

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down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (repealed)

PART I

GENERAL IMPLEMENTING PROVISIONS

[^{F1}TITLE IIA

AUTHORISED ECONOMIC OPERATORS

CHAPTER 1

Procedure for granting the certificates

Section 1

General provisions

Article 14a

1 Without prejudice to the use of simplifications otherwise provided for under the customs rules, the customs authorities may, following an application by an economic operator and in accordance with Article 5a of the Code, issue the following authorised economic operators' certificates (hereinafter referred to as 'AEO certificates'):

- a an AEO certificate — Customs simplifications in respect of economic operators requesting to benefit from simplifications provided for under the customs rules and who fulfil the conditions laid down in Articles 14h, 14i and 14j;
- b an AEO certificate — Security and safety in respect of economic operators requesting to benefit from facilitations of customs controls relating to security and safety when the goods enter the customs territory of the Community, or when the goods leave the customs territory of the Community and who fulfil the conditions laid down in Articles 14h to 14k;
- c an AEO certificate — Customs Simplifications/security and safety, in respect of economic operators requesting to benefit from the simplifications described in point (a) and from facilitations described in point (b), and who fulfil the conditions laid down in Articles 14h to 14k.

2 The customs authorities shall take due account of the specific characteristics of economic operators, in particular of small and medium-sized companies.

Article 14b

1 If the holder of an AEO certificate referred to in point (a) or (c) of Article 14a(1) applies for one or more of the authorisations referred to in Articles 260, 263, 269, 272, 276, 277, 282, 283, 313a, 313b, 324a, 324e, 372, 454a, 912g, the customs authorities shall not re-examine those conditions which have already been examined when granting the AEO certificate.

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Changes to legislation: There are currently no known outstanding effects for the Commission Regulation (EEC) No 2454/93 (repealed), TITLE IIA. (See end of Document for details)

4 The holder of an AEO certificate shall be subject to fewer physical and document-based controls than other economic operators. The customs authorities may decide otherwise in order to take into account a specific threat, or control obligations set out in other Community legislation.

Where, following risk analysis, the competent customs authority nevertheless selects for further examination a consignment covered by an entry or exit summary declaration or by a customs declaration lodged by an authorised economic operator, it shall carry out the necessary controls as a matter of priority. If the authorised economic operator so requests, and subject to agreement with the customs authority concerned, these controls may be carried out at a place which is different from the place of the customs office involved.

5 The benefits laid down in paragraphs 1 to 4 shall be subject to the economic operator concerned providing the necessary AEO certificate numbers.

Section 2

Application for an AEO certificate

Article 14c

1 Application for an AEO certificate shall be made in writing or in an electronic form in accordance with the specimen set out in Annex 1C.

2 Where the customs authority establishes that the application does not contain all the particulars required, the customs authority shall, within 30 calendar days of receipt of the application, ask the economic operator to supply the relevant information, stating the grounds for its request.

The time limits referred to in Articles 14l(1) and 14o(2) shall run from the date on which the customs authority receives all the necessary information to accept the application. The customs authorities shall inform the economic operator that the application has been accepted and the date from which the time limits will run.

Article 14d

- 1 The application shall be submitted to one of the following customs authorities:
- a the customs authority of the Member State where the applicant's main accounts related to the customs arrangements involved are held, and where at least part of the operations to be covered by the AEO certificate are conducted;
 - b the customs authority of the Member State where the applicant's main accounts related to the customs arrangements involved are accessible in the applicant's computer system by the competent customs authority using information technology and computer networks, and where the applicant's general logistical management activities are conducted, and where at least part of the operations to be covered by the AEO certificate are carried out.

The applicant's main accounts referred to in points (a) and (b) shall include records and documentation enabling the customs authority to verify and monitor the conditions and the criteria necessary for obtaining the AEO certificate.

2 If the competent customs authority can not be determined under paragraph 1, the application shall be submitted to one of the following customs authorities:

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- a the customs authority of the Member State where the applicant's main accounts related to the customs arrangements involved are held;
- b the customs authority of the Member State where the applicant's main accounts related to the customs arrangements involved are accessible, as referred to in paragraph 1(b), and the applicant's general logistical management activities are conducted.

