RECOMMENDATIONS

On partial or full transposition of the EU VAT e-commerce package

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LIST OF ABBREVIATION

- **ASYCUDA**: The Automated System for Customs Data (ASYCUDA) is a computerized customs management system that covers most foreign trade procedures. ASYCUDA software is developed by UNCTAD.

- **Digital equivalent of the CN23:** CN23 (and CN22) are postal forms globally standardised by UPU which are physically attached (glued or otherwise fastened) to the consignment in the form of a form and which contain all relevant data for postal customs clearance. These data elements are used as a data record (which is called Digital equivalent of he CN23) for digital customs processes.

- **Intrinsic value**: The Intrinsic value for commercial goods is the price of the goods themselves when sold for export to the respective customs territory, excluding transport and insurance costs, unless they are included in the price and not separately indicated on the invoice. Any other related costs, 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, license fees, export tax, etc.). In the EU, it is specified in Article 1(48) of the Regulation (EU) 2015/2446.

- **UNCTAD**: The United Nations Conference on Trade and Development (UNCTAD) was established in 1964 as an intergovernmental organization intended to promote the interests of developing states in world trade and is part of the United Nations Secretariat dealing with trade, investment, and development issues.

- **UPU**: Established in 1874, the Universal Postal Union (UPU), is the second oldest international organization worldwide and a specialized agency of the United Nations (UN) that coordinates postal policies among member nations, in addition to the worldwide postal system.

- **WCO**: The World Customs Organization (WCO), established in 1952 as the Customs Co-operation Council (CCC) is an independent intergovernmental body whose mission is to enhance the effectiveness and efficiency of Customs administrations.

INTRODUCTION

1.1 Context

The increase of trade within CEFTA as well as with the EU offers considerable potential for the CEFTA economies. However, legal and administrative barriers still impede trade and competitiveness of companies in CEFTA and need to be resolved by the implementation of the reform agenda for trade and competitiveness across CEFTA.

Electronic commerce (e-commerce) is one of the key drivers in economic development and is therefore one of the key intervention areas for deeper integration and cooperation. The value of electronic commerce, including inter-Party e-commerce in CEFTA is growing, however its full potential remains untapped as its not functioning as smoothly as it could. Inter-Party e-commerce is presenting various challenges for stakeholders from the public and private sectors. Customs and other relevant agencies have to ensure not only rapid release and clearance of goods, but also manage risks and collect revenues. On the other hand, traders should be able to organise their businesses online and meet requirements for exporting or importing goods. The unharmonized regulatory framework, is one of the obstacles for inter-Party e-commerce. To unlock the potential of e-commerce, the CEFTA Parties have agreed to enhance the regulatory framework conditions for inter-Party e-commerce in order to enable businesses to take advantage of the opportunities provided. Improvements in the regulatory framework will increase market competitiveness and create additional income from increased import and export within CEFTA, but also by increased trade flows with EU member state.

Against this background, the main objective is to create better framework conditions for e-commerce providers for selling their goods or services within CEFTA. The Common Regional Market Action Plan (CRM AP) as well as the CEFTA eCommerce Roadmap set out the vision and areas for required interventions in the area of eCommerce.

One identified area of intervention is the harmonization with EU and WCO rules as a base for inter-Party customs procedures, in particular:

i. regarding partial or full transposition on CEFTA level of the **EU VAT e-commerce package**
ii. regarding the implementation of the new **EU ICS2 – Import Control System**

Based on an initial analysis the following recommendations for harmonization have been developed.

Background information's on the new VAT package in the EU

Since July 2021, the rules in the EU on inter-party business-to-consumer (B2C) e-commerce activities have changed. The rationale for these changes is to overcome the barriers to inter-party online sales and address challenges arising from the VAT regimes for distance sales of goods and for the importation of low value consignments. Thus, from 1 July 2021, all commercial goods imported into the EU from a third country, or third territory will be subject to VAT irrespective of their value. It is mandatory to pre-lodge any commercial consignment using electronic customs declarations in advance. For low value Consignments (with an intrinsic value below 150 EUR) a new simplified customs declaration has been introduced. All parties wishing to facilitate imports into the EU will have to use electronic data in advance to pre-lodge customs declarations on any consignment containing goods (with or without value). The postal customs presentation privilege of designated postal operators has been abolished.

