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NOTE

From:	General Secretariat of the Council
On:	20 June 2025
To:	Delegations
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013 - Presidency compromise text

Delegations will find enclosed the Presidency compromise text for the UCC reform proposal.

Changes to the Commission proposal (doc. ST 9596/23) are marked in **bold underline** and ~~strikethrough~~.

ANNEX

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 33, 114 and 207 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The Union and the functioning of the internal market are based upon the customs union. In the interests both of economic operators and of the customs authorities in the Union, Regulation (EU) No 952/2013 of the European Parliament and of the Council[2] laying down the Union Customs Code ('the Code') assembled in a single act customs legislation that was contained in several different pieces of legislation, containing the general rules and procedures, for ensuring the implementation of the tariff and other measures introduced at Union level in connection with trade in goods between the Union and countries or territories outside the customs territory of the Union, and the provisions relating to the collection of

[1] OJ C [...], [...], p. [...]

[2] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (recast) (OJ L 269, 10.10.2013, p. 1).

import charges. Member States customs authorities are responsible for implementing these rules by way of operational tasks like applying customs procedures, carrying out risk analysis and controls and applying sanctions in the case of customs infringements.

(2) The implementation of Regulation (EU) No 952/2013 has disclosed weaknesses in several areas. These include: the insufficient/ineffective action in ensuring the protection of the Union and its citizens against non-financial risks applicable to goods established by Union policies other than customs legislation; the capacity of customs authorities to effectively handle the increasing volume of goods imported from third country via distance sales (e-commerce transactions); the capacity of the IT systems architecture created by Regulation (EU) No 952/2013 to digitalise customs processes to keep up with the pace of technological progress, namely with technologies based on the exploitation of data; the lack of effective governance structures of the customs union, resulting in divergent practices and non-uniform implementation of the rules in the Member States. Those weaknesses lead to the emergence of obstacles to the proper functioning of the customs union and therefore of the internal market, due to the internal and external risks and threats.

(3) It is appropriate that customs legislation takes account of the rapid development of global trade patterns, technology, business models and the needs of stakeholders, including citizens. Therefore, a great number of amendments are required to be made to Regulation (EU) No 952/2013. In the interests of clarity, that Regulation should be repealed and replaced.

(4) In order to provide for effective means of achieving the objectives of the customs union, a number of rules and procedures regulating how goods are brought into or taken out of the customs territory of the Union should be revised and simplified. A modern, integrated set of interoperable electronic services should be provided for collecting, processing and exchanging information relevant for implementing customs legislation (European Union Customs Data Hub, 'EU Customs Data Hub'). A European Union Customs Authority ('EU Customs Authority') should be established as a central, operational capacity for the coordinated governance of the customs union in specific areas.

(5) Since the adoption of Regulation (EU) No 952/2013, the role of customs authorities has evolved to increasingly cover the application of Union and national legislation laying down requirements on goods subject to customs supervision, in particular the non-financial requirements on goods that are necessary for these goods to enter and circulate in the

internal market. Such non-financial tasks have increased exponentially over the years in line with growing expectations of Union businesses and citizens regarding safety, security, accessibility for persons with disabilities, sustainability, human, animal and plant health and life, the environment, the protection of human rights and Union values. New tools, such as the Digital Product Passport, are to be introduced to ensure that other legislation applied by the customs authorities related to products continues to respond to these expectations. It is therefore necessary to reflect the increasing number and complexity of non-financial risks by including in the mission of customs authorities a specific reference to protecting all these public interests and, where applicable, national legislation, in close cooperation with other authorities.

(6) In light of the evolution of their role and of the business models in which they operate and in order for customs authorities to 'act as one' and to contribute to the smooth functioning of the internal market, it is necessary to describe more precisely the mission customs authorities have to perform by indicating more accurately their objectives and tasks.

(6a) It is appropriate to maintain in the Code a legal framework for the application of certain provisions of the customs legislation to trade in Union goods between parts of the customs territory to which the provisions of Council Directive 2006/112/EC[3] or Council Directive (EU) 2020/262[4] apply and parts of that territory where those provisions do not apply, or to trade between parts where those provisions do not apply. Considering the fact that the goods concerned are Union goods and considering the fiscal nature of the measures at stake in that intra-Union trade, it is justified to introduce, appropriate simplifications to the customs formalities to be applied to those goods.

(6b) In order to take into account the special fiscal regime of certain parts of the customs territory of the Union, the power to adopt delegated acts in accordance with Article 290 Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of the customs formalities and controls to be applied to the

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[3] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

[4] Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (OJ L 58, 27.2.2020, p. 4).

trade in Union goods between those parts and the rest of the customs territory of the Union.

(7) Certain definitions set out in Regulation (EU) No 952/2013 should be adapted to take account of the broader scope of this Regulation, to align them with those set out in other Union acts, and to clarify terminology having different meanings in different sectors. New definitions should be included in customs legislation to clarify the roles and responsibilities of certain actors in the customs processes. In the case of the importer and the exporter, new definitions should make those persons liable for compliance of the goods, including for financial and non-financial risks, in order to strengthen customs supervision. In the case of the new concept of deemed importer, new definitions should ensure that in some cases, in the context of an online sale from outside the Union, an economic operator, as opposed to the consumer, is considered the importer and assumes the corresponding responsibilities. New definitions should also be introduced in relation to the broader scope of the provisions of customs supervision, risk management and customs controls.

(8) Beyond their traditional role of collecting customs duties, VAT and excise and applying customs legislation, customs authorities also play a critical role in enforcing other Union and, where applicable, other national legislation on customs matters. A definition of this 'other legislation applied by the customs authorities' should be introduced in order to build an effective framework for regulating the application and supervision of these particular requirements on goods. Such prohibitions and restrictions can be justified on grounds of, *inter alia*, public morality, public policy or public security, the protection of the health and life of humans, animals or plants, the protection of the environment, the protection of national treasures possessing artistic, historic or archaeological value and the protection of industrial or commercial property and other public interests, including controls on drug precursors, goods infringing certain intellectual property rights and cash. The notion of other legislation applied by the customs authorities should also include commercial policy measures and fishery conservation and management measures, as well as restrictive measures adopted on the basis of Article 215 TFEU.

(9) In order to increase legal clarity, certain rules regarding customs decisions should be amended. First, it is appropriate to clarify that the competent customs authority for taking a customs decision is the one of the place where the applicant is established, because the establishment becomes the main principle according to which certain economic operators, at

certain conditions and in a pre-determined time frame, subject to review, can benefit from the simplifications introduced by this Regulation and pay customs duties where they are established. Second, the time limit of maximum 30 days by which an applicant is to provide additional information to customs authorities in cases the latter considers that the application for a decision does not contain all the information required, should also be included for the sake of completeness and legal clarity.

(10) The consequence of the failure of a customs authority to take a decision upon application within the established time-limits should be clarified. The principle that in such case the application is deemed to be subject to a negative decision and that the applicant may lodge an appeal, in accordance with the general rule on customs decisions should also be established.

(11) As highlighted by the European Court of Auditors[5] and in the evaluation of the implementation of Regulation (EU) No 952/2013, it is also desirable to address the lack of uniform monitoring of compliance of the criteria and obligations set out in customs decisions, by reinforcing the relevant provisions. On one side, the holders of decisions should not only comply with obligations set out in the relevant decision but also monitor on a constant basis their compliance and provide for an internal organisation where such [self-]monitoring activities can prevent, mitigate or remedy any possible errors in their customs processes. On the other side, customs authorities should regularly monitor the implementation of customs decisions by the holders of such decisions, in particular when these are established for less than 3 years and are therefore potentially more prone to pose risks, in order to ensure that that person complies with the obligations established by the customs decisions. This is particularly relevant when those persons benefit from specific status such as that of Authorised Economic Operator (AEO) or Trust and Check trader, who enjoy several facilitations in customs processes. In addition, in order to strengthen risk management at Union level, customs authorities should notify the EU Customs Authority of all decisions taken upon application and inform that Authority about the monitoring activities, so that this information can be taken into account for risk management purposes.

(12) In addition to the decisions relating to binding tariff information (BTI decisions), or decisions relating to binding origin information (BOI decisions) adopted by customs

[5] European Court of Auditors, Special Report No 4/2021: Customs controls: insufficient harmonisation hampers EU financial interests.

authorities upon application and subject to certain conditions, decisions relating to binding valuation information (BVI decisions) have been introduced in customs legislation through Commission Delegated Regulation (EU) ~~…/….~~ **2024/1072**[6]. In the interest of the users of customs legislation, it is appropriate to lay down the rules regarding those three types of decisions relating to binding information in the same legal act.

(13) The rights and obligation of the persons having responsibility over the goods entering into and exiting from the customs territory of the Union should be more clearly defined. The first obligation for persons having regular customs operations should continue to be registered with the customs authorities responsible for the place where they are established. A single registration should be valid for the whole customs union but should be up to date. Economic operators should therefore have the obligation to inform the customs authorities about any change in their registration data. The persons having responsibility over the goods entering and exiting from the customs territory of the Union are liable for any risks presented by the goods for the safety and security of citizens, as well as any risks to human, animal or plant health and life, the environment or consumers. The obligations of the importer should also be defined, in particular the obligation to be established in the customs territory of the Union and the exceptions to that obligation. These should follow the existing rules for the declarant to be established in the Union. Similarly, the obligations of the exporter should be defined.

(14) The obligations of the deemed importers, which are **partly** different from the obligations applicable to ~~[~~the rest of~~]~~ importers, should also be clarified. In particular, it should be provided that the deemed importer should provide to the customs authorities not only the data necessary for the release for free circulation of the sold goods but also the information that the deemed importer must collect for VAT purposes. This information is detailed in Council Implementing Regulation (EU) No 282/2011[7]. **Where the person supplying or facilitating distance sales indicates that he is acting as the importer, he should be**

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[6] ~~[OJ: Please insert in the text the number of] Commission Delegated Regulation (EU) 2023/… of dd MM 2023 amending Delegated Regulation (EU) 2015/2446 as regards decisions relating to binding information in the field of customs valuation and decisions relating to binding origin information) [and insert the number, date, title and OJ reference of that Delegated Regulation in this footnote].~~ **Commission Delegated Regulation (EU) 2024/1072 of 25 January 2024 amending Delegated Regulation (EU) 2015/2446 as regards decisions relating to binding information in the field of customs valuation and decisions relating to binding origin information (OJ L 2024/1072, 15.4.2024).**

[7] Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (OJ L 077 23.3.2011, p. 1).

responsible for all liabilities following from other legislation applied by the customs authorities that applies for placing products on the internal market of the Union.

(15) Economic operators meeting certain criteria and conditions to be considered compliant and trustworthy traders by customs authorities can be granted the status of AEO and thereby benefit from facilitations in customs processes. While ensuring that the traders dealing with most of Union trade are trustworthy, the AEO scheme suffers from certain weaknesses highlighted in the evaluation of Regulation (EU) No 952/2013 and in the findings of the European Court of Auditors. To deal with those concerns, in particular about the divergent national practices and challenges regarding AEO compliance monitoring, the rules should be amended to introduce the customs authorities' obligation to monitor compliance at least every 3 years.

(16) The changes in the customs processes and the way of operating the customs authorities requires a new partnership with economic operators, that is the Trust and Check traders scheme. The criteria and conditions to become a Trust and Check trader should build on the AEO criteria but should also ensure that the trader is considered transparent for the customs authorities. It is therefore appropriate to require Trust and Check operators to grant the customs authorities access to their electronic systems keeping record of their compliance and the movement of their goods. The transparency should be accompanied by certain benefits, notably the possibility to release the goods on behalf of customs without the necessity for their active intervention, except where a pre-release approval is required by other legislation applied by the customs authorities and to defer the payment of the customs debt. ~~As this mode of working should progressively replace the one based on customs declarations, it is appropriate to establish the customs authorities' obligation to reassess the existing authorisations for AEO for customs simplifications until the end of the transition period.~~

(17) The changes in the customs processes also require clarifying the role of customs representatives. Both direct and indirect representation should continue to be possible but it should be clarified that the indirect representative of an importer or an exporter assumes all the obligations of importers or exporters, not only the obligation to pay or guarantee the customs debt but also the respect of other legislation applied by the customs authorities. For that reason, customs representatives must be resident in the customs territory of the Union where they represent importers or exporters, to ensure proper accountability for financial

and non-financial aspects. The use of an indirect customs representative established in the Union is therefore an available and proportionate alternative for importers and exporters who do not have a commercial presence in the Union. Moreover, customs representatives established in third countries can continue providing their services in the Union where they represent persons who are not required to be established within the customs territory of the Union.

(18) In order to ensure a uniform level of digitalisation and to create a level playing field for economic operators in all Member States, an EU Customs Data Hub should be established as a set of centralised, secure and cyber-resilient electronic services and systems for customs purposes. The EU Customs Data Hub should ensure the quality, integrity, traceability and non-repudiation of data processed therein, so neither sender nor recipient can later dispute the existence of the exchange of data. **Data processing in** ~~T~~**t**he EU Customs Data Hub ~~and~~ should comply with the relevant regulations for the processing of personal data and cybersecurity. The Commission and **the EU Customs Authority in cooperation with** the Member States should jointly design the EU Customs Data Hub. The Commission should also be tasked with governing, implementing and maintaining the EU Customs Data Hub, which may delegate to another Union body.

(18a) In order to ensure the reliability, interoperability and long-term sustainability of the EU Customs Data Hub, it is important that its development and maintenance adhere to internationally recognised standards and best practices in software engineering, system testing, piloting and acceptance procedures. This includes comprehensive functional and non-functional testing, structured pilot phases involving representative stakeholders, and clearly defined acceptance criteria to validate performance, compliance and security. These measures are meant to ensure that the system can support harmonised customs formalities across the Union and meets the operational requirements of Member States and economic operators alike.

(19) **The EU Customs Data Hub aims to replace the existing electronic systems developed by the Member States and the Commission pursuant to Article 16(1) of Regulation (EU) No 952/2013, some of which are being progressively phased out in the course of the transition process. The national IT systems will not be revived in case the EU Customs Data Hub functionalities are not available within the set deadlines.** In line with

recent case-law of the European Court of Justice[8], it is appropriate to clarify that the automated exchange of information between ~~economic operators and~~ customs authorities**,** **persons and other stakeholders** through and by the EU Customs Data Hub does not exclude the responsibility of those authorities or of those operators in relation to the customs processes concerned. Even where the customs authorities' involvement is limited to that electronic communication via the EU Customs Data Hub, it should be considered that a measure is adopted by those authorities, as if the EU Customs data Hub acted on behalf of the said authorities.

(20) The EU Customs Data Hub should enable the exchange of data with other systems, platforms, or environments for the purpose of increasing the quality of data used by customs in fulfilling their tasks, as well as for sharing relevant customs data with other authorities, for the purpose of increasing the effectiveness of controls in the internal market. In line with the approach set out in Regulation (EU) ~~.../....~~ **2024/903** of the European Parliament and of the Council[9] and the European Interoperability Framework[10], the EU Customs Data Hub should foster cross-border and cross-sector interoperability in Europe. It should exploit the potential of existing sources of risk information available at Union level, such as the rapid alert systems for food and feed (RASFF) and for non-food products (Safety Gate), the Information and Communication System for Market Surveillance (ICSMS), the IP Enforcement Portal. It should underpin the development of strategic and operational cooperation, including information exchange and interoperability, between customs and other authorities, bodies and services, within their respective competences. Moreover, the EU Customs Data Hub should provide a wide range of advanced data analytics, also including through the use of artificial intelligence. That data analysis should be an enabler for risk analysis, economic analysis, and predictive analysis to anticipate possible risks with consignments coming to or moving from, the Union. To ensure better supervision of trade

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8 Case T- 81/22 (OJ C 148, 4.4.2022).

9 ~~[OJ: Please insert in the text the number of the Regulation contained in document COM/2022/720 final – 2022/0379 (COD) and insert the number, date, title and OJ reference in this footnote.] Regulation (EU) ../…. of the European Parliament and of the Council laying down measures for a high level of public sector interoperability across the Union (Interoperable Europe Act) [COM/2022/720 final – 2022/0379 (COD)] (OJ L ..,…..2023, p. .).~~
Regulation (EU) 2024/903 of the European Parliament and of the Council of 13 March 2024 laying down measures for a high level of public sector interoperability across the Union (Interoperable Europe Act) ***OJ L, 2024/903, 22.3.2024***

10 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the committee of the regions European Interoperability Framework – Implementation Strategy (COM/2017/0134 final).

flows and a streamlined way of collaboration with authorities other than customs, the EU Customs Data Hub should be capable of making use of the framework of collaboration of the EU Single Window Environment for Customs and, where that framework cannot be used, offer those authorities a specific service through they can obtain the relevant data, provide and share information to the customs authorities and make sure that the sectorial requirements are complied with. This would be necessary in case the other authorities would not have an electronic system that could be federated with the EU Customs Data Hub.

(21) Alongside the EU Customs Data Hub, Member States may develop their own applications to use data from the EU Customs Data Hub. ~~For that purpose, and to decrease the time to market, Member States may entrust the EU Customs Authority with the finances and the mandate to develop such applications. In that case,~~ the EU Customs Authority should develop the applications for the benefit of all Member States. This could be done by creating **non-vender lock-in** ~~open-source~~ code applications following the Share and Reuse Framework.

(22) The EU Customs Data Hub should enable the following flow of data. ~~Economic operators~~ **Persons** should be able to submit to or make available in it all relevant data required to fulfil customs legislation. That data should be processed at Union level and be enriched with Union-wide risk analysis. The resulting data should be made available for Member State's customs authorities, which would use the data to fulfil their obligations. Finally, the outcome of the controls performed following the retrieval of data from the EU Customs Data Hub should be reported back to that Data Hub. **The EU Customs Data Hub should enable that customs authority use its data with minimum delay and at configurable intervals ensuring that it can perform its mission and exercise its national competences without relying solely on the EU Customs Data Hub.**

(23) The data submitted to the EU Custom Data Hub is to a large extent non-personal data submitted by economic operators of the goods they are trading with. Nevertheless, the data will also include personal data, in particular names of individuals acting for an economic operator or an authority. To ensure that personal data and commercial information are equally protected, it is appropriate that specific access rules, rules for confidentiality and conditions for the use of the EU Customs Data Hub are established by this Regulation. In particular, it should be established which entities may ~~access or~~ process data ~~stored or otherwise~~ **available** in the EU Customs Data Hub, in addition to the persons, the

Commission, the customs authorities and the EU Customs Authority, balancing the needs of these entities with the need ensure that the personal and confidential data collected for customs purposes are used for additional purposes only to the minimum extent necessary.

(24) To ensure that the European Anti-Fraud Office ('OLAF') can exercise its investigations powers in relation to fraudulent activities that are affecting the interests of the Union, it is appropriate that it has access to data from the EU Customs Data Hub that is very similar to the access by the Commission. OLAF should therefore be entitled to process the data in accordance with the conditions relating to data protection in the relevant Union legislation, including Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council[11] and Council Regulation (EC) No 515/97[12]. ~~To ensure that EPPO can conduct its investigations on customs-related matters, it should be entitled to request access to the data in the EU Customs Data Hub~~. To preserve the functions that are performed in Member States' national IT systems, the tax authorities of the Member States should ~~either~~ obtain the possibility ~~to process data directly within the EU Customs Data Hub or~~ to extract data from the EU Customs Data Hub ~~and process it through different means~~. As such, authorities responsible for food safety in accordance with Regulation Regulation (EU) 2017/625 of the European Parliament and of the Council[13] and the authorities responsible for market surveillance in accordance with Regulation (EU) 2019/1020 should be provided with the right services and tools in the EU Customs Data Hub so that they can use the relevant customs data to contribute to enforcing the relevant Union legislation and for cooperating

[11] Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

[12] Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters (OJ L 82, 22.3.1997, p. 1).

[13] Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation)(OJ L 95, 7.4.2017, p. 1).

with customs authorities to minimise the risks that non-compliant products enter the Union. It is appropriate that Europol has the right ~~access upon~~ to request ~~to~~ data from ~~in~~ the EU Customs Data Hub to be able to perform its tasks as specified in Regulation (EU) 2016/794 of the European Parliament and of the Council[14]. All other Union and national bodies and authorities, including the European Border and Coast Guard Agency (Frontex), **may** ~~should~~ have request ~~access~~ to non-personal data contained in the EU Customs Data Hub.

(25) The rules and provisions regarding access to EU Customs Data Hub and exchange of information should not affect the Customs Information System ('CIS') established by Council Regulation (EC) No 515/97 ~~and reporting obligations under Article 24 of Regulation (EU) 2019/1896 of the European Parliament and of the Council on the European Border and Coast Guard~~.

(26) The Commission should lay down the modalities for access of all these authorities in implementing rules, after assessing the existing safeguards that each authority or category of authorities has in place for ensuring the correct treatment of personal and commercially sensitive data.

(27) It is appropriate that the EU Customs Data Hub~~s~~ stores personal data for a maximum period of 10 years. This period is justified in light of the possibility for customs authorities to notify the customs debt up to 10 years after having received the necessary information about a consignment, as well as to ensure that the Commission, the EU Customs Authority, OLAF, customs and authorities other than customs can cross-check the information in the EU Customs Data Hub against the information stored in and exchanged with other systems. Moreover, this period of time should be aligned with the storage period required by other legislation applied by the customs authorities, where such legislation is relevant for customs controls. It is also appropriate that whenever personal data is required for the purposes of judicial and administrative proceedings, investigations and during post-clearance controls, the retention period is suspended to avoid that personal data is erased and cannot be used for those purposes.

[14] Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

(28) The protection of personal and other data in the EU Customs Data Hub should also include rules on the restriction of rights of data subjects. It is therefore appropriate that the customs authorities, the Commission or the EU Customs Authority could restrict the right of data subjects where necessary to ensure that enforcement activities, risk analysis and customs controls are not jeopardised. Moreover, such restrictions could also be applied where necessary for the purpose of protecting judicial or administrative proceedings following enforcement activities. The restrictions should be duly justified against the activities and prerogatives of customs and limited to the time necessary to preserve those prerogatives.

(29) Any processing of personal data under this Regulation should be carried out in compliance with the provisions of Regulation (EU) 2016/679, Regulation (EU) 2018/1725 of the European Parliament and of the Council, or Directive (EU) 2016/680 of the European Parliament and of the Council, within their respective scope of application.

(30) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on ~~[...]~~ **11 July 2023 (Opinion 31/2023)**.

(31) A Union-level customs risk management layer is fundamental for ensuring a harmonised application of customs controls in Member States. There is currently a common risk management framework comprising the possibility of identifying common priority controls areas and common risk criteria and standards ~~in the financial risk arena~~ for carrying out customs controls, but it has significant shortcomings. In order to address the lack of harmonised application of customs controls and of harmonised risk management harming the financial and non-financial interests of the Union and of the Member States, it is appropriate to revise the rules to establish a more solid risk management approach addressing both financial and non-financial risks. This includes tackling the structural challenges on the risk management of financial risks identified by the European Court of Auditors. In particular, it is appropriate to describe which activities are comprised in customs risk management, in a cyclical approach. It is also important to identify the roles and responsibilities of the **Council, the** Commission, the EU Customs Authority and the customs authorities of the Member States. It is also essential to provide that the Commission may establish common priority controls areas and common risk criteria and standards, and may identify specific areas in the domain of other legislation applied by the customs

authorities that deserve priority for common risk management and controls, without compromising security.

(32) It is therefore appropriate to introduce Union-level risk management activities and provisions to ensure the collection at Union level of comprehensive data relevant for risk management including results and evaluation of all controls. It provides for common risk analysis and the issue of corresponding Union control recommendations to customs authorities. Those control recommendations should be ~~implemented~~ **taken into account**, or ~~reasons~~ **explanations** provided as to why they were not applied. The possibility to issue an instruction that goods destined for the Union may not be loaded or transported should also be provided for. The analysis of Union-level risks and threats should be based on constantly updated Union-level data and should identify the measures and controls to be performed at the border crossing points of entry and exit of the Union territory. In the context of cooperation with law enforcement and ~~security~~ authorities in particular, Union-level risk management should, where possible, contribute to and benefit from strategic analyses and threat assessments conducted at Union level, including those carried out by the European Union Agency for Law Enforcement Cooperation (Europol) and the European Border and Coast Guard Agency (Frontex) to contribute to the efficient and effective prevention of, and the fight against, crime.

(33) The process of placing goods in a customs procedure needs to be revisited to reflect the new roles and responsibilities of the persons involved in the procedure. Thus, the responsibility for providing the information to the customs authorities is to be assumed by the person responsible for the goods: the importer, the exporter or the holder of the transit procedure, as opposed to the declarant. They should provide or make available the data to customs as soon as this is available and in any case before the release of the goods for a customs procedure, in order to allow the customs authorities to carry out a risk analysis and to take appropriate measures. As the deemed importers in e-commerce have a higher volume of transactions and the obligation to calculate the customs debt at the moment of the sale, as opposed to the moment in which goods are released, it is appropriate to adapt the timing of their reporting obligation. Deemed importers should therefore provide data on their sales of goods to be imported at the latest on the day after the acceptance of the payment. By contrast, in duly justified circumstances, the customs authorities should be able to authorise Trust and Check traders to complete the data on their released goods at a later stage, as these traders constantly share data on their transactions with customs and should be considered reliable.

Such circumstances could be the impossibility of determining the final customs value of the goods at the moment of release because it is linked to a futures contract, or the need to obtain the relevant supporting documents without these having an impact on the calculation of the customs debt.

(34) To simplify the customs process for the entry of goods into the customs territory of the Union while ensuring that there is a single person responsible for those goods, different actors in the supply chain should provide their part of the relevant information on the goods concerned and link it to a specific consignment. Goods should enter only if there is an importer established in the Union that takes the responsibility for those goods. The importer should provide information on the goods to customs and the customs procedure to which they should be placed, at the earliest possible stage, if possible before the goods physically arrive. A service provider or customs agent should be able to provide the information on the importer's name and behalf, but the importer remains responsible for ensuring compliance of the goods with the financial and non-financial risks. The carriers effectively bringing the goods should also provide some information on the goods before loading or arrival ('advance cargo information') and should link their information to the importer's information where this has been previously submitted, without necessarily having access to all the data that the importer has provided. In addition, to cater for the more complex supply chains and transport networks, other persons may be required to complete the information on the goods to be brought to the customs territory of the Union. The importer, the carrier or any other person submitting information to customs should be obliged to amend it where they know that the information is no longer correct but before the customs authorities have detected irregularities that they would like to control.

(35) The customs authorities responsible for the place of first entry of the goods should carry out a risk analysis of the available information on those goods and be entitled to take a wide range of **risk** mitigation measures if they detect a risk, including requesting controls before loading or upon arrival of the goods to the customs territory of the Union, by another customs authority or by other authorities. The carrier is generally in the best position to know when the goods have arrived so they should notify customs of such arrival. However, to cater for the more complex supply chains and transport networks, other persons may be required to notify the arrival of the goods to the customs authorities for their risk analysis. In order to ensure that the customs authorities have advance cargo information on all goods brought to the customs territory of the Union, the carrier should be prevented from

unloading goods for which there is no information, unless the customs authorities have requested the carrier to present the goods or there is an emergency situation requiring the unloading of the goods. By contrast, to smoothen the process of entry of goods for which the customs authorities have the appropriate advance cargo information, the carrier should not be required to present the goods to customs in all cases but only where the customs authorities so request or where other legislation applied by the customs authorities so requires.

(36) The non-Union goods that are brought to the customs territory of the Union should be considered to be in temporary storage from the moment the carrier notifies their arrival until their placement under a customs procedure unless they are already placed in transit. To ensure appropriate customs supervision, this situation should be limited in time. It should not last more than ~~1~~90 days, except in exceptional cases. ~~If the importer needs to store the goods for a longer period, the goods should be in a customs warehouse, where the goods can be stored without time limit. The existing authorisations for temporary storage locations should therefore be converted into customs warehouse authorisations if the relevant requirements are met.~~

(37) It is necessary to maintain the rules that determine whether the goods are Union or non-Union goods and whether the status of Union goods can be presumed or needs to be proven, particularly where the goods temporarily leave the customs territory of the Union.

(38) Once the customs authorities have the information necessary for the relevant procedure, based on risk analysis, they should decide whether to perform further controls on the goods, to release them, to refuse or suspend their release or to let the time pass so the goods are considered released. The customs authorities should do so in cooperation with other authorities, where necessary. Accordingly, the customs authorities should refuse the release of the goods where they have evidence that the goods do not comply with applicable legal requirements. Where the customs authorities need to consult other authorities to determine whether or not the goods comply, they should suspend the release at least until the consultation takes place. In these cases, the customs authorities' subsequent decision on the goods should depend on the other authorities' reply. To avoid blocking both traders and authorities in the cases in which concluding on compliance requires some time, the customs authorities should have the possibility to release the goods on the condition that the trader continues informing about the location of the goods for a maximum of 15 days. Finally, in

order to provide legal certainty to the traders that have provided the information on time without obliging the customs authorities to react to every consignment, the goods that have not been selected for a control after a reasonable period of time should be considered released. The Commission should be entitled to define this period of time in delegated rules, adapting it, where necessary, to the type of traffic or type of border crossing points.

(39) To the extent that Trust and Check traders provide customs full access to their systems, records and operations and are considered reliable, they should be able to release their goods under the supervision of the customs authorities but without waiting for their intervention. Accordingly, Trust and Check traders should be able to release goods for any entry procedure at receipt at final destination of the goods or for any exit procedure at the place of delivery of the goods. As the Trust and Check traders are considered transparent, the arrival and/or the delivery should be properly recorded in the EU Customs Data Hub. These operators should be obliged to inform the customs authorities where a problem arises so that those authorities can take a final decision on the release. Where the internal controls systems of the Trust and Check traders are robust enough, the customs authorities should be able, in cooperation with other authorities, to authorise the traders to perform certain checks on their own. However, the customs authorities should retain the possibility to control the goods at any time.

(40) It is appropriate to provide measures to regulate the transition from a system based on customs declarations to a system based on the provision of information to the central EU Customs Data Hub. Operators should have the possibility to lodge customs declarations to declare their intention to place goods under customs procedure during the transition period. However, as soon as the capabilities of the EU Customs Data Hub are available, operators should also be given the possibility to provide or make available information to the customs authorities through the EU Customs Data Hub, and the customs authorities should no longer authorise any operator to apply for simplifications in relation to the customs declaration. At the end of the transition period, all the authorisations should cease to be valid, as customs declarations will no longer exist.

(40a) The precise identification of the person acting as "importer" depends on the stage and the nature of the customs process in question. There should be only one importer at a time.

(40b) **In case of distance sales it is considered that the supplier or the facilitator is the person that determines that goods from a third country are to be brought into the customs territory of the Union because they are those determining the chain of supply and holding the risk for loss, damage or delay up to the delivery of the goods to the consumer. Therefore, for distance sales, the person supplying or the person facilitating distance sales of goods should be deemed to be the importer for the purpose of this regulation.**

(40c) **The person supplying or facilitating distance sales of goods to be imported from third countries into the customs territory of the Union who is responsible to provide the information on distance sales before the release of the goods, should identify himself as importer to the customs authorities. The person so identified should be thus liable for payment of any customs duties and other charges applicable, and be responsible for all the obligations stemming from the relevant other legislation applied by the customs authorities.**

(40d) **When a person supplying or facilitating distance sales of goods to be imported from third countries into the customs territory of the Union is not established in the customs territory of the Union, distance sales can only be placed under customs procedure when an indirect representative having the status of authorised economic operator places the goods under his own name and on behalf of the deemed importer and assumes the rights and obligations of the deemed importer in this regard.**

(41) Article 29 ~~of the Treaty on the Functioning of the European Union (~~TFEU~~)~~ requires that products coming from third countries are to be considered in free circulation if the import formalities have been complied with and customs duties or charges having equivalent effect have been levied. However, the release for free circulation should not be understood as a proof of compliance with other legislation applied by the customs authorities when the latter imposes specific requirements for goods to be sold or consumed in the internal market.

(42) The process of taking goods outside the customs territory of the Union should be streamlined and simplified, in line with the entry process. Thus, it is appropriate to require that there a person established in the Union should be responsible for the goods, that is the exporter. The exporter should provide or make available to customs the relevant information prior to taking the goods out of the Union, indicating whether these are Union or non-Union goods to be exported, and adapting the information necessary~~. In order to simplify the~~

~~process and avoid potential loopholes, the concept of export should include the exit of non-Union goods, thereby encompassing also the concept of 're-export', which was previously regulated as a separate concept.~~

(43) To ensure that there is proper risk management of the goods taken out of the customs territory of the Union, the customs office responsible of export should be required to carry out a risk analysis of the information on the goods and to take or request the appropriate measures before the goods exit. Those measures should include requesting controls to be carried out by the customs office responsible for the place of dispatch of the goods and the customs office of exit and, if necessary, by other authorities, in addition to the measures provided under the release for a customs procedure, which are also applicable where the goods are to be placed under export.

(44) To ensure that the duty-suspensive procedures are also transparent, it is appropriate to streamline the requirements provisions for the authorisations for special procedures. In particular, for the sake of clarity and legal certainty, the conditions for determining whether an opinion at Union level is necessary to assess if granting an authorisation could adversely affect the interests of Union producers, the so-called examination of the economic conditions, should be codified ~~rather than being~~ **and** regulated in delegated rules. Moreover, as the effect on the Union producers' interests may depend on the quantity of goods that are placed under the special procedure, the EU Customs Authority should be entitled to propose a certain threshold under which it is estimated that there is no negative effect on the Union producers' interests.

(45) Article 9 of the Revised Convention for the Navigation of the Rhine refers to an Annex (Rhine Manifest) that facilitated the movement of goods on the Rhine river and its associated tributaries by considering them as a customs transit procedure across national frontiers of five Member States.[15] According to information from customs administrations, the Rhine Manifest is not used in practice anymore as a customs transit procedure in the states bordering the Rhine. Instead, goods on the Rhine and its tributaries are now transported using the Union transit procedure established by the Code, through the New

[15] The procedure is based on the Mannheim Rhine Navigation Act of 17 October 1868 and the protocol that was adopted by the Central Commission for Navigation on the Rhine on November 22, 1963. The Mannheim Convention on the Navigation of the Rhine affects Belgium, Germany, France, the Netherlands and Switzerland as countries bordering the Rhine, which are considered to be a single area for the purposes of the Act.

Computerised Transit System (NCTS). It is therefore appropriate to remove the reference to the Rhine Manifest from the cases where a movement of goods is considered as external transit or as Union transit.

(46) In order to increase transparency about the person responsible for complying with the obligations of the Union transit procedure and with the content and risks related to the consignment, it is appropriate to require that the holder of the transit procedure disclose at least information regarding the importer or the exporter motivating the movement, the means of transport, and the identification of the goods placed under that procedure. Such information would enable the customs authorities to supervise more effectively the Union transit procedure concerned and to carry out a risk analysis. The Union transit procedure should be compulsory unless goods are put under another customs regime immediately upon entry into or exit out of the customs territory of the Union. In the case that the importer or the exporter is not yet known, the holder of the goods should be considered as being the importer or the exporter of the goods and should be liable for the payment of customs duties and other taxes and charges. The Union transit procedure should be replaced by customs supervision if goods are imported or exported by a Trust and Check trader.

(47) An amendment to Annex 6 to the Customs Convention on the International Transport of Goods under Cover of TIR Carnets ('TIR Convention')[16] that entered into force on 1 June 2021 modified the Explanatory Note 0.49 in order to grant to economic operators meeting certain requirements the possibility to become an 'authorised consignor', mirroring the existing facilitations granted to the economic operators recognised as an 'authorised consignee'. It is therefore necessary to include the new possibility established by the TIR Convention in order to align the Union customs legislation with that international agreement.

(48) [Applying the standard rules for duty calculation in e-commerce transactions would, in many cases, result in a disproportionate administrative burden both for the customs administrations and economic operators in particular in respect of the collection of revenues. In the interest of developing a robust and effective fiscal and customs treatment for goods imported from third countries via e-commerce transactions ('distance sales ~~of imported~~

[16] Amendments to the Customs Convention on the International Transport of goods under cover of TIR carnets (TIR Convention 1975) According to UN Depositary Notification C.N.85.2021.TREATIES-XI.A.16 the following amendments to the TIR Convention enter into force on 1 June 2021 for all Contracting Parties, OJ L 193/1, 1.6.2021, p.1.

~~goods~~'), Union legislation is to be amended in order to remove the threshold under which goods of negligible value not exceeding EUR 150 per consignment are exempted from customs duties at import in accordance with Council Regulation (EC) No 1186/2009[17], and to introduce a simplified tariff treatment for distance sales of imported goods from third countries in accordance with Council Regulation (EEC) No 2658/87[18] (Combined Nomenclature). In light of these proposed amendments, certain rules of the Code on tariff classification~~, origin~~ and customs value should be amended to provide for the simplifications applicable on a voluntary basis by the deemed importer when determining the customs duty in a business-to-consumer transaction qualifying as distance sales for VAT purposes. The simplifications should consist in the possibility to calculate the customs duty due by applying one of the new bucket tariffs in the Combined Nomenclature to a value calculated in a simpler way. Under the simplified rules for business-to-consumer e-commerce transactions, the net purchase price without VAT but including the total transport costs until the final destination of the product should be considered as the customs value ~~and no origin should be required~~. However, **bearing in mind the fact that proving the non-preferential origin of goods is necessary for the application of the Union provisions on prohibitions, restrictions and sanctions, the same rules for proving the non-preferential origin of goods as are applicable generally shall be applied in respect to business-to-customer e-commerce transactions. Moreover,** if the deemed importer wishes to benefit from preferential tariff rates by proving the originating status of the goods, that person can do so by applying the standard procedures.]

