



CONFIAD PAN EUROPEAN NETWORK
CONFEDERATION INTERNATIONALE DES AGENTS EN DOUANE – INTERNATIONAL FEDERATION
OF CUSTOMS BROKERS AND CUSTOMS REPRESENTATIVES

CONFIAD’S POSITION PAPER ON THE PROPOSAL FOR REFORMING OF THE UNION CUSTOMS
CODE (COM(2023) 259 final)

October 2023

This paper discusses the position of Confédération Internationale des Agents en Douane (“**CONFIAD**”)¹ on the Proposal for the Reform of the Union Customs Code (“**UCC**”) which was published by the European Commission on 17 May 2023.² In this position paper CONFIAD presents its views on and amendments to the core provisions and elements which are of particular interest and importance to the Confederation.

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 agents in nine EU Member States. CONFIAD is a member of the European Commission’s Trade Contact Group and has a permanent presence in Brussels in the form of an AISBL. The Confederation regularly contributes to the policy-making activities of the European Institutions in the area of customs.

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On 17 May 2023, the European Commission presented its Proposal to reform the current EU’s Customs Code, by which it offered options on how to modernize and upgrade the existing customs legislation. The Proposal provides for some new elements, such as the EU Customs Authority, provisions relating to customs infringements and non-criminal sanctions, the EU Customs Data Hub, upgraded status of Authorized Economic Operators (“**AEO**”) – the Trust and Check Trader (“**TCT**”) status, as well as changes relating to e-commerce. The ultimate goal of the reform is to make procedures simpler and more efficient.

As the Proposal has become the result of a long preparatory process, including consultations with stakeholders, CONFIAD would like to recall that it was actively involved in such a preparatory work by participating in the meetings of the Trade Contact Group and by presenting its position

¹ CONFEDERATION INTERNATIONALE DES AGENTS EN DOUANE AISBL, Transparency Register Number 900179622923-45

² Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013, COM/2023/258 final

papers to the European Commission. The CONFIAD's position papers on the Wise Persons Group's ("WPG") report of August 2022 and on the Ongoing reform of the EU Customs Union of November 2022 are of particular relevance in this regard.

The comments and suggestions on the Union's customs policy expressed in those documents are still valid, however CONFIAD would like to elaborate more on some of the key provisions of the present Proposal.

On customs agent profession

Customs agents play an important role in international supply chains and international trade in general. They exercise the function of intermediaries between the importers, exporters or producers and customs authorities by fulfilling different customs procedures. It is without doubt that customs agents support customs administrations in performing their duties of protecting the Union borders from illegal trade flows which will not only harm the Union as a whole, but also Union citizens and businesses.

In many cases, customs agents are SMEs who obtained the required competence and knowledge under the national legislation, or those who are willing to provide professional services in different Member States need to fulfil the conditions of being granted the status of AEO. In this context, it is worth mentioning that professional competence, skills and knowledge are the underlying core elements of a professional customs agent. In 2017, CONFIAD participated in the development of the European Standard EN 16992 "Competency for Customs Representatives" which defines 21 domains of competence of customs representatives, ranging from customs business understanding to all types of customs procedures and formalities.

We are worried that in the UCC reform proposal there will be a limited role to customs agents, which will eventually lead to risks of existence of the whole profession. At least 10,000 customs agents are associated with CONFIAD, for instance, approximately 2,000 customs agents in Italy and 2,500 customs agents in Greece only, who serve the supply chain of around 800,000 persons in multiple sectors of the economy. Customs agents, in addition to carrying out the primary customs clearance activities, perform consultancy and support activities for SMEs on customs, commercial and fiscal matters and are connected to the entire world of the supply chains.

In many Member States of CONFIAD Member Associations, the profession of customs agents is regulated by national laws, which ensure access to this profession only after an internship program and passing a specific exam. To be accredited by a respective national customs administration, the custom agent must demonstrate that he or she has complied with the requirements set out in Article 39 of the UCC.

