



CONNECTING THE WORLD

Streamlining customs procedures
benefits consumers and stimulates the economy



AmCham EU

SPEAKING FOR AMERICAN BUSINESS IN EUROPE



EMJU 8679837
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Foreword

Customs is critical to international trade and security. While clearing goods at EU borders, it plays an equally important role in assuring safety, fighting fraud and securing revenue. The efficiency of customs procedures significantly affects a country or region's economic competitiveness and stimulates growth in trade and cross-border commerce. **Streamlining EU customs to make it easier, faster and more uniform will improve Europe's economy.**

The European Commission issued its Digital Single Market Strategy highlighting the need to improve parcel delivery by making it more efficient and affordable for business and consumers. This calls for making electronic commerce (e-commerce) easier, particularly for Small and Medium-sized Enterprises (SMEs). Customs procedures are currently complex and cumbersome, preventing companies – primarily SMEs - from trading across borders. Commission President Jean-Claude Juncker has stated: 'SMEs are the backbone of our economy, creating more than 85% of new jobs in Europe and we have to free them from burdensome regulation'.

That is what the Customs and Trade Facilitation Committee of the American Chamber of Commerce to the EU (AmCham EU) strives to achieve. Developing **clear, simple and effective** customs legislation will benefit customers, companies, customs authorities and the economy. To that end, AmCham EU has devised recommendations that we believe will accomplish this. We will continue to actively engage with the Commission, the Council of the EU, the European Parliament and other institutions to shape proposals that lead to a **modernised and forward-looking customs framework** allowing for the **safe and seamless movement of goods**.

This will enable businesses of all sizes across the EU to grow, benefit consumers by allowing greater choice and efficiency and contribute to a more vibrant European economy.



A stylized, handwritten signature in blue ink, appearing to read 'W. Van der Meiren'. The signature is fluid and cursive, with a long horizontal stroke at the end.

Walter Van der Meiren
Chair of the Customs and Trade Facilitation Committee,
American Chamber of Commerce to the European Union



Executive summary

Customs affects most of us on a daily basis whether we are aware of it or not: the small business owner awaiting parts from a supplier; the e-shopper anticipating the arrival of the latest electronics device; or the medical technician expecting important medical supplies. Customs authorities are key to ensuring that goods arrive seamlessly when and where they are expected.

They do this in a variety of ways. Primarily, they manage the collection of duties, value added tax (VAT) and fines and ensure goods meet regulatory requirements. Perhaps less apparent is their key role in safeguarding and protecting Europe's citizens; this responsibility has increased since 9/11 and other terrorist attacks and requires constant vigilance and more rigorous control measures. Customs is also charged with preventing illegal imports, fraud and smuggling. Such activities harm the economy, hurt legitimate businesses and cheat our citizens.

With such a wide array of services critical to Europe's economic viability and security, it is imperative that regulation supports the safe and smooth movement of goods. The Union Customs Code (UCC) adopted in 2013 sought to do just that. However **we believe the UCC has not gone far enough to simplify and harmonise procedures. In some cases it will make procedures more burdensome.** To address these remaining issues, AmCham EU urges members of the European Parliament, Commission and Council to implement the following recommendations to eliminate these remaining barriers and ensure swift customs clearance:

- 1 Separate the collection of customs duties and taxes:** Keep the collection of duties with customs authorities and appoint a governmental agency to collect taxes. This will greatly reduce compliance burden and costs for importing companies and consumers alike. Doing so would not impact the financial interest of Member States.
- 2 Allow Authorised Economic Operators (AEOs) to expedite their goods more quickly:** By certifying trusted traders and granting them a 'fast lane', or the ability to process goods more rapidly, customs authorities can focus their limited resources on other shippers that pose a greater or unknown risk. The current AEO accreditation programme does not provide enough benefits to businesses, particularly SMEs, which expend considerable resources to become accredited.
- 3 Streamline the importing process by creating a 'one stop shop' system:** Allow various regulatory controls (e.g. veterinary, phytosanitary, agricultural) to be managed through a single IT interface mutually used and recognised in all Member States. This will eliminate red tape, saving time and money as goods will only be stopped once for checks.
- 4 Centralise the clearance of goods:** Permit importers to handle all customs formalities through a single customs office in any EU member state rather than the current requirement to separately clear goods in all 28 countries.
- 5 Apply customs penalties uniformly:** Penalties for infringements should only be applied in cases of proven gross negligence or intentional fraud. These penalties should be levied on the basis of unpaid or underpaid duties and should not be calculated based on the value of the goods.

