



**2023/0156(COD)**

# **COMPROMISE AMENDMENTS**

**Draft report**  
**Deirdre Clune**

Establishing the Union Customs Code and the European Union Customs Authority and repealing Regulation (EU) No 952/2013

Proposal for a Regulation

**(COM(2023)258 – 2023/0156(COD))**

## **Compromise Amendment 1 on Title I - General Provisions**

Compromise amendment replacing all relevant amendments, including AMs 1, 21-48, 203, 186-204, 206, 210-219, INTA 41-56, CONT 7-15

Proposal for a

### **REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013 and Regulation (EU) 2022/2399 (Rapp. 1)**

(Text with EEA relevance)

## **Title I GENERAL PROVISIONS**

### **Chapter 1 Scope of customs legislation and mission of customs**

#### *Article 1*

##### **Subject matter and scope**

1. This Regulation establishes the Union Customs Code ('the Code'). It lays down the general rules and procedures applicable to goods brought into or taken out of the customs territory of the Union.  
  
This Regulation also establishes the European Union Customs Authority ('the EU Customs Authority') and the rules, common standards and a governance framework for the establishment of the European Union Customs Data Hub ('EU Customs Data Hub').
  - 1a. ***This Regulation establishes a European Union Single Window Environment for Customs ('EU Single Window Environment for Customs') that provides an integrated set of interoperable electronic services, at Union level, to support interaction and enhance information exchange between the EU Customs Data Hub and the Union non-customs systems referred to in the Annex Ia.***  
  
***It lays down rules for on digital administrative cooperation and information sharing through interoperable data sets, within the EU Single Window Environment for Customs. (Rapp. 21)***
2. Without prejudice to international law and conventions, and Union legislation in other fields, the Code shall apply uniformly throughout the customs territory of the Union.

3. Certain provisions of the customs legislation may apply outside the customs territory of the Union within the framework of legislation governing specific fields or of international conventions.
4. Certain provisions of the customs legislation, including the simplifications for which it provides, shall apply to the trade in Union goods between parts of the customs territory of the Union to which the provisions of Council Directive 2006/112/EC<sup>1</sup> or of Council Directive (EU) 2020/262<sup>2</sup> apply and parts of that territory where those provisions do not apply, or to trade between parts of that territory where those provisions do not apply.

## *Article 2*

### **Mission of customs authorities**

With a view to achieving a harmonised application of customs controls, for making the customs union act as one and for contributing to the smooth functioning of the internal market, customs authorities shall be responsible for protecting the financial and economic interests of the Union and its Member States, for ensuring security and safety and contributing to the other Union policies protecting citizens and residents, consumers, the environment and the overall supply chains, for protecting the Union from illegal trade, for facilitating legitimate business activity, and for supervising the Union's international trade in order to contribute to fair and open trade and to the common commercial policy.

Customs authorities shall put in place measures aimed, in particular, at the following:

- (a) ensuring the *efficient and* proper collection of customs duties and other charges; **(Rapp. 22)**
- (b) ensuring that goods *that are destined for circulation in the internal market but present* ~~presenting~~ a risk for the safety ~~or the security~~ of citizens and residents do not enter the customs territory of the Union, by putting in place the appropriate measures for controls of goods and supply chains;  
*(ba new) ensuring that goods presenting a risk for the security of citizens and residents do not enter the customs territory of the Union, by putting in place the appropriate measures for controls of goods and supply chains;*
- (c) contributing to protecting human, animal or plant health and life, environment, consumers and other public interests protected by other legislation applied by the customs authorities, in close cooperation with other authorities by ensuring that goods presenting related risks do not enter or leave the customs territory of the Union;
- (d) protecting the Union from unfair, non-compliant and illegal trade, including *counterfeit and goods that are not in compliance with other legislation applied by the customs authorities* through a close monitoring of economic operators,

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<sup>1</sup> Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

<sup>2</sup> Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (recast) (OJ L 58, 27.2.2020, p. 4).

*sectors* and supply chains and a minimum core of customs infringements and penalties; (Rapp. 23, INTA 43)

- (e) supporting *all* legitimate business activity, by maintaining a proper balance between customs controls and facilitation of legitimate trade and simplifying customs processes and procedures *through robust real-time risk analysis enabled made possible, including by the artificial intelligence capabilities systems, as defined referred to in Article 29(1), point (d) (Rapp. 24, S&D 187)*
- (ea) *promoting cost-efficiency by avoiding duplication, and promoting effectiveness in customs processes and an efficient use of related resources at Union and national level; (Rapp. 25)*
- (eb) *gathering, analysing and exchanging relevant information to support evidence-based decision making; (Rapp. 26)*
- (ec) *contributing to the improvement of the overall enforcement of Union legal acts in other fields, such as those protecting the safety and security of citizens, residents and consumers, the environment and supply chains; (Rapp. 27)*
- (ed) *ensuring, where the internal market emergency mode has been activated in accordance with Article 14 of Regulation [establishing a Single Market emergency instrument and repealing Council Regulation No (EC) 2679/98 in times of crisis], the flow of crisis-relevant goods as defined in Article 3(1), point (6) of that Regulation. (EPP 188)*

### Article 3

#### Customs territory

1. The customs territory of the Union shall comprise the following territories, including their territorial waters, internal waters and airspace:
  - (a) the territory of the Kingdom of Belgium,
  - (b) the territory of the Republic of Bulgaria,
  - (c) the territory of the Czech Republic,
  - (d) the territory of the Kingdom of Denmark, except the Faroe Islands and Greenland,
  - (e) the territory of the Federal Republic of Germany, except the Island of Heligoland and the territory of Büsingen (Treaty of 23 November 1964 between the Federal Republic of Germany and the Swiss Confederation),
  - (f) the territory of the Republic of Estonia,
  - (g) the territory of Ireland,
  - (h) the territory of the Hellenic Republic,
  - (i) the territory of the Kingdom of Spain, except Ceuta and Melilla,
  - (j) the territory of the French Republic, except the French overseas countries and territories to which the provisions of Part Four of the TFEU apply,
  - (k) the territory of the Republic of Croatia,

- (l) the territory of the Italian Republic, except the municipality of Livigno,
  - (m) the territory of the Republic of Cyprus, in accordance with the provisions of the 2003 Act of Accession,
  - (n) the territory of the Republic of Latvia,
  - (o) the territory of the Republic of Lithuania,
  - (p) the territory of the Grand Duchy of Luxembourg,
  - (q) the territory of Hungary,
  - (r) the territory of the Republic of Malta,
  - (s) the territory of the Kingdom of the Netherlands in Europe,
  - (t) the territory of the Republic of Austria,
  - (u) the territory of the Republic of Poland,
  - (v) the territory of the Portuguese Republic,
  - (w) the territory of Romania,
  - (x) the territory of the Republic of Slovenia,
  - (y) the territory of the Slovak Republic,
  - (z) the territory of the Republic of Finland, and
  - (aa) the territory of the Kingdom of Sweden.
2. The following territories, including their territorial waters, internal waters and airspace, situated outside the territory of the Member States shall, taking into account the conventions and treaties applicable to them, be considered to be part of the customs territory of the Union:
- (a) FRANCE
 

The territory of Monaco as defined in the Customs Convention signed in Paris on 18 May 1963 (Journal officiel de la République française (Official Journal of the French Republic) of 27 September 1963, p. 8679);
  - (b) CYPRUS
 

The territory of the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia as defined in the Treaty concerning the Establishment of the Republic of Cyprus, signed in Nicosia on 16 August 1960 (United Kingdom Treaty Series No 4 (1961) Cmnd. 1252).

#### *Article 4*

#### **Delegation of powers**

~~The Commission is empowered to adopt delegated acts in accordance with Article 261 supplementing and amending this Regulation by specifying the provisions of the customs legislation that apply to the trade in Union goods referred to in Article 1(4). Those acts may address particular circumstances pertaining to the trade in Union goods involving only one or more Member States. (Rapp. 28)~~

## Chapter 2 Definitions

### *Article 5*

#### **Definitions**

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

- (1) ‘customs authorities’ means the customs administrations of the Member States responsible for applying the customs legislation and any other authorities empowered under national law to apply certain customs legislation;
- (2) ‘customs legislation’ means the body of legislation made up of all of the following:
  - (a) the Code and the provisions supplementing or implementing it adopted at Union or national level;
  - (b) the Common Customs Tariff;
  - (c) the legislation setting up a Union system of reliefs from customs duty;
  - (d) customs provisions contained in international agreements, insofar as they are applicable in the Union;
  - (e) Regulation (EU) 2022/2399 of the European Parliament and of the Council<sup>3</sup> and the provisions amending, supplementing or implementing it;
- (3) ‘other legislation applied by the customs authorities’ means legislation other than customs legislation applicable to the goods entering, exiting, passing through the customs territory of the Union, or to be placed in the Union market, in the implementation of which the customs authorities are involved;
- (4) ‘commercial policy measures’ means, as part of other legislation applied by the customs authorities, measures adopted pursuant to Article 207 TFEU, other than provisional or definitive anti-dumping duties, countervailing duties or safeguard measures in the form of increased tariffs on specific goods, and including in particular special surveillance measures and safeguard measures in the form of import or export authorisations;
- (5) ‘person’ means a natural person, a legal person, and any association of persons which is not a legal person, but which is recognised under Union or national law as having the capacity to perform legal acts;
- (6) ‘economic operator’ means a person who, in the course of that person’s business, is involved in activities covered by the customs legislation;
- (7) ‘established in the customs territory of the Union’ means:
  - (a) in the case of a natural person, having his or her habitual residence in the customs territory of the Union;

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<sup>3</sup> Regulation (EU) 2022/2399 of the European Parliament and of the Council of 23 November 2022 establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013 (OJ L 317, 9.12.2022, p. 1).

- (b) in the case of a legal person or an association of persons, having its registered office, central headquarters or a permanent business establishment, in the customs territory of the Union;

***In case of a legal person with multiple establishments in the customs territory of the Union, it shall register, pursuant to Article 19, following the order in point (b);***

- (8) ‘permanent business establishment’ means a fixed place of business, where both the necessary human and technical resources are permanently present and through which a person’s customs-related operations are wholly or partly carried out;
- (9) ‘customs decision’ means any act by the customs authorities pertaining to the customs legislation giving a ruling on a particular case, and having legal effects on the person or persons concerned;
- (10) ‘customs procedure’ means any of the following procedures under which goods may be placed in accordance with the Code:
- (a) release for free circulation;
  - (b) special procedures;
  - (c) export;
- (11) ‘customs formalities’ means all the operations which must be carried out by a person and by the customs authorities in order to comply with the customs legislation;
- (12) ‘importer’ means any person who has the power to determine and has determined that goods from a third country are to be brought into the customs territory of the Union or, except otherwise provided, any person who is considered a deemed importer;
- (13) ‘deemed importer’ means any person involved in the distance sales of goods to be imported from third countries into the customs territory of the Union, ***including persons ~~who is~~*** authorised to use the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC; **(Rapp. 29, S&D 193, Greens/EFA 194)**
- (14) ‘exporter’ means any person who has the power to determine and has determined that the goods are to be taken out of the customs territory of the Union;
- (15) ‘customs representative’ means any person appointed by another person to carry out the acts and formalities required under the customs legislation in that person’s dealings with customs authorities;
- (16) ‘data’ means any digital and non-digital representation of acts, facts or information and any compilation of such acts, facts or information, including in the form of document, sound, visual or audio-visual recording;
- (17) ‘customs surveillance’ means collecting and analysing information, in relation to goods entering, exiting or passing through the customs territory of the Union in order to monitor these movements at Union level and ensure the uniform application of customs controls, the compliance with customs legislation and other legislation applied by the customs authorities and to contribute to risk analysis and management;
- (18) ‘risk’ means the likelihood and the impact of an event occurring, with regard to goods moved between the customs territory of the Union and countries outside that territory and to the presence within the customs territory of the Union of non-Union goods, which would:

- (a) compromise the financial or economic interests of the Union and its Member States;
- (b) pose a threat to the security and safety of the Union and its citizens and residents;

**(ba) pose a threat to public health ~~of~~within the Union citizens; or (ID 197, 198)**

- (c) prevent the correct application of Union or national measures;
- (19) ‘economic analysis’ means the evaluation or quantification of a policy or an economic phenomenon, to understand how economic factors affect the functioning of a policy, a geographical area, or any group of persons with a view to making better decisions for the future;
  - (20) ‘risk management’ means the systematic identification of risk, including identifying profiles of risky economic operators, *suspicious transactions*, and the implementation of all measures necessary for limiting exposure to risk; **(INTA 50)**
  - (21) ‘customs supervision’ means action taken in general by the customs authorities with a view to ensuring that customs legislation and, where appropriate, other legislation applied by the customs authorities is observed, or to otherwise contribute to the management of risks related to those goods and their supply chains;
  - (22) ‘customs controls’ means specific acts performed by the customs authorities in order to ensure compliance with the customs legislation and other legislation applied by the customs authorities, or in order to otherwise contribute to the management of risks related to goods and their supply chains;
  - (23) ‘random controls’ means customs controls based on principles of random sampling, with regard to a population of interest;
  - (24) ‘holder of the goods’ means the person who has physical control of the goods;
  - (25) ‘carrier’ means:
    - (a) in the context of entry, the person who brings the goods, or who assumes responsibility for the carriage of the goods, into the customs territory of the Union. However,
      - (i) in the case of combined transportation, ‘carrier’ means the person who operates the means of transport which, once brought into the customs territory of the Union, moves by itself as an active means of transport;
      - (ii) in the case of maritime or air traffic under a vessel-sharing or contracting arrangement, ‘carrier’ means the person who concludes a contract and issues a bill of lading or air waybill for the actual carriage of the goods into the customs territory of the Union;
    - (b) in the context of exit, the person who takes the goods, or who assumes responsibility for the carriage of the goods, out of the customs territory of the Union. However:
      - (i) in the case of combined transportation, where the active means of transport leaving the customs territory of the Union is only transporting another means of transport which, after the arrival of the active means of transport at its destination, will move by itself as an active means of



transport, ‘carrier’ means the person who will operate the means of transport which will move by itself once the means of transport leaving the customs territory of the Union has arrived at its destination;

- (ii) in the case of maritime or air traffic under a vessel-sharing or contracting arrangement, ‘carrier’ means the person who concludes a contract, and issues a bill of lading or air waybill, for the actual carriage of the goods out of the customs territory of the Union;
- (26) ‘risk analysis’ means the processing of data, information or documents, including personal data, with a view to the identification or quantification of possible risks, using where relevant analytical methods and artificial intelligence as defined Article 3, point (1), of Regulation (EU) /.../... of the European Parliament and of the Council<sup>4</sup>;
  - (27) ‘risk signal’ means the indication of a possible risk based on automated processing operations implementing risk analysis on data, information or documents;
  - (28) ‘risk analysis result’ means, the determination, in the case of a signal, that a risk is or is not considered present, based on an automatic process or from further human assessment of the risk signal;
  - (29) ‘control recommendation’ means the opinion of a customs authority or of the EU Customs Authority, as regards whether and if so when, where and by which customs authority a customs control is to be carried out, including the identification of possible additional actions other than customs controls;
  - (30) ‘control decision’ means the individual act by which the customs authorities decide a control shall or shall not take place;
  - (31) ‘control result’ means the preliminary and final outcome of a control, including the further action indicated, if any, and the competent authorities concerned with the outcome or action, if any;
  - (32) ‘common priority control area’ means a selection of particular customs procedures, types of goods, traffic routes, modes of transport or economic operators with a view to subjecting them to increased levels of risk analysis and mitigation measures and customs controls during a certain period, without prejudice to other controls usually carried out by the customs authorities;
  - (33) ‘common risk criteria and standards’ means parameters for risk analysis for a risk area and accompanying standards regarding the practical application of the criteria;
  - (34) ‘supervision strategy’ means an approach to handling a specific risk, which aims to balance operational customs supervision efforts and mitigation measures across the supply chain in a proportionate and effective manner;
  - (35) ‘consignment’ means goods, conveyed by one consignor to one consignee, by the same means of transport including multimodal, and coming from the same territory or third country, being of the same type, class or description or being packed together, under the same transport contract;
  - (36) ‘customs status’ means the status of goods as Union or non-Union goods;

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<sup>4</sup> Regulation of the European Parliament and of the Council (EU) .../20.. laying down harmonised rules on artificial intelligence (artificial intelligence act) and amending certain Union legislative acts [COM(2021)206 final] [(2021/0106(COD))].

- (37) 'Union goods' means goods which fall into any of the following categories:
- (a) goods wholly obtained in the customs territory of the Union and not incorporating goods imported from third countries;
  - (b) goods brought into the customs territory of the Union from third countries and released for free circulation;
  - (c) goods obtained or produced in the customs territory of the Union, either solely from goods referred to in point (b) or from goods referred to in points (a) and (b);
- (38) 'non-Union goods' means goods other than those referred to in point (46) or which have lost their customs status as Union goods;
- (39) 'release of goods' means the act whereby the customs authorities, or other persons on their behalf, make goods available for the purposes specified for the customs procedure under which they are intended to be placed;
- (40) 'entry summary declaration' means the act whereby a person informs the customs authorities, in the prescribed form and manner and within a specific time-limit, that goods are to be brought into the customs territory of the Union;
- (41) 'exit summary declaration' means the act whereby a person informs the customs authorities, in the prescribed form and manner and within a specific time-limit, that goods are to be taken out of the customs territory of the Union;
- (42) 'temporary storage declaration' means the act whereby a person indicates, in the prescribed form and manner, that goods are in temporary storage;
- (43) 'customs declaration' means the act whereby a person indicates, in the prescribed form and manner, a wish to place goods under a given customs procedure, with an indication, where appropriate, of any specific arrangements to be applied;
- (44) 'declarant' means the person lodging a customs declaration, a temporary storage declaration, an entry summary declaration, an exit summary declaration, a re-export declaration or a re-export notification in that person's own name or the person in whose name such a declaration or notification is lodged;
- (45) 're-export declaration' means the act whereby a person indicates, in the prescribed form and manner, a wish to take non-Union goods, with the exception of those under the free zone procedure or in temporary storage, out of the customs territory of the Union;
- (46) 're-export notification' means the act whereby a person indicates, in the prescribed form and manner, a wish to take non-Union goods which are under the free zone procedure or in temporary storage out of the customs territory of the Union;
- (47) 'distance sales of goods imported from third countries' means distance sales of goods imported from third countries or third territories as defined in Article 14(4), point (2), of Directive 2006/112/EC;
- (48) 'manufacturer' means:
- (a) the manufacturer of the product pursuant to the other legislation applicable to that product; or

- (b) the producer with respect to agricultural products as defined in Article 38(1) TFEU or to raw materials; or
  - (c) if there is no manufacturer or producer as referred to in points (a) and (b), the natural or legal person or association of persons who manufactured the product or had the product manufactured, and markets that product under that person's name or trademark;
- (49) 'product supplier' means any natural or legal person or association of person in the supply chain who manufactures a product in whole or in part, whether as manufacturer or in any other circumstance;
  - (50) 'temporary storage' means the situation of non-Union goods temporarily stored under customs supervision in the period between the moment in which the carrier notifies their arrival to the customs territory and their placement under a customs procedure;
  - (51) 'processed products' means goods placed under a processing procedure which have undergone processing operations;
  - (52) 'processing operations' means any of the following:
    - (a) the working of goods, including erecting, assembling or fitting those goods to other goods;
    - (b) the processing of goods;
    - (c) the destruction of goods;
    - (d) the repair of goods, including restoring and putting those goods in order;
    - (e) the use of goods which are not to be found in the processed products, but which allow or facilitate the production of those products, even if they are entirely or partially used up in the process (production accessories);
  - (53) 'holder of the transit procedure' means the person who lodges the transit declaration or provides the information required for placing goods under that procedure, or on whose behalf that declaration is lodged or that information provided.
  - (54) 'rate of yield' means the quantity or percentage of processed products obtained from the processing of a given quantity of goods placed under a processing procedure;
  - (55) 'third country' means a country or a territory outside the customs territory of the Union;
  - (56) 'simplified tariff treatment for distance sales' means the simplified tariff treatment for distance sales set out in Article 1, paragraphs 4 and 5, and Part One, Section II, point G of Annex I to Regulation (EEC) No 2658/87;
  - (57) 'customs debt' means the obligation on a person to pay the amount of import or export duty *and any other charges* which ~~applies~~*apply* to specific goods under the customs legislation in force; (**Rapp. 30, Greens 199, The Left 200, S&D 201**)
  - (58) 'debtor' means any person liable for a customs debt;
  - (59) 'import duty' means customs duty payable on the import of goods;
  - (60) 'export duty' means customs duty payable on the export of goods;
  - (61) 'repayment' means the refunding of an amount of import or export duty that has been paid;

- (62) ‘remission’ means the waiving of the obligation to pay an amount of import or export duty which has not been paid;
- (63) ‘buying commission’ means a fee paid by an importer to an agent for representing him or her in the purchase of goods being valued;
- (64) ‘crisis’ means an ~~exceptional, natural or man-made~~ event, *natural or man-made, or a situation that suddenly of an extraordinary exceptional nature and scale, taking place inside or outside of the Union, that* endangers the safety, the security, the health and life of the citizens, economic operators and personnel of customs authorities and *that* requires urgent measures as regards the entry, exit or transit of goods; (Rapp. 31)
- (64a) ‘crisis response cell’ means a contact point within the EU Customs Authority that coordinates EU crises response efforts within the Customs Union; (Rapp. 32)
- (64b) ‘micro, small and medium-sized enterprises’ or ‘SMEs’ means micro, small and medium-sized enterprises as defined in Article 2 of Commission Recommendation 2003/361/EC; (Rapp 33)
- (64c) ‘other charges’ means any fees charged in addition to custom duties, VAT, customs formalities fees and courier fees; (Rapp. 34, Greens/EFA 202, The Left 206, S&D 210)
- (64d) ‘end-customer’ means a natural or legal person residing or established in the Union, to whom a product has been made available by a seller or a marketplace; (Rapp. 35, Greens/EFA 204, S&D 211)
- (64e) ‘national single window environment for customs’ means a set of electronic services established by a Member State to enable information to be exchanged between the electronic systems of its customs authority, the partner competent authorities and economic operators; (Rapp. 36)
- (64f) ‘partner competent authority’ means any Member State authority, or the Commission, empowered to perform a designated function in relation to the fulfilment of the relevant Union non-customs formalities; (Rapp. 37)
- (64g) ‘Union non-customs formality’ means all the operations which must be carried out by an economic operator or by a partner competent authority for the international movement of goods, as laid down in Union legislation other than customs legislation; (Rapp. 38)
- (64h) ‘non-customs supporting document’ means any required document issued by a partner competent authority or drawn up by an economic operator, or any required information provided by an economic operator, to certify that Union non- customs formalities have been fulfilled; (Rapp. 39)
- (64i) ‘quantity management’ means the activity of monitoring and managing the quantity of goods authorised by partner competent authorities, in accordance with Union legislation other than customs legislation, based on the information provided by customs authorities; (Rapp. 40)
- (64j) ‘Union non-customs system’ means a Union electronic system established by, used in order to achieve the objectives of, or referred to in Union legislation to store information on the fulfilment of the respective Union non-customs formality; (Rapp. 41)

(64k) *‘Economic Operator Registration and Identification number (EORI number)’ means ‘Economic Operator Registration and Identification number (EORI number)’ as defined in Article 1, point (18), of Commission Delegated Regulation (EU) 2015/2446 (14); (Rapp. 42)*

~~(64l) *‘customs agent’ means a natural or legal person who acts as a direct or indirect representative (ECR 196)*~~

## Chapter 3

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

#### SECTION 1 GENERAL PRINCIPLES

##### *Article 6*

#### Decisions taken upon application

1. Where a person applies for a decision relating to the application of the customs legislation, that person shall provide all the information required by the competent customs authorities in order to enable them to take that decision.

A decision may also be applied for by, and taken with regard to, several persons, in accordance with the conditions laid down in the customs legislation.

Except where otherwise provided, the competent customs authority shall be that of the place of establishment of the applicant.

2. Customs authorities shall, without delay and at the latest within ~~30~~**14** calendar days of receipt of the application for a decision, verify whether the conditions for the acceptance of that application are fulfilled. **(Rapp. 43, S&D 212)**

Where the customs authorities establish that the application contains all the information required in order for them to be able to take the decision, they shall communicate its acceptance to the applicant within the period specified in the first subparagraph.

*Where the customs authorities require additional information from other relevant competent national or international authorities to evaluate the application, they shall inform the applicant and update them within 15 calendar days about their decision. (INTA 56)*

Where the customs authorities establish that the application does not contain all the information required, they shall ask the applicant to provide the relevant additional information within a reasonable time limit which shall not exceed 30 calendar days. Even where the customs authorities have requested additional information to the applicant, they shall decide whether the application is complete and can be accepted or whether it is incomplete and shall be refused in a period that shall not exceed 60 calendar days from the date of the first application. If the customs authorities do not expressly inform the applicant within that period *that the application is complete and*

has been accepted, the application shall be considered *to be* accepted at the end of the 60 calendar days. **(Rapp. 44)**

3. Except where otherwise provided, the competent customs authority shall take a decision as referred to in paragraph 1 at the latest within ~~120~~90 calendar days of the date of acceptance of the application and shall notify the applicant without delay. **(Rapp. 45, S&D 213)**

Where the customs authorities are unable to comply with the time-limit for taking a decision, they shall inform the applicant of that fact before the expiry of that time-limit, stating the reasons and indicating the further period of time which they consider necessary in order to take a decision. Except where otherwise provided, that further period of time shall not exceed 30 calendar days.

Without prejudice to the second subparagraph, the customs authorities may extend the time limit for taking a decision, as laid down in the customs legislation, where the applicant requests an extension to carry out adjustments in order to ensure the fulfilment of the conditions and criteria required for granting the decision. Those adjustments and the further period of time necessary to carry them out shall be communicated to the customs authorities, which shall decide on the extension.

Where the customs authorities fail to take a decision within the time-limits established in the first, second and third subparagraphs, the applicant may consider the request to have been denied and may appeal such a negative decision. The applicant may also inform the EU Customs Authority that the customs authorities did not take a decision within the relevant time limits ~~application shall be considered to be complete and accepted~~. *In such event, an automatic notification shall be received via the EU Customs Data Hub.* **(Rapp. 46, EPP 215)**

*The Commission, the EU Customs Authority and Member States shall agree adopt ~~on~~ clear guidelines on processes for handling decisions in the event of a technical failure by centralised EU electronic systems infrastructure, in particular the EU Customs Data Hub.* **(Greens/EFA 214)**

4. Except where otherwise specified in the decision or in the customs legislation, the decision shall take effect from the date on which the applicant receives it, or is deemed to have received it. Except in the cases provided for in Article 17(2), decisions adopted shall be enforceable by the customs authorities from that date.
5. Except where otherwise provided in the customs legislation, the decision shall be valid without limitation of time.
6. Before taking a decision which would adversely affect the applicant, the customs authorities shall communicate the grounds on which they intend to base their decision to the applicant, who shall be given the opportunity to express his or her point of view within a period prescribed from the date on which he or she receives that communication or is deemed to have received it ('right to be heard'). Following the expiry of that period, the applicant shall be notified, in the appropriate form, of the decision.

The first subparagraph shall not apply in any of the following cases:

- (a) where it concerns a decision relating to binding information referred to in Article 13(1);

- (b) in the event of refusal of the benefit of a tariff quota where the specified tariff quota volume is reached, as referred to in Article 145(4), [first](#) subparagraph;
  - (c) where the nature or the level of a threat to the security and safety of the Union and its residents, to human, animal or plant health, to the environment or to consumers so requires;
  - (d) where the decision aims at securing the implementation of another decision on which the applicant has been given the opportunity to express his or her point of view, without prejudice to the law of the Member State concerned;
  - (e) where it would prejudice investigations initiated for the purpose of combating fraud;
  - ~~(f) in other specific cases. (Rapp. 47)~~
7. A decision which adversely affects the applicant shall set out the grounds on which it is based and shall refer to the right of appeal provided for in Article [16](#).
8. The Commission is empowered to adopt delegated acts in accordance with Article [261](#), to supplement this Regulation by determining:
- (a) the exceptions for designating the competent customs office referred to in paragraph 1, third subparagraph, of this Article;
  - (b) the conditions for the acceptance of an application, referred to in paragraph 2 of this Article;
  - (c) the cases where the time limit to take a specific decision, including the possible extension of that time-limit, differs from the time limits referred to in paragraph 3 of this Article;
  - (d) the cases, referred to in paragraph 4 of this Article, where the decision takes effect from a date which is different from the date on which the applicant receives it or is deemed to have received it;
  - (e) the cases, referred to in paragraph 5 of this Article, where the decision is not valid without limitation of time;
  - (f) the duration of the period referred to in paragraph 6, first subparagraph, of this Article;
  - ~~(g) the specific cases, referred to in paragraph 6, second subparagraph, point (f) of this Article. (Rapp. 48)~~
9. The Commission shall ~~specify, by means of~~*adopt* implementing acts, *specifying* the procedure for:
- (a) the submission and the acceptance of the application for a decision, referred to in paragraphs 1 and 2;
  - (a a) guidelines on processes to handle decisions in the event of a technical failure by the centralised EU electronic systems infrastructure;**
  - (b) taking the decision referred to in this Article, including, where appropriate, as regards the right to be heard and the consultation of other Member States concerned.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 7*

##### **Management of decisions taken upon application**

1. The holder of the decision shall comply with the obligations resulting from that decision.
2. The holder of the decision shall continuously monitor the fulfilment of the conditions and criteria, and compliance with the obligations, resulting from the decisions and, where applicable, establish internal controls capable of preventing, detecting and correcting illegal or irregular transactions.
3. The holder of the decision shall inform the customs authorities without delay of any factor arising after the decision was taken, which may influence the continuation or content of that decision.
4. Customs authorities shall regularly monitor whether the holder of the decision continues to fulfil the relevant criteria and comply with the relevant obligations, in particular the ability of the holder of the decision to prevent, react to and remedy errors through appropriate internal controls. Based on such monitoring activity, customs shall assess the risk profile of the holder of the decision, where relevant. Where the holder of the decision has been established in the customs territory of the Union for less than 3 years, the customs authorities shall closely monitor it during the first year after the decision is taken.
5. The customs authorities shall communicate to the EU Customs Authority the decisions taken upon application and all monitoring activities that they carry out in accordance with paragraph 4. The EU Customs Authority shall take this information into account for risk management purposes.
6. Until the date set out in Article 265(3), the customs authorities shall record their decisions in the existing electronic systems for the exchange of information developed by the Member States and the Commission. The Member States and the Commission shall have access to those decisions and underlying information in those systems.
7. Without prejudice to provisions laid down in other fields which specify the cases in which decisions are invalid or become null and void, the customs authorities which took a decision may at any time annul, revoke or amend it where it does not conform to the customs legislation. Customs authorities shall inform the EU Customs Authority about such annulment, revocation and amendment of customs decisions.
8. In specific cases the customs authorities shall carry out the following:
  - (a) re-assess a decision;
  - (b) suspend a decision which is not to be annulled, revoked or amended.
9. The customs authority competent to take the decision shall suspend the decision instead of annulling, revoking or amending it 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 that person is temporarily unable to fulfil the conditions laid down for the decision or to comply with the obligations imposed under that decision.

In cases referred to in paragraph 1, points (b) and (c), the holder of the decision shall notify the customs authority competent to take the decision of the measures that person 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.

10. The Commission is empowered to adopt delegated acts in accordance with Article [261](#), to supplement this Regulation by determining:
  - (a) detailed rules for monitoring a decision referred to in paragraphs 2 to 4 of this Article;
  - (b) the specific cases and the rules for re-assessing decisions as referred to in paragraph 8 of this Article.

#### *Article 8*

#### **Union-wide validity of decisions**

Except where the decision provides that its effect is limited to one or several Member States, decisions relating to the application of the customs legislation shall be valid throughout the customs territory of the Union.

#### *Article 9*

#### **Annulment of favourable decisions**

1. The customs authorities shall annul a decision favourable to the holder of the decision if all the following conditions are fulfilled:
  - (a) the decision was taken on the basis of incorrect or incomplete information;
  - (b) the holder of the decision knew or ought reasonably to have known that the information was incorrect or incomplete;
  - (c) if the information had been correct and complete, the decision would have been different.
2. The holder of the decision shall be notified of its annulment.
3. Annulment shall take effect from the date on which the initial decision took effect, unless otherwise specified in the decision in accordance with the customs legislation.
4. The Commission shall ~~specify, by means of~~**adopt** implementing acts **specifying**; the rules for annulling favourable decisions. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

## Article 10

### Revocation and amendment of favourable decisions

1. A favourable decision shall be revoked or amended where, in cases other than those referred to in Article 9:
  - (a) one or more of the conditions for taking that decision were not or are no longer fulfilled; or
  - (b) upon application by the holder of the decision.
2. Except where otherwise provided, a favourable decision addressed to several persons may be revoked only in respect of a person who fails to comply with an obligation imposed under that decision.
3. The holder of the decision shall be notified of its revocation or amendment.
4. Article 6(4) shall apply to the revocation or amendment of the decision.

However, in exceptional cases where the legitimate interests of the holder of the decision so require, the customs authorities may defer the date on which revocation or amendment takes effect by up to one year. That date shall be indicated in the revoking or amending decision.
5. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining:
  - (a) the cases, referred to in paragraph 2, where a favourable decision addressed to several persons may be revoked also in respect of persons other than the person who fails to comply with an obligation imposed under that decision
  - (b) the exceptional cases, in which the customs authorities may defer the date on which revocation or amendment takes effect in accordance with the second subparagraph of paragraph 4.
6. The Commission shall ~~specify, by means of~~*adopt* implementing acts, *specifying* the procedural rules for revoking or amending favourable decisions. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

## Article 11

### Decisions taken without prior application

Except when a customs authority acts as a judicial authority, Article 6(4), (5), (6), (7), Article 7(7) and Articles 8, 9 and 10 shall also apply to decisions taken by the customs authorities without prior application by the person concerned.

## Article 12

### Limitations applicable to decisions on goods placed under a customs procedure or in temporary storage

Except where the person concerned so requests, the revocation, amendment or suspension of a favourable decision shall not affect goods which, at the moment where the revocation,

amendment or suspension takes effect, have already been placed and are still under a customs procedure or in temporary storage by virtue of the revoked, amended or suspended decision.

## **SECTION 2**

### **BINDING INFORMATION**

#### *Article 13*

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

1. The customs authorities shall, upon application, take decisions relating to binding tariff information ('BTI decisions'), decisions relating to binding origin information ('BOI decisions') and decisions relating to binding valuation information ('BVI decisions').

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

- (a) where the application is made, or has already been made, at the same or another customs office, by or on behalf of the holder of a decision:
    - (i) for BTI decisions, in respect of the same goods;
    - (ii) for BOI decisions, in respect of the same goods and under the same circumstances determining the acquisition of origin;
    - (iii) for BVI decisions, in respect of goods under the same circumstances determining the customs value;
  - (b) where the application does not relate to any intended use of decision relating to binding information or any intended use of a customs procedure.
2. Decisions relating to binding information shall be binding, only in respect of the tariff classification or determination of the origin or the customs value of goods, on:
    - (a) the customs authorities, as against the holder of the decision, only in respect of goods for which customs formalities are completed after the date on which the decision takes effect;
    - (b) the holder of the decision, as against the customs authorities, only with effect from the date on which he or she receives, or is deemed to have received, notification of the decision.
  3. Decisions relating to binding information shall be valid for a period of 3 years from the date on which the decision takes effect.
  4. For the application of a decision relating to binding information in the context of a particular customs procedure, the holder of the decision shall be able to prove that:
    - (a) in the case of a BTI decision, the goods in question correspond in every respect to those described in the decision;
    - (b) in the case of a BOI decision, the goods in question and the circumstances determining the acquisition of origin correspond in every respect to the goods and the circumstances described in the decision;
    - (c) in the case of a BVI decision, the circumstances determining the customs value for the goods in question correspond in every respect to the circumstances described in the decision.

## Article 14

### Management of decisions relating to binding information

1. A BTI decision shall cease to be valid before the end of the period referred to in Article 13(3) where it no longer conforms to the law, as a result of either of the following:
  - (a) the adoption of an amendment to the nomenclatures referred to in Article 145(2), points (a) and (b);
  - (b) the adoption of measures referred to in Article 146(4);In such cases, the BTI decision shall cease to be valid with effect from the date of application of such amendment or measures.
2. A BOI decision shall cease to be valid before the end of the period referred to in Article 13(3) in any of the following cases:
  - (a) where a legally binding act of the Union is adopted or an agreement is concluded by, and becomes applicable in, the Union, and the BOI decision no longer conforms to the law thereby laid down, with effect from the date of application of that act or agreement;
  - (b) where the BOI decision is **not or** no longer compatible with the Agreement on Rules of Origin established in the World Trade Organisation (WTO) or with the advisory opinions, information, advice and similar acts, concerning the determination of the origin of goods to secure uniformity in the interpretation and application of that Agreement, with effect from the date of their publication in the Official Journal of the European Union. (INTA 57)
3. A BVI decision shall cease to be valid before the end of the period referred to in Article 13(3) in the following cases:
  - (a) where the adoption of a legally binding act of the Union renders the BVI decision non-compliant with that act, from the date of application of that act;
  - (b) where the BVI decision is no longer compatible with the Article VII of the General Agreement on Tariffs and Trade, or the 1994 Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Agreement on Customs Valuation), or with the decisions adopted for the interpretation of that Agreement by the Committee on Customs Valuation, with effect from the date of publication in the Official Journal of the European Union.
4. Decisions relating to binding information shall not cease to be valid with retroactive effect.
5. By way of derogation from Article 7(7) and Article 9, the customs authorities shall annul decisions relating to binding information only where they are based on inaccurate or incomplete information from the applicants.
6. The customs authorities shall revoke decisions relating to binding information in accordance with Article 7(7) and Article 10. However, such decisions shall not be revoked upon application by the holder of the decision.
7. Decisions relating to binding information may not be amended.

8. The customs authorities shall revoke BTI decisions where they are no longer compatible with the interpretation of any of the nomenclatures referred to in Article 145(2), points (a) and (b) resulting from any of the following:
  - (a) explanatory notes referred to in Article 9(1), point (a), second indent of Regulation (EEC) No 2658/87, with effect from the date of their publication in the Official Journal of the European Union;
  - (b) a judgment of the Court of Justice of the European Union, with effect from the date of publication of the operative part of the judgment in the Official Journal of the European Union;
  - (c) classification decisions, classification opinions or amendments of the explanatory notes to the Nomenclature of the Harmonised Commodity Description and Coding System, adopted by the Organization set-up by the Convention establishing a Customs Co-operation Council, done at Brussels on 15 December 1950, with effect from the date of publication of the Commission Communication in the 'C' series of the Official Journal of the European Union.
9. BOI and BVI decisions shall be revoked where they are no longer compatible with a judgment of the Court of Justice of the European Union, with effect from the date of publication of the operative part of the judgment in the Official Journal of the European Union.
10. Where a decision relating to binding information ceases to be valid in accordance with paragraph 1, point (b), or with paragraphs 2 or 3, or is revoked in accordance with paragraphs 6, 8 or 9, the decision may still be used in respect of binding contracts which were based upon that decision and were concluded before it ceased to be valid or was revoked. That extended use shall not apply where a BOI decision is taken for goods to be exported.

The extended use referred to in the first subparagraph shall not exceed 6 months from the date on which the decision relating to binding information ceases to be valid or is revoked. However, a measure referred to in Article 146(4), a measure referred to in Article 151 or a measure referred to in Article 158 may exclude that extended use or lay down a shorter period of time. In the case of products for which an import or export certificate is submitted when customs formalities are carried out, the period of 6 months shall be replaced by the period of validity of the certificate.

In order to benefit from the extended use of a decision relating to binding information, the holder of that decision shall lodge an application to the customs authority that took the decision within 30 days of the date on which it ceases to be valid or is revoked, indicating the quantities for which a period of extended use is requested and the Member State or Member States in which goods will be cleared under the period of extended use. That customs authority shall take a decision on the extended use and notify the holder, without delay, and at the latest within 30 days of the date on which it receives all the information required in order to enable it to take that decision.

11. The Commission shall notify the customs authorities where:
  - (a) the taking of decisions relating to binding information, for goods whose correct and uniform tariff classification or determination of origin or determination of the customs value is not ensured, is suspended; or

- (b) the suspension referred to in point (a) is withdrawn.
12. The Commission may adopt decisions requesting Member States to revoke a BTI, BOI or BVI decision to ensure a correct and uniform tariff classification or determination of the origin of goods, or determination of the customs value. Before adopting such a decision, the Commission shall communicate the grounds on which it intends to base its decision to the holder of the BTI, BOI or BVI decision, who shall be given the opportunity to express that person's point of view within a period prescribed from the date on which that person receives that communication or is deemed to have received it.
13. The Commission is empowered to adopt delegated acts, in accordance Article 261, to supplement this Regulation by determining the rules for taking the decisions referred to in paragraph 12 of this Article, in particular as regards the communication to the persons concerned of the grounds on which the Commission intends to base its decision and the time-limit within which those persons may express their point of view.
14. The Commission shall adopt, ~~by means of~~ implementing acts, **laying down** the procedural rules for:
- (a) using a decision relating to binding information after it ceases to be valid or is revoked, in accordance with paragraph 10;
  - (b) the Commission to notify the customs authorities in accordance with paragraph 11, points (a) and (b).
- Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).
15. The Commission shall adopt, ~~by means of~~ implementing acts **in the form of** the decisions requesting Member States to revoke the decisions referred to in paragraph 12. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 262(2).

### **SECTION 3 APPEALS**

#### *Article 15*

#### **Decisions taken by a judicial authority**

Articles [16](#) and [17](#) shall not apply to appeals lodged with a view to the annulment, revocation or amendment of a decision relating to the application of the customs legislation taken by a judicial authority, or by customs authorities acting as judicial authorities.

#### *Article 16*

#### **Right of appeal**

1. Any person shall have the right to appeal against any decision taken by the customs authorities relating to the application of the customs legislation which concerns him or her directly and individually.

Any person who has applied to the customs authorities for a decision and has not obtained a decision on that application within the time-limits referred to in Article 6(3) shall also be entitled to exercise the right of appeal.

2. The right of appeal may be exercised in at least two steps:
  - (a) initially, before the customs authorities or a judicial authority or other body designated for that purpose by the Member States;
  - (b) subsequently, before a higher independent body, which may be a judicial authority or an equivalent specialised body, according to the provisions in force in the Member States.
3. The appeal shall be lodged in the Member State where the decision was taken or was applied for.
4. Member States shall ensure that the appeals procedure enables the prompt confirmation or correction of decisions taken by the customs authorities.

#### *Article 17*

#### **Suspension of implementation**

1. The submission of an appeal shall not cause implementation of the disputed decision to be suspended.
2. The customs authorities shall, however, suspend implementation of such a decision in whole or in part where they have good reason to believe that the disputed decision is inconsistent with the customs legislation or that irreparable damage is to be feared for the person concerned.
3. In the cases referred to in paragraph 2, where the disputed decision has the effect of causing import or export duty to be payable, suspension of implementation of that decision shall be conditional upon the provision of a guarantee, unless it is established, on the basis of a documented assessment, that such a guarantee would be likely to cause the debtor serious economic difficulties.

### **SECTION 4 CHARGES AND COSTS**

#### *Article 18*

#### **Prohibition of charges and costs**

1. Customs authorities shall not impose charges for the performance of customs controls or any other application of the customs legislation during the official opening hours of their competent customs offices.
2. Customs authorities may impose charges or recover costs where specific services are rendered, in particular the following:
  - (a) ~~attendance, where requested, by customs staff outside official office hours or at premises other than customs premises; (S&D 218)~~

- (b) analyses or expert reports on goods and postal fees for the return of goods to an applicant, particularly in respect of decisions taken pursuant to Article [13](#) or the provision of information in accordance with Article [39](#);
- (c) the examination or sampling of goods for verification purposes, or the destruction of goods, where costs other than the cost of using customs staff are involved;
- ~~(d) exceptional control measures, where these are necessary due to the nature of the goods or to a potential risk. (S&D 219)~~

## **Compromise Amendment 2 on Title II - Obligations and rights of persons**

Compromise amendment replacing all relevant amendments, including AMs 49-68, 220-275, INTA 58-71, CONT 16-26

# **Title II OBLIGATIONS AND RIGHTS OF PERSONS WITH REGARD TO CUSTOMS LEGISLATION**

## **Chapter 1 Registration**

### *Article 19*

#### **Registration**

1. Economic operators established in the customs territory of the Union shall register with the customs authorities responsible for the place where they are established in order to obtain an Economic Operator Registration and Identification (EORI) number. Where possible, that registration shall also include the electronic identification of the operator in the national electronic identification schemes referred to in Regulation (EU) No 910/2014.
2. Registered economic operators shall inform the customs authorities about any modification in their registration data, in particular where this entails a modification of their place of establishment.
3. In specific cases, economic operators which are not established in the customs territory of the Union shall register with the customs authorities responsible for the place where they first lodge a declaration or apply for a decision.
4. Persons other than economic operators shall not be required to register with the customs authorities unless otherwise provided.



Where persons referred to in the first subparagraph are required to register, the following shall apply:

- (a) where they are established in the customs territory of the Union, they shall register with the customs authorities responsible for the place where they are established;
  - (b) where they are not established in the customs territory of the Union, they shall register with the customs authorities responsible for the place where they first lodge a declaration or apply for a decision.
5. In specific *and duly justified* cases, the customs authorities shall invalidate the registration. *(S&D 221)*
  6. The Commission is empowered to adopt delegated acts in accordance with Article [261](#), to supplement this Regulation by determining:
    - (a) the minimum data requirements for the registration referred to in paragraph 1;
    - (b) the specific cases referred to in paragraph 3;
    - (c) the cases referred to in the first subparagraph of paragraph 4, where persons other than economic operators are required to register with the customs authorities;
    - (d) the specific cases referred to in paragraph 5 where the customs authorities invalidate a registration;
    - (e) the customs authority responsible for the registration.
  7. The Commission shall specify, by means of implementing acts, the customs authority responsible for the registration referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 262(2).

## **Chapter 2**

### **Importer and deemed importer**

#### *Article 20*

#### **Importers**

1. The importer shall comply with the following obligations:
  - (a) providing, keeping and making available to customs authorities, as soon as it is available and in any event prior to the release of the goods, all the information required in respect of the storage or the customs procedure under which the goods are to be placed in accordance with Articles [88](#), [118](#), [132](#) and [135](#), or to discharge the outward processing procedure;
  - (b) ensuring the correct calculation and payment of customs duties and any other charges applicable;
  - (c) ensuring that the goods entering or exiting the customs territory of the Union comply with the relevant other legislation *including Regulation 2023/988* applied by the customs authorities and providing, keeping and making available appropriate records of such compliance; *(EPP 222, ECR 223)*

- (d) any other obligation on the importer established in customs legislation.
- 2. The importer shall be established in the customs territory of the Union.
- 3. By way of derogation from paragraph 2 the following importers or persons shall not be required to be established in the customs territory of the Union:
  - (a) an importer who places goods in transit or temporary admission;
  - (b) an importer bringing goods that remain in temporary storage;
  - (c) persons, who occasionally place goods under customs procedures, provided that the customs authorities consider such placing to be justified;
  - (d) persons who are established in a country the territory of which is adjacent to the customs territory of the Union, and who present the goods at a Union border customs office adjacent to that country, provided that the country in which the persons are established grants reciprocal benefits to persons established in the customs territory of the Union;
  - (e) a deemed importer who is represented by an indirect representative established in the customs territory of the Union.

#### *Article 21*

#### **Deemed importers**

- 1. By way of derogation from Article 20(1), point (a), deemed importers shall provide or make available the information on distance sales of goods to be imported in the customs territory of the Union at the latest on the day following the date when the payment was accepted and in any event prior to the release of the goods.
- 2. Without prejudice to the information required to release the goods for free circulation in accordance with Article 88(3), point (a), the information referred to in paragraph 1 of this Article shall contain at least the requirements set out in Article 63c(2) of Implementing Regulation (EU) No 282/2011.
- 3. Where goods previously imported by a deemed importer under distance sales are returned to the original consignor's address or to another address outside the customs territory of the Union, the deemed importer shall invalidate the information on release for free circulation of those goods and provide or make available the proof of exit of the goods out of the customs territory of the Union.

### **Chapter 3** **Exporter**

#### *Article 22*

#### **Exporters**

- 1. The exporter shall comply with the following obligations:
  - (a) providing, keeping and making available to customs authorities, as soon as it is available and in any event prior to the release of the goods, all the information required in respect of the customs procedure under which the goods are placed

- in accordance with Article [99](#) and Article [140](#) or to discharge the temporary admission procedure;
- (b) ensuring the correct calculation and collection of customs duties and any other charges, if applicable;
  - (c) ensuring that the goods entering or exiting the customs territory of the Union comply with the relevant other legislation applied by the customs authorities and providing, keeping and making available appropriate records of such compliance;
  - (d) any other obligation established in customs legislation.
2. The exporter shall be established in the customs territory of the Union.
3. By way of derogation from paragraph 2, the following exporters shall not be required to be established in the customs territory of the Union:
- (a) an exporter who places goods in transit, discharges the temporary admission procedure or exports goods that were in temporary storage;
  - (b) persons, who occasionally place goods under customs procedures, provided that the customs authorities consider this to be justified;
  - (c) persons who are established in a country the territory of which is adjacent to the customs territory of the Union, and who present the goods at a Union border customs office adjacent to that country, provided that the country in which the persons are established grants reciprocal benefits to persons established in the customs territory of the Union.

## **Chapter 4**

### **Authorised economic operator and Trust and Check traders**

#### *Article 23*

##### **Application and authorisation for authorised economic operator**

1. A person who is resident, incorporated or registered in the customs territory of the Union and who meets the criteria set out in Article [24](#) may apply for the status of authorised economic operator.
- The *EU Customs Authority* shall, after assessing the audit of the competent national authority and customs authorities shall,** following consultation with other authorities, if necessary, grant one or both of the following types of authorisations:
- (a) that of an authorised economic operator for customs simplifications, which shall enable the holder to benefit from the simplifications in accordance with the customs legislation; or
  - (b) that of an authorised economic operator for security and safety that shall entitle the holder to facilitations relating to security and safety.
2. Both types of authorisations referred to in paragraph 1, second subparagraph, may be held at the same time.
3. The persons referred to in paragraph 1 shall comply with the obligations set out in Article [7\(2\)](#) and [\(3\)](#). The customs authorities shall monitor the operator's

continuous compliance with the criteria and conditions for the status of authorised economic operator in accordance with Article 7(4).

The customs authorities shall at least every 3 years perform an in-depth monitoring of the authorised economic operator's activities and internal records.

4. The status of authorised economic operator shall, subject to paragraph 5 of this Article and to Article 24, be recognised by the customs authorities in all Member States.
5. Customs authorities shall, on the basis of the recognition of the status of ***authorised economic operator for customs simplifications*** and provided that the requirements related to a specific type of simplification provided for in the customs legislation are fulfilled, authorise the operator to benefit from that simplification. Customs authorities shall not re-examine those criteria which have already been examined when granting the status of ***authorised economic operator for customs simplifications***.
6. The authorised economic operator referred to in paragraph 1 shall enjoy more facilitations than other economic operators in respect of customs controls according to the type of authorisation granted, including fewer physical and document-based controls. The status of authorised economic operator shall be taken into account favourably for customs risk management purposes. ~~***In duly justified cases, the customs authorities may give the authorised economic operator the possibility of providing information on the goods after their release. (Rapp. 49)***~~
7. The customs authorities shall grant benefits resulting from the status of authorised economic operator to persons established in third countries, who fulfil conditions and comply with obligations defined by the relevant legislation of those countries or territories, insofar as those conditions and obligations are recognised by the Union as equivalent to those imposed on authorised economic operators established in the customs territory of the Union. Such a granting of benefits shall be based on the principle of reciprocity unless otherwise decided by the Union, and shall be supported by an international agreement of the Union, or ***partnerships to the extent relevant and binding or*** Union legislation in the area of the common commercial policy. **(INTA 58)**
8. A joint business continuity mechanism to respond to disruptions in trade flows due to increases in security alert levels, border closures and/or natural disasters, hazardous emergencies or other major incidents shall be established providing that the customs authorities may facilitate and expedite to the extent possible priority cargos related to authorised economic operators.
  - 8 a. ***Whenever necessary, the Commission may adopt guidelines with a view to supporting SMEs recognizing the unique challenges faced by SMEs while maintaining the integrity and security of external trade processes in applying to the status of Authorised Economic Operators and Trust and Check traders. Continuous efforts shall be made to simplify and make the procedures more accessible for SMEs, ensuring their vital role in the EU's external trade is facilitated and promoted. (INTA 59)***
9. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining:

- (a) the type and frequency of the monitoring activities by both the persons referred to in paragraph 1 and the customs authorities referred to in paragraph 3;
  - (b) the simplifications for authorised economic operators referred to in paragraph 5;
  - (c) the facilitations referred to in paragraph 6.
10. The Commission shall specify, by means of implementing acts, the procedural rules for the consultations in respect of the determination of the status of authorised economic operators referred to in paragraph 1, second subparagraph, including the deadlines for replying. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 24*

##### **Granting of the status of authorised economic operator**

1. The criteria for the granting of the status of authorised economic operator shall be the following:
- (a) the absence of any serious infringement or repeated infringements of customs legislation, ***the relevant other legislation referred to in ~~applied by customs authorities pursuant to Article 20(1) point (c) of this Regulation,~~*** and taxation rules, and no record of serious criminal offences; the infringements and offences to be considered are those relating to economic or business activities; ***(Greens/EFA 227)***
  - (b) the demonstration by the applicant of a high level of control of his or her operations and of the flow of goods, by means of a system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls and evidence that non-compliance has been effectively remedied; 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;
  - (c) financial solvency, which shall be deemed to be proven where the applicant has good financial standing, which enables him or her to fulfil his or her commitments, with due regard to the characteristics of the type of business activity concerned;
  - (d) with regard to the authorisation referred to in Article 23(1), point (a), practical standards of competence or professional qualifications directly related to the activity carried out;
  - (e) with regard to the authorisation referred to in Article 23(1), point (b), appropriate security, safety and compliance standards, adapted to the activity carried out. The standards shall be considered as fulfilled where the applicant demonstrates that he or she maintains appropriate measures to ensure the security and safety of the international supply chain, including in the areas of physical integrity and access controls, logistical processes and handling of specific types of goods, personnel and identification of his or her business partners.

