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From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 16.5.2018
amending and correcting Delegated Regulation (EU) 2015/2446
supplementing Regulation (EU) No 952/2013 of the European Parliament
and of the Council as regards detailed rules concerning certain provisions
of the Union Customs Code

Delegations will find attached document C(2018) 2794 final.

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Brussels, 16.5.2018
C(2018) 2794 final

COMMISSION DELEGATED REGULATION (EU) .../...

of 16.5.2018

**amending and correcting Delegated Regulation (EU) 2015/2446 supplementing
Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards
detailed rules concerning certain provisions of the Union Customs Code**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (Code), in consistency with the Treaty on the Functioning of the European Union (TFEU), delegates to the Commission the power to supplement certain non-essential elements of the Code, in accordance with Article 290 TFEU. The Commission has therefore exercised these powers by adopting on 28 July 2015, Commission Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code. This Commission Delegated Regulation established provisions of general application to supplement the Code in accordance with the Commission's delegated powers and with a view to ensuring a clear and proper application of the Code.

Following the entry into force of Delegated Regulation (EU) 2015/2446, incorrect cross-references were discovered that arose due to a final review of the text, including the rearrangement of the structure of certain provisions. In addition, certain missing elements were detected in the text of the act, namely the subtitles of some articles that were unintentionally omitted. The adjustment of these inaccuracies is of major importance for the Commission, Member States and Trade and is an absolute precondition for the proper implementation of Union customs legislation.

Moreover, following the first year of application of Delegated Regulation (EU) 2015/2446, its practical implementation has shown the need to adapt certain provisions in order to allow more efficient application of the basic rules established by the Code and better promote customs transactions in line with modern-day practices.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission carried out a consultation in line with paragraph 4 of the Common Understanding on delegated acts between the European Parliament, the Council and the European Commission.

The Commission developed this Delegated Act in accordance with the Framework Agreement on relations between the European Parliament and the European Commission and with the Common Understanding of the European Parliament, Council and Commission on delegated acts. Member States and all other relevant stakeholders have been duly involved and constantly consulted on the draft provisions.

The Commission carried out consultations on the draft text with Member States through meetings of the group of experts (Customs Expert Group), as well as consultations of the business community through the consultative stakeholder body (Trade Contact Group – TCG) in joint meetings with Member States experts.

The Commission has actively considered all comments received during this consultation exercise, and, to the greatest extent possible, included them in the version provided herewith.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The legal basis for this Regulation is contained in the delegations of power of Articles 2, 7, 24, 65, 88, 99, 142, 151, 156, 160, 212, 216, 231 and 253 of the Code.

Subsidiarity principle

The proposal falls under the exclusive competence of the EU according to Article 3(1)(e) of the Treaty on the Functioning of the European Union (TFEU). **Proportionality principle**

In terms of proportionality, this Regulation respects the limits of the empowerments granted by the co-legislators and concerns only elements to better adapt the existing legal provisions to the requirements of the day-to-day practice of customs authorities and economic operators and persons other than economic operators.

4. BUDGETARY IMPLICATIONS

Since this regulation is only intended to better adapt the current legal rules of Delegated Regulation (EU) 2015/2446 to their intended objectives and since no substantial changes are foreseen, no direct budgetary implications arise from this Regulation.

COMMISSION DELEGATED REGULATION (EU) .../...

of 16.5.2018

amending and correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code¹, and in particular Articles 2, 7, 24, 65, 88, 99, 142, 151, 156, 160, 212, 216, 231 and 253 thereof,

Whereas:

- (1) The practical implementation of Regulation (EU) No 952/2013 (the Code) together with Commission Delegated Regulation (EU) 2015/2446² has shown that some amendments need to be made to that Delegated Regulation in order to better adjust it to the needs of economic operators and customs administrations.
- (2) In Article 1(19) of Delegated Regulation (EU) 2015/2446, the definition of 'exporter' should be modified in relation to exports of goods that are not carried by a private individual in his personal baggage, in order to allow greater flexibility to business partners in the choice of the person which may act as exporter. The current definition is problematic insofar as it determines as 'exporter' only one person, who has to meet three cumulative requirements: being established in the customs territory of the Union, holding a contract with a consignee in a third country, and having the power to determine that the goods are to be brought outside the customs territory of the Union. Therefore, the new definition of 'exporter' should be less restrictive and limit the conditions for being an exporter to the essential requirements for the functioning of the export procedure: the exporter must have the power to determine that the goods are to be taken out of the customs territory of the Union and, in line with Article 170(2) of Regulation (EU) No 952/2013, the exporter must be established in the customs territory of the Union. Only in cases where the business partners do not agree on the person who may act as exporter or the person is not established in the customs territory of the Union, the exporter is determined by the customs legislation.
- (3) In Article 5(1) of Delegated Regulation (EU) 2015/2446, persons requesting proof of customs status of Union goods, irrespective of whether they are established in the customs territory of the Union or not, should be required to register for an EORI

¹ OJ L 269, 10.10.2013, p. 1.

² Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

number so that they can access the UCC Proof of Union Status system as referred to in the Annex to Commission Implementing Decision (EU) 2016/578³.

- (4) The customs authorities need a permanent derogation from the obligation to use electronic data-processing techniques in relation to applications and decisions that occur rarely and for which the obligation to deploy electronic data-processing techniques would require a disproportionate economic effort. Given that the range of electronic data-processing techniques differs from Member State to Member State, the applications and decisions in relation to which this derogation should be granted also varies from Member State to Member State. All the Member States must use electronic data-processing techniques with respect to the applications and decisions for which common data requirements exist and for which common electronic systems have been deployed. Accordingly, a new Article 7a of Delegated Regulation (EU) 2015/2446 should be laid down allowing the use of other means than electronic data-processing techniques exclusively for applications and decisions for which the relevant data requirements are not set out in Annex A to Delegated Regulation (EU) 2015/2446.
- (5) In order to avoid that the decision-making procedure is unduly delayed by an applicant not providing the right information to the customs authorities despite having been given the opportunity to do so, Article 10(a) of Delegated Regulation (EU) 2015/2446 should not extend the right to be heard to applicants who have been asked to provide relevant information and have failed to do so, resulting in the customs authorities not being able to accept their application.
- (6) The definition of registered exporter in Article 37(21) of Delegated Regulation (EU) 2015/2446 should be clarified to also cover exporters established in a Member State and registered with the customs authorities of that Member State, for the purpose of exporting products originating in the Union to a country or territory with which the Union has a preferential trade arrangement, so as to allow those exporters to make out origin declarations for benefitting from the preferential trade arrangement concerned. By contrast, the definition should not include the registration of Union exporters for the purpose of replacing statements on origin when goods are re-consigned to Turkey, because replacement of a proof of origin in the EU when goods are re-consigned to Turkey is not applicable.
- (7) Article 40 of Delegated Regulation (EU) 2015/2446 provides for the possibility to use means other than electronic data-processing techniques when submitting applications to become a registered exporter. This permanent derogation should be extended to all communication and exchanges of information in relation to applications and decisions concerning the status of a registered exporter and in relation to any subsequent applications and acts relating to the management of those decisions, as the existing electronic data processing system for registered exporters, the Registered Exporter System (REX) referred to in the Annex to Implementing Decision (EU) 2016/578, does not currently include a harmonised interface for communications with economic operators. The derogation is temporary and will not be needed once the REX system will provide that harmonized interface.
- (8) In order to ensure compliance with the rules on origin of the goods, the customs authorities in Member States and the competent authorities in beneficiary countries

³ Commission Implementing Decision (EU) 2016/578 of 11 April 2016 establishing the Work Programme relating to the development and deployment of the electronic systems provided in the Union Customs Code (OJ L 99, 15.4.2016, p.6).

applying bilateral or regional cumulation, as set out in Article 53 and Article 55(8) of Delegated Regulation (EU) 2015/2446, should carry out all the necessary verifications and controls of origin and not only control the issue or making out of proofs of origin.

- (9) In order to make clearer the rule for determination of origin in the case of regional cumulation, the second and third subparagraphs of Article 55(4) and of Article 55(6) of Delegated Regulation (EU) 2015/2446 should be merged.
- (10) In order to ensure consistency with the terms used in Article 166(1)(b) and (c), Article 167(1)(s), Article 168 and Article 169 of Delegated Regulation (EU) 2015/2446, the wording in Article 76 of that Delegated Regulation concerning the derogation for the calculation of the amount of import duty on processed products resulting from inward processing should be amended.
- (11) For reasons of clarity, Article 82 of Delegated Regulation (EU) 2015/2446 should refer to the Annexes in which the relevant common data requirements for the undertaking of the guarantor are set out.
- (12) In order to ensure consistency of the provisions concerning guarantees, the reference in Article 83 of Delegated Regulation (EU) 2015/2446 to Member States should be replaced by a reference to customs authorities.
- (13) The time-limit for taking decisions on repayment or remission provided for in Article 97 of Delegated Regulation (EU) 2015/2446 should be extended where it is not possible for the competent customs authority to complete an assessment and take a decision on repayment or remission in the due period of time because the decision to be taken depends on the outcome of a case involving identical or comparable questions of facts and of law pending before the Court of Justice of the European Union in accordance with Article 267 of the Treaty on the Functioning of the European Union or of specific pending administrative procedures which may affect that decision. In order to ensure that the extension of the period to decide does not adversely affect the applicant, that extension should be possible only if the applicant does not oppose to it and should be clearly limited to those specific situations.
- (14) In order to ensure the smooth flow in the trade of Union goods between parts of the customs territory of the Union to which Council Directive 2006/112/EC⁴ or Council Directive 2008/118/EC⁵ apply and parts of that territory where those provisions do not apply (special fiscal territories), Articles 114 and 134 of Delegated Regulation (EU) 2015/2446 should establish certain simplifications concerning the customs formalities and controls that are applicable to that trade when it takes place within the same Member State.
- (15) Under Article 115 of Delegated Regulation (EU) 2015/2446 a place other than the competent customs office may be approved for the purposes of the presentation of goods under the condition that the goods are declared for a customs procedure or are re-exported within a very short period of time. That period should be slightly extended so that more economic operators can comply with that condition. The same extension should apply to the condition regarding the approval of a place other than a temporary storage facility for temporary storage of goods.

