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di Alessandro Torello*

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E-commerce and the Importation of Low-value Goods: Is the EU Ready for New Rules?[*]

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1. E-commerce in the EU

The level of efficiency of customs-related operations and clearance processes have an impact on e-commerce, especially in case of goods that are destined to consumers and households (B2C and C2C).

In the EU, the number of consumers who buy products online has grown considerably over the last twenty years.

In 2019, according to the analyses of Eurostat, in the EU the proportion of individuals aged 16-74 years who used the internet was 88%. The percentage of internet users who purchased or ordered goods and services for private use was 71% - i.e. seven out of ten internet users were e-consumers. In this respect, it is worth highlighting the fact that in ten years, from 2009 to 2019, the number of online shoppers rose by 17%[1].

In 2019, the percentage of internet users buying online varied considerably inside the EU, ranging from 22-23% in Bulgaria and Romania to over 80% in Northern Europe (United Kingdom, Denmark, the Netherlands and Sweden). The share of e-shoppers among internet users is high in two important age groups: 16-24 year old (78%) and 25-54 year old (76%) - i.e. three out of four internet users aged 16-54 were online buyers.

In the same year (2019), the most popular products and services purchased online were clothes and sports goods (65% of e-buyers), followed by travel and holiday accommodation (54%), household goods (46%) and event tickets (41%). One out of three e-shoppers bought books, magazines and newspapers as well as electronic equipment. The proportion of e-buyers purchasing computer hardware and medicines was 17% and 16% respectively[2].

Regarding the value of goods purchased online, around 15% of goods had a value below 50 Euro and almost 25% of purchases was in the class 50-100 Euro. These figures show that almost 40% of online shopping involved goods of limited value (less than 100 Euro)[3].

Around 80% of the products, which were bought outside the EU and consequently imported in the EU from third Countries, were physical goods, such as electronic products, clothes, toys, food and books[4].

Indeed, online shopping has become a regular and daily activity in the majority of the EU Member States. Unfortunately, a large number of European consumers tend to ignore customs rules and the consequences of inaccurate customs declarations when goods are imported into the EU customs territory from non-EU Countries, especially from Asian Countries.

Purchasing goods outside the EU customs territory means being involved in customs procedures and consequently dealing with bureaucracy and the official rules of customs authorities.

Frequently online buyers have no knowledge of customs operations. They are completely unaware of any risk of fiscal sanctions and of the

[1] Eurostat, *E-commerce Statistics for Individuals*, January 2020, p. 3. In particular, see: Figure 1, p. 1.

[2] Ibid, pp. 1-4.

[3] Goods having a value over 100 Euro (but less than 500 Euro) represented more than 40% of online transactions. Ibid., p. 6.

[4] Ibid, pp. 8-9.

possible seizure of goods made by customs authorities once the goods enter the EU customs perimeter with no customs clearance declaration or invalid declaration. In fact, if on the one hand the free movement of EU goods inside the EU internal market is one of the cardinal principles of the freedom of circulation, on the other hand, non-EU goods (e.g. Chinese origin goods) must be cleared before entering the EU internal market. European private consumers, purchasing goods online (e.g. through Asian internet sites), are not exempted from complying with customs rules.

Therefore, as the value of products that are purchased online is often low and the volume of parcels imported from non-EU Countries has increased in the new Millennium due to e-commerce, on the one side trade facilitation is considered "necessary" in order to speed up the e-commerce supply chain, on the other side accurate customs controls and risk-based analyses are becoming more and more important to hinder illegal imports and tax fraud. In 2017 the WCO (World Customs Organization) observed that "*trade facilitation is necessary to support growing cross-border e-commerce flows. The ability to facilitate trade requires a lot of fundamentals such as the necessary capacity, the availability of information for better risk assessment, and the use of ICT to deal with the large number of low-value consignments*"[5].

2. Importing goods into the EU customs territory from a third Country

The European Community (today European Union) established a customs union[6] on 1 July 1968, eighteen months earlier than planned in the Treaty of Rome of 25 March 1957[7]. Article 9 of the Treaty of Rome stated that "*the Community shall be based upon a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and of all charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries*"[8]. The ECJ (European Court of Justice) consolidated the principles of Article 9 of the Rome Treaty in the sentence of 26 October 1971 (Case C-18/71): "*the Community is to be based upon a customs union which is to involve in particular the prohibition between Member States of customs duties and all charges having equivalent effect*" (Paragraph 5)[9].

