Cross-Industry Position Paper on the Contemplated Amendment of Article 201(e) UCC-DA

Application of distance sales measures, including the temporary EUR 3 duty and the Union handling fee, to goods sold from customs warehouses

The undersigned organisations and companies represent sectors that rely on EU customs warehousing as part of legitimate international supply chains. We support the European Commission's objectives of ensuring a level playing field in e-commerce, protecting consumers from unsafe and non-compliant goods, and preventing customs fraud and circumvention, including decisive action against operators that abuse EU rules.

We are, however, seriously concerned about the contemplated amendment of Article 201(e) of the Union Customs Code Delegated Act ("UCCDA"). Under the contemplated amendment, goods sold to EU consumers while stored in a customs warehouse would become subject to the measures applicable to distance sales, including import duties, the temporary EUR 3 duty and the Union handling fee.

As currently framed, the amendment would apply irrespective of the value of the goods and would significantly affect established, fully supervised EU inventory models that are not the source of the problem being addressed. It risks disproportionately burdening compliant EU operators while doing little to reduce the competitive advantage of the non-EU operators it is intended to target. The amendment could also result in higher consumer prices for genuine products already compliant with EU requirements. Given the application of the Union handling fee from 1 November 2026 and the amendment's ongoing preparation, this issue requires the Commission's immediate attention.

How legitimate customs warehousing works

Customs warehousing under Article 201 UCCDA allows businesses to centralise inventory in the EU and serve EU and non-EU markets from a single European hub. Goods are received in bulk, held under customs supervision and allocated only after a sale. Their final destination is generally unknown when they enter storage: the same stock may supply wholesale customers, retail stores, EU consumers or non-EU markets. Duties are paid when goods are released for free circulation in the EU, but not when they are re-exported. This model supports Europe's role as a regional distribution hub and an EU-based ecosystem of warehousing, transport, freight forwarding, declarant and customs services, and related employment.

These legitimate models involve genuine business-to-business purchases of unallocated bulk goods. They are fundamentally different from schemes in which pre-packaged, pre-sold parcels, already linked to individual consumer contracts before entering the EU, are routed through a warehouse. EU policy should distinguish clearly between these models.

Goods held in an EU customs warehouse are not distance sales of imported goods

The contemplated amendment assumes that goods sold from a customs warehouse should be treated like goods located in a third country because they have not been released for free circulation. That premise is open to serious challenge. Customs status does not alter physical location: goods held in a customs warehouse in a Member State are already within the EU and cannot be regarded as dispatched or transported from a third country or territory, as the concept of distance sales of imported goods requires.

The Commission's Explanatory Notes on the VAT e-commerce rules confirm that goods in a customs warehouse in a Member State must first be released for free circulation and are then supplied domestically to EU customers, outside the scope of distance sales of imported goods. Although this confirmation concerns low-value goods, its reasoning does not depend on value. This is important because the contemplated amendment would affect all relevant goods sold from EU-held inventory. Consignments valued up to EUR 150 would bear the temporary EUR 3 duty per item and the EUR 2 Union handling fee per item. Above EUR 150, goods would be subject to duty based on origin, tariff classification and value, generally without access to preferential tariffs, as well as the Union handling fee.

Unintended consequences of a blanket amendment

- **Undermining EU competitiveness, investment and employment.** Additional costs on inventory already held under EU customs supervision would disadvantage EU-based models while leaving direct third-country shipments comparatively unaffected. This would weaken the intended level playing field and create incentives to relocate inventory, logistics activity and customs-related employment outside the Union.
- **Penalising compliance and forcing premature clearance.** To avoid the additional charges, operators could be compelled to release goods for free circulation in bulk before a consumer sale occurs. This would not reduce duty liabilities but would remove the duty-deferral and cash-flow benefits of customs warehousing and burden goods ultimately destined for non-EU markets. Compliant operators would be penalised for using an instrument provided by EU law and promoted by the Commission, including through the new customs warehouse for distance sales from 1 July 2028.
- **Increasing prices for EU consumers.** Extending distance-sales measures to EU-held inventory would add the temporary EUR 3 duty on lower-value goods, remove preferential tariff treatment for highervalue goods and impose a non-refundable handling fee on every item, including returned items. Legitimate businesses have already had to pass on costs arising from the temporary duty. Further charges would increase prices and reduce consumer choice and delivery performance, without a corresponding safety or compliance benefit.
- **Straining customs oversight.** Treating bulk warehoused inventory as transaction-level distance sales would increase declaration volumes and administrative burdens for businesses and customs administrations, diverting capacity from genuinely higher-risk flows.

A workable, targeted alternative

The decisive question should be the nature of the business model, not merely whether goods remain under a

customs procedure when sold. The Commission should replace the blanket amendment with a targeted anti-abuse rule based on objective indicators already identified in its guidance, while fully preserving effective enforcement against counterfeit, unsafe and non-compliant goods:

- Distance-sales treatment should apply where objective evidence shows that goods entering or held in a customs warehouse are linked to pre-existing consumer sales or individual final destinations, , including goods already sold, assigned, allocated or earmarked for individual consumers even where consolidated into bulk shipments. Indicators may include consumer-level allocation or parcelisation, destination-specific labels, barcodes or QR codes, and comparable evidence of circumvention.

- Ordinary customs warehousing treatment should remain available for genuinely unallocated bulk inventory held under customs supervision where the final destination is not fixed on entry and the stock may serve wholesale, retail, EU and non-EU demand. This treatment should not be available where warehousing is used to disguise individual consumer consignments or circumvent applicable customs requirements, and it should not be exploited from operators to circumvent applicable measures by restructuring their distribution or fulfilment arrangements.
- Enforcement should be strengthened through appropriate risk indicators, data analysis and guarantees, enabling abusive grouped consignments to be identified and addressed. Any differentiated treatment must be conditional on enforceable safeguards and must not undermine effective enforcement against counterfeit, IP-infringing, unsafe and otherwise non-compliant goods. Customs and market surveillance authorities must retain the ability to identify, inspect and act against such goods, irrespective of the customs warehousing model used.

Request

We respectfully ask the Commission urgently to:

1. reconsider treating non-Union goods sold from customs warehouses as distance sales of imported goods and refrain from adopting a blanket amendment of Article 201(e) UCCDA;
2. adopt a targeted, indicator-based anti-abuse approach; and
3. engage with a cross-industry group and national customs authorities before adopting any amendment, to develop workable operational criteria that take account of the implementation timelines for the temporary EUR 3 duty and the Union handling fee.

We stand ready to provide practical evidence and expertise and to work with EU policymakers on solutions that are effective, operationally workable and do not disproportionately undermine the competitiveness of European businesses.

Signatories:

AmCham EU – American Chamber of Commerce to the European Union

APPLiA – Home Appliance Europe

EBCA – European Branded Clothing Association

Ecommerce Europe