(48a) Eliminating the duty relief for the importation of goods with a value not exceeding EUR 150 involves the application of provisions concerning the determination of customs value to levy *ad valorem* customs duties in relation to imported goods purchased in business-to-customer e-commerce transactions as defined in VAT Directive 2006/112/EC. Such distance sales constitute the basis for the declaration of customs value under the transaction value method. The principle applies also in situations in which goods are purchased in distance sales not before they are brought into the customs territory of the Union but while placed under the warehousing customs procedure.

[17] Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty (OJ L 324, 10.12.2009, p. 23).

[18] Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

(48b) **Business-to-customer e-commerce transactions differ in several key ways from traditional business-to-business transactions, which make them particularly complex ones. These differences affect the way in which customs authorities manage to concretely apply valuation rules on the ground. Particularly, challenging defies are the massive scale and speed in which e-commerce transactions are concluded, the vast number of buyers and sellers involved, as well as the dispersion of sales. Taking into account the specificity of e-commerce, as well as the role of customs authorities in contributing to the smooth functioning of the internal market, if, in customs proceedings aimed at verifying the correctness of the declared transaction value of goods purchased in a distance sale, an importer does not dispel reasonable doubts that the declared transaction value reflects the price actually paid or payable for those goods and, consequently, the initially declared transaction value is rejected, the customs authorities will be able to use flexibility in the determination of the appropriate secondary valuation method to redetermine the customs value of those goods.**

(49) Currently, customs debts are collected by the Member State where the customs declaration is lodged. It is the choice of the trader whether to do this in the country of first entry, or to use a transit procedure and pay duties in another Member State. In 2025, this system is due to change with the roll-out of a centralised clearance IT system, which will allow Authorised Economic Operators to lodge the customs declaration in the Member State where they are established. In view of this development, it is appropriate to amend the rules defining the place where the customs debt occurs so that the import duties are paid to the Member State where the ~~importer~~ **Trust and Check trader** is established because this is the place where the customs authority can have the most complete knowledge about the records, operations and commercial behaviours of economic operators~~, in particular where those economic operators are granted the status of Trust and Check traders~~. However, it is appropriate that the customs debt of operators that are not Trust and Check traders is incurred at the place where the goods are physically located, at least until the supervision model is evaluated.

(50) In the case of e-commerce transactions, it is essential to ensure that a customs debt is paid correctly by the online intermediaries, such as internet platforms, that manage the online sale of goods to private consumers. It is therefore appropriate to clarify that the deemed importer is the person responsible for the customs debt, which would be incurred at the moment the buyer pays the e-commerce operator, in most cases, an internet platform. To simplify the

burden related to such obligation, the deemed importer may be authorised to determine the import duty due and to pay its customs debts periodically, and the customs authorities should be able to have a single entry in the accounts for the purposes of the Union budget.

(50a) **To cover the increasing costs of ensuring the release of compliant goods for free circulation by checking the data provided, carrying out risk analysis, performing documentary and physical controls when needed, a Union handling fee, commensurate to the services rendered for releasing for free circulation goods sold in a distance sale should be established.**

(51) It is appropriate to enhance the mechanism aimed at **more effectively** supervising ~~more efficiently~~ the implementation of the restrictive measures on the flow of goods that can be adopted by the Council in accordance with Article 215 TFEU. In such a case, the EU Customs Authority should provide support to the Commission and Member States to ensure that those measures are not circumvented**, by promoting consistent customs practices in their implementation and identifying any discrepancies in their application. In this context, the EU Customs Authority's reporting activities should aim to support the consistency of customs practices and ensure the effective monitoring and assessment the effectiveness of the implementation of restrictive measures. The guidance provided by the EU Customs Authority should be non-binding, in full respect of the responsibilities of the Member States for the implementation of such measures**. Customs authorities should ensure that they take all the necessary steps to comply with the measures and should inform the Commission and the EU Customs Authority accordingly.

(52) A crisis management mechanism should be put in place to address potential crises in the customs union. The lack of such a mechanism at Union level was highlighted in the Customs Action Plan[19]. A mechanism should therefore be established that involves the EU Customs Authority as a pivotal actor in preparing, coordinating and monitoring the implementation of the practical measures and arrangements that the Commission decides to put in place when a crisis occurs. The EU Customs Authority should maintain the crisis response readiness on a permanent basis during the whole duration of the crisis.

[19] Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee Taking the Customs union to the Next Level: a Plan for Action, 28.9.2020 (COM/2020/581 final).

(53) The existing governance framework of the customs union lacks a clear operational management structure and does not reflect the evolution of customs since its creation in 1968. Under Regulation (EU) No 952/2013, the activities related to the management of risks in trade flows, such as implementation and decisions on controls on the ground, are the responsibility of national customs authorities. Despite the cooperation between national customs administrations that has existed since the creation of the customs union and that has led to the exchange of best practices, expertise, and the development of common guidelines, it has not resulted in the development of a harmonised approach and operational framework. ~~Currently, divergent practices exist in Member States that weaken the customs union.~~ There is no central risk analysis capacity, no common view on **an EU** risk prioritisation, **next to national,** limited ~~coordinated customs action and controls, and no~~ cooperation framework**s** of various authorities serving the single market. A central operational Union layer to pool expertise, resources and ~~take~~ **assist Member States in taking** decisions together should address such weaknesses in areas such as data management~~,~~ risk management and training to make the customs union 'act as one'**, while recognising that divergent practices in Member States could be justified by other objective specificities, for example geographical differences, typical mode of transport, type of goods or border type, resulting in greater efficiency of overall risk management and customs controls**. Therefore, it is appropriate that an EU Customs Authority is established. The creation of this new Authority is crucial to ensure the efficient and adequate functioning of the customs union, to centrally coordinate customs action and support the customs authorities' activities.

(54) The EU Customs Authority should be governed and operated on the basis of the principles of the Joint Statement and common approach of the European Parliament, the Council and the Commission on decentralised agencies of 19 July 2012.[20]

(55) Criteria to be taken into account in order to contribute to the decision making process for choosing the EU Customs Authority seat should be the assurance that Authority can be set up on site upon the entry into force of this Regulation, the accessibility of the location and the existence of adequate education facilities for the children of staff members as well as appropriate access to the labour market, social security and medical care for both children and spouses of staff members. ~~In view of the cooperative nature of most of the EU Customs Authority activities, and in particular the close connection that will exist between the IT~~

[20] joint_statement_on_decentralised_agencies_en.pdf (europa.eu)

~~systems that the Commission will maintain during the transitional period, while the EU Customs authority will build and operate the EU Customs Data Hub, it should be in a place that allows such close cooperation with the Commission, the authorities of the Union regions most relevant for international trade, and relevant Union and international bodies (for example the World Customs Organisation for facilitating practical cross fertilisation on specific subjects)~~. Considering these criteria, the EU Customs Authority should ~~be located at~~ **have its seat in** […].

(56) The Member States and the Commission should be represented on a Management Board, in order to ensure the effective functioning of the EU Customs Authority. The composition of the Management Board, including the selection of its Chairperson and Deputy-Chairperson, should respect the principles of gender balance, experience and qualification. ~~Given the Union's exclusive competence on the customs union, and the close link between customs and other policy fields, it is appropriate that its chairperson is elected from among those Commission representatives.~~ In view of the effective and efficient functioning of the EU Customs Authority, the Management Board should, in particular, adopt a Single Programming Document including annual and multiannual programming, carry out its functions relating to the Authority's budget, adopt the financial rules applicable to the Authority, appoint an Executive Director, and establish procedures for taking decisions relating to the operational tasks of the Authority by the Executive Director. The Management Board should be assisted by an Executive Board.

(57) To guarantee its effective functioning, the EU Customs Authority should be granted an autonomous budget, with revenue coming from the general budget of the Union and any voluntary financial contribution from the Member States. In exceptional and duly justified circumstances, the EU Customs Authority should also be in the position to receive additional revenues through contribution agreements or grant agreements, and charges for publications and any other service provided by the EU Customs Authority.

(57a) The EU Customs Authority should make use of the information at its disposal regarding challenges on customs and other legislation applied by the customs authorities to periodically carry out a threat assessment. On the basis of such a threat assessment, EU Customs Authority should prepare recommendations for Council consideration. It is important that the Council has a political, strategic discussion on those recommendations and that EU Customs Authority provides appropriate follow-

up, including when preparing its annual and multiannual work programme and preparing the annual report of its activities.

(58) To fulfil their mission, customs authorities cooperate closely and regularly with market surveillance authorities, sanitary and phytosanitary ~~control~~ authorities, law-enforcement bodies **and authorities**, border management authorities, environmental protection bodies, **statistical authorities and tax authorities,** experts on cultural goods, and many other authorities in charge of sectoral policies. Considering the evolution of the single market and the evolving role of customs, the increase in prohibitions and restrictions and e-commerce, it is necessary to structure and reinforce this cooperation at national, Union and international level. Instead of a cooperation focused on individual consignments or specific events along the supply chain, a structured cooperation framework between customs authorities and other authorities responsible for relevant policy areas should be established **by the EU Customs Authority.** Such cooperation framework should include ~~the following aspects~~: the development of legislation and of policy needs in a specific area, the exchange and analysis of information, the building of overall cooperation strategy in the form of joint supervision strategies and, finally, cooperation on operational implementation, monitoring and controls. The Commission should also facilitate the application of part of the other legislation applied by the customs authorities by drawing **and regularly updating** a list of Union legislation imposing requirements on goods subject to customs controls aimed at protecting public interests such as human, animal or plants health and life, the consumers and the environment.

(58a) To strengthen cooperation between customs authorities, joint operational efforts should be enhanced to support effective customs controls at the borders of the Union. The EU Customs Authority should facilitate coordination in customs cooperation, including in the area of risk management. The EU Customs Authority should plan, organise and coordinate joint controls carried out by customs authorities within the Union and with third countries. In the context of cooperation between customs authorities within the Union, this Regulation is without prejudice to the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and cooperation between customs administrations[21] (Naples II).

[21] OJ C 24, 23.1.1998, p. 2.

(58b) **Furthermore, in order to exchange best practices and enhance operational effectiveness, Member States should be able, upon request, to make customs officers temporarily available to work in the customs authorities of another Member State. The terms and conditions of such assignments should be determined by the Member States concerned. The EU Customs Authority should, upon request, provide support or coordination. Where appropriate, guidance or model arrangements should be developed by EU Customs Authority to facilitate this form of cooperation.**

(59) In order to increase clarity and make the cooperation framework between customs and other partner authorities more efficient, a list of services offered by customs authorities should define clearly the possible role of customs in the application of other relevant policies at the borders of the Union. In addition, the application of the cooperation framework should be monitored by the EU Customs Authority. The EU Customs Authority should work closely and cooperate with the Commission, OLAF, other relevant Union agencies and bodies, such as Europol and Frontex as well as specialised agencies and networks in the respective policy fields, such as the EU Product Compliance Network.

(60) In an increasingly connected world, customs diplomacy and international cooperation are important aspects in the work of customs authorities around the world. International cooperation should envisage the possibility of exchange of customs data, on the basis of international agreements or autonomous legislation of the Union, through appropriate ~~and~~ secure **and strictly supervised** means of communication, subject to the respect of confidential information and the protection of personal data, such as through the EU Customs Data Hub.

(61) ~~Despite the fact that customs legislation is harmonised through the Code~~, **This** ~~R~~**r**egulation (~~EU) No 952/2013 only~~ ~~included~~ **introduces** the obligation for Member States to provide for penalties for failure to comply with the customs legislation and required such penalties to be effective, proportionate and dissuasive. ~~Member States have, therefore, the choice of customs penalties, which vary greatly across Member States and are subject to evolution over time. A common framework establishing a minimum core of customs infringements and of non-criminal sanctions should be laid down. Such framework is necessary to address the lack of uniform application and the significant divergences between Member States in the application of sanctions against breaches of customs legislation that can lead to a distortion of competition, loopholes and 'customs shopping'. The framework should be~~

~~composed of a common list of acts or omissions that should constitute customs infringements in all Member States. In determining the sanction applicable, customs authorities should define if these acts or omissions are committed intentionally or by obvious negligence.~~

(62) ~~It is necessary to establish common provisions for extenuating or mitigating factors, as well as for aggravating circumstances, with regard to the customs infringements. The limitation period for initiating the customs infringement proceedings should be established in accordance with national law and should be between 5 and 10 years, so as to provide for a common rule based on the time limitation for the notification of customs debt. The competent jurisdiction should be the one where the infringement was committed. Cooperation between Member States is necessary in cases where the customs infringement has been committed in more than one Member State; in such cases the Member State that first initiates the proceedings should cooperate with the other customs authorities concerned by the same customs infringement.~~

(63) ~~It is necessary to establish a minimum common core of customs infringements by defining them, based on the obligations laid down in this Regulation and to identical obligations provided for in other parts of the customs legislation.~~

(64) ~~It is also necessary to establish a common minimum core of non-criminal sanctions providing for minimum amounts of pecuniary charges, the possibility of revocation, suspension or amendment of customs authorisations, including for Authorised Economic Operators and Trust and Check traders, as well as the confiscation of the goods. The minimum amounts of pecuniary charges should depend on whether the customs infringement has been committed intentionally or not and whether or not it has an impact on the amount of customs duties and other charges and on prohibitions or restrictions. This minimum common core of non-criminal sanctions should apply without prejudice to the national legal order of Member States, which can instead provide for criminal sanctions.~~

(65) The performance of the customs union should be evaluated at least on an annual basis to allow the Commission, with the help of the Member States, to take the appropriate policy orientations. The collection of information from customs authorities should be formalised and deepened, as **a** more comprehensive reporting would improve benchmarking and could help to homogenise practices and assess the impact of customs policy decisions. It is, therefore, appropriate to introduce a legal framework for the evaluation of the performance

of the customs union. To allow sufficient granularity of analysis, the performance measurement should be done not only at national level but also at border crossing point level. The EU Customs Authority should support the Commission in the evaluation process by gathering and analysing the data in the EU Customs Data Hub and identifying how customs activities and operations support the achievement of the strategic objectives and priorities of the customs union and contribute to the mission of customs authorities. In particular, the EU Customs Authority should identify key trends, strengths, weaknesses, gaps, and potential risks, and provide recommendations for improvement to the Commission. In the context of cooperation with law enforcement ~~and security~~ authorities in particular, the EU Customs Authority should also participate, from the operational perspective, in strategic analyses and threat assessments conducted at Union level, including those carried out by Europol and Frontex.

(66) In accordance with the principle of proportionality, it is necessary and appropriate, for the achievement of the basic objectives of enabling the customs union to function effectively and implementing the common commercial policy, to lay down the rules and procedures applicable to goods brought into or taken out of the customs territory of the Union. This Regulation does not go beyond what is necessary to achieve the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union.

(67) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the following:

– in relation to the special fiscal territories, more detailed provisions of customs legislation to address particular circumstances pertaining to the trade in Union goods ~~involving only one Member State~~;

– in relation to customs decisions, **including those relating to binding information,** the **data required,** conditions, time limits, exceptions **and specific cases**, ~~modalities for monitoring, suspension, annulment and revocation~~ relating to the application, issuance and management of such decisions, **rules on monitoring, suspension, annulment, revocation and re-assessment of those decisions, including rules on reassessment of the authorisations granted pursuant to Regulation (EU) No 952/2013, rules on the right to be heard and consultation with other Member**

States concerned in the decision-issuing process ~~including those relating to binding information~~;

– **in relation to the rules on the handling fee for distance sales;**

– the minimum data requirements and specific cases for the registration of economic operators with the customs authorities responsible for the place where they are established;

– **the simplifications for authorised economic operators;**

– ~~the type and frequency of the monitoring activities, the simplifications and the facilitations provided for the Authorised Economic Operator;~~

– ~~the type and frequency of the monitoring activities of the Trust and Check trader;~~

– in relation to the customs representative, ~~the conditions under which such person may provide services in the customs territory of the Union,~~ the cases in which the requirement of being established therein is ~~waived and in which the evidence of empowerment is not required by the customs authorities~~;

– the **functionalities and features of** ~~categories of data subjects and the categories of personal data that may be processed in~~ the EU Customs Data Hub;

– more detailed rules in relation to the customs status of goods;

– the ~~type of~~ data**, conditions, specific cases** and time limits for ~~providing such data for~~ placing goods under a customs procedure**, including in relation to the notification of availability of the goods and alternative forms thereof, and for re-export, and also the cases where the data may be amended and invalidated after the date of release**;

– the reasonable period of time after which the customs authorities shall be deemed to have released the goods where they have not selected them for any control;

– **the procedure for the release of the goods on behalf of the customs authorities, and the conditions, content and procedure for the controls carried out by the Trust and Check traders;**

– in relation to customs declarations: the cases where a customs declaration may be lodged using means other than electronic data-processing techniques; the conditions for granting the authorisation to lodge simplified declarations; the time limits for lodging supplementary declarations and the cases in which the obligation to lodge such declarations are waived; the cases of invalidation of the customs declaration by customs authorities; the conditions for granting the authorisations for centralised clearance and entry into the declarant's records;

~~– the conditions and the procedure for confiscating goods;~~

– in relation to the advance cargo information: the ~~additional~~ data to be provided, the time limits, the case where the obligation to provide such data is waived, the specific cases in which data can be provided by multiple persons, the conditions under which a person who provides or makes available information may restrict the visibility of its identification to one or more other persons which also lodge particulars**, the particulars of the data that cannot be amended**;

– in relation to the entry of the goods into the customs territory of the Union: the time-limits within which the risk analysis is to be carried out and the necessary measures are to be taken; the specific cases**, time-limits** and the other persons who may be required to notify the arrival of the consignments to the actual customs of first entry, in case of diversion; the conditions for designating and approving the places other than the designated customs office for presenting the goods; the conditions for designating or approving the places other than ~~customs warehouses~~ **temporary storage facilities** for placing the goods in temporary storage;

– the data to be provided or to be made available to the customs authorities for placing goods under a release for free circulation;

– the cases in which goods are considered to be returned in the state in which they were exported and in which goods which have benefited from measures laid down under the common agricultural policy can be granted relief from import duty;

– in relation to the pre-departure information at exit from the customs territory of the Union: the ~~minimum~~ pre-departure information**,** ~~and~~ the time limits within which the pre-departure information is to be provided or made available before the goods are taken out, **the particulars of that information that cannot be amended,** the

specific cases in which the obligation to provide or make available pre-departure information is waived and the information to be notified on the exit of the goods **and the time-limits thereof**;

– in relation to the exit of goods, the time-limits within which risk analysis is to be carried out ~~and the necessary measures are to be taken; the data to be provided or made available to the customs authorities for placing goods under the export procedure~~;

– in relation to special procedures: the data to be provided or made available to the customs authorities for placing goods under ~~such~~ **each of these** procedures; the **conditions and the** exceptions ~~to the conditions~~ for granting an authorisation for special procedures; the cases in which the economic nature of the processing justifies that the customs authorities assess whether granting an authorisation for an inward processing procedure adversely affects the essential interest of the Union producers without the opinion of the EU Customs Authority; **the cases where evidence of such negative impact is deemed to exist;** the list of goods considered as sensitive; **the type of information and particulars that are to be contained in the records and the exceptions to the obligation to provide them or make them available in the EU Customs Data Hub;** the time limit for discharging a special procedure; **the data required, the cases, conditions and forms for the transfer of rights and obligations;** the cases and conditions under which importers and exporters may move goods placed under a special procedure other than transit or in a free zone; the usual forms of handling for goods placed under customs warehousing or a processing procedure; the more detailed rules related to equivalent goods;

– in relation to transit: the specific cases where Union goods are to be placed under the external transit procedure; the conditions for ~~the~~ granting ~~of~~ the authorisations for authorised consignor and authorised consignee for TIR purposes; the additional data requirements to be provided by the holder of the Union transit procedure;

– in relation to storage: the ~~minimum~~ data to be provided by the operator of a customs warehouse or a free zone; the conditions for granting the authorisation for the operation of ~~customs warehouses~~ **storage facilities for the customs warehousing of goods**;

– in relation to temporary admission: **the specific use to which non-Union goods are subject, and** the requirements for total or partial duty relief laid down in the customs legislation that are to be met for using the temporary admission procedure;

– **in relation to inward processing, the conditions for temporarily re-exporting goods for further processing;**

– the rules for the determination of non-preferential origin and the rules on preferential origin;

– the conditions for granting the authorisation for simplifications in the determination of the customs value in specific cases;

– in relation to customs debt: more detailed rules for the calculation of the amount of import or export duty applicable to goods for which a customs debt is incurred in the context of a special procedure; the specific time-limit within the place where the customs debt is incurred cannot be determined if the goods have been placed under a customs procedure which has not been discharged or when a temporary storage did not end properly; more detailed rules related to the notification of customs debt; ~~rules for~~ **the determination of the threshold below which customs authorities do not charge credit interest and interest on arrears, and above which they must repay or remit the amount of import or export duty;**

– the suspension of the time-limit for payment of the amount of import or export duty corresponding to a customs debt and for determining the period of suspension; the rules with which the Commission has to comply when taking a decision on repayment and remission of customs debt; the list of failures with no significant effect on the correct operation of the temporary storage or of the customs procedure concerned, for the extinguishment of the customs debt;

– in relation to guarantees: the specific cases in which no guarantee is required for goods placed under the temporary admission procedure, the rules for determining the form of the guarantee other than any means of payment recognised by the customs authorities and an undertaking given by a guarantor; the rules concerning the forms for the provision of a guarantee and the rules applicable to the guarantor; the conditions for the granting of an authorisation to use a comprehensive guarantee with

a reduced amount or to have a guarantee waiver; the time-limits for the release of a guarantee;

– in relation to customs cooperation, ~~any other complementary measure to be taken by the customs authorities to ensure compliance with legislation other than customs;~~ the conditions and procedures according to which a Member State can be empowered to enter into negotiations with third countries on exchange of data for the purpose of customs cooperation;

– to delete or modify the derogations for the identification of the customs office competent for supervising the placement of the goods under a customs procedure and of the place for the incurrence of the customs debt, in light of the assessment to be made by the Commission on the effectiveness of the customs supervision as established by this Regulation.

(68) It is of particular importance that the Commission carry out appropriate consultations during the preparatory work for the adoption of delegated acts, including at expert level **including Trade Contact Group** and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[22].

(69) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in order to: to adopt the procedural rules on the use of a decision relating to binding information after it ceases to be valid or is revoked; to adopt the procedural rules on the notification to the customs authorities that the taking of such decisions is suspended and on the withdrawal of such suspension; to adopt decisions requesting Member States to revoke decisions relating to binding information; **to adopt the rules setting out the procedure for collecting the Union handling fee per item;** to adopt the modalities for the application of the criteria for granting the status of Authorised Economic Operator and of Trust and Check trader; to determine the electronic systems, platforms or environments with which the EU Customs Data Hub federates; to determine the rules for the access to specific services and systems of the EU Customs Data Hub, including the specific rules and conditions for the protection, safety and security of personal data and where that access is limited; measures on the

[22] OJ L 123, 12.5.2016, p. 1.

management of the surveillance by customs; to adopt the procedural rules regarding the responsibilities of the joint controllers for the data processing taking place by means of a service or system of the EU Customs Data Hub; to adopt the procedural rules for determining the competent customs offices other than the customs office responsible for the place where the importer or the exporter is established; to adopt measures on the verification of information, examination and sampling of goods, results of the verification and on identification; to adopt measures on the application of post-release controls in respect of operations taking place in more than one Member State; to determine the ports or airports where customs controls and formalities are to be carried out on cabin and hold baggage; to adopt measures to ensure the harmonised application of customs controls and risk management, including the exchange of information, the establishment of common risk criteria and standards and common priority control areas and the evaluation activities in these areas; to specify the procedural rules for the provision and verification of the proof of the customs status of Union goods; to specify the procedural rules for amending and for invalidating the information for placing goods under a customs procedure; to adopt the procedural rules on the determination of competent customs offices and on the lodging of the customs declaration where other means than electronic data processing techniques are used; the procedural rules on the lodging of a standard customs declaration and on the making available of supporting documents; the procedural rules on the lodging of a simplified declaration and a supplementary declaration; the procedural rules on the lodging of a customs declaration prior to the presentation of goods to customs, the acceptance of the customs declaration and the amendment of the customs declaration after the release of the goods; to specify the procedural rules on centralised clearance and on the waiver from the obligation for goods to be presented in that context; the procedural rules on entry in the declarant's records; the procedural rules on the disposal of goods; **to specify the procedure for providing, receiving, amending and invalidating the advance cargo information; to specify the procedure on the notification of arrival and for providing the notification of arrival using means other than the EU Customs Data Hub; to adopt the procedure regarding the physical presentation of the goods to the customs authority and notifying the carrier or the holder of the goods of the need to physically present the goods;** the procedural rules on the provision of information establishing that the conditions for relief from import duty for returned goods are fulfilled and on the provision of evidence that the conditions for relief from import duty for products of sea-fishing and other products taken from the sea are fulfilled; to specify the procedural rules on the exit of goods; to adopt the

procedural rules for providing, amending and invalidating the pre-departure information and for lodging, amending and invalidating the exit summary declaration; to adopt procedural rules for refunding the VAT to natural persons not established in the Union; to specify the procedural rules on the notification of arrival of sea-going vessels and aircraft and on the conveyance of goods to the appropriate place; **to specify the procedure for providing the notification of arrival and for providing the notification of arrival using means other than the EU Customs Data Hub; to specify the procedure for the physical presentation of the goods to the customs authorities and for notifying the carrier or holder of the goods of the need to physically present the goods; to specify the procedure for confirmation to the customs authorities the exit of the goods from the customs territory of the Union;** the procedural rules on the lodging, amendment and invalidation of the temporary storage declaration and on the movement of goods in temporary storage; to adopt the procedural rules for granting the authorisation for special procedures, for the examination of the economic conditions and for issuing the opinion of the EU Customs Authority assessing whether granting an authorisation for an inward or outward processing procedure adversely affects the essential interests of Union producers; to adopt the procedural rules on the discharge of a special procedure; the procedural rules on the transfer of rights and obligations and the movement of goods in the context of special procedures; the procedural rules on the use of equivalent goods in the context of special procedures; the procedural rules for the application of the provisions of international transit instruments in the customs territory of the Union; the procedural rules on the placing of goods under the Union transit procedure and on the discharge of that procedure, on the operation of the simplifications of that procedure and on the customs supervision of goods passing through the territory of a third country under the external Union transit procedure; the procedural rules on the placing of goods under the customs warehousing or free zone procedure and for the movement of goods placed in customs warehouse; **to specify the procedural rules regarding the conditions for distance sales placed under the customs warehousing procedure in a customs warehouse for distance sales;** to adopt measures on the uniform management of tariff quota and tariff ceilings and the management of the customs surveillance of the release for free circulation or export of goods; **to specify the procedural rules for the temporary re-export for further processing;** to adopt measures to determine the tariff classification of goods; to specify the procedural rules on the provision and the verification of the proof of non-preferential origin; to adopt the procedural rules to facilitate the establishment in the Union of the preferential origin of goods; to adopt

measures to determine the origin of specific goods; to grant temporary derogation from the rules on preferential origin of goods benefiting from preferential measures adopted unilaterally by the Union; to specify the procedural rules on the determination of the customs value of goods; **to adopt measures establishing the appropriate method of customs valuation or criteria to be used for determining the customs value of goods in specific situations, including distance sales;** to specify the procedural rules on the provision, determination of the amount, the monitoring and release of guarantees, as well as on the revocation and cancellation of an undertaking given by a guarantor; to specify the procedural rules regarding temporary prohibitions of the use of comprehensive guarantees; to adopt measures to ensure mutual assistance between the customs authorities in the event of the incurrence of a customs debt; to specify the procedural rules for the repayment and remission of an amount of import or export duty, on the information to be provided to the Commission, and on the decisions to be adopted by the Commission on repayment or remission; to adopt measures for the identification of a crisis and the activation of the crisis management mechanism; to adopt the procedural rules for granting and managing the authorisation for a Member State to enter into negotiations with a third country with a view to concluding a bilateral agreement or arrangement on exchange of information; to adopt decisions on an application by a Member State for the authorisation on entering into negotiations with a third country with a view to concluding a bilateral agreement or arrangement on exchange of information; to specify the design of the measurement framework of the performance of the customs union and the information that Member States should provide to the EU Customs Authority for the purpose of performance measurement; to lay down the rules on currency conversion. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[23].

(70) The advisory procedure should be used for the adoption of: implementing acts requesting Member States to revoke decisions relating to binding information, given that those decisions affect only one Member State and aim at ensuring compliance with the customs legislation; implementing acts to determine the specific details for the access of authorities other than customs to specific services and systems of the EU Customs Data Hub;

[23] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

implementing acts on an application by a Member State for the authorisation on entering into negotiations with a third country with a view to concluding a bilateral agreement or arrangement on exchange of information, as they affect only one Member State; implementing acts on repayment or remission of an amount of import or export duty given that those decisions directly affect the applicant for that repayment or remission.

(71) In duly justified cases, where imperative grounds of urgency so require, the Commission should adopt immediately applicable implementing acts relating to: measures to ensure uniform application of customs controls, including the exchange of risk information and analysis, common risk criteria and standards, control measures and common priority control areas; decisions on an application by a Member State for the authorisation on entering into negotiations with a third country with a view to concluding a bilateral agreement or arrangement on exchange of information; measures to determine the tariff classification of goods; measures to determine the origin of specific goods; measures establishing the appropriate method of customs valuation or criteria to be used for determining the customs value of goods in specific situations**, including business-to-customer e-commerce transactions**; measures temporarily prohibiting the use of comprehensive guarantees; the identification of a crisis situation and the adoption of the appropriate to address it or to mitigate its negative effects; decisions to empower a Member State to negotiate and conclude a bilateral agreement with a third country on exchange of information.

(72) The Commission should make every effort to ensure that the delegated and implementing acts provided for in this Regulation enter into force sufficiently in advance of the application date of the Code to allow its timely implementation by Member States.

(73) **This Regulation should be applied gradually to allow that the Commission, the Member States and the economic operators sufficient time to make the necessary arrangements for its implementation get ready. Accordingly, the provisions conferring implementing and delegated powers to the Commission should apply as soon as this Regulation enters into force to allow the Commission the possibility to revise the existing delegated and implementing acts and to eventually adopt new delegated and implementing acts based on the new delegations of powers and empowerments, as soon as this Regulation enter into force. By contrast, to allow the Member States and the economic operators to adapt to the new rules, the vast majority of the provisions should apply after 18 months from the publication of this Regulation in the Official**

Journal. This includes the repeal of the current Union Customs Code, which should only be effective after that adaptation period. **Finally,** T**t**he provisions **referring to distance sales** and the EU Customs Authority, except Article **205 and** 238, should apply from 1 **July** ~~January~~ 2028. ~~Until that date, the EU Customs Authority should perform its tasks using the existing electronic systems for exchange of customs information developed by the Commission. The provisions on the simplified tariff treatment for distance sales and deemed importer should apply from 1 January 2028.~~

(74) In 2032, economic operators may start using, on a voluntary basis, the capabilities of the EU Customs Data Hub. By the end of 2037, the EU Customs Data Hub should be fully developed, and all economic operators shall use it. Trust and Check traders and deemed importers will be supervised by the Member State of their establishment. By derogation and subject to review, operators that are neither Trust and Check traders nor deemed importers will remain under the supervision of the customs authority of the Member State where the goods are physically located. By 31 December 2035, the Commission should evaluate the two supervision models, including as regards their effectiveness for detecting and preventing fraud. The evaluation should also consider indirect taxation aspects. Based on this evaluation, the Commission should be entitled to decide by delegated act whether the two models should continue or whether, in all cases, the customs authority responsible for the place of establishment of the trader should release the goods. The place of incurrence of customs debt should also be regulated in accordance with the determination of the responsible customs authority,

HAVE ADOPTED THIS REGULATION:

Title I

GENERAL PROVISIONS

Chapter 1

Scope of customs legislation and mission of customs

Article 1

Subject matter and scope

1. This Regulation establishes the Union Customs Code ('the Code').

   It lays down the general rules and procedures applicable to goods brought into or taken out of the customs territory of the Union.

   This Regulation also establishes the European Union Customs Authority ('the EU Customs Authority') and the rules, common standards and a governance framework for the establishment of the European Union Customs Data Hub ('EU Customs Data Hub').

2. Without prejudice to international law and conventions, and Union legislation in other fields, the Code shall apply uniformly throughout the customs territory of the Union.

3. Certain provisions of the customs legislation may apply outside the customs territory of the Union within the framework of legislation governing specific fields or of international conventions.

4. Certain provisions of the customs legislation, including the simplifications for which it provides, shall apply to the trade in Union goods between parts of the customs territory of the Union to which the provisions of Council Directive 2006/112/EC[24] or of Council Directive (EU) 2020/262[25] apply and parts of that territory where those provisions do not apply, or to trade between parts of that territory where those provisions do not apply.

Article 2

Mission of customs authorities

[24] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

[25] Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty (recast) (OJ L 58, 27.2.2020, p. 4).

For making the customs union act as one and with a view to achieving a uniform implementation of the customs legislation and the smooth functioning of the internal market, the mission of the customs authorities is to protect the financial and economic interest of the Union by effectively collect customs duties and other charges and combating fraud, to facilitate legitimate business activity to contribute to fair trade and to ensuring safety and security of the Union and its citizens, where appropriate, in close cooperation with other authorities.

~~With a view to achieving a harmonised application of customs controls, for making the customs union act as one and for contributing to the smooth functioning of the internal market, customs authorities shall be responsible for protecting the financial and economic interests of the Union and its Member States, for ensuring security and safety and contributing to the other Union policies protecting citizens and residents, consumers, the environment and the overall supply chains, for protecting the Union from illegal trade, for facilitating legitimate business activity, and for supervising the Union's international trade in order to contribute to fair and open trade and to the common commercial policy.~~

~~Customs authorities shall put in place measures aimed, in particular, at the following:~~

(a) ~~ensuring the proper collection of customs duties and other charges;~~

(b) ~~ensuring that goods presenting a risk for the safety or the security of citizens and residents do not enter the customs territory of the Union, by putting in place the appropriate measures for controls of goods and supply chains;~~

(c) ~~contributing to protecting human, animal or plant health and life, environment, consumers and other public interests protected by other legislation applied by the customs authorities, in close cooperation with other authorities by ensuring that goods presenting related risks do not enter or leave the customs territory of the Union;~~

(d) ~~protecting the Union from unfair, non-compliant and illegal trade, including through a close monitoring of economic operators and supply chains and a minimum core of customs infringements and penalties;~~

(e) ~~supporting legitimate business activity, by maintaining a proper balance between customs controls and facilitation of legitimate trade and simplifying customs processes and procedures.~~

Article 3

Customs territory

1. The customs territory of the Union shall comprise the following territories, including their territorial waters, internal waters and airspace:

(a) the territory of the Kingdom of Belgium,

(b) the territory of the Republic of Bulgaria,

(c) the territory of the Czech Republic,

(d) the territory of the Kingdom of Denmark, except the Faroe Islands and Greenland,

(e) the territory of the Federal Republic of Germany, except the Island of Heligoland and the territory of Büsingen (Treaty of 23 November 1964 between the Federal Republic of Germany and the Swiss Confederation),

(f) the territory of the Republic of Estonia,

(g) the territory of Ireland,

(h) the territory of the Hellenic Republic,

(i) the territory of the Kingdom of Spain, except Ceuta and Melilla,

(j) the territory of the French Republic, except the French overseas countries and territories to which the provisions of Part Four of the TFEU apply,

(k) the territory of the Republic of Croatia,

(l) the territory of the Italian Republic, except the municipality of Livigno,

(m) the territory of the Republic of Cyprus, in accordance with the provisions of the 2003 Act of Accession,

(n) the territory of the Republic of Latvia,

(o) the territory of the Republic of Lithuania,

(p) the territory of the Grand Duchy of Luxembourg,

(q) the territory of Hungary,

(r) the territory of the Republic of Malta,

(s) the territory of the Kingdom of the Netherlands in Europe,

(t) the territory of the Republic of Austria,

(u) the territory of the Republic of Poland,

(v) the territory of the Portuguese Republic,

(w) the territory of Romania,

(x) the territory of the Republic of Slovenia,

(y) the territory of the Slovak Republic,

(z) the territory of the Republic of Finland, and

(aa) the territory of the Kingdom of Sweden.

2. The following territories, including their territorial waters, internal waters and airspace, situated outside the territory of the Member States shall, taking into account the conventions and treaties applicable to them, be considered to be part of the customs territory of the Union:

(a) FRANCE

The territory of Monaco as defined in the Customs Convention signed in Paris on 18 May 1963 (Journal officiel de la République française (Official Journal of the French Republic) of 27 September 1963, p. 8679);

(b) CYPRUS

The territory of the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia as defined in the Treaty concerning the Establishment of the Republic of Cyprus, signed in Nicosia on 16 August 1960 (United Kingdom Treaty Series No 4 (1961) Cmnd. 1252).

Article 4

Delegation of powers

The Commission is empowered to adopt delegated acts in accordance with Article 261 **to** supplement~~ing~~ and amend~~ing~~ this Regulation by specifying the provisions of the customs legislation ~~that~~ **and the simplifications thereof with respect to provision of data, the proof of the customs status, the use of the internal Union transit procedure insofar as it does not affect a proper application of the fiscal measures at stake, that** apply to the trade in Union goods referred to in Article 1(4). Those acts may address particular circumstances pertaining to the trade in Union goods involving only one Member State.

Chapter 2
Definitions

Article 5

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(1) 'customs authorities' means the customs administrations of the Member States responsible for applying the customs legislation and any other authorities empowered under national law to apply certain customs legislation;

(2) 'customs legislation' means the body of legislation made up of all of the following:

(a) the Code and the provisions supplementing or implementing it adopted at Union or national level;
(b) the Common Customs Tariff;
(c) the legislation setting up a Union system of reliefs from customs duty;
(d) customs provisions contained in international agreements, insofar as they are applicable in the Union;
(e) Regulation (EU) 2022/2399 of the European Parliament and of the Council[26] and the provisions amending, supplementing or implementing it;

[26] Regulation (EU) 2022/2399 of the European Parliament and of the Council of 23 November 2022 establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013 (OJ L 317, 9.12.2022, p. 1).

