

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

## TITLE I

### GENERAL PROVISIONS

#### CHAPTER I

##### *Scope of the customs legislation, mission of customs and definitions*

###### *Article 1*

###### **Definitions**

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'agricultural policy measure' means the provisions related to import and export activities for products which are covered by Annex 71-02, points 1, 2 and 3.;
- (2) 'ATA Carnet' means an international customs document for temporary admission issued in accordance with the ATA Convention or the Istanbul Convention;
- (3) 'ATA Convention' means the Customs Convention on the ATA carnet for the temporary admission of goods done at Brussels on 6 December 1961;
- (4) 'Istanbul Convention' means the Convention on temporary admission done at Istanbul on 26 June 1990;
- (5) 'baggage' means all goods carried by whatever means in relation to a journey of a natural person;
- (6) 'Code' means Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code;
- (7) 'Union airport' means any airport situated in the customs territory of the Union;
- (8) 'Union port' means any sea port situated in the customs territory of the Union;
- (9) 'Convention on a common transit procedure' means the Convention on a common transit procedure<sup>(1)</sup>;
- (10) 'common transit country' means any country, other than a Member State of the Union that is a contracting party to the Convention on a common transit procedure;
- (11) 'third country' means a country or territory outside the customs territory of the Union;
- (12) 'CPD Carnet' means an international customs document used for temporary admission of means of transport issued in accordance with the Istanbul Convention;
- (13) 'customs office of departure' means the customs office where the customs declaration placing goods under a transit procedure is accepted;

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- (14) 'customs office of destination' means the customs office where the goods placed under a transit procedure are presented in order to end the procedure;
- (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 in the customs territory of the Union from a territory outside that territory.
- (16) 'customs office of export' means the customs office where the export declaration or the re-export declaration is lodged for goods being taken out of the customs territory of the Union;
- (17) 'customs office of placement' means customs office indicated in the authorisation for a special procedure as referred to in Article 211(1) of the Code, empowered to release goods for a special procedure;
- (18) 'Economic Operators Registration and Identification number' (EORI number) means an identification number, unique in the customs territory of the Union, assigned by a customs authority to an economic operator or to another person in order to register him for customs purposes;
- (19) [<sup>F1</sup>'exporter' means:
- (a) a private individual carrying goods to be taken out of the customs territory of the Union where these goods are contained in the private individual's personal baggage;
  - (b) in other cases, where (a) does not apply:
    - (i) a person established in the customs territory of the Union, who has the power to determine and has determined that the goods are to be taken out of that customs territory;
    - (ii) where (i) does not apply, any person established in the customs territory of the Union who is a party to the contract under which goods are to be taken out of that customs territory.]
- (20) 'generally accepted accounting principles' means the principles which are recognised or have substantial authoritative support within a country at a particular time as to which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed, and which financial statements should be prepared;
- (21) 'goods of a non-commercial nature' means
- (a) goods contained in consignments sent by one private individual to another, where such consignments:
    - (i) are of an occasional nature;
    - (ii) contain goods exclusively for the personal use of the consignee or his family, which do not by their nature or quantity reflect any commercial interest; and
    - (iii) are sent to the consignee by the consignor free of payment of any kind;
  - (b) goods contained in travellers' personal baggage, where they:

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- (i) are of an occasional nature; and
  - (ii) consist exclusively of goods for the personal use of the travellers or their families, or of goods intended as presents; the nature and quantity of such goods must not be such as might indicate that they are being imported or exported for commercial reasons;
- (22) 'Master Reference Number' (MRN) means the registration number allocated by the competent customs authority to declarations or notifications referred to in Article 5(9) to (14) of the Code, to TIR operations or to proofs of the customs status of Union goods;
- (23) 'period for discharge' means the time by which goods placed under a special procedure, except transit, or processed products must be placed under a subsequent customs procedure, must be destroyed, must have been taken out of the customs territory of the Union or must be assigned to their prescribed end-use. In case of outward processing the period for discharge means the period within which goods temporarily exported may be re-imported into the customs territory of the Union in the form of processed products and placed under release for free circulation, in order to be able to benefit from total or partial relief from import duties;
- (24) 'goods in postal consignment' means goods other than items of correspondence, contained in a postal parcel or package and conveyed under the responsibility of or by a postal operator in accordance with the provisions of the Universal Postal Union Convention adopted on 10 July 1984 under the aegis of the United Nations Organisation;
- (25) 'postal operator' means an operator established in and designated by a Member State to provide the international services governed by the Universal Postal Convention;
- (26) 'items of correspondence' means letters, postcards, braille letters and printed matter not liable to import or export duty;
- (27) 'outward processing IM/EX' means the prior import of processed products obtained from equivalent goods under outward processing before the export of the goods they are replacing, referred to in Article 223(2)(d) of the Code;
- (28) 'outward processing EX/IM' means the export of Union goods under outward processing before the import of processed products;
- (29) 'inward processing EX/IM' means the prior export of processed products obtained from equivalent goods under inward processing before the import of the goods they are replacing, referred to in Article 223(2)(c) of the Code;
- (30) 'inward processing IM/EX' means the import of non-Union goods under inward processing before the export of processed products;
- (31) 'private individual' means natural persons other than taxable persons acting as such as defined by Council Directive 2006/112/EC ;
- (32) 'public customs warehouse type I' means a public customs warehouse where the responsibilities referred to in Article 242(1) of the Code lie with the holder of the authorisation and with the holder of the procedure;

