



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Customs Policy, Legislation, Tariff
Customs Legislation

Brussels,
Taxud/A2/2020

TAXUD/
Original EN

**IMPORTATION AND EXPORTATION OF LOW
VALUE CONSIGNMENTS –
VAT E-COMMERCE PACKAGE
“Guidance for MSs and Trade”**

FINAL

Disclaimer: "It must be stressed that this document does not constitute a legally binding act and is of an explanatory nature. Legal provisions of customs legislation take precedence over the contents of this document and should always be consulted. The authentic texts of the EU

legal instruments are those published in the Official Journal of the European Union. There may also exist national instructions or explanatory notes in addition to this document."

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ABBREVIATIONS

B2B	Business-to-business
B2C	Business-to-consumer
C2C	Consumer-to-consumer
CD	Customs declaration
CDS	Customs decision system
CN	Combined Nomenclature
COM	European Commission
DRR	Duty Relief Regulation (Council Regulation (EC) No 1186/2009)
ECA	European Court of Auditors
EIDR	Entry in the declarant's records
EOs	Economic Operators
ETOE	Extraterritorial Office of Exchange
EU	European Union
IMPC	International Mail Processing Centres
IOSS	Import One-Stop Shop
IV	Intrinsic Value
LVC	Low Value Consignments
MOSS	Mini One-Stop Shop
MSs	Member State(s)
NIS	National Import System
OSS	One-Stop Shop
P&R	Prohibitions and Restrictions
PG	Project Group
SA	Self-assessment
SASP	Single Authorisation for Simplified Procedure
SD	Simplified Declaration
SPE	Special Procedures
SRDS	Super Reduced Dataset
SURV	Surveillance system
TOR	Traditional Own Resources
TSD	Temporary Storage Declaration
TS	Temporary Storage
UCC	Union Customs Code (Regulation (EU) No 952/2013 of the European Parliament and of the Council)
UCC-DA	Union Customs Code Delegated Act (Commission Delegated Regulation (EU) 2015/2446)
UCC-IA	Union Customs Code Implementing Act (Commission Implementing Regulation (EU) No 2015/2447)

UCC-TDA	Union Customs Code Transitional Delegated Act (Commission Delegated Regulation (EU) No 2016/341)
UPU	Universal Postal Union
VAT	Value Added Tax
VAT Directive	Council Directive 2006/112/EC
VAT Implementing Regulation	Council Implementing Regulation (EU) No 282/2011

1. INTRODUCTION

1.1. The VAT e-commerce package

1.1.1. Context for adoption

E-commerce is changing the international trade environment, including the cross-border flow of goods. While, on the one hand, e-commerce makes it easier to access global markets, particularly for micro-, small- and medium-sized enterprises (MSMEs), on the other hand, customs authorities all over the world are facing the challenge to find a balance between supervision and facilitation, covering all the relevant fiscal and non-fiscal risks. The lack of advance electronic data on postal consignments and often poor data quality and accuracy triggers ineffective and inefficient risk analysis in relation to mis-declaration of origin, mis-description of goods and undervaluation.

The exponential growth of e-commerce over the past decade together with the 10/22€ threshold for VAT payment exemption have resulted, as ascertained by certain studies, in significant losses in revenues for Member States. In addition, non-EU suppliers held a competitive advantage over EU businesses, who do not benefit of such VAT exemption when selling goods on the single market.

In order to address this issue, the Council adopted the VAT e-commerce package on 5 December 2017 that, inter alia, abolishes the import VAT exemption for goods in low value consignments not exceeding 10/22€ and introduces simplifications for the collection and payment of import VAT (Import OSS (IOSS) and special arrangements) for B2C distance sales of goods from third countries or third territories to consumers in the EU. The rules are set to apply as of the 1st of July 2021.

1.1.2. VAT rules with impact on customs

a. Abolition of the VAT exemption for imported low value goods and special schemes for the collection of the import VAT

With the abolition of the 10/22€ import VAT exemption threshold, as of 1 July 2021, all goods imported into the EU, will be subject to VAT, regardless of their value.¹

¹The import VAT exemption for C2C gift consignments with a value not exceeding 45€, as set out in Council Directive 2006/79/EC, remains applicable. These deliveries are of an occasional nature and contain only goods

Together with the removal of the import VAT exemption for low value goods, the legislation introduces two simplifications to collect the import VAT for consignments of an intrinsic value not exceeding EUR 150:

- (1) Import One Stop Shop scheme (IOSS) as set out in Title XII, Chapter 6, Section 4 of the VAT Directive as amended by Council Directive (EU) 2017/2455; or
- (2) Special arrangements as set out in Title XII, Chapter 7 of the VAT Directive as amended by Council Directive (EU) 2017/2455.

These simplifications cannot be applied for excise goods.

Import One Stop Shop (IOSS)

The first scheme is an import one-stop shop system whereby the supplier can fulfil all the VAT obligations (reporting and payment) in one Member State either directly or via an intermediary appointed for this purpose. The VAT paid by the consumer to the supplier at the time of sale is declared and paid through a single IOSS VAT return on a monthly basis directly by the supplier or his intermediary. As a result, the import of the goods into the EU is exempt from VAT. The IOSS is available to sellers making direct imported sales to EU consumers from their own website, or to marketplaces/platforms facilitating those supplies.

The use of the IOSS is not mandatory but there are fiscal and customs incentives that should encourage businesses to use it.

Special Arrangements

A second scheme is foreseen primarily for economic operators who present them to the customs authorities and declares the low value goods on behalf of the consumers such as postal operators, express carriers and customs agents, when the IOSS is not used. Under that scheme, called the special arrangements, the VAT becomes due on import in the MS of destination only if it was effectively collected from the importer (i.e. the consignee of the goods), in order to avoid burdensome refund procedures. These operators pay the VAT amounts collected from the individual consignees for all imports during a given month. This global payment must be done by the deadline applicable to the payment of import duty in accordance with the UCC to the competent tax/customs authorities.

b. Monthly listing of the total value of imports per IOSS VAT identification number

Member States must compile a monthly listing per IOSS VAT identification number of the total value of imports having taken place in their territory for which a valid IOSS VAT identification number has been provided upon importation. For this

intended for the personal or family use by consignees, and are sent without consideration or payment of any kind.

purpose, the Commission's Surveillance system will be used. Therefore, customs authorities must send regularly all relevant data from customs declarations to Surveillance so as to produce the monthly reports that the VAT legislation requires. The tax authorities of the Member States will get access to the monthly IOSS reports directly from Surveillance.

They will use such information for control purposes, by matching the value provided here with the one declared in the VAT return submitted by the holder of the IOSS VAT identification number.

1.2. Relevant customs provisions

The removal of the 10/22€ import VAT threshold as laid down in the VAT e-commerce package is doubtless the change with the biggest impact on customs formalities for both administrations and economic operators. As result of this provision, all commercial goods imported into the EU, regardless of their value, are subject to VAT as of 1 July 2021.

The implementation of the VAT e-commerce package required amendments to the customs legislation. In order to ensure the VAT collection for all goods imported from a third country into the EU, a customs declaration for release for free circulation must be lodged even for consignments of an intrinsic value not exceeding 150€. Moreover, with a view of establishing a level playing field between economic operators with comparable business activities, the UCC framework was amended with a view of setting the same rights and obligations for all persons (i.e. Article 143a of the UCC-DA and column H7 in Annex B).

The possibilities for declaring LVCs for release for free circulation as from the entry into force of the VAT e-commerce rules are listed under Chapter 2, section 2.1.

As for the obligation to provide a monthly listing of total value of imports per IOSS VAT identification number, the UCC-IA was amended with a view of providing the legal basis for capturing and exchanging the relevant VAT information in Surveillance (Article 55 and Annexes 21-01, 21-02 and 21-03² of the UCC-IA).

Further amendments to the UCC-DA and the UCC-IA were meant to streamline the related customs formalities and to adjust certain provisions to the new VAT rules. They cover the following:

- 1) Competent customs office for release for free circulation of LVC when IOSS is not used – Article 221(4) of the UCC-IA,

² At the time of the finalisation of the guidance document by the PG, the amendment to the UCC-IA to introduce Annex 21-03 is not yet adopted.

- 2) Transitional measures for the application of the LVC customs declaration when the upgrade of the national IT systems is not ready before the 1st July 2021 – Article 143a (3) of the UCC-DA,
- 3) Transitional measures for the postal operators when electronic advance data is not available – Article 138(f) and Article 141(3) of the UCC-DA and when IOSS or Special Arrangements schemes are not used.

1.3. Definitions and main customs concepts

1.3.1. Intrinsic value

The new VAT rules for e-commerce have introduced special schemes for the calculation of the import VAT for goods in consignments not exceeding 150€. The applied concept followed the threshold of the customs duty exemption for consignments of negligible value under the Duty Relief Regulation (Regulation (EC) No 1186/2009 – ‘DRR’). Besides, as of July 2021, the Member States will need to integrate a validation mechanism in the declaration processing system (National Import Systems) to check whether the customs declaration for release for free circulation of certain low value consignments (the H7 dataset in UCC-DA Annex B) is legitimately applied.

Considering all the above, the customs legislation introduced a legally binding definition for this term that safeguards the harmonised implementation throughout the EU and builds on the approach that has been used for the customs duty exemption threshold. This definition applies for the implementation of the 150€ threshold both for customs and VAT purposes, regardless of the VAT scheme used.

Article 1(48) of the UCC-DA provides that “intrinsic value means:

- (a) for commercial goods: the price of the goods themselves when sold for export to the customs territory of the Union, excluding transport and insurance costs, unless they are included in the price and not separately indicated on the invoice, and any other taxes and charges as ascertainable by the customs authorities from any relevant document(s);
- (b) for goods of a non-commercial nature: the price which would have been paid for the goods themselves if they were sold for export to the customs territory of the Union;”

Examples on the calculation of the intrinsic value are included in Chapter 2, section 2.2.1 on D.E. 14 14 000 000.

Any other related cost, besides transport and insurance, that do not reflect the value of the goods in themselves must also be excluded from the intrinsic value, whenever

they are separately and clearly indicated in the invoice (e.g. tooling costs, licence fees, export tax etc.).

The phrase “other taxes and charges” refers to any tax or charge levied on the basis of the value of the goods or on top of a tax or charge applied to such goods.

As for the goods of a non-commercial nature, the definition should also be understood in the same vein as for the commercial goods, meaning the value of the goods themselves, excluding any other costs, taxes or charges already mentioned under letter a of Article 1(48) of the UCC DA.

1.3.2. Single consignment and Low Value Consignment (LVC)

In respect of Article 23(1) of the DRR that defines the “consignments of negligible value”, the low value consignments contain goods whose intrinsic value at import is not exceeding 150€.

As regards the term "*consignment*", the goods dispatched simultaneously by the same consignor to the same consignee and covered by the same transport contract (e.g. house airway bill, S10 barcode) 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 operator or the express carrier at the destination, should be considered as separate consignments. In the same vein, goods covered by the one order placed by the same person, but dispatched separately, should be considered as separate consignments.

Such definition, however, should apply without prejudice to the provisions governing customs controls (Article 46 UCC). Customs authorities may carry out any control they deem necessary in order to ensure compliance with the customs rules and ultimately to secure the financial traditional own resources (TOR) of the Union.

Examples are provided under Chapter 4 of the [Explanatory Notes](#), points 22 to 27.

1.3.3. Postal consignments

As provided in Article 1(24) of the UCC-DA, the postal consignment contains goods fulfilling the following conditions:

- Others than items of correspondence³,
- Contained in a postal parcel or package and

³ This guidance document does not deal with the customs formalities relating to items of correspondence. Instead, detailed explanation can be found in Part E, point 3 of the [UCC Entry & Import Guidance Document](#).

- Conveyed under the responsibility of/by a postal operator in accordance with the Universal Postal Union (UPU) provisions.

For the sake of completeness, Article 1(25) UCC-DA defines the postal operator as “an operator established in and designated by a Member State to provide the international services governed by the UPU”.

1.3.4. Express consignment

In 2020, an amendment to the UCC-DA introduced a definition of goods in express consignments in its Article 1(46): “express consignment means an individual item conveyed by or under the responsibility of an express carrier”.

Besides, Article 1(47) UCC-DA defines the “express carrier” as an operator providing integrated services of expedited/time-definite collection, transport, customs clearance and delivery of parcels whilst tracking the location of, and maintaining control over, such item throughout the supply of the service.

1.3.5. Postal transit

Postal transit is defined in ‘Part I, section 4.2.6. Postal packages’ of the Transit Manual:

https://ec.europa.eu/taxation_customs/sites/taxation/files/transit_manual_en.pdf

i. Closed transit

Mail shipments are considered in closed transit when the containers are sent to a designated transit operator to be re-routed to the designated operator of destination at the same time, but in separate receptacles, as the containers of the designated transit operator. As a general rule, the designated operators of origin and transit consult each other for arrangements concerning transit in closed mails.

ii. Open transit

Open Transit is used when volumes do not warrant a closed dispatch. The items (bundled letters, parcels) to a destination country are included inside receptacles (normally bags) dispatched to a third party (transit) designated operator.

The transit designated operator then includes the open transit mail in its own receptacles along with its own originating mail. Open transit shipment should not be used to countries of destination for which the weight of the mail exceeds three kilogrammes per mail or per day (when several dispatches are made in a day), and not for M bags⁴ as well.

⁴An M-bag is a direct sack of printed matter sent to a single foreign addressee at a single address. It shall be considered as a postal consignment (and not as a receptacle). Since 2019, M-bags are subject to Electronic Advance Data.

In the same way as for the closed transit, origin and transit operators consult each other on open transit arrangements.

1.4. Purpose and scope of the document

As the customs legislation has changed significantly the customs formalities for the importation and exportation of low value consignments, it is of utmost importance that all involved parties (such as customs and tax authorities, electronic interfaces, direct webshop merchants, posts and express carriers, customs brokers, logistic service providers and importers) apply the relevant rules correctly and in a uniform way across the EU.

The present guidance document aims at complementing the [VAT Explanatory Notes](#), in particular its Chapter 4 on the import scheme with clarifications and examples on the customs formalities applicable to the distance sales of B2C low value consignments imported from third countries or third territories.

The Customs 2020 Project Group on Import and Export Customs Formalities related to Low Value Consignments, gathering representatives of all above-mentioned stakeholders, received the task to draft clear Guidance on this topic. The content of this document reflects the outcome of their work that was endorsed by the Customs Expert Group General Customs Legislation Section (CEG-GEN).

2. IMPORT FORMALITIES FOR LOW VALUE CONSIGNMENTS

2.1. Overview of different options for the CD for release for free circulation of LVC

Generally, the choice of the customs declaration stays with the person submitting the declaration and depends on the legal requirements and/or the availability of the data elements required for each of the following solutions.

An overview on different possible customs declarations for this purpose can be found in the Annex 1.

2.2. Customs declaration with H7 dataset (Article 143a UCC-DA)

Foreseen in Article 143a of the UCC-DA, the so-called super reduced dataset contains a set of data requirements meant to facilitate the implementation of the customs aspects of the VAT e-commerce package.

2.2.1. 'Super Reduced Dataset (SRDS)' - column H7 of Annex B of the UCC-DA

2.2.1.1. Scope and role

The detailed content (data set) of this particular customs declaration is defined in Annex B of the UCC-DA under column H7⁵.