2. The Commission shall ~~is empowered to~~ adopt, ~~by means of implementing delegated acts, the modalities~~ **in accordance with Article 261, to supplement this Regulation by laying down detailed arrangements** for the application of the criteria referred to in paragraph 1. ~~Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).~~ **(Rapp. 50)**

#### *Article 25*

##### **Granting the status of Trust and Check trader**

1. ~~An importer or exporter~~ **A person, including an economic operator or a customs representative**, who is resident or registered in the customs territory of the Union, meets the criteria set out in paragraph 3 and has conducted regular customs operations in the course of that person's business for at least ~~3~~ **2** years, may apply for the status of Trust and Check trader to the customs authority of the Member State where that person is established. ~~Importers or exporters who already have the status of authorised economic operators may apply immediately for the status of Trust and Check trader.~~ **(Rapp. 51, ECR 228, ID 229, EPP 230)**
2. The **EU Customs Authority** ~~customs authorities~~ shall grant the status following consultation with other authorities, if necessary, and after having had ~~access received~~ **and assessed** to the relevant data of the applicant for the last ~~3~~ **2** years in order to assess compliance with the criteria in paragraph 3. **(Rapp. 52, S&D 231)**
3. The **EU Customs Authority** ~~customs authorities~~ shall grant, **after assessing the audit of the competent national authority**, the status of Trust and Check trader to a person who meets all the following criteria:
- the absence of any serious infringement or repeated infringements of customs legislation, **other legislation applied by customs authorities pursuant to Article 20(1) point (c) of this Regulation**, and taxation rules and no record of serious criminal offences; the infringements and offences to be considered are those relating to economic or business activities; **(Greens/EFA 234)**
  - the demonstration by the applicant of a high level of control of his or her operations and of the flow of goods, by means of a system of managing commercial and transport records, which allows appropriate customs controls and evidence that non-compliance has been effectively remedied; the applicant shall ensure that relevant employees inform the customs authorities whenever compliance difficulties are discovered and establishes procedures for informing the customs authorities of such difficulties;
  - financial solvency, which shall be deemed to be proven where the applicant has ~~good~~ financial standing, which enables him or her to fulfil his or her commitments, with due regard to the characteristics of the type of business activity concerned. In particular, during the last 3 years preceding the submission of the application, the applicant shall have 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, including on VAT and excise duties due in relation to intra-Union operations; **(S&D 237)**

- (d) practical standards of competence or professional qualifications directly related to the type and size of activity carried out, including that relevant employees are instructed on how to interact with customs authorities through the EU Customs Data Hub;
- (e) appropriate security, safety and compliance standards, **including product safety standards**, adapted to the type and size of the activity carried out, **including requiring the applicant shall be required to participate in mandatory training provided by the competent authorities related to the type of activity**; those **security, safety and compliance** standards shall be considered to be fulfilled where the applicant demonstrates that he or she maintains appropriate measures to ensure the security and safety of the international supply chain, including in the areas of physical integrity and access controls, logistical processes and handling of specific types of goods, personnel and identification of his or her business partners; **(Rapp. 53, The Left 240, S&D 241)**
- (f) having an electronic system, **including systems managed by a third-party provider, providing or making that exceptionally makes** available to the customs authorities real-time ~~an~~ **access to appropriate and relevant** data on the movement of the goods and the compliance of the person referred to in paragraph 1 with all requirements applicable on those goods, including relating to safety and security and including where relevant sharing in the EU Customs Data Hub, **in accordance with the detailed arrangements for the application of the criteria for such access set out in the delegated acts referred to in paragraph 10, point (b): (Rapp. 54, EPP 242-243, Greens/EFA 244, Renew 245)**
  - (i) customs records;
  - (ii) accounting system;
  - (iii) commercial and transport records;
  - (iv) their tracking and logistics systems, which identifies goods as Union or non-Union goods and indicates, where appropriate, their location;
  - (v) licences and authorisations granted in accordance with other legislation applied by the customs authorities;
  - (vi) complete records needed to check the correctness of the establishment of the customs debts.

**(f a) by way of exception to point (f) and notwithstanding obligations linked to the importer status or deemed importer status, small and medium-sized enterprises may make compliance data available to customs authorities via a Digital Product Passport. (Greens/EFA 246)**

4. The persons referred to in paragraph 1 shall comply with the obligations set out in Article 7(2) and (3). The customs authorities shall monitor the operator's continuous compliance with the criteria and conditions for the status of authorised economic operator in accordance with Article 7(4).

The customs authorities at least every ~~3~~ 2 years shall perform and in-depth monitoring of the Trust and Check trader's activities and internal records. The Trust and Check trader shall inform the customs authorities of any changes in its corporate structure,

ownership, solvency situation, trading models or any other significant changes in its situation and activities. The customs authorities shall re-assess the status of the Trust and Check trader if any of these changes have a significant impact on the Trust and Check status. The customs authorities may suspend this authorisation until a decision on the reassessment is taken. **(Rapp. 55, Greens/EFA 247, The Left 248)**

5. ~~Where a Trust and Check trader changes its Member State of establishment, the~~ customs authorities of the receiving Member State may reassess the Trust and Check authorisation, ~~after consultation with the Member State that initially granted the status and having received the previous records on the operators. During the reassessment, the customs authority of the Member State that granted the initial authorisation may suspend it.~~ **(Rapp. 56, ID 249)**

~~The~~*Where a Trust and Check trader **changes its Member State of establishment, it** shall inform the customs authorities of the receiving Member State of any changes in its corporate structure, ownership, solvency situation, trading models or any other significant changes in its situation and activities if any of these changes have an impact on the Trust and Check status.* **(Rapp. 57)**

*The customs authorities of the receiving Member State may, in consultation with the Member State that initially granted the trader its Trust and Check status, re-assess whether any of these changes have an impact on that trader's Trust and Check status. If necessary, the customs authorities of the receiving Member State may suspend the initial authorisation. Such suspension shall be notified in the Customs Data Hub. At the latest within 3 years after the Trust and Check trader has changed its Member State of establishment or after the customs authorities of the receiving Member State have re-assessed the trader's Trust and Check status. Every 3 years thereafter, the customs authorities of the receiving Member State shall perform in-depth monitoring of the trader's Trust and Check activities and its internal records referred to in paragraph 4.* **(Rapp. 58)**

6. Where a Trust and Check trader is ~~suspected of involvement~~*involved* in fraudulent activity in relation to its economic or business activity *or serious infringement of other legislation applied by customs authorities pursuant to Article 20(1) point (c) of this Regulation (Green 251)*, its status shall be suspended *by the customs authorities. That suspension shall be notified*~~in~~*recorded on the Customs Data Hub.* **(Rapp. 59, S&D 252)**

Where the customs authorities have suspended, annulled or revoked a Trust and Check trader authorisation in accordance with Articles [7](#), [9](#) and [10](#) they shall take the measures necessary to ensure that the authorisations referred to in paragraph 7 of this Article and the facilitations referred to in paragraph 8 of this Article are also suspended, annulled or revoked.

7. Customs authorities ~~may~~*shall* authorise Trust and Check traders: **(Rapp. 60, EPP 254, ID 255)**
- (a) to provide part of the data on his or her goods after the release of those goods, in accordance with Article 59([3](#));
  - (b) to perform certain controls and to release the goods upon receipt of those goods at the place of business of the importer, owner or consignee and/or upon delivery



from the place of business of the exporter, owner or consignor, in accordance with Article [61](#);

- (c) to consider that it provides the necessary assurance of the proper conduct of the operations for the purposes of obtaining authorisations for special procedures in accordance with Articles [102](#), [103](#), [109](#) and [123](#);
- (d) to periodically determine the customs debt corresponding to the total amount of import or export duty relating to all the goods released by that trader, in accordance with Article [181\(4\)](#);
- (e) to defer the payment of the customs debt in accordance with Article [188](#).
- (f) *to perform centralised clearance in accordance with Article 72 (ECR 256)*
- (g) *to make an entry in the declarant's records in accordance with Article 73. (ECR 257)*

7a. *Customs authorities shall make best efforts to align their practice of granting authorisations referred to in paragraph 7 with those of other customs authorities in order to ensure a uniform approach across the Union. The EU Customs Authority shall coordinate the work of the customs authorities and monitor such uniform approach so that the authorisations can be granted automatically upon designation as a Trust and Check trader. (Rapp. 61)*

8. ~~The Trust and Check traders shall enjoy **benefit from** more facilitations than other economic operators in respect of customs controls according to the authorisation granted, including fewer physical and document based controls.~~ The status of Trust and Check trader shall be taken into account favourably for customs risk management purposes. **(Rapp. 62)**

9. By way of derogation from Article 110, where the importer or the exporter of the goods entering or exiting the customs territory has the status of Trust and Check trader, the goods shall be considered under a duty suspensive regime and remain under customs supervision until their final destination without the obligation to place them in transit. The Trust and Check trader shall be liable for the payment of customs duties, other taxes and other charges in the Member State of establishment and where the authorisation was granted.

10. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation: ~~by determining the type and frequency of the monitoring activities referred to in paragraph 4 of this Article.~~ **(Rapp. 63)**

*(a) by laying down the rules to consult other authorities for the determination of the status of Trust and Check trader referred to in paragraph 2; (INTA 69)*

*(b) by laying down the detailed arrangements for the application of the criteria referred to in paragraph 3; (Rapp. 65)*

*(c) by determining the type and frequency of the monitoring activities referred to in paragraph 4; (Rapp. 64)*

*(d) by laying down the rules to consult the customs authorities as referred to in paragraph 5. (INTA 69)*

11. ~~The Commission shall adopt, by means of implementing acts *is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by laying down:*~~
- ~~(a) the rules to consult other authorities for the determination of the status of Trust and Check trader referred to in paragraph 2;~~
  - ~~(b) the modalities for the application of the criteria referred to in paragraph 3; (S&D 259)~~
  - ~~(c) the rules to consult the customs authorities as referred to in paragraph 5.~~
- ~~Those implementing acts shall be adopted in accordance with the examination procedure referred to Article 262(4).~~
- 10 a. *The Commission and Member States shall set up a capacity building and best practice sharing support system for use by traders who are micro, small and medium-sized enterprises (SMEs) and who have obtained or applied for the Trust and Check status Trust and Check status. (Greens/EFA 260)*

#### *Article 26*

#### **Transitional provisions for authorised economic operators for customs simplifications**

1. ~~Until the date established in Article 265(4), The customs authorities may grant persons meeting the criteria the status of authorised economic operator for customs simplifications and authorise them to benefit from certain simplifications and facilitations in accordance with the customs legislation. (Rapp. 66)~~
2. ~~By the date established in Article 265(3), the customs authorities shall assess the valid authorised economic operators' authorisations for customs simplifications to check whether their holders may be granted the status of Trust and Check traders. **If they may not, the status of authorised economic operators for customs simplifications and the simplifications referred to in Article 23(5) shall be revoked.** (EPP 263)~~
3. ~~Until the authorisation is reassessed or until the date established in Article 265(3), whichever is the earlier, the recognition of status of authorized economic operator for customs simplifications shall remain valid, unless Articles 9 and 10 on annulment, revocation or amendment of decisions apply. (264 EPP)~~

### **Chapter 5**

#### **Customs representation (Rapp. 67)**

#### *Article 27*

#### **Customs representatives**

1. Any person may appoint a customs representative.  
Such representation may be either direct, in which case the customs representative shall act in the name of and on behalf of another person, or indirect, in which case the customs representative shall act in his or her own name but on behalf of another person.

An indirect customs representative acting in its own name but on behalf of an importer or an exporter shall be considered the importer or the exporter for the purposes of Articles 20 and 22, respectively.

2. A customs representative shall be established in the customs territory of the Union.  
Except where otherwise provided, that requirement shall be waived where the customs representative acts on behalf of persons who are not required to be established within the customs territory of the Union.
3. A customs representative having the status of Trust and Check trader shall only be recognised as such when acting as indirect representative. When acting as a direct representative, the customs representative may be recognised as Trust and Check trader if the person in whose name and on whose behalf that representative is acting has been granted such status.
- 3a. ***For a period of 5 years starting on 1 January 2029, it shall be possible for a customs representative acting as a direct representative to also be recognised as Trust and Check trader if the person in whose name and on whose behalf that representative is acting is a small or micro enterprise. (Rapp. 68)***
4. The Commission shall determine, in accordance with Union law, the conditions under which a customs representative may provide services in the customs territory of the Union.
5. Member States shall apply the conditions determined in accordance with paragraph 4 to customs representatives not established within the customs territory of the Union.
6. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining:
  - (a) the cases in which the waiver referred to in paragraph 2, second subparagraph, does not apply;
  - (b) the conditions under which a customs representative ***is allowed to*** provide services in the customs territory of the Union referred to in paragraph 4.

#### *Article 28*

#### **Representatives' empowerment**

1. When dealing with the customs authorities, a customs representative shall state that he or she is acting on behalf of the person represented and shall specify whether the representation is direct or indirect.  
Persons who fail to state that they are acting as a customs representative or who state that they are acting as a customs representative without being empowered to do so shall be deemed to be acting in their own name and on their own behalf.
2. The customs authorities may require persons stating that they are acting as a customs representative to provide evidence of their empowerment by the person represented.  
In specific cases, the customs authorities shall not require such evidence to be provided.
3. The customs authorities shall not require a person acting as a customs representative, carrying out acts and formalities on a regular basis, to produce on every occasion

evidence of empowerment, provided that such person is in a position to produce such evidence on request by the customs authorities.

4. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the cases in which the evidence of empowerment is not required by the customs authorities referred to in paragraph 2 of this Article.
5. The Commissions shall adopt, by means of implementing acts, the rules on the conferral and proving of the entitlement referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to Article 262(4).

### **Compromise Amendment 3 on Title III - EU Customs Data Hub**

Compromise amendment replacing all relevant amendments, including AMs 70-78, 276-305, INTA 71-93, BUDG 11, CONT 27-38

## **Title III EU CUSTOMS DATA HUB**

### *Article 29*

#### **Functionalities and purpose of the EU Customs Data Hub**

1. The EU Customs Data Hub shall provide a secure and cyber resilient set of electronic services and systems to use data including personal data *and other data* for customs purposes. It shall provide the following functionalities: **(Rapp. 70)**
  - (a) allow for the electronic implementation of customs legislation;
  - (b) ensure the quality, integrity, *security*, traceability and non-repudiation of data processed therein, including the amendment of such data; **(Rapp. 71, EPP 277)**
  - (c) ensure compliance with the provisions of Regulation (EU) 2016/679, Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>5</sup> and Directive (EU) 2016/680 of the European Parliament and of the Council<sup>6</sup> relating to the processing of personal data **(S&D 297)**;

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<sup>5</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

<sup>6</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for

- (c a) *ensure compliance with the provisions of Regulation (EU) XXXX/XXX of the European Parliament and of the Council laying down measures for a high common level of cybersecurity at the institutions, bodies, offices and agencies of the Union; (Greens/EFA 278)*
  - (d) enable *and ensure* risk analysis, economic analysis and data analysis, *customs simplification and trade facilitation* including through the use of artificial intelligence systems in accordance with [the Artificial Intelligence Act 2021/0106 (COD)]<sup>7</sup>; **(Rapp. 72, INTA 73)**
  - (e) enable the interoperability of those services and systems with other electronic systems, platforms or environments for the purpose of cooperation in accordance with Title XIII;
  - (e a) *perform the business and technical transformation of data to enable the exchange of data with the Union non-customs systems listed in Annex Ia through an EU Customs Single Window Certificate Exchange System ('EU CSW-CERTEX')*
  - (e b) *enable interoperability with the EU Maritime Single Window Environment for the provision and fulfilment of the customs formalities indicated in the Reporting Obligations Annex of Regulation 2019/1239. (ID 281)*
  - (f) integrate the European Union Single Window Certificates Exchange System established by Article *28b of this Regulation*~~4 of Regulation (EU) 2022/2399~~;
  - (g) enable the exchange of information with third countries;
  - (h) enable the customs surveillance of goods *and contribute to the enforcement of other legislation applied by the customs authorities. (Greens/EFA 279, INTA 74)*
2. The acts that the persons, the Commission, the customs authorities, the EU Customs Authority or other authorities perform through the functionalities listed in paragraph 1 shall remain acts of those persons, of the Commission, of the customs authorities, the EU Customs Authority, or of other authorities, even if they have been automated.
  3. The Commission shall develop, ~~implement and maintain~~ the EU Customs Data Hub, including making publicly available the technical specifications to process data within it, and shall establish a data quality framework *and shall establish a public contact point for urgent requests or security threats concerning the EU Customs Data Hub (EPP 283). The EU Customs Authority shall operate and maintain it. (BUDG 11)*
  4. The Commission is empowered to adopt delegated acts in accordance with Article 261 to amend the functionalities referred to in paragraph 1 to take account of new tasks conferred on the authorities referred to in Article 31 of this Regulation by Union legislation or to adapt those functionalities to the evolving needs of those authorities

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the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision (OJ L 119, 4.5.2016, p. 89).

<sup>7</sup> Regulation (EU) .../.. of the European Parliament and of the Council (OJ L....././....., p..). [OJ: Please insert in the text the number of the Regulation contained in document COM(2021) 206 final, 2021/0106(COD)) and insert the number, date, title and OJ reference of that Directive in the footnote.]

in implementing the customs legislation or other legislation applied by customs authorities.

5. The Commission shall lay down, by means of implementing acts:
  - (a) the technical arrangements for maintaining and employing the electronic systems that the Member States and the Commission have developed pursuant to Article 16(1) of Regulation (EU) No 952/2013 **and pursuant to Regulation (EU) No 2022/2399 in relation with Regulation (EU) [laying down measures for a high common level of cybersecurity at the institutions, bodies, offices and agencies of the Union] and with Directive (EU) 2022/2555, including guidelines issued by the European Union Agency for Cybersecurity (ENISA); (INTA 75)**
  - (b) a work programme for the progressive phase out of those systems.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 29a*

##### ***Pilot phase on the EU Customs Data Hub***

1. ***Before the date specified in Article 265(3), the Commission may establish a pilot phase for the use of the EU Customs Data Hub. The pilot phase shall be voluntary and have the purpose of testing the functionalities of the EU Customs Data Hub.***
2. ***The Commission shall cooperate with the EU Customs Authority, customs authorities and other authorities, and relevant stakeholders during the planning and organisation of the pilot phase.***
3. ***For the purpose of paragraph 1, the Commission shall adopt implementing acts, specifying the following:***
  - (a) the technical arrangements for the planning and organisation;***
  - (b) the functionalities to be applied and tested;***
  - (c) the exact duration of the pilot phase.***

***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4). (Rapp. 73)***

#### *Article 30*

##### **National applications to use data from the EU Customs Data Hub**

1. Member States ~~may~~ ***shall make best efforts to*** develop applications necessary to connect to the EU Customs Data Hub in order to provide data to and process data from the EU Customs Data Hub, ***if those applications do not already exist. (Rapp. 74)***
- 1 a. ***Member States shall ensure that the applications referred to in paragraph 1 comply with the provisions of Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive)***

*in particular in regard to cybersecurity risk-management measures. Member States shall cover the customs infrastructure in their national cybersecurity strategy. (INTA 77)*

2. Member States may request the EU Customs Authority to develop the applications referred to in paragraph 1. In that case, those Member States shall finance the development.
3. Where the EU Customs Authority develops an application in accordance with paragraph 2, it shall make it available to all Member States.

#### *Article 31*

#### **Purposes of the processing of personal data and other data in the EU Customs Data Hub and EU CSW-CERTEX**

1. Persons may have access to the data, including personal and commercially sensitive data, stored or otherwise available in the EU Customs Data Hub, that was transmitted by or on behalf of that person, or that has been addressed to or intended for that person. Such access shall take place exclusively to:
  - (a) fulfil that person's reporting obligations under customs legislation or other legislation applied by customs authorities, including determining the liability of any person for duty, fees and taxes that may be due in the Union; and
  - (b) demonstrate that person's compliance with customs legislation and other legislation applied by customs authorities.
2. A customs authority may process data, including personal and commercially sensitive data, stored or otherwise available in the EU Customs Data Hub, exclusively and to the extent necessary for the following purposes:
  - (a) to carry out its tasks in relation to the implementation of customs legislation or other legislation applied by the customs authorities, including determining the liability of any person for duty, fees and taxes that may be due in the Union and verifying compliance with that legislation;
  - (b) to carry out its tasks in relation to controls and risk management as provided for in Title IV;
  - (c) to carry out the tasks necessary for the cooperation under the conditions provided for in Title [XIII](#).

To ensure the effectiveness of customs controls, all *national* customs authorities (**S&D 285**) may receive and process the data resulting from a customs control where non-compliant goods have been detected.

3. The EU Customs Authority may process data, including personal and commercially sensitive data, stored or otherwise available in the EU Customs Data Hub exclusively and to the extent necessary for the following purposes:
  - (a) to carry out its tasks on customs risk management as provided for in Title IV, Chapter 3;
  - (b) to carry out its tasks as provided for in Title XII, Chapter 2;
  - (c) to carry out the tasks relevant for the cooperation as provided for in Title XIII.

*Without prejudice to Directive (EU) 2016/943, and after the date specified in Article 265(4), customs authorities of the Member States or the EU Customs Authority, shall make available, upon request, non-personal, non-commercially sensitive customs data. Economic operators shall have the option to request in declarations that data elements such as, but not limited to, company names, addresses, ~~and~~ the value of goods, the material number and the description of the goods are considered commercially sensitive. If such a request is made, the customs authorities of the Member States or the EU Customs Authority shall not follow the request for release of customs data and shall not make this data available.*

4. The Commission may process data, including personal and commercially sensitive data, stored or otherwise available in the EU Customs Data Hub exclusively and to the extent necessary for the following purposes:
  - (a) to carry out its tasks in relation to risk management as provided for in Title IV, Chapter 3;
  - (b) to carry out its tasks in relation to the tariff classification of goods, their origin and value and their customs surveillance in accordance with Titles I and IX;
  - (c) to carry out its tasks in relation to restrictive measures and crisis management in accordance with Title XI;
  - (d) to carry out its tasks in relation to the EU Customs Authority in accordance with Title XII;
  - (e) to carry out the tasks necessary for the cooperation under the conditions provided for in Title [XIII](#);
  - (f) to assess and evaluate the performance of the customs union in accordance with Title XV, Chapter 1;
  - (g) to monitor the implementation and ensure the uniform application of customs legislation or other legislation applied by the customs authorities, including determining the liability of any person for duty, fees and taxes that may be due in the Union;
  - (h) to produce statistics and other analyses as provided for in Union legislation for which the data in the EU Customs Data Hub is necessary;

*(h a) to contribute to the enforcement of other relevant Union legislation. (Rapp. 75, Greens/EFA 287, INTA 83)*

*The Commission shall only process data to the extent that it is needed and useful to fulfil the purposes referred to in this paragraph. (Rapp. 76)*

5. The European Anti-Fraud Office ('OLAF') may process data, including personal and commercially sensitive data, stored or otherwise available in the EU Customs Data Hub, exclusively and to the extent necessary for carrying out its activities concerning customs matters pursuant to Article 1 of Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council, and Council Regulation (EC) No 515/97, under the conditions relating to data protection laid down in the aforementioned Regulations.
6. The European Public Prosecutor's Office ('EPPO') may, ~~upon request~~, access *and process* data, including personal and commercially sensitive data, stored or otherwise



available in the EU Customs Data Hub, exclusively and to the extent necessary for carrying out its tasks pursuant to Article 4 of Council Regulation (EU) 2017/1939<sup>8</sup>, ~~insofar as the conduct investigated by EPPO concerns customs and under the conditions determined in an implementing act adopted pursuant to paragraph 14 of this Article.~~ **(Greens/EFA 288, Renew 289, EPP 290)**

7. The tax authorities of the Member States may process data, including personal and commercially sensitive data, stored or otherwise available in the EU Customs Data Hub, exclusively and to the extent necessary to determine the liability of any person for duty, fees and taxes that may be due in the Union in connection with the relevant goods ~~and under the conditions determined in an implementing act adopted pursuant to paragraph 14 of this Article.~~
8. The competent authorities as defined in Article 3, point (3), of Regulation (EU) 2017/625 of the European Parliament and of the Council<sup>9</sup> may, ***upon request***, access data, including personal and commercially sensitive data, stored or otherwise available in the EU Customs Data Hub exclusively and to the extent necessary for enforcing Union legislation governing the placing on the market or the safety of food, feed and plants and for cooperating with customs authorities to minimise the risks that non-compliant products enter the Union ~~and under the conditions determined in an implementing act adopted pursuant to paragraph 14 of this Article.~~ **(EPP 292)**
9. The market surveillance authorities designated by Member States in accordance with Article 10 of Regulation (EU) 2019/1020 may, ***upon request***, process data, including personal and commercially sensitive data, stored or otherwise available in the EU Customs Data Hub, exclusively and to the extent necessary for enforcing Union legislation governing the placing on the market or the safety of products and for cooperating with customs authorities to minimise the risks that non-compliant goods enter the Union, ~~and under the conditions determined in an implementing act adopted pursuant to paragraph 14 of this Article.~~ **(EPP 292)**
10. The European Union Agency for Law Enforcement Cooperation (Europol) may, ~~upon request~~, access data, including personal and commercially sensitive data, stored or otherwise available in the EU Customs Data Hub, exclusively and to the extent necessary to perform its tasks in accordance with Article 4 of Regulation (EU) 2016/794 of the European Parliament and of the Council as long as those tasks concern customs-related matters ~~and under the conditions determined in an implementing act adopted pursuant to paragraph 14 of this Article.~~
11. Other national authorities and Union bodies, including the European Border and Coast Guard Agency (Frontex), may process non-personal data stored or otherwise available

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<sup>8</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

<sup>9</sup> Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation)(OJ L 95, 7.4.2017, p. 1).

in the EU Customs Data Hub under the conditions determined in an implementing act adopted pursuant to paragraph 14 of this Article:

- (a) carry out their tasks relevant for the fulfilment of customs formalities;
  - (b) carry out the tasks entrusted to those authorities by Union legislation;
  - (c) carry out their tasks relevant for the performance of the Union-level risk management activities referred to in Article 52.
12. Until the date set out in Article 265(3), the Commission, OLAF, **EPPO** and the EU Customs Authority once it is established shall, exclusively for the purposes stated in paragraphs 4, 5 and 6, be able to process data, including personal data, from the existing electronic systems for the exchange of information developed by the Commission pursuant to Regulation (EU) No 952/2013. **(Greens/EFA 293, Renew 294)**
13. The Commission is empowered to adopt delegated acts in accordance with Article 261 to amend paragraphs 2 to 4 to clarify and complement the purposes laid down therein in light of the evolving needs in implementing customs legislation or other legislation.
- ~~14. The Commission shall lay down, by means of implementing acts, rules and modalities for accessing or processing data, including personal and commercially sensitive data, stored or otherwise available in the EU Customs Data Hub by the authorities referred to in paragraphs 6 to 11. In determining those rules and modalities, the Commission shall, for each authority or category of authorities:~~
- ~~(a) assess the existing safeguards applied by the authority concerned to ensure that the data is processed in accordance to the purpose;~~
  - ~~(b) ensure the proportionality and the necessity of the processing in relation to the purpose;~~
  - ~~(c) determine the specific categories of data, which the authority may have access to or process;~~
  - ~~(d) consider the need for the authority concerned to designate a specific contact point, person or persons or to provide additional safeguards;~~
  - ~~(e) assess the need to restrict the subsequent sharing of the data;~~
  - ~~(f) determine the conditions and modalities for requests for access to data, including personal or commercially sensitive data and which of the joint controllers will grant the access to the EU Customs Data Hub.~~
- ~~Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).~~
- 13a. As regards the processing of personal data by EU CSW-CERTEX, the Commission shall be a joint controller within the meaning of Article 28(1) of Regulation (EU) 2018/1725, and customs authorities and Member States' partner competent authorities responsible for the Union non-customs formalities listed in the Annex Ia shall be joint controllers within the meaning of Article 26(1) of Regulation (EU) 2016/679.**

## Article 32

### Personal data in the EU Customs Data Hub

1. The personal data of the following categories of data subjects may be processed in the EU Customs Data Hub exclusively and to the extent necessary for the purposes laid down in Article 31:
  - (a) data subjects registered or applying for registration as economic operators in accordance with Article 19;
  - (b) data subjects who *are economic operators which* are occasionally involved in activities covered by the customs legislation or by other legislation applied by the customs authorities; **(Greens/EFA 299)**
  - (c) data subjects *who are economic operators and* whose personal information is contained in the supporting documents referred to in Article 40, or in any additional evidence required for the fulfilment of the obligations imposed by customs legislation and other legislation applied by the customs authorities; **(Greens/EFA 300)**
  - (d) data subjects *who are economic operators and* whose personal data is contained in the data collected for risk management purposes pursuant to Article 50(3), point (a); **(Greens/EFA 301)**
  - (e) authorised staff of customs authorities, of authorities other than customs or any other relevant authority or authorised body, whose personal information is necessary to ensure appropriate control and supervision of the access to the information in the EU Customs Data Hub;
  - (f) staff or authorised third parties working on behalf of the Commission, the EU Customs Authority or other Union bodies authorised to access the EU Customs Data Hub.
2. The following categories of personal data may be processed in the EU Customs Data Hub in accordance with Article 31:
  - (a) personal data in the EU Customs Data model referred to in Article 36;
  - (b) personal data included in the data collected for risk management purposes pursuant to Article 50(3), point (a);
  - (c) personal data required to ensure a proper identification of the staff authorised to process data in the EU Customs Data Hub referred to in paragraph 1, points (e) and (f);
3. The Commission is empowered to adopt delegated acts in accordance with Article 261 to amend or supplement the categories of data subjects and the categories of personal data referred to in paragraphs 1 and 2 of this Article to take account of developments in information technology and in the light of the state of progress in the information society.

## Article 33

### Retention period of personal data in the EU Customs Data Hub

4. Personal data in the EU Customs Data Hub may be stored by means of a specific service for a maximum period of 10 years, starting from the date on which that data is recorded in the service. The cases provided for in Article 48 and investigations launched by OLAF, EPPO or by Member States' authorities, infringement procedures launched by the Commission and administrative and judicial proceedings involving personal data shall have a suspensive effect on the retention period with regard to that data.
5. After the period of time provided for in paragraph 1, personal data shall be erased or anonymised, according to the circumstances.
- ~~6. The Commission shall lay down, by means of implementing acts, the rules for anonymising the personal data after the expiry of the retention period. (EPP 302)~~

#### *Article 34*

#### **Roles and responsibilities for personal data processed in the EU Customs Data Hub**

1. The customs authorities of the Member States, the Commission and the EU Customs Authority shall be considered joint controllers for the personal data processing in the EU Customs Data Hub for the purposes of risk management and cooperation, as referred to in Article 31(2), points (b) and (c), Article 31(3), points (a) and (c), and Article 31(4), points (a) and (e).
2. Each customs authority alone shall be considered controller in relation to the personal data it processes for the purposes referred to in Article 31(2), point (a).
3. The Commission shall be considered sole controller in relation to the personal data it processes for the purposes referred to in Article 31(4), points (c), (d) and (f) to (g).
4. Until the date set out in Article 265(3), the Commission, OLAF, EPPO and the EU Customs Authority shall be considered sole controllers in relation to the data processing referred to in Article 31(12).
5. The joint controllers referred to in paragraph 1 shall:
  - (a) work together to process the request(s) made by the data subject(s) in a timely manner and to facilitate the exercise of the rights of data subjects;
  - (b) assist each other in matters involving the identification and handling of any data breach related to the joint processing;
  - (c) exchange the relevant information necessary to inform data subjects pursuant to Chapter III, Section 2 of Regulation (EU) 2016/679, Chapter III, Section 2 of Regulation (EU) 2018/1725, and Chapter III of Directive (EU) 2016/680, where applicable;
  - (d) ensure and protect the security, integrity, availability and confidentiality of the personal data processed jointly pursuant to Article 32 of Regulation (EU) 2016/679, Article 33 of Regulation (EU) 2018/1725, and Article 25 of Directive (EU) 2016/680, where applicable.
6. The Commission shall lay down, by means of implementing acts, the respective roles and relationships of the joint controllers vis-à-vis the data subjects, in compliance with Article 26 of Regulation (EU) 2016/679 and Article 28 of Regulation (EU) 2018/1725.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

### *Article 35*

#### **Restriction of data subject's rights**

1. Where the exercise by a data subject of the right of access and right to restriction of processing referred to in Articles 15 and 18 of Regulation (EU) 2016/679 and Articles 17 and 20 of Regulation (EU) 2018/1725, or the communication of a data breach referred to in Article 34(1) of Regulation (EU) 2016/679 and Article 35(1) of Regulation (EU) 2018/1725, would jeopardise an ongoing investigation concerning a natural person in the field of customs, the performance of customs controls or the management of a specific risk identified in relation to a natural person in the field of customs, the customs authorities, the EU Customs Authority and the Commission may, in accordance with Article 23(1), points (c), (e), (f) and (h), of Regulation (EU) 2016/679, and the Commission and the EU Customs Authority may, in accordance with Article 25(1), points (a), (c), (e), and (g), of Regulation (EU) 2018/1725, restrict wholly or partly those rights as long as the restriction is necessary and proportionate.
2. The customs authorities, the Commission and the EU Customs Authority shall assess the necessity and proportionality of the restrictions referred to in paragraph 1 on a case-by-case basis before they are applied, considering the potential risks to the rights and freedoms of the data subject.
3. When processing personal data received from other organisations in the context of its tasks, the customs authorities, the EU Customs Authority or the Commission, when acting as a controller or a joint controller, shall consult those organisations on potential grounds for imposing the restrictions as referred to in paragraph 1, and the necessity and proportionality of such restrictions before applying a restriction referred to in paragraph 1.
4. Where the customs authorities, the Commission or the EU Customs Authority restrict, wholly or partly, the rights referred to in paragraph 1, they shall take the following steps:
  - (a) inform the data subject concerned, in its reply to the request, of the restriction applied and of the principal reasons therefore, and of the possibility of lodging a complaint with the national data protection authorities or the European Data Protection Supervisor or of seeking a judicial remedy in a national court or the Court of Justice of the European Union; and
  - (b) record the reasons for the restriction, including an assessment of the necessity for and proportionality of the restriction, and the reasons why providing access would jeopardise risk management and customs controls.

The provision of information referred to in point (a) of the first subparagraph may be deferred, omitted or denied in accordance with Article 25(8) of Regulation (EU) 2018/1725, or where the provision of that information would be prejudicial to the purposes of the restriction.

5. The customs authorities, the Commission or the EU Customs Authority shall include a section in the data protection notices published on its website/intranet providing

general information to data subjects on the potential for restriction of data subjects' rights.

6. The Commission shall lay down, by means of implementing acts, the safeguards to prevent the abuse and unlawful access or transmission of the personal data in respect of which restrictions apply or could be applied. Such safeguards shall include the definition of roles, responsibilities and procedural steps, and due monitoring of restrictions and a periodic review of their application, which shall take place at least every 6 months. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 36*

### **EU Customs Data Model**

The Commission is empowered to adopt delegated acts in accordance with Article 261 to supplement this Regulation in order to determine the data required for the fulfilment of the purposes referred to in Article 31(1) to (4). Those data requirements shall constitute the EU Customs Data Model.

#### *Article 37*

### **Technical means for cooperation**

1. The Commission, the EU Customs Authority and the customs authorities shall use the EU Customs Data Hub when exchanging with the authorities and Union bodies referred to in Article 31(6) to ~~(11 9)~~ **and 11** in accordance with this Regulation. ***The Commission, the EU Customs Authority and the customs authorities shall use SIENA when exchanging information with Europol. (Rapp. 303)***
2. For the Union other formalities and systems listed in the Annex to Regulation (EU) 2022/2399, the EU Customs Data Hub shall ensure interoperability through the EU Single Window Environment for Customs established by that Regulation.
3. Where authorities other than customs authorities or Union bodies, ***or authorities from third countries*** make use of electronic means established by, used to achieve the objectives of, or referred to in Union legislation, the cooperation may take place by means of interoperability of those electronic means with the EU Customs Data Hub. **(Rapp. 77, Greens/EFA 304)**
4. Where authorities other than customs authorities, ***including authorities from third countries***, do not make use of electronic means established by, used to achieve the objectives of, or referred to in, Union legislation, those authorities may use the specific services and systems of the EU Customs Data Hub in accordance with Article 31. **(Rapp. 78, Greens/EFA 305)**
5. The Commission shall adopt, by means of implementing acts, the rules for technical modalities for interoperability and connection referred to in paragraphs 3 and 4. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 262(4).

*Article 38*

**Exchange of additional information between customs authorities and economic operators**

1. Customs authorities and economic operators may exchange any information not specifically required under the customs legislation, in particular for the purpose of mutual cooperation in the identification and counteraction of risk. That exchange may take place under a written agreement and may include access to the electronic systems of economic operators by the customs authorities.
2. Any information provided by one party to the other in the course of the cooperation referred to in paragraph 1 shall be confidential unless both parties agree otherwise or unless the provisions in force provide otherwise.

*Article 39*

**Provision of information by the customs authorities**

1. Any person may request information concerning the application of the customs legislation from the customs authorities. The customs authorities may refuse such a request where it does not relate to an activity pertaining to international trade in goods that is actually envisaged.
  2. Customs authorities shall maintain a regular dialogue with economic operators and other authorities involved in international trade in goods. They shall promote transparency by making the customs legislation, general administrative rulings and application forms freely available, wherever practical without charge, and through the internet.
- 2 a. *A comprehensive and user-friendly digital interface shall also provide access to all information related to autonomous measures, including tariffs, quotas, sanctions, and embargoes with the aim of enhancing companies' compliance with these measures. This shall also promote greater coherence among various autonomous measures. (INTA 96)***

*Article 40*

**Information and supporting documents**

1. When providing or making available the data and information required for the specific customs procedure under which goods are placed or intended to be placed, persons shall provide or make available digital copies of original paper documents, where such paper originals exist, used to obtain that data and information.
2. Until the date set out in Article 266(3), when a customs declaration is lodged, the supporting documents required for the application of the provisions governing the customs procedure for which the goods are declared shall be in the declarant's possession and at the disposal of the customs authorities at the time of lodgement.
3. The supporting documents for the applicable Union non-customs formalities listed in the Annex to Regulation (EU) 2022/2399 shall be deemed to have been provided or made available or to be in the possession of the declarant if the customs authorities are able to obtain the necessary data from the corresponding Union non-customs

systems through the European Union Customs Single Window Certificates Exchange System in accordance with Article 10(1), points (a) and (c), of that Regulation.

4. Supporting documents shall also be provided by persons where necessary for customs risk management and controls.
5. Without prejudice to other legislation applied by the customs authorities, customs authorities may authorise economic operators to draw up the supporting documents referred to in paragraph 3.
6. Unless otherwise stated for specific documents, the person concerned shall, for the purposes of customs controls, keep the documents and information for at least 3 years, by any means accessible by and acceptable to the customs authorities. That period shall run:
  - (a) from the end of the year in which the goods are released;
  - (b) from the end of the year in which they cease to be subject to customs supervision, in the case of goods released for free circulation duty-free or at a reduced rate of import duty on account of their end-use;
  - (c) from the end of the year in which the customs procedure concerned has been discharged or temporary storage has ended, in the case of goods placed under another customs procedure or of goods in temporary storage.
7. Without prejudice to Article 182(4), where a customs control in respect of a customs debt shows that the relevant entry in the accounts has to be corrected and the person concerned has been notified of this, the documents and information shall be kept for 3 years beyond the time limit provided for in paragraph 6 of this Article.
8. Where an appeal has been lodged or where administrative or judicial proceedings have begun, the documents and information shall be kept for the period provided for in paragraph 1 or until the appeals procedure or the administrative or judicial proceedings are terminated, whichever is the latest.

## **Compromise Amendment 4 on Title IIIa - EU Single Window Environment for Customs**

Compromise amendment replacing all relevant amendments, including AMs 69, 132

### ***TITLE IIIa*** ***EU SINGLE WINDOW ENVIRONMENT FOR CUSTOMS***

#### ***Article 40a*** ***Establishment of an EU Single Window Environment for Customs***



1. *An EU Single Window Environment for Customs is established. It shall include the EU Customs Data Hub referred to in Article 29 and the Union non-customs systems referred to in Annex Ia.*
2. *The Commission shall interconnect the EU Customs Data Hub with the Union non-customs systems by the dates set out in Annex Ia and enable information to be exchange of the Union non-customs formalities listed therein.*
3. *The Commission is empowered to adopt delegated acts in accordance with Article 261 to amend Annex Ia, as regards the Union non-customs formalities, their respective Union non-customs systems as laid down in Union legislation other than customs legislation, and the date for the connections referred to in paragraph 2 of this Article.*

#### *Article 40b*

#### *Government to Government digital cooperation for Union non-customs formalities*

1. *For each of the Union non-customs formalities listed in the Annex, EU CSW-CERTEX shall enable information to be exchanged between the national single window environments for customs EU Customs Data Hub and the relevant Union non-customs systems for the following purposes:*
  - (a) *making the relevant data available to customs authorities for them to perform the necessary verification of those formalities in accordance with this Regulation in an automated manner;*
  - (b) *making the relevant data available to partner competent authorities for them to perform quantity management of authorised goods in Union non-customs systems based on the goods declared to customs authorities and released by those authorities;*
  - (c) *facilitating and supporting the integration of procedures between customs authorities and partner competent authorities, for the fully automated fulfilment of the formalities required to place the goods under a customs procedure or to re-export them, and the cooperation concerning the coordination of controls in accordance with Article 43(3) of this Regulation;*
  - (d) *enabling any other automated data transfer between customs authorities and the relevant partner competent authorities required by Union legislation establishing Union non-customs formalities, without prejudice to the national use of that data.*
2. *For each of the Union non-customs formalities listed in the Annex, EU CSW-CERTEX shall provide the following functionalities:*
  - (a) *aligning customs and non-customs terminology where possible, and identifying the customs procedure or the re-export for which the supporting document can be used, based on the administrative decision of the partner competent authority indicated in the supporting document; and*
  - (b) *transforming, where necessary, the format of the data required to fulfil the relevant Union non-customs formalities into a format of data compatible with the customs declaration or re-export declaration and vice versa without changing the content of the data.*
3. *The Commission is empowered to adopt delegated acts in accordance with Article 261 supplementing this Regulation by specifying the data elements to be exchanged through EU CSW-CERTEX in accordance with paragraph 1 of this Article.*

#### *Article 40c*

##### *Business to Government digital cooperation for Union non-customs formalities*

1. *The Commission shall adopt implementing acts, determining which of the Union non-customs formalities listed in Annex Ia fulfil the following criteria:*
  - (a) *there is a degree of overlap between data to be provided to customs and data to be included in the non-customs supporting documents required for the Union non-customs formalities listed in the Annex Ia;*
  - (b) *the number of non-customs supporting documents issued in the Union for the specific formality is not negligible;*
  - (c) *the corresponding Union non-customs system referred to in the Annex can identify the economic operators by means of their EORI number;*
  - (d) *the applicable Union legislation other than customs legislation allows the fulfilment of the specific formality through the national single window environments for customs EU Customs Data Hub in accordance with Article 11.*
2. *Where a Union non-customs formality has been identified as fulfilling the criteria of paragraph 1, economic operators may provide an integrated data set containing all the relevant information required for the fulfilment of the applicable customs formalities and Union non-customs formalities jointly, in the EU Customs Data Hub.*
3. *The integrated data set referred to in paragraph 2 shall be deemed to constitute the submission of data required by partner competent authorities for the Union non-customs formalities listed in Annex Ia.*

#### *Article 40d*

##### *Use of the EORI by partner competent authorities*

*In carrying out their duties, partner competent authorities shall have access to the EORI number for the purpose of validating the relevant data on economic operators.*

#### *Article 40e*

##### *National coordinators for the EU Single Window Environment for Customs*

*Each Member State shall designate a national coordinator for the EU Single Window Environment for Customs. The national coordinator shall carry out the following tasks in order to support the implementation of this Regulation:*

- (a) *act as national contact point for the Commission for all matters relating to the implementation of the EU Single Window Environment for Customs; and*
- (b) *promote and support, on a national level, the cooperation between customs authorities and national partner competent authorities.*

#### *Article 40f*

##### *Monitoring and reporting*

1. *The Commission shall regularly monitor the functioning of the EU Single Window Environment for Customs, taking into account, inter alia, information relevant for monitoring purposes and provided by the Member States.*
2. *By XXXX and every year thereafter, the Commission shall submit to the European Parliament and to the Council a report on the implementation of this Regulation.*

- That report shall include an overview of Union non-customs formalities included in Union legislation and the Commission’s legislative proposals;*
3. *By XXXX and every three years thereafter, the report referred to in the first subparagraph shall also include information on the monitoring and evaluation carried out in accordance with paragraphs 1 and 2, respectively, including the impact on economic operators, and in particular on small and medium-sized enterprises.*

(Rapp. 69)

### **ANNEX Ia**

#### ***Union non-customs formalities***

<b><i>Union non-customs formality</i></b>	<b><i>Acronym</i></b>	<b><i>Union non-customs system</i></b>	<b><i>Relevant Union legislation</i></b>	<b><i>Date of application</i></b>
<b><i>Common health entry document for animals</i></b>	<b><i>CHED-A</i></b>	<b><i>TRACES</i></b>	<b><i>Regulation (EU) 2017/625 of the European Parliament and of the Council<sup>1a</sup></i></b>	<b><i>3 March 2025</i></b>
<b><i>Common health entry document for products</i></b>	<b><i>CHED-P</i></b>	<b><i>TRACES</i></b>	<b><i>Regulation (EU) 2017/625</i></b>	<b><i>3 March 2025</i></b>
<b><i>Common health entry document for feed and food of non-animal origin</i></b>	<b><i>CHED-D</i></b>	<b><i>TRACES</i></b>	<b><i>Regulation (EU) 2017/625</i></b>	<b><i>3 March 2025</i></b>
<b><i>Common health entry document for plants and plant products</i></b>	<b><i>CHED-PP</i></b>	<b><i>TRACES</i></b>	<b><i>Regulation (EU) 2017/625</i></b>	<b><i>3 March 2025</i></b>
<b><i>Certificate of inspection</i></b>	<b><i>COI</i></b>	<b><i>TRACES</i></b>	<b><i>Regulation (EU) 2018/848 of the European Parliament</i></b>	<b><i>3 March 2025</i></b>

<i>Ozone depleting licence</i>	<i>ODS</i>	<i>ODS 2 Licensing System</i>	<i>and of the Council<sup>1b</sup> Regulation (EC) No 1005/2009 of the European Parliament and of the Council<sup>1c</sup></i>	<i>3 March 2025</i>
<i>Fluorinated greenhouse gases</i>	<i>F-GAS</i>	<i>F-GAS Portal and HFC Licensing System</i>	<i>Regulation (EU) No 517/2014 of the European Parliament and of the Council<sup>1d</sup></i>	<i>3 March 2025</i>
<i>Import licence for cultural goods</i>	<i>ICG-L</i>	<i>TRACES</i>	<i>Regulation (EU) 2019/880 of the European Parliament and of the Council<sup>1e</sup></i>	<i>3 March 2025</i>
<i>Importer statement for cultural goods</i>	<i>ICG-S</i>	<i>TRACES</i>	<i>Regulation (EU) 2019/880</i>	<i>3 March 2025</i>
<i>General description for cultural goods</i>	<i>ICG-D</i>	<i>TRACES</i>	<i>Regulation (EU) 2019/880</i>	<i>3 March 2025</i>
<i>Union non-customs formality</i>	<i>Acronym</i>	<i>Union non-customs system</i>	<i>Relevant Union legislation other than customs legislation</i>	<i>Connection by</i>
<i>Import licence for Forest Law Enforcement,</i>	<i>FLEGT</i>	<i>TRACES</i>	<i>Council Regulation (EC) No 2173/2005</i>	<i>3 March 2025</i>

***Governance and Trade***

***Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items***

***DuES***

***eLicensing System***

***Regulation (EU) 2021/821***

***3 March 2025***

***Certificates for International trade of endangered species of wild fauna and flora***

***CITES***

***TRACES***

***Council Regulation (EC) No 338/97***

***1 October 2025***

***Information and Communication System for Market Surveillance***

***ICSMS***

***ICSMS***

***Regulation (EU) 2019/1020 of the European Parliament and of the Council<sup>li</sup>***

***16 December 2025***

**(Rapp. 132)**

## **Compromise Amendment 5 on Title IV - Customs Supervision, Customs Controls and Risk Management**

Compromise amendment replacing all relevant amendments, including AMs 79, 306-307, 309-321, INTA 97-104, CONT 39-45

### **Title IV CUSTOMS SUPERVISION, CUSTOMS CONTROLS AND RISK MANAGEMENT**

#### **Chapter 1 Customs supervision**

##### *Article 41*

##### **Customs supervision**

1. Goods to be brought into or to be taken out of the customs territory of the Union shall be under customs supervision and may be subject to customs controls.
2. Goods brought into the customs territory of the Union shall remain under such supervision ~~for as long as is necessary~~ to determine their customs status **(S&D 306)**.
3. Non-Union goods shall remain under customs supervision until their customs status is changed, or they are taken out of the customs territory of the Union or they are destroyed.
4. Upon entry into the customs territory of the Union, Union goods shall be subject to customs supervision until their customs status is confirmed, unless they are placed under the end-use procedure.
5. Union goods placed under the end-use procedure shall be subject to customs supervision in the following cases:
  - (a) where the goods are suitable for repeated use, for a period not exceeding 2 years after the date of their first use for the purposes laid down for applying the duty exemption or reduced rate of duty;
  - (b) until the goods have been used for the purposes laid down for the application of the duty exemption or reduced rate of duty;
  - (c) until the goods have been taken out of the customs territory of the Union, destroyed or abandoned to the State;
  - (d) until the goods have been used for purposes other than those laid down for the application of the duty exemption or reduced duty rate and the applicable import duty has been paid.
6. Union goods released for export or placed under outward processing shall be subject to customs supervision until they are taken out of the customs territory of the Union,

are abandoned to the State or destroyed or the customs declaration or relevant data on the export is invalidated.

7. Union goods placed under internal transit shall be subject to customs supervision until they arrive to their destination in the customs territory of the Union.
8. The holder of goods under customs supervision may, with the permission of the customs authorities, at any time examine the goods or take samples, in particular in order to determine their tariff classification, customs value or customs status.

#### *Article 42*

#### **Competent customs offices**

1. Except where other legislation applied by the customs authorities provides otherwise, Member States shall determine the location and competence of their customs offices.
2. Member States shall ensure that official opening hours of those offices are reasonable and appropriate, taking into account the nature of the traffic and of the goods and the customs procedures under which they are to be placed, so that the flow of international traffic is neither hindered nor distorted.
3. The competent customs office for supervising the placement of the goods under a customs procedure shall be the customs office responsible for the place where the importer or the exporter is established.

By way of derogation from the first subparagraph, the competent customs office for supervising the placement of the goods under a customs procedure in relation to importers and exporters other than Trust and Check traders and deemed importers shall be the customs office responsible for the place where the customs declaration has been lodged or would have been lodged in accordance with Article 63(4) but for the modification concerning the method of providing information laid down in Article 63(2).

4. The customs office responsible for the place of establishment of the Trust and Check trader or the deemed importer shall:
  - (a) supervise the placing of the goods under the customs procedure concerned;
  - (b) carry out the customs controls for the verification of the information provided, and request additional supporting documents if needed;
  - (c) where justified, request the customs office responsible for the place of dispatch or final destination of the goods to carry out a customs control;
  - (d) where there is a risk that requires action as soon as the goods arrive to the customs territory of the Union or before they leave the customs territory of the Union, request the customs office responsible for the place where the goods enter or exit to perform customs controls;
  - (e) carry out the customs formalities for the recovery of the amount of import or export duty corresponding to any customs debt.
5. The customs office responsible for the place of dispatch or final destination of the goods, or, pursuant to paragraph 4, point (d) for the place where the goods enter or exit the customs territory of the Union, shall carry out the customs controls requested

by the customs office responsible for the place of establishment of the importer and provide that customs office with the results of these controls, without prejudice to its own controls pertaining to goods brought into or taken out of the customs territory of the Union.

