

# **Project Group on Export and Import Customs Formalities related to Low Value Consignments**

## **INTERIM REPORT**

### **Preface**

This interim report takes stock of the main findings and recommendations identified by the Project Group on Export and Import Customs Formalities related to Low Value Consignments ('PG') after 5 meetings.

These main findings and recommendations relate to current business models, administrative practices and recommendations applicable during the transitional period as currently provided for by the Union Customs Code (UCC).

The interim report will be presented to the Customs Expert Group – Import and Export Formalities Section (CEG-FOR) for endorsement and will also be presented to the Trade Contact Group.

Following the endorsement of the interim report, the PG will continue its work until it fulfils its mandate as set out in the Call for Applications.

### **1. Introduction**

#### **Mandate of the PG**

As the UCC introduced new elements in the import and export customs formalities related to low value consignments, its implementation posed new challenges on Member States' Customs administrations and economic operators, and that, in certain cases, lead to different interpretation. The PG has thus focussed on exploring possibilities to adapt and streamline customs formalities for clearing low value consignments that are released into or out of the customs territory of the EU so that they can be adequately applied among others to e-commerce trade in an increasingly digitally driven economy, while at the same time ensuring a level playing field among economic operators that are in charge of the respective import and export processes and procedures. In its work, the PG has sought to maintain and ensure coherence and consistency between all customs processes and procedures associated to the entry, import, export, and exit of goods into and out of the EU.

Besides, e-commerce is changing the entire international trade environment, including the cross-border flow of goods. On the one hand, it will be easier to access global markets, particularly for small and medium size businesses, on the other hand, customs all over the world are challenged to find a balance between supervision and facilitation, covering all the relevant fiscal and non-fiscal risks. The lack of advance electronic data and often poor data quality and accuracy triggers ineffective and inefficient risk analysis in relation to mis-declaration and undervaluation.

Due to the fact that each Member State experiences a rapid growth in the volume of low value consignments, customs are forced to implement new customs and taxation procedures. One of these new rules is the VAT e-commerce package, as adopted by the Council on 5 December 2017.

When implementing supervision in relation to the VAT e-commerce package, customs must also be aware of other big challenges like new business models, advance electronic data exchange, development of standards, co-operation with other stakeholders, postal consignments, fulfilment houses, financial flows (payment, banking), returns of goods, non-fiscal (incl. safety and security) risks, education and customer awareness and e-commerce statistics. Sufficient knowledge of these challenges is crucial for customs to prepare for the future and to compose the right supervision on e-commerce shipments.

### Composition of the PG

In order to address the above challenges, a Customs 2020 Project Group was set up as a forum for in-depth discussions on the management of customs clearance of low-value consignments and the operation of business models related to it. Its purpose is to provide technical assessment and analysis of issues that were identified in order to facilitate decision-makers and stakeholders in their appraisal of options for solutions.

Following the publication by the Commission of a public call for applications launched on 6 April 2017, members of the PG were selected on the basis of their profile and their expertise in the field of import and export formalities applicable to low value consignments.

The PG was composed as follows<sup>1</sup>:

- 11 experts from Member States Customs administrations;
- 5 postal operators;
- 3 express couriers;
- 3 other trade representatives with specific activities related to e-commerce.

Various experts were invited to one or several meetings, as appropriate.

### Scoping

For the purpose of its deliberations, the PG considered as low value consignments those consignments that contain goods whose intrinsic value is respectively:

- at import: not exceeding EUR 150,
- at export: not exceeding EUR 1 000.

As regards the term "*consignment*", and despite the fact that this term may have a different meaning for some of the stakeholders; the PG considered that goods dispatched simultaneously by the same consignor to the same consignee and covered by the same transport contract shall be considered as a single 'consignment'.

Consequently, goods dispatched by the same consignor to the same consignee that were ordered and shipped separately, even if arriving on the same day but as separate parcels to the postal

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<sup>1</sup> See Annex 1 for the detailed composition.

operator or the express courier of destination, should be considered as separate consignments. In the same vein, goods ordered at the same time by the same person, but dispatched separately, should be considered as separate consignments.

The findings and recommendations in the interim report are grouped as follows:

- **Short term findings and recommendations – import of goods with an intrinsic value not exceeding EUR 22**
  - These findings and recommendations address the current practice and propose actions and legal amendments to be applicable until the entry into force of the VAT E-Commerce Package.
- **Short term findings and recommendations – import of goods with an intrinsic value between EUR 22 and EUR 150**
  - These findings and recommendations address the current practice and cover the transitional period until the entry into force of the VAT E-Commerce Package.
- **Findings and recommendations related to Export**
  - These findings and recommendations address the current practice and propose actions and legal amendments to be applicable under the UCC.
- **Proposed actions for the medium term**
  - These findings and recommendations address further areas and subjects to be examined and discussed by the PG in the next phase of its work and notably relates to the period following the entry into force of the VAT E-Commerce Package.

### Working methods

Prior to the first meeting, the Commission collected additional information from the members of the PG through a dedicated questionnaire. Subsequently, the PG held five meetings in Brussels on the following dates:

- 23-25 October 2017,
- 23-24 November 2017,
- 1-2 February 2018,
- 19-20 April 2017, and
- 17-18 May 2018.

A report was drafted after each meeting, and submitted for approval at the next meeting. The final reports were distributed to all Member States' customs administrations and to the members of the Trade Contact Group. The interim report was drafted by smaller groups consisting of members of the PG, and was consolidated and finalised at the fifth meeting.