Summary:

Customs declarations containing the H7 data set can be used

- by any person⁶
- for goods sent in B2C, B2B or C2C consignments up to an intrinsic value of 150€ subject to customs duty exemption in accordance with Article 23(1) DRR or in C2C consignments up to an intrinsic value of 45€ subject to customs duty exemption in accordance with Article 25(1) DRR and
- for IOSS, special arrangements or the standard import VAT collection mechanism.

Exceptions/goods excluded: goods subject to prohibitions and restrictions (for more details, please see section 2.2.3).

Member States may allow the use of the customs declaration with H7 dataset in the context of trade with special fiscal territories, in accordance with Article 134(1) of the UCC-DA.

If the conditions for using the respective CD for the release for free circulation of the goods are met, it is up to the person submitting the declaration to choose the customs declaration with the appropriate dataset for the import clearance of the LVC(H7, I1, H1 or, if applicable H6 dataset).

2.2.1.2. Guidance on certain data elements in the context of the H7 customs declaration

(a) D.E. 11 10 000 000 Additional procedure codes

The note to this D.E specifies: Enter the relevant Union codes or the additional procedure code as provided for by the Member State concerned.

The relevant Union codes to be used under this data element are:

- (a) C07 – Consignments of negligible value
- (b) C08 – Consignments sent from one private individual to another

⁵For the purpose of this paper, reference to the H7 contains the data elements as foreseen in the revised Annex B that is not yet adopted at the time of drafting the guidance document.

⁶ However, in the context of the special arrangements, the customs declaration with H7 dataset can only be used by the person presenting the goods to customs.

- (c) F48–Import under the special scheme for distance sales of goods imported from third countries or third territories set out in Title XII Chapter 6 Section 4 of Directive 2006/112/EC (IOSS cases) and
- (d) F49–Import under the special arrangements for declaration and payment of import VAT set out in Title XII Chapter 7 of Directive 2006/112/EC (Special Arrangements cases).

Since the code ‘C08’ addresses C2C consignments, it cannot be used together with any of the above ‘F’ codes (F48 and F49). If the IOSS VAT identification number is provided in D.E. 13 16 000 000, then only additional procedure codes C07 and F48 can be used.

Examples:

- a) A consignment with IOSS and intrinsic value 130€:
Codes to be indicated under 11 10 000 000: C07 and F48.
- b) A consignment without IOSS but to be declared using the special arrangements:
Codes to be used under 11 10 000 000: C07 and F49
- c) A consignment from one private individual to another with a value 30€:
Code to be used under 11 10 000 000: C08
- d) A consignment from one private individual to another with an intrinsic value 130€:
Code to be used under 11 10 000 000: C07.
- e) A consignment with an intrinsic value of 130€ under the standard import VAT scheme (no IOSS) including B2B shipments: Code to be used under 11 10 000 000: C07
- f) A consignment from one private individual to another, containing two items, with a total value 50€ (item 1: 20€, item 2: 30€):
- g) Code to be used under 11 10 000 000: item 1, 20€ C07; item 2, 30€ : C07

(b) D.E.12 01 000 000 Previous document

The purpose of D.E. 12 01 000 000 is to establish a link between the various customs formalities and enable the traceability of the goods for customs purposes. It allows customs to verify that the goods have been complied with the entry and import formalities. It requires to enter the reference to a previous document, e.g. to the temporary storage declaration or ENS in case of a customs declaration for release for free circulation. The footnote [72]⁷ in Annex B-DA allows the waiver of this reference, in case the MS’s declaration processing system can make that link based on other information (e.g. the transport document number) available in the customs declaration.

⁷Member States may waive this obligation if their systems allow them to deduce this information automatically and unambiguously from information elsewhere in the declaration.

In this case, the previous document identifier may be waived, and, instead the transport document number can be used as indicated in D.E. 12 05 000 000 for the identification of the previous formalities mainly in case of MS that have an integrated entry and import IT system and in situations where the ENS is lodged in the MS of importation.

(c) D.E. 12 03 000 000 Supporting documents

This data element contains the identification or reference number of any Union, international or national documents (such as the invoice), certificates and licences pertaining to the goods covered by the declaration.

(d) D.E. 12 05 000 000 Transport document

This data element includes the type and reference of the transport document. For low value consignments, the reference to the transport document provided in this data element may, in certain situations, lead to the waiver of the reference to the previous document (see footnote [72] in relation with D.E. 12 01 000 000 in Annex B-DA).

The express carriers generally provide the AWB number as transport document. This is a unique identifier for a particular consignment and it can be used for search in any of the systems (national and trans-European) to track the history of the consignment.

The postal operators use the S10 barcode for the purpose of D.E. 12 01 000 000. Such number allows the traceability of a specific postal consignment.

(e) D.E. 12 08 000 000 Reference number UCR

This data element concerns the unique commercial reference number assigned by the seller to the transaction/order 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 which could facilitate and speed up any potential control activities. Therefore it is recommended to provide this data element whenever possible. This D.E is optional for the person lodging the customs declaration. The note to this D.E specifies that this entry may be used for the indication of the transaction identifier, if the goods are declared for release for free circulation under the special scheme for distance sales of goods imported from third countries or third territories set out in Title XII Chapter 6 Section 4 of Directive 2006/112/EC. Nevertheless, being optional, this information may be provided regardless of the import VAT collection mechanism used.

It is important to note that this transaction identifier is not identical with the transport document number (e.g. AWB number for express consignments or S10 barcode for postal consignments) which is a number allocated to the consignment by the transport operator.

The transaction identifier is not identical with the IOSS VAT identification number either, but refers to the sales transaction (e.g. order number) and is usually assigned for commercial purposes by the seller and it is for them to determine their structure, however it should respect the required format (an...35). Hence, a single number range can be used irrespective of which Member State is the Member State of consumption and/or the Member State of importation.

In case of grouped orders, the transaction identifier, if provided, refers to the individual orders in relation with the declaration item concerned.

(f) D.E. 13 01 000 000 Exporter

The note to this D.E requires to enter the full name and address of the person consigning the goods as stipulated in the transport contract by the party ordering the transport.

Examples:

- A consignment with several goods from one seller who is also ordering the transport: the name and address of that person (i.e. the seller) have to be entered under this D.E at the 'header level' of the declaration (Goods Shipment level).
- A consignment with several goods from different sellers sold on the same platform. Transport is organised by the platform: the name and address of the platform ordering the transport have to be entered under this D.E at the 'header level' of the declaration (Goods Shipment level).
- Several goods from different sellers sold on the same platform where the transport is organised by each individual seller: the goods will arrive as individual consignments and be subject to separate customs declarations. The name and address of the person concerned (i.e. the respective seller) ordering the transport have to be entered under this D.E in respect of each of the consignments each time at the 'header level' of the customs declaration (Goods Shipment level).

(g) D.E. 13 04 000 000 Importer

The note to this D.E requires to enter the name and address of the party to whom the goods are actually consigned (i.e. the final consignee business or private individual).

(h) D.E. 13 04 017 000 Importer ID No

The note to this D.E requires entering the identification number of the party to whom the goods are actually consigned.

Enter the EORI number of the person concerned as referred to in Article 1(18) UCC-DA. Where the importer does not have an EORI number, the customs administration may assign him an ad hoc number for the declaration concerned.

Where the importer is not registered in EORI, since he is not an economic operator or he is not established in the Union, enter the number required by the legislation of the Member State concerned.

The note is to be read together with footnote 8 in Annex B-DA: To be provided only when available.

Examples:

- A H7 customs declaration is to be lodged in MS ‘A’ and the importer (i.e. the consignee) is a private individual. The national legislation in that MS does not require private individual to register for EORI. In this case D.E 13 04 017 000 is left blank or filled in according to the national legislation of that MS provided the person lodging the declaration has the information available at the time of submitting it .
- A H7 customs declaration is to be lodged in MS ‘B’ and the importer (i.e. the consignee) is a private individual. The national legislation in that MS requires private individuals to register for EORI. In this case, the EORI number of the private individual is entered in D.E 13 04 017 000 provided that the EORI number is available to the person lodging the declaration at the time of submitting it.

Above is valid regardless of the VAT collection mechanism used for the collection of import VAT (IOSS, special arrangements or the standard VAT collection mechanism).

However, Member States that require the use of an identifier for private individuals in accordance with Article 6(1)(b) DA, can continue to do so. Member States where such registration is not required, should not introduce new obligations for the sake of implementing the H7 dataset in their national import system.

(i) D.E. 13 05 000 000 Declarant

Section 2.2.2 provides detailed explanations on this data element.

(j) D.E. 13 16 000 000 Additional fiscal references identification no

The note to this D.E requires to provide the special IOSS VAT identification number attributed for the use of IOSS, when the goods are declared for release for free circulation

under the special scheme for distance sales of goods imported from third countries or third territories set out in Title XII Chapter 6 Section 4 of Directive 2006/112/EC.

The note is to be read together with footnote 55 in Annex B-DA: This information is to be provided only in case the goods are imported under the special scheme (IOSS case).

The IOSS VAT identification number is to be made available to customs authorities at the latest in the customs declaration for release for free circulation. In case of postal consignments such number can be included in the ITMATT message in order to facilitate the processing of the data.

This is the data element under which the IOSS VAT identification number will have to be declared together with the role code FR5 that refers to the Vendor (IOSS).

Only one IOSS VAT identification number can be declared per consignment and it has to be provided at Goods Shipment level, i.e. it is relevant for the whole declaration. Hence, a customs declaration cannot contain a mixture of IOSS and non-IOSS goods.

(k) D.E. 14 03 040 000 Tax base

This D.E is not required for the CD with H7 dataset which means it is not to be declared/provided by the person lodging the customs declaration.

Nevertheless, this information is to be transmitted into the Surveillance system by the National Import System (NIS). Therefore, the NIS of each MS has to:

- calculate D.E. 14 03 040 000 Tax base on the basis of D.E. 14 14 000 000 and 14 15 000 000; and, if applicable,
- convert the invoice currency into the national currency (D.E.14 14 000 000 + D.E.14 15 000 000/item)x14 09 000 000.

(l) D.E. 14 14 000 000 Intrinsic value

The note to this D.E. requires to enter the intrinsic value of the goods per item in the invoice currency.

D.E. 14 14 000 000 is mandatory for the person lodging the customs declaration.

D.E. 14 14 000 000 is only used in the context of H7 customs declaration. In case of a customs declaration with full dataset (H1) or a simplified declaration (I1), the intrinsic value of the goods must be indicated in D.E. 14 08 000 000 Item price/amount. In case of a customs declaration with reduced dataset for goods in postal consignments (H6), D.E. 14 12 000 000 Postal value must be used for the purpose of the intrinsic value of the goods.

In case of IOSS, it is recommended that the VAT amount is always indicated separately on the invoice in order to allow the identification of the intrinsic value and the calculation of the tax base for the Surveillance reporting.

Example 1: intrinsic value of 140€ (VAT excluded and no other cost provided)

Item no	Product denomination	Price	VAT	Total price
1	Winter coat	140€	28€	168€

Example 2: intrinsic value of 140€ (VAT excluded and transport costs indicated separately)

Item no	Product denomination	Price	VAT	Total price
1	Winter coat	140€	28€	168€
2	Transport fee	15€	3€	18€

Example 3: intrinsic value of 140€ (VAT excluded and transport costs indicated separately)

Item no	Product denomination	Price	VAT	Total price
1	Winter coat	120€	24€	144€
2	T-shirt	20€	4€	24€
3	Transport fee	15€	3€	18€

Example 4: intrinsic value of 160€ (VAT excluded and no other costs indicated separately on the invoice)

Item no	Product denomination	Price	VAT	Total price
1	Winter coat	160€	32€	192€

Since the intrinsic value in example 4 is above 150€, the declaration with H7 dataset cannot be used for declaring these goods. Either a standard customs declaration (H1 or H6 exclusively for postal operators) or a simplified customs declaration (I1) must be used instead.

(m)D.E. 14 15 000 000 Transport and insurance costs to the destination

The note to this D.E. requires to enter the transport and insurance costs up to the place of final destination in the invoice currency.'

D.E. 14 15 000 000 is mandatory for the person lodging the customs declaration. However, in accordance with introductory note (3) of Chapter 1, Title I, Annex B, UCC-DA this data is collected only where circumstances warrant it. In addition, introductory note (6) may be as well relevant in this context. It specifies that the data provided by the declarant shall be based

on his/her knowledge at the time of lodging the declaration to customs. This applies, however, without prejudice to Article 15 UCC.

Examples:

- Price of the goods including transport and insurance costs indicated on the invoice: 120€. On the invoice, the transport and insurance costs of 20€ are mentioned separately –*the Intrinsic value to be indicated in the data element 14 14 000 000 is 100€, transport and insurance costs to the final destination to be indicated in the data element 14 15 000 000 are 20€.*
- Total price of the goods indicated on the invoice: 120€. No transport or insurance costs mentioned in the supporting documents – *the intrinsic value to be indicated in the data element 14 14 000 000 is: 120€. D.E. 14 15 000 000 is left blank or filled in with “0” value, depending on MS import system.*

(n) D.E. 18 02 000 000 Supplementary units

The note to this D.E requires to enter, where necessary, the quantity of the item in question, expressed in the unit laid down in Union legislation, as published in TARIC.

The note is to be read together with footnote 56 in Annex B-DA: This information is only required if the declaration concerns goods referred to in Article 27 of Regulation (EC) No 1186/2009 and/or in Article 2 of Council Directive 2006/79/EC.

This means that this data element is required only in case of C2C shipments (private individual to private individual) in case the nature of the goods falls under the quantity restrictions (tobacco products, alcohol and alcoholic beverages, perfumes and toilet waters).

Example

A box of cigars is sent as a gift.

Quantity: 10 cigars are included in the box

Supplementary unit: 0,01

(o) D.E. 18 09 056 000 Harmonized System sub-heading code

The note to this D.E requires to enter the six-digit Harmonised System nomenclature code of the goods declared.

2.2.2. Who can be the declarant?

The customs declaration with H7 dataset can be lodged by any person fulfilling the conditions in Article 170 UCC. The declarant could be either the importer (i.e. the consignee that is usually, but not necessarily identical to the buyer) in his/her own name and behalf or a representative (i.e. postal operator, express carrier, customs agent or similar) under the general conditions of the UCC. Depending on the type of the representation, the representative may act in the name and on behalf of the person represented (direct representation) or in his/her own name and on behalf of the person represented (indirect representation).

Upon the customs clearance for release for free circulation, customs authorities may require the representative to provide an evidence of their empowerment by the person represented. Representatives that fail to provide such evidence or fail to state that they are acting as representatives, are deemed to be acting in their own name and their own behalf and must bear full liability for the customs declaration concerned.

In order to accelerate the customs clearance process, such empowerment can be requested from the buyer already at the time of the purchase, e.g. upon choosing the delivery options. It is also recommended that the empowerment covers all the formalities relating to the customs clearance of the goods, including the potential amendment or invalidation of the customs declaration.

Examples:

- 1) An importer in Estonia orders a pair of sport shoes from a seller on an online platform. The consignment fulfils all conditions of Article 143a UCC-DA (goods covered by Article 23(1) of the DRR and not subject to P&R). The goods are transported by Post/Express and when arrive in Estonia, the importer chooses to lodge the customs declaration in his own name. For this purpose, he has the right to use the CD with H7 dataset.

