

Contribution to Growth: Customs union

Delivering improved rights for European citizens and businesses



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Abstract

This in-depth analysis was prepared by Policy Department A at the request of the IMCO Committee to provide background information on rights and benefits delivered to European citizens by developments of the EU Customs Union and on the potential for further achievements.

This document was requested by the European Parliament's Committee on the Internal Market and Consumer Protection

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LIST OF ABBREVIATIONS

AEO	Authorised economic operator
AES	Automated export system
BTI	Binding tariff information
CCC	Community Customs Code
CCI	Centralised clearance for import
CDS	Customs decisions system
ECA	European Court of Auditors
ECCG	Electronic Customs Coordination Group
EORI	Economic Operator Registration and Identification System
CJEU	Court of Justice of the European Union
EU	European Union
GSP	Generalised Scheme of Preferences
GUM	Guarantee management
ICS	Import control system
INF	Standardised Exchange of Information for Special Procedures
IOSS	Import one-stop shop
MASP	Multi-annual strategic plan
MCC	Modernized Customs Code
MFF	Multiannual financial framework
MSI	Member State of identification
NA	Notification of Arrival
NCTS	New computerised transit system

NIS	National Import Systems
PN	Presentation Notification
PoUS	Proof of Union status
REX	Registered exporter
RIMSCO	Risk Management Strategy Implementation Coordination Group
SAD	Single administrative document
SAFE	Framework of Standards to Secure and Facilitate Global Trade
SP	Special Procedures
UCC	Union Customs Code
TFEU	Treaty on the Functioning of the European Union
TS	Temporary Storage
UCC-DA	Commission Delegated Regulation (EU) 2015/2445
UCC_IA	Commission Implementing Regulation (EU) 2015/2446
UCC_TDA	Commission Delegated Regulation (EU) 2016/341 establishing transitional rules Union Customs Code
UUM&DS	Uniform user management & digital signature
WCO	World Customs Organization
WTO	World Trade Organization

EXECUTIVE SUMMARY

The EU Customs Union: Concept and Evolution

A customs union has been a core element of European integration from the outset. In overview, it becomes apparent that the project of a EU Customs Union has importantly developed over time. This is true for its elements, when considering the many steps taken from the early beginnings in 1968 to the UCC, which is said to be one of the largest pieces of EU legislation and comes along with the establishment of an electronic infrastructure. It is also true in view of the relevant objectives and contexts. In the early days, the functionality of the customs union as such with some degree of uniformity has been an imperative. However, with customs duties becoming a source of own resources and the evolving dimensions of the internal market, customs matters became considerably more relevant. Today, security and safety issues play an additional role, as is true as well for the digital dimensions.

Achievements of the EU Customs Union

The achievements of the EU Customs Union and the benefits and rights it delivered to EU businesses are manifold and include not only rights in a technical sense but a number of legal advantages.

The basic benefit of a customs union is market access and thus, as far as the EU is concerned, a corresponding right to free movement of goods within the internal market. While this has been achieved a long time ago the UCC has recently afforded a right to offer services to customs representatives throughout the EU.

The introduction of the status of an Authorized Economic Operator is an important achievement. Beyond the number of particular privileges that it entails, it is a benefit as such. By rewarding demonstrated prudence with facilitations and simplifications, the AEO status can be seen as promoting a “right to legitimate trade”.

Another major achievement of the EU Customs Union is the electronic environment. Based on an infrastructure established by the EU and Member States and related legislation, it allows businesses to manage their customs matters as an integral element of their business IT processes. But the system is more than another means of communication: it also provides valuable information for businesses. Furthermore it can enhance and promote the effectivity of EU customs and this way allow for further facilitations and simplifications.

EU businesses also benefit from the uniform regulatory environment, which has the potential to reduce compliance cost and can level the playing field in view of competition on the internal market.

Also, a right to be heard in customs matters must be mentioned, as it introduces a rule of law standard to the benefit of businesses.

The Future potential of the EU Customs Union

While the EU Customs Union has seen many achievements over recent years in view of legislation and the establishment of an electronic environment, there is still potential for delivering further benefits to EU businesses. Economically, this potential is considerable, as a number of estimations and findings may indicate.

There is potential for promoting the enjoyment of the benefits afforded to legitimate trade to all businesses and to explore measures to this end particularly for SMEs. Also, the “right to legitimate trade” as explained can be importantly strengthened by linking it to a coherent system of sanctions.

These sanctions are also the most relevant issue in further promoting uniformity.

INTRODUCTION

The European Parliaments' Committee on Internal Market and Consumer Protection (IMCO Committee) has requested an update, through a series of in-depth analyses, of the study performed in 2014 on the "Contribution of the Internal Market and Consumer Protection to Growth". The aim is to provide background information and advice for the Members of the IMCO Committee on benefits brought in the past and to be realized in the foreseeable future for EU businesses and citizens by legislation established in the field of Internal Market and Consumer Protection with particular focus on the actions of the 7th and 8th legislature) as well as to reflect on priority measures and actions to be undertaken in this field. In this context, an in-depth analysis of the European customs legislation has been requested.

Customs law indeed is a key element of the internal market, closely linked to the Unions' customs union, the financial interest of the Union and important safety and security concerns. In order to understand the relevance of customs law which is said to represent the Union's largest piece of legislation, a short overview to its evolution is necessary.

Customs legislation determines the functioning of EU Customs and this way makes the EU Customs Union work. This study will assess what has been achieved for EU businesses and citizens through improved rights so far and explore the potential for further improvements.

In doing so, the concept, evolution and challenges of the EU Customs Union will be briefly outlined. Afterwards, the many achievements will be explained, which were not least brought about by a comprehensive process of modernization, which took place mainly in the 7th and 8th legislature. As will be seen afterwards, there is still some potential for the EU Customs Union.

1. THE EU CUSTOMS UNION: CONCEPT AND EVOLUTION

KEY FINDINGS

A customs union has been a core element of European integration from the outset. It is much more promising and ambitious than the so-called free trade areas as regularly established by regional or preferential trade agreements. The 1968 regulations on a common customs tariff and other matters were essential building blocks of the EU Customs Union. However, to make the customs union work, EU legislation was adopted in the following years on various aspects of customs law. Likewise, customs duties became a source of own resources of the EU. In view of the establishment of the internal market the legislation was consolidated in 1993 by the Community Customs Code. The CCC was completely replaced by a "Modernized Customs Code" in 2008, which however took effect only later on by way of a recast under the name of "Union Customs Code" in May 2016.