## Other developments related to low value consignments

The PG closely followed a number of activities that are ongoing in other fora and have a substantial impact on its work, in particular:

- **the VAT e-Commerce package**

Although the PG initially intended to focus on solving customs issues of import of low value consignments, the adoption by the Council on 5 December 2017 of new VAT rules<sup>2</sup> applicable as from 2021 (including the elimination of the VAT exemption for small consignments) will significantly impact the customs formalities for such consignments. The PG has therefore included this new development in its deliberations on possible solutions for the medium term;

- **the WCO Framework of Standards for e-commerce**

A high-level framework is likely to be endorsed by the WCO Council in June 2018, with technical work on a more detailed framework continuing for yet another year;

- **the WCO – UPU Postal Customs Guide**

It support of posts and Customs administrations staff dealing with the customs treatment of postal consignments;

- **the WCO – UPU Guidelines to the exchange of Electronic Advance Data (EAD)**

It aims at offering mechanisms and standards to support and facilitate the exchange of EAD between designated operators, customs and carriers involved in the supply chain;

- **the CEN TC331 Work Group 3**

It is working on standards for the exchanges of electronic data that are required to provide all the stakeholders in the end-to-end supply chain from shipper to consumer with the information they need to perform their tasks properly whilst significantly reducing the reliance on manual / paper-based processes.

## Short term objectives

While the PG acknowledges that electronic transmission of data for customs purposes in accordance with common data requirements is key for the customs clearance of low value consignments, it also recognizes that significant investments are being made in order to ensure timely implementation. For this reason, short term measures should be consistent with medium and long term objectives and should:

- ensure a smooth continuation of daily operations during the transitional period, and
- avoid any impact on IT systems and ongoing IT developments.

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<sup>2</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017L2455&qid=1525703095429&from=EN>

## Medium and long term objectives

For the longer term, it is essential that any new model of customs treatment for low value consignments ensures consistency and mutual reinforcement of other rules governing customs processes, as well as effective collection of duties and taxes and customs control. In addition, new rules should also:

- enable proper implementation of customs and VAT legislation, and
- ensure a level playing field between all economic operators with comparable business activities.

## **2. Short term findings and recommendations – import of goods with an intrinsic value not exceeding EUR 22**

### Legal basis

- Article 141(5) of UCC-DA  
*" 5. Until the dates of the upgrading of the National Import Systems for the Member State where the goods are deemed to be declared, as referred to in the Annex to Implementing Decision 2014/255/EU, goods the intrinsic value of which does not exceed EUR 22 shall be deemed to be declared for release for free circulation by their presentation to customs pursuant to Article 139 of the Code provided that the data required are accepted by the customs authorities."*
- Scope: all goods with an intrinsic value not exceeding EUR 22.
- Validity: during the transitional period, until the upgrading of the National Import Systems.
- Form of the customs declaration: declaration by any other act.

### Main findings

- Goods are currently exempt from customs duties and VAT and no Entry Summary Declaration or electronic presentation is required during the transitional period.
- In the absence of a clear definition, a common understanding of the concept that "the data required are accepted by the customs authorities" is also lacking. This concept is mostly understood as the CN 22/CN 23 data or the data from the transport manifest, and the physical presentation of the consignments at dedicated logistical centres.
- During the transitional period postal operators may continue using the CN22/CN23 in any form (electronic or paper-based) and courier operators may continue using the transport manifest (electronic or paper-based).
- The end of the transitional period depends on the timing for upgrading each of the national import systems, i.e. there might potentially be 28 different end dates, thus causing additional complexity.

- Under the current legal provisions, the end of the transitional period is not linked to
  - (i) the removal of the VAT *de minimis* threshold (entry into force of new VAT rules) and/or
  - (ii) the deployment of ICS-2 (availability of electronic advanced data).
- The actual end of the transitional period may precede the dates foreseen in (i) and (ii).
- The potential impacts of the actual end of the transitional period (if before 1.1.2021) could be described as follows:
  - Different treatment for consignments up to 22 EUR, which would affect mostly courier operators. Postal operators would still have the possibility to use the declaration by any other act on the basis of 141(3) DA.
  - Capacity problems on national import systems by the huge increase in the volumes of customs declarations.
  - The new VAT rules also imply an increased administrative burden on economic operators as well as on customs administrations, especially if the transitional period ends before the deployment of the VAT-IOSS scheme.
  - Increased costs for IT-Solutions.
  - Currently, there is no real added value of requiring a customs declaration for fiscal purposes, given that until 1-1-2021 no customs duty or, in most of the Member States, no VAT is collected for the goods with an intrinsic value not exceeding EUR 22;
- Use of electronic data facilitates the risk analysis.
- The PG has identified the need to use the declaration by any other act for the release for free circulation of goods with an intrinsic value not exceeding EUR 22 after temporary storage or transit e.g. in case the customs value of the goods cannot be determined upon presentation of the goods, or, if the goods are moved under transit from the first point of entry in the EU to the country of destination.