Excerpt from the CD:

D.E. 13 04 000 000	Importer	Person (private or legal)
D.E. 13 05 000 000	Declarant	Importer
D.E. 13 06 000 000	Representative	-

- 2) In a second scenario, the importer appoints the Post/Express/other customs agent to lodge the customs declaration on his name and behalf => direct representation by Post/Express, which can choose for this purpose the CD with H7 dataset.

Excerpt from the CD:

D.E. 13 04 000 000	Importer	Person (private or legal)
D.E. 13 05 000 000	Declarant	Importer
D.E. 13 06 000 000	Representative	Post/Express/other customs

		agent
D.E. 13 06 030 000	Representative status	Code “2” (direct representation within the meaning of Article 18(1) of the Code)

- 3) In a third scenario, the importer designates Post/Express/other customs agent to act as indirect representative, who consequently will clear the goods in their own name but on behalf of the importer.

Excerpt from the CD:

D.E. 13 04 000 000	Importer	Person (private or legal)
D.E. 13 05 000 000	Declarant	Post/Express/other customs agent
D.E. 13 06 000 000	Representative	Post/Express/other customs agent
D.E. 13 06 030 000	Representative status	Code “3” (indirect representation within the meaning of Article 18(1) of the Code)

- 4) In a fourth scenario, Post/Express/customs agents fail to state that they act as representative and therefore, they are deemed to be acting in their own name and on their behalf, with all responsibilities implied by the quality of declarant.

Excerpt from the CD:

D.E. 13 04 000 000	Importer	Person (private or legal)
D.E. 13 05 000 000	Declarant	Post/Express/other customs agent
D.E. 13 06 000 000	Representative	-

In order to lodge the declaration, all the data required for the release for free circulation of the goods need to be available to the person lodging the declaration. The declaration will only be accepted when containing the full data. When lodging the declaration on behalf of another person, the customs representatives (including postal operators or express carriers or similar) need to have an empowerment (Article 19 UCC).

2.2.3. Which goods can be declared by the CD with H7 dataset?

As provided for in Article 143a of the UCC-DA, the CD with H7 dataset can be used for goods fulfilling the following conditions:

- 1) goods in a consignment which benefits from relief from import duty in accordance with Article 23(1) or Article 25(1) of the DRR and
- 2) the goods in that consignment are not subject to prohibitions and restrictions.

1) Goods in a consignment which benefits from relief from import duty in accordance with Article 23(1) or Article 25(1) of the DRR

The article refers to the Duty Relief Regulation and more specifically to Articles 23(1) and 25(1) therein which are commonly known as the 150€ threshold for low value goods and the 45€ threshold for gifts with non-commercial character (C2C).

Article 23(1) sets the following conditions for the goods:

- a negligible value (whose intrinsic value does not exceed a total of 150€ per consignment);
- dispatched directly from a third country to a consignee in the EU;
- certain goods are excluded: alcoholic products, perfumes and toilet waters and tobacco or tobacco products. Hence, those goods are not allowed to be covered in a customs declaration with H7 dataset, unless Article 25(1) of the DRR applies (covering consignments sent from one private individual to another private individual). Article 26 limits the scope of the duty relief to a value up to 45€ for those consignments and, for some specific goods, to certain quantitative thresholds described therein.

To be noted that the relief in accordance with Article 23 (1) is applicable per consignment, and if the consignment consists of several items, the consignment cannot be split in order to claim duty relief for one or several items, the value of which is up to 150€.

When hundreds of parcels destined to individual consumers and labelled with their names are consolidated in a container, they can be cleared by hundreds of customs declarations with H7 dataset and delivered to their final destination after the release. It is reminded that in case of non-IOSS goods, all such goods have to be declared for release for free circulation in the MS of final destination of the goods. See relevant use cases in Annex 2.

Intrinsic value of maximum 150€ per consignment

For the purpose of determining whether the goods qualify for duty exemption provided in Article 23(1) DRR, the definition of “intrinsic value” (Article 1(48) UCC-DA) must be considered. Customs will find this value in DE 14 14 000 000 of the customs declaration

in order to assess the right to use the CD with H7 dataset. The intrinsic value is explained in details under Chapter 1.

If customs identifies that the intrinsic value of the goods exceeds 150€, the follow up treatment depends on the moment of such acknowledgement. The below table summarises the possible scenarios:

Time of determining the correct value of the goods	Follow-up action required	Who shall take action	Legal basis
Before acceptance of the CD with H7 dataset	H7 CD rejected	Customs	Article 172 UCC
	New non-H7 CD lodged	Declarant	
After acceptance of the CD but before the release of the goods, if the intrinsic value of the goods is \leq 150€	CD amended ⁸	Declarant	Articles 191 and 173(1) UCC
After acceptance of the CD but before the release of the goods, if the intrinsic value of the goods is $>$ 150€	Customs may refuse the release of the goods or suggest the declarant to request invalidation of the customs declaration with H7 dataset and submit a new CD with H1 dataset or a simplified declaration. Alternatively, customs annuls the decision on the acceptance of the customs	Customs	Articles 27, 174, 188, 191, 198 UCC Articles 8-10 UCC-DA Articles 8-9 UCC-IA

⁸ Amendment is only possible if the conditions provided for in Article 173(2) UCC are met (customs have not informed the declarant to examine the goods, customs have not established that the data are incorrect and the goods are not yet released). In other cases, the procedure described below for cases where the incorrect value was identified after the acceptance of the CD but before the release of the goods, and the intrinsic value of the goods is $>$ 150€ shall apply.

	declaration and requests the submission of a customs declaration with full dataset or a simplified declaration including the correct customs value, the declarant has the right to be heard.		
After release of the goods, identified by the declarant	CD amended, if the value remains under 150€	Declarant	Article 173(3) UCC
In the course of post-release controls	A formal customs decision taken on the results of the post-release control and the import duty to be paid. In case of IOSS, the Member State of Identification must also be informed (administrative cooperation)	Customs	Article 29 UCC Articles 8-10 UCC-DA Articles 8-9 UCC-IA

Article 25(1) of DRR covers the following goods:

- contained in consignments with a value up to 45€,
- sent from a third country by a private individual to another private individual living in the customs territory of the EU;
- goods are not the object of a commercial importation (goods of an occasional nature, exclusively for the personal use of the consignee (i.e. the importer) or his family, which do not, by their nature or quantity, reflect any commercial intent and are sent to the consignee (i.e. the importer) by the consignor free of payment of any kind⁹);

⁹Commercial nature defined in Article 25(2) of the DRR

- Quantitative limits apply for tobacco products, alcohols and alcoholic beverages, perfumes and toilet water in line with Article 27 of the DRR.

To be noted that for non-commercial goods, relief can be claimed on item level, which means that where the total value per consignment of two or more items exceeds the amount of value of 45€, relief up to that amount shall be granted for such of the items as it would have been granted if imported separately. But the value of an individual item cannot be split up (Article 26(2) of the DRR). However, the VAT exemption shall be considered for the whole consignment and not in relation with the individual goods of that consignment¹⁰.

N.B. Goods subject to customs duty relief based on other articles of the DRR (such as commercial samples) and returned goods cannot be declared by using the CD with a SRDS and have to be subject to a simplified declaration or a standard declaration with full dataset.

In case the value of the gifts (other than alcoholic products, perfumes and toilet waters or tobacco and tobacco products) exceeds the 45€ threshold, but otherwise qualifies for the conditions of the duty relief in accordance with Article 23 DRR, the customs declaration shall be rejected by customs and amended by the declarant by replacing the additional procedure code C08 by C07.

As long as the value of the goods does not exceed 150€, no customs duty shall be paid, however, the goods will be subject to VAT payment. The use of the customs declaration with H7 dataset is possible, if other conditions are met.

Examples:

- a) A consignment from one private individual to another with a value 30€: No Import duty, No payment of VAT, Additional procedure code C08*
- b) A consignment from one private individual to another with a value 50€: No import duty, Payment of VAT, Additional procedure code C07*
- c) A consignment from one private individual to another with a value of 100€ comprising
Item 1: value 20€: No Import duty, payment of VAT, Additional procedure code C07
Item 2: value 30€ No Import duty, payment of VAT, Additional procedure code C07*

¹⁰ Following Article 1(2)(c) of Directive 2006/79/EC, 'small consignments of a non-commercial character' shall mean consignments which: (c) contain goods with a total value not exceeding 45€

Item 3: value 50€ No Import duty, payment of VAT, Additional procedure code C07

Considering that the total value of the consignment exceeds 45€, the VAT exemption cannot apply.

d) A consignment from one private individual to another, in a commercial transaction (such as goods sold on a C2C electronic interface) with a value below 150€: No import duty, Payment of VAT, Additional procedure code C07

Note that in the above scenarios b), c) and d), the additional procedure code C07 cannot be combined with F48 or F49, considering that IOSS and the special arrangements are both only applicable in case of the distance sales of goods (B2C).

2) The goods in that consignment are not subject to prohibitions and restrictions

As Article 143a of the UCC-DA lays down that no goods subject to prohibitions and/or restrictions can be released for free circulation using the CD with H7 dataset, it is not allowed to include in the declaration any goods that do not meet this requirement. Such goods, other than those which are prohibited to be released for free circulation, will continue to be declared by using a standard customs declaration with all relevant information. By lodging the customs declaration with H7 dataset, the declarant states that the goods are not subject to prohibitions and restrictions.

In order to assess this condition, the customs authorities will rely on the information provided in the customs declaration and, more specifically, in the 6-digit-HS code but also in the description of the goods and exporter's name and address. Moreover, the lodgement of the ENS as of 2021 will be an additional layer that will give customs more information for the risk analysis for security & safety purposes. All these data are to be used for triggering relevant customs controls that can be supplemented by random checks.

Express operators have integrated in their own systems a screening process that entails the identification of prohibitions and restrictions relevant for customs authorities. The process itself covers a layered approach with different steps. First, the automated assessment consist of applying filters based on keywords under commodity descriptions together with additional parameters such as weight and customer profiles from both the shipper and the consignee (i.e. the importer). The system stops these shipments from being cleared using a simplified procedure and flags them in a queue. Second, human intervention is needed in order to carry out further checks and make the preparatory work prior to placing the goods under a customs procedure.

It is important to note that the provision in Article 143a of the UCC-DA: “under

<p>the condition that they are not subject to P&R” cannot be understood as excluding all goods with a 6-digit HS code that might be linked to a TARIC P&R measure from the use of the CD with a SRDS.</p>

It is recommended that customs perform the checks in relation with the P&R in accordance with the following:

- when all goods identified by the 8–digit CN code below the declared 6–digit HS code are subject to a P&R measure, such HS code is blocked and the H7 CD is rejected; and
- when only some of the 8–digit CN codes below the declared 6–digit HS code are associated with a P&R measure, the H7 CD is flagged and additional controls have to be performed by the competent customs authorities.

This modus operandi is suggested to be integrated in the MS National Import System by an automated solution developed for the implementation of the CD with H7 dataset with a view of ensuring an automatic check of the P&R measures and a fast release of such goods.

2.2.4. Which VAT collection mechanism?

The customs declaration with H7 dataset can be used for the following VAT collection mechanisms:

- The import scheme/Import One Stop Shop or IOSS (see Section 3.1)
- The special arrangements for declaration and payment of import VAT (see Section 3.2) and
- the standard VAT collection mechanism (see Section 3.3)

2.2.5. Which procedure code?

The customs declaration with H7 dataset must be used with the procedure code '40 00' as provided by the Annex B to the UCC-IA:

'H7	Customs declaration for release for free circulation in respect of a consignment which benefits from relief from import duty in accordance with Article 23(1) or Article 25(1) of Regulation (EC) No 1186/2009.	40 00'
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Consignments should not be eligible for relief from import duties if, prior to their entry for free circulation, they were placed under another customs procedure. Hence no storage (in a customs warehouse or free zone), except temporary storage is

allowed, as it would contradict with the requirement of direct dispatch provided for in Article 23(1) DRR.

This means that goods, which initially have been placed under warehousing procedure cannot be declared by using the CD with H7 dataset. However, goods in TS or placed under the transit procedure immediately after their arrival into the customs territory of the Union or before that arrival can be declared using this CD. In both cases the procedure code will be “40 00”.

2.2.6. Transitional measures

Transitional measures for MS

Article 143a (3) of the UCC-DA provides for the following:

“Until the dates of the upgrading of the National Import Systems referred to in the Annex to Implementing Decision (EU) 2019/2151, Member States may provide that the declaration referred to in paragraph 1 of this Article shall be subject to the data requirements set out in Annex 9 to Delegated Regulation (EU) 2016/341”.

The datasets that can be used for this purpose are the following:

- Simplified declaration dataset as per Annex 9, Appendix A, Table 7 or
- The standard customs declaration for release for free circulation as per Annex 9, Appendix C1, column H.

2.3. Customs declaration with full dataset – column H1

With three times more data elements than the CD with H7 dataset, the standard customs declaration remains an option for declaring the importation of low value consignments into the EU. Moreover, under certain conditions (e.g. excise goods, goods subject to P&R etc.), the H1 customs declaration remains the only suitable dataset for the release for free circulation of the goods.

However, considering the volumes, it is important to underline that the use of declarations with reduced datasets is preferred whenever possible, taking into consideration the capacity constraints of the IT systems of both express carriers and postal operators as well as of the national customs authorities.

2.4. Use of the pre-lodged CD as a TSD

When low value consignments are imported into the EU, any additional formality may increase the service fees and delay the delivery of the parcels. It is therefore recommended to merge certain entry formalities for these specific goods.

Article 192 UCC-IA foresees the possibility to consider a pre-lodged customs declaration as a declaration for temporary storage. This provision is valid to all datasets and not limited to the customs declaration with H7 dataset. It may primarily apply in cases where the customs declaration is lodged by the person who is also responsible for the presentation of the goods. In case of a pre-lodged declaration, customs will have the possibility to carry out the pre-arrival risk analysis and consequently identify high-risk consignments and allow the swift release of low-risk goods immediately after their presentation.

2.5. Others (simplifications, single filing)

The use of the customs declaration with the H7 dataset is voluntary and subject to the choice of the person lodging it. If not used, that person could opt instead for the use of a standard customs declaration with full dataset or the simplified customs declaration. However, this latter requires more data elements to be filled in than the customs declaration for certain low value consignments, i.e. the CD with H7 dataset.

For postal consignments the possibility to use the customs declaration with H6 dataset remains.

All requirements regarding the validation of the IOSS VAT identification number, ensuring the collection of VAT and reporting to Surveillance apply.

2.5.1. Simplified declaration (SD)

Provided that the conditions provided for in the UCC framework for the use of such simplification are fulfilled, the customs clearance of the LVC can be done with a SD.

In case of IOSS, the IOSS VAT identification number must be provided in data element 13 16 000 000 in the dataset of the CD used. Until the dates of the upgrading of the National Import Systems (at the latest by end 2022), the data requirements for the SD are those of the Annex 9 appendix A TDA. In this case, the IOSS VAT identification number must be provided in Box 44 of the CD. It would be therefore possible to use the SD during the transitional period.

Member States using the simplified declaration are reminded of the possibility provided for in Article 167(1)(a) UCC and not to request a supplementary declaration for LVC declarations (in accordance with Article 167(3) UCC).

It is important to note that the SD dataset is tailored to the needs of traditional commercial transactions and contains way more data elements than the CD with H7 dataset. Thus, its use could be a burden for both declarants and customs authorities (including the obligation to send data to SURV).

