

Swift conclusion of the Union Customs Code Reform

Contribution to the trilogue discussion

European retailers and wholesalers strongly support the swift conclusion of the Union Customs Code (UCC) reform. The reform must empower the Commission and Member States to **solve the rapidly growing influx of individual shipments, which often pose risks to consumer safety and undermine a level playing field between EU-based and third-country traders and online marketplaces.**

We recognise the importance of reinforcing the legal framework to effectively respond to new challenges. Equally, we support the creation of a harmonised EU customs system by strengthening rules and processes and introducing standardised enforcement. In particular, we strongly support the objective of addressing the challenges created by the rapidly changing nature of e-commerce trade: to support European businesses, while reducing complexity and administrative burden for compliant traders.

With that in mind, for a successful implementation, we encourage policymakers to **work closely with stakeholders** not only during the next few months to finalise legislation but also while developing secondary legislation and through the implementation phase.

Below are key recommendations for the trilogue parties.

I. Clarify the deemed importer concept

Recommendation

1. **Clarify the interaction between the deemed importer concept and new e-commerce rules** with existing EU legislation, including the Digital Services Act, consumer and product legislation (e.g. New Legislative Framework, the Market Surveillance Regulation, the Product Liability Directive and the General Product Safety Regulation, etc) and environmental law.
2. **Prioritise the removal of the de minimis threshold**, even though it is not part of the current trilogue negotiations. Its removal is essential to restoring a level playing field, protecting consumers, and ensuring fair competition. Continued delays undermine the compliance efforts of EU-based retailers and wholesalers.¹

EuroCommerce launched a campaign in October 2024 against unfair competition from third-country traders and online marketplaces, who are often selling non-compliant and unsafe products to consumers in the EU.² So far, customs and authorities in other enforcement domains (consumer protection, product safety, digital, waste, etc.) have not been able to effectively tackle this. While EU retailers and wholesalers invest heavily in compliance and the implementation of new regulations, their third-country competitors—often operating via distance selling—face less scrutiny and are frequently non-compliant. This situation jeopardises consumer safety and distorts fair competition within the EU.³

Therefore, EuroCommerce urges policymakers to **swiftly conclude the UCC trilogue negotiations**.

The introduction of the new customs warehouse for distance sales, which would require the Trust and Check status, would also provide simplifications for IOSS-registered deemed importers. **Further clarification regarding the warehousing model and the other four models of e-commerce is needed in guidance.**

Additionally, it is crucial to **clarify how the new e-commerce customs regime—particularly the deemed importer concept—will align with other relevant EU legislation**, such as the Digital Services Act, Market Surveillance Regulation, and General Product Safety Regulation. To ensure a level playing field, all EU regulations related to imports must be harmonised. We recommend that legal clarity on the interaction of these rules be provided in the recitals or accompanying guidance.

¹ The removal of the de minimis threshold is foreseen in the *Proposal for a COUNCIL REGULATION amending Regulation (EEC) No 2658/87 as regards the introduction of a simplified tariff treatment for the distance sales of goods and Regulation (EC) No 1186/2009 as regards the elimination of the customs duty relief threshold, COM/2023/259 final*

² EuroCommerce launched in October 2024 a campaign against unfair competition from third countries, you can find more information here: www.eurocommerce.eu/compliance4all

³ Idem

II. Ensure harmonised handling fee

Recommendations:

3. **Introduce an EU-wide handling fee without delay**, and ensure a harmonised approach across Member States until both the EU handling fee and the Customs Data Hub are fully operational. Article 18(1f) should specify that the Commission will provide an appropriate EU-level IT solution for implementing the Union handling fee in case of delays to the Data Hub—or propose an alternative mechanism.
4. We strongly **support the Council version of Article 258a** which calls for an evaluation of the handling fee and an assessment of its budgetary implications and impact on the functioning of distance sale.

We support introducing measures that would encourage bulk imports over individual shipments, making enforcement by customs authorities more manageable. As such, EuroCommerce supports the introduction of a non-refundable handling fee, which would be paid on e-commerce transactions, whether or not duties are due. We support that the fee should be lower where the goods are released for free circulation from a customs warehouse for distance sales (Art 18 1b) as long as there is an extended due-diligence requirement on the warehouse operator to prove the goods are fit for market. Operating such a warehouse requires a trader to obtain a Trust and Check status and be IOSS registered. This would promote bulk imports. We expect the customs warehouse for distance sales requirements to be enforced and overseen by the EU Customs Authority.