If the voice of customs agents' profession is not heard, it may lead to very negative consequences for many persons and companies, who are for the most part small or medium-sized businesses.

In our opinion, the new approach or paradigm promoted by the Commission does not fully take into account the situation of customs agents. As a simple example, the Impact Assessment SWD(2023) 140 provides that *“in terms of responsibilities, the new paradigm assigns specific roles to the five main groups of players in customs processes”*, which are importer/exporter, transport layer, customs authorities, the EU-level access (Commission) and other authorities that co-operate with customs (market surveillance authorities, security and other law enforcement bodies, and tax authorities).³ The customs agents seem to be excluded from the new approach, whereas we could only find the reference to the profession in the importer/exporter section – *“the new approach does not preclude the use of intermediaries, such as customs representatives, by the importer to assist in their information provision.”*⁴

It seems that the customs agents' role was side-lined, however, in view of their competence and skills, customs procedures are largely facilitated by customs agents as they act in the first line of defence filtering goods coming to the EU. The profession should be supported and leveraged to tackle the possible cases of fraud at the Union's borders. It is often the case that customs agents may reveal that importers submit wrong declarations, and therefore prevent the cases of fraud. At the same time, customs administrations should not abuse the role played by customs agents by using their knowledge and skillset to shift their function to customs intermediaries. It is worrying that under the Proposal being a trusted entity is not rewarded with simplifications with regard to the post-release controls. Due to specific professional characteristics in customs matters, customs agents should be considered trusted entities by customs administrations, and therefore should have simplifications in view of this.

This feature may be, and in our view should be, used by the Commission to improve customs management, as customs agents 'speak the same language' with and assist national customs authorities, and in general facilitate the international trade, which is one of the goals of WTO. Customs agents know applicable customs legislation and what negative consequences may be caused by non-compliance, that is why they keep working and educating importers about the customs non-compliance. This undoubtedly facilitates the work of customs administrations, making customs agents an indispensable element in the supply chains and international trade more broadly.

Even though CONFIAD welcomes that the Commission mentions the role of customs agents in its Impact Assessment, but in view of CONFIAD the real impact on the work of customs agents, in particular and above all on SMEs, has not been fully taken into account, despite reassurances by the Commission that the amendments should not put at risk the profession of intermediaries,⁵ including customs agents.

³ Impact Assessment, pages 118-119.

⁴ *Ibid.*

⁵ Meeting of the Trade Contact Group on 7 June 2023.

In this context, there is also a role for the customs agents, who should be able to assist and provide the right support for clients not having IT tools.⁶

Both citizens and consumers are not expected to develop their own IT systems to interact with the Customs administrations. For such actors, Customs will have to provide the portals to deal with the formalities in a seamless and transparent manner. Today, such interaction is managed by freight forwarders, private customs agents and/or postal operators.⁷

Moreover, CONFIAD generally agrees that the UCC should be modernized to become efficient for *all* stakeholders. However, the amendments should not be detrimental to the customs agent’s profession, which might be excluded from providing customs services, as the solution offered by the Commission may be described as “either-or”: either having the TCT status and enjoy simplifications or continue being a non-TCT without any simplification at all. The concerns of CONFIAD in relation to TCT status will be discussed further.

Even though this scenario might suggest that there will be opportunities for intermediaries to offer their services to non-TCTs, but on the contrary customs representatives will be placed in a “no-choice” position – when the TCT status is granted, they are forced to act in indirect representation only, thus unnecessarily assume all responsibility for goods. Such arrangements proposed by the Commission might be *de facto* in favour of bigger companies and players, to the detriment of SMEs, as it would be less burdensome for them to assume responsibilities and invest in personnel and learning, while smaller ones will still need to rely on customs intermediaries. This disbalance will eventually lead to distortion of competition at the EU’s internal market, which is unacceptable and should be avoided by all means. In the worst-case scenario, as it was mentioned previously, the existence of the customs agent profession will be put at risk.

