
German Chamber of Commerce and Industry

DIHK-Concept paper for simplifications in EU customs law - Unburdening business and customs

Basic remarks

The efficient and frictionless handling of international flows of goods by the customs administrations of the EU member states is of crucial importance for the competitiveness of German and European companies. The provisions of the Union Customs Code (UCC) issued by the EU Commission must not lead to new bureaucratic obstacles in the international movement of goods. The German Chamber of Commerce and Industry (DIHK) therefore expressly supports the goal of facilitating trade with third countries (trade facilitation), which is one of the top priorities of the UCC. In the view of the DIHK, this can only succeed if, on the one hand, EU customs law is continuously modernized and, on the other hand, the national customs administrations make use of the discretionary powers granted to them under EU law in a business-friendly and practice-oriented manner.

Main messages

Common concerns of the European legislator and the national customs administrations responsible for implementation should be:

- Promotion of foreign trade and strengthening the competitiveness of the EU-economy;
- Comprehensive digitization and IT linkage of all customs processes, including all involved parties;
- Flexible mapping of business processes and procedures in customs law and customs clearance;
- Unburdening of reliable companies (Authorised Economic Operator, AEO) and the customs administration by focusing on significant risks and reduction of bureaucracy;
- Support of small and medium-sized enterprises (SME) in the handling of customs processes in foreign trade;
- Uniform application of law in all EU countries;

- Support of sustainable and environmentally friendly trade.

Building on the "DIHK Position Paper on International Trade Policy"¹, this "Concept Paper for Simplifications in EU Customs Law" specifies proposals that contribute to the achievement of the above-mentioned objectives.

Simplification of customs legislation at EU level

1. Consistent implementation of digitization

The new Union Customs Code (UCC) has been fully in force since May 2016. Improvements to the existing law so far unfold only to a very limited extent. The digitization and IT linkage of all customs processes, including all the players involved, which the EU is striving for, offers opportunities. This must be implemented by the EU Commission and the individual member states with the highest priority. The range of possible simplifications is wide. This ranges from the digitization and flexibilization of customs procedures, e.g. in the form of so-called "Centralised Clearance", through digitization of customs simplifications (application for, granting and management of authorisations), to the presentation of all documents required for customs clearance (e.g. proofs of preferential origin, A.TR.) in electronic form by companies or responsible third authorities in one place (single window). Only a holistic electronic customs management can make the best possible use of the potential digitization dividend for companies and customs administration.

The shift to electronic customs procedures requires practical transitional regulations that enable not only customs, but above all businesses to adapt their corporate IT structures to the requirements of the UCC. The transitional periods should also be used to continuously check the new procedures for their practical suitability and adapt them as necessary.

2. Improve the EU Trader Portal and strengthen support services

The EU Trader Portal is available for customs authorisations across member states. However, the application process, e.g. for an authorisation for centralised customs clearance, requires a considerable amount of time. In addition, companies often do not understand what information is required for digital applications and in what form they must be submitted. Therefore, the functionality, reliability and especially the comprehensibility of the portal must be significantly improved. Furthermore, it is necessary to strengthen the support offices that are located at the customs administrations in the applicant's member state.

¹ ["For a Modern Trade Policy – Against Protectionism", DIHK-Position on International Trade Policy](#)

3. Enabling the use of comprehensive guarantees across different customs procedures

Although expressly provided for in the UCC, reference amounts for comprehensive guarantees granted by customs authorities can so far only be used within one Member State and there only within one customs procedure for different operations (individual determination of the reference amount for each procedure). Example: A comprehensive guarantee granted within the framework of inward processing in Germany can only be used for (several) consignments of goods within this procedure and only within Germany. However, it cannot be used to cover, for example, customs debts that may occur under the same procedure (inward processing) in other EU Member States. Furthermore, the comprehensive guarantee cannot be used to cover any customs debts that may occur in other customs procedures (e.g. the customs warehousing procedure) in the same EU member state or in other EU member states.

The cross-member state and cross-procedure use of such comprehensive guarantees would make it possible for companies to manage their liquidity much more efficiently. The full implementation of the "Guarantee Management (GUM)" module envisaged in the UCC-IT-work-programme is crucial for this.

