



EUROPEAN
COMMISSION

Brussels, **XXX**
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COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

amending Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015
supplementing Regulation (EU) No 952/2013 of the European Parliament and of the
Council as regards detailed rules concerning certain provisions of the Union Customs
Code regarding the use of the customs declaration for goods sold in distance sales

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (UCC), consistent with the Treaty on the Functioning of the European Union (TFEU), delegates to the Commission the power to supplement certain non-essential elements of the UCC, in accordance with Article 290 TFEU. The Commission has therefore exercised these powers, by adopting on 28 July 2015, Commission Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code. This Commission Delegated Regulation established provisions of general application to supplement the Code in accordance with the Commission's delegated powers and with a view to ensuring a clear and proper application of the UCC.

To address the recent dramatic increase of low value goods directly imported from third countries to consumers in the customs territory of the Union, the Council adopted [reference of the legal act + date to be added] amending Regulation (EC) No 1186/2009 as regards the elimination of the customs duty relief threshold by deleting Chapter V of Title II of that Regulation, and amending the Combined Nomenclature Regulation (EEC) No 2658/87, in order to apply a transitional simplified customs duty.

As a result of the elimination of the customs duty relief threshold, goods with an intrinsic value up to EUR 150 per consignment (“low value consignments”), directly imported from third countries to consignees in the Union, will be subject to customs duties. It is therefore necessary to ensure that from the date of implementation of the [reference of the legal act + date to be added], Member States will be able to deal with the calculation and collection of the new customs duties due on the enormous amounts of these consignments imported into the customs territory of the Union. The objective is to ensure this implementation is efficient, workable in the framework of the existing customs legislation and possible within existing national IT systems, particularly in view of the future implementation of specific e-commerce measures contained in the Union Customs Code reform, that will impact the legal and IT aspects of this customs duty.

To address the significant increase in the quantity of consignments up to EUR 150 and therefore benefitting from the customs duty relief, coming into the customs territory of the Union, on 1 July 2021, while minimising as much as possible administrative burden, the Commission implemented a customs declaration for these “low value” consignments (the so-called H7 declaration) using a specific dataset that contains fewer elements than the standard H1 customs declaration. One common criteria of the goods to be declared under the H7 declaration, was the benefit from the customs duty relief, as the authorised threshold to be declared in these declarations was for goods with an intrinsic value up to EUR 150 per consignment. As this duty relief no longer applies, it is therefore necessary to clarify the scope of this H7 declaration as well as the types of economic operators who should use it.

[reference of the legal act + date to be added] introduces a simplified temporary solution, in the form of a customs duty of 3 EUR per item in a consignment the intrinsic value of which does not exceed a total of EUR 150, that applies only to IOSS holders and to postal consignments instead of the amounts otherwise relieved according to the relevant provisions of Council Regulation (EC) No 1186/2009. The objective is to ensure that this simplified solution would not require large-scale IT adjustments to the national import systems, by limiting its scope to the H7 declarations.

Therefore, the IOSS registered traders and the traders using the special arrangement for VAT will be obliged to declare the goods sold in distance sales via a H7 declaration only. For distance sales where neither the IOSS nor the special arrangement is used, only a standard customs declaration - the “H1”, with the full dataset can be used.

To ensure an intermediate solution for the enforcement of prohibitions and restrictions, it is necessary that the declarant provides, in the reduced dataset of the H7 declaration, some supplementary elements in the “supporting document” data element, in order to avoid that further IT developments become necessary in the near future.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

[The proposal has been discussed in the Customs Expert Group-General Legislation Section on ...]

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The legal basis for this Regulation is contained in the delegation of power of Article 7(a) of the Union Customs Code.

Subsidiarity principle

The proposal falls under the exclusive competence of the EU according to Article 3(1)(e) of the Treaty on the Functioning of the European Union (TFEU).

Proportionality principle

In terms of proportionality, this Regulation respects the limits of the empowerments granted by the co-legislators and concerns only elements to better adapt the existing legal provisions to the requirements of the day-to-day practice of customs authorities and economic operators and persons other than economic operators.

