

Ecommerce Europe’s position on the EU Customs Union and third-country imports

In the last couple of years, the EU has witnessed a fierce competition from new e-commerce players from outside the Union. As advocated in our July 2024 Open Letter on the need for a level playing field in the EU Single Market¹, and building on our Manifesto for the 2024 EU Elections², Ecommerce Europe believes that a flexible combination of measures will help achieve a level playing field between EU-based and non-EU based actors. One of these measures is the proposed revision of the Union Customs Code (UCC), which aims to modernise and digitalise the EU customs system. The proposed UCC reform will contribute to addressing the issue of unlevel playing field in B2C third-country imports, but it will need to act under the framework of a composite strategy and solution rolled out by the European Union. In this framework, coordination at the national, EU and international levels is required, and synergy in enforcing EU rules should include national authorities guaranteeing customs controls, market surveillance and consumer protection.

The aim of this paper is to provide Ecommerce Europe’s **updated feedback on the Union Customs Code reform**³ with a specific look at the proposed *de minimis* removal, the concept of the deemed importer and the plans for the EU Customs Data Hub. At the end of this paper, an **annex** is provided to report the suggestions for improvement to the EU IOSS and customs system, which Ecommerce Europe believes should be implemented urgently to achieve the changes proposed by the UCC reform. A **short summary** and a list of **action points** on our views on the UCC reform can be found on [this webpage](#).

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¹ <https://ecommerce-europe.eu/wp-content/uploads/2024/06/OPEN-LETTER-on-Level-playing-field-and-Enforcement-in-e-commerce.pdf>

² <https://ecommerce-europe.eu/wp-content/uploads/2024/01/Ecommerce-Europe-European-Elections-2024-Manifesto-v2.pdf>

³ The current paper updates the views expressed in the early feedback to the UCC Reform of September 2023 <https://ecommerce-europe.eu/wp-content/uploads/2023/09/Ecommerce-Europes-feedback-on-the-Union-Customs-Code-Revision-proposal.pdf>

Ecommerce Europe's position on the UCC reform

Ecommerce Europe supports the European Commission's proposal, viewing it as essential for strengthening customs enforcement and addressing competitive disadvantages faced by EU-compliant businesses against non-compliant operators. The reform could help create a level playing field for all trade and commerce business models, regardless of their location of establishment. For the reform to succeed, several key elements must be implemented effectively: simplified customs procedures, robust VAT collection mechanisms, streamlined mail delivery processes, and the development of the EU Customs Data Hub.

However, in order to be smoothly rolled out and to achieve the intended goal, the Council negotiations on the UCC reform should consider a number of aspects and improvements that could be instrumental to the goals of the Reform. A collaborative effort involving Member States' authorities, businesses and postal/logistics providers will be key to achieving the desired outcomes of the customs reform.

1. Removal of the customs duty exemption

The proposed abolition of the € 150 customs exemption recognises the threshold is a significant component of the EU customs reform, and **Ecommerce Europe recognises the benefits of this adjustment**, particularly as a means to address the challenges of fair competition between EU e-commerce businesses and direct imports from third countries to EU consumers.

The removal of the customs threshold for low-value consignments will contribute to reducing the incentives to undervaluation of the customs value on imports to avoid paying duty. Companies selling products in the EU market should, regardless of their country of origin, comply with the same regulations and rules. At the same time, it is also crucial to consider the broader implications of this policy shift. While it aims to level the playing field for EU businesses, it is also important to balance the removal of the threshold with the potential impact on the administrative burden on smaller businesses. A careful evaluation of these factors can help ensure that the reform supports fair competition while fostering a healthy e-commerce environment in the EU.

To achieve the intended aim, it is imperative for the removal of the *de minimis* to be implemented in consistency with the other fundamental improvements of the customs system, such as a stable and more secure IOSS, a simplified tariffs treatment, and enhanced customs-relevant data-sharing programmes to inform the future EU Customs Data Hub. From this outlook, the removal of the *de minimis*, and the technical improvements linked with it, can be seen as a tool to ensure fiscal compliance and data exchange between different actors involved in the e-commerce value chain, allowing to identify fraudulent actors and prevent the importation of illicit goods.