## Recommendations

### The PG recommends to:

- **amend Article 141(5) UCC-DA with a view to extend its application until the entry into force of the VAT E-Commerce Package, and**
- **clarify the use of a declaration by any other act is also possible following temporary storage or transit in a guidance.**

## Proposed legal amendments

*" 5. Until the date the **amendments to Directive 2006/112/EC, as provided for in Article 2 to Council Directive (EU) 2017/2455 of 5 December 2017 take effect**, goods the intrinsic value of which does not exceed EUR 22, shall be deemed to be declared for release for free circulation by their presentation to customs pursuant to Articles 139 of the Code, provided that the data required are accepted by the customs authorities."*

### 3. Short term findings and recommendations – import of goods with an intrinsic value between EUR 22 and EUR 150

#### Legal basis

- Article 141(3) of UCC-DA<sup>3</sup>

*"3. Goods in a postal consignment, which benefit from a relief from import duty in accordance with Articles 23 to 27 of Regulation (EC) No 1186/2009<sup>4</sup>, shall be deemed to be declared for release for free circulation by their presentation to customs pursuant to Article 139 of the Code provided that the data required are accepted by the customs authorities."*

- Scope: postal consignments with an intrinsic value not exceeding EUR 150
- Validity: not limited by transitional period
- Form of customs declaration: declaration by any other act

#### Main findings

- For postal consignments with an intrinsic value between EURO 22 and 150, benefitting from articles 23 to 27 of Regulation 1186/2009, the methods for collecting import VAT can vary by Member States. For example, the collection of import VAT can be done through the national customs declaration system or by using the service provided by postal operators. Article 23 stipulates the conditions for the duty relief: negligible value, direct dispatch from third country to a consignee. If these conditions are not met, the relief cannot be granted. If duty relief is not applicable, a declaration by any other act is not possible and other declaration methods should be used for releasing the goods into free circulation.
- In the absence of a clear definition, a common understanding of the concept that "the data required are accepted by the customs authorities" is also lacking. This concept is mostly understood as the CN 23 data or the data from the transport manifest, both of which can be either in paper form or electronic, and the physical presentation of the consignments at dedicated logistical centres.
- For the application of Articles 25-27 of Regulation 1186/2009 (C2C), the duty relief is generally handled on a case by case basis because of the conditions set out in these articles.
- As a result of efforts at the level of the UPU, the use of electronic advance data is being progressively introduced in the postal model. However, since this currently only applies to a limited number of countries, meeting the legal requirements set out in the EU legislation remains a challenge for postal operators within the EU.

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<sup>3</sup> [The relevant provisions of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax](#) should also be considered in this context.

<sup>4</sup> [Council Regulation \(EC\) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty](#) (OJ L 342, 22.12.2009, p. 46–58)



- Besides Article 141(3) UCC-DA, there are currently no specific facilitations available beyond the 'usual' customs simplifications (simplified declaration with or without a supplementary declaration, entry into the declarants' records, etc.).
- The PG has identified the need to use the declaration by any other act for the release for free circulation of goods with an intrinsic value between EUR 22 and EUR 150 after temporary storage or transit e.g. in case the customs value of the goods cannot be determined upon presentation of the goods, or, if the goods are moved under transit from the first point of entry in the EU to the country of destination.
- The PG considered the possibility of opening up Article 141(3) UCC-DA to non-postal consignments. However, as no particular issue has been identified and the current practice is generally manageable for all economic operators, no imminent intervention or legal adjustment is necessary.
- Nevertheless, the legal provision requires further analysis, in particular in view of the implementation of the VAT E-Commerce package

### Recommendations

#### The PG recommends to:

- **maintain the current legal framework for the import customs formalities of goods with an intrinsic value between EUR 22 and 150 and**
- **further analyse the legal provisions applicable to such customs formalities in view of the implementation of the VAT E-Commerce package<sup>5</sup>.**

### Proposed legal amendments

None at present.

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<sup>5</sup> See also point 3 – Proposed actions for the medium term.

#### 4. Findings and recommendations related to Export (*as regards goods with a value not exceeding EUR 1 000*)

The PG discussed the possibilities provided for in the UCC as regards the customs clearance for export of goods with a value not exceeding EUR 1000. The focus of the discussions and assessment were the options of using other forms of customs declarations different from standard (including simplified) customs declarations.

##### Legal basis

- Article 137(1)(b) UCC-DA

*" 1. Customs declarations for export may be made orally for the following goods:*

*...*

*(b) goods of a commercial nature provided that they do not exceed either EUR 1 000 in value or 1 000 kg in net mass;"*

- o Scope: all goods with a value not exceeding EUR 1 000 and a net mass up to 1 000 kg
  - o Validity: unlimited
  - o Form of customs declaration: oral declaration
- Article 141(4) UCC-DA
- " 4. Goods in a postal consignment not exceeding EUR 1 000 which are not liable for export duty, shall be deemed to be declared for export by their exit from the customs territory of the Union."*
- o Scope: postal consignments with a value not exceeding EUR 1 000
  - o Validity: unlimited
  - o Form of customs declaration: declaration by any other act

##### Main findings:

As far as Article 137 UCC-DA is concerned:

- this provision fits perfectly for the cases where an oral declaration for export is needed, it does not limit the oral declaration to travellers, even though in practice it will most likely be applied in the travellers' traffic;
- not all economic operators want to use such a facilitation. For reasons linked to taxation, accounting, internal organisation, etc., some economic operators may want to use an electronic export declaration in all cases;
- moreover, the option of using an oral declaration for goods of a value not exceeding 1000 EUR would in reality not fit the business model of non-postal operators (e.g. express couriers), in particular since oral declarations shall be made at the customs office competent

for the place of exit of the goods (in accordance with Article 221(3) of UCC-IA) and this implies that the goods are physically presented to customs at that office.

