

European Union Customs Code Reform

Trilogue recommendations of the Federation of German Consumer Organisations (Verbraucherzentrale Bundesverband – vzbv) on the European Commission proposal (COM/2023/258) establishing the Union’s Customs Code and the European Union Customs Authority, repealing Regulation (EU) No 952/2013, and evaluating the accompanying proposals following a special legislative procedure: COM/2023/259 and COM/2023/262

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I. Why it matters to consumers

The rapid growth of B2C e-commerce has fundamentally changed the consumption environment for consumers. While it has brought greater and more direct access for consumers to products from around the world, it has also led to a surge in imports of non-compliant and unsafe products¹.

In 2025, consumer organisations found a staggering ~25 percent of a total of 162 tested products to be potentially dangerous². 5 out of 54 tested necklaces contained dangerous amounts of the carcinogenic metal cadmium. Toys for three-year-old children contained allergy-inducing formaldehyde or small parts posing a choking risk, and USB chargers overheated while testing, creating a potential fire hazard. These findings fit in a row of similar tests that showed similar results throughout multiple product categories³.

One key factor behind the rise in unsafe imports is the shift in e-commerce business models. Online retailers usually control product selection, pricing, and shipping. While they may not oversee manufacturing, they are generally responsible for compliance and safety³. Over the past decade, however, online marketplaces have grown in prominence. Unlike retailers, they act as intermediaries between sellers and consumers without assuming liability for what is sold. As opposed to physical marketplaces, online marketplaces generate substantial revenue from each sale and, as vzbv's findings show, often incentivise consumption through aggressive advertising strategies and manipulative website designs⁴. This trend created significant challenges for consumer protection.

Online marketplaces currently have only limited due diligence obligations under the Digital Services Act (DSA) – and evidence shows they often fail to meet even these requirements⁵. What the DSA does not explicitly require, and what consumer organisations consider essential, is clear responsibility for ensuring that non-compliant products are never listed to begin with. This regulatory gap is critical because consumers overwhelmingly assume that products advertised on online marketplaces comply with EU law⁶. Without stronger obligations and liability for marketplaces, unsafe goods continue to enter the market unchecked, leaving enforcement overburdened and consumer trust undermined.

¹ European Parliament (Committee on Internal Market and Consumer Protection): Report on product safety and regulatory compliance in e-commerce and non-EU imports, 2025, https://www.europarl.europa.eu/doceo/document/A-10-2025-0133_EN.html, 26.11.2025.

² Stiftung Warentest: Temu und Shein: Gefährliche Schnäppchen, 2025, <https://www.test.de/Temu-und-Shein-Gefaehrliche-Schnaepchen-6253491-0/>, 26.11.2025.

³ TACD: Unsafe and Online: A Framework for Strengthening Product Safety in the Online Marketplace, 2025, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewixx5zTmJCRAxWL1AIHHd_GG7YQFnoECBUQAQ&url=https%3A%2F%2Ftacd.org%2Fwp-content%2Fuploads%2FTACD-Report-2025.6.16.pdf&usg=AOvVaw2CDeegLs1TLEd7SnGcN-Y&opi=89978449, 26.11.2025.

⁴ vzbv: Manipulatives Design auf Online-Marktplätzen und Social-Media Plattformen, 2025, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewiE3ue7mZCRAxVp0wIHHTVAPRcQFnoECBsQAQ&url=https%3A%2F%2Fwww.vzbv.de%2Fsites%2Fdefault%2Ffiles%2F2025-01%2Fvzbv_Dark-Patterns_Untersuchung.pdf&usg=AOvVaw3FkUv3NkXPnZo1bfg7Wd3&opi=89978449, 26.11.2025.

⁵ European Commission: Commission preliminarily finds Temu in breach of the Digital Services Act in relation to illegal products on its platform, 2025, <https://digital-strategy.ec.europa.eu/en/news/commission-preliminarily-finds-temu-breach-digital-services-act-relation-illegal-products-its#:~:text=The%20Commission%20preliminarily%20found%20Temu,illegal%20products%20on%20the%20platform>, 26.11.2025.

