

Opinion of the European Economic and Social Committee on the ‘Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on customs risk management and security of the supply chain’

COM(2012) 793 final

(2013/C 327/04)

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On 18 March 2013, the Commission decided to consult the European Economic and Social Committee, under Article 304 of the Treaty on the Functioning of the European Union, on the

Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on customs risk management and security of the supply chain

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The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 27 June 2013.

At its 491st plenary session, held on 10 and 11 July 2013 (meeting of 10 July), the European Economic and Social Committee adopted the following opinion by 168 votes to one.

1. Conclusions and recommendations

1.1 The EESC considers it vital to take a common approach to customs risk management and security of the supply chain in order to ensure uniform, non-discriminatory application of EU customs legislation by all of the authorities concerned across the whole of the customs union, which is an exclusive EU competence, under Article 3 TFEU.

1.2 The EESC strongly supports the Commission's proposals, aimed at ensuring greater effectiveness and efficiency in risk management and the movement of goods across EU borders, by means of a **common strategy**, equipped with appropriate IT systems with a view to EU-level risk management.

1.3 The EESC is extremely concerned that the orientation and application of the customs union – established by the 1957 Treaty of Rome and implemented in 1968 as a common policy aimed at providing a single trading area where all people and goods circulate freely and a one-stop-shop for traders to carry out customs dealings on a non-discriminatory basis throughout the EU – is still uneven, which is preventing efficient and effective customs risk management and thus slowing down trade flows and the free movement of goods in the EU.

1.4 The EESC deems it vital to enhance customs capacities across all of the EU, in order to secure a high level of risk management throughout the customs union with regard to the uniform implementation of definitions, classifications, and data collection and transmission to the EU data base, in accordance with unambiguous common criteria whose implementation is checked by a single quality-assurance system and monitored, with penalties for offenders.

1.5 The EESC recommends that common technical standards be developed to ensure uniform implementation of high-quality risk management at all points along the EU's external borders, accompanied by an EU drive to ensure advanced professional training, which takes account of the various obligations pertaining to the many different national circumstances.

1.6 The EESC stresses the need to ensure the full interoperability of the various data bases that operate within the European market surveillance system – on the basis of a common strategy and with substantial support from EU programmes for technological development – in order to ensure real-time information-sharing between the various authorities at the different levels, *inter alia* to bolster efforts to combat the potential risk of health, environmental and social dumping.

1.7 The EESC calls for EU action to be stepped up towards developing skilled human resources and boosting management capabilities, including through measures to iron out disparities in control burdens and the establishment of a common customs support team that would intervene promptly, on request, in difficult situations.

1.8 The EESC deems it essential to strengthen the partnership between customs authorities, carriers and authorised economic operators (AEO), reinforcing its status and benefits, in order to ensure optimal cooperation in risk management, through the transmission of data in a single instalment, without unnecessary bureaucratic duplication.

1.9 The EESC calls for an overhaul of the system of governance here, comprising all national and EU authorities, agencies and EU warning and information systems, to ensure more structured and systematic cooperation between customs and other authorities operating in the internal market.

1.10 The EESC calls for the package of actions set out in the multiannual plan for market surveillance to be implemented in a coherent and coordinated way, in order to prevent duplications of controls, different criteria being applied, multiple requests being made for the same data, differing visions among the various market control and surveillance authorities, and a lack of interoperability.

2. Introduction

2.1 The customs union is an exclusive EU competence, under Article 3 TFEU.

2.2 Back in 2004, the EESC was already underlining the need for a "changed emphasis in the strategic approach to customs services policies with the recent additional and merited emphasis on the challenges of the application of common customs policies across a series of new external borders following the enlargement of the Union. It also acknowledges the changed environment created by the raised concerns about security procedures, particularly with regard to the experience of the USA, to protect citizens in the Union" ⁽¹⁾.