Taking this opportunity to present our views on the developments in customs legislation, we would like to take a step forward to reinforce and recognize the role of customs agents by suggesting to introduce the definition of a customs agent in Article 5 of the Proposal, and mention customs agents in Article 25(1).

Article 5 Definitions	
European Commission’s Proposal	CONFIAD’s Amendment
<i>none</i>	<i>(15bis) ‘customs agent’ means a natural person or legal person who acts as a direct or indirect representative.</i>

⁶ COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT REPORT, at p.123.

⁷ *Ibid.*, at p.231.

Article 25	
Granting the status of Trust and Check trader	
European Commission's Proposal	CONFIAD's Amendment
1. An importer or exporter, who is resident or registered in the customs territory of the Union, meets the criteria set out in paragraph 3 and has conducted regular customs operations in the course of that person's business for at least 3 years, may apply for the status of Trust and Check trader to the customs authority of the Member State where that person is established.	1. An importer or exporter <i>or a customs representative, including a customs agent,</i> who is resident or registered in the customs territory of the Union, meets the criteria set out in paragraph 3 and has conducted regular customs operations in the course of that person's business for at least 3 years, may apply for the status of Trust and Check trader to the customs authority of the Member State where that person is established.

In addition, we find it problematic to support the provision of Article 27(1), which would make customs representatives importers or exporters, if they act in their own name but on behalf of an importer or an exporter.

National legislation of the Members States and the UCC establish legal limits to the two types of representation, which do not technically and legally allow transforming a representative into an economic operator – an importer or an exporter.

In case of representation, a represented subject attribute to another subject (representative) the power to replace him in carrying out one or more legal activities. Depending on whether the effects are produced on the person represented or on the representative, it is defined, respectively, as direct or indirect representation and, in the latter case, a further transaction is necessary to allow the effects to be produced in the sphere of the person represented.

In indirect representation, the custom agents act in their own name, but by virtue of a specific mandate on behalf of an importer or an exporter, as they are required to transfer the benefits and effects of the customs operation.

Article 27	
Customs representatives	
European Commission's Proposal	CONFIAD's Amendment
1. Any person may appoint a customs representative.	1. Any person may appoint a customs representative.

Such representation may be either direct, in which case the customs representative shall act in the name of and on behalf of another person, or indirect, in which case the customs representative shall act in his or her own name but on behalf of another person.	Such representation may be either direct, in which case the customs representative shall act in the name of and on behalf of another person, or indirect, in which case the customs representative shall act in his or her own name but on behalf of another person.
An indirect customs representative acting in its own name but on behalf of an importer or an exporter shall be considered the importer or the exporter for the purposes of Articles 20 and 22, respectively.	An indirect customs representative acting in its own name but on behalf of an importer or an exporter must be held jointly and liable with the importer or exporter for customs procedures.

CONFIAD nonetheless welcomes that the Commission transferred the condition of having practical standards of competence or professional qualifications as one of the requirements to obtain the TCT status, as meeting the criteria of competence for customs agents – European Standard EN 16992:2017 “Competency for Customs Representative” – is of crucial importance in preserving high standard of the profession.

Article 25(3)(d)

Granting the status of Trust and Check trader

3(d) practical standards of competence or professional qualifications directly related to the type and size of activity carried out, including that relevant employees are instructed on how to interact with customs authorities through the EU Customs Data Hub

On trust and check trader status

In its previous position papers, CONFIAD stated that the AEO system in place was not efficient, resulting in divergent and non-harmonized procedures to obtain the status in different Member States. Also, not many persons were able to obtain AEO status, for instance in Spain only around 800 companies were able to become AEO, including some 400 customs representatives.

In the text proposed by the Commission, a new status of Trust and Check Trader is introduced, which is built upon the current AEO system. Article 25 covers the conditions to be fulfilled to obtain the TCT status, as well as the content of rights and obligations of the TCT.

Having analysed the Proposal, CONFIAD respectfully submits that it has concerns over the TCT status in the long term, which might negatively affect the customs agent profession.

