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#### COVER NOTE

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	3 April 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 3.4.2020 amending and correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013, and amending Delegated Regulation (EU) 2016/341 supplementing Regulation (EU) No 952/2013, laying down the Union Customs Code

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Delegations will find attached document C(2020) 2008 final.

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Brussels, 3.4.2020  
C(2020) 2008 final

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

**of 3.4.2020**

**amending and correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013, and amending Delegated Regulation (EU) 2016/341 supplementing Regulation (EU) No 952/2013, laying down 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 (UCC), delegates to the Commission the power to supplement certain non-essential elements of the UCC, in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU). The Commission 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.

Delegated Regulation (EU) 2015/2446 establishes provisions of general application to supplement the Code with a view to ensuring a clear and proper application of the UCC. It must, therefore, be regularly updated to take account of developments in legislation and of the deployment of the UCC IT systems and to clarify the application of certain customs formalities.

The present amending Delegated Regulation aims at updating certain rules of the existing Delegated Regulation to reflect, in particular, the following legislative changes and clarifications:

- the inclusion of Campione d'Italia and the Italian waters of Lake Lugano into the EU customs territory following an amendment of the UCC from 1 January 2020<sup>1</sup>. As a consequence, the present amendment terminates the waiver from the obligation to lodge a pre-departure declaration and the entry summary declaration that is currently applicable to goods moved into and out of that territory;
- the new VAT rules for distance sales of goods from third countries<sup>2</sup> (e-commerce) applicable from 1 January 2021. The amendment clarifies the formalities to be applied to consignments below 150 euros (low-value consignments) from that date;
- the Action Plan on Military Mobility. The present text aims at streamlining and simplifying the customs formalities for goods moved or used in the context of military activities;<sup>3</sup>
- the adoption of Directive (EU) 2019/883<sup>4</sup> on port reception facilities for the delivery of waste from ships. For the correct implementation of this Directive some simplifications concerning the customs formalities for such waste must be introduced;<sup>4</sup>

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<sup>1</sup> Regulation (EU) 2019/474 of the European Parliament and of the Council of 19 March 2019 amending Regulation (EU) No 952/2013 laying down the Union Customs Code (OJ L 83, 25.3.2019, p. 38).

<sup>2</sup> 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 (OJ L 348 of 29.12.2017, p.7).

<sup>3</sup> Joint Communication to the European Parliament and to the Council on the Action Plan on Military Mobility (JOIN(2018) 5 final of 28/3/2018)

<sup>4</sup> Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (OJ L151, 7.6.2019)

- the need to clarify the rules on the time limits for lodging the supplementary declaration according to their nature (general, periodic or recapitulative) and the need to provide declarants with a longer time limit to lodge the supplementary declaration and the relevant supporting documents where there is no customs debt;
- the Commission Decision to deploy the new electronic data-processing system to lodge the entry summary declaration, the Import Control System (ICS2), in three releases.<sup>5</sup> The generic reference to the deployment of ICS2 should, therefore, be replaced by more specific references to the three different releases under which groups of carriers will gradually connect to the system. In addition, provision must be made for the customs obligations (in particular the obligation to lodge entry summary declarations) that will apply to carriers and related persons once the carriers are connected to the new system.
- in the context of special procedures, the need to i) ensure the implementation of anti-dumping and countervailing duties, safeguard measures and additional duties resulting from a suspension of concessions on products placed under the inward processing procedure, ii) exclude the application of the procedure for examination of economic conditions for applications for inward processing where goods are subject to those measures and iii) prevent the common storage of Union goods with non-Union goods where the latter are subject to those measures;
- the necessary modifications to some of the annexes corresponding to the amended provisions summarised above.

## **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 above-mentioned 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 consulted Member States on the draft text through regular meetings of the Commission's group of experts (Customs Expert Group) and consulted the business community via its stakeholder body (the Trade Contact Group – TCG) in joint meetings with Member States' experts on 18 September and on 28-29 October 2019.

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.

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<sup>5</sup> Commission Implementing Decision (EU) 2019/2151 of 13 December 2019 establishing the work programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code (OJ L 325, 16.12.2019, p. 168.)

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

The legal basis for this Regulation is contained in the delegation of power provided for in Articles 7, 10, 24, 88, 131, 156, 160, 168, 175, 183, 212, 216, 253 and 265 of the UCC.

#### **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 aimed at better adapting existing legal provisions to the requirements of the day-to-day practices of customs authorities, economic operators and persons other than economic operators.

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

of 3.4.2020

**amending and correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013, and amending Delegated Regulation (EU) 2016/341 supplementing Regulation (EU) No 952/2013, laying down 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 Code<sup>6</sup>, and in particular Articles 7, 10, 24, 88, 131, 156, 160, 168, 175, 183, 212, 216, 253 and 265 thereof,

Whereas:

- (1) The practical implementation of Regulation (EU) No 952/2013 (the Code) in combination with Commission Delegated Regulation (EU) 2015/2446<sup>7</sup> 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 as well as to take into account legislative developments and developments regarding the deployment of the IT systems established for the purposes of the Code.
- (2) In order to clarify which customs office must ensure that the pre-arrival risk analysis is carried out on the basis of the entry summary information, the definition of “customs office of first entry” in Article 1(15) of Delegated Regulation (EU) 2015/2446 should be amended to spell out that, where that term is used, it refers to the office responsible for the place at which the means of transport is destined to arrive even if, for any reason, the means of transport actually arrives at a different place for which a different office is responsible.
- (3) In order to clearly delimit the scope of application of the rules on the entry summary declaration covering goods in express consignments and of the formalities applicable to the import and to the export of such goods, the terms “express consignment” and “express carrier” should be defined.
- (4) In order to ensure a uniform application of the customs provisions based on the intrinsic value of the goods, a definition of the term “intrinsic value” is needed.

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<sup>6</sup> OJ L 269, 10.10.2013, p. 1.

<sup>7</sup> 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).

- (5) In line with the Action Plan on Military Mobility<sup>8</sup>, there is a need to streamline and simplify the customs formalities for goods moved or used in the context of military activities. That objective should be met by establishing a definition of such goods, and by establishing an EU form 302 as a customs document to be used by the EU Member States, including in the context of military activities pertaining to the Common Security and Defence Policy of the Union.
- (6) In order to allow that, pursuant to Union legislation other than customs legislation, the economic operator registration and identification number (EORI) is used for identification, persons other than economic operators should be obliged to register in EORI where such registration is required by Union legislation and not only where it is required by the legislation of a Member State. Article 6 of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly.
- (7) Article 13(4) of Delegated Regulation (EU) 2015/2446 provides for a possibility to extend the time limit to take a decision relating to the application of the customs legislation where the competent customs authorities are investigating an infringement of customs legislation. That possibility should also apply for cases in which the competent customs and fiscal authorities are investigating an infringement of tax legislation, as some authorisations can only be granted in the absence of serious or repeated infringements of taxation rules. Article 17(1) of Delegated Regulation (EU) 2015/2446 sets out an obligation for the customs authorities to suspend a decision until it is established whether an economic operator has committed a serious infringement or repeated infringements. That obligation should also cover cases of serious criminal offences relating to the applicant's economic activity but should not extend to infringements or criminal offences committed by persons in charge of the company's customs matters who are not employees of that company, in line with Article 24(1) of Commission Implementing Regulation (EU) 2015/2447.<sup>9</sup> Articles 13(4) and 17(1) of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly.
- (8) Article 86(3) of the Code sets out special rules for calculating the amount of a customs debt where the debt is incurred for processed products resulting from the inward processing procedure. At the request of the declarant, that customs debt is determined on the basis of the tariff classification, customs value, quantity, nature and origin of the goods placed under the inward processing procedure at the time of acceptance of the customs declaration relating to those goods. Article 76 of Delegated Regulation (EU) 2015/2446 lays down the conditions under which Article 86(3) of the Code is to apply without a request from the declarant. In order to avoid the circumvention of anti-dumping and countervailing duties, safeguard measures and additional duties resulting from a suspension of concessions that would be applicable to goods when first placed under the inward processing procedure, the obligation to apply Article 86(3) of the Code without a request from the declarant should also cover processed products obtained from such goods placed under inward processing. Article 76 of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly. A transitional period of 1 year should be granted in order to allow economic operators time to adapt to the new rules.

