

# EBCA POSITION PAPER ON REVISION OF UNION CUSTOMS CODE

14 September 2022

The [European Branded Clothing Alliance](#) (EBCA) welcomes the opportunity to contribute to the European Commission's Call for Evidence and public consultation on the Revision of the Union Customs Code. EBCA represents some of the biggest global retail clothing brands with a commercial presence in many markets and which process many transactions and shipment volumes across customs points worldwide.

The EU needs a **resilient and future-proof Customs Union** and smooth and streamlined customs procedures. This need is even more pronounced given the particular **economic downturn and supply chain disruption** that we are currently dealing with. We support the work carried out by the **Wise Persons Group** (WPG) on Challenges Facing the Customs Union and the recommendations outlined in their [final report](#).

Based on our members' vast experience with customs procedures, we would like to provide the Commission with additional comments to complement the WPG recommendations:

## 1. Make the Customs Union work "as one"

There is a **lack of uniform enforcement of EU customs regulations** across Member States (and even within the same Member State). Issues encountered by EBCA members include: **different implementation** of the same directives; **different interpretation** of the same rules; **differences in control procedures**; and **different application of sanctions** for non-compliance.

Major challenges are also related to the **classification of goods**. Different interpretations of TARIC exist in individual EU countries, as well as different interpretations of HS codes in countries of origin and in countries of destination. This leads to delays or unnecessary additional declarations during import.

Given the complexity of the supply chain, it is **urgent to homogenize and simplify all customs and processes** so that when faced with a need, companies can make decisions in an agile manner. For example:

- **Enforcement and customs clearance procedures need to be harmonised** irrespective of the Member State of introduction of the merchandise and/or the Member State where the goods are later distributed.
- **Harmonization of interpretations** is necessary between different Directorate-Generals inside the Commission, which sometimes use different interpretations of codes.
- EBCA members urge the Commission to simplify procedures through a **"real" single data entry point (Single Window)**, which would offer:
  - Single submission of data;
  - Single and synchronous processing;
  - Single decision for the release of the goods, and;
  - A single mechanism for communications with traders between both the customs authorities and the different governmental agencies involved in the clearance process.

- **Full customs clearance and associated procedures** for the EU (quality control, testing, etc.) should **take place only once** during the life-cycle of the goods.
- **Centralized import / export clearance** (including the possibility to upload documents in the requests if necessary) is key to help businesses secure their supply chains. For instance, especially in the last few months, EBCA members have had to face many shipment delays due to strikes in various ports or terminals. Centralisation would allow containers to be accepted in other ports.

## 2. Ensure alignment with other EU legislative initiatives

**Policy coherence** with existing or upcoming legislation is crucial to avoid double regulation and double codifications for the same products and operators. The Regulation on **Ecodesign for Sustainable Products** and the upcoming proposal for a **Regulation tackling goods made with forced labour** are clear examples.

For instance, the proposal on Ecodesign establishes the creation of information requirements like a “data carrier”<sup>1</sup> code, a “unique product identifier”<sup>2</sup>, a “unique operator identifier”<sup>3</sup> and a “unique facility identifier.”<sup>4</sup> These information requirements will be included in the Digital Product Passports that will be applied to products. The Commission will need to connect the registry of information linked to product passports with the Customs Single Window.

In addition, alignment with the EU green policy agenda should also be reflected in the revision. As an example, clarity should be provided on **customs requirements for re-usable products** within supply chain. Moreover, efforts to **green HS codes** should also be undertaken under the World Customs Organisation framework.

## 3. Reform the Authorised Economic Operator status to facilitate trade with trust

All EBCA members have the Authorised Economic Operator (AEO) status, but are missing the promised benefits. Moreover, the current AEO status does not address today’s trade challenges, especially for companies processing large volumes and transactions, and with high-quality data. In addition, mutual recognition between countries is not going as smoothly as desired.

Therefore, we call for the following measures to be taken into consideration:

- **Fair, proportional, risk-based approach and trusted data** principles should apply in order to establish differentiated and proportional AEO benefits to each operator based on their own realities.
- **Additional benefits**, like self-clearance and self-assessment, should be granted to operators with **better primary data**<sup>5</sup>, **better validation of data**<sup>6</sup> and **better data sharing**<sup>7</sup> arrangements.