2.3 In response to the serious challenges facing the customs union in terms of the way it functions, given the uneven application of EU legislation, which could potentially dampen its overall effectiveness through inefficiencies, waste and the mismatch of needs and availability of resources, the EESC has called for "a single customs policy, based on uniform, up-to-date, transparent, effective and simplified procedures, which will contribute to the EU's economic competitiveness at global level ..." ⁽²⁾.

2.4 The customs union is the operational arm of much of the EU's commercial policy measures, and implements numerous international agreements in relation to the trade flows of the EU, developing – through the Member States' administrations – important horizontal processes involving data management, trader management and "risk management, including identifying, assessing, analysing and mitigating the countless different types and levels of risks associated with international trade in goods" ⁽³⁾.

2.5 Establishing a common approach to integrated risk management at entry and exit points would involve the following objectives:

- enhancing the allocation of human and financial resources, concentrating them where necessary;

- full and uniform application of EU customs legislation;
- an integrated system of cooperation between customs, traders and carriers; and
- streamlining of practices and a reduction in transaction times and costs.

3. Customs' security role

3.1 As stated in the Commission communication on the state of the customs union at the end of 2012, "customs is the only public authority having a complete overview and control responsibility for all the goods passing through the external borders of the EU, which, once released for free circulation by customs somewhere in the EU, can move freely within any part of the EU customs territory" ⁽⁴⁾.

3.2 Because of this unique position, EU customs authorities have primary responsibility for the supervision of the EU's international trade, and contribute to the implementation of the external aspects of the internal market, of the common trade policy and of the other policies having a bearing on trade and overall supply chain security.

3.3 The EESC has emphasised that "an efficient customs union is a vital prerequisite for European integration in order to ensure [...] EU-wide efficient, [...] free movement of goods with maximum consumer and environmental protection and effective combating of fraud and counterfeiting" ⁽⁵⁾, and advocated a single customs policy, based on uniform, up-to-date, transparent, effective and simplified procedures.

3.4 Although it is based on common legislation and policy, the operational functioning of the customs union is complex and is still being implemented by 27 different administrations across the EU, making use of a mix of human, technical and financial inputs at various levels to carry out goods clearance and control procedures, data management and processing, trader management, and management of the different levels of risk associated with international trade in goods and supply chain security.

3.5 The EESC points out that these proposals should not result in Member States' hands being tied when it comes to implementing customs legislation, so that they can continue to take into account the volume of the relevant trade flows. In this connection, the EESC underlines that the Member States have stepped up measures to facilitate trade, moving to paperless formalities, simplifying procedures and implementing authorised operator status.

3.6 Harmonisation should be based on "best practices" and not on an average European level.

⁽¹⁾ OJ C 110, 30.4.2004, p. 72.

⁽²⁾ OJ C 229, 31.7.2012, p. 68.

⁽³⁾ COM(2012) 791 final.

⁽⁴⁾ COM(2012) 791 final.

⁽⁵⁾ OJ C 229, 31.7.2012, p. 68.

3.7 The EESC also deems it desirable, if the aim is to work in a cost-efficient, results-oriented manner (in financial terms too, with regard to revenues) and to make genuine progress, for controls to be carried out not on a transaction-by-transaction basis but under a systems-based approach underpinned by risk assessment.

4. Risk management of the supply chain

4.1 Constantly growing trade flows, new and increasingly complex business models and an ever faster pace have put growing pressure on the operational functioning of the customs union, which faces a rapidly growing number of tasks and expectations from stakeholders. Modernising its operational functions, in an electronic customs environment, means:

- applying new, cross-EU processes;
- more investment in IT; and
- new skills for staff.

4.2 In order to achieve effective common strategies for risk management, control and analysis, there needs to be a cultural shift within all of the relevant administrations towards common strategies and working methods, within a framework of joint risk management with other agencies and international partners, especially as regards security, health and the environment.

4.3 In particular, effective risk management requires closer cooperation between customs administrations and market surveillance authorities, at national and EU levels, the absence of which would be a serious impediment to developing common risk criteria and specific risk profiles.