Nowadays Article 28 of the TFEU underpins the provision of Article 9 of the Rome Treaty, especially in terms of homogeneous external tariffs, stating that "*the Union shall comprise a customs union which shall cover all trade*

[5] WCO, *WCO Study Report on Cross-Border E-Commerce*, March 2017, p. 6.

[6] A general definition of customs union is provided by Article XXIV (8a) of the GATT. Regarding the basic principles of a customs union, see for instance: LYONS T., *EU Customs Law*, Oxford, 2018, pp. 6 ff.; VINER J., *The Customs Union Issue*, New York, 1950.

[7] In 1968 the European Community consisted of six Members: Benelux (Belgium, The Netherlands, Luxembourg), Italy, France and West Germany.

[8] In this regard, according to the OECD (Organization for Cooperation and Development), the Parties of a customs union do two things: *"(1) agree to allow free trade on products within the customs union, and (2) agree to a common external tariff (CET) with respect to imports from the rest of the world*". See: OECD, Glossary of Statistical Terms.

[9] Case C-18/71 (*Eunomia di Porro e C. v. Ministry of Education of the Italian Republic*).

in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and of all charges having equivalent effect[10]*, and the adoption of a common customs tariff in their relations with third countries*"[11].

Concerning the importation procedures, goods entering the EU customs territory must be submitted to customs clearance operations, which are based on a double phase: a first stage pertains to duties (release into free circulation); a second stage, indicated as release for consumption, deals with fiscal obligations (VAT and excises).

The release into free circulation is a customs operation that allows non-EU goods entering the EU to obtain the status of EU-goods. When goods having a third-country origin gain the EU-goods status, they can circulate freely inside the EU customs territory. On this subject, Article 29 of TFEU underlines that "*products coming from a third country shall be considered to be in free circulation in a Member State if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in that Member State, and if they have not benefited from a total or partial drawback of such duties or charges*".

In addition, as specified in Article 201(1) of Regulation 952/2013 (the Union Customs Code - UCC), "*non-Union goods intended to be put on the Union market or intended for private use or consumption within the customs territory of the Union shall be placed under release for free circulation*".

Finally, it is worth pointing out that the EU customs territory does not match with the EU political territory. Specifically, Article 4 of the UCC identifies the zones of the EU customs territory, including territorial waters, internal waters and airspace. In addition, in line with Article 3 of the TFEU, the customs union is an area of exclusive competence of the European Union. In this respect, the effects of the Brexit[12] are still palpable. The customs territory of the United Kingdom will be - presumably - detached from the EU customs union area by the end of 2020. In fact, despite losing the status of EU political Member State, the United Kingdom is still considered part of the single market area and included in the EU customs territory, as the EU and the United Kingdom reached an agreement on implementing a transition period, at least 11 months, starting on 31 January 2020.

[10] Concerning the ECJ sentences about the prohibition of customs duties and charges having equivalent effect to customs duties, see in particular: C-26/62 (*Van Gend en Loos v. Administratie der Belastingen*); C-7/68 (*Commission v. Italy*); C-33/70 (*Sace v Ministero delle finanze*); C-78/76 (*Steinike & Weinlig v. Federal Republic of Germany*).

[11] The EU Member States refer to one single discipline concerning the duties to apply: a Common Customs Tariff (CCT). Article 31 of the TFEU states that "*Common Customs Tariff duties shall be fixed by the Council on a proposal from the Commission*". On this point, see for instance: UCKMAR V. (ET. AL.), *Diritto tributario internazionale*, Milan, 2012, pp. 142-145.

[12] As a result of the 2016 referendum and the application of Article 50 of TEU pertaining to the withdrawal from the EU, on 31 January 2020 the United Kingdom stopped being an EU Member State.

3. And after the phase of release for free circulation? … The free movement of goods in the EU

EU goods, as well as non-EU goods that have been cleared (i.e. goods released for free circulation), can freely circulate in the EU customs territory. In line with the purposes of 1985 White Paper[13], Article 26(2) of the TFEU establishes that "*the internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaties*".

The ECJ has dealt with the significance of the freedom of circulation of goods in many cases over the last forty years. Important sentences consolidating the principle of free movement of goods were issued by the Court during the 1980s and the 1990s, such as: sentence of 16 March 1983 (C-266/81 - *SIOT*): sentence of 4 October 1991 (C-367/89 - *Richardt*); and sentence of 9 December 1997 (C-265/95 - *Commission v. France*)[14].

