Commission Implementing Regulation (EU) 2017/989 of 8 June 2017 correcting and amending Implementing Regulation (EU) 2015/2447 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code

COMMISSION IMPLEMENTING REGULATION (EU) 2017/989

of 8 June 2017

correcting and amending Implementing Regulation (EU) 2015/2447 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code

THE EUROPEAN COMMISSION,

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

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[(1)] (the Code), and in particular Articles 8, 11, 17, 25, 58, 63, 66, 76, 100, 132, 152, 157, 161, 165, 169, 181, 232, 236, 266, 268, 273 and 276 thereof,

Whereas:

(1) Following the publication of Commission Implementing Regulation (EU) 2015/2447[(2)], errors of different nature have been detected and need to be corrected. Correcting some of those errors requires amending certain other related provisions of that Implementing Regulation.

(2) Recital 61 of Implementing Regulation (EU) 2015/2447 should correctly reflect the outcome of the vote on that Implementing Regulation in the Customs Code Committee, which did not deliver any opinion within the time limit laid down by its chair.

(3) The wording of the following provisions of Implementing Regulation (EU) 2015/2447 should be corrected in order to make the provisions clearer but without introducing any new element: Articles 67(4), 87 (title), 102, 137 and 138, 143(2), 214, 220 and, 230(2), and Annex 21-01.

(4) In a number of provisions of and Annexes to Implementing Regulation (EU) 2015/2447, the references to other legal provisions, including the reference to the provisions of the Code being implemented, should be corrected or be made more precise.

(5) Article 67(1) of Implementing Regulation (EU) 2015/2447 should be corrected to include re-consignors as economic operators that can obtain the status of approved exporters, in line with Article 69 of that Implementing Regulation, which allows re-consignors to replace origin declarations made out by approved exporters by replacement of proofs of origin.

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2017/989. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(6) In order to ensure consistency with Article 55(4) and (6) of Commission Delegated Regulation (EU) 2015/2446[(3)], the third subparagraph of Article 92(1) of Implementing Regulation (EU) 2015/2447 should be deleted.

(7) In Article 110(3) of Implementing Regulation (EU) 2015/2447, on the subsequent verification of certificates of origin Form A and invoice declarations, Turkey is mentioned, together with Norway and Switzerland, as one of the countries to which request for subsequent verification may be sent. However, as the use of replacement proofs of origin is not provided for between the Union and Turkey, no request for subsequent verification of replacement proofs of origin issued or made out in Turkey will be sent to that country. Therefore, the reference to Turkey should be deleted.

(8) Article 199(1)(g) of Implementing Regulation (EU) 2015/2447 should be corrected in order to complete the list of admissible means of proving the Union status of excise goods moving under a duty suspension arrangement in accordance with Council Directive 2008/118/EC[(4)], by introducing a reference to the electronic administrative document and to the business continuity procedure referred to, respectively, in Articles 21 and 26 of that Directive. Those references were omitted by mistake.

(9) Article 306(2) of Implementing Regulation (EU) 2015/2447 should be corrected. The provision should state that the Master Reference Number (MRN) of the transit declaration must be presented at the customs office of destination, and not at each customs office of transit, as the current wording of the Article wrongly states. The reference to the relevant provision of Delegated Regulation (EU) 2015/2446 should also be corrected. It should be made to the second paragraph of Article 184 of that Delegated Regulation instead of to Article 184(2).

(10) The mistakes and omissions detected after the publication of Implementing Regulation (EU) 2015/2447 in Annexes A and B to that Implementing Regulation should be corrected.

(11) Annex 12-01 to Implementing Regulation (EU) 2015/2447 should be corrected in order to ensure a harmonised format of the same data element throughout that Annex.

(12) An Annex 12-03, determining the design of the tags to be affixed on hold baggage checked in a Union airport, should be included among the Annexes to Implementing Regulation (EU) 2015/2447, as it is mentioned in Article 44 of that Implementing Regulation but was mistakenly omitted.

(13) In Annex 22-13 to Implementing Regulation (EU) 2015/2447, a grammatical error in the Hungarian version of the invoice declaration should be corrected.