(3) ‘other legislation applied by the customs authorities’ means legislation other than customs legislation applicable to the goods entering, exiting, passing through the customs territory of the Union, or to be placed in the Union market, in the implementation of which the customs authorities are involved;

(4) ‘commercial policy measures’ means, as part of other legislation applied by the customs authorities, measures adopted pursuant to Article 207 TFEU, other than provisional or definitive anti-dumping duties, countervailing duties or safeguard measures in the form of increased tariffs on specific goods, and including in particular special surveillance measures and safeguard measures in the form or import or export authorisations;

(5) ‘person’ means a natural person, a legal person, and any association of persons which is not a legal person, but which is recognised under Union or national law as having the capacity to perform legal acts;

(6) ‘economic operator’ means a person who, in the course of that person’s business, is involved in activities covered by the customs legislation;

(7) ‘established in the customs territory of the Union’ means:

(a) in the case of a natural person, having his or her habitual residence in the customs territory of the Union;

(b) in the case of a legal person or an association of persons, having its registered office, central headquarters or a permanent business establishment, in the customs territory of the Union;

(8) ‘permanent business establishment’ means a fixed place of business, where both the necessary human and technical resources are permanently present and through which a person’s customs-related operations are wholly or partly carried out;

(8a) ‘Member State of establishment’ means:

(a) the Member State where the person is established in accordance with point (7); or

(b) in case that a legal person or an association of persons has its registered office, central headquarters or permanent business establishment in different Member

States, the Member State where the main accounts for customs purposes of that person or association of persons are held or accessible, and where at least part of the customs activities are carried out or are to be carried out.

(9) 'customs decision' means any act by the customs authorities pertaining to the customs legislation giving a ruling on a particular case, and having legal effects on the person or persons concerned;

(10) 'customs procedure' means any of the following procedures under which goods may be placed in accordance with the Code:

(a) release for free circulation;

(b) special procedures;

(c) export;

(11) 'customs formalities' means all the operations which must be carried out by a person and by the customs authorities in order to comply with the customs legislation;

(12) 'importer' means**:** ~~any person who has the power to determine and has determined that goods from a third country are to be brought into the customs territory of the Union or, except otherwise provided, any person who is considered a deemed importer;~~

(a) in case of distance sales the deemed importer;

(b) in other cases, the person determined by applying subsequently points (i) to (v):

(i) a person who has the power to determine and has determined that goods from a third country are to be brought into the customs territory of the Union,

(ii) any person who has taken over the power from the person in (i),

(iii) the succeeding person who has the power to decide and has decided to have the goods placed under a customs procedure,

(iv) the carrier who brings the goods into the customs territory, or

(v) the holder of the goods.

(13) 'deemed importer' means ~~any~~ **either the** person ~~involved in the distance sales of goods to be imported from third countries into the customs territory of the Union who is authorised~~

~~to use~~ **suppling or the person facilitating distance sales as defined in point (47)** ~~the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/~~EC;

(14) 'exporter' means**:** ~~any person who has the power to determine and has determined that the goods are to be taken out of the customs territory of the Union;~~

(a) a private individual carrying goods to be taken out of the customs territory of the Union where these goods are contained in the private individual's personal baggage;

(b) in other cases, where (a) does not apply:

(i) a person established in the customs territory of the Union, who has the power to determine and has determined that the goods are to be taken out of that customs territory;

(ii) where (i) does not apply, any person established in the customs territory of the Union who is a party to the contract under which goods are to be taken out of that customs territory.

(14a) 're-export' means the act whereby exporter takes the non – Union goods out of the customs territory of the Union;

(14b) 'pre-departure information' means the set of data to be provided or made available to the customs authorities and relating to goods that are to be taken out of the customs territory of the Union;

(15) 'customs representative' means any person appointed by another person to carry out the acts and formalities required under the customs legislation in that person's dealings~~.~~ with customs authorities;

(16) 'data' means any digital and non-digital representation of acts, facts or information and any compilation of such acts, facts or information, including in the form of document, sound, visual or audio-visual recording;

(17) 'customs surveillance' means collecting and analysing information, in relation to goods entering, exiting or passing through the customs territory of the Union in order to monitor these movements at Union level and ensure the uniform application of customs controls, the compliance with customs legislation and other legislation applied by the customs authorities and to contribute to risk analysis and management;

(18) 'risk' means the likelihood and the impact of an event occurring, with regard to goods moved between the customs territory of the Union and countries outside that territory and to the presence within the customs territory of the Union of non-Union goods, which would **pose a threat to**:

(a) ~~compromise the~~ financial or economic interests of the Union and its Member States;

(b) ~~pose a threat to~~ the security and safety of the Union and its ~~citizens and~~ residents**, to human, animal or plant health and life, or to the environment, or any other public interest**; or

(c) ~~prevent~~ the correct application of Union or national measures;

(19) 'economic analysis' means the evaluation or quantification of a policy or an economic phenomenon, to understand how economic factors affect the functioning of a policy, a geographical area, or any group of persons with a view to making better decisions for the future;

(20) 'risk management' means the systematic identification of risk~~, including identifying profiles of risky economic operators~~ and the implementation of all measures necessary for limiting exposure to risk **and/or limiting its potential impact**;

(21) 'customs supervision' means action taken in general by the customs authorities with a view to ensuring that customs legislation and, where appropriate, other legislation applied by the customs authorities is observed, or to otherwise contribute to the management of risks related to goods and their supply chains;

(22) 'customs controls' means specific acts performed by the customs authorities in order to ensure compliance with the customs legislation and other legislation applied by the customs authorities, or in order to otherwise contribute to the management of risks related to goods and their supply chains;

(22a) 'audit' means a type of post-release control and means specific acts performed by the customs authorities in order to collect and evaluate evidence on the compliance of an economic operator's management, organisation, internal procedures or internal systems with the relevant rules and requirements;

(22b) 'place of release' means:

(a) the competent customs office;

(b) the designated or approved place by the customs authority, including the place indicated by the Trust and Check trader; or

(c) a free zone;

(22c) 'notification of availability of the goods' means the act whereby the person informs the customs authority that goods are physically located at the place of release and data necessary to place those goods under a concerned customs procedure, in temporary storage or to end the Union transit procedure were provided or made available;

(23) 'random controls' means customs controls based on principles of random sampling, with regard to a population of interest;

(24) 'holder of the goods' means ~~the~~ **any** person who ~~has physical control of the goods~~ **is in possession of the goods at a given moment, in particular for the purposes of presenting them to customs**;

(25) 'carrier' means:

(a) in the context of entry, the person who brings the goods, or who assumes responsibility for the carriage of the goods, into the customs territory of the Union. However,

(i) in the case of combined transportation, 'carrier' means the person who operates the means of transport which, once brought into the customs territory of the Union, moves by itself as an active means of transport;

(ii) in the case of maritime or air traffic under a vessel-sharing or contracting arrangement, 'carrier' means the person who concludes a contract and issues a bill of lading or air waybill for the actual carriage of the goods into the customs territory of the Union;

(b) in the context of exit, the person who takes the goods, or who assumes responsibility for the carriage of the goods, out of the customs territory of the Union. However:

(i) in the case of combined transportation, where the active means of transport leaving the customs territory of the Union is only transporting another means of transport which, after the arrival of the active means of transport at its destination, will move by itself as an active means of transport, 'carrier' means the person who will operate the means of transport which will move by itself once the means of transport leaving the customs territory of the Union has arrived at its destination;

(ii) in the case of maritime or air traffic under a vessel-sharing or contracting arrangement, 'carrier' means the person who concludes a contract, and issues a bill of lading or air waybill, for the actual carriage of the goods out of the customs territory of the Union;

(26) 'risk analysis' means the processing of data, information or documents, including personal data, with a view to the identification or quantification of possible risks, using where relevant analytical methods and**/or** artificial intelligence as defined Article 3, point (1), of Regulation (EU) ~~/.../...~~**2024/1689** of the European Parliament and of the Council[27];

(27) 'risk signal' means the indication of a possible risk based on automated processing operations implementing risk analysis on data, information or documents;

(28) 'risk analysis result' means, the determination, in the case of a signal, that a risk is or is not considered present, based on an automatic process or from further human assessment of the risk signal;

(28a) 'risk mitigation measures' means the measures to prevent, reduce or control a risk or limit its impact. These may include:

(a) instructing the carrier or exporter that the goods shall not be loaded or transported;

(b) requesting relevant additional information or action;

[27] Regulation **(EU) 2024/1689** of the European Parliament and of the Council ~~(EU) .../20..~~**of 13 June 2024** laying down harmonised rules on ~~(~~artificial intelligence~~ act)~~ and amending ~~certain Union legislative acts [COM(2021)206 final] [(2021/0106(COD)].~~**Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act) (OJ L, 2024/1689, 12.7.2024).**

(c) **identifying situations where action by another customs authority it may be appropriate for another authority, including customs, to take action;**

(d) **recommending the most appropriate place and measures to carry out a control;**

(da) **carrying out a customs control;**

(e) **determining the route to be used, and the time-limit to be respected when goods are to be taken out of the customs territory of the Union.;**

(f) **means of identification referred to in Article 47.** *[moved from Article 50(4)]*

(29) 'control recommendation' means the ~~opinion~~ **risk analysis based conclusion** of a customs authority or of the EU Customs Authority, as regards whether and if so when **and**~~,~~ where ~~and by~~ which **risk mitigation measure, including a** customs ~~authority a customs~~ control ~~is to~~ **should** be carried out~~, including the identification of possible additional actions other than customs controls~~;

(30) 'control decision' means the individual act by which the customs authorities decide a control shall or shall not take place;

(31) 'control result' means the preliminary and final outcome of a control, including the further action indicated, if any, and the competent authorities concerned with the outcome or action, if any;

(32) 'common priority control area' means a selection of particular customs procedures, types of goods, traffic routes, modes of transport or economic operators ~~with a view to subjecting them~~ **which are subject** to increased levels of risk analysis and **risk** mitigation measures ~~and customs controls~~ during a certain period, without prejudice to other controls usually carried out by the customs authorities;

(33) 'common risk criteria and standards' means parameters for risk analysis for a risk area and accompanying standards regarding the practical application of the criteria;

(34) 'supervision strategy' means an approach to handling a ~~specific~~ risk, which aims to balance operational customs supervision efforts and **risk** mitigation measures across the supply chain in a proportionate and effective manner **in order to limit the risk and its potential impact whilst facilitating regular trade**;

(35) ‘consignment’ means goods, conveyed by one consignor to one consignee, by the same means of transport including multimodal, and coming from the same territory or third country, being of the same type, class or description or being packed together, under the same transport contract;

(36) ‘customs status’ means the status of goods as Union or non-Union goods;

(37) ‘Union goods’ means goods which fall into any of the following categories:

(a) goods wholly obtained in the customs territory of the Union and not incorporating goods imported from third countries;

(b) goods brought into the customs territory of the Union from third countries and released for free circulation;

(c) goods obtained or produced in the customs territory of the Union, either solely from goods referred to in point (b) or from goods referred to in points (a) and (b);

(38) ‘non-Union goods’ means goods other than those referred to in point (~~46~~**37**) or which have lost their customs status as Union goods;

(39) ‘release of goods’ means the act whereby the customs authorities, or other persons on their behalf, make goods available for the purposes specified for the customs procedure under which they are intended to be placed;

(39a) ‘identification of the goods’ means a measure capable of ensuring that the identity of the goods is maintained during the performance of customs procedures and other obligations established in customs legislation;

(40) ‘entry summary declaration’ means the act whereby a person informs the customs authorities, in the prescribed form and manner and within a specific time-limit, that goods are to be brought into the customs territory of the Union;

(41) ‘exit summary declaration’ means the act whereby a person informs the customs authorities, in the prescribed form and manner and within a specific time-limit, that goods are to be taken out of the customs territory of the Union;

(42) ‘temporary storage declaration’ means the act whereby a person indicates, in the prescribed form and manner, that goods are in temporary storage;

(43) ‘customs declaration’ means the act whereby a person indicates, in the prescribed form and manner, a wish to place goods under a given customs procedure, with an indication, where appropriate, of any specific arrangements to be applied;

(43a) ‘presentation of goods to customs’ means the notification to the customs authorities of the arrival of goods at the customs office or at any other place designated or approved by the customs authorities and the availability of those goods for customs controls;

(44) ‘declarant’ means the person lodging a customs declaration, a temporary storage declaration, an entry summary declaration, an exit summary declaration, a re-export declaration or a re-export notification in that person’s own name or the person in whose name such a declaration or notification is lodged;

(45) ‘re-export declaration’ means the act whereby a person indicates, in the prescribed form and manner, a wish to take non-Union goods, with the exception of those under the free zone procedure or in temporary storage, out of the customs territory of the Union;

(46) ‘re-export notification’ means the act whereby a person indicates, in the prescribed form and manner, a wish to take non-Union goods which are under the free zone procedure or in temporary storage out of the customs territory of the Union;

(47) ‘distance sales ~~of goods imported from third countries~~’ means distance sales of goods imported from third countries or third territories as defined in Article 14(4), point (2), of Directive 2006/112/EC;

~~(48) ‘manufacturer’ means:~~

~~(a) the manufacturer of the product pursuant to the other legislation applicable to that product; or~~

~~(b) the producer with respect to agricultural products as defined in Article 38(1) TFEU or to raw materials; or~~

~~(c) if there is no manufacturer or producer as referred to in points (a) and (b), the natural or legal person or association of persons who manufactured the product or had the product manufactured, and markets that product under that person’s name or trademark;~~

(49) ‘product supplier’ means any natural or legal person or association of person in the supply chain who manufactures a product in whole or in part, whether as manufacturer or in any other circumstance;

(50) ‘temporary storage’ means the situation of non-Union goods temporarily stored under customs supervision in the period between the moment in which the carrier notifies their arrival to the customs territory and their placement under a customs procedure **or re-export**;

(50a) ‘expected customs office of first entry’ means the customs office which is competent for customs supervision at the place where the means of transport carrying the goods is destined to arrive in the customs territory of the Union from outside that territory;

(50b) ‘advance cargo information’ means the set of data provided or made available to customs authorities, and relating to goods that are to be brought into the customs territory of the Union;

(51) ‘processed products’ means goods placed under a processing procedure which have undergone processing operations;

(52) ‘processing operations’ means any of the following:

(a) the working of goods, including erecting, assembling or fitting those goods to other goods;

(b) the processing of goods;

(c) the destruction of goods;

(d) the repair of goods, including restoring and putting those goods in order;

(e) the use of goods which are not to be found in the processed products, but which allow or facilitate the production of those products, even if they are entirely or partially used up in the process (production accessories);

(53) ‘holder of the transit procedure’ means the person who lodges the transit declaration or provides the information required for placing goods under that procedure, or on whose behalf that declaration is lodged or that information provided.

(54) ‘rate of yield’ means the quantity or percentage of processed products obtained from the processing of a given quantity of goods placed under a processing procedure;

(55) ‘third country’ means a country or a territory outside the customs territory of the Union;

(56) [‘simplified tariff treatment for distance sales’ means the simplified tariff treatment for distance sales set out in Article 1, paragraphs 4 and 5, and Part One, Section II, point G of Annex I to Regulation (EEC) No 2658/87;]

(57) ‘customs debt’ means the obligation on a person to pay the amount of import or export duty which applies to specific goods under the customs legislation in force;

(58) ‘debtor’ means any person liable for a customs debt;

(59) ‘import duty’ means customs duty payable on the import of goods;

(60) ‘export duty’ means customs duty payable on the export of goods;

(61) ‘repayment’ means the refunding of an amount of import or export duty that has been paid;

(62) ‘remission’ means the waiving of the obligation to pay an amount of import or export duty which has not been paid;

(63) ‘buying commission’ means a fee paid by an importer to an agent for representing him or her in the purchase of goods being valued;

(64) ‘crisis’ means an event or a situation that suddenly endangers the safety, the security, the health and life of the citizens, economic operators and personnel of customs authorities and requires urgent measures as regards the entry, exit or transit of goods;

(65) **‘item’, in the context of Union handling fee, means one or more good[s] in a consignment sharing the same tariff classification and description;**

(66) **“real-time access” means the ability of the customs authority to access relevant data without undue delay.**

Chapter 2a

Competence and operational rules of customs offices

[Article 42 and 42a to be considered moved here]

Chapter 3

Decisions relating to the application of the customs legislation

SECTION 1

GENERAL PRINCIPLES

Article 6

Decisions taken upon application

1. Where a person applies for a decision relating to the application of the customs legislation, that person shall provide all the information required by the competent customs authorities in order to enable them to take that decision.

   A decision may also be applied for by, and taken with regard to, several persons, in accordance with the conditions laid down in the customs legislation.

   ~~Except where otherwise provided, the competent customs authority shall be that of the place of establishment of the applicant.~~

[Moved to Article 42 paragraph (1) point (a)]

2. Customs authorities shall, without delay and at the latest within 30 calendar days **from the date** of receipt of the application for a decision, verify whether the conditions for the acceptance of that application are fulfilled.

   Where the customs authorities establish that the application contains all the information required in order for them to be able to take the decision, they shall communicate its acceptance to the applicant within the period specified in the first subparagraph.

   Where the customs authorities establish that the application does not contain all the information required, they shall ask the applicant to provide the relevant additional information within a reasonable time limit which shall not exceed 30 calendar days. Even

where the customs authorities have requested additional information to the applicant, they shall decide whether the application is complete and can be accepted or whether it is incomplete and shall be refused in a period that shall not exceed 60 calendar days from the date of **receipt of** the first application. If the customs authorities do not expressly inform the applicant within that period whether the application has been accepted, the application shall be considered as accepted at the end of the 60 calendar days.

3. Except where otherwise provided, the competent customs authority shall take a decision as referred to in paragraph 1 at the latest within 120 calendar days of the date of acceptance of the application and shall notify the applicant without delay.

Where the customs authorities are unable to comply with the time-limit for taking a decision, they shall inform the applicant of that fact before the expiry of that time-limit, stating the reasons and indicating the further period of time which they consider necessary in order to take a decision. Except where otherwise provided, that further period of time shall not exceed 30 calendar days.

Without prejudice to the second subparagraph, the customs authorities may extend the time limit for taking a decision, as laid down in the customs legislation, where the applicant requests an extension to carry out adjustments in order to ensure the fulfilment of the conditions and criteria required for granting the decision. Those adjustments and the further period of time necessary to carry them out shall be communicated to the customs authorities, which shall decide on the extension.

~~Where the customs authorities fail to take a decision within the time-limits established in the first, second and third subparagraphs, the applicant may consider the request to have been denied and may appeal such a negative decision. The applicant may also inform the EU Customs Authority that the customs authorities did not take a decision within the relevant time limits.~~

4. Except where otherwise specified in the decision or in the customs legislation, the decision shall take effect from the date on which the applicant receives it, or is deemed to have received it. Except in the cases provided for in Article 17(2), decisions adopted shall be enforceable by the customs authorities from that date.

5. Except where otherwise provided in the customs legislation, the decision shall be valid without limitation of time.

6. Before taking a decision which would adversely affect the applicant, the customs authorities shall communicate the grounds on which they intend to base their decision to the applicant, who shall be given the opportunity to express his or her point of view within a period prescribed from the date on which he or she receives that communication or is deemed to have received it ('right to be heard'). Following the expiry of that period, the applicant shall be notified, in the appropriate form, of the decision.

The first subparagraph shall not apply in any of the following cases:

(a) where it concerns a decision relating to binding information referred to in Article 13(1);

(b) in the event of refusal of the benefit of a tariff quota where the specified tariff quota volume is reached, as referred to in Article 145(4), first subparagraph;

(c) where the nature or the level of a threat to the security and safety of the Union and its residents, to human, animal or plant health, to the environment or to consumers so requires;

(d) where the decision aims at securing the implementation of another decision on which the applicant has been given the opportunity to express his or her point of view, without prejudice to the law of the Member State concerned;

(e) where it would prejudice investigations initiated for the purpose of combating fraud;

(ea) where the application does not meet the conditions for its acceptance;

(f) in other specific cases.

7. A decision which adversely affects the applicant shall set out the grounds on which it is based and shall refer to the right of appeal provided for in Article 16.

8. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining:

(a) **the data required for applications and decisions referred to in this Article** ~~the exceptions for designating the competent customs office referred to in paragraph 1, third subparagraph, of this Article~~;

(b) the conditions for the acceptance of an application, referred to in paragraph 2 of this Article;

(c) the cases where the time limit to take a specific decision, including the possible extension of that time-limit, differs from the time limits referred to in paragraph 3 of this Article;

(d) the cases, referred to in paragraph 4 of this Article, where the decision takes effect from a date which is different from the date on which the applicant receives it or is deemed to have received it;

(e) the cases, referred to in paragraph 5 of this Article, where the decision is not valid without limitation of time;

(f) the duration of the period referred to in paragraph 6, first subparagraph, of this Article;

(g) the specific cases, referred to in paragraph 6, second subparagraph, point (f) of this Article.

9. The Commission shall specify, by means of implementing acts, [the procedure] for:

(a) the submission and the acceptance of the application for a decision, referred to in paragraphs 1 and 2;

(b) taking the decision referred to in this Article, including, where appropriate, as regards the right to be heard and the consultation of other Member States concerned.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 7

Management of decisions taken upon application

1. The holder of the decision shall comply with the obligations resulting from that decision.

2. The holder of the decision shall continuously monitor the fulfilment of the conditions and criteria, and compliance with the obligations, resulting from the decisions and, where

applicable, establish internal controls capable of preventing, detecting and correcting illegal or irregular transactions.

3. The holder of the decision shall inform the customs authorities without delay of any factor arising after the decision was taken, which may influence the continuation or content of that decision.

4. Customs authorities shall regularly monitor whether the holder of the decision continues to fulfil the relevant criteria and comply with the relevant obligations, in particular the ability of the holder of the decision to prevent, react to and remedy errors through appropriate internal controls **and to notify customs authorities of any suspicion of customs fraud or information that could lead to its detection**. Based on such monitoring activity, customs shall assess the risk profile of the holder of the decision, where relevant. Where the holder of the decision has been established in the customs territory of the Union for less than 3 years, the customs authorities shall closely monitor it during the first year after the decision is taken.

5. The customs authorities shall communicate to the EU Customs Authority the decisions taken upon application and all monitoring activities that they carry out in accordance with paragraph 4. The EU Customs Authority shall take this information into account for risk management purposes.

6. Until **31 December 2037** ~~the date set out in Article 265(3)~~, the customs authorities shall record their decisions in the existing electronic systems for the exchange of information developed by the Member States and the Commission. The Member States and the Commission shall have access to those decisions and underlying information in those systems.

7. Without prejudice to **other applicable** provisions ~~laid down in other fields which~~ specify**ing** the cases in which decisions are invalid or become null and void, the customs authorities which took a decision may at any time annul, revoke or amend it where it does not conform to the customs legislation. ~~Customs authorities shall inform the EU Customs Authority about such annulment, revocation and amendment of customs decisions.~~

8. In specific cases the customs authorities shall ~~carry out the following:~~ **re-assess a decision.**

~~(a) re-assess a decision;~~

~~(b) suspend a decision which is not to be annulled, revoked or amended~~. *[Suspension is addressed in Article 10, paragraph 1a]*

~~9.~~ *[Moved to Article 10, paragraph 1a]*

10. The Commission ~~decision which~~ is ~~not~~ empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining:

(a) detailed rules for monitoring a decision referred to in paragraphs 2 to 4 of this Article;

(b) the specific cases and the rules for re-assessing decisions as referred to in paragraph 8 of this Article.

Article 8

Union-wide validity of decisions

Except where the decision provides that its effect is limited to one or several Member States, decisions relating to the application of the customs legislation shall be valid throughout the customs territory of the Union.

Article 9

Annulment of favourable decisions

1. The customs authorities shall annul a decision favourable to the holder of the decision if all the following conditions are fulfilled:

(a) the decision was taken on the basis of incorrect or incomplete information;

(b) the holder of the decision knew or ought reasonably to have known that the information was incorrect or incomplete;

(c) if the information had been correct and complete, the decision would have been different.

2. The holder of the decision shall be notified of its annulment.

3. Annulment shall take effect from the date on which the initial decision took effect, unless otherwise specified in the decision in accordance with the customs legislation.

4. The Commission shall specify, by means of implementing acts, the rules for annulling favourable decisions. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 10

Revocation, suspension and amendment of favourable decisions

1. A favourable decision shall be revoked or amended where~~, in cases other than those referred to in Article 9~~:

(a) one or more of the conditions for taking that decision were not or are no longer fulfilled; ~~or~~

aa) the holder of the decision fails to fulfil the obligations imposed by that decision; or

(b) upon application by the holder of the decision.

1a. ~~The customs authority competent to take the~~ **A favourable** decision shall **be** suspend**ed** ~~the decision instead of annulling, revoking or amending it~~ where:

(a) the customs authority considers that there may be sufficient grounds for annulling, revoking or amending the decision, but does not yet have all necessary elements to decide on the annulment, revocation or amendment;

(b) ~~that~~ **the** customs authority considers that the conditions for the decision are not fulfilled or that the holder of the decision does not comply with the obligations imposed under that decision, and it is appropriate to allow the holder of the decision time to take measures to ensure fulfilment of the conditions or the compliance with the obligations;

(c) the holder of the decision requests such suspension because that person is temporarily unable to fulfil the conditions ~~laid down~~ for that decision or the obligations imposed under that decision.

In the cases referred to ~~in paragraph 1~~, points (b) and (c), the holder of the decision shall notify the customs authority competent to take the decision of the measures that person

will take to ensure the fulfilment of the conditions or compliance with the obligations, as well as the period of time that person needs to take those measures.

2. Except where otherwise provided, a favourable decision addressed to several persons may be revoked only in respect of a person who fails to comply with an obligation imposed under that decision.

3. The holder of the decision shall be notified of its revocation**, suspension** or amendment.

4. Article 6(4) shall apply to the revocation**, suspension** or amendment of the decision.

However, in exceptional cases where the legitimate interests of the holder of the decision so require, the customs authorities may defer the date on which revocation or amendment takes effect by up to one year. That date shall be indicated in the revoking or amending decision.

5. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining:

(a) the cases, referred to in paragraph 2, where a favourable decision addressed to several persons may be revoked also in respect of persons other than the person who fails to comply with an obligation imposed under that decision

(b) the exceptional cases, in which the customs authorities may defer the date on which revocation or amendment takes effect in accordance with the second subparagraph of paragraph 4.

6. The Commission shall specify, by means of implementing acts, the procedural rules for revoking**, suspending** or amending favourable decisions. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 11

Decisions taken without prior application

Except when a customs authority acts as a judicial authority, Article 6(4), (5), (6), (7), Article 7(7) and Articles 8, 9 and 10 shall also apply to decisions taken by the customs authorities without prior application by the person concerned.

Article 12

Limitations applicable to decisions on goods placed under a customs procedure or in temporary storage

Except where the person concerned so requests, the revocation, amendment or suspension of a favourable decision shall not affect goods which, at the moment where the revocation, amendment or suspension takes effect, have already been placed and are still under a customs procedure or in temporary storage by virtue of the revoked, amended or suspended decision.

SECTION 2

BINDING INFORMATION

Article 13

Decisions relating to binding information

1. The customs authorities shall, upon application, take decisions relating to binding tariff information ('BTI decisions'), decisions relating to binding origin information ('BOI decisions') and decisions relating to binding valuation information ('BVI decisions').

   Such an application shall not be accepted in any of the following cases:

   (a) where the application is made, or has already been made, at the same or another customs office, by or on behalf of the holder of a decision:

      (i) for BTI decisions, in respect of the same goods;

      (ii) for BOI decisions, in respect of the same goods and under the same circumstances determining the acquisition of origin;

      (iii) for BVI decisions, in respect of goods under the same circumstances determining the customs value;

   (b) where the application does not relate to any intended use of decision relating to binding information or any intended use of a customs procedure.

2. Decisions relating to binding information shall be binding, only in respect of the tariff classification or determination of the origin or the customs value of goods, on:

(a) the customs authorities, as against the holder of the decision, only in respect of goods for which customs formalities are completed after the date on which the decision takes effect;

(b) the holder of the decision, as against the customs authorities, only with effect from the date on which he or she receives, or is deemed to have received, notification of the decision.

3. Decisions relating to binding information shall be valid for a period of 3 years from the date on which the decision takes effect.

4. For the application of a decision relating to binding information in the context of a particular customs procedure, the holder of the decision shall be able to prove that:

(a) in the case of a BTI decision, the goods in question correspond in every respect to those described in the decision;

(b) in the case of a BOI decision, the goods in question and the circumstances determining the acquisition of origin correspond in every respect to the goods and the circumstances described in the decision;

(c) in the case of a BVI decision, the circumstances determining the customs value for the goods in question correspond in every respect to the circumstances described in the decision.

Article 14

Management of decisions relating to binding information

1. A BTI decision shall cease to be valid before the end of the period referred to in Article 13(3) where it no longer conforms to the law, as a result of either of the following:

(a) the adoption of an amendment to the nomenclatures referred to in Article 145(2), points (a) and (b);

(b) the adoption of measures referred to in Article 146(4);

In such cases, the BTI decision shall cease to be valid with effect from the date of application of such amendment or measures.

2. A BOI decision shall cease to be valid before the end of the period referred to in Article 13(3) in any of the following cases:

(a) where a legally binding act of the Union is adopted or an agreement is concluded by, and becomes applicable in, the Union, and the BOI decision no longer conforms to the law thereby laid down, with effect from the date of application of that act or agreement;

(b) where the BOI decision is no longer compatible with the Agreement on Rules of Origin established in the World Trade Organisation (WTO) or with the advisory opinions, information, advice and similar acts, concerning the determination of the origin of goods to secure uniformity in the interpretation and application of that Agreement, with effect from the date of their publication in the Official Journal of the European Union.

3. A BVI decision shall cease to be valid before the end of the period referred to in Article 13(3) in the following cases:

(a) where the adoption of a legally binding act of the Union renders the BVI decision non-compliant with that act, from the date of application of that act;

(b) where the BVI decision is no longer compatible with the Article VII of the General Agreement on Tariffs and Trade, or the 1994 Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Agreement on Customs Valuation), or with the decisions adopted for the interpretation of that Agreement by the Committee on Customs Valuation, with effect from the date of publication in the Official Journal of the European Union.

4. Decisions relating to binding information shall not cease to be valid with retroactive effect.

5. By way of derogation from Article 7(7) and Article 9, the customs authorities shall annul decisions relating to binding information only where they are based on inaccurate or incomplete information from the applicants.

6. The customs authorities shall revoke decisions relating to binding information in accordance with Article 7(7) and Article 10. However, such decisions shall not be revoked upon application by the holder of the decision.

7. Decisions relating to binding information may not be amended.

8. The customs authorities shall revoke BTI decisions where they are no longer compatible with the interpretation of any of the nomenclatures referred to in Article 145(2), points (a) and (b) resulting from any of the following:

(a) explanatory notes referred to in Article 9(1), point (a), second indent of Regulation (EEC) No 2658/87, with effect from the date of their publication in the Official Journal of the European Union;

(b) a judgment of the Court of Justice of the European Union, with effect from the date of publication of the operative part of the judgment in the Official Journal of the European Union;

(c) classification decisions, classification opinions or amendments of the explanatory notes to the Nomenclature of the Harmonised Commodity Description and Coding System, adopted by the Organization set-up by the Convention establishing a Customs Co-operation Council, done at Brussels on 15 December 1950, with effect from the date of publication of the Commission Communication in the 'C' series of the Official Journal of the European Union.

9. BOI and BVI decisions shall be revoked where they are no longer compatible with a judgment of the Court of Justice of the European Union, with effect from the date of publication of the operative part of the judgment in the Official Journal of the European Union.

10. Where a decision relating to binding information ceases to be valid in accordance with paragraph 1, point (b), or with paragraphs 2 or 3, or is revoked in accordance with paragraphs 6, 8 or 9, the decision may still be used in respect of binding contracts which were based upon that decision and were concluded before it ceased to be valid or was revoked. That extended use shall not apply where a BOI decision is taken for goods to be exported.

The extended use referred to in the first subparagraph shall not exceed 6 months from the date on which the decision relating to binding information ceases to be valid or is revoked. However, a measure referred to in Article 146(4), a measure referred to in Article 151 or a measure referred to in Article 158 may exclude that extended use or lay down a shorter

period of time. In the case of products for which an import or export certificate is submitted when customs formalities are carried out, the period of 6 months shall be replaced by the period of validity of the certificate.

In order to benefit from the extended use of a decision relating to binding information, the holder of that decision shall lodge an application to the customs authority that took the decision within 30 days of the date on which it ceases to be valid or is revoked, indicating the quantities for which a period of extended use is requested and the Member State or Member States in which goods will be cleared under the period of extended use. That customs authority shall take a decision on the extended use and notify the holder, without delay, and at the latest within 30 days of the date on which it receives all the information required in order to enable it to take that decision.

11. The Commission shall notify the customs authorities where:

(a) the taking of decisions relating to binding information, for goods whose correct and uniform tariff classification or determination of origin or determination of the customs value is not ensured, is suspended; or

(b) the suspension referred to in point (a) is withdrawn.

12. The Commission may adopt decisions requesting Member States to revoke a BTI, BOI or BVI decision to ensure a correct and uniform tariff classification or determination of the origin of goods, or determination of the customs value. Before adopting such a decision, the Commission shall communicate the grounds on which it intends to base its decision to the holder of the BTI, BOI or BVI decision, who shall be given the opportunity to express that person's point of view within a period prescribed from the date on which that person receives that communication or is deemed to have received it.

13. The Commission is empowered to adopt delegated acts, in accordance Article 261, to supplement this Regulation by determining the rules for taking the decisions referred to in paragraph 12 of this Article, ~~in particular as regards~~ **including on** the communication to the persons concerned of the grounds on which the Commission intends to base its decision and the time-limit within which those persons may express their point of view.

14. The Commission shall adopt, by means of implementing acts, the procedural rules for:

(a) using a decision relating to binding information after it ceases to be valid or is revoked, in accordance with paragraph 10;

(b) the Commission to notify the customs authorities in accordance with paragraph 11, points (a) and (b).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

15. The Commission shall adopt, by means of implementing acts the decisions requesting Member States to revoke the decisions referred to in paragraph 12. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 262(2).

SECTION 3
APPEALS

Article 15

Decisions taken by a judicial authority

Articles 16 and 17 shall not apply to appeals lodged with a view to the annulment, revocation or amendment of a decision relating to the application of the customs legislation taken by a judicial authority, or by customs authorities acting as judicial authorities.

Article 16

Right of appeal

1. Any person shall have the right to appeal against any decision taken by the customs authorities relating to the application of the customs legislation which concerns him or her directly and individually.

Any person who has applied to the customs authorities for a decision and has not obtained a decision on that application within the time-limits referred to in Article 6(3) shall also be entitled to exercise the right of appeal.

2. The right of appeal may be exercised in at least two steps:

(a) initially, before the customs authorities or a judicial authority or other body designated for that purpose by the Member States;

(b) subsequently, before a higher independent body, which may be a judicial authority or an equivalent specialised body, according to the provisions in force in the Member States.

3. The appeal shall be lodged in the Member State where the decision was taken or was applied for.

4. Member States shall ensure that the appeals procedure enables the prompt confirmation or correction of decisions taken by the customs authorities.

Article 17

Suspension of implementation

1. The submission of an appeal shall not cause implementation of the disputed decision to be suspended.

2. The customs authorities shall, however, suspend implementation of such a decision in whole or in part where they have good reason to believe that the disputed decision is inconsistent with the customs legislation or that irreparable damage is to be feared for the person concerned.

3. In the cases referred to in paragraph 2, where the disputed decision has the effect of causing import or export duty to be payable, suspension of implementation of that decision shall be conditional upon the provision of a guarantee, unless it is established, on the basis of a documented assessment, that such a guarantee would be likely to cause the debtor serious economic **or social** difficulties.

SECTION 4
CHARGES AND COSTS

Article 18

~~Prohibition of c~~ Charges, costs and Union handling fee

1. Customs authorities shall not impose charges for the performance of customs controls or any other application of the customs legislation during the official opening hours of their competent customs offices.

1a. By way of derogation from paragraph 1, customs authorities shall collect a Union handling fee of a fixed amount per item for the services rendered for releasing for free circulation goods sold in distance sales.

1b. An amount of the Union handling fee shall correspond to the approximate costs of the services indicated in paragraph 1a. That amount shall be lower where the subject of release for free circulation are goods sold in distance sales from a customs warehouse for distance sales.

[1c. The revenue from the Union handling fee shall be made available to the Union and to the Member States.]

1d. The debtor of the customs debt at import shall pay the Union handling fee at the moment of payment of the customs debt in accordance with Article 186. Where there is no customs debt, the time-limit for paying the Union handling fee shall be the same as it would have been if there had been a customs debt to pay. In matters not regulated, the provisions on customs debt shall apply mutatis mutandis to the Union handling fee.

1e. The Union handling fee shall be non-refundable.

1f. The Commission shall provide an appropriate IT solution at EU level for the purposes of the Union handling fee.

1g. The Commission shall draw a report to assess the proportionality between the Union handling fee and the costs of services indicated in paragraph 1a. Such report shall be prepared every 2 years.

2. ~~Customs authorities~~ **Member States** may **determine** ~~impose~~ charges or recover costs ~~where~~ **for** specific services ~~are rendered~~, **other than those covered in paragraph 1a,** in particular the following:

(a) attendance, where requested, by customs staff outside official office hours or at premises other than customs premises;

(b) analyses or expert reports on goods and postal fees for the return of goods to an applicant, particularly in respect of decisions taken pursuant to Article 13 or the provision of information in accordance with Article 39;

(c) the examination or sampling of goods for verification purposes, or the destruction of goods, where costs other than the cost of using customs staff are involved;

(d) exceptional control measures, where these are necessary due to the nature of the goods or to a potential risk.

