

The Wise Persons Group (WPG), an independent high-level group comprised of members from politics, industry, trade and academia, recently issued a [report](#) analyzing, on request of the European Commission, the challenges that EU Customs currently face, by examining current rules, procedures and governance and advising on how these can be improved. Their recommendations will feed into the customs reform package, which the Commission will present by the end of this year.

The WPG report, issued at the end of March 2022, points out how European Customs do not yet function “as one” and that Member States’ Customs services are inconsistently applied according to administrative procedures and standards that vary from State to State. The report seems to echo an [old dispute](#) raised by the United States before the WTO Dispute Settlement Body (WT/DS315/AB/R of 13 November 2006), where the then-European Communities were accused of administering the EU customs law in a non-uniform manner, in violation of Article X:3(a) of the GATT 1994, that calls WTO Members to administer all laws, regulations, rulings and judicial decisions in a uniform, impartial and reasonable manner.

Important changes introduced over the years, including the entry into force in 2016 of the Union Customs Code (UCC), have not been sufficient to address the scale of the challenges faced by Customs. The vast majority of – if not all – stakeholders interviewed has complained about a systematic absence of common implementation of customs measures, different control practices across border entry points, both within and across the EU Member states, differences in control priorities, differences in investigative capacities (control deliveries, undercover activities), and differences in methods and sanctions for non-compliance. The same consignment of goods subject to antidumping measures or to prohibitions and restrictions, for instance, may be checked or not depending on where it enters the EU. Lastly, some Customs authorities appear to apply more stringent controls than others do, and sanctions applied in case of irregularities differ from one Member State to another.

All these divergencies cause the phenomenon of “customs shopping”, where EU traders channel their trade flows towards those external borders (seaports, airports, and land border crossing points), where controls are less strict and sanctions less stringent.

This uneven implementation of customs rules in the EU, observes the report, sadly offers plenty of opportunities for abuse (such as mis-declaring goods, providing fake invoices, misusing free zones, and abusing simplifications). These divergences also undermine the credibility of the EU with respect to its trading partners. There is an urgent need for a systemic change to move to

the next stage and ensure that the Customs Union is "fit for purpose".

The report mentions the finding of the [Special Report n. 4/2021](#) of the European Court of auditors, that pointed out the lack of uniformity in the application of customs controls, noting as the EU Member States still have different risk management practices, they do not systematically share information on risky importers with other Member States, and they identify and treat risk signals in different ways. Among the recommendations of the WPG, a notable one is the proposal to establish a European Customs Agency.