Above all, both customs officials and companies need rules that are easily applicable and understandable and that support and expedite trade rather than hamper it. They should serve as a tool, not an obstacle - particularly for SMEs, which are the growth engines of the European economy.

What are the roles and responsibilities of customs?

Today's customs authorities have a wide range of roles and responsibilities extending far beyond those we know so well when we travel across borders.

Most of us only know the tip of the iceberg, but what lies beneath? Customs' responsibilities can be divided into two categories: **fiscal tasks** and increasingly important **non-fiscal tasks**.

FISCAL TASKS

The traditional responsibilities of customs are to **assess and collect** various types of duties, import VAT and fines. This process has become much more complicated in recent years. Collection of certain duties requires substantial knowledge of national and EU legislation. For instance, there could be up to 28 different import VAT rates on car parts depending on the country of import.

Did you know?

Every minute, 534 customs declarations are made in the EU.

The World Health Organization (WHO) estimates that 50% of medicines purchased from internet sites are counterfeit.



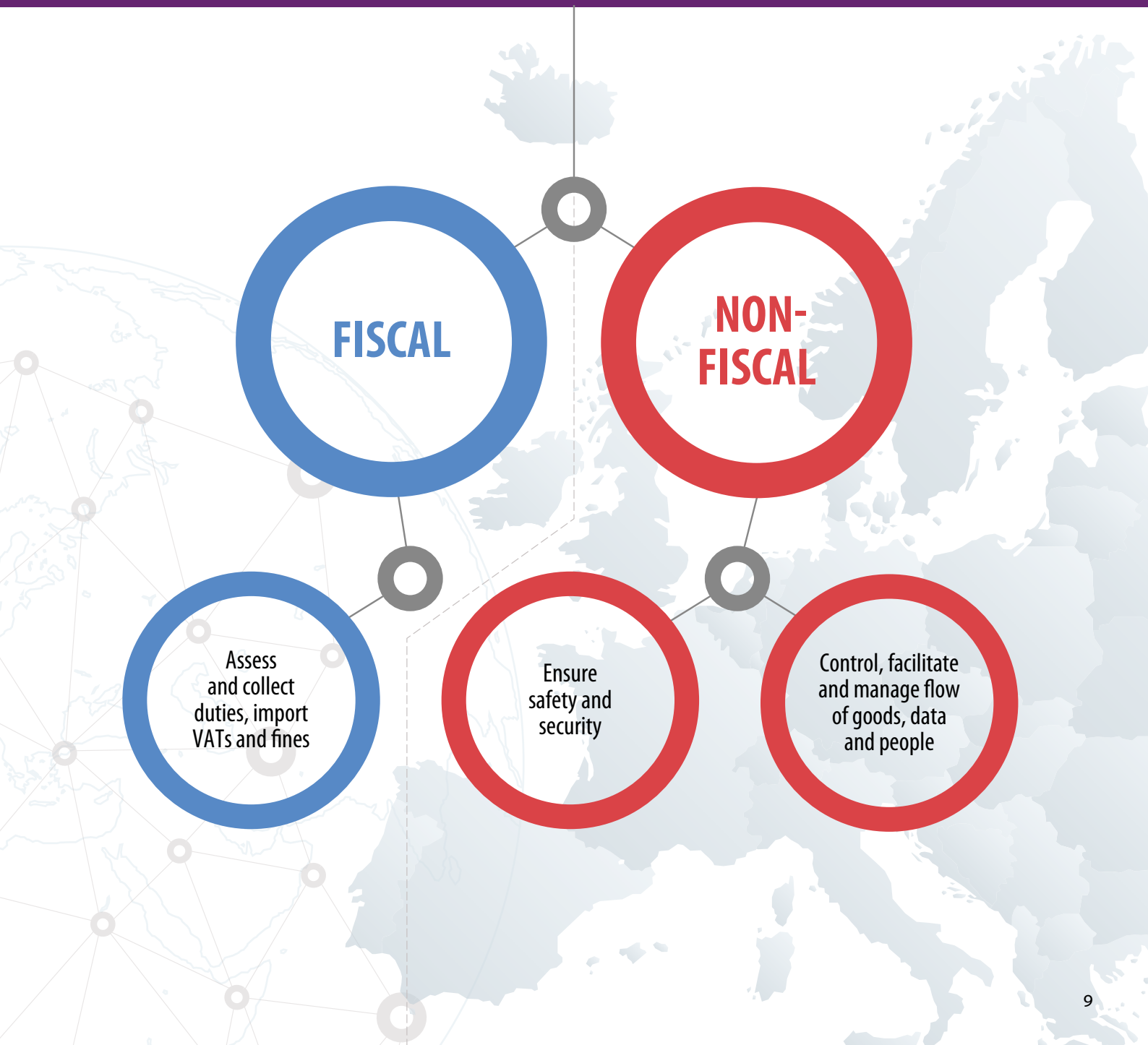
NON-FISCAL TASKS

These comprise a range of other activities performed by customs that have become more important over the years. Such tasks are twofold and 1) **ensure safety and security**, as well as 2) **control, facilitate and manage** the flow of goods, data and people.

The first set of these tasks includes minimising security threats by assessing risk based on data submitted when goods arrive or depart, to avoid their possible use by terrorists. Enforcing product safety standards and detecting dangerous goods also pose an increasing challenge.

The second set of these tasks focuses on detecting and apprehending counterfeit products and illegal imports; preventing smuggling and fraud; conducting sanitary controls on food and feed products; prosecuting infringements; and collecting trade data. International crises and organised human trafficking, as well as the boom in cross-border trade and demands for additional risk and fraud information also put pressure on customs to take on greater responsibilities. Further automation, harmonisation and standardisation are crucial to ease the growing burden on customs officials and make sure goods are delivered on time, without compromising consumer product safety and the security of EU citizens.

Fiscal & non-fiscal tasks of EU & national customs





The new customs reality

The role of customs authorities changed dramatically following the events that shook the world on 9/11. Customs officials are now responsible for ensuring supply chain security in addition to collecting revenue, preventing smuggling and facilitating trade. New systems and processes have been implemented to prevent acts of terrorism, and the concept of a 'trusted trader' has been introduced. The EU's Authorised Economic Operator (AEO) programme, whereby traders or other economic operators are certified as compliant with certain supply chain security standards, has since become a must-have for most European traders.

