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2023/0157 (NLE)

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**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons for and objectives of the proposal

The present initiative is, together with the proposal for a Regulation of the European Parliament and of the Council establishing the Union Customs Code, the European Union Customs Data Hub and the European Union Customs Authority, and repealing Regulation (EU) 952/2013 ('UCC revision')<sup>1</sup> and the proposal for a Council Directive amending Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ('VAT proposal')<sup>2</sup>, part of a broad and comprehensive reform of the Customs Union which the Commission has adopted today.

The Customs Union is one of the earliest achievements of the Union and is essential for the proper functioning of the single market. It is based on a Common Customs Tariff laying down the customs duties rates to be applied on imports of goods from outside the Union and common procedures for goods being brought into or taken out from the customs territory of the Union. Customs duties arise from commercial and trade policies. Together with other duties in respect of trade with third countries, they are referred to as Traditional Own Resources (TOR) accounting for 11% of Union budget for 2022. Member States are responsible for the collection of customs duties, according to the rules established by Council Regulation implementing the Own Resources Decision<sup>3</sup>.

In recent years, the change in trade patterns and the rise in e-commerce has become a major challenge for customs authorities. Today, e-commerce represents more than twice the number of traditional trade transactions for only 0.5 % of the value.<sup>4</sup> This high number of transactions for a low value makes it difficult both for customs authorities to properly supervise the online trade flows, and for operators to comply with multiple reporting obligations per parcel.

Parcels valued up to EUR 150 that are directly sent from a third country to a consignee in the EU are relieved from customs duties.<sup>5</sup> The customs duty exemption for low-value goods was enacted in 1983 and increased in 1991 and in 2008. Until 1 July 2021, there was also a VAT exemption on imported goods of negligible value (below EUR 22). Both exemptions were justified in the disproportionate administrative burden of handling customs declarations for charging low customs duties and VAT on low value goods.

However, in 2017, with the adoption of the VAT e-commerce package Member States agreed to eliminate the VAT exemption for low-value imported goods to protect Member States' tax revenue, to create a level playing field for the businesses concerned and to minimise burdens on them.<sup>6</sup> The Directive also provides for a One Stop Shop (IOSS) for e-commerce

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> Council Regulation (EU, Euratom) No 609/2014 of 26 May 2014 on the methods and procedure for making available the traditional, VAT and GNI-based own resources and on the measures to meet cash requirements (Recast) (OJ L 168, 7.6.2014, p. 39).

<sup>4</sup> Between 1 Jan 2022 and 31 December 2022, "traditional traders" filed over 405 million import declarations for a value of EUR 2.907 billion. By contrast, 1,1 billion super-reduced customs declarations (on item level) for goods up to EUR 150 were recorded, for a total declared value of EUR 12,3 billion. That is an average declared item value around EUR 11,00 EUR.

<sup>5</sup> Article 23 of Duty Relief Regulation (Council Regulation 1186/2009 (Official Journal L 324 of 10/12/2009, p.1).

<sup>6</sup> Council Directive (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods (OJ L 348, 29.12.2017, p. 7).

intermediaries selling goods from third countries to European consumers, allowing them to collect the import VAT at the moment of sale instead of collecting it when the goods enter the Union market. To check whether VAT was charged at the moment of the sale or needs to be collected at the border, all parcels must be declared to customs upon arrival to the EU. Accordingly, from July 2021, all imported goods are subject to VAT and covered by a digital customs declaration, including for goods valued up to EUR 150 for which no customs duties are due. According to the Commission evaluation<sup>7</sup> of the VAT rules, eliminating the VAT exemption for low value imports has been a success. In the first 6 months, Member States collected EUR 1.9 billion in VAT and both the tax and customs authorities now have data on e-commerce transactions.

However, the difference between the VAT and customs treatment of e-commerce goods renders the system very complex for the parties involved. The current picture is the following: VAT is applicable on all goods, while customs duties are applicable on goods of value higher than EUR 150; VAT is collected and declared at the moment of sale by online platforms but is checked at arrival when postal and express operators declare the goods to customs.

Moreover, despite the fact that from July 2021 each parcel is reported to customs, checking the compliance with financial requirements remains a challenge for customs authorities. In particular, maintaining the customs duty exemption for goods up-to EUR 150 has left the door open for the systematic abuse of that threshold through undervaluing and splitting of consignments. There is evidence of such abuse of the EUR 150 threshold through undervaluing and splitting consignments. A study conducted by Copenhagen Economics in 2016 estimated that about 65% of the e-commerce consignments are undervalued in terms of customs duties.<sup>8</sup> Moreover, in its special report on import procedures<sup>9</sup>, the European Court of Auditors (ECA) concluded that the current customs IT clearance systems are not able to prevent the importation of goods that are ineligible for the customs duty relief, and this is not compensated for by ex-post controls and investigation plans.<sup>10</sup>

Competition is therefore distorted. The duty exemption favours third country e-commerce operators over traditional trade and EU retailers, which must pay customs duties when importing in bulk, and encourages the establishment of e-commerce distribution centres outside the EU.