2.5.2. Entry into the Declarant Records (EIDR)

The EIDR is a customs simplification requiring an authorisation that can be granted under specific conditions and criteria, defined in the customs legislation (Article 182 UCC). Both types of EIDR (i.e. with presentation of goods and with waiver of the presentation) can be used for the purpose of declaring LVC for release for free circulation under the Special arrangements and the standard VAT collection mechanism upon importation.

Nevertheless, such simplification is not appropriate for the IOSS scheme as the requirements of the validation of the IOSS VAT identification number and the monthly reporting cannot be fulfilled neither by the EIDR with presentation nor by the EIDR with a presentation waiver. Moreover, it has to be considered that in case of EIDR, the waiver of the supplementary declaration is not possible, regardless of the VAT collection mechanism used.

2.5.3. Centralised Clearance

It is important to note that the use of centralised clearance requires the fulfilment of several conditions as provided for in Article 179 UCC (e.g. when the customs offices involved are situated in two different MS an authorisation is mandatory) and the CD have to be lodged at the customs office where the authorisation holder is established. This simplification shall be regarded as a separate concept from the customs clearance of the LVC through the IOSS scheme which follows different rules: no authorisation required and possibility of lodging the CD for release for free circulation anywhere in the EU, although the CD must be lodged at the same customs office as where the goods are presented to customs.

In case where the LVC are released for free circulation under the special arrangements scheme or under the standard VAT collection mechanism, Article 221(4) of the UCC-IA applies and the CD shall be lodged at “the customs office situated in the Member State where the dispatch or the transport of the goods ends”, i.e. in the MS of final destination of the goods. Hence, the centralised clearance is incompatible with these two scenarios.

As for the IOSS scenario, the centralised clearance of LVC remains out of scope of this CCI Phase 2 project. The interest of such a possible future project is still to be explored.

2.5.4. *Single submission of the customs declaration and the Entry Summary Declaration (ENS)*

At the core of such possibility stays the principle that the data provided to the ICS2 Shared Trader Interface can serve two different purposes: the ENS obligations and the Customs declaration ones.

In the context of the release for free circulation of low value consignments, the person lodging the declaration submits the data only once at the earliest possible time, and subsequently the customs authorities use it for the various purposes needed. This will imply that the CD with H7 dataset is submitted together with the entry summary declaration (ENS) particulars via ICS2 Shared Trader Interface (single point of entry - STI).

This possibility is not foreseen however before the deployment of release 2 of ICS2 (scheduled for 1 March 2023) – Even this is very doubtful, since this functionality was not elaborated in details and, therefore, at this stage, it is not foreseen to be covered by release 2.

2.6. Customs clearance of postal consignments

All postal consignments imported in the EU, regardless of their value, can be declared for release for free circulation by using the standard CD with full dataset (H1 dataset) or, when the conditions provided under Article 166 UCC are met, the simplified declaration (I1 dataset).

Besides, the table below shows the possible simplified formalities for the clearance of such goods, depending on their value:

Goods ≤ 150€	Electronic H7 CD	As of 1/7/2021	<ul style="list-style-type: none"> - Goods subject to customs duty relief (Art. 23 & 25 DRR) - Ø P & R - Only customs procedure 40 00
	Customs declaration as per TDA – Annex 9	until upgrade of National Import Systems (at the latest by 31/12/2022)	<ul style="list-style-type: none"> - MS right to use this alternative when H7 not yet available

	Any other act by presentation (CN22/23)	Until end of ICS-2 deployment window (at the latest by 1 October 2021)	<ul style="list-style-type: none"> - MS grants deployment window & allows the use of this act - Goods subject to customs duty relief (Art. 23 & 25 DRR) - Ø P & R - Ø IOSS or special arrangements used for VAT - Data accepted by customs
Goods in a postal consignment ≤ 1 000€	Electronic H6 CD	As of 1 May 2016	<ul style="list-style-type: none"> - Ø P & R - Ø CPC 42/63
	Any other act by presentation (CN22/23)	Until upgrade of National Import Systems (at the latest by 31/12/2022)	<ul style="list-style-type: none"> - Not available for goods in postal consignments covered by Article 143a DA (goods ≤ 150€) - If MS granted this possibility
Goods > 1 000€	Electronic H1 CD	As of 1 May 2016	
	Customs declaration as per TDA – Annex 9	Until upgrade of National Import Systems (at the latest by 31/12/2022)	

2.6.1. Description of Article 144 of the UCC-DA and of the Reduced Dataset of Annex B, column H6

The reduced dataset provided for in Article 144 of the UCC-DA can be used for declaring for release for free circulation goods in a postal consignment with a value not exceeding 1000€. Such possibility was introduced by the UCC and has been available since 1 May 2016. It was maintained in order not to compromise the ongoing developments of some Member States that have already put in place or planned for such facilitation.

Description

As described in the previous chapter, the removal of the VAT *de minimis* threshold will introduce the requirement of a customs declaration for all goods, including those below 22€, which are declared today by any other act by the postal operators. Article 144 of the UCC-DA foresees a standard customs declaration with a reduced data set (H6) if all of the following conditions are met:

- limited to goods in postal consignments declared by postal operators,

- goods are not subject to prohibitions and restrictions, and
- goods have a maximum value of 1000€.

The use of this specific customs declaration for free circulation is not mandatory but the choice to use it or not, is given to the postal operators.

It is important to note that once the H6 declaration is provided in the national import system, all goods in postal consignments up to a value of 1000€ and not subject to P&R may be declared using this data set. This includes the goods covered by Article 143a of the UCC-DA.

Transitional period:

A transitional period is foreseen for the implementation of the customs declaration with a reduced dataset (column H6) until the dates of the upgrading of the National Import Systems and at the latest by 31 December 2022 regarding goods in postal consignments other than those covered by Article 143a of the UCC-DA. During this period, goods in a postal consignment with a value between 150.01€ and 1000€ may be declared for release for free circulation by any other act. This means that the customs declaration for release for free circulation is considered to have been lodged and accepted by the act of the presentation of the goods to customs, provided that they are accompanied by a CN22 declaration or a CN23 declaration.

The choice to permit the use of the declaration by any other act during the transitional period lies with the Member State.

2.6.2. Transition for Post – conditions and deadline for using the declaration by any other Act

Description

Until the end of the deployment window for the release 1 of ICS-2, goods in postal consignments may be declared by any other act, subject to certain conditions. This covers the period from the entry into application of the VAT e-commerce package until 1 October 2021.

The conditions are the following:

- the customs authorities have accepted the use of this act and the data provided by the postal operator;
- VAT is not declared under the special scheme set out in Title XII Chapter 6 Section 4 of Directive 2006/112/EC for distance sales of goods imported from third countries or third territories (i.e. IOSS), nor using the special arrangements for declaration and payment of import VAT set out in Title XII Chapter 7 of that Directive;
- the goods benefit from relief from import duty in accordance with Article 23(1) or Article 25(1) of Regulation (EC) No 1186/2009;

- the consignment is accompanied by a CN22 declaration or a CN23 declaration.

Example:

A parcel containing a gift subject to customs duty relief in accordance with Article 25(1) DRR is declared for release for free circulation by its presentation to customs, using the CN23 declaration.

In relation with the return process for non-delivered parcels, Article 220(2) IA may continue to be applied during the transitional period if accepted by the customs authorities of the Member State concerned (until at the latest by 1 October 2021). In case the consignments cannot be delivered to the consignee (i.e. the importer), the declaration for release for free circulation made by the act of presentation to customs is deemed not to have been lodged and the goods are deemed to be in temporary storage until they are destroyed, re-exported or otherwise disposed in accordance with Article 198 UCC.

2.6.3. Customs clearance scenarios for postal consignments as from 1 July 2021

2.6.3.1. IOSS scheme

The customs clearance process using IOSS is based on the following principles:

- VAT is paid by the (deemed) suppliers or by their intermediaries to the national tax authorities of the Member State of identification;
- Postal consignments may be declared using the IOSS scheme in another MS than the MS of destination;
- In those cases it is essential that the postal operator / customs authorities in the MS of destination can easily recognize the Union status of the consignments declared and released for free circulation using the IOSS-scheme.
- The standard postal process usually involves postal delivery bills (CN 37, CN 38, CN 41) and receptacle labels (CN 34, CN 35, CN 36) from the country of dispatch to the country of destination which is usually the country where the customs declaration for release for free circulation is lodged. The transit post is usually not involved in the customs clearance process for free circulation – a scenario in which non-Union consignments are in the same receptacle as Union goods (declared using the IOSS-scheme) is highly unlikely. Furthermore, it has to be considered that the ITMATT is only sent to the post in the country of destination, this means that, unless there is an agreement between origin, transit and destination posts, the country of transit (in case of transit) will not receive the ITMATT message to be able to clear goods.

Example 1:

Goods dispatched by USPS with a destination in DE, transported by air until LU and by road till their final destination in DE where the customs declaration for free circulation is lodged.

Each individual consignment containing goods must bear a CN22 or a CN23 customs declaration form. Goods are carried under the UPU convention and USPS delivers a postal delivery bill for transportation purpose to the airline which brings these postal shipments to LU. For the transportation leg from LU to DE, either a postal delivery bill (with yellow labels) or a CMR document (with T1 procedure) could be used.

Case 1: Luxembourg Post is not implied in the transit process (closed transit)

- Deutsche Post must have a facility (with an IMPC code) in Luxembourg to be allowed to stick yellow labels. In this case, the shipments are under the postal transit procedure and must bear a yellow label. Usually trucks which are used to carry shipments from a transit point to a destination contain several types of goods (non-Union and Union). The different types of goods must be separated in different receptacles. Deutsche Post in LU edits a postal delivery bill to transport these shipments from LU to DE and this document will include the information of all receptacles included in the truck.
- If the shipments are handed over to a non-postal operator in LU, this one has to set up a T1 transit procedure under the NCTS. Moreover, this operator has to edit a CMR document to transport these shipments from LU to DE. Then, once arrived in DE, Deutsche Post has to send a message to this operator in order to clear the T1 procedure.

Case 2: Luxemburg Post is involved in the transit process (open transit)

- The shipments are under the postal transit procedure and Union and non-Union goods must be separated into different receptacles. Luxemburg Post sticks yellow labels on receptacles which contain non-Union goods and are under transit. Then he edits a postal delivery bill to transport these shipments from LU to DE and this document will include the information of all receptacles included in the truck.

For the transport to DE under the postal transit procedure, the yellow label has to be stuck on the receptacle (see description in Transit Manual) when presented upon entry in the EU by an EU postal operator. The yellow label is an evidence for the customs authorities in the MS of transit and the destination that the goods are non-Union goods (have not been released for free circulation).

Example 2:

Goods dispatched by USPS with a consignee in DE but destined to LU for customs clearance: transport by air to LU, customs clearance in LU under the IOSS scheme and transport by road to the destination in DE.

- The customs clearance process can be carried out by the postal operator at the first point of entry into EU lodging a CD with H7 dataset (if applicable);
- By postal operator in the transit country, it includes the national postal operator of the country or a representative of any EU postal operator having an IMPC code.

In all cases, any operator not having the IMPC code is not allowed to clear shipments in the transit country with UPU documentation.

- In all cases where transit is used, the postal delivery bill and ITMATT data will be from the US to LU and the postal transport from the US ends in LU, for the postal road transport to DE a new postal transport will be created.
- If the goods have been released for free circulation in a MS different to the MS of final destination, this should allow to be clearly identified by customs authorities in the MS of destination,
- After this stage, postal consignments shall be considered as intra-EU shipments and be transported to the destination post in the EU without any additional customs procedure (without affixing yellow labels).

The process to clear goods at the first point of entry by the postal operator is only possible if covered by an agreement between the transit operator and the destination post for operational reasons (see Article 20.3 of the UPU convention).

Whenever the customs clearance for release for free circulation is not made in the country of destination of the consignment but in another MS, it is crucial that the status as Union goods is easily recognizable in the destination country. Especially in cases when the original label / postal stamp of a third country is still on the consignment and the appearance of the consignment cannot be distinguished between Union and non-Union goods (i.e. when sent of an EU-based postal operator from an Extraterritorial Office of Exchange (ETOE) in a third country making use of the postal stamps of the EU-based operator).

2.6.3.2.Special arrangements scheme

The following procedure should be followed by the transit operator:

- Stick yellow labels either on each single item in case of open transit scenario or on receptacles for closed transit scenario;
- Send relevant EDI messages to destination post.

2.6.3.3. Standard VAT collection mechanism

The applicable process within the standard procedure is identical to the one described in section 2.6.3.2. in relation with the special arrangements.

3. VAT COLLECTION MECHANISMS

3.1. IOSS SCHEME

3.1.1. Main concept and process description

Main concept

From 1 July 2021, all low value goods imported into the EU will be subject to VAT. A special scheme for distance sales of goods imported from third countries or third territories into the EU has been created for the declaration and the payment of VAT on distance sales of imported goods, the so-called Import One Stop Shop (IOSS).

The below explanation is a short overview of the IOSS and is meant to cover basic concepts and the functioning of the system. For a full understanding of the scheme, please see Section 4.2 in the [VAT Explanatory Notes](#) that includes, among other issues, which transactions are covered, who can use the scheme and how the scheme works.

The use of the special scheme (IOSS) is not mandatory for sellers. In the context of this guidance document, the term seller may refer to suppliers, underlying suppliers and deemed suppliers (electronic interface) depending on the context. Moreover, such sellers may be required to appoint an intermediary to use the IOSS.

In order to use the IOSS, a taxable person or his intermediary needs to register in IOSS and they will obtain an IOSS VAT identification number. Details on who can use the IOSS can be found in Sections 4.2.4 and 4.2.5 of the VAT [Explanatory Notes](#). Details on the registration process can be found in the OSS Guide. A seller having chosen to use the IOSS is required to declare all his distance sales of imported low value goods to consumers in the entire EU using this IOSS VAT identification number. The control to ensure that the seller has collected the VAT under the IOSS for all the sales of low value goods for consumers in the EU will be carried out by the tax authorities of the Member State of identification.

The scope of the special scheme (IOSS) is limited to distance sales of goods in consignments of an intrinsic value not exceeding 150€ at the time of supply, imported from a third territory or a third country into the EU. Goods subject to excise duty are excluded from the IOSS (typically alcohol or tobacco products according to Article 2(3) of the VAT Directive).

