

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

TITLE I

GENERAL PROVISIONS

CHAPTER I

Scope of the customs legislation, mission of customs and definitions

Article 1

Definitions

1 For the purposes of this Regulation, Article 1 of Commission Delegated Regulation (EU) 2015/2446⁽¹⁾ shall apply.

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

- (1) ‘cabin baggage’ means, in the case of air travel, the baggage that the natural person takes with him into and out of the aircraft cabin;
- (2) ‘customs office of presentation’ means the customs office competent for the place where the goods are presented;
- (3) ‘hold baggage’, in the case of air travel, means the baggage that has been checked in at the airport of departure and is not accessible to the natural person during the flight nor, where relevant, during any stopovers;
- (4) ‘identical goods’ means, in the context of customs valuation, goods produced in the same country which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance shall not preclude goods otherwise conforming to the definition from being regarded as identical;
- (5) ‘international Union airport’ means any Union airport which, having been so authorised by the customs authority, is approved for air traffic with territories outside of the customs territory of the Union;
- (6) ‘intra-Union flight’ means the movement of an aircraft between two Union airports, without any stopover, which does not start from or end at a non-Union airport;
- (7) ‘main processed products’ means the processed products for which the authorisation for inward processing has been granted;
- (8) ‘marketing activities’ means, in the context of customs valuation, all activities relating to advertising or marketing and promoting the sale of the goods in question and all activities relating to warranties or guarantees in respect of them;

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- (9) ‘secondary processed products’ means processed products which are a necessary by-product of the processing operation other than the main processed products;
- (10) ‘business or tourist aircraft’ means private aircraft intended for journeys whose itinerary depends on the wishes of the user;
- (11) ‘public customs warehouse type III’ means a customs warehouse which is operated by the customs authorities;
- (12) ‘fixed transport installation’ means technical means used for continuous transport of goods such as electricity, gas and oil;
- (13) ‘customs office of transit’ means either of the following:
- (a) the customs office competent for the point of exit from the customs territory of the Union when the goods are leaving that territory in the course of a transit operation via a frontier with a territory outside the customs territory of the Union other than a common transit country;
 - (b) the customs office competent for the point of entry into the customs territory of the Union when the goods have crossed a territory outside the customs territory of the Union in the course of a transit operation;
- (14) ‘similar goods’, in the context of customs valuation, means goods produced in the same country, which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable; the quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar.

CHAPTER 2

Rights and obligations of persons with regard to the customs legislation

Section 1

Provision of information

Subsection 1

Formats and codes of common data requirements, data-exchange and storage

Article 2

Formats and codes for common data requirements(Article 6(2) of the Code)

1 The formats and codes for the common data requirements referred to in Article 6(2) of the Code and in Article 2 of Delegated Regulation (EU) 2015/2446 for the exchange and storage of information required for applications and decisions are set out in Annex A.

2 The formats and codes for the common data requirements referred to in Article 6(2) of the Code and in Article 2 of Delegated Regulation (EU) 2015/2446 for the exchange and

storage of information required for declarations, notifications and proof of customs status are set out in Annex B.

3 By way of derogation from paragraph 1 of this Article, until the date of deployment of the first phase of the upgrading of the BTI system and the Surveillance 2 system, the codes and formats of Annex A shall not apply and the respective codes and formats shall be those set out in Annexes 2-5 to Commission Delegated Regulation (EU) .../..., establishing transitional rules for certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council, laying down the Union Customs Code where the relevant electronic systems are not yet operational⁽²⁾.

By way of derogation from paragraph 1 of this Article, until the date of the upgrading of the AEO system, the codes and formats of Annex A shall not apply and the respective codes and formats shall be those set out in Annexes 6-7 to Delegated Regulation (EU) .../..., establishing transitional rules for certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council, laying down the Union Customs Code where the relevant electronic systems are not yet operational.

By way of derogation from paragraph 2 of this Article, until the dates of deployment or upgrading of the relevant IT systems as set out in Annex 1 to Delegated Regulation (EU) .../..., establishing transitional rules for certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council, laying down the Union Customs Code where the relevant electronic systems are not yet operational the formats and codes set out in Annex B shall be optional for Member States.

Until the dates of deployment or upgrading of the relevant IT systems as set out in Annex 1 to Delegated Regulation (EU) .../..., establishing transitional rules for certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council, laying down the Union Customs Code where the relevant electronic systems are not yet operational the formats and codes 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) .../..., establishing transitional rules for certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council, laying down the Union Customs Code where the relevant electronic systems are not yet operational.

Until the respective dates of the deployment of the UCC Automated Export System and the upgrading of the National Import Systems, as referred to in the Annex to Commission Implementing Decision 2014/255/EU⁽³⁾, Member States shall ensure that the codes and formats for the notification of presentation allow the presentation of goods in accordance with Article 139 of the Code.

4 Until the date of deployment of the UCC Customs Decisions system, the formats and codes laid down for the following applications and authorisations in Annex A are optional to Member States:

- 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 use of simplified declaration;

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- h Applications and authorisations for centralised clearance;
- i Applications and authorisations for entry of data in the declarant's records;
- j Applications and authorisations for self-assessment;
- k Application and authorisation for the status of authorised weigher of bananas;
- l Applications and authorisations for the use of inward processing;
- m Applications and authorisations for the use of outward processing;
- n Applications and authorisations for the use of end use;
- o Applications and authorisations for the use of temporary admission;
- p Applications and authorisations for the operation of storage facilities for customs warehousing;
- q Applications and authorisations for the status of authorised consignee for TIR operations;
- r Applications and authorisations for the status of authorised consignor for Union transit;
- s Applications and authorisations for the status of authorised consignee for Union transit;
- t Applications and authorisations for the use of seals of a special type;
- u Applications and authorisations for the use of a transit declaration with reduced dataset;
- v Applications and authorisations for the use of an electronic transport document as customs declaration.

