Commission Regulation (EC) No 414/2009 of 30 April 2009 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 REGULATION (EC) No 414/2009

of 30 April 2009

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 COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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. Starting from 1 July 2009, the lodgement of a paper-based export customs declaration is allowed only where the computerised system of the customs authorities is not functioning or where the electronic application of the person lodging the declaration is not functioning.

(2) An alternative version of the Transit Accompanying Document (the Transit/Security Accompanying Document) and the related list of items should be established to include the data required in Annex 30A to Commission Regulation (EEC) No 2454/93[(3)] to enhance security.

(3) The Export Accompanying Document and the related list of items provided for in Article 796a of Regulation (EEC) 2454/93 should also be adapted to include the data set out in Annex 30A to Regulation (EEC) No 2454/93.

(4) Where the persons lodging the declaration cannot provide the customs authorities with export and exit summary declarations data using the normal computerised procedures because the computerised system of the customs authorities or the electronic application of the person lodging the declaration is not functioning, they should be permitted to use an alternative paper procedure that enables them to provide the necessary information to the customs authorities. To this end, it is necessary to provide for the use of a form, the Export/Security Single Administrative Document, that can contain both export declaration and exit summary declaration data.

Changes to legislation: *Commission Regulation (EC) No 414/2009 is up to date with all changes known to be in force on or before 14 August 2021. 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*

(5) For situations where the computerised system of the customs authorities is not functioning or where the electronic application of the person lodging the declaration is not functioning it is necessary to provide for a paper-based Security and Safety Document that should be used for entry summary declarations and for exit summary declarations. It should contain the data defined in Annex 30A to Regulation (EEC) No 2454/93 and it should be supplemented by a list of items where the consignment consists of more than one item of goods.

(6) In order to give economic operators the widest possible range of options to provide the required data where all customs and private computerised systems are not functioning, it is necessary to allow customs authorities to authorise them to communicate this data by commercial documents providing the documents produced to customs authorities contain the particulars laid down for entry or exit summary declarations in Annex 30A to Regulation (EEC) No 2454/93.

(7) Since the provisions of Commission Regulation (EC) No 1875/2006[(4)] relating to safety and security apply from 1 July 2009, the corresponding provisions laid down in this Regulation should apply from the same date. Commission Regulation (EEC) No 2454/93 should therefore be amended accordingly.

(8) 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 183(2) is amended as follows:

   (a) the second subparagraph is replaced by the following:

   > In the cases referred to in points (a) and (b) of the first subparagraph, the paper-based entry summary declaration shall be made using the Security and Safety Document form, corresponding to the specimen set out in Annex 45i. Where the consignment for which an entry summary declaration is made consists of more than one item of goods, the Security and Safety Document shall be supplemented by a list of items corresponding to the specimen set out in Annex 45j. The list of items shall form an integral part of the Security and Safety Document.;

   (b) the following subparagraph is added:

   > In the cases referred to in points (a) and (b) of the first subparagraph, the customs authorities may allow the Security and Safety Document to be replaced by, or complemented by, commercial documents provided the documents submitted to the customs authorities contain the particulars laid down for entry summary declarations in Annex 30A.;

2. in Article 340b the following point 6a is added:

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6a. "Transit/security accompanying document": means the document printed by the computerised system to accompany the goods based on the data of the transit declaration and the entry or exit summary declaration.;

3. Article 358 is amended as follows:

(a) in paragraph 2, first subparagraph, the introductory phrase is replaced by the following:

2. Following the release of goods, the Transit Accompanying Document or the Transit/Security Accompanying Document shall accompany the goods placed under the Community transit procedure. It shall correspond to the specimen and particulars of the Transit Accompanying Document in Annex 45a or, in situations where data referred to in Annex 30A are provided in addition to transit data, to the specimen and particulars of the Transit/Security Accompanying Document set out in Annex 45e and the Transit/Security List of Items set out in Annex 45f. The document shall be made available to the operator in one of the following ways:;

