

POSITION PAPER

On the European Commission's Call for Evidence for an Impact Assessment: Reform of the Union Customs Legislation

Brussels, 14 September 2022

Introduction

On 17 July 2022, the European Commission Directorate General for Customs Union and Taxation published a *Call for Evidence for an Impact Assessment* (hereinafter “*call for evidence*”) including a targeted Consultation on the Reform of the Union Customs Legislation. This document aims to inform stakeholders on the Commission's future legislative work on the Union customs Legislation so they can provide feedback on the Commission's understanding of the problem, possible solutions and their impact.

The European Semiconductor Industry Association (ESIA), also as a member of the Trade Contact Group (TCG), is grateful to the Commission for the opportunity for TCG members to provide comments on the future direction of the Union customs legislation. ESIA reaffirms its continued support for the TCG, as it provides an important platform for partnership and exchanges between industry and customs.

European Semiconductor Industry Association (ESIA)

ESIA represents the Europe-based manufacturers and designers of semiconductors as well as research institutes and national associations in the field of microelectronics. ESIA's ID number in the Transparency Register is 22092908193-23.

With its complex manufacturing process, global supply chains and markets, the European semiconductor industry is a genuinely globalised sector. During the semiconductor manufacturing process, a semiconductor travels across the globe crossing international border many times before being delivered to its final customer. Therefore, fast international movement of products, people and equipment, supported by efficient customs rules and policies, is essential to the semiconductor business.

ESIA member companies – all global players with operations in multiple EU Member States – greatly depend on the good functioning of customs. As such, they handle customs compliance

as part of their daily business, including import / export operations, AEO certification, and managing of supply chains.

Comments on the Reform of Customs Legislation

Existing Problems

ESIA welcomes the identification in the *Call for Evidence* of the “*Problems the initiative aims to take*”(page 2). We largely share the statement in the document that despite its efforts and reforms undertaken over the past years the Customs Union meets increasingly difficult challenges. Out of the problems listed by the European Commission, we would like to highlight in the paragraphs below the most crucial ones for the semiconductor industry:

- **Customs still does not function “as one”.** Although adopted at EU level, customs legislation is implemented by national customs authorities, each working primarily in its national environment. Despite the success of the UCC in harmonizing certain areas (such as decisions, authorizations, valuation, etc.), uneven implementation of the rules and procedures remains a problem. Across member states a differing high administrative burden and uneven facilitation and simplifications do not provide an even level playing field. This is also problematic for the competitiveness of legitimate trade.
- **Due to failures of implementation and delays, the UCC has not yet brought the promised simplifications for traders,** e.g. simplifications such as self-assessment are not used because of legal uncertainty about their application in practice. There is therefore leeway for further simplifying the customs environment for traders, by reducing administrative burden and by removing unnecessary formalities.
- **Co-operation between customs and other sectoral authorities and across related policies is uneven and often hindered by structural obstacles** affecting the availability or exchange of data. Economic operators therefore are confronted with the need to obtain certifications for overlapping areas (e.g. supply chain security) from different authorities or submit redundant declarations/statements.
- **In the area of information management, the overall customs information environment has become complex and difficult to change.** Data are fragmented across systems, owners and procedure-specific legal provisions, which prevent it from being used effectively. Gaps across the Member States in visibility and analytical capacity exacerbate the weak links mentioned above. This impedes effective supervision and risk management.
- **The rise of new business models such as e-commerce presents further major challenges.**

Measures to be considered

The *Call for Evidence* lists some of the most important measures that the EU and Member States should consider in order to resolve the above existing problems in the Customs Union. In the paragraphs below ESIA presents the most important measures from the perspective of the European semiconductor industry:

- **Striving for uniform enhanced digitalization across all member states** which would result in uniform application of rules, processes and risk management and would further facilitate effective data exchange and management, as well as fasten the decision procedures among different Member States.
- **Strengthening common risk management**, for example by, leveraging partnerships with trusted traders and other competent authorities.
- **Apply tangible benefits to AEO, which are proportional to the investments made by AEOs for applying and maintaining the status, and are implemented uniformly across the EU.** Serious enhancements to the AEO program should be a priority in any review. Tangible benefits would be for example truly simplified procedures and less data requirements for trusted trades established in the EU:
 - AEO should depart from transaction-based approaches in favor of process-based (or system-based) mechanisms with periodic (monthly / quarterly) reporting given the development of the IT infrastructure.
 - An important benefit could be allowing those holding AEO status to release goods at the border without the involvement of the customs authorities (self-clearance, organized in a similar way as VAT reporting and payments).
 - Reducing extensive data requirements from AEOs for example by making more use of existing information and data exchange between member states and other authorities.
- **Reforming the EU customs governance** to provide for a uniform EU layer which could, for example, better deliver on e.g. EU-wide risk management, information technology management, training of customs officers, financing of customs equipment, supporting simplifications, Centralized Clearance application processes and services for trade, handling EU crisis response, as well as “protecting as one” by driving joined-up co-operation between the customs and other authorities.
- **Striving for a fully-fledged EU customs information environment**, putting emphasis on data management capabilities for better risk management, and including simplified provision of data (e.g., enabling re-use of data, avoiding duplications, etc.) in reduced customs processes and streamlined handling of non-customs formalities (e.g. building on the concept of “single window”). Resources should be invested in a longer exercise to analyze the various overlaps of data and other provision requirements, with an aim to reduce these to the bare minimum.
- **Shape customs legislation so it can respond to new business models** such e-commerce as well as crisis situations.

- **Full digitalization making use of the latest “state-of-the-art” technologies** such as AI or block-chain.
- **As draft regulation develops, consideration could be given to more pilot projects** as part of the process to ‘test-bed’ how a draft text or concept would work in practice. The results could then be analyzed to give direction to ensure a final text is fit for purpose and robust in operation from day one. That would minimize needing to patch a rule after it is in force due to uneven application and interpretation.

Conclusions

The smooth functioning of the international semiconductor manufacturing supply chains as well as the global semiconductor market are inherently dependent on the free global trade flow for goods, materials, and equipment, that is supported by a modern and frictionless customs environment and legislative & policy frameworks.

ESIA supports the ambition of the EU to tackle the many challenges that the Customs Union faces today. We believe it is now possible to introduce reforms aimed at creating proportional and efficient customs rules for businesses; rules which protect the level playing field and strive for trade simplification and simplification both for Customs and businesses.

For further information:

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ABOUT ESIA

The European Semiconductor Industry Association (ESIA) is the voice of the semiconductor industry in Europe. Its mission is to represent and promote the common interests of the Europe-based semiconductor industry towards the European institutions and stakeholders in order to ensure a sustainable business environment and foster its global competitiveness. As a provider of key enabling technologies, the industry creates innovative solutions for industrial development, contributing to economic growth and responding to major societal challenges. Being ranked as the most R&D-intensive sector by the European Commission, the European semiconductor ecosystem supports approx. 200.000 jobs directly and up to 1.000.000 induced jobs in systems, applications and services in Europe. Overall, micro- and nano-electronics enable the generation of at least 10% of GDP in Europe and the world.