3 If a part of the relevant records and documentation is kept in a Member State other than the Member State of the customs authority to which the application has been submitted pursuant to paragraph 1 or 2, the applicant shall duly complete Boxes 13, 16, 17 and 18 of the application form set out in Annex 1C.

4 If the applicant maintains a storage facility or other premises in a Member State other than the Member State of the customs authority to which the application has been submitted pursuant to paragraph 1 or 2, this information shall be provided by the applicant in Box 13 of the application form set out in Annex 1C, in order to facilitate the examination of the relevant conditions at the storage facility or other premises by the customs authorities of that Member State.

5 The consultation procedure referred to in Article 14m shall apply in the cases referred to in paragraphs 2, 3 and 4 of this Article.

6 The applicant shall provide a readily accessible central point or nominate a contact person within the administration of the applicant, in order to make available to the customs authorities all of the information necessary for proving compliance with the requirements for issuing the AEO certificate.

7 Applicants shall, to the extent possible, submit necessary data to the customs authorities by electronic means.

Article 14e

Member States shall communicate to the Commission a list of their competent authorities, to which applications have to be made, and any subsequent changes thereto. The Commission shall forward such information to the other Member States or make it available on the Internet.

These authorities shall also act as the issuing customs authorities of the AEO certificates.

Article 14f

The application shall not be accepted in any of the following cases:

- (a) the application does not comply with Articles 14c and 14d;
- (b) the applicant has been convicted of a serious criminal offence linked to the economic activity of the applicant or is subject to bankruptcy proceedings at the time of the submission of the application;
- (c) the applicant has a legal representative in customs matters who has been convicted of a serious criminal offence related to an infringement of customs rules and linked to his activity as legal representative;
- (d) the application is submitted within three years after revocation of the AEO certificate as provided for in Article 14v(4).

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Section 3

Conditions and criteria for granting the AEO certificate

Article 14g

An applicant need not be established in the customs territory of the Community in the following cases:

- (a) where an international agreement between the Community and a third country in which the economic operator is established provides for mutual recognition of the AEO certificates and specifies the administrative arrangements for carrying out appropriate controls on behalf of the Member State's customs authority if required;
- (b) where an application for the granting of an AEO certificate referred to in point (b) of Article 14a(1) is made by an airline or a shipping company not established in the Community but which has a regional office there and already benefits from the simplifications laid down in Articles 324e, 445 or 448.

In the case referred to in point (b) of the first paragraph, the applicant shall be deemed to have met the conditions set out in Articles 14h, 14i and 14j, but shall be required to meet the condition set out in Article 14k(2).

Article 14h

1 The record of compliance with customs requirements referred to in the first indent of Article 5a(2) of the Code shall be considered as appropriate if over the last three years preceding the submission of the application no serious infringement or repeated infringements of customs rules have been committed by any of the following persons:

- a the applicant;
- b the persons in charge of the applicant company or exercising control over its management;
- c if applicable, the applicant's legal representative in customs matters;
- d the person responsible in the applicant company for customs matters.

However, the record of compliance with customs requirements may be considered as appropriate if the competent customs authority considers any infringement to be of negligible importance, in relation to the number or size of the customs related operations, and not to create doubts concerning the good faith of the applicant.

2 If the persons exercising control over the applicant company are established or resident in a third country, the customs authorities shall assess their compliance with customs requirements on the basis of records and information that are available to them.

3 If the applicant has been established for less than three years, the customs authorities shall assess his compliance with customs requirements on the basis of the records and information that are available to them.

Article 14i

To enable the customs authorities to establish that the applicant has a satisfactory system of managing commercial and, where appropriate, transport records, as referred to in the second indent of Article 5a(2) of the Code, the applicant shall fulfil the following requirements:

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- (a) maintain an accounting system which is consistent with the generally accepted accounting principles applied in the Member State where the accounts are held and which will facilitate audit-based customs control;
- (b) allow the customs authority physical or electronic access to its customs and, where appropriate, transport records;
- (c) have a logistical system which distinguishes between Community and non-Community goods;
- (d) have an administrative organisation which corresponds to the type and size of business and which is suitable for the management of the flow of goods, and have internal controls capable of detecting illegal or irregular transactions;
- (e) where applicable, have satisfactory procedures in place for the handling of licenses and authorisations connected to commercial policy measures or to trade in agricultural products;
- (f) have satisfactory procedures in place for the archiving of the company's records and information and for protection against the loss of information;
- (g) ensure that employees are made aware of the need to inform the customs authorities whenever compliance difficulties are discovered and establish suitable contacts to inform the customs authorities of such occurrences;
- (h) have appropriate information technology security measures in place to protect the applicant's computer system from unauthorised intrusion and to secure the applicant's documentation.

