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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: 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
- Presidency compromise text

Delegations will find enclosed the Presidency compromise text for the above Council Regulation. Changes to the Commission proposal (doc. 9625/23) are marked in **bold underline** and ~~strikethrough~~.

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 1186/2009¹ 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) 2017/2455² 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.

¹ 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).

² 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).

- (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) [This Regulation shall apply from the same time as the necessary functionalities to levy import duties on distance sale consignments in the EU Customs Data Hub are put into functioning [to declare, calculate, and pay], cf. the proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the Union Customs Code and the European Union Customs Authority (COM (2023/0156)).]**
- ~~(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 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.~~
- ~~(86) 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.~~
- ~~(79) 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) 2020/262³;~~

~~(b) goods on which measures in accordance with Regulation (EU) 2016/1036⁴, or Regulation (EU) 2016/1037⁵, or Regulation (EU) 2015/478⁶ or Regulation (EU) 2015/755⁷ 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.

³ 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).

⁴ 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)

⁵ 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)

⁶ 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)

⁷ 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)

Article ~~12~~

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

Article ~~32~~

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 July 2028]~~ ~~March 2028~~ **providing that the necessary functionalities in the EU Customs Data Hub are operational by that date.**

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

Done at Brussels,

*For the Council
The President*