(14) In addition to the corrections, certain provisions need to be amended taking into account the changes to the related legal framework which occurred after the adoption of that Implementing Regulation. Thus, Article 2 of Implementing Regulation (EU) 2015/2447 should be aligned with Article 2 of Delegated Regulation (EU) 2015/2446 as amended by Delegated Regulation (EU) 2016/341[(5)].

(15) The procedure now laid down in Articles 57, 58 and 59 of Implementing Regulation (EU) 2015/2447 was originally created in 1989 in order to allow for a smooth and

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harmonised implementation of non-preferential country-allocated tariff quota. Those Articles correspond in essence to Articles 55 to 65 of Commission Regulation (EEC) No 2454/93[(6)], which was applicable until 30 April 2016. Numerous Union Regulations opening non-preferential tariff quotas refer to Articles 56 to 65 of Regulation (EEC) No 2454/93. A correlation rule should therefore be introduced in Article 57 in respect of the references to the certificates of origin issued in accordance with Articles 55 to 65 of Regulation (EEC) No 2454/93 in other Regulations, avoiding having to separately amend each of those Regulations.

(16) The text of Article 62 of Implementing Regulation (EU) 2015/2447 currently allows only for long term supplier's declarations to cover either a period in the past or in the future. The provision should be amended in order to introduce the possibility that a single long-term supplier's declaration covers both goods that have already been supplied by the date of issue of the declaration and goods that will be supplied afterwards. In order to make the rule clearer and easier to apply, the earliest and latest start date of the period covered by the long-term supplier's declaration should be set by reference to the date of issue of that declaration. Thus, although the maximum period covered by a declaration should be set at 24 months, this period should not go more than 12 months in the past or start later than 6 months after the issue date.

(17) Article 68 of Implementing Regulation (EU) 2015/2447 should be amended to make clear that, in the context of preferential arrangements with a third country where the Registered Exporter system (REX system) is applied, exporters completing documents on origin of consignments over EUR 6 000 should be registered exporters, unless the relevant preferential arrangements states a different value threshold. However, until the exporter is registered in the REX system and in any case no later than 31 December 2017, the exporter may continue to use his approved exporter number on documents on origin, without the need for a signature, for free trade agreements with third countries where otherwise the exporter would need to be registered.

(18) Under the current text of Article 69 of Implementing Regulation (EU) 2015/2447, a registered exporter is not entitled to replace proofs of origin other than statements on origin with replacement statements on origin. However, as the long term objective is to replace the Approved Exporter system with the REX system, registered exporters should be able to replace with replacement statements on origin the same type of proofs of origin as approved exporters pursuant to Article 69(2) of that Implementing Regulation.

(19) In Article 73 of Implementing Regulation (EU) 2015/2447, paragraph 3 should be added, requiring the Commission to send to beneficiary countries at their request specimen impression of stamps used in the Member States. That obligation is necessary for a smooth functioning of the rules on regional cumulation.

(20) Article 80(4) of Implementing Regulation (EU) 2015/2447 should impose on the competent authorities of a beneficiary country or the customs authorities of the Member States the obligation to inform the registered exporter of modifications in his registration data in accordance with data protection rules.

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(21) In order to ensure coherence among the rules applying in the Union during the transitional period until the application of the REX system, Article 85 of Implementing Regulation (EU) 2015/2447 should provide until when approved exporters that are not yet registered in the REX system may make out invoice declarations for the purposes of bilateral cumulation. That date should be set to 31 December 2017, which is the end date for the Member States customs authorities to issue movement certificates EUR.1 and therefore the end of that transitional period.

(22) Contrary to Norway and Switzerland, Turkey will not apply the REX system from 1 January 2017. Article 86(3) of Implementing Regulation (EU) 2015/2447 should therefore be amended to state that the registration for exporters in beneficiary countries will only be valid for the GSP scheme of Turkey when that country starts applying the REX system. In order to make the date of application of the REX system by Turkey known to the public, the Commission should be required to publish that date in the *Official Journal of the European Union*.

(23) Article 158 of Implementing Regulation (EU) 2015/2447, establishing the level of the comprehensive guarantee, should be amended in order to provide more clarity as regards the basis for applying the reduction of comprehensive guarantees covering the import or export duties and the other charges. Article 158 should clearly distinguish the reduction that is provided in paragraph 3 of Article 95 of the Code to all Authorised Economic Operators with respect to the duties and charges that have been incurred, from the reductions provided in paragraph 2 of Article 95 of the Code. The latter are applicable with respect to the duties and charges that may be incurred, under the conditions in Article 84 of Delegated Regulation (EU) 2015/2446.