The ECJ also confirmed the necessity to ensure the free movement of goods at the beginning of the new Millennium. In Case C-192/01 (*Commission* v. *Denmark*), the ECJ pointed out that "*the free movement of goods between Member States is a fundamental principle of the EC Treaty which finds its expression in the prohibition, set out in Article 28 EC, of quantitative restrictions on imports between Member States and all measures having equivalent effect*" (Paragraph 38). Furthermore, in the sentence of 23 October 2003 (Case C-115/02)[15], the ECJ underscored that "*[...] the Customs Union established by the EC Treaty necessarily implies that the free movement of goods between Member States should be ensured*" (Paragraph 18).

Indeed, the ECJ reinforced its orientation in favour of the protection of the principle of the free movement of goods in Case C-573/12 (*Ålands Vindkraft AB v. Energimyndigheten*): "*the free movement of goods between Member States is a fundamental principle of the Treaty which finds its expression in the prohibition set out in Article 34 TFEU*" (Paragraph 65)[16].

3. Customs controls on origin and value

Once non-EU goods enter the EU customs territory, customs authorities are allowed to supervise and inspect those goods, examining for

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[13] COM(85) 310: Completing the internal market. White Paper from the Commission to the European Council (Milan, 28-29 June 1985).

[14] About an analysis of the ECJ sentences concerning the freedom of transit of goods, see: A. ARNULL, *The European Union and Its Court of Justice*, Oxford, 1999, pp. 227 ff.; D. LASOK, *The Trade and Customs Law of the European Union*, London, 1998, pp. 51 ff.

[15] Case C-115/02: *Administration des douanes et droits indirects v. Rioglass SA and Transremar SL.*

[16] See also Paragraph 15 of the sentence of 14 September 2006 of joined Cases C-158/04 and C-159/04, *Alfa Vita Vassilopoulos AE, formerly Trofo Super-Markets AE (C-158/04) and Carrefour-Marinopoulos AE (C-159/04) v. Elliniko Dimosio, Nomarkhiaki Aftodiikisi Ioanninon*: "*the prohibition of measures having equivalent effect to quantitative restrictions set out in Article 28 EC covers all measures which are capable of hindering, directly or indirectly, actually or potentially, intra-Community trade (see, in particular, Case 8/74 Dassonville [1974] ECR 837, paragraph 5; Case 178/84 Commission v Germany (Beer purity) [1987] ECR 1227, paragraph 27; Case C-192/01 Commission v Denmark [2003] ECR I-9693, paragraph 39; and Case C-366/04 Schwarz [2005] ECR I-10139, paragraph 28)*".

instance the authenticity of goods, the type and the origin of merchandise, the shipping documents and any other record pertaining to the transport.

Article 46 of the UCC underlines that customs controls may "*consist of examining goods, taking samples, verifying the accuracy and completeness of the information given in a declaration or notification and the existence, authenticity, accuracy and validity of documents, examining the accounts of economic operators and other records, inspecting means of transport, inspecting luggage and other goods carried by or on persons and carrying out official enquiries and other similar acts*".

In case of imported goods, the rules of origin and value for customs purposes are two delicate issues to take into consideration. The country of origin refers to the effective country of production of goods[17]. The concept of origin must not be confused either with the vendor's country or with the country from which the goods are shipped[18].

As far as the concept of value for customs purposes is concerned, today the reference discipline is the Agreement on Implementation of Article VII of GATT of 1994, which reproduced the Tokyo Round Valuation Code of 1979, and established a method based on the "transaction value"[19].

Chapter 3 of Title II of the UCC is dedicated to the value of goods for customs purposes. According to Article 70 of the UCC, which mirrors Article 1 of the Agreement on Implementation of Article VII of GATT 1994, "*the primary basis for the customs value of goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the customs territory of the Union, adjusted, where necessary*".

Concerning import customs formalities, the EU Member States make use of a harmonised form: the SAD (Single Administrative Document). In line with the e-customs framework, the SAD, which is now submitted electronically, contains all the information required by customs authorities when importing goods from third Countries: quantity, origin of goods, value for customs purposes and classification[20].

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[17] Chapter 1 of Specific Annex K of the Revised Kyoto Convention identifies the country of origin as "*the country in which the goods have been produced or manufactured, according to the criteria laid down for the purposes of application of the Customs tariff, of quantitative restrictions or of any other measure related to trade*" (Point E1./F2.)

