



FEPORT reply to the public consultation regarding the interim evaluation of the Union Customs Code

FEPORT represents the interests of 1225 European private port companies and terminals who employ around 390.000 port workers in EU seaports. According to the latest figures, FEPORT members are handling 93 million TEU and 3.7 billion tons of average annual throughput.

This throughput consists of both EU and non-EU goods and through their cargo-handling activities, FEPORT members connect maritime to sustainable hinterland modes of transport, thus reducing the carbon footprint of the transport chain.

FEPORT fully subscribes to the Customs Union's aim of promoting trade, while preventing illicit forms of commerce.

The main stake for terminal operators under EU Customs legislation relates to the responsibilities they are assigned as operators of temporary storage facilities for the goods that are stored on their premises.

FEPORT supports the implementation of the UCC, and the way businesses and other stakeholders are consulted in this matter.

FEPORT would like to make the following recommendations to better adapt the UCC to port logistics companies' needs, thereby enabling them to continue contributing to GDP growth as well as sustainable logistics.

1. Consider the economic and operational realities of seaport terminals when assigning them responsibilities for goods they hold under temporary storage

Goods stored at the terminal's yard are regarded as being in "temporary storage" as laid down in article 5.17 of the UCC, meaning that terminal operators are responsible for ensuring that the goods – such as containers, dry bulk or break bulk cargo, etc. - are not removed from customs supervision.

In principle, terminal operators need to provide a financial guarantee for potential or existing customs debts and part of the rationale behind this guarantee requirement for terminals resides in their responsibility over the goods when they are stored on their premises, which is a reasoning that FEPORT members fully subscribe to. However, it should be prevented that terminal operators' liability is extended to situations where the goods are not located on their premises.

For example, when goods are transported between different temporary storage facilities, the party responsible should be the one that ordered and supervises the transport of the goods. In some cases, this is one of the holders of the authorization for temporary storage. However, if another party is in charge, terminal operators holding temporary storage authorizations should not be held accountable for possible damages to or loss of the goods. This principle should be taken into account in the evaluation of the UCC legal package and in implementation at the national level.

Furthermore, some FEPORT members have raised questions regarding the financial liability of terminals for possible customs debts when the 90 days deadline for the temporary storage of goods is exceeded and the goods have not yet been re-exported or placed under a customs procedure. Assigning liability to the terminal operator might not in all cases be the fairest option, as it is not always within his command whether the goods that have been presented to customs are placed under a customs procedure within 90 days as required by article 149 of the UCC.

One point FEPORT is very satisfied about pertains to how article 84.3 of the UCC Delegated Act has allowed terminal operators to be granted a guarantee waiver when they meet a set of criteria which are largely in line with the criteria to obtain AEO authorization. This similarity of criteria reduces the administrative burdens of the terminal operators concerned.

A point of attention, however, is to ensure consistency between the criteria that need to be met to obtain a guarantee waiver and other legislation companies need to comply with.

For example, article 84.3.h of the UCC DA requires applicants for a guarantee waiver to put in place adequate cybersecurity measures, which is also something for which the EU Commission seeks to require mandatory certification through its proposal for a revised NIS 2 Directive. Aligning cybersecurity requirements under EU cybersecurity legislation and the UCC could be looked into in order to reduce companies' compliance costs.

2. Focus on completing the UCC implementation first, before introducing new legislation

Whereas the UCC was adopted on 9 October 2013 and most of its provisions entered into force May 2016, some transitional arrangements could still exist until 2025.

At the same time, as can be read in the proposal for a Regulation establishing a Single Window Environment for Customs (EU SWEC), which will amend the UCC Regulation, it is envisaged that economic operators will already be able to share data related to EU non-customs formalities between March 2023 and March 2025.

FEPORT fully supports the efforts of the EU Commission to set up an EU Customs Single Window in order to allow economic operators to submit an integrated declaration containing both customs and EU non-customs formalities. This will reduce declarants' administrative burden, thereby facilitating international trade, which will also indirectly benefit private port companies and terminals.

The implementation of the EU SWEC will require a lot of important work including the roll-out of many IT functionalities as well as the adoption of Delegated and Implementing Legislation, for

example, with the aim of spelling out which data shall be exchanged via EU CSW-CERTEX as well as rules for information exchange.

It is therefore crucial to take into account the implementation timeline of the UCC legislative and IT package when designing the EU Customs Single Window.

3. Ensure that the UCC framework works together with EU State aid legislation to tackle unfair competition from third countries

Some concerns exist among EU terminal operators regarding the UK's "freeport" initiative. The UK plans come down to a combination of customs facilitations which the UCC also allows to be applied in free zones, as well as financial incentives such as tax breaks, lower tariffs and zero business rates. This combination could be potentially harmful to the competitiveness of EU ports and terminals.

It is therefore crucial that EU State aid legislation and the UCC are assessed in tandem in order to address the possible distortive effects of such combinations of customs simplifications and financial advantages.

4. Concluding remarks

FEPORT favors the current UCC framework and in particular welcomes the possibilities that article 84.3 of the UCC DA provide for obtaining a guarantee waiver. Points of attention relate to the implementation timeline. Moreover, in order to reduce compliance costs, requirements related to the obtention of a guarantee waiver should as much as possible be aligned with other certification requirements.