

Report
of the 4th meeting of the Subgroup on Platforms of the Customs 2020 Project Group on the
Import and Export Customs Formalities Related to Low Value Consignments (CPG 146)
(held via WebEx on 4 March 2021)

1. Introduction and Adoption of the agenda

The chair welcomed the members of the Subgroup on Platforms of the Project Group on Import and Export Customs Formalities Related to Low Value Consignments. The agenda was adopted as presented.

COM presented the state of play on the VAT side:

- The new e-commerce website provides targeted information to the user whether it is an online seller, an online electronic interface, an EU consumer, a postal operator or an express carrier.
Under the following link, explanatory notes and guidance documents are available, as well as audio material, articles, interviews and specialised press:
https://ec.europa.eu/taxation_customs/business/vat/vat-e-commerce_en
- The communication campaign on the e-commerce package has two stages:
 - a. In the first stage, started in February 2021, the aim is to alert the stakeholders to the upcoming changes and guide them to explore the new rules.
 - b. The second stage will start in April 2021. Its aim is to provide detailed information on all new rules, to inform about their impact and to guide stakeholders for their adaptation.

COM clarified questions raised by participants regarding the communication campaign and explained that the campaign could also be used through non-EU channels, such as the US, Asia and China.

COM highlighted that although the e-commerce website was intended for a general global audience, there was a dedicated campaign to specific stakeholders (consumers, postal operators and express carriers), in the form of fact sheets which could be reused to inform their clients. COM noted questions about whether participants could obtain details on communication partners in non-EU regions and whether it intended to expand the EU campaign to other stakeholders, such as logistics providers and customs agents.

COM will update the web portal so that all national IOSS registration links will be available with mass contact by country and a URL for each national website. The pre-registration for IOSS will be possible from April 1, 2021.

2. Presentation of the data protection and data privacy rules

With a view to launching the pilot project, COM presented the data protection and data privacy issues and provided the definition of personal data: “Personal Data is defined as any information that can relate to identify or identifiable living individual”. According to this definition dealing with personal data meant not only using a persons’ name or surname, but also when using other identifiers that may indirectly lead to that person, (like the VAT number, EORI number etc). COM stressed that although legal entities were excluded from the scope of the GDPR, for the pilot purposes, participants should include them in their personal data obligations, to ensure compliance and cover any cases that may indirectly lead to one individual.

COM clarified that Article 13 of the UCC (which would be applied for the implementation of the pilot programme) could not be used as a robust legal base for the submission and processing of personal data. However, for the pilot project, there were techniques that could be used, such as:

- the anonymization of data:** the data used is irreversible anonymous and in no case can a person be identified.
- synthetic data:** false data, artificially created by combining numbers and letters.
- data of deceased persons:** this data wouldn’t be considered personal data.
- other techniques:** pseudonymisation, encryption etc.

The basic principles of personal data protection that had to be applied not only for the pilot project but also for the final solution were mentioned, as for example (but not limited to):

- the principle of data minimisation:** to require as minimum data as possible.
- the principle of lawfulness:** the legal base under which you process personal data

A question was raised whether during the pilot project the platforms could only report the transaction itself (transaction identifier, transaction value, description of goods etc) whereas the link between the transaction and the seller and buyer would be transmitted only through the customs declaration or the entry summary declaration, which were covered by a legal basis. COM clarified that, if there was a risk of identifying an individual through this link, the above-mentioned techniques of excluding personal data should apply, in order to remain outside the scope of personal data protection. In any other case, there was a need to assess not only the legal basis but also the roles of the actors involved in the pilot project. There was a constant obligation of ensuring compliance while the pilot project was in progress and it was emphasized that adequate legal basis would make processing lawful, but would not preclude further obligations regarding the processing of personal data. It was explained that processing of personal data in the scope of pilot applies only if personal data will be processed, as well as that it may be considered as a separate processing activity with specific purpose (such processing activity ends with the end of the pilot). If pilot would not contain personal data, no need to ensure personal data compliance.

Regarding the possibility and general conditions of reusing the data (e.g. of the customs declaration or of the entry summary declaration), COM clarified that it required not only a legal basis, but also the elaboration and the expansion of its purpose. In some cases, a person's agreement and consent might serve as a legal basis. However, the legal basis is assessed in each processing activity.

