Commission Regulation (EC) No 273/2009 of 2 April 2009 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code, derogating from certain provisions of Commission Regulation (EEC) No 2454/93

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

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 (EC) No 1875/2006[(2)] has introduced in Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code[(3)] an obligation for economic operators to provide electronic entry and exit summary declarations to the customs authorities for goods entering or leaving the customs territory of the Community, in order to enable those authorities to carry out computerized risk analysis on the basis of such information before the goods are brought into or out of the customs territory of the Community. In accordance with Article 3(3) of Regulation (EC) No 1875/2006, this information is to be provided from 1 July 2009.

(2) Due to the complexity of the processes for introducing of electronic entry and exit summary declarations, unanticipated delays have occurred in the implementation process so that not all economic operators will be in a position to use information technology and computer networks for these purposes by 1 July 2009. Though information technology and computer networks facilitate international trade, they also require investments in automatic data transmission systems which may cause problems for economic operators in the short term. It is therefore appropriate to take such situations into account by providing that during a transitional period economic operators will be able, but will not be obliged, to lodge electronic entry and exit summary declarations in order to allow them to adjust their systems to the new legal requirements.

(3) The introduction of a transitional period for electronic exit summary declarations justifies maintaining, for the same period, the facilitation which can be granted under Article 285a(2) of Regulation (EEC) No 2454/93 to approved exporters benefiting from the local clearance procedure, provided that the customs office of exit is located in the same Member States as the customs office of export and receives the particulars necessary for the exit of the goods.

(4) In cases where economic operators do not lodge electronic entry or exit summary declarations or where the local clearance procedure is used under Article 285a(2) of Regulation (EEC) No 2454/93, the customs authorities will not be able to carry out risk analysis for safety and security purposes on the basis of the data laid down for entry and exit summary declarations in Annex 30A of Regulation (EEC) No 2454/93. In those cases, the customs authorities should use for their risk analysis the information available, at the latest upon presentation of the goods entering or leaving the customs territory of the Community.

(5) On the basis of the information available it may be assumed that a transitional period of 18 months is sufficient to permit economic operators to comply with all obligations laid down in Regulation (EEC) No 2454/93. The derogations provided for in this Regulation should therefore end on 31 December 2010. Accordingly after 31 December 2010 electronic entry and exit summary declarations with the data laid down in Annex 30A of Regulation (EEC) No 2454/93 should be lodged within the prescribed time limits for goods entering or leaving the customs territory of the Community, and the facilitation provided for in Article 285a(2) of Regulation (EEC) No 2454/93 should no longer apply.

(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

From 1 July 2009 until 31 December 2010 the lodging of the entry summary declaration referred to in Articles 1(17) and 183 of Regulation (EEC) No 2454/93 shall not be mandatory.

That entry summary declaration can be lodged on a voluntary basis.

Where in accordance with paragraph 1 the entry summary declaration is not lodged, the risk analysis referred to in Article 184d of Regulation (EEC) No 2454/93 shall be carried out by the customs authorities at the latest upon presentation of the goods at arrival in the customs territory of the Community, where appropriate on the basis of the declaration for temporary storage or the customs declaration covering the goods or any other information available for these goods.

Where in accordance with paragraph 1 the entry summary declaration is not lodged, the provisions regarding goods brought into the customs territory of the Community laid down in Title III of Regulation (EEC) No 2913/92 and in Part I Title VI of Regulation (EEC) No 2454/93 as applicable on 30 June 2009 shall apply.

Article 2

From 1 July 2009 until 31 December 2010 the lodging of the exit summary declaration referred to in Articles 592f (1), 842a and 842b of Regulation (EEC) No 2454/93 shall not be mandatory.

That exit summary declaration can be lodged on a voluntary basis.

Where in accordance with paragraph 1 the exit summary declaration is not lodged, the risk analysis referred to in Article 842d(2) of Regulation (EEC) No 2454/93 shall be