⁴ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

⁵ Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ L 9, 14.1.2009, p. 12).

- (16) In order to protect the information on the place of catch of the fishery products when the printout of the fishing logbook is provided to the authorities of third countries so that those authorities can certify that sea-fishing products and goods transhipped and transported through their country or territory have not been manipulated, the economic operators should be allowed to remove that information from the fishing logbook printout for the purposes of that certification. In order to enable the allocation of the sea-fishing products and goods to the respective fishing logbook in the cases where the certification of non-manipulation is provided on a form or document other than the printout of the fishing logbook, the economic operator should include in that other form or document a reference to the respective fishing logbook.
- (17) The possibility in Article 136 of Delegated Regulation (EU) 2015/2446 to declare a means of transport for temporary admission orally should be extended to cover the specific situations referred to Articles 214, 215 and 216 of that Delegated Regulation because the standard customs formalities are normally unnecessary for such goods.
- (18) The calculation of the amount of import duty in certain cases of inward processing has been provided for twice in the same way in Articles 76(b) and 168(2) of Delegated Regulation (EU) 2015/2446. This overlap should be removed by deleting Article 168(2).
- (19) End-use authorisations allowing the storage together of different products falling within Chapters 27 and 29 of the Combined Nomenclature ("mixed storage") should establish sufficient guarantees for the subsequent identification of the different goods that have been mixed and for enabling their supervision by customs. A similar provision to that existing under the repealed Commission Regulation (EEC) No 2454/93⁶ should be introduced into Delegated Regulation (EU) 2015/2446.
- (20) In order to ensure consistency with Article 118(4) of the Code, Article 189 of Delegated Regulation (EU) 2015/2446 should allow for defective goods or goods not complying with the terms of the contract to be placed under external transit procedure, instead of being taken out of the customs territory of the Union, both of which leads for those goods to the loss of their customs status of Union goods.
- (21) With a view to simplifying the use of the export procedure followed by a transit procedure and in order to eliminate the risk that a customs debt and a debt for other charges not covered by a guarantee arises, Union goods exported to a third country and moved through the customs territory of the Union under a TIR operation or under a transit procedure in accordance with the ATA/Istanbul Convention should be required to be placed under the external transit procedure and hence become non-Union goods.
- (22) In order to facilitate the supervision by the customs authorities of movements of goods referred to in Article 1 of Council Directive 2008/118/EC placed under the export procedure followed by the transit procedure, those goods should be allowed to be placed under the external transit procedure, by which they lose their customs status of Union goods.
- (23) In order to facilitate the processing of applications by customs authorities and to make the application process more efficient for economic operators authorised consignors should be allowed to submit applications for an authorisation to use seals of a special

⁶ Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

type to the customs authority which is competent to grant the status of authorised consignor.

- (24) A number of provisions relating to temporary admission refer to means of transport used privately or commercially. The meaning of those terms should be clarified for the purposes of all the rules on total relief from import duty in the context of temporary admission. The definitions laid down in Article 215(4) of Delegated Regulation (EU) 2015/2446 should therefore be converted into a more general rule in Article 207 of that Delegated Regulation.
- (25) A new paragraph should be introduced into Article 215 of Delegated Regulation (EU) 2015/2446, so that natural persons who have their habitual residence in the customs territory of the Union may benefit from the temporary admission procedure so that they can use privately hired non-Union means of road transport in the Union. Opening this possibility would solve some problems facing car rental agencies and encourage border tourism. However, as temporary admission is mainly designed for persons established outside of the Union, Article 218 should limit such private use to a short period of time.
- (26) The use of the temporary admission procedure in accordance with Article 218, Article 220, Article 223, Article 228 and Articles 231 to 236 of Delegated Regulation (EU) 2015/2446 should also be allowed where the holder of the procedure is established inside the customs territory of the Union. This flexibility is needed because there is no reason justifying a different treatment of persons established in and outside the customs territory of the Union for the purposes of temporary import of certain goods, such as goods to be exhibited or used at a public event.
- (27) In order to ensure that the legal provisions are properly implemented in the relevant electronic systems, certain provisions of Annexes A and B to Delegated Regulation (EU) 2015/2446 should be amended.
- (28) By Decision 94/800/EC⁷ the Council approved the Agreement on Rules of Origin annexed to the final act signed in Marrakesh on 15 April 1994. Annex 22-01 to Delegated Regulation (EU) 2015/2446 provides for specific rules for determining the country where certain goods underwent their last substantial transformation within the meaning of Article 32 of the same Regulation. Such a list of rules should be extended to include additional products in order to allow a uniform interpretation of the principle of the last substantial transformation for those products. In addition, to ensure that the rules are properly applied, the list is updated to the last version of the goods nomenclature established under the International Convention on the Harmonized Commodity Description and Coding System (Harmonised System).
- (29) Following the publication of Delegated Regulation (EU) 2015/2446, some errors of different types have been detected and need to be corrected. In Articles 124a, 126a, 129a, 129d, 131, 193, 195 and 197, the reference to the Articles of the Code being supplemented needs to be more precise. In Annexes A and B, certain data element need to be better defined. To ensure consistency, the specimens in Annexes B-03 and B-05 containing an error in the numerical reference to the element 'Reference number / UCR' should be replaced and an error in the reference to the common data element 'CN code, net quantity, value (M)' in Annex 71-05 should be corrected. Some wrong