Other changes have also shaped the new role of customs. The **e-commerce** revolution has moved international trade from the local high streets into our living rooms, and quite literally brought a world of choice to online shoppers' fingertips. This new way of shopping has increased the need for speed and flexibility.

The financial crisis has prompted many governments to seek additional revenue and become more cost-effective. As a result they have introduced **enhanced and affordable IT systems to save costs and increase their efficiency in assessing risk**. However now we are seeing some EU Member States question fundamental principles, such as the free movement of goods within the EU's internal market.

Despite the ambitious objectives of uniformity, modernisation and simplification of customs rules set out in the UCC, **a trader active throughout the EU must still interact with up to 28 different IT systems and faces 28 different interpretations of customs procedures, different VAT rules**, and different approaches to safety and security. While larger corporations have the resources to deal with inconsistencies and local differences, these challenges often overwhelm smaller companies. As a result, SMEs often shy away from or simply opt out of exporting.

Customs can significantly boost economic growth and productivity and help raise standards of living by removing technical barriers to trade. Making customs procedures more efficient would reduce trade transaction costs and enable goods to be delivered more quickly. Achieving safe, flexible and efficient customs processes in the face of shrinking budgets and diverging national measures is a challenge faced by customs authorities today.

Did you know?

Counterfeit clothing and medicines are among the top categories of goods detained at EU borders, representing respectively 12% and 10% of all articles detained.



What industry is saying



Caterpillar

Julie Hoeniges,
Global Customs Compliance Manager

To meet the time-critical needs of our customers, Caterpillar invests considerable time and resources to ensure a smooth and predictable supply chain. Our European plants have historically followed simplified customs clearance procedures. To help expedite that process, we have implemented an internal programme to help Caterpillar entities become accredited as Authorised Economic Operators (AEOs). This accreditation is designed to speed up the clearance process end-to-end. This programme has required significant investment by Caterpillar to ensure there are clear and robust documentation and security procedures in place. Additionally we have completed a voluntary self-assessment questionnaire ahead of the accreditation audits of the customs authorities.

Although the introduction of the AEO system is a move in the right direction, we don't feel it goes far enough to speed up the process of receiving, processing, storing and shipping goods to meet supply chain demands. The accreditation process needs to give a genuine 'fast lane' to those designated AEOs. Also during customs audits or requests for a customs decision, procedures need to be re-explained and documentation needs to be reproduced causing delays in processing.



A 'fast lane' would remove the need to assess individual transactions or shipments, speed up the clearance process, free up scarce customs resources and ensure a more predictable supply chain. This would greatly benefit shippers and customs officials alike.