In overview, it becomes apparent, that the project of a EU Customs Union has importantly developed over time. This is true for its elements, when considering the many steps taken from the early beginnings in 1968 to the UCC, which is said to be one of the largest pieces of EU legislation and comes along with the establishment of an electronic infrastructure. It is also true in view of the relevant objectives and contexts. In the early days, the functionality of the customs union as such with some degree of uniformity has been an imperative. However, with customs duties becoming a source of own resources and the evolving dimensions of the internal market, customs matters became considerably more relevant. Today, security and safety issues play an additional role as is true as well for the digital dimensions.

1.1. The customs union: an essential complement of the internal market

A customs union has been a core element of European integration from the outset.¹ It is an essential complement to the internal market, which is understood as "an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured".²

A customs union basically entails the prohibition of internal tariffs, charges and quantitative restrictions.³ This eliminates restrictions to trade and thus is a first and major step in establishing such internal market. What is more, the customs union envisages to replace the formerly diverse tariffs of Member States by a common customs tariff.⁴ Accordingly, goods imported through one of the Member States can be put to free circulation in the internal market without need for customs controls when passing the frontiers of other Member States.⁵ Also, such harmonization establishes a level playing field as required to set up an internal market.

At this point, it is worth mentioning that the model of a customs union is much more promising and ambitious than the so-called free trade areas as regularly established by regional or preferential trade agreements. In contrast to customs unions, these arrangements are confined to eliminating trade restriction among partners while not aiming at harmonizing tariffs vis-a-vis third countries.

¹ Art. 9 (1) of the Treaty establishing the European Economic Community of 25 March 1957.

² Art. 26(2) TFEU.

³ Art. 28 (1), 30, 34 TFEU.

⁴ Art. 28 (1), 31 TFEU.

⁵ Art. 28 (2), 29 TFEU.

Thus, such free trade areas need customs controls in internal trade in view of import from and exports to third countries. Also, it is worth noting that the customs union, as part of the internal market is an important achievement for European businesses as it resulted in the elimination of any restrictions of trade in the Union, the elimination of border controls and in the free circulation of imported goods.

1.2. Customs union: establishing the essentials and striving for uniformity

In the development of the European Union, the customs union was implemented very early on and even before the transitional period defined in the original Treaty on the European Economic Community (TEEC) expired in 1970. On July 1, 1968 the Common Customs Tariff entered into force by Regulation (EC) 950/68 of June 1968⁶ together with regulations on the customs area⁷, a common definition of the concept of the origin of goods⁸ and on customs valuation⁹.

These legal acts were essential building blocks to establish the EU Customs Union. However, they represent only a small part of the many legislative, administrative and institutional components, which make customs work. In the EU, most of the administrative tasks and considerable parts of the legislation are taken care of by Member States. Yet, a customs union requires that some degree of uniformity is achieved.¹⁰ As has been said, the EU customs union is managed by national customs authorities “acting as one”. It should be added, that such uniformity is not only an imperative of functionality. It is also required internationally, as Art. X:3 of the GATT requires a “uniform application” of the law – an issue which is worth noting, as indeed a complaint has been brought against the EU in this regard. The EU started early on to achieve this uniformity and to make the customs union work in practice. In 1969, rules on customs treatment of goods entering the customs territory and temporary storage¹¹, on transit¹², inward processing¹³, free zones¹⁴ and warehousing¹⁵ were adopted. In the 1970s, rules on outward processing¹⁶ and on such issues as the post-clearance recovery of duties¹⁷ and repayment or remission of duties¹⁸ were added. In the 1980s rules on inward processing relief have been concluded.¹⁹ As this already indicates, the evolution of EU customs law happened incrementally using both directives and regulations, which furthermore were often amended.

⁶ [1968] OJ L172/1–402, repealed by Council Regulation (EEC) 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, [1987] OJ L256/1–675, last amended by Council Regulation (EC) 254/2000 of 31 January 2000, [2000] OJ L28/16–18.

⁷ Council Regulation (EEC) 1496/68 of 27 September 1968 on the definition of the customs territory of the community, [1968] OJ L238/1-2.

⁸ Council Regulation (EEC) 802/68 of 27 June 1968 on the common definition of the concept of the origin of goods [1968] OJ L148/1-5.

⁹ Council Regulation (EEC) 803/68 of 27 June 1968 on the valuation of goods for customs purposes, [1968] OJ L148/6-12.

¹⁰ *Limbach*, 32.

¹¹ Council Directive 68/312/EEC of 30 July 1968 on harmonisation of the provisions laid down by law, regulation or administrative action relation to: 1. customs treatment of goods entering the customs territory of the community; 2. temporary storage of such goods, [1968] OJ L194/13–16.

¹² Council Regulation (EEC) 542/69 of 18 March 1969 on Community transit, [1969] OJ L77/1-48.

¹³ Council Directive of 4 March 1969 (69/73/EEC) on the harmonisation of provisions laid down by law, regulation, or administrative action in respect of inward processing [1969] L58/ 1.

¹⁴ Council Directive of 4 March 1969 (69/75/EEC) on the harmonisation of provisions laid down by law, regulation or administrative action relating to free zones [1969] OJ L58/ 11.

¹⁵ Council Directive of 4 March 1969 (69/74/EEC) on the harmonisation of provisions laid down by law, regulation or administrative action relating to custom warehousing procedure [1969] OJ L58/ 7.

¹⁶ Council Directive of 18 December 1975 (69/73/EEC) on the harmonisation of provisions laid down by law, regulation or administrative action in respect of outward processing [1976] L24/ 58.

¹⁷ Council Regulation (EEC) No 1697/79 of 24 July 1979 on the post-clearance recovery of import duties or export duties [etc.] [1979] OJ L197/ 1

¹⁸ Council Regulation (EEC) No 1430/79 of 2 July 1979 on the repayment or remission of import or export duties [1979] OJ L175/ 1.

¹⁹ Council Regulation (EEC) No 1999/84 of 16 July 1985 on inward processing relief arrangements [1985] L188/ 1.