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<sup>8</sup> Joint Communication to the European Parliament and to the Council on the Action Plan on Military Mobility, JOIN(2018) 5 final of 28 March 2018.

<sup>9</sup> 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).

- (9) Article 104(1) of Delegated Regulation (EU) 2015/2446 sets out exceptions from the requirement to lodge an entry summary declaration for goods brought into the customs territory of the Union. In order not to delay the import of organs and other human or animal tissue or human blood suitable for permanent grafting, implantation or transfusion in case of emergency, the exceptions should also cover those goods. In addition, in order to facilitate military mobility, those exceptions should be extended to goods moved under cover of a NATO form 302 or an EU form 302. Furthermore, following the inclusion of Campione d'Italia and the Italian waters of Lake Lugano in the customs territory of the Union<sup>10</sup>, the exception should no longer apply to goods brought from those territories. Article 104(1) of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly.
- (10) Directive (EU) 2019/883 of the European Parliament and of the Council<sup>11</sup> aims to protect the marine environment against the negative effect from discharges of waste from ships using ports located in the Union, by improving the availability and use of adequate port reception facilities and the delivery of waste to those facilities. In order not to jeopardise the objective of that Directive, the customs formalities for such waste should be streamlined and simplified by waiving the obligation to lodge an entry summary declaration and by considering the presentation to customs as a customs declaration for release for free circulation. Those simplifications should apply only if the advance waste notification referred to in Article 6 of Directive (EU) 2019/883 has been made to the competent authorities. Articles 104, 138, 141, and 142 of Delegated Regulation (EU) 2015/2446 should be amended accordingly.
- (11) Article 104 of Delegated Regulation (EU) 2015/2446 sets out a waiver of the obligation to lodge an entry summary declaration for goods in postal consignments and for goods of a value not exceeding EUR 22, until the date of the upgrading of the Import Control System. However, the Commission has, by Commission Implementing Decision (EU) 2019/2151 (the Work Programme),<sup>12</sup> decided to set up a new electronic system (ICS2) to support customs pre-arrival security and safety risk analysis and related controls. The implementation of the new system is to be carried out through three releases (release 1, release 2 and release 3). The general reference to the upgrading of the Import Control System in Article 104 of Delegated Regulation (EU) 2015/2446 should therefore be replaced by more specific references to the different releases of the new system, to which the carriers will gradually connect. In accordance with the Work Programme, as regards air transport, postal operators and express carriers will connect to the new system from release 1 but they will only be obliged to lodge the minimum dataset of the entry summary declaration for goods in postal consignments having the Union as final destination and for goods in express consignments. Other economic operators or operations within the field of air transport will be covered by the new system from release 2. For rail, road, sea and inland waterways transport, the relevant economic operators must connect from release 3.

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<sup>10</sup> Article 1(1) of Regulation (EU) 2019/474 of the European Parliament and of the Council of 19 March 2019 amending Regulation (EU) No 952/2013 laying down the Union Customs Code (OJ L 83, 25.3.2019, p. 38).

<sup>11</sup> Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (OJ L151, 7.6.2019, p. 116).

<sup>12</sup> Commission Implementing Decision (EU) 2019/2151 of 13 December 2019 establishing the work programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code (OJ L 325, 16.12.2019, p. 168).



Accordingly, the waiver for goods in postal consignments should not apply for air consignments having a Member State as final destination after release 1. In addition, it should not apply for air consignments having a third country as final destination after release 2, and for postal consignments that are transported by sea, inland waterways, road or rail after release 3. Similarly, the waiver for goods not exceeding EUR 22 in express consignments transported by air should not apply after release 1. In addition, it should not apply after release 2 for such goods in air consignments that are neither post nor express consignments. For goods in consignments transported by sea, inland waterways, road or rail it should not apply after release 3. The Member States are to determine, in cooperation with the Commission, the specific dates at which the economic operators are obliged to use the different releases of the new system in accordance with the Annex to the Work Programme. Article 104 of Delegated Regulation (EU) 2015/2446 should be amended accordingly.

- (12) Article 106 of Delegated Regulation (EU) 2015/2446 sets out time limits to lodge the entry summary declaration in case of transport by air. Those time limits should also reflect the decision to set up the electronic system (ICS2) in three releases. The provision should clearly distinguish the general rule on the time limit to submit the entry summary declaration from the time limits to submit the minimum dataset of the entry summary declaration and the time limits to provide other particulars. This is so because, as stated in Article 183 of Implementing Regulation (EU) 2015/2447, from release 2 of the new system, the provision of the particulars of the entry summary declaration by different persons (multiple filing) will be gradually possible. From release 1 of the new system, postal operators and express carriers should be required to submit the minimum dataset of the entry summary declaration as soon as possible and at the latest before the goods are loaded into the aircraft that will bring them into the customs territory of the Union. The obligation to submit the minimum dataset should apply to all air carriers and economic operators involved in air transport activities from release 2. From release 2 of the new system, air carriers should be required to supplement the minimum dataset with the rest of the particulars so that the full entry summary declaration is lodged by the general time limits. However, between the dates of release 1 and release 2, the minimum dataset lodged by the postal operators and express carriers should be considered as the full entry summary declaration for goods in postal consignments and for goods in express consignments with an intrinsic value not exceeding EUR 22. The reason is that in that interval air carriers will not be connected to the new system and therefore they will not be able to supplement the minimum dataset. The rule establishing an obligation on air carriers and economic operators to submit the minimum dataset of entry summary declaration as early as possible, and at the latest before the goods are loaded onto the aircraft on which they are to be brought into the customs territory of the Union, ensures that customs authorities are in position to carry out risk analysis and undertake the necessary measures in the context of air cargo security. This represents an important complementary action to the existing EU regulatory framework for aviation security, namely, Regulation (EC) No 300/2008 of the European Parliament and of the Council.<sup>13</sup>

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<sup>13</sup> Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 (OJ L 97, 9.4.2008, p. 72).