Where Member States waive certain codes and formats during the transitional period, they shall ensure that they have implemented effective procedures that allow them to verify that the conditions for granting the authorisation concerned are fulfilled.

Article 3

Security of electronic systems(Article 16(1) of the Code)

1 When developing, maintaining and employing electronic systems referred to in Article 16(1) of the Code the Member States shall establish and maintain adequate security arrangements for the effective, reliable and secure operation of the various systems. They shall also ensure that measures are in place for checking the source of data and for protecting data against the risk of unauthorised access, loss, alteration or destruction.

2 Each input, modification and deletion of data shall be recorded together with information giving the reason for, and exact time of, such processing and identifying the person who carried it out.

3 The Member States shall inform each other, the Commission and, where appropriate, the economic operator concerned of all actual or suspected breaches of security of the electronic systems.

Article 4

Storage of data(Article 16(1) of the Code)

All data validated by the relevant electronic system shall be kept for at least 3 years from the end of the year in which such data was validated, unless otherwise specified.

Article 5

Availability of electronic systems(Article 16(1) of the Code)

1 The Commission and the Member States shall conclude operational agreements laying down the practical requirements for the availability and performance of the electronic systems as well as for business continuity.

2 Operational agreements referred to in paragraph 1 shall in particular lay down appropriate response time for the exchange and processing of information in the relevant electronic systems.

3 The electronic systems shall be kept permanently available. However, that obligation shall not apply:

- a in specific cases related to the use of the electronic systems laid down in the agreements referred to in paragraph 1 or, at national level, in the absence of those agreements;
- b in the case of *force majeure*.

Subsection 2

Registration of persons

Article 6

Competent customs authority(Article 9 of the Code)

The customs authorities responsible for registration shall be those designated by the Member States. The Member States shall communicate the name and address of those authorities to the Commission. The Commission shall publish that information on the Internet.

Article 7

Electronic system relating to EORI number(Article 16 of the Code)

1 For the exchange and storage of information pertaining to EORI, an electronic system set up for those purposes pursuant to Article 16(1) of the Code ('EORI system') shall be used.

Information shall be made available through that system by the competent customs authority whenever new EORI numbers are assigned or there are changes to data stored in respect of registrations already issued.

2 Only one EORI number shall be assigned in respect of each person.

3 The format and codes of the data stored in the EORI system are laid down in Annex 12-01.

4 By way of derogation from paragraph 1 of this Article, until the date of the upgrading of the central EORI system, the formats and codes set out in Annex 12-01 shall not apply.

Until the date of the upgrading of the central EORI system, the codes of the common data requirements for the registration of economic operators and other persons are set out in Annex 9 to Delegated Regulation (EU) 2015/2446, establishing transitional rules for certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council, laying down the Union Customs Code where the relevant electronic systems are not yet operational.

5 Where Member States collect data listed in point 4 of Annex 12-01 they shall ensure that the formats and codes as set out in Annex 12-01 are used.

Section 2

Decisions relating to the application of customs legislation

Subsection 1

Decisions taken by the customs authorities

Article 8

General procedure for the right to be heard(Article 22(6) of the Code)

1 The communication referred to in the first subparagraph of Article 22(6) of the Code shall:

- a include a reference to the documents and information on which the customs authorities intend to base their decision;
- b indicate the period within which the person concerned shall express his point of view from the date on which he receives that communication or is deemed to have received it;
- c include a reference to the right of the person concerned to have access to the documents and information referred to in point (a) in accordance with the applicable provisions.

2 Where the person concerned gives his point of view before the expiry of the period referred to in paragraph 1(b) the customs authorities may proceed with taking the decision unless the person concerned simultaneously expresses his intention to further express his point of view within the period prescribed.

Article 9

Specific procedure for the right to be heard(Article 22(6) of the Code)

1 The customs authorities may make the communication referred to in the first subparagraph of Article 22(6) of the Code as part of the process of verification or control where they intend to take a decision on the basis of any of the following:

- a the results of a verification following presentation of the goods;
- b the results of a verification of the customs declaration as referred to in Article 191 of the Code;
- c the results of post-release control as referred to in Article 48 of the Code, where the goods are still under customs supervision;

- d the results of a verification of proof of the customs status of Union goods or, where applicable, the results of verification of the application for the registration of such proof or for the endorsement of such proof;
- e the issuing of a proof of origin by the customs authorities;
- f the results of control of goods for which no summary declaration, temporary storage declaration, re-export declaration or customs declaration was lodged.

2 Where a communication is made in accordance with paragraph 1 the person concerned may:

- a immediately express his point of view by the same means as those used for the communication in accordance with Article 9 of Delegated Regulation (EU) 2015/2446; or
- b demand a communication in accordance with Article 8 except in the cases referred to in paragraph 1(f).

The person concerned shall be informed by the customs authorities of those two options.

3 Where the customs authorities take a decision adversely affecting the person concerned, they shall record whether that person has expressed his point of view in accordance with paragraph 2(a).

Subsection 2

Decisions taken upon application

Article 10

Electronic systems relating to decisions(Article 16(1) of the Code)

1 For the exchange and storage of information pertaining to applications and decisions which may have an impact in more than one Member State and to any subsequent event which may affect the original application or decision, an electronic system set up for those purposes pursuant to Article 16(1) of the Code shall be used.

Information shall be made available through that system by the competent customs authority without delay and at the latest within 7 days of the authority gaining knowledge of the information.

2 An EU harmonised trader interface designed by the Commission and the Member States in agreement with each other shall be used for the exchange of information pertaining to applications and decisions which may have an impact in more than one Member State.