4.4 In establishing a common approach to risk management at entry and exit points, it must be borne in mind that customs are currently delegated control responsibilities in more than 60 legal acts ⁽⁶⁾, while surveillance authorities are responsible for a chain of interdependent processes ranging from inspections, sampling, laboratory testing, interpretation of results and risk assessment, to corrective measures and penalties, with a view to enhancing the safety of products circulating on the market, as envisaged in the Single Market Acts I ⁽⁷⁾ and II ⁽⁸⁾.

4.5 Risk assessment methods should be pooled in a common systemic platform – *inter alia* by means of administrative cooperation groups – involving customs and market

surveillance authorities at the various levels and be able to benefit from the experience gained in the various data bases that are operational in different areas.

4.6 Customs and market surveillance authorities should pool resources and expertise and "apply SME-friendly methods" ⁽⁹⁾ *inter alia* through the implementation of the guidelines by both sets of authorities, strengthening cooperation and coordination, information exchange and joint activities, and with a view to managing consignments presenting a high safety risk in a targeted way.

5. The role of the partnership between customs, the trading community and carriers

5.1 The customs-trade-carrier partnership plays a fundamental role in securing the integrity of the supply chain, in the interests of citizens, business and government.

5.2 This partnership should be based on solid mechanisms of mutual trust, involving:

- alignment of the general obligations of economic operators to ensure the safety of products and clear responsibilities for manufacturers, importers and distributors, with significant measures to secure the supply chain;
- the provision by traders of high-quality data in coded form to all authorities involved in risk management, while ensuring the identification and traceability of the goods and of the real parties involved;
- ensuring equal treatment of traders in respect of risk management throughout the EU and at every point along its external borders, preventing disparities in treatment;
- closer cooperation with companies transporting goods across borders; and
- limiting the administrative, procedural and bureaucratic burdens on traders, especially SMEs.

5.3 Limiting intrusive controls is already among the provisions of the revised Kyoto Convention on the simplification and harmonisation of customs procedures, under the auspices of the World Customs Organization (WCO) ⁽¹⁰⁾, and that this is also an aim of the WTO negotiations on trade facilitation ⁽¹¹⁾, despite the temptation to bolster systematic controls, especially in the wake of "9/11".

⁽⁶⁾ Annex 2 of SEC(2011) 1317 final – Impact assessment accompanying the *Action programme for customs and taxation in the European Union for the period 2014-2020 (FISCUS)*.

⁽⁷⁾ COM(2011) 206 final.

⁽⁸⁾ COM(2012) 573 final.

⁽⁹⁾ COM(2013) 76 final, action 9.

⁽¹⁰⁾ WCO 2003.

⁽¹¹⁾ Article VIII of GATT, which aims to minimise import and export formalities.

5.4 There is a need to address the fragmentation in information flows and overcome difficulties associated with differences in risk management capacity between Member States so as to ensure a uniform standard of electronic risk analysis and management: the basis of this remains the development of a common European culture of risk management and supply security.

6. New technologies: system interoperability and information-sharing

6.1 The EU's multiannual R&D programmes – and in particular the 7th Framework Programme, but also IDABC ⁽¹²⁾ and ISA ⁽¹³⁾, for the interoperability of public administrations – have laid foundations for the development of various joint projects in the field of risk management, with new tools that can overcome the national processes and national domains of the IT infrastructure and applications, which vary significantly among the Member States.

6.2 It is essential that R&D and innovation efforts in the field of risk management and supply chain security be coordinated across the EU to ensure the timely deployment and commercialisation of the technologies. In particular, "proof-of-concept" demonstration projects and manufacturing pilot lines are preconditions for the deployment of technologies on an industrial scale. Public-private partnerships can provide the funding for such initiatives, using the Structural Funds or in the framework of Horizon 2020 and through other EU programmes.

7. Structured and systematic cooperation and coordination between customs and other authorities

7.1 The EESC recently emphasised that "**closer cooperation** is needed between customs administrations, market surveillance authorities, Commission departments and European agencies in order to ensure better quality control of goods crossing the borders" ⁽¹⁴⁾, and stressed the need to provide appropriate joint training and information.