⁷ Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the agreements reached in the Uruguay Round multilateral negotiations (1986-1994) (OJ L 336, 23.12.1994, p.1).

references to Regulation (EEC) No 2913/92, to Regulation (EEC) No 2454/93 and to the Code should be corrected in Annex 90.

- (30) The amending provisions of this Regulation modify several provisions of Delegated Regulation (EU) 2015/2446 that have proved difficult to apply in practice. They should ensure that the Code and the Delegated Regulation are implemented more in line with economic reality and are therefore urgently needed. This Regulation should therefore enter into force on the day following that of its publication.
- (31) For the sake of legal certainty, the new provision regarding the use of means other than electronic data-processing techniques in relation to applications and decisions for which the relevant data requirements are not set out in Annex A to Delegated Regulation (EU) 2015/2446 should apply from 2 October 2017. On that date, the UCC Customs Decision System referred to in the Annex to Implementing Decision (EU) 2016/578 was deployed and since then, pursuant to Article 2 of Commission Delegated Regulation (EU) 2016/341⁸, the customs authorities can no longer allow the use of means other than electronic data processing techniques for customs decisions and applications. However, after 2 October 2017, certain applications and decisions in the paper form still have had to be used. These should produce effects for a certain period of time and it is neither in the economic operator's interest nor the Member State's interest that their validity is put into question for the lack of due form.
- (32) Delegated Regulation (EU) 2015/2446 should therefore be amended and corrected accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Delegated Regulation (EU) 2015/2446

Delegated Regulation (EU) 2015/2446 is amended as follows:

- (1) Article 1(19) is replaced by the following:
- ‘(19) 'exporter' means:
- (a) a private individual carrying goods to be taken out of the customs territory of the Union where these goods are contained in the private individual's personal baggage;
- (b) in other cases, where (a) does not apply:
- (i) a person established in the customs territory of the Union, who has the power to determine and has determined that the goods are to be taken out of that customs territory;
- (ii) where (i) does not apply, any person established in the customs territory of the Union who is a party to the contract under which goods are to be taken out of that customs territory.’;
- (2) in Article 5(1) the following point is added:

⁸ Commission Delegated Regulation (EU) 2016/341 of 17 December 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where the relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446 (OJ L 69, 15.3.2016, p. 1).

‘(f) requesting registration and endorsement of proof of customs status of Union goods.’;

- (3) in Title I, Chapter 2, Section 2, the following is inserted:

‘Subsection 0

Means for the exchange of information used for applications and decisions for which the relevant data requirements are not set out in Annex A

Article 7a

Applications and decisions made by means other than electronic data-processing techniques

(Article 6(3)(a) of the Code)

Customs authorities may allow the use of means other than electronic data-processing techniques in relation to applications and decisions for which the relevant data requirements are not set out in Annex A and in relation to any subsequent applications and acts relating to the management of those decisions.’;

- (4) in Article 10, point (a) is replaced by the following:

‘(a) where the application for a decision is not accepted in accordance with Article 11 of this Regulation or with the second subparagraph of Article 12(2) of Commission Implementing Regulation (EU) 2015/2447*;

* Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).’;

- (5) in Article 37(21), points (b) and (c) are replaced by the following:

‘(b) an exporter who is established in a Member State and is registered with the customs authorities of that Member State for the purpose of exporting products originating in the Union to a country or territory with which the Union has a preferential trade arrangement; or

(c) a re-consignor of goods who is established in a Member State and is registered with the customs authorities of that Member State for the purpose of making out replacement statements on origin in order to re-consign originating products elsewhere within the customs territory of the Union or, where applicable, to Norway or Switzerland (‘a registered re-consignor’);’;