As far as Article 141 UCC-DA is concerned:

- in the context of a declaration by any other act for postal consignments, there is no legal requirement to provide customs with data: neither a presentation to, nor an endorsement by customs are required. The existence of a CN22/23 is considered sufficient;
- for non-postal operators, the possibility of a declaration by any other act does not exist at present. In order to create a level playing field, such a possibility could be considered, based on the transport manifest and/or the commercial invoice. This could also be done at an inland customs office, thus avoiding congestions and bottlenecks at the points of physical exit. It would also allow for a more efficient risk analysis and, where required, customs controls;
- the possibility to limit this export simplification(s) to a certain kind of traffic (e.g. goods in postal consignments and goods in express consignments) could be explored;
- not all economic operators want to use such a facilitation. For reasons linked to taxation, accounting, internal organisation, etc., some economic operators may want to use an electronic export declaration in all cases.

Based on the above findings, the PG favours the introduction of a legal fiction that would enable the presentation of the goods for export to be, at the same time, the export declaration. Such presentation could take place at any place (inland or border customs office). The exclusions referred to in Article 142 UCC DA would remain applicable.

## Recommendations

### The PG recommends to:

- **maintain the status quo for export of postal consignments, since no major problems has been identified;**
- **maintain Article 137 of UCC-DA, since no need for any amendments has been identified;**
- **introduce the possibility of a declaration by any other act for export of goods in non-postal consignments, based on a similar assumption then for export of goods in postal consignments. In order to ensure proper customs supervision on export, the PG recommends limit such possibility to express consignments. A definition for 'goods in express consignment' already exists in Annex B of UCC-DA in the introductory remarks (10). The proposed legal amendment will work in practice, only if the declaration by any other act serves the purpose of a pre-departure declaration;**
- **consider a clarification in the guidance concerning the use of a standard export declaration (which an economic operator may always use), as well as concerning the application of Articles 141(4) and possibly 141(6) of UCC-DA.**

## Proposed legal amendments to UCC-DA

- Article 1(46)

*"(46) 'goods in express consignment' means an individual item carried via an integrated service of expedited/time-definite collection, transport, customs clearance and delivery of parcels whilst tracking the location of, and maintaining control over such items throughout the supply of the service."*

- Article 141

*"6. Goods in an express consignment, not exceeding EUR 1 000 which are not liable for export duty shall be deemed to be declared for export by their exit from the customs territory of the Union provided that the data in the transport manifest and/or invoice are accepted by Customs and are at their disposal."*

### Disclaimer

*The recommendations and the proposed legal amendments are based on the **current provisions of Articles 329 and 333 of UCC-IA**. Any potential changes to these Articles (ongoing discussions related to single transport contract) would require a revision of these recommendations and the proposed legal amendments.*

## 5. Proposed actions for the medium term

The PG considered actions for the medium term, i.e. after the end of the transitional period and the entry into force of the VAT e-Commerce package. Besides, it has also identified some topics that would require further analysis.

These are the following:

### [Further analyse the customs aspects of the implementation of the VAT e-commerce package](#)

#### **Introduction**

Due to the fact that each Member State experiences a rapid growth in the volume of low value consignments, customs are forced to implement new customs and taxation procedures. One of these new rules is the VAT e-commerce package, as adopted by the Council on 5 December 2017.

The VAT e-commerce package covers, amongst others, the VAT collection on cross border e-commerce consignments with an intrinsic value not exceeding EUR 150 and the abolition of the VAT exemption for consignments with a value not exceeding EUR 22.

Since the implementation of the VAT E-Commerce Package will have a substantial impact on all stakeholders, the PG recognises the need for developing guidance.

#### **Facilitations relating to customs formalities**

Among the short term actions, the PG considered the possibility of opening up Article 141(3) of UCC-DA to non-postal consignments. Nevertheless, the PG recognised that the legal provision requires further analysis, in particular in view of the implementation of the VAT E-Commerce package with particular attention to the following aspects:

- A possible extension of the scope to all goods which benefit from a relief from import duty in accordance with Articles 23 to 27 of Regulation (EC) No 1186/2009. This should only be considered if electronic data can be made available to customs;
- A possible distinction between C2C and B2C consignments, given that the conditions for granting the duty relief are different for both categories;
- The checking of the VAT IOSS reference number, where applicable;
- The monthly reporting obligation by MS for any consignments declared under the VAT IOSS;
- The process for the recovery of VAT that has been paid in advance when the goods cannot be delivered or are returned by the recipient.

## Data exchange

The implementation of the customs aspects of the VAT E-Commerce package requires the availability of electronic data. From customs point of view, the most practical approach would be to receive such electronic data in advance, so that customs can perform risk analysis for fiscal and non-fiscal purposes before the goods arrive.

This opens up the possibility to re-use ENS data for the purpose of customs declarations. For this reason, the PG has elaborated a specific dataset (see below).

## IT requirements

The implementation of the VAT E-Commerce package requires substantial IT developments, potentially impacting customs systems, that should be closely monitored by the PG.

### [Recommend a dataset for the release for free circulation of all consignments with an intrinsic value not exceeding 150 EUR](#)

The objective of the PG was to identify and propose a reduced dataset for low value consignments on inbound items.