4. BUDGETARY IMPLICATIONS

[The proposal is aimed at aligning the Customs legislation with Council Regulation [reference of the legal act + date to be added] amending Regulation (EC) No 1186/2009 as regards the elimination of the customs duty relief. It is therefore expected to support the increase of the EU budget and the budgets of Member States, as new customs duties will now be collected for goods which previously fell under the EUR 150 duty relief threshold and for which no customs duties were previously collected.]

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (the Code)¹, and in particular Article 7(a) thereof,

Whereas:

- (1) Commission Delegated Regulation 2015/2446 provides that a person may lodge a customs declaration for release for free circulation containing the specific dataset referred to in Annex B in respect of a consignment which benefits from relief from import duty in accordance with Articles 23(1) and 25(1) of Regulation (EC) No 1186/2009. As Chapter V of Title II of Regulation (EC) No 1186/2009 has been deleted by [insert legal ref once available], all goods of an intrinsic value not exceeding EUR 150 per consignment are now subject to customs duties. As a consequence, customs authorities will collect customs duties on all goods, irrespective of their declared value.
- (2) It is therefore necessary to amend Delegated Regulation 2015/2446 to clarify the scope of the use of the customs declaration for low value consignments using a specific and reduced dataset, the so-called “H7” declaration and the notification of the corresponding customs debt, in order to implement the simplified temporary solution for collecting customs duties provided by [the amended DRR - insert legal ref once available] only in the H7 declaration.
- (3) The scope of the H7 declaration should be limited to goods the importation of which is exempt from VAT in accordance with Article 143(1)(ca) of Directive 2006/112/EC and to postal consignments as defined in Article 1(24) of this Regulation. These goods will be mandatorily declared under a H7 declaration, in order to provide more clarity and ensure that only those goods can benefit from the simplified duty calculation provided in the Combined Nomenclature Regulation (EEC). It is therefore also necessary to refine and update some definitions in Article 1 of Delegated Regulation 2015/2446, such as goods in postal consignment to reflect the new concepts provided for under these changes.
- (4) These changes also minimise the need for any IT adjustments in the current national IT systems for the H7 declarations; also taking into account the future implementation

¹ OJ L [...], [...], p. [...].

of the EU Customs Data Hub for e-commerce, as envisaged by the Union Customs Code Reform package.

- (5) For consignments up to EUR 150, where the goods are not exempt from VAT in accordance with Article 143(1)(ca) of Directive 2006/112/EC nor in postal consignments as defined in Article 1(24) of Regulation 2015/2446, the declarants should declare their goods using a customs declaration with the standard dataset, including all the relevant data (both fiscal and non-fiscal), namely the “H1” declaration.
- (6) The change in the definition of postal consignment triggers the need for some corresponding amendments in the field of ENS and acts deemed to be a customs declaration.
- (7) Annex B of Delegated Regulation 2015/2446 defines the data requirements for customs declarations, including the H7 declaration. In order to align the “taxable person” indicated in Council Directive 2006/112/EC and the debtor of the customs debt provided in Article 77 of the Union Customs Code, the person authorised for IOSS, or that person’s indirect customs representative, shall be designated as the declarant in Annex B Chapter 2, in the data description which relates to column H7. Some other drafting alignment regarding ENS columns are also necessary.
- (8) To provide for an IT solution capable of controlling goods subject to prohibitions and restrictions, while minimising the IT developments, some new concepts are now defined, in order to be able to fill them in the data element ‘Supporting Document’ of the Annex B. The TARIC code, different categories of product identifier, and a link to the website, are requested to be filled in as a supporting document in the column H7 of the Annex B.