An applicant requesting the AEO certificate referred to in point (b) of Article 14a(1) shall not be required to fulfil the requirement laid down in point (c) of the first paragraph of this Article.

Article 14j

1 The condition relating to the financial solvency of the applicant referred to in the third indent of Article 5a(2) of the Code shall be deemed to be met if his solvency can be proven for the past three years.

For the purposes of this Article, financial solvency shall mean a good financial standing which is sufficient to fulfil the commitments of the applicant, with due regard to the characteristics of the type of the business activity.

2 If the applicant has been established for less than three years, his financial solvency shall be judged on the basis of records and information that are available.

Article 14k

1 The applicant's security and safety standards referred to in the fourth indent of Article 5a(2) of the Code shall be considered to be appropriate if the following conditions are fulfilled:

- a buildings to be used in connection with the operations to be covered by the certificate are constructed of materials which resist unlawful entry and provide protection against unlawful intrusion;
- b appropriate access control measures are in place to prevent unauthorised access to shipping areas, loading docks and cargo areas;
- c measures for the handling of goods include protection against the introduction, exchange or loss of any material and tampering with cargo units;

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- d where applicable, procedures are in place for the handling of import and/or export licenses connected to prohibitions and restrictions and to distinguish these goods from other goods;
- e the applicant has implemented measures allowing a clear identification of his business partners in order to secure the international supply chain;
- f the applicant conducts, in so far as legislation permits, security screening on prospective employees working in security sensitive positions and carries out periodic background checks;
- g the applicant ensures that its staff concerned actively participate in security awareness programmes.

2 If an airline or shipping company which is not established in the Community, but has a regional office there and benefits from the simplifications laid down in Articles 324e, 445 or 448, submits an application for an AEO certificate referred to in point (b) of Article 14a(1), it shall fulfil one of the following conditions:

- a be the holder of an internationally recognised security and/or safety certificate issued on the basis of the international conventions governing the transport sectors concerned;
- b be a regulated agent, as referred to in Regulation (EC) No 2320/2002 of the European Parliament and of the Council⁽¹⁾, and fulfil the requirements laid down in Commission Regulation (EC) No 622/2003⁽²⁾;
- c be the holder of a certificate issued in a country outside of the customs territory of the Community, where a bilateral agreement concluded between the Community and the third country provides for acceptance of the certificate, subject to the conditions laid down in that agreement.

If the airline or shipping company is the holder of a certificate referred to in point (a) of this paragraph, it shall meet the criteria laid down in paragraph 1. The issuing customs authority shall consider the criteria laid down in paragraph 1 to be met, to the extent that the criteria for issuing the international certificate are identical or correspond to those laid down in paragraph 1.

3 If the applicant is established in the Community and is a regulated agent as referred to in Regulation (EC) No 2320/2002 and fulfils the requirements provided for in Regulation (EC) No 622/2003, the criteria laid down in paragraph 1 shall be deemed to be met in relation to the premises for which the economic operator obtained the status of regulated agent.

4 If the applicant, established in the Community, is the holder of an internationally recognised security and/or safety certificate issued on the basis of international conventions, of a European security and/or safety certificate issued on the basis of Community legislation, of an International Standard of the International Organisation for Standardisation, or of a European Standard of the European Standards Organisations, the criteria provided for in paragraph 1 shall be deemed to be met to the extent that the criteria for issuing these certificates are identical or correspond to those laid down in this Regulation.

Section 4

Procedure for issuing AEO certificates

Article 14l

1 The issuing customs authority shall communicate the application to the customs authorities of all other Member States within five working days starting from the date on which

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it has received the application in accordance with Article 14c using the communication system referred to in Article 14x.

