Commission Implementing Regulation (EU) No 756/2012 of 20 August 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 (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) No 756/2012

of 20 August 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

(Text with EEA relevance)

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)], and in particular Article 247 thereof,

Whereas:

(1) Commission Regulation (EU) No 430/2010 of 20 May 2010 amending Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code[(2)] removed the obligation to provide an exit summary declaration for goods which are supplied for incorporation as parts of or accessories in vessels and aircraft, motor fuels, lubricants and gas necessary for the operation of vessels or aircraft, foodstuffs, and other items to be consumed or sold on board. Annex 30a to Commission Regulation (EEC) No 2454/93[(3)] should therefore be adapted accordingly.

(2) Pursuant to Annex 30a to Regulation (EEC) No 2454/93, information about the consignee is mandatory in an exit summary declaration. However, where the goods are carried under a negotiable bill of lading that is ‘to order blank endorsed’, the consignee is unknown. In that case a specific code should be used to show that the consignee particulars are unknown.

(3) Commission Regulation (EC) No 1917/2000 of 7 September 2000 laying down certain provisions for the implementation of Council Regulation (EC) No 1172/95 as regards statistics on external trade[(4)] has been replaced by Commission Regulation (EU) No 113/2010 of 9 February 2010 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards trade coverage, definition of the data, compilation of statistics on trade by business characteristics and by invoicing currency, and specific goods or movements[(5)]. It is therefore necessary to adapt Annexes 37 and 38 to Regulation (EEC) No 2454/93.

Changes to legislation: *Commission Implementing Regulation (EU) No 756/2012 is up to date with all changes known to be in force on or before 24 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*

(4) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax[6] lays down conditions for exemption from payment of the VAT due upon importation. One of the conditions is that at the time of importation, the importer must have provided to the competent authorities of the Member State of importation certain information. It is therefore necessary to adapt Annexes 37 and 38 to Regulation (EEC) No 2454/93 to provide a harmonised solution for indicating that information in the customs declaration. The obligation to provide the information required by Article 143(2) of Directive 2006/112/EC should be stated in the description of Box 44 in Annex 37.

(5) Since a Community transit operation may take place in Andorra and San Marino, a reference to those countries should be added to the reference to the EFTA countries in Annex 37 to Regulation (EEC) No 2454/93, in order to reflect the fact that the guarantee or guarantee waiver may be not valid in one or more EFTA countries, nor in Andorra or in San Marino.

(6) Council Regulation (EC) No 1172/95 of 22 May 1995 on the statistics relating to the trading of goods by the Community and its Member States with non-member countries[7] has been replaced by Regulation (EC) No 471/2009 of the European Parliament and of the Council of 6 May 2009 on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95[8]. The reference to Regulation (EC) No 1172/95 in Annex 38 to Regulation (EEC) No 2454/93 should therefore be updated.

(7) In 2010 the eighth version of the Incoterms rules ('Incoterms 2010') has been established. The Incoterms codes as amended by the Incoterms 2010 should therefore be set out in Annex 38 in order to update the delivery terms.

(8) Annex 38 to Regulation (EEC) No 2454/93 contains a list of packaging codes based upon the list of Coded representations of packaging type names used in international trade set out in Annexes V and VI to Recommendation No 21 of the United Nations Economic Commission for Europe. Due to the revision of the code list following a technological development, it is appropriate to replace the list in Annex 38 by the latest version resulting from Revision 8.1 of Recommendation No 21.

(9) Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC[9] provides that excise goods may be moved under a duty suspension arrangement within the customs territory of the Community, including where the goods are moved via a third country or a third territory from the place of importation to any of the destinations referred to in Article 17(1)(a) of that Directive. The respective codes in Annex 38 to Regulation (EEC) No 2454/93 should therefore be adapted to reflect the cases where no excise duties are paid upon importation.

(10) Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty[10] has been replaced by Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from

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customs duty[11]. Some references and descriptions of codes in Annex 38 to Regulation (EEC) No 2454/93 should therefore be adapted.

(11) Since Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector[12] has been replaced by Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors[13], it is necessary to update the reference to Regulation (EC) No 1580/2007 in Annex 38 to Regulation (EEC) No 2454/93.

(12) It is necessary to adapt the list of goods involving a higher risk of fraud set out in Annex 44c to Regulation (EEC) No 2454/93 to the Combined Nomenclature 2012 laid down in Commission Implementing Regulation (EU) No 1006/2011 of 27 September 2011 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff[14].

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

(14) Since Regulation (EU) No 1006/2011 applies from 1 January 2012, the amendments to Annex 44c to Regulation (EEC) No 2454/93 should apply from the same date.

(15) 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) Annex 30a is amended as set out in Annex I to this Regulation;

(2) Annex 37 is amended as set out in Annex II to this Regulation;

(3) Annex 38 is amended as set out in Annex III to this Regulation;

(4) Annex 44c is amended as set out in Annex IV to this Regulation.

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 January 2013, except Annex IV.

Annex IV shall apply from 1 January 2012.

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

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Done at Brussels, 20 August 2012.

For the Commission

The President

José Manuel BARROSO

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ANNEX I

(referred to in Article 1(1))

Annex 30a to Regulation (EEC) No 2454/93 is amended as follows:

(1) In Section 1 '**Introductory notes to the tables**', note 4.4 is deleted.

(2) Section 2 '**Requirements for entry and exit summary declarations**' is amended as follows:

(a) The title of point 2.2 is replaced by the following:

2.2. *Express consignments — Table 2*

(b) In Table 2, the third column 'Exit summary declaration — ship and aircraft supplies' is deleted.

(3) Section 4, '**Data element explanatory notes**', is amended as follows:

(a) In data element explanatory note '*Transport document number*', the fourth paragraph is deleted.

(b) In data element explanatory note '*Consignee*', the fifth paragraph 'Exit summary declarations' is replaced by the following:

> Exit summary declarations: In cases referred to in Article 789, this information shall be provided where available. Where the goods are carried under a negotiable bill of lading that is "to order blank endorsed" and the consignee is unknown, his particulars shall be replaced by the following code in Box 44 of an export declaration:

Legal basis	Subject	Box	Code
Annex 30a	Situations where negotiable bills of lading that are "to order blank endorsed" are concerned, in the case of exit summary declarations, where the consignee particulars are unknown.	44	30600

(c) Data element explanatory note '*Notify party*' is replaced by the following:
Notify party

Party to be notified at entry of the arrival of the goods. This information needs to be provided where applicable. The particulars of notify party take the form of the notify party EORI number whenever this number is available to the person lodging the summary declaration.