Background information on the Import Control System 2 (ISC 2) in the EU

In addition to that, European Union on 15 March 2021 has launched a new EU customs pre arrival security and safety regime—one that will be supported by a large-scale information system known as "ICS2" (Import Control System 2). The new regime aims to help establish an integrated EU approach to reinforce customs risk management framework.

Import Control System will require the provision of advanced shipment information to Customs authorities. While carriers will be largely responsible for compliance, importers and exporters will have to provide accurate information on a timely basis to their carriers; otherwise, their goods could be held up indefinitely by Customs authorities.

ICS2 is a freight advance information system. It is used to collect data on all goods imported into the EU before they reach the EU's external crossing-points. ICS2 will thus have a direct impact on all economic operators involved in the dispatch, transport, and handling of freight, express or postal consignments.

1.4 Activities leading to the recommendations

The assessment of the impact of the new VAT e-commerce package and Import Control System (ICS2) of the EU on the CEFTA economies started in 2021. The main objective was the development of recommendations for legal acts regarding partial or full transposition of the two new EU regimes at CEFTA level. However, after first analysis and consultations, CEFTA experts reached consensus that a major precondition for the implementation of related legal acts has not been fully met by the parties: enhanced digitalisation of existing customs procedures. Respectively, it was also confirmed that the subject ICS2 shall be further elaborated at a later stage.

Given the volume increase in the recent years for the majority of B2C supplies, at expert level, it was agreed that the submission of Electronic Advanced Data (EAD) for all postal-, courier-, express- and parcel items containing goods ***shall become obligatory for customs clearance in the future***. During discussions it was confirmed that existing data currently are not made available in advance for customs clearance, particularly by designated postal operators. Aiming to close this gap, it was agreed to develop a model which requires the designated postal operators (DO) in the future to provide and export existing data (the digital equivalent of the CN23 form) to the customs administrations in order to test a simplified customs procedure based on a reduced dataset complimentary to the EU VAT e-commerce model.

Additionally, experts discussed potential solution models to provide postal data to customs administrations:

I. ***ASYCUDA*** (currently integrated with 4 customs administrations, already connected to UPU IT system facilitating customs data of postal providers on behalf of DOs)
II. ***INDIVIDUAL DOMESTIC DATA INTEGRATION*** (interface between customs and Party DO, based on data facilitated on behalf of the Party DO by the UPU IT)
III. ***SEED+*** (currently integrated with 7 customs administrations, to be connected to UPU IT system facilitating customs data of postal providers on behalf of DOs).

At the beginning it was prioritized to check on the possibilities whether the SEED+ platform (currently already integrated with customs administrations of 7 Parties) could take over globally harmonised data from the DO systems and make them available to the customs administrations. However, further consultations showed that the parties prefer to use already existing solution models for the integration of EAD.

The final round of discussion was organized with the main goal to discuss the favoured solution models to provide postal data to customs administrations by the parties and to jointly agree on recommendations enabling individual implementations of electronic advance data sharing, while at the same time ensuring harmonization and standardization according to international standards at CEFTA level. The following recommendations for harmonization have been developed jointly between the parties.

STRATEGIC GOALS AND RECOMMENDATIONS

Fully digitalised customs processes are increasingly becoming the global standard, and for the majority of B2C supplies (low-value-consignments), paper-based processes are too burdensome and hinder the growth of inter-party e-commerce within CEFTA as well as in exchange with other regions.

Moreover, only the fully digitalised exchange between the customs authorities and all declarants and their representatives (incl. postal operators) provides the basis for further steps as i.e., the convenient calculation of VAT (and subsequently be able to collect VAT for all consignments fully digitally as it is already currently the case in the EU) and further applications in the field of transport and product safety depend on this data.