- (6) Article 40 is replaced by the following:

Article 40

Means for applying to become a registered exporter and for exchanging information with registered exporters

(Article 6(3)(a) of the Code)

Means other than electronic data-processing techniques may be used for all communications and exchanges of information in relation to applications and decisions concerning the status of a registered exporter and in relation to any subsequent applications and acts relating to the management of those decisions.’;

- (7) in Article 53, the second paragraph is replaced by the following:
‘Articles 41 to 52 of this Regulation and Article 108 of Implementing Regulation (EU) 2015/2447 shall apply *mutatis mutandis* to exports from the Union to a beneficiary country for the purposes of bilateral cumulation.’;
- (8) Article 55 is amended as follows:
(a) paragraph 4 is replaced by the following:
‘4. Regional cumulation between beneficiary countries in the same regional group shall apply only under the condition that the working or processing carried out in the beneficiary country where the materials are further processed or incorporated goes beyond the operations described in Article 47(1) and, in the case of textile products, also beyond the operations set out in Annex 22-05.
Where the condition laid down in the first subparagraph is not fulfilled, the country to be stated as country of origin on the proof of origin issued or made out for the purposes of exporting the products to the Union shall be the country of the regional group where the highest share of the value of the materials used in the manufacture of the final product originates.’;
- (b) paragraph 6 is replaced by the following:
‘6. When granted, regional cumulation between beneficiary countries of Group I or Group III shall allow materials originating in a country of one regional group to be considered as materials originating in a country of the other regional group when incorporated in a product obtained there, provided that the working or processing carried out in the latter beneficiary country goes beyond the operations described in Article 47(1) and, in the case of textile products, also beyond the operations set out in Annex 22-05.
Where the condition laid down in the first subparagraph is not fulfilled, the country to be stated as country of origin on the proof of origin for the purposes of exporting the products to the Union shall be the country participating in the cumulation where the highest share of the value of the materials used in the manufacture of the final product originates.’;
- (c) paragraph 8 is replaced by the following:
‘8. Articles 41 to 52 of this Regulation and Articles 108 to 111 of Implementing Regulation (EU) 2015/2447 shall apply *mutatis mutandis* to exports from one beneficiary country to another for the purposes of regional cumulation.’;
- (9) in Article 76, point (b) is replaced by the following:
'(b) the goods would, at the time of the acceptance of the customs declaration for placing the goods under the inward processing procedure, have been subject to an agricultural or commercial policy measure, a provisional or definitive anti-dumping duty, a countervailing duty, a safeguard measure or an additional duty resulting from a suspension of concessions had they been declared for release for free circulation';
- (10) in Article 82, the following paragraph is added:
‘5. The common data requirements for a guarantor's undertaking to provide an individual guarantee, an individual guarantee in the form of vouchers or a comprehensive guarantee are set out in Annexes 32-01, 32-02 and 32-03 respectively.’;

- (11) in Article 83, paragraph 3 is replaced by the following:
'3. The customs authorities shall accept the forms of guarantee referred to in paragraph 1 in so far as those forms of guarantee are accepted under national law.';
- (12) Article 97 is replaced by the following:

Article 97

Extension of the time-limit for taking a decision on repayment or remission

(Article 22(3) of the Code)

1. Where the first subparagraph of Article 116(3) of the Code or point (b) of the second subparagraph of Article 116(3) of the Code applies, the time-limit for taking the decision on repayment or remission shall be suspended until such time as the Member State concerned has received the notification of the Commission's decision or the notification by the Commission of the return of the file for the reasons provided in Article 98(6) of this Regulation.

2. Where point (b) of the second subparagraph of Article 116(3) of the Code applies, the time-limit for taking the decision on repayment or remission shall be suspended until such time as the Member State concerned has received the notification of the Commission's decision on the case involving comparable issues of fact and of law.

3. Where the decision on repayment or remission may be affected by the outcome of one of the following pending administrative procedure or court proceeding, the time-limit for taking the decision on repayment or remission may, with the agreement of the applicant, be extended as follows:

- (a) If a case involving identical or comparable issues of fact and of law is pending before the Court of Justice of the European Union in accordance with Article 267 of the Treaty on the Functioning of the European Union, the time-limit for taking the decision on repayment or remission may be extended for a period ending not later than 30 days after the date of delivery of the judgment of the Court of Justice;
- (b) If the decision on repayment or remission depends on the outcome of a request for subsequent verification of the proof of preferential origin made in accordance with Articles 109, 110 or 125 of Implementing Regulation (EU) 2015/2447 or made in accordance with the preferential agreement concerned, the time-limit for taking the decision on repayment or remission may be extended for the duration of the verification as mentioned in Articles 109, 110 or 125 of Implementing Regulation (EU) 2015/2447 or by the preferential agreement concerned, and in any case not more than 15 months from the date on which the request was sent; and
- (c) If the decision on repayment or remission depends on the outcome of a consultation procedure aimed to ensure, at Union level, the correct and uniform tariff classification or determination of origin of the goods concerned, made in accordance with Article 23(2) of Implementing Regulation (EU) 2015/2447, the time-limit for taking the decision on repayment or remission may be extended for a period ending not later than 30 days after the notification by the Commission of the withdrawal of the suspension of the taking of BTI and BOI decisions, as provided for in Article 23(3) of that Implementing Regulation.';

