

UNICE strategy in the field of customs

I. Preliminary comments

A European customs policy is of paramount importance for European companies, as it will give them greater certainty in the administrative handling of their international transactions. To be effective this policy will have to be geared towards global market access, and incorporate important developments which have had a profound effect on the way companies operate in recent years. It will also have to favour the international harmonisation of practices, simplification of rules and co-operation with operators, and foster the coherence of customs administrative practices in the EU and administrative support to companies. UNICE presents here its detailed strategy for this matter.

II. Considerations on trade facilitation and customs rules

1. In the field of international trade UNICE favours a strong market access policy but does not envisage market opening without rules or customs controls.
2. UNICE accepts the validity of customs disciplines in the European Union's foreign trade provided that such disciplines are compatible with the legitimate requirements of fluidity and rapidity which are indispensable for business development. Customs intervention is necessary to ensure good application of the regulatory mechanisms companies need for the security of their transactions.
3. Compliance with customs legislation - nationally and internationally - is normally enforced by customs administrations procedures ranging from physical border controls to administrative controls, and often a mixture of both. To alleviate the burden of these rules on operators, trade facilitation is an absolute necessity at international and Community level.
4. Globalisation of international trade - in which electronic trade is playing an increasing part - makes it necessary to reconsider the role of customs administrations in international trade. In collaboration with the business community, customs administrations should endeavour more actively to reconcile the effectiveness of their controls with the need for greater facilitation in international trade transactions. Efforts should be made to reach this objective not only at Community level, but also in international bodies.
5. At international level, common customs procedures, as embodied in the Kyoto Convention, should be encouraged as they will enable the exchange of essential information between customs administrations and operators. Also, international customs co-operation at both international and bilateral level should be furthered in co-operation with the business community.

III. Reforming European customs policy and trade developments

1. UNICE considers that European customs policy must incorporate the important developments which have had a profound effect on the way companies operate in recent years.

2. The first of these developments is globalisation, which has brought about an explosion in international trade with fiercer competition. It has also forced operators of all sizes, including SMEs, to assimilate a range of sometimes complex customs rules in force in different parts of the world.
3. Nowadays most European companies need to be familiar not only with EU rules (e.g. preferential rules of origin) but also with those applicable in other countries where they sell or manufacture their goods. In the area of customs, companies feel much more acutely than in the past an increased need for information and simplification of rules covering their activities worldwide.
4. In addition, genuine completion of the European single market remains a very important expectation for companies.
5. Although European customs rules are almost completely harmonised in the Community Customs Code, the continued existence of fifteen national customs administrations means that companies still have to deal with procedures and practices that may differ widely from one Member State to the next. The application customs controls and supervisory powers of customs officials also vary from Member State to Member State, a situation which is incompatible with a single market.
6. Lastly, modernisation of commercial transactions, notably thanks to information technology and new telematics tools, has profoundly changed the conditions in which companies operate by improving the quality, security and rapidity of operations. Paper supports are increasingly tending to disappear from commercial exchanges, whereas administrations continue to give preference to this form of communication.
7. Companies which have had to make the necessary efforts to keep up with their competitors expect customs administrations to modernise as well, so that maximum benefit is drawn from the reforms and investments they have had to make. For instance, the difficulties of computerising Community transit does not give them a very reassuring picture of the capacity of European customs administrations to adapt in this regard.

IV. UNICE's priority objectives

1. In the field of customs, UNICE favours international harmonisation of practices, simplification of rules and co-operation with administrations.
2. UNICE fully endorses the action programme for customs in the Community (Customs 2000) laid down in European Parliament and Council decision 210/47/EC. However, it considers that the guidelines should be specified in greater detail and, above all, implemented rapidly. But there are other areas where interesting progress can be made.
3. In the light of the above, UNICE attaches particular importance to the following points:
 - a) **Simplification of customs rules and controls**
 - In the European Union and in the international framework where WTO could be an essential vector for action, progress towards this goal should be sought constantly.
 - Good results can be obtained with modernisation of equipment, notably, through information technology, and individualisation of procedures. Conclusion of Memoranda of Understanding with economic operators seems to be an excellent route for making progress. Similarly, simplified procedures are to be encouraged in risk analysis techniques and audit techniques.

b) Harmonisation of customs practice in Europe

- Harmonisation of customs procedures throughout the EU is essential to the credibility of the single market and to avoid distortion of competition between companies in different Member States. However, to be beneficial, harmonisation must be based on the best available practices which achieve the highest levels of trade facilitation. UNICE is therefore opposed to any harmonisation based on existing practices which are not necessarily the best. Instead, Member States should be encouraged to adopt efficient (and in particular cost-effective) procedures based on the maximum use of information technology and modern management techniques such as risk analysis. These procedures should then become the European standards which the Commission should encourage and, where necessary, assist all customs administrations to adopt.
- In the longer term, UNICE believes that the widespread use of Single European Authorisations (SEAs), by encouraging Member States to work closely together and to exchange information, will be a powerful and effective force for achieving harmonisation based on best practice.
- UNICE does not believe that the Commission can impose a complete harmonisation on Member States. Clearly, however, it has an important role to play in promoting and supporting those initiatives such as SEAs and international trade prototypes which will lead to effective harmonisation, and ensuring that the benefits are made available as of right to companies throughout the EU.
- Finally, to ensure effective harmonisation of customs requirements at European level, it is necessary to reduce the licence requirements still maintained for intra-EU trade in dual-use products.

