

Position on the EU Customs Reform



PostEurop[•]

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ABOUT POSTEUROP

POSTEUROP is the association which represents European postal operators since 1993 and is officially recognised as a Restricted Union of the [Universal Postal Union \(UPU\)](#).

It is committed to supporting and developing a sustainable and competitive European postal communication market accessible to all citizens and ensuring a modern and affordable universal service.

Its Members employ **1.6 million people** and deliver billions of items annually to over **295 million homes** and **48 million companies** across Europe.

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CONTEXT

PostEurop supports the ongoing consideration of the future of customs and modernisation of the EU legislative and regulatory framework in this area¹ and would offer a contribution to the legislative deliberations on:

- The Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013 [[COM \(2023\) 258 final](#)];
- The 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 [[COM \(2023\) 259 final](#)];
- Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism [[Regulation \(EU\) 2023/956](#)];
- Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market and the export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010 [[Regulation \(EU\) 2023/1115](#)].

Mission of customs authorities [Article 2 of COM (2023) 258 final]

The Proposal does not acknowledge the differentiated nature of State-designated Universal Service Providers (“USPs”) within the EU, operating as part of a single global postal territory, governed by the UPU. Moreover, the Proposal makes no reference to the differentiated nature of postal traffic, at all. This presents clear challenges for citizen-to-citizen postal traffic from 3rd countries, particularly in light of ongoing migration flows occurring due to global security and climate challenges.

This is a marked departure from the original COMMISSION DELEGATED REGULATION (EU) 2015/2446 of 28 July 2015, supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules regarding certain provisions of the Union Customs Code, which under [Recital 6](#) explicitly acknowledges the differentiated nature of postal traffic and citizen-to-citizen flows, including postal items sent by private individuals and expressly recognised the need to ensure citizen-to-citizen access to the single global postal territory.

To address this gap, there is a need to acknowledge the differentiated nature of State-designated USPs in the future, to ensure citizen-to-citizen access to the single global postal territory, as per Article 8 of Universal Postal Convention which states any security measures applied in the international postal transport chain “*must be implemented without hampering worldwide mail flows or trade by taking into consideration the specificities of the mail network.*”

These rights are also enshrined in the EU Charter on Fundamental Rights ([Article 36](#)) which recognises the right of EU citizens to services of general economic interest, and indeed a consumer’s rights to privacy and family life.

In our view, this could be achieved by adding a further subsection to Art. 2 of COM (2023) 258, after sub-section (e), to firstly recognise the differentiated nature of postal flows and secondly, to include a legislative provision that provides for greatly simplified customs systems to reflect the differentiated nature of postal traffic. It is essential that this is given legislative expression, in the empowering Regulation.

In our view, significant, proactive and intensive engagement is required on the part of the European Commission prior to the publication and finalisation of draft delegated and implementing legislation relating to the recast of the Union Customs Code, in order that key concerns are verbalised, understood and worked through in a productive and efficient manner, which will ensure the consistent and harmonised understanding of the revised legislation.

As the Proposal does not address citizen-to-citizen flows including postal items sent by private individuals e.g. gifts, it is unclear how the current gift relief threshold will be maintained or how gifts with a value greater than EUR 45 will be treated.

¹ [European Commission initiative ‘Revision of the Union Customs Code’](#)

The concept of deemed importer, as explained in relation to eCommerce movements, aims to remove all responsibility for customs from private individuals but there appears to be a gap in relation to gifts. In our view, there is merit in giving this issue closer consideration and we will revert with specific proposals in this regard.

Trust and Check Trader (T&C Trader) *[Articles 24-27 of COM (2023) 258 final]*

PostEurop acknowledges that the proposal contains positive elements that can benefit several traders. The concept of T&C Trader builds on existing concepts such as Authorized Economic Operator (“AEO”). The new T&C Trader status could provide benefits and simplifications extending beyond the current advantages provided to AEO, including the possibility to give part of the data on the goods after the release, perform certain controls and release (self-release), self-assessment on the customs debt and deferred payment.

It is important that postal operators are involved in the development of the implementing legislation to ensure that T&C Trader status can be easily obtained and maintained. The current text limits access to T&C Trader to importers and exporters.

Customs representatives will only be able to benefit from the T&C Trader facilitation measures in a limited number of circumstances when acting as indirect representative. When acting as a direct representative, the customs representative will only be recognized as T&C Trader if the represented person has also been granted such status.

PostEurop considers that postal operators in their own role and with the associated tasks and responsibilities, play a sufficiently important role in the supply chain to be able to apply directly for the T&C Trader status and benefit directly from the simplifications provided for, also without being considered as importer or exporter. Like AEO, any person should be able to apply for T&C Trader status provided they meet the prescribed criteria.

PostEurop requests further clarification of the Trust and Check Trader concept and the practical implications thereof for the different parties involved, especially seen the phased-in implementation and in combination with the different forms of representation

EU Customs Data Hub (“EU CDH”) *[Articles 29-40 of COM (2023) 258 final]*

Although details on how the shift from a declaration-based to a data-led system are not yet defined, it is expected that all relevant information in the context of imports and exports from current and new sources – importers, postal operators, platforms, etc. – are to be provided or made available to the EU and national authorities via a central platform to enable a better customs surveillance of goods, as well as monitoring the compliance of traders. While ambitious, the EU CDH is a desirable concept, and PostEurop welcomes the initiative.

Data should be provided only once to the EU CDH and then re-used in subsequent steps of the customs procedure. PostEurop understands the need to have a unique identifier such as the postal S10 barcode that can connect all the parties and all the information provided to the EU CDH. It should be clarified that the party providing data to the EU CDH is not liable or penalized in case the importer/deemed importer/exporter does not provide the data in an accurate and timely manner. A validation process should be introduced to ensure that the initial party has met his/her obligations.