3 Paragraphs 1 and 2 of this Article shall be applicable from the date of deployment of the UCC Customs Decisions system as referred to in the Annex to Implementing Decision 2014/255/EU.

Article 11

Customs authority designated to receive applications(Third subparagraph of Article 22(1) of the Code)

Member States shall communicate to the Commission a list of the customs authorities referred to in the third subparagraph of Article 22(1) of the Code designated to receive applications. Member States shall also communicate to the Commission any subsequent changes to that list.

Article 12

Acceptance of the application(Article 22(2) of the Code)

1 Where the customs authority accepts an application pursuant to Article 11(1) of Delegated Regulation (EU) 2015/2446, the date of acceptance of that application shall be the date on which all the information required in accordance with the second subparagraph of Article 22 of the Code was received by the customs authority.

2 Where the customs authority establishes that the application does not contain all the information required, it shall ask the applicant to provide the relevant information within a reasonable time limit which shall not exceed 30 days.

Where the applicant does not provide the information requested by the customs authorities within the period set by them for that purpose, the application shall not be accepted and the applicant shall be notified accordingly.

3 In the absence of any communication to the applicant in relation to whether the application has been accepted or not, that application shall be deemed to be accepted. The date of the acceptance shall be the date of submission of the application or, in those cases where additional information has been provided by the applicant following a request of the customs authority as referred to in paragraph 2, the date when the last piece of information has been provided.

Article 13

Storage of information relating to decisions(Article 23(5) of the Code)

The customs authority competent to take a decision shall retain all data and supporting information which was relied upon when taking the decision for at least 3 years after the end date of its validity.

Article 14

Consultation between the customs authorities(Article 22 of the Code)

1 Where a customs authority competent to take a decision needs to consult a customs authority of another Member State concerned about the fulfilment of the necessary conditions and criteria for taking a favourable decision, that consultation shall take place within the period prescribed for the decision concerned. The customs authority competent to take a decision shall establish a time-limit for the consultation that starts from the date of communication by that

customs authority of the conditions and criteria which need to be examined by the consulted customs authority.

Where, following the examination referred to in the first subparagraph, the consulted customs authority establishes that the applicant does not fulfil one or more of the conditions and criteria for taking a favourable decision, the results, duly documented and justified, shall be transmitted to the customs authority competent to take the decision.

2 The time-limit established for the consultation in accordance with paragraph 1 may be extended by the customs authority competent to take the decision in any of the following cases:

- a where due to the nature of the examinations to be performed the consulted authority requests more time;
- b where the applicant carries out adjustments in order to ensure the fulfilment of the conditions and criteria referred to in paragraph 1 and communicates them to the customs authority competent to take the decision, which shall inform the consulted customs authority accordingly.

3 Where the consulted customs authority does not respond within the time-limit established for the consultation in accordance with paragraphs 1 and 2, the conditions and criteria for which the consultation took place are deemed to be fulfilled.

4 The consultation procedure laid down in paragraphs 1 and 2 may also be applied for the purposes of re-assessment and monitoring of a decision.

Article 15

Revocation of a favourable decision(Article 28 of the Code)

A decision suspended in accordance with Article 16(1) of Delegated Regulation (EU) 2015/2446 shall be revoked by the customs authority competent to take a decision in cases referred to in Article 16(1)(b) and (c) of that Regulation, where the holder of the decision fails to take, within the prescribed period of time, the necessary measures to fulfil the conditions laid down for the decision or to comply with the obligations imposed under that decision.

Subsection 3

Decisions relating to binding information

Article 16

Application for a decision relating to binding information(Article 22(1) of the Code)

1 Where an application for a decision relating to binding information is submitted pursuant to Article 19(1) of Delegated Regulation (EU) 2015/2446 in another Member State than the one in which the applicant is established the customs authority to which the application was submitted shall notify the customs authority of the Member State where the applicant is established within 7 days from the acceptance of the application.

Where the customs authority that receives the notification holds any information that it considers relevant for the processing of the application, it shall transmit such

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information to the customs authority to which the application was submitted as soon as possible and at the latest within 30 days from the date of the notification.

2 An application for a binding tariff information (BTI) decision shall relate only to goods which have similar characteristics and between which the differences are irrelevant for the purposes of their tariff classification.

3 An application for a binding origin information (BOI) decision shall relate to only one type of goods and one set of circumstances for the determination of origin.

4 For the purposes of ensuring compliance with the requirement set out in point (a) of the second subparagraph of Article 33(1) of the Code in relation to an application for a BTI decision, the customs authority referred to in Article 19(1) of Delegated Regulation (EU) 2015/2446 shall consult the electronic system referred to in Article 21 of this Regulation and keep a record of such consultations.

Article 17

Consistency with existing BTI decisions(Article 22(3) of the Code)

The customs authority competent to take a decision shall, for the purposes of ensuring that a BTI decision which it intends to issue is consistent with BTI decisions that have already been issued, consult the electronic system referred to in Article 21 and keep a record of such consultations.

Article 18

Notification of BOI decisions(Article 6(3) of the Code)

1 Where, the customs authority competent to take the decision notifies the applicant of the BOI decision using means other than electronic data-processing techniques, it shall do so using the form set out in Annex 12-02.

2 Where the customs authority competent to take the decision notifies the applicant of the BOI decision using electronic data-processing techniques, that decision shall be printable in accordance with the format set out in Annex 12-02.

Article 19

Exchange of data relating to BOI decisions(Article 23(5) of the Code)

1 The customs authorities shall transmit to the Commission the relevant details of the BOI decisions on a quarterly basis.

2 The Commission shall make the details obtained in accordance with paragraph 1 available to the customs authorities of all Member States.