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2015/2446 is amended as follows:

1. Article 1 is amended as follows:

(1) Paragraph (24) is replaced by:

(24) ‘goods in postal consignment’ means goods where the VAT is declared under the special arrangement laid down in Title XII, Chapter 7 of the Directive 2006/112/EC;

(2) Paragraph (25) is replaced by:

(25) ‘postal operator’ means an operator established in and designated by a Member State to provide the international services governed by the Universal Postal Convention adopted on 10 July 1984 under the aegis of the United Nations Organisation, responsible to convey items of correspondence and goods contained in a postal parcel or package;

(3) The following paragraphs are inserted after paragraph (56):

(57) ‘Manufacturer product identifier’ means the unique alphanumeric code assigned by the manufacturer, the producer or the product supplier to a specific model, batch or article, ensuring, at any packaging level, its precise, unambiguous identification and traceability at every point in the supply chain, from manufacturing or production, through distribution, sale, and post-market activities.

(58) ‘Standardised manufacturer product identifier’ means a manufacturer product identifier relying on internationally recognised standards for product identifiers.

(59) ‘Non-standardised manufacturer product identifier’ means a manufacturer product identifier not relying on internationally recognised standards for product identifiers.

(60) ‘Merchant product identifier’ means the unique alphanumeric code assigned by an online seller, marketplace or platform to a specific model, batch or article, ensuring, at any packaging level, its precise, unambiguous identification and traceability from the offer for sale online or through other means of distance sales, through sale, supply, and post-market activities.

2. In Title III, Chapter 3, the heading of Subsection 1 is deleted.

3. Title IV, Chapter 1, is amended as follows:

(1) Paragraph (2) and the corresponding subparagraphs of Article 104 are deleted;

(2) Paragraph (4) of Article 106 is deleted;

(3) Paragraph (2) of Article 113a is deleted;

(4) Paragraph (4) of Article 113a is amended as follows:

4. Where the third country postal operator does not make the particulars required for the entry summary declaration of goods conveyed under the responsibility of a postal operator available to a carrier who is obliged to lodge the rest of the particulars of the declaration through that system, the third country postal operator at the country of dispatch, if the goods are transhipped through the Union, shall provide those particulars to the customs office of first entry in accordance with Article 127(6) of the Code.

4. Title V, is amended as follows:

(5) Paragraph (f) of Article 138 is deleted;

(6) Paragraph (3) of Article 141 is deleted;

(7) Paragraph (4) of Article 141 is amended as follows :

4. Goods conveyed under the responsibility of a postal operator the value of which does not exceed 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.

(8) Article 143a is replaced with:

Article 143a

Use of the specific dataset in column H7 of Annex B

(Article 6(2) of the Code)

Goods the importation of which is exempt from VAT in accordance with Article 143(1)(ca) of Directive 2006/112/EC and goods in a postal consignment as defined in Article 1(24) of this Regulation shall be declared for release for free circulation on the basis of the specific dataset referred to in column H7 of Annex B.

- (9) Article 144 is replaced with:

Article 144

Customs declaration for goods conveyed under the responsibility of a postal operator

(Article 6(2) of the Code)

A postal operator may lodge a customs declaration for release for free circulation containing the reduced data set referred to in column H6 of Annex B in respect of goods conveyed under its responsibility where the goods fulfil the following conditions:

- (a) their value does not exceed EUR 1 000;
- (b) they are not subject to prohibitions and restrictions.

4. Annex B to Commission Delegated Regulation (EU) 2015/2446 is amended as follows:

- (1) Title I is amended as follows:

- (a) In Chapter 2, the rows relating to columns F40, F41, F42, F43, F44, F45, H1, H6 and H7 are replaced by:

F40	Entry summary declaration – Goods conveyed under the responsibility of a postal operator – Partial dataset – Road master transport document information	Articles 5(9) and 127 of the Code
F41	Entry summary declaration – Goods conveyed under the responsibility of a postal operator – Partial dataset – Rail master transport document information	Articles 5(9) and 127 of the Code
F42	Entry summary declaration – Goods conveyed under the responsibility of a postal operator – Partial dataset – Master air waybill containing necessary postal air waybill information lodged in	Articles 5(9) and 127 of the Code