- (13) Article 114 is replaced by the following:

‘Article 114

Trade with special fiscal territories

(Article 1(3) of the Code)

1. Member States shall apply Articles 115 to 118 of this Regulation and Articles 133 to 152 of the Code to Union goods which are brought from or to a special fiscal territory to or from another part of the customs territory of the Union which is not a special fiscal territory and is not located within the same Member State.

2. Where Union goods are dispatched from a special fiscal territory to another part of the customs territory of the Union, which is not a special fiscal territory, but which is located within the same Member State, they shall be presented to customs immediately upon their arrival at that other part of the customs territory of the Union. However, subject to the approval of the customs authority of the Member State concerned, the goods may be presented at the designated customs office or at any other place designated or approved by that customs authority before their departure from the special fiscal territory.

The goods shall be presented to customs by the person who brings the goods to the other part of the customs territory or by the person in whose name or on whose behalf the goods are brought to that part of the customs territory of the Union.

3. Where Union goods are dispatched from a part of the customs territory of the Union, which is not a special fiscal territory, to a special fiscal territory within the same Member State, they shall be presented to customs immediately upon their arrival at the special fiscal territory. However, subject to the approval of the customs authority of the Member State concerned, the goods may be presented at the designated customs office or any other place designated or approved by that customs authority before their departure from the place of dispatch.

The goods shall be presented by the person who brings the goods to the special fiscal territory or by the person in whose name or on whose behalf the goods are brought to the special fiscal territory.

4. Union goods referred to in paragraphs 2 and 3 shall only be subject to the customs provisions in accordance with Article 134 of this Regulation.’;

(14) Article 115 is replaced by the following:

‘Article 115

Approval of a place for the presentation of goods to customs and temporary storage

(Articles 139(1) and 147(1) of the Code)

1. A place other than the competent customs office may be approved for the purposes of the presentation of goods where the following conditions are fulfilled:

(a) the requirements laid down in Article 148(2) and (3) of the Code and in Article 117 of this Regulation are fulfilled;

(b) the goods are declared for a customs procedure or are re-exported no later than 3 days after their presentation or no later than 6 days after their presentation in the case of an authorised consignee as referred to in Article 233(4)(b) of the Code, unless the customs authorities require the goods to be examined in accordance with Article 140(2) of the Code.

Where the place is already authorised for the purpose of the operation of the temporary storage facilities that approval shall not be required.

2. A place other than a temporary storage facility may be approved for temporary storage of the goods where the following conditions are fulfilled:

(a) the requirements laid down in Article 148(2) and (3) of the Code and in Article 117 are fulfilled;

(b) the goods are declared for a customs procedure or are re-exported no later than 3 days after their presentation or no later than 6 days after their presentation in the case of an authorised consignee referred to in Article 233(4)(b) of the Code, unless the customs authorities require the goods to be examined in accordance with Article 140(2) of the Code.’;

(15) Article 133 is replaced by the following:

‘Article 133

Products and goods transhipped and transported through a country or territory which is not part of the customs territory of the Union

(Article 6(2) and (3)(a) of the Code)

1. Where products and goods referred to in Article 119(1)(d) and (e) are transhipped and transported through a country or territory which is not part of the customs territory of the Union, for the purposes of proving the customs status in accordance with Article 129 a printout of the fishing logbook of the Union fishing vessel or Union factory ship, accompanied by a printout of the transhipment declaration, where applicable, shall be provided on which, in addition to the information listed in Article 130(1), the following information is stated:

(a) an endorsement by the customs authority of that country or territory;

(b) the dates of arrival in and of departure from that country or territory of the products and goods;

(c) the means of transport used for reconsignment to the customs territory of the Union;

(d) the address of the customs authority referred to in point (a).

For the purposes of presentation to the customs authority of a country or territory which is not part of the customs territory of the Union, the printout of the fishing logbook referred to in the first subparagraph does not need to include the information on the place where the products of sea-fishing were caught as set out in Article 130(1)(a).