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- (33) 'public customs warehouse type II' means a public customs warehouse where the responsibilities referred to in Article 242(2) of the Code lie with the holder of the procedure;
- (34) 'single transport document' means in the context of customs status a transport document issued in a Member State covering the carriage of the goods from the point of departure in the customs territory of the Union to the point of destination in that territory under the responsibility of the carrier issuing the document;
- (35) 'special fiscal territory' means a part of the customs territory of the Union where the provisions of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax or Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC do not apply;
- (36) 'supervising customs office' means
- (a) in case of temporary storage as referred to in Title IV of the Code or in case of special procedures other than transit as referred to in Title VII of the Code, the customs office indicated in the authorisation to supervise either the temporary storage of the goods or the special procedure concerned;
  - (b) in case of simplified customs declaration, as referred to in Article 166 of the Code, centralised clearance, as referred to in Article 179 of the Code, entry in the records, as referred to in Article 182 of the Code the customs office indicated in the authorisation to supervise the placing of the goods under the customs procedure concerned;
- (37) 'TIR Convention' means the Customs Convention on the International Transport of Goods under cover of TIR carnets done at Geneva on 14 November 1975;
- (38) 'TIR operation' means the movement of goods within the customs territory of the Union in accordance with the TIR Convention;
- (39) 'transhipment' means the loading or unloading of products and goods on board a means of transport to another means of transport;
- (40) 'traveller' means any natural person who:
- (a) enters into the customs territory of the Union temporarily and is not normally resident there, or
  - (b) returns to the customs territory of the Union where he is normally resident, after having been temporarily outside this territory, or
  - (c) temporarily leaves the customs territory of the Union where he is normally resident, or
  - (d) leaves the customs territory of the Union after a temporary stay, without being normally resident there;
- (41) 'waste and scrap' means either of the following:
- (a) goods or products which are classified as waste and scrap in accordance with the Combined Nomenclature;

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- (b) in the context of end-use or inward processing, goods or products resulting from a processing operation, which have no or low economic value and which cannot be used without further processing.
- (42) 'pallet' means a device on the deck of which a quantity of goods can be assembled to form a unit load for the purpose of transporting it, or of handling or stacking it with the assistance of mechanical appliances. This device is made up of two decks separated by bearers, or of a single deck supported by feet; its overall height is reduced to the minimum compatible with handling by fork lift trucks or pallet trucks; it may or may not have a superstructure;
- (43) 'Union factory ship' means a vessel which is registered in a part of a Member State's territory forming part of the customs territory of the Union, flies the flag of a Member State and does not catch products of sea-fishing but does process such products on board;
- (44) 'Union fishing vessel' means a vessel which is registered in a part of a Member State's territory forming part of the customs territory of the Union, flies the flag of a Member State, catches products of sea-fishing and, as the case may be, processes them on board;
- (45) 'regular shipping service' means a service which carries goods in vessels that ply only between Union ports and does not come from, go to or call at any points outside the customs territory of the Union or any points in a free zone of a Union port.

#### **Textual Amendments**

- F1** Substituted by [Commission Delegated Regulation \(EU\) 2018/1063 of 16 May 2018 amending and correcting Delegated Regulation \(EU\) 2015/2446 supplementing Regulation \(EU\) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code.](#)

## *CHAPTER 2*

### *Rights and obligations of persons with regard to the customs legislation*

#### *Section 1*

#### *Provision of information*

#### *Subsection 1*

#### *Common data requirements for data exchange and storage*

#### *Article 2*

#### **Common data requirements(Article 6(2) of the Code)**

1 The exchange and storage of information required for applications and decisions shall be subject to the common data requirements set out in Annex A.

