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NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Proposal for a Council Regulation amending Regulation (EC) No
1186/2009 as regards the elimination of the customs duty relief threshold
- Presidency compromise text

Delegations will find enclosed the revised Presidency compromise text for the above Council Regulation.

Changes to the previous text (doc. 12746/25 REV 3) are marked in **bold underline** and ~~striketrough~~.

2023/0157 (NLE)

Proposal for a

COUNCIL REGULATION

amending 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 Title II 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

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, ELI: <http://data.europa.eu/eli/reg/2009/1186/oj>).

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, ELI: <http://data.europa.eu/eli/dir/2017/2455/oj>).

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. **However, this has proven to** 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 **more efficiently**.
- (4) It is therefore necessary to eliminate the threshold laid down **in** Chapter V of Title II of Regulation (EC) No 1186/2009, under which goods of value not exceeding EUR 150 per consignment are exempted from customs duties at import.
- (5) Given the challenges that the large volume of small parcels entering the EU has demonstrated, both for European consumers and businesses, it is important to proceed with a rapid elimination of the threshold. However, pending the adoption of the new Union Customs Code³, which is expected to establish a new ~~EU Customs Data Hub~~ **centralised Union IT system** crucial for the effective calculation and notification of the customs debt, a temporary measure should be instituted to facilitate the concrete implementation of the threshold elimination.

(5a) Under this temporary measure, ~~From [1 July 2026] to [1 July 2028],~~ the **existing** digital tools ~~already available~~ at Union and national level will need to be used **to manage the practical effects that result from eliminating the threshold**. Given the technical limitations of **those** ~~these~~ tools in relation to the huge increase in operations that customs authorities will need to manage following the elimination of the EUR 150 threshold, a simplified temporary

³ Proposal for a Regulation of the European Parliament and of the Council establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013, COM (2023) 258 final.

tariff treatment based on a single ad valorem **duty** rate, applicable to the intrinsic value of the goods without considering their origin and covering goods in consignments with an intrinsic value not exceeding a total of EUR 150, should apply for all economic operators that have registered for, and make use of, the special scheme laid down in Title XII, Chapter 6, Section 4 of Council Directive 2006/112/EC⁴. By contrast, the Common Customs Tariff, as provided for in Council Regulation (EEC) No 2658/87⁵, should continue to apply to all other operators not registered for that special scheme.

(5b) The temporary measure proposed should apply to all economic operators that have registered for, and make use of, the special scheme laid down in Title XII, Chapter 6, Section 4 of Council Directive 2006/112/EC⁶ as the tariff classification for those goods in the customs declaration is only at the level of sub-headings of the Harmonised System, thus not specific enough to determine the exact customs duty based on the full tariff classification under the Combined Nomenclature.

- (6) In accordance with the principle of proportionality as set out in Article 5 of the Treaty on European Union, 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.
- (7) Regulation (EC) No 1186/2009 should therefore be amended accordingly,

⁴ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1, ELI: <http://data.europa.eu/eli/dir/2006/112/oj>).

⁵ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1, ELI: <http://data.europa.eu/eli/reg/1987/2658/oj>).

⁶ **Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1, ELI: <http://data.europa.eu/eli/dir/2006/112/oj>).**

HAS ADOPTED THIS REGULATION:

Article 1

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

Article 1a

From [1 July 2026] until [1 July 2028], a flat rate customs duty of [10%] *ad valorem* on the intrinsic value of the goods in a consignment the intrinsic value of which does not exceed a total of EUR 150 shall apply instead of the relevant rate of duty indicated in the Annex to Regulation (EEC) No 2658/87 where the applicable value added tax (VAT) is declared under the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC.

Article 2

1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.
2. It shall apply from [1 July 2026].
3. **By [1 October 2027] and every month thereafter, the Commission shall assess whether the temporary measure in Article 1a should cover also goods in a consignment with a customs value which does not exceed a total of EUR 150, not imported under the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC, and, if appropriate, submit a proposal to amend this Regulation accordingly.**
4. **By [1 February 2028], the Commission shall assess whether a centralised Union IT system to levy import duties on distance sale consignments will be realistically operational by [1 July 2028]. If the Commission determines that this is not the case, it shall, if appropriate, submit a proposal to extend the temporary measure in Article 1a.**

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

Done at Brussels,

*For the Council
The President*

