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

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

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) Regulation (EC) No 648/2005 of the European Parliament and of the Council[(2)] introduced in Regulation (EEC) No 2913/92 the obligation to lodge entry or exit summary declarations by electronic means. Commission Regulation (EC) No 273/2009[(3)] derogating from certain provisions of Commission Regulation (EEC) No 2454/93[(4)] provides for a transitional phase expiring on 31 December 2010 during which economic operators are able, but not obliged, to lodge entry and exit summary declarations by electronic means.

(2) It is appropriate to make some adjustments to the rules concerning entry and exit summary declarations aiming at reducing administrative burdens in cases where, for the purpose of safety and security, such declarations are not necessary. Furthermore, for the purpose of better risk analysis, household effects as defined in Article 2(1)(d) of Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty[(5)] should not be exempted from such declarations if they are carried under a transport contract.

(3) In certain cases the provision of safety and security data in customs declarations and the requirement of a specific deadline for providing such declarations are not necessary for safety and security purposes so that further waivers should be introduced in this regard; such waivers should, however, not affect the general rules on customs declarations, in whatever form they may be lodged.

(4) In certain cases where the safety and security related deadlines for export declarations do not apply, such as ship and aircraft supplies, it should be possible for the customs authorities to authorise reliable economic operators to enter the goods exported in their records and to report their export operations on a periodic basis after the goods have left the customs territory of the Community.

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(5) Commission Regulation (EC) No 1192/2008[6] amending Regulation (EEC) No 2454/93 introduced common criteria and a common application form for the granting of authorisations for simplified declarations and the local clearance procedure. It should be clarified that these rules apply to all customs procedures. The same Regulation introduced in Article 253a with effect from 1 January 2011 the requirement that the use of simplified declarations or the local clearance procedure will be conditional on the lodging of electronic customs declarations and notifications. Some Member States have informed the Commission that such systems may not be available in all cases by that date. Provided that effective risk analysis is carried out, it should be possible for those Member States, under conditions which they prescribe, to accept customs declarations and notifications in other than electronic form until Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (modernised Customs Code)[7] will apply.

(6) In cases where goods in temporary storage or in a control type I free zone are re-exported from the customs territory of the Community without an exit summary declaration being required, an alternative means for recording or notifying the re-exportation and the person responsible need to be laid down.

(7) It should be clarified that the export formalities are not only to be used for Community goods which are to be brought to a destination outside the customs territory of the Community, but also with regard to tax exempt aircraft and ship supplies so that persons delivering such supplies can receive a proof of exit from the customs territory of the Community needed for the purposes of tax exemption. The same rules should apply where non-Community goods are to be re-exported under cover of a re-export declaration.

(8) Articles 278, 279 and 280 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax[8] and Article 3 of Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC[9] require the use of the import and export formalities where Community goods are moved to and from territories within the customs territory of the Community in which those Directives do not apply. It is appropriate to refer to those provisions and to exempt such movements from the requirement to provide safety and security related data and to respect the special deadlines for safety and security related controls given that those provisions should apply only for goods brought into and out of the customs territory of the Community. Due to their geographical situation, the special deadlines for safety and security related controls and the provision of safety and security related data are also not necessary in cases where goods are brought to Heligoland, the Republic of San Marino and the Vatican City State.

(9) The customs office at which the exit summary declaration is to be lodged and the person responsible for lodging such declaration should be specified. This clarification should include situations in which, instead of an exit summary declaration, a transit declaration containing the data of an exit summary declaration is lodged.

(10) In order to facilitate customs supervision at the customs office of exit, it is necessary to specify the obligations of persons handing over goods to another person before the

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goods are carried out of the customs territory of the Community and the obligations of persons having to provide information on the exit of goods to the customs office of exit. The same obligations should apply in cases where goods declared for export and presented at the customs office of exit are no longer destined to be brought out of the customs territory of the Community and are removed from the customs office of exit.

(11) By virtue of Directive 2008/118/EC the use of the Excise Movement Computerised System (EMCS) is mandatory for the movement of excise goods under suspension of excise duty as of 1 January 2011. According to that Directive, the movement of Community goods under suspension of excise duty with a destination outside the customs territory of the Community has to take place under the export procedure for which a computerised system is to be used. The special rules concerning the use of the administrative accompanying document provided for by Commission Regulation (EEC) No 2719/92 of 11 September 1992 on the accompanying administrative document for the movement under duty-suspension arrangements of products subject to excise duty[(10)] should therefore be deleted with effect from 1 January 2011. Export procedures which started under cover of an administrative accompanying document before that date should be terminated in accordance with Article 793c of Regulation (EEC) No 2454/93 as it was applicable on 31 December 2010.

(12) These amendments should not require any changes to those electronic systems which are or have to be in place when this Regulation becomes applicable.

