

Permanent Representation of Sweden to the EU
Square de Meeûs 30, 1000 Bruxelles, Belgium

Brussels, 3rd February 2023

Subject: EEA introductory letter to Swedish Presidency of the Council of the European Union

The European Express Association (EEA) welcomes the Swedish Presidency of the Council of the European Union and wishes every success for the intensive work ahead for the first half of the year. The EEA represents express delivery companies and associations, both large and small, in Europe. By communicating on behalf of the express industry with one single voice, the goal of the EEA is to ensure that policymakers fully understand the challenges we face as an industry and as a result, that policy is implemented in a way which maximises the benefits for all involved. More information regarding the relevance of our industry can be found at the bottom of this letter.

This Presidency comes at a time of historic challenges for Member States and the Union as a whole. In this contribution, the EEA would like to present to the Presidency our immediate high-level concerns and recommendations related to current initiatives and future plans to reform of the EU Customs Union in the hope that through its leadership, the Presidency can ensure that the current legislative process moves forward in a tangible and efficient manner but also that it can be implemented in a harmonized way across the European Union.

The enclosed high-level points are some of the most pressing matters we are currently discussing with the European Commission and Member States. Unfortunately, this process has been, in some instances, quite uncertain and not always comprehensive. Given the far-reaching consequences of the proposals under development, EEA Members urge a close partnership and consultation of economic operators so we can jointly and effectively work together to make meaningful progress. Consultation with the industry about the most effective means of achieving desired policy outcomes is as essential as the policy end-goal itself. EEA Members are ready to provide their expertise and insights to contribute to the Swedish presidency's customs agenda priorities.

EEA Members would like to wish this presidency of the Council of the European Union success.

Your sincerely,

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Chair of the Trade and Facilitation Committee EEA

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Annex I.

1. Member States readiness of UCC Work Program

The general objectives of the Union Customs Code (UCC) will be further achieved through the implementation and deployment of more specific IT programs. In 2023, numerous systems¹ will go through various phases and releases. This changing environment is creating a cascade of complex changes on Member States IT infrastructure but also on the systems and processes of economic operators, who depend entirely on the availability of full and final functional and technical specifications as well as being provided with sufficient time for testing and training.

In light of the impact of Brexit, the VAT e-commerce package implementation, COVID-19 pandemic, the war in Ukraine and the current economic crisis, it is no surprise that a number of EU Member States have formally indicated that they will not be able to meet the original deployment timetable as laid out in the UCC Work Program. This is impacting the successful implementation by express carriers. We therefore suggest that the Presidency considers the following factors as this continues to move forward:

- An immediate review of the timelines set down in the UCC workplan.
- An immediate availability of high level but definitive information from Member States on the intended system enhancements for ICS2 R2, NIS, AN-PN-TS; NCTS P5 and AES.
- In Member States where the technical specifications are available today, the implementation of these systems should proceed as planned.
- For those Member States who will not meet their original implementation date, clarification is needed on how the derogations will result in additional time for the private sector as there is significant uncertainty and unrealistic deadlines for systems' compliance. We would at least need 6-9 additional months to adjust systems and procedures. Additionally, for those Member States where the technical specifications are not yet available or still incomplete, however, we propose to extend the deployment window for trade by 18 months from the day they become available in full and we also welcome more clarity on the specific dates when end-2-end testing can start.

2. Reform of the Customs Legislation

The WPG also recommended that the Commission would table a package of reform proposals by the end of 2022, including reform of the Union Customs Code (UCC). This package was originally planned for the 7th of December 2022, but based on recent information we understand that it has been postponed to 22 March 2023. There have been no further exchanges between the Commission and stakeholders on the actual content of the Commission proposal – nor between the Commission and members of the Trade Contact Group (TCG), which the EEA is part of. It is therefore unclear how the recommendations of the WPG will be translated in specific proposals. It is also unclear if the Commission has taken into consideration other recommendations, including the ones submitted by the EEA as part of the WPG process. We are concerned that the Commission proposals will be limited to and solely based on the WPG

¹ Systems such as the Import Control System Release 2 (ICS2 R2), the New Computerized Transit System Phase 5 (NCTS), the upgrade of the Automated Export System (AES), as well as the upgrade of the National Import Systems (NIS) covering the entry related changes as well (Arrival Notification, Presentation Notification and Temporary Storage).

report given that this report does not include our and other stakeholders' recommendations. We consider it equally important that stakeholders like the EEA and other members of the TCG, being experts in the field of Customs procedures, will be allowed to participate in the further development of Customs policy initiatives and the practical implementation plans.

- Clarity is needed on when and how the Members of the Trade Contact Group will be consulted on the concrete legal text of the proposal of the EU Commission. An adequate form of consultation allowing a meaningful discussion is critical.
- We would welcome an opportunity to review the initial plans for reform prior to adoption.
- A stronger transparency is needed on the outcome of the various consultations related to Customs Reform and not consider the WPG recommendations as the only source for such reform.
- A more active role of economic operators integrated in the remit of the TCG in an early stage of preparing and reviewing general proposals and implementing provisions is required. This is for instance the case on the assessment of the impact of a potential removal of the customs de minimis threshold of 150 Euros, as explained below.