2 Where the customs authority of any other Member State has relevant information which may prejudice the granting of the certificate, it shall communicate that information to the issuing customs authority within 35 calendar days starting from the date of the communication provided for in paragraph 1, using the communication system referred to in Article 14x.

Article 14m

1 Consultation between the customs authorities of the Member States shall be required if the examination of one or more of the criteria laid down in Articles 14g to 14k cannot be performed by the issuing customs authority due either to a lack of information or to the impossibility of checking it. In these cases, the customs authorities of the Member States shall carry out the consultation within 60 calendar days, starting from the date of the communication of the information by the issuing customs authority, in order to allow for the issuing of the AEO certificate or the rejection of the application within the time limits set out in Article 14o(2).

If the consulted customs authority fails to respond within the 60 calendar days, the consulting authority may assume, at the responsibility of the consulted customs authority, that the criteria for which the consultation took place are met. This period may be extended if the applicant carries out adjustments in order to satisfy those criteria and communicates them to the consulted and the consulting authority.

2 Where, following the examination provided for in Article 14n, the consulted customs authority establishes that the applicant does not fulfil one or more of the criteria, the results, duly documented, shall be transferred to the issuing customs authority which shall reject the application. Article 14o(4), (5) and (6) shall apply.

Article 14n

1 The issuing customs authority shall examine whether or not the conditions and criteria for issuing the certificate described in Articles 14g to 14k are met. Examination of the criteria laid down in Article 14k shall be carried out for all the premises which are relevant to the customs related activities of the applicant. The examination as well as its results shall be documented by the customs authority.

Where, in the case of a large number of premises, the period for issuing the certificate would not allow for examination of all of the relevant premises, but the customs authority has no doubt that the applicant maintains corporate security standards which are commonly used in all its premises, it may decide only to examine a representative proportion of those premises.

2 The issuing customs authority may accept conclusions provided by an expert in the relevant fields referred to in Articles 14i, 14j and 14k in respect of the conditions and criteria referred to in those Articles respectively. The expert shall not be related to the applicant.

Article 14o

1 The issuing customs authority shall issue the AEO certificate in accordance with the specimen set out in Annex 1D.

2 The AEO certificate shall be issued within 90 calendar days starting from the date of receipt, in accordance with Article 14c, of the application. Where the customs authority is unable to meet the deadline, this period may be extended by one further period of 30 calendar days. In such cases, the customs authority shall, before the expiry of the period of 90 calendar days, inform the applicant of the reasons for the extension.

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3 The period provided for in the first sentence of paragraph 2 may be extended if, in the course of the examination of the criteria, the applicant carries out adjustments in order to satisfy those criteria and communicates them to the competent authority.

4 Where the result of the examination performed in accordance with Articles 14l, 14m and 14n is likely to lead to the rejection of the application, the issuing customs authority shall communicate the findings to the applicant and provide him with the opportunity to respond within 30 calendar days, before rejecting the application. The period laid down in the first sentence of paragraph 2 shall be suspended accordingly.

5 The rejection of an application shall not lead to the automatic revocation of any existing authorisation issued under the customs rules.

6 If the application is rejected, the customs authority shall inform the applicant of the grounds on which the decision is based. The decision to reject an application shall be notified to the applicant within the time limits laid down in paragraphs (2), (3) and (4).

Article 14p

The issuing customs authority shall, within five working days, inform the customs authorities of the other Member States that an AEO certificate has been issued, using the communication system referred to in Article 14x. Information shall also be provided within the same time limit if the application is rejected.

CHAPTER 2

Legal effects of AEO certificates

Section 1

General provisions

Article 14q

1 The AEO certificate shall take effect on the 10th working day after the date of its issue.

2 The AEO certificate shall be recognised in all Member States.

3 The period of validity of the AEO certificate shall not be limited.

4 The customs authorities shall monitor the compliance with the conditions and criteria to be met by the authorised economic operator.

5 A re-assessment of the conditions and criteria shall be carried out by the issuing customs authority in the following cases:

- a major changes to the relevant Community legislation;
- b reasonable indication that the relevant conditions and criteria are not any longer met by the authorised economic operator.

In the case of an AEO certificate issued to an applicant established for less than three years, close monitoring shall take place during the first year after issue.