While achieving some degree of uniformity, however, the result was a highly fragmented ensemble of Union and Member State's rules, made up by way of numerous directives and regulations and related national law.

Just to complete the picture, it should be mentioned that beyond EU legislation, administrative cooperation was set up between the Member States and the Commission to enhance uniformity. Furthermore, customs duties became one of the first source for own resources of the Union and the inspections introduced in this context have contributed to uniformity as well.

1.3. Codification for the single market: The 1994 Community Customs Code

It took more than 20 years to take the next step. In view of the internal market to be established on 1 January 1993 as called for by the Single European Act²⁰, a comprehensive codification of EU customs law was undertaken. The Community Customs Code (CCC)²¹, which eventually entered into force one year later - on January 1, 1994 as a regulation importantly systematized and unified the formerly separate and fragmented rules. This can best be demonstrated by its Art. 251, which repealed 26 regulations and two directives. Even more telling is the context: the CCC was seen as an element of the internal market and this way marks a shift in perspective: For the first time, customs matters are seen as an integral part of the internal market and the EU business environment.

The further development of EU customs law has been carried out by amendments of the CCC. A 1996 amendment responded to demands resulting from the establishing of the WTO. A second one, adopted in 1999, mainly concerned external transit and enabled the movement of non-EU goods around the EU without the payment of import duties.²² One year later, some simplifications of rules were achieved in view of the internal market. One detail concerned electronic customs declarations and relieved operators from the need to present documents at the border and instead allowed them to keep records at their premises.²³

A last amendment in 2005 addressed a number of security demands and importantly responded to the increasing use of electronic systems in trade and customs. In this way, it responded to the 2003 Commission communication on a "simple and paperless environment for customs and trade".²⁴ It laid down the basis for a computer-assisted risk management and required operators to give detailed information on goods to be imported or exported. Moreover, the opportunity was also used to implement a first element of modernization: the status of an authorized economic operator (AEO) was established, under which operators, who meet common criteria of trustworthiness enjoy a number of simplifications.²⁵

²⁰ As of 28 February 1986, OJ L 169/1 of 29.6.1987, Art. 13.

²¹ Council Regulation (EEC) 2913/92 of 12 October 1992 establishing the Community Customs Code, [1992] OJ L302/1-50, last amended by Council Regulation (EC) 1791/2006 of 20 November 2006, [2006] OJ L363/1-80.

²² Art. 91 CCC.

²³ Lyons, EU Customs Law, at 2.2.4.

²⁴ Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee of 24 April 2003, 'A simple and paperless environment for Customs and Trade', COM(2003) 452 final, OJ C 96 of 21 April 2004.

²⁵ Economic Operators Registration Identification is a unique registration and identification number for economic operators in the EU as laid down in Regulation (EC) 312/2009.

¹² Authorised economic operator status (as defined in Regulation (EC) 648/2005) grants trusted traders easier access to simplifications of customs procedures and facilitations in terms of controls.

1.4. The modernization agenda and the UCC

The 2005 CCC amendment was driven by a modernization process already, which indeed started in the mid-1990s when a first Customs 2000 programme was set up.²⁶ The modernization agenda firstly aimed at simplifications and thus at lifting the burden for businesses, strengthening this way the internal market and promoting economic growth. In this way, the customs modernization meets with EU agenda on a digital single market and also relates to the objective of trade facilitation - which is even more relevant in view of the entry into force of the WTO Trade Facilitation Agreement.

In connection to this, the modernization, secondly, aimed at providing a paperless environment for customs to catch up with the development of business, in line with the EUs agenda on e-business and e-government, which requires the establishment of a complex and vast array of electronic systems.

Thirdly, the modernization aimed at closing the customs gap and at generating own resources as a major source for the EU budget.

Fourthly, the customs modernization responded to new challenges and tasks for customs: security, safety, protection of intellectual property and even the enforcement of environmental policies. In this way, the process is related to issues concerning the EU borders.

The ambitious modernization project could have hardly been set on track by way of amendments to the CCC. Indeed, a complete overhaul was required. As a first tangible result of these modernization efforts the 2008 Modernized Customs Code (MCC)²⁷ was adopted, which contained a number of innovative elements and far-reaching and ambitious rulings. However, after its adoption and prior to its entry into force a number of developments took place: the Lisbon Treaty was adopted with its new system of delegated and implementing acts. Also, the development of an ambitious electronic system for customs transaction and administration, on which the new rules heavily relied has turned out to be more time-consuming. Thus, the MCC was recast before its entry into force. This recast, named the Union Customs Code (UCC) has been adopted on 9 October 2013 - in the 7th legislature.²⁸ The operative provisions, however, only took effect from 1 May 2016 onwards to allow for the Commission to develop and adopt the related delegated²⁹ and implementing³⁰ acts.

To the more, modernization is about conceptualizing, planning, organizing, developing and maintaining a vast electronic system, including 17 components, including three ones provided for by Member States. Aside from legislation, governance and financial resources are key in this context.

²⁶ See COM(2018) 29 final, p. 2 et seq.

²⁷ Regulation (EC) No. 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code), OJ L 145/1 of 4 June 2008.

²⁸ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (recast), OJ L 269/2 of 10.10.2013.

²⁹ Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code, OJ L 343/1 of 29.12.2015 as corrected by a Corrigendum, OJ L 87, 2.4.2016, p. 35 and amended by Commission Delegated Regulation (EU) 2016/341 of 17 December 2015, OJ L 69, 15.3.2016, p. 1; Commission Delegated Regulation (EU) 2016/651 of 5 April 2016, OJ L 111, 27.4.2016, p. 1; Commission Delegated Regulation (EU) 2018/1063 of 16 May 2018, OJ L 192, 30.7.2018, p. 1; Commission Delegated Regulation (EU) 2018/1118 of 7 June 2018, OJ L 204, 13.8.2018, p. 11.

³⁰ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558), amended by: Commission Implementing Regulation (EU) 2017/989 of 8 June 2017 L 149 / 19 13.6.2017 and Commission Implementing Regulation (EU) 2018/604 of 18 April 2018 L 101/22 of 20.4.2018 and corrected by: Corrigendum, OJ L 87, 2.4.2016, p. 35.