At the same time, **the introduction of the handling fee needs to be accompanied by other actions as outlined in the Commission’s E-Commerce Communication from February 2025.** The removal of the de minimis threshold, the fee, and changes to the e-commerce customs model should be accompanied but further actions supporting a level playing field that extend beyond the scope of customs legislation.

We understand that the Data Hub will be used for the collection of the handling fee (Art 29 1b). It is important that the introduction of the fee, planned for autumn 2026, proceeds without delays in the development of the Hub. Art 18 1f should specify that the Commission shall provide an appropriate IT solution at the EU level for the Union handling fee, or **clarify how harmonisation will be ensured if the Data Hub is not ready.**

It is important that the EU handling fee is applied centrally by the Commission and not by individual member states, preventing any border-shopping. We understand the sense of urgency among Member States to introduce national handling fees in the meantime. **However, we ask the trilogue parties to take a clear position here and avoid diverging regimes across the EU, as we already see in several EU member states’ proposals for national handling fees. It is essential to introduce the EU handling fee without delay, as such proposals risk creating fragmentation and undermining a level playing field.**

In addition, we believe it is important that **consumers are not burdened by the introduction of an EU handling fee.** It will be important to ensure that any implementation mechanism **mitigates the risk of these additional costs being passed directly to consumers.** Furthermore, Art 19(2) mentions additional charges that member states may determine in relation to the handling fee. We suggest that **all charges should be harmonised** across Member States unless they relate to one-off cases or checks.

We strongly support the Council version of Article 258a on the evaluation of the handling fee and assessing the budgetary implications of its introduction and impact on the functioning of distance sales.

III. Support creating the European Customs Authority and clarify tasks

Recommendations:

5. The current version of **Article 207** refers to the objectives of the European Customs Authority (EUCA). **Point (c) should include “providing guidance to national customs authorities on the practical application of customs processes and working methods”**. This would reinforce one of the core tasks in Article 208 (g) on preparing operational manuals and stress the importance of EUCA in ensuring the harmonised application of customs regulations across Member States.
6. We **support Council amendments Art 208 3a and 3b on maintaining communication channels with stakeholders** and setting up a consultation mechanism with the business sector.

The European Customs Authority should contribute to reducing the administrative burden resulting from the lack of harmonised application of customs regulations across Member States. It should act as a link between the Commission and national customs authorities and support them by providing operational guidance. This would create legal certainty and reduce the risks associated with varying national customs practices, making it easier for companies, including SMEs, to operate in multiple EU countries. We would like to see a much closer alignment between member states on customs and clearance processes.

The current version of Art 207 (c) refers to supporting a uniform implementation of customs legislation by “bringing together technical expertise, coordinating and assisting the setting up of operational cooperation between customs authorities and conducting risk management aiming at having customs controls are carried out in a harmonised way, acknowledging the different geographical circumstances and other objective specificities in which the customs authorities operate”. The technical expertise should result in outputs in the form of guidance or operational manuals shared with customs authorities. This is briefly mentioned in Article 308 3 (g), but we would like to see this provision strengthened. **It is important to have a clear division of responsibilities between EUCA and national administrations, whilst ensuring the EUCA sets and maintains uniform standards to which the national customs authorities must adhere.**

On rapid reaction, the EUCA must ensure that uniform implementation across member states of decisions made by the European institutions in the time of political or social crisis and should be **empowered to take decisions in a state of emergency**. Risk mitigation and crisis management should also be included in this mandate.

The tasks also include **setting up minimum training for customs officers and customs professionals**. This is a welcome addition that should be retained as a way to promote higher industry standards.

We also strongly welcome the new tasks of the Authority introduced by the Council’s amendments: acting as a communication channel with stakeholders and serving as a consultation mechanism with the business sector (Art 208 3a and 3b). **EuroCommerce encourages a more collaborative approach between traders and policymakers, both in the shaping of the final text of the Reform as well as its ongoing implementation in the upcoming years.**

IV. Pilot EU Customs Data Hub with relevant stakeholders

Recommendations

7. **We support the EP's amendment to Article 29a that asks to conduct early pilots in collaboration with relevant stakeholders.**
8. **Clarification in Recital 19 on potential delays of the Data Hub.** Existing national systems should remain operational until full functionality of the Data Hub is ensured. Member States should be responsible for ensuring compliance with the rules set out in the customs code.

We fully support the digitalisation of customs through the EU Customs Data Hub, which will enable customs authorities to streamline and centralise data collection and avoid duplication in data submission. The Data Hub promises to reduce data duplication and related costs and improve efficiency. However, further details on how the Hub will interact with national customs IT infrastructures are needed.