The present proposal builds on the report of the **Wise Persons Group** on the Challenges Facing the Customs Union.<sup>11</sup> The Wise Persons Group recommended, inter alia, the removal of the customs EUR 150 threshold for e-commerce because, by pushing exporters to the Union to split consignments into smaller packages, such threshold provides the wrong incentives both in terms of trade (unfair competition) and of environmental sustainability (higher emissions footprint).

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<sup>7</sup> See Commission Staff Working Document impact assessment report accompanying the proposal for a Council directive amending Directive 2006/112/EC as regards VAT rules for the digital age ([SWD\(2022\) 393 final](#)).

<sup>8</sup> Copenhagen Economics (2016), E-commerce imports into Europe: VAT and Customs treatment.

<sup>9</sup> [ECA Special Report No. 19/2017 Import procedures: shortcomings in the legal framework and an ineffective implementation impact the financial interests of the EU](#)

<sup>10</sup> ECA Special Report no 12/2019, points 81-88.

<sup>11</sup> The [Wise Persons Group on the challenges facing the Customs Union](#) was composed by 12 high-profile members with experience, in the public or the private sector, of customs matters, e-commerce, risk management, the international supply chain, IT and data analytics internal market legislation and international trade law. The group, led by Mrs. Arancha González Laya, former Minister of Foreign Affairs, European Union and Cooperation of Spain, conducted hearings with 48 [interlocutors](#) and an [open consultation](#). The [report](#) was published on 30 March 2022.

In order to address the specific challenge posed by e-commerce goods, the present proposal complements the proposal on the UCC revision which was adopted by the Commission today by: 1) eliminating the duty relief for the importation of goods with a value not exceeding EUR 150; and 2) introducing a simplified tariff treatment for goods imported under a business-to-consumer (B2C) transaction qualifying as distance sales for VAT purposes. The proposal on the revision of the UCC foresees further simplifications in relation to tariff classification, customs value and origin to determining the customs duty for the goods imported under distance sales. The simplified tariff treatment is to be applied on a voluntary basis by the (deemed) importer. Therefore, if the (deemed) importer wishes to benefit from preferential tariff rates by proving the originating status of the goods or from conventional or applicable lower autonomous duty rates, that person can do so by applying the standard procedures.

The proposed facilitations in the calculation of the customs duty are expected to offset the affects of the removal of the duty relief threshold on the administrative burden of customs authorities and businesses and simplify processes and procedures for operators.

- **Consistency with existing policy provisions in the policy area**

This initiative is consistent with and follows up to the 2022 Customs Action Plan<sup>12</sup> where the Commission identified a number of actions to take the Customs Union to the next level. The actions focused on four main areas of intervention: risk management, e-commerce, compliance, and the Customs Union acting as one. In particular, under action 9, the Commission endeavoured to examine the effects of e-commerce on customs duty collection and on the level playing field for EU operators, including possible arrangements for customs duty collection on the lines of the new VAT collection approach under the Import One-Stop-Shop ('IOSS').

- **Consistency with other Union policies**

This initiative is consistent with the VAT in the Digital Age (ViDA) proposal<sup>13</sup>, which was adopted by the Commission on 8 December 2022 and is currently being discussed in the Council. The ViDA proposal aims to modernise and reshape the EU system of VAT to the the digital era. It represents an extensive and multifaceted package of reforms with three key primary aims, one of which is to enhance the concept of a single VAT registration (SVR) in the EU. The concept of a single VAT registration (SVR) in the EU aims to introducing measures to further reduce the instances in which a taxable person has to register for VAT in more than one Member State.

In addition to the ViDA proposal, the third element of the Customs Union reform package is a proposal to amend the VAT Directive<sup>14</sup> with a view to eliminate the EUR 150 threshold for the purpose of the liability of the taxable persons facilitating the distance sales of goods and the application of the special scheme for distance sales of goods imported from third territories or third countries and special arrangements for declaration and payment of import VAT. The removal of the EUR 150 threshold for customs duties exemption in conjunction with the removal of the EUR 150 threshold for the use of the IOSS should help to mitigate instances of undervaluation, thereby protecting the revenues of Member States.