[18] In the UCC, the discipline of the origin of goods is regulated by Chapter 2 of Title II: non-preferential origin in Section 1 (Articles 59-63); preferential origin in Section 2 (Articles 64-66).

[19] The Agreement on Implementation of Article VII of GATT entered into force in 1981. As a result of the Uruguay Round multilateral trade negotiations (1986-1994), the Agreement on Implementation of Article VII became part of the WTO. The Agreement on Implementation of Article VII is currently indicated as the WTO Agreement on Valuation.

[20] The EU classification systems is based on the TARIC (acronym of *TARif Intégré Communautaire*), which is a ten-digit code (extendable up to fourteen digits). The first six digits of the TARIC match with a world-wide recognized system of classification of goods: the HS (Harmonized System). The Harmonized System is regulated by the International Convention on the Harmonized Commodity Description and Coding System of 1983. As indicated in the preamble of this Convention, "*the Harmonized System is intended to be used for the purposes of freight tariffs and transport statistics of the various modes of transport*".

4. Duty exemptions when importing goods of low value

In order to comply with import procedures, non-EU products purchased online, likewise any other type of goods having non-EU origin, are subject to the application of inbound customs duties during the release into free circulation phase, and to national taxes (VAT and excise) when released for consumption.

However, in case of import procedures of low-value goods, both the WCO Revised Kyoto Convention[21] and the WTO Trade Facilitation Agreement (TFA)[22] indicate special procedures to adopt for the purpose of collecting duties and taxes.

In particular, according to Chapter 4 (Point 13) of the General Annex of the WCO Revised Kyoto Convention, "*national legislation shall specify a minimum value and/or a minimum amount of duties and taxes below which no duties and taxes will be collected*". Article 7.8.2 (d) of the TFA establishes that Members shall "*provide, to the extent possible, for a de minimis shipment value or dutiable amount for which customs duties and taxes will not be collected, aside from certain prescribed goods. Internal taxes, such as value added taxes and excise taxes, applied to imports consistently with Article III of the GATT 1994 are not subject to this provision*".

When importing products with a non-EU origin into the EU customs territory, duties are not imposed if the intrinsic value[23] of goods is inferior to 150 Euro[24]. As indicated in the two paragraphs of Article 23 of Regulation 1186/2009[25], "*[…] any consignments made up of goods of negligible value dispatched direct from a third country to a consignee in the Community shall be admitted free of import duties. For the purposes of paragraph 1, 'goods of negligible value' means goods the intrinsic value of which does not exceed a total of EUR 150 per consignment*". Thus, the release for free circulation operation does not imply any customs duty.

However, the main problem is the release for consumption, as the VAT threshold exemption is not 150 Euro, but it depends on the EU Member State where goods are released for consumption. The VAT threshold ranges from almost 10 Euro (e.g. 80 Krone in Denmark)[26] to 22 Euro (in most of the EU Countries).

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[21] The Revised Kyoto Convention entered into force on 3 February 2006 and was amended in 2008 (Protocol of Amendment of 17 April 2008). The Convention consists of five principal Chapters and a group of Annexes: (I) a General Annex, which is divided into ten chapters; (II) ten Special Annexes (A-K), which include their own chapters.

[22] The TFA, which is also known as the Bali Package, was adopted by the WTO in 2014 and entered into force on 22 February 2017.

[23] The intrinsic value is the value of goods, excluding freight and insurance costs, while the value for customs purposes is the CIF value. The CIF value is the value of the goods plus freight costs calculated up to the first point of entry in the EU and insurance.

[24] In line with Article 24 of Directive 2009/132/EC, this is an exception that is not applied to specific categories of goods, such as: perfumes, tobacco and alcoholic beverages.

[25] Council Regulation (EC) No. 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty.

[26] The VAT threshold is 30 Lev (BGN) in Bulgaria: 30 Lev are equal to 15 Euro - the exchange rate Euro/Lev is fixed. In Cyprus, the release for consumption of goods not exceeding the value of 17.09 Euro is VAT free.

Title IV (Articles 23 and 24) of Directive 132/2009/EC[27] regulates the VAT application in case of goods of negligible value. In particular, Article 23 of Directive 132/2009/EC states that "*goods of a total value not exceeding EUR 10 shall be exempt on admission. Member States may grant exemption for imported goods of a total value of more than EUR 10, but not exceeding EUR 22*". This issue is also indicated with the acronym of LVCR (Low Value Customs Relief).

