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EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Customs Policy
Customs Procedures

Brussels, 18/09/2008

Dear colleagues,

Please find attached the Regulation amending the Customs Code implementing provisions as voted upon during the Customs Code Committee – section General Customs Rules meeting on 8-9 September. An editorial revision will still take place.

Kind regards

M. Lux



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 09.September.2008

Draft

COMMISSION REGULATION (EC) No .../..

of [...]

**Amending Regulation (EEC) n° 2454/93 laying down provisions for the implementation
of Council regulation (EEC) n° 2913/92 establishing the Community Customs Code**

Draft

COMMISSION REGULATION (EC) No .../..

of [...]

**Amendment of the Customs Code implementing provisions in the context of regulation
(EC) n° 648/2005 (text with EEA relevance)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code¹, and in particular Article 247 thereof,

Whereas:

- (1) In the light of the experience gained with the application of Commission Regulation (EEC) No 2454/93², as amended by Commission Regulation (EC) No 1875/2006 of 18 December 2006³, it is necessary to adjust and specify certain details concerning pre-arrival and pre-departure declarations to be provided to the customs authorities on goods entering and leaving the customs territory of the Community.
- (2) More detailed rules are in particular required with regard to the information exchange between the operator of the means of transport and the customs office of entry in cases where a means of transport arrives at a port or airport other than that declared in the entry summary declaration.
- (3) Furthermore, it should be specified in which cases and in which form the operator of the means of transport shall notify the customs office of entry of the arrival of the means of transport.
- (4) More detailed rules are necessary defining the person responsible for providing information on non-Community goods which are in temporary storage upon their arrival in the customs territory of the Community. Such information should be derived as much as possible from data already available to the customs authorities.
- (5) Additional cases have been identified in which no pre-arrival or pre-departure declaration is required, in particular with regard to goods destined for drilling or production platforms or coming there from, as well as weapons and military equipment transported by, or on behalf of, the military authorities of a Member State. Furthermore, in order to limit the burden for economic operators, consignments of goods the intrinsic value of which does not exceed EUR 22 should be exempted from pre-arrival and pre-departure declarations subject to certain conditions. Where such exemptions apply, risk analysis should be carried out upon arrival or departure of the

¹ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 648/2005 of the European Parliament and of the Council (OJ L 117, 4.5.2005, p. 13)

² OJ L 253, 11.10.1993, p.1. Regulation as last amended by Regulation (EC) No 214/2007 (OJ L 62, 1.3.2007, p.7)

³ OJ L 360, 19.12.2006, p. 64.

goods on the basis of summary declaration for temporary storage or the customs declaration for the goods concerned.

- (6) It is also necessary to specify the treatment of pre-departure declarations for which no exit confirmation has been sent by the customs office of exit to the customs office of export, providing for an enquiry and information procedure between the customs offices of export and exit. Furthermore, it should be possible for the customs office of export to close export movements for which no exit confirmation has been received from the customs office of exit, either on the basis of evidence submitted by the exporter or declarant or following the expiry of a specified time limit.
- (7) Commission Regulation (EEC) No 2454/93 should therefore be amended accordingly.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2454/93 is amended as follows:

1. In Article 1 the following point is added :

"17 'Entry summary declaration' means :

the summary declaration referred to in Article 36a of the Code to be lodged for goods brought into the customs territory of the Community, except where otherwise provided for in this Regulation"

2. Article 181b is replaced by the following:

"Article 181b

"For the purposes of this Chapter and Annex 30A:

- 1.

'Carrier' means the person who brings the goods or who assumes responsibility for the carriage of the goods into the customs territory of the Community, referred to in Article 36b(3) of the Code. However,

- in the case of combined transportation, as referred to in Article 183b, 'carrier' means the person who will operate the means of transport which, after having been brought into the customs territory of the Community, will move by itself as an active means of transport;

- in the case of maritime or air traffic under a vessel sharing or contracting arrangement, as referred to in Article 183c, 'carrier' means the person who has undertaken a contract and issued a bill of lading or air waybill for the actual carriage of the goods into the customs territory of the Community."