The data set has to be defined to enhance trade facilitation and improve efficient customs clearance procedures for release for free circulation of goods with an intrinsic value not exceeding EUR 150. This dataset would be implemented following the entry into force of the VAT e-Commerce package, i.e. as of 1 January 2021.

The dataset shall:

- facilitate the release of the goods;
- contain sufficient information to enable a proper customs supervision and control of goods;
- include the information needed for the calculation of the VAT and/or enable the identification if VAT has been prepaid under IOSS;
- ensure a level playing field between all economic operators (dataset could be used by any declarant);
- be based on existing datasets and shall take into account data availability to the declarant;
- consider existing international standards in the field of electronic exchange of data e.g. the content of the ITMATT message, or the possibility to re-use the ENS data for customs declaration (however the two declarations serve different purposes, involving different liabilities for submission);
- consider the possibility to use this customs declaration as ENS as foreseen in Article 130 UCC.

The dataset would be applicable in the context of customs clearance for release for free circulation of goods:

- which benefit from a relief from import duty in accordance with Articles 23 to 27 of Regulation (EC) No 1186/2009;
- irrespectively of the scheme applied for the calculation and collection of VAT (IOSS, special arrangements and standard procedure where VAT is calculated upon the release for free circulation of the goods);
- irrespectively of the nature of the person acting as declarant (postal operator, other economic operator, private person etc.);
- with exception of goods covered by Article 142 of UCC-DA.

The dataset provided for in column H6 of Annex B UCC-DA (customs declaration in postal traffic for release for free circulation) was taken as basis by the PG. The objective was to identify a dataset that can be used by any declarant.

Besides, the dataset shall take into account data availability (notably the limitations of CN23), but it shall also comply with the needs resulting from the VAT e-Commerce package (e.g. VAT-IOSS number).

The aim of the group was to come up with a dataset close to the requirements of an ENS so it can serve both purposes as foreseen in Article 130 UCC. This dataset is included in Annex II to this document.

In relation to this dataset, the PG recognises the need to include good quality data in each data element, which is essential for Customs to be able to perform its tasks properly. Good quality data should contribute to the swift customs clearance of goods.

### [Make recommendations as regards the form of customs declaration for the release for free circulation of goods with an intrinsic value not exceeding EUR 150](#)

This chapter provides an assessment on the form of the customs declaration for imports of low value consignments. The assessment is based on the following assumptions:

- Application only for goods which benefit from a relief of import duty in accordance with Articles 23 to 27 of Regulation (EC) No 1186/2009 (intrinsic value not exceeding EUR 150, dispatched direct from a third country to a consignee in the EU, exclusion of alcoholic products, perfumes and toilet waters, tobacco or tobacco products);
- National Import Systems are upgraded in accordance with the legal requirements set out in the UCC and its related acts (including any changes resulting from the VAT E-Commerce package);
- Phase I of ICS-2 is implemented so that Advanced electronic data – to an extent that varies between postal operators and express couriers – are available to all economic operators, irrespectively the transport method;

- VAT e-commerce package is implemented, in particular as regards the Import One Stop Shop (IOSS) and the special arrangements, if the IOSS is not used;
- Future procedures are open for all modes of transport;
- It is in the interest of all related parties that hundreds of millions of e-commerce consignments have to be declared in the most simplified way.

**The PG focused on three options to provide the customs declaration:**

1. A status quo (standard declaration, simplified declaration or EIDR)
2. A standard declaration with super reduced dataset in accordance with Article 162 UCC
3. A declaration by other act, also using the super reduced dataset.

The PG decided that the normal procedure was not workable, nor for the Member States due to volume constraints, nor for traders due to the high number of entries. For realizing options 2 and 3, the legal requirements (e.g. Articles 141 and 144 of UCC-DA) and the IT systems of the Member States must be updated in time.

**Option 1 – Status quo**

**General Description**

This option 1 covers possibilities that are already provided for in the current legislation. According to the current legislation, the customs declaration could take the following forms, with the respective datasets defined in respect of each of them:

- a standard customs declaration;
- a simplified declaration, with or without a waiver to lodge a supplementary declaration;
- a customs declaration in the form of entry into the declarants’ records (EIDR);
- Facilitation for postal consignments under Article 141(3) of UCC-DA.

**SWOT Analysis**

Strengths	Weaknesses
<ul style="list-style-type: none"> <li>○ Based upon existing data, formats, and codes.</li> <li>○ No updates to the National Import Systems required.</li> </ul>	<ul style="list-style-type: none"> <li>○ No further simplification.</li> <li>○ Different treatment between EO</li> </ul>
Opportunities	Threats
	<ul style="list-style-type: none"> <li>○ Potential capacity problems of the National Import Systems because of the volume of declarations.</li> </ul>



## Qualitative Assessment

Option 1 is not possible due to the following constraints:

- Limitation as regards the use of EIDR – in practice, postal operators and express couriers can only act as indirect representatives as holder of the authorisation for EIDR;
- Assumption on the applicability of the declaration for all declarants is not met;
- Implementation of the VAT E-Commerce Package is not possible:
  - o Electronic verification of the VAT IOSS number is not possible;
  - o In case of Article 141(3) UCC-DA, the electronic compilation of the monthly information is not possible as regards postal consignments.

## Option 2 – Standard declaration with a 'super-reduced' data set

### General Description

The minimal data set identified for this purpose is set out in Annex II. It consists of a sub-set of the data set laid down in column H6 of Annex B to the UCC DA. To the extent that it is based upon the data of the electronic CN 23, postal operators could provide it. Non-postal operators would be in a position to provide a similar data set.