This scenario may trigger some confusion and uncertainty among consumers, economic operators and shipping companies, as there are two stages to deal with: the customs phase corresponding to the payment of duties (i.e. the release for free circulation); and the fiscal phase (VAT obligations to fulfil during the release for consumption).

Hence, what happens when a Chinese-origin product is purchased online for 100 Euro (intrinsic value) by an EU e-consumer and this product enters the EU customs territory?

The value of this product is in between the VAT threshold exemption (10-22 Euro) and 150 Euro. Therefore, even though the product is free of customs duties, domestic taxes (i.e. VAT) are due. In fact, if on the one hand, in line with the EU customs discipline, no customs duty is required when the product value is less than 150 Euro, on the other hand, in line with the VAT threshold discipline, VAT must be paid in the EU Member State where the product is released for consumption.

5. An outlook on the future

To simplify the current VAT obligation framework, which has unquestionably had a significant impact on e-commerce, the Council has introduced a list of specific measures since December 2017.

On 5 December 2017, the Council adopted the VAT e-commerce package consisting of one Directive and two Regulations: Directive 2017/2455[28], Regulation 2017/2454 and Implementing Regulation 2017/2459[29].

Specifically, Directive 2455 of 2017 introduced important reforms for shipments of goods having negligible value[30], such as the provision of Article

[27] Council Directive 2009/132/EC of 19 October 2009 determining the scope of Article 143(b) and (c) of Directive 2006/112/EC as regards exemption from value added tax on the final importation of certain goods.

[28] Council Directive (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods.

[29] Two years later, in November 2019, the Council adopted a group of implementing measures for the VAT e-commerce package, consisting of Directive 2019/1995 and Implementing Regulation 2019/2026. Also, in February 2020, the Commission adopted Implementing Regulation 2020/194, laying down detailed rules for the application of Council Regulation (EU) No. 904/2010 as regards the special schemes for taxable persons supplying services to non-taxable persons, making distance sales of goods and certain domestic supplies of goods.

[30] Concerning possible solutions for collecting VAT on low value goods, the OECD has indicated four different models to choose from: 1) the traditional collection model; 2) the purchaser collection model; 3) the vendor collection model; 4) the intermediary collection model. See: OECD, *Addressing the Tax Challenges of the Digital Economy*, Action 1,

3: "*with effect from 1 January 2021, Title IV of Directive 2009/132/EC is deleted*". Consequently, Article 23 of Directive 2009/132/EC, which is part of Title IV and deals with the admission of goods free of VAT, will be abrogated. As a matter of fact, the VAT-exemption B2C scheme used for importing small consignments (up to 22 Euro) will be abolished - presumably - on 1 July 2021 instead of 1 January 2021[31].

Anyway, in 2021 a new import VAT simplified mechanism will be implemented: the IOSS (Import One-Stop-Shop)[32]. The IOSS scheme is applied when the intrinsic value of goods imported into the EU is less than 150 Euro. Vendors, after obtaining an IOSS VAT identification number (a kind of special VAT identification number), will charge VAT to e-customers. Thus, VAT will be no longer paid during the release for consumption phase in one of the EU Member States. On the contrary, VAT will be charged when goods are supplied.

Nevertheless, two critical issues deserve attention.

1) The application of the VAT IOSS scheme might increase the number of customs clearance declarations. Thus, considering the significant daily volume of parcels (containing low-value products) that is imported into the EU customs territory, an innovative and simplified process to clear goods not exceeding 150 Euro will be required.

2) Undervaluation remains an unsolved problem. In fact, the intrinsic value of several products purchased online is often much higher than the value indicated and declared in commercial invoices used to ship and clear those products. Undoubtedly, to penetrate and invade global markets with low-price products, lots of enterprises, principally Asian vendors, have taken advantage of a limited number of customs inspections (especially on postal packages) and of EU customs and fiscal legislation benefits conferred to low-value goods - i.e. duty and VAT exemptions.

Along with undervaluation, another common illegal practice is the incorrect description and classification of goods in commercial invoices. In the phase of release for consumption, a lot of products imported from third Countries, especially if goods are shipped by postal operators, are intentionally described and classified in a wrong way by vendors, so that

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Final Report, OECD/G20 Base Erosion and Profit Shifting Project, Paris, 2015, pp. 123-126.