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<sup>1</sup> “Data Carrier” means a linear bar code symbol, a two-dimensional symbol or other automatic identification data capture medium that can be read by a device.

<sup>2</sup> “Unique product identifier” means a unique string of characters for the identification of products that also enables a web link to the product passport.

<sup>3</sup> “Unique operator identifier” means a unique string of characters for the identification of actors involved in the value chain of products.

<sup>4</sup> “Unique facility identifier” means a unique string of characters for the identification of locations or buildings involved in the value chain of a product or used by actors involved in the value chain of a product.

<sup>5</sup> Better primary data: Collect data from those who have control of it and make them liable for accurate declarations.

<sup>6</sup> Better Validation of data: Collect data from those who have information which can be used to validate declarations (manufacturers, shippers, agents, and especially e-commerce platforms and payment systems). Their data can be used to cross-check, reducing the incentive or opportunity for exporters to mis-declare.

<sup>7</sup> Better data sharing: enhance data sharing arrangements within the European Customs administration system for better EU wide risk management; one single window/portal.

- Transition customs set-ups from a transaction-based approach towards an **operator-risk based approach**, revolving primarily around AEO audited processes, rather than individual transactions.
- Enhancement of **Mutual Recognition Agreements (MRA)** that the EU has with some third countries on AEOs.

#### 4. Introduce a new approach to data

Rather than relying on customs declarations as the main source of information, the focus should be on obtaining **better quality data based on commercial sources**, while ensuring that this data is **cross-validated** along the supply chain, better **shared** among administrations, and **better used** for EU risk management.

#### 5. Develop new e-commerce rules

The expansion of e-commerce has changed the nature of trade and created a substantial flow of millions of small individual consignments to be controlled and checked for fiscal and non-fiscal requirements.

In order to make the Customs Union fit for addressing the challenges posed by e-commerce, we suggest introducing risk assessments based **on wider categories of products** for this kind of shipment (rather than based on 10-digit TARIC codes). Another option could be **self-assessment procedures** based on the global payments made to the exporters of low-value consignments, which are recorded and could be audited in the importer's systems. This would help avoid the excessive burden of multiple and low risk/value operations addressed to multinational companies.

Furthermore, the **management of the samples** should be reviewed and simplified.

#### 6. Establish a Single Universal Customs Code and improve customs administration agreements

As of today, companies have to adapt to requirements and codifications that change depending on the market, such as different market access regulations, different HS codes, different codification for manufacturers, importers, different certificates for the same product, etc.

The World Customs Organisation could be leveraged to introduce **harmonisation within an International Single Customs Code Framework**. Moreover, harmonisation in GSP regulations focused on origin determination, proofs of origin, etc. would contribute to the application of preferences to both the developing countries and importers.

In addition, EBCA members point out to the very **slow implementation of customs administration agreements** enabling the use of diagonal cumulation in the Free Trade Agreements.

#### 7. Extend the concept of Importer's Knowledge

An extension of the Importer's Knowledge concept in the area of origin determination (and others) **as an advanced system of self-certification** would provide more flexibility than the current approved exporter and/or the Registered Exporter (REX) system.

**Digital Product Passports** should also leverage the possibility to apply this concept in the area of origin determination.

#### 8. Improve digitalization and tech support

Businesses still have to provide hard copies of documents (e.g., for the EUR1 and GSP documentation). **Digitalisation of documents is crucial**. Nevertheless, digitalisation should take into consideration the

lack of capabilities and means of smaller companies and provide them with a way to upload digital documents through mobile devices.

In addition, **weak systems and technical IT**, together with a shortage of skilled tech support or clear information on a roll out plan, constitutes a significant issue for EBCA members. For instance, they faced poor communication from the EU Customs in the Netherlands on cross border import tech requirements for DMS roll out and on the new regulation that will replace the SASP cross border permit.

### **About EBCA**

*The European Branded Clothing Alliance is a coalition of leading global retail brands that represent over 60 brands. The alliance works to ensure a positive trade agenda and a more predictable business environment for a leading industry sector in the EU that contributes to jobs, innovation and research and development. Via their global value chains, members also contribute to jobs and sustainable development in countries in which they source and produce. Please visit our website at <http://www.ebca-europe.org/> for further information. Contact: [secretariat@ebca-europe.org](mailto:secretariat@ebca-europe.org)*