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<sup>12</sup> Communication from the Commission to the European parliament, the Council and the European Economic and Social Committee -Taking the Customs Union to the Next Level: a Plan for Action, Brussels, 28.9.2020 ([customs-action-plan-2020\\_en.pdf \(europa.eu\)](#)).

<sup>13</sup> COM(2022) 701, 703, 704.

<sup>14</sup> Proposal for a Council Directive amending Directive 2006/112/EC as regards the value added tax provisions relating to taxable persons who facilitate distance sales of imported goods and the application of the special scheme for distance sales of goods imported from third territories or third countries and special arrangements for declaration and payment of import VAT

The initiative supports the EU's sustainable growth strategy<sup>15</sup> that refers to better tax collection, reduction of tax fraud, avoidance and evasion and to the reduction of compliance costs for business, individuals, and tax administrations. Improving taxation systems to favour more sustainable and fairer economic activity is also part of the EU's competitive sustainability agenda.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

### **• Legal basis**

This Regulation amends Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty and Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff.

Both amendments are based on Article 31 of the Treaty on the Functioning of the European Union. That Article provides that the Common Customs Tariff duties shall be fixed by the Council on a proposal from the Commission.

### **• Proportionality**

The proposal is consistent with the principle of proportionality and does not go beyond what is necessary to meet the objectives of the Treaties, in particular the smooth functioning of the customs union and the single market.

Proportionality is ensured by the fact that this initiative eliminates the duty relief threshold for the importation of low value consignments into the EU and promotes a more effective and simpler approach for the collection of customs duties in relation to goods imported under distance sales.

### **• Choice of the instrument**

The proposal requires amending Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty (the 'Duty Relief Regulation') and Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (the 'Common Customs Tariff').

## **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

### **• Ex-post evaluations/fitness checks of existing legislation**

The Commission has not carried out an *ex-post* evaluation of Council Regulation (EC) No 1186/2009 and Council Regulation (EEC) No 2658/87.

However, the results of the *ex-post* evaluation of the VAT e-commerce package are relevant for this proposal as they give an overview of the volumes and value of low value consignment imports into the EU. These data were entirely invisible at EU level before the entry into application of the VAT e-commerce package on 1 July 2021, because the majority of the parcels were released into the EU market without customs formalities. However, as the VAT e-commerce package abolished the import VAT exemption for the goods below EUR 22,

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<sup>15</sup> Member States' recovery and resilience plans envisage a wide set of reforms aimed at improving the business environment and favouring adoption of digital and green technologies. These reforms are complemented by important efforts to digitalise tax administrations as a strategic sector of the public administration. (Annual Sustainable Growth Survey 2022 (COM(2021) 740 final)).

there was a need to introduce the requirement of a formal customs declaration for all imported goods as of that date to ensure compliance with VAT payment obligations.

The Commission conducted an *ex-post* evaluation of the first 6 months of application of the VAT e-commerce package. The initial results are very encouraging and are testament to the success of the new measures. On the import side, the first results highlight that in the first 6 months, approximately EUR 2 billion of VAT was collected specifically in relation to imports of low value consignments with an intrinsic value not exceeding EUR 150. Of the EUR 2 billion of VAT that was collected in relation to imports of low value goods in the first 6 months, almost EUR 1.1 billion was collected via the Import One-Stop Shop.

The implementation of the package has also helped to counter VAT fraud. Analysis from customs data indicates that the top 8 IOSS registered traders accounted for approximately 91% of all transactions declared for import into the EU via the IOSS. This is a very encouraging statistic as it shows the impact the new ‘deeming’ provision for marketplaces has had on compliance, to the extent that the follow-up and auditing of this very limited number of taxable persons is sufficient to ensure the collection of VAT on this type of transaction.

Considering the success of the VAT e-commerce package, the Customs Union Reform proposal introduces clear liabilities for e-commerce intermediaries as ‘deemed importers’ regarding the products imported from third countries that they sell to consumers in the EU. Such deemed importers will become liable for the collection and payment of import duties on these goods along the principles of the VAT Import-One-Stop-Shop. As a result, the compliance effort will be even more focussed on a far smaller number of large players in the market, who will account for the majority of distance sales of imported goods into the EU.

- **Stakeholder consultations**

An input from stakeholders was sought regarding the content of the present initiative in the context of the study on ‘An integrated and innovative overhaul of EU rules governing e-commerce transactions from third countries from a customs and taxation perspective’ produced by an external contractor.<sup>16</sup> The consultation ran from 16 December 2021 until 10 March 2021 and gathered in total 69 replies<sup>17</sup>. Most input was provided by economic operators (companies and business organisations together) with 33 responses and by consumers (in total 26 responses and an additional input by a consumer protection association). In addition 19 Member States replied to the targeted questionnaire.