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2 The exchange and storage of information required for declarations, notifications and proof of customs status shall be subject to the common data requirements set out in Annex B.

[<sup>F23</sup> By way of derogation from paragraph 1 of this Article, until the date of deployment of the first phase of the upgrading of the binding tariff information ('BTI') system and the Surveillance 2 system referred to in the Annex to Implementing Decision 2014/255/EU, column 1a of Annex A of this Regulation shall not apply and the respective data requirements set out in Annexes 2 to 5 to Commission Delegated Regulation (EU) 2016/341<sup>(2)</sup> shall apply.

By way of derogation from paragraph 1 of this Article, until the date of the upgrading of the AEO system referred to in the Annex to Implementing Decision 2014/255/EU, column 2 of Annex A of this Regulation shall not apply and the respective data requirements set out in Annexes 6 and 7 to Delegated Regulation (EU) 2016/341 shall apply.

4 By way of derogation from paragraph 2 of this Article, for the IT systems listed in Annex 1 to Delegated Regulation (EU) 2016/341, until the respective dates of deployment or the upgrading of the relevant IT systems referred to in the Annex to Implementing Decision 2014/255/EU, the common data requirements set out in Annex B of this Regulation shall not apply.

For the IT systems listed in Annex 1 to Delegated Regulation (EU) 2016/341, until the respective dates of deployment or the upgrading of the relevant IT systems referred to in the Annex to Implementing Decision 2014/255/EU, the exchange and storage of information required for declarations, notifications and proof of customs status shall be subject to the data requirements set out in Annex 9 to Delegated Regulation (EU) 2016/341.

Where the data requirements for the exchange and storage of information required for declarations, notifications and proof of customs status are not set out in Annex 9 to Delegated Regulation (EU) 2016/341, Member States shall ensure that the respective data requirements are such as to warrant that the provisions governing those declarations, notifications and proof of customs status can be applied.

5 Until the date of deployment of the UCC Customs Decisions system referred to in the Annex to Implementing Decision 2014/255/EU, customs authorities may decide that appropriate alternative data requirements to those laid down in Annex A of this Regulation are to apply in respect of the following applications and authorisations:

- a Applications and authorisations relating to the simplification for the determination of amounts being part of the customs value of the goods;
- b Applications and authorisations relating to comprehensive guarantees;
- c Applications and authorisations for deferred payment;
- d Applications and authorisations for the operation of temporary storage facilities as referred to in Article 148 of the Code;
- e Applications and authorisations for regular shipping services;
- f Applications and authorisations for authorised issuer;
- g Applications and authorisations for the status of authorised weigher of bananas;
- h Applications and authorisations for self-assessment;
- i Applications and authorisations for the status of authorised consignee for TIR operations;
- j Applications and authorisations for the status of authorised consignor for Union transit;
- k Applications and authorisations for the status of authorised consignee for Union transit;
- l Applications and authorisations for the use of seals of a special type;

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- m Applications and authorisations for the use of a transit declaration with reduced dataset;
- n Applications and authorisations for the use of an electronic transport document as customs declaration.

6 Where a Member State decides in accordance with paragraph 5 that alternative data requirements are to apply, it shall ensure that those alternative data requirements allow the Member State to verify that the conditions for granting the authorisation concerned are fulfilled, and that they include at least the following requirements:

- a The identification of the applicant/holder of the authorisation (data element 3/2 Applicant/Holder of the authorisation or decision identification or, where lacking a valid EORI number of the applicant, data element 3/1 Applicant/Holder of the authorisation or decision);
- b The type of application or authorisation (data element 1/1 Application/Decision code type);
- c The use of the authorisation in one or more Member States (data element 1/4 Geographical validity — Union), where applicable.

7 Until the date of deployment of the UCC Customs Decisions system, customs authorities may allow that the data requirements for applications and authorisations set out in Annex 12 to Delegated Regulation (EU) 2016/341 shall apply instead of the data requirements laid down in Annex A to this Regulation for the following procedures:

- a Applications and authorisations for the use of simplified declaration;
- b Applications and authorisations for centralised clearance;
- c Applications and authorisations for entry of data in the declarant's records;
- d Applications and authorisations for the use of inward processing;
- e Applications and authorisations for the use of outward processing;
- f Applications and authorisations for the use of end use;
- g Applications and authorisations for the use of temporary admission;
- h Applications and authorisations for the operation of storage facilities for customs warehousing;

8 Notwithstanding paragraph 7, until the dates of deployment of the UCC Automated Export System (AES) or of the upgrading of the National Import Systems, where an application for an authorisation is based on a customs declaration in accordance with Article 163(1) of this Regulation, the customs declaration shall also contain the following data:

- a Data requirements common to all procedures:
  - Nature of the processing or use of the goods;
  - Technical descriptions of the goods and/or processed products and means of identifying them;
  - Estimated period for discharge;
  - Proposed office of discharge (not for end-use); and
  - Place of processing or use.
- b Specific data requirements for inward processing:
  - Codes of economic conditions referred to in the Appendix to Annex 12 of Delegated Regulation (EU) 2016/341;
  - Estimated rate of yield or method by which that rate is to be determined; and
  - Whether the calculation of the amount of import duty should be made in accordance with Article 86(3) of the Code (indicate 'yes' or 'no').]

