Changes to legislation: *Commission Implementing Regulation (EU) No 1159/2012 is up to date with all changes known to be in force on or before 20 February 2022. 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 Implementing Regulation (EU) No 1159/2012 of 7 December 2012 amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code

COMMISSION IMPLEMENTING REGULATION (EU) No 1159/2012

of 7 December 2012

amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code[(1)] (the Code), and in particular Article 247 thereof,

Whereas:

(1) Commission Regulation (EEC) No 2454/93[(2)] lays down the conditions under which the Community status of goods which have been brought into a Member State from another Member State may be established. However, currently that Regulation does not provide for the possibility to establish the Community status of goods which have been moved from one point in a Member State through the territory of a third country on to another point in the same Member State. Regulation (EEC) No 2454/93 should therefore be amended to provide for that possibility.

(2) Commission Implementing Regulation (EU) No 756/2012[(3)] amended Annex 38 of Regulation (EEC) No 2454/93 containing a list of packaging codes based on Recommendation No 21 of the United Nations Economic Commission for Europe. The packaging codes format as indicated in Box 31 of Annex 38 has changed from alphabetic2 (a2) to alphanumeric2 (an2). The code of the Type/Length of the kind of packages of Annex 37a should therefore be amended accordingly.

(3) The Republic of Croatia acceded to the Convention of 20 May 1987 between the European Economic Community, the Republic of Austria, the Republic of Finland, the Republic of Iceland, the Kingdom of Norway, the Kingdom of Sweden and the Swiss Confederation, on a common transit procedure[(4)] (the Convention) as a contracting party on 1 July 2012. By Decision No 3/2012 of the EU-EFTA Joint Committee on common transit of 26 June 2012[(5)] the Convention was amended in order to adapt the guarantee documents for common transit in view of Croatia's accession to the Convention. The corresponding guarantee documents for Community transit provided for in Regulation (EEC) No 2454/93 should be adapted accordingly.

(4) Since it has been a requirement under Decision No 3/2012 to use the guarantee documents adapted to the accession of Croatia since 1 July 2012, the corresponding

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guarantee documents required by Regulation (EEC) No 2454/93 should also be adapted with effect from that date. However, rules should be laid down in order to allow the use of guarantee documents in compliance with the specimen applicable prior to 1 July 2012 for a transitional period, subject to the necessary adaptations.

(5) Regulation (EEC) No 2454/93 should therefore be amended accordingly.

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2454/93 is amended as follows:

1. Article 314 is amended as follows:

(a) Paragraph 1 is replaced by the following:

1. Where goods are not deemed to be Community goods within the meaning of Article 313, their Community status may be established in accordance with Article 314c(1) only if they fulfil the conditions laid down in any of the following points:

a the goods have been moved from one point to another within the customs territory of the Community and temporarily leave that territory without crossing the territory of a third country;

b the goods have been moved from one point within the customs territory of the Community, through the territory of a third country, to another point within the customs territory of the Community, and carried under cover of a single transport document issued in a Member State;

c the goods have been moved from one point within the customs territory of the Community through the territory of a third country, where they were transhipped into a means of transport other than that onto which they were initially loaded, to another point within the customs territory of the Community, and a new transport document covering carriage from the third country has been issued and is presented accompanied by a copy of the original document covering carriage from the one point to the other within the customs territory of the Community.

(b) The following paragraph 2a is inserted:

2a. Where goods have been moved as referred to in paragraph 1(c), the customs authorities competent at the point of re-entry of the goods into the customs territory of the Community shall carry out post-clearance checks to determine the accuracy of the information entered in the copy of the original transport document in compliance with the requirements of administrative cooperation between Member States laid down in Article 314a.

2. In Annex 37a, Title II.B, under the heading ‘Kind of packages (Box 31)’ the text ‘Type/Length a2’ is replaced by the text ‘Type/Length an2’.

3. Annex 48 is replaced by the text set out in Annex I to this Regulation.

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4. Annex 49 is replaced by the text set out in Annex II to this Regulation.

5. Annex 50 is replaced by the text set out in Annex III to this Regulation.

6. In Annex 51, in box 7, the text ‘Croatia’, is inserted between the text ‘European Community’, and ‘Iceland’.

7. In Annex 51a, in box 6, the text ‘Croatia’, is inserted between the text ‘European Community’, and ‘Iceland’.

Article 2

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

It shall apply from 1 July 2012.

However, economic operators may, until 30 June 2013, use the specimen form laid down in Annex 48, 49, 50, 51 or 51a of Regulation (EEC) No 2454/93 as amended by Implementing Regulation (EU) No 756/2012, subject to the necessary geographical adaptations and adaptations concerning the address for service or the authorised agent.

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

Done at Brussels, 7 December 2012.

For the Commission

The President

José Manuel BARROSO

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ANNEX I

‘ANNEX 48COMMON/COMMUNITY TRANSIT PROCEDURECOMPREHENSIVE GUARANTEEI.Undertaking by the guarantor1.The undersigned …

resident at[7] …

hereby jointly and severally guarantees, at the office of guarantee of …

up to a maximum amount of

…

being 100/50/30 %[8] of the reference amount, in favour of the European Union

(comprising the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland)

and of the Republic of Croatia, the Republic of Iceland, the Kingdom of Norway, the Swiss Confederation, the Principality of Andorra and the Republic of San Marino,[9]

any amount of principal, further liabilities, expenses and incidentals — but not fines — for which the principal,[10] … may be or become liable to the abovementioned countries for debt in the form of duty and other charges applicable to the goods placed under the Community or common transit procedure.

2.The undersigned undertakes to pay upon the first application in writing by the competent authorities of the countries referred to in paragraph 1 and without being able to defer payment beyond a period of 30 days from the date of application the sums requested up to the limit of the abovementioned maximum amount, unless he or she or any other person concerned establishes before the expiry of that period, to the satisfaction of the competent authorities, that the operation has ended.

At the request of the undersigned and for any reasons recognised as valid, the competent authorities may defer beyond a period of 30 days from the date of application for payment the period within which he or she is obliged to pay the requested sums. The expenses incurred as a result of granting this additional period, in particular any interest, must be so calculated that the amount is equivalent to what would be charged under similar circumstances on the money market or financial market in the country concerned.

This amount may not be reduced by any sums already paid under the terms of this undertaking unless the undersigned is called upon to pay a debt arising during a Community or common transit operation commenced before the preceding demand for payment was received or within 30 days thereafter.

3.

This undertaking shall be valid from the day of its acceptance by the office of guarantee. The undersigned shall remain liable for payment of any debt arising during any Community or common transit operations covered by this undertaking and commenced before any revocation or cancellation of the guarantee took effect, even if the demand for payment is made after that date.

4.For the purpose of this undertaking the undersigned gives his or her address for service in each of the other countries referred to in paragraph 1 as:

The undersigned acknowledges that all correspondence and notices and any formalities or procedures relating to this undertaking addressed to or effected in writing at one of his or her addresses for service shall be accepted as duly delivered to him or her.

The undersigned acknowledges the jurisdiction of the courts of the places where he or she has an address for service.