(13) 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. in Article 1 the following point 18 is added:

   18. *Exit summary declaration* means: The summary declaration, referred to in Article 182c of the Code, which is to be lodged for goods to be brought out of the customs territory of the Community, except where otherwise provided for in this Regulation.;

2. Article 181c is amended as follows:

   (a) point (e) is replaced by the following:

      (e) goods for which a customs declaration made by any other act is permitted in accordance with Articles 230, 232 and 233 with the exception of, if carried under a transport contract, household effects as defined in Article 2(1)(d) of Council Regulation (EC) No 1186/2009[(11)], pallets, containers, and means of road, rail, air, sea and inland waterway transport;;

   (b) point (g) is replaced by the following:

      (g) goods for which an oral customs declaration is permitted in accordance with Articles 225, 227 and 229(1) with the exception

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of, if carried under a transport contract, household effects as defined in Article 2(1)(d) of Regulation (EC) No 1186/2009, pallets, containers, and means of road, rail, air, sea and inland waterway transport;;

(c) point (m) is replaced by the following:

(m) the following goods brought into the customs territory of the Community directly from drilling or production platforms or wind turbines operated by a person established in the customs territory of the Community:

(i) goods which were incorporated in such platforms or wind turbines, for the purposes of their construction, repair, maintenance or conversion;

(ii) goods which were used to fit to or to equip the said platforms or wind turbines;

(iii) other provisions used or consumed on the said platforms or wind turbines; and

(iv) non-hazardous waste products from the said platforms or wind turbines;;

(d) the following point (o) is added:

(o) goods brought from territories within the customs territory of the Community where Council Directive 2006/112/EC[(12)] or Council Directive 2008/118/EC[(13)] does not apply, and goods brought from Heligoland, the Republic of San Marino and the Vatican City State to the customs territory of the Community.;

3. in Article 184d(3) the phrase ‘Article 181c(c) to (i), (l) to (n)’ is replaced by ‘Article 181c(c) to (i), (l) to (o)’;

4. in Article 189 the following paragraph is added:

However, goods brought into the customs territory of the Community which are unloaded and reloaded onto the same means of transport during its current voyage in order to enable the unloading or loading of other goods, shall not be presented to customs.;

5. in Article 253a the following paragraph is added:

However, in cases where the customs authorities’ or the economic operators’ computerised systems are not in place for the lodgement or receipt of simplified customs declarations or local clearance notifications using a data-processing technique, the customs authorities may accept other forms of declarations and notifications as prescribed by them, provided effective risk analysis is carried out.;

6. in Article 261, paragraph 1 is replaced by the following:

1. Authorisation to use the simplified declaration procedure shall be granted to the applicant if the conditions and criteria referred to in Articles 253, 253a, 253b and 253c are fulfilled.;

7. in Article 264, paragraph 1 is replaced by the following:

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1. Authorisation to use the local clearance procedure shall be granted to the applicant if the conditions and criteria referred to in Articles 253, 253a, 253b and 253c are fulfilled.;

8. in Article 269, paragraph 1 is replaced by the following:

1. Authorisation to use the simplified declaration procedure shall be granted to the applicant if the conditions and criteria referred to in Articles 253, 253a, 253b, 253c and 270 are fulfilled.;

9. in Article 272, paragraph 1 is replaced by the following:

1. Authorisation to use the local clearance procedure shall be granted to the applicant if the conditions and criteria referred to in paragraph 2 and Articles 253, 253a, 253b, 253c and 274 are fulfilled.;

10. Article 279 is replaced by the following:

Article 279

The export formalities provided for in Articles 786 to 796e may be simplified in accordance with this Chapter.;

11. in Article 282, paragraph 1 is replaced by the following:

1. Authorisation to use the simplified declaration procedure shall be granted according to the conditions and in the manner laid down in Articles 253, 253a, 253b, 253c, 261(2) and, *mutatis mutandis*, Article 262.;

12. Article 283 is replaced by the following:

Article 283

Authorisation to use the local clearance procedure shall be granted according to the conditions and in the manner laid down in Articles 253, 253a, 253b and 253c to any person, hereinafter referred to as an "approved exporter", wishing to carry out export procedures at his premises or at the other places designated or approved by the customs authorities.;

13. Article 284 is deleted;

14. in Article 285a, the following paragraph 1a is added:

1a. In cases where Article 592a or 592d applies, the customs authorities may authorise an economic operator to enter in his records immediately each export operation and to report all of them to the authorising customs office in a supplementary declaration on a periodic basis of up to one month after the goods have left the customs territory of the Community. Such authorisation may be granted under the following conditions:

a the economic operator uses the authorisation only for goods which are not subject to prohibitions and restrictions;

b the economic operator provides all the information to the customs office of export which this office considers necessary to enable it perform controls on the goods;

c in cases where the customs office of export is different from the customs office of exit, the customs authorities shall have agreed to the use of such an arrangement and the information referred to under point (b) is also available to the customs office of exit.