from a fragmented and disintegrated national customs system to reach a coordinating and streamlined solution. The core of the overall single window system is the uniformity of data requirements in national single windows, which should be properly supervised and guided by the European Commission. Otherwise, for instance in case of inconsistent risk assessment in different Member States, the issue of forum shopping and loopholes may arise. This will lead to a not-operable system.

CONFIAD would also like to stress that customs representatives must remain involved, given their high level of expertise and knowledge, in processing data in the single window. In view of this, they should be given a privileged access to the single window system.

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CONFIAD would like to thank the European Commission for its attention and for the opportunity granted to present its position. CONFIAD remains at the European Commission’s full disposal should there be questions or request for clarifications.

For CONFIAD

Massimo De Gregorio

President