- (13) Articles 112 and 113 of Delegated Regulation (EU) 2015/2446 set out obligations for other persons than the carrier to provide particulars of the entry summary declaration as regards, respectively, transport by sea or inland waterways and transport by air. Both articles contain transitional rules suspending the obligations until the upgrade of the Import Control System. Those transitional rules should reflect the fact that the provision of the particulars of the entry summary declaration by different persons will only occur from release 2 of the new system in the case of transport by air, and from release 3 in the case of transport by sea or inland waterways. Accordingly, the obligation of persons other than the carrier to provide the particulars of the entry summary declaration should distinguish between both releases. Moreover, the rule establishing that each person is responsible for the particulars of the entry summary declaration that he or she has submitted should be deleted from Articles 112 and 113 and become a new general provision applicable to any transport mode, and not to air and sea or inland waterways alone. To the extent that the entry summary declaration waiver for postal consignments and goods below EUR 22 will progressively disappear, that provision should also include a new obligation on postal operators and express carriers to provide the particulars of the entry summary declaration to the customs office of first entry, if they have not provided those particulars to the carriers having the obligation to supplement the minimum dataset provided by the postal operators or express carriers. Articles 112 and 113 of Delegated Regulation (EU) 2015/2446 should be amended accordingly, and a new Article 113a should be inserted.
- (14) In order to facilitate military mobility, the EU form 302 should also serve as proof of the customs status of Union goods. Article 127 of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly.
- (15) Article 128d of Delegated Regulation (EU) 2015/2446 sets out the conditions for granting the authorization to draw up the shipping company's manifest after departure. Those conditions should continue to apply as long as that authorization can be granted, regardless of whether or not the UCC Customs Decision System has been deployed. The reference to the UCC Customs Decision System should, therefore, be deleted. Article 128d of Delegated Regulation (EU) 2015/2446 should be amended accordingly.
- (16) Article 141 of Delegated Regulation (EU) 2015/2446 lists certain acts that are to be deemed customs declarations for goods referred to in Articles 138(a) to (d), 139 and 140(1) of that Regulation. The formalities to declare, both for import and for export, organs and other human or animal tissue or human blood suitable for permanent grafting, implantation or transfusion in case of emergency should be as limited as possible in order not to delay their release through cumbersome customs formalities at the border and to ensure their timely usage. Such organs, tissue or blood should therefore be allowed to be declared by any of the acts listed in Article 141 of Delegated Regulation (EU) 2015/2446. Articles 138, 140 and 141 of that Delegated Regulation should therefore be amended accordingly.
- (17) In order to further simplify the movement of goods moved or used in the context of military activities, the presentation to customs of a NATO form 302 or of an EU form 302 should be considered as a customs declaration for release for free circulation with import duty relief as returned goods, for temporary admission, for export or re-export, or for transit. In the absence of an electronic system for the submission of a NATO form 302 or of an EU form 302 to customs, it is also appropriate to allow for the submission of those forms by means other than electronic data-processing techniques.

Articles 138 to 142 of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly.

- (18) Once the new value added tax (VAT) rules for distance sales laid down in Council Directive (EU) 2017/2455<sup>14</sup> enter into force, VAT will be due on all goods imported into the Union, regardless of their value. In order to ensure that VAT is collected for these goods, an electronic customs declaration will be required. The current possibility to declare postal consignments by any act listed in Article 141 of Delegated Regulation (EU) 2015/2446, needs, therefore, to be modified. That possibility should only apply until the end of the deployment window for release 1 of ICS2, since all postal operators should by that time have the electronic data necessary to submit the entry summary declaration. To ensure a proper collection of VAT, that possibility should, in addition, be subject to the approval of customs authorities and be limited to cases in which the import VAT is collected upon entry of the goods under the standard procedure. Articles 138 and 141 of Delegated Regulation (EU) 2015/2446 should be amended accordingly.
- (19) Due to the growth in e-commerce, the number of low value consignments exported from the Union is increasing. Postal operators and express carriers play an important part in those exports. Whilst postal consignments can be declared for export by their exit from the customs territory of the Union in accordance with Article 141(4) of Delegated Regulation (EU) 2015/2446, other commercial goods not exceeding EUR 1000 in value and 1000 kg in weight are to be declared for export orally pursuant to Article 137(1)(b) of that Regulation. Since the oral declaration is to be made at the customs office competent for the place of exit, this facilitation does not fit with the business model of express carriers that is based on a single transport contract type facilitation. In case a single transport contract is used, all the exit formalities, including the formal closing of the export movement, can be completed at an inland customs office so that the customs office competent for the place of exit may only request to examine the goods on an ad hoc basis. The information about the exit of the goods is available in the express carrier's records and may be verified by the customs authorities in the framework of post-audit controls. In order to enable the smooth export clearance of low value consignments by express carriers and thus avoid bottlenecks at border customs offices, those consignments should be allowed to be declared by any act listed in Article 141 of Delegated Regulation (EU) 2015/2446. Articles 140 and 141 of that Regulation should be amended accordingly.
- (20) Article 141 of Delegated Regulation (EU) 2015/2446 should also be amended to clarify that means of transport benefitting from total relief from import duty can be declared for temporary admission by the sole act of the goods crossing the frontier of the customs territory of the Union in any of the situations listed in point d) of paragraph 1 of that Article. The same applies for means of transport that are to be released for free circulation as returned goods according to Article 203 of the Code. Such clarification is needed for the sake of legal certainty.
- (21) Article 142 of Delegated Regulation (EU) 2015/2446 lists certain goods that may not be declared orally or in accordance with Article 141 of that Regulation, such as goods

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<sup>14</sup> 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 (OJ L 348, 29.12.2017, p. 7).

subject to an application for the repayment of duty or other charges. As of the entry into force of the new value added tax (VAT) rules for distance sales laid down in Council Directive (EU) 2017/2455, VAT will be due for all goods imported to the Union, regardless of their value. Consequently, if such goods are returned, the declarant is to ask for the repayment of the VAT charged upon the release for free circulation of the goods. In such cases, the declarant will need to provide evidence that the goods left the customs territory of the Union. In order to keep the administrative burden at a reasonable level for low value consignments, re-export of such consignments should be allowed by any other act in accordance with Article 141 of Delegated Regulation (EU) 2015/2446, even if an application for the repayment of the VAT has been submitted. Therefore, Article 142 of Delegated Regulation (EU) 2015/2446 should be amended accordingly.

- (22) In order to clarify that the submission of the data required for the release for free circulation of low value consignments can be made in different electronic formats, the wording of Article 143a should be modified. In addition, a transitional measure should be provided for the declaration of low value consignments in the National Import Systems that have not yet been updated in accordance with the Code. Pursuant to Article 278(2) of the Code and to the Work Programme, Member States can update their National Import Systems until the end of 2022. By contrast, the new VAT measures in Directive (EU) 2017/2455 will enter into force before that date. It is therefore necessary to provide for an alternative dataset for the electronic customs declaration of low value consignments in the non-updated electronic systems that function with the transitional data requirements. Member States should therefore be allowed to provide for the use of the simplified declaration or standard customs declaration dataset set out in Commission Delegated Regulation (EU) 2016/341<sup>15</sup>, instead of the customs declaration for certain low-value consignments set out in Article 143a(1) of Delegated Regulation (EU) 2015/2446, until the National Import Systems have been updated.
- (23) Article 144 of Delegated Regulation (EU) 2015/2446 sets out rules for customs declaration for goods in postal consignments. Those rules should reflect the changes in the declaration of such goods as of the entry into force of the relevant provisions of Directive (EU) 2017/2455. The rule setting out who is to be considered as debtor and declarant in the declaration of postal consignments by presentation should be deleted because from 1 January 2021 goods in postal consignments not exceeding EUR 150 are to be declared by means of an electronic customs declaration. In that declaration, the debtor and the declarant are to be clearly indicated. A transitional measure should be provided for the declaration of goods in postal consignments with a value of between EUR 150 and EUR 1000 in the Member States that have not yet updated their National Import Systems in accordance with the Code. The possibility to declare for release for free circulation those goods by presentation accompanied by declaration CN22 or CN23 until the end of the period to update the National Import Systems, that is until the end of 2022, should be maintained since the Member States are not obliged to implement the different datasets for electronic declarations until the end of that

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<sup>15</sup> 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).

period. Article 144 of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly.