3. Article 181c is amended as follows:

- a) The first paragraph is amended as follows:

- (i) Point (e) is replaced by the following:

“(e) goods covered by customs declarations made by any other act in accordance with Articles 230, 232 and 233, except pallets, containers, and means of road, rail, air, sea and inland waterway transport carried under a transport contract;”

(ii) Point (g) is replaced by the following:

“(g) goods for which an oral customs declaration is permitted, in accordance with Articles 225, 227 and 229(1), except pallets, containers, and means of road, rail, air, sea and inland waterway transport carried under a transport contract;”

(iii) Point (j) is replaced by the following:

“(j) goods carried on board vessels of regular shipping services, duly certified in accordance with Article 313b, and goods on vessels or aircraft which are carried between Community ports or airports without calling at any port or airport outside the customs territory of the Community;”

(iv) the following points (l) to (n) are added :

"(l) weapons and military equipment brought into the customs territory of the Community by the authorities in charge of the military defence of a Member State, in military transport or transport operated for the sole use of the military authorities;

(m) the following goods brought into the customs territory of the Community directly from drilling or production platforms operated by a person established in the customs territory of the Community:

- goods which were incorporated in such platforms, for the purposes of their construction, repair, maintenance or conversion;
- goods which were used to fit to or to equip the said platforms; other provisions used or consumed on the said platforms; and non hazardous waste products from the said platforms;”

(n) goods in a consignment the intrinsic value of which does not exceed 22 EUR provided that the customs authorities accept, with the agreement of the economic operator, to carry out risk analysis using the information contained in, or provided by, the system used by the economic operator.”

b) The second paragraph is deleted.

4. Article 183 is amended as follows:

a) in paragraph 2, the introductory phrase is replaced by the following:

"The customs authorities shall allow the lodgement of a paper-based entry summary declaration, or any other procedure replacing it as agreed between the customs authorities, only in one of the following circumstances: ”;

b) the following paragraphs are added:

“6. The customs authorities shall notify immediately the person who lodged the entry summary declaration of its registration. Where the entry summary declaration is lodged by a person referred to in Article 36b(4) of the Code, the customs authorities shall also notify the carrier of the registration, provided that the carrier is connected to the customs system.

7. Where an entry summary declaration is lodged by a person referred to in Article 36b(4) of the Code, the customs authorities may assume, except where there is evidence to the contrary,

that the carrier has given his consent under contractual arrangements and that the lodging has been made with his knowledge.

8. The customs authorities shall notify immediately the person who lodged amendments to the entry summary declaration of the registration of such amendments. Where the amendments to the entry summary declaration are lodged by a person referred to in Article 36b(4) of the Code, the customs authorities shall also notify the carrier, provided that the carrier has requested the customs authorities to send such notifications and is connected to the customs system.

9. Where, after a period of 200 days from the date of lodging an entry summary declaration, the arrival of the means of transport has not been notified to customs in accordance with Article 184g or the goods have not been presented to customs in accordance with Article 186, the entry summary declaration shall be deemed not to have been lodged."

5. Article 183b is replaced by the following:

"In case of combined transportation, where the active means of transport entering the customs territory of the Community is only transporting another means of transport which, after entry into the customs territory of the Community, will move by itself as an active means of transport, the obligation to lodge the entry summary declaration shall lie with the operator of that other means of transport.

The time limit for lodging the entry summary declaration shall correspond to the time limit applicable to the active means of transport entering the customs territory of the Community, as specified in Article 184a."

6. Article 183d is replaced by the following:

"Article 183d

1. Where an active means of transport entering the customs territory of the Community is to arrive first at a customs office located in a Member State that was not declared in the entry summary declaration, the operator of this means of transport or his representative shall inform the declared customs office of entry by way of a "diversion request" message. This message shall contain the particulars laid down in Annex 30A and shall be completed in accordance with the explanatory notes in that Annex. These provisions shall not apply in the cases referred to in Article 183a.

2. The declared customs office of entry shall immediately notify the actual customs office of entry of the diversion and of the safety and security risk analysis results."

7. In Article 184a (1), point (b) is replaced by the following:

"(b) for bulk/break bulk cargo, other than where point (c) or (d) applies, at least four hours before arrival at the first port in the customs territory of the Community".

8. In Article 184d,

a) the second sentence of the second subparagraph of paragraph 2 is replaced by the following:

“Where that analysis provides reasonable grounds for the customs authorities to consider that the introduction of the goods into the customs territory of the Community would pose such a serious threat to the safety and security of the Community that immediate intervention is required, the customs authorities shall notify the person who lodged the entry summary declaration and, where different, the carrier, provided that the carrier is connected to the customs system, that the goods are not to be loaded.”

b) paragraph 3 is replaced by the following:

"3. Where goods not covered by an entry summary declaration, in accordance with Article 181c (c) to (i), (l) to (n), are brought into the customs territory of the Community, risk analysis shall be carried out upon presentation of the goods, where available on the basis of the summary declaration for temporary storage or the customs declaration covering those goods."