6. The competent customs offices shall have access to the information necessary for ensuring the correct application of the legislation.
8. The Commission shall specify, by means of implementing acts, the procedural rules for determining the competent customs offices other than the one referred to in paragraph 3, including customs offices of entry and customs offices of exit and the procedural rules for cooperation between customs offices as referred to in paragraph 5. These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

## **Chapter 2**

### **Customs controls**

#### *Article 43*

##### **Customs controls**

1. Without prejudice to the provisions in Chapter 3 of this Title, the customs authorities may carry out any customs controls they deem necessary, including random controls.
2. Customs controls may in particular consist of examining goods, taking samples, verifying the authenticity, integrity, accuracy and completeness of the data provided by any person and the existence, authenticity, accuracy and validity of documents, examining the accounts and commercial records and data sources of economic operators, inspecting means of transport, inspecting luggage and other goods carried by or on persons and carrying out official enquiries and other similar acts. When necessary, customs controls include processing of the electronic data, including data source of the data provided to the EU Customs Data Hub.
3. Where, in respect of the same goods, controls other than customs controls are to be performed by other authorities, customs authorities shall, in close cooperation with those other authorities, endeavour to have those controls performed, wherever possible, at the same time and place as customs controls (one-stop-shop), with customs authorities having the coordinating role.

#### *Article 44*

##### **Verification of the data provided**

1. The customs authorities may, for the purpose of verifying the accuracy of the data provided by persons to the customs authorities:
  - (a) examine the data and the supporting documents, including accessing data sources held by the economic operators or stored on their behalf by service providers;
  - (b) require the provision of other documents or data, including data held by the economic operators or stored on their behalf by service providers;



- (c) require access to the electronic records of the person;
  - (d) examine the goods;
  - (e) take samples for analysis or for detailed examination of the goods.
2. The customs authorities may at any time require goods to be unloaded and unpacked for the purpose of examining them, taking samples or examining the means of transport carrying them.
  3. The Commission shall specify, by means of implementing acts, the measures on the verification of information referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 45*

#### **Examination and sampling of goods**

1. Transport of the goods to the places where they are to be examined and where samples are to be taken, and all the handling necessitated by such examination or taking of samples, shall be carried out by or under the responsibility of the importer, exporter or carrier. The costs incurred shall be borne by the importer or exporter.
2. The importer, exporter or carrier shall have the right to be present or represented when the goods are examined and when samples are taken. Where the customs authorities have reasonable grounds for so doing, they may require the importer, exporter or carrier to be present or represented when the goods are examined or samples are taken or to provide them with the assistance necessary to facilitate such examination or taking of samples.
3. Provided that samples are taken in accordance with the provisions in force, the customs authorities shall not be liable for payment of any compensation in respect thereof but shall bear the costs of their analysis or examination.
4. Where only part of the goods is examined, or samples are taken, the results of the partial examination, or of the analysis or examination of the samples, shall be taken to apply to all the goods in the same consignment.

However, the importer or the exporter may request a further examination or sampling of the goods if he or she considers that the results of the partial examination, or of the analysis or examination of the samples taken, are not valid as regards the remainder of the goods concerned. The request shall be granted provided that the goods have not been released or, if they have been released, that the importer or the exporter proves that they have not been altered in any way.

5. The Commission shall specify, by means of implementing acts, measures on the examination and sampling of goods referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 46*

#### **Results of the verification**

1. The results of verifying the data provided by the importer, exporter or carrier shall be used for the application of the provisions governing the customs procedure under which the goods are placed.
2. Where the data provided is not verified, paragraph [1](#) shall apply on the basis of the data provided by the importer or the exporter.
3. The results of the verification made by the customs authorities shall have the same conclusive force throughout the customs territory of the Union.
4. The Commission shall specify, by means of implementing acts, measures on the results of the verification referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262[\(4\)](#).

#### *Article 47*

#### **Identification measures**

1. The customs authorities or, where appropriate, economic operators authorised to do so by the customs authorities, shall take the measures necessary to identify the goods where identification is required in order to ensure compliance with the provisions governing the relevant customs procedure under which the goods are intended to be placed.  
Those identification measures shall have the same legal effect throughout the customs territory of the Union.
2. Means of identification affixed to the goods, packaging or means of transport shall be removed or destroyed only by the customs authorities or, where they are authorised to do so by the customs authorities, by other persons, unless, as a result of unforeseeable circumstances or force majeure, their removal or destruction is essential to ensure the protection of the goods or the means of transport.
3. The Commission shall specify, by means of implementing acts, which measures constitute the identification measures referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262[\(4\)](#).

#### *Article 48*

#### **Post-release controls**

1. For the purpose of customs controls, the customs authorities may, after the release of the goods:
  - (a) verify the accuracy and completeness of the data provided and the existence, authenticity, accuracy and validity of any supporting document;
  - (b) examine the accounts of the economic operator and other records relating to the operations in respect of the goods in question and prior or subsequent commercial operations involving those goods;
  - (c) examine such goods and take samples where it is still possible for them to do so;

- (d) access operators' systems to verify compliance with the obligation to provide or make available data to the EU Customs Data Hub.
- 2. Such controls may be carried out at the premises of the importer or exporter, or of the holder of the goods, or of any other person directly or indirectly involved in those operations in a business capacity or of any other person in possession of those documents and data for business purposes.
- 3. The Commission shall specify, by means of implementing acts, the measures that shall apply to the controls referred to in paragraph 1, including in cases where operations take place in more than one Member State, and on the application of audit and other appropriate methodologies in the context of such controls. Those implementing acts shall be adopted in accordance with Article 262(4).

#### *Article 49*

#### **Intra-Union flights and sea crossings**

- 1. Customs controls or formalities shall be carried out in respect of the cabin and hold baggage of persons either taking an intra-Union flight, or making an intra-Union sea crossing, only where the customs legislation provides for such controls or formalities.
- 2. Paragraph 1 shall apply without prejudice to:
  - (a) security and safety;
  - (b) controls linked to other legislation applied by the customs authorities.
- 3. The Commission shall determine, by means of implementing acts, the ports or airports where customs controls and formalities are applied to the following:
  - (a) the cabin and hold baggage of persons:
    - (i) taking a flight in an aircraft which comes from a non-Union airport and which, after a stopover at a Union airport, continues to another Union airport;
    - (ii) taking a flight in an aircraft which stops over at a Union airport before continuing to a non-Union airport;
    - (iii) using a maritime service provided by the same vessel and comprising successive legs departing from, calling at or terminating in a non-Union port;
    - (iv) on board pleasure craft and tourist or business aircraft;
  - (b) cabin and hold baggage:
    - (i) arriving at a Union airport on board an aircraft coming from a non-Union airport and transferred at that Union airport to another aircraft proceeding on an intra-Union flight;
    - (ii) loaded at a Union airport onto an aircraft proceeding on an intra-Union flight for transfer at another Union airport to an aircraft whose destination is a non-Union airport.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

## Chapter 3

### Customs risk management

#### *Article 50*

#### General principles

1. The customs authorities shall determine, based on risk management and primarily on automated risk analysis, whether goods, economic operators and supply chains will be subject to customs controls or other mitigation measures, and if so, where and when those controls and other mitigation measures will take place,
  2. The Commission, the EU Customs Authority and the customs authorities shall use customs risk management to differentiate between the levels of all risks associated with goods, economic operators and supply chains in accordance with the provisions in this chapter.
  3. Customs risk management shall include at least the following activities, where appropriate organised on a cyclical basis:
    - (a) collecting, processing, exchanging and analysing relevant data available in the EU Customs Data Hub and from other sources, including relevant data from ***competent*** authorities other than customs authorities; (**Greens/EFA 309**)
    - (b) identifying, analysing, assessing, or predicting risks, including based on statistical and predictive methods and random controls;
    - (c) developing the necessary measures to manage the risks, including establishing common priority control areas, common risk criteria and standards, and supervision strategies;
    - (d) prescribing and taking action, including selecting appropriate mitigation measures and customs controls;
    - (e) gathering feedback on the implementation of risk management and control activities;
    - (f) monitoring and reviewing risk management and control activities with a view to improving them.
  4. Mitigation measures may include the following:
    - (a) instructing the carrier or exporter that the goods shall not be loaded or transported;
    - (b) requesting additional information or action;
    - (c) identifying situations where action by another customs authority may be appropriate;
    - (d) recommending the most appropriate place and measures to carry out a control;
    - (e) determining the route to be used, and the time-limit to be respected when goods are to be taken out of the customs territory of the Union.
- 4 a. *When taking decisions related to the customs risk management referred to in paragraph 2, the customs authorities shall take into account any non-compliance by***

*an importer, an exporter or a deemed importer with other legislation applied by the customs authorities that is part of national law~~national law other than customs legislation~~, which has been notified by the competent authorities to the customs authorities. That non-compliance shall ~~have a negative impact~~ be taken into account for the purpose of the risk profile of the relevant importer, exporter or deemed importer. (Greens/EFA 310)*

#### Article 51

##### Roles and responsibilities

1. The Commission ~~may~~**shall** establish common priority control areas and common risk criteria and, *where necessary*, standards for any type of risk, including but not limited to risks relating to financial interests. **(Greens/EFA 311)**
2. Without prejudice to paragraph 6, point (f), of this Article and to Article 43, the Commission may identify specific areas in the domain of other legislation applied by the customs authorities that warrant priority treatment for customs risk management and controls.
3. The Commission may:
  - (a) provide policy orientations to the EU Customs Authority on risk management projects and supervision strategies;
  - (b) request the EU Customs Authority to carry out a periodic or ad-hoc evaluation of the implementation of any risk management activities;
  - (c) request the EU Customs Authority to prepare a supervision strategy for any risk and to conduct threat assessments.
4. For the purposes referred to in paragraphs 1 to 3, the Commission may collect, process and analyse data available in the EU Customs Data Hub and from other sources, including from authorities other than customs authorities.
5. The EU Customs Authority shall perform Union-level risk management activities on the basis of the customs policy orientations as referred to in paragraph 3, point (a) and of the priorities as referred to in paragraph 2. It shall:
  - (a) collect, process and analyse data available in the EU Customs Data Hub and from other sources, including from authorities other than customs authorities;
  - (b) assist the Commission in defining common priority controls areas and common risk criteria and standards, based on operational knowledge and technical expertise in risk management;
  - (c) where requested in accordance with paragraph 3, develop supervision strategies, where appropriate with authorities other than customs, and conduct threat assessments;
  - (d) exchange relevant data with the customs authorities and with other authorities for the purposes of this Title, where possible through the EU Customs Data Hub, in accordance with Article [53](#);
  - (e) develop and implement common risk analysis to generate risk signals, risk analysis results and where appropriate, issue control recommendations and other

appropriate mitigation measures to the customs authorities, including for the application of the common priority control areas and the common risk criteria and standards established by the Commission and for dealing with crisis situations; ~~*The EU Customs Authority may invite Europol to contribute to the risks analysis to establish common priority control areas and common risk criteria and standards, within the limits of Europol's mandate; (Rapp. 315)*~~

- (f) inform OLAF where it identifies or suspects cases of fraud and provide it with all the necessary information related to these cases. *Europol shall also be informed within the limits of Europol's mandate. (Rapp. 316)*

**5a. (new)** *The EU Customs Authority may invite Europol to contribute to the risks analysis referred to in point (e) of paragraph 4 to establish common priority control areas and common risk criteria and standards, within the limits of Europol's mandate. (Rapp. 315)*

6. The customs authorities shall, using data available in the EU Customs Data Hub and from other sources:

- (a) collect, process and analyse data available in the EU Customs Data Hub and from other sources, including from authorities other than customs authorities;
- (b) perform national risk management activities, including risk analysis, cooperation, and exchange of information on risk management with relevant national authorities, and taking mitigation measures;
- (c) implement national processes necessary for the implementation of common risk criteria and standards and common priority control areas;
- (d) implement the risk signals, risk analysis results and control recommendations generated by the EU Customs Authority;
- (e) issue control recommendations and indicate other appropriate mitigation measures to the customs authorities of other Member States;
- (f) take control decisions;
- (g) perform controls in accordance with Chapter 2 of this Title and with any applicable common risk criteria and standards;
- (h) provide a justification to the EU Customs Authority in the event that a control recommendation was not executed.

7. The EU Customs Authority shall inform the Commission about its risk management activities and their outcome on a quarterly and, where necessary or requested by the Commission, ad hoc basis. It shall provide all necessary information to the Commission in this regard.

8. Until the date set out in Article 265(1), the Commission may carry out the risk management tasks of the EU Customs Authority referred to in this Article.

**8a.** *The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining which information must include the justification for not executing a control referred to in paragraph 6(h).*

## Article 52

### Common risk criteria and standards

1. The common risk criteria and standards shall include all of the following:
  - (a) a description of the risks;
  - (b) the factors or indicators of risk to be used to select goods or economic operators for customs controls;
  - (c) the nature of customs controls to be undertaken by the customs authorities;
  - (d) the application of risk analysis and mitigation measures in the supply chain, including requests for information or action and instruction not to load or transport;
  - (e) the duration of the application of the customs controls referred to in point (c).
2. In the establishment of common risk criteria and standards, account shall be taken of all of the following:
  - (a) the proportionality to the risk;
  - (b) the urgency of the necessary application of the controls;
  - (c) the reasonably expected impact on trade flow and on individual Member States control resources.

## Article 53

### Information relevant for risk management and controls

1. All risk information, signals, risk analysis results, control recommendations, control decisions and control results, shall be recorded in the operational process to which they relate and in the EU Customs Data Hub, irrespective of whether they were based on national or common risk analysis, or whether they were based on random selection. Customs authorities shall share risk information with each other, with the EU Customs Authority, ~~and~~ with the Commission **and with Europol, within the limits of Europol's mandate. (Rapp. 319)**
2. The customs authorities, the EU Customs Authority and the Commission shall have the right to process the elements referred to in paragraph 1 of this Article according to their roles and responsibilities as referred to in Articles [51](#) and [54](#).
3. The EU Customs Authority shall use the EU Customs Data Hub where possible to collect, or interoperate with, any other sources of data, documents or information identified as relevant for risk management by the EU Customs Authority, by the Commission or by a customs authority.
4. Until the date set out in Article 265(1), the Commission shall carry out the tasks of the EU Customs Authority referred to in this Article.

## Article 54

### Evaluation of customs risk management

1. The Commission, in cooperation with the EU Customs Authority and the customs authorities, shall evaluate the implementation of risk management in order to continuously improve its operational and strategic effectiveness and efficiency ~~at least once every year 2 years~~ **and publish every evaluation;** ~~the~~ The Commission may in addition arrange evaluation activities to be carried out where it considers necessary, and on an ongoing basis. ~~Any evaluation shall be published.~~ **(Rapp. 79, S&D 320, Greens/EFA 321)**
2. For this purpose, the EU Customs Authority shall collect and analyse relevant information and carry out all necessary activities. The EU Customs Authority may request periodic or ad-hoc reports from one or more Member States in this regard.
3. For this purpose, and for the purpose of fulfilling its role and responsibilities under this Title, the Commission may process any relevant information available through the EU Customs Data Hub and may request further information from the EU Customs Authority and from national authorities.
4. In the establishment of common risk criteria and common priority control areas, the Commission shall take account, where relevant, of evaluations carried out under this Article.

#### *Article 55*

#### **Conferral of implementing powers**

1. The Commission shall adopt, by means of implementing acts, measures to ensure the harmonised application of customs controls and risk management, including the exchange of information, the establishment of common risk criteria and standards and common priority control areas referred to in this Title. Such measures shall address at least the following elements:
  - (a) the information to be recorded in the EU Customs Data Hub in relation to risk management and controls, including in respect of risk information, risk analysis results, control recommendations, control decisions and control results, and the rights to access and process such information;
  - (b) procedural measures for the transitional use or access to existing customs information systems procedural measures for the management of interoperability between the EU Customs Data Hub and other systems;
  - (c) procedural measures in relation to the application of the reporting requirement in the context of post-release controls and random controls;
  - (d) arrangements for cooperation, including exchange of information, between the EU Customs Authority and specific other Union institutes, bodies and offices, and other national competent authorities;
  - (e) the identification of the responsible customs authority in the case of specific risk management processes, which may concern more than one Member State;
  - (f) procedural aspects of controls, including post-release controls, which concern more than one Member State, and the availability of results of samples and other controls between the customs authorities concerned;



- (g) arrangements for the sharing of risk information between customs authorities, the EU Customs Authority and with the Commission;
- (h) common priority control areas and common risk criteria and standards as referred to in Article 51(1) and (2) and Article 52, including the modalities for their application on an urgent basis where this is necessary.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

2. On imperative grounds of urgency relating to such measures, including the modalities for their application on an urgent basis to respond effectively to crisis or incidents which may pose an imminent safety or security risk, and duly justified by the need to rapidly update common risk management and adapt the exchange of information, common risk criteria and standards, and common priority control areas to the evolution of risks, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 262(5).

## **Compromise Amendment 6 on Title V - Placing goods under a customs procedure**

Compromise amendment replacing all relevant amendments, including AMs 80-86, 322-335, INTA 105-108, CONT 46-49

# **Title V PLACING GOODS UNDER A CUSTOMS PROCEDURE**

## **Chapter 1 Customs status of goods**

### *Article 56*

#### **Presumption of customs status of Union goods**

1. All goods in the customs territory of the Union shall be presumed to have the customs status of Union goods, unless it is established that they are not Union goods.
2. In specific cases, where the presumption laid down in paragraph 1 does not apply, the customs status of Union goods shall need to be proven.
3. In specific cases, goods wholly obtained in the customs territory of the Union do not have the customs status of Union goods if they are obtained from goods in temporary storage or placed under the external transit procedure, a storage procedure, the temporary admission procedure or the inward processing procedure.

4. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining:
  - (a) the specific cases where the presumption laid down in paragraph 1 does not apply;
  - (b) the conditions for granting facilitation in the establishment of the proof of customs status of Union goods;
  - (c) the specific cases where the goods referred to in paragraph 3 do not have the customs status of Union goods.
5. The Commission shall specify, by means of implementing acts, the procedural rules for the provision and verification of the proof of the customs status of Union goods. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 57*

#### **Loss of customs status of Union goods**

Union goods shall become non-Union goods in the following cases:

- (a) where they are taken out of the customs territory of the Union, insofar as the rules on internal transit do not apply;
- (b) where they have been placed under the external transit procedure, a storage procedure or the inward processing procedure, insofar as the customs legislation so allows;
- (c) where they have been placed under the end-use procedure and are either subsequently abandoned to the State, or are destroyed and waste remains;
- (d) where the declaration for release for free circulation is invalidated after release of the goods.

#### *Article 58*

#### **Union goods leaving the customs territory of the Union temporarily**

1. In the cases referred to in Article 112(2), points [\(b\)](#), [\(c\)](#), [\(d\)](#) and [\(e\)](#), goods shall keep their customs status as Union goods only if that status is established under the conditions and by the means laid down in the customs legislation.
2. In specific cases, Union goods may move, without being subject to a customs procedure, from one point to another within the customs territory of the Union and temporarily out of that territory without alteration of their customs status.
3. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the specific cases where the customs status of goods referred to in paragraph 2 of this Article is not altered.

## Chapter 2

### Placement and release

#### Article 59

##### Placement of goods under a customs procedure

1. Importers, exporters and holders of the procedure intending to place goods under a customs procedure shall provide or make available the data necessary for the concerned procedure as soon as it is available and in any event prior to the release of the goods.
2. Deemed importers shall provide or make available the information on distance sales of goods to be imported in the customs territory of the Union at the latest on the day following the date when the payment was accepted and in any event prior to the release of the goods.
3. By way of derogation from paragraph 1, in duly justified circumstances linked to the supporting documentation or the determination of the final value of the goods, the customs authorities may authorise Trust and Check traders to provide part of the data other than advance cargo information after the release of the goods. The importer or the exporter shall provide the omitted information within a specific time-limit.
4. The goods shall be placed under the customs procedure upon their release. The date of the release shall, except where otherwise provided, be the date to be used for the application of the provisions governing the customs procedure in which the goods are placed and for all other import or export formalities.
5. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the data and information referred to in paragraphs 1 and 2 of this Article, and the specific data that can be provided after release of the goods and the time-limits for providing such data as referred to in paragraph 3 of this Article.

#### Article 60

##### Release of the goods

1. The customs authorities responsible for placing the goods in a customs procedure in accordance with Article 42(3) shall decide on the release of the goods taking into account the result of the risk analysis of the data provided by the importer or exporter and, where applicable, the results of any control.
2. Goods shall be released if the following conditions are met:
  - (a) an importer, *a responsible person*, or exporter is responsible for the goods; **(Rapp. 80, S&D 323)**
  - (b) any information requested by customs authorities and the minimum information necessary for the particular procedure has been provided or made available to customs authorities;
  - (c) the conditions for placing the goods under the procedure concerned pursuant to Articles [88](#), [118](#), [132](#) and [135](#) are fulfilled;

- (d) the goods have not been selected for any control.
3. The customs authorities shall refuse the release in any of the following cases:
- (a) where the conditions for placing the goods under the procedure concerned are not fulfilled, including any Union non-customs formalities as defined in point 11 of Article 2 of Regulation (EU) 2022/2399 relevant for the goods;
  - (b) where they have any evidence that the goods do not comply with the relevant other legislation applied by the customs authorities, ~~unless that legislation requires consulting other authorities beforehand;~~ **(Rapp. 81, S&D 325, Greens/EFA 324)**
  - (b a) where other legislation requires consultation with other authorities; (Rapp. 82, S&D 327, Greens/EFA 326)***
  - (c) where they have evidence that the data provided is not accurate.
4. The customs authorities shall suspend the release in any of the following cases:
- (a) where they have a reason to believe that the goods do not comply with the relevant other legislation applied by the customs authorities or that they present a serious risk to human, animal or plant health and life, or to the environment, or any other public interest, including financial interest; or
  - (b) where the other authorities have so requested according to other legislation applied by the customs authorities.
5. Where the release has been suspended in accordance with paragraph 4, the customs authorities shall consult the other authorities if the relevant other legislation applied by the customs authorities so requires, and:
- (a) refuse the release if the other authorities have so requested according to other legislation applied by the customs authorities; or
  - (b) release the goods if there are no reasons to believe that other requirements and formalities required by the other legislation applied by the customs authorities relating to such a release have not been fulfilled and:
    - (i) the other authorities have approved the release, or
    - ~~(ii) the other authorities have not replied within the time limit determined in the relevant other legislation applied by the customs authorities, or~~ **(Rapp. 83, S&D 329, Greens/EFA 328, The Left 330)**
    - (iii) the other authorities notify the customs authorities that more time is needed to assess whether the goods comply with the relevant other legislation applied by the customs authorities, on the condition that they have not requested to maintain the suspension, and the importer, ***the responsible person*** or the exporter provides to the customs authorities full traceability of those goods ~~for 15 days starting from the notification of the other authorities or until the other authorities have assessed and communicated the outcome of their controls to the importer, *the responsible person* or the exporter, whichever comes first.~~ The customs authorities shall make the traceability available to the other authorities. **(Rapp. 84, S&D 331, Greens/EFA 332, The Left 333)**

6. Without prejudice to the relevant other legislation applied by the customs authorities, the customs authorities shall be deemed to have released the goods where they have not selected them for any control ~~within a reasonable period of time~~ ***as soon as possible and the latest within 30 calendar days*** after: **(Rapp. 85, Renew 334)**
  - (a) the goods of deemed importers have arrived to the customs territory of the Union; or
  - (b) the goods of importers have arrived to their final destination; or
  - (c) the exporter has sent the pre-departure information.
7. Where the customs authorities have suspended the release of the goods according to paragraph 4, or refused the release of the goods according to paragraph 3 or paragraph 5, point (a), they shall record their decision and any other information, if applicable, required by the Union law in the EU Customs Data Hub. This information shall be made available to the other customs authorities.
8. Where the customs authorities have refused the release of the goods according to paragraph 3 or 5:
  - (a) if the other authorities have not objected, the goods can be subsequently placed in another customs procedure with an indication that the goods had been previously refused for another customs procedure;
  - (b) if the other authorities have objected to place the goods for one or more customs procedures, the customs authorities shall record that information in the EU Customs Data Hub and act accordingly.
9. ~~The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining the reasonable periods of time referred to in paragraph 6 of this Article. (Rapp 86)~~

#### *Article 61*

#### **Release of the goods on behalf of the customs authorities by Trust and Check traders**

1. By way of derogation from Article 60(1), the customs authorities may authorise Trust and Check traders to release the goods on their behalf upon receipt of those goods at the place of business of the importer, owner or consignee or upon dispatch from the place of business of the exporter, owner or consignor, provided that the necessary data for the relevant procedure and real-time information on the arrival or dispatch of the goods is provided or made available to the customs authorities.
2. Without prejudice to Article 43, the customs authorities may authorise Trust and Check traders to perform certain controls on goods under customs supervision. In those cases, where the goods are subject to other legislation applied by the customs authorities, customs authorities shall consult the other authorities before granting such an authorisation and may agree with them a control plan.
3. Where the Trust and Check trader referred to in paragraph 2 has reason to believe that the goods do not comply with the relevant other legislation applied by the customs authorities, it shall immediately notify the customs authorities and, where applicable, the other authorities. In that case, the customs authorities shall decide on the release.

4. The customs authorities may at any time require Trust and Check trader to present the goods for a control in a customs office or where the goods were meant to be released.
5. Where the customs authorities have identified a new serious financial risk or another specific situation in relation to an authorisation for release on their behalf, they may suspend the capacity to release on their behalf for a specific period of time and inform the Trust and Check trader. In such cases, the customs authorities shall decide on the release of the goods.

#### *Article 62*

### **Modification and invalidation of information for placing goods under a customs procedure**

1. The importer and the exporter shall amend one or more particulars of the data provided for placing the goods under a customs procedure where it comes to their knowledge that relevant information has changed in their records, or when customs authority instructs them to do so or notifies them of a data accuracy, completeness or quality issue, unless the customs authorities have informed that they intend to examine the goods or that they have established that the data provided is incorrect, or the goods have already been presented to customs.
2. The importer and the exporter shall invalidate the data provided for placing goods under a customs procedure as soon as it comes to their knowledge that the goods will not be brought into or will not be taken out of the customs territory of the Union. The customs authorities shall invalidate the data provided for placing goods under a customs procedure, if after 200 days from the date in which the information was provided or made available, the goods have not been brought into or have not been taken out of the customs territory of the Union.
3. The Commission shall specify, by means of implementing acts, the procedural rules for amending and for invalidating the information referred to in paragraphs 1 and 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

## **Chapter 3 Transitional provisions**

#### *Article 63*

### **Customs declaration of goods**

1. Until the date set out in Article 265(4), all goods intended to be placed under a customs procedure shall be covered by a customs declaration appropriate for the particular procedure.
2. From the date set out in Article 265(4), importers, exporters and holders of the transit procedure may, for placing goods under a customs procedure, lodge a customs declaration or provide or make available the relevant information appropriate for the relevant procedure using the EU Customs Data Hub. From the date set out in Article 265(3), importers, exporters and holders of the transit procedure shall, for placing goods under a customs procedure, provide or make available the information appropriate for the relevant procedure using the EU Customs Data Hub.

3. In specific cases, a customs declaration may be lodged using means other than electronic data-processing techniques.
4. The customs declaration shall be lodged at one of the following, depending on the circumstances:
  - (a) the customs office responsible for the place of first arrival of the goods to the customs territory of the Union; or
  - (b) the customs office responsible for the place of unloading of the goods arriving by sea or air;
  - (c) the customs office of destination of the transit procedure if the goods have entered the customs territory of the Union placed under a transit procedure;
  - (d) the customs office responsible for the place where the goods to be placed under a transit procedure are located;
  - (e) the customs office responsible for the place of establishment of the authorised economic operator for customs simplifications that is authorised to apply centralised clearance;
  - (f) the customs office responsible for the place where the goods intended to be taken out of the customs territory of the Union are located.
5. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the specific cases where a customs declaration may be lodged using means other than electronic data-processing techniques in accordance with paragraph 2 of this Article.
6. The Commission shall specify, by means of implementing acts:
  - (a) the procedure for lodging the customs declaration in the cases referred to in paragraph 3;
  - (b) the rules for determining the competent customs offices other than the one referred to in paragraph 4, including customs offices of entry and customs offices of exit.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article [262\(4\)](#).

#### *Article 64*

##### **Standard customs declaration**

1. Standard customs declarations shall contain all the particulars necessary for application of the provisions governing the customs procedure for which the goods are declared.
2. The Commission shall specify, by means of implementing acts, the procedure for lodging the standard customs declaration referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article [262\(4\)](#).

## *Article 65*

### **Simplified declaration**

1. Until the date set out in Article 265(3), the customs authorities may accept that a person has goods placed under a customs procedure on the basis of a simplified declaration which may omit certain of the particulars or the supporting documents referred to in Article [40](#).
2. Until the date set out in Article 265(4), the customs authorities may authorise the regular use of a simplified declaration.
3. The Commission is empowered to adopt delegated acts in accordance with Article [261](#), to supplement this Regulation by determining the conditions for granting the authorisation referred to in paragraph 2 of this Article.
4. The Commission shall specify, by means of implementing acts, the procedure for lodging the simplified declaration. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

## *Article 66*

### **Supplementary declaration**

1. In the case of a simplified declaration pursuant to Article [65](#) or of an entry in the declarant's records pursuant to Article [73](#), the declarant shall lodge a supplementary declaration containing the particulars necessary for the customs procedure concerned at the competent customs office within a specific time-limit.  
  
In the case of a simplified declaration pursuant to Article [65](#), the necessary supporting documents shall be in the declarant's possession and at the disposal of the customs authorities within a specific time-limit.  
  
The supplementary declaration may be of a general, periodic or recapitulative nature.
2. The obligation to lodge a supplementary declaration shall be waived in the following cases:
  - (a) where the goods are placed under a customs warehousing procedure;
  - (b) in other specific cases.
3. The customs authorities may waive the requirement to lodge a supplementary declaration where the following conditions apply:
  - (a) the simplified declaration concerns goods the value and quantity of which is below the statistical threshold;
  - (b) the simplified declaration already contains all the information needed for the customs procedure concerned;
  - (c) the simplified declaration is not made by entry in the declarant's records.
4. The simplified declaration referred to in Article [65](#) or the entry in the declarant's records referred to in to Article [73](#), and the supplementary declaration shall be deemed to constitute a single, indivisible instrument taking effect, respectively, on the date on which the simplified declaration is accepted in accordance with Article [69](#) and on the date on which the goods are entered in the declarant's records.



5. The place where the supplementary declaration is to be lodged shall be deemed, for the purposes of Article [169](#), to be the place where the customs declaration has been lodged.
6. The Commission is empowered to adopt delegated acts in accordance with Article [261](#), to supplement this Regulation by determining:
  - (a) the specific time-limit referred to in paragraph 1, first subparagraph, within which the supplementary declaration is to be lodged;
  - (b) the specific time-limit referred to in paragraph 1, second subparagraph, within which supporting documents are to be in the possession of the declarant and at the disposal of the customs authorities;
  - (c) the specific cases where the obligation to lodge a supplementary declaration is waived in accordance with paragraph 2, point (b).
7. The Commission shall specify, by means of implementing acts, the procedural rules for lodging the supplementary declaration. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article [262\(4\)](#).

#### *Article 67*

#### **Lodging a customs declaration**

1. Until the date set out in Article 265(3), without prejudice to Article [66\(1\)](#), a customs declaration may be lodged by any person who is able to provide all of the information which is required for the application of the provisions governing the customs procedure in respect of which the goods are declared. That person shall also be able to present the goods in question or to have them presented to customs.

However, where acceptance of a customs declaration imposes particular obligations on a specific person, that declaration shall be lodged by that person or by his or her representative.
2. By way of derogation from paragraph 1, first subparagraph, the customs declaration for release for free circulation for goods to be imported in the customs territory of the Union under the special scheme for distance sales set out in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC for distance sales shall be lodged by or on behalf of the deemed importer.
3. The declarant shall be established in the customs territory of the Union.
4. By way of derogation from paragraph 3, the following declarants shall not be required to be established in the customs territory of the Union:
  - (a) persons who lodge a customs declaration for transit or temporary admission;
  - (b) persons, who occasionally lodge a customs declaration, including for end-use or inward processing, provided that the customs authorities consider this to be justified;
  - (c) persons who are established in a country the territory of which is adjacent to the customs territory of the Union, and who present the goods to which the customs declaration refers at a Union border customs office adjacent to that country,

provided that the country in which the persons are established grants reciprocal benefits to persons established in the customs territory of the Union;

(d) deemed importers involved in the distance sale of goods under the special scheme set out in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC which are to be imported in the customs territory of the Union provided that they appoint an indirect representative.

5. Customs declarations shall be authenticated.

#### *Article 68*

##### **Lodging a customs declaration prior to the presentation of the goods**

1. A customs declaration may be lodged prior to the expected presentation of the goods to customs. If the goods are not presented within 30 days of the date of the lodging of the customs declaration, the customs declaration shall be deemed not to have been lodged.
2. The Commission shall specify, by means of implementing acts, the procedural rules for lodging a customs declaration as referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 69*

##### **Acceptance of a customs declaration**

1. Customs declarations which comply with the conditions laid down in this Chapter and with Article 40 shall be accepted by the customs authorities immediately, provided that the goods to which they refer have been presented to customs.
2. The date of acceptance of the customs declaration by the customs authorities shall, except where otherwise provided, be the date to be used for the application of the provisions governing the customs procedure for which the goods are declared and for all other import or export formalities.
3. The Commission shall specify, by means of implementing acts, the procedural rules for accepting a customs declaration, including the application of those rules in the cases referred to in Article [72](#). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 70*

##### **Amendment of a customs declaration**

1. The declarant shall, upon application, be permitted to amend one or more of the particulars of the customs declaration after that declaration has been accepted by customs. The amendment shall not render the customs declaration applicable to goods other than those which it originally covered.
2. No such amendment shall be permitted where it is applied for after any of the following events:

- (a) the customs authorities have informed the declarant that they intend to examine the goods;
  - (b) the customs authorities have established that the particulars of the customs declaration are incorrect;
  - (c) the customs authorities have released the goods.
3. Upon application by the declarant, within 3 years of the date of acceptance of the customs declaration, the amendment of the customs declaration may be permitted after release of the goods in order for the declarant to comply with his or her obligations relating to the placing of the goods under the customs procedure concerned.
4. The Commission shall specify, by means of implementing acts, the procedure for amending the customs declaration after the release of the goods in accordance with paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 71*

##### **Invalidation of a customs declaration**

1. The customs authorities shall, upon application by the declarant, invalidate a customs declaration already accepted in either of the following cases:
  - (a) where they are satisfied that the goods are immediately to be placed under a customs procedure;
  - (b) where they are satisfied that, as a result of special circumstances, the placing of the goods under the customs procedure for which they were declared is no longer justified.

However, where the customs authorities have informed the declarant of their intention to examine the goods, an application for invalidation of the customs declaration shall not be accepted before the examination has taken place.

2. By way of derogation from paragraph 1, in specific cases the customs declaration may be invalidated by the customs authorities without prior application by the declarant.
3. The customs declaration shall not be invalidated after the goods have been released unless where otherwise provided.
4. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the specific cases where the customs declaration is invalidated by customs authorities as referred to in paragraph 2 of this Article and after the release of the goods as referred to in paragraph 3 of this Article.
5. The Commission shall specify, by means of implementing acts, the procedure for invalidating the customs declaration after the release of the goods referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

## Article 72

### Centralised clearance

1. Until the date set out in Article 265(4), the customs authorities may, upon application, authorise a person to lodge at a customs office responsible for the place where such person is established, a customs declaration for goods which are presented to customs at another customs office.  
  
The requirement for the authorisation referred to in the first subparagraph may be waived where the customs declaration is lodged, and the goods presented to customs offices under the responsibility of one customs authority.
2. The applicant for the authorisation referred to in paragraph 1 shall be an authorised economic operator for customs simplifications as referred to in Article 23(1), point [\(a\)](#).
3. The customs office at which the customs declaration is lodged shall:
  - (a) supervise the placing of the goods under the customs procedure concerned;
  - (b) carry out the customs controls for the verification of the customs declaration;
  - (c) where justified, request that the customs office at which the goods are presented carry out certain customs controls for the verification of the customs declaration; and
  - (d) carry out the customs formalities for the recovery of the amount of import or export duty corresponding to any customs debt.
4. The customs office at which the customs declaration is lodged and the customs office at which the goods are presented shall exchange the information necessary for the verification of the customs declaration and for the release of the goods.
5. The customs office at which the goods are presented shall, without prejudice to its own controls pertaining to goods brought into or taken out of the customs territory of the Union, carry out the customs controls referred to in point (c) of paragraph 3 and provide the customs office at which the customs declaration is lodged with the results of these controls.
6. The customs office at which the customs declaration is lodged shall release the goods, taking into account:
  - (a) the results of its own controls for the verification of the customs declaration;
  - (b) the results of the controls carried out by the customs office at which the goods are presented for the verification of the customs declaration and the controls pertaining to goods brought into or taken out of the customs territory of the Union.
7. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the conditions for granting the authorisation referred to in of paragraph 1, first subparagraph, of this Article.
8. The Commission shall specify, by means of implementing acts, the procedure for the centralised clearance referred to in this Article, including the relevant customs formalities and controls. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

## Article 73

### Entry in the declarant's records

1. Until the date set out in Article 265(4), the customs authorities may, upon application, authorise a person to lodge a customs declaration, including a simplified declaration, in the form of an entry in the declarant's records, provided that the particulars of that declaration are at the disposal of the customs authorities in the declarant's electronic system at the time when the customs declaration in the form of an entry in the declarant's records is lodged.
2. The customs declaration shall be deemed to have been accepted at the moment at which the goods are entered in the records.
3. The customs authorities may, upon application, waive the obligation for the goods to be presented. In that case, the goods shall be deemed to have been released at the moment of entry in the declarant's records.

That waiver may be granted where all of the following conditions are fulfilled:

- (a) the declarant is an authorised economic operator for customs simplification as referred to in Article 23(1), point [\(a\)](#);
- (b) the nature and flow of the goods concerned so warrant and are known by the customs authority;
- (c) the supervising customs office has access to all the information it considers necessary to enable it to exercise its right to examine the goods should the need arise;
- (d) at the time of the entry into the records, the goods are no longer subject to the other legislation applied by the customs authorities, except where otherwise provided in the authorisation.

However, the supervising customs office may, in specific situations, request that the goods be presented.

4. The conditions under which the release of the goods is allowed shall be set out in the authorisation.
5. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the conditions for granting the authorisation referred to in paragraph 1 of this Article.
6. The Commission shall specify, by means of implementing acts, the procedural rules on the entry in the declarant's records, including the relevant customs formalities and controls, and the waiver from the obligation of presenting the goods referred to paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

## Article 74

### Cessation of validity

The authorisations for simplified declarations, centralised clearance and entry into the declarant's records shall expire on the date set out in Article 265([3](#)).

## **Chapter 4**

### **Disposal of goods**

#### *Article 75*

#### **Disposal of goods**

Where, for any reason, goods cannot be maintained in temporary storage, the customs authorities shall without delay take all measures necessary to dispose of the goods in accordance with Articles [76](#), [77](#) and [78](#).

#### *Article 76*

#### **Destruction of goods**

1. Where the customs authorities have reasonable grounds for so doing, they may require goods which have been presented to them to be destroyed and shall inform the importer, exporter and the holder of the goods accordingly. The costs of the destruction shall be borne by the importer or the exporter.
2. Where the destruction is to be conducted under the responsibility of a holder of a decision of an intellectual property right, as defined in Article 2, point (13), of Regulation (EU) No 608/2013 of the European Parliament and the Council Regulation<sup>10</sup>, it has to be carried out by, or under supervision of the customs authorities.
3. If they consider it is necessary and proportionate to do so, the customs authorities may seize and destroy or otherwise render inoperable a product that has not been presented them and that presents a risk to the health and safety of end users. The cost of such measure shall be borne by the importer or the exporter.
4. The Commission shall specify, by means of implementing acts, the procedure for the destruction of goods. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 77*

#### **Measures to be taken by the customs authorities**

1. The customs authorities shall take any necessary measures, including confiscation, sale, donation for humanitarian purpose or destruction, to dispose of goods in the following cases:
  - (a) where one of the obligations laid down in the customs legislation concerning the introduction of non-Union goods into the customs territory of the Union has not been fulfilled, or the goods have been withheld from customs supervision;
  - (b) where the goods cannot be released for any of the following reasons:

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<sup>10</sup> Regulation (EU) No 608/2013 of the European Parliament and the Council Regulation (EU) No 608/2013 of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003 (OJ L 181, 29.6.2013, p. 15–34).

- (i) it has not been possible, for reasons attributable to the operator, to undertake or continue examination of the goods within the period prescribed by the customs authorities;
    - (ii) the documents which must be provided before the goods can be placed under, or released for, the customs procedure requested have not been provided;
    - (iii) payments or a guarantee which should have been made or provided in respect of import or export duty, as the case may be, have not been made or provided within the prescribed period;
    - (iv) the goods do not fulfil the conditions for release laid down in Article 60;
  - (c) where the goods have not been removed within a reasonable period after their release;
  - (d) where after their release, the goods are found not to have fulfilled the conditions for that release; or
  - (e) where goods are abandoned to the State in accordance with Article 78.
2. Non-Union goods which have been abandoned to the State, seized or confiscated shall be deemed to be placed under the customs warehousing procedure. They shall be entered in the records of the customs warehousing operator, or, where they are held by the customs authorities, by the latter.
- Where customs authorities have already received data on the goods to be destroyed, abandoned to the State, seized or confiscated, the records shall include a reference to that data.
3. The costs of the measures referred to in paragraph 1 shall be borne:
- (a) in the case referred to in point (a) of paragraph 1, by the carrier, the importer or the holder of the transit procedure or who withheld the goods from customs supervision;
  - (b) in the cases referred to in points (b), (c) and (d) of paragraph 1, by the importer, exporter or the holder of the transit procedure;
  - (c) in the case referred to in point (e) of paragraph 1, by the person who abandons the goods to the State.
4. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the conditions and the procedure for confiscating goods.
5. The Commission shall specify, by means of implementing acts, the procedure for selling the goods by the customs authorities referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 78*

#### **Abandonment**

1. Non-Union goods and goods placed under the end-use procedure may with prior permission of the customs authorities be abandoned to the State by the holder of the procedure or, where applicable, the holder of the goods.
2. The Commission shall specify, by means of implementing acts, the procedure on abandonment of goods to the State. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

## **Compromise Amendment 7 on Title VI - Goods brought into the customs territory**

Compromise amendment replacing all relevant amendments, including AMs 87-92, 336-348, INTA 109-113, CONT 50

# **Title VI GOODS BROUGHT INTO THE CUSTOMS TERRITORY OF THE UNION**

## **Chapter 1 Advance cargo information**

### *Article 79*

#### **Entry of goods**

Goods may enter the customs territory of the Union only if the carrier or other persons have provided or made available to the competent customs authorities the advance cargo information referred to in Article [80](#).

### *Article 80*

#### **Advance cargo information**

1. Carriers bringing goods into the customs territory of the Union shall provide or make available advance cargo information on each consignment to the expected customs office of first entry within specified time limits.
2. The advance cargo information shall include at least the importer responsible for the goods, the unique reference for the consignment, the consignor, the consignee, a description of the goods, the tariff classification, the value, ***the final destination of the goods***, the data on the route and the nature and identification of the means of transport bringing the goods and the transportation cost. The advance cargo information shall be provided before the goods arrive to the customs territory of the



Union. *More information may be requested for entry purposes by the customs authorities or the EU Customs Authority. (Rapp. 87, Greens/EFA 336)*

3. The importer may provide part of the advance cargo information within the time limits specified in accordance with paragraph 1. Where the importer has already provided or made available part of the required advance cargo information, the carrier shall link its own additional information to the importer's information.
4. The importer shall be notified where a carrier links information on a consignment to his or her previous information.
5. In specific cases, where all the advance cargo information referred to in paragraphs 1 and 2 cannot be obtained from the carrier or the importer, other persons holding that information and the appropriate rights to provide it may be required to provide it.
6. The obligation laid down in paragraph 1 shall be waived:
  - (a) for means of transport and the goods carried thereon only passing through the territorial waters or the airspace of the customs territory of the Union without a stop within that territory;
  - (b) for goods that are brought into the customs territory of the Union after having temporarily left that territory by sea or by air and having been carried by direct route without a stop outside the customs territory of the Union; and
  - (c) in other cases, where duly justified by the type of goods or traffic, or where required by international agreements.
7. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining:
  - (a) the expected office of first entry referred to in paragraph 1;
  - (b) the additional data to be provided as advance cargo information referred to in paragraph 2;
  - (c) the time limits referred to in paragraphs 1 and 3;
  - (d) the specific cases and the other persons who may be required to provide advance cargo information as referred to in paragraph 5;
  - (e) the cases where the obligation to provide or make available advance cargo information is waived for the reason that such waiver is duly justified by the type of goods or traffic, as referred to in paragraph 6, point (c);
  - (f) the conditions under which a person which provides or makes available information may restrict the visibility of its identification to one or more other persons which also lodge particulars, without prejudice to the use of all particulars for customs supervision.
8. The Commission shall specify, by means of implementing acts, the procedure for providing and receiving the advance cargo information as referred to in paragraphs 1 to 5. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article [262\(4\)](#).
9. Until the date ~~is set out in the work programme referred to in point (b) of Article 265(3), the~~ [29\(5\)](#), *an entry summary declaration submitted in accordance with the rules and data requirements provided for in Regulation (EU) No 952/2013 which*

*apply to the electronic systems that the Member States and the Commission have developed pursuant to Article 16(1) of Regulation (EU) No 952/2013 shall be considered as the advance cargo information. (Rapp. 88, ID 337)*

#### *Article 81*

##### **Risk analysis of advance cargo information**

1. Without prejudice to the activities of the EU Customs Authority set out in Title [XII](#), the customs office of first entry shall, within specific time-limits, ensure that a risk analysis is carried out, primarily for security and safety purposes and, where possible, for other purposes, on the basis of the advance cargo information and other information provided or made available through the EU Customs Data Hub and shall take the necessary measures based on the results of that risk analysis.
2. The customs office of first entry may take appropriate mitigation measures, including:
  - (a) instructing the carrier that the goods shall not be loaded or transported;
  - (b) requesting additional information or action;
  - (c) identifying situations where action by another customs authority may be appropriate;
  - (d) recommending the most appropriate place and measures to carry out a control.
3. The Commission is empowered to adopt delegated acts in accordance with Article [261](#), to supplement this Regulation by determining the time-limits within which the risk analysis is to be carried out and the necessary measures are to be taken, as referred to in paragraph 1 of this Article, and the mitigation measures referred to in paragraph 2 of this Article.
4. Until the date set in Article 265(3), the risk analysis shall be carried out based on the entry summary declaration.

#### *Article 82*

##### **Modification and invalidation of advance cargo information**

1. The carrier shall inform the customs authorities concerned of diversions affecting the route of the cargo as notified in the advance cargo information.
2. The importer and carrier shall amend one or more particulars of the advance cargo information where it comes to their knowledge that relevant information has changed in their records, or when a customs authority requests or instructs them to do so due to a data accuracy, completeness or quality issue, unless the customs authorities have informed the carrier that they intend to examine the goods or that they have established that the advance cargo information is incorrect, or the goods have already been presented to customs.
3. The carrier shall invalidate the advance cargo information on goods that are not brought into the customs territory of the Union as soon as possible. The customs authorities shall invalidate advance cargo information on those goods after 200 days from the date in which the information was provided or made available.

4. The Commission shall specify, by means of implementing acts, the procedure for amending the advance cargo information referred to in paragraph 2 and for and invalidating the advance cargo information referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

### *Article 83*

#### **Notification of arrival**

1. The carrier shall notify the arrival of the means of transport entering the customs territory of the Union and of the consignments therein to the actual customs office of first entry.
2. In specific cases, where not all the data on the consignments can be obtained from the carrier, a subsequent carrier or other persons having that data and the appropriate rights to provide them may be required to notify the arrival of the consignments to the actual customs office of first entry.
3. The information on arrival of the means of transport and of the consignments may be provided or made available to the customs authorities through means other than the EU Customs Data Hub. In such cases, the information provided or made available through these other means shall be transferred to the EU Customs Data Hub.
4. ~~Where the arrival of the means of transport and of the consignments therein is not covered by the notification referred to in paragraph 1, the carrier shall notify the arrival of the~~**The carrier shall only notify the arrival of goods which are brought into the customs territory of the Union by sea or air and which remain on board the same means of transport for carriage, in the customs territory** at the port or airport where they are unloaded or transhipped. **(Rapp. 89, ID 339)**
5. By derogation from paragraph 4, the carrier shall not notify goods brought into the customs territory of the Union which are unloaded and reloaded onto the same means of transport during its voyage in order to enable the unloading or loading of other goods at the same port or airport.
6. The carrier shall not unload, in the customs territory of the Union, the goods for which a minimum advance cargo information has not been provided or made available to customs, unless the customs authorities have requested the carrier to present them in accordance with Article 85.
7. By derogation from paragraph 6, in the event of an imminent danger necessitating the immediate unloading of all or part of the goods, the customs authorities may allow the carrier to unload the goods.
8. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining the specific cases referred to in paragraph 2 and the other persons who may be required to notify the arrival of the consignments to the actual customs of first entry.
9. The Commission shall specify, by means of implementing acts, the procedure on the notification of arrival referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

- 9 a. *Until the dates set out in the work programme referred to in point (b) of Article 29(5), a notification for arrival submitted and a presentation to customs referred to in Article 85(1) in accordance with the rules and data requirements provided for in Regulation (EU) No 952/2013 apply to the electronic systems that the Member States in cooperation with the Commission have developed pursuant to Article 16(1) of Regulation (EU) No 952/2013 shall be considered to be, respectively, the notification of arrival of the means of transport and of the consignments therein. (Rapp. 90, ID 342)*

#### Article 84

##### Conveyance to the appropriate place

1. The carrier bringing goods into the customs territory of the Union shall convey them without delay, by the route specified by the customs authorities and in accordance with their instructions, if any, to the customs office designated by the customs authorities, or to any other place designated or approved by those authorities.
2. Where, by reason of unforeseeable circumstances or force majeure, the carriers cannot comply with the obligation in paragraph 1, they shall without delay inform the customs authorities of the situation and of the precise location of the goods.
3. The customs authorities shall determine the measures to be taken in order to permit customs supervision of the goods referred to in paragraph 1, or of the vessel or aircraft and any goods thereon in the circumstances specified in paragraph 2, and to ensure, where appropriate, that they are subsequently conveyed to a customs office or other place designated or approved by the authorities or into a free zone.
4. Goods brought into a free zone shall be brought into that free zone directly, either by sea or air or, if by land, without passing through another part of the customs territory of the Union, where the free zone adjoins the land frontier between a Member State and a third country.
5. The customs authority may subject to customs controls goods that are still outside the customs territory of the Union, as a result of an agreement concluded with the relevant third country. The customs authorities shall treat those goods in the same way as goods brought into the customs territory of the Union.
6. By way of derogation from paragraphs 1 and 2, special rules may apply to goods transported within frontier zones or in pipelines and wires, to traffic of negligible economic importance or to goods carried by travellers, provided that the customs supervision and customs control possibilities are not thereby jeopardised.
7. Paragraph 1 shall not apply to means of transport and goods carried thereon only passing through the territorial waters or the airspace of the customs territory of the Union without a stop within that territory.
8. Articles [83](#) and [85](#) shall not apply in cases where Union goods which move without alteration of their customs status in accordance with Article 58(2) are brought into the customs territory of the Union after having temporarily left that territory by sea or air and having been carried by direct route without a stop outside the customs territory of the Union.