- (24) Article 146 of Delegated Regulation (EU) 2015/2446 sets out the time limits for lodging the supplementary declaration referred to in the first subparagraph of Article 167(1) of the Code. Those rules should connect in a clearer manner the customs authorities' deadlines for entering the amount of import or export duty in the accounts in accordance with Article 105(1) of the Code and the time limits for the declarants to lodge the different types of supplementary declaration. Accordingly, it should be clarified that supplementary declarations covering a single simplified declaration and giving rise to a single entry in the accounts in accordance with the first subparagraph of Article 105(1) of the Code are supplementary declarations of a general nature. Supplementary declarations of a general nature should be lodged within ten days of the release of the goods. It should further be clarified that supplementary declarations of a periodic or recapitulative nature cover one or several simplified declarations by the same declarant during a fixed period and give rise to a single entry for a global amount of import duty in accordance with the second subparagraph of Article 105(1) of the Code. Those declarations should be lodged within ten days following the end of the period that they cover.
- (25) In order to better adapt the current rules to the needs of economic operators, customs authorities should be allowed to provide declarants with a longer time limit to lodge the supplementary declaration and to obtain the relevant supporting documents where the lodging of the customs declaration cannot lead to the incurrence of a customs debt. The longer time limit should be up to 120 days from the release of the goods in the case of supplementary declarations of a general nature. In addition, the time limit may be up to two years, in exceptional and duly justified circumstances, where the reasons for allowing a longer time limit are related to the customs value of the goods. Article 146 of Delegated Regulation (EU) 2015/2446 and Article 147 of that Regulation, which sets out the time limit for the declarant to be in possession of the supporting documents in the case of supplementary declarations, should therefore be amended accordingly.
- (26) Article 163 of Delegated Regulation (EU) 2015/2446 establishes the cases in which a customs declaration is to be considered as an application for an authorisation for a special procedure other than transit. That provision should also include the destruction of consignments with a value of EUR 150 000 or less in order to facilitate the customs formalities for economic operators in such cases. The destruction of consignments should be possible without the use of the Customs Decision System so that the customs authorities can take a decision on the application at the time when goods to be destroyed are declared for the customs procedure. In addition, sensitive goods listed in Annex 71-02 to Delegated Regulation (EU) 2015/2446 should be excluded from the above-mentioned facilitation, unless they are to be destroyed and the value of the consignment does not exceed EUR 150 000. Article 163 of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly.
- (27) Article 163(2)(g) of Delegated Regulation (EU) 2015/2446 establishes that a customs declaration may not be considered as an application for an authorisation for a special procedure other than transit where Article 167(1)(f) of that Delegated Regulation applies. That provision refers to the processing of sensitive goods, which are already excluded from the scope of Article 163(1)(c) of Delegated Regulation (EU)

2015/2446. In order to avoid this repetition, Article 163(2)(g) of Delegated Regulation (EU) 2015/2446 should be deleted.

- (28) Article 166(1) of Delegated Regulation (EU) 2015/2446 sets out that the condition for granting an authorisation for a processing procedure in Article 211(4)(b) of the Code, namely that the procedure would not adversely affect the essential interests of Union producers (the economic conditions), does not apply to authorisations for inward processing except in certain cases, including applications covering goods subject to measures such as anti-dumping or countervailing duties. Such applications should however be excluded from the examination of the economic conditions, as those duties are meant to protect the essential interests of Union producers. Moreover, the examination of the economic conditions will no longer be needed in such cases since Article 76 of Delegated Regulation (EU) 2015/2446 as amended by this Regulation provides for an automatic application of the anti-dumping and countervailing duties to the goods placed under inward processing when the procedure is discharged. Article 166(1) of Delegated Regulation (EU) 2015/2446 should be amended accordingly.
- (29) Article 168 of Delegated Regulation (EU) 2015/2446 concerns the calculation of the amount of import duty in certain cases of inward processing. That provision is however redundant, due to the amendments to Articles 76 and 166 of that Delegated Regulation. According to those amendments, the calculation of import duty is made in accordance with Article 86(3) of the Code in the cases mentioned in Article 168 of Delegated Regulation (EU) 2015/2446. In addition, if the goods are subject to agricultural or commercial policy measures the economic conditions have to be examined according to Article 166 of Delegated Regulation (EU) 2015/2446 as amended by this Regulation. Article 168 of Delegated Regulation (EU) 2015/2446 should therefore be deleted.
- (30) Article 177 of Delegated Regulation (EU) 2015/2446 sets out rules concerning accounting segregation where Union goods are stored together with non-Union goods in a storage facility for customs warehousing. In order to avoid any possible misuse of those rules, the storage of Union and non-Union goods together in a storage facility for customs warehousing (common storage) should only be allowed where the goods have the same CN code, commercial quality and technical characteristics. Goods subject to measures such as anti-dumping or countervailing duties should not be allowed to be placed in common storage, unless they have become Union goods after having been subjected to the relevant anti-dumping or countervailing duties. Article 177 of Delegated Regulation (EU) 2015/2446 should be amended accordingly.
- (31) In order to simplify the use of the temporary admission procedure in international maritime traffic, in frontier zones and with respect to certain pedagogical, scientific and technical equipment, the applicant and the holder of the temporary admission procedure should exceptionally be allowed to be established inside the customs territory of the Union, and should not have to be established outside that territory as required in Article 250(2)(c) of the Code. Articles 220, 224, 227, 229 and 230 of Delegated Regulation (EU) 2015/2446 should be amended accordingly.
- (32) Where military goods are declared for temporary admission, they should benefit from total relief of import duty and the period for discharge should be fixed at 24 months, with the possibility of an extension. A new Article 235a should therefore be inserted in

Delegated Regulation (EU) 2015/2446 and Article 237 of that Regulation should be amended accordingly.

- (33) Article 245(1) of Delegated Regulation (EU) 2015/2446 sets out exceptions from the requirement to lodge a pre-departure declaration for goods leaving certain Union territories outside the customs territory of the Union. In order to facilitate military mobility, this exception should be extended to goods moved under cover of a NATO form 302 or an EU form 302. In addition, following the inclusion of Campione d'Italia and the Italian waters of Lake Lugano into the customs territory of the Union, that exception should no longer refer to Campione d'Italia and the Italian waters of Lake Lugano. Points (i) and (p) of Article 245(1) of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly.
- (34) Article 248 of Delegated Regulation (EU) 2015/2446 should be amended to clarify that the customs office of export must invalidate the export declaration and must invalidate the relevant certification of exit of goods, where the customs office of exit has informed that a transport operation that should have terminated outside the customs territory of the Union will terminate inside.
- (35) Annex 71-03 to Delegated Regulation (EU) 2015/2446 provides a list of the usual forms of handling for the purposes of goods placed under a processing procedure pursuant to Article 220 of the Code. In order to avoid the misuse of usual forms of handling to obtain unjustified duty advantages, that Annex should be amended accordingly.
- (36) Point 7 of Annex 71-04 of Delegated Regulation (EU) 2015/2446 sets out the conditions under which recourse to the use of equivalence is permitted under the inward processing arrangements with regard to milk and milk products. The conditions concern the weight of the different components in such products, namely dry matter, fat matter and protein. In order to simplify those provisions, so that milk and milk products are subject to the general rules on equivalence established in third subparagraph of Article 223(1) of the Code, Annex 71-04 of Delegated Regulation (EU) 2015/2446 should be amended accordingly.
- (37) Annex 71-05 to Delegated Regulation (EU) 2015/2446 lists the data elements that are to be made available for the standardised exchange of information between customs authorities in the context of processing procedures. It should be clarified that some data elements can be expressed in measurement units other than kilograms and in currencies other than the euro because, unlike other provisions on data elements to be provided by the economic operators, Articles 176, 181 and Annex 71-05 do not explicitly mention this possibility. It should also be possible for a customs declaration to be considered as an application for an authorisation for inward or outward processing as allowed in Article 163 of Delegated Regulation (EU) 2015/2446. Finally, a new data element should be added in Section B regarding the date on which the customs debt was incurred or on which potential commercial policy measures applied, as this is a relevant data element to be exchanged by the customs authorities when using the INF system. Annex 71-05 to Delegated Regulation (EU) 2015/2446 should be amended accordingly.
- (38) Delegated Regulation (EU) 2016/341 should also be amended to reflect certain changes to other Union legislation. First, the introduction of the Member States'

reporting obligation on progress with the electronic systems in Article 278a of the Code is stricter than the reporting obligation set out in Article 56(2) of Delegated Regulation (EU) 2016/341 and the latter should therefore be deleted. Second, Annex 1 to Delegated Regulation (EU) 2016/341, which sets out the common data requirements for declarations, notifications and proof of Union status that apply until the electronic systems of the Code are deployed, should reflect the Commission Decision on the updated Work Programme to deploy the ICS2 system in three releases. That Annex should exclusively refer to the Annexes to that Delegated Regulation providing data requirements for the transition period but should not refer to Annex B to Delegated Regulation (EU) 2015/2446, as this does not apply during the transition. Finally, after the inclusion of the definition of express consignment and express carrier in Article 1 of Delegated Regulation (EU) 2015/2446, the definition of express consignment in Annex 9 to Delegated Regulation (EU) 2016/341 should be deleted to avoid confusion.