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#### Textual Amendments

- F2** Inserted by [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.](#)

### *Subsection 2*

#### ***Registration of persons with the customs authorities***

#### *Article 3*

#### **Data content of EORI record(Article 6(2) of the Code)**

At the time of registration of a person, the customs authorities shall collect and store the data laid down in Annex 12-01 concerning that person. That data shall constitute the EORI record.

[<sup>F2</sup>By way of derogation from the first paragraph, until the date of the upgrading of the EORI system provided for in the Annex to Implementing Decision 2014/255/EU, the common data requirements set out in Annex 12-01 shall not apply.

Until the date of the upgrading of the EORI system, Member States shall collect and store the following data as set out in Annex 9, Appendix E to Delegated Regulation (EU) 2016/341, which shall constitute the EORI record:

- (a) data listed in points 1 to 4 of Annex 9, Appendix E to Delegated Regulation (EU) 2016/341;
- (b) where required by national systems, the data listed in points 5 to 12 of the Annex 9, Appendix E to Delegated Regulation (EU) 2016/341.

Member States shall upload the data collected in accordance with the third paragraph of this Article on a regular basis to the EORI system.

By way of derogation from the second and third paragraph of this Article, it shall be optional for Member States to collect the data element listed in Title I, Chapter 3, Point 4 to Annex 12-01. Where that element is collected by Member States, it shall be uploaded to the EORI system as soon as possible after the upgrading of that system.]

#### Textual Amendments

- F2** Inserted by [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.](#)



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#### Article 4

### Submission of particulars for EORI registration(Article 6(4) of the Code)

Customs authorities may allow persons to submit the particulars necessary for the EORI registration by means other than electronic data-processing techniques.

#### Article 5

### Economic operators not established in the customs territory of the Union(Article 22(2) and 9(2) of the Code)

1 An economic operator not established in the customs territory of the Union shall register before:

- a lodging a customs declaration in the customs territory of the Union other than the following declarations:
    - (i) a customs declaration made in accordance with Articles 135 to 144;
    - (ii) a customs declaration for placing goods under the temporary admission procedure or a re-export declaration to discharge that procedure;
    - (iii) a customs declaration made under the Convention on a common transit procedure<sup>(3)</sup> by an economic operator established in a common transit country;
    - (iv) a customs declaration made under the Union transit procedure by an economic operator established in Andorra or in San Marino;
  - b lodging an exit or entry summary declaration in the customs territory of the Union;
  - c lodging a temporary storage declaration in the customs territory of the Union;
  - d acting as a carrier for the purposes of transport by sea, inland waterway or air;
  - e acting as a carrier who is connected to the customs system and wishes to receive any of the notifications provided for in the customs legislation regarding the lodging or amendment of entry summary declarations<sup>[F1;]</sup>
- [F3f requesting registration and endorsement of proof of customs status of Union goods.]

2 Notwithstanding paragraph 1(a)(ii), economic operators not established in the customs territory of the Union shall register with the customs authorities before lodging a customs declaration for placing goods under the temporary admission procedure or a re-export declaration to discharge that procedure where registration is required for the use of the common guarantee management system.

3 Notwithstanding paragraph 1(a)(iii), economic operators established in a common transit country shall register with the customs authorities before lodging a customs declaration under the Convention on a common transit procedure where that declaration is lodged instead of an entry summary declaration or is used as a pre-departure declaration.

4 Notwithstanding paragraph 1(a)(iv), economic operators established in Andorra or in San Marino shall register with the customs authorities before lodging a customs declaration made under the Union transit procedure where that declaration is lodged instead of an entry summary declaration or is used as a pre-departure declaration.

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5 By derogation from paragraph 1(d), an economic operator acting as a carrier for the purposes of transport by sea, inland waterway or air shall not register with the customs authorities where he has been assigned a third country unique identification number in the framework of a third country traders' partnership programme which is recognised by the Union.