3. The Commission is empowered to adopt delegated acts, in accordance with Article 261 to establish the amount of Union handling fee ensuring that at least part, but not more than all of the costs of services rendered for releasing for free circulation goods sold in distance sales are covered.

4. The Commission shall adopt, by means of implementing act, rules setting out the procedure for collecting the Union handling fee per item. The implementing act shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 18a

[Moved from Title XV, Article 259]

Currency conversion

1. The competent authorities shall publish and/or make available on the internet the rate of exchange applicable where the conversion of currency is necessary for one of the following reasons:

(a) because factors used to determine the customs value of goods are expressed in a currency other than that of the Member State where the customs value is determined;

(b) because the value of the euro is required in national currencies for the purposes of determining the tariff classification of goods and the amount of import and export duty, including value thresholds in the Common Customs Tariff.

2. Where the conversion of currency is necessary for reasons other than those referred to in paragraph 1, the value of the euro in national currencies to be applied within the framework of the customs legislation shall be fixed at least once a year.

3. The Commission shall lay down, by means of implementing acts, rules on currency conversions for the purposes referred to in paragraphs 1 and 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 18b

(Moved from Title XV, Article 260))

Periods, dates and time limits

1. Unless otherwise provided, where a period, date or time limit is laid down in the customs legislation, such period shall not be extended or reduced and such date or time limit shall not be deferred or brought forward.

2. The rules applicable to periods, dates and time limits set out in Regulation (EEC, Euratom) No 1182/71 of the Council[28] shall apply, except where otherwise provided for in the customs legislation.

Chapter 4

Other provisions

Article 18c

Confidentiality of data

All information acquired by the customs authorities and by the EU Customs Authority which is by its nature confidential or which is provided on a confidential basis shall be kept confidential.

Such data may be disclosed where the customs authorities or the EU Customs Authority are obliged or authorised to do so pursuant to Union or Member State law, in particular for the reasons related to or in connection with legal proceedings.

[28] Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time-limits (OJ L 124, 8.6.1971, p1.).

Any disclosure, extraction or communication of such data shall ensure an adequate level of data protection.

Article 18d

(Moved from Title III, Article 38)

Exchange of additional information between customs authorities and economic operators

~~1.~~ Customs authorities and economic operators may exchange any information not specifically required under the customs legislation, in particular for the purpose of mutual cooperation in the identification and counteraction of risk. That exchange may take place under a written agreement and may include access to the electronic systems of economic operators by the customs authorities.

~~2.~~ Any information provided by one party to the other in the course of the cooperation referred to in paragraph 1 shall be confidential unless both parties agree otherwise or unless the provisions in force provide otherwise.

Article 18e

[Moved from Title III, Article 39]

Provision of information by the customs authorities

1. Any person may request information concerning the application of the customs legislation from the customs authorities. The customs authorities may refuse such a request where it does not relate to an activity pertaining to international trade in goods that is actually envisaged.

2. Customs authorities shall maintain a regular dialogue with economic operators and other authorities involved in international trade in goods. They shall promote transparency by making the customs legislation, general administrative rulings and application forms freely available, wherever practical without charge, and through the internet.

Title II
OBLIGATIONS AND RIGHTS OF PERSONS WITH REGARD TO CUSTOMS LEGISLATION

Chapter 1
Registration

Article 19

Registration

1. Economic operators established in the customs territory of the Union shall register with the customs authorities ~~responsible for the place where they are established~~ **of the Member State of establishment** in order to obtain an Economic Operator Registration and Identification (EORI) number. Where possible, that registration shall also include the electronic identification of the operator in the national electronic identification schemes referred to in Regulation (EU) No 910/2014.

2. Registered economic operators shall inform the customs authorities about any modification in their registration data, in particular where this entails a modification of their place of establishment.

3. In specific cases, economic operators which are not established in the customs territory of the Union shall register with the customs authorit**y**~~ies responsible for~~ **of** the ~~place~~ **Member State** where they first **activity covered by the customs legislation is carried out.** ~~lodge a declaration or apply for a decision~~.

4. Persons other than economic operators shall not be required to register with the customs authorities unless otherwise provided.

   Where persons referred to in the first subparagraph are required to register, the following shall apply:

(a) where they are established in the customs territory of the Union, they shall register with the customs authorit**y**~~ies responsible for the place where they are established~~ **of the Member State of establishment**;

(b) where they are not established in the customs territory of the Union, they shall register with the customs authorit**y**~~ies responsible for~~ the ~~place~~ **Member State** where they first lodge a declaration or apply for a decision.

5. In specific cases, the customs authorities shall invalidate the registration.

6. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining:

(a) the minimum data requirements for the registration referred to in paragraph 1;

(b) the specific cases referred to in paragraph 3;

(c) the cases referred to in the first subparagraph of paragraph 4, where persons other than economic operators are required to register with the customs authorities;

(d) the specific cases referred to in paragraph 5 where the customs authorities invalidate a registration;

(e) ~~the customs authority responsible for the registration.~~

7. The Commission shall specify, by means of implementing acts, the customs authority responsible for the registration referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the ~~advisory~~ **examination** procedure referred to in Article 262(~~2~~**4**).

Chapter 2
Importer and deemed importer

Article 20

Importers

0. There shall be only one importer at a time.

1. The importer shall ~~comply with the following obligations~~:

   (a) **provide, keep** and ~~making~~ **make** available to customs authorities, as soon as it is available and in any event prior to the release of the goods, all the information required in respect of the **temporary** storage or the customs procedure under which the goods are to be placed in accordance with Articles **59, 86,** 88, 118, 132**,** ~~and~~ 135 **and 137,** or to discharge the outward processing procedure;

   (b) ~~ensuring~~ **ensure** ~~the correct calculation and~~ payment of **any** customs duties and ~~any~~ other charges applicable;

   (c) ensur**e** that the goods entering ~~or exiting~~ the customs territory of the Union comply with the relevant other legislation applied by the customs authorities and ~~providing, keeping~~ **provide, keep** and ~~making~~ **make** available appropriate records of such compliance;

   (d) **fulfil** any other obligation on the importer established in customs legislation;

   (e) notify customs authorities of any information concerning suspicious movements or un authorised handling of goods.

2. The importer shall be established in the customs territory of the Union.

   This requirement does not apply to an importer who:

~~3. By way of derogation from paragraph 2 the following importers or persons shall not be required to be established in the customs territory of the Union:~~

   (a) places goods ~~in~~ **under the** transit **procedure** or temporary admission **procedure**;

   (b) ~~an importer bringing~~ **brings** goods that remain in temporary storage;

   (c) ~~persons, who~~ occasionally ~~place~~ **places** goods under customs procedures, provided that the customs authorities consider such placing to be justified;

(d) ~~persons who are~~ **is** established in a country the territory of which is adjacent to the customs territory of the Union, and ~~who present~~ **presents** the goods at a Union border customs office adjacent to that country, provided that the country in which the ~~persons are~~ **importer is** established grants reciprocal benefits to persons established in the customs territory of the Union; **or**

(e) ~~a deemed importer who~~ is represented by an indirect representative established in the customs territory of the Union.

~~*Article 21*~~

~~**Deemed importers**~~

~~1. By way of derogation from Article 20(1), point (a), deemed importers shall provide or make available the information on distance sales of goods to be imported in the customs territory of the Union at the latest on the day following the date when the payment was accepted and in any event prior to the release of the goods.~~ *[Moved to Article 59(2)]*

~~2. Without prejudice to the information required to release the goods for free circulation in accordance with Article 88(3), point (a), the information referred to in paragraph 1 of this Article shall contain at least the requirements set out in Article 63c(2) of Implementing Regulation (EU) No 282/2011.~~ *[Moved to Article 8 (3)(aa)]*

~~3. Where goods previously imported by a deemed importer under distance sales are returned to the original consignor's address or to another address outside the customs territory of the Union, the deemed importer shall invalidate the information on release for free circulation of those goods and provide or make available the proof of exit of the goods out of the customs territory of the Union.~~ *[Moved partly to Article 181(5) second subparagraph - invalidation of information]*

Chapter 3

Exporter

Article 22

Exporters

1. The exporter shall comply with the following obligations:

(a) provid**e**~~ing~~, keep~~ing~~ and mak**e**~~ing~~ available to customs authorities, as soon as it is available and in any event prior to the release of the goods, all the information required in respect of the customs procedure under which the goods are placed in accordance with Article **94a** ~~99~~ and Article 140 **or re-export in accordance with Article 94c** or to discharge the ~~temporary admission~~ procedure **referred to in Articles 118 and 132, Article 135(5), point (b) and Article 137;**

(b) ~~ensuring~~ **ensure** ~~the correct calculation and collection~~ **payment** of customs duties and any other charges, if applicable;

(c) ensur**e** ~~ing~~ that the goods ~~entering or~~ exiting the customs territory of the Union comply with the relevant other legislation applied by the customs authorities and **provide, keep and make available appropriate records of such compliance** ~~providing, keeping and making available appropriate records of such compliance~~;

(d) **fulfil** any other obligation established in customs legislation**;**

(e) notify customs authorities of any information concerning suspicious movements or an authorised handling of goods.

2. The exporter shall be established in the customs territory of the Union **unless the exporter:**

~~3. By way of derogation from paragraph 2, the following exporters shall not be required to be established in the customs territory of the Union:~~

(a) ~~an exporter who~~ places goods ~~in~~ **under the** transit **procedure**, discharges the temporary admission procedure or ~~exports goods that were in~~ **re-export from** temporary storage;

(aa) trans-ships goods within, or directly re-exports them from, a free zone;

(b) ~~persons, who~~ occasionally place**s** goods under customs procedures **or re-exports them**, provided that the customs authorities consider this to be justified;

(c) ~~persons, who are~~ **is** established in a country the territory of which is adjacent to the customs territory of the Union~~,~~ and who present**s** the goods at a Union border customs office adjacent to that country, provided that the country in which the ~~persons are~~ **exporter is** established grants reciprocal benefits to persons established in the customs territory of the Union~~.~~**;**

(d) is represented by an indirect representative established in the customs territory of the Union.

Chapter 4

Authorised economic operator and Trust and Check-traders

Article 23

Application and authorisation for authorised economic operator

1. ~~A person~~ **An economic operator** who is ~~resident, incorporated or registered~~ **established** in the customs territory of the Union and who meets the criteria set out in Article 24 may apply for the status of authorised economic operator.

   The customs authorities shall, following consultation with other authorities, if necessary, grant one or both of the following types of authorisations:

   (a) that of an authorised economic operator for customs simplifications, which shall enable the holder to benefit from the simplifications in accordance with the customs legislation; or

   (b) that of an authorised economic operator for security and safety that shall entitle the holder to facilitations relating to security and safety.

2. Both types of authorisations referred to in paragraph 1, second subparagraph, may be held at the same time.

3. ~~The persons referred to in paragraph 1 shall comply with the obligations set out in Article 7(2) and (3). The customs authorities shall monitor the operator's continuous compliance with the criteria and conditions for the status of authorised economic operator in accordance with Article 7(4).~~

As part of the monitoring activity carried out pursuant to Article 7(4), ~~T~~**t**he customs authorities shall at least every 3 years perform an **on-site** ~~or desk-based close in-depth monitoring~~ **visit** of the authorised economic operator~~'s activities and internal records~~ **with a view to verify in particular the practical application of the procedures in place to comply with the criteria referred to in Article 24 (1) points (b) and (e)**.

4. The status of authorised economic operator shall, subject to paragraph 5 of this Article and to Article 24, be recognised by the customs authorities in all Member States.

5. Customs authorities shall, on the basis of the recognition of the status **of authorised economic operator** and provided that the requirements related to a specific type of simplification provided for in the customs legislation are fulfilled, authorise the operator to benefit from that simplification. Customs authorities shall not re-examine those criteria which have already been examined when granting the status.

6. The authorised economic operator referred to in paragraph 1 shall enjoy more facilitations than other economic operators in respect of customs controls according to the type of authorisation granted, including fewer physical and document-based controls. The status of authorised economic operator shall be taken into account favourably for customs risk management purposes.

7. The customs authorities shall grant benefits resulting from the status of authorised economic operator **referred to in paragraph 1 letter b** to persons established in third countries, who fulfil conditions and comply with obligations defined by the relevant legislation of those countries or territories, insofar as those conditions and obligations are recognised by the Union as equivalent to those imposed on authorised economic operators established in the customs territory of the Union. Such a granting of benefits shall be based on the principle of reciprocity unless otherwise decided by the Union, and shall be supported by an international agreement of the Union, or Union legislation in the area of the common commercial policy.

8. **As part of the protocols and procedures for crisis management laid down in Article 203, the EU Customs Authority shall establish** ~~A joint~~ **a** business continuity mechanism to respond to disruptions in trade flows due to increases in security alert levels, border closures ~~and/~~or natural disasters, hazardous emergencies or other major incidents ~~shall be established~~ providing that the customs authorities may facilitate and expedite to the extent possible priority cargos related to authorised economic operators.

9. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining:

~~(a) the type and frequency of the monitoring activities by both the persons referred to in paragraph 1 and the customs authorities referred to in paragraph 3;~~

(b) the simplifications for authorised economic operators referred to in paragraph 5;

(c) the facilitations referred to in paragraph 6.

10. The Commission shall specify, by means of implementing acts, the procedural rules for**:**

(a) the consultations in respect of the determination of the status of authorised economic operators referred to in paragraph 1, second subparagraph, including the deadlines for replying**;**

(b) the business continuity mechanism referred to in paragraph 8.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 24

Granting of the status of authorised economic operator

1. The criteria for the granting of the status of authorised economic operator shall be the following:

(a) the absence of any serious infringement or repeated infringements of customs legislation and taxation rules and no record of serious criminal offences; the

infringements and offences to be considered are those relating to economic or business activities;

(b) the demonstration by the applicant of a high level of control of his or her operations and of the flow of goods, by means of a system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls and evidence that non-compliance has been effectively remedied; the applicant **shall** ensure~~s~~ that ~~relevant employees are instructed to inform the~~ customs authorities **are informed** whenever compliance difficulties are discovered and establishes procedures for informing the customs authorities of such difficulties;

(c) financial solvency, which shall be deemed to be proven where the applicant has good financial standing, which enables him or her to fulfil his or her commitments, with due regard to the characteristics of the type of business activity concerned;

(d) with regard to the authorisation referred to in Article 23(1), point (a), practical standards of competence or professional qualifications directly related to the activity carried out;

(e) with regard to the authorisation referred to in Article 23(1), point (b), appropriate security, safety and compliance standards, adapted to the **type and size of the** activity carried out. The standards shall be considered as fulfilled where the applicant demonstrates that he or she maintains appropriate measures to ensure the security and safety of the international supply chain, including in the areas of physical integrity and access controls, logistical processes and handling of specific types of goods, personnel and identification of his or her business partners **and the implementation of secured mechanisms for notifying customs authorities of any information concerning suspicious movements or unauthorised handling of goods that could affect security and safety at the entry of goods in the EU customs territory or at export formalities**.

2. The Commission shall adopt, by means of implementing acts, the modalities for the application of the criteria referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 25

Granting the status of Trust and Check trader

1. An importer or exporter **or indirect representative**, who is ~~resident or registered~~ **established** in the customs territory of the Union, meets the criteria set out in paragraph 3 and has conducted regular customs operations in the course of that person's business for at least **2** ~~3~~ years, may apply for the status of Trust and Check trader to the customs authority of the Member State where that person is established.

Without prejudice to the first subparagraph, a deemed importer may apply for the status of Trust and Check trader if he or she is making use of the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC for at least 2 years.

2. The customs authorities shall grant the status of Trust and Check trader following consultation with other authorities, if necessary, and after having had access to the relevant data of the applicant for the last **2** ~~3~~ years in order to assess compliance with the criteria in paragraph 3.

3. The customs authorities shall grant the status of Trust and Check trader to a person who meets all the following criteria:

   (a) the absence of any serious infringement or repeated infringements of customs legislation and taxation rules and no record of serious criminal offences; the infringements and offences to be considered are those relating to economic or business activities;

   (aa) compliance with rules concerning the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC, if applicable;

   (b) the demonstration by the applicant of a high level of control of his or her operations and of the flow of goods, by means of a system of managing commercial and transport records, which allows appropriate customs controls and evidence that non-compliance has been effectively remedied; the applicant shall ensure that ~~relevant employees inform the~~ customs authorities **are informed** whenever compliance difficulties are discovered and establishes procedures for informing the customs authorities of such difficulties;

(c) financial solvency, which shall be deemed to be proven where the applicant has good financial standing, which enables him or her to fulfil his or her commitments, with due regard to the characteristics of the type of business activity concerned. In particular, during the last **2** ~~3~~ years, preceding the submission of the application, the applicant shall have fulfilled his financial obligations regarding payments of customs duties and all other duties, taxes or charges which are collected on or in connection with the import or export of goods, including on VAT and excise duties due in relation to intra-Union operations;

(d) practical standards of competence or professional qualifications directly related to the type and size of activity carried out~~, including that relevant employees are instructed on how to interact with customs authorities through the EU Customs Data Hub~~;

(e) appropriate security, safety and compliance standards, adapted to the type and size of the activity carried out. The standards shall be considered as fulfilled where the applicant demonstrates that he or she maintains appropriate measures to ensure the security and safety of the international supply chain, including in the areas of physical integrity and access controls, logistical processes and handling of specific types of goods, personnel and identification of his or her business partners **and the implementation of secured mechanisms for notifying customs authorities of any information concerning suspicious movements or unauthorised handling of goods that could affect security and safety at the entry of goods in the EU customs territory or at export formalities**;

(f) having an electronic system providing or making available to the customs authorities **in** real-time ~~all~~ data on the movement of the goods and the compliance of the person referred to in paragraph 1 with all requirements applicable on those goods, including **those** relating to safety and security and ~~including~~ where relevant ~~sharing in~~ **making available via** the EU Customs Data Hub **to customs authorities**:

(i) customs records;

(ii) accounting system;

(iii) commercial and transport records;

(iv) ~~their~~ tracking and logistics systems, which ~~identifies~~ **identify** goods as Union or non-Union goods and indicate~~s~~, where appropriate, their location;

(v) licences and authorisations granted in accordance with other legislation applied by the customs authorities~~;~~**.**

~~(vi) complete records needed to check the correctness of the establishment of the customs debts.~~

~~4. The persons referred to in paragraph 1 shall comply with the obligations set out in Article 7(2) and (3). The customs authorities shall monitor the operator's continuous compliance with the criteria and conditions for the status of authorised economic operator in accordance with Article 7(4).~~

As part of the monitoring activity carried out pursuant to Article 7(4), ~~T~~**t**he customs authorities at least every 3 years shall perform and **on-site visit** ~~in-depth monitoring~~ of the Trust and Check trader~~'s activities and internal records~~ **with a view to verify in particular the practical application of the procedures in place to comply with the criteria referred to in paragraph 3, points (b) and (e)**. ~~The Trust and Check trader shall inform the customs authorities of any changes in its corporate structure, ownership, solvency situation, trading models or any other significant changes in its situation and activities. The customs authorities shall re-assess the status of the Trust and Check trader if any of these changes have a significant impact on the Trust and Check status. The customs authorities may suspend this authorisation until a decision on the reassessment is taken.~~

5. Where a Trust and Check trader changes its Member State of establishment, the customs authorities of the receiving Member State may reassess the Trust and Check authorisation, after consultation with the Member State that initially granted the status and having received the previous records on the operator~~s~~. During the reassessment, the customs authority of the Member State that granted the initial authorisation may suspend it.

~~The Trust and Check trader shall inform the customs authorities of the receiving Member State of any changes in its corporate structure, ownership, solvency situation, trading models or any other significant changes in its situation and activities if any of these changes have an impact on the Trust and Check status.~~

~~6. Where a Trust and Check trader is suspected of involvement in fraudulent activity in relation to its economic or business activity, its status shall be suspended.~~

~~Where the customs authorities have suspended, annulled or revoked a Trust and Check trader authorisation in accordance with Articles 7, 9 and 10 they shall take the measures necessary to ensure that the authorisations referred to in paragraph 7 of this Article and the facilitations referred to in paragraph 8 of this Article are also suspended, annulled or revoked.~~

7. ~~Customs authorities may authorise~~ Trust and Check traders **may**:

(a) ~~to~~ provide part of the data on ~~his or her~~ **their** goods after the release of those goods, in accordance with Article 59(3a);

(b) ~~to~~ perform certain controls and ~~to~~ release the goods upon receipt of those goods at the place of business of the importer, owner or consignee and/or upon delivery from the place of business of the exporter, owner or consignor, in accordance with Article 61 **(1) and (**2);

(ba) benefit from guarantee waiver for potential customs debt in accordance with Article 170 ;

~~(c) to consider that it provides the necessary assurance of the proper conduct of the operations for the purposes of obtaining authorisations for special procedures in accordance with Articles 102, 103, 109 and 123;~~

(d) ~~to~~ periodically determine the customs debt corresponding to the total amount of import or export duty relating to all the goods released by that trader, in accordance with Article 181 (4);

(e) ~~to~~ defer the payment of the customs debt in accordance with Article 188**(2)**;

(f) by way of derogation from Article 110, move goods entering or exiting the customs territory of the Union without the obligation to place them in transit, if the goods are under a duty suspensive regime and are under customs supervision until their final destination within the Union.

7a. **Customs authorities shall, on the basis of the recognition of the status Trust and Check trader and provided that the requirements related to a specific type of simplification provided for in the customs legislation are fulfilled, authorise the Trust and Check trader to benefit from that simplification. Customs authorities shall not re-examine the criteria which have already been examined when granting the status of Trust & Check trader.**

8. The Trust and Check traders shall enjoy more facilitations than other economic operators in respect of customs controls ~~according to the authorisation granted~~, including fewer physical and document-based controls. The status of Trust and Check trader shall be taken into account favourably for customs risk management purposes.

9. ~~By way of derogation from Article 110, where the importer or the exporter of the goods entering or exiting the customs territory has the status of Trust and Check trader, the goods shall be considered under a duty suspensive regime and remain under customs supervision until their final destination without the obligation to place them in transit. The Trust and Check trader shall be liable for the payment of customs duties, other taxes and other charges in the Member State of establishment and where the authorisation was granted.~~ *[First sentence moved to (7) (f)]*

9a. **As part of the protocols and procedures for crisis management laid down in Article 203, the EU Customs Authority shall establish a business continuity mechanism to respond to disruptions in trade flows due to increases in security alert levels, border closures, natural disasters, hazardous emergencies or other major incidents providing that the customs authorities may facilitate and expedite to the extent possible priority cargos related to Trust and Check traders.**

~~10. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the type and frequency of the monitoring activities referred to in paragraph 4 of this Article.~~

11. The Commission shall adopt, by means of implementing acts:

(a) the rules to consult other authorities for the determination of the status of Trust and Check trader referred to in paragraph 2;

(b) the modalities for the application of the criteria referred to in paragraph 3;

(c) the rules to consult the customs authorities as referred to in paragraph 5.

(d) the business continuity mechanism referred to in paragraph 9a.

Those implementing acts shall be adopted in accordance with the examination procedure referred to Article 262(4).

Article 26

Validity of authorised economic operator and Trust and Check status

~~**Transitional provisions for authorised economic operators for customs simplifications**~~

1. ~~Until the date established in Article 265(4), the customs authorities may grant persons meeting the criteria the status of authorised economic operator for customs simplifications and authorise them to benefit from certain simplifications and facilitations in accordance with the customs legislation.~~

2. **An economic operator may not simultaneously hold the status of authorised economic operator and that of Trust and Check trader.**

~~By the date established in Article 265(3), the customs authorities shall assess the valid authorised economic operators' authorisations for customs simplifications to check whether their holders may be granted the status of Trust and Check traders. If they may not, the status of authorised economic operators for customs simplifications and the simplifications referred to in Article 23(5) shall be revoked.~~

3. **The status of authorised economic operator expires once the economic operator is granted the status of Trust & Check trader.**

~~Until the authorisation is reassessed or until the date established in Article 265(3), whichever is the earlier, the recognition of status of authorized economic operator for customs simplifications shall remain valid, unless Articles 9 and 10 on annulment, revocation or amendment of decisions apply.~~

Chapter 5

Customs representation

Article 27

Customs representatives

1. Any person may appoint a customs representative.

Such representation may be either direct, in which case the customs representative shall act in the name of and on behalf of another person, or indirect, in which case the customs representative shall act in his or her own name but on behalf of another person.

1a. An indirect customs representative acting in ~~its~~ **his or her** own name but on behalf of an importer or ~~an~~ exporter **that is established in the customs territory of the Union** ~~shall be considered the~~ **is jointly and severally responsible with** importer or ~~the~~ exporter for the purposes of Articles 20**(1)** and **Article** 22 **(1),** respectively.

1b. An indirect customs representative acting in his own name but on behalf of an importer or exporter that is not established in the customs territory of the Union shall be considered the importer or exporter for the purposes of Articles 20(1) and Article 22 (1), respectively.

2. A customs representative shall be established in the customs territory of the Union.

Except where otherwise provided, that requirement shall be waived where the customs representative acts on behalf of persons who are not required to be established within the customs territory of the Union.

3. A customs representative having the status of Trust and Check trader shall only be recognised as such when acting as indirect representative.

When acting as a direct representative, the customs representative **shall** ~~may~~ be recognised as Trust and Check trader if the person in whose name and on whose behalf that representative is acting has been granted such status. **Such customs representative shall enjoy benefits that he would enjoy in case he would have the status of authorised economic operator.**

3a. **A customs representative having the status of AEO shall be recognised as such when acting as direct or indirect representative.**

4. ~~The Commission shall determine, in accordance with Union law, the conditions under which a customs representative may provide services in the customs territory of the Union.~~

Member States may determine, in accordance with Union law, the conditions under which a customs representative may provide services in the Member State where he or she is established. However, only a customs representative having the status of authorised economic operator for customs simplification or Trust and Check shall be entitled to any or both of the following:

(a) **to provide such services in a Member State other than the one where he or she is established;**

(b) **to place under release for free circulation goods sold in a distance sale, unless the customs representative provides services in one Member State and both the customs representative and the deemed importer are established in that Member State.**

~~5. Member States shall apply the conditions determined in accordance with paragraph 4 to customs representatives not established within the customs territory of the Union.~~

6. The Commission is empowered to adopt delegated acts, in accordance with Article 261 to supplement this Regulation by determining~~:~~

~~(a)~~ the cases in which the waiver referred to in paragraph 2, second subparagraph, does not apply;

~~(b) the conditions under which a customs representative may provide services in the customs territory of the Union referred to in paragraph 4.~~

Article 28

Representatives' empowerment

1. When dealing with the customs authorities, a customs representative shall ~~state~~ **indicate** that he or she is acting on behalf of the person represented and shall specify whether the representation is direct or indirect.

   Persons who fail to state that they are acting as a customs representative or who state that they are acting as a customs representative without being empowered to do so shall be deemed to be acting in their own name and on their own behalf.

2. The customs authorities may require persons stating that they are acting as a customs representative to provide evidence of their empowerment by the person represented.

   ~~In specific cases, the customs authorities shall not require such evidence to be provided.~~

3. The customs authorities shall not require a person acting as a customs representative, carrying out acts and formalities on a regular basis, to produce on every occasion evidence of empowerment, provided that such person is in a position to produce such evidence on request by the customs authorities.

~~4. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the cases in which the evidence of empowerment is not required by the customs authorities referred to in paragraph 2 of this Article.~~

~~5. The Commissions shall adopt, by means of implementing acts, the rules on the conferral and proving of the entitlement referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to Article 262(4).~~

Title III

EU CUSTOMS DATA HUB

Chapter 1

General provisions

Article 28a

Establishment of the EU Customs Data Hub

This Regulation establishes the EU Customs Data Hub.

Article 28b

Objectives of the EU Customs Data Hub

The EU Customs Data Hub shall provide a secure and cyber-resilient centralised IT platform, serving as the central point for data exchange with customs authorities.

By doing so, the EU Customs Data Hub contributes to facilitating the correct implementation of the customs legislation and other legislation applied by the customs authorities, as well as the smooth functioning of the internal market.

Article 28c

Digital sovereignty

1. **The EU Customs data hub infrastructure, excluding telecommunication transmission infrastructure, shall be solely controlled and administered by the Commission or the EU Customs Authority and shall be located within the territory of the European Union.**

2. **The development, hosting, operation and maintenance of the EU Customs Data Hub, as well as any related data processing, shall not be entrusted to:**

(a) **a non-EU citizen; or**

(b) any natural or legal person that, under foreign law, could be required to disclose in writing, orally, or by any other means documents or information intended to serve as evidence in foreign judicial or administrative proceedings.

2a. Services referred to in paragraph 2 shall be entrusted exclusively to:

(a) Union citizens; or

(b) legal persons established in the customs territory of the Union that are not controlled, directly or indirectly, by any undertaking of a third country as defined in Article 2(7) Regulation (EU) 2019/452 and are not subject to the obligation described in paragraph 2, point (b).

The same requirements shall apply to any service provider as well as any subcontractor responsible for hosting, managing, processing, storing or supporting the EU Customs Data Hub, including those with direct or remote access to its data and infrastructure.

3. Unless provided for in or by Title XIII data processed in the EU Customs Data Hub shall not be transferred or made available to a third country, to an international organization or to natural or legal persons established outside the territory of the Union.

4. The EU Customs Data hub shall be designed to ensure the ability to enforce European Union data protection and data security law over the data processed, stored, or otherwise available in the EU Customs Data Hub.

5. The EU customs data hub shall be designed to avoid to the highest extent possible, vendor lock-in.

6. The security of the supply-chain of all IT components shall be ensured.

Chapter 2

Technical aspects, functionalities, features and application of the EU Customs Data Hub

Article 29

Functionalities, ~~and purposes~~ and features of the EU Customs Data Hub

1. **The EU Customs Data Hub shall be a compilation of electronic services, applications, data and infrastructure to use and store data including personal data for customs purposes and other purposes listed in Article 31.**

1a. **The EU Customs Data Hub shall be compliant with the provisions of Regulation (EU) 2016/679, (EU) 2018/1725 and Directive (EU) 2016/680 relating to the processing of personal data as well as with Directive (EU) 2022/2555.**

1b. The EU Customs Data Hub shall provide ~~a secure and cyber resilient set of electronic services and systems to use data including personal data for customs purposes. It~~ the following functionalities **and shall have the following features**:

(a) ~~allow for~~ **enable** the electronic implementation of customs legislation **and other legislation applied by the customs authorities, in particular: customs formalities, customs controls, calculation and notification of the customs debt as well as Union handling fee, excise duty and VAT, guarantee management and customs surveillance of goods;**

(b) ensure the quality, integrity, **preservation,** traceability**, confidentiality** and non-repudiation of data processed therein, including **applying the rules for** the amendment**, invalidation and deletion** of such data;

(c) ~~ensure compliance with the provisions of Regulation (EU) 2016/679, Regulation (EU) 2018/1725 of the European Parliament and of the Council[29] and Directive (EU)~~

~~[29] Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).~~

~~2016/680 of the European Parliament and of the Council[30] relating to the processing of personal data;~~

(d) enable risk**, economic and data** analysis, ~~economic analysis and data analysis, including through the use of~~ **using in particular** artificial intelligence systems in accordance with ~~[the Artificial Intelligence Act 2021/0106 (COD)]~~[31]**Regulation (EU) 2024/1689**;

(e) enable the interoperability ~~of those services and systems~~ with other electronic systems, platforms or environments **according to Article 30a** ~~for the purpose of cooperation in accordance with Title XIII~~;

(f) integrate the European Union Single Window Certificates Exchange System established by Article 4 of Regulation (EU) 2022/2399;

(g) enable the exchange of information with **other authorities and bodies** ~~third countries~~ **according to Title XIII**

(h) enable the ~~customs surveillance~~ **tracking** of goods **subject to customs supervision, including provision of information about their location without delay;**

(i) enable persons and authorities referred to in Article 31 to process data without delay;

(j) enable reporting capabilities;

(k) integrate an information security management system, a governance-based framework designed to prevent data breaches by safeguarding data from loss, manipulation or unauthorized access, including through a mechanism for tagging data according to its level of confidentiality;

~~[30] Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision (OJ L 119, 4.5.2016, p. 89).~~

~~[31] Regulation (EU) …./.. of the European Parliament and of the Council (OJ L…,../../…., p..). [OJ: Please insert in the text the number of the Regulation contained in document COM(2021) 206 final, 2021/0106(COD)) and insert the number, date, title and OJ reference of that Directive in the footnote.]~~

(l) enable portability of data from the EU Customs Data Hub into national systems such as synchronization of data and downloading;

(m) provide for a single access point and multilingual of technical and business assistance;

(n) allow the reuse of data to the highest extent possible;

(o) provide high availability and high performance of services.

(p) facilitate the necessary interoperability with Member States' systems for identity management and, authorizations of access to the EU Customs Data Hub.

2. The acts that the persons, the Commission, the customs authorities, the EU Customs Authority or other authorities perform through the functionalities **and features** listed in paragraph 1 shall remain acts of those persons, of the Commission, of the customs authorities, the EU Customs Authority, or of other authorities, even if they have been automated.

~~3. The Commission shall develop, implement and maintain the EU Customs Data Hub, including making publicly available the technical specifications to process data within it, and shall establish a data quality framework.~~

~~4.~~ The Commission is empowered to adopt delegated acts in accordance with Article 261 to **supplement and** amend the functionalities **and features** referred to in paragraph 1 **of this Article** to take account of new tasks conferred on the authorities referred to in Article 31 of this Regulation by Union legislation or to adapt those functionalities to the evolving needs of those authorities in implementing the customs legislation or other legislation applied by customs authorities. **Additionally, the Commission shall lay down, by means of delegated and implementing acts, the data that shall be available by the mechanisms provided for in paragraph 1b, letter (l).**

~~5.~~ The Commission shall lay down, by means of implementing acts:

(a) the technical arrangements for maintaining and employing the electronic systems that the Member States and the Commission have developed pursuant to Article 16(1) of Regulation (EU) No 952/2013;

(b) a work programme for the progressive phase out of **the** ~~those~~ systems **referred to in point a), and for the progressive phase in of the EU Customs Data Hub. The work programme shall be designed to ensure a seamless transition**.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 30

~~National a~~Applications ~~to use data~~ complementing ~~from~~ the EU Customs Data Hub

1. Member States may develop**:** ~~applications necessary to connect to the EU Customs Data Hub in order to provide data to and process data from the EU Customs Data Hub.~~

(a) additional applications within the EU Customs Data Hub in coordination with the EU Customs Authority or the Commission according to technical specifications jointly defined with the EU Customs Authority;

(b) applications necessary to connect to the EU Customs Data Hub in order to provide data to and process data from the EU Customs Data Hub.

2. Member States may request the EU Customs Authority to develop the applications referred to in paragraph 1, **points (a) and (b)**. ~~In that case,~~ **Where appropriate, the EU Customs Authority shall coordinate a co-financing among** ~~those~~ Member States ~~shall finance~~**. This** ~~the~~ development **may be partially funded by the EU Customs Authority**.

3. Where the EU Customs Authority develops an application in accordance with paragraph 2**:**

(a) that application ~~it~~ **shall be made** ~~make it~~ available to all Member States **that co-financed it or shall be made available free of charge to other Member States upon agreement of all co-financing Member States.**

(b) further developments and maintenance of that application shall be managed on the basis of a new co-financing agreement.

Article 30a

Technical means for cooperation

[Moved from Article 37]

1. The Commission, the EU Customs Authority and the customs authorities shall use the EU Customs Data Hub when exchanging **data** with the authorities and Union bodies referred to in Article 31~~(6) to (11)~~ in accordance with this Regulation.

2. ~~For the Union other formalities and systems listed in the Annex to Regulation (EU) 2022/2399, the EU Customs Data Hub shall ensure interoperability through the EU Single Window Environment for Customs established by that Regulation.~~

   [covered by Article 29 (f)]

3. Where authorities other than customs authorities or Union bodies make use of electronic means established by, used to achieve the objectives of, or referred to in Union legislation, the cooperation may take place by means of interoperability of those electronic means with the EU Customs Data Hub.

4. Where authorities other than customs authorities do not make use of electronic means established by, used to achieve the objectives of, or referred to in, Union legislation, those authorities may use the specific services and systems of the EU Customs Data Hub in accordance with Article 31.

5. The Commission shall adopt, by means of implementing acts, the ~~rules for~~ technical ~~modalities~~ **arrangements** for interoperability and connection ~~referred~~ **pursuant** to ~~in~~ paragraphs 3 and 4. Those implementing acts shall be adopted in accordance with the ~~advisory~~ **examination** procedure referred to in Article 262(4).

Chapter 3

Users

Article 30b

Users

1. **Access to the EU Customs Data Hub for processing the data referred to in Article 31 shall be reserved exclusively for persons or their representatives, carrying out customs formalities and to the duly authorised staff of the EU institutions, EU bodies, customs authorities and other national authorities of each Member State which are competent for the purposes laid down in Articles 31. Such duly authorised staff shall comply with the applicable security and confidentiality rules, including relevant national law.**

2. **That access shall be limited to the extent necessary for the performance of the tasks of those persons and authorities in accordance with those purposes and shall be proportionate to the objectives pursued.**

Chapter 4

Data

Article 31

Purposes of the processing of personal data and other data in the EU Customs Data Hub

1. **A** ~~P~~**p**erson may ~~have access to the~~ **process** data, including personal and commercially sensitive data~~, stored or otherwise~~ **available** in the EU Customs Data Hub, that was transmitted by or on behalf of that person, or that has been addressed to or intended for that person. Such ~~access~~ **processing** shall take place exclusively to **and to the extent strictly necessary for the following purposes**:

   (a) fulfil that person's ~~reporting~~ **rights and** obligations under customs legislation or other legislation applied by customs authorities~~, including determining the liability of any person for duty, fees and taxes that may be due in the Union~~; ~~and~~

   (b) demonstrate that person's compliance with customs legislation and other legislation applied by customs authorities.