## Article 85

### Presentation to customs

1. Where the customs authorities or the other legislation applied by the customs authorities so requires, the carrier shall present the goods brought into the customs territory of the Union to customs upon their arrival at the designated customs office or any other place designated or approved by the customs authorities or in the free zone.
2. ***Without prejudice to Article 80(5)***, the customs authorities shall require the carrier to present the goods and provide the advance cargo information referred to in Article [80](#), where this information has not been provided at an earlier stage. **(Rapp. 91, ID 341)**
3. Goods presented to customs shall not be removed from the place where they have been presented without the permission of the customs authorities.
3. The Commission is empowered to adopt delegated acts in accordance with Article [261](#), to supplement this Regulation by determining the conditions for designating and approving the places other than the designated customs office, as referred to paragraph 1.
4. The Commission shall adopt, by means of implementing acts, the procedure regarding the presentation of the goods to customs as referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

## Article 86

### Temporary storage of goods

1. Non-Union goods shall be in temporary storage from the moment the carrier notifies their arrival to the customs territory of the Union, until they are placed under a customs procedure, or the customs authorities regularise their situation in accordance with paragraph 6.
2. Goods arriving to the customs territory in transit shall be in temporary storage after they have been presented to the customs office of destination in the customs territory of the Union in accordance with the rules governing the transit procedure in Title VIII, Chapter 2, until they are placed under another customs procedure or the customs authorities regularise their situation in accordance with paragraph 6.
3. Goods in temporary storage shall be stored only in customs warehouses or, where justified, in other places designated or approved by the customs authorities.
4. The temporary storage or customs warehouse operator shall preserve the goods in temporary storage but shall not alter them or modify their appearance or technical characteristics.
5. Non-Union goods in temporary storage shall be placed under a customs procedure no later than ~~3~~**90** days after the notification of their arrival or no later than 6 days after the notification of their arrival in the case of an authorised consignee as referred to in Article 116(4), point [\(b\)](#), unless the customs authorities require the goods to be presented. In exceptional cases, that time limit may be extended. **(Rapp. 92, ID 344, 345, ECR 346, Renew 347, S&D348)**

6. Where, for a duly justified reason, goods cannot be maintained in temporary storage, the customs authorities shall without delay take all measures necessary to dispose of the goods in accordance with Chapter 4 of this Title.
7. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the conditions for designating or approving the places referred to in paragraph 3 of this Article and the cases where the time limit referred to in paragraph 5 of this Article may be extended.
- 7a. ***Until the date set out in Article 265(3), a temporary storage declaration shall be submitted in accordance with the rules and data requirements pursuant to Regulation (EU) No 952/2013, and implementing and delegated acts provided therein. (ID 343)***

#### *Article 87*

#### **Transitional provision in relation to authorisations for the operation of temporary storage facilities**

By the date established in Article 265(3), the customs authorities shall reassess the authorisations for the operation of temporary storage facilities to check whether their holders may be granted an authorisation for customs warehousing. If they may not, the authorisations for the operation of temporary storage facilities shall be revoked.

## **Chapter 2 Release for free circulation**

#### *Article 88*

#### **Scope and effect**

1. Non-Union goods intended to be placed on the Union market or intended for private use or consumption within the customs territory of the Union shall be placed under release for free circulation.
2. The release for free circulation shall not be considered a proof of conformity with the relevant other legislation applied by the customs authorities.
3. The conditions for placing goods under release for free circulation shall be the following:
  - (a) the required data has been provided or made available to customs authorities, which must include at least the importer responsible for the goods, the seller, the buyer, the manufacturer, the product supplier where this is different from the manufacturer, the responsible economic operator in the Union pursuant to Article 4 of Regulation (EU) 2019/1020 and Art. 16 of Regulation of the European Parliament and of the Council (EU) 2023/XXXX<sup>11</sup>, the value, the origin, the tariff classification and a description of the goods, the unique

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<sup>11</sup> Regulation of the European Parliament and of the Council (EU) No 2023/... of .../2023 on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council, and repealing Council Directive 87/357/EEC and Directive 2001/95/EC of the European Parliament and of the Council (OJ L... ).

reference of the consignment and its location, and the list of relevant other legislation applied by the customs authorities;

- (b) any import duty or other charges due, including anti-dumping duties, countervailing duties or safeguard measures shall be paid or guaranteed, unless the goods are the subject of a drawing request on a tariff quota, or the importer is a Trust and Check trader;
  - (c) the goods have arrived to the customs territory of the Union; and
  - (d) the goods comply with the relevant other legislation applied by the customs authorities.
4. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement and amend this Regulation by determining the data provided or made available to the customs authorities for placing goods under release for free circulation as referred to in paragraph 3, point (a), of this Article.

#### *Article 89*

#### **Application of commercial policy measures to inward and outward processing**

1. Where processed products obtained under inward processing are released for free circulation and the calculation of the amount of import duty is made in accordance with Article 168(3), the commercial policy measures to be applied shall be those applicable to the release for free circulation of the goods which were placed under inward processing.
2. Paragraph 1 shall not apply to waste and scrap.
3. Where processed products obtained under inward processing are released for free circulation and the calculation of the amount of import duty is made in accordance with Article 167(1), the commercial policy measures applicable to those goods shall be applied only where the goods which were placed under inward processing are subject to such measures.
4. Commercial policy measures shall not apply to processed products released for free circulation following outward processing where:
  - (a) the processed products retain their Union origin within the meaning of Article 148;
  - (b) the outward processing involves repair, including the standard exchange system referred to in Article 143; or
  - (c) the outward processing follows further processing operations in accordance with Article 139.

## **Chapter 3**

### **Relief from import duty**

#### *Article 90*

#### **Scope and effect**

1. Non-Union goods which, having originally been exported as Union goods from the customs territory of the Union, are returned to that territory within a period of 3 years and declared for release for free circulation shall, upon application by the person concerned, be granted relief from import duty.

The first subparagraph shall apply even where the returned goods represent only a part of the goods previously exported from the customs territory of the Union.

2. The 3-year period referred to in paragraph 1 may be exceeded in order to take account of special circumstances.
3. Where, prior to their export from the customs territory of the Union, the returned goods had been released for free circulation duty-free or at a reduced rate of import duty because of a particular end-use, relief from duty under paragraph 1 shall be granted only if they are to be released for free circulation for the same end-use.

Where the end-use for which the goods in question are to be released for free circulation is no longer the same, the amount of import duty shall be reduced by any amount collected on the goods when they were first released for free circulation. Should the latter amount exceed that levied on the release for free circulation of the returned goods, no repayment shall be granted.

4. Where Union goods have lost their customs status pursuant to Article [57](#) and are subsequently released for free circulation, paragraphs 1, 2 and 3 of this Article shall apply.
5. The relief from import duty shall be granted only if goods are returned in the state in which they were exported.
6. The relief from import duty shall be supported by information establishing that the conditions for the relief are fulfilled.
7. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the cases where goods are considered to be returned in the state in which they were exported as referred to in paragraph 5 of this Article.
8. The Commission shall specify, by means of implementing acts, the procedure for the provision of information referred to in paragraph 6 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article [262\(4\)](#).

#### *Article 91*

##### **Goods which benefited from measures laid down under the common agricultural policy**

1. Relief from import duty provided for in Article [90](#) shall not be granted to goods which have benefited from measures laid down under the common agricultural policy involving their export out of the customs territory of the Union, except where otherwise provided in specific cases.
2. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the specific cases referred to in paragraph 1 of this Article.



*Article 92*

**Goods previously placed under the inward processing procedure**

1. Article [90](#) shall apply to processed products which were originally re-exported from the customs territory of the Union subsequent to an inward processing procedure.
2. Upon application by the importer and provision of the necessary information, the amount of import duty on the goods covered by paragraph 1 shall be determined in accordance with Article [168\(3\)](#). The date of re-export shall be regarded as the date of release for free circulation.
3. The relief from import duty provided for in Article [90](#) shall not be granted for processed products which were exported in accordance with Article [109\(2\)](#), point [\(c\)](#), unless it is ensured that no goods will be placed under the inward processing procedure.

*Article 93*

**Products of sea-fishing and other products taken from the sea**

1. Without prejudice to Article [148\(1\)](#), the following shall be granted relief from import duty when they are released for free circulation:
  - (a) products of sea-fishing and other products taken from the territorial sea of a third country by vessels solely registered or recorded in a Member State and flying the flag of that State;
  - (b) products obtained from products referred to in point (a) on board factory-ships fulfilling the conditions laid down in that point.
2. The relief from import duty referred to in paragraph 1 shall be supported by evidence that the conditions laid down in that paragraph are fulfilled.
3. The Commission shall specify, by means of implementing acts, the procedure for the provision of the evidence referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article [262\(4\)](#).

## **Compromise Amendment 8 on Title VII - Goods taken out of the customs territory**

Compromise amendment replacing all relevant amendments, including AMs 349-350, INTA 114-116

# **Title VII GOODS TAKEN OUT OF THE CUSTOMS TERRITORY OF THE UNION**

## **Chapter 1 Exit of goods and export procedure**

### *Article 94*

#### **Exit of goods**

1. Goods may exit the customs territory of the Union only if the exporter or other persons have provided or made available to the competent customs authorities the pre-departure information referred to in Article [95](#).
2. The Commission shall specify, by means of implementing acts, the rules on the formalities to be carried out prior to and on the exit of goods. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article [262\(4\)](#).

### *Article 95*

#### **Pre-departure information**

1. Exporters wishing to take goods out of the customs territory of the Union shall provide minimum pre-departure information within a specific time-limit before the goods are taken out of the customs territory of the Union.
2. The obligation referred to in paragraph 1 shall be waived in one of the following cases:
  - (a) for means of transport and the goods carried thereon only passing through the territorial waters or the airspace of the customs territory of the Union without a stop within that territory;
  - (b) in other specific cases, where duly justified by the type of goods or traffic or where required by international agreements;
  - (c) for goods moved temporarily out of the customs territory of the Union in accordance with Article 58.
3. The minimum pre-departure information referred to in paragraph 1 shall indicate if the goods are:
  - (a) Union goods to be placed under the export procedure;

- (b) Union goods to be placed under the outward processing procedure;
  - (c) Union goods to be taken out of the customs territory of the Union after having been placed under the end-use procedure;
  - (d) Union goods to be delivered, VAT or excise duty exempted, as aircraft or ship supplies, regardless of the destination of the aircraft or ship, for which a proof of such supply is required;
  - (e) Union goods to be placed under the internal transit procedure; or
  - (f) non-Union goods to be exported after having been in temporary storage or having been placed under a customs procedure.
4. The carrier may load, in the customs territory of the Union, only the goods for which a minimum pre-departure information has been provided or made available to the customs office of exit.
  5. The carrier shall take out of the customs territory of the Union goods in the same condition as when the pre-departure information was provided or made available.
  6. Where the exporter has not provided the pre-departure information or the pre-departure information provided does not correspond to the relevant goods, the carrier shall provide it at the customs office of exit within a specific time-limit, before the goods are taken out of the customs territory of the Union.
  7. The necessary particulars of the pre-departure information shall be immediately provided or made available to the customs office of exit.
  9. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement or amend this Regulation by determining:
    - (a) the minimum pre-departure information to be provided taking into account the procedure under which the goods are to be placed and whether the goods are Union or non-Union goods;
    - (b) the specific time-limit referred to in paragraphs 1 and 6, within which the pre-departure information is to be provided or made available before the goods are taken out of the customs territory of the Union taking into account the type of traffic and the means of transport;
    - (c) the specific cases where the obligation to provide or make available pre-departure information is waived as referred to in paragraph 2, point (b);
    - (d) the information to be notified on the exit of the goods referred to in paragraph 8.
  10. The Commission shall specify, by means of implementing acts, the procedure for providing and receiving the pre-departure information and the exit confirmation referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).
  11. Until the end date established in Article 265(3), the exit summary declaration, the export declaration, the re-export declaration and the re-export notification shall be considered to be the pre-departure information.

## Article 96

### **Amendment and invalidation of the pre-departure information**

1. The exporter or the carrier may amend one or more particulars of the pre-departure information after it has been provided or made available.  
No amendment shall be possible after any of the following:
  - (a) the customs authorities have informed that they intend to examine the goods;
  - (b) the customs authorities have established that one or more particulars of the information are inaccurate or incomplete;
  - (c) the customs authorities have already granted the release of the goods for exit.
2. The exporter or the carrier shall invalidate the pre-departure information for goods that are not taken out from the customs territory of the Union as soon as possible. The customs authorities shall invalidate pre-departure information on those goods after 150 days have elapsed from the date in which the information was provided or made available.
3. The Commission shall specify, by means of implementing acts, the procedure for amending the pre-departure information as referred to in paragraph 1, first subparagraph and for invalidating the pre-departure information as referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

## Article 97

### **Risk analysis of the pre-departure information**

1. Without prejudice to the activities of the EU Customs Authority set out in Title IV, the customs office of export shall, within a specific time-limit, ensure that a risk analysis is carried out, primarily for security and safety purposes and, where possible, for other purposes, on the basis of the pre-departure information and other information provided or made available through the EU Customs Data Hub and shall take the necessary measures based on the results of that risk analysis.
2. The customs office responsible for the place where the exporter is established may take appropriate mitigation measures, including:
  - (a) instructing the exporter or the carrier that the goods shall not be loaded or transported;
  - (b) requesting additional information or action;
  - (c) identifying situations where action by another authority may be appropriate;
  - (d) recommending the most appropriate place and measures to carry out a control;
  - (e) determining the route to be used, and the time-limit to be respected when goods are to be taken out of the customs territory of the Union.
3. The customs office of exit shall also carry out a risk analysis where the carrier provides the information on the goods therein pursuant to Article 95(6).
4. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining the time-limits within which risk

analysis is to be carried out and the necessary measures based on the results of the risk analysis to be taken, as referred to in paragraph 1 of this Article, and the mitigation measures referred to in paragraph 2 of this Article.

#### *Article 98*

##### **Presentation and exit confirmation**

1. Where the pre-departure information has not been provided within the specific time-limit or where the customs authorities or the other legislation applied by the customs authorities so requires, the carrier shall present the goods to be taken out of the customs territory of the Union to the customs office of exit before their departure.
2. The carrier shall confirm to the customs authorities the exit of the goods from the customs territory of the Union.

#### *Article 99*

##### **Export procedure**

1. Union and non-Union goods intended to be taken out of the customs territory of the Union shall be placed under the export procedure.
2. The conditions for placing goods under the export procedure shall be the following:
  - (a) the minimum information has been provided or made available to customs authorities, which must include at least the exporter responsible for the goods, the seller, the buyer, the value, the origin, the tariff classification, the description of the goods and their location;
  - (b) any export duty or other charges due are paid or guaranteed; and
  - (c) the goods comply with the relevant other legislation applied by the customs authorities.
3. Goods to be taken out of the customs territory of the Union shall be subject, as appropriate, to the following:
  - (a) the repayment or remission of import duty;
  - (b) the payment of export refunds;
  - (c) the formalities required under provisions in force with regard to other charges.
4. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement and amend this Regulation by determining the data provided or made available to the customs authorities for placing goods under export as referred to in paragraph 2, point (a).
5. The Commission shall specify by means of implementing acts, the procedure for refunding the VAT to natural persons not established in the Union as referred to in paragraph 3, point (b). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 100*

##### **Relief from export duty for Union goods temporarily exported**

Without prejudice to Article [140](#), Union goods which are temporarily exported from the customs territory of the Union shall benefit from export duty relief, conditional upon their re-import.

## **Compromise Amendment 9 on Title VIII - Special procedures**

Compromise amendment replacing all relevant amendments, including AMs 351, INTA 117-119

# **Title VIII SPECIAL PROCEDURES**

## **Chapter 1 General provisions**

### *Article 101*

#### **Scope**

1. Goods may be placed under any of the following categories of special procedures:
  - (a) transit, which shall comprise external and internal transit;
  - (b) storage, which shall comprise customs warehousing and free zones;
  - (c) specific use, which shall comprise temporary admission and end-use;
  - (d) processing, which shall comprise inward and outward processing.
2. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement and amend this Regulation by determining the data provided or made available to the customs authorities for placing goods under special procedures.

### *Article 102*

#### **Authorisation**

1. Importers or exporters intending to place goods under a special customs procedure shall have an authorisation from the customs authorities for the following:
  - (a) the use of the inward or outward processing procedure, the temporary admission procedure or the end-use procedure;
  - (b) the operation of storage facilities for the customs warehousing of goods, except where the storage facility operator is the customs authority itself.

The authorisation shall set out the conditions for the use of those procedures or the operation of those storage facilities.

2. Except where otherwise provided, the customs authorities shall grant the authorisation referred to in paragraph 1 only where the following conditions are met:
  - (a) the holder of the authorisation is established in the customs territory of the Union, except where otherwise provided for temporary admission or, in exceptional cases, for the end-use or inward processing procedures;
  - (b) the holder of the authorisation provides the necessary assurance of the proper conduct of the operations; a Trust and Check trader shall be deemed to fulfil this condition, insofar as the activity pertaining to the special procedure concerned is taken into account in the authorisation referred to in Article [25](#);
  - (c) the customs authorities deemed it necessary where the holder of the authorisation is not a Trust and Check trader, a guarantee is provided for the potential customs debt or other charges related to the goods placed under the special procedure;
  - (d) the customs authorities are able to exercise customs supervision without having to introduce administrative arrangements which are disproportionate to the economic needs involved;
  - (e) if the authorisation concerns temporary admission, the holder of the authorisation uses the goods or arranges for their use;
  - (f) if the authorisation concerns the processing procedure, the holder of the authorisation carries out processing operations on the goods or arranges for them to be carried out;
  - (g) the essential interests of Union producers would not be adversely affected by the authorisation for a processing procedure ('examination of the economic conditions').
3. Unless otherwise justified by the economic nature of the processing, for assessing whether granting an authorisation for an inward processing procedure adversely affects the essential interest of the Union producers, the customs authorities issuing the authorisation shall, before adopting its decision on the authorisation, request the opinion of the EU Customs Authority if:
  - (a) the import duty applicable upon release for free circulation of the processed products is determined on the basis of the tariff classification, customs value, quantity, nature and origin of the goods placed under the inward processing procedure in accordance with Article 168([3](#)) and ([4](#)); and
  - (b) evidence exists that the essential interests of Union producers are likely to be adversely affected. Such evidence shall be deemed to exist where the goods to be placed under inward processing would be subject to an agricultural policy measure, a provisional or definitive anti-dumping duty, a countervailing duty, a safeguard measure or an additional duty resulting from a suspension of concessions if they were released for free circulation.
4. For assessing whether granting an authorisation for an outward processing procedure adversely affects the essential interest of the Union producers, the customs authorities shall, before adopting its decision on the authorisation, request the opinion of the EU

Customs Authority where evidence exists that the essential interests of Union producers of goods that are considered as sensitive are likely to be adversely affected, and the goods are not intended to be repaired.

5. When requested in accordance with paragraphs 3 and 4, the EU Customs Authority may reach one of the following opinions:
  - (a) granting the authorisation does not adversely affect the essential interests of Union producers;
  - (b) granting the authorisation adversely affects the essential interests of Union producers;
  - (c) granting the authorisation for a duly substantiated and monitored quantity of goods that is defined in the opinion does not adversely affect the essential interests of Union producers.

The opinion of the EU Customs Authority shall be taken into account by the customs authorities issuing the authorisations as well as by any other customs authorities dealing with similar authorisations. The customs authorities issuing the authorisation may disregard the opinion adopted by the EU Customs Authority provided that they give reasons for their decision in that respect.

6. The customs authorities granting the authorisation shall provide or make available the authorisations in the EU Customs Data Hub. Where the authorisations for special procedures contain commercially sensitive information, access to their particulars shall be restricted.
7. The Commission is empowered to adopt delegated acts in accordance with Article [261](#), supplementing this Regulation in order to determine:
  - (a) the exceptions to the conditions referred to paragraph 2;
  - (b) the cases referred to in paragraph 3 where the economic nature of the processing justifies that the customs authorities assess whether granting an authorisation for an inward processing procedure adversely affects the essential interest of the Union producers without the opinion of the EU Customs Authority;
  - (c) the list of goods considered as sensitive referred to in paragraph 4.
8. The Commission shall specify, by means of implementing acts:
  - (a) the procedural rules for granting the authorisation for the procedures referred to in paragraph 1;
  - (b) the procedural rules for the EU Customs Authority to provide its opinion; and
  - (c) the quantity and the rules for monitoring the threshold referred to in paragraph 5.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article [262\(4\)](#).

9. Until the date set out in Article [265\(1\)](#), an examination of the economic conditions referred to in paragraph 2, point (f), shall take place at Union level hosted by the Commission. Until that date, where reference is made to the opinion of the EU Customs Authority under this Chapter, it is meant to refer to the examination at Union level as provided under paragraph 5 of this Article.



### *Article 103*

#### **Authorisations with retroactive effect**

1. The customs authorities shall grant an authorisation with retroactive effect, where all of the following conditions are fulfilled:
  - (a) there is a proven economic need;
  - (b) the application is not related to attempted deception;
  - (c) the applicant has proven on the basis of accounts or records that:
    - (i) all the requirements of the procedure are met;
    - (ii) where appropriate, the goods can be identified for the period involved;
    - (iii) such accounts or records allow the procedure to be controlled;
  - (d) all the formalities necessary to regularise the situation of the goods can be carried out, including, where necessary, the invalidation of the previous records concerned;
  - (e) no authorisation with retroactive effect has been granted to the applicant within 3 years of the date on which the application was accepted;
  - (f) the opinion of the EU Customs Authority is not required to assess whether the granting of the authorisation would adversely affect the essential interests of Union producers, except where an application concerns renewal of an authorisation for the same kind of operation and goods;
  - (g) the application does not concern the operation of storage facilities for the customs warehousing of goods;
  - (h) where an application concerns renewal of an authorisation for the same kind of operation and goods, the application is submitted within 3 years of expiry of the original authorisation.
2. Customs authorities may grant an authorisation with retroactive effect also where the goods which were placed under a customs procedure are no longer available at the time when the application for such authorisation was accepted.

### *Article 104*

#### **Records**

1. The holder of the authorisation, the importer or exporter, and all persons carrying on an activity involving the storage, working or processing of goods, or the sale or purchase of goods in free zones, shall keep appropriate records in a form approved by the customs authorities and provide them or make available those records in the EU Customs Data Hub.

The records shall contain the information and the particulars which enable the customs authorities to supervise the procedure concerned, in particular with regard to identification of the goods placed under that procedure, their customs status and their movements.
2. A Trust and Check trader shall be deemed to comply with the obligation laid down in paragraph 1.

## *Article 105*

### **Discharge of a special procedure**

1. In cases other than the transit procedure and without prejudice to the customs supervision in relation to end-use provided for in Article [135](#), a special procedure shall be discharged when the goods placed under the procedure, or the processed products, are placed under a subsequent customs procedure, have been taken out of the customs territory of the Union, or have been destroyed with no waste remaining, or are abandoned to the State in accordance with Article [78](#).
2. The customs authorities shall discharge the transit procedure when they are in a position to establish, on the basis of a comparison of the data provided or made available to the customs office of departure and those provided or made available to the customs office of destination, that the procedure has ended correctly.
3. The customs authorities shall take all the measures necessary to regularise the situation of the goods in respect of which a procedure has not been discharged under the conditions prescribed.
4. The discharge of the procedure shall take place within a certain time-limit, unless otherwise provided.
5. The Commission is empowered to adopt delegated acts, in accordance with Article 261 to supplement this Regulation by determining the time limit referred to in paragraph 4.
6. The Commission shall specify, by means of implementing acts the procedural rules for the discharge of a special procedure referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

## *Article 106*

### **Transfer of rights and obligations**

1. The customs authorities may authorise the holder of an authorisation for a special procedure other than transit to fully or partially transfer his or her rights and obligations with regard to goods that have been placed under that special procedure to an importer or exporter that also meets the conditions for the procedure concerned.
2. The holder of the authorisation that is transferring his or her rights and obligations shall inform the customs authorities about the transfer and about the discharge of the procedure, unless the customs authorities have also authorised the importer or exporter to which the rights and obligations are transferred.
3. Where the transfer of rights and obligations involves more than one Member State, the customs authorities authorising the transfer shall consult the other Member States concerned.
4. The Commission shall specify, by means of implementing acts the procedural rules for transferring the rights and obligations of the holder of the authorisation with regard to goods which have been placed under a special procedure other than transit. Those implementing acts shall be adopted in accordance with the examination procedure in Article 262(4).

*Article 107*

**Movement of goods**

1. In specific cases, importers and exporters may move goods placed under a special procedure other than transit or in a free zone between different places in the customs territory of the Union.
2. The Commission is empowered to adopt delegated acts in accordance with Article 261 to supplement this Regulation by determining the cases and the conditions under which importers and exporters may move goods as referred to in paragraph 1 of this Article.
3. The Commission shall specify, by means of implementing acts the procedural rules for the movement of goods placed under a special procedure other than transit or in a free zone as referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

*Article 108*

**Usual forms of handling**

1. Goods placed under customs warehousing or a processing procedure or in a free zone may undergo usual forms of handling intended to preserve them, improve their appearance or marketable quality or prepare them for distribution or resale.
2. The Commission is empowered to adopt delegated acts in accordance with Article [261](#) to supplement this Regulation by determining the usual forms of handling for goods referred to in paragraph 1 of this Article.

*Article 109*

**Equivalent goods**

1. Equivalent goods shall consist in Union goods which are stored, used or processed instead of the goods placed under a special procedure.

Under the outward processing procedure, equivalent goods shall consist in non-Union goods which are processed instead of Union goods placed under the outward processing procedure.

Except where otherwise provided, equivalent goods shall have the same eight-digit Combined Nomenclature code, the same commercial quality and the same technical characteristics as the goods which they are replacing.

2. The customs authorities shall, upon application, authorise the following, provided that the proper conduct of the procedure, in particular as regards customs supervision, is ensured:
  - (a) the use of equivalent goods under customs warehousing, free zones, end-use and a processing procedure;
  - (b) the use of equivalent goods under the temporary admission procedure, in specific cases;

- (c) in the case of the inward processing procedure, the export of processed products obtained from equivalent goods before the import of the goods they are replacing;
- (d) in the case of the outward processing procedure, the import of processed products obtained from equivalent goods before the export of the goods they are replacing.

A Trust and Check trader shall be deemed to fulfil the condition that the proper conduct of the procedure is ensured, insofar as the activity pertaining to the use of equivalent goods for the procedure concerned is taken into account in the authorisation referred to in Article [25](#).

3. The use of equivalent goods shall not be authorised in any of the following cases:
  - (a) where only usual forms of handling as defined in Article [108](#) are carried out under the inward processing procedure;
  - (b) where a prohibition of drawback of, or exemption from, import duty applies to non-originating goods used in the manufacture of processed products under the inward processing procedure, for which a proof of origin is issued or made out in the framework of a preferential arrangement between the Union and certain third countries or groups of such countries;
  - (c) where it would lead to an unjustified import duty advantage or where provided for in Union legislation.
4. In the case referred to in paragraph 2, point (c), and where the processed products would be liable to export duty if they were not being exported in the context of the inward processing procedure, the holder of the authorisation shall provide a guarantee to ensure payment of the export duty should the non-Union goods not be imported within the period referred to Article [138\(3\)](#).
5. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation in order to determine:
  - (a) the exceptions referred to in paragraph 1, third subparagraph;
  - (b) the conditions under which equivalent goods are used in accordance with paragraph 2;
  - (c) the specific cases where equivalent goods are used under the temporary admission procedure, referred to in paragraph 2, point (b);
  - (d) the cases where the use of equivalent goods is not authorised in accordance with paragraph 3, point (c).
6. The Commission shall specify, by means of implementing acts, the procedural rules for the use of equivalent goods authorised in accordance with paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article [262\(4\)](#).

## **Chapter 2**

### **Transit**

#### **SECTION 1**

#### **GENERAL RULES**

##### *Article 110*

##### **Scope**

1. Goods shall be placed under a transit procedure upon their entry into the customs territory, unless they have already been placed under a transit procedure specified in Articles [111](#) and [112](#) or are placed under another customs procedure within the time-limit set out in Article 86(4).
2. The holder of the goods shall be considered as being the importer or the exporter of the goods and shall be liable for the payment of customs duties and other taxes and charges unless the customs authorities have data on another importer or exporter.
3. Goods placed under the union transit procedure shall stay under that procedure, until they are placed under another customs procedure.

##### *Article 111*

##### **External transit**

1. Under the external transit procedure, non-Union goods may be moved from one point to another within the customs territory of the Union without being subject to any of the following:
  - (a) import duty or other charges, including anti-dumping duties, countervailing duties or safeguard measures;
  - (b) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union.
2. In specific cases, Union goods shall be placed under the external transit procedure.
3. Movement as referred to in paragraph 1 shall take place in one of the following ways:
  - (a) under the external Union transit procedure;
  - (b) in accordance with the TIR Convention, provided that such movement;
    - (i) began or is to end outside the customs territory of the Union;
    - (ii) is effected between two points in the customs territory of the Union through the territory of a third country;
  - (c) in accordance with the ATA or Istanbul Conventions, where a transit movement takes place;
  - (d) under cover of form 302 provided for in the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951 and EU form 302;

- (e) under the postal system in accordance with the acts of the Universal Postal Union, when the goods are carried by or for holders of rights and obligations under such acts.
- 4. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the specific cases where Union goods are to be placed under the external transit procedure.
- 5. The Commission shall specify, by means of implementing acts, the procedural rules to apply paragraph 3, points (b) to (e), in the customs territory of the Union, taking into account the needs of the Union. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 112*

##### **Internal transit**

- 1. Under the internal transit procedure, and under the conditions laid down in paragraph 2, Union goods may be moved from one point to another within the customs territory of the Union, and pass through a third country, without any change in their customs status.
- 2. The movement referred to in paragraph 1 shall take place in one of the following ways:
  - (a) under the internal Union transit procedure provided that such a possibility is provided for in an international agreement;
  - (b) in accordance with the TIR Convention;
  - (c) in accordance with the ATA or Istanbul Conventions, where a transit movement takes place;
  - (d) under cover of form 302 as provided for in the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951 and EU form 302;
  - (e) under the postal system in accordance with the acts of the Universal Postal Union, when the goods are carried by or for holders of rights and obligations under such acts.
- 3. The Commission shall specify, by means of implementing acts the procedural rules to apply paragraph 2, points (b) to (e), in the customs territory of the Union, taking into account the needs of the Union. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 113*

##### **Single territory for transit purposes**

Where goods are moved from one point in the customs territory of the Union to another in accordance with the TIR Convention, the ATA or Istanbul Conventions, under cover of forms 302, EU form 302 or under the postal system, the customs territory of the Union shall, for the purposes of such transport, be considered to form a single territory.

#### *Article 114*

##### **Exclusion of persons from TIR operations**

1. Where the customs authorities of a Member State decide to exclude a person from TIR operations under Article 38 of the TIR Convention, that decision shall apply throughout the customs territory of the Union and TIR carnets lodged by that person shall not be accepted by any customs office.
2. A Member State shall communicate its decision referred to in paragraph 1, together with the date of its application, to the other Member States and to the Commission and the EU Customs Authority.

#### *Article 115*

##### **Authorised consignor and authorised consignee for TIR purposes**

1. The customs authorities may, upon application, authorise a person, referred to as an 'authorised consignee' to receive goods moved in accordance with the TIR Convention at an authorised place, so that the procedure is terminated in accordance with Article 1, point (d), of the TIR Convention.
2. The customs authorities may, upon application, authorise a person, referred to as an 'authorised consignor' to send goods to be moved in accordance with the TIR Convention at an authorised place, so that the procedure is started in accordance with Article 1, point (c) of the TIR Convention.

For the purpose of the first subparagraph, the authorised consignor shall be authorised to use seals of a special type in accordance with Article 116(4), point (c).

3. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the conditions for the granting of the authorisations referred to in paragraphs 1 and 2.

### **SECTION 3 UNION TRANSIT**

#### *Article 116*

##### **Obligations of the holder of the Union transit procedure and of the carrier and recipient of goods moving under the Union transit procedure**

1. The holder of the Union transit procedure shall be responsible for all of the following obligations:
  - (a) provision of data enabling the customs authorities to supervise the goods, including at least the identification of the goods placed under that procedure, the means of transport, the importer or the exporter, the customs status and the movements;
  - (b) presentation of the goods intact and the required data, at the customs office of destination, within the prescribed time limit and in compliance with the measures taken by the customs authorities to ensure their identification;
  - (c) observance of the customs provisions relating to the procedure;

- (d) unless otherwise provided for in the customs legislation, provision of a guarantee in order to ensure payment of the amount of import or export duty corresponding to any customs debt or other charges, which may be incurred in respect of the goods.
2. The obligation of the holder of the procedure shall be met and the transit procedure shall end when the goods placed under the procedure and the required information are available at the customs office of destination in accordance with the customs legislation.
  3. A carrier or recipient of goods who accepts goods knowing that they are moving under the Union transit procedure shall also be responsible for presentation of the goods intact at the customs office of destination within the prescribed time-limit and in compliance with the measures taken by the customs authorities to ensure their identification.
  4. Upon application, the customs authorities may authorise any of the following simplifications regarding the placing of goods under the Union transit procedure or the discharge of that procedure:
    - (a) the status of authorised consignor, allowing the holder of the authorisation to place goods under the Union transit procedure without presenting them to customs;
    - (b) the status of authorised consignee, allowing the holder of the authorisation to receive goods moved under the Union transit procedure at an authorised place, to discharge the procedure in accordance with paragraph 2;
    - (c) the use of seals of a special type, where sealing is required to ensure the identification of the goods placed under the Union transit procedure;
    - (d) the use of an electronic transport document to place goods under the Union transit procedure, provided it contains the necessary information, and this is available to the customs authorities at departure and at destination to allow the customs supervision of the goods and the discharge of the procedure.
  5. The customs authorities at least every 3 years shall perform an in-depth monitoring of the activities of authorised consignors and consignees in order to assess their compliance with the authorisation requirements.
  6. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by further specifying the data requirements laid down in paragraph 1, points (a) and (b) and the conditions for granting the authorisations referred to in paragraph 4.
  7. The Commission shall specify, by means of implementing acts, the procedural rules on:
    - (a) the placing of goods under the Union transit procedure and the discharge of that procedure;
    - (b) the operation of the simplifications referred to in paragraph 4.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article [262\(4\)](#).



*Article 117*

**Goods passing through the territory of a third country under the external Union transit procedure**

1. The external Union transit procedure shall apply to goods passing through a third country if one of the following conditions is fulfilled:
  - (a) provision is made to that effect under an international agreement;
  - (b) carriage through that third country is effected under cover of a single transport document drawn up in the customs territory of the Union.
2. In the case referred to in paragraph 1, point (b), the operation of the external Union transit procedure shall be suspended while the goods are outside the customs territory of the Union.
3. The Commission shall specify, by means of implementing acts, the procedural rules on the customs supervision of goods passing through the territory of a third country under the external Union transit procedure. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

**Chapter 3  
Storage**

**SECTION 1  
COMMON PROVISIONS**

*Article 118*

**Scope**

1. Under a storage procedure, non-Union goods may be stored in the customs territory of the Union without being subject to any of the following:
  - (a) import duty;
  - (b) other charges as provided for under other relevant provisions in force;
  - (c) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union.
2. The conditions for placing goods under storage shall be the following:
  - (a) the minimum data has been provided or made available to customs, which must include at least the importer responsible for the goods, the manufacturer, the value, the origin, the tariff classification and description of the goods and the list of relevant other legislation applied by the customs authorities on those goods, unless otherwise provided; and
  - (b) ***it has been ascertained that*** the goods comply with the other legislation applied by the customs authorities. **(INTA 117)**
3. Union goods may be placed under the customs warehousing or free zone procedure in accordance with the other legislation applied by the customs authorities or in order to benefit from a decision granting repayment or remission of import duty. Union goods

may be entered, stored, moved, used, processed or consumed in a customs warehouse or in a free zone. In such cases the goods shall not be regarded as being under a storage procedure.

4. The importer shall place non-Union goods brought into a customs warehouse or a free zone under the appropriate storage procedure.
5. The Commission shall specify, by means of implementing acts, the procedure for the placing of Union goods under the customs warehousing or free zone procedure as referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 119*

##### **Storage information**

1. ~~**Once the functionalities of the EU Customs Data Hub laid down in Article 29 are fully operational, the**~~ The operator of a customs warehouse or a free zone shall **be required to** provide or make available to the customs authorities the minimum data necessary for the application of the provisions governing the storage of the goods located therein, in particular the data referred to in Article 118(2), point (a), the customs status of the goods placed under the storage procedure and the subsequent movements of those goods. **Once the functionalities of the EU Customs Data Hub laid down in Article 29 are fully operational, the operator shall be required to make this data available via the EU Customs Data Hub. (ECR 351)**
2. Where the importer or the carrier has already provided or made available all or part of the information referred to in paragraph 1, the customs warehouse or free zone operator shall link its own additional information to the importer's or carrier's information.
3. The operator must not accept goods for which the minimum information has not been provided or made available to customs.
4. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining the minimum information referred to in paragraph 1 of this Article.

#### *Article 120*

##### **Amendment and invalidation of storage information**

1. The operator of a customs warehouse or a free zone may amend one or more particulars of the information on the goods in its facility after it has been provided or made available, unless the customs authorities have informed the operator that they intend to examine the goods or that they have established that the information on the goods is incorrect.
2. The importer, the carrier or the operator of the warehouse of free zone shall invalidate the information on goods that are not brought into the customs territory of the Union as soon as possible. The customs authorities shall invalidate the information on those goods after 30 days from the date in which the information was provided or made available.

*Article 121*

**Duration of a storage procedure**

1. There shall be no limit to the length of time goods may remain under a storage procedure.
2. In exceptional circumstances, the customs authorities may set a time limit by which a storage procedure must be discharged in particular where the type and nature of the goods may, in the case of long-term storage, pose a threat to human, animal or plant health and life or to the environment.

**SECTION 2  
CUSTOMS WAREHOUSING**

*Article 122*

**Storage in customs warehouses**

1. Under the customs warehousing procedure non-Union goods may be stored in premises or any other location authorised for that procedure by the customs authorities and under customs supervision ('customs warehouses').
2. Customs warehouses may be available for use by any importer for the customs warehousing of goods ('public customs warehouse'), or for the storage of goods imported by the holder of an authorisation for customs warehousing ('private customs warehouse').

*Article 123*

**Authorisation for the operation of customs warehouses**

1. The operation of a customs warehouse requires an authorisation from the customs authorities, unless the operator of the customs warehouse is the customs authority itself. The authorisation shall set out the conditions for the operation of the customs warehouse.
2. The authorisation referred to in paragraph 1 shall be granted only to persons who satisfy the following conditions:
  - (a) they are established in the customs territory of the Union;
  - (b) they provide the necessary assurance of the proper conduct of the operations;
  - (c) a Trust and Check trader shall be deemed to fulfil this condition insofar as the operation of customs warehouse is taken into account in the authorisation referred to in Article [25](#);
  - (d) they provide a guarantee for the potential customs debt.
3. The authorisation referred to in paragraph 1 shall be granted only where the customs authorities are able to exercise customs supervision without having to introduce administrative arrangements which are disproportionate to the economic needs involved.

4. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the conditions for granting the authorisation referred to in paragraph 1 of this Article.

#### *Article 124*

##### **Movement of goods in customs warehouse**

1. The customs authorities may authorise an operator of a customs warehouse to move goods under the following conditions:
  - (a) the possibility to move the goods is provided for in the customs warehouse authorisation;
  - (b) the operator of the customs warehouse is an authorised economic operator trust and check;
  - (c) information on the movements is recorded in the operator's records and provided or made available to the customs authorities of departure and arrival of the goods.
2. The Commission shall specify, by means of implementing acts, the procedure for the movement of goods in customs warehouse referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 125*

##### **Processing in a customs warehouse**

The customs authorities may, where an economic need exists and customs supervision is not adversely affected, authorise that goods in customs warehousing are subsequently placed under the inward processing or end-use procedure to be processed in the customs warehouse, subject to the conditions provided for by those procedures.

#### *Article 126*

##### **Customs supervision**

The holder of the authorisation shall be responsible for ensuring that goods under the customs warehousing procedure are not removed from customs supervision.

### **SECTION 3 FREE ZONES**

#### *Article 127*

##### **Designation of free zones**

1. Member States may designate parts of the customs territory of the Union as free zones. For each free zone the Member State shall determine the area covered and define the entry and exit points.
2. Member States shall communicate to the Commission information on their free zones which are in operation.

3. Free zones shall be enclosed.  
The perimeter and the entry and exit points of the area of free zones shall be subject to customs supervision.
4. Persons, goods and means of transport entering or leaving free zones may be subject to customs controls.

#### *Article 128*

##### **Buildings and activities in free zones**

1. The construction of any building in a free zone shall require the prior approval of the customs authorities.
2. Subject to the customs legislation, any industrial, commercial or service activity shall be permitted in a free zone. The carrying on of such activities shall be subject to notification, in advance, to the customs authorities.
3. The customs authorities may prohibit or restrict the activities referred to in paragraph 2, having regard to the nature of the goods in question, or the requirements of customs supervision, or security and safety requirements.
4. The customs authorities may prohibit persons who do not provide the necessary assurance of compliance with the customs provisions from carrying on an activity in a free zone.

#### *Article 129*

##### **Non-Union goods in free zones**

1. Non-Union goods may, while they remain in a free zone, be released for free circulation or be placed under the inward processing, temporary admission or end-use procedure, under the conditions laid down for those procedures.

In such cases the goods shall not be regarded as being under the free zone procedure.

2. Without prejudice to the provisions applicable to supplies or to victualling storage, where the procedure concerned so provides, paragraph 1 shall not preclude the use or consumption of goods of which the release for free circulation or temporary admission would not entail application of import duty measures laid down under the common agricultural or commercial policies or measures prohibiting the use of those goods in the Union.

Such use or consumption requires that the appropriate information shall be provided or made available to customs.

#### *Article 130*

##### **Taking goods out of a free zone**

Goods may be taken out of a free zone only if they have been placed under another customs procedure.

*Article 131*

**Customs status**

1. Upon application by the person concerned, the customs authorities shall establish the customs status as Union goods of the following goods:
  - (a) Union goods which enter a free zone;
  - (b) Union goods which have undergone processing operations within a free zone;
  - (c) goods released for free circulation within a free zone.
2. Where goods are taken out of a free zone into another part of the customs territory of the Union or placed under a customs procedure, they shall be regarded as non-Union goods unless their customs status as Union goods has been proven.
3. However, for the purposes of applying export duty and export licences or export control measures laid down under the common agricultural or commercial policies, such goods shall be regarded as Union goods, unless it is established that they do not have the customs status of Union goods.

**Chapter 4**  
**Specific use**

**SECTION 1**  
**TEMPORARY ADMISSION**

*Article 132*

**Scope**

1. Under the temporary admission procedure non-Union goods intended for export may be subject to specific use in the customs territory of the Union, with total or partial relief from import duty, and without being subject to any of the following:
  - (a) other charges as provided for under other relevant provisions in force;
  - (b) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union.
2. The temporary admission procedure may only be used provided that the following conditions are met:
  - (a) the goods are not intended to undergo any change, except normal depreciation due to the use made of them;
  - (b) it is possible to ensure that the goods placed under the procedure can be identified, except where, in view of the nature of the goods or of the intended use, the absence of identification measures is not liable to give rise to any abuse of the procedure or, in the case referred to in Article 109, where compliance with the conditions laid down in respect of equivalent goods can be verified;
  - (c) where required, an authorisation has been granted in accordance with Article 102 and the minimum data has been provided or made available to customs prior to the release of the goods, which must include at least the importer responsible

for the goods, the value, the origin, the tariff classification and a description of and the intended use of the goods;

- (d) the requirements for total or partial duty relief laid down in the customs legislation are met;
  - (e) the goods have arrived to the customs territory of the Union;
  - (f) ***it has been ascertained that*** the goods comply with the relevant other legislation applied by the customs authorities. **(INTA 118)**
3. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining:
- (a) the specific use referred to in paragraph 1 of this Article;
  - (b) the requirements for total relief from import duty referred to in paragraph 2, point (d), of this Article.

#### *Article 133*

##### **Period during which goods may remain under the temporary admission procedure**

1. The customs authorities shall determine the period within which goods placed under the temporary admission procedure must be placed under a subsequent customs procedure. Such period shall be long enough for the objective of authorised use to be achieved.
2. The maximum period during which goods may remain under the temporary admission procedure for the same purpose and under the responsibility of the same authorisation holder shall be 24 months, even where the procedure was discharged by placing the goods under another special procedure and subsequently placing them under the temporary admission procedure again.
3. Where, in exceptional circumstances, the authorised use cannot be achieved within the period referred to in paragraphs 1 and 2, the customs authorities may grant an extension of reasonable duration of that period, upon justified application by the importer.
4. The overall period during which goods may remain under the temporary admission procedure shall not exceed 10 years, except in the case of an unforeseeable event.

#### *Article 134*

##### **Amount of import duty in case of temporary admission with partial relief from import duty**

1. The amount of import duty in respect of goods placed under the temporary admission procedure with partial relief from import duty shall be set at 3 % of the amount of import duty which would have been payable on those goods had they been released for free circulation on the date on which they were placed under the temporary admission procedure.  
  
That amount shall be payable for every month or fraction of a month during which the goods have been placed under the temporary admission procedure with partial relief from import duty.

2. The amount of import duty shall not exceed that which would have been payable if the goods in question had been released for free circulation on the date on which they were placed under the temporary admission procedure.

## **SECTION 2**

### **END-USE**

#### *Article 135*

#### **End-use procedure**

1. Under the end-use procedure, goods may be released for free circulation under a duty exemption or at a reduced rate of duty that is provided in Union legislation on condition that the importer assigns the goods to a specific use.
2. The conditions for placing goods under the end-use procedure shall be the following:
  - (a) where required, an authorisation has been granted in accordance with Article [102](#);
  - (b) the minimum data has been provided or made available to customs, which must include at least the importer responsible for the goods, the seller, the buyer, the manufacturer, the product supplier where this is different from the manufacturer, the responsible economic operator in the Union pursuant to Article 4 of Regulation (EU) 2019/1020 and Art. 16 of Regulation (EU) 2023/XXXX<sup>12</sup> the value, the origin, the tariff classification and a description of the goods, the unique reference of the consignment and its location, and the list of relevant other legislation applied by the customs authorities on those goods;
  - (c) any import duty or other charges due, including anti-dumping duties, countervailing duties or safeguard measures, shall be paid or guaranteed, unless the goods are the subject of a drawing request on a tariff quota;
  - (d) the goods have arrived to the customs territory of the Union;
  - (e) the goods comply with the relevant the other legislation applied by the customs authorities.
3. Where the goods are at a production stage, which would allow economically the prescribed end-use only, the customs authorities may establish in the authorisation the conditions under which the goods shall be deemed to have been used for the purposes laid down in the Union legislation providing the duty exemption or reduced rate of duty.
4. Where goods are suitable for repeated use and the customs authorities consider it appropriate in order to avoid abuse, customs supervision shall continue for a period not exceeding 2 years after the date of their first use for the purposes laid down in the Union legislation providing the duty exemption or reduced rate of duty.
5. Customs supervision under the end-use procedure shall end in any of the following cases:

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<sup>12</sup> [OP : please insert final reference in the text – see footnote 19]



- (a) where the goods have been used for the purposes laid down in the Union legislation providing the duty exemption or reduced rate of duty;
  - (b) where the goods have been taken out of the customs territory of the Union, destroyed or abandoned to the State;
  - (c) where the goods have been used for purposes other than those laid down in the Union legislation providing the duty exemption or reduced duty rate and the applicable import duty has been paid.
6. Where a rate of yield is required, Article [136](#) shall apply to the end-use procedure.
  7. Waste and scrap which result from the working or processing of goods according to the prescribed end-use and losses due to natural wastage shall be considered as goods assigned to the prescribed end-use.
  8. Waste and scrap resulting from the destruction of goods placed under the end-use procedure shall be deemed to be placed under the customs warehousing procedure.

## **Chapter 5 Processing**

### **SECTION 1 GENERAL PROVISIONS**

#### *Article 136*

#### **Rate of yield**

Except where a rate of yield has been specified in Union legislation governing specific fields, the customs authorities shall set either the rate of yield or average rate of yield of the processing operation or where appropriate, the method of determining such rate.

The rate of yield or average rate of yield shall be determined on the basis of the actual circumstances in which processing operations are, or are to be, carried out. That rate may be adjusted, where appropriate, in accordance with Article [10](#).

### **SECTION 2 INWARD PROCESSING**

#### *Article 137*

#### **Scope**

1. Without prejudice to Article [109](#), under the inward processing procedure non-Union goods may be used in the customs territory of the Union in one or more processing operations without such goods being subject to any of the following:
  - (a) import duty or other charges including anti-dumping duties, countervailing duties or safeguard measures;
  - (b) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union.

2. The conditions for placing goods under the inward processing procedure shall be the following:
  - (a) where required, an authorisation has been granted in accordance with Article [102](#), for one of the uses referred to in paragraph 3 of this Article;
  - (b) the minimum data has been provided or made available to customs, which must include at least the importer responsible for the goods, the seller, the buyer, the manufacturer, the value, the origin, the tariff classification and a description of the goods and their location, and the list of relevant other legislation applied by the customs authorities;
  - (c) the goods have arrived to the customs territory of the Union.
3. Importers may use the inward processing procedure for any of the following:
  - (a) repairing the goods that are intended to be placed under inward processing;
  - (b) destroying the goods that are intended to be placed under inward processing;
  - (c) producing processed products in which the goods placed under inward processing can be identified, without prejudice to the use of production accessories;
  - (d) undergoing operations on the goods placed under inward processing to ensure their compliance with technical requirements for their release for free circulation;
  - (e) subjecting the goods placed under the inwards processing to usual forms of handling in accordance with Article 108;
  - (f) producing processed products with goods equivalent to the goods placed under the inward processing procedure, in accordance with Article 109.

### *Article 138*

#### **Period for discharge**

1. The customs authorities shall specify the period within which the inward processing procedure is to be discharged, in accordance with Article [105](#).

That period shall run from the date on which the non-Union goods are placed under the procedure and shall take account of the time required to carry out the processing operations and to discharge the procedure.
2. The customs authorities may grant an extension, of reasonable duration, of the period specified pursuant to paragraph 1, upon justified application by the holder of the authorisation.

The authorisation may specify that a period which commences in the course of a month, quarter or semester shall end on the last day of a subsequent month, quarter or semester respectively.
3. In the case of prior export in accordance with Article 109(2), point [\(c\)](#), the authorisation shall specify the period within which the non-Union goods shall be declared for the inward processing procedure, taking account of the time required for procurement and transport to the customs territory of the Union.

The period referred to in the first subparagraph shall be set in months and shall not exceed 6 months. It shall run from the date of acceptance of the export declaration relating to the processed products obtained from the corresponding equivalent goods.

4. At the request of the holder of the authorisation, the period of 6 months referred to in paragraph 3 may be extended, even after its expiry, provided that the total period does not exceed 12 months.

#### *Article 139*

### **Temporary export for further processing**

Upon application, the customs authorities may authorise some or all of the goods placed under the inward processing procedure, or the processed products, to be temporarily exported for the purpose of further processing outside the customs territory of the Union, in accordance with the conditions laid down for the outward processing procedure.

## **SECTION 3 OUTWARD PROCESSING**

#### *Article 140*

### **Scope**

1. Under the outward processing procedure Union goods may be temporarily exported from the customs territory of the Union in order to undergo processing operations. The processed products resulting from those goods may be released for free circulation with total or partial relief from import duty upon application by the holder of the authorisation or by any other person established in the customs territory of the Union, provided that that person has obtained the consent of the holder of the authorisation and the conditions of the authorisation are fulfilled.
2. The conditions for placing goods under outward processing shall be the following:
  - (a) where required, an authorisation has been granted in accordance with Article [102](#) and this Article;
  - (b) the minimum data has been provided or made available to customs, which must include at least the exporter responsible for the goods, the seller, the buyer, the value, the origin, the tariff classification and a description of the goods;
  - (c) any export duty or other charges due are paid or guaranteed;
  - (d) the goods comply with the relevant other legislation applied by the customs authorities;
3. The customs authorities shall not grant an authorization for an outward processing procedure for any of the following Union goods:
  - (a) goods the export of which gives rise to repayment or remission of import duty;
  - (b) goods which, prior to export, were released for free circulation under a duty exemption or at a reduced rate of duty by virtue of their end-use, for as long as the purposes of such end-use have not been fulfilled, unless those goods have to undergo repair operations;

- (c) goods the export of which gives rise to the granting of export refunds;
  - (d) goods in respect of which a financial advantage other than refunds as referred to in point (c) is granted under the common agricultural policy by virtue of the export of those goods.
4. The customs authorities shall specify the period within which goods temporarily exported must be re-imported into the customs territory of the Union in the form of processed products, and released for free circulation, in order to be able to benefit from total or partial relief from import duty. They may grant an extension, of reasonable duration, of that period, upon justified application by the holder of the authorisation.

#### *Article 141*

##### **Goods repaired or replaced free of charge**

1. Where it is established to the satisfaction of the customs authorities that goods have been repaired or replaced free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing or material defect, or because the goods did not meet the specifications requested by the buyer to the seller of the goods, they shall be granted total relief from import duty.
2. Paragraph 1 shall not apply where account was taken of the manufacturing or material defect at the time when the goods in question were first released for free circulation.

#### *Article 142*

##### **Goods repaired or altered in the context of international agreements**

1. Total relief from import duty shall be granted to processed products resulting from goods placed under the outward processing procedure where it is established to the satisfaction of the customs authorities that:
  - (a) those goods have been repaired or altered in a third country with which the Union has concluded an international agreement providing for such relief; and
  - (b) the conditions for the relief from import duty laid down in the agreement referred to in point (a) are fulfilled.
2. Paragraph 1 shall not apply to processed products resulting from equivalent goods as referred to in Article [109](#) and to replacement products as referred to in Articles [143](#) and [144](#).

#### *Article 143*

##### **Standard exchange system**

1. Under the standard exchange system an imported product ('replacement product') may, in accordance with paragraphs 2 to 5, replace a processed product.
2. The customs authorities shall, upon application, authorise the standard exchange system to be used where the processing operation involves the repair of defective Union goods other than those subject to measures laid down under the common

agricultural policy or to the specific arrangements applicable to certain goods resulting from the processing of agricultural products.