The outcome showed that around 65% of business respondents (including e-commerce platforms) would support the removal of the customs *de minimis* threshold at least to a limited extent, whilst the opinion of the Member States customs authorities do not indicate a clear preference between removing or increasing the €150 threshold in their questionnaire responses (with 44% of the respondents supporting the removal of the threshold at least to a limited extent and 43% preferring the increase of the threshold at least to a limited extent). However, they did not consider lowering the threshold a viable option (57% of the replies indicating that it should not be considered at all as an option).

In addition to the above feedback on the public consultation, a range of targeted consultation activities were organised during the work on the impact assessment on the reform of the

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<sup>16</sup> The evaluation of the second version of the final report is still ongoing at the time of the proposal.

<sup>17</sup> In total 5 (out of the 69) responses had to be ignored for the analysis of the questionnaire. One was provided by a Member State customs authority and this reply was taken into account in the assessment of the national authority survey. Another 4 responses were provided without any factual content and are therefore, were not considered for the analysis.

Customs Union to gather views of expert stakeholders. This included discussions in the context of the Reflection Group, composed by the directors general of the Member States customs administrations and steered by the Commission and of the Trade Contact Group which is the main forum to consult businesses at Union level on the development and implementation of customs related issues and developments of customs policy.

- **Collection and use of expertise**

In preparing the present initiative, the Commission took into account the analysis included in the above-mentioned study carried out by an external contractor. This is linked to action 9 of the Customs Action Plan whereby the Commission endeavoured to examine the effects of e-commerce on customs duty collection and on the level playing field for EU operators, including possible arrangements for customs duty collection on the lines of the new VAT collection approach under the Import One-Stop-Shop ('IOSS'). The study assessed the possible implications of changing the EUR 150 duty relief threshold by examining and comparing three different options: 1) removing the duty relief threshold; 2) increasing it to EUR 1,000; 3) lowering it to EUR 22. The study concluded that the removal of the EUR 150 threshold would result in the largest revenue increase, and would level the playing field between foreign sellers and the domestic market to the greatest extent. It would also remove fraud or evasion of customs duty payment resulting from the splitting of consignments and reduce the incentive for undervaluation. Therefore, the conclusion was that the removal of the customs de minimis threshold would result in the greatest number of benefits.

Furthermore, the Commission built on the analysis carried out by another external contractor for the study 'VAT in the Digital Age'. Such study provided input also to the proposal to amend the Directive [2006/112/EC](#) to extend the deemed supplier rule, IOSS and special arrangements to cover imports of goods above EUR 150 that forms part of the present package on the Customs Union reform.

The study's aim was first to evaluate the current situation with regard to digital reporting requirements, the VAT treatment of the platform economy, and a single VAT registration and Import One-Stop Shop. Secondly, to assess the impacts of a number of possible policy initiatives in these areas. That study specifically examined the option to remove the EUR 150 threshold that applies to the IOSS. The study noted that distance sales of imported goods above EUR 150 and distance sales of goods subject to excise duties make up around 10-20% of the total value of e-commerce distance sale imports into the EU.

- **Impact assessment**

The reform of the customs rules concerning e-commerce was examined in the context of the impact assessment of the Customs Union reform, to which this proposal is part.<sup>18</sup> Following a negative opinion issued on 28 October 2022, the Regulatory Scrutiny Board issued a positive opinion on the impact assessment supporting the Customs Union reform package on 27 January 2023. The Board recommended more detail be added among others on how the options on e-commerce were identified, particularly what the reasoning for the removal of the EUR 150 exemption and making electronic platforms 'deemed importers' is and more explanation on the introduction of a 'bucketing system' for duty calculation, especially regarding the range of policy choices available to the Commission. The impact assessment was amended accordingly.

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<sup>18</sup> [SWD\(2023\)140](#).

The impact assessment identified five main areas of problems that lead to shortcomings and vulnerabilities in the functioning of the customs union and analysed several policy options to address these problems.

One of these is the rise of e-commerce and the related changes in trade patterns (from goods traditionally brought into the EU in big quantities via cargo, to millions of small consignments shipped directly to individual consumers), which have brought new challenges to customs. Customs is not prepared to cope with the increase of volumes of goods and declarations. Despite the changes introduced by the VAT e-commerce package and applicable since 1 July 2021 that aimed to tackle VAT fraud inherent to the misuse of the VAT exemption at import, some problems still pertain, and so is undervaluation, in particular through the splitting of consignments to avoid the payment of import duty.