⁶ vzbv: Online-Shopping: Verbraucher:innen erwarten sichere Produkte, 2024, <https://www.vzbv.de/pressemitteilungen/online-shopping-verbraucherinnen-erwarten-sichere-produkte>, 26.11.2025.

vzbv already documented in 2020 that the problem with product non-conformity affects mainly products manufactured in China⁷. Since most of the goods offered on online marketplaces are produced in China, they pass through the Union's customs authorities during import, opening a way to address the issue via a different route – the Union's customs code reform.

II. Introduction

In 2023, the European Commission initiated a comprehensive reform of the European Customs Union by proposing a new Union Customs Code and a new European Union Customs Authority⁸. Both co-legislators (European Parliament and Council of the European Union) have since agreed on their positions and begun inter-institutional negotiations (trilogue negotiations). The reform package consists of the proposals now negotiated in trilogue (COM/2023/258) and two proposals following special legislative procedures: COM/2023/259 and COM/2023/262. COM/2023/259 deals with the elimination of the 150-euro customs duty relief threshold and was adopted by the Council on 13 November 2025⁹. COM/2023/262 proposes an abolition of the 150-euro threshold that limited the application of the Import One Stop Shop (IOSS) special value-added tax (VAT) scheme. The proposal has not yet been adopted by the Council.

On that basis, the following paper shall critically analyse the positions of the two co-legislators, evaluate which text addresses consumer challenges in a more effective way, and provide recommendations where problems remain unresolved. The interplay between the additional texts with the main text currently in trilogue is evaluated in the final chapter.

⁷ vzbv: Product Safety in the EU - A Chinese Problem, 2020, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwjh-bHtmpCRAxU71AIHHS1KL-4QFnoECBUQAQ&url=https%3A%2F%2Fwww.vzbv.de%2Fsites%2Fdefault%2Ffiles%2F2021-06%2F21-05-10_vzbv_China%2520Product%2520Safety.pdf&usg=AOvVaw0IMnAbCDi0CuwrMabq9d4g&opi=89978449, 26.11.2025.

⁸ European Commission: EU Customs Reform, 2023, https://taxation-customs.ec.europa.eu/customs/eu-customs-reform_en, 26.11.2025

⁹ European Commission: E-commerce: 150 EUR customs duty exemption threshold to be removed as of 2026, 2025, https://taxation-customs.ec.europa.eu/news/e-commerce-150-eur-customs-duty-exemption-threshold-be-removed-2026-2025-11-13_en, 26.11.2025

III. Recommendations

1. Proposal COM/2023/258 for establishing the Union's Customs Code and the European Union Customs Authority, repealing Regulation (EU) 952/2013

1.1 Article 2 (1): Consumer protection as a core mission of the reform

Article 2 as proposed by the European Commission sets out the mandate of EU customs authorities and the overarching objectives that guide the Union's customs code. The article explicitly mentions that the customs code shall contribute to other Union policies that protect consumers.

While the European Parliament supports the Commission proposal, the Council deleted the entire paragraph.

Conclusion:

vzbv welcomes the acknowledgement that the EU customs code shall make a positive contribution to other Union policies protecting consumers and supports the European Parliament's position.

1.2 Article 5 (1) (12-13): Defining 'importer' and 'deemed importer'

Article 5 defines the relevant terminology of the Union's customs code. According to today's customs legislation, when a consumer orders goods from a non-EU source and manages the entire import process alone, that consumer is considered the importer. This legal construct, however, was never designed for commercial actors to develop a B2C business model where online marketplaces facilitate distance-sales imports directly to consumers at large scale. Online marketplaces are exploiting this legal construct. Currently, they regularly fail to provide sufficient information on the traders and the designated responsible economic operator within the Union as required under the Digital Services Act. In consequence, when consumers encounter problems with products purchased via online marketplaces, they may have no effective recourse.