To the extent that it would be considered as a standard declaration, there would be no need for lodging a supplementary declaration.

Existing customs simplification, such as simplified declaration and EIDR, would continue to apply.

### SWOT Analysis

Strengths	Weaknesses
<ul style="list-style-type: none"> <li>o Based upon existing data, formats, and codes.</li> <li>o Updates to the National Import Systems are limited.</li> <li>o Data set will be available in SURVRecap, so that they can be used for compiling the monthly information.</li> </ul>	<ul style="list-style-type: none"> <li>o Legal amendments required</li> </ul>
Opportunities	Threats
<ul style="list-style-type: none"> <li>o Provides for an equal treatment in terms of customs declarations among all economic operators</li> <li>o Make use of the simplification provided for in Article 130 UCC (pre-logged declaration)</li> </ul>	<ul style="list-style-type: none"> <li>o Potential impact on the timely upgrading of National Import Systems.</li> <li>o Potential capacity problems of the National Import Systems because of the volume of declarations, which will however contain less data.</li> <li>o High additional efforts to capture data in the postal environment</li> </ul>

## Qualitative Assessment

- This option would require the use of national import systems;
- The PG identified that this option may have implications on the following provisions of the UCC-DA:
  - o to define a new data set in Annex B to the UCC DA (e.g. column H7) and to introduce a legal hook in the body of the UCC-DA for the application of this dataset;
  - o to remove Article 141(3) UCC DA as the new standard declaration with super reduced dataset would be applicable to all economic operators.
- Pre-lodged customs declaration is possible, however, a presentation notification is needed when the goods arrive, and all the rules related to the standard declaration have to be respected.

## Option 3 – Declaration by any other act

### General Description

A legal fiction created along the lines of the current Article 141(3) UCC DA, applying to all consignments concerned and not only to postal consignments, would allow considering that the goods are deemed to be declared for release for free circulation by their presentation to customs, provided that the data are accepted by customs.

The data set required for this purpose would need to be clearly defined in the legislation and would be the same as the one referred to under Option 2. It would be added in Annex B-DA, in a column of the 'G'-series.

The pre-condition for the use of this option is the availability of advance electronic data that enables Customs to carry out risk assessment on the goods, including the verification of the VAT IOSS number, prior to their arrival.

### SWOT Analysis

Strengths	Weaknesses
<ul style="list-style-type: none"> <li>o Based upon existing data, formats, and codes.</li> <li>o Updates to the National Import Systems are limited.</li> <li>o No need for a standard customs declaration.</li> </ul>	<ul style="list-style-type: none"> <li>o Need to define a new data set in Annex B to the UCC-DA.</li> <li>o SURVRecap cannot be used for the monthly compilation of transactions per VAT-IOSS number and per MS. Therefore, other ways of reporting shall be explored.</li> </ul>
Opportunities	Threats
<ul style="list-style-type: none"> <li>o By merging two customs formalities related to the importation of goods, it allows to streamline procedures, saving time and costs for customs and EO.</li> <li>o Potential solution for any capacity problems of the National Import</li> </ul>	<ul style="list-style-type: none"> <li>o Potential impact on the timely upgrading of National Import Systems.</li> <li>o Potential divergent treatment of EO between MS regarding the VAT IOSS monthly reporting.</li> </ul>

<p>Systems.</p> <ul style="list-style-type: none"> <li>○ Facilitate the formalities related to the returned goods (no need for invalidation of customs declaration).</li> </ul>	
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### Qualitative Assessment

- The PG identified that this option may have implications on the following provisions of the UCC-DA:
  - to define a new data set in Annex B to the UCC-DA (e.g. column G6);
  - to adapt Article 141(3) UCC-DA to allow for all economic operators the use of the declaration by any other act by using the super reduced dataset.
- Risk assessment is carried out on the basis of advance dataset. Customs selects items for control and other items are released immediately upon arrival (presentation);
- Availability of advance electronic of data is required;
- a presentation notification is needed when the goods arrive;
- Possibility of using the self-assessment for the monthly VAT IOSS reporting to be explored.

### Comparison of options 2 and 3

At this point in time, the PG has a preference towards options 2 and 3, however, the practical implementation of these options requires further analysis, in particular in light of the implementation of the VAT E-Commerce package.

### [Further analysis of the provisions applied to returned goods](#)

With the increase of e-commerce and the implementation of the VAT e-commerce package, there is a potential risk that the number of returned goods will increase.

It is important for customs and tax administrations, but also for trade that workable solutions are developed in order not to add red tape to the return of the goods and the re-payment of the VAT on consignments in scope of the VAT e-commerce package.

The problem of returned goods should be considered from both directions of trade flow: import and export.

Currently, there is different legislation for postal and other operators regarding return goods. It is clear that this issue needs further investigation:

#### **The PG proposes the following next steps:**

1. Further investigate if Article 220(2) of UCC-IA should apply to all goods or to all goods in scope of the VAT e-commerce package;
2. Need to identify the different return possibilities and whether these are covered by the existing legislation, or, if an amendment to the legislation is required;

3. Need more details from the VAT side on how the VAT can be repaid in case of non-delivery and or return to sender / destruction etc.

### Subjects to be further explored by the PG

The intention of the PG clearly is to ensure that the results of its work will be adopted as wide as possible. The PG enjoyed active participation from Member State Customs administrations, postal organisations as well as a number of trade experts. This means that the results from the PG are a fair representation of what will likely prove possible in the marketplace.