Therefore, when analysing to what extent the processes for e-commerce need to be modified, the options to decrease or increase the EUR 150 customs duty exemption were discarded. The reason was that none of the identified problems (distortion of competition, complexity, uncertainty, difficulty to control and fraud) is linked to the amount exempted but to the very existence of the exemption. The possibility to have the consumers declaring to customs the goods that they buy on-line was also discarded, because it is considered burdensome for them while the ones placing goods in the Union market are the e-commerce intermediaries, not the consumers.

According to the impact assessment, additional customs duties on e-commerce traffic are estimated around EUR 13 billion over 15 years. The improved information from economic operators under the new processes, the centralisation of data in the European Customs Data Hub and the operational role of the European Union Customs Authority would also allow a significant prevention of lost revenues stemming from fraudulent practices such as undervaluation or misclassification of the goods ('closure of customs gap').

- **Regulatory fitness and simplification**

This proposal is part of the Customs Union reform which is a REFIT initiative to simplify customs processes via a better interaction between customs and economic operators by focusing on operators and supply chains instead of individual transactions that have to comply with various formalities as today. Businesses (including e-commerce platforms) offering customs visibility over their supply chains will enjoy simpler and faster procedures, by providing customs with access to their commercial data. The simplification and centralisation of functions at several levels are expected to result in cutting red tape and simplifying processes and procedures for operators.

The potential increase in the administrative burden related to the proposed removal of the duty relief threshold is expected to be offset by the simplified tariff treatment through the five-tier bucketing system. However, such increase should be limited, because, since 1 July 2021, an electronic customs declaration is already required for all goods imported into the EU. Therefore, the simplified tariff treatment complemented by further facilitations for customs valuation and origin proposed as part of the UCC revision will simplify the determination of customs duty for e-commerce goods and reduce the administrative burden both on customs authorities and economic operators.

#### **4. BUDGETARY IMPLICATIONS**

This proposal is estimated to increase customs duty revenues at around EUR 13 billion in 15 years for the EU and national budgets of the Member States as it will eliminate the customs duty relief threshold for the importation of low value consignments. In addition, it is expected



to reduce the incentive for undervaluation and eliminate the incentive to artificially split consignments so that they unduly benefit from the duty relief. The introduction of the simplified customs duty collection method will mitigate the administrative burden on customs authorities and e-commerce operators. Building on the principles and mechanisms of the VAT Import One-Stop Shop, e-commerce webshops and platforms will be able to collect customs duties in addition to VAT. This will increase the transparency of prices because the final sales price at checkout will cover all additional costs up-to the destination for the consumers.

Goods subject to EU harmonised excise duties are excluded from the simplified tariff treatment. Goods subject to commercial policy measures, such as anti-dumping, anti-subsidy duties or safeguard measures are also to be excluded.

## 5. OTHER ELEMENTS

### • **Implementation plans and monitoring, evaluation and reporting arrangements**

The Customs Code Committee ('CCC') and the Customs Expert Group ('CEG'), advisory bodies on customs issues in both of which representatives of all Member States participate and which are chaired by Commission officials from the Directorate General Taxation and Customs Union (DG TAXUD), will discuss possible interpretation issues between Member States regarding the new legislation.

In addition, the new customs rules on e-commerce will be monitored and evaluated in the context of the broader monitoring and evaluation framework foreseen in the proposal on the UCC revision by the Commission.

### • **Detailed explanation of the specific provisions of the proposal**

To address the problems identified in the field of e-commerce goods coming from third countries, this proposal includes two main elements. The first element is the removal of the customs duty relief for goods up to the value of EUR 150. This would be achieved by deleting Chapter V of Council Regulation (EC) No 1186/2009 of 16 November 2009.

The second element is a simplified duty calculation method based on five different buckets (each of them with a different duty rate) which is aimed at reducing the administrative burden stemming from the calculation of the applicable duty rates on e-commerce goods both for customs and businesses.

The concept of the simplified duty rate system, the so-called 'duty bucketing system' is based on a Canadian model that is in place since 2012 in relation to goods destined to private use (business-to-consumer or consumer-to-consumer goods) with a value up-to CAD 500 (around EUR 340)<sup>19</sup>. According to the approach there are a limited number of 'duty buckets' each of them including clearly specified categories of goods with a fixed duty rate. Within the bucketing system, the applicable duty rates for individual products may be slightly higher compared to the applicable rate based on the full commodity code.