3. Replacement products shall have the same eight-digit Combined Nomenclature code, the same commercial quality and the same technical characteristics as the defective goods had the latter undergone repair.
4. Where the defective goods have been used before export, the replacement products must also have been used.

The customs authorities shall, however, waive the requirement set out in the first subparagraph if the replacement product has been supplied free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a material or manufacturing defect.

5. The provisions which would be applicable to the processed products shall apply to the replacement products.

#### *Article 144*

##### **Prior import of replacement products**

1. The customs authorities shall, under the conditions they lay down, upon application by the person concerned, authorise replacement products to be imported before the defective goods are exported.

In the event of such prior import of a replacement product, a guarantee shall be provided, covering the amount of the import duty that would be payable should the defective goods not be exported in accordance with paragraph 2.

2. The defective goods shall be exported within a period of 2 months from the date of acceptance by the customs authorities of the declaration for the release for free circulation of the replacement products.
3. Where, in exceptional circumstances, the defective goods cannot be exported within the period referred to in paragraph 2, the customs authorities may grant an extension, of reasonable duration, of that period, upon justified application by the holder of the authorisation.

## **Compromise Amendment 10 on Title IX - Tariff classification, origin and value of goods**

Compromise amendment replacing all relevant amendments, including AMs 352-363, INTA 120-121, CONT 51

### **Title IX TARIF CLASSIFICATION, ORIGIN AND VALUE OF GOODS**

#### **Chapter 1 Common Customs Tariff and tariff classification of goods**

##### *Article 145*

##### **Common Customs Tariff and customs surveillance**

1. Import and export duty due shall be based on the Common Customs Tariff.  
Other measures prescribed by Union provisions governing specific fields relating to trade in goods shall, where appropriate, be applied in accordance with the tariff classification of those goods.
2. The Common Customs Tariff shall comprise all of the following:
  - (a) the Combined Nomenclature of goods as laid down in Regulation (EEC) No 2658/87;
  - (b) any other nomenclature which is wholly or partly based on the Combined Nomenclature, or which provides for further subdivisions to it, and which is established by Union provisions governing specific fields with a view to the application of tariff measures relating to trade in goods;
  - (c) the conventional or normal autonomous customs duty applicable to goods covered by the Combined Nomenclature;
  - (d) the preferential tariff measures contained in agreements which the Union has concluded with certain third countries or groups of third countries;
  - (e) preferential tariff measures adopted unilaterally by the Union in respect of certain third countries or groups of third countries;
  - (f) autonomous measures providing for a reduction in, or exemption from, customs duty on certain goods;
  - (g) favourable tariff treatment specified for certain goods, by reason of their nature or end-use, in the framework of measures referred to under points (c) to (f) or (h);
  - (h) other measures provided for by agricultural or commercial or other Union legislation that are based on the tariff classification of the goods, in particular, a

provisional or definitive anti-dumping duty, countervailing duty or safeguard measure.

3. Where the goods concerned fulfil the conditions included in the measures laid down in paragraph 2, points (d) to (g), these measures may apply instead of those provided for in point (c) of that paragraph. Such measures may be applied retrospectively, provided that the time-limits and conditions laid down in the relevant measure or in this Regulation are complied with and that:
  - (a) insofar as the measures laid down in points (d) and (e) are concerned, they provide for such retrospective application;
  - (b) insofar as the measures laid down in point (d) are concerned, the third country or group of third countries also allow for such retrospective application.
4. Where application of the measures referred to in paragraph 2, points (d) to (g), or the exemption from measures referred to in point (h) thereof, is restricted to a certain volume of imports or exports, such application or exemption shall, in the case of tariff quotas, or other quotas, cease as soon as the specified volume of imports or exports is reached.

In the case of tariff ceilings such application shall cease by virtue of a legal act of the Union.
5. The customs authorities shall refuse the application of the simplified tariff for distance sales where they establish, based on relevant and objective data, that the distance sale of goods imported from third countries was intended for persons other than those referred to in Article 14(2)(a) VAT Directive.
6. The Commission may subject to customs surveillance the release for free circulation, the export and the placement under certain special procedures of goods, for the purposes referred to in Article 31(4).
7. The Commission shall adopt, by means of implementing acts, the measures on the uniform management of the tariff and other quotas and the tariff and other ceilings referred to in paragraph 4, and on the management of the customs surveillance referred to in paragraph 6. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 146*

##### **Tariff classification of goods**

1. For the application of the Common Customs Tariff, tariff classification of goods shall consist in the determination of one of the subheadings or further subdivisions of the Combined Nomenclature under which those goods are to be classified.
2. For the application of non-tariff measures, tariff classification of goods shall consist in the determination of one of the subheadings or further subdivisions of the Combined Nomenclature, or of any other nomenclature which is established by Union provisions and which is wholly or partly based on the Combined Nomenclature or which provides for further subdivisions to it, under which those goods are to be classified.
3. The subheading or further subdivision determined in accordance with paragraphs 1 and 2 shall be used for the purpose of applying the measures linked to that subheading.

4. The Commission may, by means of implementing acts, determine the tariff classification of goods in accordance with paragraphs 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

On duly justified imperative grounds of urgency related to the need to rapidly ensure the correct and uniform application of the Combined Nomenclature, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 262(5).

## **Chapter 2**

### **Origin of goods**

#### *Article 147*

#### **Non-preferential origin**

The rules for the determination of the non-preferential origin of goods in Articles [148](#) and [149](#) shall be used for applying the following:

- (a) the Common Customs Tariff, except for the measures referred to in Article 145(2), points [\(d\)](#) and [\(e\)](#);
- (b) measures, other than tariff measures, established by Union provisions governing specific fields relating to trade in goods; and
- (c) other Union measures relating to the origin of goods.

#### *Article 148*

#### **Acquisition of origin**

1. Goods wholly obtained in a single country or territory shall be regarded as having their origin in that country or territory.
2. Goods the production of which involves more than one country or territory shall be deemed to originate in the country or territory where they underwent their last, substantial, economically justified processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture.
3. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by laying down the rules under which goods, whose determination of non-preferential origin is required for the purposes of applying the Union measures referred to in Article [147](#), are considered as wholly obtained in a single country or territory or to have undergone their last, substantial, economically justified processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture in a country or territory, in accordance with paragraphs 1 and 2 of this Article.

#### *Article 149*

#### **Proof of non-preferential origin**



1. Where the importer has indicated an origin of the goods pursuant to the customs legislation, the customs authorities may require a proof of origin of the goods.
2. Where a proof of origin of goods is provided pursuant to the customs legislation or other Union legislation governing specific fields, the customs authorities may, in the event of reasonable doubt, require any additional evidence needed in order to ensure that the indication of origin complies with the rules laid down by the relevant Union legislation.
3. Where the exigencies of trade so require, a document proving origin may be issued in the Union in accordance with the rules of origin in force in the country or territory of destination or any other method identifying the country where the goods were wholly obtained or underwent their last substantial transformation.
4. Where the importer has opted to apply the simplified tariff treatment for distance sales as referred to in Article 156(2), the customs authorities shall not require the importer to prove the origin of the goods.
5. The Commission shall adopt, by means of implementing acts, the procedural rules for the provision and verification of a proof of origin. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 150*

#### **Preferential origin of goods**

1. In order to benefit from the measures referred to in Article 145(2), points (d) and (e), or from non-tariff preferential measures, goods shall comply with the rules on preferential origin referred to in paragraphs 2 to 5 of this Article.
2. In the case of goods benefiting from preferential measures contained in agreements, which the Union has concluded with certain third countries or with groups of such countries, the rules on preferential origin shall be laid down in those agreements.
3. In the case of goods benefiting from preferential measures adopted unilaterally by the Union in respect of certain third countries or groups of such countries, other than those referred to in paragraph 5, the Commission shall adopt delegated acts in accordance with Article 261 to supplement this Regulation by laying down rules on preferential origin. Those rules shall be based either on the criterion that goods are wholly obtained or on the criterion that goods result from sufficient processing or working
4. In the case of goods benefiting from preferential measures applicable in trade between the customs territory of the Union and Ceuta and Melilla, as contained in Protocol 2 to the 1985 Act of Accession, the rules on preferential origin shall be adopted in accordance with Article 9 of that Protocol.
5. In the case of goods benefiting from preferential measures contained in preferential arrangements in favour of the overseas countries and territories associated with the Union, the rules on preferential origin shall be adopted in accordance with Article 203 TFEU.
6. Upon its own initiative or at the request of a beneficiary country or territory, the Commission may, for certain goods, grant that country or territory a temporary derogation from the rules on preferential origin referred to in paragraph 3.

The temporary derogation shall be justified by one of the following reasons:

- (a) internal or external factors temporarily deprive the beneficiary country or territory of the ability to comply with the rules on preferential origin;
  - (b) the beneficiary country or territory requires time to prepare itself to comply with those rules.
7. A request for derogation shall be made to the Commission by the beneficiary country or territory concerned. The request shall state the reasons, as indicated in the second subparagraph, why derogation is required and shall contain appropriate supporting documents.
  8. The temporary derogation shall be limited to the duration of the effects of the internal or external factors giving rise to it or the length of time needed for the beneficiary country or territory to achieve compliance with the rules.
  9. Where a derogation is granted, the beneficiary country or territory concerned shall comply with any requirements laid down as to information to be provided to the Commission concerning the use of the derogation and the management of the quantities for which the derogation is granted.
  10. Where the importer has opted to apply the simplified tariff treatment for distance sales, the importer may not benefit from the measures referred to in Article 145(2), points [\(d\)](#) and [\(e\)](#), or from non-tariff preferential measures.
  11. The Commission shall adopt by means of implementing acts:
    - (a) the procedural rules on the preferential origin of goods for the purposes of the measures referred to in paragraph 1;
    - (b) a measure granting a beneficiary country or territory the temporary derogation referred to in paragraph 6.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 151*

#### **Determination of origin of specific goods**

The Commission may, by means of implementing acts, adopt measures to determine the origin of specific goods in accordance with the rules of origin applicable to those goods. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

On imperative grounds of urgency relating to such measures, duly justified by the need to rapidly ensure the correct and uniform application of rules of origin, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 262(5).

## **Chapter 3**

### **Value of goods for customs purposes**

#### *Article 152*

##### **Scope**

The customs value of goods, for the purposes of applying the Common Customs Tariff and non-tariff measures laid down by Union provisions governing specific fields relating to trade in goods, shall be determined in accordance with Articles [153](#) and [157](#).

#### *Article 153*

##### **Method of customs valuation based on the transaction value**

1. The primary basis for the customs value of goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the customs territory of the Union, adjusted in accordance with Articles 154 and 155.
2. The price actually paid or payable shall be the total payment made or to be made by the buyer to the seller or by the buyer to a third party for the benefit of the seller for the imported goods and include all payments made or to be made as a condition of sale of the imported goods.
3. The transaction value shall apply provided that all of the following conditions are fulfilled:
  - (a) there are no restrictions as to the disposal or use of the goods by the buyer, other than any of the following:
    - (i) restrictions imposed or required by a law or by the public authorities in the Union;
    - (ii) limitations of the geographical area in which the goods may be resold;
    - (iii) restrictions which do not substantially affect the customs value of the goods;
  - (b) the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
  - (c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made;
  - (d) the buyer and seller are not related or the relationship did not influence the price.
4. The Commission shall specify, by means of implementing acts, the procedural rules for determining the customs value in accordance with paragraphs 1 and 2, including those for adjusting the price actually paid or payable, and for the application of the conditions referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 154*

##### **Elements of the transaction value**

1. In determining the customs value under Article [153](#), the price actually paid or payable for the imported goods shall be supplemented by:
  - (a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:
    - (i) commissions and brokerage, except buying commissions;
    - (ii) the cost of containers which are treated as being one, for customs purposes, with the goods in question; and
    - (iii) the cost of packing, whether for labour or materials;
  - (b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:
    - (i) materials, components, parts and similar items incorporated into the imported goods;
    - (ii) tools, dies, moulds and similar items used in the production of the imported goods;
    - (iii) materials consumed in the production of the imported goods; and
    - (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Union and necessary for the production of the imported goods;
  - (c) royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;
  - (d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller; and
  - (e) the following costs up to the place where goods are brought into the customs territory of the Union:
    - (i) the cost of transport and insurance of the imported goods; and
    - (ii) loading and handling charges associated with the transport of the imported goods.
2. Additions to the price actually paid or payable, pursuant to paragraph 1, shall be made only on the basis of objective and quantifiable data.
3. No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.
4. The Commission shall specify, by means of implementing acts, the procedural rules for determining the customs value in accordance with this Article, including those for adjusting the price actually paid or payable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

## *Article 155*

### **Elements not to be included in the customs value**

1. In determining the customs value under Article [153](#), none of the following shall be included:
  - (a) the cost of transport of the imported goods after their entry into the customs territory of the Union;
  - (b) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after the entry into the customs territory of the Union of the imported goods such as industrial plants, machinery or equipment;
  - (c) charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of the imported goods, irrespective of whether the finance is provided by the seller or another person, provided that the financing arrangement has been made in writing and, where required, the buyer can demonstrate that the following conditions are fulfilled:
    - (i) such goods are actually sold at the price declared as the price actually paid or payable;
    - (ii) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided;
  - (d) charges for the right to reproduce the imported goods in the Union; buying commissions;
  - (e) import duties or other charges payable in the Union by reason of the import or sale of the goods;
  - (f) notwithstanding Article 154(1), point (c), payments made by the buyer for the right to distribute or resell the imported goods, if such payments are not a condition of the sale for export to the Union of the goods.
2. The Commission shall specify, by means of implementing acts, the procedural rules for determining the customs value in accordance with this Article, including those for adjusting the price actually paid or payable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

## *Article 156*

### **Simplifications**

1. The customs authorities may, upon application, authorise that the following amounts be determined on the basis of specific criteria, where they are not quantifiable on the date on which the customs declaration is accepted:
  - (a) amounts which are to be included in the customs value in accordance with Article 153(2); and
  - (b) the amounts referred to in Articles 154 and 155.
2. Where the importer has opted to apply the simplified tariff treatment for distance sales, Article 155(1), point [\(a\)](#), shall not apply and both the costs of transport of the imported goods up to the place where goods are brought into the customs territory of the Union

and the costs of transport after their entry into that territory, shall be included in the customs value.

3. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the conditions for granting the authorisation referred to in paragraph 1.

#### *Article 157*

#### **Secondary methods of customs valuation**

1. Where the customs value of goods cannot be determined under Article 153, it shall be determined by proceeding sequentially from points (a) to (d) of paragraph 2, until the first point under which the customs value of goods can be determined.  
  
The order of application of points (c) and (d) of paragraph 2 shall be reversed if the importer or the exporter or, where applicable, the declarant so requests.
2. The customs value, pursuant to paragraph 1, shall be:
  - (a) the transaction value of identical goods sold for export to the customs territory of the Union and exported at or about the same time as the goods being valued;
  - (b) the transaction value of similar goods sold for export to the customs territory of the Union and exported at or about the same time as the goods being valued;
  - (c) the value based on the unit price at which the imported goods, or identical or similar imported goods, are sold within the customs territory of the Union in the greatest aggregate quantity to persons not related to the sellers; or
  - (d) the computed value, consisting of the sum of:
    - (i) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
    - (ii) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of export for export to the Union;
    - (iii) the cost or value of the elements referred to in Article 154(1), point (e).
3. Where the customs value cannot be determined under paragraph 1, it shall be determined on the basis of data available in the customs territory of the Union, using reasonable means consistent with the principles and general provisions of all of the following:
  - (a) the agreement on implementation of Article VII of the General Agreement on Tariffs and Trade;
  - (b) Article VII of the General Agreement on Tariffs and Trade;
  - (c) this Chapter.
4. The Commission shall specify, by means of implementing acts, the procedural rules for determining the customs value referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

*Article 158*

**Determination of the value of goods in specific situations**

The Commission may, by means of implementing acts, adopt measures establishing the appropriate method of customs valuation or criteria to be used for determining the customs value of goods in specific situations. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

On imperative grounds of urgency relating to such measures, duly justified by the need to rapidly ensure the correct and uniform application of rules for the determination of the customs value of goods, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 262(5).

**Compromise Amendment 11 on Title X - Customs debts and guarantees**

Compromise amendment replacing all relevant amendments, including AMs 93-97, 364-370, INTA 122-123, CONT 52

**Title X  
CUSTOMS DEBTS AND GUARANTEES**

**Chapter 1  
Incurrence of a customs debt**

**SECTION 1  
CUSTOMS DEBT ON IMPORT**

*Article 159*

**Release for free circulation and temporary admission**

1. The importer shall incur a customs debt at the time of release of the goods for free circulation procedure, for the end-use procedure, or for the temporary admission procedure with partial relief from import duty.
2. The importer shall be the debtor. In the event of indirect representation, the importer and the person on whose behalf the importer is acting shall both be the debtors and be jointly and severally liable for the customs debt. ***That person shall be responsible for the payment of any other applicable charges. (S&D 365, Greens/EFA 364)***

Where the information provided or made available for the purpose of the procedures referred to in paragraph 1 leads to all or part of the import duty not being collected, the person who provided that information and who knew, or who ought reasonably to have known, that such information was false shall also be a debtor.

3. Where Title XII, Chapter 6, Section 4 of Directive 2006/112/EC applies to the distance sales of goods to be imported from third countries or territories to ~~a customer~~ ***an end customer*** in the customs territory of the Union, the deemed importer shall incur a customs debt when the payment for the distance sale is accepted and shall be the debtor. ***The deemed importer shall also be responsible for the payment of any other applicable charges. (S&D 366, Greens/EFA 367)***

#### *Article 160*

##### **Special provisions relating to non-originating goods**

1. The exporter shall incur a customs debt at the moment of the release of the products for export where:
  - (a) a preferential arrangement between the Union and certain third countries or groups of such countries provides that the preferential tariff treatment of products originating in the Union requires non-originating goods used in their manufacture be subject to payment of the import duties; and
  - (b) a proof of origin for those products has been issued or made out.
2. The exporter shall calculate the amount of import duty corresponding to the debt as if the non-originating goods that were used in the manufacture of the products being exported were released for free circulation on the same date.
3. In the event of indirect representation, the exporter and the person on whose behalf the exporter is acting shall both become debtors and be jointly and severally liable for the customs debt.

#### *Article 161*

##### **Customs debt incurred through non-compliance**

1. For goods liable to import duty, a customs debt on import shall be incurred through non-compliance with any of the following:
  - (a) one of the obligations laid down in the customs legislation concerning the introduction of non-Union goods into the customs territory of the Union, their removal from customs supervision, or the movement, processing, storage, temporary storage, temporary admission or disposal of such goods within that territory;
  - (b) one of the obligations laid down in the customs legislation concerning the end-use of goods within the customs territory of the Union;
  - (c) a condition governing the placing of non-Union goods under a customs procedure or the granting, by virtue of the end-use of the goods, of duty exemption or a reduced rate of import duty.
2. The time at which the customs debt is incurred shall be either of the following:
  - (a) the moment when the obligation the non-fulfilment of which gives rise to the customs debt is not met or ceases to be met;
  - (b) the time when goods are placed under a customs procedure where it is established subsequently that a condition governing the placing of the goods



under that procedure or the granting of a duty exemption or a reduced rate of import duty by virtue of the end-use of the goods was not in fact fulfilled.

3. In cases referred to under paragraph 1, points (a) and (b), the debtor shall be any of the following:
  - (a) any person who was required to fulfil the obligations concerned;
  - (b) any person who was aware or should reasonably have been aware that an obligation under the customs legislation was not fulfilled and who acted on behalf of the person who was obliged to fulfil the obligation, or who participated in the act which led to the non-fulfilment of the obligation;
  - (c) any person who acquired or held the goods in question and who was aware or should reasonably have been aware at the time of acquiring or receiving the goods that an obligation under the customs legislation was not fulfilled.
4. In cases referred to under paragraph 1, point (c), the debtor shall be the person who is required to comply with the conditions governing the placing of the goods under a customs procedure or the granting of a duty exemption or reduced rate of import duty by virtue of the end-use of the goods.

Where the information required under the customs legislation relating to the conditions governing the placing of the goods under that customs procedure is provided to the customs authorities, and such information leads to all or part of the import duty not being collected, the person who provided the information and who knew, or who ought reasonably to have known, that such information was false shall also be a debtor.

#### *Article 162*

##### **Deduction of an amount of import duty already paid**

1. Where a customs debt is incurred, pursuant to Article 161(1) in respect of goods released for free circulation at a reduced rate of import duty on account of their end-use, the amount of import duty paid when the goods were released for free circulation shall be deducted from the amount of import duty corresponding to the customs debt.

The first subparagraph shall apply where a customs debt is incurred in respect of scrap and waste resulting from the destruction of such goods.
2. Where a customs debt is incurred, pursuant to Article 159(1) or Article 161(1) in respect of goods placed under temporary admission with partial relief from import duty, the amount of import duty paid under partial relief shall be deducted from the amount of import duty corresponding to the customs debt.

## **SECTION 2 CUSTOMS DEBT ON EXPORT**

#### *Article 163*

##### **Export and outward processing**

1. The exporter shall incur a customs debt at the time of release of goods liable to export duty under the export procedure or the outward processing procedure.

2. The exporter shall be the debtor. In the event of indirect representation, the exporter and the person on whose behalf the exporter is acting shall both become debtors and be jointly and severally liable for the customs debt.
3. Where the information provided for placing the goods under the export procedure leads to all or part of the export duty not being collected, the person who provided the information and who knew, or who should reasonably have known, that such information was false shall also be a debtor.

#### *Article 164*

#### **Customs debt incurred through non-compliance**

1. For goods liable to export duty, a customs debt on export shall be incurred through non-compliance with either of the following:
  - (a) one of the obligations laid down in the customs legislation for the exit of the goods;
  - (b) the conditions under which the goods were allowed to be taken out of the customs territory of the Union with total or partial relief from export duty.
2. The time at which the customs debt is incurred shall be one of the following:
  - (a) the moment at which the goods are actually taken out of the customs territory of the Union without providing information to the customs authorities on such export;
  - (b) the moment at which the goods reach a destination other than that for which they were allowed to be taken out of the customs territory of the Union with total or partial relief from export duty;
  - (c) should the customs authorities be unable to determine the moment referred to in point (b), the expiry of the time-limit set for the production of evidence that the conditions entitling the goods to such relief have been fulfilled.
3. In cases referred to under paragraph 1, point (a), the debtor shall be any of the following:
  - (a) any person who was required to fulfil the obligation concerned;
  - (b) any person who was aware or should reasonably have been aware that the obligation concerned was not fulfilled and who acted on behalf of the person who was obliged to fulfil the obligation;
  - (c) any person who participated in the act which led to the non-fulfilment of the obligation and who was aware or should reasonably have been aware that the required information had not been provided or, where applicable, a customs declaration had not been lodged, but should have been.
4. In cases referred to under paragraph 1, point (b), the debtor shall be any person who is required to comply with the conditions under which the goods were allowed to be taken out of the customs territory of the Union with total or partial relief from export duty.

## SECTION 3

### PROVISIONS COMMON TO CUSTOMS DEBT INCURRED ON IMPORT AND EXPORT

#### *Article 165*

##### **Customs debt in case of prohibitions and restrictions**

1. The customs debt on import or export shall be incurred even if it relates to goods which are subject to other legislation applied by the customs authorities on import or export of any kind.
2. However, no customs debt shall be incurred on either of the following:
  - (a) the unlawful introduction into the customs territory of the Union of counterfeit currency;
  - (b) the introduction into the customs territory of the Union of narcotic drugs and psychotropic substances other than where strictly supervised by the competent authorities with a view to their use for medical and scientific purposes.
3. For the purposes of sanctions as applicable to customs infringements, the customs debt shall nevertheless be deemed to have been incurred where, under this Regulation or under the law of a Member State, import or export duty or the existence of a customs debt provide the basis for determining sanctions.

#### *Article 166*

##### **Several debtors**

Where several persons are liable for payment of the amount of import or export duty corresponding to one customs debt, they shall be jointly and severally liable for payment of that amount.

#### *Article 167*

##### **General rules for calculating the amount of import or export duty**

1. The amount of import or export duty shall be determined based on the tariff classification, customs value, quantity, nature and origin of the goods. The rules for calculation of duty shall be those applicable to the goods concerned at the time at which the customs debt in respect of them was incurred.
2. Where it is not possible to determine precisely the time at which the customs debt is incurred, that time shall be deemed to be the time at which the customs authorities conclude that the goods are in a situation in which a customs debt has been incurred.

However, where the information available to the customs authorities enables them to establish that the customs debt had been incurred prior to the time at which they reached that conclusion, the customs debt shall be deemed to have been incurred at the earliest time that such a situation can be established.
3. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the rules referred to in this Article for the calculation of the amount of import or export duty applicable to goods for which a customs debt is incurred in the context of a special procedure.

*Article 168*

**Special rules for calculating the amount of import duty**

1. Where costs for storage or usual forms of handling have been incurred within the customs territory of the Union in respect of goods placed under a customs procedure or in temporary storage, such costs or the increase in value shall not be taken into account for the calculation of the amount of import duty where satisfactory proof of those costs is provided by the importer or by the exporter or, where applicable, by the declarant.  
  
However, the customs value, quantity, nature and origin of non-Union goods used in the operations shall be taken into account for the calculation of the amount of import duty.
2. Where the tariff classification of goods placed under a customs procedure changes as a result of usual forms of handling within the customs territory of the Union, the original tariff classification for the goods placed under the procedure shall be applied at the request of the importer or, where applicable, of the declarant.
3. Where a customs debt is incurred for processed products resulting from the inward processing procedure, the amount of import duty corresponding to such debt shall, at the request of the importer, be determined on the basis of the tariff classification, customs value, quantity, nature and origin of the goods placed under the inward processing procedure.
4. Where the processed products result from subsequent inward processing procedures, the importer may only request the debt to be determined on the basis of the tariff classification, customs value, quantity, nature and origin of the goods placed under the first inward processing procedure.
5. In specific cases, the amount of import duty shall be determined in accordance with paragraphs 2, 3 and 4 of this Article without a request of importer or the exporter or, where applicable, of the declarant in order to avoid the circumvention of tariff measures referred to in Article 145(2), point [\(h\)](#).
6. Where a customs debt is incurred for processed products resulting from the outward processing procedure or replacement products as referred to in Article 143(1), the amount of import duty shall be calculated on the basis of the cost of the processing operation undertaken outside the customs territory of the Union.
7. Where a customs debt is incurred pursuant to Article [161](#) or Article [164](#) of this Regulation, if the failure which led to the incurrance of a customs debt did not constitute an attempt at deception, the following shall also apply:
  - (a) the favourable tariff treatment of goods pursuant to customs legislation; or
  - (b) the relief or total or partial exemption from import or export duty pursuant to Article 145(2), points (d), (e), (f) and (g) or Articles 90, 91, 92 and 93 or Articles 140, 141, 142, 143 and 144; or
  - (c) the relief pursuant to Regulation (EC) No 1186/2009.
8. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the rules referred to in this Article for the calculation of the amount of import or export duty applicable to goods for

which a customs debt is incurred in the context of a special procedure, and the specific cases referred to in paragraph 5.

#### *Article 169*

##### **Place where the customs debt is incurred**

1. A customs debt shall be incurred at the place where the importer or exporter is established.

By way of derogation from the first subparagraph, in relation to importers and exporters other than Trust and Check traders and deemed importers, the customs debt shall be incurred at the place where the customs declaration has been lodged or would have been lodged in accordance with Article 63(4) but for the modification concerning the method of providing information laid down Article 63(2).

In all other cases, the customs debt shall be incurred at the place where the events from which it arises occur.

If it is not possible to determine that place, the customs debt shall be incurred at the place where the customs authorities conclude that the goods are in a situation in which a customs debt is incurred.

2. If the goods have been placed under a customs procedure which has not been discharged or when a temporary storage did not end properly, and the place where the customs debt is incurred cannot be determined pursuant to the second or third subparagraphs of paragraph 1 within a specific time-limit, the customs debt shall be incurred at the place where the goods were either placed under the procedure concerned or were introduced into the customs territory of the Union under that procedure or were in temporary storage.
3. Where the information available to the customs authorities enables them to establish that the customs debt may have been incurred in several places, the customs debt shall be deemed to have been incurred at the place where it was first incurred.
4. If a customs authority establishes that a customs debt has been incurred under Article [161](#) or Article [164](#) in another Member State and the amount of import or export duty corresponding to that debt is lower than EUR 10 000, the customs debt shall be deemed to have been incurred in the Member State where the finding was made.
5. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the time limits referred to in paragraph 2.

## **Chapter 2**

### **Guarantee for a potential or existing customs debt**

#### *Article 170*

##### **General provisions**

1. Unless otherwise specified, this Chapter shall apply to guarantees for customs debts which have been incurred but whose payment is deferred ('existing customs debts')

and to guarantees that are required in case a customs debt may be incurred ('potential customs debts').

2. Where customs authorities require a guarantee for a potential or existing customs debt to be provided, that guarantee shall cover the amount of import or export duty and the other charges due in connection with the import or export of the goods where:
  - (a) the guarantee is used for the placing of goods under the Union transit procedure; or
  - (b) the guarantee may be used in more than one Member State.

A guarantee accepted or authorised by the customs authorities shall be valid throughout the customs territory of the Union, for the purposes for which it is given.

3. The guarantee shall be provided by the debtor or the person who may become the debtor or, if the customs authorities allow it, by any other person.
4. Without prejudice to Article [178](#), the customs authorities shall require only one guarantee to be provided in respect of specific goods.

The guarantee provided for specific goods shall apply to the amount of import or export duty corresponding to the customs debt and other charges in respect of those goods, whether or not the information provided or made available on those goods is correct.

If the guarantee has not been released, it may also be used, within the limits of the secured amount, for the recovery of amounts of import or export duty and other charges payable following post-release control of those goods.

5. Upon application by the person referred to in paragraph 3, the customs authorities may, in accordance with Article [176\(1\)](#) and [\(2\)](#), authorise the provision of a comprehensive guarantee to cover the amount of import or export duty corresponding to the customs debt in respect of two or more operations or customs procedures.
6. The customs authorities shall monitor the guarantee.
7. No guarantee shall be required in any of the following situations:
  - (a) from States, regional and local government authorities or other bodies governed by public law, in respect of the activities in which they engage as public authorities;
  - (b) for goods carried on the Rhine, the Rhine waterways, the Danube or the Danube waterways;
  - (c) for goods carried by a fixed transport installation;
  - (d) in specific cases where goods are placed under the temporary admission procedure;
  - (e) for goods carried by sea or air between Union ports or between Union airports.
8. The customs authorities may waive the requirement for provision of a guarantee where the amount of import or export duty to be secured does not exceed the statistical value threshold of EUR 1 000 in value.
9. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the specific cases where no

guarantee is required for goods placed under the temporary admission procedure, as referred to in paragraph 7, point (d).

10. The Commission shall specify, by means of implementing acts, the procedural rules regarding the provision and the monitoring of the guarantee referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 171*

##### **Reference amount of a compulsory guarantee**

1. Where the customs authorities must require a guarantee and can establish the precise amount of import or export duty corresponding to the customs debt and of other charges at the time when the guarantee is required, the guarantee shall cover that precise amount.

Where it is not possible to establish the precise amount, the guarantee shall be fixed at the maximum amount, as estimated by the customs authorities, of import or export duty corresponding to the customs debt and of other charges which have been or may be incurred.

2. Without prejudice to Article [176](#), where a comprehensive guarantee is provided for the amount of import or export duty corresponding to customs debts and other charges which vary in amount over time, the amount of such guarantee shall be set at a level enabling the amount of import or export duty corresponding to customs debts and other charges to be covered at all times.

#### *Article 172*

##### **Reference amount of a precautionary guarantee**

Where providing a guarantee is not compulsory but the customs authorities are not certain that the amount of import or export duty corresponding to a customs debt and other charges will be paid within the prescribed period, they shall require a guarantee for an amount that may not exceed the level referred to in Article [171](#).

#### *Article 173*

##### **Provision of a guarantee**

1. A guarantee may be provided in one of the following forms:
  - (a) by any means of payment recognised by the customs authorities, made in euro or in the currency of the Member State in which the guarantee is required;
  - (b) by an undertaking given by a guarantor;
  - (c) by another form of guarantee which provides equivalent assurance that the amount of import or export duty corresponding to the customs debt and other charges will be paid.
2. A guarantee in the form of a cash deposit or any other equivalent means of payment shall be given in accordance with the provisions in force in the Member State in which the guarantee is required.

Where a guarantee is given by any means of payment recognised by the customs authorities, no interest thereon shall be payable by the customs authorities.

3. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the form of the guarantee referred to in paragraph 1, point (c).

#### *Article 174*

##### **Choice of guarantee**

The person required to provide a guarantee may choose between the forms of guarantee laid down in Article 173(1).

However, the customs authorities may refuse to accept the form of guarantee chosen where it is incompatible with the proper functioning of the customs procedure concerned.

The customs authorities may require that the form of guarantee chosen be maintained for a specific period.

#### *Article 175*

##### **Guarantor**

1. The guarantor referred to in Article 173(1), point (b) shall be a third person resident, registered or established in the customs territory of the Union. The guarantor shall be approved by the customs authorities requiring the guarantee, unless the guarantor is a credit institution, financial institution or insurance company accredited in the Union in accordance with Union provisions in force.
2. The guarantor shall undertake in writing to pay the secured amount of import or export duty corresponding to a customs debt and other charges.
3. The customs authorities may refuse to approve the guarantor or the type of guarantee proposed where either does not appear certain to ensure payment within the prescribed period of the amount of import or export duty corresponding to the customs debt and of other charges.
4. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the rules concerning the forms for the provision of a guarantee and the rules applicable to the guarantor referred to in this Article.
5. The Commission shall specify, by means of implementing acts, the procedural rules regarding the revocation and cancellation of the undertaking given by the guarantor referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 176*

##### **Comprehensive guarantee**

1. The customs authorities may only grant the authorisation referred to in Article 170(5) to persons who satisfy the following conditions:
  - (a) they are established in the customs territory of the Union;



- (b) they fulfil the criteria laid down in Article 24(1), point (a);
  - (c) they are regular users of the customs procedures involved or operators of temporary storage facilities or they fulfil the criteria laid down in Article 24(1), point (d).
2. The customs authorities may authorise an economic operator fulfilling the criteria laid down in Article 24(1), points (b) and (c), ***an economic operator fulfilling the criteria laid down in points (b) and (c) of Article 25(3)***, and Trust and Check traders to provide a comprehensive guarantee for potential customs debts and other charges with a reduced amount or to have a guarantee waiver.
  3. The customs authorities may authorise an authorised economic operator for customs simplifications, ***an economic operator fulfilling the criteria laid down in points (b) and (c) of Article 25(3)***, and a Trust and Check trader to provide a comprehensive guarantee for existing customs debts and other charges, upon application, with a reduced amount, ***or, for a Trust and Check trader, to have a guarantee waiver. (Rapp. 93)***
  4. The comprehensive guarantee with a reduced amount referred to in paragraph 3 shall be equivalent to the provision of a guarantee.
  5. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the conditions for the granting of an authorisation to use a comprehensive guarantee with a reduced amount or to have a guarantee waiver referred to in paragraph 2 ***and 3. (Rapp. 94)***
  6. The Commission shall specify, by means of implementing acts, the procedural rules for determining the amount of the guarantee, including the reduced amount referred to in paragraph 2 ***and 3***. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4). ***(Rapp. 95)***

#### *Article 177*

#### **Temporary prohibitions relating to the use of comprehensive guarantees**

1. In the context of special procedures or temporary storage, the Commission may decide to temporarily prohibit recourse to any of the following:
  - (a) the comprehensive guarantee for a reduced amount or a guarantee waiver referred to in Article [176\(2\)](#);
  - (b) the comprehensive guarantee referred to in Article 176, in respect of goods which have been identified as being subject to large-scale fraud.
2. Where point (a) or point (b) of paragraph 1 applies, recourse to the comprehensive guarantee for a reduced amount or a guarantee waiver or recourse to the comprehensive guarantee referred to in Article [176](#) may be authorised where the person concerned fulfils either of the following conditions:
  - (a) that person can show that no customs debt has arisen in respect of the goods in question in the course of operations which that person has undertaken in the 2 years preceding the decision referred to in paragraph 1;

- (b) where customs debts have arisen in the 2 years preceding the decision referred to in paragraph 1, the person concerned can show that those debts were fully paid by the debtor or debtors or the guarantor within the prescribed time limit.

To obtain authorisation to use a temporarily prohibited comprehensive guarantee, the person concerned must also fulfil the criteria laid down in Article 24(1), points (b) and (c).

3. The Commission shall specify, by means of implementing acts, the rules regarding the temporary prohibitions relating to the use of comprehensive guarantees referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

On imperative grounds of urgency relating to such measures, duly justified by the need to rapidly enhance the protection of the financial interests of the Union and of its Member States, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 262(5).

#### *Article 178*

##### **Additional or replacement guarantee**

Where the customs authorities establish that the guarantee provided does not ensure, or is no longer certain or sufficient to ensure, payment within the prescribed period of the amount of import or export duty corresponding to the customs debt and other charges, they shall require any of the persons referred to in Article 170(3) either to provide an additional guarantee or to replace the original guarantee with a new guarantee, according to that person's choice.

#### *Article 179*

##### **Release of the guarantee**

1. The customs authorities shall release the guarantee immediately when the customs debt or liability for other charges is extinguished or can no longer arise.
2. Where the customs debt or liability for other charges has been extinguished in part, or may arise only in respect of part of the amount which has been secured, a corresponding part of the guarantee shall be released accordingly at the request of the person concerned, unless the amount involved does not justify such action.
3. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the time limits for the release of a guarantee.
4. The Commission shall specify, by means of implementing acts, the procedural rules regarding the release of the guarantee referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

## **Chapter 3**

# **Recovery, payment, repayment and remission of the amount of import or export duty**

### **SECTION 1**

#### **DETERMINATION OF THE AMOUNT OF IMPORT OR EXPORT DUTY, NOTIFICATION OF THE CUSTOMS DEBT AND ENTRY INTO THE ACCOUNTS**

##### *Article 180*

##### **Determination of the amount of import or export duty**

1. The importer and the exporter shall calculate the amount of import or export duty payable. Upon release of the goods, the customs authorities are deemed to accept the amount of import or export duty payable as calculated by the importer and the exporter, without prejudice to post-release controls. If that person does not calculate the amount or the customs authorities disagree with the amount calculated by that person, the customs authorities responsible for the place where the customs debt is incurred or is deemed to have been incurred in accordance with Article [169](#), shall determine the amount of import or export duty payable as soon as they have the necessary information.
2. By way of derogation from paragraph 1, until the date set out in Article 265(3), where a customs declaration has been lodged, the customs authorities may accept the amount of import or export duty payable determined in the customs declaration, without prejudice to post-release controls. If the customs authorities disagree with that amount they shall determine the amount of import or export duty payable as soon as they have the necessary information.
3. Where the amount of import or export duty payable does not result in a whole number, that amount may be rounded.

Where the amount referred in the first subparagraph is expressed in euro, rounding may not be more than a rounding up or down to the nearest whole number.

Importers and exporters established in a Member State whose currency is not the euro may either apply mutatis mutandis the provisions of the second subparagraph or derogate from that subparagraph, provided that the rules applicable on rounding do not have a greater financial impact than the rule set out in the second subparagraph.

##### *Article 181*

##### **Notification of the customs debt**

1. Upon release of the goods, the customs authorities are deemed to have notified the customs debt to the importer or the exporter.
2. Where the customs authorities have determined the amount of import or export duty payable, they shall notify it to the debtor in the form prescribed at the place where the customs debt is incurred, or is deemed to have been incurred in accordance with Article [169](#).

The notification referred to in the first subparagraph shall not be made in any of the following cases:

- (a) where, pending a final determination of the amount of import or export duty, a provisional anti-dumping duty or a provisional countervailing duty or a provisional safeguard measure has been imposed;
  - (b) where the amount of import or export duty payable exceeds that determined on the basis of a decision made in accordance with Article 13;
  - (c) where the original decision not to notify the customs debt or to notify it with an amount of import or export duty at a figure less than the amount of import or export duty payable was taken on the basis of general provisions invalidated at a later date by a court decision;
  - (d) where the customs authorities are exempted under the customs legislation from notification of the customs debt.
3. Where the customs authorities must notify the amount of import or export duty payable in accordance with paragraph 2, the customs authorities shall notify the customs debt to the debtor when they are in a position to determine that amount and take a decision thereon.

However, where the notification of the customs debt would prejudice a criminal investigation, the customs authorities may defer that notification until such time as it no longer prejudices the criminal investigation *even if that investigation takes place in a different Member State. If requested to do so by a public authority competent for the prevention, investigation, detection or prosecution of criminal offences, including the EPPO, the requested customs authorities shall defer the notification. (Renew 368).*

4. The customs authorities may allow a Trust and Check trader to calculate the customs debt corresponding to the total amount of import or export duty relating to all the goods that this operator has released on behalf of the customs authorities during a period that shall not exceed 31 calendar days, and communicate this to the customs authorities with a breakdown of amounts related to each specific consignments of goods. If the customs authorities disagree with the amount calculated and communicated, they shall determine the amount of import or export duty payable.
5. By way of derogation from paragraph 1, where Title XII, Chapter 6, Section 4 of Directive 2006/112/EC applies to the distance sales of goods to be imported from third countries to a customer in the customs territory of the Union, the customs authorities may authorise a deemed importer to calculate and communicate the customs debt corresponding to the total amount of import duty relating to all the goods released to that deemed importer during one month by the end of the following month, with breakdown of amounts related to each specific consignments of goods. This communication may amend or invalidate the information that the deemed importer had provided in accordance with Article 59(2). If the customs authorities disagree with the amount calculated and communicated, they shall determine the amount of import or export duty payable. The customs authorities shall be deemed to have notified the customs debt where they have not disagreed with the communication within a reasonable period of time after the trader has submitted it.

6. Until the date set out in Article 265(3), where a customs declaration is lodged, provided that payment has been guaranteed, the customs authorities may allow that the customs debt corresponding to the total amount of import or export duty relating to all the goods released to one and the same person during a fixed period be notified at the end of that period. The period fixed by the customs authorities shall not exceed 31 days.
7. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining:
  - (a) the cases referred to in paragraph 2, second subparagraph, point (d), where the customs authorities are exempted from notification of the customs debt;
  - (b) the reasonable time for considering lack of disagreement as referred to in paragraph 5;
  - (c) the information to be provided in the deemed importer's communication in paragraph 5.

#### *Article 182*

##### **Limitation of the customs debt**

1. The customs authorities shall not notify a customs debt to the debtor after the expiry of a period of 3 years from the date on which the customs debt was incurred.
2. Where the customs debt is incurred as the result of an act which, at the time it was committed, was liable to give rise to criminal court proceedings, the three-year period laid down in paragraph 1 shall be extended to a period of a minimum of 5 years and a maximum of 10 years in accordance with national law.
3. The periods laid down in paragraphs 1 and 2 shall be suspended where:
  - (a) an appeal is lodged in accordance with Article 16;
  - (b) such suspension shall apply from the date on which the appeal is lodged and shall last for the duration of the appeal proceedings; or
  - (c) the customs authorities communicate to the debtor, in accordance with Article 6(6), the grounds on which they intend to notify the customs debt; such suspension shall apply from the date of that communication until the end of the period within which the debtor is given the opportunity to express his or her point of view.
4. Where a customs debt is reinstated pursuant to Article 193(7), the periods laid down in paragraphs 1 and 2 shall be considered as suspended from the date on which the application for repayment or remission was submitted in accordance with Article 198, until the date on which the decision on the repayment or remission was taken.

#### *Article 183*

##### **Entry in the accounts**

1. The customs authorities referred to in Article 180 shall enter in their accounts, in accordance with the national legislation, the amount of import or export duty payable as notified in accordance with Article 181.

The obligation of customs authorities in the first subparagraph shall not apply in cases referred to in Article 181(2), [second](#) subparagraph.

2. The customs authorities do not need to enter in the accounts amounts of import or export duty that, pursuant to Article [182](#), correspond to a customs debt which could no longer be notified to the debtor.
3. Member States shall determine the practical procedures for the entry in the accounts of the amounts of import or export duty. Those procedures may differ according to whether, in view of the circumstances in which the customs debt was incurred, the customs authorities are satisfied that those amounts will be paid.

#### *Article 184*

##### **Time of entry in the accounts**

1. The customs authorities shall enter the amount of import or export duty payable in the accounts within 14 days of the release of the goods except where the goods are placed in temporary admission with partial relief from import duty.
2. By way of derogation from paragraph 1, the customs authorities may cover the total amount of import or export duty relating to all the goods released to a Trust and check trader during a fixed period, in accordance with Article 181([4](#)), with a single entry in the accounts at the end of that period.

Such entry in the accounts shall take place within 14 days of the expiry of the period concerned.

3. By way of derogation from paragraph 1, the total amount of import duty relating to all the goods released to a deemed importer during one month in accordance with Article 181([5](#)) may be covered by a single entry in the accounts by the end of the following month containing the breakdown of amounts related to each specific consignments of goods.
4. Until the date set out in Article 265([3](#)), where a customs declaration is lodged, provided that payment has been guaranteed, the customs authorities may allow that the customs debt corresponding to the total amount of import or export duty relating to all the goods released to one and the same person during a fixed period, which may not exceed 31 days, be notified at the end of that period.

Such entry in the accounts shall take place within 14 days of the expiry of the period concerned.

5. Where goods may be released subject to certain conditions which govern either the determination of the amount of import or export duty payable or its collection, entry in the accounts shall take place within 14 days of the day on which the amount of import or export duty payable is determined or the obligation to pay that duty is fixed.

However, where the customs debt relates to a provisional anti-dumping duty, a provisional countervailing duty or a provisional safeguard measure, the amount of import or export duty payable shall be entered in the accounts within two months of the date of publication in the Official Journal of the European Union of the Regulation establishing the definitive duty.

6. Where a customs debt is incurred in circumstances not covered by paragraph 1, the amount of import or export duty payable shall be entered in the accounts within 14 days of the date on which the customs authorities are in a position to determine the amount of import or export duty in question and take a decision.
7. Paragraph 6 shall apply with regard to the amount of import or export duty to be recovered or which remains to be recovered where the amount of import or export duty payable has not been entered in the accounts in accordance with paragraphs 1 to 6 or has been determined and entered in the accounts at a level lower than the amount payable.
8. The time-limits for entry in the accounts laid down in paragraphs 1 to 6 shall not apply in unforeseeable circumstances or in cases of force majeure.
9. The entry in the accounts may be deferred in the case referred to in Article 181(3), [second](#) subparagraph, until such time as the notification of the customs debt no longer prejudices a criminal investigation, *even if that investigation takes place in a different Member State. (Renew 369)*

#### *Article 185*

#### **Conferral of implementing powers**

The Commission shall adopt, by means of implementing acts, measures to ensure mutual assistance between the customs authorities in case of incurrence of a customs debt.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

### **SECTION 2**

#### **PAYMENT OF THE AMOUNT OF IMPORT OR EXPORT DUTY**

#### *Article 186*

##### **General time-limits for payment and suspension of the time-limit for payment**

1. The debtor shall pay the amounts of import or export duty, corresponding to a customs debt notified in accordance with Article [181](#) within the period prescribed by the customs authorities.  
  
Without prejudice to Article 17(2), that period shall not exceed 10 days following notification to the debtor of the customs debt.  
  
The customs authorities may extend that period upon application by the debtor where the amount of import or export duty payable has been determined in the course of post-release controls as referred to in Article [48](#). Without prejudice to Article 190(2), such extensions shall not exceed the time necessary for the debtor to take the appropriate steps to discharge his or her obligation.
2. By way of derogation from paragraph 1, the amount of import duty corresponding to a customs debt notified in accordance with Article 181(5) shall be paid by the debtor at the latest at the expiry of the deadline by which the customs debt must be notified.
3. If the debtor is entitled to any of the payment facilities laid down in Article [188](#) to Article [190](#), payment shall be made within the period or periods specified in relation to those facilities.

4. The time-limit for payment of the amount of import or export duty corresponding to a customs debt shall be suspended in any of the following cases:
  - (a) where an application for remission of duty is made in accordance with Article [198](#);
  - (b) where goods are to be confiscated, destroyed or abandoned to the State;
  - (c) where the customs debt was incurred pursuant to Article 161 and there is more than one debtor.
5. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by determining the rules for the suspension of the time-limit for payment of the amount of import or export duty corresponding to a customs debt referred to in paragraph 3, and by determining the period of suspension.

#### *Article 187*

##### **Payment**

1. Payment shall be made in cash or by any other means with similar discharging effect, including by adjustment of a credit balance, in accordance with national legislation.
2. Payment may be made by a third person instead of the debtor.
3. The debtor may in any case pay all or part of the amount of import or export duty without awaiting expiry of the period he or she has been granted for payment.

#### *Article 188*

##### **Deferment of payment**

**1.** The customs authorities shall, upon application by the person concerned and upon provision of a guarantee, authorise to defer the payment of the duty payable in any of the following ways: **(Rapp. 96)**

- (a) separately in respect of each amount of import or export duty entered in the accounts in accordance with Article 184([1](#)), or Article 184([7](#));
- (b) globally in respect of all amounts of import or export duty entered in the accounts in accordance with Article 184(1) during a period fixed by the customs authorities and not exceeding 31 days;
- (c) globally in respect of all amounts of import or export duty forming a single entry in accordance with Article 184(2), (3) and (4).

***1 a.*** ***The customs authorities, when authorising to defer the payment of the duty payable as referred to in paragraph 1, shall not require the provision of a guarantee where the applicant is a Trust and Check trader authorised to have a guarantee waiver in accordance with Article 176(3). (Rapp. 97)***

#### *Article 189*

##### **Periods for which payment is deferred**

1. The period for which payment is deferred under Article [188](#) shall be 30 days.



2. Where payment is deferred in accordance with Article 188, point (a), the period shall begin on the day following that on which the customs debt is notified to the debtor.
3. Where payment is deferred in accordance with Article 188, point (b), the period shall begin on the day following that on which the aggregation period ends. It shall be reduced by the number of days corresponding to half the number of days covered by the aggregation period.
4. Where payment is deferred in accordance with Article 188, point (c), the period shall begin on the day following the end of the period fixed for release of the goods in question. It shall be reduced by the number of days corresponding to half the number of days covered by the period concerned.
5. Where the number of days in the periods referred to in paragraphs 3 and 4 is an odd number, the number of days to be deducted from the 30-day period pursuant to those paragraphs shall be equal to half the next lowest even number.
6. Where the periods referred to in paragraphs 3 and 4 are weeks, Member States may provide that the amount of import or export duty in respect of which payment has been deferred is to be paid on the Friday of the fourth week following the week in question at the latest.

If those periods are months, Member States may provide that the amount of import or export duty in respect of which payment has been deferred is to be paid by the 16th day of the month following the month in question. Those periods may not be extended even if the end of the period falls on a public holiday.

#### *Article 190*

##### **Other payment facilities**

1. The customs authorities may grant the debtor payment facilities other than deferred payment on condition that a guarantee is provided.
2. Where facilities are granted pursuant to paragraph 1, credit interest shall be charged on the amount of import or export duty.

For a Member State whose currency is the euro, the rate of credit interest shall be equal to the interest rate as published in the Official Journal of the European Union, C series, which the European Central Bank applied to its main refinancing operations, on the first day of the month in which the due date fell, increased by one percentage point.

For a Member State whose currency is not the euro, the rate of credit interest shall be equal to the rate applied on the first day of the month in question by the National Central Bank for its main refinancing operations, increased by one percentage point, or, for a Member State for which the National Central Bank rate is not available, the most equivalent rate applied on the first day of the month in question on the Member State's money market, increased by one percentage point.

3. The customs authorities may refrain from requiring a guarantee or from charging credit interest where it is established, on the basis of a documented assessment of the situation of the debtor, that this would create serious economic or social difficulties.

4. The customs authorities shall refrain from charging credit interest where the amount for each recovery action is less than EUR 10.

#### *Article 191*

#### **Enforcement of payment**

Where the amount of import or export duty payable has not been paid within the prescribed period, the customs authorities shall secure payment of that amount by all means available to them under the law of the Member State concerned.

#### *Article 192*

#### **Interest on arrears**

1. Interest on arrears shall be charged on the amount of import or export duty from the date of expiry of the prescribed period until the date of payment.

For a Member State whose currency is the euro, the rate of interest on arrears shall be equal to the interest rate as published in the Official Journal of the European Union, C series, which the European Central Bank applied to its main refinancing operations, on the first day of the month in which the due date fell, increased by two percentage points.

For a Member State whose currency is not the euro, the rate of interest on arrears shall be equal to the rate applied on the first day of the month in question by the National Central Bank for its main refinancing operations, increased by two percentage points, or, for a Member State for which the National Central Bank rate is not available, the most equivalent rate applied on the first day of the month in question on the Member State's money market, increased by two percentage points.

