Commission Regulation (EU) No 169/2010 of 1 March 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 169/2010

of 1 March 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) Articles 4k to 4t of Commission Regulation (EEC) No 2454/93[(2)], as amended by Regulation (EC) No 312/2009[(3)], provide that economic operators not established in the customs territory of the Community are to be registered by the customs authority or the designated authority of the Member State involved. However, it is necessary to specify that economic operators not established in the customs territory of the Community who lodge a customs declaration in the Community to place goods under the temporary importation procedure will not have to be registered for an economic operators registration and identification number (EORI number) if they discharge that procedure by re-exportation.

(2) Economic operators established in a contracting party to the Convention on a common transit procedure, approved by Council Decision 87/415/EEC[(4)], other than the European Union lodging a customs declaration to place goods under the common transit procedure and economic operators established in Andorra and San Marino lodging a customs declaration to place goods under the Community transit procedure are already assigned traders' identification numbers that can be used to identify them. They should therefore be excluded from the obligation to be registered for an EORI number. However, that exception should be limited solely to cases where the data provided in the customs declaration is not used as an entry or exit summary declaration, as an EORI number is important for performing risk analyses in such cases.

(3) In view of Article 186 of Regulation (EEC) No 2454/93 as amended by Regulation (EC) No 312/2009, Annex 30a to Regulation (EEC) No 2454/93 should be adapted.

(4) In order to allow the customs office of the first port or airport of entry to forward, where relevant, information necessary to carry out an appropriate risk analysis to the customs office at any subsequent port or airport as provided for in Article 184e of Regulation

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(EEC) No 2454/93, it is necessary to add a new data requirement and the related data explanatory note to Annex 30a to Regulation (EEC) No 2454/93.

(5) Annex 38 to Regulation (EEC) No 2454/93 should reflect the fact that in some specific cases duties are imposed under customs union agreements concluded by the European Union.

(6) Council Regulation (EEC) No 565/80 of 4 March 1980 on the advance payment of export refunds in respect of agricultural products[(5)] has been repealed. Currently, Commission Regulation (EC) No 1741/2006[(6)] lays down the conditions for granting the special export refund on boned meat of adult male bovine animals placed under the customs warehousing procedure prior to export while Commission Regulation (EC) No 1731/2006[(7)] lays down special detailed rules for the application of export refunds in the case of certain preserved beef and veal products which require customs supervision and customs control during manufacturing prior to export. Annexes 37 and 38 to Regulation (EEC) No 2454/93 should be updated accordingly.

(7) Article 152(1)(a)a of Regulation (EEC) No 2454/93, as amended by Regulation (EC) No 215/2006[(8)] provides for a system whereby unit prices notified by Member States and disseminated by the Commission may be used to determine the customs value of certain perishable goods imported on consignment. That system replaces specific rules for the determination of the customs value of certain perishable goods laid down in Articles 173 to 177 of Regulation (EEC) No 2454/93. Annex 38 to that Regulation should therefore be updated.

(8) Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables[(9)] has been replaced by 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[(10)]. That replacement should be reflected in Annex 38 to Regulation (EEC) No 2454/93.

(9) Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products[(11)] has been replaced by Commission Regulation (EC) No 612/2009 of 7 July 2009 on laying down common detailed rules for the application of the system of export refunds on agricultural products[(12)]. Box 37 of Annex 38 to Regulation (EEC) No 2454/93 should therefore be adjusted accordingly.

(10) In view of the provisions on simplified procedures set out in Regulation (EEC) No 2454/93 as amended by Regulation (EC) No 1875/2006[(13)], it is necessary to update the codes for ‘Additional information’ in Box 44 of Annex 38 to Regulation (EEC) No 2454/93, accordingly.

(11) Regulation (EEC) No 2913/92 as amended by Regulation (EC) No 648/2005 of the European Parliament and of the Council[(14)] contains an obligation to lodge entry summary declarations and Regulation (EEC) No 2454/93 as amended by Regulation (EC) No 1875/2006, provides for summary declarations for the purposes of

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temporary storage. Those two declarations should therefore be included in the 'List of abbreviations for documents' in Annex 38 to Regulation (EEC) No 2454/93.

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

(13) In order to ensure a smooth implementation of this Regulation, it is necessary to provide Member States with time for the necessary adaptation of their computerised systems.

(14) 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 41(3), point (a) is replaced by the following:

   (a) he lodges in the Community a summary or customs declaration other than any of the following:

      (i) a customs declaration made in accordance with Articles 225 to 238;

      (ii) a customs declaration made for temporary importation or for discharging this procedure by re-exportation;

      (iii) a customs declaration made under the common transit procedure by an economic operator established in a contracting party to the Convention on a common transit procedure other than the European Union, where that declaration is not also used as an entry or exit summary declaration;

      (iv) a customs declaration made under the Community transit procedure by an economic operator established in Andorra or in San Marino, where that declaration is not also used as an entry or exit summary declaration.;

2. Annex 30a is amended as set out in Annex I to this Regulation;

3. Annex 37 is amended as set out in Annex II to this Regulation;

4. Annex 38 is amended as set out in Annex III to this Regulation.

Article 2

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 July 2010.

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

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Done at Brussels, 1 March 2010.

For the Commission

The President

José Manuel BARROSO

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ANNEX I

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

1. in Section 1, note 1, the second sentence of point 1.3 is deleted;

2. Section 2 is amended as follows:

   (a) in Table 1, the following row is added:

Subsequent customs office(-s) of entry code		Z

   (b) in Table 2, the following row is added:

Subsequent customs office(-s) of entry code		Z

   (c) in Table 5, the following row is added:

Subsequent customs office(-s) of entry code		Z

3. Section 4 is amended as follows:

   (a) under the data element explanatory note ‘Customs office of exit’, the first paragraph is replaced by the following:

   > Code provided for in Annex 38 for SAD box 29 for the intended customs office of exit.;

   (b) the following data element explanatory note is added:
   Subsequent customs office(-s) of entry code

   Identification of the subsequent customs offices of entry in the customs territory of the Community.

   This code needs to be provided when the code for the mode of transport at the border is 1, 4 or 8.

   The code shall adhere to the pattern provided in Annex 38 for SAD Box 29 for the customs office of entry.

ANNEX II

Annex 37 to Regulation (EEC) No 2454/93 is amended as follows:

1. in Title I, Section B, under the heading ‘Legend’, column heading B is replaced by the following:

B: Customs warehousing procedure in order to obtain payment of special export refunds prior to exportation or manufacturing under customs supervision and under customs control prior to exportation and payment of export refunds 76, 77;