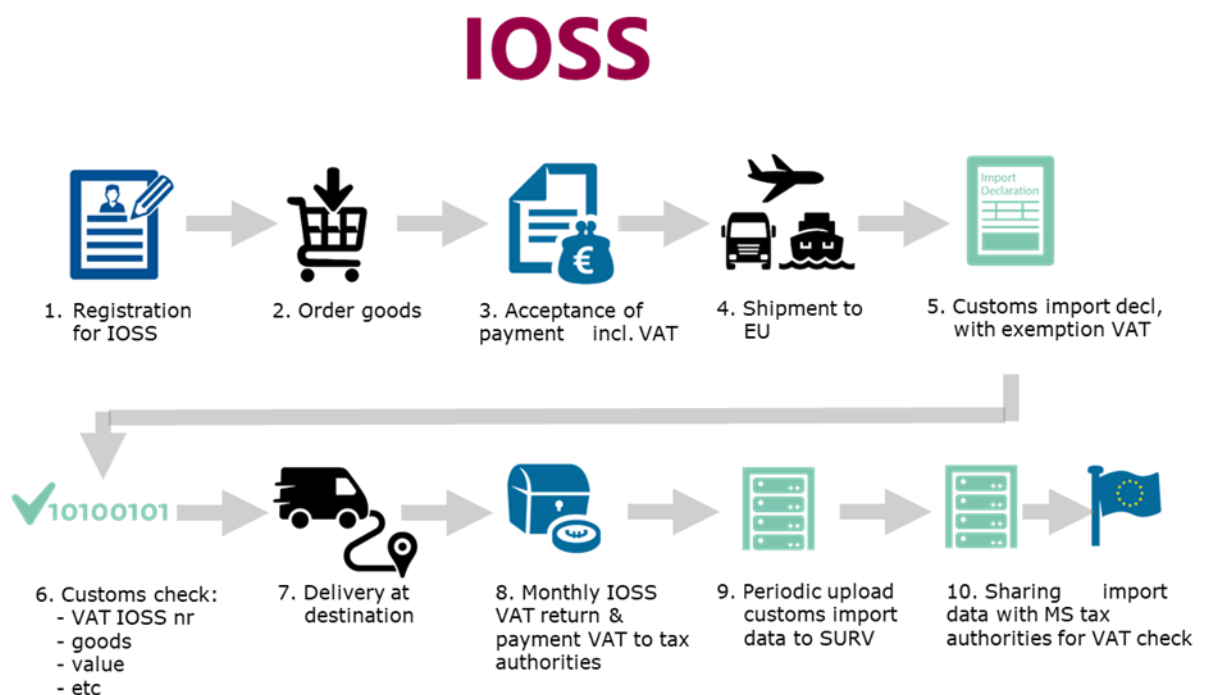
For more detailed description on the scope of the IOSS, see Section 4.2.3 of the VAT [Explanatory Notes](#). Besides, for a summary on the scope of the IOSS and the special arrangements and the H7 customs declaration, see *Annex I*.

Process description

In essence, the IOSS works as follows:

- The seller registers for VAT purposes in one Member State, charges and collects the VAT on the distance sales of goods dispatched/transported to consumers in the EU, and declares and pays that VAT to the Member State of identification, which will then distribute it among the MS of destination of the goods.
- The goods are then exempt from VAT upon import in the EU. The customs authorities of the Member State of importation compile a monthly listing of the value of imports per IOSS VAT identification number and share it with the tax administration of the Member State of identification.

An overview of the IOSS process is included in the following picture¹¹:



Importation of goods from third countries or third territories

¹¹ To be noted that this is a simplified scenario, various alternatives exist. (e.g. in case of payment this can also be made upon delivery)

For distance sales of goods imported from or third territories or third countries under the IOSS, the taxable event occurs and the VAT becomes chargeable at the time of supply (when the payment is accepted).

In order to avoid double taxation, the importation of the goods declared with a valid IOSS VAT identification number is exempted from VAT. A customs declaration (H1, H6, H7 or I1) with a valid IOSS VAT identification number and the additional procedure code 'F48' is to be considered as a 'request' for exemption from VAT at importation. Customs will perform checks to see if the conditions for the VAT exempt importation and, if applicable, the conditions for the use of the specific customs declaration are met. If one of the conditions is not fulfilled, the customs declaration must be rejected¹² (e.g. in case of an invalid VAT IOSS identification number) or must be amended by the declarant (e.g. in case of undervaluation with an intrinsic value still not exceeding 150 €).

Example for the use of Article 143a UCC-DA:

Release for free circulation in MS A of an IOSS parcel containing two T-shirts ordered online with a value of 30€ each with a final destination in MS B. A valid IOSS VAT identification number is provided in D.E. 13 16 000 000 and the additional procedure codes C07 and F48 in D.E. 11 10 000 000. The goods are not subject to prohibitions and restrictions.

3.1.2. Liability of the actors under the IOSS scheme

The VAT e-commerce rules provide for the liability of the taxable person making use of the IOSS (or, if applicable, his intermediary)¹³ for the collection and the payment of the VAT on the distance sales of imported goods and for their obligation to submit the IOSS VAT return. The intermediary for the IOSS is a different concept from the declarant or his representative involved in the release for free circulation of the goods in the EU.

As for the customs liability, it lies with the declarant of the customs declaration and depends on the type of representation. In case of direct representation, the liability of the representative is limited in accordance with Article 18 UCC since the declarant is the person represented.

In the case of indirect representation, the representative becomes the declarant and is jointly and severally liable with the person represented.

The importer may also clear the goods directly, i.e. without the use of a customs representative being himself the declarant.

¹² Article 172 UCC provides that only CD complying with the conditions required under Chapter 2 UCC can be accepted. Such requirements concern the information needed for the application of provisions related to the customs procedure for which the goods were declared.

¹³ Articles 369I to 369x of the VAT Directive

3.1.3. IOSS VAT Identification Number

1. *Is there a possibility to link the consignment with a unique identifier, airway bill, unique consignment number or a unique transaction number generated by the electronic interface?*

In the customs declaration, there is the possibility to include information on a unique identifier generated by the underlying seller/electronic interface (data element 12 08 000 000 Reference number/UCR – optional for the EO) that, in this context, may typically take the form of the order number or the unique consignment number. This information can be used in post audit activities. Moreover, the consignment is always identified by the transport document reference. If the electronic interface knows the transport document reference, the link between the supply (commercial transaction) and the importation of the goods can be easily established.

2. *Can the electronic interface be involved in the flow of data to customs, i.e. sending the electronic data on consignments directly to transporter or to customs?*

If the electronic interface lodges the customs declaration itself, the IOSS VAT identification number can be provided directly to the EU customs in the customs declaration. Only transmitting the IOSS VAT identification number by the electronic interfaces to the EU customs without lodging the customs declaration is not possible. However, in the medium term, the European Commission is working on introducing a direct exchange of information between electronic interfaces/suppliers and customs authorities.

3. *What happens when the IOSS VAT identification number is missing in the customs declaration or it is not valid?*

The presence/validity of the IOSS VAT identification number provided in a customs declaration is checked electronically by customs authorities against the IOSS VAT identification number registry. The database will contain all the IOSS VAT identification numbers assigned by all Member States and their start and end validity date.

Declarants can only check the presence of the IOSS VAT identification number. They cannot check its validity, as they do not have access to the IOSS VAT identification number database themselves. Only the customs authorities of Member States have access to that database through their national import systems.

For more details on the declarant, see section 2.2.2. The seller/electronic interface will have to communicate this number to the importer (i.e., the consignee) or his customs representative.

When the IOSS VAT identification number mentioned in a customs declaration is not valid or it is not at all provided, the import scheme cannot be used and the VAT exemption cannot be granted. As a consequence, VAT will be levied upon importation by the customs authorities.

The responsibility for providing a valid IOSS VAT identification number lies with the seller/electronic interface. The customs declaration with an invalid IOSS VAT identification number will be rejected and it will be necessary to submit a new customs declaration with a view to use the special arrangements or the standard VAT collection mechanism and to declare those goods at the competent customs office.

Nevertheless, if the incorrect IOSS VAT identification number results from a spelling mistake, the declarant can still request VAT exemption under IOSS in a new customs declaration, in case he disposes of the correct IOSS VAT identification number (error in the initial transmission).

4. Can the customs declarants benefit of the limited liability provided by Article 5c of the VAT Implementing Regulation?

The provisions of Article 5c of the VAT Implementing Regulation only apply to electronic interfaces referred to in Article 14a of the VAT Directive. They are not meant to cover customs obligations.

In order to have a similar safeguarding provision in the customs legislation, an amendment to the UCC would be necessary.

3.1.4. 150€ threshold

5. What happens if customs authorities consider that goods for which IOSS was used are undervalued and the correct intrinsic value exceeds 150€? On whose behalf is the import declaration submitted?

In certain situations, the intrinsic value may exceed the 150€ threshold despite the good faith of the person concerned, e.g. it can result from exchange rate fluctuations (see point 3.1.5), bundled consignments (see point 3.1.6), etc.

For situations, where upon presentation of the goods to customs, the customs authorities have substantiated suspicion that the intrinsic value exceeds 150€ (such as erroneous pricing or deliberate undervaluation by the supplier), it will be for the customs authorities of the Member State of importation to collect import VAT and customs duty upon clearance of the goods, even if the goods were declared under the IOSS (e.g. the consumer already paid the VAT to the supplier or electronic interface). This will in particular be the case in situations where verification procedures according to Article 140 UCC-IA ultimately do not lead to the confirmation of the declared transaction value.

In such situation, if the Member State where the IOSS goods were declared for release for free circulation is different from the Member State where the goods are transported/dispatched to, the goods will be cleared in accordance with the rules applicable to consignments with a value exceeding 150€.

The declarant/its representative will submit a new import declaration using the H1, or, if applicable, the H6 or I1 dataset. If the importer accepts the delivery of goods, he should pay import VAT and, possibly, customs duty to the customs authorities. Further on, the declarant requires the invalidation of the former customs declaration (see details in Chapter 5).

The importer may however refuse the goods in which case the usual customs practices and formalities apply.

In both cases, the importer can contact the supplier or electronic interface to reclaim the VAT (and possibly the value of the goods in case of refusal) paid incorrectly at the time of supply. For this purpose, the consumer can use the proof of payment to customs or the customs decision on the destroyed or abandoned goods. The actual proof will depend on whether or not the goods were taken over by the importer (i.e. the consignee). If this is indeed the case and he/she paid the recalculated amount of VAT, and if applicable, the customs duty, then he/she will use the customs decision on the release of the goods and the payment of the VAT as a proof for the refund from the supplier or electronic interface. If he/she refuses the receipt of the goods, then the goods are returned, and there should be, in principle, no additional proof required by the supplier apart from the proof of export.

If the VAT is collected upon importation of the goods, this supply of goods should not be included in the IOSS VAT return. Based on the proof of payment of the consumer to customs, the supplier or the electronic interface or the intermediary can correct his IOSS VAT return and records.

For further details on the applicable customs formalities, see section 2.2.3 of this document.

6. How do you check that goods are not undervalued?

It is for the customs authorities of the Member States of importation to check the value of imported goods, using the risk assessment criteria, notably where reasonable doubts due to abnormally low prices require the initiation of verification procedures according to Article 140 UCC-IA. The customs officers consider several factors in their risk assessment, the value of the goods being only one of these factors.

7. *What happens if goods are undervalued, but the corrected intrinsic value does not exceed 150€?*

From a customs point of view, the conditions for using the import declaration with the H7 dataset are still met. However, the customs declaration needs to be amended concerning the intrinsic value in accordance with the procedure described in Section 2.2.3.

In this situation, the importation of low value goods should still benefit from the exemption of VAT upon importation provided that a valid IOSS VAT identification number is provided in the customs declaration and the conditions for using IOSS are fulfilled. The goods will be released without payment of additional VAT to customs (the correct VAT amount has to be declared in the IOSS VAT return and paid by the supplier or electronic interface, directly or via an intermediary appointed for that purpose). The additional VAT will be recovered through administrative cooperation between customs authorities and tax authorities.

The declarant at customs should not be held liable for the additional VAT in this situation, unless the specific circumstances, e.g. involvement in a fraud scheme, and applicable national legislation justifies the liability of the declarant.

8. *If IOSS is used, who is liable to pay any additional VAT (as well as penalties and interests) when undervaluation is detected after the release of the goods?*

Post-release audit will be carried out by tax authorities by checking the IOSS VAT return and records of the seller. In this situation the only person liable for any additional VAT (as well as penalties and interests) to be paid after the release of goods using the IOSS is the supplier, the deemed supplier or the intermediary. The declarant can eventually also be held liable when he is actively involved in a fraud scheme.

9. *What happens if the value of the goods at the time of presenting them to customs is different from that indicated in the documents accompanying the goods (e.g. at the moment of purchase, the goods benefited from a promotion/discount period)?*

The intrinsic value at importation is the net price paid by the consumer at the time of supply (i.e. at the time when the payment by the consumer was accepted), as shown in the document accompanying the goods (i.e. commercial invoice). In case of doubts, customs authorities may request a proof of payment from the consumer (i.e. the importer) prior to the release of the goods for free circulation.

3.1.5. *Exchange rate*

When the supplier/electronic interface opts into the import scheme, all distance sales of imported goods not exceeding 150€ must be declared under IOSS. However, the IOSS, with all its benefits, does not apply to sales of goods with a value higher than 150€. The

supplier/electronic interface must, in order to determine whether the IOSS applies to a specific sale, use the exchange rate determined by Article 91(2) of the VAT Directive (for daily exchange rate of the European Central Bank) applicable on the day when the payment is accepted, regardless of when the goods will actually be imported into the EU.

Upon importation, the 150€ threshold is checked again for customs purposes, this time using the exchange rate applicable for determining the customs value, i.e. the exchange rate valid at the moment of importation. The latter is established in the previous month and applies for all imports occurring during the current month.

In order to avoid situations where a price less than 150€ at the time of supply would exceed the 150€ threshold upon importation, it is recommended that the IOSS seller/electronic interface indicates in the invoice accompanying the consignment the price in EUR, as determined at the moment when the payment for goods was accepted. This would then be accepted by customs authorities on import of the goods into the EU and thus prevent possible double imposition of VAT upon import.

In case the Member State of import uses a currency other than the EUR, it is recommended that the Member State accept the amount declared in the invoice in EUR as provided above, for both customs and taxation purposes. However, if the price in EUR is not indicated in the invoice, customs must use the exchange rate valid at the moment of importation.

Example:

Distance sales of goods under the IOSS scheme with a final destination in DE, entering the EU through PL where they are declared for release for free circulation. The invoice accompanying the consignment is expressed in EUR and PL customs are advised to accept the value in EUR.

When the invoice amount is expressed in a foreign/non-EU currency and, upon importation, the conversion falls within the vicinity of 150€, it is recommended to customs authorities to adopt an appropriate strategy regarding monitoring of the intrinsic value of 150€. See chapter 4, question 21 in the [VAT Explanatory Notes](#).

3.1.6. Grouping of consignments

There are two possible scenarios for bundling orders in the context of IOSS:

- (i) multiple orders made by the same consumer grouped in one single consignment; and
- (ii) multiple orders made by various consumers grouped in one consolidated consignment.

If sellers send the orders referred to in (i) in one single consignment, then the whole consignment will be subject to a single customs declaration. In this case, the person dispatching the goods should be aware that customs will levy customs duty and VAT upon importation on the entire value of the consignment if this exceeds 150€. In this case, the supplier/electronic interface will need to reimburse the VAT paid under IOSS to the consumer based on the proof of payment of the VAT and potentially the customs duty paid to the customs authorities. The supplier/electronic interface will be able to correct its IOSS VAT return (if submitted already) in order to reflect that the VAT is no longer due under the IOSS. The supplier/electronic interface should also keep in its records this proof of payment of VAT by the consumer.

For the low value imports facilitated through their platform, the electronic interfaces in general have no visibility over grouping practices and electronic interfaces cannot verify this if it is completely under the control of the underlying seller.

In such case the electronic interface is thus required to make certain reasonable assumptions, e.g. when multiple goods are ordered by the same consumer at the same time, from the same supplier, the electronic interface will presume that the goods will form one single consignment. When several distinct orders are placed by the same consumer on the same day, the electronic interface will presume that the goods belonging to the different orders will form separate consignments.