The modernization project, however, is not confined to a major EU legislation effort. It is also about the effective and uniform application by customs authorities of Member States, including inter alia issues of capacity building, equipment and - most importantly: appropriate coordination and cooperation.

1.5. Conclusion

In overview, it becomes apparent that the project of a EU Customs Union has significantly developed over time. This is true for its elements, when considering the early beginnings with the few regulations of 1968 up to the comprehensive and elaborate UCC and the establishment of an electronic infrastructure. It is also true in view of the relevant objectives and contexts. In the early days, the functionality of the customs union as such with some degree of uniformity, has been the only imperative. However, with customs duties becoming a source of own resources and the evolving dimensions of the internal market, customs matters became considerably more relevant. Today, security and safety issues play an additional role as is true as well for the digital dimensions.

2. ACHIEVEMENTS OF THE EU CUSTOMS UNION

The achievements of the EU Customs Union and the benefits and rights it delivered to EU businesses are manifold and include not only rights in a technical sense but a number of legal advantages. In assessing them, one has to keep in mind that beyond cutting red tape EU businesses benefit from the effectivity and efficiency of EU Customs.

The basic benefit of a customs union is market access and thus, as far as the EU is concerned, a corresponding right to free movement of goods within the internal market. While this has been achieved a long time ago the UCC has recently accorded a right to offer services to customs representatives throughout the EU.

The introduction of the status of an Authorized Economic Operator is an important achievement. Beyond the number of particular privileges that it entails, it is a benefit as such. By rewarding demonstrated prudence with facilitations and simplifications, the AEO status can be seen as promoting a “right to legitimate trade”.

Also, the many facilitations and simplifications which the UCC offers to AEOs and other qualified operators must be mentioned. AEOs may even enjoy the benefits of centralized clearance and self-assessment.

A major achievement of the EU Customs Union is the electronic environment. Based on an infrastructure established by the EU and Member States and related legislation, it allows businesses to manage their customs matters as an integral element of their business IT processes. But the system is more than another means of communication: it also provides valuable information for businesses. Furthermore it can significantly enhance and promote the effectivity of EU customs and thus allow for further facilitations and simplifications.

EU businesses also benefit from the uniform regulatory environment, which has the potential to reduce compliance cost and can level the playing field in view of competition on the internal market.

Also, a right to be heard in customs matters must be mentioned as it introduces a rule of law standard to the benefit of businesses.

2.1. Assessing achievements, benefits and rights delivered

The impressive development of the EU Customs Union has resulted in what is said to be the EU’s largest piece of legislation. It represents a major effort of harmonization and has introduced important new elements. To the more, the EU Customs Union builds on administrative cooperation and has seen the establishment of an electronic infrastructure for communication between operators and customs authorities. These developments have aimed at promoting the effectiveness of the customs union, closing the customs gap and improving security and safety. Most importantly, however, these developments aimed at delivering benefits for EU businesses and citizens. Some of these benefits represent rights in a technical, legal sense. However, to fully explore the achievements made, a more general understanding about advantages delivered by EU legislation and related measures is required. When focusing on the benefits delivered for EU businesses, it must not be overlooked, that EU customs serves a number of objectives, many of which represent a common interest.

Thus, while the removal of red tape as such has been an important aim and achievement in the development of the Customs Union, it has to be kept in mind, that the effectivity and efficiency of the customs system as such is in the common interest and ultimately also benefits businesses.

2.2. Market access: A right to freely trade goods and customs-related services

To start with, the EU Customs Union very basically and early on delivered rights to EU businesses in that sense, that the formerly existing trade restrictions among Member States were lifted, as to afford full access to an internal market. Thus EU businesses can freely trade goods on the internal market without having to pay tariffs or to face similar restrictions of trade. This coincides with the free movement of goods. It has to be emphasized, that as a consequence of a customs union as described above, this right is not confined to goods of EU origin. As has been described above, a customs union differs from a mere free trade area in that it envisages a common customs tariff. As a consequence, this right to freely trade goods also applies to imported goods, once they have passed by EU customs and entered into free circulation. While these achievements were made early on, it took a while to also liberalize certain businesses relating to customs. In this vein, it must be mentioned, that the UCC recently established a right of customs representatives to offer their services in other Member States³¹ by lifting the authority of Member States to limit the business activities of these representatives to their place of establishment³².

2.3. AEO status and the right to legitimate trade

A recent and quite important achievement of the EU Customs Union concerns the introduction of the status of an Authorized Economic Operator (AEO). As seen, the AEO status had been already introduced in 2005. However, with the UCC it has been developed to its full potential. Businesses that have attained this status enjoy a number of privileges in view of customs controls and transactions. Basically, the AEO status is granted to businesses that have a record of compliance with customs and tax legislation and other laws concerning business activities, have a sound management in place and enjoy a good financial standing. AEOs enjoy a number of privileges in the form of facilitations and simplifications.

Before turning to these privileges in greater detail, it has to be highlighted that the AEO status merits to be seen as an important right to businesses as such. The AEO status represents a remarkable conceptual change. It marks a shift from controlling individual trade transactions to controlling the prudence of operators. Ultimately, it also entails, that by way of a self-assessment such operators take over some of the tasks, that previously rested with the customs authorities themselves. While certainly, the application of an AEO status is an administrative burden in itself, the AEO status is a benefit to EU businesses. They enjoy simplifications, which result from the fact, that customs authorities can allocate their control efforts accordingly. With the help of a proper risk management, customs authorities can relax their controls in case of AEOs and have more capacities at hand to control transactions by businesses, which do not enjoy this status. By consequence, and in view of the fact that ultimately customs controls result in additional costs for businesses, this provides for a competitive advantage for AEOs vis-à-vis other businesses. Altogether, the AEO status can be seen as an important achievement in view of what might be coined a "right to legitimate trade"³³, because demonstrated efforts to carry out customs matters prudently are rewarded by a number of privileges and a competitive advantage.

³¹ UCC Art. 18(3).

³² Art. 5 CCC.

³³ See UCC Art. 3 (d) "... maintaining a proper balance between customs controls and facilitation of legitimate trade."