- (39) Article 128a of Delegated Regulation (EU) 2015/2446 should be corrected to clarify the instructions on the stamp and signature of certain proofs of union status. First, some instructions are duplicated and therefore one set of such instructions should be deleted. Second, the reference to a special stamp described in Part II, Chapter II of Annex 72-04 to Implementing Regulation (EU) 2015/2447 should be added. Third, authorized issuers and authorized consignors are two distinct authorizations and the provision wrongly refers to authorized consignors in the context of authorizations for issuance of the proof. The provision should refer to ‘authorized issuer’ instead of ‘authorized consignor’, in all languages.
- (40) The reference in Article 150 of Delegated Regulation (EU) 2015/2446 to Article 138 of Council Directive 2006/112/EC<sup>16</sup> is not correct and should be replaced by a reference to Article 143(1) of that Directive, as that Article is the one providing for the applicable VAT exemption.
- (41) The possibility to declare organs and other human or animal tissue or human blood suitable for permanent grafting, implantation or transfusion, in case of emergency by any other act should retroactively apply from 15 March 2020 to facilitate the import of these goods in the crisis created by the coronavirus,

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 is amended as follows:
- (a) point 15 is replaced by the following:

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<sup>16</sup> 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).



‘(15) “customs office of first entry” means the customs office which is competent for customs supervision at the place where the means of transport carrying the goods arrives or, where applicable, is destined to arrive, in the customs territory of the Union from a territory outside that territory;’;

(b) the following points are added:

‘(46) “express consignment” means an individual item conveyed by or under the responsibility of an express carrier;

(47) “express carrier” means an operator providing integrated services of expedited/time-definite collection, transport, customs clearance and delivery of parcels whilst tracking the location of, and maintaining control over, such items throughout the supply of the service;

(48) “intrinsic value” means

(a) for commercial goods: the price of the goods themselves when sold for export to the customs territory of the Union, excluding transport and insurance costs, unless they are included in the price and not separately indicated on the invoice, and any other taxes and charges as ascertainable by the customs authorities from any relevant document(s);

(b) for goods of a non-commercial nature: the price which would have been paid for the goods themselves if they were sold for export to the customs territory of the Union;

(49) “goods to be moved or used in the context of military activities” means any goods to be moved or used:

(a) in activities arranged by or under the control of the relevant military authorities of one or more Member State(s) or of a third country with which one or more Member State(s) has (have) concluded an agreement to carry out military activities within the customs territory of the Union; or

(b) in the context of any military activities undertaken:

- under the Common Security and Defence Policy of the European Union (CSDP); or
- under the North Atlantic Treaty, signed in Washington D.C. on 4 April 1949.

(50) “NATO form 302” means a document for customs purposes as provided for in the relevant procedures implementing the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951;

(51) “EU form 302” means a document for customs purposes set out in Annex 52-01 and issued by or on behalf of the national competent military authorities of a Member State for goods to be moved or used in the context of military activities;

(52) “waste from ships” means waste from ships within the meaning of point 3 of Article 2 of Directive (EU) 2019/883 of the European Parliament and of the Council\*;

(53) “maritime National Single Window” means a maritime National Single Window within the meaning of point 3 of Article 2 of Regulation (EU) 2019/1239 of the European Parliament and of the Council\*\*.

\* Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (OJ L 151, 7.6.2019, p. 116).

\*\* Regulation (EU) 2019/1239 of the European Parliament and of the Council of 20 June 2019 establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU (OJ L 198, 25.7.2019, p. 64).’.

(2) In Article 6(1), point (a) is replaced by the following:

‘(a) such registration is required by Union legislation or by the legislation of a Member State;’.

(3) In Article 13, paragraph 4 is replaced by the following:

‘4. Where there are serious grounds for suspecting an infringement of customs or tax legislation and the customs and fiscal authorities conduct investigations based on those grounds, the time limit to take the decision shall be extended by the time necessary to complete those investigations. That extension shall not exceed nine months. Unless it would jeopardise the investigations, the applicant shall be informed of the extension.’.

(4) In Article 17(1), the second sub-paragraph is replaced by the following:

‘However, where the customs authority considers that the holder of the decision may not fulfil the criteria set out in Article 39(a) of the Code, the decision shall be suspended until it is established whether a serious infringement or repeated infringements, including a serious criminal offence, have been committed by any of the following persons:

(a) the holder of the decision;

(b) the person in charge of the company which is the holder of the decision concerned or exercising control over its management;

(c) the employee in charge of customs matters in the company which is the holder of the decision concerned.’.

(5) Article 76 is replaced by the following:

**Derogation for the calculation of the amount of import duty on processed products resulting from inward processing**

*(Article 86(3) and 86(4) of the Code)*

1. Article 86(3) of the Code shall apply without a request from the declarant where all of the following conditions are fulfilled:

(a) the processed products resulting from the inward processing procedure are imported directly or indirectly by the relevant holder of the authorisation within a period of one year after their re-export;

(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;

(c) no examination of the economic conditions was required in accordance with Article 166.

2. Article 86(3) of the Code shall also apply without a request from the declarant where the processed products were obtained from goods placed under inward processing which would, at the time of the acceptance of the first customs declaration for placing the goods under the inward processing procedure, have been subject to a provisional or definitive anti-dumping duty, a countervailing duty, a safeguard measure or an additional duty resulting from a suspension of concessions if they were declared for release for free circulation and the case is not covered by Article 167(1) (h), (i), (m) or (p) of this Regulation.

3. Paragraphs 1 and 2 shall not apply where the goods placed under inward processing would not be subject anymore to a provisional or definitive anti-dumping duty, a countervailing duty, a safeguard measure or an additional duty resulting from a suspension of concessions at the time when a customs debt is incurred for the processed products.

4. Paragraph 2 shall not apply to goods declared for inward processing no later than ... [date: one year after the entry into force of this Regulation] if those goods are covered by an authorisation which was granted before ... [the date of entry into force of this Regulation].'

(6) Article 104 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) points (f), (h) and (m) are replaced by the following:

‘(f) goods referred to in Article 138(b) to (d) and (h) or in Article 139(1) which are deemed to be declared in accordance with Article 141 provided that they are not carried under a transport contract;’;

‘(h) goods moved or used in the context of military activities under cover of a NATO form 302 or an EU form 302;’;

‘(m) goods brought into the customs territory of the Union from Ceuta and Melilla, Gibraltar, Heligoland, the Republic of San Marino, the Vatican City State or the municipality of Livigno;’;

(ii) the following point is added:

‘(q) waste from ships, under the condition that the advance waste notification as referred to in Article 6 of Directive (EU) 2019/883 has been made in the maritime National Single Window or through other reporting channels acceptable to the competent authorities including customs.’;

(b) paragraph 2 is replaced by the following:

‘2. The lodging of an entry summary declaration shall be waived in respect of goods in postal consignments, as follows:

(a) where the postal consignments are transported by air and have a Member State as final destination, until the date set out in accordance with the Annex to Commission Implementing Decision (EU) 2019/2151\* for the deployment of release 1 of the system referred to in Article 182(1) of Implementing Regulation (EU) 2015/2447;

(b) where the postal consignments are transported by air and have a third country or territory as final destination, until the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 2 of the system referred to in Article 182(1) of Implementing Regulation (EU) 2015/2447;

(c) where the postal consignments are transported by sea, road or rail, until the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 3 of the system referred to in Article 182(1) of Implementing Regulation (EU) 2015/2447.

