

H&M Group's Recommendations on the reform of the EU Customs Code

November 2023

H&M Group welcomes the opportunity to provide feedback on the European Commission's proposal for a revised Union Customs Code (UCC). This proposal strengthens the legal framework for customs and makes it suitable to address recent challenges.

The European Commission's comprehensive customs reform proposal aims to make the EU's customs system more efficient, effective, sustainable, and compliant with EU product regulations and new sustainability regulations under the EU Green Deal. Specific measures include centralizing customs data management, streamlining customs procedures, and investing in new IT systems to better identify and target high-risk shipments, reduce administrative burden, automate tasks, and improve efficiency and effectiveness.

H&M Group welcomes the proposal's aim to streamline and modernize customs procedures, while increasing digitization of customs processes which will strengthen the customs authorities' ability to protect the internal market. However, these measures should ensure no unnecessary administrative burden is placed on traders.

We believe the EU's customs union plays an important role in protecting the internal market from unfair competition from outside the EU and preventing trade in illegal products. It is also an essential enabler of legal trade with third countries, which creates prosperity for the EU.

H&M Group strongly advocates for the swift implementation of this essential reform. We urge the Commission to shorten the timeframe proposed, provided businesses are given an 18-month lead time to prepare.

Therefore, H&M Group:

- **Urges the Commission to shorten the proposed timeframe of the essential customs reform, while ensuring that businesses have 18 months to prepare.**
- **Supports the Commission's proposal to remove the 150 Euro de minimis threshold for customs duties, which will increase harmonization while ensuring a fair and safe trading environment.**
- **Welcomes the creation of the deemed importer regime, which will shift both financial and non-financial responsibilities from consumers to economic operators.**
- **Stresses that shortening the storage period for third-country goods in temporary warehouses may lead to increased administrative and logistical burdens.**
- **Welcomes the introduction of the Customs Data Hub to increase digitization but notes that the new system should have a realistic implementation timeline.**
- **Emphasizes that only the necessary data should be provided to the EU Customs Data Hub, and that access to the data should be restricted.**
- **Supports the EU Customs Authority and stresses that this should not be an added layer.**
- **Appreciates the implementation of the Trust and Check trader program while noting it should bring tangible benefits to companies.**
- **Is concerned about the proposed rules on customs penalties, which appear to be unproportionate.**

H&M Group is particularly interested in the following key features:

- 1. The duty-free status for low-value consignments from third countries will be removed (abolishment of the 150 Euro De minimis threshold for customs duties) and the creation of the concept of deemed importer.**

Parcels valued up to EUR 150 that are sent directly from a third country to a consignee in the EU are currently exempt from customs duties. The customs duty exemption for low-value goods was enacted in 1983 and increased in 1991 and 2008. Until 1 July 2021, there was also a VAT exemption on imported goods of negligible value (below EUR 22). Both exemptions were justified by the disproportionate administrative burden of handling customs declarations for charging low customs duties and VAT on low-value goods.

The European Commission proposes to remove the duty-free status for low-value consignments from third countries. A key reason for this is that 65 percent of these consignments are undervalued and should not have been covered and cleared as low-value consignments. This mis-valuation gives foreign goods that should be subject to duty an unfair competitive advantage over competing goods within the EU.

H&M Group comment: H&M Group supports the European Commission's ambition to introduce a more modern framework for customs that reduces fraud and increases transparency for traders and consumers. Among the several policy proposals, the UCC revision suggests creating the deemed importer regime and removing the customs duty exemption for goods valued up to EUR 150. The deemed importer regime in the EU proposal of customs reform is a major change that will affect both the collection of customs duties and VAT, and compliance with EU product regulations. Under the new regime, online intermediaries will be responsible for customs formalities and payments, as well as ensuring that the products they sell comply with EU product safety and environmental requirements. This is a much-needed shift in responsibility from the individual consumer.

H&M Group welcomes and supports the European Commissions' ambition to level the playing field between e-commerce within the EU and from third countries. Our group has always supported free trade, advocating for the removal of barriers, and minimizing tariffs to foster a more open, dynamic, and competitive single market. Nevertheless, it is also important to ensure a fair and safe trading environment for all parties involved. Therefore, H&M Group's position is aimed at addressing some longstanding problems within the current EU customs system connected to consumer protection and fair competition for companies.