According to the timeline of the Commission, the transition from AEO to TCT should begin in 2032. It will be possible to apply for AEO-S (security and safety) and AEO-C (simplifications) until

1 March 2032. Beginning from 2032, it is possible to apply for the TCT status, but it will not be possible to apply for AEO-C. During the period from 1 January 2035 to 31 December 2037, the reassessment of AEO-C holders whether they meet the TCT conditions will be carried out. Despite AEO-S will continue to be valid during and after the transition, as from 1 January 2038 the AEO-C status will cease to exist as it will be replaced by the TCT status. The idea of the Commission is to make a gradual transfer from AEO-C to TCT.

a. Elimination of direct representation

The current wording of Article 27(3) of the Proposal raises concerns that the transition will lead to the **de facto elimination of direct representation**, thus forcing representative to assume indirect representation as the only option for being recognized as a TCT representative, unless the person in whose name and on whose behalf that representative is acting has been granted such a TCT status.

Article 27(3) of the Proposal stipulates that “[a] customs representative having the status of Trust and Check trader shall only be recognised as such when acting as indirect representative. When acting as a direct representative, the customs representative may be recognised as Trust and Check trader if the person in whose name and on whose behalf that representative is acting has been granted such status.”

The indirect TCT representative will be therefore made fully liable for the whole supply chain of the goods being placed on the EU market. This will eventually transfer a great burden on them for fulfilling both customs and non-customs requirements. It is also important to mention that liability of the custom representatives should be limited to customs legislation only, as non-customs legislation involves compliance with a great amount of regulations, which is evolving and customs representatives might not have a specific non-customs knowledge to fulfil non-fiscal formalities. In the worst-case scenario, it might lead to reduced operations and closures of businesses and therefore negative impact on the entire profession.

In addition, the customs representatives with the TCT status, whether acting in direct or indirect representation, should be able to provide services in other Member States, while it is up to Member States to determine conditions for the customs representatives without the TCT status on how to provide services in the Member State where they are established.

Article 27	
Customs representatives	
European Commission’s Proposal	CONFIAD’s Amendment
2. A customs representative shall be established in the customs territory of the Union.	2. A customs representative shall be established in the customs territory of the Union.

<p>Except where otherwise provided, that requirement shall be waived where the customs representative acts on behalf of persons who are not required to be established within the customs territory of the Union.</p>	<p>Except where otherwise provided, that requirement shall be waived where the customs representative acts on behalf of persons who are not required to be established within the customs territory of the Union. <i>Persons established in the custom territory of the Union that decide to take on the role of importers or exporters can act in their own name and on their own behalf, or appoint a direct or indirect customs representative.</i></p>
<p>3. A customs representative having the status of Trust and Check trader shall only be recognised as such when acting as indirect representative. When acting as a direct representative, the customs representative may be recognised as Trust and Check trader if the person in whose name and on whose behalf that representative is acting has been granted such status.</p>	<p><i>3. Customs representatives having the status of Trust and Check trader, regardless whether acting as direct or indirect representative, shall be able to offer customs services also in other Member States of the Union, and their customers will benefit from their simplifications granted by the customs authorities.</i></p>
<p>4. The Commission shall determine, in accordance with Union law, the conditions under which a customs representative may provide services in the customs territory of the Union.</p>	<p><i>4. Member States may determine, in accordance with Union law, the conditions under which customs representatives, without the status of Trust and Check trader, may provide services in the Member State where they are established.</i></p>

Also, we would like to have a possibility to begin the rolling-out of TCT status starting from 2028, which will allow for a greater timeline for the transition from AEO-C to TCT, and will ultimately give a possibility to remedy shortcomings revealed during the transitional phase.

In the alternative, indirect representation might be acceptable for customs agents if it is limited to the management of data in the EU Customs Data Hub, but it is not acceptable if they are liable for information that is not in their possession.