In its proposal, the Commission creates a new legal term for intermediaries such as online marketplaces, the 'deemed importer'. According to the Commission's proposal, any person other than the importer, who is involved in the distance sales of goods to be imported from third countries into the customs territory of the Union, and who is also authorised to utilise the IOSS (Import One Stop Shop) scheme, shall be considered the deemed importer (article 5 (1) (12-13)). The IOSS special VAT scheme only accounts for low-value consignments of ≤150 euro, excluding all distance sales above this value threshold. Yet, the Council is revising the IOSS special VAT scheme as proposed in COM/2023/262 by abolishing the 150-euro threshold and streamlining the process of VAT remittance for deemed importers.

The European Parliament expands the Commission's definition, counting all persons involved in distance sales of goods imported from third countries into the Union as deemed importers, not just those who utilise the IOSS VAT scheme.

The Council presents the clearest line of argument of all three institutions in article 5: In the case of distance sales, the importer is a deemed importer. Accordingly, a deemed importer is a person involved in the distance sale of goods imported from a third country into the Union, or a person facilitating such sales on behalf of the supplier. This clearly excludes the consumer from assuming the role of deemed importer.

Conclusion:

As the Commission's and European Parliament's proposed articles 5 leave ambiguity on whether one counts as importer or deemed importer, vzbv supports the Council's reasoning that explicitly considers all importers involved in distance sales inherently to be deemed importers. Thus, the Council text tries to fully address the core issue of online marketplaces and the consumer being considered the importer.

1.3 Article 18: The introduction of the 'handling fee'

Due to the massive surge in parcels being shipped to the EU in recent years¹⁰, customs authorities are overwhelmed and barely able to keep up with their risk management. In Article 18, the Council introduces one of the new tools that is supposed to tackle this issue: the 'handling fee'.

The idea is to incentivise importers to shift from small, individual, low-value imports to bulk imports. If the handling fee were implemented, products might become more expensive for consumers, should traders pass on the additional costs to uphold their profit margins.

While vzbv generally does not welcome a price increase for consumers, it prioritises protecting consumers against the flood of non-compliant and unsafe products. A handling fee could support that objective, on the one hand, by incentivising bulk shipments that are easier to check for customs and, on the other hand, by using the handling fees' revenues to support customs authorities.

The current Council text is ambiguous on the distribution of the handling fee revenues. It merely states that the revenues shall be made available to both Union and Member States (article 18 (1c)). This is not in the best interest of consumers. This way, it would not be guaranteed that the additional income, potentially paid by consumers in the EU, will effectively contribute to strengthening customs authorities.

Conclusion:

vzbv recommends that the revenues from handling fees be earmarked to support customs authorities.

¹⁰ European Commission: Goods bought online, 2025, https://taxation-customs.ec.europa.eu/customs/eu-customs-union-facts-and-figures/goods-bought-online_en#:~:text=The%20communication%20%22A%20comprehensive%20EU,in%20particular%20through%20an%20advanced,26.11.2025.

1.4 Article 20 to 21: Obligations for importers and deemed importers

Article 20 and article 21 outline concrete obligations for the roles of ‘importers’ (Article 20) and ‘deemed importers’ (Article 21) that are defined in article 5.

The European Parliament amends article 20, adding compliance with the General Product Safety Regulation (EU) 2023/988 to the obligations of importers who place goods on the Union’s internal market (Article 20 (1) (c)).

In article 21, according to the Commission’s proposal, deemed importers who wish to place goods on the EU’s internal market must bear responsibility for both fiscal (e.g. correct customs declarations) and non-fiscal (e.g. product safety) obligations (Article 21(2), referring to article 88 (3) (a)). Article 88 makes the release of goods for free circulation in the Union conditional upon the provision of data identifying the responsible importer and the responsible economic operator within the Union (as required under article 4 of Regulation (EU) 2019/1020 (Market Surveillance Regulation)) and article 16 of Regulation (EU) 2023/988 (General Product Safety Regulation). The Council deletes article 21, scrapping the obligations for deemed importers.