With the aim to overcome this process as quickly as possible and to achieve electronic data sharing, two priority goals were set by the parties:

1. Piloted Electronic Advanced Data (EAD) sharing in CEFTA
2. A roadmap for additional services based on EAD

Priority Goal 1: Piloted Electronic Advanced Data (EAD) sharing in CEFTA

Submission of Electronic Advanced Data (EAD) for all postal, courier, express and parcel items containing goods with or without value for customs clearance in the Parties. In accordance with the Parties' experts, the priority objective is to accelerate and simplify the Parties' customs processes, taking into account compatibility with the activities around the EU VAT Ecommerce Package.

Recommendation 1.1. Facilitate the submission of EAD and develop an action plan

As the basis for implementation and legal acts regarding partial or full transposition on CEFTA level of the EU VAT e-commerce package is digitalisation, the submission of Electronic Advanced Data (EAD) for all postal, courier, express and parcel items containing goods with or without value shall be provided for customs clearance in the Parties in the future. To achieve this the cooperation between relevant stakeholders (e.g. designated operators, customs authorities) should be initiated and the development of an action plan facilitated.

Recommendation 1.2: Introduce the digital equivalent of CN23

The data elements for postal customs clearance shall be the digital equivalent of CN23 (as globally standardized by UPU). Pre-lodging those data per item shall provide a simplified postal customs clearance. Customs authorities shall ensure that their electronic interface is able to receive the digital equivalent of CN23. Postal operators shall send the digital equivalent of CN23 to the electronic interface provided by the customs authority of the respective party and shall converted the data to the recommended format of the customs authority. Based on these actions all postal customs declarations will be lodged electronically. The digital equivalent of the CN23 shall be used as a recommended set of data required to be sent by the postal operator to the IT system of the customs authority. The data elements are already globally standardised by the UPU (M33 standard, see Annex

1) This equivalent of CN23 is a digital equivalent of the forms CN22 and CN23 which include all data elements describing the consignment as well as articles within the consignments, mandatory HS Code and the option to include digital documents (item associated documents) such as licenses, certificates and invoices if required by the customs authority. This dataset is already exchanged between designated postal operators since 1.1.2021 and is available in the database of a designated postal operator. The dataset is fully compatible with the dataset used by EU for postal customs clearance and customs clearance for low-value-consignments with an intrinsic value below 150 EUR and therefore aligned with the EU VAT Ecommerce package. ASYCUDA (which is currently used by 4 of the 7 Parties) is already connected with the postal IT system of the UPU and prepared to exchange data based on the digital equivalent of CN23.

Recommendation 1.3: Set up pilots to test the use of the digital CN23

In 2023, interested Parties shall set up pilots based on the Action Plan/s, evaluating simplified postal customs clearance based on exchange of the digital equivalent of CN23 with their postal operators.

Pilots and evaluations of such implementations shall not impair already existing pilots or hinder or limit the parties to implement or further extend the scope of the adoption of postal related customs procedures. Pilots shall be used to develop and establish the necessary regulatory framework to exchange data on item level between postal operator, customs authority and other stakeholders involved on Party level (i.e., Memorandum of Understanding (MoU), bilateral / multilateral data sharing agreements). To set up the necessary legal framework to be compliant with relevant legal and data protection legislation and regulation, a Memorandum of Understanding (MoU) between Customs and the postal operators may be set up to formalize contacts at the intra-party level. The drafting of an MoU will help postal operators and customs authorities to examine and clarify their practical obligations and responsibilities as regards the customs clearance of postal consignments.

The Pilots shall evaluate a threshold (based on the intrinsic value of the consignment) for the use of the simplified postal customs clearance.

The simplified postal customs procedure which shall be used for postal consignments is based on the digital equivalent of the CN23 and contains less data elements as the full procedure used for B2B or cargo. Therefore, the EU has implemented a value threshold to limit the scope of the simplified procedure. High-value goods (i.e., luxury goods) are still subject to the full customs procedure. The parties shall evaluate based on the pilots if and how such a threshold shall be implemented in the respective parties.

