

The Consumer Voice in Europe

REFORMING CUSTOMS TO BETTER PROTECT EUROPEAN CONSUMERS IN GLOBAL MARKETS

BEUC's recommendations to the European Parliament and EU Member States on the reform of EU customs policy



Contact: Léa Auffret & Laurens Rutten – international@beuc.eu

BUREAU EUROPÉEN DES UNIONS DE CONSOMMATEURS AISBL | DER EUROPÄISCHE VERBRAUCHERVERBAND

Rue d'Arlon 80, B-1040 Brussels • Tel. +32 (0)2 743 15 90 • www.twitter.com/beuc • www.beuc.eu

EC register for interest representatives: identification number 9505781573-45



Co-funded by the European Union

Ref: BEUC-X-2023-114 - 21/09/2023

Why it matters to consumers

The European Commission is proposing to reform the EU Customs Union. This reform is important for consumers because while they may think all imports are safe and comply with EU standards, the reality is more complicated. Consumer groups and other organisations find a flow of non-compliant, dangerous, or low-quality products coming into the EU. The reform should better equip customs and other authorities to protect consumers, and ensure that EU product safety, sustainability and other relevant rules are fully respected by traders from elsewhere.

1. A reminder: why consumers urgently need this reform

Customs authorities check containers and parcels coming into the EU for compliance with safety and other rules. A [2020 survey](#) by BEUC's German member, vzbv, on shopping online outside the EU found that 81% respondents think it is important customs ensures that only safe products are put on the market. However, in recent years consumer groups have found a flow of non-compliant, dangerous, or low-quality products coming into the EU.

We know online sales are a major source of non-compliance: In [one test](#) of 250 products bought from online marketplaces, two-thirds failed safety tests. While the origin of the products was not always clear, this included malfunctioning smoke alarms coming from outside the EU.

According to the [EU's Safety Gate report from 2022](#), half of the product safety alerts in the EU concerned products originating from China and 17% from other third countries. BEUC members also found [hackable security cameras](#), as well as [jewellery](#), [cosmetics](#) and [toys](#) containing unwanted chemicals from outside the EU¹.

BEUC's UK member Which? in August 2023 found 149 listings for defective carbon monoxide (CO) alarms on major online marketplaces. Which? [writes](#) "five unsafe CO alarm models labelled 'Don't Buys' ... all unbranded and made in China, featured prominently on the online marketplaces". The UK is now outside of the EU, but these tests results are relevant for the EU customs reform because some of these unsafe products were still available to EU consumers a month after alerting authorities² and the marketplace.

The volume of non-compliant products from outside the EU is also underlined by others, such as a French consumer authority and the [EU's own annual statistics on dangerous non-food items](#) (page 18).

¹ These products were found by Consumentenbond (the Netherlands), Forbrugerrådet Tænk (Denmark), and Which? (the United Kingdom) respectively. At the time when these results were published, the United Kingdom was part of the European Single Market.

² See for instance [this carbon monoxide alarm](#) made and shipped from China to Belgium sold on Aliexpress and listed as 'Don't Buy' by BEUC UK member Which?.

In 2022, an [EU expert report](#) highlighted that customs authorities face many challenges. These include a growth in global trade and particularly a boom in the import of small packages due to online shopping. Customs also face an increase in the many safety and compliance risks that need to be checked – covering 350 pieces of legislation. The report said “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.”

2. BEUC’s assessment of the Commission proposal

The EU customs reform proposed by the European Commission in May 2023 is good news for consumers. We welcome the focus on the mission of customs to ensure security and safety and contributing to the EU policies that protect consumers.

To make the reform fully deliver to consumers, BEUC recommends the following clarifications and improvements.

2.1. What must be kept and further improved

The concept of ‘deemed importer’

The European Commission proposes to better involve online sellers and e-commerce platforms in customs formalities at the point of import by making them “deemed importers”. This would mean marketplaces and other traders will be responsible for the **compliance** of imported products with EU law.

The European Commission stated in its [May 2023 press release](#) that “[w]ith online platforms as the official importers, EU consumers can be reassured that all duties have been paid and that their purchases are safe and in line with EU environmental, safety and ethical standards”. Although the articles on deemed importers (21) and release for free circulation (88) taken together seem to support this, we urge this non-fiscal responsibility of online platforms to be spelt out more clearly in the text. This should also detail what authorities – customs or others – can do in case non-compliance is found among deemed importers.

Furthermore, the proposal does not spell out what would happen to deemed importers, should they place on the Single Market products infringing EU law. **Sanctions** need to be foreseen.

Deemed importers will also be responsible to process the **payment of customs duties** and Value Added Tax (VAT) to customs, instead of consumers. This could contribute to **putting an end to surprise customs fees for consumers**. These are fees consumers are requested to pay on top of the price of their purchase when an order is delivered at their doorstep. Preventing such negative experience would be a **concrete benefit** of the customs reform for consumers.

A [BEUC and vzby study](#) revealed that consumers are not always informed that the products they are ordering come from outside of the EU. They are not always informed that additional fees might be applied. If they are, the amount of these fees is generally not disclosed to consumers and can end up costing as much as the item itself¹. These surprise fees became very visible when the UK exited the EU. Following an increase of consumer complaints, BEUC in 2021 [called on authorities](#) to ensure that all duties and fees are included in the final price.