2.4. Rights to facilitated and simplified customs controls

As stated, the AEO status goes along with a number of privileges regarding customs controls. These privileges are manifold. Even more, it is hardly overstating to say, that most of the many mechanism, procedures and measures defined by the UCC in a way relate to it. The UCC applies the idea of privileging trustworthy businesses even beyond the formal status of an AEO. A number of privileges are enjoyed by a larger group of operators, including AEOs and those, who fulfill some of the criteria. Even more advantageous treatment, however, is offered exclusively to AEOs. Those privileges and advantages often concern details of procedures and formalities. However, they sometimes also more relate to specific mechanisms or procedures, which have a high potential for businesses.

2.4.1. Advantages and rights for AEOs and other qualified operators

AEOs and other qualified operators enjoy a number of advantages and simplifications. These operators can be authorized or get approval:

- to present goods at a place other than the competent customs office³⁴,
- to lodge customs declarations in the form of "Entry into Declarant's Records"³⁵,
- to use simplification related to transit³⁶,
- to enjoy the status of an authorized consignee³⁷,
- to operate a temporary storage facility³⁸,
- to establish regular shipping services³⁹ and
- to become an authorized issuer in view of the proof of customs status of Union goods⁴⁰.

Furthermore, they may obtain an authorization to use the special procedures envisaged in the UCC. These special procedures include customs warehousing, end-use, temporary admission and inward and outward processing.⁴¹ They have in common that they allow for bringing goods to the European Union without having to pay duties for them immediately.

2.4.2. Privileges devoted exclusively to AEOs

A number of even more far-reaching facilitations and simplifications are available exclusively to AEOs. These include:

- A waiver of the obligation to present goods under the Entry into Declarants' records simplification⁴²,
- the permission to move goods to another Member State while they are still under temporary storage⁴³,

³⁴ Art. 139(1) and 147(1) UCC, Art. 115 UCC-DA.

³⁵ Art. 182 para. 1 UCC and Art. 150 para. 1 UCC-DA.

³⁶ Art. 233 para. 4 UCC und Art. 191 UCC-DA.

³⁷ Art. 230 UCC and Art. 187 UCC-DA.

³⁸ Art. 148 UCC.

³⁹ Art. 155 UCC and Art. 120 UCC-DA.

⁴⁰ Art. 153(2) UCC, Art. 128 UCC-DA.

⁴¹ See Art. 210 UCC et seq.

⁴² Art. 182 para. 3 UCC.

⁴³ Art. 148 (5) UCC, Art. 193 UCC-IA.

- a more favorable treatment than other economic operators in respect of customs controls - including fewer physical and document-based controls⁴⁴,
- Reductions in comprehensive guarantees in respect of customs duties due⁴⁵,
- centralised clearance, allowing operators to lodge customs declarations and pay duties centrally from their place of establishment, rather than in other Member States where goods are presented to customs⁴⁶ and
- "self-assessment" - whereby operators calculate the amount of duty due and carry out certain controls on behalf of Customs⁴⁷.

2.5. A right to process customs matters in an electronic environment

The establishment of an electronic environment is another important benefit to EU businesses resulting from recent developments of the EU Customs Union. This electronic environment is based on an important effort of the EU and Member States to establish the electronic infrastructure and from legislation primarily within the UCC, which is tailored to fit for customs transactions in a paperless environment. In a number of details, the legislation responds to the specifics of paperless processing of customs transactions. To the more, Art. 6 UCC and a number of more specific provisions of the UCC require, that all exchange and storage of information shall be made using electronic data-processing techniques.

This electronic environment benefits EU businesses in various ways. It first of all allows them to manage their customs transactions as an integral element of their business IT processes, which will importantly reduce cost and time. Beyond being a way of communication, the electronic environment also offers a broad scope of relevant information, as for instance on binding tariff information. Lastly, the electronic environment may help to make the whole system more effective and efficient and thereby promote security and safety in the common interest.

The electronic systems include 14 EU components and three components to be developed by the Member States. The system have been described as follows:

1. Registered Exporter System - REX (new): aims to make available up-to-date information on both registered exporters established in GSP countries (countries that benefit from the EU's Generalised Scheme of Preferences that provides preferential access to the EU market) and European Union operators exporting to GSP countries and certain other countries;
2. Binding tariff information – BTI (upgrade): aims to align with the UCC the database containing all binding tariff information that has been issued by customs authorities of Member States;
3. Customs decisions system (CDS) (new): aims to harmonise across the Union the processes for customs decisions related to the application of customs legislation, by facilitating consultations during the decision-taking period and the management of the authorisations process;
4. Uniform User Management & Digital Signature – UUM&DS or "EU Trader Portal" (new): aims to provide direct and EU-harmonised trader access to different electronic customs systems as defined in the UCC;

⁴⁴ Art. 38 para. 6 UCC, Art. 24 UCC-DA.

⁴⁵ Art. 95 para 3 UCC and Art. 158 IA. Has not been provided for in the CCC, see Art. 191.

⁴⁶ Art. 179 UCC, Art. 231, 232 UCC-IA

⁴⁷ Art. 185 UCC, Art. 237 UCC-IA

5. Authorised Economic Operators – AEO (upgrade): aims to improve the business processes related to AEO applications and authorisations taking account of the UCC changes;
6. Economic Operator Registration and Identification System – EORI (upgrade): aims at providing a minor upgrade to the existing system that enables the registration and identification of economic operators of the Union and third country persons active in customs matters in the Union;
7. Common customs tariff and surveillance – Surveillance (upgrade): aims to upgrade, so as to align with UCC requirements, the existing database that records and centralises all EU trade data (imports and exports) provided on a daily basis by the national customs authorities;
8. Proof of Union Status - PoUS (new): will store, manage and retrieve all declarations that traders provide to prove the Union status of their goods;
9. New Computerised Transit System – NCTS (upgrade): aligns the existing transit system to the new UCC requirements such as the registration of "en route" events, the alignment of information exchanges to UCC data requirements and the upgrade and development of interfaces with other systems;
10. Automated Export System – AES (upgrade of both the existing trans-European system and of the existing National Export Systems): aims to implement the UCC requirements for export and exit of goods;
11. Standardised Exchange of Information for Special Procedures – INF (new): develops a new system to support and streamline the processes of data management and the electronic handling of data in the domain of Special Procedures;
12. Centralised Clearance for Import - CCI (new): aims to coordinate between relevant customs offices the processing of customs declarations and the authorisation to release goods so that economic operators can centralise their dealings with customs authorities;
13. Guarantee Management – GUM (new): aims to allow a real time allocation and management across the EU of comprehensive customs guarantees that traders lodge where there are risks that duties might not be paid;
14. Import Control System – ICS (upgrade): aims to strengthen the safety and security of the supply chain by means of improving data quality, data filing, data availability and data sharing in regard to Entry Summary Declarations and related risk and control information.