[31] This deadline might be different, as on 8 May 2020 the Commission asked for postponing the new e-commerce VAT legislation because of the Covid-19 pandemic outbreak. Therefore, the new deadline is supposed to be 1 July 2021 instead of 1 January 2021.

[32] The IOSS can be interpreted as an extension of the MOSS (Mini One Stop Shop), which was introduced as a VAT simplification scheme and came into force in January 2015. The main purpose of the MOSS is the reduction of costs and administrative burdens on TBE services (Telecommunications, Broadcasting and Electronic) sold to EU consumers (B2C). Concerning the application of the IOSS mechanism for cross-border e-commerce in July 2021, see: COCKFIELD A., HELLERSTEIN W., LAMENSCH M., *Taxing Global Digital Commerce*, Alphen aan den Rijn, 2020; LAMENSCH M., *Key Policy Issues for the Future of the EU VAT System*, in PANAYI C. HJI, HASLEHNER W., TRAVERSA E. (edited by), *Research Handbook on European Union Taxation Law*, Cheltenham, 2020, pp. 340 ff.

they can be cleared as goods of negligible value (e.g. below 22 Euro), thus benefiting from either customs exemptions and VAT exemptions, despite a higher commercial value[33].

6. Conclusions

In consequence of the development of e-commerce, the number of illegal import declarations pertaining to low-value goods has risen considerably. The EU Commission has estimated that fiscal losses due to undervaluation fraud connected with e-commerce and shipments of low value goods imported into the EU from non-EU countries is around 5 billion Euro per year[34]. Probably, undervaluation and misdeclaration are, and will not stop being, a dark and fraudulent side of e-commerce.

In addition, importing goods from third Countries without paying duties by declaring lower values for customs purposes or declaring fraudulently the goods as gifts, distorts competition both in the EU internal market and globally, damaging those enterprises that operate online legally and in compliance with customs rules.

In fact, e-commerce has become an important activity and source of profit for a large number of enterprises in the EU. In 2018, in line with the analyses of Eurostat, it was estimated that one out of five EU enterprises made sales using IT networks (internet or other forms of electronic data exchange). In ten years, from 2008 to 2018, the percentage of enterprises that sold products making use of e-sale networks rose from 13% in 2008 to 20% in 2018. In the same decade, the enterprise turnover generated from e-sales increased from 12% (2008) to 18% (2018)[35].

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[33] It is worth mentioning the research by the Copenhagen Economics about import customs clearance operations in case of products purchased online. The result of the research showed that import duties and VAT are significantly less likely to be paid when goods are shipped by postal operators, instead of express carriers. The researchers observed that duties and VAT were collected respectively on 47% and 35% of items imported via postal operators, while express carriers collected duties and VAT on 98-99% of products imported. This means that more than 50% of postal shipments were not properly cleared. See: BASALISCO B., OKHOLM H., WAHL J., *E-commerce Imports into Europe: VAT and Customs Treatment*, Copenhagen Economics, 2016, p. 3. The research by Copenhagen Economics is also cited in Commission Staff Working Document SWD(2016) 379 final: Impact Assessment. Accompanying the document Proposals for a Council Directive, a Council Implementing Regulation and a Council Regulation on Modernising VAT for cross-border B2C e-Commerce, p. 16.

[34] On this subject, in 2017 the OLAF (*Office Européen de Lutte Antifraude*) started an investigation into the import of low value garments purchased online. See: Paragraphs III, 133 and 134 in European Court of Auditors, *E-commerce: Many of the Challenges of Collecting VAT and Customs Duties Remain to be Resolved*, Special Report, No. 12, 2019, pp. 4 and 43. See also: CECI E., LAMENSCH M., *VAT Fraud. Economic Impact, Challenges and Policy Issues*, Study Requested by the TAX3 Committee of European Parliament, October 2018, pp. 22-25.

[35] Eurostat, *E-commerce Statistics*, December 2019, pp. 1-3. In 2018, web sales were the dominant method of conducting e-sales in all EU Member States. "*During 2018, 88% of EU enterprises with web sales used their own websites or apps, while 40% used an e-commerce marketplace. The highest percentages of enterprises with web sales via own sites or apps were registered in Slovakia (98%), Estonia and Romania (each 97%), while the lowest were registered in Luxembourg (75%) and Slovenia (71%). On the other hand, Finland (13%), Romania (13%) and*

Croatia (15%) had the lowest percentages of web sales via marketplaces. Using web sales via marketplaces was most common in Italy (61%), Germany (51%) and Austria (50%)". Ibid., p. 7.