

II

(Non-legislative acts)

REGULATIONS

COMMISSION DELEGATED REGULATION (EU) 2023/398

of 14 December 2022

amending Delegated Regulation (EU) 2015/2446 as regards extending the possibilities for making customs declarations orally or by any other act deemed to be a customs declaration, the invalidation of declarations in specific cases, and specifying the exchange of information for entry summary declarations

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code ⁽¹⁾, and in particular Article 131, point (c), and Articles 160 and 175 thereof,

Whereas:

- (1) The practical implementation of Regulation (EU) No 952/2013 ('the Code') in combination with Commission Delegated Regulation (EU) 2015/2446 ⁽²⁾ has shown that some amendments to that Delegated Regulation are needed in order to better tailor it to the needs of economic operators and customs authorities and to take into account the developments regarding the forthcoming deployment of releases 2 and 3 of the Import Control System (ICS2).
- (2) In order to clarify that in the case of postal consignments transhipped in the Union, in certain situations the obligation to provide the entry summary declaration data lies with the postal operator in a third country from which the goods were dispatched, in accordance with Article 127(6) of Regulation (EU) No 952/2013, it is necessary to introduce a new definition of 'third country postal operator'.
- (3) From the date set out in the Annex to Commission Implementing Decision (EU) 2019/2151 ⁽³⁾ for the deployment of release 3 of ICS2, it is to be possible for different persons involved in the process of transporting goods into the customs territory of the Union by rail to submit parts of the information of an entry summary declaration, that is, multiple filing. A new Article 112a should therefore be added to Delegated Regulation (EU) 2015/2446 to provide for this possibility.
- (4) In order to make it obligatory for third country postal operators to submit particulars of the entry summary declaration for goods transhipped in the customs territory of the Union, where that postal operator has not provided those particulars to the carrier, Article 113a of Delegated Regulation (EU) 2015/2446 should be amended.

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

⁽³⁾ Commission Implementing Decision (EU) 2019/2151 of 13 December 2019 establishing the work programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code (OJ L 325, 16.12.2019, p. 168).

- (5) Packings bearing a permanent marking identifying a person that are temporarily imported filled and re-exported either filled or empty can be declared by means of an oral declaration or by any other act referred to in Article 141 of Delegated Regulation (EU) 2015/2446. As that can only be done for filled packings imported by persons established outside the customs territory of the Union, it is necessary to extend the application of that simplified customs formality to packings imported empty by persons regardless of where those persons are established.
- (6) The possibility of repayment of import duty in specific situations in which goods are delivered free of charge to charitable or philanthropic organisations should be introduced. This should be done by adding a new reason for invalidating customs declarations after the release of goods, making it possible to repay import duty paid in accordance with Article 116(1) of the Code.
- (7) Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2015/2446 is amended as follows:

- (1) in Article 1, the following definition is added:

‘(54) ‘third country postal operator’ means an operator established in and designated by a third country to provide the international services governed by the Universal Postal Convention.’;

- (2) in Title IV, Chapter 1, the following Article 112a is inserted:

‘Article 112a

Provision of particulars of the entry summary declaration by other persons in specific cases as regards transport by rail

(Article 127(6) of the Code)

1. Where, in the case of transport by rail, for the same goods one or more additional transport contracts covered by one or more consignment notes have been concluded by one or more persons other than the carrier, and the person issuing the consignment note does not make the particulars required for the entry summary declaration available to his or her contractual partner who issues a consignment note to him or her or to his or her contractual partner with whom he or she concluded a goods co-loading arrangement, the person who does not make the required particulars available shall provide those particulars to the customs office of first entry in accordance with Article 127(6) of the Code.

Where the consignee indicated in the consignment note that has no underlying consignment note does not make the particulars required for the entry summary declaration available to the person issuing that consignment note, he or she shall provide those particulars to the customs office of first entry.

2. Until the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 3 of the system referred to in Article 182(1) of Implementing Regulation (EU) 2015/2447, paragraph 1 of this Article shall not apply.’;

- (3) in Article 113a, the following paragraph 4 is added:

‘4. From the date set out in accordance with the Annex to Implementing Decision (EU) 2019/2151 for the deployment of release 2 of the system referred to in Article 182(1) of Implementing Regulation (EU) 2015/2447, where the third country postal operator does not make the particulars required for the entry summary declaration of postal consignments available to a carrier who is obliged to lodge the rest of the particulars of the declaration through that system, the third country postal operator at the country of dispatch, if the goods are transhipped through the Union, shall provide those particulars to the customs office of first entry in accordance with Article 127(6) of the Code.’;

(4) in Article 136(1), point (j) is replaced by the following:

'(j) packings which are imported filled or empty and are intended for re-export, whether filled or empty, bearing the permanent, indelible markings identifying a person established within or outside the customs territory of the Union;'

(5) in Article 138, point (c) is replaced by the following:

'(c) goods as referred to in Article 136(1), points (a) and (j), of this Regulation that benefit from relief from import duty as returned goods in accordance with Article 203 of the Code;'

(6) in Article 139, paragraphs 1 and 2 are replaced with the following:

1. Where not declared by other means, the goods referred to in Article 136(1), points (a) to (d), (h), (i) and (j), shall be deemed to be declared for temporary admission in accordance with Article 141.

2. Where not declared by other means, the goods referred to in Article 136(1), points (a) to (d), (h), (i) and (j), shall be deemed to be declared for re-export in accordance with Article 141 on discharging the temporary admission procedure;'

(7) Article 141, paragraph 1 is amended as follows:

(a) the introductory phrase is replaced by the following:

'In respect of goods as referred to in Article 138, points (a) to (d) and point (h), Article 139 and Article 140(1), any of the following acts shall be deemed to be a customs or a re-export declaration;'

(b) in point (d), points (iv) and (v) are replaced by the following:

'(iv) where goods as referred to in Article 136(1), points (a) and (j), of this Regulation are deemed to be declared for temporary admission in accordance with Article 139(1) of this Regulation;

(v) where goods as referred to in Article 136(1), points (a) and (j), of this Regulation complying with the conditions established in Article 203 of the Code are brought to the customs territory of the Union in accordance with Article 138, point (c), of this Regulation;'

(8) in Article 148(4) the following point (f) is added:

'(f) where goods have been released for free circulation and evidence is provided to the satisfaction of the customs authorities that the goods have not been used or consumed in the customs territory of the Union provided that:

(i) the application is made within 1 year of the date of acceptance of the customs declaration;

(ii) the goods were given free of charge to charitable or philanthropic organisations carrying out their activities in the customs territory of the Union, and, at the moment the customs declaration referred to in point (iii) is accepted, the goods would be eligible for relief from import duty if they were released for free circulation; and

(iii) a customs declaration for release for free circulation with total relief from import duty for the goods in question has been lodged by or on behalf of those charitable or philanthropic organisations by the time-limit set in point (i).'

Article 2

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

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

Done at Brussels, 14 December 2022.

For the Commission
The President
Ursula VON DER LEYEN