A number of points need clarification. It is unclear in the Commission proposal whether any other charges applied by a private operator, such as fees charged by postal and delivery companies for dealing with customs, would have to be paid by deemed importers. This would truly ensure that consumers no longer experience surprise customs fees. Moreover, the concept of deemed importer seems to only apply to traders using the [Import One-Stop Shop](#) scheme. The level of obligation for traders not using this scheme should be clarified.

BEUC recommendations

- 1. Deemed importers shall be liable for ensuring compliance with EU law.**
- 2. The EU Customs Authority, or at least national customs authorities, should be empowered to impose fines on deemed importers placing non-compliant products on the market.**
- 3. It should be made clearer in the text that all extra charges related to customs will no longer have to be paid by consumers, if not announced at the time of sale. This should also apply to traders not using the so-called 'Import One Stop Shop' (IOSS).**

The Customs Data Hub

The proposed 'Customs Data Hub' tool should help pool the necessary data and expertise from different authorities to cross-check if products comply with EU product safety, chemical, environmental, and any other relevant rules. The Commission says the Hub "will compile data provided by businesses and ... provide authorities with a 360-degree overview of supply chains and the movement of goods".

The Customs Data Hub is expected to come to life in 2028, and to be fully operational as of 31 December 2037. While BEUC understands the complexity of developing IT systems, the challenges facing customs today – seeing the boom in e-commerce – will only grow. **A short-term solution must be found to allow authorities to better exchange data with each other as soon as possible.**

The proposal also needs to be adapted to include the [recommendations of the European Data Protection Supervisor](#) to fully preserve EU citizens' data protection rights.

BEUC recommendation

1. Better exchange of information between authorities should start as soon as possible, while the Customs Data Hub is being developed. For instance, it is important for customs to have direct access to the EU Safety Gate, the EU's rapid alert system for dangerous non-food products.

2. The final text must include the recommendations of the European Data Protection Supervisor to be compliant with the General Data Protection Regulation.

2.2. What needs major improvement

Release for free circulation

In this proposal, the Commission foresees that if customs agents have a doubt about the compliance of a product with EU law, they should contact market surveillance or other authorities. If customs receive no response after the deadline for feedback set in law (four working days for market surveillance), it has to release the product in the EU market. This is what is provided today in the Market Surveillance Regulation.

The customs reform proposal maintains this. It also foresees that – should another authority ask for more time – customs can release the product but can require full traceability during 15 days, to allow market surveillance authority to perform ex-post controls. This risks creating an **unmanageable deadline of 15 days** for market surveillance authorities to perform tests and controls.

As Digital Product Passports are being introduced to help customs and other competent authorities check compliance information in a more immediate and systematic way (i.e., Ecodesign for Sustainable Products Regulation and Toy Safety Regulation), **exchanges among authorities are expected to increase**. In this context, the time limits determined in other legislations that are applied by customs might become not only difficult to meet but also irrelevant to maintain.

We propose to find a solution where customs authorities would be granted more time to perform controls, **without setting a fixed deadline**. The text should also refer to the responsible person for products placed on the Union market, introduced under the General Product Safety Regulation. Indeed, this person will be liable for compliance.

BEUC recommendation

The provision related to the release of the goods should be improved to enable authorities such as market surveillance authorities to request for more time to check compliance. The reform must be connected to new requirements in the field of product safety to have a responsible person for products placed on the EU market to ensure compliance.

'Trust and Check' trader status:

The European Commission proposes to set up a new 'Trust & Check' scheme so that "the most trusted traders...will be able to release their goods into circulation into the EU without any active customs intervention at all".

The rationale is that this will allow customs to focus more on controlling other goods and traders. While that may be efficient, it is crucial that Trust & Check traders have the capacity and know-how to ensure their imports comply with relevant EU legislation. **Training** by customs and other authorities must therefore be a prerequisite for traders to be granted Trust and Check status. Customs authorities should **regularly audit** their performance. They should immediately suspend activities of traders importing illegal products, such as those flagged as being dangerous on the EU Safety Gate.

BEUC recommendation

Trainings with market surveillance authorities and other relevant authorities to assess imports compliance must be mandatory to obtain the status of Trust and Check trader. Customs authorities should audit Trust and Check trader's activities every year. A direct link must be established between dangerous products signalled on the EU Safety Gate and activities of Trust and Check traders and lead to an immediate suspension of the status.

Lost in comitology

Many important elements of the proposals will be defined in delegated and implementing acts. This makes an assessment of the proposal very complex. For instance, one of the criteria to obtain the status of Trust and Check traders is to have standards in place to ensure safety and compliance of products. But the modalities for the application of this criteria will be defined in an implementing act. As explained above, we consider that Trust and Check traders should have a mandatory training by market surveillance and other authorities. This should be specified in the text of the regulation.

BEUC recommendation

Spell out more clearly in the text of the regulation key elements instead of relying too much on delegated and implementing acts.

Resources

Customs agents will have to check if imports comply with hundreds of EU legislation, from safety to environment. They cannot protect consumers if they lack the necessary financial and human resources. Customs authorities should be empowered to impose fines to deemed importers not respecting their new obligations. The revenue collected should be used to better equip customs and other relevant authorities to keep consumers safe. In addition, 25% of the customs duties collected by EU Member States are [retained for their national budget](#). This revenue should be used for customs purposes.

BEUC recommendation

Enable customs authorities to impose fines to deemed importers. This will deter non-compliance and create revenues to equip authorities to better protect the Union from illegal and non-compliant trade. Member States should redirect the share of customs duties collections they retain in their national budget to better equip customs.

Further information is provided in this [BEUC paper](#), published prior to the Commission proposal.

END