3. Wise Persons Group (WSP) Recommendations and in particular the possible removal of the customs duty de minimis threshold of 150 Euro

Although EEA Members were consulted by the Wise Persons Group the outcome was not entirely trade facilitation oriented considering the suggested removal of effective trade facilitation instruments. While the report contains a list of 10 recommendations to be used by the European Commission as a first step towards the development of a formal proposal for Customs reform, we would like to flag the recommendation addressing the potential removal of the current duty de minimis threshold of 150 Euro to generate additional income.

- It is our understanding that the economic impact assessment on the WPG's recommendations is still underway. Therefore, it is recommended that the Commission awaits the outcome of such assessment to then allow sufficient time for further discussions and negotiations with all stakeholders involved.
- The additional workload (programming IT systems, contacting customers issuing invoices, additional staff, and costs) that would be created by the removal of the customs duty exemption threshold of 150 EUR must be considered. This would apply to the Trade as well as to EU Customs Administrations.
- The impact on close trading partners, in particular those with which the EU has concluded trade agreements with zero and/or reduced tariff rates (or would like to conclude such agreements) should also be taken into consideration.
- One of the obvious questions that arises is how will shipments be classified and declared using the super-reduced data set (H7) scheme for low value shipments? This scheme only requires a 6-digit data set which is insufficient to classify shipments. Would this simplification be dispensed with?

- The recommended removal of customs duty exemption threshold of 150 EUR is not in line with the World Trade Organization Trade Facilitation Agreement (TFA) to which the EU deposited an Instrument of Acceptance in October 2015².

4. EU Carbon Border Adjustment Mechanism (CBAM)

Through different papers and diverse moments of the legislative process, the EEA has shared with the European Commission, the European Parliament and the EU Council, the key relevant concerns for our industry with a view to avoid or minimize a future impact. Under the deal reached in December 2022, the main concern for the EEA still remains the inclusion of the responsibility of the indirect customs representative as laid down in Article 5:

- While customs representatives have the proper training and expertise to act on behalf of third country importers to address customs procedures, they don't have the adequate knowledge and practical means to address the CBAM sustainability obligations of their customers. In particular, freight forwarders, express carriers and customs agents are not in a position to obtain (much less verify) complex information and calculation/claim of embedded emissions of a specific product manufactured by a party in a third country, nor assume major reporting obligations that they could then become liable for. Shifting the responsibility of the CBAM declaration to the customs representative would impose a highly disproportionate and undue burden on EU based customs agents and the national customs authorities that would need to review those obligations. The EEA stresses the importance of making a distinction between customs representatives' responsibilities and CBAM responsibilities. The provision of services under indirect representation already involves risks and liabilities. Adding another layer of responsibility by means of additional CBAM services should remain a commercial choice and should be based on a commercial agreement, not imposed by legislation. According to article 5 of the text, express couriers as customs representative will be obliged to submit CBAM declarations on behalf of non-EU based importers. Requiring the customs representative to submit the declarations could result in delays at the border with relevant risks of unfair administrative burdens and liabilities.

In addition to concerns relating to the role and responsibilities of indirect customs' representatives, the EEA is also concerned about the review to be conducted by the Commission before 2026. This review could lead to an extension of the scope of products covered by CBAM (potentially including additional downstream products) but could also lead to an extension of CBAM to transportation services:

- A possible extension to downstream products may complicate trade as the calculation of emissions related to downstream products is far more complicated than of most of the products currently covered. Potentially, imported downstream products may not only be composed of parts that can have been sourced across the world but could even include parts for which a CBAM charge has already been levied earlier in the supply chain. These considerations raise relevant concerns in terms of implementation and enforcement. If the scope of products would be extended to cover more downstream products, it will be even more necessary to modify Article 5 relating to the role of customs' representatives.

² In respect to the de minimis topic, the TFA states in Article 7, Release and Clearance of Goods, subsection 8.2 d: "(d) provide, to the extent possible, for a de minimis shipment value or dutiable amount for which customs duties and taxes will not be collected, aside from certain prescribed goods.

- Regarding the potential inclusion of transportation services, a lot needs to be clarified as it is unclear how CBAM could be applied to transportation services and who would be the CBAM declarant in that case. Finally, it should be ensured that international commitments by the EU and Member States in the area of transportation services are respected.

About the EEA

The European Express Association (EEA) represents the interests of the express industry in Europe whose core business is the provision of door-to-door transport and deliveries of next-day or time-definite shipments domestically and across the globe. Express delivery operators are often referred to as “integrators” as they provide their domestic and business customers with an integrated delivery service from end to end: organizing collection, providing tracking information and handling customs clearance where shipments cross international borders. In the European Union, our industry employs 330,000 workers and supports some 1.1 million jobs (estimate – Oxford Economics). In 2018, the European express industry is estimated to have supported a GDP contribution of €69 billion across its direct, indirect and induced impacts (Oxford Economics).