

Mr Heinz Zourek  
Director-General  
DG TAXUD  
European Commission  
Brussels, B-1049

CC: Mr Mirosław Zielinski, Director, Directorate A, DG TAXUD, European Commission and;  
Mr Jean Michel Grave, Head of Unit, Customs Legislation, DG TAXUD, European Commission

29 April 2014

**Regarding: Critical business issues with delegated and implementing acts for the Union Customs Code**

Dear Mr Zourek,

During the Trade Contact Group, it was indicated that consideration would be given to inviting associations to parts of a Customs Code Committee, Experts Group meeting or any other relevant occasion when the Commission and the Member States will discuss issues that associations have established as critical to their business.

We have identified the following issues as being critical to our business, and would now officially lodge a request to be invited to participate in meetings as set out above.

*1. Centralised clearance*

The principle of centralised clearance, where EU traders can declare goods electronically and get their release into free circulation in the Member State where they are established irrespectively of the Member State through which the goods are brought in or out, will deliver a substantial benefit to European trade, if implemented correctly,

*2. Customs valuation*

The EU's rules on customs valuation are based on the legally binding international WTO Customs Valuation Agreement (CVA). These rules provide, inter alia, that the value of imported goods can be based on the so-called transaction value if there has been a sale for export to the importing country.

The CVA also provides that royalties and licence fees be included in the customs value only if they are a condition of sale. The EU's Customs Code and its implementing provisions honour these principles. However, in the context of the implementing and delegating acts of the UCC, the Commission is planning to amend the rules in these two areas to the detriment of EU businesses and consumers, and without there being a legal or practical need to do so.

3. *Harmonised Tariff Code (HS) code in the Import Control System ICS*

The provision of an HS code in ICS will have a big impact on the business model of certain trade sectors and as a consequence add cost to business in Europe. We fail to understand the relevance of a HS code for risk analysis purposes.

4. *Advanced data submission for security purposes*

Article DA-IV-1-03 provides that the ENS should be lodged as early as possible before loading and introduces a dual filing process. However the initial data required in this dual filing process is not defined. It is imperative that this data is specifically defined based on the findings of the express industry's pilot project carried out in 2013.

5. *Simplified transit procedure for transport by air – (former article 445, Regulation 2454/1993).*

Under the existing customs code and its implementing provisions, airlines and sea carriers are allowed to use their own systems to control and report to customs all transit movements between EU/EFTA air and seaports. Based on an authorisation from customs, the carrier is able to use its own operating system to transmit transit cargo data between the (air)port of departure and destination. This completely electronic and simplified process is fully within the spirit of the Union Customs Code (UCC) and as such we see no reason why this cannot continue under the UCC for legitimate traders. Forcing these transit movements into the NCTS system will create red tape for both the customs authorities at the (air) ports and the carriers without any added value. Article DA-VII-2-14 provides for the legal basis for such a process.

6. *Export procedures for air under a single transport contract (MCCIP, 'authorised carrier' and former article 793 2b, Regulation 2454/1993).*

The sheer time critical volumes carried for export in the air networks requires that the formalities relating to both export and exit are carried out at one single point, the office of export. Not having this facility will cause bottlenecks and extensive flight delays while controls take place at the physical point of exit.

7. *Definition of express consignment*

The express industry operates a unique time-critical business model unlike any conventional transportation mode, providing an integrated end-to-end service from pick-up to delivery including all customs formalities. This unique model justifies specific procedural rules for the express industry.

8. *Economic Operators Registration and Identification number (EORI) for private individuals and ad hoc customers*

A range of workarounds to circumvent the requirement for private individuals and ad hoc customers to obtain an EORI number are common practice in a large number of Member States. This customary legal setting justifies an inclusion of EORI exceptions for these consignors and consignees.

9. *Overall validity of a service provider's AEO status for all shipments carried.*

The current rules on AEO require that all parties involved in a supply chain need to hold AEO status for shipments to benefit from the AEO status. In practise, AEO status becomes irrelevant in the vast majority of the cases and SMEs are excluded from any benefits. A service provider's AEO certification should be valid for all shipments carried by them.

10. *Documents (alternative proofs) to be provided that the Community Transit procedure has ended*

EU traders using the Community or Common Transit procedures can provide alternative proof establishing that the goods in question have been presented at the customs office of destination or to an authorised consignee. In times that customs authorities, both in the EU and in third countries, are operating in an electronic environment, the obligation to have the customs record (or a copy or photocopy) certified by a customs authority of a Member State or issued in a third country 'stamped by the customs authority of this country (...)' is too cumbersome and should therefore be waived at least when the holder of the procedure has AEO-C or AEO-F status. Such holders have proven to have robust processes and controls in place and work with reliable business partners that should not require these holders to obtain these documents certified or stamped.

We fully understand the time constraints that you are working under, but by not consulting industry in discussions between the Commission and Member States on these issues may jeopardise the services that we provide to businesses and consumers and make it difficult to provide suitable replacement procedures.

We respectfully request your early response in this matter, and we are available to meet with you at your convenience if you so require.