Finally, the proposed abolition of the customs exemption needs to guarantee its consistency with the World Trade Organisation (WTO) and the Trade Facilitation Agreements, to avoid business uncertainty and to

anticipate their need for clarification and advice. To this end, Ecommerce Europe would like to recommend **releasing guidance, in addition to secondary legislation, to EU companies** to shed light into how this measure is compatible with the set of global rules that apply to WTO members. In sum, **alignment and harmonisation between the EU and the global legal framework must be disseminated.**

2. The deemed importer

Ecommerce Europe supports the transfer of rights and obligations from consumer to importers and deemed importers, which is key to encouraging business to take more responsibility for ensuring that their goods comply with EU legislation. The obligations that come with the new regime will help deter businesses from importing unsafe or non-compliant goods into the EU.

In particular, Ecommerce Europe welcomes the **introduction of the deemed importer regime.**

Fiscal obligations are consistent with the removal of the customs duty threshold. Fiscal responsibility will contribute to increasing VAT and duty compliance and ensuring transparency in the transactions and record keeping. In this scenario, Ecommerce Europe would like to recommend taking into account the different business models that constitute the landscape of e-commerce platforms, guaranteeing proportionality of the proposed rules. Cross-border e-commerce business models vary significantly, and many marketplaces may not be involved in the customs formalities at import or have access to the data required to calculate duties. Some marketplaces do not have physical access to the goods, and rely on data provided by sellers to classify transactions, with limited capacity to verify data accuracy.

For this reason, in terms of businesses adaptation to the new rules, it would be essential for marketplaces and companies, especially SMEs, to have access to **guidance on the new customs duty calculation, determination of origin of goods, valuation** and more. Additionally, Ecommerce Europe would support the **inclusion of a clause for customs duties** similar to the VAT clause of Article 5c of the consolidated Regulation 282/2011⁴, applying to exceptional and specifically determined circumstances.

Together with increasing tax compliance, the deemed importer regime will also play a role in ensuring product compliance and safety. The **non-fiscal obligations** will help achieve more efficient scrutiny of imports and eventually ensure more consumer protection in combination with the broader set of EU rules governing product safety and consumer protection in the EU. That being said, the non-fiscal obligations play such a consistent part in the new set of responsibilities and liabilities introduced by the UCC reform that a close look is necessary. In particular, it would be extremely important to see what the non-fiscal obligations imply for businesses, taking also account of the different business model of marketplaces and the fact that they may not have physical access to the goods. It will be important to acknowledge that the deemed importer provision will prove to be extremely challenging to comply with for several businesses, and will require a significant effort to business adaptation which some companies may struggle with. It should be considered to approach adjusting the penal responsibility of marketplaces for the non-fiscal data to their actual verification capabilities and the fact that in certain cases marketplaces will have to rely on sellers' statements.

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02011R0282-20220701>

In addition, it will be fundamental to clarify how the non-fiscal obligations are interlinked with the other EU rules on product safety, consumer protection and environmental legislation. Ecommerce Europe recommends releasing **guidance on the complementarity of importer and deemed importer's non-fiscal obligations with the set of EU rules** which govern product safety and sustainability, but which are in the early stages of implementation or are not accompanied by an assessment of their effectiveness.

At the same time, it would be extremely useful to publish guidance on the **authorisation for deemed importers** to calculate and communicate the monthly customs debt to customs authorities by the end of the following month (Article 181.5, COM (2023) 258). This authorisation would be crucial to be obtained by a deemed importer. Without this authorisation, day-by-day calculation of customs debt could be extremely burdensome for marketplaces, especially for smaller platforms with limited operational scale. Therefore, all detailed conditions for obtaining such authorisation should be made available before the introduction of the deemed importer provision.

To conclude, and notwithstanding the above points, the **deemed importer would need to be extended** beyond the definition proposed by the UCC reform. The current UCC proposal states that a deemed importer is defined as any person involved in the distance sales of goods to be imported from third countries into the EU customs territory who is *authorised* to use the IOSS. This could be understood that the marketplaces which are not authorised to use the IOSS, will not be deemed importers. If the deemed importer regime, especially with the related non-fiscal obligations, is not restricted to IOSS-eligible entities but, more broadly, it includes third-country sellers with D2C and M2C models, then effectiveness and applicability across the sector can be ensured.

For Ecommerce Europe, it would be imperative that the deemed importer provision is effectively enforceable on all marketplaces, regardless of their size, business model and place of establishment in order to preserve a level playing field.

