Commission Implementing Regulation (EU) 2020/2038 of 10 December 2020 amending Implementing Regulation (EU) 2015/2447 as regards the forms for guarantor's undertakings and the inclusion of air transport costs in the customs value, to take account of the withdrawal of the United Kingdom from the Union

COMMISSION IMPLEMENTING REGULATION (EU) 2020/2038

of 10 December 2020

amending Implementing Regulation (EU) 2015/2447 as regards the forms for guarantor's undertakings and the inclusion of air transport costs in the customs value, to take account of the withdrawal of the United Kingdom from the Union

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[(1)], and in particular Articles 126 and 127(1) thereof, as well as Articles 5(3) and 13(1) of the Protocol on Ireland/Northern Ireland,

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code[(2)], and in particular Articles 8(1)(b), 76(a) and 100(1)(b) thereof,

Whereas:

(1) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union.

(2) On 1 February 2020, the United Kingdom withdrew from the European Union and from the European Atomic Energy Community. Pursuant to Articles 126 and 127 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ('Withdrawal Agreement'), Union law is applicable to and in the United Kingdom during a transition period that is to end on 31 December 2020 ('transition period').

(3) In accordance with Article 185 of the Withdrawal Agreement and with Article 5(3) of the Protocol on Ireland/Northern Ireland, customs legislation as defined in point (2) of Article 5 of Regulation (EU) No 952/2013 is applicable to and in the United Kingdom in respect of Northern Ireland (not including the territorial waters of the United Kingdom) after the end of the transition period.

(4) After the end of the transition period, Regulation (EU) No 952/2013 ceases to apply to and in the United Kingdom, with the exception of Northern Ireland, and customs duties are to be applied to goods brought into the customs territory of the Union from the United Kingdom. In accordance with Article 71(1)(e) of Regulation (EU) No 952/2013, the cost of transport up to the place where goods are brought into the customs territory of the Union is to be included in the customs value of the imported goods. The percentages

of total air transport costs to be included in the customs value are set out in Annex 23-01 to Commission Implementing Regulation (EU) 2015/2447[(3)]. After the end of the transition period, the United Kingdom should be included in the appropriate list of third countries in that Annex.

(5) The forms for guarantor's undertakings are set out in Annexes 32-01, 32-02 and 32-03 and in Chapters VI and VII of Annex 72-04 to Implementing Regulation (EU) 2015/2447. Those forms list the Member States of the Union and the other Contracting Parties to the Convention on a common transit procedure[(4)], as amended by Decision No 1/2019 of the EU-CTC Joint Committee on common transit[(5)] ('the Convention'). When Regulation (EU) No 952/2013 ceases to apply to and in the United Kingdom, with the exception of Northern Ireland, the United Kingdom should no longer be listed among the Member States in those forms. However, the United Kingdom has been invited and deposited its instrument of accession to accede to the Convention as a separate Contracting Party as of the end of the transition period. When the United Kingdom accedes to the Convention, it should be listed among the other Contracting Parties to the Convention in the forms for guarantor's undertakings. In addition, as a consequence of the application of the Protocol on Ireland/Northern Ireland, for Union transit operations Northern Ireland should be listed in a way that indicates that any guarantee that is valid in the Member States must also be valid in Northern Ireland.

(6) Having regard to the imminent end of the transition period, this Regulation should enter into force as a matter of urgency. As the transition period ends on 31 December 2020, the provisions of this Regulation relating to the inclusion of the costs of air transport from the United Kingdom, with the exception of Northern Ireland, in the customs value and to the deletion of the references to the United Kingdom from the part of the forms for guarantor's undertakings designated for the Member States should apply from 1 January 2021. The provisions relating to the inclusion of the references to the United Kingdom on the list of the other Contracting Parties to the Convention in the forms for guarantor's undertakings should apply from the day the United Kingdom accedes to the Convention on a common transit procedure.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2015/2447 is amended as follows:

(1) in Annex 23-01, in the table, in the last row of the first column ('Zone Q'), the following text is added:

, United Kingdom, with the exception of Northern Ireland;

(2) in Annex 32-01, Part I (Undertaking by the guarantor), point 1 is amended as follows:

(a) after the text 'the Kingdom of Sweden', the following text is deleted:

, the United Kingdom of Great Britain and Northern Ireland;

(b) after the text 'the Republic of Turkey[56]', the following text is inserted:

, the United Kingdom of Great Britain and Northern Ireland[6]

(3) in Annex 32-02, Part I (Undertaking by the guarantor), point 1 is amended as follows:

(a) after the text 'the Kingdom of Sweden', the following text is deleted:

, the United Kingdom of Great Britain and Northern Ireland;

(b) after the text 'the Republic of Turkey', the following text is inserted:

, the United Kingdom of Great Britain and Northern Ireland[7]

(4) in Annex 32-03, Part I (Undertaking by the guarantor), point 1 is amended as follows:

(a) after the text 'the Kingdom of Sweden', the following text is deleted:

and the United Kingdom of Great Britain and Northern Ireland;

(b) after the text 'the Republic of Turkey[71]', the following text is inserted:

, the United Kingdom of Great Britain and Northern Ireland[8]

(5) in Annex 72-04, Part II is amended as follows:

(a) in Chapter VI, in row 7 of the table, after the text 'Turkey —', the following text is inserted:

United Kingdom ([9]) —';;

(b) in Chapter VII, in row 6 of the table, after the text 'Turkey —', the following text is inserted:

United Kingdom ([10]) —'.;

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

However, Articles 1(2)(b), 1(3)(b), 1(4)(b) and 1(5) shall apply from the day the United Kingdom accedes to the Convention on a common transit procedure.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 December 2020.

For the Commission

The President

Ursula VON DER LEYEN