2. A customs authority may process data, including personal and commercially sensitive data ~~stored or otherwise~~ available in the EU Customs Data Hub, exclusively and to the extent **strictly** necessary for the following purposes **and according to the rules laid down in an implementing act adopted pursuant to paragraph 14 of this Article**:

(a) to carry out its tasks in relation to the implementation of customs legislation**,** or other legislation applied by the customs authorities, including determining the liability of any person for ~~duty~~ **customs debt**, fees and taxes that may be due in the Union and verifying compliance with that legislation;

(b) to carry out its tasks in relation to controls and risk management as provided for in Title IV, **in particular to contribute to the effectiveness of customs controls and risk management**;

(c) to carry out the tasks necessary for the cooperation under the conditions provided for in Title XIII.

(d) **to carry out other purposes in accordance with national legislation.**

~~To ensure the effectiveness of customs controls, all customs authorities may receive and process the data resulting from a customs control where non-compliant goods have been detected.~~

3. The EU Customs Authority may process data, including personal and commercially sensitive data ~~stored or otherwise~~ **available** in the EU Customs Data Hub exclusively and to the extent **strictly** necessary for the following purposes **according to the rules laid down in an implementing act adopted pursuant to paragraph 14 of this Article**:

(a) to carry out its tasks on customs risk management as provided for in Title IV, Chapter 3;

(b) to carry out its tasks as provided for in Title XII, Chapter 2 **and in Title XI;**

(c) to carry out the tasks relevant for the cooperation as provided for in Title XIII.

4. The Commission may process data, including personal and commercially sensitive data ~~stored or otherwise~~ **available** in the EU Customs Data Hub exclusively and to the extent **strictly** necessary for the following purposes **according to the rules laid down in an implementing act adopted pursuant to paragraph 14 of this Article:**

(a) to carry out its tasks in relation to risk management as provided for in Title IV, Chapter 3;

(b) to carry out its tasks in relation to the tariff classification of goods, their origin and value and their customs surveillance in accordance with Titles I and IX;

(c) to carry out its tasks in relation to restrictive measures and crisis management in accordance with Title XI;

(d) to carry out its tasks in relation to the EU Customs Authority in accordance with Title XII;

(e) to carry out the tasks necessary for the cooperation under the conditions provided for in Title XIII;

(f) to assess and evaluate the performance of the customs union in accordance with Title XV, Chapter 1;

(g) to monitor the implementation and ensure the uniform application of customs legislation or other legislation applied by the customs authorities~~, including determining the liability of any person for duty, fees and taxes that may be due in the Union~~;

(h) to **develop,** produce **and disseminate European official** statistics and other analyses as provided for in Union legislation for which the data in the EU Customs Data Hub is necessary.

5. The European Anti-Fraud Office ('OLAF') may process data, including personal and commercially sensitive data ~~, stored or otherwise~~ **available** in the EU Customs Data Hub, exclusively and to the extent **strictly** necessary for carrying out its activities concerning customs matters pursuant to Article 1 of Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council, and Council Regulation (EC) No 515/97, under the conditions relating to data protection laid down in the aforementioned Regulations **according to the rules laid down in an implementing act adopted pursuant to paragraph 14 of this Article**.

~~6. The European Public Prosecutor's Office ('EPPO') may, upon request, access data, including personal and commercially sensitive data, stored or otherwise available in the EU Customs Data Hub, exclusively and to the extent necessary for carrying out its tasks pursuant to~~

~~Article 4 of Council Regulation (EU) 2017/1939[32], insofar as the conduct investigated by EPPO concerns customs and under the conditions determined in an implementing act adopted pursuant to paragraph 14 of this Article.~~ *[Moved to Title XIII]*

7. The tax authorities of the Member States may process data, including personal and commercially sensitive data ~~, stored or otherwise~~ **available** in the EU Customs Data Hub, exclusively and to the extent **strictly** necessary to determine the liability of a~~ny~~ **specific** person for **excise** duty, fees and taxes that may be due in the Union in connection with ~~the~~ **specific** relevant goods and **according to the rules laid down** ~~and under the conditions determined~~ in an implementing act adopted pursuant to paragraph 14 of this Article.

7a. The national statistical authorities of the Member States may process data in the EU Customs Data Hub, including personal data and commercially sensitive data, exclusively and to the extent strictly necessary for the development, production and dissemination of European and national official statistics according to the rules laid down in an implementing act adopted pursuant to paragraph 14 of this Article.

8. The competent authorities **of the Member State** as defined in Article 3, point (3), of Regulation (EU) 2017/625 of the European Parliament and of the Council[33] may ~~access~~ **process** data, including personal and commercially sensitive data ~~, store or otherwise~~ **available** in the EU Customs Data Hub exclusively and to the extent **strictly** necessary for enforcing Union legislation governing the placing on the market or the safety of food, feed and plants and for cooperating with customs authorities to minimise the risks that non-compliant products enter the Union **according to the rules laid down** ~~and under the~~

~~[32] Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).~~

[33] Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation)(OJ L 95, 7.4.2017, p. 1).

~~conditions determined~~ in an implementing act adopted pursuant to paragraph 14 of this Article.

9. The market surveillance authorities designated by Member States in accordance with Article 10 of Regulation (EU) 2019/1020 may process data, including personal and commercially sensitive data ~~, stored or otherwise~~ **available** in the EU Customs Data Hub, exclusively and to the extent necessary for enforcing Union legislation governing the placing on the market or the safety of products and for cooperating with customs authorities to minimise the risks that non-compliant goods enter the Union, and **according to the rules laid down** ~~and under the conditions determined~~ in an implementing act adopted pursuant to paragraph 14 of this Article.

10. ~~The European Union Agency for Law Enforcement Cooperation (Europol) may, upon request, access data, including personal and commercially sensitive data, stored or otherwise available in the EU Customs Data Hub, exclusively and to the extent necessary to perform its tasks in accordance with Article 4 of Regulation (EU) 2016/794 of the European Parliament and of the Council as long as those tasks concern customs-related matters and under the conditions determined in an implementing act adopted pursuant to paragraph 14 of this Article.~~ *[Moved to Title XIII]*

~~11. Other national authorities and Union bodies, including the European Border and Coast Guard Agency (Frontex), may process non-personal data stored or otherwise available in the EU Customs Data Hub under the conditions determined in an implementing act adopted pursuant to paragraph 14 of this Article:~~

(b) ~~carry out their tasks relevant for the fulfilment of customs formalities;~~

(b) ~~carry out the tasks entrusted to those authorities by Union legislation;~~

(c) ~~carry out their tasks relevant for the performance of the Union-level risk management activities referred to in Article 52.~~ *[Moved to Title XIII]*

12. Until **31 December 2037** ~~the date set out in Article 265(3)~~, **the EU Customs Authority,** the Commission, **and** OLAF ~~and the EU Customs Authority~~ once it is established shall, exclusively for the purposes stated in paragraphs **3,** 4, **and** 5 ~~and 6~~, be able to process data, including personal data, from the existing electronic systems for the exchange of

information developed by the Commission **and Member States** pursuant to Regulation (EU) No 952/2013.

~~13. The Commission is empowered to adopt delegated acts in accordance with Article 261 to amend paragraphs 2 to 4 to clarify and complement the purposes laid down therein in light of the evolving needs in implementing customs legislation or other legislation.~~

14. The Commission shall lay down, by means of implementing acts, rules ~~and modalities~~ for ~~accessing or~~ processing data~~, including personal and commercially sensitive data, stored or otherwise available~~ in the EU Customs Data Hub by the authorities referred to in paragraphs **2**~~6~~ to **9** ~~11~~. In determining those rules ~~and modalities,~~ the Commission shall~~,~~ for each authority or category of authorities:

(a) assess the existing safeguards applied by the authority concerned to ensure that the data is processed in accordance to the purpose;

(b) ensure the proportionality and the necessity of the processing in relation to **the relevant purpose, taking into account that, except for control and risk management purposes, only data addressed to, intended for or relating to that authority or category of authorities shall be processed** ~~the purpose~~;

(ba) specify the set of data processing operations that are necessary to achieve the relevant purpose;

(c) determine the specific categories of data, which the authority may ~~have access to or~~ process;

(d) ~~consider the need for the authority concerned to designate a specific contact point, person or persons or to provide additional safeguards;~~

(e) assess the need to restrict the subsequent sharing of the data;

(f) ~~determine the conditions and modalities for requests for access to data, including personal or commercially sensitive data and which of the joint controllers will grant the access to the EU Customs Data Hub~~.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 32

Personal data in the EU Customs Data Hub

1. The personal data of the following categories of data subjects may be processed in the EU Customs Data Hub exclusively and to the extent necessary for the purposes laid down in Article 31:

   (a) data subjects registered or applying for registration in accordance with Article 19 **(1), (3) or (4)**;

   (b) data subjects who are **not required to register with** the customs authorities **in accordance with Article 19(4) and whose data are required for the fulfilment of the purposes referred to in Article 31(1) to (4)**;

   (c) data subjects whose personal information is contained in the supporting documents referred to in Article 40, or in any additional evidence required for the fulfilment of the obligations imposed by customs legislation and other legislation applied by the customs authorities;

   (d) data subjects whose personal data is contained in the data collected for risk management purposes pursuant to Article 50(3), point (a);

   (e) authorised staff of customs authorities, of authorities other than customs or any other relevant authority or authorised body, whose personal information is necessary to ensure appropriate control and supervision of the access to the information in the EU Customs Data Hub;

   (f) staff or authorised third parties working on behalf of the Commission, the EU Customs Authority or other Union bodies authorised to access the EU Customs Data Hub.

2. The following categories of personal data may be processed in the EU Customs Data Hub in accordance with Article 31:

   (a) personal data in the EU Customs Data model referred to in Article 36, **and those collected for risk management purposes pursuant to Article 50(3), point (a)**.**namely:**

(i) identification data

(ii) contact data (telecommunication and address information)

(iii) identity document data

(iv) financial and payment data

(v) location and transport data

(vi) employment / position data

(vii) data contained in powers of attorney or supporting documents

(viii) employee data

(ix) electronic identification data

(x) customs representation data

(xi) customs representative identification data

(xii) customs transaction data

(xiii) user technical data

(xiv) law infringements and offences data

(xv) control results and mitigation results data;

~~(b) personal data included in the data collected for risk management purposes pursuant to Article 50(3), point (a);~~

(c) personal data required to ensure a proper identification of the staff authorised to process data in the EU Customs Data Hub referred to in paragraph 1, points (e) and (f)~~;~~**, namely:**

(i) identification data

(ii) contact data (telecommunication and address information)

(iii) identity document data

(iv) employment / position data

(v) data contained in powers of attorney or supporting documents

(vi) employee data

(vii) electronic identification data

(viii) user technical data.

~~3. The Commission is empowered to adopt delegated acts in accordance with Article 261 to supplement the categories of data subjects and the categories of personal data referred to in paragraphs 1 and 2 of this Article to take account of developments in information technology and in the light of the state of progress in the information society.~~

Article 33

Retention period of personal data in the EU Customs Data Hub

1. Personal data in the EU Customs Data Hub may be stored ~~by means of a specific service~~ **no longer than necessary for the purpose of the processing and in any case** for a maximum period of 10 years, starting from the date on which that data is recorded in the service. **In** ~~T~~**t**he cases provided for in Article 48 and **in** investigations launched by OLAF, EPPO or by Member States' authorities, infringement procedures launched by the Commission and administrative and judicial proceedings involving personal data **of the categories referred to in Article 32(2), points (a) and (c), that data may be kept for a period longer than 10 years if necessary for the purpose of those procedures** ~~shall have a suspensive effect on the retention period with regard to that data.~~

2. After the period of time provided for in paragraph 1, personal data shall be erased or anonymised, according to the circumstances.

2a. The controller shall carry out periodical reviews of the data stored in the EU Customs Data Hub to ensure that the personal data is not retained longer than necessary.

3. The Commission shall lay down, by means of implementing acts, **the circumstances referred to in paragraph 2 and** the rules for anonymising the personal data after the

expiry of the retention period. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).**

Article 34

Roles and responsibilities for personal data processed in the EU Customs Data Hub

1. The customs authorities of the Member States, the Commission and the EU Customs Authority shall be considered joint controllers for the personal data processing in the EU Customs Data Hub for the purposes of risk management and cooperation, as referred to in ~~Article 31~~**paragraph** (2), points (b) and (c), ~~Article 31~~**paragraph** (3)~~, points (a) and (c), and~~ **paragraph** ~~Article 31~~(4), points (a) and (e) **and paragraphs 5 to 9 of Article 31**.

2. Each customs authority alone shall be considered controller in relation to the personal data it processes for the purposes referred to in Article 31(2), point (a) **and (d)**. **Where two or more customs authorities are involved in carrying out the tasks referred to in Article 31 paragraph 2, point (a) they shall be considered joint controllers.**

3. The Commission shall be considered sole controller in relation to the personal data it processes for the purposes referred to in Article 31(4), points (~~c~~**b**) **to** (d) and (f) to (**h**~~g~~).

4. Until **31 December 2037**~~the date set out in Article 265(3)~~, the Commission, OLAF, and the EU Customs Authority shall be considered sole controllers in relation to the data processing referred to in Article 31(12).

5. The joint controllers referred to in paragraph 1 shall:

   (a) work together to process the request(s) made by the data subject(s) in a timely manner and to facilitate the exercise of the rights of data subjects;

   (b) assist each other in matters involving the identification and handling of any data breach related to the joint processing;

   (c) exchange the relevant information necessary to inform data subjects pursuant to Chapter III, Section 2 of Regulation (EU) 2016/679, Chapter III, Section 2 of Regulation (EU) 2018/1725, and Chapter III of Directive (EU) 2016/680, where applicable;

(d) ensure and protect the security, integrity, availability and confidentiality of the personal data processed jointly pursuant to Article 32 of Regulation (EU) 2016/679, Article 33 of Regulation (EU) 2018/1725, and Article 25 of Directive (EU) 2016/680, where applicable.

~~6.~~ The Commission shall lay down, by means of implementing acts, the respective roles and relationships of the joint controllers vis-à-vis the data subjects, in compliance with Article 26 of Regulation (EU) 2016/679 and Article 28 of Regulation (EU) 2018/1725. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 35

Restriction of data subject's rights

1. Where the exercise by a data subject of the right of access and right to restriction of processing referred to in Articles 15 and 18 of Regulation (EU) 2016/679 and Articles 17 and 20 of Regulation (EU) 2018/1725, or the communication of a data breach referred to in Article 34(1) of Regulation (EU) 2016/679 and Article 35(1) of Regulation (EU) 2018/1725, would jeopardise an ongoing investigation **or preparatory proceedings** concerning a natural person in the field of customs, the performance of customs controls or the management of a specific risk identified in relation to a natural person in the field of customs, the customs authorities~~, the EU Customs Authority and the Commission~~ may~~, in accordance with Article 23(1), points (c), (e), (f) and (h), of Regulation (EU) 2016/679, and the Commission and the EU Customs Authority may, in accordance with Article 25(1), points (a), (), (e), and (g), of Regulation (EU) 2018/1725,~~ restrict wholly or partly those rights as long as the restriction is necessary and proportionate.

2. **In connection with the activities referred to in paragraph 1, the customs authorities, the Commission, and the EU Customs Authority may restrict the exercise of data subjects' rights in the following scope:**

(a) postponement or exemption from the information obligation referred to in Articles 12 to 14 of Regulation (EU) 2016/679 and Articles 14 to 16 of Regulation (EU) 2018/1725;

(b) restriction of the right of access to personal data, as provided for in Article 15 of Regulation (EU) 2016/679 and Article 17 of Regulation (EU) 2018/1725;

(c) suspension of the right to rectification and erasure of data, as provided for in Articles 16 and 17 of Regulation (EU) 2016/679 and Articles 18 and 19 of Regulation (EU) 2018/1725;

(d) restriction of the right to data portability, as provided for in Article 20 of Regulation (EU) 2016/679, and the right to object, as provided for in Article 21 of Regulation (EU) 2016/679 and Article 22 of Regulation (EU) 2018/1725, for the period necessary to ensure the effectiveness of the ongoing control or investigative proceedings.

~~The customs authorities, the Commission and the EU Customs Authority shall assess the necessity and proportionality of the restrictions referred to in paragraph 1 on a case-by-case basis before they are applied, considering the potential risks to the rights and freedoms of the data subject~~.

3. When processing personal data received from other organisations in the context of its tasks, the customs authorities, the EU Customs Authority or the Commission, when acting as a controller or a joint controller, shall consult those organisations on potential grounds for ~~imposing the~~ restrictions as referred to in paragraph 1, and the necessity and proportionality of such restrictions before applying a restriction referred to in paragraph 1.

4. Where the customs authorities, the Commission or the EU Customs Authority restrict, wholly or partly, the rights referred to in paragraph 1, they shall take the following steps:

(a) inform the data subject concerned, in ~~its~~ **their** reply to the request, of the restriction applied and of the ~~principal~~ reasons therefore, and of the possibility of lodging a complaint with the national data protection authorities or the European Data Protection Supervisor or of seeking a judicial remedy in a national court or the Court of Justice of the European Union; and

(b) record the reasons for the restriction, including an assessment of the necessity for and proportionality of the restriction, and the reasons why providing access would jeopardise risk management and customs controls.

The provision of information referred to in point (a) of the first subparagraph may be deferred, omitted or denied in accordance with Article 25(8) of Regulation (EU) 2018/1725, or where the provision of that information would be prejudicial to the purposes of the restriction.

~~5.~~ The customs authorities, the Commission or the EU Customs Authority shall include a section in the data protection notices published on its website/intranet providing general information to data subjects on the ~~potential for~~ **possibility of** restriction of data subjects' rights.

~~6.~~ The Commission shall lay down, by means of implementing acts, the safeguards to prevent the abuse and unlawful access or transmission of the personal data in respect of which restrictions apply or could be applied. Such safeguards shall include the definition of roles, responsibilities and procedural steps, and due monitoring of restrictions and a periodic review of their application, which shall take place at least every 6 months. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 35a

Coordinated supervision by the European Data Protection Supervisor and national supervisory authorities

The European Data Protection Supervisor and the national supervisory authorities, acting within the scope of their respective competences, shall cooperate actively within the framework of their responsibilities to ensure coordinated supervision of the operation of the EU Customs Data Hub in accordance with Article 62 of Regulation (EU) 2018/1725.

Article 36

EU Customs Data Model

1. The Commission ~~is empowered to adopt implementing acts in accordance with Article 262(4) to supplement this Regulation in order to~~ **shall specify by means of implementing acts** ~~determine the~~ data, **including its format and code,** required for the fulfilment of the purposes referred to in Article 31(1) to (4). Those data requirements shall constitute the EU

Customs Data Model. **Those implementing act shall be adopted in accordance with the examination procedure referred to in Article 262(4).**

2. **Member States may specifically mark, within the EU Customs Data Model, information of goods which disclosure would harm their essential national security interests.**

Where this data is transmitted to the EU Customs Data access to it shall be strictly limited to the competent national authorities of the Member States concerned and only for the implementation of customs legislation.

~~*Article 37*~~

~~**Technical means for cooperation**~~

[Moved to Article 30a]

~~*Article 38*~~

~~**Exchange of additional information between customs authorities and economic operators**~~

[Moved to Title I, Article 18d]

~~*Article 39*~~

~~**Provision of information by the customs authorities**~~

[Moved to Title I, Article 18e]

Chapter 5

Other provisions

Article 39a

Responsibility for the EU Customs Data Hub

1. **The Commission shall be responsible for the development, operation and maintenance of the EU Customs Data Hub.**

2. **As soon as the EU Customs Authority is operational, and after consulting the Member States, the Commission may entrust the responsibilities for the EU Customs Data Hub to the EU Customs Authority.**

3. **The responsibilities for EU Customs Data Hub in paragraph 1 include:**

   (a) **the establishment of technical requirements for the performance of the EU Customs Data Hub, which shall include service levels of performance, availability and resilience;**

   (b) **the establishment of a data quality framework;**

   (c) **the development and maintenance of the EU Customs Data Hub;**

   (d) **the implementation of the EU Customs Data Hub functionalities and features provided for in Article 29(1);**

   (e) **the elaboration, where appropriate, in cooperation with the Member States, of the technical specifications to process data within the EU Customs Data Hub;**

   (f) **the training of and support to EU Customs Data Hub users.**

Article 39b

Business continuity

1. **Infrastructure sites of EU Customs Data Hub shall be geographically dispersed to ensure the operation of the EU Customs Data Hub in the event of failure of one of its sites.**

2. **The Commission and the EU Customs Authority shall ensure that business continuity measures are in place, including redundancy, failover mechanisms and data recovery protocols. These measures should ensure that the EU Customs Data Hub shall operate even in situations of serious crises.**

   To that end, the Commission shall adopt implementing acts providing for the procedures to follow in the event of unavailability or failure of the EU Customs Data

Hub. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

3. The Commission or the EU Customs Authority, where the responsibility for the EU Customs Data Hub is entrusted to it, shall carry out procedures and technical solutions to reinforce the uninterrupted availability of the EU Customs Data Hub.

Article 39c

Derogations

1. In exceptional and duly justified circumstances the Commission may, on a request made by one or several Member States, adopt implementing decisions authorising those Member States to use functionally equivalent electronic services or systems other than those implemented in the EU Customs Data Hub or to use other than electronic data-processing techniques for functionalities implemented in the EU Customs Data Hub.

Such a decision:

(a) shall not affect the functioning of EU Customs Data Hub and the completeness of the stored data unless other than electronic data-processing techniques are used;

(b) shall be justified by the specific situation of the Member State or Member States requesting it;

(c) shall be limited in time, reviewed periodically and revoked where no longer justified;

(d) shall be granted only if it does not affect the exchange of information between the requesting Member State and other Member States and the EU Customs Authority or the exchange and storage of information in other Member States for the purpose of the application of the customs legislation;

(e) shall not in no case result in the permanent exclusion of the requesting Member State from using the EU Customs Data Hub.

That implementing decision may be extended in duly justified cases on the request made by the Member State or Member States concerned.

~~*Article 40*~~

~~Information and supporting documents~~

[Moved to Title V, Article 59b]

Title IV

CUSTOMS SUPERVISION, ~~CUSTOMS CONTROLS AND~~ RISK MANAGEMENT AND CUSTOMS CONTROLS

Chapter 1

Customs supervision

Article 41

Customs supervision

1. Goods to be brought into ~~or to be taken out of~~ the customs territory of the Union shall be under customs supervision and may be subject to **risk mitigation measures** ~~customs controls~~ **based on the data on those goods provided or made available in the EU Customs Data Hub**.

1a. Goods brought into the customs territory of the Union shall be under customs supervision from the time of their entry in the customs territory of the Union.

1b. Union goods placed under the export or outward processing procedure shall remain under customs supervision until they are taken out from the customs territory of the Union, abandoned to the State or destroyed, or until the customs declaration or data provided or made available for export or outward processing procedure are invalidated.

1c. Union goods placed under internal transit procedure shall remain under customs supervision until the customs authorities discharge the procedure in accordance with Article 105(2).

1d. Where applicable, in cases referred to paragraph 1, 1a, 1b and 1c goods shall be subject to other legislation applied by the customs authorities.

1e. Goods shall not be removed from the customs supervision without the permission of the customs authorities.

2. Goods brought into the customs territory of the Union shall remain under such supervision **until:** ~~for as long as is necessary to determine their customs status~~

(a) in the case of Union goods, without prejudice to Article 135(5), their customs status is confirmed;

(b) in the case of non-Union goods, their customs status is changed, or the goods are taken out of the customs territory of the Union or destroyed.

~~3. Non-Union goods shall remain under customs supervision until their customs status is changed, or they are taken out of the customs territory of the Union or they are destroyed.~~

~~4. Upon entry into the customs territory of the Union, Union goods shall be subject to customs supervision until their customs status is confirmed, unless they are placed under the end-use procedure.~~

~~5. Union goods placed under the end-use procedure shall be subject to customs supervision in the following cases:~~

(a) ~~where the goods are suitable for repeated use, for a period not exceeding 2 years after the date of their first use for the purposes laid down for applying the duty exemption or reduced rate of duty;~~

(b) ~~until the goods have been used for the purposes laid down for the application of the duty exemption or reduced rate of duty;~~

(c) ~~until the goods have been taken out of the customs territory of the Union, destroyed or abandoned to the State;~~

(d) ~~until the goods have been used for purposes other than those laid down for the application of the duty exemption or reduced duty rate and the applicable import duty has been paid.~~

~~6. Union goods released for export or placed under outward processing shall be subject to customs supervision until they are taken out of the customs territory of the Union, are abandoned to the State or destroyed or the customs declaration or relevant data on the export is invalidated.~~

~~7. Union goods placed under internal transit shall be subject to customs supervision until they arrive to their destination in the customs territory of the Union.~~

8. The holder of goods under customs supervision may, with the permission of the customs authorities, at any time examine the goods or take samples, in particular in order to determine their tariff classification, customs value or customs status.

Article 42

Competent customs ~~offices~~ authority

[To be considered moved to Title I, Chapter 2a]

1. *[Commission text moved to Article 42a]*

The competent customs authority shall be as follows:

(a) except for specific cases, for the decisions relating to the application of the customs legislation in accordance with Title I chapter 3, the customs authority of the Member State of establishment of the applicant;

(b) for the activities to be carried out under Article 80 to 82, the customs authority competent for the customs office of first entry;

(c) for the activities to be carried out under Article 83 to 85, the customs authority competent for the customs office of first entry or the customs authority of the Member State where the goods are unloaded or transhipped, depending on the specific situation as referred to in paragraphs (1), (1a) and (1b) of Article 83;

(d) for the activities to be carried out under Article 86 and Title V the customs authority of the Member State where the goods:

(i) to be in temporary storage are located, including the place of ending of the transit procedure, depending on the specific situation; or

(ii) to be placed under a customs procedure are located;

(e) for the activities to be carried out under Title VII, with the exclusion of the activities linked to the placement of the goods in the customs procedure, the

customs authority responsible for the place where the goods leave the customs territory of the Union.

2. By way of derogation from paragraph 1d:

(a) for the release for free circulation in case of distance sales where deemed importer is not making use of the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC, the customs authority of the Member State where the goods are to be delivered shall be responsible;

(b) for cases where the importer or the exporter is the Trust and Check trader, the customs authority of the Member State of establishment of such importer, exporter or their customs representative shall be responsible;

(c) where the declarant has been authorised to use centralised clearance in accordance with Article 72, the customs authority of the Member State of establishment of that declarant.

~~2.~~ *[Moved to Article 42a]*

~~3. The competent customs office for supervising the placement of the goods under a customs procedure shall be the customs office responsible for the place where the importer or the exporter is established.~~

~~By way of derogation from the first subparagraph, the competent customs office for supervising the placement of the goods under a customs procedure in relation to importers and exporters other than Trust and Check traders and deemed importers shall be the customs office responsible for the place where the customs declaration has been lodged or would have been lodged in accordance with Article 63(4) but for the modification concerning the method of providing information laid down in Article 63(2).~~

~~4. The customs office responsible for the place of establishment of the Trust and Check trader or the deemed importer shall:~~

(a) ~~supervise the placing of the goods under the customs procedure concerned;~~

(b) ~~carry out the customs controls for the verification of the information provided, and request additional supporting documents if needed;~~

(c) ~~where justified, request the customs office responsible for the place of dispatch or final destination of the goods to carry out a customs control;~~

(d) ~~where there is a risk that requires action as soon as the goods arrive to the customs territory of the Union or before they leave the customs territory of the Union, request the customs office responsible for the place where the goods enter or exit to perform customs controls;~~

(e) ~~carry out the customs formalities for the recovery of the amount of import or export duty corresponding to any customs debt.~~

~~5. The customs office responsible for the place of dispatch or final destination of the goods, or, pursuant to paragraph 4, point (d) for the place where the goods enter or exit the customs territory of the Union, shall carry out the customs controls requested by the customs office responsible for the place of establishment of the importer and provide that customs office with the results of these controls, without prejudice to its own controls pertaining to goods brought into or taken out of the customs territory of the Union.~~

6. The competent customs ~~offices~~ **authorities** shall have access to the information necessary for ensuring the correct application of the legislation.

6a. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining the specific cases referred to in paragraph 1, point (a) of this Article.

7~~8~~. The Commission shall specify, by means of implementing acts, **the tasks that the competent customs authorities shall be responsible for under this Article** ~~the procedural rules for determining the competent customs offices other than the one referred to in paragraph 3, including customs offices of entry and customs offices of exit and the procedural rules for cooperation between customs offices as referred to in paragraph 5~~. These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 42a

Operational rules on the competent customs offices

[To be considered moved to Title I, Chapter 2a]

[Moved from Article 42 (1) and (2)]

1. Except where other legislation applied by the customs authorities provides otherwise, Member States shall determine the location and competence of their customs offices.

2. Member States shall ensure that official opening hours of ~~those~~ **their customs** offices are reasonable and appropriate, taking into account the nature of the traffic and of the goods and the customs procedures under which they are to be placed, so that the flow of international traffic is neither hindered nor distorted.

[Chapter 2 and Chapter 3 switch/swap places]

Chapter ~~2~~ 3

Customs controls

Article 43

Customs controls

1. Without prejudice to the provisions in Chapter ~~3~~ **2** of this Title, the customs authorities may carry out any customs controls they deem necessary, including random controls.

2. Customs controls may in particular consist of examining goods, taking samples, verifying the authenticity, integrity, accuracy and completeness of the data provided **or made available** by any person and the existence, authenticity, accuracy and validity of documents, examining the accounts and commercial records and data sources of economic operators, inspecting means of transport, inspecting luggage and other goods carried by or on persons and carrying out official enquiries and other similar acts. When necessary, customs controls include processing of the electronic data, including ~~data~~ **the** source of the data provided **or made available** to the EU Customs Data Hub.

3. Where, in respect of the same goods, controls other than customs controls are to be performed by other authorities, customs authorities shall, in close cooperation with those other authorities, endeavour to have those controls performed, wherever possible, at the same time and place as customs controls (one-stop-shop), with customs authorities **carrying out the control** having the coordinating role.

4. **The customs authorities may decide to carry out controls at a place designated by them.**

Article 44

Verification of the data provided or made available

1. **From the moment the data is provided or made available by persons to the customs authorities, those authorities, for the purpose of verifying the accuracy of such data, may** ~~The customs authorities may, for the purpose of verifying the accuracy of the data provided by persons to the customs authorities~~:

   (a) examine the data**,** and the supporting documents, including accessing data sources held by the economic operators or stored on their behalf by service providers;

   (b) require the provision of other documents or data, including data held by the economic operators or stored on their behalf by service providers;

   (c) require access to the electronic records of the person;

   (d) examine the goods;

   (e) take samples for analysis or for detailed examination of the goods.

~~2.~~ *[Moved to Article 45 (0)]*

3. The Commission shall specify, by means of implementing acts, the measures on the verification of information referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 45

Examination and sampling of goods

0. The customs authorities may at any time require goods to be unloaded and unpacked for the purpose of examining them, taking samples or examining the means of transport carrying them.*[Moved from Article 44 (2)]*

1. Transport of the goods to the places where they are to be examined and where samples are to be taken, and all the handling necessitated by such examination or taking of samples,

shall be carried out by or under the responsibility of the importer, exporter~~, or~~, carrier **or holder of the transit procedure**. The costs incurred shall be borne by the importer~~, or~~, exporter**, carrier or holder of the transit procedure**.

2. The importer, exporter~~, or~~, carrier **or holder of the transit procedure** shall have the right to be present or represented when the goods are examined and when samples are taken. Where the customs authorities have reasonable grounds for so doing, they may require the importer, exporter~~, or~~, carrier **or holder of the transit procedure** to be present or represented when the goods are examined or samples are taken or to provide them with the assistance necessary to facilitate such examination or taking of samples.

3. Provided that samples are taken in accordance with the provisions in force, the customs authorities shall not be liable for payment of any compensation in respect thereof but shall bear the costs of their analysis or examination.

4. Where only part of the goods is examined, or samples are taken, the results of the partial examination, or of the analysis or examination of the samples, shall be taken to apply to all the **same** goods in the same consignment.

However, the importer~~ or the~~, exporter**, carrier or holder of the transit procedure** may request a further examination or sampling of the goods if he or she considers that the results of the partial examination, or of the analysis or examination of the samples taken, are not valid as regards the remainder of the goods concerned. The request shall be granted provided that the goods have not been released or, if they have been released, that the importer~~ or the~~, exporter**, carrier or holder of the transit procedure** proves that they have not been altered in any way.

Notwithstanding the above, the importer, exporter, carrier or holder of the transit procedure may, at his or her own expense, request additional examination or sampling.

5. The Commission shall specify, by means of implementing acts, measures on the examination and sampling of goods referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 46

Results of the verification

1. The results of verifying the data provided **or made available** by the importer, exporter ~~or~~**,** carrier **or holder of the transit procedure** shall be used for the application of the provisions governing the customs procedure under which the goods are placed **and other obligations established in customs legislation**.

2. Where the data provided **or made available** is not verified, paragraph 1 shall apply on the basis of the data provided **or made available** by the importer ~~or~~**,** ~~the~~ exporter**, carrier or holder of the transit procedure**.

3. The results of the **verifying** made by the customs authorities shall have the same conclusive force throughout the customs territory of the Union.

3a. In the case of non-conformity, the results of the verifying of the goods contained in a consignment shall be applicable to goods which at least have the same tariff classification and of the same origin contained in other consignments.

This paragraph shall not apply where the importer provides proof, established subsequently to the examination of the goods, that the goods contained in such other consignments are compliant with the applicable legislation.

4. The Commission shall specify, by means of implementing acts, measures on the results of the ~~verification~~ **examination** referred to in this Article**, including on the application of verification results to other goods and submission evidence relating to the goods being verified**. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 47

Identification measures

1. The customs authorities or, where appropriate, economic operators authorised to do so by the customs authorities, shall take the measures necessary to identify the goods where identification is required in order to ensure compliance with the provisions governing the relevant customs procedure under which the goods are intended to be placed.

Those identification measures shall have the same legal effect throughout the customs territory of the Union.

2. Means of identification affixed to the goods, packaging or means of transport ~~shall be removed or destroyed only~~ by the customs authorities or **by other persons**, where they ~~are~~ **have been** authorised to do so by the customs authorities, **may be removed or destroyed only** by **customs authorities or by those** other persons, unless, as a result of unforeseeable circumstances or force majeure, ~~their~~ **the** removal or destruction **of those means** is ~~essential~~ **necessary** to ensure the protection of the goods or the means of transport.

3. The Commission shall specify, by means of implementing acts, which measures constitute the identification measures referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 48

Post-release controls

1. For the purpose of customs controls, the customs authorities may, after the release of the goods:

   (a) verify the accuracy and completeness of the data provided **or made available** and the existence, authenticity, accuracy and validity of any supporting document;

   (b) examine the accounts of the economic operator and other records relating to the operations in respect of the goods in question and prior or subsequent commercial operations involving those goods;

   (c) examine such goods and**/or** take samples where it is still possible for them to do so;

   (d) access operators' systems to verify compliance with the obligation to provide or make available data to the EU Customs Data Hub.

2. Such controls may be carried out at the premises of the importer or exporter, or of the holder of the goods, or of any other person directly or indirectly involved in those operations in a business capacity or of any other person in possession of those documents and data ~~for business purposes~~.

3. The Commission shall specify, by means of implementing acts, the measures that shall apply to the controls referred to in paragraph 1, including in cases where operations take place in more than one Member State, and on the application ~~of audit and other~~ appropriate methodologies in the context of such controls. Those implementing acts shall be adopted in accordance with Article 262(4).

Article 48a

Audits

1. For the purpose of audits, the customs authorities may, after the release of the goods:

(a) conduct an examination of the economic operator's management, organisation, internal procedures or internal systems, such as accounting and logistics in order to gather, assess and provide evidence on the economic operator's compliance with relevant rules and requirements applied by customs authorities;

(b) conduct an extensive analysis of the economic operator's operations, processes, systems and internal controls.

2. Audits may be carried out at the premises of the importer, exporter, holder of the goods or of any other person directly or indirectly involved in those operations in a business capacity or of any other person in possession of those documents and data.

3. The Commission shall specify, by means of implementing acts, the measures that shall apply to the audits referred to in paragraph 1, including in cases where operations take place in more than one Member State, and on the application appropriate methodologies in the context of such audits. Those implementing acts shall be adopted in accordance with Article 262(4).

Article 49

Intra-Union flights and sea crossings

1. Customs controls or formalities shall be carried out in respect of the cabin and hold baggage of persons either taking an intra-Union flight, or making an intra-Union sea crossing, only where the customs legislation provides for such controls or formalities.

2. Paragraph 1 shall apply without prejudice to:

(a) security and safety;

(b) controls linked to other legislation applied by the customs authorities.

3. The Commission shall determine, by means of implementing acts, the ports or airports where customs controls and formalities are applied to the following:

(a) the cabin and hold baggage of persons:

(i) taking a flight in an aircraft which comes from a non-Union airport and which, after a stopover at a Union airport, continues to another Union airport;

(ii) taking a flight in an aircraft which stops over at a Union airport before continuing to a non-Union airport;

(iii) using a maritime service provided by the same vessel and comprising successive legs departing from, calling at or terminating in a non-Union port;

(iv) on board pleasure craft and tourist or business aircraft;

(b) cabin and hold baggage:

(i) arriving at a Union airport on board an aircraft coming from a non-Union airport and transferred at that Union airport to another aircraft proceeding on an intra-Union flight;

(ii) loaded at a Union airport onto an aircraft proceeding on an intra-Union flight for transfer at another Union airport to an aircraft whose destination is a non-Union airport.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

[Chapter 2 and Chapter 3 switch/swap places]

Chapter ~~3~~ 2

Customs risk management

Article 50

General principles

1. The **EU Customs Authority, the Commission and** customs authorities shall determine, based on risk management and primarily on automated risk analysis, **in accordance with their roles as laid down in this Chapter**, whether goods, **persons,** economic operators**, means of transport** and supply chains will be subject to ~~customs controls or other~~ **risk** mitigation measures, and if so, where and when those ~~controls and other~~ **risk** mitigation measures will take place.