Allowing to act in direct representation for importers and exporters who do not meet the demanding criteria of becoming TCT will increase the number of logistical operations facilitated by certified trusted operators. In this case, importers would remain on a transactional customs clearance scheme, but would benefit from certain facilitations of customs representatives having the TCT status.

Therefore, CONFIAD believes that the TCT status should be regulated under the EU law, while those who decide not to become TCT or simply do not meet the strict TCT conditions will be governed by respective national legislation, therefore **there should always be a choice whether to become TCT or not, and whether to act as a direct or indirect customs representative with the TCT status.**

b. Risk of losing simplifications and negative impact on SMEs

The Commission proposes to choose between applying for the TCT status or losing all simplifications that are currently granted to AEOs. This proposed arrangement is even worse for those who are non-TCT. It simply follows that if you are not granted the TCT status, no facilitations are provided, and *vice versa* in order to get simplifications, it is compulsory to have the TCT status, while in certain scenarios it might become problematic to meet the strict TCT criteria, in particular for the SMEs.

Currently, customs agents who act as AEOs benefit from simplifications such as:

- Easier admittance to customs simplifications
- Fewer physical and document-based controls
- Reduced guarantee
- Deferment of payment
- Priority treatment if selected for control related to other customs legislation
- Possibility to request a specific place for customs controls
- Indirect benefits (recognition as a secure and safe business partner; improved relations with customs and other government authorities; reduced theft and losses; fewer delayed shipments; improved planning, customer service and customer loyalty; lower inspection costs of suppliers; increased co-operation etc.)

On the contrary, CONFIAD proposes to extend the facilitations granted to TCTs by adding centralized clearance and making entry in the declarant’s records.

Article 25	
Granting the status of Trust and Check trader	
European Commission’s Proposal	CONFIAD’s Amendment
7. Customs authorities may authorise Trust and Check traders: (a) to provide part of the data on his or her goods after the release of those goods, in accordance with Article 59(3);	7. Customs authorities may authorise Trust and Check traders: (a) to provide part of the data on his or her goods after the release of those goods, in accordance with Article 59(3);

<p>(b) to perform certain controls and to release the goods upon receipt of those goods at the place of business of the importer, owner or consignee and/or upon delivery from the place of business of the exporter, owner or consignor, in accordance with Article 61;</p> <p>(c) to consider that it provides the necessary assurance of the proper conduct of the operations for the purposes of obtaining authorisations for special procedures in accordance with Articles 102, 103, 109 and 123;</p> <p>(d) to periodically determine the customs debt corresponding to the total amount of import or export duty relating to all the goods released by that trader, in accordance with Article 181(4);</p> <p>(e) to defer the payment of the customs debt in accordance with Article 188.</p>	<p>(b) to perform certain controls and to release the goods upon receipt of those goods at the place of business of the importer, owner or consignee and/or upon delivery from the place of business of the exporter, owner or consignor, in accordance with Article 61;</p> <p>(c) to consider that it provides the necessary assurance of the proper conduct of the operations for the purposes of obtaining authorisations for special procedures in accordance with Articles 102, 103, 109 and 123;</p> <p>(d) to periodically determine the customs debt corresponding to the total amount of import or export duty relating to all the goods released by that trader, in accordance with Article 181(4);</p> <p>(e) to defer the payment of the customs debt in accordance with Article 188.</p> <p><i>(f) to perform centralised clearance in accordance with Article 72.</i></p> <p><i>(g) to make entry in the declarant's records in accordance with Article 73.</i></p>
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In the Impact Assessment, the Commission maintained that the “*reform is not expected to generate any adverse effects on SMEs*”⁸, but it admitted that “*the most significant change with impact on SMEs will be the reform of customs procedures, which will bring benefits in the form of simplification for economic operators who opt for the Trust and Check scheme.*”⁹ In practice, it will be less difficult for bigger entities and large economic operators to meet the compliance requirements in view of their size and resources, while for SMEs it will be the greatest challenge to release the goods.