UPS

Rich Moore,
Europe Region Operations Manager, UPS Europe

With over 80 years of customs brokerage experience and offices in over 60 countries around the world, UPS processes millions of customs entries annually and employs thousands of qualified subject matter experts around the globe. Over recent decades, UPS has worked with national customs administrations and the EU institutions to share best practices to ensure safer and faster border clearance processes. In today's era of global supply chains and e-commerce, it is vital to have policies and procedures that facilitate trade including simplified documentation, pre-arrival release of goods at the first point of entry, data driven risk assessment and a centralised 'one stop shop' clearance process.

But current regulation doesn't always allow that. The following example illustrates how the system could be improved: Currently if a package is being shipped from the United States to Liege, Belgium, it would be flown to our European hub in Cologne, Germany, where it would be sorted overnight and delivered to Belgium the next day. This sounds simple enough, but the journey doesn't end there. Due to current customs process requirements, the package must be accompanied by a special transit customs document for its journey from Cologne to Belgium. Once in Belgium, its first stop must be in Brussels, where it has to be physically presented to Belgian customs and granted release for final delivery. Only then can the package move to its final destination in Liege. By changing current practices to enable release of goods at the first point of entry in the EU the package would travel directly from Cologne to Liege. This would result in faster delivery, fewer kilometres travelled (from 359 to 138), and lower fuel consumption.



Recommendations

Modern and well-functioning customs procedures are crucial to Europe's continued competitiveness in the global economy. We trade more, travel more and expect to be able to easily access the best products and services from anywhere in the world without jeopardising safety and security.

With this in mind, AmCham EU offers the following recommendations:

1. Separate the collection of customs duties and taxes

When importing goods into the EU, the customs authorities in the destination country are responsible for managing the process through various IT systems and procedures. The basic rules for importing goods into the EU stem from a common legislative customs framework that should be applied equally in all Member States. Together these form the Customs Union. One of the customs authorities' most important responsibilities is collecting different types of import tax, primarily import VAT and import duties.

As part of the EU's Customs Union, **import duties are identical for a particular product in each member state**. A portion of the collected duties can be kept by that member state as compensation for its role in collecting these import duties, but the bulk of these go into the EU budget.

Although also collected by customs authorities, **import VAT is dictated by a different set of rules that is far less harmonised at the EU level** and allows Member States much more discretion. The import VAT percentage for a particular product consequently varies depending on the member state in which the product is imported. Import VAT is destined exclusively for the collecting member state's national budget.

A single customs authority is therefore responsible for managing imports according to different sets of complex customs and taxation rules. This situation creates a **substantial compliance burden** not only for the actual importers but also for other stakeholders involved in the import process. This includes customs brokers and freight forwarders who work on behalf of importers or individual consumers.

We believe that this compliance burden could be reduced considerably if **customs authorities were responsible solely for collecting import duties. Import VAT could meanwhile be collected by a different governmental agency**. This shift in responsibilities would still protect the member state's financial interests but at a **lower cost for importing companies and consumers**.

Did you know?

Every minute, 4,221 tons of goods worth a total of €6.3 million are imported or exported.

2. Allow Authorised Economic Operators (AEOs) to expedite their goods more quickly

Like many other countries and trading blocs, the EU has introduced a voluntary AEO programme. This scheme allows companies engaged in import and export activities to be accredited as a trustworthy partner (i.e. low risk party) in their dealings with customs authorities if they can demonstrate that their safety and security processes meet certain standards. By certifying and granting trusted traders a 'fast lane', or the ability to process goods more rapidly, customs authorities can focus their attention and limited resources on other shippers that pose a greater or unknown risk.

Although current EU legislation foresees some advantages for AEO companies, in practice these are modest and **the investments required to become accredited currently outweigh the benefits**. This may explain why only a relatively limited number of companies potentially eligible for the AEO program have participated. Participation amongst SMEs is especially low.

The new UCC could have created momentum to resolve this, but unfortunately it does not. **What is needed is the creation of a 'fast lane'**. That would mean that AEO-accredited companies would be assessed on the basis of their operational processes rather than on individual shipments and **would allow customs authorities to focus their scarce resources on other critical areas including safety, security and fraud**. This would offer clear efficiency and resource gains. Individual shipment controls should only be used when there are suspected irregularities or risks.

AEOs should be able to reap tangible rewards as a result of their investment and commitment and enjoy significant waivers from certain obligations, including reduced data filing requirements. In addition to the benefits for business and customs, many consumers would also receive their products more quickly.