9. In Article 184e, the second and third paragraphs are replaced by the following:

"Where a risk is identified, the customs office of the first port or airport of entry shall take prohibitive action in the case of consignments identified as posing a threat of such a serious nature that immediate intervention is required, and, in any case, pass on the results of the risk analysis to the subsequent ports or airports.

At subsequent ports or airports in the customs territory of the Community, Article 186 shall apply for goods presented to customs at that port or airport."

10. Article 184f is deleted.

11. In Part I, Title VI, Chapter I, the following Section 5 is inserted:

"Section 5

Notification of arrival

Article 184g

The operator of the active means of transport entering the customs territory of the Community or his representative shall notify the customs authorities of the first customs office of entry of the arrival of the means of transport. This notification of arrival shall contain the particulars necessary for the identification of the entry summary declarations lodged in respect of all goods carried on that means of transport. Wherever possible, available methods of notification of arrival shall be used."

12. Article 186 is replaced by the following:

"Article 186

1. Non-Community goods presented to customs shall be covered by a summary declaration for temporary storage as specified by the customs authorities.

The summary declaration for temporary storage shall be lodged by or on behalf of the person presenting the goods no later than at the time of presentation. Where the summary declaration for temporary storage is lodged by a person other than the operator of the temporary storage

facility, the customs authorities shall notify that operator of the declaration provided that this person is indicated in the summary declaration for temporary storage and connected to the customs system.

2. The summary declaration for temporary storage may take one of the following forms, as prescribed by the customs authorities:

(a) a reference to any entry summary declaration for the goods concerned, supplemented by the particulars of a summary declaration for temporary storage,

(b) a summary declaration for temporary storage including a reference to any entry summary declaration for the goods concerned,

(c) a manifest or another transport document, provided that it contains the particulars of a summary declaration for temporary storage including a reference to any entry summary declaration for the goods concerned.

3. A reference to any entry summary declaration shall not be required where the goods have already been in temporary storage or have been assigned a customs-approved treatment or use and have not left the customs territory of the Community.

4. Commercial port or transport inventory systems may be used provided that they are approved by the customs authorities.

5. The summary declaration for temporary storage may be lodged with, or contain, the notification of arrival referred to in Article 184g.

6. For the purposes of Article 49 of the Code, the summary declaration for temporary storage shall be deemed to have been lodged at the date of presentation of the goods.

7. The summary declaration for temporary storage shall be kept by the customs authorities for the purpose of verifying that the goods to which it relates are assigned a customs-approved treatment or use.

8. A summary declaration for temporary storage shall not be required where, at the latest at the time of their presentation to customs:

- the goods are declared for a customs procedure or are otherwise placed under a customs-approved treatment or use, or

- proof that the goods have Community status is established in accordance with Articles 314b to 336.

9. When a customs declaration has been lodged at the customs office of entry as an entry summary declaration, in accordance with Article 36c of the Code, the customs authorities shall accept the declaration immediately upon the presentation of the goods, and the goods shall be placed directly under the declared procedure subject to the conditions laid down for that procedure.

10. For the purposes of paragraphs 1 to 9, where non-Community goods moved from the customs office of departure under a transit procedure are presented to customs at an office of destination within the customs territory of the Community, the transit declaration intended for the customs authorities at the office of destination is deemed to be the summary declaration for temporary storage."

13. Article 189 is replaced by the following:

"Article 189

Goods brought into the customs territory of the Community by sea or air which remain on board the same means of transport for carriage, without transshipment, shall be presented to customs in accordance with Article 40 of the Code only at any Community port or airport where they are unloaded or transhipped."

14. In Article 251(2), point b is replaced by the following:

"(b) in the case of other goods the customs office of export has been informed, in accordance with Article 792a(1), or considers in accordance with Article 796e(2) that the goods declared have not left the customs territory of the Community."

15. Article 592a is amended as follows:

(a) point (e) is replaced by the following:

"(e) goods covered by a customs declaration made by any other act in accordance with Articles 231, 232 (2) and 233, except pallets, containers, and means of road, rail, air, sea and inland waterway transport carried under a transport contract; "

(b) point (g) is replaced by the following:

"(g) goods for which an oral declaration is permitted in accordance with Articles 226, 227 and 229(2), except pallets, containers, and means of road, rail, air, sea and inland waterway transport carried under a transport contract;"

(c) point (j) is replaced by the following:

(j) goods carried on board vessels of regular shipping services, duly certified in accordance with Article 313b; and goods on vessels or aircraft moving between Community ports or airports without any intervening call at any port or airport outside the customs territory of the Community;"

(d) the following points (k) to (m) are added :

"(k) weapons and military equipment brought out of the customs territory of the Community by the authorities in charge of the military defence of a Member State, in military transport or transport operated for the sole use of the military authorities;

(l) the following goods brought out of the customs territory of the Community directly to drilling or production platforms operated by a person established in the customs territory of the Community:

- goods to be used for construction, repair, maintenance or conversion of such platforms;
- goods to be used to fit or equip the said platforms; other provisions to be used or consumed on the said platforms;"

(m) goods in a consignment the intrinsic value of which does not exceed 22 EUR provided that the customs authorities accept, with the agreement of the economic operator, to carry out risk analysis using the information contained in, or provided by, the system used by the economic operator."