6 Where registration is required in accordance with this Article, it shall be done with the customs authorities responsible for the place where the economic operator lodges a declaration or applies for a decision.

#### **Textual Amendments**

- F1** Substituted by Commission Delegated Regulation (EU) 2018/1063 of 16 May 2018 amending and correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code.
- F3** Inserted by Commission Delegated Regulation (EU) 2018/1063 of 16 May 2018 amending and correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code.

### *Article 6*

#### **Persons other than economic operators(Article 9(3) of the Code)**

1 Persons other than economic operators shall register with the customs authorities where one of the following conditions is met:

- a such registration is required by the legislation of a Member State;
- b the person engages in operations for which an EORI number must be provided pursuant to Annex A and Annex B.

2 By way of derogation from paragraph 1, where a person other than an economic operator only occasionally lodges customs declarations, and the customs authorities consider this to be justified, registration shall not be required.

### *Article 7*

#### **Invalidation of an EORI number(Article 9(4) of the Code)**

1 The customs authorities shall invalidate a EORI number in any of the following cases:

- a upon request by the registered person;
- b when the customs authority is aware that the registered person has ceased the activities requiring the registration.

2 The customs authority shall record the date of invalidation of the EORI number and shall notify it to the registered person.

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## Section 2

### **Decisions relating to the application of the customs legislation**

#### *[<sup>F3</sup>Subsection 0*

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

##### Article 7a

#### **Applications and decisions made by means other than electronic data-processing techniques(Article 6(3)(a) of the Code)**

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

##### Subsection 1

#### **Right to be heard**

##### Article 8

#### **Period for the right to be heard(Article 22(6) of the Code)**

1 The period for the applicant to express his point of view before a decision which would adversely affect him is taken shall be 30 days.

2 Notwithstanding paragraph 1, where the decision pertains to the results of the control of goods for which no summary declaration, temporary storage declaration, re-export declaration or customs declaration has been lodged, the customs authorities may require the person concerned to express his point of view within 24 hours.

##### Article 9

#### **Means for the communication of the grounds(Article 6(3)(a) of the Code)**

Where the communication referred to in the first subparagraph of Article 22(6) of the Code is made as part of the process of verification or control, the communication may be made using means other than electronic data-processing techniques.

Where the application is submitted or the decision is notified using means other than electronic data-processing techniques, the communication may be made using the same means.

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### Article 10

#### **Exceptions to the right to be heard(Article 22(6), 2nd subparagraph of the Code)**

The specific cases where the applicant is not given an opportunity to express his point of view shall be the following:

- (a) [F1 where the application for a decision is not accepted in accordance with Article 11 of this Regulation or with the second subparagraph of Article 12(2) of Commission Implementing Regulation (EU) 2015/2447<sup>(4)</sup>.]
- (b) where the customs authorities notify the person who lodged the entry summary declaration that the goods are not to be loaded in the case of containerised maritime traffic and of air traffic;
- (c) where the decision concerns a notification to the applicant of a Commission decision as referred to in Article 116(3) of the Code;
- (d) where an EORI number is to be invalidated.

#### **Textual Amendments**

- F1** Substituted by [Commission Delegated Regulation \(EU\) 2018/1063 of 16 May 2018 amending and correcting Delegated Regulation \(EU\) 2015/2446 supplementing Regulation \(EU\) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code.](#)

### Subsection 2

#### **General rules on decisions taken upon application**

### Article 11

#### **Conditions for the acceptance of an application(Article 22(2) of the Code)**

1 An application for a decision relating to the application of the customs legislation shall be accepted provided that the following conditions are met:

- a where required under the procedure which the application concerns, the applicant is registered in accordance with Article 9 of the Code;
- b where required under the procedure which the application concerns, the applicant is established in the customs territory of the Union;
- c the application has been submitted to a customs authority designated to receive applications in the Member State of the competent customs authority referred to in the third subparagraph of Article 22(1) of the Code;
- d the application does not concern a decision with the same purpose as a previous decision addressed to the same applicant which, during the one year period preceding the application, was annulled or revoked on the grounds that the applicant failed to fulfil an obligation imposed under that decision.

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2 By way of derogation from paragraph 1(d), the period referred to therein shall be three years where the previous decision was annulled in accordance with Article 27(1) of the Code, or the application is an application for the status of authorised economic operator submitted in accordance with Article 38 of the Code.

#### *Article 12*

### **Customs authority competent to take the decision(Article 22(1) of the Code)**

Where it is not possible to determine the competent customs authority in accordance with the third subparagraph of Article 22(1) of the Code, the competent customs authority shall be that of the place where the applicant's records and documentation enabling the customs authority to take a decision (main accounts for customs purposes) are held or accessible.

