

Position Paper

Reforming the EU Customs Union sustainably

The reform of the EU Customs Union is at the centre of current discussions on modernizing and simplifying the European customs system. Given the continuously growing global trade and the increasing importance of e-commerce, efficient customs processes play a decisive role in the cross-border movement of goods. A key player in this context is the parcel industry, which serves as the backbone of cross-border trade. For millions of consumers in the EU, the smooth flow of goods across borders has long become a part of everyday life. The parcel industry is striving to meet customer demands through investments in digitalization and the expansion of modern supply chains. Close collaboration with customs authorities is essential to jointly develop solutions, especially regarding the implementation of digital customs processing that must be adapted to the rising expectations for delivery speed and the continuous growth in parcel volumes. Only through a coordinated partnership can efficient and secure customs processes be ensured, meeting both economic requirements and customs regulations.

In the following, the German Federal Association of Parcel and Express Logistics (BPEX) and its member companies comment on the European Commission's proposal for a reform of the Union Customs Code (UCC) of 17 May 2023 and the current state of discussion.

In principle, the reform must ensure that future customs regulations promote the efficiency and competitiveness of the industry while also guaranteeing legal compliance in customs matters. The member companies of BPEX acknowledge the positive elements contained in the proposal for the Union Customs Code reform. The establishment of the European Customs Authority, the EU Data Hub, and the "Trust and Check Trader" status demonstrate a commitment to harmonizing and improving customs procedures within the EU.

However, all these innovations must be adapted to the realities and requirements of legitimate trade, otherwise they will not achieve their ambitious goals. We also express concerns about implementation timelines and the need for a balanced approach that takes into account compliance, facilitation, data availability and related responsibilities.

As the challenges of e-commerce demand urgent solutions, neither businesses nor customs authorities can afford to wait many years for pragmatic solutions. We recommend launching a pilot project between economic operators, customs authorities, and the Commission to introduce an innovative e-commerce solution that is both compliant with regulations and efficient.

We encourage legislators to address these concerns and ensure that the final reforms deliver tangible benefits for trade, tighten customs procedures and promote a safe and efficient trading environment within the EU.

We offer our full cooperation in developing implementing and delegated acts, as well as in preparing guidelines and training materials for future legislation, with the aim of creating a level playing field for all legitimate economic operators, protecting the interests of citizens, facilitating trade, and enabling customs authorities to collect taxes and perform the necessary risk assessments.

The regulatory proposals in detail:

Customs representation and responsibilities of the various actors in the supply chain

Unfortunately, the Commission's proposal does not include any facilitation for the authorization of customs representation. From our perspective, future-oriented rules need to be considered that can serve as authorization for handling customs formalities. Therefore, the member companies of BPEX advocate for the abolition of the formal requirement for an authorization for express shipments within the framework of individual transport contracts.

Additionally, it seems disproportionate to extend non-fiscal responsibilities to indirect customs representatives. The indirect customs representative can only have limited, i.e. exclusively fiscal, responsibility for the owner of the information (importer). The indirect customs representative should therefore be given the possibility to act as a "data provider". Responsibility for non-fiscal aspects should rest with other stakeholders. Customs knowledge, experience, and the provision of controlled and high-quality data in real time would still be ensured, as this data is available in the systems of integrators. This also facilitates access to an EU Data Hub. Importers should have the option to involve various agents to fulfil their obligations. A clear allocation of responsibilities according to expertise and specialization leads to more effective compliance with regulations.

We urgently request that national practices regarding the authorization of customs representatives be reconsidered and harmonized to ensure a level playing field across the supply chain.

Trust and Check Trader

Companies in the parcel industry are generally in favour of carriers having access to the 'Trust and Check Trader' (T&C) certification. However, it is crucial to retain the Authorised Economic Operator (AEO) status with access to all the benefits of the current UCC and at the same time

to give all persons (not just exporters and importers) access to the T&C programme. This means that the T&C status should be placed at the top of the existing simplifications.

In this context, clarity and certainty prior to implementation are of particular importance. It remains unclear how issues such as security (especially in aviation), cybersecurity, and the protection of trade secrets will be addressed. In our view, robust security measures should be established for the T&C status to prevent cybersecurity risks that could jeopardize the entire system and threaten the systems of economic stakeholders.

Abolition of the de minimis rule for import duties

The abolition of the duty exemption limit of EUR 150 is not in line with the World Trade Organisation's Trade Facilitation Agreement (TFA), to which the EU deposited a declaration of acceptance in October 2015. Regarding the de minimis threshold, the TFA states in Article 7, Release and Clearance of Goods, subsection 8.2 d: '[...] to the extent possible, for a de minimis shipment value or dutiable amount for which customs duties and taxes will not be collected, aside from certain prescribed goods [...]'