\* Commission Implementing Decision (EU) 2019/2151 of 13 December 2019 establishing the Work Programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code (OJ L 325, 16.12.2019, p.168).’;

(c) paragraph 3 is deleted;

(d) paragraph 4 is replaced by the following:

‘4. The lodging of an entry summary declaration shall be waived in respect of goods in a consignment the intrinsic value of which does not exceed EUR 22, provided that

the customs authorities accept, with the agreement of the economic operator, to carry out a risk analysis using the information contained in, or provided by, the system used by the economic operator, as follows:

(a) where the goods are in express consignments that are transported by air, until the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 1 of the system referred to in Article 182(1) of Implementing Regulation (EU) 2015/2447;

(b) where the goods are transported by air in other than postal or express consignments, until the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 2 of the system referred to in Article 182(1) of Implementing Regulation (EU) 2015/2447;

(c) where the goods are transported by sea, inland waterways, road or rail, until the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 3 of the system referred to in Article 182(1) of Implementing Regulation (EU) 2015/2447.

(7) Article 106 is replaced by the following:

*‘Article 106*

### **Time limits for lodging the entry summary declaration in case of transport by air**

(Article 127(2)(b), (3),(6) and (7) of the Code)

1. Where the goods are brought into the customs territory of the Union by air, the full particulars of the entry summary declaration shall be lodged as soon as possible and in any case within the following time limits:

(a) for flights with a duration of less than four hours, at the latest by the time of the actual departure of the aircraft;

(b) for other flights, at the latest four hours before the arrival of the aircraft at the first airport in the customs territory of the Union.

2. From the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 1 of the system referred to in Article 182(1) of Implementing Regulation (EU) 2015/2447, postal operators and express carriers shall lodge, in accordance with Article 183 of Implementing Regulation (EU) 2015/2447, at least the minimum dataset of the entry summary declaration as soon as possible and at the latest before the goods are loaded onto the aircraft on which they are to be brought into the customs territory of the Union.

2a. From the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 2 of the system referred to in Article 182(1) of Implementing Regulation (EU) 2015/2447, economic operators other than

postal operators and express carriers shall lodge at least the minimum dataset of the entry summary declaration as soon as possible and at the latest before the goods are loaded onto the aircraft on which they are to be brought into the customs territory of the Union.

3. From the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for deployment of release 2 of the system referred to in Article 182(1) of Implementing Regulation (EU) 2015/2447, where only the minimum dataset of the entry summary declaration has been provided within the time limits referred to in paragraphs 2 and 2a, the other particulars shall be provided within the time limits specified in paragraph 1.

4. Until the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for deployment of release 2 of the system referred to in Article 182(1) of Implementing Regulation (EU) 2015/2447, the minimum dataset of the entry summary declaration lodged in accordance with paragraph 2 shall be considered as the full entry summary declaration for goods in postal consignments having a Member State as final destination and for goods in express consignments with an intrinsic value not exceeding EUR 22. ’.

(8) Article 112 is amended as follows:

(a) paragraph 2 is deleted;

(b) paragraph 3 is replaced by the following:

‘3. Until the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 3 of the system referred to in Article 182(1) of Implementing Regulation (EU) 2015/2447, paragraph 1 of this Article shall not apply.’.

(9) Article 113 is amended as follows:

(a) paragraphs 2 and 3 are deleted;

(b) paragraph 4 is replaced by the following:

‘4. Until the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 2 of the system referred to in Article 182(1) of Implementing Regulation (EU) 2015/2447, paragraph 1 of this Article shall not apply.’.

(10) In Title IV, in Chapter 1, the following Article 113a is added:

**Provision of particulars of the entry summary declaration by other persons**

(Article 127 (6) of the Code)

1. Each person submitting the particulars referred to in Article 127(5) of the Code shall be responsible for the particulars that he/she has submitted in accordance with Article 15(2)(a) and (b) of the Code.

2. From the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 2 of the system referred to in Article 182(1) in Implementing Regulation (EU) 2015/2447, where the postal operator does not make the particulars required for the entry summary declaration of postal consignments available to a carrier that is obliged to lodge the rest of the particulars of the declaration through that system, the postal operator of destination, if the goods are consigned to the Union, or the postal operator of the Member State of first entry, if the goods are transiting through the Union, shall provide those particulars to the customs office of first entry in accordance with Article 127(6) of the Code.

3. From the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 2 of the system referred to in Article 182(1) of Implementing Regulation (EU) 2015/2447, where the express carrier does not make the particulars required for the entry summary declaration of express consignments transported by air available to the carrier, the express carrier shall provide those particulars to the customs office of first entry in accordance with Article 127(6) of the Code.’

- (11) Article 127 is replaced by the following:

*'Article 127*

**Proof of the customs status of Union goods in TIR or ATA carnets or NATO forms 302 or EU forms 302**

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

Where Union goods are transported in accordance with the TIR Convention, the ATA Convention, the Istanbul Convention or under cover of a NATO form 302 or an EU form 302, the proof of the customs status of Union goods may be submitted by means other than electronic data-processing techniques.’

- (12) In Article 128d(1), the introductory sentence is replaced by the following:

‘1. The authorisation referred to in Article 128c shall be granted only to international shipping companies which fulfil the following conditions:’.

- (13) Article 138 is amended as follows:

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

‘(f) until the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 1 of the system referred to in Article 182(1) of Implementing Regulation (EU) 2015/2447, goods in a postal consignment, which benefit from relief from import duty in accordance with Article 23(1) or Article 25(1) of Regulation (EC) No 1186/2009.’;

(b) the following points are added:

‘(g) until the date preceding the date set out in the fourth subparagraph of Article 4(1) of Directive (EU) 2017/2455, goods the intrinsic value of which does not exceed EUR 22;

(h) organs and other human or animal tissue or human blood suitable for permanent grafting, implantation or transfusion, in case of emergency.’;

(c) the following points are added:

‘(i) goods covered by an EU form 302 or by a NATO form 302 which benefit from import duty relief as returned goods in accordance with Article 203 of the Code;

(j) waste from ships, under the condition that the advance waste notification as referred to in Article 6 of Directive (EU) 2019/883 has been made in the maritime National Single Window or through other reporting channels acceptable to the competent authorities including customs.’;

(d) the second paragraph is deleted.

(14) Article 139 is amended as follows:

(a) the following title is inserted:

**‘Goods deemed to be declared for temporary admission, transit or re-export in accordance with Article 141**

(Article 158(2) of the Code)’;

(b) the following paragraphs are added:

‘3. Where not declared using other means, goods covered by a NATO form 302 or by an EU form 302 shall be deemed to be declared for temporary admission in accordance with Article 141.

4. Where not declared using other means, goods covered by a NATO form 302 or by an EU form 302 shall be deemed to be declared for re-export in accordance with Article 141.

5. Where not declared using other means, goods covered by an EU form 302 shall be deemed to be declared for transit in accordance with Article 141.’.



- (15) In Article 140(1), the following points are added:
- ‘(c) items of correspondence;
  - (d) goods in a postal or express consignment the value of which does not exceed EUR 1 000 and which are not liable for export duty;
  - (e) organs and other human or animal tissue or human blood suitable for permanent grafting, implantation or transfusion, in case of emergency;
  - (f) goods covered by a NATO form 302 or by an EU form 302.’.