Article 14n(2) shall apply.

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The results of the re-assessment shall be made available to the customs authorities of all Member States, using the communication system referred to in Article 14x.

Section 2

Suspension of the status of authorised economic operator

Article 14r

1 The status of authorised economic operator shall be suspended by the issuing customs authority in the following cases:

- a where non-compliance with the conditions or criteria for the AEO certificate has been detected;
- b the customs authorities have sufficient reason to believe that an act, which gives rise to criminal court proceedings and linked to an infringement of the customs rules, has been perpetrated by the authorised economic operator.

However, in the case referred to in point (b) of the first subparagraph, the customs authority may decide not to suspend the status of authorised economic operator if it considers an infringement to be of negligible importance in relation to the number or size of the customs related operations and not to create doubts concerning the good faith of the authorised economic operator.

Before taking a decision, the customs authorities shall communicate their findings to the economic operator concerned. The economic operator concerned shall be entitled to correct the situation and/or express his point of view within 30 calendar days starting from the date of communication.

However, where the nature or the level of the threat to citizens' security and safety, to public health or to the environment so requires, suspension shall take place immediately. The suspending customs authority shall immediately inform the customs authorities of the other Member States, using the communication system referred to in Article 14x, in order to permit them to take appropriate action.

2 If the holder of the AEO certificate does not regularise the situation referred to in point (a) of the first subparagraph of paragraph 1 within the period of 30 calendar days referred to in the third subparagraph of paragraph 1, the competent customs authority shall notify the economic operator concerned that the status of authorised economic operator is suspended for a period of 30 calendar days, to enable the economic operator to take the required measures to regularise the situation. The notification shall also be sent to the customs authorities of the other Member States using the communication system referred to in Article 14x.

3 If the holder of the AEO certificate has committed an act referred to in point (b) of the first subparagraph of paragraph 1, the issuing customs authority shall suspend the status of authorised economic operator for the duration of the court proceedings. It shall notify the holder of the certificate to that effect. Notification shall also be sent to the customs authorities of the other Member States, using the communication system referred to in Article 14x.

4 Where the economic operator concerned has been unable to regularise the situation within 30 calendar days but can provide evidence that the conditions can be met if the suspension period is extended, the issuing customs authority shall suspend the status of authorised economic operator for a further 30 calendar days.

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Article 14s

1 The suspension shall not affect any customs procedure already started before the date of suspension and not yet completed.

2 The suspension shall not automatically affect any authorisation which has been granted without reference to the AEO certificate unless the reasons for the suspension also have relevance for that authorisation.

3 The suspension shall not automatically affect any authorisation for use of a customs simplification which has been granted on the basis of the AEO certificate and for which the conditions are still fulfilled.

4 In the case of an AEO certificate referred to in point (c) of Article 14a(1), if the economic operator concerned fails to fulfil only the conditions laid down in Article 14k, the status of authorised economic operator shall be partially suspended and a new AEO certificate, as referred to in point (a) of Article 14a(1) may be issued at his request.

Article 14t

1 When the economic operator concerned has, to the satisfaction of the customs authorities, taken the necessary measures to comply with the conditions and criteria that have to be met by an authorised economic operator, the issuing customs authority shall withdraw the suspension and inform the economic operator concerned and the customs authorities of the other Member States. The suspension may be withdrawn before the expiry of the time limit laid down in Article 14r(2) or (4).

In the situation referred to in Article 14s (4), the suspending customs authority shall reinstate the suspended certificate. It shall subsequently revoke the AEO certificate referred to in point (a) of Article 14a(1).

2 If the economic operator concerned fails to take the necessary measures within the suspension period provided for in Article 14r(2) or (4), the issuing customs authority shall revoke the AEO certificate and immediately notify the customs authorities of the other Member States, using the communication system referred to in Article 14x.

In the situation referred to in Article 14s (4), the original certificate shall be revoked and only the new AEO certificate as referred to in point (a) of Article 14a(1) issued shall be valid.

Article 14u

1 Where an authorised economic operator is temporarily unable to meet any of the criteria laid down in Article 14a, he may request suspension of the status of authorised economic operator. In such case, the authorised economic operator shall notify the issuing customs authority, specifying the date when he will be able to meet the criteria again. He shall also notify the issuing customs authority of any planned measures and their timescale.