Article 20

Monitoring of BTI decisions(Article 23(5) of the Code)

When customs formalities are being fulfilled by or on behalf of the holder of a BTI decision in respect of goods covered by the BTI decision, this shall be indicated in the customs declaration by stating the BTI decision reference number.

Article 21

Electronic system relating to BTI(Articles 16(1) and 23(5) of the Code)

1 For the exchange and storage of information pertaining to applications and decisions related to BTI or to any subsequent event which may affect the original application or decision, an electronic system set up for those purposes pursuant to Article 16(1) of the Code shall be used.

Information shall be made available through that system by the competent customs authority without delay and at the latest within 7 days of the authority gaining knowledge of the information.

2 In addition to the information referred to in paragraph 1:

- a the surveillance referred to in Article 55 of this Regulation shall include data that are relevant for monitoring the usage of BTI decisions;
- b the customs authority that has received the application and has taken the BTI decision shall notify through the system referred to in paragraph 1 if a period of extended use of the BTI decision is granted, indicating the end date of the period of extended use and the quantities of the goods covered by this period.

3 The Commission shall communicate the results of the monitoring referred to in point (a) of paragraph 2 to the Member States on a regular basis in order to support the monitoring by the customs authorities of the compliance with the obligations resulting from the BTI.

4 An EU harmonised trader interface designed by the Commission and the Member States in agreement with each other shall be used for the exchange of information pertaining to applications and decisions related to BTI.

5 When processing an application for a BTI decision, the customs authorities shall indicate the status of the application in the system referred to in paragraph 1.

6 By derogation from paragraph 1 of this Article, until the date of the upgrading of the system referred to therein in accordance with the Annex to Implementing Decision 2014/255/EU, Member States shall use the central database of the Commission set up by Article 8(3) of Commission Regulation (EEC) No 2454/93⁽⁴⁾.

7 Until the date of deployment of the first phase of the upgrading of the system referred to in paragraph 1 of this Article and the system referred to in Article 56 of this Regulation, the customs authorities shall carry out the monitoring of the usage of BTI decisions when conducting customs controls or post-release controls in accordance with Articles 46 and 48 of the Code. By derogation from paragraph 3 of this Article, until that date of deployment, the Commission shall not be obliged to communicate results of the monitoring referred to in point (a) of paragraph 2 of this Article to the Member States.

Article 22

Extended use of decisions relating to binding information(Article 34(9) of the Code)

1 Where the customs authorities decide to grant a period of extended use in accordance with the third subparagraph of Article 34(9) of the Code, they shall specify the date on which the period of extended use of the decision concerned expires.

2 Where the customs authorities decide to grant a period of extended use of a BTI decision in accordance with the third subparagraph of Article 34(9) of the Code, they shall specify, in addition to the date referred to in paragraph 1, the quantities of the goods that may be cleared during the period of extended use.

The use of a decision for which a period of extended use has been granted shall cease as soon as those quantities are reached.

On the basis of the surveillance referred to in Article 55, the Commission shall inform the Member States as soon as those quantities have been reached.

Article 23

Actions to ensure the correct and uniform tariff classification or determination of origin(Article 34(10) of the Code)

1 The Commission shall, without delay, notify the customs authorities of the suspension of the taking of BTI and BOI decisions in accordance with Article 34(10)(a) of the Code where:

- a the Commission has identified incorrect or non-uniform decisions;
- b the customs authorities have submitted to the Commission cases where they failed to resolve, within a maximum period of 90 days, their differences of opinion with regard to the correct and uniform classification or determination of origin.

No decision related to binding information shall be issued for goods subject to point (a) or (b) from the date when the Commission has notified the customs authorities of the suspension until the correct and uniform classification or determination of origin is ensured.

2 The correct and uniform classification or determination of origin shall be subject to consultation at Union level at the earliest opportunity and at the latest within 120 days of the Commission notification referred to in paragraph 1.

3 The Commission shall notify the customs authorities immediately once the suspension is withdrawn.

4 For the purposes of applying paragraphs 1 to 3, BOI decisions shall be deemed to be non-uniform where they confer different origin on goods which:

- a fall under the same tariff heading and whose origin was determined in accordance with the same origin rules; and
- b have been obtained under identical conditions using the same manufacturing process and equivalent materials as regards notably their originating or non-originating status.

Section 3

Authorised economic operator

Article 24

Compliance(Article 39(a) of the Code)

1 Where the applicant is a natural person, the criterion laid down in Article 39(a) of the Code shall be considered to be fulfilled if, over the last 3 years, the applicant and where applicable the employee in charge of the applicant's customs matters have not committed any serious infringement or repeated infringements of customs legislation and taxation rules and have had no record of serious criminal offences relating to their economic activity.

Where the applicant is not a natural person, the criterion laid down in Article 39(a) of the Code shall be considered to be fulfilled where, over the last 3 years, none of the following persons has committed a serious infringement or repeated infringements of customs legislation and taxation rules or has had a record of serious criminal offences relating to his economic activity:

- a the applicant;
- b the person in charge of the applicant or exercising control over its management;
- c the employee in charge of the applicant's customs matters.

2 However, the criterion referred to in Article 39(a) of the Code may be considered to be fulfilled where the customs authority competent to take the decision considers an infringement to be of minor importance, in relation to the number or size of the related operations, and the customs authority has no doubt as to the good faith of the applicant.

3 Where the person referred to in paragraph 1(b) is established or has his residence in a third country, the customs authority competent to take the decision shall assess the fulfilment of the criterion referred to in Article 39(a) of the Code on the basis of records and information that are available to it.

4 Where the applicant has been established for less than 3 years, the customs authority competent to take the decision shall assess the fulfilment of the criterion referred to in Article 39(a) of the Code on the basis of the records and information that are available to it.