- (16) Article 141 is amended as follows:

- (a) the title is replaced by the following:

**‘Acts deemed to be a customs declaration or a re-export declaration**

(Article 158(2) of the Code)’;

- (b) paragraph 1 is amended as follows:

- (i) the introductory sentence is replaced by the following:

‘1. In respect of goods referred to in Articles 138(a) to (d) and (h), 139 and 140(1), any of the following acts shall be deemed to be a customs declaration.’;

- (ii) in point (d), the following points are added:

‘(iv) where means of transport as referred to in Article 212 are deemed to be declared for temporary admission in accordance with Article 139(1) of this Regulation;

(v) where non-Union means of transport complying with the conditions established in Article 203 of the Code are brought to the customs territory of the Union in accordance with Article 138(c) of this Regulation.’;

- (c) paragraphs 3 and 4 are replaced by the following:

‘3. Until the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 1 of the system referred to in Article 182(1) of Implementing Regulation (EU) 2015/2447, goods in a postal consignment can be declared for release for free circulation by their presentation to customs pursuant to Article 139 of the Code provided that all of the following conditions are met:

- (a) the customs authorities have accepted the use of this act and the data provided by the postal operator;

- (b) VAT is not declared under the special scheme set out in Title XII Chapter 6 Section 4 of Directive 2006/112/EC for distance sales of goods imported from third

countries or third territories, nor using the special arrangements for declaration and payment of import VAT set out in Title XII Chapter 7 of that Directive;

(c) the goods benefit from relief from import duty in accordance with Article 23(1) or Article 25(1) of Regulation (EC) No 1186/2009;

(d) the consignment is accompanied by a CN22 declaration or a CN23 declaration.

4. Goods in a postal consignment the value of which does not exceed EUR 1 000 which are not liable for export duty, shall be deemed to be declared for export by their exit from the customs territory of the Union.’;

(d) between paragraphs 4 and 5, the following paragraph is inserted:

‘4a. Goods in an express consignment the value of which does not exceed EUR 1 000 and which are not liable for export duty shall be deemed to be declared for export by their presentation to the customs office of exit, provided that the data in the transport document and/or invoice are available to and accepted by the customs authorities.’;

(e) the following paragraphs are inserted:

‘6. Goods to be moved or used in the context of military activities under cover of a NATO form 302 shall be deemed to be declared for release for free circulation, temporary admission, export or re-export by their presentation to customs pursuant to Articles 139 or 267(2) of the Code, respectively, provided that the data set out in the NATO form 302 are accepted by and available to the customs authorities.

This form may be submitted by means other than electronic data-processing techniques.

7. Goods to be moved or used in the context of military activities under cover of an EU form 302 shall be deemed to be declared for release for free circulation, temporary admission, transit, export or re-export by their presentation to Customs pursuant to Articles 139 or 267(2) of the Code respectively, provided that the data set out in Annex 52-01 are accepted by and available to the customs authorities.

This form may be submitted by means other than electronic data-processing techniques.

8. Waste from ships shall be deemed to be declared for release for free circulation by their presentation to customs pursuant to Article 139 of the Code, under the condition that the advance waste notification as referred to in Article 6 of Directive (EU) 2019/883 has been made in the maritime National Single Window or through other reporting channels acceptable to the competent authorities including customs.’.

(17) In Article 142, points (b), (c) and (d) are replaced by the following:

‘(b) goods in respect of which an application for the repayment of duty or other charges is made unless such application relates to the invalidation of the customs declaration for release for free circulation of goods subject to relief from import duty in accordance with Article 23(1) or Article 25(1) of Regulation (EC) No 1186/2009;

(c) goods which are subject to prohibitions and restrictions, except for:

- (i) goods moved or used under cover of a NATO form 302 or an EU form 302;
- (ii) waste from ships;

(d) goods which are subject to any other special formality provided for in Union legislation which the customs authorities are required to apply, except for goods moved or used under cover of a NATO form 302 or an EU form 302.’

(18) Article 143a is amended as follows:

(a) the title and paragraph 1 are replaced by the following:

*‘Article 143a*

**Declaration for release for free circulation of consignments of low value**

(Article 6(2) of the Code)

1. From the date set out in the fourth subparagraph of Article 4(1) of Directive (EU) 2017/2455, a person may declare for release for free circulation a consignment which benefits from relief from import duty in accordance with Article 23(1) or Article 25(1) of Regulation (EC) No 1186/2009 on the basis of the specific dataset referred to in Annex B, under the condition that the goods in that consignment are not subject to prohibitions and restrictions.’;

(b) the following paragraph is added:

‘3. Until the dates of the upgrading of the National Import Systems referred to in the Annex to Implementing Decision (EU) 2019/2151, Member States may provide that the declaration referred to in paragraph 1 of this Article shall be subject to the data requirements set out in Annex 9 to Delegated Regulation (EU) 2016/341.’

(19) Article 144 is replaced by the following:

*‘Article 144*

**Customs declaration for goods in postal consignments**

(Article 6(2) of the Code)

1. A postal operator may lodge a customs declaration for release for free circulation containing the reduced data set referred to in column H6 of Annex B in respect of goods in a postal consignment where the goods fulfil the following conditions:

- (a) their value does not exceed EUR 1 000;
- (b) they are not subject to prohibitions and restrictions.

2. Until the dates of the upgrading of the National Import Systems referred to in the Annex to the Implementing Decision (EU) 2019/2151, Member States may provide that the customs declaration for release for free circulation referred to in paragraph 1 of this Article of goods in postal consignments other than those referred to in Article 143a of this Regulation shall be considered to have been lodged and accepted by the act of their presentation to customs, provided the goods are accompanied by a CN22 declaration or a CN23 declaration.’.

(20) Articles 146 and 147 are replaced by the following:

*‘Article 146*

**Supplementary declaration**

(Article 167(1) of the Code)

1. Where the customs authorities are to enter the amount of import or export duty payable in the accounts in accordance with the first subparagraph of Article 105(1) of the Code, the time limit for lodging the supplementary declaration referred to in the first subparagraph of Article 167(1) of the Code, where that declaration is of a general nature, shall be 10 days from the date of the release of the goods.

2. Where an entry in the accounts takes place in accordance with the second subparagraph of Article 105(1) of the Code or where no customs debt is incurred and the supplementary declaration is of a periodic or recapitulative nature, the period of time covered by the supplementary declaration shall not exceed one calendar month.

3. The time limit for lodging a supplementary declaration of a periodic or recapitulative nature shall be 10 days from the date on which the period of time covered by the supplementary declaration ends.

3a. Where no customs debt is incurred, the time limit for lodging the supplementary declaration may not exceed 30 days from the date of the release of the goods.

3b. The customs authorities shall, in duly justified circumstances, allow for a longer time limit for the lodging of the supplementary declaration referred to in paragraph 1, 3 or 3a. That time limit shall not exceed 120 days from the date of the release of the goods. However, in exceptional duly justified circumstances related to the customs value of goods, that time limit may be further extended to, but may not exceed, two years from the date of the release of the goods.

4. Until the respective dates of deployment of the AES and the upgrading of the relevant National Import Systems referred to in the Annex to Implementing Decision (EU) 2019/2151 and without prejudice to Article 105(1) of the Code, customs authorities may allow for time limits other than those specified in paragraphs 1 to 3b of this Article.

**Time limit for the declarant to be in possession of the supporting documents in the case of supplementary declarations**

(Article 167(1) of the Code)

The supporting documents that were missing when the simplified declaration was lodged shall be in the possession of the declarant within the time limit for lodging the supplementary declaration in accordance with Article 146(1), (3), (3a), (3b) or (4).’.

(21) Article 163 is amended as follows:

(a) in paragraph 1, the following point is added:

‘(g) where goods listed in Annex 71-02 whose customs value does not exceed EUR 150 000 are already placed or are to be placed under the inward processing procedure and are to be destroyed under customs supervision due to exceptional and duly justified circumstances.’;

(b) in paragraph 2, point (g) is deleted.

(22) In Article 166(1), point (b) is replaced by the following:

‘(b) where the calculation of the amount of import duty is made in accordance with Article 85 of the Code, the goods intended to be placed under the inward processing procedure would be subject to an agricultural or a commercial policy measure, if they were declared for release for free circulation and the case is not covered by Article 167(1) (h), (i), (m) or (p);’.