A participant raised a question regarding the relation between different personal data and data collection obligations arising from different laws in force in different countries. COM clarified that the GDPR covered the minimum framework to be applied and depending on where the process took place and how data flows were regulated, there would be an assessment of how the national law or a combination of national laws, should be applied. In cases where data processing took place in the EU, the GDPR and national legislation applied. In cases of an "international data transfer", i.e. data exchange and data flow between the EU and a third country (e.g. US), it should be ensured that there was an equivalent level of protection of data subject in the third country.

3. Analysis of the data needs and data availability for the purpose of the new customs filing by the platforms

COM presented a BPM to provide a complete overview of e-commerce transactions, focusing on all key players and mapping of all relevant processes and information exchanges. This diagram reflected possible future transactions (marked in red) and focused on customs data submission interactions.

A lively discussion began after the presentation of the diagram. COM provided additional clarifications about the diagram referred to as "verification of the monthly IOSS listing" and "verification VAT is collected": From 1 July 2021, it will be possible to match the collected VAT and the imported goods through the IOSS monthly listing. The direct reporting by the platforms would provide a further possibility to verify the VAT collected.

A discussion took place and explanations were requested from the participants regarding the "submit customs data" box of the chart and whether this submission by platforms to the customs authorities was a new requirement. COM clarified that the objective was not to increase the data of the existing customs declaration but to complement it with information that otherwise could not be provided by the declarant. The H7 customs declaration, with its limited dataset, was created to facilitate the release for free circulation of the large volume of packages after 1 July. The main concern was that these data might not be sufficient for the customs authorities to carry out proper risk analysis. Participants confirmed that the objective of the subgroup was the direct reporting, by platforms to customs authorities, on the core data elements of a transaction (such as real buyer and seller, description of goods, transaction value etc), which were held by the platforms. This additional reporting will however require the amendment of the UCC.

COM presented a BPM with a specific example of multiple ENS filing, which showed how different data submitted by different stakeholders would be linked to each other. This chart flow showed the option that the required data from the platforms should go to a single customs

collection point, which would allow them to provide all the reporting, regardless of the Member State to which the goods are destined.

A participant commented on the unique identifier, the reference number of the transfer document available to express operators: This unique identifier is created from the pickup of the package and follows it until it is delivered to the final destination, through the track and trace systems. With this number, all the necessary information can be retrieved as it is also linked to the customs declaration. What is required is the identification of a common identifier that is able to link information provided by platforms to those provided by express carriers.

Another participant stressed that the objective of the subgroup and the future state should be to enhance data sharing and avoid the creation of separate data channels. The participant also expressed reservations as to whether direct data sharing from platforms to customs authorities was the best practice for data enhancement. An alternative could be the use of current data flow channels.

COM clarified that the objective of the new reporting by the platforms was to provide additional data not available in the super reduced dataset or to provide enhanced or improved data compared to those available in the customs declaration. This purpose could only be achieved if this data was linked to customs declaration data or to a set of data already provided to customs and should not be treated separately and in isolation from the whole process.

Another participant mentioned the link between the presented flow charts and the pilot project and underlined the steps to follow. The first step was to find the common data element, the transaction identifier. The second step was to find the type of information provided by platforms to the customs authorities for more efficient and effective supervision. A last step was to find the best way to exchange this data. Through mutual understanding, this approach tried to connect the needs and to find the best solution for both sides, platforms and customs. A reference was also made to the quality control of the data carried out by the platforms, before sending them to the customs authorities and the option of cooperation that could be achieved in this field. COM stressed that the objective would be to cover as many transactions as possible.

COM asked participants to send their feedback on the two BPMs within two weeks, and to update the charts accordingly.

COM presented the Data Needs Table, which had the intention to identify a clear need for each data and to check the type of information that customs needed. Based on the availability of this information from the platforms, the mapping of the process was possible. Through this process mapping, stakeholders could identify gaps and information repeated from different sources and streamline, optimize or adapt these flows.

A participant asked about the intention to include the “seller” data element in the H7 customs declaration. COM replied that the intention was to keep the H7 customs declaration as simple as possible. There were ongoing discussions on this issue and COM would inform the members of the subgroup as soon as there were completed.

COM took note of all comments made by participants.

4. Any other business

N/a

Conclusion of the meeting

The chair concluded and summarised the meeting.

COM asked platforms that have not yet completed the Data Needs Table to contribute to its completion. COM also invited Member States to complete the table not only with additional data needs but also to indicate the purpose for which they would need them. The Data Needs Table was a living document that would allow the subgroup to design the process.

COM would welcome all comments until March 18, 2021.

The next meeting of the subgroup is scheduled for April 22, 2021.