2. Where forms or documents other than a printout of the fishing logbook are used for the purposes of paragraph 1, those forms or documents shall, in addition to the information required under paragraph 1, include a reference to the fishing logbook, which allows for the identification of the respective fishing trip.’;

(16) Article 134 is replaced by the following:

‘Article 134

Customs declarations in trade with special fiscal territories

(Article 1(3) of the Code)

1. The following provisions shall apply *mutatis mutandis* to the trade in Union goods referred to in Article 1(3) of the Code:

- (a) Chapters 2, 3 and 4 of Title V of the Code;
- (b) Chapters 2 and 3 of Title VIII of the Code;
- (c) Chapters 2 and 3 of Title V of this Regulation;
- (d) Chapters 2 and 3 of Title VIII of this Regulation.

2. In the context of trade in Union goods referred to in Article 1(3) of the Code which takes place within the same Member State, the customs authorities of that Member State may approve that a single document may be used to declare the dispatch ('dispatch declaration') and the introduction ('introduction declaration') of the goods consigned to, from or between special fiscal territories.

3. Until the dates of the upgrading of the National Import Systems referred to in the Annex to Implementing Decision (EU) 2016/578, in the context of trade in Union goods referred to in Article 1(3) of the Code which takes place within the same Member State, the customs authority of the Member State concerned may authorise the use of an invoice or a transport document instead of the dispatch or introduction declaration.';

(17) in Article 136(1), point (a) is replaced by the following:

'(a) pallets, containers and means of transport, and spare parts, accessories and equipment for those pallets, containers and means of transport, as referred to in Articles 208 to 216;';

(18) in Article 168, paragraph 2 is deleted;

(19) in Title VII, Chapter 1, in Section 2, the following Article 177a is inserted:

'Article 177a

Mixed storage of products subject to customs supervision under end-use

(Article 211(1) of the Code)

The end-use authorisation as referred to in Article 211(1)(a) of the Code shall establish means and methods of identification and of customs supervision for mixed storage of products subject to customs supervision falling within Chapters 27 and 29 of the Combined Nomenclature or of such products with crude petroleum oils falling within CN code 2709 00.

Where the products referred to in the first paragraph do not fall within the same eight-digit CN code, or do not share the same commercial quality and the same technical and physical characteristics, mixed storage may be allowed only where the whole mixture is to undergo one of the treatments referred to in Additional Note 5 to Chapter 27 of the Combined Nomenclature.';

(20) Article 189 is replaced by the following:

'Article 189

Application of the external transit procedure in specific cases

(Article 226(2) of the Code)

1. Where Union goods are exported to a third country which is a contracting party to the Convention on a common transit procedure or where Union goods are exported

and pass through one or more common transit countries and the provisions of the Convention on a common transit procedure apply, the goods shall be placed under the external transit procedure referred to in Article 226(2) of the Code in the following cases:

- (a) the Union goods have undergone customs export formalities with a view to refunds being granted on export to third countries under the common agricultural policy;
- (b) the Union goods have come from intervention stocks, they are subject to measures of control as to their use or destination, and they have undergone customs formalities on export to third countries under the common agricultural policy;
- (c) the Union goods are eligible for repayment or remission of import duty in accordance with Article 118(1) of the Code.

2. Union goods which are eligible for the repayment or remission of import duty in accordance with Article 118(1) of the Code may be placed under the external transit procedure referred to in Articles 118(4) and 226(2) of the Code.

3. Where Union goods are exported to a third country and moved within the customs territory of the Union under a TIR operation or under a transit procedure in accordance with the ATA Convention or the Istanbul Convention, the goods shall be placed under the external transit procedure referred to in Article 226(2) of the Code.

4. Where goods referred to in Article 1 of Directive 2008/118/EC having the customs status of Union goods are exported, those goods may be placed under the external transit procedure referred to in Article 226(2) of the Code.’;

- (21) the following Article 197a is inserted:

‘Article 197a

Applications for the use of seals of special type

(Article 22(1) 3rd subparagraph of the Code)’

Where an authorised consignor or an economic operator who applies for the status of authorised consignor referred to in Article 233(4)(a) of the Code applies for an authorisation to use seals of a special type, as referred to in Article 233(4)(c) of the Code, the application may be submitted to the customs authority competent to take a decision in the Member State where the Union transit operations of the authorised consignor are due to begin.’;

- (22) in Article 207, the following paragraph is added:

‘Where in this Subsection a commercial use of a means of transport is referred to, it shall mean the use of a means of transport for the transport of persons for remuneration or the use of a means of transport for the industrial or commercial transport of goods, whether or not for remuneration. A private use of a means of transport shall mean the use of a means of transport other than commercial.’;

- (23) In Article 212, paragraph 2 is replaced by the following:

‘2. Where means of transport are declared for temporary admission orally in accordance with Article 136(1) or by another act in accordance with Article 139(1), in conjunction with Article 141(1), the authorisation for temporary admission shall be granted to the person who has the physical control of the goods at the moment of

the release of goods for the temporary admission procedure unless that person acts on behalf of another person. If so, the authorisation shall be granted to the latter person.’;