Article 25

Satisfactory system of managing commercial and transport records(Article 39(b) of the Code)

1 The criterion laid down in Article 39(b) of the Code shall be considered to be fulfilled if the following conditions are met:

- a the applicant maintains an accounting system which is consistent with the generally accepted accounting principles applied in the Member State where the accounts are held, allows audit-based customs control and maintains a historical record of data that provides an audit trail from the moment the data enters the file;
- b records kept by the applicant for customs purposes are integrated in the accounting system of the applicant or allow cross checks of information with the accounting system to be made;

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- c the applicant allows the customs authority physical access to its accounting systems and, where applicable, to its commercial and transport records;
 - d the applicant allows the customs authority electronic access to its accounting systems and, where applicable, to its commercial and transport records where those systems or records are kept electronically;
 - e the applicant has a logistical system which identifies goods as Union or non-Union goods and indicates, where appropriate, their location;
 - f the applicant has 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 has internal controls capable of preventing, detecting and correcting errors and of preventing and detecting illegal or irregular transactions;
 - g where applicable, the applicant has satisfactory procedures in place for the handling of licences and authorisations granted in accordance with commercial policy measures or relating to trade in agricultural products;
 - h the applicant has satisfactory procedures in place for the archiving of its records and information and for protection against the loss of information;
 - i the applicant ensures that relevant employees are instructed to inform the customs authorities whenever compliance difficulties are discovered and establishes procedures for informing the customs authorities of such difficulties;
 - j the applicant has appropriate security measures in place to protect the applicant's computer system from unauthorised intrusion and to secure the applicant's documentation;
 - k where applicable, the applicant has satisfactory procedures in place for the handling of import and export licences connected to prohibitions and restrictions, including measures to distinguish goods subject to the prohibitions or restrictions from other goods and measures to ensure compliance with those prohibitions and restrictions.
- 2 Where the applicant applies only for an authorisation as an economic operator authorised for security and safety as referred to in Article 38(2)(b) of the Code (AEOS), the requirement laid down in paragraph 1(e) shall not apply.

Article 26

Financial solvency(Article 39(c) of the Code)

- 1 The criterion laid down in Article 39(c) of the Code shall be considered to be fulfilled where the applicant complies with the following:
- a the applicant is not subject to bankruptcy proceedings;
 - b during the last 3 years preceding the submission of the application, the applicant has fulfilled his financial obligations regarding payments of customs duties and all other duties, taxes or charges which are collected on or in connection with the import or export of goods;
 - c the applicant demonstrates on the basis of the records and information available for the last 3 years preceding the submission of the application that he has sufficient financial standing to meet his obligations and fulfil his commitments having regard to the type and volume of the business activity, including having no negative net assets, unless where they can be covered.
- 2 If the applicant has been established for less than 3 years, his financial solvency as referred to in Article 39(c) of the Code shall be checked on the basis of records and information that are available.

Article 27

Practical standards of competence or professional qualifications(Article 39(d) of the Code)

1 The criterion laid down in Article 39(d) of the Code shall be considered to be fulfilled if any of the following conditions are met:

- a the applicant or the person in charge of the applicant's customs matters complies with one of the following practical standards of competence:
 - (i) a proven practical experience of a minimum of 3 years in customs matters;
 - (ii) a quality standard concerning customs matters adopted by a European Standardisation body;
- b the applicant or the person in charge of the applicant's customs matters has successfully completed training covering customs legislation consistent with and relevant to the extent of his involvement in customs related activities, provided by any of the following:
 - (i) a customs authority of a Member State;
 - (ii) an educational establishment recognised, for the purposes of providing such qualification, by the customs authorities or a body of a Member State responsible for professional training;
 - (iii) a professional or trade association recognised by the customs authorities of a Member State or accredited in the Union, for the purposes of providing such qualification.

2 Where the person in charge of the applicant's customs matters is a contracted person, the criterion laid down in Article 39(d) of the Code shall be considered to be fulfilled if the contracted person is an economic operator authorised for customs simplifications as referred to in Article 38(2)(a) of the Code (AEOC).

Article 28

Security and safety standards(Article 39(e) of the Code)

1 The criterion laid down in Article 39(e) of the Code shall be considered to be fulfilled if the following conditions are met:

- a buildings to be used in connection with the operations relating to the AEOC authorisation provide protection against unlawful intrusion and are constructed of materials which resist unlawful entry;
- b appropriate measures are in place to prevent unauthorised access to offices, shipping areas, loading docks, cargo areas and other relevant places;
- c measures for the handling of goods have been taken which include protection against the unauthorised introduction or exchange, the mishandling of goods and against tampering with cargo units;
- d the applicant has taken measures allowing to clearly identify his business partners and to ensure, through implementation of appropriate contractual arrangements or other appropriate measures in accordance with the applicant's business model, that those business partners ensure the security of their part of the international supply chain;

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- e the applicant conducts in so far as national law permits, security screening on prospective employees working in security sensitive positions and carries out background checks of current employees in such positions periodically and where warranted by circumstances;
- f the applicant has appropriate security procedures in place for any external service providers contracted;
- g the applicant ensures that its staff having responsibilities relevant for security issues regularly participate in programmes to raise their awareness of those security issues;
- h the applicant has appointed a contact person competent for safety and security related questions.

2 Where the applicant is a holder of a security and safety certificate issued on the basis of an international convention or of an International Standard of the International Organisation for Standardisation, or of a European Standard of a European standardisation body, these certificates shall be taken into account when checking compliance with the criteria laid down in Article 39(e) of the Code.

The criteria shall be deemed to be met to the extent that it is established that the criteria for issuing that certificate are identical or equivalent to those laid down in Article 39(e) of the Code.

