Changes to legislation: *Commission Regulation (EU) 2016/2119 is up to date with all changes known to be in force on or before 28 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commission Regulation (EU) 2016/2119 of 2 December 2016 amending Regulation (EC) No 471/2009 of the European Parliament and of the Council and Commission Regulation (EU) No 113/2010 as regards the adaptation of the list of customs procedures and the definition of the data (Text with EEA relevance)

COMMISSION REGULATION (EU) 2016/2119

of 2 December 2016

amending Regulation (EC) No 471/2009 of the European Parliament and of the Council and Commission Regulation (EU) No 113/2010 as regards the adaptation of the list of customs procedures and the definition of the data

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 471/2009 of the European Parliament and the Council of 6 May 2009 on Community statistics relating to the external trade with non-member countries and repealing Council Regulation (EC) No 1172/95[(1)], and in particular Articles 3(2), 5(2) and 6(2) thereof,

Whereas:

(1) Regulation (EC) No 471/2009 establishes a common framework for the systematic production of European statistics relating to the trading of goods with non-member countries. The main data source for those statistics is data obtained from customs declarations. That Regulation was set up to take account of specific and new customs clearance simplifications to become implemented under Regulation (EC) No 450/2008 of the European Parliament and of the Council[(2)] ('the Modernised Customs Code'). This concerned especially 'self-assessment' which was to include a waiver to provide a declaration to customs and the scheme of Centralised Clearance where customs import or export formalities could be fulfilled in more than one Member State.

(2) Regulation (EU) No 952/2013 of the European Parliament and of the Council[(3)] ('the Union Customs Code') repealed the Modernised Customs Code and replaced from 1 May 2016 the customs provisions provided by Council Regulation (EEC) No 2913/92[(4)].

(3) It is necessary to align the scope of external trade statistics with the customs procedures of the Union Customs Code.

(4) Regulation (EC) No 471/2009 was implemented by Commission Regulation (EU) No 113/2010[(5)] and reflected the customs provisions set out in the Modernised Customs Code. Following the full application of the Union Customs Code as of 1 May 2016 changes to the customs provisions should be reflected in Regulation (EC) No 471/2009 and Regulation (EU) No 113/2010 in relation to the collection of statistical data and the compilation of external trade statistics.

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(5) Commission Implementing Decision (EU) 2016/578[(6)] lays down the Work Program referred to in Article 280 of Regulation (EU) No 952/2013, and relates to the electronic customs systems which are to be developed under the Union Customs Code

(6) Until those electronic systems become available, Commission Delegated Regulation (EU) 2016/341[(7)] ('the Transitional Delegated Act') provides for transitional measures for the exchange and storage of information between the customs authorities themselves and between the customs authorities and the economic operators.

(7) With regard to the customs simplification of Centralised Clearance provided for in Article 179 of the Union Customs Code, the imports and exports covered by this scheme need for methodological reasons not necessarily be allocated to the Member State of destination or Member State of actual export, as any respective intra-Community movements of goods between these Member States and the Member State where the goods are located at the time of release into the customs procedure could better and more coherently be covered by intra-EU trade statistics.

(8) However, the statistical definitions as to the respective Member States should be amended to on the one hand identify an economically relevant movement following the customs clearance, on imports or preceding it, on exports.

(9) The statistical definitions for those respective Member States should also be coherently aligned to the customs clearance provisions under Centralised Clearance, where only the Member State identified in the clearance process as participating Member State is expected to receive customs clearance related information from the Member State supervising the customs clearance.

(10) For the purpose of harmonised compilation of external trade statistics, the definitions of certain other data elements should be adjusted to reflect changes introduced by the Union Customs Code.

(11) Regulations (EC) No 471/2009 and (EU) No 113/2010 should be amended accordingly.

(12) The measures provided for in this Regulation are in accordance with the opinion of the Committee on statistics relating to the trading of goods with non-member countries,

HAS ADOPTED THIS REGULATION:

Article 1

Article 3(1) of Regulation (EC) No 471/2009 is replaced by the following:

1. External trade statistics shall record imports and exports of goods.

An export shall be recorded by Member States in the event that goods leave the statistical territory of the Community

a in accordance with one of the following customs procedures laid down in Regulation (EU) No 952/2013 of the European Parliament and of the Council[(8)] ("the Union Customs Code"):
   — export;
   — outward processing;

b in application of Article 258 of the Union Customs Code;

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c in application of Article 269(3) of the Union Customs Code;

d in application of Article 270 of the Union Customs Code to discharge an inward processing procedure.

An import shall be recorded by Member States in the event that goods enter the statistical territory of the Community in accordance with one of the following customs procedures laid down in of the Union Customs Code:

a release for free circulation including end-use;

b inward processing.

Article 2

Regulation (EU) No 113/2010 is amended as follows:

(1) Article 4 is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

The statistical value shall be based on the value of the goods at the time and place they cross the border of the Member State where the goods are located at the time of release into the customs procedure, by entering it (imports) or by leaving it (exports).

(b) paragraph 4 is replaced by the following:

4. The value as referred to in paragraphs 2 and 3 shall be adjusted, where necessary, in such a way that the statistical value contains solely and entirely the costs of transport and insurance performed to deliver the goods from the place of their departure to the border of the Member State where the goods are located at the time of release into the customs procedure (CIF-type value on imports, FOB-type value on exports).

(2) Article 6(3) and (4) is replaced by the following:

3. The following shall apply on import:

Where the goods are released for free circulation or placed under the end-use procedure the Member State of destination shall be the Member State where the goods are located at the time of release into the customs procedure. However, where it is known at the time of drawing up the customs declaration, that the goods will be dispatched to another Member State after the release, this latter Member State shall be Member State of destination.

Where goods are placed under the customs inward processing procedure, the Member State of destination shall be the Member State where the first processing activity is carried out.

Without prejudice to subparagraphs 1 and 2 of this paragraph for the purpose of the data transmission referred to in Article 7(2) of Regulation (EC) No 471/2009, Member State of destination for the data exchange shall be the Member State where the goods are located at the time of release into the customs procedure.

4 The following shall apply on export:

Member State of actual export shall be the Member State where the goods are located at the time of release into the customs procedure.

However, where it is known that the goods were brought from another Member State to the Member State in which the goods are located at the time