7.2 According to the Commission "at EU level, better pooling of the capacity and resources of Member States is required to achieve EU risk management objectives more effectively at all points of the external border" including through the "deployment in real time of an electronic risk engine" boosting capabilities at EU level.

7.3 In the EESC's view, the issue of cooperation and coordination in the field of risk management is one of the key points of the Commission proposal, not only in terms of systematic coordination between Member State authorities, but also at the level of the EU itself, between the various directorates-general and operating agencies.

⁽¹²⁾ Interoperable Delivery of Pan-European e-Government Services to Public Administrations, Businesses and Citizens. IDABC contributes to the i2010 initiative of modernising the European public sector.

⁽¹³⁾ Interoperability Solutions for European Public Administrations programme 2010-15.

⁽¹⁴⁾ OJ C 229, 31.7.2012, p. 68.

8. General comments

8.1 The EESC welcomes the Commission's initiative, aimed at ensuring the effectiveness and efficiency of risk management and of the movement of goods across EU borders, by means of a multi-layered strategy for identifying the type and level of risk and the range of possible responses, within an EU framework of multi-agency coordination, and on the basis of a uniform approach and predefined common criteria.

8.2 The EESC is convinced of the need to centralise the process of **electronic clearance**, equipping the Commission with appropriate IT systems with a view to **EU-level risk management** on the basis of a network of interoperable data bases and the systematic use of standardised working methods which ensure that workers, consumers and businesses are protected against the risk of health, environmental and social dumping.

8.3 In the EESC's view, it is vital to increase customs capacities so as to ensure an equivalent level of risk management throughout the EU, in accordance with unambiguous common criteria whose implementation is checked by a single quality-assurance system and monitored, with penalties for offenders.

8.4 The EESC believes that this issue rightly belongs **within the scope of the multiannual action plan for market surveillance, which sets out 20 practical actions** ⁽¹⁵⁾ to be implemented by 2015 with particular regard to:

- support for the implementation of the guidelines in the Member States by customs and market surveillance authorities (action 17);
- improving the efficiency of border safety and compliance controls (action 18);
- mapping the differences in dealing with safety and compliance controls for products entering the EU (action 19); and
- developing a common risk approach to customs controls in the area of product safety and compliance (action 20).

8.5 The EESC believes that the management of customs controls and the management of market surveillance cannot be addressed in isolation and that the framing of a **common approach at EU level** should be pursued jointly, along with full interoperability of the tools for analysing, collecting and processing the data in the network **by the various authorities involved**.

⁽¹⁵⁾ COM(2013) 76 final.

8.6 The EESC is in favour of a support system to bolster Member States' risk management capacities, with a view to ensuring uniform standards of quality and providing an EU mechanism for checks, controls and monitoring, as well as penalties. It also calls for greater EU efforts to ensure advanced professional training, which is particularly needed in the areas where the undertakings and costs involved are greater, such as along the borders of the Schengen area.

8.7 In this regard, the EESC calls for EU action to be stepped up towards developing skilled human resources and boosting management capabilities, including through the establishment of a common customs support team that would intervene promptly in difficult situations.

8.8 With a view to ensuring a clear and coherent set of common standards throughout the single market, for the

same levels of security, the EESC strongly calls for **closer cooperation and increased information-sharing** – on the basis of high common standards – between customs administrations, market surveillance authorities, Commission departments and European agencies, in order to ensure better quality control of goods crossing the borders.

8.9 The EESC endorses the **Council conclusions** on progress in the strategy for the evolution of the customs union as regards **improving the governance of the customs union** ⁽¹⁶⁾, enhancing its ability to measure its own impact and promote uniform application of customs legislation, enhancing cooperation between agencies and, above all, adopting "a more comprehensive approach of the international supply chain", facilitating trade and "bringing real and tangible benefits to authorised economic operators".

Brussels, 10 July 2013.

The President
of the European Economic and Social Committee
Henri MALOSSE

⁽¹⁶⁾ OJ C 80, 19.3.2013, p. 11.