The Council's version of Article 29(1)a foresees that the Hub will allow the implementation of (in addition to previous customs functions) the Union handling fee, excise duty and VAT, guarantee management and customs surveillance of goods. A number of key elements of the proposal (including the handling fee and Trust and Check status) rely on the timely deployment of the Hub. Any delays are likely to have a knock-on effect, which will adversely affect EuroCommerce members' operations and are likely to reduce competitiveness. **Replacing customs declarations with real-time, transaction-level data is a major shift, which will require time, investment, and close cooperation between key stakeholders and authorities.** It's important to **test the system** thoroughly prior to implementation to ensure business continuity, data quality and security. We recommend **private sector involvement in each step of the process**: requirement assessment, development, and implementation. A pilot phase with stakeholder engagement is necessary. In that context, we note the removal of Article 29a from the Parliament's amendments on the pilot phase and suggest it should be reinstated.

Recital 19, which states that the national IT systems will not be revived in case the EU Customs Data Hub functionalities are not available within the set deadlines, must be amended. In its current form, this recital creates significant uncertainty and places an unnecessary cliff-edge in the legislation which must be avoided in order to ensure that traders have certainty. We request confirmation of what will happen in the case that the Data Hub is delayed.

V. AEO status is important for SMEs, and the uniform application of the AEO and Trust and Check schemes across Europe are required

Recommendations

9. **We strongly support retention of the AEO status.** As such, we support the Council's amendments to article 27(3a), allowing customs brokers and freight forwarders to keep using AEO simplification on behalf of their clients.
10. **AEO and Trust and Check should be applied in a uniform manner across Member states.** This could be overseen by the EU Customs Authority and could be added to the list of tasks under Article 208 3: to contribute to a unified application of the Trust and Check and AEO statuses by providing best practice guidance to Member States.

European retailers of all sizes rely on the services of freight forwarders and customs brokers. While larger companies might wish to apply for a Trust and Check status, **SMEs are unlikely to be able to make the necessary investment for a Trust and Check status and therefore would like to continue being able to rely on simplifications and authorisations held by their service providers.** EFTA companies are likely to face a similar challenge.

The Trust and Check benefits can only be "shared" with clients when the agent is acting as an indirect representative, in which case the agent will be granted AEO benefits according to Article 27(3). In reality, however, with other changes in the proposed text placing liability for both fiscal and non-fiscal obligations on the customs broker, it is likely to be more difficult to find one willing to represent the client as an indirect representative.

EuroCommerce supports the retention the internationally recognised AEO C status, which is to run in parallel with the new Trust and Check programme. This change is particularly important for SME retailers and wholesalers who do not have their own authorisations and rely on the authorisations of their service providers. Article 27(3a), which allows a customs broker with an AEO status to be recognised as such under direct and indirect representation, preserves these simplifications.

The latest version of the text lists the benefits of the Trust and Check in Article 25(7). Many of these benefits have been previously listed in the UCC as AEO benefits. The current version of the text does not make a clear distinction between the benefits of the Trust and Check and AEO authorisations.

In our view, the AEO simplification should stay as it is. **The Trust and Check benefits should be added as an extension and not at the cost of simplifications offered to AEOs or non-authorisation traders.** Moreover, because Article 25(8) indicates that Trust and Check traders should enjoy more simplifications than other traders.

It is also crucial that the AEO and Trust and Check programmes are delivered in a unified manner across Member States. This encompasses requirements, the application process, as well as available simplifications. This is particularly important given that the lack of a unified application was quoted in the initial impact assessment and the Wise Person Group Report. This resulted in calls for strengthening the AEO and replacing it with Trust and Check. This could be a task for the EU Customs Authority. While the requirements and the self-assessment questionnaire should be part of the legislation (e.g. as an Annex to the Delegated Act), the EUAC could provide implementation guidance.

Only AEO customs brokers will be able to provide services in a Member State other than that of establishment and to place under release for free circulation goods sold in a distance sale under Article 27(4). **We agree with this tightening of rules for customs brokers and freight forwarders as a way to promote higher professional standards in the industry.**

VI. Importer and exporter definition

Recommendations

11. **EFTA-based entities should have equal rights and obligations**, especially considering that such rights and obligations are coherent with mutual recognition arrangements and are consistent with the policy objectives contained within the single market strategy, which includes the EFTA countries. This could be achieved either via an amendment to the text or clarification in the guidance.