The proposal foresees five buckets with respective *ad valorem* duty rates of 0% (e.g. for books, printed materials, works of art) 5% (e.g. for toys, musical instruments, metal cutlery), 8% (e.g. for silk and cotton products, ceramic products, photographic goods), 12% (e.g. for leather articles, travel bags) and 17% (e.g. for footwear, glassware) and refers to goods which are identified based on the Chapters of the Harmonised System. Nevertheless, the economic operators will still need to indicate the 6-digit Harmonised System code number, which

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<sup>19</sup> [Canada's Low-Value Shipments Policy Regarding the Application of Customs Duties](#), WTO Working Group on Micro, Small and Medium-sized Enterprises September 2021.

remains a requirement in the advanced cargo information under the legislative proposal on the UCC revision. Goods which currently have a 0% *erga omnes* duty rate currently will continue to benefit from zero duties.

Goods subject to harmonised excise duties as well as goods which are subject to antidumping, anti-subsidy or safeguard measures are excluded from the simplified duty collection approach.

The bucketing system takes as a reference the existing conventional duty rates and does not take into account the originating status of the goods. However, if the economic operator wishes to benefit from preferential tariff rates by proving the originating status of the goods, that person can do so by applying the standard procedures. Similarly, if the economic operator wishes to benefit from conventional or applicable lower autonomous duty rates, that importer can do so by applying the standard procedures. The duty relief for the import of goods with a total value up-to EUR 150 per consignment will be eliminated as of 1 March 2028. As of that date, importers may opt for the use of the simplified tariff treatment for the calculation of the customs duty due on the import e-commerce goods and deemed importers will start providing information to the EU Customs Data Hub on transactions related to goods sold to consumers in the EU and dispatched from a third territory or a third country.

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**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 31 thereof,

Having regard to the proposal from the European Commission, Whereas:

- (1) Chapter V of Council Regulation (EC) No 1186/2009<sup>1</sup> provides for the relief from import duties for goods sent directly from a third country to a consignee in the Union in consignments with a total intrinsic value not exceeding EUR 150. Until 1 July 2021, the import VAT was also exempted for the importation of goods with a value not exceeding EUR 22. The increase in the volume of low value imports following the explosive growth of e-commerce and the associated facilitations made it challenging for customs authorities to enforce compliance with fiscal and non-fiscal requirements. Therefore, Council Directive (EU) 2017/2455<sup>2</sup> eliminated the import VAT exemption for these low value goods to protect Member States' tax revenue, to create a level playing field for the businesses concerned and to minimise burdens on them.
- (2) At the same time, the customs duty relief for goods below EUR 150 was maintained, leaving the door open for the systematic abuse of that threshold through undervaluing and artificially splitting consignments.
- (3) In a digitalised customs environment where electronic data are available for all imported goods regardless of their value, maintaining a duty relief that was introduced to prevent the disproportionate administrative burden on customs authorities, businesses and private individuals is no longer justified. At the same time, considering the significant volumes of low value imports, it has become necessary to protect the financial interests of the Union and its Member States.
- (4) It is therefore necessary to delete from Chapter V of Regulation (EC) No 1186/2009 the threshold, under which goods of negligible value not exceeding EUR 150 per consignment are exempted from customs duties at import.
- (5) Nevertheless, calculating the applicable duty is a complex task based on the tariff classification, the customs value and the origin of the goods. Applying this method in e-commerce would often result in a disproportionate administrative burden both for

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<sup>1</sup> Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty (OJ L 324, 10.12.2009, p. 23).

<sup>2</sup> Council Directive (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods (OJ L 348, 29.12.2017, p. 7).

customs and businesses. To avoid this, it is necessary to provide e-commerce intermediaries with the possibility to apply a simplified tariff treatment based on a five-tier bucket system, where each of the buckets is associated with a different duty rate in relation to goods sold to the final consumer. Goods having currently a 0% *erga omnes* duty rate will continue to benefit from zero duties.

- (6) The bucketing system should take as a reference the existing conventional duty rates and should not take into account the originating status of the goods. However, if the importers wish to apply the conventional or lower applicable autonomous duty rates or benefit from preferential tariff rates by proving the originating status of the goods, they can do so by applying the standard procedures, since the use of the simplified tariff treatment is optional.
- (7) Goods subject to harmonised excise duties and goods subject to anti-dumping, anti-subsidy and safeguard measures should be excluded from the simplified tariff treatment for distance sales of imported goods from third countries. Moreover, goods contained in Chapters 73, 98 and 99 of the Combined Nomenclature are also excluded because the importation of such goods (respectively iron and steel products, complete industrial plants and goods imported or exported under special circumstances) due to their nature should not benefit from any simplification.
- (8) In accordance with the principle of proportionality as set out in Article 5 of the Treaty on European Union (TEU), this Regulation does not go beyond what is necessary to meet the objectives of the Treaties, in particular the smooth functioning of the customs union and the single market. Proportionality is ensured by the fact that this initiative eliminates the duty relief threshold for the importation of low value consignments into the EU and promotes a more effective and simpler approach for the collection of customs duties in relation to goods imported under distance sales.
- (9) Regulations (EEC) No 2658/87 and (EC) No 1186/2009 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Council Regulation (EEC) No 2658/87 is amended as follows:

(1) in Article 1, the following paragraphs 4 and 5 are added:

‘4. By derogation from paragraph 3, upon request of the importer, customs duty shall be charged on the import of goods the supply of which qualifies as distance sales of goods imported from third territories or third countries within the meaning of Article 14(4), point (2), of Directive 2006/112/EC, in accordance with the simplified tariff treatment for distance sales set out in the table in Part One, Section II, point G of Annex I.

5. The simplified tariff treatment for distance sales referred to in paragraph 4 shall not apply to

(a) goods referred to in Article 1(1) of Council Directive (EU) 2020/262<sup>3</sup>;

<sup>3</sup> Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (OJ L 058 27.2.2020, p.4).

(b) goods on which measures in accordance with Regulation (EU) 2016/1036<sup>4</sup>, or Regulation (EU) 2016/1037<sup>5</sup>, or Regulation (EU) 2015/478<sup>6</sup> or Regulation (EU) 2015/755<sup>7</sup> have been imposed, irrespective of their origin; and

(c) any goods included in Chapters 73, 98 and 99.

(2) Annex I is amended in accordance with the Annex to this Regulation.

#### *Article 2*

Chapter V of Council Regulation (EC) No 1186/2009 is deleted.

#### *Article 3*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 March 2028.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council  
The President*

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<sup>4</sup> Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (OJ L 176, 30.6.2016, p. 21–54)

<sup>5</sup> Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union (OJ L 176, 30.6.2016, p. 55–91)

<sup>6</sup> Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports are or might be imposed following an open investigation (OJ L 83, 27.3.2015, p. 16–33)

<sup>7</sup> Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33–49)



Brussels, 17.5.2023  
COM(2023) 259 final

ANNEX

**ANNEX**

**to 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**

## ANNEX

- (a) In Annex I [to Council Regulation (EEC) No 2658/87], Summary, the following point is inserted:

‘G. SIMPLIFIED TARIFF TREATMENT FOR DISTANCE SALES’

- (b) In Annex I [to Council Regulation (EEC) No 2658/87], Part One, Section II, the following point G is inserted:

‘G. Simplified tariff treatment for distance sales

The simplified tariff treatment for distance sales is based on a five-tier bucket system. Each bucket includes a duty rate and a reference to the relevant chapters of Annex 1 Part Two [to Council Regulation (EEC) No 2658/87] to which the duty rate concerned shall apply.’

### **Bucket A: 0% ad valorem**

<b>Chapter</b>	<b>Description</b>
14	Vegetable plaiting materials; Vegetable products not elsewhere specified or included
26	Ores, slag and ash
47	Pulp of wood or of other fibrous cellulosic material; Recovered (waste and scrap) paper or paperboard
48	Paper and paperboard; Articles of paper pulp, of paper or of paperboard
49	Printed books, newspapers, pictures and other products of the printing industry; Manuscripts, typescripts and plans
80	Tin and articles thereof
97	Works of art, collectors’ pieces and antiques

### **Bucket B: 5% ad valorem**

<b>Chapter</b>	<b>Description</b>
05	Products of animal origin, not elsewhere specified or included
25	Salt; Sulphur; Earths and stone; Plastering materials, lime and cement
27	Mineral fuels, mineral oils and products of their distillation; Bituminous substances; Mineral waxes
34	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, ‘dental waxes’ and dental preparations with a basis of plaster
43	Furskins and artificial fur; Manufactures thereof
45	Cork and articles of cork
46	Manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork
66	Umbrellas, Sun umbrellas, Walking sticks, Seat-sticks, Whips, Riding-Crops and parts thereof
67	Prepared feathers and down and articles made of feathers or of down; Artificial flowers; Articles of human hair
68	Articles of stone, plaster, cement, asbestos, mica or similar materials