In the scenario under point (ii), the Case C-7/08 of the Court of Justice of the European Union rules that grouped consignments with a combined intrinsic value which exceeds 150€, but which are individually of negligible value, can be released for free circulation subject to import duty relief, provided that each parcel of the grouped consignment is addressed individually to a consignee within the EU.

This would mean that if a consignment qualifies for IOSS at order level and is shipped in a package individually labelled to its consignee but regrouped in a bigger parcel with other packages addressed to different consignees and a valid IOSS identification number is provided in the customs declaration, the VAT exemption upon importation would prevail.

Considering that the information on the importers has to be provided at declaration header level, this solution would require to submit as many customs declarations as the number of importers (individual consignees).

Nevertheless, customs authorities may carry out verifications to assess whether an order or a consignment was artificially split to benefit from duty relief, case in which customs duty will be levied as well.

3.1.7. Return of IOSS goods

The customs formalities applicable to the return of the goods are described in Chapters 4 – Export and re-export formalities for low value consignments and 5 – Invalidation of the customs declaration.

If the item was successfully delivered to the importer that afterwards decides to return it to the seller, the process will depend on how the underlying seller instructs the consumer to organize the return.

The seller will repay the VAT to the consumer (i.e. the importer) as part of the reimbursement of the value of goods. This will result in a correction on the periodical IOSS VAT return and records of the taxable person making use of the IOSS or his intermediary and the proof of return needs to be held in the records.

There are situations where the imported goods are defected, but the seller allows the importer to keep them instead of returning and then ships new ones.

From a customs perspective, there will be two CDs for release for free circulation as each of those cover different goods that will be released into the single market. The VAT procedure should follow the present situation for replacement of goods.

3.1.8. Monthly report

Main concept

In order to monitor the correct use of the IOSS VAT identification number and to prevent that goods are imported illegally subject to VAT exemption under the IOSS, the VAT Directive introduced a specific control measure. This requires Member States to draw up a monthly report of the total value of IOSS goods imported into that Member State during a given month, indicating the total value of imports per IOSS VAT identification number. Such report must be shared with the tax authority of the relevant Member State of identification (MSI) that can use the reports to compare the amounts indicated therein with the content of the IOSS VAT return, as an additional supervising tool. The customs declarants do not have any obligation concerning the monthly report.

The EU-Surveillance system monitors the import and export of specific goods into/from the Union's single market in terms of volumes and/or value and will be used to meet the Member States' obligation as regards the monthly listing under IOSS.

The Surveillance system is operated by DG TAXUD. The primary data sources of the Surveillance system are the import and export customs declarations managed by the National Customs Declarations Processing Systems.

How does it work?

The Member States transmit to the Surveillance system the relevant data elements of the customs declaration for release for free circulation, at regular intervals. The Surveillance system consolidates this information and transforms it into information that can be used for reporting & analytics.

In case of IOSS, Member States must store and make available to other Member States the total value of the goods exempted from VAT under IOSS which were released for free circulation in that Member State during a given month. The values must be provided per IOSS VAT identification number. This allows the competent tax authorities of the Member States to cross check the VAT tax base that results from the customs declaration data elements with the values declared in the IOSS VAT returns.

3.2. SPECIAL ARRANGEMENTS

3.2.1. Main concept and process description (end-to-end flow)

Main concept

The scope of the Special Arrangements is restricted to importation of goods in consignments of an intrinsic value not exceeding 150€ the dispatch or transport of which ends in the Member State of importation. Goods subject to excise duty are excluded from the use of the special arrangements. For more details on the scope, see Chapter 4, Section 4.3.3 of the [VAT Explanatory Notes](#).

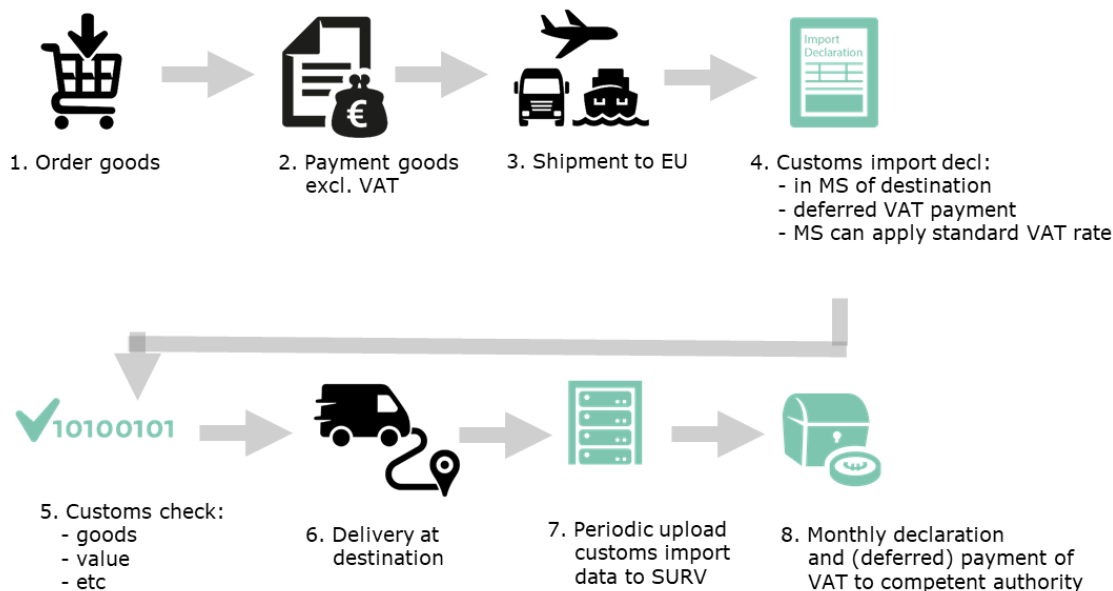
The purpose of the special arrangements is to simplify the collection of import VAT on the low value consignments imported into the EU, when the IOSS is not used. Still, the use of special arrangements is optional for the person declaring the goods on behalf of the consignee (i.e. the importer).

It is to be noted that VAT is not considered as an import duty in the meaning of Article 5(20) UCC. The customs formalities laid down in the UCC apply to the import of low value consignments. However, the liability for the import VAT is defined in Article 369z of the VAT Directive and calculated and collected in accordance with the rules laid down in Article 369zb (1) and (2). These rules provide that the person for whom the goods are destined is the one liable for the payment of the import VAT. This provision should be transposed in this sense in the national VAT legislation of the Member States.

Process description

An overview of the Special Arrangement process is included in this picture:

Special Arrangement



The special arrangements can only be used if the Member State of destination of the goods and the Member State of importation are the same, i.e. when the final destination of the goods to the importer is in the Member State where the goods are released for free circulation. This is necessary as the VAT becomes due in the Member State of importation and that Member State cannot collect the VAT applicable in another Member State.

In the same vein, the competent customs office for declaring the release for free circulation of LVC when using the special arrangements is the one in the MS of final destination (Article 221(4) of the UCC IA).

In accordance with Article 201 of the VAT Directive, the person liable to pay the import VAT can be any person or persons designated or recognised as liable by the Member State of importation. In practice, generally the consignee (i.e. the importer) is liable to pay the import VAT.

The VAT becomes due only if the VAT was effectively collected from the consignee (i.e. the importer), in order to avoid burdensome refund procedures in case if the goods could not be delivered or would be refused by the consignee (i.e. the importer). The records must be kept by the person making use of the special arrangements (typically postal operators, express carriers, customs agents and similar economic operators, provided they are the ones who presented the goods to customs). The records must allow the identification of the total VAT collected during the given month and provide

evidence for the cases where the VAT could not be collected due to the non-delivery of the goods.

To be noted that the use of special arrangements is not requiring a specific customs authorisation. However, Member States may require that the person making use of the special arrangements comply with the conditions applicable for the granting of a deferred payment authorisation in accordance with Article 110 UCC.

The use for the special arrangements of the deferred payment authorisations granted for customs duty purposes is only possible, if the conditions for the payment deferral are the same, i.e. the deadline for the payment is the 16th of next month, regarding the total amount of duties incurred during a given month, in accordance with Article 108(1), 2nd subparagraph of the UCC.

Under the special arrangements, Member States may allow the systematic use of the standard VAT rate in order to facilitate the declaration process for the persons making use of the special arrangements and acting as customs representatives on behalf of the importers (i.e. the consignees). Due to the high number of low value consignments, these operators could otherwise face difficulties to correctly apply the reduced VAT rates.

Example for using the customs declaration with H7 dataset

A consumer in MS A ordered a book online from a seller in a 3rd country that is transported by post to the EU. The seller is not registered for IOSS, therefore, the import VAT has to be paid upon importation. The intrinsic value of the book is 60€, so the customs declaration with H7 dataset can be used for the import clearance of the parcel in MS A. The postal operator in MS A declares the goods using the special arrangements indicating the consumer in the EU as the importer and indicating the codes C07 and F49 in the additional procedure code field (D.E.11 10 000 000). The customs releases the goods into free circulation under VAT payment deferment¹⁴. The post calculates the VAT using the standard VAT rate in MS A and collects the VAT from the consumer in order to deliver the book. The postal operator will pay the corresponding VAT amount to the customs/tax authorities by the 16th of the subsequent month.

3.2.2. Liability of the actors under the special arrangements

3.2.2.1. General liabilities

In general, the customs declaration must be lodged through a direct or indirect representative.

As regards the liability for the payment of VAT, the parties involved have the following responsibilities:

¹⁴Provided for in Article 369zb of the VAT Directive

- ✓ The consumer (typically the consignee (importer) of the parcel) is liable for the payment of VAT; and
- ✓ The person making use of the special arrangements (typically the person presenting the goods to customs on behalf of the consumer) is liable for the collection of VAT from the importer and pay the collected VAT to the customs/tax authorities. The payment to the customs or tax authorities must be done on a monthly basis.

3.2.2.2.Undervaluation

If customs authorities consider that goods for which the special arrangements were used are undervalued and the correct intrinsic value exceeds 150€, and this suspicion is confirmed, the customs duty calculated on the correct amount will become due and the respective UCC provisions will apply. The suspicion for undervaluation can be confirmed at different moments in the process.

In case the goods were declared for release for free circulation using a customs declaration with H7 dataset, and the undervaluation is detected before the acceptance of the customs declaration, the declaration will be rejected and the declarant has to submit a new customs declaration for the release for free circulation using the H1, or, if applicable, the H6 or I1 dataset.

In case the undervaluation was identified during the verification of the customs declaration or in the course of a post-release control, the procedures described in Section 2.2.3 apply.

3.2.3. *Process of the monthly payment*

The person making use of the special arrangements (typically the customs representative acting on behalf of the importer/consignee) is liable for the collection of VAT from the consumer and the transmission of the collected VAT amounts to the customs authorities. This payment must be done by the 16th day of the month following the collection of the VAT.

According to Article 369zb of the VAT Directive, the VAT collected under the special arrangements must be reported electronically in a monthly declaration. The declaration shall show the total VAT collected during the relevant calendar month. It is to be noted that such declaration is not a customs declaration in the meaning of Article 5(12) UCC.

Member States may, however, require that the person making use of the special arrangements comply with the conditions applicable for the granting of a deferred payment authorisation in accordance with Article 110 UCC. This possibility, namely not to collect the VAT at the moment of importation for each single consignment, is already

in place in several MS. It has to be checked if the deadline is 16th of next month in order to use the same authorisation.

The persons making use of the special arrangements shall keep records of the customs clearances where the VAT was collected under the special arrangements during a period determined by the Member State of importation. Those records must be sufficiently detailed to enable the tax and/or customs authorities of the Member State of importation to verify that the VAT was correctly declared and collected. For further details, please see Chapter 4, Section 4.3.6 of the [VAT Explanatory Notes](#).

If the goods could not be delivered during the same month as when they were released for free circulation, it means that the VAT could not be effectively collected during that month, in accordance with Article 369zb(1) of the VAT Directive. Such VAT amounts must be reported in the subsequent month once the delivery effectively took place and the person making use of the special arrangements collected the VAT from the importer.

Example:

Goods are declared for release for free circulation on 31 August 2021 in BG by the BG postal operator as indirect customs representative of the consumer. The consumer pays to the BG postal operator the amount of VAT corresponding to the standard VAT rate on 2 September 2021. The BG postal operator is required to pay this VAT by 16 October 2021 together with any other VAT collected under special arrangements during the month of September 2021.

3.2.4. Return of goods, Repayment of VAT

The customs formalities applicable to the return of the goods are described in Chapters 4 – Export and re-export formalities for low value consignments and 5 – Invalidation of the customs declaration.

If the goods could not be delivered to the consignee (i.e. the importer), then VAT will not become due under the special arrangements. In such cases, the customs declaration for release for free circulation will be invalidated and the goods sent back to the original consignor. In the monthly VAT declaration, the person making use of the special arrangements must make reference to the invalidated customs declaration for release for free circulation and the export (return) of the goods.

For the customs formalities applicable to goods that were successfully delivered to the consignee (i.e. the importer) that afterwards decides to return it to the seller, please see detailed process in Chapter 5.1 last paragraph.

3.2.5. Surveillance reporting

The data of the customs declaration for release for free circulation using the special arrangements will be transmitted to the Surveillance system. However, no monthly reporting of the respective imports will be drawn up.

3.3. STANDARD VAT COLLECTION MECHANISM

3.3.1. Main concept

If no simplification (IOSS or special arrangements) is used for the collection of the import VAT, the standard rules apply and the import VAT is collected in accordance with the applicable customs rules and in accordance with Articles 201, 274 and 275 of the VAT Directive.

3.3.2. Process description

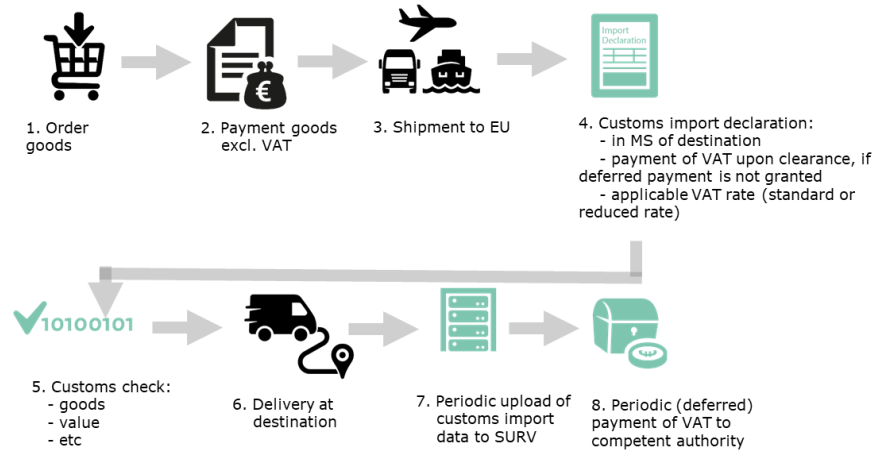
When using the standard import VAT collection mechanism, goods subject to customs duty relief in accordance with Articles 23(1) or 25(1) DRR can only be declared for release for circulation in the Member State where the dispatch or the transport of the goods ends, according to Article 221 (4) UCC IA. This means that the Member State of importation and the Member State of destination (consumption) must be identical. This is necessary as the VAT becomes due in the Member State of importation and that Member State cannot collect the VAT using the VAT rate applicable in another Member State. The person lodging the declaration has the choice between the CD with H7, I1 or H1 datasets (H6 dataset being limited to postal operators).