2. Where the customs debt is incurred on the basis of Article [161](#) or Article [164](#), or where the notification of the customs debt results from a post-release control, interest on arrears shall be charged over and above the amount of import or export duty, from the date on which the customs debt was incurred until the date of its notification.

The rate of interest on arrears shall be set in accordance with paragraph 1.

3. The customs authorities may refrain from charging interest on arrears where it is established, on the basis of a documented assessment of the situation of the debtor, that to charge it would create serious economic or social difficulties.
4. The customs authorities shall refrain from charging interest on arrears where the amount for each recovery action is less than EUR 10.

### **SECTION 3**

### **REPAYMENT AND REMISSION**

#### *Article 193*

#### **Repayment and remission**

1. Subject to the conditions laid down in this Section, the customs authorities shall repay or remit amounts of import or export duty on any of the following grounds:

- (a) overcharged amounts of import or export duty;
  - (b) defective goods or goods not complying with the terms of the contract;
  - (c) error by the competent authorities;
  - (d) equity;
  - (e) invalidation of the data on the basis of which the customs debt was established for the corresponding goods or, where applicable, of the corresponding customs declaration.
2. The customs authorities shall repay or remit the amount of import or export duty referred to in paragraph 1 where it is EUR 10 or more, except where the person concerned requests the repayment or remission of a lower amount.
  3. Where the customs authorities consider that repayment or remission should be granted on the basis of Articles [196](#) and [197](#), the Member State concerned shall transmit the file to the Commission for decision in any of the following cases:
    - (a) where the customs authorities consider that the special circumstances are the result of the Commission failing in its obligations;
    - (b) where the customs authorities consider that the Commission committed an error within the meaning of Article 196;
    - (c) where the circumstances of the case relate to the findings of a Union investigation carried out under Regulation (EC) No 515/97, or under any other Union legislation or any agreement concluded by the Union with countries or groups of countries in which provision is made for carrying out such Union investigations;
    - (d) where the amount for which the person concerned may be liable in respect of one or more import or export operations equals or exceeds EUR 500 000 as a result of an error or special circumstances.

Notwithstanding the first subparagraph, files shall not be transmitted in either of the following situations:

- (a) where the Commission has already adopted a decision on a case involving comparable issues of fact and of law;
  - (b) where the Commission is already considering a case involving comparable issues of fact and of law.
4. Subject to the rules of competence for a decision, where the customs authorities themselves discover within the periods referred to in Article 198(1) that an amount of import or export duty is repayable or remissible pursuant to Articles [194](#), [196](#) and [197](#), they shall repay or remit on their own initiative.
  5. No repayment or remission shall be granted when the situation which led to the notification of the customs debt results from deception by the debtor.
  6. Repayment shall not give rise to the payment of interest by the customs authorities concerned, except in the cases referred to paragraph 1, points (a) and (c).

However, in those cases repayment shall not give rise to the payment of interest by the customs authorities concerned if the customs authorities repay an amount of

import or export duty without undue delay after it has been discovered that the amount is repayable. In case the customs authorities fail to repay that amount without undue delay and the debtor initiates proceedings with the view to obtaining repayment, the interest shall be paid for the period from the date of payment of those duties to the date of their repayment.

In addition, interest shall be paid where a decision granting repayment is not implemented within three months of the date on which that decision was taken, unless the failure to meet the deadline was outside the control of the customs authorities.

In such cases, the interest shall be paid from the date of expiry of the three-month period until the date of repayment. The rate of interest shall be established in accordance with Article [190](#).

7. Where the customs authorities have granted repayment or remission in error, the original customs debt shall be reinstated insofar as it is not time-barred under Article [182](#).

In such cases, any interest paid under the second subparagraph of paragraph 6 shall be reimbursed.

8. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation by laying down the rules with which it has to comply when taking a decision referred to in paragraph 3 and in particular on the following:

- (a) the conditions for the acceptance of the file;
- (b) the time-limit to take a decision and the suspension of that time-limit;
- (c) the communication of the grounds on which the Commission intends to base its decision, before taking a decision which would adversely affect the person concerned;
- (d) the notification of the decision;
- (e) the consequences of a failure to take a decision or to notify such decision.

9. The Commission shall specify, by means of implementing acts, the procedural rules for repayment and remission and for the decision referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article [262\(2\)](#).

Where the opinion of the committee referred to in Article [262\(1\)](#) is to be obtained by written procedure, Article [262\(6\)](#) shall apply.

#### *Article 194*

#### **Overcharged amounts of import or export duty**

1. An amount of import or export duty shall be repaid or remitted insofar as the amount corresponding to the customs debt initially notified exceeds the amount payable, or the customs debt was notified to the debtor contrary to Article [181\(1\)](#), points [\(c\)](#) and [\(d\)](#).
2. Where the application for repayment or remission is based on the existence, at the time where the goods were released for free circulation, of a reduced or zero rate of

import duty on the goods under a tariff quota, a tariff ceiling or other favourable tariff measures, repayment or remission shall be granted provided that, at the time of lodging, the application was accompanied by the necessary documents and either of the following conditions is fulfilled:

- (a) in the case of a tariff quota, its volume has not been exhausted;
- (b) in other cases, the rate of duty normally due has not been re-established.

#### *Article 195*

##### **Defective goods or goods not complying with the terms of the contract**

1. The customs authorities shall repay or remit an amount of import duty where the following conditions are met:
  - (a) the notification of the customs debt relates to goods which the importer has rejected because, at the time of release, they were defective or did not comply with the terms of the contract on the basis of which they were imported;
  - (b) the goods have not been used, except for such initial use as may have been necessary to establish that they were defective or did not comply with the terms of the contract;
  - (c) the goods are taken out of the customs territory of the Union or, upon application by the person concerned, the customs authorities have authorised that the goods are placed under the inward processing procedure, including for destruction, or under the external transit, the customs warehousing or the free zone procedure.
2. The customs authorities shall not repay or remit an amount of import duty in any of the following cases:
  - (a) the goods, before being released for free circulation, were placed under a special procedure for testing, unless it is established that the fact that the goods were defective or did not comply with the terms of the contract could not normally have been detected in the course of such tests;
  - (b) the defective nature of the goods was taken into consideration in drawing up the terms of the contract, in particular the price, before the goods were placed under a customs procedure involving the incurrance of a customs debt;
  - (c) the goods are sold by the applicant after it has been ascertained that they are defective or do not comply with the terms of the contract.
3. Defective goods shall be deemed to include goods damaged before their release.

#### *Article 196*

##### **Error by the customs authorities**

1. In cases other than those referred to in Article 193(1), point (e) and in Articles [194](#), [195](#) and [197](#), the customs authorities shall repay or remit an amount of import or export duty where, as a result of an error on their part, they have notified an amount corresponding to the customs debt lower than the amount payable, provided the following conditions are met:
  - (a) the debtor could not reasonably have detected that error;

- (b) the debtor was acting in good faith.
2. Where the conditions laid down in Article 194(2) are not fulfilled, the customs authorities shall repay or remit where failure to apply the reduced or zero rate of duty was as a result of an error on their part and the data based on which the goods were released, or where applicable, the customs declaration for release for free circulation contained all the particulars and was accompanied by all the documents necessary for application of the reduced or zero rate.
  3. Where the preferential treatment of the goods is granted on the basis of a system of administrative cooperation involving the authorities of a third country, the issue of a certificate by those authorities, should it prove to be incorrect, shall constitute an error which could not reasonably have been detected within the meaning of paragraph 1, point (a).

The issue of an incorrect certificate shall not, however, constitute an error where the certificate is based on an incorrect account of the facts provided by the exporter, except where it is evident that the issuing authorities were aware or should have been aware that the goods did not satisfy the conditions laid down for entitlement to the preferential treatment.

The debtor shall be considered to be in good faith if he or she can demonstrate that, during the period of the trading operations concerned, he or she has taken due care to ensure that all the conditions for the preferential treatment have been fulfilled.

The debtor may not rely on a plea of good faith if the Commission has published a notice in the Official Journal of the European Union stating that there are grounds for doubt concerning the proper application of the preferential arrangements by the beneficiary country or territory.

#### *Article 197*

##### **Equity**

1. In cases other than those referred to in Article 193(1), point (e) and in Articles 194, 195 and 196, the customs authorities shall repay or remit an amount of import or export duty in the interest of equity where a customs debt is incurred under special circumstances in which no deception or obvious negligence may be attributed to the debtor.
2. The special circumstances referred to in paragraph 1 shall be deemed to exist where it is clear from the circumstances of the case that the debtor is in an exceptional situation as compared with other operators engaged in the same business, and that, in the absence of such circumstances, he or she would not have suffered disadvantage by the collection of the amount of import or export duty.

#### *Article 198*

##### **Procedure for repayment and remission**

1. Applications for repayment or remission in accordance with Article 193 shall be submitted to the customs authorities within the following periods:

- (a) in the case of overcharged, amounts of import or export duty, error by the competent authorities or equity, within 3 years of the date of notification of the customs debt;
- (b) in the case of defective goods or goods not complying with the terms of the contract, within one year of the date of notification of the customs debt;
- (c) in the case of invalidation of the data or, where applicable, of a customs declaration, based on which the goods were released, within one year of the date of invalidation of that data or of that customs declaration unless otherwise specified in the rules applicable to invalidation.

The period specified in the first subparagraph, points (a) and (b), shall be extended where the applicant provides evidence that he or she was prevented from submitting an application within the prescribed period as a result of unforeseeable circumstances or force majeure.

- 2. Where the customs authorities are not in a position, on the basis of the grounds adduced, to grant repayment or remission of an amount of import or export duty, it is required to examine the merits of an application for repayment or remission in the light of the other grounds for repayment or remission referred to in Article [193](#).
- 3. Where an appeal has been lodged under Article [16](#) against the notification of the customs debt, the relevant period specified in the first subparagraph of paragraph 1 as well as the examining of the remission and repayment applications and the related time-limits shall be suspended, from the date on which the appeal is lodged, for the duration of the appeal proceedings.
- 4. Where a customs authority grants repayment or remission in accordance with Articles [196](#) and [197](#), the Member State concerned shall inform the Commission thereof.
- 5. The Commission shall specify, by means of implementing acts, the procedural rules for informing the Commission pursuant to paragraph 4 and the information to be provided. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article [262\(4\)](#).

## **Chapter 4**

### **Extinguishment of a customs debt**

#### *Article 199*

#### **Extinguishment**

- 1. Without prejudice to the provisions in force relating to non-recovery of the amount of import or export duty corresponding to a customs debt in the event of the judicially established insolvency of the debtor, a customs debt on import or export shall be extinguished in any of the following ways:
  - (a) where the debtor can no longer be notified of the customs debt in accordance with Article [181](#);
  - (b) by payment of the amount of import or export duty;
  - (c) subject to paragraph 5, by remission of the amount of import or export duty;

- (d) where, in respect of goods released for a customs procedure entailing the obligation to pay import or export duty, the data on the basis of which the release was carried out or the customs declaration are invalidated;
  - (e) where goods liable to import or export duty are confiscated or seized and simultaneously or subsequently confiscated;
  - (f) where goods liable to import or export duty are destroyed under customs supervision or abandoned to the State;
  - (g) where the disappearance of the goods or the non-fulfilment of obligations arising from the customs legislation results from the total destruction or irretrievable loss of those goods as a result of the actual nature of the goods or unforeseeable circumstances or force majeure, or as a consequence of instruction by the customs authorities; for the purpose of this point, goods shall be considered as irretrievably lost when they have been rendered unusable by any person;
  - (h) where the customs debt was incurred pursuant to Article 161 or Article 164 and where the following conditions are fulfilled:
    - (i) the failure which led to the incurrance of a customs debt had no significant effect on the correct operation of the temporary storage or of the customs procedure concerned and did not constitute an attempt at deception;
    - (ii) all of the formalities necessary to regularise the situation of the goods are subsequently carried out;
  - (i) where goods released for free circulation duty-free, or at a reduced rate of import duty by virtue of their end-use, have been exported with the permission of the customs authorities;
  - (j) where it was incurred pursuant to Article 160 and where the formalities carried out in order to enable the preferential tariff treatment referred to in that Article to be granted are cancelled;
  - (k) where, subject to paragraph 6, the customs debt was incurred pursuant to Article 161 and evidence is provided to the satisfaction of the customs authorities that the goods have not been used or consumed and have been taken out of the customs territory of the Union.
2. In the cases referred to in paragraph 1, point (e), the customs debt shall, nevertheless, for the purposes of sanctions applicable to customs infringements, be deemed not to have been extinguished where, under this Regulation and under the law of a Member State, import or export duty or the existence of a customs debt provide the basis for determining sanctions.
  3. Where, in accordance with paragraph 1, point (g), a customs debt is extinguished in respect of goods released for free circulation duty-free or at a reduced rate of import duty on account of their end-use, any scrap or waste resulting from their destruction shall be deemed to be non-Union goods.
  4. The provisions in force pertaining to standard rates for irretrievable loss due to the nature of goods shall apply where the person concerned fails to show that the real loss exceeds that calculated by applying the standard rate for the goods in question.



5. Where several persons are liable for payment of the amount of import or export duty corresponding to the customs debt and remission is granted, the customs debt shall be extinguished only in respect of the person or persons to whom the remission is granted.
6. In the case referred to in paragraph 1, point (k), the customs debt shall not be extinguished in respect of any person or persons who attempted deception.
7. Where the customs debt was incurred pursuant to Article [161](#), it shall be extinguished with regard to the person whose behaviour did not involve any attempt at deception and who contributed to the fight against fraud.
8. The Commission is empowered to adopt delegated acts, in accordance with Article [261](#), to supplement this Regulation, by determining the list of failures with no significant effect on the correct operation of the temporary storage or of the customs procedure concerned as referred to in paragraph 1, point (h)(i).

#### *Article 200*

#### **Application of sanctions**

Where the customs debt is extinguished on the basis of Article 199(1), point (h), Member States shall not be precluded from the application of sanctions for failure to comply with the customs legislation.

### **Compromise Amendment 12 on Title XI - Restrictive measures and crisis management mechanism**

Compromise amendment replacing all relevant amendments, including AMs 98-102, 371-374 INTA 124-128, BUDG 12

## **Title XI RESTRICTIVE MEASURES AND CRISIS MANAGEMENT MECHANISM**

### **Chapter 1 Restrictive measures**

#### *Article 201*

#### **Role of the EU Customs Authority and of the customs authorities**

1. The EU Customs Authority shall contribute to the correct application of restrictive measures adopted in accordance with Article 215 TFEU by monitoring their

implementation in the ~~are~~*areas* falling under its competence and, subject to review and authorisation by the Commission, by providing appropriate guidance to the customs authorities. **(Rapp. 98)**

2. Customs authorities shall take all necessary steps to comply with the restrictive measures, taking into account the guidance of the EU Customs Authority.

#### *Article 202*

##### **Reporting**

1. The EU Customs Authority shall regularly and whenever necessary report to the Commission on the implementation of the restrictive measures by the customs authorities and in the case of any breach thereof.
2. The customs authorities shall inform the EU Customs Authority, the Commission and the national authorities of the Member States competent for sanctions implementation of any suspicion and case of circumvention of restrictive measures and of their mitigation measures in that respect.

## **Chapter 2**

### **Crisis management mechanism**

#### *Article 203*

##### **Preparation of protocols and procedures**

3. The EU Customs Authority shall prepare procedures and protocols that can be activated in accordance with Article 204(1) in case of:
  - (a) a crisis at the border of one or more Member States that has an impact on the customs processes;
  - (b) a crisis in another sector that requires an action by the customs authorities in cooperation with relevant authorities,
  - (c) with a view to ensuring a rapid, effective and proportionate response to the situation concerned.
4. Protocols and procedures may cover in particular:
  - (a) the application of common risk criteria, common priority control areas and risk profiles, appropriate mitigation measures, and customs controls;
  - (b) a collaboration framework enabling making temporarily available customs officials and customs control equipment from one to another Member State.;
  - (ba) fast lanes at borders to minimize delays and backups in freight flows, allowing digital copies and signatures; (EPP 371, 372)***
  - (bb) the avoidance of trade restrictions concerning crisis-relevant goods as defined in point (6) of Article 3 of [Regulation establishing a Single Market emergency instrument and repealing Council Regulation No (EC) 2679/98]. (EPP 373)***

*Article 204*

**Activation of the crisis management mechanism**

1. The Commission, on its own initiative or based on the request of one or more Member States or the EU Customs Authority, may adopt an implementing act, in accordance with the examination procedure referred to in Articles 262 (4) and (5) of this Regulation, taking into account the protocols and procedures referred to in Article 203, **laying down** the appropriate and necessary measures and arrangements ~~that should apply~~ to address a crisis situation or to mitigate its negative effects. **(Rapp. 99)**
2. ~~The EU Customs Authority shall coordinate and supervise the application and implementation of the appropriate measures and arrangements by the customs authorities and shall report back on the results of this implementation to the Commission. (Rapp. 100)~~
3. The EU Customs Authority shall set up a crisis response cell that is permanently available throughout the crisis. ***The Commission may support the EU Customs Authority during the planning stage and in the setting up of such a crisis response cell. The crisis response cell shall be financed by the budget that is assigned granted to the EU Customs Authority. (Rapp. 101, BUDG 12)***
4. Customs authorities shall implement and apply the measures and arrangements adopted pursuant to this Article and shall report to the EU Customs Authority on their implementation and application.
- 4 a. ***The EU Customs Authority shall coordinate and supervise the implementation of the appropriate measures and arrangements by the customs authorities and shall report back on the results of their implementation to the Commission, the European Parliament and the Council. (Rapp. 102, Greens/EFA 374)***

**Compromise Amendment 13 on Title XII - EU Customs Authority**

Compromise amendment replacing all relevant amendments, including AMs 103-120, 375, 377-398, INTA 129-155, BUDG 13-34, CONT 53-76

**Title XII  
THE EUROPEAN UNION CUSTOMS AUTHORITY**

**Chapter 1  
Principles**

*Article 205*

**Legal status**

1. The EU Customs Authority shall be a body of the Union and shall have legal personality.
2. In each of the Member States, the EU Customs Authority shall enjoy the most extensive legal capacity accorded to legal persons under their national laws. It may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings.
3. The EU Customs Authority shall be represented by its Executive Director.

#### Article 206

##### Seat

The seat of the EU Customs Authority shall be [...].

*[The choice of the location of the seat of the Authority shall be made in accordance with the ordinary legislative procedure, on the basis of the following criteria:*

- (a) it shall not affect the Authority's execution of its tasks and powers, the organisation of its governance structure, the operation of its main organisation, or the main financing of its activities;*
- (b) it shall ensure that the Authority is able to recruit the high-qualified and specialised staff it requires to perform the tasks and exercise the powers provided by this Regulation;*
- (c) it shall ensure that the Authority can be set up on site upon the entry into force of this Regulation;*
- (d) it shall ensure appropriate accessibility of the location, the existence of adequate education facilities for the children of staff members, appropriate access to the labour market, social security and medical care for both children and spouses;*
- (e) it shall ensure a balanced geographical distribution of Union institutions, bodies and agencies across the Union;*
- (f) it shall enable adequate training opportunities;*
- (g) it shall enable close cooperation with Union institutions, bodies and agencies;*
- (h) it shall ensure sustainability and digital security and connectivity with regard to physical and IT infrastructure and working conditions.]*

#### Article 207

##### Mission and objectives of the EU Customs Authority

1. The EU Customs Authority shall contribute to achieving the mission of customs authorities as set out in Article [2](#).

***The EU Customs Authority shall operate and maintain the information technology systems used for the implementation of the Customs Union, such as the EU Customs Data Hub, as laid down in Title III. (BUDG 14)***

2. Without prejudice to the respective responsibilities of the Commission, of OLAF and of the Member States, the EU Customs Authority shall pursue the following objectives:
  - (a) the EU Customs Authority shall contribute to the operational management of the customs union, and thereby coordinate and supervise operational cooperation between customs authorities and pool and provide technical expertise to increase efficiency and delivery of results;
  - (b) the EU Customs Authority shall develop, operate and maintain information technologies to implement the procedures laid down in this Regulation and contribute to making optimal use of the available data for customs supervision, control and risk management purposes;
  - (c) the EU Customs Authority shall support customs authorities in achieving a uniform implementation of customs legislation, notably with a view to ensuring that customs controls and risk management are carried out in a harmonised way;
  - (d) the EU Customs Authority shall contribute to the enforcement of ~~Union~~ other **Union** legislation applied by the customs authorities.; **(Rapp. 103)**

*(da) The EU Customs Authority shall cooperate with other Union institutions, bodies, offices and agencies in areas where their activities relate to the management of ~~management~~ of goods crossing the external borderthe ~~eustoms union~~. (Rapp. 104)*

*(db) The EU Customs Authority shall introduce a mandatory special scheme for the collection of customs duty on distance sales of goods imported from third territories or third countries. That mandatory special scheme shall be aligned with the special scheme laid down in Articles 369I-369x of Directive 2006/112/EC. (S&D 377)*

## Chapter 2 Tasks

### *Article 208*

#### Core tasks

1. The EU Customs Authority shall carry out risk management tasks, in accordance with Title IV, Chapter [3](#).
2. The EU Customs Authority shall carry out tasks in relation to restrictive measures and crisis management mechanism in accordance with Title XI.
- 2 a. *The EU Customs Authority shall support the Commission and the Member States to enable them to supervise more efficiently the implementation of the restrictive measures that the Council may adopt in accordance with Article 215(2) TFEU on the flow of goods, to ensure that those measures are not circumvented. (Rapp. 378)*
3. The EU Customs Authority shall perform capacity building activities and provide operational support and coordination to customs authorities *and the Commission*. In particular, it shall: **(BUDG 15)**

- (a) carry out diagnostics and monitoring of border crossing points and other control locations, ~~develop common standards and issue recommendations for best practices~~; **(Rapp. 105)**
- (aa) develop common standards and issue recommendations for best practices and monitor their implementation, in particular in relation to the implementation of the Union Customs Code; (Rapp. 106)***
- (b) carry out performance measurement for the customs union, and support the Commission in its evaluation of the performance of the customs union, ***including the measurement of operating costs incurred by customs authorities to carry out their activity***, in accordance with Title XV, Chapter 1; **(BUDG 16)**
- (c) prepare the minimum common training content for customs officers in the Union and monitor its use by customs authorities, ***including the content for the training referred to point (e) of Article 25(3) which shall be harmonised and on technology for big data analytics and detection and controls***; **(The Left 379, Rapp. 380)**
- (d) contribute to a -Union recognition system for universities and other schools that offer training and education programmes in the customs field;
- (e) coordinate and support the creation by the Member States of specialised centres of excellence for Union-wide purposes in relevant customs areas, in particular training and customs laboratories;
- (f) facilitate and coordinate research and innovation activities in the customs field, ***and regularly inform the EU Innovation Hub for Internal Security about its activities***; **(Rapp. 381)**
- (g) elaborate and disseminate operational manuals for the practical application of customs processes and working methods and develop common standards in this regard, ***including common guidelines on enforcement***; **(Rapp. 107)**
- (ga) issue recommendations addressed to the customs authorities for the application of Title IV; (Rapp. 108)***
- (h) issue an opinion on whether granting an authorisation for special procedures would adversely affect the interest of the Union producers, in accordance with Article 102(3), (4) and (5);
- (i) cooperate with Union bodies and national authorities other than customs in accordance with Article 240(9);
- (ia) new: providing support to the Commission for developing and implementing an operational strategy for activities relating to the allocation, funding and procurement of control equipment, including the assessment of needs, joint procurement and co-sharing of equipment. (BUDG 17)***
- (j) coordinate and support the operational cooperation between customs authorities and between customs authorities and other authorities at national level in accordance with Title XIII;
- (k) organise and coordinate the joint controls referred to in Article 241;

- (l) provide support and expertise to the Commission for the resolution of complex classification, valuation, and origin cases, and monitoring of decisions and the application of the decisions in this regard;
- (la) *prepare simplified guidelines and manuals for small and micro enterprises and support their understanding on Union customs legislation and formalities; (Rapp. 109)*

*The EU Customs Authority shall assist the Commission, at its request, in its management of relations with third countries and international organisations, relating to matters covered by this Regulation. ~~The EU Customs Authority may cooperate with the competent authorities of third countries and with international organisations competent in matters covered by this Regulation.~~ (Rapp. 110)*

- 4. The EU Customs Authority shall carry out data management and processing activities necessary for the fulfilment of its tasks and for developing the national applications referred to in Article 30 of this Regulation.

#### *Article 209*

#### **Other tasks**

~~The Commission may entrust to the EU Customs Authority the following tasks for the implementation of the customs related funding programmes:~~

- ~~(a) activities related to the development, operation and maintenance of the information technology systems used for the implementation of the Customs Union, such as the EU Customs Data Hub, as laid down in Title III;~~
- ~~(b) providing support to the Commission for developing and implementing an operational strategy for activities relating to the allocation, funding and procurement of control equipment, including the assessment of needs, joint procurement and co-sharing of equipment. BUDG 18~~

#### *Article 210*

#### **Further tasks**

The EU Customs Authority may be assigned further tasks in the area of free movement, import and export of third country goods, if so provided by relevant Union legal acts. Where such tasks are assigned or entrusted to the EU Customs Authority, appropriate financial and human resources shall be ensured for their implementation.

## **Chapter 3 Organisation of the EU Customs Authority**

#### *Article 211*

#### **Administrative and management structure**

The administrative and management structure of the EU Customs Authority shall comprise:

- (a) a Management Board, which shall exercise the functions set out in Article 215;
- (b) an Executive Board which shall exercise the functions set out in Article 217;

- (c) an Executive Director, who shall exercise the responsibilities set out in Article 219;
  - (d) a Deputy Executive Director, who shall exercise the responsibilities set out in Article 221, if the Management Board decides to create such a function.
- (d a) a Customs Advisory Board that shall exercise the functions set out in Article 221a (S&D 385)**

## SECTION 1 THE MANAGEMENT BOARD

### *Article 212*

#### **Composition of the Management Board**

1. The Management Board shall be composed of one representative from each Member State, ~~and~~ two representatives of the Commission ***and one representative expert of designated by the European Parliament***, all with voting rights. **(Rapp. 111, S&D 387, BUDG 19)**
2. ~~The Management Board shall also include one member designated by the European Parliament, without the right to vote. (Rapp. 112, S&D 389, BUDG 20)~~
3. Each member of the Management Board shall have an alternate. The alternate shall represent the member in his/her absence.
4. Members of the Management Board and their alternates shall be appointed in the light of their knowledge in the field of customs, taking into account ***their*** relevant managerial, administrative and budgetary skills, ~~and~~ ***experience with policies of the customs union***. All parties represented in the Management Board shall make efforts to limit turnover of their representatives, in order to ensure continuity of its work. All parties shall ~~aim~~ ***ensure*** to achieve a gender-balanced representation on the Management Board. **(Rapp. 113, BUDG 21)**
5. The term of office for members and their alternates shall be 4 years. That term shall be extendable ***for the same period***. **(Rapp. 114)**
- 5a. ***When a member of the Management Board or its alternate intends to end its term of office prematurely, the relevant member or its alternate shall inform the Chairperson and Deputy Chairperson of the Management Board thereof and on its replacement. (Rapp. 115)***
- 5b. ***Each member and alternate shall sign a written statement at the time of taking office declaring that he or she is not in the situation of conflict of interests. Each member and alternate shall update his or her statement in the case of a change of circumstances with regard to any conflict of interests, or at least on an annual basis. The Authority shall publish the statements and updates on its website. (BUDG 22)***

### *Article 213*

#### **Chairperson of the Management Board**



1. The Management Board shall elect a Chairperson from among the Commission representatives and a Deputy Chairperson from among its other members with voting rights.
2. The Deputy Chairperson shall automatically replace the Chairperson if he/she is prevented from attending to his/ her duties.
3. The term of office of the Chairperson and of the Deputy Chairperson shall be 4 years. Their term of office may be renewed once. If, however, their membership of the Management Board ends at any time during their term of office, their term of office shall automatically expire on that date.

#### *Article 214*

#### **Meetings of the Management Board**

1. The Chairperson shall convene the meetings of the Management Board.
2. The Executive Director shall take part in the deliberations, without the right to vote.
3. The Management Board shall hold at least two ordinary meetings a year. In addition, it shall meet on the initiative of its Chairperson, at the request of the Commission, or at the request of at least one third of its members.
4. The Management Board may invite any person whose opinion may be of interest to attend its meetings as an observer.
5. The members of the Management Board and their alternates may, subject to its rules of procedure, be assisted at the meetings by advisers or experts.
6. When a matter of confidentiality or conflict of interests is on the agenda, the Management Board shall discuss and decide on this matter without the presence of the member concerned. ***This shall not affect the right of the Member States, the European Parliament and of the Commission to be represented by an alternate ~~or~~ by any other person.*** Detailed rules for the application of this provision may be laid down in the rules of procedure. **(BUDG 23)**
7. The EU Customs Authority shall provide the secretariat for the Management Board.

#### *Article 215*

#### **Functions of the Management Board**

1. The Management Board shall:
  - (a) give the general orientations of the EU Customs Authority's activities;
  - (b) adopt, by a majority of two-thirds of members with voting rights, the annual budget of the EU Customs Authority and exercise other functions in respect of the EU Customs Authority's budget pursuant to Chapter 4;
  - (c) assess and adopt the consolidated annual activity report on the EU Customs Authority's activities, including an overview of the fulfilment of its tasks and its overall performance in achieving customs policy objectives, and send both the report and its assessment by 1 July each year to the European Parliament, the Council, the Commission and the Court of Auditors. The consolidated annual activity report shall be made public;

- (d) adopt the financial rules applicable to the EU Customs Authority in accordance with Article 222;
- (e) adopt an anti-fraud strategy, proportionate to risk of fraud taking into account the costs and benefits of the measures to be implemented;
- (f) adopt *and make publicly available the* rules for the prevention and management of conflicts of interests in respect of its members; and shall publish annually on its website the declaration of interests of the management board members; **(BUDG 24)**
- (g) adopt and regularly update the communication and dissemination plans referred to in Article 232, based on an analysis of needs;
- (h) adopt *and make publicly available* its rules of procedure;
- (i) in accordance with paragraph (2), exercise, with respect to the staff of the EU Customs Authority, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment<sup>13</sup> ('the appointing authority powers');
- (j) adopt implementing rules for giving effect to the Staff Regulations of Officials and the Conditions of Employment of Other Servants in accordance with Article 110(2) of the Staff Regulations;
- (k) establish, where appropriate, an internal audit capacity;
- (l) adopt the EU Customs Authority's security rules within the meaning of Article 233;
- (m) appoint the Executive Director and Deputy Executive Director, if such a post is created, and where relevant extend their terms of office or remove them from office in accordance with Article 217;
- (n) appoint an Accounting Officer, who may be the Commission's Accounting Officer, who shall be subject to the Staff Regulations of Officials and the Conditions of Employment of other servants and who shall be totally independent in the performance of his/her duties;
- (o) take all decisions on the establishment of the EU Customs Authority's internal structures and, where necessary, their modification taking into consideration the EU Customs Authority's activity needs and having regard to sound budgetary management.
- (p) authorise the conclusion of working arrangements in accordance with Article 240(9).
- (pa) *establish and adopt the rules of procedure of the Customs Advisory Board.***  
**(Rapp. 116)**
- (q) set up working groups and expert panels and adopt their rules of procedure;

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<sup>13</sup> Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1).

- (r) adopt the draft single programming document referred to in Article 223 before its submission to the Commission for its opinion;
  - (s) taking into account the opinion of the Commission, adopt the EU Customs Authority's single programming document by a majority of two-thirds of members with voting rights and in accordance with Article 216;
  - (t) adopt an efficiency gains and synergies strategy;
  - (u) adopt a strategy for cooperation with third countries and/or international organisations;
  - (v) adopt a strategy for the organisational management and internal control systems;
- 1a. *The Management Board may establish working groups and expert panels to assist it in carrying out its tasks, including the preparation of its decisions and monitoring the implementation thereof. (Rapp. 117)***
2. The Management Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and Article 6 of the Conditions of Employment, delegating relevant appointing authority powers to the Executive Director and setting out the conditions under which this delegation of powers can be suspended. The Executive Director shall be authorised to sub-delegate those powers.
  3. Where exceptional circumstances so require, the Management Board may, by way of decision, temporarily suspend the delegation of the appointing authority powers to the Executive Director and those sub-delegated by the Executive Director and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.

#### *Article 216*

#### **Voting rules of the Management Board**

1. Without prejudice to Article 215(1), points (b), (m) and (s), the Management Board shall take decisions by absolute majority of its members with voting rights.
- ~~2. The decision referred to in Article 215(1), points (b), (c), (e), (f), (j), (m), (n), (o) and (s) may only be taken if the representatives of the Commission cast a positive vote. For the purposes of taking the decision referred to in Article 215(1), point (s), the consent of the representatives of the Commission shall only be required on the elements of the decision not related to the annual and multi-annual work programme of the EU Customs Authority. BUDG 26~~
3. Each member with voting rights shall have one vote. In the absence of a member with the right to vote, his/her alternate shall be entitled to exercise his/her right to vote.
4. The Chairperson shall take part in the voting.
5. The Executive Director shall not take part in the voting.
6. The Management Board's rules of procedure shall establish more detailed voting arrangements, in particular the circumstances in which a member may act on behalf of another member.

## SECTION 2 THE EXECUTIVE BOARD

### *Article 217*

#### Executive Board

1. The Management Board shall be assisted by an Executive Board.
2. The Executive Board shall:
  - (a) supervise the preparatory work for decisions to be adopted by the Management Board;
  - (b) ensure, together with the Management Board, adequate follow-up to the findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of OLAF and of EPPO *as well as implement adequate procedures of reporting suspicions of criminal conduct to the latter; (Renew 394)*
  - (c) supervise the implementation of the decisions of the Management Board, with a view to reinforcing supervision of administrative and budgetary management.
3. When necessary, because of urgency, the Executive Board may take certain provisional decisions on behalf of the Management Board, in particular as regards the following matters:
  - (a) on administrative management matters, including the suspension of the delegation of the appointing authority powers and budgetary matters.
  - (b) where a crisis situation has been identified as laid down in Title XI, and requires immediate action or adjustment of the EU Customs Authority's activities.
5. The Executive Board shall be composed of the two representatives of the Commission to the Management Board and three other members appointed by the Management Board from among its members with the right to vote *and with the aim to ensure gender balance*. The Chairperson of the Management Board shall also be the Chairperson of the Executive Board. The Executive Director shall take part in the meetings of the Executive Board, but shall not have the right to vote. The decisions of the Executive Board shall be taken by simple majority. ~~Decisions with respect to paragraph (2), point (b) may only be taken if one representative of the Commission casts a positive vote. (BUDG 27)~~
6. The term of office of members of the Executive Board shall be 4 years, and shall be renewable. The term of office of members of the Executive Board shall end when their membership of the Management Board ends.
7. The Executive Board shall hold at least one ordinary meeting every three months. In addition, it shall meet on the initiative of its Chairperson or at the request of its members.
8. The Management Board shall lay down the rules of procedure of the Executive Board.

### SECTION 3 THE EXECUTIVE DIRECTOR

#### *Article 218*

##### **Appointment, dismissal, and extension of the term of office**

1. The Executive Director shall be engaged as a temporary agent of the EU Customs Authority in accordance with Article 2(a) of the Conditions of Employment of other servants.

The Executive Director shall be appointed by the Management Board ~~on grounds of merit and documented administrative and managerial skills, as well as relevant competence and experience, from a list of at least three candidates proposed by the Commission,~~ **in accordance with the** following ~~an open and transparent selection~~ procedure.:

- (a) *on the basis of a shortlist drawn up and published by the Commission ensuring gender balance after a call for candidates and a transparent selection procedure, applicants will be asked to address the competent committee of the European Parliament and the Council and to reply to questions;*
- (b) *the European Parliament and the Council will then give their opinions and state their preferences;*
- (c) *the Management Board will appoint the Executive Director taking those opinions into account.*

For the purpose of concluding the contract of the Executive Director, the EU Customs Authority shall be represented by the Chairperson of the Management Board. **(BUDG 28)**

2. The term of office of the Executive Director shall be 5 years. In due time before the end of that period, the Commission shall carry out an assessment that takes into account an evaluation of the performance of the Executive Director and the EU Customs Authority's future tasks and challenges.
3. The Management Board, acting on a proposal from the Commission ~~which~~ **that** takes into account the assessment referred to in paragraph 2, may extend the term of office of the Executive Director once for no more than 5 years. ***The Management Board shall inform the European Parliament and the Council about its intention to extend the Executive Director's mandate. Before the Management Board takes its decision to extend the mandate, the Executive Director may be asked to make a declaration before the competent committee of the European Parliament and answer questions. (BUDG 29)***
4. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.
5. The Executive Director may be removed from office only upon a decision of the Management Board acting on a proposal from the Commission. ***The European Parliament and the Council shall be informed of the reasons. (BUDG 30)***

6. The Management Board shall reach decisions on appointment, extension of the term of office or removal from office of the Executive Director and Deputy Executive Director on the basis of a two-thirds majority of its members with voting rights.

#### *Article 219*

#### **Tasks and responsibilities of the Executive Director**

1. The Executive Director shall manage the EU Customs Authority. The Executive Director shall be accountable to the Management Board.
2. Without prejudice to the powers of the Commission and the Management Board, the Executive Director shall be independent in the performance of his/her tasks and shall neither seek nor take instructions from any government nor from any other body.
3. The Executive Director shall report to the European Parliament and the Council on the performance of his or her duties and the overall performance of the EU Customs Authority when invited to do so. ***The Executive Director may be called upon at any time by the European Parliament or by the Council to attend a hearing on any matter linked to the Agency's activities. (BUDG 31)***
4. The Executive Director shall be the legal representative of the EU Customs Authority.
5. The Executive Director shall be responsible for the implementation of the tasks assigned to the EU Customs Authority by this Regulation. In particular, the Executive Director shall:
  - (a) ensure the ***sustainable and efficient*** day-to-day administration of the EU Customs Authority; **(BUDG 32)**
  - (b) implement decisions adopted by the Management Board;
  - (c) prepare the draft single programming document referred to in Article 223 and submit it to the Management Board after consulting the Commission;
  - (d) implement the single programming document referred to in Article 223 and report to the Executive Board and the Management Board on its implementation;
  - (e) prepare the consolidated annual report on the EU Customs Authority's activities and present them to the Management Board for assessment and adoption;
  - (f) prepare an action plan following up on the conclusions of internal or external audit reports and evaluations, as well as on investigations by OLAF and by the EPPO, and report on progress twice a year to the Commission and regularly to the Executive Board and the Management Board, ***as well as, where applicable, ensuring reporting of suspicions of criminal conduct to EPPO;*** **(Renew 395)**
  - (g) without prejudice to the investigative competence of the EPPO and of OLAF, protect the financial interests of the Union by applying internal preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative and financial penalties;

- (h) prepare an internal anti-fraud strategy, an efficiency gains and synergies strategy, a strategy for cooperation with third countries and/or international organisations and a strategy for the organisational management and internal control systems, for the EU Customs Authority and present it to the Management Board for approval;
- (i) prepare draft financial rules applicable to the EU Customs Authority and submitting them to the Management Board for adoption after consulting the Commission;
- (j) prepare provisional draft statements of estimates of the EU Customs Authority's revenue and expenditure in accordance with Article 224, and implementing its budget;
- (k) with regard to the EU Customs Authority's staff, exercise the powers of the appointing authority referred to in Article 215(1), point (i), to the extent that those powers have been delegated to him or her in accordance with Article 215(2);
- (l) taking decisions with regard to the EU Customs Authority's internal structures including, where necessary, deputising functions which may cover the day-to-day management of the EU Customs Authority and, where necessary, their amendment, taking into account the needs relating to the EU Customs Authority's activities and sound budgetary management;
- (m) negotiating and, after approval by the Management Board, signing a Headquarters Agreement concerning the seat of the EU Customs Authority, and, where applicable, similar agreements with the host Member States where local offices are located;
- (n) preparing the practical arrangements for the implementation of Regulation (EC) No 1049/2001 of the European Parliament and of the Council<sup>14</sup> and submitting them to the Management Board for adoption;
- (o) promote diversity and aim at ensuring gender balance as regards the recruitment of the EU Customs Authority's staff;
- (p) aiming at recruiting staff on the broadest possible geographical basis, bearing in mind that recruitment criteria must solely be based on merits.

#### *Article 220*

#### **Deputy Executive Director**

1. The Management Board may decide to create a function of a Deputy Executive Director to assist the Executive Director.
2. In the case the Management Board decides to create a function of a Deputy Executive Director, the provisions of Article 217 shall apply to the Deputy Executive Director accordingly.

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<sup>14</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

*Article 221*

**Tasks and Responsibilities of the Deputy Executive Director**

If the function of the Deputy Executive Director is created, the Deputy Executive Director shall assist the Executive Director in the management of the Agency and in the performance of the tasks referred to in Article 218. If the Executive Director is absent or indisposed, or the post is vacant, the Deputy Executive Director shall take his or her place.

~~*Section 3*~~

~~*Customs Advisory Board*~~

~~*Article 221a*~~

~~*Customs Advisory Board*~~

- ~~1. *The EU Customs Authority shall establish a Customs Advisory Board to assist the Executive Board.*~~
- ~~2. *The Customs Advisory Board shall be represented by all relevant stakeholders;*~~
- ~~3. *The Customs Advisory Board shall be consulted regularly prior to decisions of the Management Board. The opinion of the Customs Advisory Board are not binding.*~~  
~~*(Rapp. 116, S&D 389, 391, EPP 392)*~~

*Article 221a*

*Customs Advisory Board*

1. *The EU Customs Authority shall establish a Customs Advisory Board to assist the Executive Board;*
2. *The Customs Advisory Board is tasked to provide advice;*
  - a) *on the implementation of technical actions and decisions, including risk management and priority areas of control;*
  - b) *on implementation and standardisation issues, including harmonisation activities or the need for the adaptation of the rules;*
  - c) *provide advice on the customs dimensions of other legislation applied by customs;*
  - d) *provide advice as appropriate in the context of any other activities of the Authority upon request;*
3. *The Customs Advisory Board shall be comprised of representatives and associations for any relevant stakeholders to the work of the EU Customs Authority; its composition shall be determined by the Management Board;*



4. *The Management Board shall appoint four of the members of the Customs Advisory Board, one of which its chair, to participate with observer status in the Management Board. They shall represent, as broadly as possible, the different views represented in the Customs Advisory Board. The initial term of office shall be 48 months and shall be extendable;*
5. *The Customs Advisory Board shall be consulted regularly prior to decisions of the Management Board. This may take place via the use of ad-hoc expert working groups. The Management Board shall not, in any case, be bound by the opinion of the Customs Advisory Board.*
6. *The Customs Advisory Board shall hold at least one ordinary meeting every six months. In addition, it may meet at the request of the EU Customs Authority or Executive Board.*

(Rapp. 116, S&D 389, 391, EPP 392, Green 396, INTA 149)

## **Chapter 4**

### **Establishment and structure of the budget of the EU Customs Authority**

#### *Article 222*

##### **General provisions**

The financial rules applicable to the EU Customs Authority shall be adopted by the Management Board after consulting the Commission. They shall not depart from Commission Delegated Regulation (EU) 2019/715<sup>15</sup> unless such a departure is specifically required for the EU Customs Authority's operation and the Commission has given its prior consent.

#### *Article 223*

##### **Single programming document**

1. Each year, the Executive Director shall draw up a draft single programming document containing in particular multiannual and annual programming in accordance with the provisions laid down in Commission Delegated Regulation (EU) 2019/715, and with the relevant provision of the EU Customs Authority's financial rules adopted pursuant to Article 222 of this Regulation and taking into account guidelines set by the Commission. The annual and multiannual programming shall be in line with the customs policy and overall priorities of the customs union.

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<sup>15</sup> Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (OJ L 122, 10.5.2019, p. 1).

2. The Management Board shall transmit the draft single programming document to the Commission, the European Parliament and the Council and to the European Court of Auditors by 31 January of the year preceding the programming period.
3. By 30 November each year, the Management Board shall adopt the single programming document. It shall forward the single programming document to the European Parliament, the Council and the Commission, as well as any later updated version of that document. The single programming document shall become definitive after final adoption of the general budget of the Union and, if necessary shall be adjusted accordingly.
4. The annual work programme shall set out detailed objectives and expected results including performance indicators. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action. The annual work programme shall be consistent with the multiannual work programme referred to in paragraph 5. It shall clearly indicate tasks that have been added, changed or deleted in comparison with the previous financial year. The Management Board shall amend the adopted annual work programme when a new task is given to the EU Customs Authority within the scope of this Regulation. Any substantial amendment to the annual work programme shall be adopted in accordance with the same procedure as the initial annual work programme. The Management Board may delegate the power to make non-substantial amendments to the annual work programme to the Executive Director.
5. The multiannual work programme shall set out the overall strategic programming including objectives, expected results and performance indicators. It shall also show, for each activity, the indicative financial and human resources considered necessary to attain the objectives set. The strategic programming shall be updated where appropriate, and shall demonstrate the contribution of the EU Customs Authority to the achievement of the Union's political priorities.

#### *Article 224*

#### **Establishment of the budget**

1. Each year, the Executive Director shall draw up a provisional draft statement of estimates of the EU Customs Authority's revenue and expenditure for the following financial year, including the establishment plan, and send it to the Management Board. The information contained in the provisional draft statement of estimates shall be consistent with the draft single programming document referred to in Article 223(1).
2. The Management Board shall, on the basis of the provisional draft statement of estimates referred to in paragraph 1, adopt a draft statement of estimates of the EU Customs Authority's revenue and expenditure for the following financial year.
3. The Management Board shall send the draft statement of estimates of the EU Customs Authority's revenue and expenditure to the Commission by 31 January each year.
4. The Commission shall send the draft statement of estimates to the budgetary authority together with the draft general budget of the European Union.
5. On the basis of the draft statement of estimates, the Commission shall enter in the draft general budget of the Union the estimates it considers necessary for the

establishment plan and the amount of the contribution to be charged to the general budget, which it shall place before the budgetary authority in accordance with Articles 313 and 314 TFEU.

6. The budgetary authority shall authorise the appropriations for the contribution from the general budget of the Union to the EU Customs Authority.
7. The budgetary authority shall adopt the EU Customs Authority's establishment plan.
8. The Management Board shall adopt the EU Customs Authority's budget. That budget shall become final following the final adoption of the general budget of the Union. Where necessary, the EU Customs Authority's budget shall be adjusted accordingly.

#### *Article 225*

#### **Structure of the budget**

1. Estimates of all revenue and expenditure of the EU Customs Authority shall be prepared each financial year and shall be shown in the EU Customs Authority's budget. The financial year shall correspond to the calendar year.
2. The EU Customs Authority's budget shall be balanced in terms of revenue and of expenditure.
3. Without prejudice to other resources, the EU Customs Authority's revenue shall comprise:
  - (a) a contribution from the Union entered in the general budget of the Union;
  - (b) any voluntary financial contribution from the Member States;
  - (c) possible Union funding in the form of contribution agreements or grants in accordance with the EU Customs Authority's financial rules referred to in Article 222 and with the provisions of the relevant instruments supporting the policies of the Union;
  - (d) charges for publications and any service provided by the EU Customs Authority.
4. The expenditure of the EU Customs Authority shall include staff remuneration, administrative and infrastructure expenses and operational expenditure.
5. Budgetary commitments for actions relating to large-scale projects extending over more than one financial year may be broken down into several annual instalments.

#### *Article 226*

#### **Implementation of the EU Customs Authority's budget**

1. The Executive Director shall implement the EU Customs Authority's budget.
2. Each year, the Executive Director shall send to the budgetary authority all the information needed for the exercise of its evaluation duties.

#### *Article 227*

#### **Presentation of accounts and discharge**

1. The following financial year (year N+1) the EU Customs Authority's accounting officer shall send the provisional accounts for the financial year (year N) to the Commission's Accounting Officer and to the Court of Auditors by 1 March of the following financial year (year N+1).
2. By 31 March of year N+1, the EU Customs Authority shall send the report on the budgetary and financial management for year N to the European Parliament, the Council and the Court of Auditors.
3. By 31 March of year N+1, the Commission's accounting officer shall send the EU Customs Authority's provisional accounts, consolidated with the Commission's accounts, to the Court of Auditors.
4. On receipt of the Court of Auditors' observations on the EU Customs Authority's provisional accounts pursuant to Article 246 of Regulation (EU, Euratom) 2018/1046<sup>16</sup> of the European Parliament and of the Council, the EU Customs Authority's accounting officer shall draw up the EU Customs Authority's final accounts for that year. The Executive Director shall send them to the Executive Board for an opinion. That opinion shall be adopted by the Management Board.
5. The EU Customs Authority's accounting officer shall, by 1 July of year N+1, send the final accounts for year N to the European Parliament, the Council, the Commission and the Court of Auditors, together with the opinion adopted by the Management Board.
6. The final accounts for year N shall be published in the Official Journal of the European Union by 15 November of year N+1.
7. The Executive Director shall send a reply to the Court of Auditors' observations by 30 September of year N+1. The Executive Director shall also send that reply to the Management Board.
8. The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year N, in accordance with Article 261(3) of Regulation (EU, Euratom) 2018/1046.
9. On a recommendation from the Council acting by a qualified majority, the European Parliament shall, before 15 May of year N+2, give a discharge to the Executive Director in respect of the implementation of the budget for year N.

#### *Article 228*

#### **Combating fraud**

1. In order to combat fraud, corruption and other unlawful activities within the EU Customs Authority, the provisions of Regulation (EU, Euratom) No 883/2013 shall apply without restriction.

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<sup>16</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

2. The EU Customs Authority shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by OLAF<sup>17</sup> within six months from [XXX] and shall adopt the appropriate provisions applicable to its staff using the template set out in the Annex to that Agreement.
3. The European Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds from the EU Customs Authority.
4. OLAF may carry out investigations, including on-the-spot checks and inspections with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the EU Customs Authority, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and Council Regulation (Euratom, EC) No 2185/96<sup>18</sup>.
5. Without prejudice to paragraphs 1, 2, 3, and 4, contracts, grant agreements and grant decisions of the EU Customs Authority shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences. Working arrangements with competent authorities of third countries and international organisations shall cover the assistance and cooperation of those authorities and international organisation in relation to audits and investigations carried out by the Court of Auditors and OLAF.
6. In accordance with Regulation (EU) 2017/1939, EPPO ***is responsible for investigating and prosecuting*** ~~may investigate and prosecute~~ fraud and other illegal activities affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>19</sup>. ***The EU Customs Authority or the relevant national competent authorities shall without undue delay report those activities falling to the EPPO any criminal conduct in respect of which it could exercise its competence in accordance with Article 22 and Article 25(2) and (3) of that Regulation. The EU Customs Authority or the relevant national competent authorities shall report those activities falling to the EPPO.*** (Renew 395, 397, Greens/EFA 398)

## Chapter 5 Provisions on staff

### *Article 229*

#### General provision

The Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union and the rules adopted by agreement between the Union institutions for giving

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<sup>17</sup> OJ L 136, 31.5.1999, p. 15.

<sup>18</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

<sup>19</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

effect to the Staff Regulations of Officials and the Conditions of Employment of Other Servants shall apply to the staff of the EU Customs Authority.

*Article 230*

**Seconded national experts and other staff**

1. The EU Customs Authority may make use of seconded national experts or other staff not employed by the EU Customs Authority.
2. The Management Board shall adopt a decision laying down rules on the secondment of national experts to the EU Customs Authority.

*Article 231*

**Privileges and immunities**

Protocol No 7 on the Privileges and Immunities of the European Union annexed to the Treaty on the Functioning of the European Union shall apply to the EU Customs Authority and its staff.

## **Chapter 6 General and final provisions**

*Article 232*

**Transparency and Communication**

1. Regulation (EC) No 1049/2001 shall apply to documents held by the EU Customs Authority. The Management Board shall, within six months of the date of its first meeting, adopt the detailed rules for applying Regulation (EC) No 1049/2001.
2. The processing of personal data by the EU Customs Authority shall be subject to Regulation (EU) 2018/1725. The Management Board shall, within six months of the date of its first meeting, establish measures for the application of Regulation (EU) 2018/1725 by the EU Customs Authority, including those concerning the appointment of a Data Protection Officer of the EU Customs Authority. Those measures shall be established after consultation of the European Data Protection Supervisor.
3. The EU Customs Authority may engage in communication activities on its own initiative within its field of competence. The allocation of resources to communication activities shall not be detrimental to the effective exercise of the tasks of the EU Customs Authority. Communication activities shall be carried out in accordance with relevant communication and dissemination plans adopted by the Management Board.

*Article 233*

**Security rules on the protection of classified and sensitive non-classified information**

1. The EU Customs Authority shall adopt its own security rules that shall be based on the principles and rules laid down in the Commission's security rules for protecting European Union classified information (EUCI) and sensitive non-classified information including, inter alia, provisions for the exchange of such information with third countries, and processing and storage of such information as set out in

Commission Decisions (EU, Euratom) 2015/443<sup>20</sup> and (EU, Euratom) 2015/444<sup>21</sup>. Any administrative arrangement on the exchange of classified information with the relevant authorities of a third country or, in the absence of such arrangement, any exceptional ad hoc release of EUCI to those authorities, shall be subject to the Commission's prior approval.