#### *Article 13*

### **Extension of the time-limit for taking a decision(Article 22(3) of the Code)**

1 Where, after acceptance of the application, the customs authority competent to take the decision considers it necessary to ask for additional information from the applicant in order to reach its decision, it shall set a time-limit that shall not exceed 30 days for the applicant to provide that information. The time-limit for taking a decision laid down in Article 22(3) of the Code shall be extended by that period of time. The applicant shall be informed of the extension of the time-limit for taking a decision.

2 Where Article 8(1) is applied, the time-limit for taking the decision laid down in Article 22(3) of the Code shall be extended by a period of 30 days. The applicant shall be informed of the extension.

3 Where the customs authority competent to take the decision has extended the period for consultation of another customs authority, the time-limit for taking the decision shall be extended by the same period of time as the extension of the consultation period. The applicant shall be informed of the extension of the time-limit for taking a decision.

4 Where there are serious grounds for suspecting an infringement of customs legislation and the customs 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.

#### *Article 14*

### **Date of effect(Article 22(4) and (5) of the Code)**

The decision shall take effect from a date which is different from the date on which the applicant receives it or is deemed to have received it in the following cases:

- (a) where the decision will favourably affect the applicant and the applicant has requested a different date of effect, in which case the decision shall take effect from the date requested by the applicant provided it is subsequent to the date on which the applicant receives the decision or is deemed to have received it;

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- (b) where a previous decision has been issued with a limitation of time and the sole aim of the current decision is to extend its validity, in which case the decision shall take effect from the day after the expiry of the period of validity of the former decision;
- (c) where the effect of the decision is conditional on the completion of certain formalities by the applicant, in which case the decision shall take effect from the day on which the applicant receives, or is deemed to have received, the notification from the competent customs authority stating that the formalities have been satisfactorily completed.

#### *Article 15*

#### **Re-assessment of a decision(Article 23(4)(a) of the Code)**

1 The customs authority competent to take the decision shall re-assess a decision in the following cases:

- a where there are changes to the relevant Union legislation affecting the decision;
- b where necessary as a result of the monitoring carried out;
- c where necessary due to information provided by the holder of the decision in accordance with Article 23(2) of the Code or by other authorities.

2 The customs authority competent to take the decision shall communicate the result of the re-assessment to the holder of the decision.

#### *Article 16*

#### **Suspension of a decision(Article 23(4)(b) of the Code)**

1 The customs authority competent to take the decision shall suspend the decision instead of annulling, revoking or amending it in accordance with Articles 23(3), 27 or 28 of the Code where:

- a that customs authority considers that there may be sufficient grounds for annulling, revoking or amending the decision, but does not yet have all necessary elements to decide on the annulment, revocation or amendment;
- b that customs authority considers that the conditions for the decision are not fulfilled or that the holder of the decision does not comply with the obligations imposed under that decision, and it is appropriate to allow the holder of the decision time to take measures to ensure the fulfilment of the conditions or the compliance with the obligations;
- c the holder of the decision requests such suspension because he is temporarily unable to fulfil the conditions laid down for the decision or to comply with the obligations imposed under that decision.

2 In cases referred to in points (b) and (c) of paragraph 1, the holder of the decision shall notify the customs authority competent to take the decision of the measures he will take to ensure the fulfilment of the conditions or compliance with the obligations, as well as the period of time he needs to take those measures.

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## Article 17

### Period of suspension of a decision(Article 23(4)(b) of the Code)

1 In cases referred to in Article 16(1)(a) the period of suspension determined by the competent customs authority shall correspond to the period of time needed by that customs authority to establish whether the conditions for an annulment, revocation or amendment are fulfilled. That period cannot exceed 30 days.

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 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 person responsible for customs matters in the company which is the holder of the decision concerned.

2 In cases referred to in Article 16(1)(b) and (c), the period of suspension determined by the customs authority competent to take the decision shall correspond to the period of time notified by the holder of the decision in accordance with Article 16(2). The period of suspension may where appropriate be further extended at the request of the holder of the decision.

The period of suspension may be further extended by the period of time needed by the competent customs authority to verify that those measures ensure fulfilment of the conditions or compliance with the obligations. That period of time shall not exceed 30 days.

3 Where, following the suspension of a decision, the customs authority competent to take the decision intends to annul, revoke or amend that decision in accordance with Articles 23(3), 27 or 28 of the Code, the period of suspension, as determined in accordance with paragraphs 1 and 2 of this Article, shall be extended, where appropriate, until the decision on annulment, revocation or amendment takes effect.