Besides, the PG identified that one of the critical factors to success, when implementing Electronic Advance Data, is to ensure that the shippers/suppliers of the goods provide the required data that will become part of the electronic declaration to Customs. Although the PG proposes a minimal super-simplified data set for the declaration to Customs, currently this dataset can often not be provided to Customs because shippers and/or economic operators at origin are not providing mandatory essential data-elements to the parties that submit the data to Member States' Customs administrations. There are also often significant challenges with the quality of the data in the data set even when all elements are included. E.g. dummy data may be provided in mandatory fields or consignor and consignee data may refer to origin and destination branches of the same carrier, which means that Customs cannot really use this data to perform their tasks properly.

In addition, the PG also realises that the VAT E-commerce package coming into force may well prompt additional logistics models and/or a change of preferences for specific logistics models.

Finally, for its further work, the PG also recognises the need to:

- take into account the impacts of the General Data Protection Regulation (GDPR) on the results of the PG, and
- explore the potential impacts of new business models (such as fulfilment house) on the customs formalities related to low value consignments.

## ANNEX I

### Members of the Project Group on Import and Export Customs Formalities Related to Low Value Consignments

#### **MEMBER STATES CUSTOMS ADMINISTRATIONS**

BULGARIA

GEMANY

DANMARK<sup>6</sup>

SPAIN<sup>7</sup>

ESTONIA

FRANCE

ITALY

LATVIA

LUWEMBURG

THE NETHERLANDS

SLOVENIA

SWEDEN

#### **POSTAL OPERATORS**

BPOST

DEUTSCHE POST

ROYAL MAIL

POSTNL

LA POSTE

#### **EXPRESS COURIERS**

FEDEX

DHL

UPS

#### **OTHER TRADE REPRESENTATIVES**

ECOMMERCE EUROPE

EMOTA

GS1

#### **EXPERTS**

WCO

UPU

AUSTRALIAN CUSTOMS

POŠTA SLOVENIJE

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<sup>6</sup> Invited to the 1<sup>st</sup> and 2<sup>nd</sup> meeting only.

<sup>7</sup> Invited from the 3<sup>rd</sup> meeting onwards

## ANNEX II

### Reduced dataset for the purpose of low value consignments

The below dataset is foreseen to be included in Annex B of UCC-DA, either in column series H or G, depending on the option chosen for the form of customs declaration.

The below tables are excerpts from Annex B of the UCC-DA. However, the wording of the notes reflects the actual business needs and might differ from the legal text of Title II in Annex B of UCC-DA.

#### Symbols in the cells

Symbol	Symbol description
A	Mandatory: data required by every Member State.
B	Optional for the Member States: data that Member States may decide to waive.
C	Optional for economic operators: data which economic operators may decide to supply but which cannot be demanded by the Member States.

#### Notes

Note number	Note description
[4]	This element does not need to be provided where it can be deduced automatically and unambiguously from other data elements provided by the economic operator.
[12]	This information is mandatory only in the cases where the EORI number or a third country unique identification number recognised by the Union of the person concerned is not provided. Where the EORI number or a third country unique identification number recognised by the Union is provided, the name and address shall not be provided.
[14]	This information shall only be provided where available.

D.E. order Nº	D.E. name	Status	Notes	Corresponding D.E. in ITMATT message
1/6	Goods item number	A	Number of the item in relation to the total number of items contained in the declaration, the summary declaration, notification or proof of the customs status of Union goods, where there is more than one item of goods.	Item No
1/8	Signature	A	Signature or authentication otherwise of the relevant declaration.	Sender's signature
1/11	Additional procedure code	A [4]	The following additional procedure codes can be used: C07 Consignments of negligible value C08 Consignments sent from one private individual to another F48: Import under the special scheme for distance sales of goods imported from third countries and territories set out in Title XII Chapter 6 Section 4 of Directive 2006/112/EC <sup>8</sup> .	
2/3	Documents produced, certificates and authorisations, additional references	A	Identification or reference number of Union, international or national documents, certificates and authorisations produced in support of the declaration, and additional references, including the reference to the commercial invoice, if applicable. House airway bill number or the ITMATT reference number shall be used.	Licence Certificate Invoice
2/4	Reference number/UCR	C	This entry concerns the unique commercial reference number assigned by the person concerned to the consignment in question. It may take the form of WCO (ISO 15459) codes or equivalent. It provides access to underlying commercial data of interest to customs. It may be used for the indication of the transaction identifier, if VAT IOSS is used.	
3/5	Consignor	B	[Name and address of the] Party consigning goods as stipulated in the CN23 or the transport contract by the party ordering the transport.	Sender's full name and address, including business name on CN23
3/13	Consignee	A [12]	[Name and address of the] Party to whom goods are actually consigned.	Recipient full name and

<sup>8</sup> The introduction of this code is under discussion in the context of the IOSS