(b) paragraph 3 is replaced by the following text:

3. Where the declaration contains more than one item of goods, the Transit Accompanying Document referred to in paragraph 2 shall be supplemented by a list of items corresponding to the specimen set out in Annex 45b. The Transit/Security Accompanying Document referred to in paragraph 2 shall always be supplemented by the list of items set out in Annex 45f. The list of items shall form an integral part of the Transit Accompanying Document or the Transit/Security Accompanying Document.;

4. in Article 787, paragraph 2 is replaced by the following:

2. Where the custom authorities' computerised system is not functioning or where the electronic application of the person lodging an export declaration is not functioning, the customs authorities shall accept a paper-based export declaration provided that it is made in one of the following ways:

a using a form corresponding to the specimen set out in Annexes 31 to 34 complemented by a Security and Safety Document corresponding to the specimen set out in Annex 45i and a Security and safety List of Items corresponding to the specimen set out in Annex 45j;

b using an Export/Security Single Administrative Document corresponding to the specimen set out in Annex 45k and an Export/Security List of Items corresponding to the specimen set out in Annex 45l.

The form shall contain the minimum list of data set out in Annex 37 and in Annex 30A for the export procedure.;

5. Articles 796a is amended as follows:

(a) in paragraph 1 the words 'Annex 45c' are replaced by 'Annex 45g';

(b) in paragraph 2 the words 'Annex 45d' are replaced by 'Annex 45h';

6. in Article 796c second paragraph, the words 'Annex 45c' are replaced by 'Annex 45g';

7. Article 842b(3) is amended as follows:

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(a) the second subparagraph is replaced by the following:

> In the cases referred to in points (a) and (b) of the first subparagraph, the paper-based exit summary declaration shall be made using the Security and Safety Document corresponding to the specimen set out in Annex 45i. Where the consignment for which an exit summary declaration is made consists of more than one item, the Security and Safety Document shall be supplemented by a list of items corresponding to the specimen set out in Annex 45j. The list of items shall form an integral part of the Security and Safety Document.;

(b) the following third subparagraph is added:

> In the cases referred to in points (a) and (b) of the first subparagraph, customs authorities may allow the Security and Safety Document to be replaced by, or complemented by, commercial documents provided the documents submitted to customs authorities contain the particulars laid down for exit summary declarations in Annex 30A.;

8. in Articles 183, 359(1) and (4), 360(1) and (2), 361(3) and (4), 406(1)and (2), 408(1)(d), 454(4), 454b(2) and (4), 455(1) and 457b(2) and (3), the words ‘Transit accompanying document’ are replaced by ‘Transit accompanying document — Transit/security accompanying document’;

9. Annex 37d is amended as follows:

(a) in point 3.1, third indent, ‘Transit accompanying document (TAD)’ is replaced by ‘Transit accompanying document (TAD) — Transit/security accompanying document (TSAD)’;

(b) in points 3.2, 3.3, 4.1, 7, 8, 18 and 30.1, ‘TAD’ is replaced by ‘TAD/TSAD’;

(c) in point 3.2 the words ‘Annex 37 and 45a’ are replaced by ‘Annex 37, 45a and 45e’;

10. Annexes 45c and 45d are deleted;

11. Annex 45e set out in Annex I to this Regulation is inserted;

12. Annex 45f set out in Annex II to this Regulation is inserted;

13. Annex 45g set out in Annex III to this Regulation is inserted;

14. Annex 45h set out in Annex IV to this Regulation is inserted;

15. Annex 45i set out in Annex V to this Regulation is inserted;

16. Annex 45j set out in Annex VI to this Regulation is inserted;

17. Annex 45k set out in Annex VII to this Regulation is inserted;

18. Annex 45l set out in Annex VIII to this Regulation is inserted.

Article 2

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

It shall apply from 1 July 2009.

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

Done at Brussels, 30 April 2009.

For the Commission

László KOVÁCS

Member of the Commission