Furthermore, PostEurop strongly recommends launching a consultation process as soon as all stakeholders start to determine the data requirements that will constitute the new EU Customs Data Model for the EU CDH. Finally, the EU CDH should comply with data protection legislation and postal secrecy requirements and will work with clear access requirements.

Temporary storage *[Article 86 of COM (2023) 258 final]*

Under the current UCC, the deadline for the Temporary Storage (TS) is 90 days. Within this timeline, postal operators have the possibility to collect missing information and documents for the subsequent provision for the customs clearance purposes. Whereas postal operators are currently allowed to store goods under TS for 90 days, the European Commission proposes to reduce this timing to only 3 days (and for authorized consignees 6 days). PostEurop strongly recommends keeping the current deadline at 90 days to avoid negative impacts on the postal Universal Service Obligation. A shorter TS period could result in more postal consignments being rejected by Customs Authorities and being returned to sender, as 3 days would not allow sufficient time for posts to attempt to collect missing customs information and documents.

Empowerment of the customs representative [Articles 27 and 28 of COM (2023) 258 final]

PostEurop has recognised that the proposed customs reform does not provide any facilitation on the requirement to obtain empowerment for every shipment when acting as a direct or indirect customs representative. The proposal should remove the obligation for formal empowerment for consignments transported with a single transport contract for door-to-door postal services and introduce the possibility of deemed and implicit empowerment.

Obligations imposed on the different actors in the supply chain [Several articles in COM (2023) 258 final & other legislation]

The proposal indicates that the indirect customs representative will be considered as the importer or the exporter, respectively. This will have a great impact on postal operators acting as indirect representatives who under the current rules take over the fiscal responsibility of the importer but who would in the future also have to ensure compliance with all non-fiscal rules applied by the customs authorities due to the new definition of the 'importer'. This leads to significant risks, particularly in view of new (non-fiscal) legislation on CBAM, deforestation, and forced labour. The postal operator acting as indirect customs representative and therefore being considered an 'importer' should have the right to opt in or opt out for non-fiscal obligations. This will allow the senders/recipients to engage other expert parties for non-fiscal obligations.

Translating "importer" obligations from the traditional trade rule sphere into the sphere of services transacted with individual citizens and consumers is highly challenging. The practical and operational reality of postal operators must be reflected. CBAM will introduce onerous obligations on certain products in the postal supply chain. The carve out for goods below the threshold of EUR 150 will not suffice. Due to the unique and differentiated nature of postal exchanges, postal operators do not have access to the required data and information to fulfil these obligations. Therefore, PostEurop strongly recommends the introduction of an increased threshold exception above EUR 150 or an exemption based on weight, which would allow low-value postal items to be exempt under the legislation.

Similarly, the legislation on deforestation may capture commercial postal consignments containing paper products and make them subject to the obligations as set out in the regulation. Due to the special and differentiated nature of the postal sector, PostEurop urges the Commission to ensure an explicit exemption is included in the legislation to exclude such postal consignments.

Removal of the customs duty de minimis [Article 2 of COM (2023) 259 final]

The Proposal wrongly justifies the proposed removal of the custom duty de minimis of EUR 150, on the basis of a lack of compliance. This is completely misleading. While PostEurop fully agrees with the objective of compliance, we do not agree with the suggested remedy. Customs authorities apply multiple risk criteria, allowing them to detect fraudulent shipments. PostEurop notes that the proposal lacks a comprehensive justification for the removal of the *de minimis* on duties.

While we support the need for compliance, the removal could have a significant negative impact on trade, including on trade relations with 3rd countries, and lead to potential retaliation. It is essential to provide a clear rationale for such a change and thoroughly assess the potential benefits and drawbacks before making any decisions. The EU also needs to ensure such an initiative complies with the WTO Trade Facilitation Agreement (TFA).

Should the removal of the EUR 150 threshold go ahead, processes should be kept as simple as possible, such as the introduction of the Simplified Tariff Treatment for goods, simplified customs declaration, extension of the IOSS scheme to items with value over EUR 150, and deemed or implicit empowerment.

Finally, should the removal of the EUR 150 threshold go ahead, PostEurop urges the Commission not to implement the abolition prior to the planned timeline of 2028, so as to allow posts time to make the necessary operational changes to ensure compliance.

Incongruity between International & EU Law *[Several articles in COM (2023) 258 final & other legislation]*

Various recent pieces of new EU legislation are not sufficiently reflective of the operational reality of the postal sector, which is a global network of operators designed to ensure provision of a worldwide service to consumers. The standards and norms of the UPU have been inherently and intrinsically recognised in the EU Postal Directives since the earliest days of postal liberalisation; and indeed, the converse is true.

However, EU legislative initiatives in recent years have created a misalignment between international and EU law, with additional obligations being placed on UPU members who transact with EU Member States, beyond what is proportionate and necessary, or required under the Universal Postal Convention.

The obligations under the revised UCC, CBAM and the deforestation regulation will increase differences between international UPU legislation and EU legislation, creating a lack of business certainty and confidence when trading with the EU.

With the introduction of these new pieces of EU legislation, incongruity between EU and international obligations will continue to widen.

Additionally, it is essential that there is coherence and coordination across all EU policies areas to ensure protection of common interests and alignment between different EU regulatory obligations and requirements.

PostEurop strongly recommends that proactive and intensive engagement on the part of the European Commission is commenced with the postal sector in order to create harmonisation between international and EU obligations; as well as greater coherence between EU policy areas.

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