D.E. order N°	D.E. name	Status	Notes	Corresponding D.E. in ITMATT message
				address, including business name on CN23
3/14	Consignee identification N°	A [14]	[EORI number of the] Party to whom goods are actually consigned ( <i>only for persons that have to be registered in EORI</i> ).	Importer's reference (tax code, VAT No, etc.)
3/17	Declarant	A [12]	Name and address of the person lodging the customs declaration in his or her own name or the person in whose name the customs declaration is lodged.	—
3/18	Declarant identification N°	A	EORI number of the person lodging the customs declaration in his or her own name or the person in whose name the customs declaration is lodged.	—
3/19	Representative	A [12]	Name and address of the person lodging the customs declaration in the name of and on behalf of another person (direct representative) or in his or her own name but on behalf of another person (indirect representative).	—
3/20	Representative N°	A	EORI number of the person lodging the customs declaration in the name of and on behalf of another person (direct representative) or in his or her own name but on behalf of another person (indirect representative).	—
3/21	Representative status code	A	Code specifying the type of representation (direct or indirect).	—
3/40	Additional fiscal references identification N°	A	Special VAT number of the supplier or the intermediary, if VAT IOSS is used. It consists of one of the following codes followed by the special VAT number of the person concerned <sup>9</sup> :  'FR5' >> Taxable person making use of the special scheme for distance sale of goods imported from third countries and territories set out in Title XII Chapter 6 Section 4 of Directive 2006/112/EC.	Sender's customs reference

<sup>9</sup> The use of codes 'FR5' and 'FR6' would require an amendment to the UCC-IA. The codes and their description are included in Doc. DIH 17/003 rev. 3 of 25.01.2018 and the subject is currently under discussion by CCC-DIH.



D.E. order N°	D.E. name	Status	Notes	Corresponding D.E. in ITMATT message
4/9	Additions and deductions <sup>10</sup>	A <sup>11</sup>	<p>Elements to be added or deducted from the invoiced amount. For each type of addition or deduction relevant for a given goods item, enter the relevant code followed by the corresponding amount in national currency that has not yet been included in or deducted from the item price.</p> <p>e.g. 'AK' &gt;&gt; Transport costs, loading and handling charges and insurance costs up to the place of introduction in the European Union 'BA' &gt;&gt; Costs of transport after arrival at the place of introduction</p> <p>Having to split the transport cost between the part up to the place of introduction in the EU and the cost of transport after arrival at the place of introduction makes the process more cumbersome. Since the entire costs of transportation need to be included in the basis to calculate the VAT, there is no need to split up the cost for the purpose of this dataset.</p> <p><b>The PG recommends, therefore, adding a new code to report the total transport and other fees up to the place of destination.</b></p>	Postal charges Other fees (insurance etc.)
4/10	Invoice currency	A	Currency in which the commercial invoice was drawn up.	Value and currency
4/11	Total amount invoiced	A	Price for all goods declared in the declaration, excluding any taxes and/or charges, expressed in the currency unit declared in D.E. 4/10 Invoice currency.	Total value
4/14	Item price/amount	A	Price of the goods for the declaration item concerned, expressed in the currency unit declared in D.E. 4/10 Invoice currency, excluding any taxes and/or charges.	Value and currency
6/5	Gross mass (kg)	A	Weight of the goods including packaging, but excluding the carrier's equipment for the declaration.	Weight in kg

<sup>10</sup> To be considered in relation with 'postal charges' as split of transport costs could be difficult.

<sup>11</sup> Not required, if IOSS is used

D.E. order N°	D.E. name	Status	Notes	Corresponding D.E. in ITMATT message
6/8	Description of goods	A	Plain language description that is precise enough for Customs services to be able to identify the goods.	Description
6/10	Number of packages <sup>12</sup>	A	Total number of packages based on the smallest external packing unit. This is the number of individual items packaged in such a way that they cannot be divided without first undoing the packing, or the number of pieces, if unpackaged.	—
6/14	Commodity code – Combined Nomenclature code	A	Enter the six-digit Harmonised System nomenclature code of the goods declared. This information shall not be required for the goods of a non-commercial nature.  <b>Remark by PG:</b> <b>While ICS2 phase 2 will only be implemented in 2023 for post and express and the VAT e-commerce package in 2021, it has to be decided whether this data element is optional for the transitional period between 2021 and 2023.</b>	HS tariff number (6 digits)
6/19	Type of goods	A	Item nature of transaction, coded. Choice to be made among the following categories: <ul style="list-style-type: none"> <li>- Commercial samples</li> <li>- Gifts</li> <li>- Returned goods</li> <li>- Documents</li> <li>- Sale of goods</li> </ul> <p>This data element is an alternative to D.E. 1/11, taking into account that D.E. 1/11 is not available in the ITMATT message. In that respect, the choice made would trigger the link to the corresponding procedure code and additional procedure code(s) according to the following:</p> <p>CPC 40 is used by default for commercial goods, gifts and documents. For</p>	Category/nature of item (gift, etc.)

<sup>12</sup> Not needed for postal consignments, connected to the definition D.E. 2/4

D.E. order N°	D.E. name	Status	Notes	Corresponding D.E. in ITMATT message
			<p>returned goods, CPC 61 is used.</p> <p>The following additional procedure codes can be used:</p> <p>C07 Consignments of negligible value</p> <p>C08 Consignments sent from one private individual to another</p> <p>F48: Import under the special scheme for distance sales of goods imported from third countries and territories set out in Title XII Chapter 6 Section 4 of Directive 2006/112/EC<sup>13</sup>. ().</p> <p>F49 : Import under the special arrangements for distance sales of goods imported from third countries and territories set out in Title XII Chapter 7 Section 4 of Directive 2006/112/EC</p>	

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<sup>13</sup> The introduction of this code is under discussion in the context of the IOSS