(24) To prevent that an individual guarantee voucher is used following the revocation or cancellation of an undertaking provided for that voucher, a provision should be inserted in Article 161 of Implementing Regulation (EU) 2015/2447 stating that vouchers issued prior to the day of the revocation or cancellation of that undertaking may no longer be used for placing goods under the Union transit procedure.

(25) As required by Article 8(3) of the Customs Convention on the International Transport of Goods under cover of TIR carnets[7], including any subsequent amendments thereto (TIR Convention), Article 163 of Implementing Regulation (EU) 2015/2447 determines the limit up to which any guaranteeing association in the Union customs territory may become liable in relation to a particular TIR operation. Article 163 should be amended as a result of the announcement by the International Road Transport Union (IRU) that its global insurer has increased, for all Contracting Parties to the TIR Convention, the amount of covered guarantee from EUR 60 000 to EUR 100 000 per TIR carnet.

(26) Article 231(11) of Implementing Regulation (EU) 2015/2447 should be amended to clarify that only the specific exchanges of information on controls laid down in paragraphs 5 and 6 of that Article are suspended until the relevant electronic systems are available. While the relevant electronic systems are not available, the obligation laid down in paragraphs 4 and 5 of Article 179 of the Code to perform and exchange information on controls should be fulfilled in accordance with Article 18 of Delegated Regulation (EU) 2016/341.

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(27) Article 329(8) of Implementing Regulation (EU) 2015/2447 should be deleted. It provides for certain exceptions from the general rule determining the customs office of exit for the export of goods that are subsequently placed under a transit procedure. Due to a renumbering error, Article 329(8) mistakenly refers to paragraph 4 of that same Article but the intention was never to provide for an exception for the goods that are loaded onto a vessel that is not assigned to a regular shipping service. To the extent that Directive 2008/118/EC applies where excise goods under suspension of excise duty are to be taken out of the Union territory, Article 329(8) of Implementing Regulation (EU) 2015/2447 should not refer to those goods either. Finally, no specific rule is needed to determine the customs office of exit where goods subject to export formalities with a view to refunds being granted on export under the common agricultural policy are released for export and then placed under a transit procedure. The reason is that, pursuant to Article 189 of Delegated Regulation (EU) 2015/2446, those goods can only be placed under an external transit procedure, which means that they lose their customs status as Union goods and become subject to strict customs supervision.

(28) Currently, there are differences in how individual Member States treat exports followed by transit. In some Member States the exit confirmation is provided immediately upon placement of the goods in the transit procedure whereas in other Member States it is done only after the transit procedure has been discharged. The difference occurs both in external transit and other than external transit cases. Pursuant to Article 333(7) of Implementing Regulation (EU) 2015/2447, during the transitional period until the deployment of the UCC Automated Export System (AES), the customs office of exit may inform the customs office of export of the exit of the goods when those goods are placed under a transit procedure other than external transit until the day following the day in which the transit procedure has been discharged. That possibility should also be extended to goods placed under an external transit procedure so that, during the transitional period, the Member States in which the processes have been automated are allowed to continue their practice by issuing an exit confirmation either upon placement under a transit procedure or upon discharge of the transit procedure.

(29) In order to facilitate the implementation in the respective electronic systems of the formats and codes of certain data requirements used in the context of declarations and notifications of Implementing Regulation (EU) 2015/2447, Annex B to that Implementing Regulation should be amended.

(30) The printing instructions in Annex 22-02 and the introductory notes in Annex 22-14 to Implementing Regulation (EU) 2015/2447 should be amended to clarify until when the old versions of the forms may also be used. Those versions should in any case cease to be used after 1 May 2019.

(31) In Annex 22-06 to Implementing Regulation (EU) 2015/2447, the additional contact details to be provided by economic operators applying to become registered exporters in Box 2 of the application form should be made optional because Box 1 of the application form already requires the provision of basic contact details. Besides, there should be a possibility not to sign or not to stamp the application form if the exporter and the customs authorities are electronically authenticated.