

Establishing an EU single window for customs

Impact assessment (SWD(2020) 238, SWD(2020)239 (summary)) accompanying a Commission proposal for a Regulation of the European Parliament and of the Council establishing the European Union single window environment for customs and amending Regulation (EU) No952/2013, COM(2020)673

This briefing provides an initial analysis of the strengths and weaknesses of the European Commission [impact assessment](#) (IA) accompanying the above proposal, submitted on 28 October 2020 and referred to the Committee on the Internal Market and Consumer Protection (IMCO).

The proposal featured in the Commission's 2020 work programme and the EU's September 2020 [action plan](#) to take the EU customs union to the next level, namely to manage the expansion of international trade and compliance with all border formalities after the arrival of goods at the EU border. More specifically, it addresses the wide range of EU non-customs product compliance requirements and standards relating to sensitive aspects such as health, environment, product and food safety and security.¹ While trade and customs legislation is an exclusive EU competence, its implementation is the responsibility of the national customs administrations. Since 2016, the [Customs Union Code](#) has provided modernised legislation to enable the Member States' customs authorities to supervise all goods leaving or entering the EU customs territory (IA, p. 3). The IA notes that while digitalisation is key, its potential has yet to be fully exploited, and issues such as smuggling, fraud and unsafe or counterfeit goods require the EU's custom policy to become ever more effective, efficient and resilient. This recently became obvious in the context of the import of medical/protective goods during the pandemic.

To this end, the proposal establishes a 'single window'² to streamline border clearance within and across the EU, a concept promoted by the Council since 2014. The IA underpinning the proposal builds on the [evaluation](#) of a voluntary EU pilot project first launched in 2015 and then expanded in 2017 ([EU SW-CVED and EU CSW-CERTEX](#)),³ which enables digital cooperation between customs and non-customs authorities, including the automated verification of a number of non-customs regulatory requirements by customs authorities in nine Member States (IA, pp. 4-5, 131-151).

Problem definition

The IA starts by highlighting the complexity of the EU's non-customs requirements, deriving from sectoral policies that have been designed over time in a non-coordinated manner (IA, pp. 3-6). The authorities competent for non-customs formalities issue authorisations or licences in accordance with the sectoral procedures applicable and operate various digital and/or paper-based systems. In particular, they have evolved independently from customs authorities, which nevertheless have to check compliance with these rules when the goods arrive at the external border of the EU. As the IA points out, this application of regulatory formalities in 'silos' is demanding not only for customs authorities but also for economic operators who have to communicate with customs and non-customs authorities to comply with all the product-specific obligations in order to trade their goods. The Commission and some Member States have reacted to the complexity of the rules by establishing voluntary EU and/or national single-window environments, enabling national customs

to cooperate with certain non-customs authorities in some policy areas corresponding to the respective national priorities in international trade.⁴

This **baseline is characterised by several features**: First, the existing single windows (EU and national) refer either (mostly) to government-to-government cooperation (G2G) or to business-to-government cooperation (B2G). Second, non-customs regulatory requirements are either imposed and regulated at EU level, introduced at national level in accordance with Article 36 of the Treaty on the Functioning of the European Union (TFEU) or certified by third countries (international agreements or EU legislation) (IA, pp. 21-23). Third, adding to the complexity are the varying levels of digitalisation of government services, implying varying availability of electronic information on different categories of regulatory requirements: information can be fully, partially or not at all available at EU level and/or in other Member States (IA, pp. 24, 104-109). This leads the IA to define **two main problems** to be tackled by this proposal: 1) the **fragmented interoperability between customs and non-customs regulatory authorities involved in international trade** and 2) **duplication in fulfilling regulatory requirements** and redundant procedures for international trade (IA, pp. 6-8). The problem drivers identified are complex goods clearance procedures and insufficient cooperation between the regulatory authorities involved (IA, pp. 10-11). In fact, the IA suggests that authorities competent for sectoral good-specific requirements are reluctant to share responsibility when the concept of closer coordination with other authorities comes up (IA, p. 11). **Consequences** of these problems are **delays in customs clearance** and inefficient use of financial and human resources, owing to time-consuming manual controls of licences for goods subject to non-customs formalities. In addition, the IA detects **ineffective application of rules in the EU single market** and beyond, entailing increased risks of error, fraud or corruption (linked to manual controls of quotas for restricted goods such as ozone depleting substances or firearms) (IA, pp. 13-14). Despite some benefits of the existing limited single-window initiatives, efficient EU-wide automated quantity management,⁵ which would detect forged documents and/or re-used licences and quotas automatically, is currently impossible, because many competent authorities are not covered by these schemes and do not share documents (IA, p. 25).

Based on an [external study](#), the IA considers the **scale of the problems** to be significant, since non-customs formalities led to the application of up to €39.7 million in customs declarations in 2016 (IA, pp. 6, 42).⁶ At the same time, the IA acknowledges that 'hard data' is not available on certain issues, particularly those linked to fraud and corruption (IA, p. 15). Nevertheless, consistent references to stakeholder feedback and examples from the case studies support the problem definition, for instance as regards time savings by replacing manual checks with automated data crosschecks (IA, p. 12). The IA thoroughly describes the effects on **four key stakeholder groups**, mostly based on concrete examples: national customs and non-customs authorities, economic operators and citizens (IA, pp. 11-17). The IA does not specify regional differences in the problems' effects, despite the notion of a wide variation in national systems and varying trade intensity.

Subsidiarity / proportionality

The IA stresses the transnational nature of the problems with EU non-customs requirements and a lack of resources to solve the problems at national level (IA, pp. 18-19). It sees 'a short window of opportunity' to act, before Member States turn to non-harmonised national solutions, as their investments in national single windows and the EU pilot project did not bring about EU-wide quantity management (IA, pp. 4, 19). The IA could have been clearer in specifying its focus on the enforcement of formalities for which the relevant information ... is available at central level in EU non-customs systems'. This information is highlighted in the accompanying [staff working document](#) (SWD), which assesses in more detail respect for the subsidiarity and proportionality principles (subsidiarity grid).⁷ The SWD discusses the extensive consultations prior to the IA in line with Protocol No 2 and mentions territorial differences, depending on the type and volume of goods traded in a country or region. Like the IA, it does not elaborate on this, but emphasises the relevance of the problem for all Member States, deeming the issues with non-customs formalities where

information is stored at national, regional or local level to be beyond the IA's scope, and a matter for national discretion (p. 5). The IA examines the proportionality of all options thoroughly, explaining that the preferred options are limited to a) connecting regulatory non-customs formalities set out in EU legislation and electronically available at EU level with national single windows and b) harmonising the latter (IA, p. 68). The subsidiarity deadline for national parliaments expired on 26 January 2021; no reasoned opinion or exchange of important information was received.

Objectives of the initiative

The IA presents two Treaty-based **general** objectives, improved enforcement of EU non-customs regulatory requirements applicable to goods at EU borders, and the facilitation of international trade (IA, p. 20). It derives three **specific** objectives:

- define a governance framework for a European single-window environment for customs, enhancing cooperation and interoperability between customs and partner competent authorities (addresses the first problem);
- improve working practices between customs and non-customs authorities involved in international trade to automate as far as possible all formalities for clearance (addresses both problems);
- determine a framework for data harmonisation and re-use of data given by economic operators to customs and non-customs authorities (addresses second problem).

As required by the [Better Regulation Guidelines](#), the IA also defines five **operational** objectives⁸ in the framework of the monitoring and evaluation provisions of the initiative (IA, pp. 69-70). They correspond to the guidelines' SMART criteria of being specific, measurable, achievable, relevant and time-bound. Regarding the latter, the IA specifies that the timeline for achieving the objectives is the next decade, because the development and deployment of technical solutions will take time, depending, among other things, on the state of play of the national systems (IA, pp. 20, 36, 45, 56, 60). The IA mentions (in the discussion on the options) which elements would be implemented earlier than others, without however providing consecutive steps or timelines in relation to the operational objectives. Although EU-wide automated quality management of EU non-customs formalities seems to be an inherent goal, it is not featured as an objective in the IA.

Range of options considered

Before screening policy options to achieve the objectives, the IA explores the features characterising the baseline scenario as described in the problem definition, and uses them to structure the options (G2G- or B2B-cooperation, EU or national formalities, digital availability of information at EU or national level). The IA presents eight main options, with two sub-options for Options 2 and 3 (IA, pp. 25-34, 236).

Option 1 is considered a 'prerequisite' to any of the four cumulative G2G options because, according to the IA, it would not be logical to put in place one of these options without building on the already existing EU electronic system of the EU pilot project (IA, p. 26). The implementation of this option would be dynamic, adding regulatory formalities as they become available at central EU level (IA, p. 26-27). The more limited Option 2 would make information on sectoral requirements from participating Member States available on a case by case basis, and integrate them step by step into Option 1 (IA, p. 27). However, the IA does not assess the implications of a centralisation of all existing national non-customs systems, arguing this is beyond the scope of this IA and subject to full sector-specific analyses. The mutually exclusive business-to-government Options 5 to 7 would entail different scopes of electronic interfaces to link non-customs formalities to customs for businesses, with Option 7 entailing 'radical' changes to the Union Customs Code (IA, pp. 30, 33).

Overall, the presentation of the options is well structured and balanced, with several helpful illustrations and tables to explain the complex components of the options (IA, pp. 22, 26, 28, 32-33, 236). It draws on the findings of the evaluation of the EU pilot project and the discussions of the EU

customs single window project group⁹ (IA, p. 25). Still, some characteristics and detailed steps of the options and some general features of the broader EU customs policy could have been related in a more explicit way, especially for non-specialist readers unfamiliar with all layers of the system.

Figure 1 – Overview of policy options presented in the IA (preferred options in grey)

	Government-to-government cooperation (between customs and non-customs authorities) <i>- cumulative options -</i>	Business-to-government cooperation (between economic operators and customs and non-customs authorities) <i>- mutually exclusive options -</i>	Additional horizontal expansion of the use of economic operator registration and information (EORI) <i>- complementary option -</i>
Option 1	Interconnecting national customs systems to EU non-customs regulatory formalities digitally available at EU level		
Option 2	Interconnecting national customs systems to EU non-customs regulatory formalities digitally available at Member State level a) direct connection b) indirect connection ¹⁰		
Option 3 <i>discarded</i>	Interconnecting national customs systems to national non-customs regulatory requirements in another Member State		
Option 4 <i>discarded</i>	Interconnecting national customs systems to EU non-customs regulatory formalities digitally available required by third countries ¹¹		
Option 5 <i>discarded</i>		Harmonised portal for economic operators to fulfil EU non-customs regulatory requirements	
Option 6		Harmonised national single-entry points for economic operators to fulfil customs and non-customs regulatory requirements	
Option 7		EU single-entry point for economic operators to fulfil customs and non-customs formalities	
Option 8 b <i>(option 8a discarded)</i>			Full (a) or partial (b) extension of EORI use to competent authorities

Source: IA and author.

At this stage, the IA discards four options (3, 4, 5 and 8a) and does not analyse their implications in depth. It does, however, provide an overview of their expected economic, social and environmental impacts in Annex 12, which includes interesting additional information and the opinions of stakeholders, supporting the decision to discard (IA, pp. 126-127). The decision to discard is also substantiated with a comparative screening of all options, based on evidence from stakeholders in the specialised EU customs windows project group, checking all options in terms of their technical feasibility, likely effectiveness and proportionality (IA, 31-34). Notably, all four discarded options were considered non proportionate, in addition to other aspects affecting their viability.

Assessment of impacts

The IA assesses the direct **economic impacts** of the options retained, as well as their social and environmental implications, in a transparent manner. It describes the assumptions, evidence base and methods of the assessment, as well as its limitations owing to the complexity of factors affecting non-customs procedures and to the limited availability of comparable data, making extrapolations for EU-wide estimations challenging (IA, pp. 34-38). It addresses these challenges by using wide ranges for its estimations and complementing them with thorough qualitative analysis. The impacts of each option are classified according to stakeholder groups, whose views are presented at the beginning of each option's assessment.

The IA provides estimations of annual and total one-off implementation and recurrent costs (for digitalisation, management and training), annual and total benefits resulting from the reduced administrative burden (number of customs declarations affected and working time saved for each operation and for different actors) (IA, pp. 36-38). Annual costs and benefits are presented for the first seven years (implementation phase) and from year eight onwards, except for Option 7 where longer implementation is expected (years 1-7, years 8-12 and after 13 years).