2. The ~~Commission, the~~ EU Customs Authority and the customs authorities shall use customs risk management to differentiate between the levels of all risks associated with goods, **persons,** economic operators**, means of transport** and supply chains in accordance with the provisions in this chapter.

3. Customs risk management shall include at least the following activities, where appropriate organised on a cyclical basis:

   (a) collecting, processing, exchanging and analysing **relevant** data available in the EU Customs Data Hub and from other sources **explicitly identified in national or Union law**, including ~~relevant~~ data from authorities other than customs authorities;
   (b) identifying, analysing, assessing, or predicting risks, including based on statistical and predictive methods and random controls;
   (c) developing the necessary measures to manage the risks, including establishing common priority control areas, common risk criteria and standards, and supervision strategies;
   (d) prescribing and taking action, including selecting appropriate **risk** mitigation measures ~~and customs controls~~;
   (e) gathering feedback on the implementation of risk management and control activities;

(f) monitoring and reviewing risk management and control activities with a view to improving them.

~~4. Mitigation measures may include the following:~~

~~(a) instructing the carrier or exporter that the goods shall not be loaded or transported;~~

~~(b) requesting additional information or action;~~

~~(c) identifying situations where action by another customs authority may be appropriate;~~

~~(d) recommending the most appropriate place and measures to carry out a control;~~

~~(e) determining the route to be used, and the time-limit to be respected when goods are to be taken out of the customs territory of the Union.~~

Article 51

Role ~~s and responsibilities~~ of the Commission

1. ~~The Commission may establish common priority control areas and common risk criteria and standards for any type of risk, including but not limited to risks relating to financial interests.~~

The Council, taking into account the position that the Commission may have taken on the EU Customs Authority recommendations referred to in Article 208 (2a), may identify specific areas in the domain of other Union legislation applied by the customs authorities that warrant priority treatment for customs risk management and controls.

2. ~~Without prejudice to paragraph 6, point (f), of this Article and to Article 43, the Commission may identify specific areas in the domain of other legislation applied by the customs authorities that warrant priority treatment for customs risk management and controls.~~

The Commission, taking into consideration the EU Customs Authority recommendations elaborated pursuant to Article 208 (2a) and the position the Council takes on these, may:

(a) **establish common priority control areas and common risk criteria and standards for any type of risk, taking into account, where available, the preparatory work by the EU Customs Authority in accordance with Article 51a (1b) and in consultation with the Member States, without prejudice to the role of customs authorities pursuant to Article 51b (1) point (f) and to Article 43,**

~~3. The Commission may:~~

(b)~~(a)~~ provide policy orientations to the EU Customs Authority on risk management projects and supervision strategies;

(c)~~(b)~~ request the EU Customs Authority to carry out a periodic or ad-hoc evaluation of the implementation of any risk management activities;

(d)~~(c)~~ request the EU Customs Authority to prepare a supervision strategy for any risk and to conduct **ad hoc customs** threat assessments**, in addition to those referred to in Article 51a(2), point (c)**.

4. **The Commission may, where necessary** ~~F~~**f**or the purposes referred to in paragraphs 1 to **2**~~3~~, ~~the Commission may collect,~~ process and analyse data available in the EU Customs Data Hub and from other sources **explicitly identified in national or Union law**, including from authorities other than customs authorities.

~~5.~~ *[Moved to Article 51a (2)]*

~~6.~~ *[Moved to Article 51b (1)]*

~~7.~~ *[Moved to Article 51a (3)]*

~~8.~~ *[Moved to Article 51a (4)]*

Article 51a

Roles of the EU Customs Authority

1. **The EU Customs Authority shall conduct a periodical threat assessment as a basis for the recommendations referred to in Article 208 (2a).**

1a. **The EU Customs Authority shall implement the customs risk management in accordance with the areas of priority treatment expressed by the Council and policy orientations provided by the Commission pursuant to Article 51(1) and (2).**

1b. **Taking into consideration the specific areas that warrant priority treatment as identified by the Council pursuant to Article 51(1), the EU Customs Authority may**

submit to the Commission the concept of common priority control areas and common risk criteria and standards for any type of risk.

2. *[Moved from Article 51 (5)]* The EU Customs Authority shall perform Union-level risk management activities **duly taking into account the customs policy orientations referred to in Article 51(2) point (b).** ~~on the basis of the customs policy orientations as referred to in paragraph 3, point (a) and of the priorities as referred to in paragraph 2~~. It shall:

~~(a)~~ *[Moved to paragraph 2a]*

(b) **define** ~~assist the Commission in defining~~ common priority controls areas and common risk criteria and standards, ~~based on~~ **taking into consideration the specific areas that warrant priority treatment as identified by the Council, pursuant to Article 51 (1),** operation knowledge and technical expertise in risk management;

(c) ~~where requested in accordance with paragraph 3,~~ develop supervision strategies, where appropriate with authorities other than customs, and conduct **customs** threat assessments;

(d) exchange relevant data with the customs authorities and with other authorities for the purposes of this Title, **as from 31 December 2037, via** ~~where possible through~~ the EU Customs Data Hub, in accordance with Article 53;

(da) inform OLAF where it identifies or suspects cases of fraud and provide it with all the necessary information related to these cases; *[Moved from (f)]*

(db) develop operational guidance for the risk management activities where different customs authorities are involved;

(e) **develop and perform** ~~implement~~ common risk analysis ~~to~~ **and** generate ~~risk signals,~~ risk analysis results and where ~~appropriate~~ **risk is identified**, issue control recommendations and other appropriate **risk** mitigation measures to the customs authorities, including for the application of the common priority control areas and the common risk criteria and standards ~~established by the Commission~~ and for dealing with crisis situations **taking into account reasonably expected impact on trade flows and on individual Member States control resources**;

~~(f)~~ *[Moved to (da)]*

(g) develop a framework for the 'comply or explain principle' for control recommendations, including the provision of uniform explanation instructions to be used by national customs authorities in case control recommendations do not result in control decisions;

(h) **take measures to manage the number of control recommendations, taking into account the reasonably expected impact on trade flows and based on risk analysis, where the practical execution of control recommendations is not feasible due to resource constraints of a given customs office;**

2a. **The EU Customs Authority may, when necessary for the purposes referred to in paragraph 2,** collect, process and analyse data available in the EU Customs Data Hub and from other sources **explicitly identified in national or Union law**, including from authorities other than customs authorities.

3. The EU Customs Authority shall inform the Commission **and customs authorities** about its risk management activities and their outcome ~~on a quarterly and,~~ where necessary or requested by the Commission, **on** ad hoc basis. It shall provide all necessary information to the Commission in this regard. *[Moved from Article 51 (7)]*

4. Until **1 July 2028** ~~the date set out in Article 265(1)~~, the Commission may carry out the risk management tasks of the EU Customs Authority referred to in this Article. *[Moved from Article 51 (8)]*

Article 51b

Roles of national customs authorities

1. *[Moved from Article 51 (6)]* The customs authorities shall ~~,using data available in the EU Customs Data Hub and from other sources~~:

~~*(a)*~~ *[Moved to paragraph 2]*

(b) perform national risk management activities, including risk analysis, cooperation, and exchange of information on risk management with relevant national authorities, and tak**e**~~eing~~ **risk** mitigation measures;

(c) implement national processes necessary for the implementation of common risk criteria and standards and common priority control areas;

(d) **carry out national risk analysis to** implement the risk signals, risk analysis results, ~~risk mitigation measures~~ and **take into account** control recommendations generated by the EU Customs Authority **or other customs authorities and take appropriate risk mitigations measures where necessary**;

(e) issue control recommendations and indicate ~~other~~ appropriate risk mitigation measures to the customs authorities of other Member States**, respecting the common operational guidance referred to in Article 51a (2), point (db)**;

(f) take control decisions;

(g) perform controls in accordance with Chapter 2 of this Title and with any applicable common risk criteria and standards;

(h) provide ~~a justification~~ an explanation ~~to the EU Customs Authority~~ in the event that a control recommendation ~~or risk mitigation measure~~ was not executed, **respecting the framework referred to in Article 51a(2), point (g)**;

(i) take measures to reduce the number of control recommendations based on risk analysis where the execution of control recommendations is not feasible due to resource constraints of a given customs office.

2. The customs authorities may, when necessary for the purposes referred to in paragraph 1, collect, process and analyse data available in the EU Customs Data Hub and from other sources **explicitly identified in national or Union law**, including from authorities other than customs authorities.

Article 52

Common risk criteria and standards

1. The common risk criteria and standards shall include all of the following:

(a) a description of the risks;

(b) the factors or indicators of risk to be used to select goods or economic operators for customs controls;

(c) the nature of customs controls to be undertaken by the customs authorities;

(d) the application of risk analysis and **risk** mitigation measures in the supply chain, including requests for information or action and instruction not to load or transport;

(e) the duration of the application of the customs controls referred to in point (c).

2. In the establishment of common risk criteria and standards, account shall be taken of all of the following:

(a) the proportionality to the risk;

(b) the urgency of the necessary application of the controls;

(c) the reasonably expected impact on trade flow and on individual Member States control resources.

Article 53

Information relevant for risk management and controls

1. All risk information, **risk** signals, risk analysis results, control recommendations, control decisions and control results **and other relevant information**, shall be recorded in the operational process to which they relate and in the EU Customs Data Hub, irrespective of whether they were based on national or common risk analysis, or whether they were based on random selection. Customs authorities shall share risk information with each other, with the EU Customs Authority and with the Commission.

2. The customs authorities, the EU Customs Authority and the Commission shall have the right to process the elements referred to in paragraph 1 of this Article according to their roles ~~and responsibilities~~ as referred to in Articles 51**to 51b** and 54 **as well as building on their corresponding data access and processing rights set out in Article 31**.

   By derogation from the first subparagraph, data marked in accordance with Article 36, shall only be processed by the customs authority of the Member State that has marked the data as being of essential national security interest.

3. The EU Customs Authority shall use the EU Customs Data Hub where possible to collect, or interoperate with, any other sources of data, documents or information identified as relevant for risk management by the EU Customs Authority, by the Commission or by a customs authority. **If any other system than the EU Customs Data Hub is used, that system shall meet the same standards with regard to data safety, data security and data integrity as laid down in Title III.**

4. Until **1 July 2028** ~~the date set out in Article 265(1)~~, the Commission shall carry out the tasks of the EU Customs Authority referred to in this Article.

Article 54

Evaluation of customs risk management

1. The Commission, in cooperation with the EU Customs Authority and the customs authorities, shall evaluate the implementation of risk management in order to continuously improve its operational and strategic effectiveness and efficiency at least once every 2

years~~; the Commission may in addition arrange evaluation activities to be carried out where it considers necessary, and on an ongoing basis~~.

2. For this purpose, the EU Customs Authority shall collect and analyse relevant information and carry out all necessary activities. ~~The~~ **In justified cases** the EU Customs Authority may request periodic or ad-hoc reports from one or more Member States in this regard **unless those reports can be extracted from the EU Customs Data Hub**.

3. For this purpose, and for the purpose of fulfilling its role and responsibilities under this Title, the Commission may process any relevant information available through the EU Customs Data Hub and may request **additional** ~~further~~ information from the EU Customs Authority and from ~~national~~ **the customs** authorities **unless that information can be extracted from reports prepared by the EU Customs Authority**.

4. In the establishment of common risk criteria and common priority control areas, the **EU Customs Authority and the** Commission shall take account, where relevant, of evaluations carried out under this Article.

Article 55

Conferral of implementing powers

1. The Commission shall adopt, by means of implementing acts, measures to ensure the harmonised application of customs controls and risk management, including the exchange of information, the establishment of common risk criteria and standards and common priority control areas referred to in this Title. Such measures shall address at least the following elements:

   (a) the information to be recorded in the EU Customs Data Hub in relation to risk management and controls, including in respect of risk information, risk analysis results, **risk mitigation measures**, control recommendations, control decisions and results of ~~risk mitigation measures and~~ control**s**, and the rights to access and process such information;

   (b) procedural measures for the transitional use or access to existing customs information systems**:**

(ba) procedural measures for the management of interoperability between the EU Customs Data Hub and other systems;

(c) procedural measures in relation to the application of the reporting requirement in the context of post-release controls and random controls;

(d) arrangements for cooperation, including exchange of information, between the EU Customs Authority and specific other Union institutes, bodies and offices **for the purposes of this Title**, ~~and other national competent authorities~~;

(e) the identification of the **competent** customs authority in the case of specific risk management processes, which may concern more than one Member State;

(f) ~~procedural aspects of controls, including post-release controls, which concern more than one Member State, and~~ the availability of results of samples and other controls ~~between the customs authorities concerned~~ **which concern more than one Member State**;

(g) arrangements for the sharing of risk information between customs authorities, the EU Customs Authority and with the Commission;

(h) **terms and procedure for the establishment of** common priority control areas and common risk criteria and standards as referred to in Article 51**(2), Article 51a (2), point (b),** and Article 52, including the modalities for their application on an urgent basis where this is necessary;

(i) procedural aspects of explanation in the event that a control recommendation was not executed;

(j) cases of requesting for the reports in accordance with Article 54(2).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

2. On imperative grounds of urgency relating to such measures, including the modalities for their application on an urgent basis to respond effectively to ~~crisis or~~ incidents which may pose an imminent safety or security risk, and duly justified by the need to rapidly update common risk management and adapt the exchange of information, common risk criteria and standards, and common priority control areas to the evolution of risks, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 262(5).

Title V

PLACING GOODS UNDER A CUSTOMS PROCEDURE

Chapter 1

Customs status of goods

Article 56

Presumption of customs status of Union goods

1. All goods in the customs territory of the Union shall be presumed to have the customs status of Union goods, unless it is established that they are not Union goods.

2. In specific cases, where the presumption laid down in paragraph 1 does not apply, the customs status of Union goods shall need to be proven.

3. In specific cases, goods wholly obtained in the customs territory of the Union do not have the customs status of Union goods if they are obtained from goods in temporary storage or placed under the external transit procedure, a storage procedure, the temporary admission procedure or the inward processing procedure.

4. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining:

   (a) the specific cases where the presumption laid down in paragraph 1 does not apply;

   (b) the conditions for granting facilitation in the establishment of the proof of customs status of Union goods;

   (c) the specific cases where the goods referred to in paragraph 3 do not have the customs status of Union goods.

5. The Commission shall specify, by means of implementing acts, the procedural rules for the provision and verification of the proof of the customs status of Union goods. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 57

Loss of customs status of Union goods

Union goods shall become non-Union goods in the following cases:

(a) where they are taken out of the customs territory of the Union, insofar as the rules on internal transit do not apply;

(b) where they have been placed under the external transit procedure, a storage procedure or the inward processing procedure, insofar as the customs legislation so allows;

(c) where they have been placed under the end-use procedure and are either subsequently abandoned to the State, or are destroyed and waste remains;

(d) where the **information provided or made available, or where applicable the** declaration**,** for release for free circulation is invalidated after release of the goods.

Article 58

Union goods leaving the customs territory of the Union temporarily

1. In the cases referred to in Article 112(2), points (b), (c), (d) and (e) – goods shall keep their customs status as Union goods only if that status is established under the conditions and by the means laid down in the customs legislation.

2. In specific cases, Union goods may move, without being subject to a customs procedure, from one point to another within the customs territory of the Union and temporarily out of that territory without alteration of their customs status.

3. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the specific cases where the customs status of goods referred to in paragraph 2 of this Article is not altered.

Chapter 2

Placement and release

Article 59

Placement of goods under a customs procedure

1. Importers, exporters and holders of the **transit** procedure ~~intending~~ **shall provide or make available in the EU Customs Data Hub the data necessary** ~~to place~~ **for the placement of the goods under procedure concerned as soon as it is available but in any event prior to the notification of availability of the goods at the place of release** ~~goods under a customs procedure shall provide or make available the data necessary for the concerned procedure as soon as it is available and in any event prior to the release of the goods~~.

1a. By providing or making available the notification of availability of the goods the importers, exporters and holders of the transit procedure confirm to the customs authorities their intention to place the goods under the relevant customs procedure.

2. **By the way of derogation of paragraph 1, d**~~D~~eemed importer~~s~~ **that is making use of the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC** shall provide or make available the information on distance sales of goods ~~to be imported~~ **to be placed under release for free circulation** in the customs territory of the Union at the latest on the day following the date when the payment was accepted-and in any event prior to the ~~release~~ **notification of availability of** the goods.

3. By way of derogation from paragraph 1 **and without prejudice of Article 156**, in duly justified circumstances linked to the supporting documentation or the determination of the ~~final~~ **customs** value of the goods, the customs authorities may **allow** ~~authorise Trust and Check traders~~ **the exporter, holder of the transit procedure or importer other than deemed importer,** to provide part of the data other than advance cargo information after the release of the goods. ~~The importer or t~~**T**he exporter**, holder of the transit procedure or importer other than deemed importer** shall provide the omitted information within a specific time-limit.

3a. **By way of derogation from paragraph 1 and without prejudice of Article 156, in duly justified circumstances linked to the supporting documentation or the determination of the customs value of the goods, the Trust and Check traders, other than deemed importer that is making use of the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC, may provide part of the data other than advance cargo information after the release of the goods. Trust and Check traders shall provide the omitted information within a specific time-limit.**

3b. **By way of derogation from paragraph 1, in specific cases, goods may be placed under a customs procedure using means other than the EU Customs Data Hub.**

4. The goods shall be placed under the customs procedure upon their release.

The date of **the notification of availability of the goods** ~~the release,~~ shall~~, except where otherwise provided,~~ be the date to be used for the application of the provisions governing the customs procedure in which the goods are placed and for all other import or export formalities.

5. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining**:**

(a) the data ~~and information~~ referred to in paragraphs 1 and 2 of this Article~~, and~~**;**

(b) **the conditions for applying the simplification referred to in paragraph 3,** the specific data that can be provided after release of the goods and the time-limits for providing such data**,** as referred to in paragraph**s** 3 **and 3a** of this Article**;**

(c) **the specific cases referred to paragraph 3b of this Article and the means other than the EU Customs Data Hub that can be used for placing goods under a customs procedure;**

(d) **the cases when the notification on the availability of the goods is applicable and the way it shall be provided or made available**.

Article 59a

The other forms of notification of availability of the goods

1. **Instead of the notification of availability of the goods one of the following may be used:**

(a) **the notification of arrival of the goods at the customs territory of the Union, if applicable, in case where the temporary storage or placement under the customs procedure is at the office of entry;**

(b) **the notification of arrival of the goods at the point of exit, if applicable, in case temporary storage is at the office of exit.**

2. **The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining:**

(a) **the cases when the notification of arrival of the goods is applicable;**

(b) **other forms than mentioned in paragraph 1, that may be used instead of the notification of availability referred to in Article 59(1a).**

Article 59b

Information and supporting documents

[Moved from Title III, Article 40]

1. When providing or making available the data and information required for the specific customs procedure under which goods are placed or intended to be placed, persons shall provide or make available digital copies of original paper documents, where such paper originals exist, used to obtain that data and information.

2. Until **31 December 2037** ~~the date set out in Article 266 (3)~~, when a customs declaration is lodged, the supporting documents required for the application of the provisions governing the customs procedure for which the goods are declared shall be in the declarant's possession and at the disposal of the customs authorities at the time of lodgement.

3. The supporting documents for the applicable Union non-customs formalities listed in the Annex to Regulation (EU) 2022/2399 shall be deemed to have been provided or made available or to be in the possession of the declarant if the customs authorities are able to obtain the necessary data from the corresponding Union non-customs systems through the European Union Customs Single Window Certificates Exchange System in accordance with Article 10(1), points (a) and (c)~~,~~ of that Regulation.

4. Supporting documents shall also be provided by persons where necessary for customs risk management and controls.

5. Without prejudice to other legislation applied by the customs authorities, customs authorities may authorise economic operators to draw up the supporting documents referred to in paragraph 3.

6. Unless otherwise stated for specific documents, the person concerned shall, for the purposes of customs controls, keep the documents and information for at least ~~3~~**10** years, by any means accessible by and acceptable to the customs authorities. That period shall run:

   (a) from the end of the year in which the goods are released;

   (b) from the end of the year in which they cease to be subject to customs supervision, in the case of goods released for free circulation duty-free or at a reduced rate of import duty on account of their end-use;

   (c) from the end of the year in which the customs procedure concerned has been discharged or temporary storage has ended, in the case of goods placed under ~~another~~ **a special** customs procedure or of goods in temporary storage.

7. Without prejudice to Article 182(4), where a customs control in respect of a customs debt shows that the relevant entry in the accounts has to be corrected and the person concerned has been notified of this, the documents and information shall be kept for 3 years beyond the time limit provided for in paragraph 6 of this Article.

8. Where an appeal has been lodged or where administrative or judicial proceedings have begun, the documents and information shall be kept for the period provided for in paragraph ~~1~~**6** or until the appeals procedure or the administrative or judicial proceedings are terminated, whichever is the latest.

Article 60

Release of the goods

1. The customs authorities responsible for placing the goods in a customs procedure in accordance with Article 42 **paragraph** ~~(~~1~~3)~~**, point (d) and paragraph 2** shall decide on

the release of the goods taking into account the result of the risk analysis of the data **in the customs declaration or the data** provided by the importer or exporter **or holder of the transit procedure** and, where applicable, the results of any control **or mitigation measure**.

1a. The release shall not be considered a proof of conformity.

2. Goods shall be released if the following conditions are met:

(a) **the customs authorities have been informed who is the** ~~an~~ importer**,** ~~or~~ exporter **or holder of the transit procedure** ~~is~~ responsible for the goods;

(b) ~~any information requested by customs authorities and the information necessary for the particular procedure has been provided or made available to customs authorities~~;

(c) the conditions for placing the goods under the procedure concerned pursuant to Articles 59, 88, **94a, 116,** 118, 122a, 132**,** ~~and~~ 135**, 137 and 140** and are fulfilled;

(d) the goods have not been selected for any control **or have been selected for controls and these did not result in any findings that justify refusing the release of those goods**.

3. The customs authorities shall refuse the release in any of the following cases:

(a) where the conditions for placing the goods under the procedure concerned are not fulfilled, including any Union non-customs formalities as defined in point 11 of Article 2 of Regulation (EU) 2022/2399 relevant for the goods;

(b) where they have evidence that the goods do not comply with the ~~relevant other~~ legislation applied by the customs authorities~~, unless that legislation requires consulting other authorities beforehand~~;

(c) where they have evidence that the data provided is not accurate.

4. The customs authorities **may** ~~shall~~ suspend the release in any of the following cases:

(a) where they have a reason to believe that the goods do not comply with ~~the relevant other~~ legislation applied by the customs authorities or that they present a serious risk to human, animal or plant health and life, or to the environment, or any other public interest~~, including financial interest~~; or

(b) where ~~the~~ other authorities have so requested according to other legislation applied by the customs authorities.

5. Where the release has been suspended in accordance with paragraph 4, the customs authorities shall consult the **competent** authorities if the relevant other legislation applied by the customs authorities so requires, and:

(a) refuse the release if the **competent** authorities have so requested according to other legislation applied by the customs authorities;

(b) release the goods if ~~there are no reasons to believe that other requirements and formalities required by the other legislation applied by the customs authorities relating to such a release have not been fulfilled and:~~

~~(i)~~ the **competent** authorities have approved the release;

(c)~~(ii)~~**release the goods if** the other authorities have not replied within the time limit determined in the relevant other legislation applied by the customs authorities~~, or~~ **or, in the absence of such time limit, within 5 days, or**

(d)~~(iii)~~**maintain the suspension if not longer than 90 days** the other authorities ~~notify~~ **requested to do so because they notified** the customs authorities that more time is needed to assess whether the goods comply with the relevant other legislation applied by the customs authorities~~, on the condition that they have not requested to maintain the suspension, and the importer or the exporter provides to the customs authorities full traceability of those goods for 15 days starting from the notification of the other authorities or until the other authorities have assessed and communicated the outcome of their controls to the importer or the exporter, whichever comes first. The customs authorities shall make the traceability available to the other authorities~~.

6. Without prejudice to the relevant other legislation applied by the customs authorities, the customs authorities shall be deemed to have released the goods where they have not selected them for any control **in specific cases,** within a reasonable period of time ~~after.:~~

~~(a) the goods of deemed importers have arrived to the customs territory of the Union; or~~
~~(b) the goods of importers have arrived to their final destination; or~~
~~(c) the exporter has sent the pre-departure information.~~

7. Where the customs authorities have suspended the release of the goods according to paragraph 4, or refused the release of the goods according to paragraph 3 or paragraph 5, point (a), they shall record their decision and any other information, if applicable, required

by the Union law in the EU Customs Data Hub. This information shall be made available to the other customs authorities.

8. Where the customs authorities have refused the release of the goods according to paragraph 3 or 5**, point (a)**:

(a) if the other authorities have not objected, the goods can be subsequently placed ~~in~~ **under** another customs procedure with an indication that the goods had been previously refused for another customs procedure;

(b) if the other authorities have objected to place the goods ~~for one or more~~ **under** customs procedure~~s~~, the customs authorities shall record that information in the EU Customs Data Hub and act**,** ~~accordingly~~ **in accordance with Chapter 4 of Title V.**

9. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining the reasonable periods of time**, and specific cases when customs authorities shall deemed to have released the goods,** referred to in paragraph 6 of this Article.

Article 61

Release of the goods on behalf of the customs authorities by Trust and Check traders

1. By way of derogation from Article 60(1)~~, the customs authorities may authorise~~**,** Trust and Check traders ~~to~~ **may** release the goods on ~~their~~ **the** behalf **of the customs authorities** upon receipt of those goods at the place of business of the importer, owner or consignee or upon dispatch from the place of business of the exporter, owner or consignor, provided that the necessary data for the relevant procedure and real-time information on the arrival or dispatch of the goods is provided or made available to the customs authorities.

Trust and Check traders operating a customs warehouse for distance sale, in accordance to Article 122a, may only release the goods that are placed under the customs warehouse procedure and are ready to be offered for sale in the customs territory of the Union.

2. Without prejudice to Article 43, ~~the customs authorities may authorise~~ Trust and Check traders ~~to~~ **may** perform certain controls on goods under customs supervision. ~~In those cases, where the goods are subject to other legislation applied by the customs authorities,~~

~~customs authorities shall consult the other authorities before granting such an authorisation and may agree with them a control plan.~~

3. Where the Trust and Check trader referred to in paragraph 2 has reason to believe that the goods do not comply with the relevant other legislation applied by the customs authorities, it shall immediately notify the customs authorities ~~and, where applicable, the other authorities~~. In that case, the customs authorities shall decide on the release **or on the control**.

~~4. The customs authorities may at any time require Trust and Check trader to present the goods for a control in a customs office or where the goods were meant to be released.~~

5. Where the customs authorities have identified a new serious financial risk or another specific situation in relation to **the** release **of goods on their behalf, they may suspend such capacity in accordance with Article 10(1a).** ~~on their behalf, they may suspend the capacity to release on their behalf for a specific period of time and inform the Trust and Check trader. In such cases, the customs authorities shall decide on the release of the goods.~~

6. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation to determine:

(a) the procedure for the release of the goods on behalf of the customs authorities by Trust and Check traders;

(b) conditions, content and procedure for the controls carried out by the Trust and Check traders.

Article 62

~~Modification and invalidation~~ Amendment of information for placing goods under a customs procedure

1. **Before the date of release,** ~~T~~**t**he importer ~~and~~**,** the exporter **or the holder of the transit procedure** shall amend one or more particulars of the data provided for placing the goods under a customs procedure**:**

(a) where it comes to their knowledge that relevant information has changed in their records **or that information is incorrect**, or

(b) whe**re**~~n~~ customs authority ~~instructs~~ **requests** them to do so ~~or notifies them of a~~ **, due to** data **in**accuracy, **in**completeness or quality issue**s** ~~, unless~~**.**

1a. **The importer and the exporter or the holder of the transit procedure may not amend the information where:**

(a) the customs ~~authorities have~~ **authority has** informed that they intend to examine the goods or

(b) **the customs authority has informed** that they have established that the data provided is incorrect, or

(c) the goods have already been ~~presented to customs notified~~ **released**.

1b. **Within three years from the date of release, the importer, the exporter or the holder of the transit procedure may request the amendment of one or more particulars of the data provided or made available for placing goods under a customs procedure. The customs authorities shall decide whether to accept or refuse the amendment taking into account the risk of non-compliance with the obligations relating to the placing of goods under the customs procedure concerned**.

~~2~~. *[Moved to Article 62a (1)]*

2a. **The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining the cases where the data may be amended after the date of release, as referred to in paragraph 1b of this Article.**

3. The Commission shall specify, by means of implementing acts, the procedural rules for amending ~~and for invalidating~~ the information referred to in paragraphs 1 and 1aa ~~2~~ of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 62a

Invalidation of information for placing goods under a customs procedure

1. **If the goods to be placed under the customs procedure are not brought into or taken out of the customs territory of the Union, the data for placing goods under a customs procedure shall be invalidated:**

(a) **by** ~~T~~**the** importer**,** ~~and~~ the exporter **and the holder of the transit procedure** ~~shall invalidate the data provided for placing goods under a customs procedure~~ as soon as it comes to their knowledge that the goods will not be brought into or will not be taken out of the customs territory of the Union**; or**

(b) **by** ~~T~~**the** customs authorities ~~shall invalidate the data provided for placing goods under a customs procedure, if~~ after 200 days from the date in which the information was provided or made available~~, the goods have not been brought into or have not been taken out of the customs territory of the Union.~~

1a. **The customs authorities shall, upon application by the importer, exporter or holder of the transit procedure, invalidate the data for placing goods under a customs procedure for which the notification of availability of the goods was provided or made available, in either of the following cases where the customs authorities:**

(a) **are satisfied that the goods are immediately to be placed under another customs procedure;**

(b) **are satisfied, that as a result of special circumstances, the placing of the goods under the primary customs procedure is no longer justified.**

However, where the customs authorities have informed the importer, exporter or holder of the transit procedure to examine the goods, an application for invalidation of the data shall not be accepted before the examination has taken place.2. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining the cases where the data may be invalidated after the date of release of the goods.

3. **The Commission shall specify, by means of implementing acts, the procedural rules for invalidating the information referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).**

Chapter 3

~~Transitional provisions~~ Customs declaration

Article 63

Customs declaration of goods

1. **Customs declarations shall be made using electronic data-processing techniques.**

~~Until the date set out in Article 265(4), all goods intended to be placed under a customs procedure shall be covered by a customs declaration appropriate for the particular procedure.~~ *[Moved to Article 264]*

2. ~~From the date set out in Article 265(4), importers, exporters and holders of the transit procedure may, for placing goods under a customs procedure, lodge a customs declaration or provide or make available the relevant information appropriate for the relevant procedure using the EU Customs Data Hub. From the date set out in Article 265(3), importers, exporters and holders of the transit procedure shall, for placing goods under a customs procedure, provide or make available the information appropriate for the relevant procedure using the EU Customs Data Hub.~~ *[Moved to Article 264]*

3. In specific cases, a customs declaration may be lodged using means other than electronic data-processing techniques.

4. **Except where otherwise provided,** ~~T~~**the** customs declaration shall be lodged at one of the following, depending on the circumstances:

   (a) the customs office responsible for the place of first arrival of the goods to the customs territory of the Union; or

   (b) the customs office responsible for the place of unloading of the goods arriving by sea or air;

   (c) the customs office of destination of the transit procedure if the goods have entered the customs territory of the Union placed under a transit procedure;

   (d) the customs office responsible for the place where the goods to be placed under a transit procedure are located;

(e) the customs office responsible for the place of establishment of the authorised economic operator for customs simplifications that is authorised to apply centralised clearance;

(f) the customs office responsible for the place where the goods intended to be taken out of the customs territory of the Union are located.

5. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the specific cases where a customs declaration may be lodged using means other than electronic data-processing techniques in accordance with paragraph 2 of this Article.

6. The Commission shall specify, by means of implementing acts:

(a) the procedure for lodging the customs declaration in the cases referred to in paragraph 3;

(b) the rules for determining the competent customs offices other than the one referred to in paragraph 4, including customs offices of entry and customs offices of exit.

7. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 64

Standard customs declaration

1. **Until 31 December 2037, ~~S~~standard** customs declarations shall contain all the particulars necessary for application of the provisions governing the customs procedure for which the goods are declared **and the supporting documents referred to in Article 59b**.

2. The Commission shall specify, by means of implementing acts, the procedure for lodging the standard customs declaration referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 65

Simplified declaration

1. Until **31 December 2037** ~~the date set out in Article 265(3)~~, the customs authorities may accept that a person has goods placed under a customs procedure on the basis of a simplified declaration which may omit certain of the particulars or the supporting documents referred to in Article 40.

2. Until **1 March 2032** ~~the date set out in Article 265(4)~~, the customs authorities may authorise the regular use of a simplified declaration.

3. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining the conditions for granting the authorisation referred to in paragraph 2 of this Article.

4. The Commission shall specify, by means of implementing acts, the procedure for lodging the simplified declaration. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 66

Supplementary declaration

1. In the case of a simplified declaration pursuant to Article 65 or of an entry in the declarant's records pursuant to Article 73, the declarant shall lodge a supplementary declaration containing the particulars necessary for the customs procedure concerned at the competent customs office within a specific time-limit.

   In the case of a simplified declaration pursuant to Article 65, the necessary supporting documents shall be in the declarant's possession and at the disposal of the customs authorities within a specific time-limit.

   The supplementary declaration may be of a general, periodic or recapitulative nature.

2. The obligation to lodge a supplementary declaration shall be waived in the following cases:

   (a) where the goods are placed under a customs warehousing procedure;
   (b) in other specific cases.

3. The customs authorities may waive the requirement to lodge a supplementary declaration where the following conditions apply:

(a) the simplified declaration concerns goods the value and quantity of [which is below the statistical threshold **referred to in Article 170(8)**;

(b) the simplified declaration already contains all the information needed for the customs procedure concerned;

(c) the simplified declaration is not made by entry in the declarant's records.

4. The simplified declaration referred to in Article 65 or the entry in the declarant's records referred to in to Article 73, and the supplementary declaration shall be deemed to constitute a single, indivisible instrument taking effect, respectively, on the date on which the simplified declaration is accepted in accordance with Article 69 and on the date on which the goods are entered in the declarant's records.

5. The place where the supplementary declaration is to be lodged shall be deemed, for the purposes of Article 169, to be the place where the customs declaration has been lodged.

6. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining:

(a) the specific time-limit referred to in paragraph 1, first subparagraph, within which the supplementary declaration is to be lodged;

(b) the specific time-limit referred to in paragraph 1, second subparagraph, within which supporting documents are to be in the possession of the declarant and at the disposal of the customs authorities;

(c) the specific cases where the obligation to lodge a supplementary declaration is waived in accordance with paragraph 2, point (b).

7. The Commission shall specify, by means of implementing acts, the procedural rules for lodging the supplementary declaration. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 67

Lodging a customs declaration

1. Until **31 December 2037** ~~the date set out in Article 265(3)~~, without prejudice to Article 66(1), a customs declaration may be lodged by any person who is able to provide all of the information which is required for the application of the provisions governing the customs procedure in respect of which the goods are declared. That person shall also be able to present the goods in question or to have them presented to customs.

   However, where acceptance of a customs declaration imposes particular obligations on a specific person, that declaration shall be lodged by that person or by his or her representative.

~~2. By way of derogation from paragraph 1, first subparagraph, the customs declaration for release for free circulation for goods to be imported in the customs territory of the Union under the special scheme for distance sales set out in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC for distance sales shall be lodged by or on behalf of the deemed importer.~~

3. The declarant shall be established in the customs territory of the Union.

4. By way of derogation from paragraph 3, the following declarants shall not be required to be established in the customs territory of the Union:

   (a) persons who lodge a customs declaration for transit or temporary admission;

   (b) persons, who occasionally lodge a customs declaration, including for end-use or inward processing, provided that the customs authorities consider this to be justified;

   (c) persons who are established in a country the territory of which is adjacent to the customs territory of the Union, and who present the goods to which the customs declaration refers at a Union border customs office adjacent to that country, provided that the country in which the persons are established grants reciprocal benefits to persons established in the customs territory of the Union;

   (d) deemed importers involved in the distance sale of goods under the special scheme set out in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC which are to be

imported in the customs territory of the Union provided that they appoint an indirect representative.

~~5. Customs declarations shall be authenticated.~~

Article 68

Lodging a customs declaration prior to the presentation of the goods

1. A customs declaration may be lodged prior to the expected presentation of the goods to customs. If the goods are not presented within 30 days of the date of the lodging of the customs declaration, the customs declaration shall be deemed not to have been lodged.

2. The Commission shall specify, by means of implementing acts, the procedural rules for lodging a customs declaration as referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 69

Acceptance of a customs declaration

1. Customs declarations which comply with the conditions laid down in this Chapter and with Article 40 shall be accepted by the customs authorities immediately, provided that the goods to which they refer have been presented to customs.

2. The date of acceptance of the customs declaration by the customs authorities shall, except where otherwise provided, be the date to be used for the application of the provisions governing the customs procedure for which the goods are declared and for all other import or export formalities.

3. The Commission shall specify, by means of implementing acts, the procedural rules for accepting a customs declaration, including the application of those rules in the cases referred to in Article 72. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 70

Amendment of a customs declaration

1. The declarant shall, upon application, be permitted to amend one or more of the particulars of the customs declaration after that declaration has been accepted by customs. The amendment shall not render the customs declaration applicable to goods other than those which it originally covered.