The three systems that Member States have to develop, or upgrade, are as follows:

1. Harmonisation and facilitation of special procedures – SP: national systems will have to implement all UCC changes required for customs warehousing, end-use, temporary admission and inward and outward processing;
2. Notification of Arrival, Presentation Notification and Temporary Storage - NA, PN, TS: defines the automation of processes at national level in respect of Notifications of Arrival of means of transport, Presentation of goods and declarations for Temporary Storage, as described in the UCC, and supports harmonisation across the Member States as regards the data exchange between trade and customs;

3. National Import Systems – NIS: aims at implementing all process and data requirements deriving from the UCC which relate to imports.”⁴⁸

Most of these components are already in operation. Components No. 8-14 await implementation.

2.6. Benefits of a uniform regulatory environment

As seen, substantive customs law at EU level has developed already for quite some time. However, the application of such rules by customs authorities of Member States has been subject to relevant national rules and standards, as is generally true for the European Union. In order to promote uniformity, the UCC engages in defining rules for administrative procedure in an unprecedented manner. Chapter 2 Section 3 refers to “Decisions relating to the application of the customs legislation” and addresses issues such as competence of customs authorities (Art. 22), time periods, Art. 22(2)), Union-wide validity (Art. 26), annulment (Art. 27), revocation and amendment (Art. 28). Altogether the uniformity of substantive rules as well as of administrative procedures is an important benefit for EU businesses operating within the internal market. Compliance cost of businesses are reduced, if customs authorities of Member States act as one. Also, such uniformity creates a level playing field in view of competition in the internal market.

2.7. A right to be heard in customs matters

In the context of the aforementioned rules on administrative procedures, the UCC provides for an applicant’s right to be heard in case, that a customs authority is going to take a decision with adverse effects.⁴⁹ This introduces a standard of the rule of law in customs matters, which importantly benefits businesses as well.⁵⁰

⁴⁸ Report from the Commission to European Parliament and the Council on the implementation of the Union Customs Code and on the exercise of the power to adopt delegated acts pursuant to Article 284 thereunder, Brussels, 22.1.2018 COM(2018) 39 final, p. 3

⁴⁹ Art. 22 (6) UCC. See Art. 8 of the Implementing Act, Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code, OJ L 343, 29.12.2015, p. 1. Formerly: Art 6 CCC.

⁵⁰ In a way, this provision reflects Art. 41 (2) lit. a of the Charter of Fundamental Rights of the European Union.

3. THE FUTURE POTENTIAL OF THE EU CUSTOMS UNION

While the EU Customs Union has seen many achievements over recent years in view of legislation and the establishment of an electronic environment, there is still potential for delivering further benefits to EU businesses. Economically, this potential is considerable, as a number of estimations and findings may indicate.

There is potential for promoting the enjoyment of the benefits afforded to legitimate trade to all businesses and to explore measures to this end particularly for SMEs. Also, the “right to legitimate trade” as explained can be importantly strengthened by linking it to a coherent system of sanctions.

Businesses would also largely benefit from the further promotion of uniformity in legislation and administration of the Customs Union. The most relevant aspect in this regard are the sanction for violations of customs rules, which to date vary considerable among Member States in view of legislation and practice.

There is also much potential in completing and strengthening the digital environment, which plays an essential role for businesses. They would importantly benefit from putting into operation the remaining components of the system as soon as possible. A sound legal basis for the continued operation, maintenance and update of the system could add value to the electronic environment. Also, data protection and data security should be secured.

From a more general perspective, it must be noted that an important potential for further benefits for EU businesses lies in promoting coherence between EU Customs and the VAT system.

3.1. Determining the future potential and economic dimensions

Recent years have seen important and largely successful efforts to secure the fitness of the UCC as a large piece of new EU legislation. The fact, that a number of changes to the UCC and the related delegated and implementing acts are under way⁵¹ does not put into question but rather proves the degree of maturity achieved as well as the regulatory capacity and willingness to react to new challenges. Indeed, such constant improvements of the vast and complex rulebook are necessary in view of new experiences and changes in the business world. Beyond these various wishful but detailed improvements, there is reason to discuss the potential for further achievements.

There is reason to do so, as in economic terms, this potential is considerable, although there are hardly any more specific and reliable data available. The modernization of EU customs is believed to contribute considerably to growth in the single market. Administering taxation and customs is

⁵¹ Proposal for a Regulation of the European Parliament and the Council amending Regulation (EU) No 952/2013 laying down the Union Customs Code, COM(2018) 259 final, 8.5.2018, see also COM(2018) 39 final, p. 8 et seq. and *European Parliament*, Union Customs Code, State of play, 2018.

considered the greatest singular burden to European businesses with an estimated cost of €87 billion annually, according to estimations of the High-level Group on Administrative Burdens in 2014.⁵²

As regards the electronic components it has been observed in a study: “In 2013, over 90% of EU customs declarations were made electronically.[...] Yet, the advances in IT development are still behind their potentials, leaving an approximate €2.5 billion of potential annual savings in compliance costs on the table. Further €50 billion are estimated to be possibly gained through enhanced international business opportunities if e-customs were fully implemented.”⁵³

However, the potential for improvements does not only relate to growth within the internal market and related cost for businesses. In addition, improvements may also help to reduce the customs gap. EU customs is highly relevant from a budgetary point of view. Customs duties make up 14 % of the EU budget, amounting to 20.1 billion euro in 2016.⁵⁴ The “customs gap” is a crucial issue for policymakers in this regard, as it is a key indicator for the effectivity of EU customs and the modernization project.⁵⁵ This is why the European Parliament called on the Commission to collect and report relevant data in 2013, a request recently joined in by the Court of Auditors in 2018.⁵⁶ More specific data exists in regard to specific issues. Fraud and irregularities, where the amount exceeds 10.000 is understood to have caused 388 millions in traditional own resources or 1.73% in 2011.⁵⁷ Tobacco smuggling, for instance, is said to cause 10 billion in losses for EU and national budgets in a year.⁵⁸

3.2. A coherent right to legitimate trade for all businesses

As has been seen, rewarding demonstrated prudence in customs matters by a number of facilitations and simplifications has been a major achievement of the EU Customs Union, which can be seen as reflecting the idea of a “right to legitimate trade”.