According to the IA, during the first seven years the **total annual costs** of Option 1 for all stakeholders range between €6.15 million and €8.20 million, falling from year 8 onwards to between €4.92 million and €6.56 million (IA, p. 42).¹² As regards the annual benefits, the IA expects increasing benefits for all stakeholder groups, starting in year 1 with **total annual benefits** of between €12.80 million and €19.61 million, growing to €102.38 million to €156.88 million from the eighth year on. This results in a positive **total net impact**¹³ for Option 1 of between €95.82 million and €151.96 million after full implementation (as of year 8), with major benefits for national customs and economic operators and smaller benefits for non-customs-authorities.

The total net impact of Option 2 is distinctly smaller as of year 8 (between €20.90 million and €39.71 million). Due to its limitation to formalities available at Member States' level, benefits would be much lower, while costs for national authorities would be much higher (IA, pp. 44-47). As regards the business-to-government options, Option 6 is expected to generate very high benefits for economic operators with limited costs, whereas Option 7 turns out to be by far the most expensive choice, with a very high negative total net impact (from -€767.3 million to -€1.421.9 million) (IA, pp. 48-57). This reflects the fact that Option 7 implies the replacement of the entire current system by a totally centralised one, incompatible with the Union Customs Code (IA, pp. 55, 66). Following a comparison of the options against the baseline in terms of effectiveness, efficiency, coherence and proportionality, the IA identifies the **preferred option** as a combination of Options 1, 6 and 8b,¹⁴ which was also the package with the highest stakeholder support (IA, pp. 59-69). The IA does not address the request by some Member States, which advocated prioritisation of high-volume formalities rather than coverage of all regulatory requirements (IA, p. 38). The **total net benefit of the preferred package** is estimated at between €540.42 million and €960.97 million during the seven-year implementation period and between €191.29 million and €299.19 million afterwards (IA, p. 93).

The **social and environmental impacts** are assessed qualitatively, drawing mainly on the evaluation of the EU pilot project and stakeholder feedback (IA, pp. 42-44, 47-48, 51-53, 57-58). The IA anticipates these impacts to be very similar for all options (IA, p. 37). More effective and efficient

cooperation between authorities is expected to lead to automated sharing of information, joint controls and improved risk and fraud management, which, in turn, entail better compliance with single market rules in the sensitive areas concerned (safety of goods, environmental and health standards, animal welfare or the respect of cultural heritage). The IA also anticipates that a more effective fight against fraud and errors will reduce illegal re-use of licences for imports and exports.

The IA does not assess territorial impacts – either within the EU, in relation to divergent national systems, or outside the EU, in relation to third countries – although this divergence is an important aspect of the problem definition, likely to entail differences in costs and benefits. Some indications in this regard, for example about the most-affected cross-border regions or third countries, would have been interesting. Finally, data protection issues, which seem potentially relevant (data related to trade), are mentioned briefly and deemed unproblematic, based on consultation of the European Data Protection Supervisor and of the other stakeholder groups (for all options except Option 7, which is not part of the preferred package (IA, pp. 53, 65, 89, 151).

SMEs/ competitiveness

Throughout the IA, the views of economic operators are highlighted consistently, classing small and medium-sized enterprises (SMEs) as disproportionately affected by the problems with the administrative burden (IA, pp. 13, 16-17, 36-37, 41). The IA does not provide information on the number of SMEs concerned, which would have been interesting, but states that 80 % of the respondents to the open public consultation were SMEs (IA, pp. 79-89). Based on the costs and benefits indicated for economic operators under each retained option, the IA expects SMEs to benefit strongly from the preferred option package, namely Option 6, the most or second most desirable of the B2G options for businesses (admitting the high costs of Option 7, otherwise their favourite) IA, pp. 48, 53). With export controls being an important element in a country's **competitiveness**, the IA expects a reduction in competition distortion between EU states and with third countries by means of better application of the single market rules (IA, pp. 11, 16, 18). This indirect economic impact is expected to be minor (IA, p. 36). The IA also notes 'wider trade benefits' that could, however, not be quantified or specified (IA, p. 68).