Conclusion:

vzbv welcomes the European Parliament’s position, as it would shift responsibility for product compliance towards deemed importers. However, this alone will not resolve the real-world enforcement challenges: customs authorities still depend on the accuracy of the data provided by online marketplaces, and imports failing non-fiscal obligations continue to burden them with additional workload.

1.5 Article 25: Rules and obligations of the ‘Trust and Check’ trader

Article 25 of the Commission proposal outlines the status and accompanying obligations of the so-called ‘Trust and Check’ trader. This status is granted by the Union’s customs authority to importers or exporters who have conducted regular customs operations for at least three years and meet strict criteria, including a record free of infringements, financial solvency, demonstrated operational control, professional competence, appropriate security and safety standards, and the ability to provide real-time access to relevant data on the movements of goods.

Such a status can be beneficial for traders and consumers alike as it can facilitate more efficient customs procedures. The European Parliament adds a paragraph about the need for mandatory training – including on security, safety and compliance standards – for traders who strive to become ‘Trust and Check’ traders (Article 25 (3) (e)).

Conclusion:

vzbv welcomes this amendment but recommends also connecting the proposed mandatory training directly to the obligations laid down in the relevant legislation like Regulation (EU) 2019/1020 (Market Surveillance Regulation) and Regulation (EU) 2023/988 (General Product Safety Regulation).

1.6 Article 88: Conditions for the release of goods into the customs union

Article 88 sets out conditions for the release of goods into the Union that have been imported from outside the EU into the single market. The Commission wants goods only to be released for free circulation within the Union if they come with the accompanying information mandated by article 4 of Regulation (EU) 2019/1020 (Market Surveillance Regulation) and article 16 of Regulation (EU) 2023/988 (General Product Safety Regulation) on the responsible importer or anybody else in the retail chain different from the manufacturer, as well as data on the responsible economic operator within the Union (Article 88 (3) (a)).

This appointed responsible economic operator established within the Union must ensure that products meet EU requirements regarding safety, labelling and documentation.

The implementation of article 88 could result in imports being subject to enhanced compliance and traceability obligations as well as clearer liability for the deemed importer, in particular as the data related to article 4 of Regulation (EU) 2019/1020 (Market Surveillance Regulation) and article 16 of Regulation (EU) 2023/988 (General Product Safety Regulation) must be provided to the customs authorities by the deemed importer before the goods are released for free circulation in the Union. The European Parliament supports this provision; the Council does not (Article 88 (3) (a)).

Conclusion:

The European Parliament's position – making the release of goods for free circulation in the Union conditional on providing the mandatory import-related data – is of utmost importance to consumers and should prevail.

1.7 Article 239a: Creating a platform accessible to consumers for the reporting of goods

Article 239 establishes the framework for internal cooperation between national customs authorities, the Commission, and the EU customs authority, enabling joint checks, temporary officer assignments and the exchange of relevant data to ensure uniform application of customs legislation and effective risk management.

The European Parliament, adding point (a) to article 239, proposes the creation of a 'reporting platform' where one can report non-compliant products. Consumers are explicitly mentioned as a group eligible for filing reports about non-compliant products (Article 239a (1)). This data would be made accessible through the EU customs data hub.

Conclusion:

It is beyond vzbv's means to evaluate the functionality and effectiveness of such a platform ex ante. While in principle the inclusion of consumers in such a reporting platform is positive, it is questionable whether another platform for reporting non-compliant goods, besides the Consumer Safety Gate, is necessary. Furthermore, it must be emphasised that detecting non-compliant products is not the responsibility of consumers and is often beyond their means. Finally, consumer organisations should be added to the list as they, on the other hand, have more means to contribute to such an exercise.

1.8 Article 245 to 254: Sanctioning customs infringements

Articles 245 to 254 address every aspect of sanctioning available to customs authorities when encountering customs infringements: definitions, non-criminal sanctions, aggravating and mitigating circumstances, cooperation and reporting mechanisms, proportionality and enforcement.

