

Regulation (EC) No 648/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code

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EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 13 April 2005

amending Council Regulation (EEC) No 2913/92
establishing the Community Customs Code

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 26, 95, 133 and 135 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽²⁾,

Whereas:

- (1) Council Regulation (EEC) No 2913/92⁽³⁾ lays down the rules for the customs treatment of goods that are imported or to be exported.
- (2) It is necessary to establish an equivalent level of protection in customs controls for goods brought into or out of the customs territory of the Community. In order to achieve this objective, it is necessary to establish an equivalent level of customs controls in the Community and to ensure a harmonised application of customs controls by the Member States, which have principal responsibility for applying these controls. Such controls should be based upon commonly agreed standards and risk criteria for the selection of goods and economic operators in order to minimise the risks to the Community and its citizens and to the Community's trading partners. Member States and the Commission should therefore introduce a Community-wide risk management framework to support a common approach so that priorities are set effectively and resources are allocated efficiently with the aim of maintaining a proper balance between customs controls and the facilitation of legitimate trade. Such a framework should also provide for common criteria and harmonised requirements for authorised economic operators and ensure a harmonised application of such criteria and requirements. The establishment of a risk management framework common to all Member States should not prevent Member States from controlling goods by spot-checks.
- (3) Member States should grant the status of authorised economic operator to any economic operator that meets common criteria relating to the operator's control systems, financial solvency and compliance record. The status of authorised economic operator, once granted by one Member State, should be recognised by the other Member States, but

does not confer the right to benefit automatically in the other Member States from simplifications provided for in the customs rules. However, the other Member States should allow the use of simplifications by authorised economic operators provided they meet all the specific requirements for use of the particular simplifications. In considering a request to use simplifications, the other Member States need not repeat the evaluation of the operator's control systems, financial solvency or compliance record, which will already have been completed by the Member State that granted the operator the status of authorised economic operator, but should ensure that any other specific requirements for use of the particular simplification are met. The use of simplifications in other Member States may also be coordinated by agreement between the customs authorities concerned.

- (4) Simplifications under the customs rules should continue to be without prejudice to customs controls as defined within the Community Customs Code, notably relating to safety and security. Such controls are the responsibility of the customs authorities and, while the status of authorised economic operator should be recognised by those authorities as a factor during risk analysis and in the granting of any facilitation to the economic operator with regard to controls relating to safety and security, the right to control should remain.
- (5) Risk-related information on import and export goods should be shared between the competent authorities of the Member States and the Commission. To this end, a common, secure system should be set up, enabling the competent authorities to access, transfer and exchange this information in a timely and effective manner. Such information may also be shared with third countries where an international agreement so provides.
- (6) The conditions under which information provided by economic operators to customs may be disclosed to other authorities in the same Member State, other Member States, to the Commission, or to authorities in third countries should be specified. For this purpose, it should be clearly indicated that Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁽⁴⁾ and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁽⁵⁾ apply to the processing of personal data by the competent authorities as well as by any other authority receiving data pursuant to the Community Customs Code.
- (7) In order to allow for appropriate risk-based controls, it is necessary to establish the requirement of pre-arrival or pre-departure information for all goods brought into or out of the customs territory of the Community, except for goods passing through by air or ship without a stop within this territory. Such information should be available before the goods are brought into or out of the customs territory of the Community. Different timeframes and rules may be set according to the type of goods, of transport or of economic operator or where international agreements provide for special security

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arrangements. In order to avoid security loopholes, this requirement should also be introduced with regard to goods brought into or out of a free zone.

(8) Regulation (EEC) No 2913/92 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION

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- (1) [OJ C 110, 30.4.2004, p. 72.](#)
- (2) Opinion of the European Parliament of 20 April 2004 (not yet published in the Official Journal), Council Common Position of 29 November 2004 ([OJ C 38 E, 15.2.2005, p. 36](#)) and Position of the European Parliament of 23 February 2005 (not yet published in the Official Journal).
- (3) [OJ L 302, 19.10.1992, p. 1.](#) Regulation as last amended by the 2003 Act of Accession.
- (4) [OJ L 281, 23.11.1995, p. 31.](#) Directive as amended by Regulation (EC) No 1882/2003 ([OJ L 284, 31.10.2003, p. 1](#)).
- (5) [OJ L 8, 12.1.2001, p. 1.](#)

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