It seems plausible that the **simplification and streamlining** of administrative procedures at the core of this initiative would benefit SMEs – the IA even envisages Option 6 'revolutionising' clearance procedures for economic operators (IA, p. 50). This claim is substantiated by the estimations of the major recurrent benefits for them (IA, pp. 12-13, 16, 34-35, 38, 48, 50, 89). The IA stresses that the preferred options package is **coherent** with the Union Customs Code, unlike Option 7.

Monitoring and evaluation

The IA presents 19 pertinent indicators to ensure regular monitoring of the specific and operational objectives (IA, pp. 70-71). It also indicates that most data will come from EU sources and statistics, and plans to consult national customs for other relevant data, such as clearance times. An evaluation of the achievement of the specific objectives by the Commission is envisaged after six years and then every three years. These provisions are taken over in the proposal.

Stakeholder consultation

The IA is built on a broad [consultation strategy](#), involving all relevant stakeholder groups in several targeted and one [open public consultation](#) that ran for 14 weeks and received 371 valid responses (most of them from 77 businesses) (IA, pp. 79-89). The questionnaire covered both experience with the current situation and opinions on policy options presented in the IA. Diverse targeted consultations included interviews with different groups, case studies in eight Member States and 'use cases' specifically on B2G collaboration, as well as regular consultations of the members of the EU customs single window project group set up in December 2016. As indicated, the IA refers extensively and consistently to the stakeholder feedback, broken down in groups, including in the selection of the preferred options package.

Supporting data and analytical methods used

The IA is based on solid research and evidence, substantiating all parts of the intervention logic. It draws on the evaluation of the EU pilot project, the external study undertaken for the IA and broad consultations, as well as on numerous recent publications, for instance by the Commission, the European Parliament, the European Court of Auditors, the European Chemicals Agency, the Organisation for Economic Cooperation and Development and the World Trade Organisation. A comprehensive bibliography would have been useful, but otherwise the 17 annexes contain relevant and complete information. The IA is transparent about the assumptions and uncertainties underlying the analysis, and explains the methods used to address the acknowledged scarcity of data, due partly to limited accessibility and comparability of data at EU level and partly to a reluctance of Member States to share information considered confidential ('officials were not authorised to share cost figures, which were considered sensitive in the context of national budget discussions', IA, pp. 34-35, 39). For the quantifications of the direct economic impacts, the IA used a variant of the standard cost model, providing wide ranges to reflect uncertainties (IA, pp. 36-37). The cost-effectiveness analysis is combined with thorough qualitative analysis.

Follow-up to the opinion of the Commission's Regulatory Scrutiny Board

The Regulatory Scrutiny Board (RSB) issued a [negative opinion](#) on the draft IA on 5 May 2020, followed by a [positive opinion](#) on 15 July 2020. The RSB criticised, inter alia, a lack of clarity as regarded the objectives, some of the discarded options and the uncertainty in the quantifications, as well as weaknesses regarding social and environmental impacts. The IA details in Annex 1, how it took into account the comments of both opinions (IA, pp. 72-75). It appears to address most of them thoroughly, except for the comparison of the options, where it maintains that 'it is more meaningful to examine effectiveness in terms of the ... general objective', not the specific objectives (IA, p. 60). As indicated above, the issue of regional differences between the Member States, noted in the second RSB opinion in relation to benefits, remains largely unaddressed in the final IA.

Coherence between the Commission's legislative proposal and the IA

The proposal follows the preferred options package of the IA. It contains more specific information on personal data processing than the IA. The annex to the proposal lists all relevant EU non-customs formalities to be interconnected; this list can be amended by delegated acts.

KEY FINDINGS

While the IA overall follows a structured train of thought, from the problem definition to the monitoring indicators to measure the achievement of objectives, the progressive order of the objectives could have been clearer. The IA explains the uncertainties owing to the scarcity of comparable EU-wide data well, and is transparent on the assumptions underlying the analysis. The presentation, screening and assessment of the policy options retained is clear and balanced, assessing their direct economic impacts, as well as their social and environmental implications. The selection of the preferred options is based on cost-effectiveness and qualitative analyses, expecting significant net benefits from interconnecting authorities responsible for non-customs formalities laid down in EU legislation to existing national single window environments, which in turn, are harmonised to achieve a level playing field for economic operators, in particular SMEs. Social and environmental benefits derive from better digital administrative cooperation, the reduction of fraud and better compliance with EU regulatory requirements. Although regional differences of the impacts are not assessed and information on the number of SMEs affected and on indirect impacts, for instance trade, would have been interesting, all in all, the IA justifies the reasoning, content and timing of the proposed measures in a convincing and transparent manner.