c) Effective combating of fraud

- Serious fraud has been observed in application of European customs rules. UNICE is perfectly aware that these irregularities, which cause an unacceptable prejudice to the European Union, must be energetically combated and totally eradicated. European companies do not want to be considered responsible for this traffic, in which most of them are victims. This fraud sidesteps application of the mechanisms which regulate international trade, and distorts the conditions for commercial competition.
- An upgrading of the combat against customs fraud should not involve a general increase in the formalities and constraints on honest companies, or establishment of unjustified assumptions about liability which, as is the case with certificates of origin, can only hamper international transactions and artificially increase their cost.
- Rather, more effective combating of customs fraud should be sought in improved operation of national customs administrations and cooperation between them.

d) Establishment of structured relations with trade operators

- In the European Union, true partnership must be organised at all levels (European, national, local) between customs administrations and companies in order to develop reciprocal exchanges of information and views. It is indispensable to put in place conditions conducive to better dialogue in order to make progress towards good customs management.

- This partnership must be clearly structured in order to give companies guarantees of good representation in expression and defence of their interests.

e) Development of international support

- In the European Union, customs administrations can provide companies engaged in foreign markets with important support. They often have very useful information on the levies, charges and customs formalities applicable in other countries. Some of them have customs attachés abroad who can be focal points for specialist information geared to the concerns of companies.
- The Commission has developed a well documented database on market access. It is essential for companies that this database is regularly updated. It could also be extended by information about the customs formalities and procedures encountered in certain countries (as already exists in the pilot project covering Korea and Poland).
- It can also be noted that, with the considerable growth in trade, disputes with customs administrations are becoming increasingly frequent. International rules, notably those derived from WTO, are not always and everywhere fully implemented in national law. A specific international procedure for customs arbitration could facilitate settlement of disputes which are limited to customs problems of a purely technical nature. The Commission could intervene to this end in international negotiations, in liaison with the World Customs Organization (WCO) which could provide the necessary support.

f) Greater consideration for practical customs constraints in negotiations on and follow-up of international agreements on movements of goods

- These bilateral or multilateral agreements signed by the European Union necessarily make use of customs mechanisms to ensure that obligations are met (certificates, attestations, specific controls). The systems put in place are often highly complex and not always compatible with the administrative situation on the ground in some countries.
- The shortcomings which may appear in operation of the customs apparatus are harmful to the reliability of agreements and are ultimately felt in the life of companies.
- It would therefore be appropriate to pay close attention to the design and application of the customs measures incorporated in these agreements. Support and training for countries which are experiencing difficulties can only be encouraged.

g) Pursue work to modernise customs in the framework of trade facilitation, and incorporate simplification of formalities in electronic commerce

- In order for companies to gain maximum benefit from electronic commerce, it is necessary for electronic customs certificates (“single administrative message”) to be legally acceptable in their digital form. A great deal of harmonisation work is needed here so that legal conflicts are avoided between different national documents in digital form.

- Work to harmonise the data required by customs administrations is currently under way in WCO and G7. WTO appears to be the most appropriate forum for negotiating trade facilitation principles. Companies and governments should work in close cooperation to ensure compatibility between national and international standards, and their electronic interfaces.
- Governments should also reach agreement within WTO and WCO in order to improve the transparency and efficiency of customs procedures implemented through information technologies.

V. Conclusion

1. UNICE favours the setting-up of an effective European customs policy which fosters the coherence of administrative practices in the EU and administrative support to companies. In this framework UNICE very strongly supports innovative projects such as the SEA project which is one of the most significant developments in EU customs law and one which holds the key to achieving a true single market for customs purposes.
 2. UNICE can only welcome the new mission of customs administration for the future, as recently defined in the Commission report to the Council and European Parliament on implementation of the Customs 2000 programme (COM (1998) 471 final). This refers: *“in addition to the traditional role played by customs as the collector of own resources and the guardian of the financial interests of the Community, its new tasks, involving the regulation of trade by monitoring the correct implementation of all the common policies and Community legislation governing imports and exports, are constantly expanding”*
 3. This mission brings together the areas for priority action which UNICE has always supported in its earlier positions, i.e.:
 - ensure transparency in implementation of EU law by the customs administrations of Member States;
 - encourage coordinated development of new working methods;
 - strengthen the common training policy;
 - intensify information and communication with customs users;
 - contribute to emergence of an international customs environment conducive to optimal management of the Union’s external frontier, making a particular effort vis-à-vis the customs administrations of the associate countries which aim to accede to the Union.
 4. In this new Community customs framework, UNICE as the voice of European companies of all sizes wishes to:
 - work in close partnership with administrations on all subjects which touch on the interests of companies;
 - support deployment of the “Community reflex” in the quest for rapid solutions, notably through coordinated development of shared tools;
 - participate in the necessary strengthening of coherence between customs actions in the Union;
 - promote greater unity of vision in Community customs action, notably by supporting implementation of renewed programmes.
 5. In addition to this, UNICE is convinced that, while it is indispensable to demonstrate a true Community dynamic in the area of customs (namely that administrations act within a strengthened Community framework, and UNICE is prepared to help them), governments must also facilitate the task of companies so that they can focus their efforts to hold their own against international competition. The vitality of the European economy and employment depend on this challenge being met. The new mission of customs should be to facilitate this task.
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