

The Consumer Voice in Europe

## CATCHING DANGEROUS AND NON-COMPLIANT PRODUCTS AT THE BORDER

BEUC's recommendations to reform EU customs policy



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## Why it matters to consumers

A significant part of household appliances, clothes, toys and food comes from outside of the EU. International e-commerce is causing these imports to grow rapidly. While consumers may think all imports are safe and comply with EU standards, the reality is more complicated. Consumers have a fundamental right to safety. But BEUC members – national consumer groups – find a flow of non-compliant, dangerous, or low-quality products coming into the EU.

## Summary

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While international e-commerce can benefit consumer choice, it is also bringing dangerous and non-compliant products into the EU. BEUC agrees with efforts to help customs authorities better protect consumers, and suggests the following:

- Ensure EU laws are robust so not all the workload falls on customs
- Break internal silos: better cooperation within the EU
- Break external silos: more cooperation with third countries
- Increase authorities' resources

### The context: customs and consumers

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Imports entering the EU should be safe and comply with EU legislation. Consumer organisations' research has shown this is a myth, with consumers at risk of dangerous products directly imported into their homes.

Customs plays a role here as they supervise the entry of goods into the EU, but they face overwhelming challenges. Any visit to customs sites in airports or harbours gives an eye-opening view of the challenges faced by customs officials, the main one being international e-commerce.

After a preliminary Commission reflection<sup>1</sup>, a group of experts<sup>2</sup> now recommends to reform customs policy. They [conclude](#) "the Customs Union needs to be better prepared to address forthcoming challenges". These include: a) a surge in small e-commerce parcels; b) an increased expectation on customs to check for compliance with non-fiscal risks; c) and a lack of common implementation and cooperation within and between EU Member States.

What matters for the daily lives of consumers is [that](#) "the probability that small consignments will contain non-compliant or dangerous goods is very high. It is not only that checking each parcel is impossible; it is that even checking all those that are identified as presenting a risk is unmanageable."

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<sup>1</sup> Foresight project "the future of customs in the EU 2040":  
<https://publications.jrc.ec.europa.eu/repository/handle/JRC121859>

<sup>2</sup> Called the 'Wise Persons Group on Challenges Facing the Customs Union'.

## The evidence: dubious products flooding the European market

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In view of consumer organisations' evidence from the ground the above conclusions are not surprising. While international e-commerce can benefit consumer choice, many dangerous and non-compliant goods are being sold online.

In [one test](#) of 250 products bought from online marketplaces, two-thirds failed safety tests. This research is likely only a drop in the ocean, as consumer organisations only have the resources to do a small number of market checks. BEUC adds whatever is found to [its living list of unsafe and illegal activities related to e-commerce](#).

Many problematic products come from outside the EU<sup>3</sup>. To illustrate, UK consumer group Which? reported<sup>4</sup> that when they [found smoke alarms failing to detect smoke](#) – all came from China. Consumentenbond from the Netherlands has warned about [hackable security cameras](#) “from China [that] continue to flood the Dutch market”. Denmark's Forbrugerrådet Tænk found [imports of cosmetic products](#) to lack ingredients lists or to contain unwanted chemicals, as well as [cheap jewellery containing illegal amounts of harmful heavy metals such as lead or cadmium](#). One bracelet exceeded the legal limit for cadmium – a known cancer-causing chemical – by almost 4000 times.

These examples are [backed up](#) by EU-wide statistics compiled by the European Commission in its Safety Gate database. Valuable input has also come from industries (lighting, toys), and the French government's [consumer affairs and anti-fraud directorate](#) (DGCCRF).

## The solution: How to help customs authorities better protect consumers

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The [European Commission now intends to follow up](#) on the challenges highlighted by the wise persons report with a legal initiative to “deliver a true Customs Union acting as one”. BEUC supports the idea to help EU customs better protect consumers by catching dangerous and non-compliant products at the bloc's external border. This requires a rethink about the set-up of the system.

### 1. Ensure EU laws are robust so not all the workload falls on customs

EU legislation needs to reflect today's market reality. This requires all legislation relevant to imports to be kept updated. Online marketplaces are a source of non-compliant products, in particular from third countries. Making online marketplaces liable for what is sold on their websites would spur them to be more proactive in tackling rogue traders.

However, it is unhelpful that **EU policymakers lack ambition to tackle the sale of dangerous products sold online via closing legal loopholes**. At the time of writing this paper, [BEUC sees the issue being passed like a hot potato](#) between reforms of e-commerce, product safety, and product liability laws without any serious effort to solve it. This is a missed opportunity, because clarifying the legal status, responsibilities, and liabilities of marketplaces could at least put downward pressure on rates of non-compliance.

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<sup>3</sup> Beyond issues of non-compliance, it is worth noting there are also other issues related to global e-commerce. A 2020 [survey by Verbraucherzentrale Bundesverband \(vzbv\)](#) revealed issues such as non-delivery, low product quality, or problems with returns and refunds. This echoes [an earlier BEUC-vzbv study](#) from 2017.

<sup>4</sup> At the time when these results were published, the United Kingdom was part of the European Single Market.