3. The EU Customs Data Hub

The Customs Data Hub will play a central role in centralising and facilitating availability of data around the imported goods. The Data Hub will be necessary for the purpose of conducting respective customs tests / audits to allow the customs authorities to exercise effective controls and manage a vast increase of the low-value consignments. The Data Hub is also absolutely fundamental to importers and deemed importers to harmonise and centralise all their declarative obligations.

From a general point of view, it is necessary to highlight the importance of data-sharing provisions which are proportionate, effectively enforceable also against non-EU businesses, and ensure a level playing field. Access to better quality and advanced data is key to enhance supervision over the entire supply chain and inform risk-based assessment for efficient and effective enforcement. Therefore, for any steps to be taken and any obligations are introduced, the **EU Customs Data Hub needs to be promptly effective and enforceable.**

For e-commerce platforms, using the EU Customs Data Hub also means that a platform becomes an active participant of the import formalities stream accompanying the supplies of goods. Since certain marketplaces are not involved in the customs clearance processes, they would require **clearer guidelines and**

reciprocity to ensure the data collection is targeted and meaningful and adequately addresses the issues the Customs reform proposal is trying to address. In addition, a **shared responsibility for data collection and data sharing** should be ensured, involving the different actors engaged in the value chain of e-commerce imports.

To inform these provisions, data sharing programmes should ensure that: submission is minimised to core requirements, cybersecure, harmonised in requirements and mechanisms across the EU, reusable, reciprocal to allow for access to infringement information, and effectively interlinked with the DPP Registry.

Ecommerce Europe would recommend the European Commission to launch a **consultation process** as soon as the data requirements that will constitute the new EU Customs Data Model for the Data Hub are to be determined.

Conclusions

Ecommerce Europe believes that the proposed Union Customs Code reform addresses the challenges posed by nowadays' volumes of e-commerce imports and provides for a composite solution. However, it is important to note also that the issue of large and growing volumes of e-commerce imports, with a related high percentage of unsafe and non-compliant goods⁵, cannot be addressed and solved solely by the Customs reform, and especially by either of its components when singled out. The final solution is to be found in several environments, spanning from the EU's internal legislative efforts and enforcement of the existing rules, to the collaboration with international partners and the international bodies governing trade and customs rules.

From a policy-making perspective, it is imperative for stakeholders to have an opportunity to review the details in the implementing regulations with reasonable time for consultation purposes prior to the provisions coming into effect. An early dialogue and engagement will allow stakeholders to assess the proposed changes and requirements, identify potential challenges and rooms for clarification, and suggest possible improvements.

About Ecommerce Europe

[Ecommerce Europe](#) is the united voice of the European Digital Commerce sector, representing the interests of companies selling goods and services online to consumers in Europe. Our mission is to act at EU level by engaging with policymakers to create a better regulatory framework for all e-merchants. Ecommerce Europe is a platform where our members can stay informed, exchange best practices, and define common positions on EU legislation impacting the sector.

⁵ For reference, please see the latest Commission's report on Intellectual Property Rights' enforcement https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2024_EU_Detentions/2024_EU_Enforcement_of_IPRs_FullR_en.pdf

Annex to Ecommerce Europe's position on the UCC reform

Recommended improvements to the IOSS and EU customs system

The Import One-Stop Shop (IOSS), introduced in July 2021, has simplified VAT compliance for e-commerce, proving to be an effective tool to achieve simplification and improve EU competitiveness. The proposed UCC reform aims to expand its role, making it an essential tool for all B2C consignments regardless of value. However, this expansion is likely to put significant pressure on a system that still faces fundamental issues such as double taxation and potential misuse. These problems need to be urgently addressed to prevent complications in the e-commerce experience, particularly for smaller sellers.

The increased pressure on the IOSS would exacerbate existing issues and even result in extensive delays for collections coordination, high rates of rejection and returns, undue requests for payment, and complicated and manual process for customers and governments to get drawbacks and address the undeliverable/returns issues. Aggravated system flaws will lead to an overly complicated e-commerce experience and ultimately harm the smallest sellers and the EU buyers.

