Commission Regulation (EC) No 883/2005 of 10 June 2005 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 883/2005

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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 Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code[(1)], and in particular Article 247 thereof,

Whereas:

(1) The Customs Convention on the international transport of goods under cover of TIR carnets (TIR Convention) of 14 November 1975 was approved on behalf of the Community by Council Regulation (EEC) No 2112/78[(2)] and entered into force in the Community on 20 June 1983[(3)]. Given the importance of international trade for the Community it is necessary to modernise the customs formalities concerning the TIR procedure. Article 49 of the TIR Convention envisages the application of greater facilities for the benefit of economic operators provided such facilities do not impede the application of the provisions of the Convention. Currently the Community rules concerning the TIR procedure do not provide for the status of authorised consignee. In order to meet the needs of economic operators and to facilitate international trade it is desirable to develop provisions, based on the existing Community/common transit rules, allowing the status of authorised consignee to be used in conjunction with the TIR procedure.

(2) The Convention on Temporary Admission of 26 June 1990 (the Istanbul Convention) and the Annexes thereto were approved by the European Community by Council Decision 93/329/EEC[(4)]. Annex A to the Istanbul Convention replaces the Customs Convention on the ATA carnet for the temporary admission of goods of 6 December 1961 (the ATA Convention) with regard to relations between countries which have accepted the Istanbul Convention and its Annex A. It is therefore necessary to amend the provisions relating to the ATA procedure to include references to the Istanbul Convention. However, in order to facilitate international trade between the Community and those countries that have not accepted Annex A to the Istanbul Convention, it is appropriate to maintain the references to the ATA Convention.

Changes to legislation: *Commission Regulation (EC) No 883/2005 is up to date with all changes known to be in force on or before 30 March 2022. 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*

(3) In the framework of the outward processing procedure, Commission Regulation (EEC) No 2454/93[(5)] has, since 2001, permitted partial relief from import duty after outward processing to be calculated on the basis of the costs of the processing operation, in accordance with the 'value-added method'. However, this method is not allowed if the temporary export goods which are not of Community origin have been released for free circulation at a zero duty rate. Those restrictive conditions for goods which are not of Community origin should be modified in order to promote the use of the value-added method.

(4) However, in order to avoid an abuse of the system it is desirable to provide that this method of duty relief may be refused if it is established that the sole object of the release for free circulation of the temporary export goods had been to benefit from this relief.

(5) The identity and nationality of means of transport at departure is regarded as mandatory information that has to be entered in box 18 of a transit declaration. At container terminals that have high levels of traffic it may occur that the details of the road means of transport to be used are unknown at the time when the transit formalities are carried out. Nevertheless, the identification of the container in which the goods subject to transit declaration will be carried is available and is already indicated in box 31 of the transit declaration. Given that the goods can be controlled on this basis, it is appropriate to allow box 18 of the transit declaration to be left blank, provided that it can be ensured that the proper details will be subsequently entered in the relevant box.

(6) Annex 37c and Annex 38 to Regulation (EEC) No 2454/93 both contain lists of packaging codes based on Annex V to Recommendation No 21 of the United Nations Economic Commission for Europe, Rev. 1, of August 1994, hereinafter 'the UN/ECE Recommendation'. Annex V to the UN/ECE Recommendation, which contains the list of codes, has been revised several times since its introduction in order to adapt it to practice in commerce and transport, the last time being in May 2002 (Revision 4). To enable traders to use the most widely accepted standard and thus to harmonise commercial and administrative practice within the Community as far as possible, it is necessary to provide that the packaging codes used in customs declarations are to reflect the latest version of Annex V to the UN/ECE Recommendation.

(7) In the interests of clarity and rationality, the list of packaging codes should be published solely in Annex 38, to which reference should be made when the list is mentioned in other customs legislation.

(8) The packaging codes are closely linked to the provisions applicable to transit operations as referred to in Articles 367 to 371 and to the new rules on the single administrative document, or form part of them. The new provisions must therefore be applicable for all customs procedures.

(9) A list of the numerical codes used in connection with the transit guarantee, for use on the single administrative document forms, was established by Regulation (EEC) No 2454/93. It is necessary to complete that list, in order to take into account all the situations relating to the guarantee waivers.

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(10) As a consequence of the modification of the numerical codes of the transit guarantees, it is also necessary to adapt the corresponding data concerning the New Computerised Transit System.

(11) Given that the Convention of 20 May 1987 on a common transit procedure provides that the numerical codes of the transit guarantees are to apply from 1 May 2004, the new codes should apply with effect from that date.

(12) In view of the foregoing, Annexes 37 and 38 to Regulation (EEC) No 2454/93, as amended by Regulation (EC) No 2286/2003, should be amended. It is necessary, however, to make similar amendments also to Annex 37 to Regulation (EEC) No 2454/93, as amended by Commission Regulation (EC) No 444/2002[(6)], and Annex 38 to Regulation (EEC) No 2454/93, as amended by Commission Regulation (EC) No 881/2003[(7)], since they both remain in force until 1 January 2006.