To illustrate, the General Product Safety Directive – which is being reformed – obliges all economic operators to only put safe products on the market. However, online marketplaces are not defined as ‘economic operators’ even though they are an essential part of the supply chain.

**Existing laws are not supportive of customs either.** The Market Surveillance Regulation contains a provision about items blocked by customs due to safety concerns. It requires their automatic release into the internal market after four working days if customs do not receive a response from market surveillance authorities. As a result, dangerous items may end up in people’s homes despite authorities having identified them at the external border as unfit for free circulation and sale. BEUC urges policymakers to get rid of this provision.

The EU should also **seize the opportunity of the reform of the Customs Union to bring coherence between internal and external EU policies.** Some products and substances made in the EU are regulated but imports do not need to abide by the same rules. This is the case for chemical substances of very high concern. Also, many food imports do not need to comply with EU requirements for environmental protection and animal welfare. Consumers are not aware of this and can be misled when buying imported goods.

## 2. Break internal silos: better cooperation within the EU

The European Commission [suggests to reform the governance of customs](#) “to provide for an EU layer” which could help it act as one. Whatever the precise details of such a new governance set up may be, BEUC advises policymakers to:

- **Improve cooperation between customs and other national/EU agencies to tackle today’s business models and supply chain.** At EU level, this should include any agency or structure dealing with import-related topics. Examples are the European Chemicals Agency (ECHA), the European Anti-Fraud Office (OLAF), the new enforcement networks created based on the Market Surveillance Regulation, and the Consumer Safety Network (CSN).
  - As it thinks about its future customs governance, the European Commission should [review all its existing structures](#) – whether agencies, or networks of Member State authorities – to check whether they can be repurposed with a customs angle. Inspiration can be taken from the [standardisation strategy](#), which proposes a new EU hub to combine existing expertise scattered around the EU institutions – to be led by a ‘Chief Standardisation Officer’.
  - After such mapping exercise, [a ‘customs’ principle should be introduced in the work and policy implementation of those authorities](#) to spur cooperation.
- **Align external (customs) and internal (market surveillance) policy:** EU oversight of these areas could be combined into a *single* structure, which can then lead to better cooperation. Such a structure needs an IT infrastructure where officers can exchange data on dangerous products in real time and make use of technical tools and artificial intelligence to support their work.

Beyond this advice on EU-level policy set up, BEUC also recommends focusing on more day-to-day aspects:

- **Involve other authorities in the day-to-day running of customs checks:**
  - Even with the best intentions, we cannot expect customs to be(come) expert on every topic or law under the sun. [BEUC deems it unlikely](#) that any training would be sufficient to allow customs agents to [check for criteria as diverse as](#) chemicals, eco-design measures, artificial intelligence, and motor vehicle emissions.
  - We advise policymakers to allow customs to draw expertise directly from other EU or national authorities. For instance, experts from these authorities could be posted to priority customs sites and serve as direct colleagues.
  - In addition, the EU's Market Surveillance Regulation foresees [EU-designated laboratories](#) ("Union testing facilities") to test products. These labs should be linked to customs, which can increase the latter's capacity to assess risks.
- **Involve supply chain actors beyond authorities:** Consumer organisations – like business and logistics associations – bring their own experience and knowledge to the customs debate. BEUC benefits from having members outside the EU<sup>5</sup>, close cooperation with US organisations via the [Transatlantic Consumer Dialogue](#) (TACD), and access to the global [Consumers International](#) network. BEUC and its members regularly share findings related to illegal imports to EU institutions and member states authorities and will continue to do so.

### 3. Break external silos: more cooperation with third countries

Recent trade agreements such as those with Canada, Mexico, and the United Kingdom have shown the potential for voluntary cooperation between regulators. For instance, Canada and the EU signed a [memorandum of understanding in 2018](#) to cooperate on product safety. This arrangement enables authorities to exchange information about dangerous products on the market. **BEUC urges the EU to further develop such cooperation with third countries** and make sure customs authorities are part of this discussion. Details of such cooperation [can be inspired by for instance this proposal](#) for a revamp of EU product safety law.

### 4. Increase authorities' resources to better protect consumers

Cooperation between authorities at EU level and at international level cannot become a reality without proper resources. More importantly, customs and market surveillance authorities, and other relevant authorities, need to be better equipped to protect consumers against non-compliant and dangerous products imported into the EU. To fulfil their mission, they need **more financial and human resources**. **Training** resources should also be made available. Finally, **efficient IT tools** should support their work. These IT tools should enable authorities to easily exchange information among themselves.

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<sup>5</sup> BEUC's current 46-strong membership comes from the EU27, Iceland, North Macedonia, Norway, Switzerland, and the United Kingdom.

## **How BEUC will contribute to the reform of EU customs policy**

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BEUC is a member of the 'Trade Contact Group' of the European Commission's Directorate-General (DG) for Taxation and Customs. We will flag any issues from our network to this DG, and the European Commission's product safety unit within DG Justice and Consumers.

BEUC also endeavours to raise awareness about legislative efforts in customs-related areas, such as chemicals policy, e-commerce, food policy, and sustainable consumption.

END



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