The EUR 150 de minimis threshold, that currently exempts goods from customs duties, was initially intended to facilitate commerce, especially for small consignments, but has been exploited by some parties as a loophole to bypass regulations. This has unfortunately led to the influx of unsafe and non-compliant products into the EU market. Evidence gathered during the work of the Wise Persons Group shows that dangerous, non-compliant products still enter the EU market every day¹.

¹ [Report by the Wise Persons Group on the Reform of the EU Customs Union – Brussels March 2022](#)

Additionally, we believe this can undermine the EU's 'circular economy' agenda and the upcoming enforcement of EU regulations under the EU green deal agenda. The current EU customs threshold of 150 euros undermines the circular economy by allowing non-compliant products to enter the market. These products often contain harmful chemicals or are made with unsustainable materials. As a result, they cannot be easily repaired, reused, or recycled.

Another reason to remove the current duty-free status for low-value consignments is to ensure competitive neutrality towards EU goods and reduce the incentives to deliberately undervalue the customs value on imports to avoid paying duty. Companies selling products on the EU market should regardless of country of origin comply with the same regulations and rules.

We support aligning VAT and customs rules, rather than considering them in isolation. This would increase synergies, simplifications, and reduce compliance costs. For example, the implementation dates for VAT and customs changes should be aligned, and the VAT de minimis has already been abolished, while the customs de minimis is still in place.

Under the proposed EU Customs Reform, the deemed importer would be responsible for both financial and non-financial risks associated with imported goods. This could deter businesses from importing unsafe or non-compliant goods and encourage them to take more responsibility for ensuring that their goods comply with EU regulations. This would simplify the process for both businesses and consumers, and it would also help to reduce the risk of fraud.

For these reasons, H&M Group welcomes the proposed changes in the EU Customs Union reform, particularly the abolition of the EUR 150 de minimis threshold and creation of the deemed importer regime. We believe that this change will effectively close the loopholes, thereby ensuring a level playing field for all actors in the EU. Furthermore, H&M Group anticipates that this modification will increase consumer protection by ensuring all goods entering the EU are compliant with safety, environmental, and social standards.

2. Shorten Storage Period for Third-Country Goods in Temporary Warehouses

According to Article 149 of the UCC, third-country goods in a temporary warehouse must be assigned to a customs procedure or re-exported within 90 days of their presentation to customs. In the EU Commission's proposal, the storage period is shortened to 3 days and to 6 days for an approved recipient. In exceptional cases, that deadline can be extended.

H&M Group comment: H&M Group believes that there is not a valid reason to change the current deadline of 90 days regarding temporary storage. The significantly shortened time limits proposed by the EU Commission presents significant administrative and logistical burdens to our industry and supply chain and may result in a substantial deterioration for our company. First, the proposed new time limits would erode the advantages that exist regarding current application of temporary storage and our transit hub in the EU. Second, economic operators' IT and administrative systems are built around the current timeline of 90 days allowed for temporary storage.

3. A new EU Customs Data Hub will be created to replace the current fragmented IT system.

The aim of the EU Customs Data Hub is to eventually replace today's more decentralized IT solution, which is based on 17 different IT systems with common and national components, with a centralized set of systems and services. Businesses will be able to start using the EU's customs data hub from January 2032 and will be required to do so by 2037, when it is supposed to be fully operational.

H&M Group comment: H&M Group is positive to the establishment of an EU Customs Data Hub. Digitization is important for simplifying customs procedures and reducing red tape, which benefits both European companies and EU customs authorities.

Considering the significant delays in the implementation of the current IT systems, it should be ensured that there will not be similar delays in the implementation of the EU Customs Data Hub. A well-coordinated transition or gradual rollout is necessary to enable businesses and authorities to transition to the new system and avoid bottlenecks or delays.

This should be considered in accordance with the implementation schedule. Any delays mean that companies miss out on the benefits of simplifications that the customs data hub has for customs processes.

It is important that the development and implementation of digital solutions, both at EU level and at national level, takes place in cooperation and dialogue with economic actors to ensure that digitization leads to real simplifications for companies.

The UCC can be aligned and made more coherent with other sustainability proposals by exploiting synergies and avoiding overlaps between different regulatory proposals. This is especially important for the various databases being developed under European legislative initiatives, such as the Digital Product Passport, the Corporate Sustainability Due Diligence Directive, the textile labeling regulation, and the ban on forced labor product regulation. Aligning these databases will ensure data standardization, interoperability, reuse and less administrative burden.