## Article 18

### End of the suspension(Article 23(4)(b) of the Code)

1 A suspension of a decision shall end at the expiry of the period of suspension unless before the expiry of that period any of the following situations occurs:

- a the suspension is withdrawn on the basis that, in the cases referred to in Article 16(1) (a), there are no grounds for the annulment, revocation or amendment of the decision in accordance with Articles 23(3), 27 or 28 of the Code, in which case the suspension shall end on the date of withdrawal;
- b the suspension is withdrawn on the basis that, in cases referred to in Article 16(1) (b) and (c), the holder of the decision has taken, to the satisfaction of the customs authority competent to take the decision, the necessary measures to ensure fulfilment of the conditions laid down for the decision or compliance with the obligations imposed under that decision, in which case the suspension shall end on the date of withdrawal;

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- c the suspended decision is annulled, revoked or amended, in which case the suspension shall end on the date of annulment, revocation or amendment.
- 2 The customs authority competent to take the decision shall inform the holder of the decision of the end of the suspension.

### *Subsection 3*

#### ***Decisions relating to binding information***

#### *Article 19*

#### **Application for a decision relating to binding information(Article 22(1), 3rd subparagraph and Article 6(3)(a) of the Code)**

- 1 By way of derogation from the third subparagraph of Article 22(1) of the Code, an application for a decision relating to binding information and any documents accompanying or supporting it shall be submitted either to the competent customs authority in the Member State in which the applicant is established, or to the competent customs authority in the Member State in which the information is to be used.
- 2 By submitting an application for a decision relating to binding information, the applicant shall be considered to agree to all data of the decision, including any photographs, images and brochures, with the exception of confidential information, being disclosed to the public via the internet site of the Commission. Any public disclosure of data shall respect the right to personal data protection.
- 3 Where there is no electronic system in place for the submission of applications for a decision relating to binding origin information (BOI), Member States may allow for those applications to be submitted using means other than electronic data-processing techniques.

#### *Article 20*

#### **Time-limits(Article 22(3) of the Code)**

- 1 Where the Commission notifies the customs authorities that the taking of BTI and BOI decisions is suspended in accordance with Article 34(10)(a) of the Code, the time-limit for taking the decision referred to in the first subparagraph of Article 22(3) of the Code shall be further extended until the Commission notifies the customs authorities that the correct and uniform tariff classification or determination of origin is ensured.

That extended period referred to in subparagraph 1 shall not exceed 10 months, but in exceptional circumstances an additional extension not exceeding 5 months may be applied.

- 2 The period of time referred to in the second subparagraph of Article 22(3) of the Code may exceed 30 days where it is not possible within that period to complete an analysis which the customs authority competent to take a decision considers necessary in order to take that decision.



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### *Article 21*

#### **Notification of BOI decisions(Article 6(3)(a) of the Code)**

Where an application for a BOI decision has been submitted using means other than electronic data-processing techniques, the customs authorities may notify the applicant of the BOI decision using means other than electronic data-processing techniques.

### *Article 22*

#### **Limitation of application of rules on re-assessment and suspension(Article 23(4) of the Code)**

Articles 15 to 18 concerning the re-assessment and suspension of decisions shall not apply to decisions relating to binding information.

### *Section 3*

#### ***Authorised economic operator***

### *Subsection 1*

#### ***Benefits resulting from the status of authorised economic operator***

### *Article 23*

#### **Facilitations regarding pre-departure declarations(Article 38(2)(b) of the Code)**

1 Where an economic operator authorised for security and safety as referred to in Article 38(2)(b) of the Code (AEOS) lodges on his own behalf a pre-departure declaration in the form of a customs declaration or a re-export declaration, no other particulars than those stated in those declarations shall be required.

2 Where an AEOS lodges on behalf of another person who is also an AEOS a pre-departure declaration in the form of a customs declaration or a re-export declaration, no other particulars than those stated in those declarations shall be required.

### *Article 24*

#### **More favourable treatment regarding risk assessment and control(Article 38(6) of the Code)**

1 An authorised economic operator (AEO) shall be subject to fewer physical and document-based controls than other economic operators.

2 Where an AEOS has lodged an entry summary declaration or, in the cases referred to in Article 130 of the Code, a customs declaration or a temporary storage declaration or where an AEOS has lodged a notification and given access to the particulars related to his entry summary

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declaration in his computer system as referred to in Article 127(8) of the Code, the customs office of first entry referred to in the first subparagraph of Article 127(3) of the Code shall, where the consignment has been selected for physical control, notify that AEOS of that fact. That notification shall take place before the arrival of the goods in the customs territory of the Union.