Particularly important is the issue of IOSS registrations fraud. The current system is prone to misuse of IOSS registration numbers. We are encouraged to see that the European Commission is working on solutions to make IOSS numbers more secure, in conjunction with the implementation of the Single VAT Registration (SVR) volet of the VAT in the Digital Age (ViDA) package and in close consultation with the industry. Ecommerce Europe reiterates its support for the work conducted by the EU Institutions and the stakeholder community to **improve the functioning and performance of the IOSS system, which should be a pre-condition to the expansion of the IOSS and the introduction of the measures laid down in the UCC reform.**

In the following section, Ecommerce Europe recommends the EU policy-makers to look into certain areas for improvements and further trade simplifications and solutions, in order to strengthen the stability and resilience of the IOSS and customs system, such as:

1. **Supporting fraud identification and strengthening the security of the IOSS registration number** and end-to-end integrity of the existing IOSS programme. Given that IOSS registration numbers are not secret, registered companies should not be held liable for fraudulent entries against their IOSS tax IDs. Ideally, the EU policy-makers would first and foremost need to **prioritise the work on ensuring further stability in the system.** Ecommerce Europe supports the work conducted by the European Commission and the Member States, in collaboration with the stakeholder community, to identify and test solutions. Ecommerce Europe would also like to put forward an idea that have been shared by some of its members, such as:

- a. Enabling the transmission of the IOSS registration number from the seller to the carriers. One of these solutions, as discussed in several occasions, would be to allow delivery operators (postal and non-postal) to scan a code provided via a technology-neutral solution (QR codes, bar codes) to determine whether the goods have already had tax and duty charged via a marketplace (ensuring that the value of the item is not the intrinsic value, but the value paid at checkout). This QR Code (or unique consignment link) could be transmitted by the consumer when being requested for VAT/duty collection to the delivery operator via text/email securely eliminating the necessity of further interaction to attempt unnecessary collections. This would potentially address IOSS fraud and the double taxation concerns. The code would be made available via electronic communication from the sellers to the delivery operator, or alternatively be made available to the consumer by the marketplace or the online retailer as a proof of paid duties.
2. In light of the ongoing negotiations on the future outlook of the IOSS, its incentivised use and its expansion to high value consignments and customs warehouses (to encourage a B2B2C import model and offer operational efficiency and reduced inventory risk for businesses), it will be extremely **important for businesses to have clear guidance and explanation on the changes to the IOSS**. Clarification would include:
 - a. **Changes to the customs declarations:** while deemed importers will submit import data to the Customs Data Hub, the regular importers will still need to file a customs declaration depending on the goods imported. In this case, with a mandated IOSS on all goods, will H1 declarations be used, or will H7 declarations exist in parallel to or replace H1 declarations? In case the H7 declaration would no longer be applicable, large number of companies, especially SMEs that do not necessarily get the Trust & Check status, will be compelled to abandon the super-reduced dataset and adopt the H1 full declaration dataset. Without proper gradual implementation steps, this shift could cause several difficulties and administrative burden on companies, marketplaces and postal and logistics operators.
 - b. **Changes to the Special Arrangements:** postal operators that make use of the Special Arrangement since 2021 have now fully integrated and are used to applying this system, which offers a consistent support to facilitating trade, easing compliance and ensuring seamless VAT treatment and e-commerce experience. A potential removal of the Special Arrangement should be accompanied by a gradual phasing-out to ensure a smooth transition, and by a change in the import VAT system for non-IOSS to ensure that the responsibility does not fall back on consumers but stays with the seller.
 - c. On this note, Ecommerce Europe would like to support the idea of encouraging bulk imports to allow for more efficient customs controls at the benefit of consumer protection. However, it will be fundamental to strike the right balance when putting forward such a system and avoid a full-blown curb of the B2C imports at the expenses of the EU companies which are engaged in this trade. Any efforts from the EU Institutions to explore what could be reversed in the set-up of the 2021 VAT e-commerce package, which has introduced substantial facilitations and simplification for B2C imports, should be consistent

with a comprehensive strategy that does not put at risk the companies that have adapted their business to comply with the new rules.