The criteria shall be deemed to be met where the applicant is the holder of a security and safety certificate issued by a third country with which the Union has concluded an agreement which provides for the recognition of that certificate.

3 Where the applicant is a regulated agent or a known consignor as defined in Article 3 of Regulation (EC) No 300/2008 of the European Parliament and of the Council⁽⁵⁾ and fulfils the requirements laid down in Commission Regulation (EU) No 185/2010⁽⁶⁾, the criteria laid down in paragraph 1 shall be deemed to be met in relation to the sites and the operations for which the applicant obtained the status of regulated agent or known consignor to the extent that the criteria for issuing the regulated agent or known consignor status are identical or equivalent to those laid down in Article 39(e) of the Code.

Article 29

Examination of the criteria(Article 22 of the Code)

1 For the purposes of examining the criteria laid down in Article 39(b) and (e) of the Code, the customs authority competent to take the decision shall ensure that on-the-spot verifications are carried out at all the premises that are relevant to the customs related activities of the applicant.

Where the applicant has a large number of premises, and the applicable time-limit for taking the decision does not allow for examination of all those premises the customs authority may decide to examine only a representative proportion of those premises if it is satisfied that the applicant applies the same security and safety standards at all of its premises and apply the same common standards and procedures for maintaining its records at all of its premises.

2 The customs authorities competent to take a decision may take into consideration the results of assessments or audits carried out in accordance with Union legislation to the extent they are relevant for the examination of the criteria referred to in Article 39 of the Code.

3 For the purposes of examining whether the criteria laid down in Article 39(b), (c) and (e) of the Code are fulfilled, the customs authorities may take into account expert conclusions provided by the applicant, where the expert having drawn up the conclusions is not related to the applicant within the meaning of Article 127 of this Regulation.

4 The customs authorities shall take due account of the specific characteristics of economic operators, in particular of small and medium-sized enterprises, when examining the fulfilment of criteria laid down in Article 39 of the Code.

5 The examination of the criteria laid down in Article 39 of the Code as well as its results shall be documented by the customs authority competent to take the decision.

Article 30

Electronic system relating to the AEO status(Article 16(1) of the Code)

1 For the exchange and storage of information pertaining to applications for an authorisation as an authorised economic operator (AEO) and AEO authorisations granted and any further event or act which may subsequently affect the original decision, including annulment, suspension, revocation or amendment or the results of any monitoring or re-assessment, an electronic system set up for those purposes pursuant to Article 16(1) of the Code shall be used. The competent customs authority shall make information available through this system without delay and at the latest within 7 days.

An EU harmonised trader interface designed by the Commission and the Member States in agreement with each other shall be used for the exchange of information pertaining to applications and decisions related to AEO authorisations.

2 Where applicable, in particular when AEO status is a basis for the grant of approval, authorisations or facilitations under other Union legislation, the competent customs authority may grant access to the electronic system referred to in paragraph 1 to the appropriate national authority responsible for civil aviation security. The access shall be related to the following information:

- a the AEOS authorisations, including the name of the holder of the authorisation and, where applicable, their amendment or revocation or the suspension of the status of authorised economic operator and the reasons therefor;
- b any re-assessments of AEOS authorisations and the results thereof.

The national authorities responsible for civil aviation security handling the information concerned shall use it only for the purposes of the relevant programmes for regulated agent or known consignor and shall implement appropriate technical and organisational measures to ensure the security of this information.

3 By 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, Member States shall use that system set up by Article 14x of Commission Regulation (EEC) No 2454/93.

Article 31

Consultation procedure and exchange of information between customs authorities(Article 22 of the Code)

1 The customs authority competent to take the decision may consult customs authorities of other Member States which are competent for the place where necessary information is held or where checks have to be carried out for the purpose of examining one or more criteria laid down in Article 39 of the Code.

2 The consultation referred to in paragraph 1 shall be mandatory, where:

- a the application for the status of AEO is submitted in accordance with Article 12(1) of Delegated Regulation (EU) 2015/2446, to the customs authority - of the place where the applicant's main accounts for customs purposes are held or are accessible;
- b the application for the status of AEO is submitted in accordance with Article 27 of Delegated Regulation (EU) 2015/2446, 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;
- c a part of the records and documentation of relevance for the application for the status of AEO is kept in a Member State other than the one of the customs authority competent to take a decision;
- d the applicant for the status of AEO maintains a storage facility or has other customs-related activities in a Member State other than the one of the competent customs authority.

3 By way of derogation from the time-limit laid down in the second sentence of the first subparagraph of Article 14(1) of this Regulation, the customs authorities shall complete the consultation process within 80 days from the date on which the customs authority competent to take the decision communicates the necessary conditions and criteria which have to be examined by the consulted customs authority.

4 Where the customs authority of another Member State has information of relevance for the granting of AEO status, it shall communicate that information to the customs authority competent to take a decision within 30 days starting from the date of the communication of the application through the electronic system referred to in Article 30 of this Regulation.

Article 32

Rejection of an application(Article 22 of the Code)

The rejection of an AEO application shall not affect existing favourable decisions taken with regard to the applicant in accordance with the customs legislation, unless the granting of those favourable decisions is based on the fulfilment of any of the AEO criteria that have been proven not to be met during the examination of the AEO application.

Article 33

Combination of both types of authorisations(Article 38(3) of the Code)

Where an applicant is entitled to be granted both an AEOC and an AEOS authorisation, the customs authority competent to take the decision shall issue one combined authorisation.

Article 34

Revocation of an authorisation(Article 28 of the Code)

1 The revocation of an AEO authorisation shall not affect any favourable decision which has been taken with regard to the same person unless AEO status was a condition for that favourable decision, or that decision was based on a criterion listed in Article 39 of the Code which is no longer met.