(24) Article 215 is amended as follows:

(a) the following paragraph is inserted:

‘2a. Natural persons who have their habitual residence in the customs territory of the Union shall benefit from total relief from import duty in respect of means of road transport which they have hired under a written contract concluded with a professional car hire service and which they use privately.’;

(b) paragraph 4 is deleted;

(25) in Article 218, the following paragraph is added:

‘4. In the case referred to in Article 215(2a), the means of road transport shall be re-exported within 8 days of having been placed under the temporary admission procedure.’;

(26) in Article 220, the following paragraph is added:

‘The applicant for an authorisation for the use of the temporary admission procedure and the holder of the temporary admission procedure established in the customs territory of the Union shall also benefit from total relief from import duty for welfare materials for seafarers.’;

(27) in Article 223, the following paragraph is added:

‘The applicant and the holder of the procedure may be established in the customs territory of the Union.’;

(28) in Article 228, the following paragraph is added:

‘The applicant and the holder of the procedure may be established in the customs territory of the Union.’;

(29) in Article 231, the following paragraph is added:

‘The applicant and the holder of the procedure may be established in the customs territory of the Union.’;

(30) in Article 232, the following paragraph is added:

‘The applicant and the holder of the procedure may be established in the customs territory of the Union.’;

(31) in Article 233, the following paragraph is added:

‘The applicant and the holder of the procedure may be established in the customs territory of the Union.’;

(32) in Article 234, the following paragraph is added:

‘4. The applicant and the holder of the procedure may be established in the customs territory of the Union.’;

(33) in Article 235, the following paragraph is added:

‘The applicant and the holder of the procedure may be established in the customs territory of the Union.’;

(34) in Article 236, the following paragraph is added:

‘The applicant and the holder of the procedure may be established in the customs territory of the Union in the situations referred to under point (b).’;

- (35) Annex A is amended as set out in Annex I to this Regulation.
- (36) Annex B is amended as set out in Annex II to this Regulation.
- (37) Annex 22-01 is amended as set out in Annex III to this Regulation

Article 2

Corrections to Delegated Regulation (EU) 2015/2446

Delegated Regulation (EU) 2015/2446 is corrected as follows:

- (1) in Article 124a, the title is replaced by the following:

‘Article 124a

Proof of the customs status of Union goods by means of a ‘T2L’ or ‘T2LF’ document

(Articles 6(2), 6(3)(a) and 153(2) of the Code)’;

- (2) in Article 126a, the title is replaced by the following:

‘Article 126a

Proof of the customs status of Union goods by production of a shipping company's manifest

(Articles 6(2) and 6(3)(a) of the Code)’;

- (3) in Article 129a, the title is replaced by the following:

‘Article 129a

Formalities when issuing a ‘T2L’ or ‘T2LF’ document, an invoice or transport document by an authorised issuer

(Articles 6(2) and 6(3)(a) of the Code)’;

- (4) in Article 129d, the title is replaced by the following:

‘Article 129d

Conditions to be authorised to draw up the shipping company's manifest after departure

(Articles 6(3)(a) and 153(2) of the Code)’;

- (5) in Article 131, the title is replaced by the following:

‘Article 131

Transhipment

(Article 6(3)(a) of the Code)’;

- (6) in Article 193, the title is replaced by the following:

‘Article 193

Authorisations for the status of authorised consignor for placing goods under the Union transit procedure

(Article 233(4)(a) of the Code)';

- (7) in Article 195, the title is replaced by the following:

'Article 195

Authorisations for the status of authorised consignee for receiving goods moved under the Union transit procedure

(Article 233(4)(b) of the Code)';

- (8) in Article 197, the title is replaced by the following:

'Article 197

Authorisation for use of seals of a special type

(Article 233(4)(c) of the Code)';

- (9) Annex A is corrected as set out in Annex IV to this Regulation;
- (10) Annex B is corrected as set out in Annex V to this Regulation;
- (11) Annex B-03 is corrected as set out in Annex VI to this Regulation;
- (12) in Annex B-04, Title II, point (9) 'Formalities en route', the second paragraph below the heading 'Box Transhipment (7/1)', the words 'box 18' are replaced by the words 'the box Identity of means of transport at departure (7/7) and the box Nationality of means of transport at departure (7/8)';
- (13) Annex B-05 is corrected as set out in Annex VII to this Regulation;
- (14) in Annex 71-05, Section A, the first table, the seventh row 'CN Code, net quantity, value (M) of processed products', in the first column 'Common data elements', the text is replaced by the following:
'CN code, net quantity, value (M) of goods'.
- (15) Annex 90 is amended as set out in Annex VIII to this Regulation.

Article 3

Entry into force

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

Article 1(3) shall apply from 2 October 2017.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 16.5.2018

For the Commission
The President
Jean-Claude JUNCKER