Therefore, **CONFIAD respectfully submits that impact on SMEs is underestimated**, and in the proposed arrangement they will not be able to compete with bigger entities. Under these circumstances, it is possible that SMEs will be driven out from the market, which is not in line with the attempts to ensure the level playing field.

⁸ COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT REPORT [] Accompanying the document Proposal for a Regulation of the European Parliament and of the Council establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013, at p.65.

⁹ *Ibid.*

c. Post-release control considerations

According to the rationale of the Commission, the TCT status will be the only way to release goods since 2038, however the Proposal does not amend provisions relating to the post-release investigations, for instance leniency or facilitations, while the representatives or economic operators will bear great liability for giving access to their electronic systems and data. In view of this, **the Commission should ensure that safeguards are in place for post-release investigations and control**. Placing all responsibility on the customs representative, both for customs and non-customs formalities, might produce some benefits for customs administrations from the point of view of facilitating customs control, however this should not result in a simple shift of liability from customs authorities to TCTs – it will not be beneficial for business environment and trade in the EU.

d. TCT customs representative

In its previous position paper, CONFIAD welcomed the Wise Persons' Group recommendation to ensure "*multi-layered*" system, and suggested to introduce the concept of the AEO Customs Representative – the role which 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. Unfortunately, this role was not created.

We believe it would be very beneficial for the customs agents' profession to create the role of TCT customs agent or TCT customs representative. The concept should be closely linked to the EU Customs Data Hub, which is fundamental for the reform. In our view, as data relating to shipments are not always available to the importing TCTs, but according to the delivery terms it is divided between several shipping actors, they must provide their respective part of the data, for instance data elements of the customs declaration. Therefore, the differentiation between different TCT roles is essential so that data elements are respectively supplied at each stage of the supply chain, for instance producers provide data on goods, freight forwarders enter data elements relating to the shipment and consignments, while customs agents finalize the process with the completion of customs declarations. Even though it might seem that there is involvement of too many players, but the smooth and efficient fulfilment of customs procedures will be only achieved if competent professionals act at a respective stage of the process.

e. Clarification of definitions

To add more clarity to the direct and indirect representation, the following amendments to the definitions of exporter and importer are proposed. In the Commission's Proposal the definition of 'exporter' should be modified in relation to exports of goods that are not carried by private individuals in their personal baggage in order to allow greater flexibility to business partners in

the choice of the person which may act as exporter, especially when the parties agree to apply the EWX Incoterms[®] 2020 to their contract.

The current definition of the Proposal is problematic insofar as it determines ‘exporter’ as only one person, who has to meet three cumulative requirements: be established in the customs territory of the Union, hold a contract with a consignee in a third country, and have the power to determine that the goods are to be brought outside the customs territory of the Union. Therefore, a new definition of ‘exporter’ should be less restrictive and limit the conditions for being an exporter to the essential requirements for the functioning of the export procedure by specifying that ‘exporter’ can be also any person established in the customs territory of the Union who is a party to the contract under which goods are to be taken out of that customs territory. This is also the current definition of ‘exporter’s, according to Article 1(19) Commission Delegated Regulation (EU) 2015/2446 as amended by the Commission Delegated Regulation (EU) 2018/1063 of 16 May 2018.

Article 5 Definitions	
European Commission’s Proposal	CONFIAD’s Amendment
(14) ‘exporter’ means any person who has the power to determine and has determined that the goods are to be taken out of the customs territory of the Union;	<i>(14) ‘exporter’ means a private individual carrying goods to be taken out of the customs territory of the Union where these goods are contained in the private individual’s personal baggage, or (i) a person established in the customs territory of the Union, who has the power to determine and has determined that the goods are to be taken out of that customs territory; (ii) where (i) does not apply, any person established in the customs territory of the Union who is a party to the contract under which goods are to be taken out of that customs territory OR agrees to take on this role.</i>
(12) ‘importer’ means any person who has the power to determine and has determined that goods from a third country are to be brought into the customs territory of the Union or, except otherwise provided, any person who is considered a deemed importer;	<i>(12) ‘importer’ means the following: a) a private individual carrying goods to be taken into the customs territory of the Union where these goods are contained in the private individual’s personal baggage;</i>