2 The revocation or amendment of a favourable decision which has been taken with regard to the holder of the authorisation shall not automatically affect the AEO authorisation of that person.

3 Where the same person is both an AEOC and an AEOS, and Article 28 of the Code or Article 15 of this Regulation is applicable owing to the non-fulfilment of the conditions laid down in Article 39(d) of the Code, the AEOC authorisation shall be revoked and AEOS authorisation shall remain valid.

Where the same person is both an AEOS and an AEOC, and Article 28 of the Code or Article 15 of this Regulation is applicable owing to the non-fulfilment of the conditions laid down in Article 39(e) of the Code, the AEOS authorisation shall be revoked and AEOC authorisation shall remain valid.

Article 35

Monitoring(Article 23(5) of the Code)

1 The customs authorities of the Member States shall inform the competent customs authority without delay of any factors arising after the grant of the status of AEO which may influence its continuation or content.

2 The competent customs authority shall make available all relevant information at its disposal to the customs authorities of the other Member States where the AEO carries out customs-related activities.

3 Where a customs authority revokes a favourable decision which has been taken on the basis of the status of AEO, it shall notify the customs authority which granted the status.

4 Where the AEOS is a regulated agent or a known consignor as defined in Article 3 of Regulation (EC) No 300/2008 and fulfils the requirements laid down in Regulation (EU) No 185/2010, the competent customs authority shall immediately make available to the appropriate national authority responsible for civil aviation security the following minimum information related to the AEO status which it has at its disposal:

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- a the AEOS authorisation, including the name of the holder of the authorisation and, where applicable, its amendment or revocation or the suspension of the status of authorised economic operator and the reasons therefor;
- b information about whether the specific site concerned has been visited by customs authorities, the date of the last visit, and whether the visit took place with a view to the authorisation process, re-assessment or monitoring;
- c any re-assessments of the AEOS authorisation and the results thereof.

The national customs authorities shall, in agreement with the appropriate national authority responsible for civil aviation security, establish detailed modalities for the exchange of any information which is not covered by the electronic system referred to in Article 30 of this Regulation.

The national authorities responsible for civil aviation security handling the information concerned shall use it only for the purposes of the relevant programmes for regulated agent or known consignor and shall implement appropriate technical and organisational measures to ensure the security of the information.

Section 4

Control of goods

Subsection 1

Customs controls and risk management

Article 36

Electronic system relating to risk management and customs controls(Article 16(1) of the Code)

1 For the exchange and storage of information pertaining to the communication among the customs authorities of the Member States and the Commission of any risk-related information, an electronic system set up for those purposes pursuant to Article 16(1) of the Code ('customs risk management system') shall be used.

2 The system mentioned in paragraph 1 shall also be used for communication between customs authorities and between customs authorities and the Commission in the implementation of common risk criteria and standards, common priority control areas, customs crisis management, the exchange of risk-related information and risk analysis results as referred to in Article 46(5) of the Code as well as the results of customs controls.

Subsection 2

Cabin and hold baggage transported by air

Article 37

Transit flights(Article 49 of the Code)

1 Customs controls and formalities applicable to the cabin and hold baggage of persons taking a flight from a non-Union airport in an aircraft which, after a stopover at a Union airport, continues to another Union airport shall be carried out at the last international Union airport.

The cabin and hold baggage shall be subject to the rules applicable to the baggage of persons coming from a third country unless the person carrying such baggage proves the status of the goods contained therein as Union goods.

2 Customs controls and formalities applicable to the cabin and hold baggage of persons taking a flight from a Union airport in an aircraft which stops over at another Union airport before continuing to a non-Union airport, shall be carried out at the first international Union airport.

The cabin baggage may be subject to control at the last international Union airport where the aircraft stops over in order to ascertain their customs status of Union goods.

Article 38

Transit flights in business and tourist aircraft(Article 49 of the Code)

Customs controls and formalities applicable to the baggage of persons on board business or tourist aircraft shall be carried out at the following airports:

- (a) for flights coming from a non-Union airport and where the aircraft, after a stopover at a Union airport, continues to another Union airport, at the first international Union airport;
- (b) for flights coming from a Union airport and where the aircraft, after a stopover at a Union airport, continues to a non-Union airport, at the last international Union airport.

Article 39

Inbound transfer flights(Article 49 of the Code)

1 Where baggage arriving at a Union airport on board an aircraft coming from a non-Union airport is transferred, at that Union airport, to another aircraft proceeding on an intra-Union flight, paragraphs 2 and 3 shall apply.

2 Customs controls and formalities applicable to hold baggage shall be carried out at the last international Union airport of arrival of the intra-Union flight. However, customs controls and formalities applicable to hold baggage coming from a non-Union airport and transferred at an international Union airport to an aircraft bound for another international Union airport in the territory of the same Member State may be carried out at the international Union airport where the transfer of hold baggage takes place.

Status: This is the original version (as it was originally adopted).

Customs controls and formalities applicable to hold baggage may, in exceptional cases and in addition to the controls and formalities referred to in the first subparagraph, be carried out at the first international Union airport where they prove necessary following controls on cabin baggage.

3 Customs controls and formalities applicable to cabin baggage shall be carried out at the first international Union airport.

Additional customs controls and formalities applicable to cabin baggage may be carried out at the airport of arrival of an intra-Union flight only in exceptional cases where they prove necessary following controls on hold baggage.

Article 40

Outbound transfer flights(Article 49 of the Code)

1 Where baggage is loaded at a Union airport onto an aircraft proceeding on an intra-Union flight and subsequently transferred, at another Union airport, onto another aircraft whose destination is a non-Union airport, paragraphs 2 and 3 shall apply.