2. No such amendment shall be permitted where it is applied for after any of the following events:

   (a) the customs authorities have informed the declarant that they intend to examine the goods;
   (b) the customs authorities have established that the particulars of the customs declaration are incorrect;
   (c) the customs authorities have released the goods.

3. Upon application by the declarant, within 3 years of the date of acceptance of the customs declaration, the amendment of the customs declaration may be permitted after release of the goods in order for the declarant to comply with his or her obligations relating to the placing of the goods under the customs procedure concerned.

4. The Commission shall specify, by means of implementing acts, the procedure for amending the customs declaration after the release of the goods in accordance with paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 71

Invalidation of a customs declaration

1. The customs authorities shall, upon application by the declarant, invalidate a customs declaration already accepted in either of the following cases:

(a) where they are satisfied that the goods are immediately to be placed under a customs procedure;

(b) where they are satisfied that, as a result of special circumstances, the placing of the goods under the customs procedure for which they were declared is no longer justified.

However, where the customs authorities have informed the declarant of their intention to examine the goods, an application for invalidation of the customs declaration shall not be accepted before the examination has taken place.

2. By way of derogation from paragraph 1, in specific cases the customs declaration may be invalidated by the customs authorities without prior application by the declarant.

3. The customs declaration shall not be invalidated after the goods have been released unless where otherwise provided.

4. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the specific cases where the customs declaration is invalidated by customs authorities as referred to in paragraph 2 of this Article and after the release of the goods as referred to in paragraph 3 of this Article.

5. The Commission shall specify, by means of implementing acts, the procedure for invalidating the customs declaration after the release of the goods referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 71a

Simplification of the drawing-up of data for goods falling under different tariff subheadings

1. Where a consignment is made up of goods falling within different tariff subheadings, and dealing with each of those goods in accordance with its tariff subheading would entail a burden of work and expense disproportionate to the import or export duty chargeable, the customs authorities may, upon application by the declarant, agree that import or export duty be charged on the whole consignment on the basis of the

tariff subheading of the goods which are subject to the highest rate of import or export duty.

2. **Customs authorities shall refuse the use of the simplification referred to in paragraph 1 in relation to goods subject to other legislation applied by the customs authorities prohibitions or restrictions or excise duty where the correct classification is necessary to apply the measure.**

Article 72

Centralised clearance

1. Until **1 March 2032** ~~the date set out in Article 265(4)~~, the customs authorities may, upon application, authorise a person to lodge at a customs office responsible for the place where such person is established, a customs declaration for goods which are presented to customs at another customs office.

   The requirement for the authorisation referred to in the first subparagraph may be waived where the customs declaration is lodged, and the goods presented to customs offices under the responsibility of one customs authority.

2. The applicant for the authorisation referred to in paragraph 1 shall be an authorised economic operator for customs simplifications as referred to in Article 23(1), point (a).

3. The customs office at which the customs declaration is lodged shall:

   (a) supervise the placing of the goods under the customs procedure concerned;
   (b) carry out the customs controls for the verification of the customs declaration;
   (c) where justified, request that the customs office at which the goods are presented carry out certain customs controls for the verification of the customs declaration; and
   (d) carry out the customs formalities for the recovery of the amount of import or export duty corresponding to any customs debt.

4. The customs office at which the customs declaration is lodged and the customs office at which the goods are presented shall exchange the information necessary for the verification of the customs declaration and for the release of the goods.

5. The customs office at which the goods are presented shall, without prejudice to its own controls pertaining to goods brought into or taken out of the customs territory of the Union, carry out the customs controls referred to in point (c) of paragraph 3 and provide the customs office at which the customs declaration is lodged with the results of these controls.

6. The customs office at which the customs declaration is lodged shall release the goods, taking into account:

   (a) the results of its own controls for the verification of the customs declaration;

   (b) the results of the controls carried out by the customs office at which the goods are presented for the verification of the customs declaration and the controls pertaining to goods brought into or taken out of the customs territory of the Union.

7. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the conditions for granting the authorisation referred to in of paragraph 1, first subparagraph, of this Article.

8. The Commission shall specify, by means of implementing acts, the procedure for the centralised clearance referred to in this Article, including the relevant customs formalities and controls. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 73

Entry in the declarant's records

1. Until **1 March 2032** ~~the date set out in Article 265(4)~~, the customs authorities may, upon application, authorise a person to lodge a customs declaration, including a simplified declaration, in the form of an entry in the declarant's records, provided that the particulars of that declaration are at the disposal of the customs authorities in the declarant's electronic system at the time when the customs declaration in the form of an entry in the declarant's records is lodged.

2. The customs declaration shall be deemed to have been accepted at the moment at which the goods are entered in the records.

3. The customs authorities may, upon application, waive the obligation for the goods to be presented. In that case, the goods shall be deemed to have been released at the moment of entry in the declarant's records.

That waiver may be granted where all of the following conditions are fulfilled:

(a) the declarant is an authorised economic operator for customs simplification as referred to in Article 23(1), point (a);
(b) the nature and flow of the goods concerned so warrant and are known by the customs authority;
(c) the supervising customs office has access to all the information it considers necessary to enable it to exercise its right to examine the goods should the need arise;
(d) at the time of the entry into the records, the goods are no longer subject to the other legislation applied by the customs authorities, except where otherwise provided in the authorisation.

However, the supervising customs office may, in specific situations, request that the goods be presented.

4. The conditions under which the release of the goods is allowed shall be set out in the authorisation.

5. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the conditions for granting the authorisation referred to in paragraph 1 of this Article.

6. The Commission shall specify, by means of implementing acts, the procedural rules on the entry in the declarant's records, including the relevant customs formalities and controls, and the waiver from the obligation of presenting the goods referred to paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 74

Cessation of validity

The authorisations for simplified declarations, centralised clearance and entry into the declarant's records shall expire on **31 December 2037** ~~the date set out in Article 265(3)~~.

Chapter 4

Disposal of goods

~~*Article 75*~~

~~**Disposal of goods**~~

~~Where, for any reason, goods cannot be maintained in temporary storage, the customs authorities shall without delay take all measures necessary to dispose of the goods in accordance with Articles 76, 77 and 78.~~

~~*Article 76*~~

~~**Destruction of goods**~~

[Moved to Article 77a]

Article 77

Measures to be taken by the customs authorities

1. The customs authorities**, without prejudice to other legislation applied by the customs authorities,** shall take any necessary measures, including ~~confiscation,~~ sale, donation for humanitarian purpose ~~or,~~ destruction, **confiscation or forfeiture to the State in accordance with national law** to dispose of goods in the following cases:

   (a) where one of the obligations laid down in the customs legislation concerning the introduction of non-Union goods into the customs territory of the Union has not been fulfilled, or the goods have been withheld from customs supervision;

   (b) where the goods cannot be released for any of the following reasons:

      (i) it has not been possible, for reasons attributable to the ~~operator~~ **importer, the exporter, the holder of the transit procedure or the holder of the goods**, to undertake or continue examination of the goods within the period prescribed by the customs authorities;

      (ii) the documents **or the information** which must be provided before the goods can be placed under, or released for, the customs procedure requested have not been provided;

(iii) payments or a guarantee which should have been made or provided in respect of import or export duty, as the case may be, have not been made or provided within the prescribed period;

(iv) the goods do not fulfil the conditions for release laid down in Article**s** 60 **and 61**;

(c) where the goods have not been removed within a reasonable period after their release;

(d) where after their release, the goods are found not to have fulfilled the conditions for that release; or

(e) where goods are abandoned to the State in accordance with Article 78.

2. Non-Union goods which have been abandoned to the State~~, seized~~ or **non-union goods which have been seized,** confiscated **or forfeited to the State in accordance with national law** shall be deemed to be placed under the customs warehousing procedure. They shall be entered in the records of the customs warehousing operator, or, where they are held by the customs authorities, by the latter.

Where customs authorities have already received data **or a customs declaration** on the goods to be destroyed, abandoned to the State, seized**,** ~~or~~ confiscated **or forfeited to the State in accordance with national law**, the records shall include a reference to that data **or that customs declaration. The customs declaration or data shall be invalidated.**

3. The costs of the measures referred to in paragraph 1 shall be borne:

(a) in the case referred to in point (a) of paragraph 1, by the carrier, the importer ~~or,~~ the holder of the transit procedure**, the holder of the goods** or **the person** who withheld the goods from customs supervision;

(b) in the cases referred to in points (b), (c) and (d) of paragraph 1, by the importer, **the** exporter**,** ~~or~~ the holder of the transit procedure **or the holder of the goods**;

(c) in the case referred to in point (e) of paragraph 1, by the person who abandons the goods to the State.

~~4. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the conditions and the procedure for confiscating goods.~~

5. The Commission shall specify, by means of implementing acts, the procedure for selling **and donating** the goods by the customs authorities **as** referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 77a

Destruction of goods

[Moved from Article 76]

1. Where the customs authorities have reasonable grounds for so doing, they may require goods **to** which ~~have been presented to them~~ **notification of availability have been provided or made available** to be destroyed and shall inform the importer**, the** exporter, **the holder of the transit procedure** and the holder of the goods accordingly. The costs of the destruction shall be borne by the importer, ~~or~~ **the** exporter, **the holder of the transit procedure, or the holder of the goods.**

~~2. Where the destruction is to be conducted under the responsibility of a holder of a decision of an intellectual property right, as defined in Article 2, point (13), of Regulation (EU) No 608/2013 of the European Parliament and the Council Regulation[34], it has to be carried out by, or under supervision of the customs authorities.~~

3. If they consider it is necessary and proportionate to do so, the customs authorities may**, in accordance with national law,** seize**,** ~~and~~ destroy or otherwise render inoperable a product that has not been ~~presented them and~~ **notified of availability** that presents a risk to the health and safety of end users. The cost of such measure shall be borne by the importer, ~~or~~ the exporter **or the holder of the goods**.

4. The Commission shall specify, by means of implementing acts, the procedure for the destruction of goods. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 78

Abandonment

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34 ~~Regulation (EU) No 608/2013 of the European Parliament and the Council Regulation (EU) No 608/2013 of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003 (OJ L 181, 29.6.2013, p. 15–34).~~

1. Non-Union goods and goods placed under the end-use procedure may with prior permission of the customs authorities be abandoned to the State by the **importer, the exporter, the** holder of the **transit** procedure or~~, where applicable,~~ the holder of the goods.

2. The Commission shall specify, by means of implementing acts, the procedure on abandonment of goods to the State. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Title VI
GOODS BROUGHT INTO THE CUSTOMS TERRITORY OF THE UNION

Chapter 1

Entry of goods ~~Advance cargo information~~

~~*Article 79*~~

~~**Entry of goods**~~

~~Goods may enter the customs territory of the Union only if the carrier or other persons have provided or made available to the competent customs authorities the advance cargo information referred to in Article 80.~~

Article 80

Advance cargo information

1. Carriers bringing goods into the customs territory of the Union shall provide or make available advance cargo information on ~~each consignment~~ **those goods** to the expected customs office of first entry within specified time limits.

Where no advance cargo information has been provided or made available within the specific time limits, it shall be provided or made available at the latest upon arrival of the means of transport at the actual customs office of first entry.

~~2. The advance cargo information shall include at least the importer responsible for the goods, the unique reference for the consignment, the consignor, the consignee, a description of the goods, the tariff classification, the value, the data on the route and the nature and identification of the means of transport bringing the goods and the transportation cost. The advance cargo information shall be provided before the goods arrive to the customs territory of the Union.~~

3. The importer may provide part of the advance cargo information **referred to in paragraph 1** within ~~the~~ **specific** time limits ~~specified in accordance with paragraph 1~~.

~~Where the importer has already provided or made available part of the required advance cargo information, the carrier shall link its own additional information to the importer's information.~~

3a. **Where the importer has already provided or made available part of the required advance cargo information, the carrier shall link the advance cargo information at his disposal to the information provided or made available by the importer**.

4. The importer shall be notified where a carrier links **its own advance cargo** information ~~on a consignment~~ to ~~his or her~~ **the part of information provided or made available** ~~previous information~~ **by the importer.**

5. In specific cases, where all the advance cargo information referred to in paragraphs 1 and 2 cannot be obtained from the carrier or the importer, other persons holding that information ~~and the appropriate rights to provide it~~ may be required to provide it.

5a. **The advance cargo information shall contain the particulars necessary for the customs authorities to carry out risk analysis.**

5b. **The person who provides or makes available information may restrict the visibility of its identification to one or more other persons which also lodge particulars, without prejudice to the use of all particulars for customs supervision.**

6. The obligation laid down in ~~paragraph 1~~ **this Article** shall be waived:

(a) for means of transport and the goods carried thereon only passing through the territorial waters or the airspace of the customs territory of the Union without a stop within that territory;

(b) for **non-Union** goods that are brought into the customs territory of the Union after having temporarily left that territory by sea or air and having been carried by direct route without a stop outside the customs territory of the Union; ~~and~~

(ba) **for Union goods the customs status of which need to be proven pursuant to Article 56(2) and which are brought into the customs territory of the Union after having temporarily left that territory by sea or by air and having been carried by direct route without a stop outside the customs territory of the Union;**

(bb) **for Union goods which move without alteration of their customs status in accordance with Article 58(2) and which are brought into the customs territory of the Union after having temporarily left that territory by sea or air and having been carried by direct route without a stop outside the customs territory of the Union; and**

(c) in other cases, where duly justified by the type of goods or traffic, or where required by international agreements.

7. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining:

~~(a) the expected office of first entry referred to in paragraph 1;~~

(b) the ~~additional data to be provided as~~ advance cargo information **as referred to in paragraph 1 and the particulars of that information as** referred to in paragraph ~~2~~ **5a, that shall include specific information enabling customs authorities to carry out a risk analysis in terms of the security and safety of the goods**;

(c) the **specific** time limits referred to in paragraphs 1 and 3;

(d) the specific cases and the other persons who may be required to provide **or to make available** the advance cargo information as referred to in paragraph 5;

(e) the cases where the obligation to provide or make available advance cargo information is waived for the reason that such waiver is duly justified by the type of goods or traffic, as referred to in paragraph 6, point (c);

(f) the conditions under which ~~a~~ **the** person which provides or makes available **advanced cargo** information may restrict the visibility of ~~its~~ **the particulars of the** identification **as referred to in paragraph 5b** ~~to one or more other persons which also lodge particulars, without prejudice to the use of all particulars for customs supervision~~.

8. The Commission shall specify, by means of implementing acts, the procedure for providing and receiving the advance cargo information as referred to in paragraphs 1 to 5**a**. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

9. Until ~~the date~~ **31 December 2037**, the entry summary declaration shall be considered **as** the advance cargo information.

Article 81

Risk analysis of the advance cargo information

1. Without prejudice to the activities of the EU Customs Authority set out in Title XII, the customs office of first entry shall, within specific time-limits, ensure that a **joint and simultaneous** risk analysis is carried out, primarily for security and safety purposes**, in collaboration with other customs offices, where appropriate** and, where possible, ~~for other purposes,~~ on the basis of the advance cargo information and other information provided or made available through t95ahe EU Customs Data Hub and shall take the necessary measures based on the results of that risk analysis.

2. The customs office of first entry**, where applicable in cooperation with the customs authorities of the other Member State involved in the risk analysis process,** may take appropriate mitigation measures, including:

   (a) instructing **the person who provided or made available the advance cargo information** ~~the carrier~~ that the goods shall not be loaded or transported. **If the carrier is a person other than the one who submitted the data, the carrier shall be similarly instructed that the goods shall not be loaded or transported**;

   (b) requesting additional information or action;

   (c) identifying situations where action by another ~~customs~~ authority may be appropriate;

   (d) recommending the most appropriate place and measures to carry out a control.

3. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining the **specific** time-limits within which the risk analysis is to be carried out ~~and the necessary measures are to be taken~~, as referred to in paragraph 1 of this Article~~, and the mitigation measures referred to in paragraph 2 of this Article~~.

3a. The Commission shall specify, by means of implementing acts, the procedural rules for instructing the person as referred to in paragraph 2(a). Those implementing acts

shall be adopted in accordance with the examination procedure referred to in Article 262(4).

4. Until ~~the date~~ **31 December 2037**, the risk analysis shall be carried out based on the entry summary declaration. **After that date, the risk analysis shall be carried out based on the information stored or otherwise available in the EU Customs Data Hub.**

Article 82

~~Modification and invalidation~~ Amendment of advance cargo information

1. ~~The carrier shall inform the customs authorities concerned of diversions affecting the route of the cargo as notified in the advance cargo information.~~

2. The importer,~~ and the~~ carrier **or other persons referred to in Article 80** shall amend one or more particulars of the advance cargo information **where:**

(a) ~~The importer and carrier shall invalidate the advance cargo information on where~~ it comes to their knowledge that **the** relevant information has changed in their records **or that the information is incorrect**, or

(b) ~~when~~ a customs authority requests ~~or instructs~~ them to do so due to a data **in**accuracy, **in**completeness or quality issue**s, in particular when identified as a result of the risk analysis performed**~~, unless the customs authorities have informed the carrier that they intend to examine the goods or that they have established that the advance cargo information is incorrect, or the goods have already been presented to customs~~.

2a. No amendments shall be possible where:

(a) the customs authorities have instructed the person who provided or made available the advance cargo information that the goods shall not be loaded or transported as referred to in Article 81(2), point (a). If the carrier is a person other than the one who submitted the data, the carrier shall be similarly instructed that the goods shall not be loaded or transported;

(b) the customs authorities have informed the carrier or other persons that the customs authorities intend to examine the goods;

(c) **the customs authorities have established that the advance cargo information is incorrect;**

d) **the particulars of the advance cargo information have been included in the list of particulars not subject to amendment.**

2b. **The carrier or the other persons submitting or making available the advance cargo information shall inform the customs authorities concerned of diversions affecting the route of the cargo as notified in the advance cargo information.**

~~3~~. *[Moved to Article 82a (1)]*

3a. **The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the particulars of advance cargo information which cannot be amended as referred to in paragraph 2a (d).**

4. The Commission shall specify, by means of implementing acts, the procedure for amending the advance cargo information referred to in paragraph 2 ~~and for and invalidating the advance cargo information referred to in paragraph 3~~. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 82a

Invalidation of advance cargo information

1. *[Moved from Article 82 (3)]* **If the goods covered by the advanced cargo information are not brought into the customs territory of the Union, the advance cargo information shall be invalidated by the customs authority without delay in either of the following cases:**

(a) **upon application submitted by** the carrier **or other persons providing or making available the advance cargo information** ~~shall invalidate the advance cargo information on~~ **as soon as it comes to their knowledge that the** goods ~~that~~ are not **to be** brought into the customs territory of the Union ~~as soon as possible~~**; or**

(b) ~~the customs authorities shall invalidate advance cargo information on those goods~~ after 200 days from the date in which the **advanced cargo** information **was provided or made available.**

1a. **Persons submitting the advance cargo information and the importer submitting information to the EU Customs Data Hub, shall inform each other of the invalidation of the information they have submitted.**

2. **The Commission shall specify by means of implementing acts, the procedure for invalidating the advance cargo information referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).**

Article 83

Notification of arrival in relation to the entry of means of transport and of goods

1. The carrier shall notify the arrival of the means of transport entering the customs territory of the Union ~~and of the consignments therein~~ to the actual customs office of first entry **upon arrival of the means of transport**.

1a. **The carrier shall notify the arrival of the goods, that are brought into the customs territory of the Union by sea or air, at the customs office responsible for the port or airport where the goods are unloaded upon arrival of those means of transport at that port or airport.**

1b. **The carrier shall notify the arrival of goods, that are brought into the customs territory of the Union by road, rail or inland waterways, at the customs office of first entry upon arrival of the means of transport at that customs office.**

1c. **The carrier shall link the notification of arrival of the goods to the advance cargo information provided on those goods.**

1d. **Notwithstanding the obligations of the carrier referred to in paragraphs 1, 1a and 1b , one of the following persons may notify the arrival of the goods, within the time limits referred to in those paragraphs:**

(a) **the person in whose name or on whose behalf the person who brought the goods into that territory acts;**

(b) **the person who assumed responsibility for carriage of the goods after they were brought into the customs territory of the Union;**

(c) **any person who immediately places the goods under a customs procedure;**

(d) **the holder of an authorisation for the operation of temporary storage facilities or any person who carries out an activity in a free zone.**

2. In specific cases, where not all the ~~data on the consignments~~ **particulars of the advance cargo information referred to in Article 80(5a) on the goods** can be obtained from the carrier, a subsequent carrier or other persons having that data and the appropriate rights to provide them may be required to notify the arrival of the ~~consignments~~ **goods** to the actual customs office of first entry.

3. **Subject to the approval of the customs authority,** ~~The information~~ **notification** on arrival of the means of transport and of the ~~consignments~~ **goods** may be provided or made available to the customs authorities through means other than the EU Customs Data Hub **such as commercial, port or transport information systems provided that such systems contain the necessary particulars for such notification and those particulars are available within a specific time-limit referred to in paragraphs 1, 1a and 1b**. In such cases, the information provided or made available through these other means shall **then** be transferred to the EU Customs Data Hub.

~~4. Where the arrival of the means of transport and of the consignments therein is not covered by the notification referred to in paragraph 1, the carrier shall notify the arrival of the goods brought into the customs territory of the Union by sea or air at the port or airport where they are unloaded or transhipped.~~

5. By derogation from paragraph 4**1a**, **the obligation laid down in this Article shall be waived in the following cases:** ~~the carrier shall not notify~~

(a) **for the arrival of the** goods brought into the customs territory of the Union which are unloaded and reloaded onto the same means of transport during its voyage in order to enable the unloading or loading of other goods at the same port or airport.

(b) **for Union goods which move without alteration of their customs status in accordance with Article 58(2) and which are brought into the customs territory of the Union after having temporarily left that territory by sea or air and having been carried by direct route without a stop outside the customs territory of the Union.**

6. The carrier shall not unload, in the customs territory of the Union, the goods for which ~~a~~ **the** advance cargo information **as referred to in Article 80(5a)** has not been provided or made available to customs, unless the customs authorities have requested the carrier to present them in accordance with Article 85.

7. By derogation from paragraph 6, in the event of an imminent danger necessitating the immediate unloading of all or part of the goods, the customs authorities may allow the carrier to unload the goods.

8. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining the specific cases referred to in paragraph 2 and the other persons who may be required to notify the arrival of the ~~consignments~~ **goods** to the actual customs of first entry **and the specific time-limit referred to in paragraphs 1a and 1b**.

9. The Commission shall specify, by means of implementing acts, the procedure on the notification of arrival **and for providing the notification of arrival using means other than the EU Customs Data Hub as** referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 84

Conveyance to the appropriate place

1. The carrier bringing goods into the customs territory of the Union shall convey them without delay, by the route specified by the customs authorities and in accordance with their instructions, if any, to the customs office designated by the customs authorities, or to any other place designated or approved by those authorities**, or into a free zone**.

1a. Goods brought into a free zone shall be brought into that free zone directly, either by sea or air or, if by land, without passing through another part of the customs territory of the Union, where the free zone adjoins the land frontier between a Member State and a third country. *[Moved from paragraph 4.]*

2. Where, by reason of unforeseeable circumstances or force majeure, the carriers cannot comply with the obligation in paragraph 1, they shall without delay inform the customs authorities of the situation and of the precise location of the goods.

3. The customs authorities shall determine the measures to be taken in order to permit customs supervision of the goods referred to in paragraph 1, or of the vessel or aircraft and any goods thereon in the circumstances specified in paragraph 2, and to ensure, where appropriate, that they are subsequently conveyed to a customs office or other place designated or approved by the authorities or into a free zone.

~~4.~~ *[Moved to paragraph 1a]*

5. The customs authority may subject to customs controls goods that are still outside the customs territory of the Union, as a result of an agreement concluded with the relevant third country. The customs authorities shall treat those goods in the same way as goods brought into the customs territory of the Union.

6. By way of derogation from paragraphs 1 and 2, special rules may apply to goods transported within frontier zones or in pipelines and wires, to traffic of negligible economic importance or to goods carried by travellers, provided that the customs supervision and customs control possibilities are not thereby jeopardised.

7. Paragraph 1 shall not apply to means of transport and goods carried thereon only passing through the territorial waters or the airspace of the customs territory of the Union without a stop within that territory.

~~8. Articles 83 and 85 shall not apply in cases where Union goods which move without alteration of their customs status in accordance with Article 58(2) are brought into the customs territory of the Union after having temporarily left that territory by sea or air and having been carried by direct route without a stop outside the customs territory of the Union.~~

Article 85

Physical ~~P~~presentation of goods to customs

1. Where the customs authorities or the other legislation applied by the customs authorities so requires, the carrier **or the holder of the goods** shall **physically** present the goods brought into the customs territory of the Union to **the** customs **authority** upon their arrival at the designated customs office or any other place designated or approved by the customs authorities or in the free zone.

1a. **The customs authorities shall notify the carrier or the holder of the goods of the requirement to physically present the goods.**

Where the customs authorities require the physical presentation of the goods, they shall duly notify the party concerned, namely the carrier or, where applicable, the holder of the goods.

~~2.~~ ~~The customs authorities shall require the carrier to present the goods and provide the advance cargo information referred to in Article 80 where this information has not been provided at an earlier stage.~~

3. Goods presented to customs shall not be removed from the place where they have been presented without the permission of the customs authorities.

3a. **The obligation laid down in this Article shall be waived for Union goods which move without alteration of their customs status in accordance with Article 58(2) and which are brought into the customs territory of the Union after having temporarily left that territory by sea or air and having been carried by direct route without a stop outside the customs territory of the Union.**

4~~3~~. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining the conditions for designating and approving the places other than the designated customs office, as referred to paragraph 1.

5~~4~~. The Commission shall adopt, by means of implementing acts, the procedure regarding the **physical** presentation of the goods to **the** customs **authority and notifying the carrier or the holder of the goods of the need to physically present the goods** as referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 86

Temporary storage of goods

1. Non-Union goods shall be in temporary storage from the moment ~~the carrier notifies their arrival to the customs territory of the Union, until they are placed under a customs procedure, or the customs authorities regularise their situation~~ **the person referred to in Article 83 notifies their arrival to the customs territory of the Union in accordance**

with Article 83(1a), (1b) and (1c) until they are placed under a customs procedure, taken out of the customs territory, or until the customs authorities regularize the situation of the goods, in accordance with paragraph 6.

2. **Non-Union** goods ~~arriving to the customs territory in transit shall be in temporary storage after they have been presented to the customs office of destination in the customs territory of the Union in accordance with the rules governing the transit procedure in Title VIII, Chapter 2, until they are placed under another customs procedure or the customs authorities regularise their situation~~ **moving under transit procedure shall be in temporary storage after the transit procedure has ended until they are placed under another customs procedure, taken out from the customs territory or the customs authorities regularise the situation of goods,** in accordance with paragraph 6.

3. ~~Goods in temporary storage shall be stored only in customs warehouses or, where justified, in other places designated or approved by the customs authorities.~~ **Non-Union goods in temporary storage shall be stored in temporary storage facilities authorised in accordance with Article 86d or, where justified, in other places designated or approved by the customs authorities, including places indicated by Trust and Check traders.**

4. ~~The temporary storage or customs warehouse operator shall preserve the goods in temporary storage but shall not alter them or modify their appearance or technical characteristics.~~ **The holder of the authorisation of a temporary storage facility referred to in Article 86b or the person storing the goods in the cases where the goods are stored in other places designated or approved by the customs authorities, shall be responsible for fulfilling the obligations arising from the storage of goods in temporary storage, including ensuring that the goods:**

   (a) are not removed from customs supervision and

   (b) are subject only to forms of handling that ensure their preservation without altering them or modify their appearance or technical characteristics.

5. ~~Non-Union goods in temporary storage shall be placed under a customs procedure no later than 3 days after the notification of their arrival or no later than 6 days after the notification of their arrival in the case of an authorised consignee as referred to in Article 116(4), point (b), unless the customs authorities require the goods to be presented. In exceptional cases, that time limit may be extended.~~ **Unless otherwise provided, non-Union goods in temporary storage shall be placed under a customs procedure or taken out from the**

customs territory of the Union within 90 days after the start of the temporary storage. In exceptional cases customs authorities may extend that time limit.

5a. **Non-Union goods in temporary storage in places designated or approved, including places indicated by Trust and Check traders, shall be placed under customs procedure or re-exported within specific time limit.**

6. Where, for a duly justified reason, goods cannot be maintained in temporary storage, the customs authorities shall without delay take all measures necessary to dispose of the goods in accordance with Chapter 4 of this Title.

7. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the conditions for designating or approving the places referred to in paragraph 3 of this Article**, time limit referred to in paragraph 5a of this Article** and the cases where the time limit referred to in paragraph 5 of this Article may be extended.

Article 86a

Temporary storage information

1. **Non-Union goods for which notification on the availability of the goods was provided or made available to the customs authority shall be covered by temporary storage information containing all the data necessary for the application of the provisions governing temporary storage.**

2. **The person referred to in Article 83, the holder of the authorisation for temporary storage facility or another person who is the holder of the goods, shall provide or make available the temporary storage information at the latest at the time when the goods are brought to the temporary storage facility or other places designated or approved by the customs authorities.**

3. **Unless otherwise provided, the temporary storage information shall not be required where:**

(a) **at the latest at the time of the notification of arrival to the customs territory of the Union, their customs status as Union goods is determined in accordance with Article 56; or**

(b) **the data necessary for the customs procedure or re-export has already been provided or made available to customs authorities.**

3a. **In specific cases the temporary storage information may be re-used from advance cargo information or from data provided or made available for the customs procedure.**

4. **The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by:**

(a) **further specifying the cases referred to in paragraph 3 in which a temporary storage information is not to be required,**

(b) **determining the data to be provided or made available to the customs authorities for the application of the provisions governing temporary storage and**

(c) **cases referred to in paragraph 3a.**

5. **The Commission shall specify, by means of implementing acts, the procedural rules for lodging the temporary storage information referred to paragraph 1 of this Article.**

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

6. **Until 31 December 2037 the temporary storage declaration shall be considered the temporary storage information.**

Article 86b

Amendment of temporary storage information

1. **The person referred to in Article 86a (2) shall amend one or more particulars of temporary storage information:**

(a) **where it comes to their knowledge that relevant information has changed in their records, or**

(b) **where customs authority requests them to do so due to data inaccuracy, incompleteness or quality issues.**

2. **The person referred to in Article 86a (2) may not amend the information where:**

(a) **the customs authority has informed that they intend to examine the goods,**

(b) the customs authority has informed that they have established that the data provided is incorrect, or

(c) the goods have been brought out of the temporary storage facility, unless otherwise provided.

3. The Commission is empowered to adopt delegated act, in accordance with article 261, to supplement this Regulation by determining the specific cases for amending the information, referred to in paragraphs 1 and 2 of this Article.

4. The Commission shall specify, by means of implementing acts, the procedural rules for amending the information, referred to in paragraphs 1 and 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 86c

Invalidation of temporary storage information

1. The temporary storage information shall be invalidated:

(a) by the person referred to in Article 86a (2) as soon as it comes to their knowledge that the goods will not be brought into the customs territory of the Union; or

(b) by the customs authority 30 days after the date when the information was provided or made available, if the goods were not brought into the customs territory of the Union; or

(c) in other cases.

2. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by further specifying the cases referred to in paragraph 1, point (c) in which a temporary storage information shall be invalidated.

3. The Commission shall specify, by means of implementing acts, the procedural rules for invalidating the information referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 86d

Authorisation for the operation of temporary storage facilities

1. **An authorisation of the customs authorities shall be required for the operation of temporary storage facilities. Such authorisation shall not be required where the temporary storage facilities are operated by the customs authority itself.**

   The conditions under which the operation of temporary storage facilities is permitted shall be set out in the authorisation.

2. **The authorisation referred to in paragraph 1 shall be granted only to persons who:**
   - **(a) are established in the customs territory of the Union;**
   - **(b) provide the necessary assurance of the proper conduct of the operations; and**
   - **(c) provide a guarantee in accordance with Article 170.**

   Where a comprehensive guarantee is provided, compliance with the obligations attached to that guarantee shall be monitored by appropriate audit.

   An authorised economic operator for customs simplifications or a Trust and Check trader shall be deemed to fulfil the condition referred to in point (b) insofar as the activity pertaining to the operating of temporary storage facilities concerned is taken into account in the authorisation referred to in Articles 24 or 25, respectively.

3. **The authorisation referred to in paragraph 1 shall be granted only where the customs authorities are able to exercise customs supervision without having to introduce administrative arrangements which are disproportionate to the economic needs involved.**

4. **The holder of the authorisation shall keep appropriate records in a form approved by the customs authorities and provide or make available those records in the EU Customs Data Hub.**

   The records shall contain the information and the particulars which enable the customs authorities to supervise the operation of the temporary storage facilities, in particular with regard to the identification of the goods stored, their customs status and their movements.

5. **An authorised economic operator for customs simplifications and Trust and Check trader shall be deemed to comply with the obligation referred to in paragraph 4, insofar as his or her records are appropriate for the purpose of the operation of temporary facilities.**

6. **The customs authorities may authorise the holder of the authorisation to move goods in temporary storage between different temporary storage facilities under the condition that such movements would not increase the risk of fraud, for following types of movements:**

(a) **movement that takes place under the responsibility of one customs authority;**

(b) **movement that is covered by only one authorisation, issued to an authorised economic operator for customs simplifications or Trust and Check trader; or**

(c) **other cases of movement.**

7. **The customs authorities may, where an economic need exists and customs supervision will not be adversely affected, authorise the storage of Union goods in a temporary storage facility. Those goods shall not be regarded as goods in temporary storage.**

8. **The Commission shall be empowered to adopt delegated acts, in accordance with Article 261, in order to determine:**

(a) **the conditions for granting the authorisation for the operation of temporary storage facilities;**

(b) **the cases and conditions of movement of goods in temporary storage, referred to in paragraph 6,**

(c) **the type of information and particulars that are to be contained in the records to be provided or made available in the EU Customs Data Hub as referred to in paragraph 4.**

9. **The Commission shall specify, by means of implementing acts, the procedural rules for the movement between temporary storage facilities referred to in paragraph 6. These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).**

~~*Article 87*~~

~~**Transitional provision in relation to authorisations for the operation of temporary storage facilities**~~

~~By the date established in Article 265(3), the customs authorities shall reassess the authorisations for the operation of temporary storage facilities to check whether their holders may be granted an authorisation for customs warehousing. If they may not, the authorisations for the operation of temporary storage facilities shall be revoked.~~

Chapter 2
Release for free circulation

Article 88

Scope and effect

1. Non-Union goods intended to be placed on the Union market or intended for private use or consumption within the customs territory of the Union shall be placed under release for free circulation.

2. ~~The r~~**R**elease for free circulation shall ~~not be considered a proof of conformity with the relevant other legislation applied by~~ **confer on non-Union goods** the customs ~~authorities~~ **status of Union goods**.

3. The conditions for placing goods under release for free circulation shall be the following:

   (a) the required data has been provided or made available to customs authorities~~, which must include at least the importer responsible for the goods, the seller, the buyer, the manufacturer, the product supplier where this is different from the manufacturer, the responsible economic operator in the Union pursuant to Article 4 of Regulation (EU) 2019/1020 and Art. 16 of Regulation of the European Parliament and of the Council (EU) 2023/XXXX[35], the value, the origin, the tariff classification and a description of the goods, the unique reference of the consignment and its location, and the list of relevant other legislation applied by the customs authorities~~;

   (aa) without prejudice to the data required in accordance with point (a), in case of goods imported by an deemed importer that is making use of the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC, the

[35] Regulation of the European Parliament and of the Council (EU) No 2023/… of ../../2023 on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council, and repealing Council Directive 87/357/EEC and Directive 2001/95/EC of the European Parliament and of the Council (OJ L…).

required data provided or made available to customs authorities also contains the information set out in the records of the transactions covered by the special scheme, kept by the taxable person, in accordance with Article 369x (1) of Directive 2006/112/EC;

(b) any import duty or other charges due, including anti-dumping duties, countervailing duties or safeguard measures ~~shall be~~ **are** paid or guaranteed, unless the goods are the subject of a drawing request on a tariff quota~~, or the importer is a Trust and Check trader~~;

(c) the goods have arrived to the **place of release in the** customs territory of the Union; and

(d) the goods comply with the relevant other legislation applied by the customs authorities.

4. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement ~~and amend~~ this Regulation by determining the data **to be** provided or made available to the customs authorities for placing goods under release for free circulation as referred to in paragraph 3, point (a)~~,~~ of this Article.

Article 89

Application of commercial policy measures to inward and outward processing

1. Where processed products obtained under inward processing are released for free circulation and the calculation of the amount of import duty is made in accordance with Article 168(3), the commercial policy measures to be applied shall be those applicable to the release for free circulation of the goods which were placed under inward processing.

2. Paragraph 1 shall not apply to waste and scrap.

3. Where processed products obtained under inward processing are released for free circulation and the calculation of the amount of import duty is made in accordance with Article 167(1), the commercial policy measures applicable to those goods shall be applied only where the goods which were placed under inward processing are subject to such measures.

4. Commercial policy measures shall not apply to processed products released for free circulation following outward processing where:

(a) the processed products retain their Union origin within the meaning of Article 148;

(b) the outward processing involves repair, including the standard exchange system referred to in Article 143; or

(c) the outward processing follows further processing operations in accordance with Article 139.

Chapter 3

Relief from import duty

Article 90

~~Scope and effect~~ Returned goods

1. Non-Union goods which, having originally been exported as Union goods from the customs territory of the Union, are returned to that territory within a period of 3 years and ~~declared for~~ **placed under** release for free circulation shall, upon application by the person concerned, be granted relief from import duty.

The first subparagraph shall apply even where the returned goods represent only a part of the goods previously exported from the customs territory of the Union.