2. The management board shall adopt the EU Customs Authority's security rules following approval by the Commission. When assessing the proposed security rules, the Commission shall ensure that they are compatible with Decisions (EU, Euratom) 2015/443 and (EU, Euratom) 2015/444.
3. Members of the Management Board, the Executive Director, external experts participating in ad hoc working groups, and members of the staff of the EU Customs Authority shall comply with the confidentiality requirements under Article 339 TFEU, even after their duties have ceased.
4. The EU Customs Authority may take the necessary measures to facilitate the exchange of information relevant to its tasks with the Commission and the Member States and, where appropriate, the relevant Union institutions, bodies, offices and agencies. Any administrative arrangements concluded to that end with regard to the sharing of EU classified information (EUCI) or, in the absence of such arrangements, any exceptional ad hoc release of EUCI, shall have received the Commission's prior approval.

#### *Article 234*

#### **Language arrangements**

1. The provisions laid down in Council Regulation No 1<sup>22</sup> shall apply to the EU Customs Authority.
2. The Management Board shall decide on the internal language arrangements for the EU Customs Authority.
3. The translation services required for the functioning of the EU Customs Authority shall be provided by the Translation Centre for the Bodies of the European Union.

#### *Article 235*

#### **Evaluation**

1. Not later than [OP please insert the date = 54 years after the date of entry into force of this Regulation], and every 54 years thereafter, the Commission shall ensure that an evaluation in accordance with Commission guidelines of the EU Customs Authority's performance in relation to its objectives, mandate, tasks and governance and location(s) is carried out. **(Rapp. 118)**

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<sup>20</sup> Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

<sup>21</sup> Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

<sup>22</sup> Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

2. The evaluation shall, in particular, address the possible need to modify the mandate of the EU Customs Authority, and the financial implications of any such modification.
3. On the occasion of every second evaluation referred to in paragraph 1, the results achieved by the EU Customs Authority shall be assessed, having regard to its objectives, mandate, tasks and governance, ~~including an assessment of whether the continuation of the EU Customs Authority is still justified with regard to those objectives, mandate, governance and tasks.~~ **(Rapp. 119)**
4. The Commission shall report to the European Parliament and the Council on the findings of the evaluation referred to in paragraph 2. The findings of the evaluation shall be made public.

#### *Article 236*

##### **Liability of the EU Customs Authority**

1. The contractual liability of the EU Customs Authority shall be governed by the law applicable to the contract in question.
2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the EU Customs Authority.
3. In the event of non-contractual liability, the EU Customs Authority shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its staff in the performance of their duties.
4. The Court of Justice of the European Union shall have jurisdiction in disputes over compensation for the damage referred to in paragraph 3.
5. The personal liability of its staff towards the EU Customs Authority shall be governed by the provisions laid down in the Staff Regulations of Officials or Conditions of Employment of Other Servants applicable to them.
6. The financial liability of the Union and the Member States for the debts of the EU Customs Authority shall be limited to their contribution already made for the administrative costs.

#### *Article 237*

##### **Headquarters Agreement and operating conditions**

1. The necessary arrangements concerning the accommodation to be provided for the EU Customs Authority in the host Member State and the facilities to be made available by that Member State together with the specific rules applicable in the host Member State to the Executive Director, members of the Management Board, EU Customs Authority staff and members of their families shall be laid down in a Headquarters Agreement between the EU Customs Authority and Member State where the seat is located, concluded after obtaining the approval of the Management Board and no later than ...[OP please insert the date = two years after the date of entry into force of this Regulation].



2. The EU Customs Authority's host Member State shall provide the best possible conditions to ensure the functioning of the EU Customs Authority, including multilingual, European-oriented schooling and appropriate transport connections.
3. Where exceptional circumstances so require, the Executive Director may decide to establish ~~a local office in another Member State~~ **offices in other Member States** for the purposes of carrying out the EU Customs Authority's tasks in a more, efficient, effective and coherent manner. **(BUDG 34)**

Before deciding to establish a local office, the Executive Director shall obtain the prior consent of the Commission, the Management Board and the Member State concerned. The decision shall be based on an appropriate cost-benefit analysis that demonstrates in particular the added value of such decision. The decision shall specify the scope of the activities to be carried out at the local office in a manner that avoids unnecessary costs and duplication of administrative functions of the EU Customs Authority.

#### *Article 238*

##### **Start of the EU Customs Authority's activities**

1. The EU Customs Authority is established as of 2026 and shall become fully operational ~~by~~ **as of 1 January 2028. (Rapp. 120)**
2. The Commission shall be responsible for the establishment and initial operation of the EU Customs Authority until the EU Customs Authority has the operational capacity to implement its own budget. For that purpose:
  - (a) until the Executive Director takes up his or her duties following his or her appointment by the Management Board in accordance with Article [218](#) the Commission may designate a Commission official to act as interim Executive Director and exercise the duties assigned to the Executive Director;
  - (b) by derogation from Article 215(1), point (i) and until the adoption of a decision as referred to in Article 215(2), the interim Executive Director shall exercise the appointing authority powers;
  - (c) the Commission may offer assistance to the EU Customs Authority, in particular by seconding Commission officials to carry out the activities of the EU Customs Authority under the responsibility of the interim Executive Director or the Executive Director;
  - (d) the interim Executive Director may authorise all payments covered by appropriations entered in the EU Customs Authority's budget and may conclude contracts, including staff contracts, following the adoption of the EU Customs Authority's establishment plan.

## **Compromise Amendment 14 on Title XIII - Customs cooperation**

Compromise amendment replacing all relevant amendments, including AMs 121-124, 399-411, INTA 156-159, CONT 77-81

### **Title XIII CUSTOMS COOPERATION**

#### *Article 239*

##### **Internal customs cooperation**

1. Without prejudice to the provisions of Regulation (EC) No 515/97, customs authorities shall cooperate with each other, with the Commission and with the EU Customs Authority in accordance with the customs legislation and any other Union legislation providing for such cooperation, with a view to ensuring a correct and uniform application of those legislations and supporting the achievement of their mission, as set out in Article 2.
2. Customs authorities may temporarily make customs officers available to work in the customs authorities of another Member State. The EU Customs Authority shall be informed and may coordinate such assignments.
3. Customs authorities may carry out joint controls in addition to those provided for in Article 241. The customs authorities shall inform the EU Customs Authority of such joint controls.
4. The Commission, OLAF and the EU Customs Authority may exchange data relevant for the cooperation referred to in this Title, including risk information. The EU Customs Authority shall ensure the effective use of such information in its risk management activities in accordance with this Title and Title [XII](#).

#### *Article 239a*

##### ***Platform on the reporting of goods***

1. ***The EU Customs Authority shall set up a platform on the reporting of goods (the “Platform”) to give authorities, businesses, consumers and citizens the opportunity to report goods that enter the internal market and are not in compliance with conformity standards and/or with relevant Union legislation.***
2. ***The platform shall be set as an online platform, be easily accessible, intelligible and available in all official languages of the Union.***
3. ***The EU Customs Authority shall assess the information obtained via the platform and if necessary, notify the customs authority(-ies) of one or more Member States, in which a reported good has been placed. The Customs Authority shall only assess***

*those reported goods that have been placed on the market in one or more Member States.*

4. *The notified customs authority referred to paragraph 3 shall cooperate with other authorities at national level, including, but not limited to, market surveillance authorities, sanitary and phytosanitary authorities, law enforcement authorities and tax authorities when implementing measures to remove a reported good from the internal market. The notified customs authority shall report on these measures to the EU Customs Authority by 30 calendar days after a measure has been taken.*
5. *The EU Customs Authority shall ensure that all relevant data related to reported goods is available in the EU Customs Data Hub. The EU Customs Authority may request customs authorities to submit relevant data for that purpose. (Rapp. 121)*

#### *Article 240*

##### **Framework for cooperation with other authorities**

1. Customs authorities shall cooperate with other authorities at national level, including, but not limited to, market surveillance authorities, sanitary and phytosanitary authorities, law enforcement authorities and tax authorities, in the field other legislation applied by the customs authorities, collection of duties and taxes and other relevant fields of cooperation. Where appropriate, customs authorities shall also cooperate with relevant bodies, expert groups, agencies, offices or networks coordinating the activities of other authorities at Union level. Where appropriate, customs authorities shall also cooperate with other relevant parties at EU level, as referred to in paragraph 9, and the involved customs authorities shall notify the EU Customs Authority.
2. The cooperation referred to in paragraph 1 shall take place regularly and in a structured way. It shall pursue, in particular, the following objectives:
  - (a) contributing to and following legislative developments in policy areas of relevance for customs;
  - (b) the exchange of data, in particular data relevant for risk management in accordance with Title IV, Chapter 3;
  - (c) the development of coherent and coordinated supervision strategies for risk management of goods under the areas of responsibilities of both customs authorities and other authorities, in accordance with Title IV, Chapter 3;
  - (d) the operational implementation, including performance of joint controls in accordance with Article 241-;

*(da) the exchange of skills and best practices through joint trainings on how to detect non-compliant products, including keeping up to date to any other Union legislation that sets compliance requirements such as those related to product safety and sustainability. (S&D 241, INTA 157)*
3. The EU Customs Authority shall, without prejudice to the powers of the Commission and subject to its prior approval, conclude working arrangements to develop and update a framework for the cooperation referred to in paragraph 1, involving other

relevant parties, as referred to in paragraph 9, providing orientations for its practical implementation, objectives and key areas of cooperation, in accordance with paragraph 2 of this Article and Title III of this Regulation.

**3a. *Customs authorities shall immediately alert competent Union and national authorities of any suspected infringement of Union legislation and send a notification to the EU Customs Data Hub. (Rapp. 122, S&D 399, Greens/EFA 400)***

4. Where a customs authority cooperates with another authority in a different Member State, it shall notify the customs authority of that Member State. Where the cooperation involves more than two Member States, the involved customs authorities shall notify the EU Customs Authority, who may provide operational and coordination support in accordance with Article 208.

5. The Member States shall report on an annual basis to the EU Customs Authority on the application of the framework for cooperation. The EU Customs Authority shall take into account the findings of this reporting in its monitoring activities referred to in Article 208(3), point (a), and its performance measurement tasks referred to in Article 208(3), point (b).

6. Until the date indicated in Article 238(1), the Commission may carry out the tasks of the EU Customs Authority, as referred to in paragraph 3.

7. The EU Customs Authority may cooperate with other authorities at national level, and with the Commission and other Union institutions, offices, agencies, networks and bodies, in order to contribute to the objectives referred to in paragraph 2, and to the framework for cooperation referred to in paragraph 3.

To that end, the EU Customs Authority may, subject to the authorisation of its Management Board and after the approval by the Commission, establish working arrangements with the Union bodies or other authorities at national level. Those administrative arrangements shall not create legal obligations and shall define the nature, extent and manner in which the intended cooperation shall take place.

8. The EU Customs Authority shall closely cooperate with OLAF *and EPPO* where fraud or suspicion of fraud occurs in any of its cooperation activities. **(Renew 402)**

9. The EU Customs Authority may develop a framework for operational cooperation with other EU bodies, including Europol and Frontex, in accordance with paragraphs 2, 4 and 5, and may participate in and contribute to strategic analyses and threat assessments, policy cycles, innovation programmes, training activities, networks and other activities which are relevant for the implementation of its tasks and are organised by such other bodies.

#### *Article 241*

#### **Joint controls**

1. The EU Customs Authority shall plan, organise and coordinate joint controls that are carried out by customs authorities, where relevant in cooperation with other authorities, bodies and agencies *including Europol* in accordance with Article 240(9). **(Rapp 403)**

2. For this purpose, the EU Customs Authority shall follow the customs policy priorities and ensure the necessary links and coordination with *the* anti-fraud activities *of OLAF, Europol* and national customs investigations, *as well as the criminal investigations of*

***EPPO or other competent national authorities. (Renew 404, Greens/EFA 405, Rapp 406)***

3. To allow the EU Customs Authority to draw up a report and perform an evaluation, the customs authorities shall provide feedback to the EU Customs Authority on the activities and controls they have carried out in the context of a joint control.

*Article 242*

**Actions to be taken by the customs authorities**

1. In accordance with the other legislation applied by the customs authorities, the customs authorities may take any of the following measures:
  - (a) collecting specific data for all consignments, including automated checks of Union non-customs formalities, provided that they are stored in a Union central registry;
  - (b) providing statistics, analytics and trends, in particular in the area of risks;
  - (c) facilitating and coordinating the controls by other authorities;
  - (d) carrying out controls on certain consignments, selected on the basis of risk management in accordance with Title IV and taking into account the analysis referred to in point (b);
  - (e) consulting other authorities before release of the goods in accordance with Article 60;
  - (f) taking any necessary measure on non-compliant goods, including confiscation, sale or destruction of those goods;
  - (g) implementing the framework for cooperation referred to in Article 240;
  - (h) alerting other authorities about risks relevant for their work, ***as well as reporting suspicions of fraud and crime; (Greens/EFA 407)***
  - (i) following-up where the movement of goods is infringing other legislation applied by the customs authorities;
  - (j) any other complementary action.
2. A Member State may designate a specialised customs border crossing point, on certain other legislation applied by the customs authorities. The constraints resulting from such designation to pass through a specialised customs border crossing points must not be disproportionate, as far as economic operators are concerned, to the objective in question, having due regard to the circumstances which may justify that obligation.
3. The Member State shall notify the EU Customs Authority about the designation referred to in paragraph 2 and the EU Customs Authority shall keep up to date and publish a list of these specialised customs border crossing points .
4. In order to facilitate the identification, application and enforcement of other legislation applied by the customs authorities, the Commission shall draw up and regularly update an integrated list of Union legislation laying down requirements applicable to goods subject to customs controls aimed at protecting public interests and publish it on its website.

5. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining any other complementary action as referred to in paragraph (1), point (j).

#### *Article 243*

#### **International customs cooperation**

The EU Customs Authority *shall*, without prejudice to the powers of the Commission and subject to its prior approval, conclude working arrangements with the authorities of third countries and international organisations. ***These arrangements shall empower the EU Customs Authority to exchange information with the authorities of third countries and international organisations, including best practices, and to conduct joint activities.*** These arrangements shall not create legal obligations incumbent on the Union. **(Rapp. 123, S&D 408)**

#### *Article 244*

#### **Exchange of data with third countries**

1. The Commission, the customs authorities and the EU Customs Authority may exchange and share data with customs authorities and other authorities of third countries for the purpose of customs cooperation, where an international agreement of the Union, customs legislation, Union legislation in the area of the common commercial policy or common foreign and security policy, as well as Union other legislation applied by the customs authorities, provides for such an exchange and it is ensured that the transfer of personal data is in conformity with the provisions of Chapter V of Regulation (EU) 2018/1725 or Chapter V of Regulation (EU) 2016/679 respectively.

The Commission shall be informed about exchanges of data between customs authorities and the EU Customs Authority with customs authorities and other authorities of third countries.

2. The exchange referred to in paragraph 1 may concern, in particular, the following categories of data:
  - (a) data elements included in decisions taken by the customs authorities or similar decisions taken in third countries, relating to binding information, authorised economic operator status, customs valuation, customs status of goods or special procedures;
  - (b) data elements included in declarations, notifications and proof of the customs status of goods and in supporting documents, lodged either with the customs authorities of the Member States or the Commission, or with the authorities of third countries competent for customs matters, on the other, or issued by those authorities;
  - (c) data on risks identified, findings made and results obtained by the customs authorities of the Member States or the Commission, on the one hand, and the authorities of third countries competent for customs matters, on the other, in the course of performing their risk analysis and controls.

3. The exchange referred to in paragraph 1 shall take place through appropriate secure means of communication, either upon request or on own initiative, and is subject to the respect for confidential data and the protection of personal data in accordance with Articles 31, [35 and paragraph 1 of this Article](#).
4. The exchange referred to in paragraph 1 is without prejudice to exchanges of information conducted under the mutual administrative assistance provisions contained in agreements between the Union and third countries and to the provisions of Regulation (EC) 517/97.
5. A Member State may be empowered in accordance with the procedures and conditions laid down in a delegated act adopted in accordance with paragraph 6 to enter into negotiations with a third country with a view to concluding a bilateral agreement on the exchange referred to in paragraph 1 or to maintain an existing agreement. Such a bilateral agreement will cease to apply upon the entry into force of an agreement providing for exchange of customs information between the Union and the third country concerned.
6. The Commission is empowered to adopt a delegated act in accordance with Article 261, to supplement this Regulation by determining the conditions and procedures according to which a Member State can be empowered to enter into negotiations referred to in paragraph 5. These shall include a notification by the Member State concerned to the Commission and all other Member States of the possible content of the bilateral agreement and an assessment by the Commission of its impact on Union law and future negotiations at Union level, including whether its content is limited to implementation of Union or international law obligations. The delegated act shall also provide for the monitoring of the implementation of those agreements.
- 8.7. ***Implementing powers shall be conferred on the Commission to adopt, within 60 days from receipt of the notification, an implementing act to*** ~~decide within 90 days from receipt of the notification, by means of an implementing act,~~ whether to authorise the Member State to enter into the bilateral agreement. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 262(2). **(Rapp. 124)**

On imperative grounds of urgency relating to such authorisation, duly justified by the need to rapidly allow for the requested exchange of information, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 262(5).

## **Compromise Amendment 15 on Title XIV - Customs infringements and non-criminal sanctions**

Compromise amendment replacing all relevant amendments, including AMs 412-417, 419, INTA 160-162, BUDG 35-36

### **Title XIV COMMON PROVISIONS ON CUSTOMS INFRINGEMENTS AND ON NON-CRIMINAL SANCTIONS**

#### **Chapter 1 General provisions**

##### *Article 245*

##### **Subject matter**

This Title establishes a list of customs infringements and non-criminal sanctions for those infringements. It does not prevent Member States from taking more stringent measures by providing for administrative or criminal sanctions in accordance with their national law. Neither does it affect other infringements provided for under Union legislation.

##### *Article 246*

##### **General requirements**

1. Acts or omissions referred to in Article [252](#) constitute customs infringements.
2. Inciting or aiding and abetting an act or omission referred to in Article [252](#) constitutes a customs infringement.  
An attempt to commit an act or omission referred to in Article 252 constitutes a customs infringement.
3. Member States shall determine whether the infringements referred to in Article [252](#) are committed intentionally or by obvious negligence or manifest error.
4. Clerical or minor errors shall not constitute a customs infringement unless the customs authority can establish that they were committed intentionally, or as a result of obvious negligence or manifest error.
5. In case of an act or an omission resulting in a customs infringement referred to in Article [252](#) and committed as a reaction to abnormal and unforeseeable circumstances extraneous to the person concerned, the consequences of which, in spite of the exercise of all due care, could not have been avoided, the responsibility of the person that committed it is excluded.



*Article 247*

**Extenuating and mitigating circumstances**

1. When the person responsible for an act or an omission resulting in a customs infringement referred to in Article [252](#) provides the evidence that that person acted in good faith, it is taken into account in determining the sanction referred to in Article 254.
2. The following circumstances shall be taken into account for reducing the sanction to be applied for the customs infringement:
  - (a) the goods involved are not subject to the other legislation applied by the customs authorities;
  - (b) the customs infringement has no impact on the determination of the amount of customs duties and other taxes to be paid;
  - (c) the person responsible for the customs infringement cooperates effectively with the customs authority.

***(ca new) the complexity of the underlying transaction, the number of similar transactions (INTA 160)***

*Article 248*

**Aggravating circumstances**

The following circumstances shall be taken into account for aggravating the sanction referred to in Article 254 to be applied for the customs infringements:

- (a) the person responsible for the customs infringement has been sanctioned previously for a customs infringement, or has committed continuous and repeated customs infringements;
- (b) the customs infringement has a significant impact on other legislation applied by the customs authorities ;
- (c) the customs infringement has a significant financial impact on collecting customs duties or other charges;
- (d) the customs infringement poses a threat to the security and safety of the Union and its residents.

*Article 249*

**Limitation**

1. Member States shall establish the limitation period for initiating proceedings concerning a customs infringement referred to in Article [252](#) between 5 and 10 years from the date on which the act or omission was committed.
2. Member States shall ensure that, in the case of continuous or repeated customs infringements, the limitation period starts to run on the day on which the act or omission constituting the customs infringement ceases.
3. Member States shall ensure that the limitation period is interrupted by any act of the competent authority, notified to the person in question, relating to an investigation or

legal proceedings concerning the same customs infringement. The limitation period shall start to run on the day of the interrupting act.

4. Member States shall ensure that the initiation or continuation of any proceedings concerning a customs infringement referred to in Article 252 is precluded after the expiry of a period of eight years from the day referred to in paragraph 1 or 2.
5. Member States shall ensure that the limitation period for the enforcement of a decision imposing a sanction is three years. That period shall start to run on the day on which that decision becomes final.
6. Member States shall lay down the cases where the limitation periods set out in paragraphs 1, 4 and 5 are suspended.

#### *Article 250*

#### **Jurisdiction**

Member States shall exercise jurisdiction over the customs infringements referred to in Article [252](#) in accordance with national law and where that infringement is committed in whole or part within the territory of that Member State.

#### *Article 251*

#### **Cooperation between Member States**

1. Where customs infringements referred to in Article [252](#) are committed in more than one Member States and a competent authority of a Member State first initiates proceedings concerning that infringement, that competent authority shall cooperate with the competent authorities of the Member States concerned by the same customs infringement against the same person for the same facts.
2. The Commission shall monitor the cooperation between Member States in accordance with paragraph 1.

## **Chapter 2**

### **Union customs infringements and non-criminal sanctions**

#### *Article 252*

#### **Union customs infringements**

1. The following acts or omissions shall constitute customs infringements:
  - (a) failure of the holder of a decision relating to the application of customs legislation to comply with the obligations resulting from that decision and to inform the customs authorities without delay of any factor arising after the taking of a decision by those authorities which influences its continuation or content, in accordance with Titles I and II;
  - (b) failure to comply with the obligation to provide information to customs in accordance with this Regulation, including the failure to lodge a customs declaration;

- (c) provision of incomplete, inaccurate, invalid, inauthentic, false or falsified information or documents to customs;
  - (d) failure of the person responsible to keep the documents and information related to the accomplishment of customs formalities;
  - (e) removal of goods from customs supervision;
  - (f) failure of the person responsible to comply with the obligations related to customs procedures;
  - (g) non-payment of import or export duties by the person liable to pay within the period prescribed in accordance with Title X, Chapter 3.
- (ga) failure to comply with importer and deemed importer obligations under Articles 20 and 21. (Greens/EFA 413, S&D 414, The Left 415, INTA 161)**
2. Without prejudice to paragraph 1, Member States may provide for further acts and omissions that constitute customs infringements.
  3. Member States shall notify the Commission within 180 days from the date of application of this Article, of the national provisions in force, as envisaged in paragraph 2 of this Article, and shall notify it without delay of any subsequent amendment affecting those provisions.

#### *Article 253*

#### **General requirements for sanctions**

1. Without prejudice to the sanctions laid down in Article 254, Member States may provide for additional sanctions for customs infringements referred to in Article 252 and for all measures necessary to ensure that such sanctions are implemented. Such sanctions shall be effective, proportionate and dissuasive. ***The Commission, the Member States and the EU Customs Authority shall regularly exchange best practices and applicable methodologies on audit and sanctions calculation, in order to improve the convergence and coherence of sanctions across the Union. The Commission shall regularly assess whether the effectiveness of the sanctions applied by Member States, whether they to reach the objectives of customs authorities provided for in Article 2, and whether action is necessary. (Greens/EFA 416, INTA 162)***
2. Member States shall notify the Commission within 180 days from the date of application of this Article, of the national provisions in force, as envisaged in paragraph 1 of this Article, and shall notify it without delay of any subsequent amendment affecting those provisions.

#### *Article 254*

#### **Minimum non-criminal sanctions**

1. Where sanctions to customs infringements referred to in Article [252](#) are applied, ***each Member State shall provide for sanctions that are effective, proportionate and dissuasive and taking into account extenuating and mitigating circumstances referred to in Article 247 and aggravating circumstances referred to in Article 248: (Renew 417)***

- (a) a pecuniary charge by the customs authorities, including, where appropriate, a settlement applied in place of a criminal penalty and calculated on the following minimum amounts or percentages:
  - (i) where the customs infringement has an impact on customs duties and other charges, the pecuniary charge shall be calculated based on the amount of customs duties and other charges eluded, as follows:
    - (1) where the customs infringement has been committed intentionally, the pecuniary charge shall comprise an amount equal to between 100% and 200% of the amount of customs duties and other charges eluded;
    - (2) in other cases, the pecuniary charge shall comprise an amount equal to between 30% and 100% of the amount of customs duties and other charges eluded;
  - (ii) where it is not possible to calculate the pecuniary charge in accordance with point (i), the pecuniary charge shall be calculated based on the customs value of the goods, as follows:
    - (3) where the customs infringement has been committed intentionally, the pecuniary charge shall comprise an amount equal to between 100% and 200% of the amount of the customs value of the goods;
    - (4) in other cases, the pecuniary charge shall comprise an amount equal to between 30% and 100% of the amount of the customs value of the goods;
  - (iii) where the customs infringement is not related to specific goods, the pecuniary charge shall comprise an amount equal to between EUR 150 and EUR 150 000;
- (b) the revocation, suspension or amendment of customs decisions held by the person concerned, when such decision is affected by the infringement;
- (c) the confiscation of the goods and means of transport.

The acts or decisions on sanctions applied for any customs infringement shall be recorded in the EU Customs Data Hub alongside the outcome of the customs controls.

2. ***Member States shall decide on the use of the proceeds resulting from the enforcement of non-criminal sanctions except for when established as an own resource in accordance with Article 311(3) TFEU. (BUDG 35, 36)***

## Compromise Amendment 16 on Title XV - Final provisions

Compromise amendment replacing all relevant amendments, including AMs 125-131, 421-434, INTA 163-174, BUDG 37-40, CONT 82-88

### Title XV FINAL PROVISIONS

#### Chapter 1 Performance measurement of the customs union

##### *Article 255*

##### **Scope and objectives**

1. The Commission shall assess and evaluate the performance of the customs union at least on an annual basis. This includes the measurement of customs activities performed by the customs authorities of the Member States and where possible candidate countries at national and border crossing points levels, *as well as a regular monitoring of the level of expenditure incurred by national customs authorities in carrying out their activities*. Such measurement may build on existing tools developed by the Commission and Member States for this purpose. **(BUDG 37)**.
2. The EU Customs Authority shall assist the Commission with ~~that task~~. ~~To support the Commission in~~ its evaluation of the performance of the ~~customs~~ *customs union*. ***For this purpose***, the EU Customs Authority shall identify how customs activities and operations support the achievement of the strategic objectives and priorities of the customs union and contribute to the mission of customs authorities laid down in Article [2](#). In particular, the EU Customs Authority shall identify key trends, strengths, weaknesses, gaps, and potential risks, ***support the Commission in gathering relevant data regarding the levels of expenditure incurred by national customs authorities to ensure their functioning*** and provide recommendations for improvement to the Commission. **(Rapp. 125, BUDG 38)**

##### *Article 256*

##### **Framework definition and annual reporting**

1. The EU Customs Authority shall, in cooperation with the customs authorities, produce reports and other types of documents to deliver on the objectives set in Article [255](#).
2. Member States shall provide data to the EU Customs Authority containing information both at national and border crossing point levels. Based on the data received from the customs authorities, the EU Customs Authority shall produce an annual report, containing facts and figures on the elapsed year for each customs authority at national and border crossing point level.

3. The EU Customs Authority shall transmit the draft annual report to the Commission for approval.
4. The Commission shall verify the report and transmit it afterwards to the ~~Member States~~**European Parliament and the Council** for information. **(Rapp. 126, Greens/EFA 421, EPP 422, BUDG 39)**
5. The Commission shall specify, by means of implementing acts, the data referred to in paragraph 2 as well as their level of confidentiality, and the design of the performance measurement framework. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

## **Chapter 2**

### **Monitoring, evaluation and reporting**

#### *Article 257*

#### **Monitoring**

The Commission shall regularly monitor the implementation of this Regulation, taking into account, inter alia, information and analysis relevant for monitoring purposes that are provided or made available by customs authorities and the EU Customs Authority in the EU Customs Data Hub.

#### Article 258

#### **Evaluation and reporting**

1. By ... [OP please insert the date = 53 years after the entry into force] and every 5 years thereafter, the Commission shall carry out an evaluation of this Regulation in light of the objectives that it pursues and shall present a report thereon to the European Parliament, to the Council and to the European Economic and Social Committee. **(Rapp. 127)**  
That report shall include:
  - (a) an overview of the state of progress that Member States have reached in relation to the implementation of this Regulation;
  - (b) an assessment of the effectiveness, efficiency, coherence, relevance and Union added value of this Regulation, in particular with regard to the objectives referred to in Article 2.

*(ba) an overview of the disaggregated costs incurred by the Union and by the Member States for the implementation of the Regulation, including in comparison with the costs incurred at the date of entry into force of the Regulation. (BUDG 40)*
2. At the request of the Commission and in accordance with Chapter 1 of this Title, the Member States shall provide information on the implementation of this Regulation that is necessary for the preparation of the report referred to in paragraph 2.

## **Chapter 3**

### **Currency conversion and time-limits**

#### *Article 259*

##### **Currency conversion**

1. The competent authorities shall publish and/or make available on the internet the rate of exchange applicable where the conversion of currency is necessary for one of the following reasons:
  - (a) because factors used to determine the customs value of goods are expressed in a currency other than that of the Member State where the customs value is determined;
  - (b) because the value of the euro is required in national currencies for the purposes of determining the tariff classification of goods and the amount of import and export duty, including value thresholds in the Common Customs Tariff.
2. Where the conversion of currency is necessary for reasons other than those referred to in paragraph 1, the value of the euro in national currencies to be applied within the framework of the customs legislation shall be fixed at least once a year.
3. The Commission shall lay down, by means of implementing acts, rules on currency conversions for the purposes referred to in paragraphs 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

#### *Article 260*

##### **Periods, dates and time limits**

1. Unless otherwise provided, where a period, date or time limit is laid down in the customs legislation, such period shall not be extended or reduced and such date or time limit shall not be deferred or brought forward.
2. The rules applicable to periods, dates and time limits set out in Regulation (EEC, Euratom) No 1182/71 of the Council<sup>23</sup> shall apply, except where otherwise provided for in the customs legislation.

## **Chapter 4**

### **Delegation of power and committee procedure**

#### *Article 261*

##### **Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

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<sup>23</sup> Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time-limits (OJ L 124, 8.6.1971, p1.).

2. The power to adopt delegated acts referred to in Articles 4, 6, 7, 10, 14, 19, 23, 25, 27, 28, 29, 31, 32, 56, 58, 59, 60, 63, 65, 66, 71, 72, 73, 77, 80, 81, 83, 85, 86, 88, 90, 91, 95, 97, 99, 101, 102, 105, 107, 108, 109, 111, 115, 116, 119, 123, 132, 148, 150, 156, 167, 168, 169, 170, 173, 175, 176, 179, 181, 186, 193, 199, 242, 244, 265 shall be conferred on the Commission.
3. The delegation of power referred to in Articles 4, 6, 7, 10, 14, 19, 23, 25, 27, 28, 29, 31, 32, 56, 58, 59, 60, 63, 65, 66, 71, 72, 73, 77, 80, 81, 83, 85, 86, 88, 90, 91, 95, 97, 99, 101, 102, 105, 107, 108, 109, 111, 115, 116, 119, 123, 132, 148, 150, 156, 167, 168, 169, 170, 173, 175, 176, 179, 181, 186, 193, 199, 242, 244, 265 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 4, 6, 7, 10, 14, 19, 23, 25, 27, 28, 29, 31, 32, 56, 58, 59, 60, 63, 65, 66, 71, 72, 73, 77, 80, 81, 83, 85, 86, 88, 90, 91, 95, 97, 99, 101, 102, 105, 107, 108, 109, 111, 115, 116, 119, 123, 132, 148, 150, 156, 167, 168, 169, 170, 173, 175, 176, 179, 181, 186, 193, 199, 242, 244, 265 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### *Article 262*

#### **Committee procedure**

1. The Commission shall be assisted by the Customs Code Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011 in conjunction with Article 4 thereof shall apply.
4. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
5. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011 in conjunction with Article 5 thereof shall apply.
6. Where the opinion of the committee is to be obtained by written procedure and reference is made to this paragraph, that procedure shall be terminated without result



only when, within the time limit for delivery of the opinion, the chair of the committee so decides.

## **Chapter 5**

### **Final provisions**

#### *Article 263*

##### **Repeal**

1. Regulation (EU) No 952/2013 *and Regulation (EU) 2022/2399* ~~is~~are repealed. **(Rapp. 128)**
2. References to Regulation (EU) No 952/2013 shall be construed as references to this Regulation and read in accordance with the correlation table in the Annex.
3. From the date set out in Article 265(4), references to the customs declaration shall be construed as covering the provision of the data necessary to place goods under a customs procedure using the capabilities of the EU Customs Data Hub.
4. From the date set out in Article 265(4), references to the declarant shall be construed as covering the carrier, the importer, the exporter or the holder of the transit procedure, as appropriate.

#### *Article 264*

##### **Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

#### *Article 265*

##### **Application**

1. Articles 205 to 237 shall apply from 1 January ~~2028~~ **2026**. **(S&D 425)**
2. The following provisions shall apply from 1 March ~~2028~~ **2026**:
  - (a) the provisions on the simplified tariff treatment laid down in Article 145(5), (6) and (7) and Article 147, point (a)(ii);
  - (b) the provisions on the simplified tariff treatment for distance sales laid down in Articles 149(4), 150(10) and 156(2);
  - (c) the provisions on deemed importers laid down in Article 20(3), point (e), Article 21, Article 59(2), Article 60(6), point (a), Article 67(2), Article 67(4), point (d), and Articles 159(2), 181(5) and 184(3).
3. The functionalities of the EU Customs Data Hub laid down in Article 29 shall be fully operational by 31 December ~~2037~~**2032**. **(Rapp. 129)**
4. Economic operators may start fulfilling their reporting obligations under this Regulation by using the EU Customs Data Hub from 1 ~~March 2032~~**January 2029**. **(Rapp. 130)**

5. The customs authorities shall reassess the authorisations granted pursuant to Regulation (EU) No 952/2013 from 1 January 2035 to 31 December 2037.
6. Before 31 December 2027, the Commission shall present a report to the European Parliament and to the Council providing an assessment of centralised clearance referred to in Article 72. If appropriate, the Commission may present a legislative proposal with a view to ensuring a fair distribution of the rights and obligations of the Member States in connection with the assessment of and liability for the customs debt at import. ***This report shall be publicly available. (The Left 429, S&D 430)***
7. By 31 December ~~2035~~**2031**, the Commission shall present a report to the European Parliament and to the Council ***and publish it*** to assess, in particular: **(Rapp. 131, The Left 431, S&D 432, Greens/EFA 433)**
  - (a) the effectiveness of the customs supervision of the Trust and Check traders by the customs authorities of the Member State of establishment and of the implementation of the provisions governing the place of the incurrance of the customs debt;
  - (b) the effectiveness of the customs supervision of economic operators other than Trust and Check traders;
  - (c) the possible impact of the modifications foreseen in paragraph 8.
8. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to amend this Regulation, if appropriate in the light of the report referred to in paragraph 7, by deleting or modifying the derogations foreseen in Article 42(3), second subparagraph, and Article 169(1) second subparagraph.

## Compromise Amendment 17 on Recitals

Compromise amendment replacing all relevant amendments, including AMs 2-20, 133-152, 154-184, INTA 1-40, BUDG 1-10, CONT 1-6

- (1) The Union and the functioning of the internal market are based upon the customs union. In the interests both of economic operators and of the customs authorities in the Union, Regulation (EU) No 952/2013 of the European Parliament and of the Council<sup>24</sup> laying down the Union Customs Code ('the Code') assembled in a single act customs legislation that was contained in several different pieces of legislation, containing the general rules and procedures, for ensuring the implementation of the tariff and other measures introduced at Union level in connection with trade in goods between the Union and countries or territories outside the customs territory of the Union, and the provisions relating to the collection of import charges. Member States customs authorities are responsible for implementing these rules by way of operational tasks like applying customs procedures, carrying out risk analysis and controls and applying sanctions in the case of customs infringements.
- (2) The implementation of Regulation (EU) No 952/2013 has disclosed weaknesses in several areas. These include: the insufficient/ineffective action in ensuring the protection of the Union and its citizens against non-financial risks applicable to goods established by Union policies other than customs legislation; the capacity of customs authorities to effectively handle the increasing volume of goods imported from third country via distance sales (e-commerce transactions); the capacity of the IT systems architecture created by Regulation (EU) No 952/2013 to digitalise customs processes to keep up with the pace of technological progress, namely with technologies based on the exploitation of data; the lack of effective governance structures of the customs union, resulting in divergent practices and non-uniform implementation of the rules in the Member States. Those weaknesses lead to the emergence of obstacles to the proper functioning of the customs union and therefore of the internal market, due to the internal and external risks and threats.
- (3) It is appropriate that customs legislation takes account of the rapid development of global trade patterns, technology, business models and the needs of stakeholders, including *businesses, consumers and* citizens. Therefore, a great number of amendments are required to be made to Regulation (EU) No 952/2013. In the interests of clarity, that Regulation should be repealed and replaced. **(Rapp. 2)**
- (4) In order to provide for effective means of achieving the objectives of the customs union, a number of rules and procedures regulating how goods are brought into or taken out of the customs territory of the Union should be revised, ~~and~~ simplified *and harmonised*. A modern, integrated set of interoperable electronic services should be provided for collecting, processing and exchanging

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<sup>24</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (recast) (OJ L 269, 10.10.2013, p. 1).

information relevant for implementing customs legislation (European Union Customs Data Hub, ‘EU Customs Data Hub’). A European Union Customs Authority (‘EU Customs Authority’) should be established as a central, operational capacity for the coordinated governance of the customs union in specific areas. **(ECR 134, ID 135)**

- (5) Since the adoption of Regulation (EU) No 952/2013, the role of customs authorities has evolved to increasingly cover the application of Union and national legislation laying down requirements on goods subject to customs supervision, in particular the non-financial requirements on goods that are necessary for these goods to enter and circulate in the internal market. Such non-financial tasks have increased exponentially over the years in line with growing expectations of Union businesses and citizens regarding safety, security, accessibility for persons with disabilities, sustainability, human, animal and plant health and life, the environment, the protection of human rights and Union values. New tools, such as the Digital Product Passport, are to be introduced to ensure that other legislation applied by the customs authorities related to products continues to respond to these expectations. It is therefore necessary to reflect the increasing number and complexity of non-financial risks by including in the mission of customs authorities a specific reference to protecting all these public interests and, where applicable, national legislation, in close cooperation with other authorities. ***It is equally important to note that a significant volume of goods processed in major harbors and airports are being transshipped, coming from and destined for other continents without entering the EU market. Such goods do not always need to comply with the same Union safety and product standards required for goods entering the internal market.*** **(Renew 136)**
- (6) In light of the evolution of their role and of the business models in which they operate and in order for customs authorities to ‘act as one’ and to contribute to the smooth functioning of the internal market, it is necessary to describe more precisely the mission customs authorities have to perform by indicating more accurately their objectives and tasks.
- (7) Certain definitions set out in Regulation (EU) No 952/2013 should be adapted to take account of the broader scope of this Regulation, to align them with those set out in other Union acts, and to clarify terminology having different meanings in different sectors. New definitions should be included in customs legislation to clarify the roles and responsibilities of certain actors in the customs processes. In the case of the importer and the exporter, ***meaning any person involved in the distance sales of goods***, new definitions should make those persons ***liable responsible towards customs*** for compliance of the goods, including for financial and non-financial risks, ***in accordance to product compliance legislation*** in order to strengthen customs supervision. In the case of the new concept of deemed importer, new definitions should ensure that in some cases, in the context of an online sale from outside the Union, an economic operator, as opposed to the consumer, is considered the importer and assumes the corresponding responsibilities ***ensuring that the relevant economic operator has complied with the relevant legislation applied by the customs authorities when the goods enter or exit the customs territory of the Union and providing, keeping and making available appropriate records of such compliance.*** New

definitions should also be introduced in relation to the broader scope of the provisions of customs supervision, risk management and customs controls. (Greens/EFA 141, ECR 142, Rapp. 138, The Left 139)

- (8) Beyond their traditional role of collecting customs duties, VAT and excise and applying customs legislation, customs authorities also play a critical role in enforcing other Union and, where applicable, other national legislation on customs matters. A definition of this ‘other legislation applied by the customs authorities’ should be introduced in order to build an effective framework for regulating the application and supervision of these particular requirements on goods, *in accordance with Regulation 2019/1020 on market surveillance and compliance of products, and within the specific customs controls and procedures established under this Regulation (establishing the Union Customs Code)*. –Such prohibitions and restrictions can be justified on grounds of, *inter alia*, public morality, public policy or public security, the protection of the health and life of humans, animals or plants, the protection of the environment, the protection of national treasures possessing artistic, historic or archaeological value and the protection of industrial or commercial property and other public interests, including controls on drug precursors, goods infringing certain intellectual property rights and cash. The notion of other legislation applied by the customs authorities should also include commercial policy measures, *trade policy measures including multilateral environmental agreements*, and fishery conservation and management measures, as well as restrictive measures adopted on the basis of Article 215 TFEU. *Divergences in the national lists of prohibition and restrictions create significant difficulties for entities importing in multiple Member States. In order to facilitate trade and the functioning of customs, the Union should work to gradually harmonise national lists of prohibitions and restrictions. Furthermore, harmonised definitions of the legal terms used in providing for prohibitions and restrictions should be adopted, in order to avoid diverging interpretations by Member States.* (EPP 144, ECR 145, Greens/EFA 143, INTA 7)
- (9) In order to increase legal clarity, certain rules regarding customs decisions should be amended. First, it is appropriate to clarify that the competent customs authority for taking a customs decision is the one of the place where the applicant is established, because the establishment becomes the main principle according to which certain economic operators, at certain conditions and in a pre-determined time frame, subject to review, can benefit from the simplifications introduced by this Regulation and pay customs duties where they are established. Second, the time limit of maximum 30 days by which an applicant is to provide additional information to customs authorities in cases the latter considers that the application for a decision does not contain all the information required, should also be included for the sake of completeness and legal clarity.
- (10) The consequence of the failure of a customs authority to take a decision upon application within the established time-limits should be clarified. The principle that in such case the application is deemed to be subject to a negative decision and that the applicant may lodge an appeal, in accordance with the general rule on customs decisions should also be established. *In order to ensure that trade is not paralysed in case of large-scale failure of the centralised electronic systems,*

***the Commission and the EU Customs Authority should work with Member States on fall-back procedures (Greens/EFA 146)***

- (11) As highlighted by the European Court of Auditors<sup>25</sup> and in the evaluation of the implementation of Regulation (EU) No 952/2013, it is also desirable to address the lack of uniform monitoring of compliance of the criteria and obligations set out in customs decisions, by reinforcing the relevant provisions. On one side, the holders of decisions should not only comply with obligations set out in the relevant decision but also monitor on a constant basis their compliance and provide for an internal organisation where such [self-]monitoring activities can prevent, mitigate or remedy any possible errors in their customs processes. On the other side, customs authorities should regularly monitor the implementation of customs decisions by the holders of such decisions, in particular when these are established for less than 3 years and are therefore potentially more prone to pose risks, in order to ensure that that person complies with the obligations established by the customs decisions. This is particularly relevant when those persons benefit from specific status such as that of Authorised Economic Operator (AEO) or Trust and Check trader, who enjoy several facilitations in customs processes. In addition, in order to strengthen risk management at Union level, customs authorities should notify the EU Customs Authority of all decisions taken upon application and inform that Authority about the monitoring activities, so that this information can be taken into account for risk management purposes.
- (12) In addition to the decisions relating to binding tariff information (BTI decisions), or decisions relating to binding origin information (BOI decisions) adopted by customs authorities upon application and subject to certain conditions, decisions relating to binding valuation information (BVI decisions) have been introduced in customs legislation through Commission Delegated Regulation (EU) .../....<sup>26</sup>. In the interest of the users of customs legislation, it is appropriate to lay down the rules regarding those three types of decisions relating to binding information in the same legal act.
- (13) The rights and obligation of the persons having responsibility over the goods entering into and exiting from the customs territory of the Union should be more clearly defined. The first obligation for persons having regular customs operations should continue to be registered with the customs authorities responsible for the place where they are established. A single registration should be valid for the whole customs union but should be up to date. Economic operators should therefore have the obligation to inform the customs authorities about any change in their registration data. The persons having responsibility over the goods entering and exiting from the customs territory of the Union are liable for any risks presented by the goods for the safety and security of citizens, as well as any risks to human, animal or plant health and life, the environment or consumers. The obligations of the importer should also be defined, in particular the obligation

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<sup>25</sup> European Court of Auditors, Special Report No 4/2021: Customs controls: insufficient harmonisation hampers EU financial interests.

<sup>26</sup> [OJ: Please insert in the text the number of] Commission Delegated Regulation (EU) 2023/... of dd MM 2023 amending Delegated Regulation (EU) 2015/2446 as regards decisions relating to binding information in the field of customs valuation and decisions relating to binding origin information ) [and insert the number, date, title and OJ reference of that Delegated Regulation in this footnote].

to be established in the customs territory of the Union and the exceptions to that obligation. These should follow the existing rules for the declarant to be established in the Union. Similarly, the obligations of the exporter should be defined.

- (14) The obligations of the deemed importers, which are different from the obligations applicable to [the rest of] importers, should also be clarified. In particular, it should *be clarified that the deemed importer is created for the purpose of effective and efficient collection of customs duties. The deemed importer is usually not in possession of the goods and the transfer of ownership of the goods occurs between the importer and the customer. Consequently, the deemed importer will often depend on the accuracy of the information provided by the importers before or at the latest upon check-out to be able to ensure correct duties treatment (payment and reporting obligations) of the transaction. It should also* be provided that the deemed importer should provide to the customs authorities not only the data necessary for the release for free circulation of the sold goods but also the information that the deemed importer must collect for VAT purposes. This information is detailed in Council Implementing Regulation (EU) No 282/2011<sup>27</sup>. **(S&D 147, EPP 148)**
- (15) Economic operators meeting certain criteria and conditions to be considered compliant and trustworthy traders by customs authorities can be granted the status of AEO and thereby benefit from facilitations in customs processes. While ensuring that the traders dealing with most of Union trade are trustworthy, the AEO scheme suffers from certain weaknesses highlighted in the evaluation of Regulation (EU) No 952/2013 and in the findings of the European Court of Auditors. To deal with those concerns, in particular about the divergent national practices and challenges regarding AEO compliance monitoring, the rules should be amended to introduce the customs authorities' obligation to monitor compliance at least every 32 years. *This obligation should also be monitored by the new EU Customs Authority.* **(Greens/EFA 149, Rapp. 3)**
- (16) The changes in the customs processes and the way of operating the customs authorities requires a new partnership with economic operators, that is the Trust and Check traders scheme. The criteria and conditions to become a Trust and Check trader should build on the AEO criteria but should also ensure that the trader is considered transparent for the customs authorities. It is therefore appropriate to require Trust and Check operators to grant the customs authorities access to their electronic systems keeping record of their compliance and the movement of their goods, *provided that such access is proportionate and strictly necessary.* The transparency should be accompanied by certain benefits, notably the possibility to release the goods on behalf of customs without the necessity for their active intervention, except where a pre-release approval is required by other legislation applied by the customs authorities and to defer the payment of the customs debt. ~~As this mode of working should progressively replace the one based on customs declarations, it is appropriate to establish the customs~~

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<sup>27</sup> Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (OJ L 077 23.3.2011, p. 1).

authorities' obligation to reassess the existing authorisations for AEO for customs simplifications until the end of the transition period. (Rapp. 4, EPP 150)

- (17) The changes in the customs processes also require clarifying the role of customs representatives. Both direct and indirect representation should continue to be possible but it should be clarified that the indirect representative of an importer or an exporter assumes all the obligations of importers or exporters, not only the obligation to pay or guarantee the customs debt but also the respect of other legislation applied by the customs authorities. For that reason, customs representatives must be resident in the customs territory of the Union where they represent importers or exporters, to ensure proper accountability for financial and non-financial aspects. The use of an indirect customs representative established in the Union is therefore an available and proportionate alternative for importers and exporters who do not have a commercial presence in the Union. Moreover, customs representatives established in third countries can continue providing their services in the Union where they represent persons who are not required to be established within the customs territory of the Union. *Identifying reliable customs representatives is a challenge for economic operators, especially micro or small and medium-sized enterprises.* (Greens/EFA 152)
- (17a) *It is also important to recognise the specific challenges for small and micro enterprises as defined in Commission Recommendation 2003/361/EC in fulfilling customs requirements and how this can be facilitated by direct and indirect representation. This is especially true where a micro or small and medium-sized enterprise does not hold the status of a Trust and Check trader. They should continue to be able to benefit from having indirect representation. The Commission and the EU Customs Authority should evaluate how this arrangement is working based on information received from relevant authorities. The Commission should present this evaluation in the form of a report to the European Parliament and the Council. On the basis of that report, the Commission should decide whether to propose a legislative solution for a specific regime to better determine the relationship between small and micro enterprises and customs representatives with a view to facilitating trade and ensuring a fair balance of responsibilities.* (Rapp. 5)
- (18) In order to ensure a uniform level of digitalisation and to create a level playing field for economic operators in all Member States, an EU Customs Data Hub should be established as a set of centralised, secure and cyber-resilient electronic services and systems for customs purposes. The EU Customs Data Hub should ensure the quality, integrity, traceability and non-repudiation of data processed therein, so neither sender nor recipient can later dispute the existence of the exchange of data. The EU Customs Data Hub and should comply with the relevant regulations for the processing of personal data and cybersecurity. The Commission and the Member States should jointly design the EU Customs Data Hub. The Commission should also be tasked with governing, implementing and maintaining the EU Customs Data Hub, which may delegate to another Union body.
- (18a) *Before the EU Customs Data Hub becomes fully operational, the Commission should have the option to plan and establish a pilot phase to test the functionalities that are relevant for the EU Customs Data Hub. Such a pilot*



***phase should be voluntary for customs authorities, other authorities, and economic operators. (Rapp. 13)***

- (19) In line with recent case-law of the European Court of Justice<sup>28</sup>, it is appropriate to clarify that the automated exchange of information between economic operators and customs authorities through and by the EU Customs Data Hub does not exclude the responsibility of those authorities or of those operators in relation to the customs processes concerned. Even where the customs authorities' involvement is limited to that electronic communication via the EU Customs Data Hub, it should be considered that a measure is adopted by those authorities, as if the EU Customs data Hub acted on behalf of the said authorities.
- (20) The EU Customs Data Hub should enable the exchange of data with other systems, platforms, or environments for the purpose of increasing the quality of data used by customs in fulfilling their tasks, as well as for sharing relevant customs data with other authorities, for the purpose of increasing the effectiveness of controls in the internal market. In line with the approach set out in Regulation (EU) .../... of the European Parliament and of the Council<sup>29</sup> and the European Interoperability Framework<sup>30</sup>, the EU Customs Data Hub should foster cross-border and cross-sector interoperability in Europe. It should exploit the potential of existing sources of risk information available at Union level, such as the rapid alert systems for food and feed (RASFF) and for non-food products (Safety Gate), the Information and Communication System for Market Surveillance (ICSMS), the IP Enforcement Portal. It should underpin the development of strategic and operational cooperation, including information exchange and interoperability, between customs and other authorities, bodies and services, within their respective competences. Moreover, the EU Customs Data Hub should provide a wide range of advanced data analytics, also including through the use of artificial intelligence. That data analysis should be an enabler for risk analysis, economic analysis, and predictive analysis to anticipate possible risks with consignments coming to or moving from, the Union. To ensure better supervision of trade flows and a streamlined way of collaboration with authorities other than customs, the EU Customs Data Hub should be capable of making use of the framework of collaboration of the EU Single Window Environment for Customs and, where that framework cannot be used, offer those authorities a specific service through they can obtain the relevant data, provide and share information to the customs authorities and make sure that the sectorial requirements are complied with. This would be necessary in case the other authorities would not have an electronic system that could be federated with the EU Customs Data Hub.
- (21) Alongside the EU Customs Data Hub, Member States may develop their own applications to use data from the EU Customs Data Hub. For that purpose, and to

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<sup>28</sup> Case T-81/22 (OJ C 148, 4.4.2022).

<sup>29</sup> [OJ: Please insert in the text the number of the Regulation contained in document COM/2022/720 final – 2022/0379 (COD) and insert the number, date, title and OJ reference in this footnote.] Regulation (EU) .../... of the European Parliament and of the Council laying down measures for a high level of public sector interoperability across the Union (Interoperable Europe Act) [COM/2022/720 final – 2022/0379 (COD)] (OJ L .....,2023, p. ).

<sup>30</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the committee of the regions European Interoperability Framework – Implementation Strategy (COM/2017/0134 final).

decrease the time to market, Member States may entrust the EU Customs Authority with the finances and the mandate to develop such applications. In that case, the EU Customs Authority should develop the applications for the benefit of all Member States. This could be done by creating open-source code applications following the Share and Reuse Framework.