3.2.1. Delivering benefits of legitimate trade to SMEs

However, obtaining AEO status still is burdensome and the use of many of the privileges requires the payment of guarantees, which can be substantial. This is particularly true for SMEs, which may have difficulties to afford to become an AEO or pay the guarantees. In this situation it is worth while exploring, how such businesses can be further supported in engaging in legitimate trade.

3.2.2. Strengthening the right to legitimate trade by coherently linking it to sanctions

Also, the right to legitimate trade could be strengthened by being properly linked to a clear and foreseeable system of sanctions. As will be seen below in greater detail, the legislation and practice in this regard differs considerably between Member States.

⁵² European Union, High Level Group on Administrative Burdens, Cutting Red Tape in Europe, Legacy and outlook, Final Report, Brussels 24 July 2014, endorsed by European Parliament, Reducing Costs and Barriers for Businesses in the Single Market, Study for the IMCO Committee, 2016, p. 57 et seq.

⁵³ *European Parliament*, Ubiquitous Developments of the Digital Single Market, Study for the IMCO Committee, 2013 at p. 115 with further references.

⁵⁴ *European Court of Auditors*, Import procedures: shortcomings in the legal framework and an ineffective implementation impact the financial interests of the EU, Special Report No 17, 2017, p. 10 and para. 4.

⁵⁵ *European Parliament*, From Shadow to Formal Economy: Levelling the Playing Field in the Single Market, Study for the IMCO Committee, 2013, p. 41.

⁵⁶ *European Court of Auditors*, Import procedures: shortcomings in the legal framework and an ineffective implementation impact the financial interests of the EU, Special Report No 17, 2017, para. 18 et seq., referring to Report from the Commission to the European Parliament and the Council on the follow-up to the discharge for the 2011 financial year (Summary), COM(2013) 668 final, 26.9.2013, at 1.4.

⁵⁷ *European Parliament*, From Shadow to Formal Economy: Levelling the Playing Field in the Single Market, 2013, p. 106.

⁵⁸ *European Parliament*, The institutional architecture of EU anti-fraud measures, 2018, p. 14.

While so far seen as a problem of uniformity only, the sanctions issue is also relevant here, as the promotion of legitimate trade needs to be accompanied coherently by effective sanctions.

3.3. Promoting uniformity

Although EU customs law has already achieved a large degree of harmonization it still is far from reaching a state of affairs, which the Member States' custom authorities of the "act as one." Of course, the UCC's coverage is much more comprehensive as compared to earlier legislation in also addressing many issues of administrative procedure. However and notably, there still today remain lacunae in a field of legislation, generally is dominated by the EU's rule.

The most important issue at hand in this regard is the sanctioning of violations of customs rules. Under the UCC, Art. 42 covers the issue and requires Member States to "provide for penalties for failure to comply with the customs legislation" and adds: "Such penalties shall be effective, proportionate and dissuasive."⁵⁹ Furthermore, permissible forms of penalties are indicated (para. 2, lit. a) and a notification is asked for regarding the national legislation in place and any amendments. However, a proposal for a Directive to harmonize the customs infringements and sanctions⁶⁰ indicates, that the Commission did not consider Art. 42 UCC to be sufficient to produce an appropriate degree of uniformity in this regard.⁶¹ Indeed, legislation and practice in Member States such as France⁶², Germany⁶³, Italy⁶⁴, Poland⁶⁵ and the UK⁶⁶ differs considerably. Earlier findings of a study for the IMCO Committee on "Analysis and effects of the different Member States' customs sanctioning systems,"⁶⁷ which compared the sanctioning models used in the various Member States support this view.⁶⁸ Also the study addressed the potential cost of non-harmonization in this field and concluded "that legitimate traders may face higher-than-necessary operating costs (due diligence, need for awareness of different sanction levels for the same behaviour, higher risk of operating in countries with more severe sanctions for a given rate of inadvertent violations). As a result, competition within the single market can be distorted."⁶⁹

⁵⁹ See also Art. 325 TFEU.

⁶⁰ European Commission, Proposal for a directive of the European Parliament and of the Council on the Union legal framework for customs infringements and sanctions, COM(2013) 884 final, 13.12.2013.

⁶¹ As the Commission stated, "compliance with the customs rules and the lawful imposition of sanctions, lies within the ambit of Member States' national law. Consequently, customs legislation enforcement follows 28 different sets of legal rules and different administrative or legal traditions. This means that Member States can impose sanctions that seem appropriate to them as penalties for infringements of certain obligations stemming from the harmonised Union customs legislation. Such sanctions differ in nature and severity according to the Member State that is competent for it. Namely, they are of different types (e.g. fines, imprisonment, confiscation of goods, temporal or permanent disqualification from the practice of industrial or commercial activities), irrespective their nature, and even when assuming the same type and nature, like for instance a fine, have different levels/ranges from Member State to Member State.", *ibid*, at p. 2.

⁶² Desplanques / de Franssu, 305 et seq.

⁶³ Lux/Möller/Pickett/Retemeyer, passim.

⁶⁴ Rovetta/Villante, 343 et seq.

⁶⁵ Czyżowicz, 336– 341.

⁶⁶ Lyons, UK Customs Penalties and EU Harmonization at 348– 352.

⁶⁷ *European Parliament*, Analysis and effects of the different Member States' customs sanctioning systems, 2016.

⁶⁸ *Ibid*, at, p. 22 et seq. In a recent report, the European Court of Auditors arrived at a similar conclusion: "In the EU the enforcement of customs legislation is an obligation on the part of Member States, which can use a diversity of civil, administrative and/or criminal penalties to deter infringements. This can distort competition in the internal market between legitimate traders while fraudsters can exploit these differences and damage the EU's financial interests.", at para. 108 et seq.

