Regulation (EU) 2019/474 of the European Parliament and of the Council of 19 March 2019 amending Regulation (EU) No 952/2013 laying down the Union Customs Code

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of 19 March 2019

amending Regulation (EU) No 952/2013 laying down the Union Customs Code

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 33, 114 and 207 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) Regulation (EU) No 952/2013 of the European Parliament and of the Council[(3)] establishes the Union Customs Code (the Code) and lays down general rules and procedures applicable to goods brought into or taken out of the customs territory of the Union.

(2) The Italian municipality of Campione d'Italia, an Italian exclave in the territory of Switzerland, and the Italian waters of Lake Lugano should be included in the customs territory of the Union because the historical reasons justifying the exclusion of those territories, such as their isolation and economic disadvantages, no longer apply. For the same reasons, those territories should be included in the general arrangements for excise duty while continuing to be excluded from the common system of value added tax. In order to ensure that these changes apply consistently from the same point in time, the inclusion of those territories in the customs territory of the Union should apply from 1 January 2020.

(3) The Code should be amended in order to clarify that a holder of a binding tariff information (BTI) decision can use that decision for up to six months after the BTI decision has been revoked if the revocation results from the fact that that decision does not comply with customs legislation or that the conditions laid down for taking BTI decisions have not been, or are no longer, fulfilled.

(4) Temporary storage should be added to the list of customs formalities covered by the provision of the Code that provides for the extinguishment of a customs debt due to non-compliance where the failure had no significant effect on the correct operation of the

procedure concerned, did not constitute an attempt at deception, and the situation was subsequently regularised. For the purposes of the extinguishment of a customs debt in those cases, temporary storage should not be treated differently to a customs procedure. The delegation of power to the Commission to supplement that provision of the Code should also be amended to include temporary storage.

(5) Where customs authorities are required to invalidate an entry summary declaration due to the fact that the goods covered by the declaration have not been brought into the customs territory of the Union, the entry summary declaration should be invalidated without delay 200 days after the declaration was lodged rather than within 200 days, since that is the period within which the goods must be brought into the customs territory of the Union.

(6) In order to enable the customs authorities to carry out proper risk analysis and appropriate risk-based controls, it is necessary to ensure that economic operators provide them with pre-arrival data and information concerning non-Union goods in the form of an entry summary declaration. Where an entry summary declaration was not lodged before the goods were brought into the customs territory of the Union and the obligation to lodge it has not been waived, economic operators should submit the data and information normally included in entry summary declarations in their customs declarations or temporary storage declarations. For those purposes, the possibility to lodge a customs declaration or a temporary storage declaration instead of an entry summary declaration should be available only if the customs authorities where the goods are being presented so allow. Where customs authorities are required to invalidate a temporary storage declaration due to the fact that the goods covered by the declaration have not been presented to customs, that declaration should be invalidated without delay after 30 days have elapsed since the declaration was lodged rather than within 30 days, since that is the period within which the goods must be presented to customs.

(7) Total relief from import duty should be provided for goods that have been repaired or altered under the outward processing procedure in a country or territory with which the Union has concluded an international agreement providing for such relief, in order to ensure that the Union fulfils its international commitments in this respect. Since the scope of that relief is limited to the import of the products that have actually been repaired or altered in the country or territory concerned, it should not be extended to the import of repaired or altered products obtained from equivalent goods or of replacement products under the standard exchange system. The relief from import duty should therefore not apply to those goods and products.

(8) Where customs authorities are required to invalidate an exit summary declaration or a re-export notification due to the fact that the relevant goods have not been taken out of the customs territory of the Union, the declaration or notification should be invalidated without delay after 150 days have elapsed since it was lodged rather than within 150 days, since that is the period within which the goods must be taken out of the customs territory of the Union.

(9) 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 of implementing the common commercial policy to address a number of technical issues that have been detected in the implementation of the Code since its entry into force, to bring two territories of a Member State within the scope of the customs territory of the Union and to align the Code with international agreements not in force at the time of its adoption. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union.

(10) Regulation (EU) No 952/2013 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 952/2013 is amended as follows:

(1) in Article 4(1), the twelfth indent is replaced by the following:

— the territory of the Italian Republic, except the municipality of Livigno,;

(2) in Article 34(9), the first subparagraph is replaced by the following:

9. Where a BTI or BOI decision ceases to be valid in accordance with point (b) of paragraph 1 or with paragraph 2, or is revoked in accordance with paragraph 5, 7 or 8, the BTI or BOI 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.;

(3) in Article 124(1), point (h)(i) is replaced by the following:

(i) the failure which led to the incurrence 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;;

(4) Article 126 is replaced by the following:

Article 126

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the list of failures with no significant effect on the correct operation of the temporary storage or of the customs procedure concerned and to supplement point (h)(i) of Article 124(1).;

(5) in Article 129, paragraph 2 is replaced by the following:

2. Where the goods for which an entry summary declaration has been lodged are not brought into the customs territory of the Union, the customs authorities shall invalidate that declaration without delay in either of the following cases:

a upon application by the declarant; or

b after 200 days have elapsed since the declaration was lodged.;

(6) in Article 139, paragraph 5 is replaced by the following: