

The future of the EU Customs Union

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The European Commission's new proposals for EU Customs Union reform are designed to deliver a more coherent and integrated Customs Union. Since the creation of the Customs Union in 1968, subsequent reform has produced one of the most complex bodies of EU law without changing the basic reality of 'one code, multiple systems' that has always defined - and to some degree stymied the ambition of - the EU. The new round of reforms come back to some perennial questions around integration and is also intended to tackle some new practical issues around e-commerce in particular. The obvious question is whether this new round of reforms will be any different from previous ones in delivering change but not transformation.

The details of the customs union proposals are set out in Annex 1. But three of the key elements are worth considering in particular for what they tell us about the tensions in the EU's ambitions, the challenges of delivering integration in a stubbornly fragmented part of EU practice, and the complex reality that is likely to hide behind the language of simplification. These elements are the Commission's proposals for e-commerce and de minimis threshold reduction, the proposed Data Hub, and the proposed Customs Authority.

E-COMMERCE

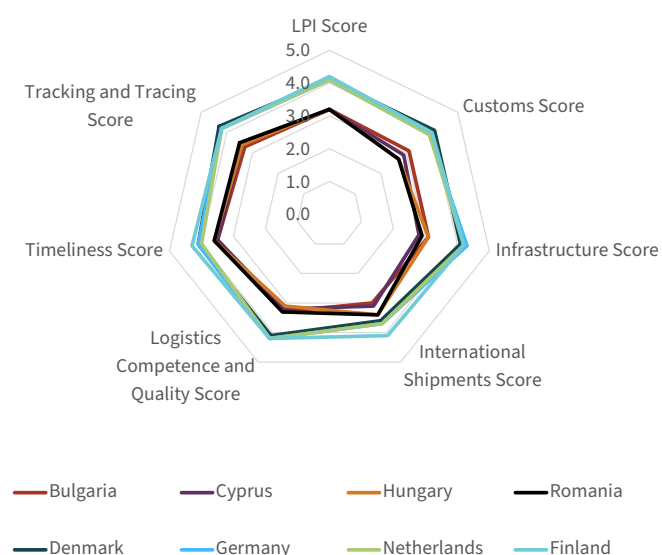
The package's e-commerce strategy tries to achieve a number of different things. Policymakers around the world have had to deal with the question of what to do about the sharp rise in e-commerce related parcel trade that falls under the de-minimis value thresholds for tariffication set 15 years ago or more. What was then a small but resource intensive component of total trade flows has grown into a material body of imports that have been effectively liberalised by high thresholds, even where there was no intention that this should be the case. Reduced scrutiny of these goods has also made them a vector for IP violations and other security risks.

All of these are good reasons to revisit the threshold in the EU. However, the Commission's rather obvious interest to use threshold reductions as a source of revenue - the hope is to raise €1.5 bn a year from the changes - is not the best starting point for such a change. Given that the de minimis threshold serves a specific purpose in optimising collection costs over revenue collection, the increased complexity and cost for customs authorities to clear goods will unlikely offset the Commission's hoped revenue increase. This may result in a more robust system in terms of tariff collection and import processing, but it will not necessarily be cheaper overall, and the attempt to integrate large volumes of parcel trade into the conventional processing system will add frictional costs to already stretched customs services.

This is not the only area where 'simplification' is potentially more of an aspiration than a serious prediction. Take for instance the proposed bucketing system that aims to introduce a simplified tariff treatment based on five fixed duty rates to which overarching goods categories will be assigned based on their HS code. The voluntary nature of the bucketing system for calculating customs duties makes it unclear for e-commerce businesses to know when they should opt for the simplification. For instance, as part of using the simplified calculating method the e-commerce business will have to account for the total transport cost up until the destination, compared to only having to account for the transport cost up until the entry into EU territory when the "normal" method is chosen.

At the very least, the new system would represent quite a material shift for e-commerce firms and will require new resourcing to meet the new VAT and customs obligations. Experience from the abolishment of the €22 de minimis threshold for VAT in 2021, suggests that the cost is shifted to customers leading to **increased profit losses**. Considering that the additional VAT costs and customs duties will likely induce consumers to buy more from

FIG 1: 2023 LOGISTICS PERFORMANCE INDEX (LPI)



EU-based sellers, non-EU e-commerce businesses might be forgiven for assuming that the motives here are other than ‘simplification’.

THE DATA HUB

The proposed EU Data Hub will be a single online portal for all customs declarations. Currently, each EU Member State manages its own customs systems for imports and there is no united system for declarations. In fact, there are 111 IT systems all over the EU which are not interconnected and quite costly to maintain. The EU Data Hub proposes to channel all customs declarations into one single interface for the entire Single Market. This is a long-standing issue in the EU, and it would be a huge omission for a customs reform package to ignore it. The Commission estimates the EU Data Hub could save Member States as much as “€2 bn a year in IT development and maintenance costs” and provide them with **advanced data oversight of their entire supply chains**.

However, the complexity of the underlying problem is reflected in the fact that desired advantages might be far off. The unification of all sectoral and all national custom systems is a mammoth and lengthy task. The Commission itself envisages the Data Hub to be fully implemented toward the end of the next decade. Different commercial sectors would be linked into the system at different rates, starting with the e-commerce sector in 2028, other importers in 2032, and the remainder in 2038.

The challenges here are familiar: especially the initial challenge of getting EU Member States to adopt approaches to data collection and sharing that can be integrated into a central hub. But there is also a bigger question. A policy reform over this kind of timeframe will require being sustained over the tenure

of multiple European Commissions and multiple national governments. There is an inherent issue of managing technological change for customs services, but a fifteen-year implementation will mean taking huge care to design for ongoing evolution in the underlying technologies. Keeping the core data collection and processing systems future-proofed will be key: what is fit for purpose in customs technology in 2023 is not a useful guide to the possibilities of 2038.

THE CUSTOMS AUTHORITY

Integrating data management and processing is only one part of the bigger question of the extent to which the EU actually has an appetite for legal customs system integration. For this reason, the Customs Authority remains one of the most controversial pieces of the proposal. This is despite the fact that the Commission has only proposed a partial centralisation in crisis management and risk analysis, but not enforcement.

However, the customs performance gap between Member States will be apparent in the challenges the Council will face in negotiations. Take as an example the Logistics Performance Index ‘customs score’ which indicates the efficiency of clearance processes. The top and bottom 4 performers diverge quite significantly and will approach negotiations from **very different starting points** (Fig. 1). Certain Member States might have a lot to lose as importer’s preferences may lean towards entry points for their predictability, flexibility, and speed in performing customs procedures while others will look for weaker performers in the hopes that their goods will pass with fewer checks. Correcting for this ‘border shopping’ with a Customs Authority may encourage a convergence towards a middle ground that risks some gaining efficiency while others losing it.

CONCLUSION

There are two threads running through the new proposal, the first is around centralisation and the second is towards simplification. However, the potential for efficiency or revenue gains from either of these two ambitions remains unclear and we will be waiting another two decades at least to find out. Ultimately, only as the Reform progresses through the legislative process and especially through the European Council will we see the true extent of EU27 reactions to these changes and what they are willing to compromise on.

E-COMMERCE FRAMEWORK

Overview E-commerce is a key focus of the proposed changes in an effort to increase consumer safety and boost duty revenues.

Key changes All e-commerce businesses will fall under the new category of “deemed importers” which will include new compliance requirements for both non-financial and financial obligations. The current threshold exempting goods valued at less than €150 will be abolished, while a simplified customs duty calculation for e-commerce goods will be established via a voluntary 5-tiered “duty bucketing system”.

Timeline The de minimis will be eliminated as of 1 March 2028.

EU CUSTOMS DATA HUB

Overview A central hub for all EU customs data, aimed to support legislative, customs, and trade legislation and oversight will be created. Over time, the Customs Data Hub would replace the existing individual customs windows of Member States and traders would be able to provide information to customs authorities via one single interface.

Key Changes The Data Hub should serve as one-stop-shop customs entry point for all traders bringing products into the EU, e-commerce and physical. Building on the current Authorized Economic Operators (AEO) system, the most transparent and stable supply chains will receive a ‘Trust & Check’ authorization allowing them to move through ‘green lanes’ whereby their goods can be released without active customs intervention.

Timeline The Data Hub will open for e-commerce in 2028 and other businesses in 2032.

EU CUSTOMS AUTHORITY

Overview The authority would act on the data provided through the Data Hub and help Member States prioritize the risks and coordinate any checks and inspections - especially in times of crisis. The new authority is intended to improve cooperation between customs, market surveillance and law enforcement authorities at EU and national level.

Key Changes It is set to help customs authorities gain a 360-degree overview of the movements of goods and their supply chains. All member states will have access to the same real-time data with a view to respond more quickly, consistently, and effectively to risks.

Timeline Launch expected 2028

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