3. Streamline the import process by creating a 'one stop shop' system

Beyond their other roles, customs authorities are well placed to carry out controls on behalf of other government agencies. Some examples include veterinary, phytosanitary and agricultural checks.

The concept of a 'one stop shop' would greatly enhance the orderly and timely supply of goods to the EU market. All controls typically undertaken after the arrival of goods on European soil should ideally be managed through **one single, electronic portal** so that goods only have to be physically stopped once.

However, because the EU and its individual Member States have their own separate legislation in place, different controls are currently managed through different IT systems.

This **lack of harmonisation**, both on the legislative and procedural side, is the main reason why the swift implementation of a 'customs-led one stop shop' at the EU-level is not yet in place. Member States may as a result seek to first develop a 'national customs one stop shop', to connect all agencies and traders in a given member state, and then later make those national systems interoperable.

While AmCham EU appreciates the challenges incurred by differing national restrictions, the 'one stop shop' should ultimately connect all actors: citizens, consumers and companies. This calls for an EU-led strategy harmonised across all Member States.

Harmonisation can bring tangible benefits to both governments and business. A 2008 UN report says that governments see enhanced compliance and increased revenue as a result. In 2010, the first year of **full implementation of the 'one stop shop' system in South Korea, an estimated \$18 million in benefits was generated**. Singapore, the first country to establish 'one stop shop', claims that for every \$1 earned in customs revenue, it spends only one cent.

Business benefits from only having to follow one standardised set of rules and being able to redeploy productive resources elsewhere, leading to increased productivity and competitiveness.



4. Centralise the clearance of goods

When goods are imported into a member state, the importing company must currently pay import taxes in that country even if it is not established there.

In a true single market, there should be a mechanism allowing importing companies to fulfil all importing obligations in the country where they are established, using one set of rules, carrying out formalities in a single language and with the authorities they are familiar with. These authorities could then collect import taxes and redistribute them to other Member States, as necessary.

Centralising customs clearance activities, irrespective of where the goods are physically located, will create a framework for companies to consolidate their expertise and workforce in one place and control the supply of goods in a more efficient and smooth manner.

Until EU VAT rules are truly harmonised, different national specificities make the introduction of centralised clearance challenging. AmCham EU firmly believes that the **collection of customs duties and import VAT should be split so that at least the customs formalities can be centralised in a company's 'home' member state**. This will decrease the burden on companies, allowing important time and financial savings.

5. Apply customs penalties uniformly

Although EU Member States form a Customs Union with a Common Customs Code, the application and enforcement of customs rules, including the imposition of penalties for infringements of those rules, is still the responsibility of individual Member States. AmCham EU remains very supportive of the new UCC's aim to harmonise customs legislation.

However, the Commission's proposal seeks to harmonise the rules for handling customs infringements by **introducing the principle of strict liability that punishes all infringements, including those committed in good faith (i.e. without any fraudulent intent)**. This, we believe, would be a mistake. Complex customs rules and ever-growing international trade inevitably lead to infringements as a result of human error. AmCham EU believes that penalties should only be imposed in cases of proven gross negligence or intentional fraud.

The Commission's proposal also seeks to introduce fines calculated on the basis of the value of the goods, rather than on the basis of the duties that were not paid or underpaid. Such a system will disproportionately penalise companies or citizens who trade expensive goods, regardless of the type of infringement. AmCham EU is therefore of the opinion that **fines should only be collected on the basis of unpaid or underpaid duties**.

These are fair solutions to real problems that will not unduly punish honest mistakes and will not over-penalise certain types of companies.

Conclusion

As we look ahead to the future of EU customs policy, the challenges are clear. Customs processes must continuously evolve with the growing demands of global supply chains, adapt to new opportunities offered by technology and respond to emerging security challenges.

Striking this balance will not be an easy task, however AmCham EU believes that by simplifying the legal framework that surrounds customs policy in the EU and progressing from the current puzzle of 28 different national customs clearance models to a single European model, a new wave of economic growth and European competitiveness can be unleashed.

AmCham EU's recommendations seek developments in customs policy that will benefit national customs authorities, businesses of all sizes and European consumers. With the right customs tools, goods can move safely, efficiently and reliably to and from businesses and consumers in Europe, setting the scene of a new era of trade, economic growth and security.





AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe.

AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate U.S. investment in Europe totalled \$2.2 trillion in 2014 and directly supports more than 4.2 million jobs in Europe.

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