71	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; Imitation jewellery; Coin
73	Articles of iron or steel
75	Nickel and articles thereof
78	Lead and articles thereof
79	Zinc and articles thereof
82	Tools, implements, cutlery, spoons and forks, of base metal; Parts thereof of base metal
83	Miscellaneous articles of base metal
84	Boilers, machinery and mechanical appliances; parts thereof
85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles
86	Railway or tramway locomotives, rolling stock and parts thereof; Railway or tramway track fixtures and fittings and parts thereof; Mechanical (including electromechanical) traffic signalling equipment of all kinds
89	Ships, boats and floating structures
90	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; Parts and accessories thereof
91	Clocks and watches and parts thereof
92	Musical instruments; Parts and accessories of such articles
94	Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; Luminaires and lighting fittings, not elsewhere specified or included; Illuminated signs, illuminated nameplates and the like; Prefabricated buildings
95	Toys, games and sports requisites; Parts and accessories thereof

### Bucket C: 8% ad valorem

Chapter	Description
28	Inorganic chemicals; Organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes
29	Organic chemicals
30	Pharmaceutical products
31	Fertilisers
32	Tanning or dyeing extracts; Tannins and their derivatives; Dyes, pigments and other colouring matter; Paints and varnishes; Putty and other mastics; Inks
33	Essential oils and resinoids; Perfumery, cosmetic or toilet preparations
36	Explosives; Pyrotechnic products; Matches ; Pyropholic alloys; Certain combustible preparations
37	Photographic or cinematographic goods



38	Miscellaneous chemical products
39	Plastics and articles thereof
40	Rubber and articles thereof
41	Raw hides and skins (other than furskins) and leather
44	Wood and articles of wood; Wood charcoal
50	Silk
51	Wool, fine or coarse animal hair; Horsehair yarn and woven fabric
52	Cotton
53	Other vegetable textile fibres; Paper yarn and woven fabrics or paper yarn
54	Man-made filaments; Strip and the like or man-made textile materials
55	Man-made staple fibres
56	Wadding, felt and nonwovens; Special yarns; Twine, cordage, ropes and cables and articles thereof
57	Carpets and other textile floor coverings
58	Special woven fabrics; Tufted textile fabrics; Lace; Tapestries; Trimmings; Embroidery
59	Impregnated, coated, covered or laminated textile fabrics; Textile articles of a kind suitable for industrial use
60	Knitted or crocheted fabrics
65	Headgear and parts thereof
69	Ceramic Products
72	Iron and steel
74	Copper and articles thereof
76	Aluminium and articles thereof
81	Other Base metals; Cermets; Articles thereof
88	Aircraft, spacecraft and parts thereof
96	Miscellaneous manufactured articles

**Bucket D: 12% ad valorem**

Chapter	Description
6	Live trees and other plants; Bulbs, roots and the like; Cut flowers and ornamental foliage
12	Oil seeds and oleaginous fruits; Miscellaneous grains, seeds and fruit; Industrial or medicinal plants; Straw and fodder
18	Cocoa and cocoa preparations
35	Albuminoidal substances; Modified starches; Glues; Enzymes
42	Articles of leather; Saddlery and harness; Travel goods, handbags and similar containers; Articles of animal gut (other than silkworm gut)
61	Articles of apparel and clothing accessories, knitted or crocheted
62	Articles of apparel and clothing accessories, not knitted or crocheted
63	Other made-up textile articles; Sets; Worn clothing and worn textile articles; Rags

87	Vehicles other than railway or tramway rolling stock, and parts and accessories thereof
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**Bucket E: 17% ad valorem**

Chapter	Description
1	Live animals
2	Meat and edible meat offal
3	Fish and crustaceans, molluscs and other aquatic invertebrates
4	Dairy produce; Birds' eggs; Natural honey; Edible products of animal origin, not elsewhere specified or included
7	Edible vegetables and certain roots and tubers
8	Edible fruit and nuts; Peel of citrus fruit or melons
9	Coffee, tea, mate and spices
10	Cereals
11	Products of the milling industry; Malt; Starches; Inulin; Wheat gluten
13	Lac; Gums, resins and other vegetable saps and extracts
15	Animal, vegetable or microbial fats and oils and their cleavage products; Prepared edible fats; Animal or vegetable waxes
16	Preparations of meat, of fish, of crustaceans, molluscs or other aquatic invertebrates, or of insects
17	Sugars and Sugar confectionery
19	Preparations of cereals, flour, starch or milk; Pastrycooks' products
20	Preparations of vegetables, fruit, nuts or other parts of plants
21	Miscellaneous edible preparations
22	Beverages, spirits and vinegar
23	Residues and waste from the food industries; Prepared animal fodder
24	Tobacco and manufactured tobacco substitutes; Products, whether or not containing nicotine, intended for inhalation without combustion; other nicotine containing products intended for the intake of nicotine into the human body
64	Footwear, gaiters and the like; Parts of such articles
70	Glass and glassware