(23) In Article 167(1), point (k) is replaced by the following:

‘(k) the processing into products to be incorporated in or used for aircraft for which an authorised release certificate EASA Form 1 or an equivalent certificate as referred to in Article 2 of Council Regulation (EU) No 2018/581\* has been issued;

\* Council Regulation (EU) 2018/581 of 16 April 2018 temporarily suspending the autonomous Common Customs Tariff duties on certain goods of a kind to be incorporated in or used for aircraft, and repealing Regulation (EC) No 1147/2002 (OJ L 98, 18.4.2018, p. 1).’.

(24) Article 168 is deleted.

(25) Article 177 is replaced by the following:

***Storage of Union goods together with non-Union goods in a storage facility***

(Article 211(1) of the Code)

1. Where Union goods are stored together with non-Union goods in a storage facility for customs warehousing and it is impossible or would only be possible at a disproportionate cost to identify at all times each type of goods (common storage), the authorisation as referred to in Article 211(1)(b) of the Code shall establish that accounting segregation shall be carried out with regard to each type of goods, customs status and, where appropriate, origin of goods.

2. Union goods stored together with non-Union goods in a storage facility as referred to in paragraph 1 shall share the same eight-digit CN code, the same commercial quality and the same technical characteristics.

3. For the purposes of paragraph 2, non-Union goods which would be subject, at the time where they would be going to be stored together with Union goods, to a provisional or definitive anti-dumping duty, a countervailing duty, a safeguard measure or an additional duty resulting from a suspension of concessions if they were declared for release for free circulation, shall not be considered to have the same commercial quality as the Union goods .

4. Paragraph 3 shall not apply where non-Union goods are stored together with Union goods which were previously declared as non-Union goods for release for free circulation and for which the duties referred to in paragraph 3 have been paid.’.

(26) In Article 220, the second paragraph is replaced by the following:

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

(27) In Article 224, the following paragraph is added:

‘The applicant and the holder of the procedure may be established inside the customs territory of the Union for goods mentioned in point (b).’.

(28) In Article 227, the following paragraph is added:

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

(29) In Article 229, the following paragraph is added:

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

(30) In Article 230, the following paragraph is added:

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

- (31) The following new Article 235a is inserted:

*‘Article 235a*

**Goods to be moved or used in the context of military activities**

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for goods to be moved or used in the context of military activities under cover of a NATO form 302 or an EU form 302.

The applicant and the holder of the procedure may be established inside the customs territory of the Union.’

- (32) In Article 237, the following paragraph is added:

‘3. For goods referred to in the first paragraph of Article 235a, the time limit for discharge shall be 24 months from the time the goods are placed under the temporary admission procedure, unless international agreements establish a longer time limit.’

- (33) In Article 245(1), points (i) and (p) are replaced by the following:

‘(i) goods moved or used in the context of military activities under cover of a NATO form 302 or an EU form 302;’;

‘(p) goods dispatched from the customs territory of the Union to Ceuta and Melilla, Gibraltar, Heligoland, the Republic of San Marino, the Vatican City State or the municipality of Livigno.’

- (34) In Article 248, the following paragraph is added:

‘3. Where the customs office of export is informed, in accordance with Article 340 of Implementing Regulation (EU) 2015/2447, that the goods were not taken out of the customs territory of the Union, it shall immediately invalidate the declaration concerned and, where appropriate, it shall immediately invalidate the relevant certification of exit of goods made pursuant to 334(1) of Implementing Regulation (EU) 2015/2447.’

- (35) Annex 52-01, as set out in Annex I to this Regulation, is inserted.

- (36) In Annex 71-03, after the first paragraph and before the list of forms of handling, the following two paragraphs are inserted:

‘In addition, none of the following forms of handling may result in an unjustified import duty advantage.

For the purposes of the previous paragraph, any of the usual forms of handling listed below which entail a change in the CN code or in the origin of non-Union goods shall be deemed to result in an unjustified import duty advantage if the goods would be, at the time where the usual forms of handling begin, subject to a provisional or definitive anti-dumping duty, a countervailing duty, a safeguard measure or an additional duty resulting from a suspension of concessions if they were declared for release for free circulation.’.

- (37) In Annex 71-04, in Part II “INWARD PROCESSING”, point (7) “Milk and milk products” is deleted.
- (38) Annex 71-05 is amended as set out in Annex II to this Regulation.

## *Article 2*

### **Amendments to Delegated Regulation (EU) 2016/341**

Delegated Regulation (EU) 2016/341 is amended as follows:

- (1) In Article 56, paragraph 2 is deleted.
- (2) Annex 1 is amended as set out in Annex III to this Regulation.
- (3) In Annex 9, in Appendix A, in the Introductory notes to the tables, point 4.2. is deleted.

## *Article 3*

### **Corrections to Delegated Regulation (EU) 2015/2446**

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

- (1) In Article 37, point 8 is replaced by the following:

‘(8) 'regional cumulation' means a system whereby products which according to this Section originate in a country which is a member of a regional group are considered as materials originating in another country of the same regional group (or a country of another regional group where cumulation between groups is possible) when further processed or incorporated in a product manufactured there;’.
- (2) In Article 128a(2), points (e) and (f) are replaced by the following:

‘(e) that the front of the commercial documents concerned or box ‘C’. Office of departure’ on the front of the forms used for the purposes of compiling the ‘T2L’ or ‘T2LF’ document and, where appropriate, the continuation sheets, shall be:

  - (i) stamped in advance with the stamp of the customs office referred to in point (a) and signed by an official of that office; or



(ii) stamped by the authorised issuer with a special stamp conforming to the specimen in Part II, Chapter II of Annex 72-04 to Implementing Regulation (EU) 2015/2447. The stamp may be pre-printed on the forms where the printing is entrusted to a printer approved for that purpose. Boxes 1 and 2 and 4 to 6 of the special stamp shall be completed with the following information:

- Coat of arms or any other signs or letter characterising the country;
- Competent customs office;
- Date;
- Authorised issuer;
- Authorisation number.

(f) Not later than on consignment of the goods, the authorised issuer shall complete and sign the form. He shall also enter in box 'D'. Control by 'office of departure' of the 'T2L' or 'T2LF' document, or in a clearly identifiable space on the commercial document used, the name of the competent customs office, the date of completion of the document, and one of the following endorsements:

- Одобрен издател
- Emisor autorizado
- Schválený vydavateľ
- Autoriseret udsteder
- Zugelassener Aussteller
- Volitatud väljastaja
- Εγκριμένος εκδότης
- Authorised issuer
- Emetteur agréé
- Ovlaštenog izdavatelja
- Emittente autorizzato
- Atzītais izdevējs
- Įgaliojasis išdavėjas
- Engedélyes kibocsátó
- Emittent awtorizzato
- Toegelaten afgever

- Upoważnionego wystawcę
- Emissor autorizado
- Emitent autorizat
- Schválený vystaviteľ
- Pooblaščenj izdajatelj
- Valtuutettu antaja
- Godkänd utfärdare’.

(3) In Article 150(3), points (a) and (b) are replaced by the following:

‘(a) release for free circulation of goods which are exempt from VAT in accordance with point (d) of Article 143(1) of Directive 2006/112/EC and, where applicable, an excise duty suspension in accordance with Article 17 of Directive 2008/118/EC;

(b) re-import with release for free circulation of goods which is exempt from VAT in accordance with point (d) of Article 143(1) of Directive 2006/112/EC and, where applicable, an excise duty suspension in accordance with Article 17 of Directive 2008/118/EC.’.

#### *Article 4*

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

Article 1(13)(b) and Article 1(16)(b)(i) shall apply from 15 March 2020.

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

Done at Brussels, 3.4.2020

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*