

# EBCA Position on the reform proposal of the Union Customs Code

November 2024

The European Branded Clothing Association (EBCA) represents more than 75 popular fashion brands and employs over 250,000 people in Europe. We support an environment conducive to European competitiveness and a leading role for the EU in global trade.

To this end, we welcome the UCC reform proposal and view it as an important contribution to ensuring a **harmonised approach towards protecting the Single Market from unfair competition and promoting trade**. The UCC proposal aims to guarantee the competitiveness of European businesses and facilitate trade through simpler, more effective, efficient and harmonised processes. Likewise, the reform is essential to help customs enforce EU 's new sustainability regulations. The proposal includes several measures that will make customs more efficient, such as centralizing customs data management, streamlining customs procedures, and investing in new IT systems.

The UCC - specifically its e-commerce related proposals to remove the customs free threshold and introduce the deemed importer concept - is essential to reinstate fair competition in the fashion sector. We define level playing field as a situation where all economic actors are equally impacted by or benefit from European and national legislative requirements no matter their business models, geographical origins or products. Hence our call to maintain and preserve the level playing field does not target a specific business model nor origin, it rather addresses the need to provide the compliance and enforcement tools to meet European environmental, safety and social requirements. The UCC can play a crucial role in ensuring these objectives - if its ecommerce proposals are fast tracked and implemented soon.

This paper takes the opportunity to explore specific questions to ensure a seamless implementation of future customs obligations based on the following principles

1. Simplification & Coherence

- a. Digitization through the EU Customs Data Hub must collect standardized data, based on limited, proportionate, targeted and reasonable data disclosures, and must ensure policy coherence. Data reuse should be the main principle, in order to avoid duplication of efforts. This means that authorities should use the data that companies are making available under other requirements (i.e. data in the DPP)
- b. Rewarded trusted players should be allowed through on self-assessments especially as a tool to determine rules of origins. .
- c. The EU Customs Authority must have a clear mandate ensuring harmonization of controls regarding prohibitions and restrictions and providing the necessary implementation guidance for national authorities. The technological interface

should be the same across Europe to streamline the processes for all participants and especially for SMEs.

2. Modernisation
  - a. Abolishment of the EUR 150 de minimis threshold
  - b. coupled with the introduction of a deemed importer regime.
3. Timing & Enforcement
  - a. The current timing is too slow : Fast-track some measures to foster EU competitiveness
  - b. New rules on customs penalties must be proportionate.
  - c. Temporary storage period for data should remain 90 days.

## **1. The UCC reform opens the opportunity to simplify compliance**

- a. Digitization through the EU Customs Data Hub must collect standardized data, based on limited, proportionate, targeted and reasonable data disclosures, and must ensure policy coherence**

Digitization and paperless environment are the key pillars meant to streamline bureaucratic processes and help facilitate international trade. We support the EU Customs Data Hub's (EUCDH) aim to foster cross-border and cross-sector interoperability in Europe and allow for the deployment of different technologies such as artificial intelligence. Data quality should be at the heart of the EUCDH.

EBCA calls for building data systems based on limited, proportionate, purposeful, targeted and reasonable data disclosures. Data should also be standardised, so that there could be a real shift from a document-based system to a data-based system. This will support interoperability and data reuse, building on the principles of the EU Data Strategy to drive economic growth and competitiveness within the EU.

Leveraging the potential of Digital Product Passport (DPP) should be used as an efficient mechanism to streamline customs processes. In line of the simplification principle, data provided by operators in the DPP should be reused as much as possible in the rest of the customs processes. At the same time, once the DPP architecture will be set on a decentralized basis, it would be preferable that the Customs Data Hub also has the same architecture.

Finally, access to the EUCDH by authorities other than Customs Authorities should be extremely limited and restricted to the minimum and on a need-to-know basis and always warranting security and confidentiality. Given the sensitivity of the data, companies should be able to know who accessed the data and for what purpose.

Furthermore, EBCA calls for leveraging the potential synergies and avoiding overlaps between the different regulatory proposals, particularly with regard to the various data requirements that are being developed, such as the Digital Product Passport. This will ensure data standardisation, interoperability and data reuse.

It is important that the implementation of the Data Hub is not delayed and be introduced as soon as possible through a gradual approach, only in what is absolutely necessary. The EU Customs Data Hub is scheduled to be fully operational by 2037, with some features ready in 2032. However, we are concerned that this timeline is too long, given that current technologies provide for the opportunity to foster implementation and other geographies are competing with the EU with a modern customs system. We urge the Commission to create and deploy more components of the Data Hub sooner, and to provide an opt-in program that companies can begin to use in 2028 at the latest. A phased roll-out may also be necessary to avoid bottlenecks or delays.

Finally, regular and structured dialogues with economic operators are essential for the development and implementation of digital solutions, both at the EU and national levels and other UCC provisions. This is needed to ensure that digitalisation leads to practical simplifications for businesses. Some already existing national IT structures are of high quality and a proven success. This efficiency, achieved over years of collaboration between operators and customs authorities, should be safeguarded, for the sake of the EU competitiveness. So these systems should be used as the starting point for the new EU CDH.

#### **b. Simplify procedures to reward players**

EBCA welcomes the simplification and facilitation of trade resulting from the revision of the Authorised Economic Operators (AEO) and the introduction of Trust and Check (T&C) traders. We emphasize the need for real and effective simplification and trade facilitation, including self assessments, acknowledgement of importer's knowledge mechanism as an effective alternative in determining the origin of products.

