RECOMMENDATIONS

Customs Reform Package

Brussels, 28 March 2023

Introduction

The European Semiconductor Industry Association (ESIA) represents the Europe-based manufacturers and designers of semiconductors as well as research institutes and national associations in the field of microelectronics.

With its complex manufacturing process, global supply chains and markets, the European semiconductor industry is a genuinely globalised one. During the semiconductor manufacturing process, a semiconductor travels across the globe crossing international borders many times before being delivered to its final customer. Therefore, fast international movement of products, people, and equipment, supported by simple and 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, Authorised Economic Operator (AEO) certification, and managing of supply chains.

On 17 July 2022, the European Commission Directorate-General for Customs Union and Taxation (DG TAXUD) published a "*Call for Evidence for an Impact Assessment*" (hereinafter "*call for evidence*"), including a targeted consultation on the revision of the Union customs legislation.

On 28 February 2023, the Commission announced to the Trade Contact Group (TCG) that it is preparing a proposal for Customs Reform Package. The Commission further outlined the main objectives and tenets of the proposal.

ESIA supports the modernisation of the Union customs legislation and its harmonised implementation across Member States. As the Commission progresses in the preparation of the reform, ESIA is pleased to provide a series of recommendations.

Comments on the Customs Reform Package

Existing Problems

ESIA largely shares the Commission's statement in the *"Problem the initiative aims to tackle"* section of the "*call for evidence*" (page 2) that, despite its efforts and the reforms undertaken over the past years, the Customs Union meets increasingly difficult challenges. ESIA believes the upcoming Customs reform should tackle and resolve the problems described below:

- **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 Union Customs Code (UCC) in harmonising certain areas (such as decisions, authorisations, 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 a level playing field. This is also problematic for the competitiveness of legitimate trade. We are positive that, with the plan to create the new EU Customs Agency, the Commission might be able to effectively and sufficiently solve this matter.

- **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 thus leeway for further simplifying the customs environment for traders, by reducing administrative burden and by removing unnecessary formalities. In conjunction with the AEO certification, we would like to emphasise that these promised benefits for trusted traders are feasible but should not be hampered by IT- / system-based limitations, misalignment (or even mistrust) between Member States as currently experienced.

- **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. As a result, economic operators are confronted with the need to obtain certifications for overlapping areas (e.g., supply chain security) from different authorities or submit redundant declarations / statements. Please note that this point will become more evident as customs authorities are entrusted with more and more responsibilities, such as the "*Carbon Border Adjustment Mechanism*", "*Fit for 55*", and other EU environmental goals.

- **In the area of information management, the overall customs information environment has become complex and difficult to change.** Data is fragmented across systems, owners, and procedure-specific legal provisions, which prevent it from being used effectively. Gaps across Member States in visibility and analytical capacity exacerbate the weak links mentioned above. This impedes effective supervision and risk management. We do trust that the creation of the new EU Customs Data Hub will address most of these concerns. However, it is essential for the Customs Data Hub to be fully functioning as soon as possible and not hampered by IT- / system-related limitations.

- **The rise of new business models such as e-commerce presents further major challenges.**

Suggested Measures

In order to resolve the current UCC problems, ESIA strongly encourages the European Commission to include the below measures in the upcoming reform:

- **Strive for uniform enhanced digitalisation 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. The combined creation of the new EU Customs Agency and EU Customs Data Hub should greatly contribute to this goal.

- **Strengthen 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 their status and are implemented uniformly across the EU.** Serious enhancements to the AEO programme 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 favour of process-based (or system-based) mechanisms with periodic (monthly / quarterly) reporting given the development of the IT infrastructure. With the intended introduction of the new EU Customs Data Hub, the Commission seemingly also supports this point.

  - 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, organised in a similar way as valued added tax reporting and payments). The introduction of an EU Customs Single Window is a step in the right direction. However, we are still cautious as it still requires major alignment between Member States and the necessary IT / system to be in place before it can fully function as intended.

  - Reducing extensive data requirements from AEOs, for example by making more use of existing information and data exchange between Member States and other authorities. Although the new EU Customs Data Hub might support this at first glance, we are concerned about how AEOs are expected to provide more data to the Data Hub. Furthermore, we are concerned about how the Commission can enforce the obligation for non-EU parties, such as manufacturers outside the EU or exporters to the EU, to comply with the EU data requirements that should be made available in the EU Customs Data Hub.

  - Benefits for AEOs should be based on company risk-profiles and implemented in a transparent manner. The unique characteristics and organisation of the semiconductor industry and its proven compliance with requirements of AEO programmes

contribute to its general very low-risk profile. As such, the semiconductor industry can be regarded well-suited for participation in pilot projects to further develop tangible trade facilitation for trusted traders.

- **Reforming the EU customs governance** to provide for a uniform EU layer which could, for example, better deliver on the following aspects: EU-wide risk management; information technology management; training of customs officers; financing of customs equipment; supporting simplifications; Centralised Clearance application processes; 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-term exercise to analyse the various overlaps of data and other provision requirements, with an aim to reduce these to the bare minimum. We recommend the Commission to pay more attention and / or to exercise its oversight powers towards Member States to ensure that IT-system developments, which are crucial for this UCC reform to work, are on schedule. We also recommend learning from the IT-system related issues that traders have faced in the current UCC and its IT systems.

- **Shape customs legislation so it can respond to new business models** such e-commerce as well as crisis situations.

- **Full digitalisation making use of the latest "*state-of-the-art*" technologies** such as artificial intelligence or block-chain.

- **As draft regulation develops, consideration could be given to more pilot projects** as part of the process to "*testbed*" how a draft text or concept would work in practice. The results could then be analysed to give direction to ensure a final text is fit for purpose and robust in operation from day one. That would minimise needing to patch a rule after it is in force due to uneven application and interpretation.

Conclusions

The smooth functioning of the 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 business-friendly legislative & policy frameworks.

ESIA supports the Commission's ambition 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 that help achieve the level playing field and simplify operations both for Customs and businesses.

Nevertheless, we would like to emphasise the need for the EU to provide sufficient transparency in the legislative process and to safeguard the progress in IT-system developments as the latter will play a crucial role in the UCC reform. Furthermore, lessons must be learned from the past where hampering IT-system developments have resulted in the current (partially) incomplete UCC where – for example – so many potential AEO benefits were left unexplored due to IT-system restrictions and / or misalignment between Member States.

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.