H&M Group acknowledges the need for a unique identifier to connect all parties and information provided to the Data Hub. However, we emphasize that only the necessary data to comply with regulations should be provided, preferably only once to the Data Hub and reused in subsequent steps of the customs procedure.

We also believe that access to the Data Hub by authorities other than Customs Authorities should be extremely limited and restricted to the minimum need-to-know necessary. We also want to be able to track who accessed our data and for what purpose.

In addition to data security concerns, data quality is also a key element. The Data Hub should strive to collect high-quality data in order to be effective.

Furthermore, it is of the utmost importance for our company to ensure that internal processes and data management are in line with the new requirements and for this guidance may be needed from the relevant authorities. For H&M Group, it can i.e., mean the need to evaluate existing systems and processes and invest in updated technological solutions.

4. A new EU Customs Authority will be established to coordinate risk management and data analysis across the EU.

The "EU Customs Authority" is proposed to be established at central level from 2026 and to be fully operational from 2028. The new EU authority shall carry out risk management and analysis, develop and maintain the EU customs data hub, and have a key role in dealing with restrictive measures and crises.

H&M Group comment: H&M Group supports the introduction of a common European customs authority that strengthens and streamlines the EU's common customs cooperation. Together with the EU Customs Data Hub, the EU Customs Authority has the potential to help reduce compliance costs for businesses and national customs authorities. At the same time, the EU's joint customs authority can optimize risk management for the national customs authorities, thereby allocating and prioritizing control resources where they are most useful, which benefits legal trade.

The EU Customs Authority should help guide, coordinate, and support national customs authorities to bring about more harmonization, especially in the implementation of customs codes across the EU. However, it is important to ensure that the new authority does not become an additional layer of bureaucracy for the companies.

Based on the European authority's core tasks, see Article 209 of the new UCC, it is important to establish common standards and recommendations on best practices to create and maintain harmonization and equal treatment between EU countries.

5. A new "Trust and Check trader" status will be introduced for businesses with a good track record of customs compliance.

The system of approved economic operators, AEO, is being developed through the introduction of a new status called "Trust and Check trader". The permit can be given to an actor who meets the formal requirements and who has demonstrated good customs management in the past three years. A license as a Trust and Check trader means, among other things, that customs duties and taxes regarding imports into the EU are paid in the country where it is established and obtained the permit.

H&M Group comment: H&M Group welcomes the initiative on introducing the "Trust and Check Trader". We expect that "Trust and Check trader" will strengthen the already existing Authorised Economic Operators (AEO) program for trusted trade, as well as making it easier and less burdensome for certified traders to collaborate with Member States Customs authorities and ports of entry. Thus, we welcome the clear legislative guidance and requirements, available to the businesses in due time.

The introduction of a new registration as a Trust and Check trader must bring tangible and actual benefits, such as customs simplifications and fewer controls, for the companies that are approved after applying. A certification must be based on trust from the authorities towards certified companies so that checks are made to a greater extent against specific flows and companies based on risk.

6. New rules on customs penalties

New provisions on customs penalties are introduced, see Article 254 of the new UCC. In relation to the current Union Customs Code, the proposal for a new Union Customs Code contains developed provisions on penalties. A common framework is proposed which sets out a core of customs infringements and non-criminal penalties. The proposal states, among other things, that the minimum level of duty surcharges for intentional errors amounts to 100-200 percent of the amount on which the duty surcharge is calculated and in other cases, which are not due to intent, the duty surcharge shall amount to 30-100 percent of the amount on which the duty surcharge is based.

In the Swedish Government Office's factual memorandum, [Faktapromemoria 2022/23:FPM97 från den 21 juni 2023](#), regarding the EU Commission's proposal for a reform of the customs union, it appears that the Swedish government is critical of proposed changes regarding new customs penalties.

H&M Group comment: H&M Group broadly welcomes the introduction of a common framework setting a baseline for customs infringements and non-criminal penalties. However, we believe that the proposal should ensure proportionality of penalties for intentional and non-intentional errors. The current foreseen baseline amounts go beyond the necessary thresholds needed to ensure adequate implementation. The proposal should also include a sound legal basis for their implementation.

For more information

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