(13) Article 531 of Regulation (EEC) No 2454/93 defines the usual forms of handling which are allowed under the customs warehousing procedure. The framework of the permitted activities is established by Article 109(1) of Regulation (EEC) No 2913/92. The usual forms of handling which non-Community goods may undergo are exhaustively listed in Annex 72 to Regulation (EEC) No 2454/93. However, the restrictive scope of this Annex has led to certain problems in practice. Therefore, it is desirable to provide for more flexibility.

(14) Some endorsements on customs documents expressed in the language of certain new Member States are not consistent with the terminology relating to customs matters already used in the languages concerned and adjustments are therefore necessary.

(15) Since the 2003 Act of Accession took effect on 1 May 2004, those endorsements should be applicable on the same date.

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

(17) 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 the third paragraph of Article 62, the 20th indent is replaced by the following:
   — Vyhotovené dodatočne;

2. in Article 113(3), the 20th indent is replaced by the following:
   — VYHOTOVENÉ DODATOČNE;

3. in Article 314c(3), the 20th indent is replaced by the following:
   — Vyhotovené dodatočne;

4. in Article 324d(2), the 20th indent is replaced by the following:
   — Oslobodenie od podpisu;

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5. in the third subparagraph of Article 357(4), the 20th indent is replaced by the following:

— Oslobodenie;

6. in the second subparagraph of Article 361(4), the 20th indent is replaced by the following:

— Nezrovnalosti: úrad, ktorému bol tovar dodaný (názov a krajina);

7. in Article 387(2), the 20th indent is replaced by the following:

— Oslobodenie od predpísanej trasy;

8. in Article 403(2), the 20th indent is replaced by the following:

— Oslobodenie od podpisu;

9. in Article 451(1), '/Istanbul Convention' is inserted after 'ATA Convention';

10. the following Articles 454a, 454b and 454c are inserted:

Article 454a

1 Following an application by the consignee, the customs authorities may grant him the status of authorised consignee, thereby authorising him to receive at his premises or at any other specified place goods transported under the TIR procedure.

2 The authorisation referred to in paragraph 1 shall be granted only to persons who:

a are established in the Community;

b regularly receive goods that have been entered for the TIR procedure, or whose customs authorities know that they can meet the obligations under that procedure;

c have not committed any serious or repeated offences against customs or tax legislation.

Article 373(2) shall apply *mutatis mutandis*.

The authorisation shall apply solely in the Member State where the authorisation was granted.

The authorisation shall apply only to TIR operations that have as the final place of unloading the premises specified in the authorisation.

3 Articles 374 and 375, Article 376(1) and (2), and Articles 377 and 378 shall apply *mutatis mutandis* to the procedure relating to the application referred to in paragraph 1.

4 Article 407 shall apply *mutatis mutandis* with respect to the procedure laid down in the authorisation referred to in paragraph 1.

Article 454b

1 In respect of goods arriving at his premises or at the place specified in the authorisation referred to in Article 454a, the authorised consignee shall comply with the following obligations, in accordance with the procedure laid down in the authorisation:

a inform the customs authorities at the office of destination of the arrival of the goods;

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b immediately inform the customs authorities at the office of destination of any broken seals, and of any other irregularities such as excess quantities, deficits, or substitutions;

c without delay, enter the results of the unloading into his records;

d without delay, present to the customs authorities at the office of destination an advice indicating the particulars and condition of any seals affixed and the date of the entry into the records.

2 The authorised consignee shall ensure that the TIR Carnet is presented, without delay, to the customs authorities at the office of destination.

3 The customs authorities at the office of destination shall make the necessary endorsements on the TIR Carnet and, in accordance with the procedure laid down in the authorisation, shall ensure that the TIR Carnet is returned to the TIR carnet holder or to the person acting on his behalf.

4 The date of termination of the TIR operation shall be the date of the entry into the records referred to in point (c) of paragraph 1. However, in the cases referred to in point (b) of paragraph 1, the date of termination of the TIR operation shall be the date of the endorsement of the TIR Carnet.

5 At the request of the TIR carnet holder, the authorised consignee shall issue a receipt, the form of which shall correspond to a copy of the advice referred to in point (d) of paragraph 1. The receipt shall not be used as proof of the termination of the TIR operation within the meaning of Article 454c(2).

Article 454c

1 The TIR carnet holder shall have fulfilled his obligations under point (o) of Article 1 of the TIR Convention when the TIR carnet together with the road vehicle, the combination of vehicles or the container and the goods have been delivered intact to the authorised consignee at his premises or at the place specified in the authorisation.

2 The termination of the TIR operation, within the meaning of point (d) of Article 1 of the TIR Convention, shall have occurred when the requirements of Article 454b(1) and (2) have been met.;

11. in Article 457c(1), the words ‘or the Istanbul Convention’ are inserted after ‘ATA Convention’;

12. Article 457d is amended as follows:

(a) in paragraph 1, ‘or in Article 8(4) of Annex A to the Istanbul Convention’ is added;

(b) in paragraph 2, ‘or in Article 9(1)(a) and (b) of Annex A to the Istanbul Convention’ is added;

(c) in point (c) of paragraph 3, ‘or in Article 10 of Annex A to the Istanbul Convention’ is added;

13. in Article 459(1), ‘or the Istanbul Convention’ is inserted after ‘ATA Convention’;

14. Article 461 is amended as follows:

(a) in the first sentence of the second subparagraph of paragraph 2, ‘or of the Istanbul Convention’ is added;