The Council deletes the articles proposed by the European Commission entirely. Importantly, the European Parliament adds a subparagraph in article 252 (1), point (ga), where it adds the failure to comply with importer and deemed importer obligations under articles 20 and 21 to the list of acts or omissions that constitute customs infringements.

vzbv supports this addition as it opens a way to penalise importers and deemed importers for violating their non-fiscal obligations.

In article 254, the European Parliament amends the Commission's proposal, adding 'minimum non-criminal sanctions' to the member states' competences rather than recommending a Union-wide harmonised minimum sanction level.

Sanctioning customs infringements should not be left to member states' discretion though, as this could create a 'race to the bottom' between them, competing on the lowest sanctions. In a worst-case scenario, this distribution of competences might effectively create 'safe havens' for customs infringing imports.

Conclusion:

vzbv urges the co-legislators to introduce a harmonised, Union-wide minimum sanction level to counteract the illustrated scenario.

2. Special legislative procedures: COM/2023/259 and COM/2023/262

The two special legislative procedures complementing the main legislative proposal COM/2023/258 both attempt to address the issue of deliberate 'under-valuing' of imports in distance sales. This is apparently done by: (1) 'parcel-splitting' items valued at more than 150 euros into multiple parcels; (2) deliberately 'under-declaring' the value of parcels in their declarations, giving them values below 150 euros; and (3) wrongfully classifying items by the deliberate usage of the wrong customs tariff code (harmonised system code (HS-code)).

COM/2023/259 contains the elimination of the 150-euro customs duty relief threshold which has been in place since 2008. This threshold was intended to ease customs processes for low-value goods and reduce administrative costs. Today, however, its benefits are outweighed by the systemic abuse it enables, making its continuation increasingly unjustifiable.¹¹ The elimination of the threshold attempts to counteract (1) the method of deliberate 'under-declaring' as well as (2) the 'parcel-splitting', as all parcels would be subject to customs duties after its adoption.

¹¹ European Commission: Proposal for a COUNCIL REGULATION amending Regulation (EEC) No 2658/87 as regards the introduction of a simplified tariff treatment for the distance sales of goods and Regulation (EC) No 1186/2009 as regards the elimination of the customs duty relief threshold, 2023, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52023PC0259>, 26.11.2025.

COM/2023/262 attempts to complete this approach with three main steps. Firstly, it wants to match the elimination of the 150-euro customs duty relief threshold with an abolition of the 150-euro threshold which limited the application of the Import One Stop Shop (IOSS) special value-added tax (VAT) scheme¹². Secondly, ‘deemed importers’, hence online marketplaces that act as intermediaries, will be required to use this IOSS special VAT scheme. Finally, targeting (3) the wrongful and deliberate classification of items, a new ‘five-category duty bucketing system’ aims to reduce customs authorities’ administrative costs and allow for swifter checks of correct HS-codes.

Conclusion:

Taken together, vzbv does not believe these measures will solve the product ‘compliance-crisis’. Yet, they could contribute to the tackling of a related problem, namely, to reduce the very high number of parcels to allow for better customs checks. While removing the 150-euro threshold potentially increases product prices, vzbv considers restoring customs authorities’ capacity for risk-based controls essential to protect consumers.

IV. Conclusion

- The ‘compliance-crisis’ will not be solved by the Union’s customs code reform, yet this reform can be a part of the solution.
- If the reform succeeds in reducing the flood of parcels and leads to a shift back to bulk imports and more efficient customs operations, it will lay the groundwork for addressing the ‘compliance crisis’.
- The Commission’s newly proposed term ‘deemed importer’, which attempts to close the loophole that exists with the online marketplace business model, is a welcome modification. Holding online marketplaces to account, even in relation to non-fiscal obligations related to the products whose sale they facilitate, is a major step in the right direction.
- Dismissing a Union-wide harmonised minimum sanction level could create an exploitable loophole for non-compliant product imports.

¹² The IOSS, originally introduced in 2021 to simplify VAT collection on low-value imports, replaced a patchwork of national rules with a single EU-wide declaration system. Linking its broader application to the removal of the 150-euro threshold ensures that VAT obligations mirror customs duties, closing gaps that previously allowed small consignments to bypass taxation.

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