We are aware of the authorities' security concerns associated with the exemption limit - especially in relation to the flourishing e-commerce with low-value goods from Asian countries. The customs authorities are in a position to carry out a risk assessment for low-value shipments, as an ICS2-related security declaration (Entry Summary Declaration) with goods descriptions, 6-digit HS codes and EORI number and either an H7 or H1 declaration must be submitted for all shipments to the EU, which should make it possible to recognise fraudulent shipments. However, it is also important to make the European economic area competitive in the long term. We therefore call for the creation of a coherent overall concept that takes into account the aforementioned aspects as well as an appropriately low-threshold bureaucratic burden for all parties involved (trade, transporters, customs authorities) and sensible trade facilitation for trustworthy players.

Maintaining trade facilitation is essential for EU exports. The de minimis rule should therefore remain in place for this purpose.

EU Data Hub

We fundamentally favour the implementation of a central EU Data Hub, as this creates a single customs interface. In the application, the one-time provision of data and the reuse of existing information must be ensured. In addition, a unique identifier is required at consignment level so that all parties and all information transmitted to the EU Data Hub can be linked. It should be made clear what triggers (if any) are expected between the person submitting data to the EU Data Hub and the competent authority. A validation process is also required to ensure that

the first party has fulfilled its obligations and that the subsequent party is notified and not blocked (e.g. traffic light system).

Trade must be involved in the creation of data elements. The technical specifications should be available in good time and sufficient time should be allowed for training and testing for all new IT systems.

Delays in the implementation of the UCC work programme are often the rule and not the exception (e.g. many, often unplanned failures of the Shared Trader Interface). In addition, trade lacks an effective border control checkpoint and the unavailability of a 24/7 helpdesk is problematic in practice. We therefore call on the legislator to have the EU Data Hub evaluated externally from both a technical and functional perspective.

EU Customs Authority (EUCA)

We support the establishment of a European Customs Authority in order to achieve a harmonised implementation of customs regulations and systems in the EU Member States and at the same time improve risk and crisis management. The role and actions of the EUCA should complement the tasks and activities of the national customs authorities but should not overlap or duplicate efforts.

In the interest of transparency and efficient implementation of customs operations, interested stakeholders (e.g. customs brokers, compliant companies, in particular Authorised Economic Operators (AEOs)) should be given the status of advisors on the Management Board of the EU customs authority. Compliant and reliable companies with in-depth knowledge of international supply chains and global trade should be seen as partners of customs authorities in achieving their objectives.

Temporary storage

Under current regulations, 90-day temporary storage allows express service providers to effectively manage missing information and documents for customs clearance. We highlight the potential financial and operational hurdles in converting temporary storage authorisations to customs warehouse authorisations. This change would require a significant reassessment of infrastructure and processes.

We are in favour of retaining the 90-day temporary storage to strike a balance between trade facilitation and customs control, and urge careful consideration of the practical implications and exploration of alternative solutions.

E-commerce platforms

We recognise that it is logical to transfer liability to e-commerce platforms as they hold important data that helps to ensure customs compliance, resulting in smoother transactions for all parties involved. By holding platforms accountable, the enforcement of customs obligations is streamlined and the burden on individual traders is reduced.

Customs offences and non-criminal sanctions

In principle, sanctions should be limited to cases of clear negligence or wilful misconduct in order to avoid unjustified strict liability systems. To this end, the new UCC should distinguish between serious customs offences that justify criminal prosecution and less serious offences that are suitable for fines. Currently, in some Member States, all customs offences are prosecuted under criminal law, which leads to disproportionate penalties and circumvents the time limits for the collection of duties. Furthermore, a clear distinction between administrative and criminal sanctions is needed, with criminal sanctions being reserved for the most serious cases.

Overall, the harmonisation of customs sanctions must be accompanied by a harmonised procedural framework in order to prevent market distortions and ensure uniform enforcement in the Member States.

Failure of the customs authorities to take a decision within the prescribed time limits ('administrative silence')

While the importance of timely decisions is emphasised, there are concerns that customs authorities are not obliged to issue written decisions even after the time limits have expired.

We therefore propose that Article 6 be amended to require written decisions to be issued even after the time limits have expired, to reflect the practice in Member States such as Spain. This creates clarity for economic operators, who can then choose whether to appeal against the decision or await a written response for further action.

National restrictions and bans

The EU customs reform proposals do not provide for the harmonisation of restrictions and bans, which leads to challenges for economic operators due to different regulations in the EU Member States. We support the recommendations to harmonise national lists of prohibitions and restrictions in order to create a uniform legal framework for imports into the EU.

Harmonised definitions of legal terms related to bans and restrictions are also crucial to avoid different interpretations between Member States. These measures aim to streamline customs procedures, facilitate trade and reduce the administrative burden for economic operators.

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