Recommendation 1.4: Share best practices and lessons learnt within CEFTA

Given the possible different speed of implementation of pilots and related projects, the Parties may consider sharing best practise and lessons learned within CEFTA. This includes drawing on expertise and support provided by institutions such as UPU, WCO and UNCTAD. Pilots testing the exchange of EAD already exist in several parties and should not be hindered or interrupted by those actions recommended.

The achievement of Priority Goal 1 and the associated Action Plans will ensure that all the necessary data for further activities in the areas of customs, VAT as well as transport and product safety are available and that data exchange with the EU and other parties is possible thanks to the standardised data model that is compatible with the EU CDM.

Priority Goal 2: A roadmap for additional services based on EAD

The actions under priority goal 1 create all the necessary data bases for further activities and options for action in the areas of customs, import duties (VAT) and transport and product safety. Therefore, a roadmap for the planning and implementation of additional measures in alignment with EU developments, based on the evaluation of the Action Plans and pilots and on the exchange of EAD for all consignments can be considered.

Recommendation 2.1: Introduce new services based on EAD

Based on the evaluation of the pilots, the Parties may consider, dependent on the considerations and decisions of the competent authorities, to i.e.

i. implement collection of import duties (VAT) for all consignments based on the EAD,

ii. apply the tested simplified postal customs clearance based on EAD (digital CN23) to all operators (i.e., designated postal operator, express operators, customs agents, and handlers),

iii. implement special procedures following the EU-UCC model which allows deferred payment of import duties collected from recipients and not exposing the operator to any risk of payment defaults

The pilots should be used to evaluate which of these options for action are suitable for the Parties.

- Based on the mandatory exchange of the digital equivalent of CN23, all data elements are available for a simplified customs procedure according to the model of the EU. The dataset used for simplified customs clearance for low value consignments with an intrinsic value below EUR 150 has derived from and is fully compatible with the digital equivalent of CN23. All data elements would be available for testing such a simplified, fully digital customs clearance for all consignments.

- Based on the mandatory digital equivalent of CN23, all data are available to collect import duties (VAT) for all consignments aligned with the EU VAT Ecommerce package.

- The pilots shall also allow the Parties to evaluate if the postal operator shall act as a declarant and representative of the consumer and how to minimise risks for the postal operator by evaluating special procedures (deferred payment) for postal operators and express operators introduced by the EU VAT Ecommerce Package.

Recommendation 2.2: Develop capacities and involve wider stakeholders

In order to achieve further steps towards the simplification and optimisation of customs processes as well as the promotion of e-commerce in the parties, it is necessary to further promote the know-how of the customs authorities, the knowledge of best practices and the further developments in the areas of customs, VAT and transport and product safety in other regions, especially in the EU.

In addition, the involvement of other stakeholders (i.e., postal, and express operators, tax authorities, stakeholders such as UPU, WCO and UNCTAD) and the connection of them with the customs authorities is of utmost importance for the successful implementation of further actions in this area.

Recommendation 2.3: Consider additional regional arrangements

On basis of the decision of competent authorities to introduce additional services based on EAD (e.g. VAT collection, Import Control) the parties may consider to develop regional arrangement to facilitate regional integration and standardization.

BENEFIT OF THE RECOMMENDED ACTIONS

The implementation of the recommendations mentioned and the achievement of the respective priority objectives will increase the quality and processing time of customs procedures, especially in the postal sector; break-free, fully digital customs processing can reduce processing time from days to hours. The simplification of customs procedures, especially for low-value consignments, will significantly increase the attractiveness of e-commerce in general and postal operators in particular.

The use of a standardised data set ensures compatibility with the EU VAT E-commerce Package.

Once these recommendations are implemented, globally standardised and EU-compatible Electronic Advanced Data (EAD) will be available for ALL consignments, and the data basis for all subsequent activities and projects in the area of customs, VAT and transport and product safety will be available to be used for further activities to facilitate e-commerce in CEFTA.