2 Customs controls and formalities applicable to hold baggage shall be carried out at the first international Union airport of departure. However, customs controls and formalities applicable to hold baggage having been loaded on an aircraft at an international Union airport and transferred at another international Union airport in the territory of the same Member State to an aircraft bound for a non-Union airport may be carried out at the international Union airport where the transfer of hold baggage takes place.

Customs controls and formalities applicable to hold baggage may, in exceptional cases and in addition to the controls and formalities referred to in the first subparagraph, be carried out at the last international Union airport where they prove necessary following controls on cabin baggage.

3 Customs controls and formalities applicable to cabin baggage shall be carried out at the last international Union airport.

Additional customs controls and formalities applicable to cabin baggage may be carried out at the airport of departure of an intra-Union flight only in exceptional cases where they prove necessary following controls on hold baggage.

Article 41

Transfer to a tourist or business aircraft(Article 49 of the Code)

1 Customs controls and formalities applicable to baggage arriving at a Union airport on board a scheduled or charter flight from a non-Union airport and transferred, at that Union airport, to a tourist or business aircraft proceeding on an intra-Union flight shall be carried out at the airport of arrival of the scheduled or charter flight.

2 Customs controls and formalities applicable to baggage loaded at a Union airport onto a tourist or business aircraft proceeding on an intra-Union flight for transfer, at another Union airport, to a scheduled or charter flight whose destination is a non-Union airport, shall be carried out at the airport of departure of the scheduled or charter flight.

Article 42

Transfers between airports on the territory of the same Member State(Article 49 of the Code)

The customs authorities may carry out controls, at the international Union airport where the transfer of hold baggage takes place, on the following:

- (a) baggage coming from a non-Union airport and transferred in an international Union airport to an aircraft bound for an international Union airport in the same national territory;
- (b) baggage having been loaded on an aircraft in an international Union airport for transfer in another international Union airport in the same national territory to an aircraft bound for a non-Union airport.

Article 43

Measures to prevent illegal transfer(Article 49 of the Code)

The Member States shall ensure that:

- (a) on arrival at an international Union airport where customs controls are to be carried out, any transfer of goods contained in cabin baggage before those controls have been carried out on that baggage is monitored;
- (b) on departure from an international Union airport where customs controls are to be carried out, any transfer of goods contained in cabin baggage after those controls have been carried out on that baggage is monitored;
- (c) on arrival at an international Union airport where customs controls are to be carried out, the appropriate arrangements have been made to prevent any transfer of goods contained in hold baggage before those controls have been carried out on that baggage;
- (d) on departure from an international Union airport where customs controls are to be carried out, the appropriate arrangements have been made to prevent any transfer of goods contained in hold baggage after those controls have been carried out on the hold baggage.

Article 44

Baggage tag(Article 49 of the Code)

Hold baggage registered at a Union airport shall be identified by a tag affixed on the baggage. A specimen and the technical characteristics of the tag are set out in Annex 12-03.

*Article 45***List of international Union airports(Article 49 of the Code)**

Each Member State shall provide the Commission with a list of its international Union airports and shall inform the Commission of any changes to that list.

*Subsection 3****Baggage transported by sea****Article 46***Pleasure crafts(Article 49 of the Code)**

Customs controls and formalities applicable to the baggage of persons on board pleasure craft shall be carried out at all ports of call in the Union, whatever the origin or destination of the craft. Pleasure craft is a recreational craft as defined in Directive 94/25/CE of the European Parliament and of the Council⁽⁷⁾.

*Article 47***Transfer crossings(Article 49 of the Code)**

Customs controls and formalities applicable to the baggage of persons using a maritime service provided by the same vessel and comprising successive legs departing from, calling at or terminating in a non-Union port shall be carried out at any Union port at which the baggage is loaded or unloaded.

*CHAPTER 3****Currency conversion****Article 48***Provisions on tariff exchange rate(Article 53 of the Code)**

1 The value of the euro, where required in accordance with Article 53(1)(b) of the Code, shall be fixed once a month.

The exchange rate to be used shall be the most recent rate set by the European Central Bank prior to the penultimate day of the month and shall apply throughout the following month.

However, where the rate applicable at the start of the month differs by more than 5 % from the rate set by the European Central Bank prior to the 15th of that same month, the latter rate shall apply from the 15th until the end of the month in question.

2 Where the conversion of currency is necessary for any of the reasons referred to in Article 53(2) of the Code, the value of the euro in national currencies to be applied shall be the rate set by the European Central Bank on the first working day of October; this rate shall apply with effect from 1 January of the following year.

3 Member States may maintain unchanged the value in national currency of the amount determined in euro if, at the time of the annual adjustment, the conversion of that amount, leads to an alteration of less than 5 % in the value expressed in national currency.

Member States may round upwards or downwards to the nearest decimal point the sum arrived at after conversion.

- (1) Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council with regard to detailed rules of specifying some of the provisions of the Union Customs Code (see page 1 of this Official Journal).
- (2) Not yet published in the Official Journal.
- (3) Commission Implementing Decision 2014/255/EU of 29 April 2014 establishing the Work Programme for the Union Customs Code ([OJ L 134, 7.5.2014, p. 46](#)).
- (4) 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 ([OJ L 253, 11.10.1993, p. 1](#)).
- (5) Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 ([OJ L 97, 9.4.2008, p. 72](#)).
- (6) Commission Regulation (EU) No 185/2010 of 4 March 2010 laying down detailed measures for the implementation of the common basic standards on aviation security ([OJ L 55, 5.3.2010, p. 1](#)).
- (7) Directive 94/25/EC of the European Parliament and of the Council of 16 June 1994 on the approximation of the laws, regulations and administrative provisions of the Member States relating to recreational craft ([OJ L 164, 30.6.1994, p. 15](#)).