On importation, the person liable for the payment of the import VAT can be any person or persons designated or recognised as liable by the Member State of importation, in accordance with Article 201 of the VAT Directive. In practice, generally the importer (i.e. the consignee) and, in the event of indirect representation, the declarant of the customs declaration are jointly liable to pay the import VAT.

When until the 1st October 2021 goods in a postal consignment are released for free circulation by any other act in accordance with Article 141(3) DA, the declarant must only pay VAT to the customs office of importation, if the customs declaration has been accepted and the goods in that postal consignment have been released into free circulation and delivered to the consignee. Otherwise, if the goods could not be delivered to the consignee, the customs declaration for release for free circulation is deemed not to have been lodged and the goods in that postal consignment are deemed to remain under temporary storage until they are re-exported, destroyed or otherwise disposed in accordance with Article 198 UCC.

A more detailed overview of the parts of the standard process is included in the following overview:

Standard VAT collection mechanism



4. EXPORT AND RE-EXPORT FORMALITIES FOR LOW VALUE CONSIGNMENTS

4.1. Overview

Type of consignments	Value of goods	Customs formalities applicable to the		Formalities applicable to the VAT reimbursement	
		Export of Union goods	Return of imported goods		
Postal and express consignments	≤ 150€ (IOSS and non-IOSS)	Declaration by any other act Article 141(4a)UCC-DA certain data needs to be accepted by and available to customs	Declaration by any other act with certain data that need to be accepted by and be available to customs ¹⁵ (In line with Articles 141(4a) and, if applicable 142(b) UCC-DA)	Invalidation of the import CD and extinguishment of the VAT obligation.	
				IOSS VAT repayment directly from the vendor	Non-IOSS VAT repayment or remission by customs or tax authorities.
	>150€ ≤1000€	Declaration by any other act Article 141(4a) UCC-DA certain data needs to be accepted by and available to customs	Electronic export declaration (In line with Article 142(b) UCC-DA the declaration by any other act is not available.)	Invalidation of the import CD and extinguishment of the VAT obligation	

4.2. POSTAL CONSIGNMENTS

4.2.1. Scope of the export declaration by any other act

a) Legal basis

According to Articles 140(1)(d), 141(4) and 142 of the UCC-DA, goods in postal consignments not exceeding 1000€ in value and not liable for export duty are deemed to be declared for export by their exit from the Customs territory of the Union, provided that:

- they are not subject to an application for the repayment of duty or other charges unless such application relates to the invalidation of the customs declaration for release for free circulation of goods subject to relief from import duty in accordance with Article 23(1) or Article 25(1) of Regulation (EC) No 1186/2009;
- they are not subject to a prohibitions or restrictions; and
- they are not subject to any other special formality provided for in Union legislation which the customs authorities are required to apply (such as excise goods covered by Directive 2020/262/EU or non-Union goods that have been under customs

¹⁵Exceptional temporary situation (until 1 October 2021) for returning undelivered postal consignments declared for release for free circulation in line with Article 141(3) UCC-DA. Such CD is deemed not to have been lodged, based on Article 220(2) UCC-IA.

warehousing, inward processing, temporary admission, in a free zone or temporary storage and are re-exported).

The first condition covers the cases where a VAT refund is requested (e.g. return of goods) based on the invalidation of the release for free circulation customs declaration requested by the declarant of such declaration in accordance with Article 148 (3)UCC-DA. Such goods can still be exported by their exit from the EU customs territory, provided that their value does not exceed 150€. The postal operator will return the goods using an S10 barcode, in accordance with the respective UPU rules. If a new S10 barcode is issued for the return, then it has to be cross-referenced in the postal system with the S10 barcode that belongs to the parcel that could not be delivered. The data proving that the same goods have been returned as the ones released for free circulation have to be available in the postal operator's IT system in case of an audit, and made available to Customs upon request.

However, above this value threshold, Article 142(b) UCC-DA implies that goods in postal consignments in respect of which an application for the repayment of duty or other charges is made cannot be exported by their exit from the Customs territory of the EU. As a result, an electronic export declaration is required.

b) Determination of the value thresholds

The value of the postal consignments is indicated in the CN22 / CN23 form. This corresponds to the statistical value to be indicated in D.E. 99 06 000 000 of the export declaration.

4.2.2. *Process for exporting postal consignments*

a) Determination of the Customs offices of export and exit

The provisions of Article 329(7) UCC-IA can also apply in cases when a postal operator transports goods out of the customs territory of the Union under cover of a single transport contract. In this situation and upon request of the declarant, the customs office of exit shall be the customs office competent for the place where the goods are taken over under the single transport contract.

In exceptional cases, Article 221-2nd subparagraph of UCC-IA can be used.

The transport document in the postal stream is the CN37 (surface)/CN38 (air)/CN41 (surface airlifted) documentation form, which is exchanged between the postal operator and the carrier. The form describes all receptacles included in the consignment. Then, in relation with the dispatch note (PREDES), it is possible to link with the item level.

b) Customs formalities deemed to have been carried out by the act referred to Article 141(4) UCC-DA

The exit of the goods in postal consignments is considered to be the act of the export declaration and it includes the following formalities, in accordance with Article 218 UCC-IA:

- a) the presentation of the goods to customs in accordance with Article 267 UCC;
- b) the acceptance of the customs declaration by customs authorities in accordance with Article 172 UCC ;
- c) the release of the goods by the customs authorities in accordance with Article 194 UCC.

c) Waiver to lodge pre-departure declaration for safety-security purposes

According to Article 245-1(d) UCC-DA, no pre-departure declaration is required for goods moved under the rules of the UPU Convention.

d) Exchange of electronic messages between posts

As from 2021, the UPU convention will require that all goods transported within the postal stream are declared with ITMATT electronic messages as soon as the item is considered as a good and where customs declarations are needed. These obligations will be set up for all types of postal consignments.

4.2.3. Re-exporting postal consignments

In accordance with Article 270 UCC, the re-export applies to non-Union goods that have been placed under customs warehousing, inward processing, temporary admission or have been in a free zone or a temporary storage. In case of returns, as most of the LVC are released for free circulation, they have Union status and, therefore, cannot be re-exported. The only exception applies to low value postal consignments covered by Article 220 UCC-IA, during the transitional period for postal consignments at the latest by the end of the deployment window for ICS-2 Release 1, i.e. by 1 October 2021.

4.3. EXPRESS CONSIGNMENTS

4.3.1. *Scope of export declaration by any other act*

a) Legal basis

Goods in an express consignment the value of which does not exceed 1,000€ and which are not liable for export duty can be declared for export by declaration by any other act (Article 140(1)(d) and Article 141(4a) UCC-DA). The export by any other act for goods in express consignments can be used regardless of the mode of transport.

Such goods shall be deemed to be declared for export by their presentation in accordance with Article 267 UCC to the customs office of exit, provided that the data in the transport document and/or invoice are available to and accepted by the customs authorities (Article 141(4a) UCC-DA). For the purpose of such presentation, the express carrier can, if accepted by the customs authorities, make the data available to customs in their records, instead of submitting it by means of a notification.

The declaration by any other act of the goods in an express consignment can be used under the same conditions applying to the goods in postal consignments, as provided for in Article 142 UCC-DA:

- goods are not subject to an application for the repayment of duty or other charges unless such application relates to the invalidation of the customs declaration for release for free circulation of goods subject to relief from import duty in accordance with Article 23(1) or Article 25(1) of Regulation (EC) No 1186/2009;
- they are not subject to a prohibitions or restrictions;
- they are not subject to any other special formality provided for in Union legislation which the customs authorities are required to apply (such as excise goods covered by Directive 2020/262/EU or non-Union goods that have been under customs warehousing, inward processing, temporary admission, in a free zone or temporary storage and are re-exported).

Based on the single transport contract, the customs authorities have the possibility to investigate whether the shipment definitely left the territory of the EU. This can be checked on an audit based control, if needed.

In line with the first condition, the goods in a returned express consignments with a value not exceeding 150€ can be exported using a declaration by any other act (presentation to customs). All other express consignments (value above 150€) which are subject to a request for repayment of duty have to be declared for export with an electronic CD.

When a consignee refuses to accept the shipment, express carriers will return the shipment to the consignor with a new HAWB number with a cross-reference to the old HAWB. This process provides the customs authorities the necessary control whether these shipments physically left the customs territory of the EU in order to allow them to, following a request by the declarant of the import customs declaration, invalidate such

declaration in accordance with Article 148 (3) UCC-DA and, if applicable, re-pay the VAT. This audit based control can take place in the track and trace systems of the express carriers.

4.3.2. *Description of the process (Article 141(4a) UCC-DA)*

a) Determination of the competent customs offices for export and exit

The general rules defining the office of exit apply in this case as well. In accordance with Article 329(7) UCC-IA and due to the fact that in principle no formalities need to be fulfilled at the customs office at the point of exit, the presentation could take place at the customs office competent for the place where the goods are taken over under a single transport contract, provided that the goods are to leave the customs territory of the Union by air. This customs office is the customs office of exit and may also be situated inland.

If the goods in express consignments leaving the customs territory of the EU by road, the use of the single transport contract is not possible. In that case, there are two possibilities:

1. The goods can be declared in accordance with Art 141(4a) UCC DA by presenting them to the customs office of exit. However, the data of this particular exit presentation notification for express consignments are not defined at EU level and therefore, it might be burdensome for the express carriers to comply with the data requirements / systems/ practices of all the different customs offices at the Union border, particularly of those that are (or will be) highly automated on the basis of a MRN.

2. The goods can be declared for export by any other act (act of presentation; Article 141 (4a) UCC-DA) at an inland customs office and the same inland office can confirm the exit of the goods if, whenever possible, these are placed immediately under a transit procedure using preferably NCTS . In such a case, the office of departure of transit would be considered the office of exit for the export procedure in accordance with Article 329 (5) or (6) UCC-IA and, upon arrival at the border-crossing point, the goods would be covered by a transit declaration, thereby facilitating their exit from the Union customs territory. In this case, the pre-departure declaration is waived in accordance with Article 245(1)(g) UCC-DA.

N.B. The approaches described in Articles 329(5), (6) and (7) UCC-IA ensuring the confirmation of the exit of the goods at an inland customs office may apply regardless of the value of the goods, however, for goods with a value exceeding 1,000€, a formal export declaration as pre-departure declaration containing the particulars necessary for risk analysis for security and safety purposes needs to be lodged

The customs office competent for placing the goods under the export procedure is set in line with Article 221(2), 1st and 2nd subparagraph of UCC-IA and could be one of the following:

- 1) The customs office competent for the place where the exporter is established;
- 2) The customs office competent for the place where the goods are packed or loaded for export;

- 3) A different customs office in the MS concerned which for administrative reasons is competent for export;
- 4) The customs office competent for the place of exit.

b) Customs formalities deemed to have been carried out by the act referred to Art 141(4a) DA

The presentation is considered to be the act of customs declaration and it includes the following formalities in accordance with Article 218 UCC-IA:

- a) the presentation of the goods to customs in accordance with Article 267 UCC ;
- b) the acceptance of the customs declaration by customs authorities in accordance with Article 172 UCC ;
- c) the release of the goods by the customs authorities in accordance with Article 194 UCC.

c) Waiver to lodge pre-departure declaration for safety-security purposes

Export shipments with a value not exceeding 1000€ and which are not liable for export duty and, provided they are declared for export by any other act, benefit from a waiver from a pre-departure declaration, as provided for in Article 245(1)(g) of the UCC-DA.

d) Which data are to be made available?

According to Article 141(4a) UCC-DA, the data in the transport document and/or invoice shall be made available and accepted by the customs authorities.

There is no common data set defined in the UCC framework for the presentation of the goods in the case of export of goods in express consignments by any other act. The data requirements are set by the national customs authorities. Such requirements may include primarily the data contained in the transport document (HAWB: consignor (exporter), name and address; consignee (i.e. importer), name and address; goods description, value, number of packages and weight. In case of return shipments, the reference of the import declaration and/or of the import HAWB shall also be provided.

e) When the data shall be made available to customs?

In order to allow for customs supervision, the goods shall be presented (i.e. the data shall be made available to customs) before the goods are leaving the customs territory of the EU.

f) Specific situations

→ *indirect exports* :

In case of indirect exports through an airport in another Member State, the customs authorities at the physical point of exit out of the EU can ask the express carrier to provide a copy of the single transport contract in line with Article 333(6) (b) UCC-IA.

5. INVALIDATION OF THE CUSTOMS DECLARATION

5.1. Background

Returning goods is a typical element of e-commerce. Goods can be returned without being delivered either because the addressee is not found or because he/she simply refuses to take over the goods. Apart from the cases where the VAT is settled under IOSS at the time of the purchase, the number of such refusals by the consignees may increase after the entry into force of the new VAT e-commerce rules when consumers are facing the additional payment obligation (VAT and possible service fees) upon delivery of the goods.

Until the end of the deployment window for the release 1 of ICS-2, in case of goods in a postal consignment which were declared for release for free circulation by any other act in accordance with Article 141(3) UCC-DA (i.e., non-IOSS or Special Arrangements VAT schemes), the customs declaration for release for free circulation does not need to be formally invalidated (Article 220(2) UCC-IA applies, as explained under 5.3 a below).

Nevertheless, it is expected that the vast majority of the refusals may not fall within this category and will require the formal invalidation of the electronic customs declaration in accordance with Article 148(3) UCC-DA. Therefore, in order to mitigate the impact on customs administrations and economic operators submitting the customs declaration on behalf of the consumers, the invalidation requires a reasonably simple process that does not pose unmanageable workload on customs administrations and does not significantly disrupt the daily operations of businesses.

The invalidation of the customs declaration for release for free circulation will be relevant in particular in the context of special arrangements and the standard VAT collection mechanism. Under the special arrangements scheme, the postal operators, express carriers and customs agents (i.e. the persons using this scheme provided they presented the goods to customs) are only liable for the payment towards the customs or tax authorities of import VAT that they have effectively collected from the consignee (i.e. the importer).

The goods that could not be delivered, or were refused by the consignee (i.e. the importer) will need to be returned under a new transport contract (new S10 barcode for postal consignments and new HAWB number for express consignments) including a cross reference to the transport document used for the import (S10 barcode for postal consignments and

HAWB for express consignments), and, in order to extinguish the VAT payment obligation, the customs declaration for release for free circulation needs to be invalidated.

If the consignee (i.e. the importer) accepted the delivery of the initial shipment and decides to return it afterwards, the process will depend on how the consumer decides to organize the return and on the procedure applicable in the relevant MS regarding the request for the reimbursement of the VAT. The claim for the VAT repayment is based on the invalidation of the CD for release for free circulation in accordance with Article 148(3) UCC DA.

5.1. Legal provisions

The invalidation of the customs declaration is a legal act performed by the competent customs authorities triggered by a reasoned application of the declarant and based on a customs decision taken on the basis of Article 22 UCC.

Only in specific cases provided for in Article 174 UCC, a customs declaration that has been accepted, may be invalidated.

There are two types of cases where the customs declaration that has been accepted could be invalidated:

- Where the customs authorities are satisfied that the goods are to be placed immediately under another customs procedure, or
- where the customs authorities are satisfied that due to special circumstances the placing of goods under this procedure is no longer justified.

In any of these cases, if the customs authorities have informed the declarant of their intention to examine the goods, the invalidation of the customs declaration shall take place after this examination.