We welcome the initiative of introducing this new status that should strengthen the Authorised Economic Operator (AEO). The Trust and Check trader status aims to lighten the administrative burden on companies by facilitating cooperation between certified traders and national customs authorities. The new status should also facilitate a harmonisation in the application of trust measures among national authorities. There should be a smooth transition from AEO to Trust and Check trader status. The new status should also bring tangible benefits such as simplified customs procedures or fewer controls for certified traders. An improvement on the risk-based approach should be promptly implemented whereby certified traders incur fewer controls compared to others who do not meet the relevant criteria for certification. Only an appropriate assessment of the risks would allow customs authorities to manage the overwhelming influx of low-value shipments that the rise of e-commerce and the potential deletion of "de minimis" may involve. To this end, we welcome clear and timely legislative guidance on the requirements and benefits of the T&C traders.

**c. The EU Customs Authority must have a clear mandate**

The establishment of the EU Customs Authority has the potential to reduce the administrative burden by increasing EU customs cooperation and harmonise national legislation. However, the new Customs Authority must have a clear mandate to avoid becoming another bureaucratic layer. The Authority will have the ability to provide necessary guidance for national authorities to harmonise their approach to implementing customs provisions across the EU. It can also optimise risk management for national authorities and ensure that resources are allocated where they are needed most. It is also important to provide recommendations on best practices to national authorities.

EBCA calls for the inclusion of the harmonisation of controls at the borders regarding the prohibitions and restrictions list, and for the Authority to promote equal controls and resulting documentary requirements, regardless of entry point .

**2. The UCC reform takes modernization of trade into account to raise the accountability of all actors importing to the Union**

The removal of the €150 threshold for customs duties joined with the introduction of a deemed importer regime are significant steps forward to supporting the circular economy, ensuring the safety of consumers and the environment, and creating a level playing field for all forms of trade and e-commerce business models, regardless of where they are based.

**a- The removal of the € 150 de minimis threshold**

The Wise Persons Group [final report](#)<sup>1</sup> shows that the de minimis threshold enables dangerous, noncompliant products to enter the EU market every day notably through misdeclaration and fraud. The report states that these products are not compliant with EU legislation often contain harmful chemicals or are made with unsustainable materials, therefore challenging consumers' safety, circular economy and environmental targets.

€150 threshold, customs would finally align with VAT law, where the VAT de minimis threshold was already removed in 2021. This alignment of VAT and Customs law would simplify the import process and make it more efficient for all stakeholders involved.

**b- but will be efficient only if customs duties are applicable to all importers**

**An essential component of an effective customs enforcement for low value consignments with the removal of the de minimis and the compliance is the deemed importer concept. The**

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<sup>1</sup> Wise Persons Group on Challenges facing the Customs Union, [Final Report](#), 31 March 2022.

deemed importer -- would be responsible for both financial and non-financial risks associated with imported goods. EBCA believes that a deemed importer concept should be sufficiently broad to encompass most third-country sellers, due to the range of various business models beyond “platforms” (e.g. reseller, drop shipper, retail), the deemed importer will ensure applicability across the sector. This will 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. It would also simplify the process for both businesses and consumers and help to reduce fraud.

3. Timing and enforcement should reflect business realities
  - a. We are deeply concerned by the proposed timeline

As highlighted in the course of this paper, we believe that the proposed timing does not reflect business realities nor needs. Over the last decades, trade has been increasingly connected to global markets, expanding market opportunity for European players while also open its territory to other international players. The pandemic and lockdowns also shifted business models towards more online services. Online shopping with clothing and footwear taking a lion’s share and this trend has grown. According to Eurostat, close to 60 % of European individuals brought online, 44% of them brought or order “clothes (including sportswear), shoes and accessories” in 2023. . The speed at which economic models are evolving calls for a review of the proposed timing. A timeline ranging from 2028 to 2037 simply jeopardises the EU companies, not only in the textile industry but all industries affected by these new business models.

Consequently, the revision of the Union Custom Codes should focus firstly on e-commerce related items enounced above, eg. removing the de -minimis threshold and introducing the concept of deemed importer. The fast-track implementation of these two items would reinforce fair competition in the sector.

- b. New rules on customs penalties must be proportionate**

EBCA 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 nonintentional 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.

- c.- Temporary Storage period should remain 90-days**

EBCA does not see a valid basis for changing the temporary storage for non-Union goods deadline from 90 days to 3 and 6 days for an approved recipient. We believe that such a shift will significantly deteriorate logistics’ effectiveness of European operators. Additionally, companies will face

significant administrative costs since all current IT systems are built around the 90-day timeline. Ultimately, this will result in significant competitiveness losses for EU economic actors.

**About EBCA:**

*EBCA is a coalition of European and global retail clothing brands. We represent more than 75 brands and 350,000 direct jobs, as well as millions of indirect jobs in the EU across production, procurement, design, transportation, sales, and management. Established in 2007, the Association provides the collective and exclusive voice for retail clothing brands in providing significant tax revenue to municipalities and local governments across the EU.*

*For more information, please visit our website at <https://ebca-europe.org/> or contact us at [secretariat@ebca-europe.org](mailto:secretariat@ebca-europe.org).*