4. EU-wide uniform and cross-company binding tariff information (BTI)

BTIs must necessarily be EU wide uniform, but in practice they are often not. For the same goods different BTIs are issued in different member states. Thus, it happens time and again that different BTIs are issued for the same goods in different member states. This leads to an increased administrative burden in ERP-systems and can lead to BTI shopping. The current EU-Guidance does not change this. Therefore:

- It should be possible to apply for cross-Member State BTIs so that they can be applied uniformly for example within company-groups. Article 22 (I) UCC provides for this but has not yet been implemented.
- Companies should be able (or where appropriate be obliged) to submit inconsistently issued BTIs for overriding decisions. Advantages: uniform application of the law, reduction of bureaucracy, susceptibility to errors and fraud.

5. Create an EU mediation office in case of inconsistent handling of customs law by national customs authorities

The 27 national customs administrations in the EU do not always act uniformly, and some interpretations of EU law are difficult to understand. Companies confronted with different legal interpretations in several member states or with interpretations of the law that appear to contradict EU law should be able to call on a European mediation/arbitration body, which will then promptly determine a binding, legally sound course of action.

6. TARIC: Review tariff rates of less than 2% and harmonise remaining tariffs

The levying of tariffs should primarily serve as an economic policy steering instrument and less as a purely fiscal instrument to increase the EU budget. However, the economic policy steering effect is questionable with very low tariff rates. Against this background and in view of the disproportionately high administrative burden, marginal tariffs of less than two percent should be put to the test. In addition the remaining customs tariff rates defined in the Integrated Tariff of the European Union (TARIC) should be clustered and variances in the decimal range should be reduced. This would minimize the likelihood of errors and reduce the time and effort required to check customs declarations. Post-clearance collections and refunds of underpaid or overpaid customs duties would be reduced. This would relieve the burden on business and customs alike.

7. TARIC/Combined Nomenclature: reduce the number of commodity codes

Alike the consolidation of customs tariff rates, the reduction of tariff lines in the Combined Nomenclature or in the TARIC based on the Combined Nomenclature can also ease the burden on businesses and customs. Instead of differentiating tariff lines of actually similar types of goods due to mini- and micro-differences in their composition ever on, products of one family of goods should again be more strongly grouped under a common commodity code. This would also reduce the likelihood of errors, the time and effort required for checks, recalls and reimbursements.

8. TARIC: Reduce the number of codes in customs declarations

Documentary codes in customs declarations are becoming more and more extensive and complex. Both the EU and the customs administrations of the member states are independently creating ever new codes. In Germany, the General Customs Authority has published a 50+ page handbook just for authorisation codes for exports. Instead of expanding the codes more and more, they should be reduced extensively. Negative codes should be abolished as far as possible, at least for AEOs. This would reduce the likelihood of errors and the amount of work involved in checking export and import declarations. In addition customs and logistical processes in international movement of goods would be simplified.

9. TARIC: Announce changes with advance notice and accompanying information

Changes in the ten-digit TARIC are usually implemented overnight in the EU without much advance notice. There is neither an EU information service for companies nor are there sufficient time periods to adapt the changes or fixed dates, when changes take place. The result of changing the ten-digit TARIC code during the year is a considerable effort for companies each time. The changed tariff numbers have to be transposed into ERP-systems, hence customs clearance is delayed. Moreover, it is incomprehensible that all users of a commodity code are affected by changes in the ninth and tenth digit, even though the trade policy measure that triggers those changes only affects a few companies. The current practice goes against the spirit of the Trade Facilitation Agreement. Companies need planning

certainty, i.e. either a lead time of several weeks or fixed dates on which changes will take place.

10. Regularly check the scope of data elements in customs declarations

The required data elements in customs declarations are continuously increasing. Indeed, there is the possibility of using (at first) reduced data sets in the context of simplified customs declarations and declarations of low-value consignments (LVC). Nevertheless, the scope of the data requirements outside of these cases should be regularly reviewed in the interest of efficient customs processing.

11. Simplification in the detailed description of goods for AEOs

The description of a good in the customs declaration in accordance with the customs tariff is often complex. AEOs should be relieved of this task: It must be possible to dispense with a "detailed" tariff-compliant description of the goods in all customs declarations if the customs declarations contain a unique reference number (e.g. the item number), which can be used to clearly identify the product if necessary and to check its nature/function/tariff in the course of downstream controls.