3. **Enhancing relevant data-sharing** framework by different actors in the e-commerce value chain to identify fraudulent actors and ultimately improve product safety and compliance enforcement, and make use of existing solutions such as CESOP and DAC7. **Ensuring better data collection** along the import value chain envisioned in the proposal via linking the EU Data Hub and the existing ICS2 system, which will allow customs authorities to pinpoint where the abuse is coming from and target solutions accordingly.
4. With specific regards to the **Prohibited & Restricted (P&R) goods**, harmonisation is needed. The P&R lists vary across Member States and trigger complex documentation requirements for businesses. In addition, these lists are not transparently available in each Member State, making it very difficult for businesses to anticipate the customs treatment at the EU border. We recommend the EU policymakers to address this issue by increasing transparency of the P&R lists, while working towards an EU harmonised P&R list on a longer term.
5. **Prioritising completion of IT systems envisaged in the UCC Work Programme:** ICS2 and several IT infrastructures of national and trans-European customs systems are still under various deployment phases, not being fully implemented across the EU⁶. In addition, systems like ICS2 would need to be amended to, for example, provide for the possibility to convey the unique consignment reference number.
6. **Trade Facilitations for Trustworthy Operators:** To support businesses with a proven track record of compliance, we recommend trade facilitations such as reduced customs checks, expedited processing, and priority treatment for 'trusted traders' through a 'Trust and Check' program adapted to e-commerce. Such measures will not only reward compliant businesses but also enhance overall efficiency and security in the customs environment.
7. **Resolving remaining misalignments between VAT and customs legislation**, for example between the IOSS VAT scope and the new customs competent office rule under article 221(4) the UCC/IA leading to non-IOSS eligible shipment < € 150, such as B2B and excisable products, requiring direct clearance in the final delivery country and leading to capability issues with brokers and customs logistics partners.
8. Alignment of the UCC with VAT IOSS as to the reporting obligations, returns, deadlines.
9. Alignment of the UCC with VAT IOSS as to the reporting of corrections, i.e. these corrections (e.g., for returns, for post-transactional discounts) should be possible in the current reporting period without a need to correct past returns (such ongoing corrections are allowed under the VAT IOSS rules). This application should be extended to all kinds of events causing the need to adjust customs declaration and also should be extended to VAT settled by platforms (e.g., cancellations of orders, etc.). As a result, the deemed importer shall be able to invalidate or adjust the information on

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52024DC0395>

release for free circulation of goods and provide or make available the proof of the grounds of adjustment, such as payment confirmation in case of refund related to quantity or quality deficiencies. The process should be executed on the ongoing basis to avoid any corrections of past settlements.

10. Addressing the generalised use of CP42 code, where the goods enter the Single Market with no VAT collected at the border creating discrepancies in customs treatment, particularly for low-value shipments entering the EU.
11. Addressing the “gifts” exemption from customs duties, which is frequently exploited to avoid paying proper duties on commercial postal shipments disguised as gifts.
12. Aligning the **Digital Product Passport (DPP)**'s design with the UCC reform and with the IOSS:
 - a. The role played by importers and deemed importers in conveying non-fiscal information runs in parallel with the deployment of the product-related data of the DPP. In light of this synergy, Ecommerce Europe recommends clarifying the complementarity between the information collected and submitted under both frameworks, including the practicalities of linking the DPP Registry with the Customs Data Hub, in addition to the SWE-CERTEX portal, to streamline data sharing and product information management. In addition, **guidance should be provided to businesses on how to navigate these interlinked information systems.**
 - b. From a customs declaration perspective, it is our understanding that the DPP-related identifier will be included in the customs declarations; from a first look, we would pose the question of which DPP-related identifier is to be used, and which customs declaration should include this reference (taking account that deemed importers will submit a new digitalised import dataset, while regular importers will make use of H1 declarations for all parcels). While we appreciate that many details are yet to be discussed and figured out in the appropriate Commission and standardisation services, the intersection with the future customs system is certain but Council negotiations are far from discussing the technical interplay, and it is unclear how the DPP will be designed and rolled out from an operational perspective. It will be extremely relevant to align views and concert the designing phase. It is therefore essential that the Commission engages in a constructive dialogue with the industry in developing the DPP.
 - c. It is also worth looking into the role played by the DPP for second-hand goods, keeping an eye on ensuring that the difficulty for the DPP to retroactively apply to and trace back the second-hand products which have been already placed in the market does not ultimately hinder circularity models.

To conclude, Ecommerce Europe reiterates that **enhancing stability and security of the IOSS should precede any extension of scope and functionalities of the Import scheme** under the UCC reform and in view of other existing and upcoming legislative initiatives.

From a policy-making perspective, it is imperative for stakeholders to have an opportunity to review the details in the implementing regulations with reasonable time for consultation purposes prior to the provisions coming into effect. An early dialogue and engagement will allow stakeholders to assess the proposed changes and requirements, identify potential challenges and rooms for clarification, and suggest possible improvements.