In certain cases, the application for invalidation of the customs declaration may be submitted after the release of the goods. This could be the case e.g. for e-commerce goods, based on Article 148 (3) UCC-DA. In this case, the application for the invalidation of the customs declaration for release for free circulation shall be submitted within 90 days from the date of its acceptance.

5.2. Processes and formalities

The process of invalidation of the customs declaration depends on the type of the customs declaration.

a) Declaration by any other act

If the goods in a postal consignment are declared for release for free circulation by any other act, Article 220(2) UCC-IA applies, and there is no need to submit a formal application for

invalidation of the customs declaration. In such case the customs declaration is deemed not to have been lodged and the goods are deemed to remain in temporary storage until they are destroyed, re-exported or otherwise disposed in accordance with Article 198 UCC.

b) Customs declaration

In case of a formal electronic customs declaration for release for free circulation, a formal invalidation request has to be lodged at the competent customs authority if the delivery of the goods fails. The invalidation is mandatory in order to extinguish the import VAT debt. In that case, the goods will be returned on the basis of a new transport contract including a cross reference to the S10 barcode (for postal consignments) and HAWB (for express consignments) used upon importation of the goods. The new transport document number has to be indicated in the reasoned application submitted to customs so as to provide evidence on the export of the goods.

Since low value goods in postal and express consignments may be returned under cover of an export declaration made by any other act, i.e. without the submission of a formal standard export declaration, the customs authorities may ask further evidence from the operators proving that the goods have left the customs territory of the EU. In light of that proof, the customs authorities take a decision on the invalidation of the customs declaration for release for free circulation.

After the invalidation of that declaration and depending on the national implementing rules, the VAT may be treated as follows:

- can be reclaimed by the consumer from the supplier/electronic interface in case of IOSS; or
- will not become payable by the person using the special arrangements if the goods cannot be delivered to the consignee; or
- can be repaid to the declarant under the standard VAT collection mechanism or,
- regardless of the VAT collection mechanism used upon importation, if the goods are sent back by the importer following their receipt and the customs declaration for release for free circulation is invalidated in accordance with Article 148(3) UCC-DA.

5.3. Person requesting the invalidation (including the role of representatives)

The invalidation of the customs declaration can only be requested by the declarant, in accordance with Article 174 UCC.

In the context of the importation of LVC, typically the following situations may arise as regards the declarant:

- a) the declaration is lodged by the consignee (i.e., the importer) in the EU (in his name and on his own behalf)

- b) the declaration is lodged by a direct representative (e.g. postal operator, express carrier or customs agent) in the name and on behalf of the consignee (i.e., the importer) in the EU;
- c) the declaration is lodged by an indirect representative (e.g. postal operator, express carrier or customs agent) in his own name but on behalf of the consignee (i.e., the importer) in the EU;
- d) In case the post/express/customs agents fail to state that they act as representative and, consequently, they are deemed to be acting in their own name and on their behalf, with all responsibilities implied by the quality of declarant, including becoming the debtor of the VAT.

In situations under points a) and b), the declarant is typically a private individual, i.e. the consumer in the EU. In case of point c), the indirect representative becomes the declarant.

In cases where the goods cannot be delivered or were refused by the consignee (i.e. the consumer in the EU), the customs declaration for release for free circulation must be invalidated in order to eliminate the VAT payment obligation. The declarant has to submit the application following the return of the goods under a new transport contract that contains a cross-reference to the transport contract used for the import of the goods and to the import customs declaration in the records of the operator (to the original sender's address).

The persons requesting the invalidation of the customs declaration for release for free circulation in the situations described under points a) to d) will be respectively the following:

- a) If the delivery of the goods fails, and the carrier expects the consumer to lodge the customs declaration for release for free circulation and that person refuses to take over the goods, then no customs declaration for release for free circulation is lodged, the goods remain under temporary storage at the premises of the carrier and re-exported as non-Union goods. In this (rather theoretic) case, there is no customs declaration to be invalidated.
- b) If the goods were refused or could not be delivered to the consignee, and the customs declaration for release for free circulation was lodged by the postal operator, express carrier etc. as direct representative; the consignee (i.e. the consumer in the EU) will likely not want to be involved in requesting the invalidation of the customs declaration for release for free circulation. Therefore, if the terms of the empowerment allow to apply the representation to the whole lifecycle of the customs declaration (from the preparation & submission until the receipt of the decision on the invalidation), the representative (direct or indirect) can, on behalf of the declarant (i.e., the importer), request the invalidation of the import customs declaration.
- c) In this case, the indirect representative becomes the declarant, and, therefore, can request the invalidation of the customs declaration for release for free circulation in his own name if the goods could not be delivered or were refused by the consignee.

- d) In the case post/express/customs agents fail to state that they act as representative and therefore, they are deemed to be acting in their own name and on their behalf, they can request the invalidation as declarant of the customs declaration for release for free circulation in their own name.

5.4. Data requirements of the reasoned application for invalidation

The application for the invalidation of the customs declaration for release for free circulation has to provide evidence that the required action is justified (reasoned application).

On the other hand, due to the very high expected volumes, it is necessary to put in place a mechanism that keeps the red tape at a reasonable and manageable level on both sides (customs & business).

The UCC does not provide for empowerment to specify by implementing regulation the procedural rules for the invalidation of the customs declaration. Nevertheless, the Customs 2020 Project Group on Import and Export Formalities related to Low Value Consignments (PG-LVC) has identified some best practices that may facilitate the mass invalidation of customs declarations for release for free circulation of LVC. It is to be noted, however, that the implementation of the formalities and the procedures relating to the invalidation are defined at national level.

This entails the consolidation of several applications in a single submission in electronic format, containing the following data:

- MRN of the customs declaration for release for free circulation
- reason for the application (e.g. the goods could not be delivered due to unknown address or were refused by the consignee)
- proof of exit of the goods

The decision taken by the customs authorities must include a reference to each of the applications submitted but may take the form of one single decision.

ANNEX 1

CUSTOMS DECLARATIONS FOR THE RELEASE FOR FREE CIRCULATION OF LOW VALUE CONSIGNMENTS AS OF 1ST JULY 2021

Declaration	Dataset in Annex B	Declarant	Legal basis	Transactions	VAT collection mechanism	Transition	Scope
Customs declaration for release for free circulation of certain low value consignments	H7	Any person, except Special Arrangements VAT scheme	Article 143a UCC-DA	C2C, B2C and B2B	IOSS ¹⁶ Special arrangements ¹⁷ Standard collection scheme	Until the 31 st December 2022 Datasets of SD and full CD provided for in Annex 9 of TDA	<ul style="list-style-type: none"> - Goods subject to customs duty relief following Articles 23(1) or 25(1) DRR - Goods not subject to prohibitions & restrictions - Customs procedure code '40 00'
Import simplified declaration (SD)	I1	Any person/Holder of SD authorisation	Article 166 UCC	C2C, B2C and B2B	IOSS ¹⁷ Special arrangements ¹⁷ Standard collection scheme	Until the 31 st December 2022, the dataset provided for in Annex 9, Appendix A, Table 7 of TDA	All goods
CD for release for free circulation – full dataset	H1	Any person	Article 162 UCC	C2C, B2C and B2B	IOSS ¹⁷ Special arrangements ¹⁷ Standard collection scheme	Until the 31 st December 2022, the dataset provided for in Annex 9, Appendix C1, column H of TDA	All goods
Customs declaration in postal traffic for release for free circulation	H6	Postal operator	Article 144 UCC-DA	C2C, B2C and B2B	IOSS ¹⁷ Special arrangements ¹⁷ Standard collection scheme	By any other act until the 31 st December 2022 for goods with value between 150,01 and 1000 €	<ul style="list-style-type: none"> - Goods with a value not exceeding 1000€ - Goods not subject to prohibitions & restrictions - No use of customs procedures 42/63

¹⁶ Applicable only to B2C transactions

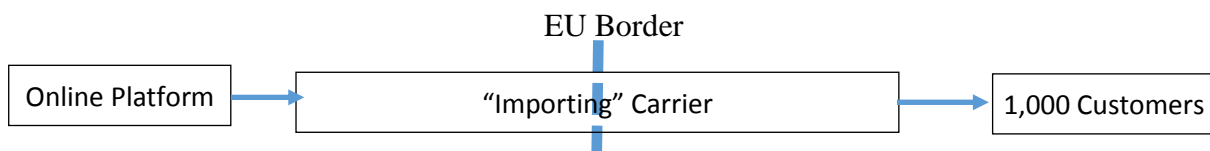
ANNEX 2
GROUPING OF LVC IMPORTED INTO THE EU

Use Case 1
Multiple orders for different consumers.
All orders eligible for IOSS

Starting points:

- A supplier/electronic interface that has registered for IOSS sells products to one thousand different Consumers within the EU. Average Sales Order value is 25€.
- They identify each Sales Order uniquely with a transaction identifier (e.g. with an ISO 15459-6 compliant ID).
- They pick, pack and dispatch each of the sales orders in separate transport units. They identify each transport unit uniquely with a reference number (e.g. using an ISO 15459-1 compliant ID). The total number of Transport Units associated with the one thousand Sales Orders is 1,000.
- As and when they ship each of the Sales Order and associated Transport Units, they communicate all relevant details of the individual Sale to the carrier transporting the Sales Orders into the EU. This would also include the Sales Order and the (multiple) associated Transport Units IDs as well as the applicable IOSS VAT identification number.
- The carrier taking these 1,000 individual Transport Units across the EU border consolidates these transport units in a single intermodal container.
- The total Sales Value in the container is 25,000€ (1,000 * 25€).
- The Carrier will perform the Customs declaration procedure associated with these imports into the EU.
- The Carrier will de-consolidate the contents of the container upon entry into the EU with the intent to transport the individual LVC to the intended Consumers / destination Countries.

Visualisation



The declaration process:

1. The Carrier will declare the individual Sales Orders (and associated Transport Units) in separate Customs declarations to the Customs authorities in the Member State where the Goods enter into the EU using the H7 data set. This will include the valid

VAT IOSS identification number of the supplier/electronic interface as well as the Sales Order and Transport Unit IDs. Sales Order ID should be included in DE 12 08 000 000; Transport Unit ID should be included in DE 12 05 000 000; IOSS ID should be included in DE 13 16 000 000.

2. MS Customs Authorities will check the individual separate (per Sales Order) declarations.
3. MS Customs may decide to inspect some of the Sales Orders / Transport Units.
4. All other Sales Orders will be cleared for free circulation and delivery.

Use Case 2

Multiple orders for different consumers.

Orders from different suppliers/electronic interfaces consolidated.

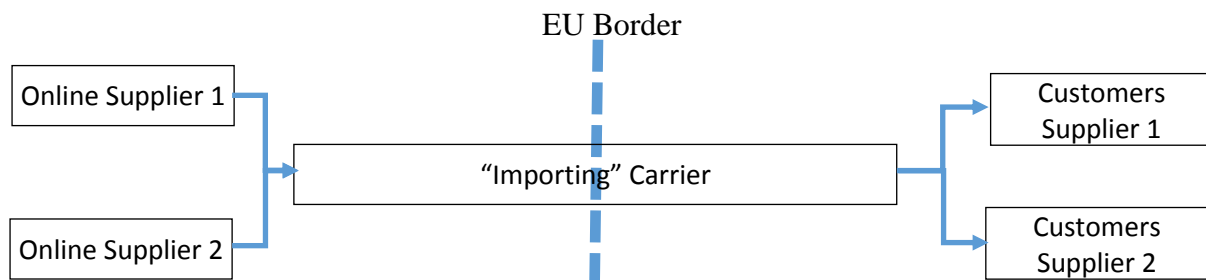
Value of each order below 150€ threshold

IOSS applies for some orders; not for other orders

Starting points:

- There are two different suppliers/electronic interfaces.
- Supplier 1 uses the IOSS scheme; Supplier 2 does not.
- Supplier 1 sells to 600 Consumers, Supplier 2 to 400 Consumers within the EU.
- Average Sales Order value is 25€.
- Both suppliers identify each Sales Order uniquely (e.g. with an ISO 15459-6 compliant ID).
- They pick, pack and despatch each of the sales in separate transport units. They identify each unit uniquely (e.g. using an ISO 15459-1 compliant ID).
- As and when the suppliers ship each of the Sales Order and associated Transport Units, they communicate all relevant details of the individual Sale to the carrier transporting the Sales Orders into the EU. This would also include the Sales Order ID and the (multiple) associated Transport Units ID/s as well as the VAT IOSS identification number (if applicable).
- The total number of Transport Units associated with the one thousand Sales Orders is 1,000.
- Both platforms use the same carrier for main carriage into Europe.
- The carrier taking these 1,000 individual Transport Units across the EU border consolidates these units in a single intermodal container.
- The total Sales Value in the container is 25,000€ (1,000 * 25€).
- The Carrier will perform the Customs declaration procedure associated with these imports into the EU.
- The Carrier will de-consolidate the contents of the container upon entry into the EU with the intent to transport the individual LVC to the intended Consumers / destination Countries.

Visualisation



The declaration process:

The declaration procedure that the carrier must follow is ***different*** for the two suppliers/electronic interfaces.

1. **For Supplier 1** (follows the IOSS arrangement in line with Use Case above)
 - a. The Carrier will declare the individual 600 Sales Orders (and associated Transport Units) in separate Customs declarations to the Customs authorities in the Member State where the Goods enter into the EU.
 - b. This will include the valid VAT IOSS identification number of Supplier 1 as well as the Sales Order and Transport Unit IDs. Sales Order ID should be included in DE 12 08 000 000; Transport Unit ID should be included in DE 12 05 000 000; IOSS ID should be included in DE 13 16 000 000. Each declaration will also comply with all other requirements of the CD with H7 data set.
 - c. MS Customs Authorities will check the individual separate (per Sales Order) declarations.
 - d. MS Customs may decide to inspect some of the Sales Orders / Transport Units.
2. **For Supplier2 (non-IOSS), the special arrangements procedure may be used**
 - a. The carrier will declare the individual Sales Orders (and associated Transport Units) in separate Customs declarations to Customs authorities using the H7 data set.
 - b. This will include the Sales Order (if available) and Transport Unit IDs. Sales Order ID should be included in DE 12 08 000 000; Transport Unit ID should be included in DE 12 05 000 000.
 - c. MS Customs Authorities will check the individual separate (per Sales Order) declarations.
 - d. MS Customs may decide to inspect some of the Sales Orders / Transport Units.
 - e. For LVC shipments to be delivered in the MS of entry, clearance can be done with the Customs authorities in the MS of entry.

For LVC shipments to be delivered in another MS, the transit procedure is compulsory, because these LVC shipments can ultimately be cleared only within the country of destination.

- f. The LVC will be transported to the destination country under external transit procedure.
 - g. The LVC will be cleared in the destination country according to the applicable procedure in that country.
 - h. The VAT due will be paid in the destination country.
3. Any Sales Orders and Transport Units that Customs indicated they want to inspect will be held at carrier's premises until inspection has completed.
 4. The carrier may proceed to deliver Sales Orders and Transport Units after inspection has completed and the Sales Orders have been cleared.

For logistical reasons, the split of the transport units into IOSS and non-IOSS goods can already be done in the export country. Alternatively, it may also happen that all goods (IOSS and non-IOSS) goods which are not destined to the MS of first entry are placed under the external transit procedure and declared for release for free circulation at a customs office in the MS of their final destination.