That notification shall be made available also to the carrier if different from the AEOS referred to in the first subparagraph, provided that the carrier is an AEOS and is connected to the electronic systems relating to the declarations referred to in the first subparagraph.

That notification shall not be provided where it may jeopardise the controls to be carried out or the results thereof.

3 Where an AEO lodges a temporary storage declaration or a customs declaration in accordance with Article 171 of the Code, the customs office competent to receive that temporary storage declaration or that customs declaration shall, where the consignment has been selected for customs control, notify the AEO of that fact. That notification shall take place before the presentation of the goods to customs.

That notification shall not be provided where it may jeopardise the controls to be carried out or the results thereof.

4 Where consignments declared by an AEO have been selected for physical or document-based control, those controls shall be carried out as a matter of priority.

On request from an AEO the controls may be carried out at a place other than the place where the goods have to be presented to customs.

5 The notifications referred to in paragraphs 2 and 3 shall not concern the customs controls decided on the basis of the temporary storage declaration or the customs declaration after the presentation of the goods.

#### *Article 25*

#### **Exemption from favourable treatment(Article 38(6) of the Code)**

The more favourable treatment referred to in Article 24 shall not apply to any customs controls related to specific elevated threat levels or control obligations set out in other Union legislation.

However, customs authorities shall carry out the necessary processing, formalities and controls for consignments declared by an AEOS as a matter of priority.

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## *Subsection 2*

### ***Application for the status of authorised economic operator***

#### *Article 26*

#### **Conditions for the acceptance of an application for the status of AEO(Article 22(2) of the Code)**

1 In addition to the conditions for the acceptance of an application provided for in the Article 11(1), in order to apply for the status of AEO the applicant shall submit a self-assessment questionnaire, which the customs authorities shall make available, together with the application.

2 An economic operator shall submit one single application for the status of AEO covering all its permanent business establishments in the customs territory of the Union.

#### *Article 27*

#### **Competent customs authority(Third subparagraph of Article 22(1) of the Code)**

Where the competent customs authority cannot be determined in accordance with the third subparagraph of Article 22(1) of the Code or Article 12 of this Regulation, the application shall be submitted to the customs authorities of the Member State where the applicant has a permanent business establishment and where the information about its general logistical management activities in the Union is kept or is accessible as indicated in the application.

#### *Article 28*

#### **Time-limit for taking decisions(Article 22(3) of the Code)**

1 The time-limit for taking the decision referred to in the first subparagraph of Article 22(3) of the Code may be extended by a period of up to 60 days.

2 Where criminal proceedings are pending which give rise to doubts whether the applicant fulfils the conditions referred to in Article 39(a) of the Code, the time-limit to take the decision shall be extended by the time necessary to complete those proceedings.

#### *Article 29*

#### **Date of effect of the AEO authorisation(Article 22(4) of the Code)**

By way of derogation from Article 22(4) of the Code, the authorisation granting the status of AEO ('AEO authorisation') shall take effect on the fifth day after the decision is taken.

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### *Article 30*

#### **Legal effects of suspension(Article 23(4)(b) of the Code)**

1 Where an AEO authorisation is suspended due to the non-compliance with any of the criteria referred to in Article 39 of the Code, any decision taken with regard to that AEO which is based on the AEO authorisation in general or on any of the specific criteria which led to the suspension of the AEO authorisation, the customs authority having taken that decision shall suspend it.

2 The suspension of a decision relating to the application of the customs legislation taken with regard to an AEO shall not lead to the automatic suspension of the AEO authorisation.

3 Where a decision relating to a person who is both an AEOS and an economic operator authorised for customs simplifications as referred to in Article 38(2)(a) of the Code (AEOC) is suspended in accordance with Article 16(1) due to non-fulfilment of the conditions laid down in Article 39(d) of the Code, his AEOC authorisation shall be suspended, but his AEOS authorisation shall remain valid.

Where a decision relating to a person who is both an AEOS and an AEOC is suspended in accordance with Article 16(1) due to non-fulfilment of the conditions laid down in Article 39(e) of the Code, his AEOS authorisation shall be suspended, but his AEOC authorisation shall remain valid.

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- (1) OJ L 226, 13.8.1987, p. 2.
- (2) [<sup>F2</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).]
- (3) OJ L 226, 13.8.1987, p. 2.
- (4) [<sup>F1</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).]

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#### **Textual Amendments**

- F1** Substituted by Commission Delegated Regulation (EU) 2018/1063 of 16 May 2018 amending and correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code.
- F2** Inserted by 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.

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