While the definitions within Chapter 2, Article 5 contain no overt restriction on non-EU-based companies, **several provisions within the UCC place an obligation on importers and exporters to be established within the Union.** For example, Article 20 (2d) clarifies that the importer needs to be established in the EU or in a country whose territory is adjacent to the customs territory of the Union. A similar provision exists in Article 22 (2c) for the exporter. The exemption for adjacent territories is limited to those entities that present the goods at a Union border customs office adjacent to that country.

Such provisions place an undue restriction on entities established within the EFTA that import goods into the Union from third countries where there is no physical presentation at the adjacent border. For example, it is currently unclear if an entity established within the EFTA (e.g. Switzerland) can be the importer of goods into France, where such goods originate in the United States.

An indirect customs representative could, in such cases, be considered the importer or the exporter for the purposes of Articles 20 and 22, respectively. However, for reasons mentioned in other parts of this paper, this might be increasingly difficult to find. It is also disproportionately burdensome for EFTA-established entities, as it is a premium service.

We suggest that EFTA-based entities should have equal rights and obligations, especially considering that such rights and obligations are coherent with mutual recognition arrangements and are consistent with the policy objectives contained within the single market strategy, which includes the EFTA countries. This could be achieved either via an amendment to the text or clarification in the guidance.

Based on the above, we suggest the following change to be made to the text.

New recital:

(34a) Entities established in a country the territory of which is adjacent to the customs territory of the Union may act as importers or exporters. Where those entities can demonstrate full compliance, no physical presentation of the goods at the Union border customs office is required. This shall apply in particular to entities established in EFTA countries, provided they meet the compliance and traceability requirements set out in this Regulation.

Equal rights and obligations, including access to trust and check and AEO, shall be afforded to those entities established in EFTA countries as to those established in the Union.

The appointment of an indirect customs representative shall remain optional and not mandatory for EFTA-based entities that meet the compliance criteria. The Union shall ensure that access to the market is not contingent on disproportionate financial or administrative burdens.

Article 20(2):

2. The importer shall be established in the customs territory of the Union.

This requirement does not apply to an importer who:

1. Places goods under the transit procedure or temporary admission procedures; or
2. Brings goods that remain in temporary storage; **or**
3. Occasionally, places goods under customs procedures, provided that the customs authorities consider such placing to be justified; **or**
4. Is established in a country the territory of which is adjacent to the customs territory of the Union, and presents the goods at a Union border customs office adjacent to that country.
Presentation of the goods at the Union border within a customs territory adjacent to the Union is not required if the importer can meet the compliance and traceability requirements set out in this Regulation; or
5. Is represented by an indirect representative established in the customs territory of the Union; **or**
6. ***Is established in an EFTA country, provided that they meet the compliance and traceability requirements set out in this Regulation.***

Article 22(2)

The exporter shall be established in the customs territory of the Union unless the exporter:

1. Places goods under the transit procedure, discharges the temporary admission procedures or re-exports from temporary storage; **or**
2. Trans-ships goods within, or directly re-exports them from, a free zone; **or**
3. Occasionally, places goods under customs procedures or re-exports them, provided that the customs authorities consider this to be justified; **or**
4. Is established in a country the territory of which is adjacent to the customs territory of the Union, and who presents goods at the Union border customs office adjacent to that country.
Presentation of the goods at the Union border within a customs territory adjacent to the Union is not required if the exporter can meet the compliance and traceability requirements set out in this Regulation; or
5. Is represented by an indirect representative established in the customs territory of the Union; **or**
6. ***Is established in an EFTA country, provided that they meet the compliance and traceability requirements set out in this Regulation.***

VII. Additional remarks: implementation timelines and further legislation

The Reform is scheduled to be implemented gradually, with the full implementation scheduled for 2037. In addition to the underpinning legislation, detailed, clear and actionable guidance should be provided well in advance of implementation deadlines. **It is also important to provide businesses and authorities with sufficient lead time.**

The reform must keep abreast of **emerging technologies and industry developments** to still be relevant at the end of a long implementation phase. We are supportive of a **multistakeholder forum** to discuss technical requirements or pilots to support the Data Hub and other elements of the reform, ahead of deployment.

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EuroCommerce is the principal European organisation representing the retail and wholesale sector. It embraces national associations in 27 countries and 5 million companies, including leading global players and many small businesses. Over a billion times a day, retailers and wholesalers distribute goods and provide an essential service to millions of businesses and individual customers. The sector generates 1 in 7 jobs, offering a varied career to 26 million Europeans, many of them young people. It also supports millions of further jobs throughout the supply chain, from small local suppliers to international businesses. EuroCommerce is the recognised European social partner for the retail and wholesale sector.