	<p>b) a person established in the customs territory of the Union, who has the power to determine and has determined that the goods from a third country are to be brought into the customs territory of the Union;</p> <p>c) where (b) does not apply, any person established in the customs territory of the Union who is a party to the contract under which goods are to be brought into the customs territory OR agrees to take on this role;</p> <p>d) except otherwise provided, any person who is considered a deemed importer.</p>
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On common provisions on customs infringements and on non-criminal sanctions

In view of the attempts of harmonization of customs infringements, we believe it would be appropriate to clarify in the definitions what constitutes ‘negligence’ and ‘error’, as the differentiation between the two would lead to various consequences for importers, exporters and customs representatives. The clarification will also minimize various interpretations by EU Member States, which could at least make the UCC provisions relating to customs infringements and on non-criminal sanctions ineffective, or in the worst-case scenario result in divergent approaches to the same matter.

On temporary storage

According to Article 86(5) of the UCC Proposal, the Commission proposed to limit temporary storage to 3 and 6 days, following what the goods should be placed into a customs procedure. On the contrary, the current Article 149 of the UCC allows to keep non-Union goods in temporary storage for 90 days.

Article 86(5), UCC Proposal

5. Non-Union goods in temporary storage shall be placed under a customs procedure no later than 3 days after the notification of their arrival or no later than 6 days after the notification of their arrival in the case of an authorised consignee as referred to in Article 116(4), point (b), unless the customs authorities require the goods to be presented. In exceptional cases, that time limit may be extended.

In our view, the Commission did not provide sufficient justification for the considerable reduction of the period from 90 to 3 and 6 days. It is neither explained in the impact assessment what is

the rationale to so drastically limit the time for temporary storage. The 90-days period is absolutely essential to ensure the flow of logistics operations. This flexibility makes it possible to synchronize declaration and transport operations in line with the particulars of each mode of transport. The reduction to three or six days would lead to heavy congestion at international hubs, and undermine the attractiveness of the Union's customs union.

It is also important to note that customs warehousing is not a substitute for temporary storage. It is not only different from the procedural point of view, but it involves a fundamental substantive difference. In case of customs warehousing, it is necessary to declare an importer when placing goods under the procedure, but in case of transshipment and/or temporary storage of goods not destined for the Union's customs territory, no importer has to be declared. Logistical connections by road directed to the customs territory of the Union require, after leaving the port/airport terminal, several days and stops at logistics sites, which will make the temporary storage of 3 to 6 days completely non-operational.

In view of CONFIAD, the duration of placing goods in temporary storage should remain the same as it is now – 90 days. In the alternative, the duration of placing goods in temporary storage should be at least 45 or 60 calendar days.

On EU Customs Authority

CONFIAD welcomes the provisions on the establishment of the EU Customs Authority, which should ensure a more harmonized application of the Union's customs legislation. In CONFIAD's opinion, the role of the EU Customs Authority should not be limited to coordination of activities across the Member States only, but include efficient control and enforcement at the European level.

From the EU customs law perspective, it should ensure that the European customs rules are coherently and consistently applied in day-to-day operations in all Member States. In case of serious misinterpretations or violations of EU law, the European Customs Agency should be given a possibility to intervene and work with national customs administrations to remedy the shortcomings.

In addition, economic operators and associations should be allowed to interact with the EU Customs Authority 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 EU Customs Authority may issue recommendations to customs administrations.

Therefore, the EU Customs Authority should ensure uniform and harmonized application of the UCC, ensure uniform application of risk management, and oversee the operation of IT systems, the EU Customs Data HUB and the Single Window, making sure that all Member States offer the same level of IT services.

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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 believes that amendments proposed in the present position paper will be taken into account in the legislative review of the Proposal. CONFIAD remains at the European Commission's full disposal should there be questions or requests for clarifications.

For CONFIAD

Massimo De Gregorio

President