ENDNOTES

- ¹ The IA notes that over 100 pieces of EU legislation on products need to be controlled by customs authorities (IA p. 9).
- ² The IA follows the definition of the United Nations Economic Commission for Europe: 'a facility that allows parties involved in trade and transport to lodge standardised information and documents with a single-entry point to fulfil all import, export, and transit-related regulatory requirements' (IA p. 22, footnote 49, p. 65).
- ³ EU SV-CVED (EU customs single-window common veterinary entry document) and EU CSW-CERTEX (EU customs single-window certificates exchange project), relating mostly to veterinary, sanitary, agricultural and environmental areas. Participants are: Bulgaria, Ireland, Estonia, Czechia, Cyprus, Latvia, Poland, Portugal and Slovenia.
- ⁴ EU CSW-CERTEX covers non-customs EU requirements available for all Member States at EU level (IA, p. 22). Most national single windows focus on governmental cooperation (customs and non-customs authorities) in their country's priority exports and imports (Austria, Czechia, France, Italy, Latvia, Lithuania, Portugal, Spain and the Netherlands). business-to-government services exist in Spain, Italy and the Netherlands (IA, p. 23). Overviews of the existing categories of non-customs rules and the national single windows are provided in Annexes 8 and 9 of the IA.
- ⁵ The glossary of the IA defines quantity management as 'The activity of monitoring and managing the quantity of goods authorised by partner competent authorities in accordance with Union non-customs legislation based on the information provided by customs authorities on the clearance of related consignments'. (IA, p. 101).
- ⁶ The total annual number of customs declarations is not provided in the IA, but in the [inception impact assessment](#): in 2016, around 271 million customs declarations were processed in the EU.
- ⁷ The new subsidiarity grid for IAs was recommended by the https://ec.europa.eu/info/files/report-task-force-subsidiarity-proportionality-and-doing-less-more-efficiently_en (final report of 10 July 2018). SWD (2020)237, p. 5.
- ⁸ 1) The development and implementation of business and IT project to interconnect Member States' customs and EU systems managing non-customs formalities; 2) the establishment of communication systems between customs and non-customs authorities; 3) the improvement of risk management; 4) better fraud and error avoidance procedures; and 5) the use of electronic means and coordination to streamline goods clearance formalities for economic operators.
- ⁹ Experts on customs and IT delegates from 19 Member States and six representatives from trade associations (IA, p. 86).
- ¹⁰ Option 2 is linked to the scope of Option 1, as it implies centralisation of national non-customs systems, by providing for a legal framework to make national systems and voluntary EU electronic systems interoperable through the evolving EU CSW-CERTEX pilot. The connection could be direct via the EU CSW-CERTEX system or indirect where national customs get the information from their national non-customs authority (IA, pp. 27-28). This distinction also applies to Option 3.
- ¹¹ Such as the certificate of origin, VI 1 document for wine imports or certificates for diamond imports (IA, p. 29).
- ¹² While the annual costs for the Commission are expected to be €4.10 million, those for national customs and non-customs authorities are more uncertain and expressed in ranges. The IA does not distinguish between national customs and non-customs authorities for costs, but provides separate estimations for each of them for the benefits.
- ¹³ The IA title for these sections 'cost-benefit analysis' is misleading, since these are rather cost-effectiveness analyses, not factoring in (and monetising) all direct and indirect costs and benefits.
- ¹⁴ Option 8b was included as it was welcomed by all administrations involved, as facilitating sharing and cross-checking of information while creating minor costs (IA, pp. 58-59).

This briefing, prepared for the IMCO committee, analyses whether the principal criteria laid down in the Commission's own Better Regulation Guidelines, as well as additional factors identified by the Parliament in its Impact Assessment Handbook, appear to be met by the IA. It does not attempt to deal with the substance of the proposal.

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eprs@ep.europa.eu (contact)

www.eprs.ep.parl.union.eu (intranet)

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