⁶⁹ *Ibid*, at p. 52. Similar: *European Parliament*, Reducing Costs and Barriers for Businesses in the Single Market, Study for the IMCO Committee, 2016 at p. 45: "non-harmonised customs sanctioning systems of the Member States may induce illicit traders to displace their trade and choose those Member States where the risk of discovery and the severity of the penalties are low. This can create an imbalance in the size of shadow economy across different countries, which in turn creates further imbalances to the detriment of legitimate operators."

Yet, the proposal of the Commission has not been taken up afterwards. However, for the reasons explained in the recitals of the Commission proposal of the draft directive and in the study, there is a strong case for further action in this field.⁷⁰ However, instead of harmonization, approximation may be advisable.⁷¹

3.4. Completing and strengthening the digital environment

Another important potential lies in the completion and further consolidation of the digital environment. First of all this implies, that the remaining components of the system⁷² are put in operation as soon as possible. However, given the fact that the electronic infrastructure has an essential role to play for the EU Customs Union and that businesses have a right and a duty to use it, there is a potential benefit in promoting the quality, stability and sustainability of the system.

3.4.1. The appropriate legal base for maintaining an essential digital infrastructure in continuity

So far, the management of the electronic systems with its institutional, procedural and planning components was geared to develop and deploy the system and its components. Once in operation, however, the maintenance of the systems is at stake, which very likely is a permanent task. This permanent task is essential, as the UCC envisages, that the electronic system shall serve as the only and exclusive means to exchange and store data concerning the administration and customs transactions, this infrastructure is essential for the functioning of EU customs. This is true not only for traders, which rely on it for their all-day business and customs transactions. It is also true for the EU and Member States in view of their task to secure safety and security. This permanent task includes updates, changes and adaptations, which most likely will be required over time due to advances in technology, changes in legislation, new requirements and the need for improvements.

For the “permanent” task of providing for the operation and regularly update of the systems appropriate arrangements might be needed. Commission Implementing Regulation (EU) 2017/2089 of 14 November 2017 can be seen as pioneering this development⁷³ in regard to some specific components of the infrastructure.⁷⁴

- It defines the ownership of system components, Art. 26,
- sets out obligations of both the Commission and Member States in view of maintenance and changes, Art. 20,
- describes the functionality, access conditions and interoperability in view of particular components, Art. 4 et seq.,
- addresses data protection, Art. 25⁷⁵
- and data security, Art. 27,
- sets out contact points, Art. 3

⁷⁰ Lyons, *Timothy*, A Customs Union without Harmonized Sanctions, *passim*; similarly: Lyons, *Timothy*, EU Harmonization of Customs Penalties: Work on the EU's Foundations, 271; *Anabali*, 280

⁷¹ Czyżkowicz, 342; cf. Willems/Theodorakis, 295; Rovetta/Villante, 346.

⁷² See above, at 2.5.

⁷³ OJL 297, 15.11.2017, p. 13.

⁷⁴ The decision relates to the Customs Decision System and the Uniform User Management & Digital Signature system - see No 3 and 4 in the list of components under 1.3 b, Art. 1 of the regulation.

⁷⁵ See also below

- and even deals with cases of a temporary failure of the system, Art. 21.

With regard to these aspects, some detailed questions arise. For instance, Art. 20 envisages updating and more generally “changes” to the system as a mere option, without in any way requiring the Commission and the Member States to dynamically keep the system in line with the state of developments in the field. Still, as a general matter, the Implementing Regulation can be seen as a blueprint for the kind of arrangement appropriate for the type of task discussed here. On this basis, it might be useful to consider similar rules for the many other components of the electronic system in due course.

3.4.2. Data protection and security of electronic systems

Another highly relevant issue is data protection and the security of electronic systems. With the adoption of the General Data Protection Regulation in 2016, the EU has introduced a comprehensive and high-profile set of standards and rules on the issue.⁷⁶ With its eighteen electronic components, the Customs package importantly relies on a comprehensive data-processing system with EU and Member States components and reaching out for operators and businesses. One can assume that the new standards and rules are of critical importance here. It should be noted, that the UCC contains a specific provision in this regard. Art. 12 explicitly refers to data protection. However, in the light of the aforementioned new EU developments, it is in need for some clarification.

In its Implementing Regulation (EU) 2017/2089 on technical arrangements for developing, maintaining and employing electronic systems for the exchange of information and for the storage of such information under the Union Customs Code⁷⁷, the Commission has explicitly taken account of the related rights and principles of the Charter on Fundamental Rights of the European Union⁷⁸ and the related legislation, particularly the aforementioned General Data Processing Regulation and Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁷⁹. Art. 23 (1) of the Implementing Regulation specifies and restricts the processing of personal data registered in the electronic systems. Para. 2 envisages that “[t]he national supervisory authorities in the field of personal data protection and the European Data Protection Supervisor shall cooperate to ensure coordinated supervision of the processing of personal data registered in the electronic systems.”

In addition to the issue of data protection, the Implementing Regulation also addresses the issue of data security, Art. 27. According to the Article, the duty to ensure the security of the components is divided between the Commission and the Members States, para. 1. Both sides shall take measures to prevent unauthorized access and to detect related activities and shall give related information, para. 2.

These rules – which, as has been seen, cover only some of the components of the infrastructure - indicate that the Commission is fully aware of the relevance of data protection and security. Given the critical relevance of data protection and security and the related EU standards, it is important, that guidance is given including at the level of development and deployment of the components of the infrastructure at EU and national level. Also, it might be useful to assess and monitor the criticality of operative components as well as of parts which still being in a process of development. However, no information is available on this issue.

⁷⁶ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1).

⁷⁷ OJ L 297, 15.11.2017, p. 13.

⁷⁸ Implementing Regulation, Recital 8.

⁷⁹ OJ L 8, 12.1.2001, p. 1.

3.5. Linking customs and VAT

In a more general perspective, there is a strong potential for improvements in the interaction between the Customs Union and the VAT system. Most import or export transactions involve customs and VAT matters. Yet, legislation and administration of the two systems differs widely and a number of legal uncertainties exist. At the same time, both systems refer to each other in some way.⁸⁰ For businesses, this fragmentation results in considerable compliance cost, which could be considerably reduced by improving coherence between the two systems in terms of concepts used, legislation, administration and the employed electronic systems.

⁸⁰ See Lux / Schrömbges / Vitkauskaitė, *passim*.

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