- (22) The EU Customs Data Hub should enable the following flow of data. Economic operators should be able to submit to or make available in it all relevant data required to fulfil customs legislation. That data should be processed at Union level and be enriched with Union-wide risk analysis. The resulting data should be made available for Member State's customs authorities, which would use the data to fulfil their obligations. Finally, the outcome of the controls performed following the retrieval of data from the EU Customs Data Hub should be reported back to that Data Hub.
- (23) The data submitted to the EU Custom Data Hub is to a large extent non-personal data submitted by economic operators of the goods they are trading with. Nevertheless, the data will also include personal data, in particular names of individuals acting for an economic operator or an authority. To ensure that personal data and commercial information are equally protected, it is appropriate that specific access rules, rules for confidentiality and conditions for the use of the EU Customs Data Hub are established by this Regulation. In particular, it should be established which entities may access or process data stored or otherwise available in the EU Customs Data Hub, in addition to the persons, the Commission, the customs authorities and the EU Customs Authority, balancing the needs of these entities with the need ensure that the personal and confidential data collected for customs purposes are used for additional purposes only to the minimum extent necessary.
- (23a) *Without prejudice to the data protection rules, sensitive customs data and commercially sensitive data, for specific purposes, subject to appropriate justification and upon request, non-personal data should be made available to third parties. Economic operators should be given the choice to not allow such disclosure. (The Left 154, Greens/EFA 155, 158)***
- (24) To ensure that the European Anti-Fraud Office ('OLAF') can exercise its investigations powers in relation to fraudulent activities that are affecting the interests of the Union, it is appropriate that it has access to data from the EU Customs Data Hub that is very similar to the access by the Commission. OLAF should therefore be entitled to process the data in accordance with the conditions relating to data protection in the relevant Union legislation, including Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>31</sup> and Council Regulation (EC) No 515/97<sup>32</sup>. To ensure that EPPO can conduct its investigations on customs-related matters, it should be entitled to ~~request~~**have**

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<sup>31</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

<sup>32</sup> Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ L 82, 22.3.1997, p. 1).

access to *and process* the data in the EU Customs Data Hub. To preserve the functions that are performed in Member States' national IT systems, the tax authorities of the Member States should either obtain the possibility to process data directly within the EU Customs Data Hub or to extract data from the EU Customs Data Hub and process it through different means. As such, authorities responsible for food safety in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council<sup>33</sup> and the authorities responsible for market surveillance in accordance with Regulation (EU) 2019/1020 should be provided with the right services and tools in the EU Customs Data Hub so that they can use the relevant customs data to contribute to enforcing the relevant Union legislation and for cooperating with customs authorities to minimise the risks that non-compliant products enter the Union. It is appropriate that Europol has access upon request to data in the EU Customs Data Hub to be able to perform its tasks as specified in Regulation (EU) 2016/794 of the European Parliament and of the Council<sup>34</sup>. All other Union and national bodies and authorities, including the European Border and Coast Guard Agency (Frontex), should have access to non-personal data contained in the EU Customs Data Hub. **(Renew 156, Greens/EFA 157)**

- (24a) Pursuant to Article 24 of Council Regulation (EU) 2017/1939, the competent customs authorities should without undue delay report to the EPPO any criminal conduct in respect of which it could exercise its competence in accordance with Article 22 and Article 25(2) and (3) of that Regulation. The competent customs authorities should refrain from taking measures which could jeopardize the confidentiality of criminal investigations into the same facts of the competent national judicial or law enforcement authority or the EPPO, when requested to do so by these authorities. (Renew 137)**
- (25) The rules and provisions regarding access to EU Customs Data Hub and exchange of information should not affect the Customs Information System ('CIS') established by Council Regulation (EC) No 515/97 and reporting obligations under Article 24 of Regulation (EU) 2019/1896 of the European Parliament and of the Council on the European Border and Coast Guard.
- ~~(26) The Commission should lay down the modalities for **making a request or having access of all these authorities in implementing rules, after assessing the existing safeguards that each authority or category of authorities has in place for ensuring the correct treatment of personal and commercially sensitive data, while taking**~~

<sup>33</sup> Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation)(OJ L 95, 7.4.2017, p. 1).

<sup>34</sup> Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

~~*into account that making available non-sensitive customs data can be in the general interest. (EPP 159, Greens/EFA 158)*~~

- (27) It is appropriate that the EU Customs Data Hubs stores personal data for a maximum period of 10 years. This period is justified in light of the possibility for customs authorities to notify the customs debt up to 10 years after having received the necessary information about a consignment, as well as to ensure that the Commission, the EU Customs Authority, OLAF, **EPPO**, customs and authorities other than customs can cross-check the information in the EU Customs Data Hub against the information stored in and exchanged with other systems. Moreover, this period of time should be aligned with the storage period required by other legislation applied by the customs authorities, where such legislation is relevant for customs controls. It is also appropriate that whenever personal data is required for the purposes of judicial and administrative proceedings, investigations and during post-clearance controls, the retention period is suspended to avoid that personal data is erased and cannot be used for those purposes. **(Renew 160, Greens/EFA 161)**
- (28) The protection of personal and other data in the EU Customs Data Hub should also include rules on the restriction of rights of data subjects. It is therefore appropriate that the customs authorities, the Commission or the EU Customs Authority could restrict the right of data subjects where necessary to ensure that enforcement activities, risk analysis and customs controls are not jeopardised. Moreover, such restrictions could also be applied where necessary for the purpose of protecting judicial or administrative proceedings following enforcement activities. The restrictions should be duly justified against the activities and prerogatives of customs and limited to the time necessary to preserve those prerogatives.
- (29) Any processing of personal data under this Regulation should be carried out in compliance with the provisions of Regulation (EU) 2016/679, Regulation (EU) 2018/1725 of the European Parliament and of the Council, or Directive (EU) 2016/680 of the European Parliament and of the Council, within their respective scope of application.
- (30) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on [...] ***11 July 2023. The European Data Protection Supervisor recalls, from his nine recommendations, that the risk criteria to be used to select persons by means of an automated processing, when resulting in individual decisions, should be based on circumstances that are reliable and directly linked to objective factors, not entail a direct or indirect risk of discrimination, such as race, ethnic origin, religion, political orientation, sexual orientation, and not be excessively broad. (The Left 162)***
- (30a) In order to establish a common framework of the customs union, it is necessary for the European Union Single Window Environment for Customs ('EU Single Window Environment for Customs') to be integrated in the Union Customs Code. Therefore, Regulation (EU) 2022/2399 should be repealed and the EU Single Window Environment for Customs is added to this Regulation. (Rapp. 6)***

**(30b) To achieve a fully digital environment and an efficient goods clearance process for all parties involved in international trade, it is necessary to establish common rules for a harmonised and integrated EU Single Window Environment for Customs. That environment should include the EU Customs Data Hub and the Union non-customs systems referred to in Annex I of this Regulation. The EU Customs Data Hub should enable the exchange of information with Union non-customs systems in accordance with the Single Window Environment for Customs. The EU Single Window Environment for Customs should be developed taking account of the possibilities for trustworthy identification and authentication offered by Regulation (EU) No 910/2014 of European Parliament and of the Council<sup>1a</sup> and the ‘once-only’ principle, where appropriate, as reiterated in Regulation (EU) 2018/1724 of the European Parliament and of the Council. To implement the EU Single Window Environment for Customs, it is necessary to establish, on the basis of the pilot project, a certificates exchange system, namely the electronic European Union Customs Single Window Certificates Exchange System (EU CSW-CERTEX), that interconnects the EU Customs Data Hub and Union non-customs systems managing specific non-customs formalities. It is also necessary to integrate the EU Customs Data Hub into the EU Single Window Environment for Customs, and establish a set of rules on digital administrative cooperation within the EU Single Window Environment for Customs. (Rapp. 7)**

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<sup>1a</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73)

**(30c) The EU Single Window Environment for Customs should be aligned to and made as interoperable as possible with other existing or future customs-related systems, such as centralised clearance under this Regulation. Where relevant, synergies between the European Maritime Single Window environment established by Regulation (EU) 2019/1239 of the European Parliament and of the Council<sup>1a</sup> and the EU Single Window Environment for Customs should be sought. (Rapp. 8)**

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<sup>1a</sup> Regulation (EU) 2019/1239 of the European Parliament and of the Council of 20 June 2019 establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU (OJ L 198, 25.7.2019, p. 64)

**(30d) It is necessary for the EU Single Window Environment for Customs to integrate solutions that ensure a high level of cybersecurity in order, as far as possible, to prevent attacks that could disrupt the customs and non-customs systems, harm security of trade or inflict damage on the economy of the Union. The cybersecurity standards should be designed to evolve at the same pace as the regulatory requirements for network information security. In developing, operating and maintaining the EU Single Window Environment for Customs, the Commission and the Member States should follow appropriate guidelines**

*issued by the European Union Agency for Cybersecurity (ENISA) regarding cybersecurity. (Rapp. 9)*

- (30e) The exchange of digital information through EU CSW-CERTEX should cover Union non-customs formalities laid down in Union legislation other than customs legislation that customs authorities are entrusted to enforce. Union non-customs formalities comprise all operations which are to be carried out by a natural person, an economic operator or a partner competent authority for the international movement of goods, including the part of the movement between Member States, when required. Those formalities impose different obligations for the import, export or transit of certain goods, and their verification through customs controls is fundamental to the effective functioning of the EU Single Window Environment for Customs. EU CSW-CERTEX should cover digitalised formalities laid down in Union legislation and managed by partner competent authorities in electronic Union non-customs systems, storing the relevant information from all Member States required for goods clearance. It is therefore appropriate to identify the Union non-customs formalities and the respective Union non-customs systems that should be subject to digital cooperation through EU CSW-CERTEX. In particular, the definition of Union non-customs systems should be broad and should encompass the different situations and legal formulations in the Union legal acts that have enabled or will enable the creation and use of those systems. Moreover, it is also appropriate to specify the dates by which the specific Union non-customs system covering a Union non-customs formality and the EU Customs Data Hub should be interconnected to EU CSW-CERTEX. Those dates should reflect the dates established in Union legislation other than customs legislation for the fulfilment of the specific Union non-customs formality, in order to allow compliance through the EU Single Window Environment for Customs. In particular, EU CSW-CERTEX should initially cover sanitary and phytosanitary requirements, rules regulating the import of organic products, environmental requirements in relation to fluorinated greenhouse gases and ozone depleting substances, and formalities related to the import of cultural goods. (Rapp. 10)*
- (30f) EU CSW-CERTEX should facilitate information exchange between the EU Customs Data Hub and Union non-customs systems. Accordingly, when an economic operator submits a customs declaration or re-export declaration, which requires Union non-customs formalities to have been fulfilled, it should be possible for customs authorities and partner competent authorities to automatically and effectively exchange and verify the information that is required for the customs clearance process. Improved digital cooperation and coordination between customs authorities and partner competent authorities should lead to more integrated, faster and simpler paperless processes for goods clearance and better enforcement of and compliance with Union non-customs formalities. (Rapp. 11)*
- (30g) The Commission, in collaboration with the Member States, should develop, integrate and operate EU CSW-CERTEX, including the provision of appropriate training on its functioning and implementation to Member States. To provide appropriate, harmonised and standardised single window services*

*at Union level for Union non-customs formalities, the Commission should connect each of the Union non-customs systems with EU CSW-CERTEX. The Commission should be responsible for interconnecting the EU Customs Data Hub with EU CSW-CERTEX, assisted, where necessary, by the EU Customs Authority. (Rapp. 12)*

- (31) A Union-level customs risk management layer is fundamental for ensuring a harmonised application of customs controls in Member States. There is currently a common risk management framework comprising the possibility of identifying common priority controls areas and common risk criteria and standards in the financial risk arena for carrying out customs controls, but it has significant shortcomings. In order to address the lack of harmonised application of customs controls and of harmonised risk management harming the financial and non-financial interests of the Union and of the Member States, it is appropriate to revise the rules to establish a more solid risk management approach addressing both financial and non-financial risks. This includes tackling the structural challenges on the risk management of financial risks identified by the European Court of Auditors. In particular, it is appropriate to describe which activities are comprised in customs risk management, in a cyclical approach. It is also important to identify the roles and responsibilities of the Commission, the EU Customs Authority and the customs authorities of the Member States. It is also essential to provide that the Commission may establish common priority controls areas and common risk criteria and standards, and may identify specific areas in the domain of other legislation applied by the customs authorities that deserve priority for common risk management and controls, without compromising security. *This requires close collaboration with competent authorities enforcing other legislation applied by customs, with a specific focus on collaboration with market surveillance authorities. (Greens/EFA 163)*
- (32) It is therefore appropriate to introduce Union-level risk management activities and provisions to ensure the collection at Union level of comprehensive data relevant for risk management including results and evaluation of all controls. It provides for common risk analysis and the issue of corresponding Union control recommendations to customs authorities. Those control recommendations should be implemented, or reasons provided as to why they were not applied. *In line with the principle of 'comply or explain', these control recommendations should be implemented, or compelling reasons provided for not applying them. A framework should be established to give certainty on situations where it is permissible to deviate from these recommendations, for instance, when other pressing priorities prevail.* The possibility to issue an instruction that goods destined for the Union may not be loaded or transported should also be provided for. The analysis of Union-level risks and threats should be based on constantly updated Union-level data and should identify the measures and controls to be performed at the border crossing points of entry and exit of the Union territory. In the context of cooperation with law enforcement and security authorities in particular, Union-level risk management should, where possible, contribute to and benefit from strategic analyses and threat assessments conducted at Union level, including those carried out by the European Union Agency for Law Enforcement Cooperation (Europol) and the European Border and Coast Guard Agency (Frontex) to contribute to the efficient and effective prevention of, and

the fight against, crime. ***Serious or repeated infringement of other legislations applied by customs and detected by customs or other competent authorities should have an impact on the risk profile of importers, exporters or deemed importers. (Renew 164, Greens/EFA 165)***

- (33) The process of placing goods in a customs procedure needs to be revisited to reflect the new roles and responsibilities of the persons involved in the procedure. Thus, the responsibility for providing the information to the customs authorities is to be assumed by the person responsible for the goods: the importer, the exporter or the holder of the transit procedure, as opposed to the declarant. They should provide or make available the data to customs as soon as this is available and in any case before the release of the goods for a customs procedure, in order to allow the customs authorities to carry out a risk analysis and to take appropriate measures. As the deemed importers in e-commerce have a higher volume of transactions and the obligation to calculate the customs debt at the moment of the sale, as opposed to the moment in which goods are released, it is appropriate to adapt the timing of their reporting obligation. Deemed importers should therefore provide data on their sales of goods to be imported at the latest on the day after the acceptance of the payment. By contrast, in duly justified circumstances, the customs authorities should be able to authorise Trust and Check traders to complete the data on their released goods at a later stage, as these traders constantly share data on their transactions with customs and should be considered reliable. Such circumstances could be the impossibility of determining the final customs value of the goods at the moment of release because it is linked to a futures contract, or the need to obtain the relevant supporting documents without these having an impact on the calculation of the customs debt.
- (34) To simplify the customs process for the entry of goods into the customs territory of the Union while ensuring that there is a single person responsible for those goods, different actors in the supply chain should provide their part of the relevant information on the goods concerned and link it to a specific consignment. Goods should enter only if there is an importer established in the Union that takes the responsibility for those goods. The importer should provide information on the goods to customs and the customs procedure to which they should be placed, at the earliest possible stage, if possible before the goods physically arrive. A service provider or customs agent should be able to provide the information on the importer's name and behalf, but the importer remains responsible for ensuring compliance of the goods with the financial and non-financial risks. The carriers effectively bringing the goods should also provide some information on the goods before loading or arrival ('advance cargo information') and should link their information to the importer's information where this has been previously submitted, without necessarily having access to all the data that the importer has provided. In addition, to cater for the more complex supply chains and transport networks, other persons may be required to complete the information on the goods to be brought to the customs territory of the Union. The importer, the carrier or any other person submitting information to customs should be obliged to amend it where they know that the information is no longer correct but before the customs authorities have detected irregularities that they would like to control.



- (35) The customs authorities responsible for the place of first entry of the goods should carry out a risk analysis of the available information on those goods and be entitled to take a wide range of mitigation measures if they detect a risk, including requesting controls before loading or upon arrival of the goods to the customs territory of the Union, by another customs authority or by other authorities. The carrier is generally in the best position to know when the goods have arrived so they should notify customs of such arrival, *using where applicable the EU Maritime Single Window Environment pursuant to Regulation (EU) 2019/1239*. However, to cater for the more complex supply chains and transport networks, other persons may be required to notify the arrival of the goods to the customs authorities for their risk analysis. In order to ensure that the customs authorities have advance cargo information on all goods brought to the customs territory of the Union, the carrier should be prevented from unloading goods for which there is no information, unless the customs authorities have requested the carrier to present the goods or there is an emergency situation requiring the unloading of the goods. By contrast, to smoothen the process of entry of goods for which the customs authorities have the appropriate advance cargo information, the carrier should not be required to present the goods to customs in all cases but only where the customs authorities so request or where other legislation applied by the customs authorities so requires. **(Rapp. 14)**
- (36) The non-Union goods that are brought to the customs territory of the Union should be considered to be in temporary storage from the moment the carrier notifies their arrival until their placement under a customs procedure unless they are already placed in transit. To ensure appropriate customs supervision, this situation should be limited in time. It should not last more than 10 days, except in exceptional cases. If the importer needs to store the goods for a longer period, the goods should be in a customs warehouse, where the goods can be stored without time limit. The existing authorisations for temporary storage locations should therefore be converted into customs warehouse authorisations if the relevant requirements are met.
- (37) It is necessary to maintain the rules that determine whether the goods are Union or non-Union goods and whether the status of Union goods can be presumed or needs to be proven, particularly where the goods temporarily leave the customs territory of the Union.
- (38) Once the customs authorities have the information necessary for the relevant procedure, based on risk analysis, they should decide whether to perform further controls on the goods, to release them, to refuse or suspend their release or to let the time pass so the goods are considered released. The customs authorities should do so in cooperation with other authorities, where necessary. Accordingly, the customs authorities should refuse the release of the goods where they have evidence that the goods do not comply with applicable legal requirements. Where the customs authorities need to consult other authorities to determine whether or not the goods comply, they should suspend the release at least until the consultation takes place. In these cases, the customs authorities' subsequent decision on the goods should depend on the other authorities' reply. To avoid blocking both traders and authorities in the cases in which concluding on compliance requires some time, the customs authorities should have the

possibility to release the goods on the condition that the trader continues informing about the location of the goods ~~for a maximum of 15 days~~. Finally, in order to provide legal certainty to the traders that have provided the information on time without obliging the customs authorities to react to every consignment, the goods that have not been selected for a control ~~after a reasonable period of time~~ ***as soon as possible and the latest within 30 calendar days*** should be considered released. ~~The Commission should be entitled to define this period of time in delegated rules, adapting it, where necessary, to the type of traffic or type of border crossing points.~~ **(Greens/EFA 167, Rapp. 15)**

- (39) To the extent that Trust and Check traders provide customs full access to their systems, records and operations and are considered reliable, they should be able to release their goods under the supervision of the customs authorities but without waiting for their intervention. Accordingly, Trust and Check traders should be able to release goods for any entry procedure at receipt at final destination of the goods or for any exit procedure at the place of delivery of the goods. As the Trust and Check traders are considered transparent, the arrival and/or the delivery should be properly recorded in the EU Customs Data Hub. These operators should be obliged to inform the customs authorities where a problem arises so that those authorities can take a final decision on the release. Where the internal controls systems of the Trust and Check traders are robust enough, the customs authorities should be able, in cooperation with other authorities, to authorise the traders to perform certain checks on their own. However, the customs authorities should retain the possibility to control the goods at any time. ***Trust and Check status should not be given to persons with repeated or serious infringements to other EU legislation applied by customs.*** **(Greens/EFA 168)**
- (40) It is appropriate to provide measures to regulate the transition from a system based on customs declarations to a system based on the provision of information to the central EU Customs Data Hub. Operators should have the possibility to lodge customs declarations to declare their intention to place goods under customs procedure during the transition period. However, as soon as the capabilities of the EU Customs Data Hub are available, operators should also be given the possibility to provide or make available information to the customs authorities through the EU Customs Data Hub, and the customs authorities should no longer authorise any operator to apply for simplifications in relation to the customs declaration. At the end of the transition period, all the authorisations should cease to be valid, as customs declarations will no longer exist.
- (41) Article 29 of the Treaty on the Functioning of the European Union (TFEU) requires that products coming from third countries are to be considered in free circulation if the import formalities have been complied with and customs duties or charges having equivalent effect have been levied. However, the release for free circulation should not be understood as a proof of compliance with other legislation applied by the customs authorities when the latter imposes specific requirements for goods to be sold or consumed in the internal market.
- (42) The process of taking goods outside the customs territory of the Union should be streamlined and simplified, in line with the entry process. Thus, it is appropriate to require that there a person established in the Union should be responsible for the goods, that is the exporter. The exporter should provide or make available to

customs the relevant information prior to taking the goods out of the Union, indicating whether these are Union or non-Union goods to be exported, and adapting the information necessary. In order to simplify the process and avoid potential loopholes, the concept of export should include the exit of non-Union goods, thereby encompassing also the concept of 're-export', which was previously regulated as a separate concept.

- (43) To ensure that there is proper risk management of the goods taken out of the customs territory of the Union, the customs office responsible of export should be required to carry out a risk analysis of the information on the goods and to take or request the appropriate measures before the goods exit. Those measures should include requesting controls to be carried out by the customs office responsible for the place of dispatch of the goods and the customs office of exit and, if necessary, by other authorities, in addition to the measures provided under the release for a customs procedure, which are also applicable where the goods are to be placed under export.
- (44) To ensure that the duty-suspensive procedures are also transparent, it is appropriate to streamline the requirements provisions for the authorisations for special procedures. In particular, for the sake of clarity and legal certainty, the conditions for determining whether an opinion at Union level is necessary to assess if granting an authorisation could adversely affect the interests of Union producers, the so-called examination of the economic conditions, should be codified rather than being regulated in delegated rules. Moreover, as the effect on the Union producers' interests may depend on the quantity of goods that are placed under the special procedure, the EU Customs Authority should be entitled to propose a certain threshold under which it is estimated that there is no negative effect on the Union producers' interests.
- (45) Article 9 of the Revised Convention for the Navigation of the Rhine refers to an Annex (Rhine Manifest) that facilitated the movement of goods on the Rhine river and its associated tributaries by considering them as a customs transit procedure across national frontiers of five Member States.<sup>35</sup> According to information from customs administrations, the Rhine Manifest is not used in practice anymore as a customs transit procedure in the states bordering the Rhine. Instead, goods on the Rhine and its tributaries are now transported using the Union transit procedure established by the Code, through the New Computerised Transit System (NCTS). It is therefore appropriate to remove the reference to the Rhine Manifest from the cases where a movement of goods is considered as external transit or as Union transit.
- (46) In order to increase transparency about the person responsible for complying with the obligations of the Union transit procedure and with the content and risks related to the consignment, it is appropriate to require that the holder of the transit procedure disclose at least information regarding the importer or the exporter motivating the movement, the means of transport, and the identification of the

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<sup>35</sup> The procedure is based on the Mannheim Rhine Navigation Act of 17 October 1868 and the protocol that was adopted by the Central Commission for Navigation on the Rhine on November 22, 1963. The Mannheim Convention on the Navigation of the Rhine affects Belgium, Germany, France, the Netherlands and Switzerland as countries bordering the Rhine, which are considered to be a single area for the purposes of the Act.

goods placed under that procedure. Such information would enable the customs authorities to supervise more effectively the Union transit procedure concerned and to carry out a risk analysis. The Union transit procedure should be compulsory unless goods are put under another customs regime immediately upon entry into or exit out of the customs territory of the Union. In the case that the importer or the exporter is not yet known, the holder of the goods should be considered as being the importer or the exporter of the goods and should be liable for the payment of customs duties and other taxes and charges. The Union transit procedure should be replaced by customs supervision if goods are imported or exported by a Trust and Check trader.

- (47) An amendment to Annex 6 to the Customs Convention on the International Transport of Goods under Cover of TIR Carnets ('TIR Convention')<sup>36</sup> that entered into force on 1 June 2021 modified the Explanatory Note 0.49 in order to grant to economic operators meeting certain requirements the possibility to become an 'authorised consignor', mirroring the existing facilitations granted to the economic operators recognised as an 'authorised consignee'. It is therefore necessary to include the new possibility established by the TIR Convention in order to align the Union customs legislation with that international agreement.
- (48) ~~Applying the standard rules for duty calculation in e-commerce transactions would, in many cases, result in a disproportionate administrative burden both for the customs administrations and economic operators in particular in respect of the collection of revenues. In the interest of developing a robust and effective fiscal and customs treatment for goods imported from third countries via e-commerce transactions ('distance sales of imported goods'), Union legislation is to be amended in order to remove the threshold under which goods of negligible value not exceeding EUR 150 per consignment are exempted from customs duties at import in accordance with Council Regulation (EC) No 1186/2009<sup>37</sup>, and to introduce a simplified tariff treatment for distance sales of imported goods from third countries in accordance with Council Regulation (EEC) No 2658/87<sup>38</sup> (Combined Nomenclature). In light of these proposed amendments, certain rules of the Code on tariff classification, origin and customs value should be amended to provide for the simplifications applicable on a voluntary basis by the deemed importer when determining the customs duty in a business-to-consumer transaction qualifying as distance sales for VAT purposes. The simplifications should consist in the possibility to calculate the customs duty due by applying one of the new bucket tariffs in the Combined Nomenclature to a value calculated in a simpler way. Under the simplified rules for business-to-consumer e-commerce transactions, the net purchase price without VAT but including the total transport costs until the final destination of the product should be considered as the customs value and no origin should be required. However, if the deemed~~

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<sup>36</sup> Amendments to the Customs Convention on the International Transport of goods under cover of TIR carnets (TIR Convention 1975) According to UN Depository Notification C.N.85.2021.TREATIES-XI.A.16 the following amendments to the TIR Convention enter into force on 1 June 2021 for all Contracting Parties, OJ L 193/1, 1.6.2021, p.1.

<sup>37</sup> Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty (OJ L 324, 10.12.2009, p. 23).

<sup>38</sup> Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

importer wishes to benefit from preferential tariff rates by proving the originating status of the goods, that person can do so by applying the standard procedures. **(EPP 169, S&D 170)**

- (49) Currently, customs debts are collected by the Member State where the customs declaration is lodged. It is the choice of the trader whether to do this in the country of first entry, or to use a transit procedure and pay duties in another Member State. In 2025, this system is due to change with the roll-out of a centralised clearance IT system, which will allow Authorised Economic Operators to lodge the customs declaration in the Member State where they are established. In view of this development, it is appropriate to amend the rules defining the place where the customs debt occurs so that the import duties are paid to the Member State where the importer is established because this is the place where the customs authority can have the most complete knowledge about the records, operations and commercial behaviours of economic operators, in particular where those economic operators are granted the status of Trust and Check traders. However, it is appropriate that the customs debt of operators that are not Trust and Check traders is incurred at the place where the goods are physically located, at least until the supervision model is evaluated.
- (50) In the case of e-commerce transactions, it is essential to ensure that a customs debt is paid correctly by the online intermediaries, such as internet platforms, that manage the online sale of goods to private consumers. It is therefore appropriate to clarify that the deemed importer is the person responsible for the customs debt, which would be incurred at the moment the buyer pays the e-commerce operator, in most cases, an internet platform. To simplify the burden related to such obligation, the deemed importer may be authorised to determine the import duty due and to pay its customs debts periodically, and the customs authorities should be able to have a single entry in the accounts for the purposes of the Union budget.
- (51) It is appropriate to enhance the mechanism aimed at supervising more efficiently the implementation of the restrictive measures on the flow of goods that can be adopted by the Council in accordance with Article 215 TFEU. In such a case, the EU Customs Authority should provide support to the Commission and Member States to ensure that those measures are not circumvented. Customs authorities should ensure that they take all the necessary steps to comply with the measures and should inform the Commission and the EU Customs Authority accordingly.
- (52) A crisis management mechanism should be put in place to address potential crises in the customs union. The lack of such a mechanism at Union level was highlighted in the Customs Action Plan<sup>39</sup>. A mechanism should therefore be established that involves the EU Customs Authority as a pivotal actor in preparing, coordinating and monitoring the implementation of the practical measures and arrangements that the Commission decides to put in place when a crisis occurs. The EU Customs Authority should maintain the crisis response readiness on a permanent basis during the whole duration of the crisis. ***The EU Customs Authority should report back to the Commission, the European***

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<sup>39</sup> Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee Taking the Customs union to the Next Level: a Plan for Action, 28.9.2020 (COM/2020/581 final).

***Parliament and the Council on the implementation of the practical measures and arrangements. (Rapp. 16)***

- (53) The existing governance framework of the customs union lacks a clear operational management structure and does not reflect the evolution of customs since its creation in 1968. Under Regulation (EU) No 952/2013, the activities related to the management of risks in trade flows, such as implementation and decisions on controls on the ground, are the responsibility of national customs authorities. ***The intensity of external border traffic of goods is not equal across the EU.*** Despite the cooperation between national customs administrations that has existed since the creation of the customs union and that has led to the exchange of best practices, expertise, and the development of common guidelines, it has not resulted in the development of a harmonised approach and operational framework. Currently, divergent practices exist in Member States that weaken the customs union. There is no central risk analysis capacity, no common view on risk prioritisation, limited coordinated customs action and controls, and no cooperation framework of various authorities serving the ~~single~~***internal*** market. A central operational Union layer to pool expertise, resources and take decisions together should address such weaknesses in areas such as data management, risk management and training to make the customs union ‘act as one’. Therefore, it is appropriate that an EU Customs Authority is established. The creation of this new Authority is crucial to ensure the efficient and adequate functioning of the customs union, to centrally coordinate customs action and support the customs authorities’ activities. **(Rapp. 17, Renew 173)**
- (54) The EU Customs Authority should be governed and operated on the basis of the principles of the Joint Statement and common approach of the European Parliament, the Council and the Commission on decentralised agencies of 19 July 2012.<sup>40</sup>
- (55) Criteria to be taken into account in order to contribute to the decision making process for choosing the EU Customs Authority seat should be the assurance that Authority can be set up on site upon the entry into force of this Regulation, the accessibility of the location and the existence of adequate education facilities for the children of staff members as well as appropriate access to the labour market, social security and medical care for both children and spouses of staff members. In view of the cooperative nature of most of the EU Customs Authority activities, and in particular the close connection that will exist between the IT systems that the Commission will maintain during the transitional period, while the EU Customs authority will build and operate the EU Customs Data Hub, it should be in a place that allows such close cooperation with the Commission, the authorities of the Union regions most relevant for international trade, and relevant Union and international bodies (for example the World Customs Organisation for facilitating practical cross fertilisation on specific subjects). Considering these criteria, the EU Customs Authority should be located at [...].
- (55a) *Member States and the Commission have the responsibility to ensure that customs authorities are properly resourced, trained, and equipped to have the***

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[joint statement on decentralised agencies en.pdf \(europa.eu\)](#)

*capacity to fulfil their mission, including proper investigative powers; (The Left 171)*

- (55b) *Customs are in need of serious investments, especially in view of a sufficient number of properly trained staff in order to guarantee the functioning of EU customs systems which are facing an exponential increase in demands on customs; whereas without the necessary investments into staff, digital solutions cannot achieve their full potential. Therefore, investments into digital systems should guarantee sufficient funding for staff and their training in order to require the necessary skills for state-of-the-art equipment, technology for big data analytics, detection and controls and thus, to guarantee that customs controls are conducted uniformly across the EU; (The Left 172)*
- (56) The Member States and the Commission **and the European Parliament** should be represented on a Management Board, in order to ensure the effective functioning of the EU Customs Authority. The composition of the Management Board, including the selection of its Chairperson and Deputy-Chairperson, should respect the principles of gender balance, experience and qualification. Given the Union's exclusive competence on the customs union, and the close link between customs and other policy fields, it is appropriate that its chairperson is elected from among those Commission representatives. In view of the effective and efficient functioning of the EU Customs Authority, the Management Board should, in particular, adopt a Single Programming Document including annual and multiannual programming, carry out its functions relating to the Authority's budget, adopt the financial rules applicable to the Authority, appoint an Executive Director, and establish procedures for taking decisions relating to the operational tasks of the Authority by the Executive Director. The Management Board should be assisted by an Executive Board **and a consultative body representing consumer organisations, business associations and other relevant non-state actors.** (S&D 175, Greens/EFA 174)
- (56a) *The EU Customs Authority should establish the Customs Advisory Board, which should assist its Executive Board. It should be tasked to provide advice on the implementation of technical actions and decisions, including risk management and priority areas of control, on implementation and standardisation issues, including harmonisation activities or the need for the adaptation of the rules, provide advice on the customs dimensions of other legislation applied by customs, and provide advice in the context of any other activities of the Authority. The Customs Advisory Board should endeavour to a balanced stakeholder representation between commercial and non-commercial interest and, within the category of commercial interests, with regards to SMEs and other undertakings.*
- (57) To guarantee its effective functioning, the EU Customs Authority should be granted an autonomous budget, with revenue coming from the general budget of the Union and any voluntary financial contribution from the Member States. In exceptional and duly justified circumstances, the EU Customs Authority should also be in the position to receive additional revenues through contribution agreements or grant agreements, and charges for publications and any other service provided by the EU Customs Authority.

- (58) To fulfil their mission, customs authorities cooperate closely and regularly with market surveillance authorities, sanitary and phytosanitary control authorities, law-enforcement bodies, border management authorities, environmental protection bodies, experts on cultural goods, and many other authorities in charge of sectoral policies. Considering the evolution of the ~~single~~**internal** market and the evolving role of customs, the increase in prohibitions and restrictions and e-commerce, it is necessary to structure and reinforce this cooperation at national, Union and international level. Instead of a cooperation focused on individual consignments or specific events along the supply chain, a structured cooperation framework between customs authorities and other authorities responsible for relevant policy areas should be established. Such cooperation framework should include the following aspects: the development of legislation and of policy needs in a specific area, the exchange and analysis of information, the building of overall cooperation strategy in the form of joint supervision strategies and, finally, cooperation on operational implementation, monitoring and controls. The Commission should also facilitate the application of part of the other legislation applied by the customs authorities by drawing a list of Union legislation imposing requirements on goods subject to customs controls aimed at protecting public interests such as human, animal or plants health and life, the consumers and the environment. **(Rapp. 18)**
- (59) In order to increase clarity and make the cooperation framework between customs and other partner authorities more efficient, a list of services offered by customs authorities should define clearly the possible role of customs in the application of other relevant policies at the borders of the Union. In addition, the application of the cooperation framework should be monitored by the EU Customs Authority. The EU Customs Authority should work closely and cooperate with the Commission, OLAF, other relevant Union agencies and bodies, such as Europol, ***the European Public Prosecutor Office*** and Frontex as well as specialised agencies and networks in the respective policy fields, such as the EU Product Compliance Network. **(Greens/EFA 177, Renew 178)**
- (60) In an increasingly connected world, customs diplomacy and international cooperation are important aspects in the work of customs authorities around the world. International cooperation should envisage the possibility of exchange of customs data, on the basis of international agreements or autonomous legislation of the Union, through appropriate and secure means of communication, subject to the respect of confidential information and the protection of personal data, such as through the EU Customs Data Hub. ***This framework should not infringe upon the competence of Member States regarding bilateral or multilateral engagements with third countries on national tasks.*** **(Renew 179)**
- (61) Despite the fact that customs legislation is harmonised through the Code, Regulation (EU) No 952/2013 only included the obligation for Member States to provide for penalties for failure to comply with the customs legislation and required such penalties to be effective, proportionate and dissuasive. Member States have, therefore, the choice of customs penalties, which vary greatly across Member States and are subject to evolution over time. A common framework establishing a minimum core of customs infringements and of non-criminal sanctions should be laid down. ***Non-compliance with importer, exporter and***



*deemed-importer obligations could be included in the list of customs infringements.* Such framework is necessary to address the lack of uniform application and the significant divergences between Member States in the application of sanctions against breaches of customs legislation that can lead to a distortion of competition, loopholes and ‘customs shopping’. The framework should be composed of a common list of acts or omissions that should constitute customs infringements in all Member States. In determining the sanction applicable, customs authorities should define if these acts or omissions are committed intentionally or by obvious negligence. *Sanctions and liabilities imposed on economic operators should be proportionate to their role in the transaction process, ensuring fairness and clarity in their application. The Commission, Member States and the EU Customs Authority should regularly exchange best practices on audit and sanctions, in order to improve coherence in the application of sanctions. ~~The Commission should regularly assess whether the sanctions applied by Member States are sufficient to reach the objectives of the Union Customs Code.~~* (Greens/EFA 180-181, ECR 370)

- (62) It is necessary to establish common provisions for extenuating or mitigating factors, as well as for aggravating circumstances, with regard to the customs infringements. The limitation period for initiating the customs infringement proceedings should be established in accordance with national law and should be between 5 and 10 years, so as to provide for a common rule based on the time limitation for the notification of customs debt. The competent jurisdiction should be the one where the infringement was committed. Cooperation between Member States is necessary in cases where the customs infringement has been committed in more than one Member State; in such cases the Member State that first initiates the proceedings should cooperate with the other customs authorities concerned by the same customs infringement.
- (63) It is necessary to establish a minimum common core of customs infringements by defining them, based on the obligations laid down in this Regulation and to identical obligations provided for in other parts of the customs legislation.
- (64) It is also necessary to establish a common minimum core of non-criminal sanctions providing for minimum amounts of pecuniary charges, the possibility of revocation, suspension or amendment of customs authorisations, including for Authorised Economic Operators and Trust and Check traders, as well as the confiscation of the goods. The minimum amounts of pecuniary charges should depend on whether the customs infringement has been committed intentionally or not and whether or not it has an impact on the amount of customs duties and other charges and on prohibitions or restrictions. This minimum common core of non-criminal sanctions should apply without prejudice to the national legal order of Member States, which can instead provide for criminal sanctions. *Member States, the Commission and the EU Customs Authority should collaborate to gradually increase the coherence of non-criminal sanctions and their application across the Union.* (Greens/EFA 183)
- (65) The performance of the customs union should be evaluated at least on an annual basis to allow the Commission, with the help of the Member States, to take the appropriate policy orientations. The collection of information from customs authorities should be formalised and deepened, as more comprehensive reporting

would improve benchmarking and could help to homogenise practices and assess the impact of customs policy decisions. It is, therefore, appropriate to introduce a legal framework for the evaluation of the performance of the customs union. To allow sufficient granularity of analysis, the performance measurement should be done not only at national level but also at border crossing point level. The EU Customs Authority should support the Commission in the evaluation process by gathering and analysing the data in the EU Customs Data Hub and identifying how customs activities and operations support the achievement of the strategic objectives and priorities of the customs union and contribute to the mission of customs authorities. In particular, the EU Customs Authority should identify key trends, strengths, weaknesses, gaps, and potential risks, and provide recommendations for improvement to the Commission. In the context of cooperation with law enforcement and security authorities in particular, the EU Customs Authority should also participate, from the operational perspective, in strategic analyses and threat assessments conducted at Union level, including those carried out by Europol and Frontex. ***This evaluation report should be published (Greens/EFA 184)***

- (66) In accordance with the principle of proportionality, it is necessary and appropriate, for the achievement of the basic objectives of enabling the customs union to function effectively and implementing the common commercial policy, to lay down the rules and procedures applicable to goods brought into or taken out of the customs territory of the Union. This Regulation does not go beyond what is necessary to achieve the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union.
- (67) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the following:
- in relation to the special fiscal territories, more detailed provisions of customs legislation to address particular circumstances pertaining to the trade in Union goods involving only one Member State;
  - in relation to customs decisions, the conditions, time limits, exceptions, modalities for monitoring, suspension, annulment and revocation relating to the application, issuance and management of such decisions, including those relating to binding information;
  - the minimum data requirements and specific cases for the registration of economic operators with the customs authorities responsible for the place where they are established;
  - the type and frequency of the monitoring activities, the simplifications and the facilitations provided for the Authorised Economic Operator;
  - the type and frequency of the monitoring activities of the Trust and Check trader;
  - in relation to the customs representative, the conditions under which such person may provide services in the customs territory of the Union, the cases in which the requirement of being established therein is waived and in which the evidence of empowerment is not required by the customs authorities;

- the categories of data subjects and the categories of personal data that may be processed in the EU Customs Data Hub;
- more detailed rules in relation to the customs status of goods;
- the type of data and time limits for providing such data for placing goods under a customs procedure;
- ~~– the reasonable period of time after which the customs authorities shall be deemed to have released the goods where they have not selected them for any control-w; (Rapp. 19)~~
- in relation to customs declarations: the cases where a customs declaration may be lodged using means other than electronic data-processing techniques; the conditions for granting the authorisation to lodge simplified declarations; the time limits for lodging supplementary declarations and the cases in which the obligation to lodge such declarations are waived; the cases of invalidation of the customs declaration by customs authorities; the conditions for granting the authorisations for centralised clearance and entry into the declarant's records;
- the conditions and the procedure for confiscating goods;
- in relation to the advance cargo information: the additional data to be provided, the time limits, the case where the obligation to provide such data is waived, the specific cases in which data can be provided by multiple persons, the conditions under which a person who provides or makes available information may restrict the visibility of its identification to one or more other persons which also lodge particulars;
- in relation to the entry of the goods into the customs territory of the Union: the time-limits within which the risk analysis is to be carried out and the necessary measures are to be taken; the specific cases and the other persons who may be required to notify the arrival of the consignments to the actual customs of first entry, in case of diversion; the conditions for designating and approving the places other than the designated customs office for presenting the goods; the conditions for designating or approving the places other than customs warehouses for placing the goods in temporary storage;
- the data to be provided or to be made available to the customs authorities for placing goods under a release for free circulation;
- the cases in which goods are considered to be returned in the state in which they were exported and in which goods which have benefited from measures laid down under the common agricultural policy can be granted relief from import duty;
- in relation to the pre-departure information at exit from the customs territory of the Union: the minimum pre-departure information and the time limits within which the pre-departure information is to be provided or made available before the goods are taken out, the specific cases in which the obligation to provide or make available pre-departure information is waived and the information to be notified on the exit of the goods;
- in relation to the exit of goods, the time-limits within which risk analysis is to be carried out and the necessary measures are to be taken; the data to be provided

or made available to the customs authorities for placing goods under the export procedure;

- in relation to special procedures: the data to be provided or made available to the customs authorities for placing goods under such procedures; the exceptions to the conditions for granting an authorisation for special procedures; the cases in which the economic nature of the processing justifies that the customs authorities assess whether granting an authorisation for an inward processing procedure adversely affects the essential interest of the Union producers without the opinion of the EU Customs Authority; the list of goods considered as sensitive; the time limit for discharging a special procedure; the cases and conditions under which importers and exporters may move goods placed under a special procedure other than transit or in a free zone; the usual forms of handling for goods placed under customs warehousing or a processing procedure; the more detailed rules related to equivalent goods;
- in relation to transit: the specific cases where Union goods are to be placed under the external transit procedure; the conditions for the granting of the authorisations for authorised consignor and authorised consignee for TIR purposes; the additional data requirements to be provided by the holder of the Union transit procedure;
- in relation to storage: the minimum data to be provided by the operator of a customs warehouse or a free zone; the conditions for granting the authorisation for the operation of customs warehouses;
- in relation to temporary admission: the requirements for total or partial duty relief laid down in the customs legislation that are to be met for using the temporary admission procedure;
- the rules for the determination of non-preferential origin and the rules on preferential origin;
- the conditions for granting the authorisation for simplifications in the determination of the customs value in specific cases;
- in relation to customs debt: more detailed rules for the calculation of the amount of import or export duty applicable to goods for which a customs debt is incurred in the context of a special procedure; the specific time-limit within which the place where the customs debt is incurred cannot be determined if the goods have been placed under a customs procedure which has not been discharged or when a temporary storage did not end properly; more detailed rules related to the notification of customs debt; rules for
- the suspension of the time-limit for payment of the amount of import or export duty corresponding to a customs debt and for determining the period of suspension; the rules with which the Commission has to comply when taking a decision on repayment and remission of customs debt; the list of failures with no significant effect on the correct operation of the temporary storage or of the customs procedure concerned, for the extinguishment of the customs debt;
- in relation to guarantees: the specific cases in which no guarantee is required for goods placed under the temporary admission procedure, the rules for determining the form of the guarantee other than any means of payment

- recognised by the customs authorities and an undertaking given by a guarantor; the rules concerning the forms for the provision of a guarantee and the rules applicable to the guarantor; the conditions for the granting of an authorisation to use a comprehensive guarantee with a reduced amount or to have a guarantee waiver; the time-limits for the release of a guarantee;
- in relation to customs cooperation, any other complementary measure to be taken by the customs authorities to ensure compliance with legislation other than customs; the conditions and procedures according to which a Member State can be empowered to enter into negotiations with third countries on exchange of data for the purpose of customs cooperation;
  - to delete or modify the derogations for the identification of the customs office competent for supervising the placement of the goods under a customs procedure and of the place for the incurrance of the customs debt, in light of the assessment to be made by the Commission on the effectiveness of the customs supervision as established by this Regulation.
- (68) It is of particular importance that the Commission carry out appropriate consultations during the preparatory work for the adoption of delegated acts, including at expert level and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>41</sup>.
- (69) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in order to: to adopt the procedural rules on the use of a decision relating to binding information after it ceases to be valid or is revoked; to adopt the procedural rules on the notification to the customs authorities that the taking of such decisions is suspended and on the withdrawal of such suspension; to adopt decisions requesting Member States to revoke decisions relating to binding information; to adopt the modalities for the application of the criteria for granting the status of Authorised Economic Operator and of Trust and Check trader; to determine the electronic systems, platforms or environments with which the EU Customs Data Hub federates; to determine the rules for the access to specific services and systems of the EU Customs Data Hub, including the specific rules and conditions for the protection, safety and security of personal data and where that access is limited; measures on the management of the surveillance by customs; to adopt the procedural rules regarding the responsibilities of the joint controllers for the data processing taking place by means of a service or system of the EU Customs Data Hub; to adopt the procedural rules for determining the competent customs offices other than the customs office responsible for the place where the importer or the exporter is established; to adopt measures on the verification of information, examination and sampling of goods, results of the verification and on identification; to adopt measures on the application of post-release controls in respect of operations taking place in more than one Member State; to determine the ports or airports where customs controls and formalities are to be carried out on cabin and hold baggage; to adopt measures to ensure the harmonised application of customs controls and risk management, including the exchange of

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<sup>41</sup> OJ L 123, 12.5.2016, p. 1.

information, the establishment of common risk criteria and standards and common priority control areas and the evaluation activities in these areas; to specify the procedural rules for the provision and verification of the proof of the customs status of Union goods; to specify the procedural rules for amending and for invalidating the information for placing goods under a customs procedure; to adopt the procedural rules on the determination of competent customs offices and on the lodging of the customs declaration where other means than electronic data processing techniques are used; the procedural rules on the lodging of a standard customs declaration and on the making available of supporting documents; the procedural rules on the lodging of a simplified declaration and a supplementary declaration; the procedural rules on the lodging of a customs declaration prior to the presentation of goods to customs, the acceptance of the customs declaration and the amendment of the customs declaration after the release of the goods; to specify the procedural rules on centralised clearance and on the waiver from the obligation for goods to be presented in that context; the procedural rules on entry in the declarant's records; the procedural rules on the disposal of goods; the procedural rules on the provision of information establishing that the conditions for relief from import duty for returned goods are fulfilled and on the provision of evidence that the conditions for relief from import duty for products of sea-fishing and other products taken from the sea are fulfilled; to specify the procedural rules on the exit of goods; to adopt the procedural rules for providing, amending and invalidating the pre-departure information and for lodging, amending and invalidating the exit summary declaration; to adopt procedural rules for refunding the VAT to natural persons not established in the Union; to specify the procedural rules on the notification of arrival of sea-going vessels and aircraft and on the conveyance of goods to the appropriate place; the procedural rules on the lodging, amendment and invalidation of the temporary storage declaration and on the movement of goods in temporary storage; to adopt the procedural rules for granting the authorisation for special procedures, for the examination of the economic conditions and for issuing the opinion of the EU Customs Authority assessing whether granting an authorisation for an inward or outward processing procedure adversely affects the essential interests of Union producers; to adopt the procedural rules on the discharge of a special procedure; the procedural rules on the transfer of rights and obligations and the movement of goods in the context of special procedures; the procedural rules on the use of equivalent goods in the context of special procedures; the procedural rules for the application of the provisions of international transit instruments in the customs territory of the Union; the procedural rules on the placing of goods under the Union transit procedure and on the discharge of that procedure, on the operation of the simplifications of that procedure and on the customs supervision of goods passing through the territory of a third country under the external Union transit procedure; the procedural rules on the placing of goods under the customs warehousing or free zone procedure and for the movement of goods placed in customs warehouse; to adopt measures on the uniform management of tariff quota and tariff ceilings and the management of the customs surveillance of the release for free circulation or export of goods; to adopt measures to determine the tariff classification of goods; to specify the procedural rules on the provision and the verification of the proof of non-preferential origin; to adopt the procedural rules to facilitate the establishment in the Union of the preferential origin of goods; to

adopt measures to determine the origin of specific goods; to grant temporary derogation from the rules on preferential origin of goods benefiting from preferential measures adopted unilaterally by the Union; to specify the procedural rules on the determination of the customs value of goods; to specify the procedural rules on the provision, determination of the amount, the monitoring and release of guarantees, as well as on the revocation and cancellation of an undertaking given by a guarantor; to specify the procedural rules regarding temporary prohibitions of the use of comprehensive guarantees; to adopt measures to ensure mutual assistance between the customs authorities in the event of the incurrence of a customs debt; to specify the procedural rules for the repayment and remission of an amount of import or export duty, on the information to be provided to the Commission, and on the decisions to be adopted by the Commission on repayment or remission; to adopt measures for the identification of a crisis and the activation of the crisis management mechanism; to adopt the procedural rules for granting and managing the authorisation for a Member State to enter into negotiations with a third country with a view to concluding a bilateral agreement or arrangement on exchange of information; to adopt decisions on an application by a Member State for the authorisation on entering into negotiations with a third country with a view to concluding a bilateral agreement or arrangement on exchange of information; to specify the design of the measurement framework of the performance of the customs union and the information that Member States should provide to the EU Customs Authority for the purpose of performance measurement; to lay down the rules on currency conversion. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>42</sup>.

- (70) The advisory procedure should be used for the adoption of: implementing acts requesting Member States to revoke decisions relating to binding information, given that those decisions affect only one Member State and aim at ensuring compliance with the customs legislation; implementing acts to determine the specific details for the access of authorities other than customs to specific services and systems of the EU Customs Data Hub; implementing acts on an application by a Member State for the authorisation on entering into negotiations with a third country with a view to concluding a bilateral agreement or arrangement on exchange of information, as they affect only one Member State; implementing acts on repayment or remission of an amount of import or export duty given that those decisions directly affect the applicant for that repayment or remission.
- (71) In duly justified cases, where imperative grounds of urgency so require, the Commission should adopt immediately applicable implementing acts relating to: measures to ensure uniform application of customs controls, including the exchange of risk information and analysis, common risk criteria and standards, control measures and common priority control areas; decisions on an application by a Member State for the authorisation on entering into negotiations with a third country with a view to concluding a bilateral agreement or arrangement on exchange of information; measures to determine the tariff classification of goods;

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<sup>42</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

measures to determine the origin of specific goods; measures establishing the appropriate method of customs valuation or criteria to be used for determining the customs value of goods in specific situations; measures temporarily prohibiting the use of comprehensive guarantees; the identification of a crisis situation and the adoption of the appropriate to address it or to mitigate its negative effects; decisions to empower a Member State to negotiate and conclude a bilateral agreement with a third country on exchange of information.

- (72) The Commission should make every effort to ensure that the delegated and implementing acts provided for in this Regulation enter into force sufficiently in advance of the application date of the Code to allow its timely implementation by Member States.
- (73) The provisions referring to the EU Customs Authority, except Article 238, should apply from 1 January 2028. Until that date, the EU Customs Authority should perform its tasks using the existing electronic systems for exchange of customs information developed by the Commission. The provisions on the simplified tariff treatment for distance sales and deemed importer should apply from 1 January 2028.
- (74) ~~In 2032~~ **From 1 January 2029**, economic operators ~~may~~ **should have the right to** start using, on a voluntary basis, the capabilities of the EU Customs Data Hub. ~~By the end of 2037~~ **31 December 2032**, the EU Customs Data Hub should be fully developed, and all economic operators shall use it. Trust and Check traders and deemed importers will be supervised by the Member State of their establishment. By derogation and subject to review, operators that are neither Trust and Check traders nor deemed importers will remain under the supervision of the customs authority of the Member State where the goods are physically located. By 31 December 2035, the Commission should evaluate the two supervision models, including as regards their effectiveness for detecting and preventing fraud. The evaluation should also consider indirect taxation aspects. Based on this evaluation, the Commission should be entitled to decide by delegated act whether the two models should continue or whether, in all cases, the customs authority responsible for the place of establishment of the trader should release the goods. The place of incurrence of customs debt should also be regulated in accordance with the determination of the responsible customs authority, **(Rapp. 20, Greens/EFA 185)**