The notified customs authority shall send the notification to the customs authorities of the other Member States using the communication system referred to in Article 14x.

2 If the authorised economic operator fails to regularise the situation within the period set out in his notification, the issuing customs authority may grant a reasonable prolongation, provided that the authorised economic operator has acted in good faith. This prolongation shall be notified to the customs authorities of the other Member States using the communication system referred to in Article 14x.

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In all other cases, the AEO certificate shall be revoked and the issuing customs authority shall immediately notify the customs authorities of the other Member States, using the communication system referred to in Article 14x.

3 If the required measures are not taken within the suspension period, Article 14v shall apply.

Section 3

Revocation of the AEO certificate

Article 14v

1 The AEO certificate shall be revoked by the issuing customs authority in the following cases:

- a where the authorised economic operator fails to take the measures referred to in Article 14t(1);
- b where serious infringements related to customs rules have been committed by the authorised economic operator and there is no further right of appeal;
- c where the authorised economic operator fails to take the necessary measures during the suspension period referred to in Article 14u;
- d upon request of the authorised economic operator.

However, in the case referred to in point (b), the customs authority may decide not to revoke the AEO certificate if it considers the infringements to be of negligible importance in relation to the number or size of the customs related operations and not to create doubts concerning the good faith of the authorised economic operator.

2 Revocation shall take effect from the day following its notification.

In the case of an AEO certificate as referred to in point (c) of Article 14a(1), where the economic operator concerned only fails to fulfil the conditions in Article 14k, the certificate shall be revoked by the issuing customs authority and a new AEO certificate as referred to in point (a) of Article 14a(1) shall be issued.

3 The issuing customs authority shall immediately inform the customs authorities of the other Member States of the revocation of an AEO certificate using the communication system referred to in Article 14x.

4 Apart from cases of revocation referred to in points (c) and (d) of paragraph 1, the economic operator shall not be permitted to submit a new application for an AEO certificate within three years from the date of revocation.

CHAPTER 3

Information exchange

Article 14w

1 The authorised economic operator shall inform the issuing customs authority of all factors arising after the certificate is granted which may influence its continuation or content.

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2 All relevant information at the disposal of the issuing customs authority shall be made available to the customs authorities of the other Member States where the authorised economic operator carries out customs related activities.

3 If a customs authority revokes a specific authorisation granted to an authorised economic operator, on the basis of his AEO certificate, for the use of a particular customs simplification, as provided for in Articles 260, 263, 269, 272, 276, 277, 282, 283, 313a and 313b, 324a, 324e, 372, 454a, 912g, it shall so notify the customs authority which issued the AEO certificate.

Article 14x

1 An electronic information and communication system, defined by the Commission and the customs authorities in agreement with each other, shall be used for the information and communication process between the customs authorities and for information of the Commission and of the economic operators.

2 The Commission and the customs authorities shall, using the system referred to in paragraph 1, store and have access to the following information:

- a the electronically transmitted data of the applications;
- b the AEO certificates, and where applicable, their amendment, revocation, or the suspension of the status of authorised economic operator;
- c all other relevant information.

3 The issuing customs authority shall notify the risk analysis offices in its own Member State of the granting, amendment, revocation of an AEO certificate, or the suspension of the status of authorised economic operator. It shall also inform all issuing authorities of the other Member States.

4 The list of authorised economic operators may be disclosed by the Commission to the public via the Internet with prior agreement of the authorised economic operator concerned. The list shall be updated.]

Textual Amendments

- F1** Inserted by [Commission Regulation \(EC\) No 1875/2006 of 18 December 2006 amending Regulation \(EEC\) No 2454/93 laying down provisions for the implementation of Council Regulation \(EEC\) No 2913/92 establishing the Community Customs Code \(Text with EEA relevance\)](#).

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- (1) [^{F1}OJ L 355, 30.12.2002, p. 1.
- (2) OJ L 89, 5.4.2003, p. 9.]

Textual Amendments

- F1** Inserted by Commission Regulation (EC) No 1875/2006 of 18 December 2006 amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (Text with EEA relevance).

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Changes to legislation:

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