

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 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.

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.

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.

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⁽¹⁾ 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.

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.

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.

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.

Section 2

Decisions relating to the application of the customs legislation

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.

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) where the application for a decision does not fulfil the conditions laid down in Article 11 ;
- (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.

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.

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:

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- (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;
- (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.

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.

*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.

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.

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.

(1) [OJ L 226, 13.8.1987, p. 2.](#)