16. In Article 592b(1)(a), point (ii) is replaced by the following:

"(ii) for bulk/break bulk cargo, other than where point (iii) or (iv) applies, at least four hours before leaving the port in the customs territory of the Community;"

17. Article 592g is replaced by the following:

"Article 592g

Where goods covered by an exemption, under Article 592a(c) to (m), from the requirement to lodge a customs declaration by the time limits set out in Articles 592b and 592c, are brought out of the customs territory of the Community, risk analysis shall be carried out upon presentation of the goods, where available on the basis of the customs declaration covering these goods."

18. In Article 792a(1), the third sentence is deleted.

19. Article 792b is replaced by the following:

"Article 792b

Articles 796da and 796e shall apply *mutatis mutandis* in cases where a paper-based export declaration has been lodged."

20. After Article 796d, the following Article 796da is inserted:

"Article 796da

1. Where, after 90 days from the release of goods for export, the customs office of export has not received the "Exit results" message referred to in Article 796d(2), the customs office of export may, where needed, request the exporter or declarant to indicate the date at which and the customs office from where the goods have left the customs territory of the Community.

2. The exporter or declarant may, on his own initiative or following a request made in accordance with paragraph 1, inform the customs office of export that the goods have left the customs territory of the Community indicating the date at which and the customs office of exit from where the goods have left the customs territory of the Community and request from the customs office of export that the exit be certified. In this case, the customs office of export shall request the "Exit results" message from the customs office of exit, which shall respond within 10 days.

3. Where, in the cases referred to in paragraph 2, the customs office of exit does not confirm the exit of the goods within the time limit referred to in paragraph 2, the customs office of export shall inform the exporter or declarant who may provide to the customs office of export evidence that the goods have left the customs territory of the Community.

4. The evidence referred to in paragraph 3 may be provided in particular by one of the following means or a combination thereof:

(a) a copy of the delivery note signed or authenticated by the consignee outside the customs territory of the Community,

(b) the proof of payment or the invoice or the delivery note duly signed or authenticated by the economic operator which brought the goods out of the customs territory of the Community,

- (c) a declaration signed or authenticated by the company which brought the goods out of the customs territory of the Community,
- (d) a document certified by the customs authorities of a Member State or a country outside the customs territory of the Community, or
- (e) economic operators' records of goods supplied to oil and gas drilling and production platforms."

21. Article 796e is replaced by the following:

"Article 796e

1. The customs office of export shall certify the exit to the exporter or declarant in the following cases:

- (a) it has received an "Exit results" message from the customs office of exit;
- (b) it has, in the cases referred to in Article 796da (2), received no "Exit results" message from the customs office of exit within 10 days, but is satisfied that the evidence provided in accordance with Article 796da(4) is sufficient.

2. Where the customs office of export has, after a period of 150 days from the date of release of the goods for export, received neither an "Exit results" message from the customs office of exit nor satisfactory evidence in accordance with Article 796da(4), the customs office of export may consider this as information that the goods have not left the customs territory of the Community.

3. The customs office of export shall inform the exporter or declarant and the declared customs office of exit of the invalidation of the export declaration.

The customs office of export shall inform the declared customs office of exit where it has accepted evidence in accordance with point b of paragraph 1.

22. Article 842a is amended as follows:

- a) point (a) is replaced by the following:
"the cases listed in Article 592(a) to (m)
- b) point (b) is deleted.

23. In Article 842d (1), the second subparagraph is replaced by the following:

"Article 592b(2) and (3) and Article 592c shall apply *mutatis mutandis*."

24. The following Article 842f is inserted:

"Article 842f

Where goods subject to an exit summary declaration have, after a period of 150 days from the date of lodging the declaration, not left the customs territory of the Community, the exit summary declaration shall be deemed not to have been lodged."

Article 2

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

2. It shall apply from 1 July 2009.

Done at Brussels, [...]

For the Commission

[...]

Member of the Commission