	accordance with the time-limits applicable for the mode of transport concerned	
F43	Entry summary declaration – Goods conveyed under the responsibility of a postal operator – Partial dataset – Minimum dataset lodged pre-loading in accordance with Article 106(1) second subparagraph and in accordance with Article 113 (2)	Articles 5(9) and 127 of the Code
F44	Entry summary declaration – Goods conveyed under the responsibility of a postal operator – Partial dataset – Receptacle identification number lodged pre-loading in accordance with Article 106(1) second subparagraph and in accordance with Article 113(2)	Articles 5(9) and 127 of the Code
F45	Entry summary declaration – Goods conveyed under the responsibility of a postal operator – Partial dataset – Master bill of lading only	Articles 5(9) and 127 of the Code
H1	<p>Declaration for release for free circulation and Special procedure – Specific use – Declaration for end-use.</p> <p>Not to be used for goods the importation of which is exempt from VAT in accordance with Article 143(1)(ca) of Directive 2006/112/EC and goods in a postal consignment as defined in Article 1(24) of Regulation (EU) 2015/2446.</p>	<p>Declaration for release for free circulation: Articles 5 (12), 162 and 201 of the Code</p> <p>Declaration for end-use: Articles 5(12), 162, 210 and 254 of the Code</p>
H6	Customs declaration for release for free circulation of goods conveyed under the responsibility of a postal operator	Articles 5(12), 162 and 201 of the Code
H7	Customs declaration for release for free circulation of goods the	Articles 5(12), 162 and 201

	importation of which is exempt from VAT in accordance with Article 143(1)(ca) of Directive 2006/112/EC and goods in a postal consignment as defined in Article 1(24) of this Regulation	of the Code
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- (b) In Chapter 3, Section 11, in the row relating to data element 14 03 000 000, in column H7 ‘B’ is replaced by ‘A’.
- (c) In Chapter 3, Section 13, footnote [34] is amended as follows:
“Not for use in the case of goods conveyed under the responsibility of a postal operator or carriage by fixed transport installations.”
- (d) In Chapter 3, Section 13, footnote [37] is amended as follows:
“Not for use in the case of goods conveyed under the responsibility of a postal operator or carriage by fixed transport installations or rail.”
- (e) In Chapter 3, Section 13, footnote [57] is amended as follows:
“This information is not required in cases of multiple goods packed together and for goods conveyed under the responsibility of a postal operator.”
- (2) Title II is amended as follows:
 - (f) In the notes to data element 12 03 000 000 Supporting document, the following should be inserted at the end of the last paragraph:

“Data requirements table column H7:

The following data shall mandatorily be provided for each item:

 - (a) Its TARIC code, as defined in Regulation (EEC) No 2658/87;
 - (b) Its product identifiers providing its unambiguous identification and allowing traceability;
 - (c) A website link to the offer for sale, which shall remain available and active for a period of 90 days after the payment has been accepted.”
 - (g) In the notes to data element 12 03 001 000 Reference number, the following should be inserted before the paragraph “Data requirements table column I1”:

“Data requirements table column H7:

Enter the specific data required as ‘Supporting document’ related to declarations covered by this column.”
 - (h) In the notes to data element 13 05 000 000 Declarant, the text “All relevant data requirements table columns used” is replaced by:

“All relevant data requirements table columns used, except H7:”

and the following text is added at the end:

“Data requirements table column H7:

This data element is used in order to provide relevant information relating to the declarant.

The declarant shall be:

- (a) either the person permitted to make use of the special scheme laid down in Title XII, Chapter 6, Section 4 of the Directive 2006/112/EC;
- (b) or the person permitted to make use of the special arrangement laid down in Title XII, Chapter 7 of the Directive 2006/112/EC
- (i) or an indirect customs representative of the person referred to in letter (a) or (b)."In the notes to data element 18 10 000 000 Type of goods, the text "All relevant data requirements table columns used" is replaced by:

"All relevant data requirements table columns used:

Using the relevant Union code, enter the type of goods conveyed under the responsibility of a postal operator"

Article 2

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 July 2026.

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

Done at Brussels,

For the Commission

The President

[...]