12. Simplification of the correction of customs declarations

Art. 15 UCC provides for an obligation to make a complete and correct customs declaration. In many cases, especially in the case of small consignments, sample consignments, returned goods and repair consignments, which are cleared at the border upon arrival of the goods, this requirement can only be met with very considerable effort. If the rate of customs duty does not change or no prohibitions and restrictions are affected, the obligation to correct customs declarations should be waived. This should be regulated by an EU guidance document.

Art. 88 UCC-DA provides that the customs administration may waive notification of the customs debt incurred where the amount of import or export duty is less than 10 euros. This amount, which has remained unchanged for years, should be increased to 20 euros. In addition, this regulation should be modified in such a way that companies can waive notification of the necessary change to customs (and not vice versa) if the amount of customs duty (after verification by the company) is below the stated limit. This can be linked to the AEO authorisation.

13. Making customs law SME-friendly

In many aspects, the regulations of customs law are so complex that it is difficult for small and medium-sized enterprises (SMEs) to comply with them. Examples are anti-dumping regulations and customs duty suspensions. The bureaucratic burden to be dealt with is generally easier to manage for large companies than for SMEs. A simplification of reporting requirements and deadlines can help to ensure that small companies also make more frequent use of antidumping exemptions and duty suspensions in customs declarations.

14. Abolition of unnecessary regulations

In addition to the actual EU customs law, companies must adhere to numerous other regulations. The EU should check these regulations at regular intervals to ensure that they are up-to-date and relevant. For example, the regulation on textile quotas (Regulation (EG) 3036/94) is no longer up-to-date and should be abolished.

15. Strengthening of operational documentation forms compared to formal reports

Coherent and for customs comprehensible corporate documentation of customs procedures should, as far as possible, make formal customs declarations and thus additional customs bureaucracy superfluous. Concrete examples of this are:

- **Preferences - Alternatives to the supplier declaration for contract processing:** If during a production process certain processing or manufacturing steps are carried out outside the own company in the EU (contract processing, "extended workbench"), companies have to regularly use supplier declarations for goods having or not having preferential origin in order to prove compliance with the territoriality principle. Alternatively, it should be possible to provide proof by means of corporate documents such as delivery bills, provided that the company that ultimately determines the preferential origin has sufficient information. This is particularly important for SMEs.
- **E-commerce:** Movements of goods are mapped in real time in the companies' enterprise resource planning systems (ERP). It should be possible for e-commerce traders based in the EU to also use this information for customs documentation (e.g. export, returned goods).

16. Promotion of environmentally friendly reusable packaging systems

The currently valid regulations for reusable packaging are inconsistent, depend on the material of the packaging and their application is sometimes extremely complex. Consequently, one-way packaging is often preferred. It is therefore necessary to simplify the border crossing of empty containers to reuse empty reusable packaging. It would make sense to have the option of an implied/conclusive customs declaration in accordance with the ["ICC Business Recommendation on the use of return-refill container systems in cross border trade"](#). Tracking and tracing systems as accessories of returnable packaging should also be included. Simplifications in this area would both contribute to environmental protection and reduce bureaucracy for businesses and customs administrations.

17. Simplifications for AEOs

The existing simplifications for Authorised Economic Operators (AEO) are insufficient. Further simplifications, especially for standard processes, should be implemented. The above-mentioned examples of the elimination of negative codes, the level of detail in goods descriptions and the correction of customs declarations are just some of the possibilities.

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Who we are:

The 79 Chambers of Commerce and Industry (IHKs) are members of the German Chamber of Commerce and Industry (DIHK). Our common target: the best conditions for successful economic activity.

At the federal and European level, DIHK represents the interests of the entire commercial sector vis-à-vis policy makers, the administration and the public.

Several million companies from the trade, manufacturing industry and service sectors are legal members of a CCI – from kiosk owners to Dax corporations. All IHKs are legal members of the DIHK. Thus, DIHK and the IHKs are a platform for the many and varied concerns of companies. We bundle these through a defined procedure based by a legal basis into common positions of the business community and thereby contribute to the participatory debate on economic policy.

Moreover, the DIHK coordinates the network of the 150 German Chambers of Commerce Abroad, delegations and representative offices of the German economy in 93 countries.

It is enrolled in the EU transparency register No. 22400601191-42.