2. The 3-year period referred to in paragraph 1 may be exceeded in order to take account of special circumstances.

3. Where, prior to their export from the customs territory of the Union, the returned goods had been released for free circulation duty-free or at a reduced rate of import duty because of a particular end-use, relief from duty under paragraph 1 shall be granted only if they are to be released for free circulation for the same end-use.

Where the end-use for which the goods in question are to be released for free circulation is no longer the same, the amount of import duty shall be reduced by any amount collected on the goods when they were first released for free circulation. Should the latter amount exceed that levied on the release for free circulation of the returned goods, no repayment shall be granted.

4. Where Union goods have lost their customs status pursuant to Article 57 and are subsequently released for free circulation, paragraphs 1, 2 and 3 of this Article shall apply.

5. The relief from import duty shall be granted only if goods are returned in the state in which they were exported.

6. The relief from import duty shall be supported by information establishing that the conditions for the relief are fulfilled.

7. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the cases where goods are considered to be returned in the state in which they were exported as referred to in paragraph 5 of this Article.

8. The Commission shall specify, by means of implementing acts, the procedure for the provision of information referred to in paragraph 6 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 91

~~**Goods which benefited from measures laid down under the common agricultural policy**~~

~~1. Relief from import duty provided for in Article 90 shall not be granted to goods which have benefited from measures laid down under the common agricultural policy involving their export out of the customs territory of the Union, except where otherwise provided in specific cases.~~

~~2. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the specific cases referred to in paragraph 1 of this Article.~~

Article 92

Goods previously placed under the inward processing procedure

1. Article 90 **(1), (2), (5) and (6)** shall apply **mutatis mutandis** to processed products which were originally re-exported from the customs territory of the Union subsequent to an inward processing procedure **under the condition that import duty is paid for the non-Union goods which were placed under the inward processing procedure**.

If under the subsequent inward processing non-Union goods, other than those which were obtained under the previous inward processing, are used or processed, import duty must also be paid for such goods.

2. ~~Upon application by the importer and provision of the necessary information, t~~**T**he amount of import duty **to be paid** on the goods covered by paragraph 1 shall be determined in accordance with Article 168(3). ~~The date of re-export shall be regarded as the date of release for free circulation.~~

3. The relief from import duty provided for in Article 90 shall not be granted for processed products which were exported in accordance with **point (c) of** Article 109 (2), ~~point (c),~~ unless it is ensured that no goods**, which were replaced by equivalent goods,** will be placed under the inward processing procedure.

Article 93

Products of sea-fishing and other products taken from the sea

1. Without prejudice to Article 148(1), the following shall be granted relief from import duty when they are released for free circulation:

   (a) products of sea-fishing and other products taken from the territorial sea of a third country by vessels solely registered or recorded in a Member State and flying the flag of that State;

   (b) products obtained from products referred to in point (a) on board factory-ships fulfilling the conditions laid down in that point.

2. The relief from import duty referred to in paragraph 1 shall be supported by evidence that the conditions laid down in that paragraph are fulfilled.

3. The Commission shall specify, by means of implementing acts, the procedure for the provision of the evidence referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Title VII

GOODS TAKEN OUT OF THE CUSTOMS TERRITORY OF THE UNION

Chapter 1

~~Exit of goods and e~~Export, re-export and exit of goods

~~*Article 94*~~

~~**Exit of goods**~~

~~1. Goods may exit the customs territory of the Union only if the exporter or other persons have provided or made available to the competent customs authorities the pre-departure information referred to in Article 95.~~

~~2. The Commission shall specify, by means of implementing acts, the rules on the formalities to be carried out prior to and on the exit of goods. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).~~

Article 94a

Export ~~procedure~~

[Moved from Article 99]

1. Union ~~and non-Union~~ goods ~~intended~~ to be taken out of the customs territory of the Union shall be placed under the export procedure.
2. The conditions for placing goods under the export procedure ~~shall be~~ **are** the following:
   (a) the ~~minimum information~~**required data** ~~has~~ **have** been provided or made available to **the** customs authorities~~, which must include at least the exporter responsible for the goods, the seller, the buyer, the value, the origin, the tariff classification, the description of the goods and their location~~;
   (b) any export duty or other charges due ~~are~~ **have been** paid or guaranteed; and
   (c) the goods comply with ~~the~~ relevant other legislation applied by the customs authorities.

3. Goods to be taken out of the customs territory of the Union shall be subject, as appropriate, to the following:

(a) the repayment or remission of ~~import~~ **export** duty;

~~(b) the payment of export refunds;~~

(c) the formalities required under provisions ~~in force~~ with regard to other charges,

(d) **the procedural rules on export and exit.**

3a. Paragraph 1 shall not apply to the following Union goods:

(a) placed under the outward processing procedure;

(b) taken out of the customs territory of the Union after having been placed under the end-use procedure;

(c) delivered, exempted from VAT or excise duty and subject to zero VAT or excise duty, as aircraft or ship supplies, regardless of the destination of the aircraft or ship, for which a proof of such supply is required;

(d) placed under the internal transit procedure as referred to in Article 112;

(e) moved temporarily out of the customs territory of the Union in accordance with Article 58.

3b. In the cases referred to in paragraph 3a points (a), (b) and (c) the formalities concerning the export procedure shall apply.

3c. Goods dispatched to Helgoland shall not be considered to be exported from the customs territory of the Union.

4. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement ~~and amend~~ this Regulation by determining the data **to be** provided or made available to the customs authorities for placing goods under export **procedure** as referred to in paragraph 2, point (a).

5. ~~The Commission shall specify by means of implementing acts, the procedure for refunding the VAT to natural persons not established in the Union as referred to in paragraph 3, point (b). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).~~

The Commission shall specify, by means of implementing acts, the procedural rules on export and exit as referred to in paragraph 3 point (b). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 94b

Relief from export duty for Union goods temporarily exported

[Moved from Article 100]

Without prejudice to Article 140, Union goods which are temporarily exported from the customs territory of the Union shall benefit from export duty relief, conditional upon their re-import.

Article 94c

Re-export

1. Non-Union goods taken out of the customs territory of the Union shall be re-exported.

2. Re-export data shall be provided or made available by the exporter.

3. Articles 41 to 55, 59 to 62, 94b and 98c shall apply to the re-export.

4. Paragraph 1 shall not apply to the non-Union goods placed under the external transit procedure which only pass through the customs territory of the Union.

5. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining:

(a) re-export data referred in paragraph 2;

(b) the situations where re-export data shall be provided or made available referred to in paragraph 2.

Chapter 1a
Exit of goods

Article 95

Pre-departure information

0. Carriers taking goods out of the customs territory of the Union shall provide or make available pre-departure information on that goods to the competent customs authority within the specific time limits.

0a. The exporter may provide part of the pre-departure information within the specific time limits.

0b. **Where the exporter has already provided or made available part of the required pre-departure information, the carrier shall link its own pre-departure information at his disposal to the information provided by the exporter**.

0c. **The exporter shall be notified where a carrier links its own pre-departure information to the part of pre-departure information provided or made available by the exporter.**

In specific cases, where all the pre-departure information referred to in paragraphs 0a and 0b cannot be obtained from the carrier or the exporter, other persons holding that information may be required to provide it.

0d. **The person who provides or makes available pre-departure information may restrict the visibility of the particulars of the identification to one or more other persons which also provide or make available particulars, without prejudice to the use of all particulars for customs supervision.**

1. **The pre-departure information shall contain the particulars necessary for the customs authorities to carry out risk analysis primarily for safety and security purposes**.

~~Exporters wishing to take goods out of the customs territory of the Union shall provide minimum pre-departure information within a specific time-limit before the goods are taken out of the customs territory of the Union.~~

2. The obligation referred to in **this Article** ~~paragraph 1~~ shall be waived ~~in one of the following cases~~:

(a) for means of transport and the goods carried thereon only passing through the territorial waters or the airspace of the customs territory of the Union without a stop within that territory;

(b) in other specific cases, where duly justified by the type of goods or traffic or where required by international agreements;

(c) for goods moved temporarily out of the customs territory of the Union in accordance with Article 58~~.~~**;**

(d) for goods placed under the external transit procedure which only pass through the customs territory of the Union;

(e) for goods trans-shipped within, or directly brought out from, a free zone;

(f) for goods directly brought out from a temporary storage facility;

(g) for goods to be delivered as aircraft or ship supplies.

3. **In cases referred to in paragraph 2 letter (e) and (f), re-export data shall be provided or made available in accordance to Article 94c.** ~~The minimum pre-departure information referred to in paragraph 1 shall indicate if the goods are:~~

(a) ~~Union goods to be placed under the export procedure;~~

(b) ~~Union goods to be placed under the outward processing procedure;~~

(c) ~~Union goods to be taken out of the customs territory of the Union after having been placed under the end-use procedure;~~

(d) ~~Union goods to be delivered, VAT or excise duty exempted, as aircraft or ship supplies, regardless of the destination of the aircraft or ship, for which a proof of such supply is required;~~

(e) ~~Union goods to be placed under the internal transit procedure; or~~

(f) ~~non-Union goods to be exported after having been in temporary storage or having been placed under a customs procedure.~~

4. ~~The carrier may load, in the customs territory of the Union, only the goods for which a minimum pre-departure information has been provided or made available to the customs office of exit.~~

5. The carrier shall take out of the customs territory of the Union goods in the same condition as when the pre-departure information was provided or made available.

6. ~~Where the exporter has not provided the pre-departure information or the pre-departure information provided does not correspond to the relevant goods, the carrier shall provide it at the customs office of exit within a specific time-limit, before the goods are taken out of the customs territory of the Union.~~

7. ~~The necessary particulars of the pre-departure information shall be immediately provided or made available to the customs office of exit~~.

9. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement or amend this Regulation by determining:

(a) the ~~minimum~~ **data of the** pre-departure information to be provided ~~taking into account the procedure under which the goods are~~ **or made available** to ~~be placed and whether the goods are Union or non-Union goods~~ **the customs authorities as referred to in paragraph 0**;

(b) the specific time-limit**s** referred to in paragraph~~s 1 and 6,~~ **0** ~~within which the pre-departure information is to be provided or made available before the goods are taken out of the customs territory of the Union taking into account the type of traffic and the means of transport~~;

(c) the ~~specific~~ cases where the obligation to provide or make available pre-departure information ~~is~~ **shall be** waived as referred to in paragraph 2, point (b);

(d) **the conditions under which the person which provides or makes available pre-departure information may restrict the visibility of the particulars of the identification as referred to in paragraph 0d** ~~the information to be notified on the exit of the goods referred to in paragraph 8~~.

10. The Commission shall specify, by means of implementing acts~~,~~**:**

(a) the procedure for providing and receiving the pre-departure information ~~and the exit confirmation~~ referred to in this Article~~.~~;

(b) the formalities to be carried out prior to and on the exit of goods,

(c) the rules of notification referred to in paragraph 0c.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

11. Until the ~~end~~ date ~~established in Article 265(3)~~ **of 31 Decembre 2037**, **the pre-departure information may be presented in the form of** the exit summary declaration, the export declaration, the re-export declaration ~~and~~ **or** the re-export notification **provided that the data of exit summary declaration are included** ~~shall be considered to be the pre-departure information.~~

Article 95a

Risk analysis of the pre-departure information

[Moved from Article 97]

1. Without prejudice to the activities of the EU Customs Authority set out in Title IV, the **competent** customs **authority** ~~of export~~ shall, within a specific time-limit, ensure that a

joint and simultaneous risk analysis is carried out **primarily for safety and security purposes in collaboration with other customs offices, where appropriate and where possible,** ~~primarily for security and safety purposes and, where possible, for other purposes,~~ on the basis of the pre-departure information and other ~~information~~ **data** provided or made available through the EU Customs Data Hub and shall take the necessary measures based on the results of that risk analysis.

2. The customs office ~~responsible for~~ **of** the place where ~~the~~ exporter is established may take appropriate mitigation measures, including:

(a) instructing ~~the exporter~~ **the person who provided or made available the pre-departure information** ~~or~~ ~~the carrier~~ that the goods shall not be loaded or transported. **If the carrier is a person other than the one who submitted the pre-departure information, the carrier shall be similarly instructed that the goods shall not be loaded or transported;**

(b) requesting additional information or action;

(c) identifying situations where action by another authority may be appropriate;

(d) recommending the most appropriate place and measures to carry out a control;

~~(e) determining the route to be used, and the time-limit to be respected when goods are to be taken out of the customs territory of the Union.~~

3. **The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the specific time-limits within which risk analysis is to be carried out as referred to in paragraph 1 of this Article.** ~~The customs office of exit shall also carry out a risk analysis where the carrier provides the information on the goods therein~~

4. **The Commission shall specify, by means of implementing acts procedural rules for instructing the persons as referred to in paragraph 2 point (a).**

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

~~The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining the time-limits within which risk analysis is to be carried out and the necessary measures based on the results of the risk analysis to be~~

~~taken, as referred to in paragraph 1 of this Article, and the mitigation measures referred to in paragraph 2 of this Article.~~

5. **Until 31 December 2037, the risk analysis shall be carried out based on the declarations referred to in Article 95 paragraph 11. After that date, the risk analysis shall be carried out based on the information stored or otherwise available in the EU Customs Data Hub.**

Article 96

Amendment ~~and invalidation~~ of the pre-departure information

1. The exporter or ~~the carrier may~~ **persons referred to in Article 95 shall** amend one or more particulars of the pre-departure information ~~after it has been provided or made available~~**:**~~.~~

   (a) where it comes to their knowledge that the **relevant information has changed in their records or that the information is incorrect; or**

   (b) when a customs authority requests them to do so, due to data inaccuracy, incompleteness or quality issues identified as a result of the risk analysis performed

   (c) deleted

1a. No amendment shall be possible **where** ~~after any of the following~~:

   (a0) the customs authorities have instructed the person who provided or made available the pre-departure information, or the carrier where applicable, that the goods shall not be loaded or transported as referred to in Article 95a paragraph 2 point (a). If the carrier is a person other than the one who submitted the data, the carrier shall be similarly instructed that the goods shall not be loaded or transported

   (a) the customs authorities have informed **the carrier or the person who provided or made available the pre-departure information** that they intend to examine the goods;

   (b) the customs authorities have established that the pre-departure information is incorrect;

   (ba) the particulars of the pre-departure information have been included in the list of particulars not subject to amendment;

   (c) the customs authorities have already granted the release of the goods for exit.

1b. **The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the particulars of pre-departure information which cannot be amended as referred to in paragraph 1a point (ba).**

1c. **The Commission shall specify, by means of implementing acts the procedure for amending the pre-departure information referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).**

~~2.~~ *[Moved to Article 96a (1)(b)]*

~~3.~~ *[Moved to Article 96a (2)]*

Article 96a

Invalidation of pre-departure information

1. **If the goods covered by the pre-departure information are not taken out of the customs territory of the Union, the pre-departure information shall be invalidated by the customs authority without delay in either of the following cases:**

(a) **upon application submitted by the carrier or other persons providing or making available the pre-departure information as soon as it comes to their knowledge that the goods are not to be taken out of the customs territory of the Union; or**

(b) ~~The customs authorities shall invalidate pre-departure information on those goods~~ after ~~150~~ **200 days** ~~have elapsed~~ from the date in which the **pre-departure** information was provided or made available.

1a. **The pre-departure information shall be invalidated by the customs authority without delay and upon application of the person submitting the pre-departure information where there is a discrepancy in the nature of the goods released for export, re-export or outward processing compared to those that have been presented at exit.**

1b. **Persons submitting the pre-departure information, including the exporter, shall inform each other of the invalidation of the pre-departure information**

2. The Commission shall specify, by means of implementing acts, the procedure for ~~amending~~ **invalidating** the pre-departure information ~~referred to in paragraph 1, first subparagraph and for invalidating the pre-departure information as referred to in paragraph 2~~ **and the procedure for informing of invalidation, as referred to in paragraph 1b**.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

~~*Article 97*~~

~~**Risk analysis of the pre-departure information**~~

[Moved to Article 95a]

~~*Article 98*~~

~~***Presentation and exit confirmation***~~

[Article 98 (1) Moved to Article 98b (1)

Article 98 (2) Moved to Article 98c (1)]

Article 98a

Notification of arrival in relation to the exit of goods from the customs territory of the Union

0. Notification of arrival at the point of exit of the goods to be taken out of the customs territory of the Union shall be provided or made available within the specific time limits by the carrier to the customs office responsible for the place where the good are taken out of the customs territory of the Union.

0a. Notwithstanding the obligations of the carrier one of the following persons may notify the arrival of the goods:

(a) an exporter; or

(b) the person who assumes responsibility for the carriage of the goods prior to their exit from the customs territory of the Union.

0b. Subject to the approval of the customs authority the notification on arrival of the goods may be provided or made available to the customs authorities through means other than the EU Customs Data Hub such as commercial, port or transport information systems provided that such systems contain the necessary particulars for such notification and those particulars are available within a specific time-limit referred to in paragraphs 1, 1a and 1b. In such cases, the information provided or

made available through these other means shall then be transferred to the EU Customs Data Hub.

0c. **Where no pre-departure information has been provided in accordance with Article 95, the pre-departure information on the goods to be taken out of the customs territory of the Union shall be provided at the latest upon notification arrival of the goods.**

1. **The obligation referred to in paragraph 0, is waived where the goods to be taken out of the customs territory of the Union are unloaded and reloaded onto the same means of transport during its voyage, in order to enable the unloading or loading of other goods at the same port or airport.**

2. **The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the data to be notified to the customs authority competent for the place where the good are taken out of the customs territory of the Union and the specific time limits in which the notification shall be done, referred to in paragraph 0.**

3. **The Commission shall specify, by means of implementing acts, the procedure for providing the notification of arrival and for providing the notification of arrival using means other than the EU Customs Data Hub as referred to in this Article.**

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 98b

Physical presentation of goods to customs

[Moved from Article 98 (1)]

1. ~~Where the pre-departure information has not been provided within the specific time-limit or w~~**W**here the customs authorities or the other legislation applied by the customs authorities so requires, the carrier **or the holder of the goods** shall **physically** present the goods to be taken out of the customs territory of the Union to the customs ~~office~~ **authorities** ~~of exit~~ before their departure.

2. **The customs authorities shall notify the carrier or the holder of the goods of the requirement to physically present the goods.**

3. **Goods physically presented to customs shall not be removed from the place where they have been presented without the permission of the customs authorities.**

4. **The Commission shall specify, by means of implementing acts, the procedure for the physical presentation of the goods to the customs authorities and for notifying the carrier or holder of the goods of the need to physically present the goods, as referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).**

Article 98c

Exit confirmation

[Moved from Article 98 (2)]

1. The carrier **who takes the goods outside the customs territory of the Union or the person who assumes responsibility for the carriage of the goods prior to their exit from the customs territory of the Union** shall confirm to the customs authorities the exit of the goods from the customs territory of the Union.

2. **The Commission shall specify, by means of implementing acts, the procedure by which the persons defined in paragraph 1 shall confirm to the customs authorities the exit of the goods from the customs territory of the Union as referred to in this Article.**

~~*Article 99*~~

~~**Export procedure**~~

[Moved to Article 94a]

Article 100

~~**Relief from export duty for Union goods temporarily exported**~~

[Moved to Article 94b]

Title VIII
SPECIAL PROCEDURES

Chapter 1
General provisions

Article 101

Scope

1. Goods may be placed under any of the following categories of special procedures:

   (a) transit, which shall comprise external and internal transit;

   (b) storage, which shall comprise customs warehousing and free zones;

   (c) specific use, which shall comprise temporary admission and end-use;

   (d) processing, which shall comprise inward and outward processing.

~~2. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement and amend this Regulation by determining the data provided or made available to the customs authorities for placing goods under special procedures.~~

Article 102

Authorisation

1. Importers, exporters **or their indirect representatives** intending to place goods under a special ~~customs~~ procedure shall have an authorisation from the customs authorities for the following:

   (a) the use of the inward or outward processing procedure, the temporary admission procedure or the end-use procedure; or

(b) the operation of storage facilities for the customs warehousing of goods, except where the storage facility operator is the customs authority itself.

1a. **Persons shall have an authorisation from the customs authorities for the operation of storage facilities for the customs warehousing of goods by any importer, except where the storage facility operator is the customs authority itself.**

1b. The authorisation shall set out the conditions for the use of ~~those~~ **the special** procedures or the operation of ~~those~~ **the** storage facilities**.**

2. ~~Except where otherwise provided, t~~**T**he customs authorities shall grant the authorisation**s** referred to in paragraph 1 **and 1a** only where **all of** the following conditions are met**, except where otherwise provided**:

(a) ~~the holder of the authorisation~~ **the applicant** is established in the customs territory of the Union~~, except where otherwise provided for temporary admission procedure or, in exceptional cases, for the end-use or inward processing procedures~~;

(b) ~~the holder of the authorisation~~ **the applicant** provides the necessary assurance of the proper conduct of the operations; **an authorised economic operator for customs simplifications or** a Trust and Check trader shall be deemed to fulfil this condition, insofar as the activity pertaining to the special procedure concerned is taken into account in the authorisation referred to in Article**s 24 or** 25**, respectively;**

(c) ~~the customs authorities deemed it necessary where the holder of the authorisation is not a Trust and Check trader,~~ a guarantee is provided for the potential customs debt or other charges related to the goods placed under the special procedure **in accordance with Article 170**;

(d) the customs authorities are able to exercise customs supervision without having to introduce administrative arrangements which are disproportionate to the economic needs involved;

(e) ~~if~~ **in** the ~~authorisation concerns~~ **case of the** temporary admission **procedure**, the ~~holder of the authorisation~~ **applicant** uses the goods or arranges for their use;

(f) ~~if the authorisation concerns~~ **in** the **case of the inward** processing procedure, the ~~holder of the authorisation~~ **applicant** carries out processing operations on the goods or arranges for them to be carried out;

(g) **in the case of a processing procedure,** the essential interests of Union producers would not be adversely affected by the authorisation ~~for a processing procedure~~ (‘~~examination of the~~ economic conditions’).

3. Unless otherwise justified by the economic nature of the processing, for assessing whether **the economic conditions are fulfilled for** granting an authorisation for an inward processing procedure ~~adversely affects the essential interest of the Union producers~~, the **competent** customs authorities ~~issuing the authorisation~~ shall, before ~~adopting its~~ **taking a** decision on the authorisation, request the **reasoned** opinion of the EU Customs Authority **where** ~~if~~:

(a) ~~the import duty applicable upon release for free circulation of the processed products is determined on the basis of the tariff classification, customs value, quantity, nature and origin of the goods placed under the inward processing procedure in accordance with Article 168(3) and (4); and~~

(b) evidence exists that the essential interests of Union producers are likely to be adversely affected. ~~Such evidence shall be deemed to exist where the goods to be placed under inward processing would be subject to an agricultural policy measure, a provisional or definitive anti-dumping duty, a countervailing duty, a safeguard measure or an additional duty resulting from a suspension of concessions if they were released for free circulation.~~

4. For assessing whether **economic conditions are fulfilled for** granting an authorisation for an outward processing procedure ~~adversely affects the essential interest of the Union producers~~, the **competent** customs authorities shall, before ~~adopting its~~ **taking a** decision on the authorisation, request the opinion of the EU Customs Authority where evidence exists that the essential interests of Union producers of goods that are considered as sensitive are likely to be adversely affected, and the goods are not intended to be repaired.

5. When requested in accordance with paragraphs 3 and 4, the EU Customs Authority may ~~reach~~ **issue** one of the following opinions:

(a) granting the authorisation does not adversely affect the essential interests of Union producers;

(b) granting the authorisation adversely affects the essential interests of Union producers;

(c) granting the authorisation for a duly substantiated and monitored quantity of goods that is defined in the opinion does not adversely affect the essential interests of Union producers.

The opinion of the EU Customs Authority shall be taken into account by the customs authorities **competent for granting the authorisation** ~~issuing the authorisations~~ as well as by any other customs authorities dealing with similar authorisations. ~~The customs authorities issuing the authorisation may disregard the opinion adopted by the EU Customs Authority provided that they give reasons for their decision in that respect.~~

6. The customs authorities granting the authorisation shall provide or make available the **applications for authorisation and the** authorisations in the EU Customs Data Hub. Where the authorisations for special procedures contain commercially sensitive information, access to ~~their particulars~~ **that sensitive information** shall be restricted.

7. The Commission is empowered to adopt delegated acts in accordance with Article 261, supplementing this Regulation in order to determine:

(0a) the conditions referred to in paragraphs 1b and 2 for granting authorisations for special procedures referred to in paragraph 1, point (a), or the operation of the storage facilities referred to in paragraph 1, point (b) and paragraph 1a;

(a) the exceptions to the conditions referred to **in** paragraph 2;

(b) the cases referred to in paragraph 3 where the economic nature of the processing justifies that the customs authorities assess whether granting an authorisation for an inward processing procedure adversely affects the essential interest of the Union producers without the opinion of the EU Customs Authority;

(ba) the cases where evidence shall be deemed to exists that the essential interests of Union producers are likely to be adversely affected referred to in paragraph 3

and the cases referred to in paragraphs 3 and 4 where the economic conditions shall be deemed to be fulfilled;

(c) the list of goods considered as sensitive referred to in paragraph 4.

8. The Commission shall specify, by means of implementing acts:

(a) the procedural rules for granting the authorisation for the **special** procedures **or the operation of the storage facilities** referred to in paragraph**s** 1 **and 1a**;

(b) the procedural rules for **the examination of the economic conditions, including for** the EU Customs Authority to provide its **reasoned** opinion; and

(c) ~~the quantity and~~ the rules for **fixing and** monitoring the ~~threshold~~ **quantity** referred to in paragraph 5.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

9. Until ~~the date set out in Article 265(1)~~**1 July 2028**, an examination of the economic conditions referred to in paragraph 2, point (~~f~~**g**), shall take place at Union level ~~hosted by~~ **in accordance with** the ~~Commission.~~ **procedural rules referred to in paragraph 8, point (b).** Until that date, where reference is made to the opinion of the EU Customs Authority under this Chapter, it is meant to refer to the **examination of the economic conditions at Union level by the Commission** ~~examination at Union level~~ as provided under paragraph**s 3, 4 and** 5 of this Article.

Article 103

Authorisations with retroactive effect

1. The customs authorities shall **upon application** grant an authorisation with retroactive effect~~,~~ where all of the following conditions are fulfilled:

(a) there is a proven economic need;

(b) the application is not related to attempted deception;

(c) the applicant has proven on the basis of accounts or records that:

(i) all the requirements of the procedure are met;

(ii) where appropriate, the goods can be identified for the period involved;

(iii) such accounts or records allow the procedure to be controlled;

(d) all the formalities necessary to regularise the situation of the goods can be carried out, including, where necessary, the invalidation of the **customs declarations concerned or of the** ~~previous records concerned~~ **data provided for placing goods under a customs procedure**;

(e) no authorisation with retroactive effect**, for the same type of special procedure,** has been granted to the applicant within 3 years of the date on which the application was accepted;

(f) the opinion of the EU Customs Authority is not required to assess whether the granting of the authorisation would adversely affect the essential interests of Union producers, except where an application concerns renewal of an authorisation for the same kind of operation and goods;

(g) the application does not concern the operation of storage facilities for the customs warehousing of goods;

(h) where an application concerns renewal of an authorisation for the same kind of operation and goods, the application is submitted within 3 years of expiry of the original authorisation.

2. Customs authorities may grant an authorisation with retroactive effect also where the goods which were placed under a customs procedure are no longer available at the time when the application for such authorisation was accepted.

Article 103a

Retroactive amendment to the authorisation

1. Upon justified application by the holder of the authorisation, submitted within the period of validity of the authorisation referred to in Article 102 (1) and (1a), the

customs authorities may authorise the authorisation granted to be amended with retroactive effect.

By way of derogation of the first subparagraph, the holder of the authorisation may submit the application to amend the authorisation after the expiration of the period of validity of the authorisation as long as there are goods placed under the relevant procedure which has not been discharged.

2. **In the decision on the retroactive amendment to the authorisation, the customs authorities shall determine the date from which that amendment takes effect .**

2a. **A retroactive amendment shall not take effect prior to the date of effect of the authorisation.**

3. **No retroactive amendment shall be permitted in any of the following cases:**

(a) **the application is submitted after the customs authorities have informed the holder of the authorisation that they intend to examine the goods or perform a control;**

(b) **the application is submitted after the customs authorities have informed that they have established that the particulars or data elements of the authorisation are incorrect; or**

(c) **the application is related to an attempted deception or abuse by the holder of the authorisation.**

4. **The application referred to in paragraph 1 shall not concern the period of validity of the authorisation granted.**

5. **The application referred to in paragraph 1 shall not make it necessary to obtain the opinion of the EU Customs Authority referred to in Article 102 (3) and (4).**

Article 104

Records

1. ~~The~~ **Unless otherwise provided, the** holder of the authorisation~~,~~ **as referred to in Article 102(1) and (1a),** the importer or exporter, and all persons carrying ~~on~~**out** an activity involving the storage, working or processing of goods, or the sale or purchase of goods in

free zones, shall keep appropriate records in a form approved by the customs authorities and provide ~~them~~ or make available those records in the EU Customs Data Hub.

The records shall contain the information and the particulars which enable the customs authorities to supervise the procedure concerned, in particular with regard to identification of the goods placed under that procedure, their customs status and their movements.

2. ~~A~~ **An authorised economic operator for customs simplifications or a** Trust and Check trader shall be deemed to comply with the obligation laid down in paragraph 1~~.~~ **insofar as his or her records are appropriate for the purpose of the special procedure concerned.**

3. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the type of information and particulars that are to be contained in the records and the exceptions to the obligation to provide them or make them available in the EU Customs Data Hub as referred to in paragraph 1.

Article 105

Discharge of a special procedure

1. In cases other than the transit procedure and without prejudice to ~~the customs supervision in relation to end-use provided for in~~ Article 135, a special procedure shall be discharged when the goods placed under the procedure, or the processed products, are placed under a subsequent customs procedure, ~~have been~~ **are** taken out of the customs territory of the Union, ~~or have been~~ **are** destroyed with no waste remaining, or are abandoned to the State in accordance with Article 78.

2. The customs authorities shall discharge the transit procedure when they are in a position to establish, on the basis of a comparison of the data provided or made available to the customs office of departure and those provided or made available to the customs office of destination, that the procedure has ended correctly.

3. The customs authorities shall take all the measures necessary to regularise the situation of the goods in respect of which a procedure has not been discharged under the conditions prescribed.

4. The discharge of the procedure shall take place within a certain time-limit, unless otherwise provided.

5. The Commission is empowered to adopt delegated acts, in accordance with Article 261**,** to supplement this Regulation by determining the time limit referred to in paragraph 4.

6. The Commission shall specify, by means of implementing acts**,** the procedural rules for the discharge of a special procedure referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 106

Transfer of rights and obligations

1. The customs authorities may authorise the holder of an authorisation for a special procedure other than transit to fully or partially transfer ~~his or her~~ **their** rights and obligations with regard to goods that have been placed under that special procedure to an importer or exporter **or any other person** ~~that also meets the conditions for the procedure concerned~~.

~~2. The holder of the authorisation that is transferring his or her rights and obligations shall inform the customs authorities about the transfer and about the discharge of the procedure, unless the customs authorities have also authorised the importer or exporter to which the rights and obligations are transferred.~~

~~3. Where the transfer of rights and obligations involves more than one Member State, the customs authorities authorising the transfer shall consult the other Member States concerned.~~

3a. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining:

(a) the cases where and the conditions under which the transfer of rights and obligations is allowed;

(b) the form in which the customs authorities authorise the transfer of rights and obligations;

(c) the data and information required for applications and authorisations for transfer of rights and obligations.

4. The Commission shall specify, by means of implementing acts**,** the procedural rules for transferring the rights and obligations of the holder of the authorisation with regard to goods which have been placed under a special procedure other than transit. Those implementing acts shall be adopted in accordance with the examination procedure in Article 262(4).

Article 107

Movement of goods

1. In specific cases, importers and exporters, **the holders of the authorisation for the operation of storage facilities for the customs warehousing of goods and the person to whom rights and obligations have been transferred to according to Article 106** may move goods placed under a special procedure other than transit or in a free zone between different places in the customs territory of the Union.

2. The Commission is empowered to adopt delegated acts**,** in accordance with Article 261**,** to supplement this Regulation by determining the cases and the conditions under which importers and exporters may move goods as referred to in paragraph 1 of this Article.

3. The Commission shall specify, by means of implementing acts**,** the procedural rules for the movement of goods placed under a special procedure other than transit or in a free zone as referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 108

Usual forms of handling

1. **G~~g~~**goods placed under customs warehousing or a processing procedure or in a free zone may undergo usual forms of handling intended to preserve them, improve their appearance or marketable quality or prepare them for distribution or resale.

1a. Goods stored in a private customs warehouse may be subject to the usual forms of handling which are strictly necessary for the purpose of prepare for the distance sale.

2. The Commission is empowered to adopt delegated acts**,** in accordance with Article 261**,** to supplement this Regulation by determining the usual forms of handling for goods referred to in paragraph**s** 1 ***and 1a*** of this Article.

Article 109

Equivalent goods

1. Equivalent goods shall consist in Union goods which are stored, used or processed instead of the goods placed under a special procedure.

   Under the outward processing procedure, equivalent goods shall consist in non-Union goods which are processed instead of Union goods placed under the outward processing procedure.

   Except where otherwise provided, equivalent goods shall have the same eight-digit Combined Nomenclature code, the same commercial quality and the same technical characteristics as the goods which they are replacing.

2. The customs authorities shall, upon application, authorise the following, provided that the proper conduct of the procedure, in particular as regards customs supervision, is ensured:

   (a) the use of equivalent goods under customs warehousing, free zones~~,~~ **and** end-use **procedures** ~~and a processing procedure~~;

   (b) the use of equivalent goods under the temporary admission procedure, in specific cases;

   (c) **the use of equivalent goods under inward processing procedure;** ~~in~~

in the case of the inward processing **with prior export** procedure, the export of processed products obtained from equivalent goods before the import of the goods they are replacing;

(d) **the use of equivalent goods under the outward processing procedure;** ~~in~~

in the case of the outward processing **with prior import** procedure, the import of processed products obtained from equivalent goods before the export of the goods they are replacing.

An authorised economic operator for customs simplifications or a Trust and Check trader shall be deemed to fulfil the condition that the proper conduct of the procedure is ensured, insofar as the activity pertaining to the use of equivalent goods for the procedure concerned is taken into account in the authorisation referred to in Article**s 24 or** 25**, respectively.**

3. The use of equivalent goods shall not be authorised in any of the following cases:

(a) where only usual forms of handling as defined in Article 108 are carried out under the inward processing procedure;

(b) where a prohibition of drawback of, or exemption from, import duty applies to non-originating goods used in the manufacture of processed products under the inward processing procedure, for which a proof of origin is issued or made out in the framework of a preferential arrangement between the Union and certain third countries or groups of such countries;

(c) where it would lead to an unjustified import duty advantage or where provided for in Union legislation.

4. In the case referred to in paragraph 2, **second subparagraph of** point (c), and where the processed products would be liable to export duty if they were not being exported in the context of the inward processing procedure, the holder of the authorisation shall provide a guarantee to ensure payment of the export duty should the non-Union goods not be imported within the period referred to Article 138(3).

5. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation in order to determine:

(a) the exceptions referred to in paragraph 1, third subparagraph;

(b) the conditions under which equivalent goods are used in accordance with paragraph 2;

(c) the specific cases where equivalent goods are used under the temporary admission procedure, referred to in paragraph 2, point (b);

(d) the cases where the use of equivalent goods is not authorised in accordance with paragraph 3, point (c).

6. The Commission shall specify, by means of implementing acts, the procedural rules for the use of equivalent goods authorised in accordance with paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Chapter 2
Transit

SECTION 1
GENERAL RULES

Article 110

Scope

1. **Without alteration of the customs status in accordance with Article 58(2), g**~~G~~oods shall be placed under a transit procedure upon their entry into the customs territory, unless they have already been placed under a transit procedure specified in Articles 111 and 112 or ~~are placed~~ under another customs procedure within the time- limit set out in Article 86~~(4)~~ **(5)**.

2. The holder of the ~~goods~~ **transit procedure** shall be considered as being the importer or the exporter of the goods and shall be liable for the payment of customs duties and ~~other taxes~~ and charges unless the customs authorities have data on another importer or exporter.

~~3. Goods placed under the union transit procedure shall stay under that procedure, until they are placed under another customs procedure.~~

Article 111

External transit

1. Under the external transit procedure, non-Union goods may be moved from one point to another within the customs territory of the Union without being subject to any of the following:

   (a) import duty or other charges, including anti-dumping duties, countervailing duties or safeguard measures;

   (b) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union.

2. In specific cases, Union goods shall be placed under the external transit procedure.

3. Movement as referred to in paragraph 1 shall take place in one of the following ways:

   (a) under the external Union transit procedure;

   (b) in accordance with the TIR Convention, provided that such movement;

      (i) began or is to end outside the customs territory of the Union;

      (ii) is effected between two points in the customs territory of the Union through the territory of a third country;

   (c) in accordance with the ATA or Istanbul Conventions, where a transit movement takes place;

   (d) under cover of **NATO** form 302 provided for in the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951 ~~and~~ **or** EU form 302;

(e) under the postal system in accordance with the acts of the Universal Postal Union, when the goods are carried by or for holders of rights and obligations under such acts.

4. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the specific cases where Union goods are to be placed under the external transit procedure.

5. The Commission shall specify, by means of implementing acts, the procedural rules to apply paragraph 3, points (b) to (e), in the customs territory of the Union, taking into account the needs of the Union. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 112

Internal transit

1. Under the internal transit procedure, ~~and under the conditions laid down in paragraph 2,~~ Union goods may be moved from one point to another within the customs territory of the Union, and pass through **the territory of** a third country, without any change in their customs status.

2. The movement referred to in paragraph 1 shall take place in one of the following ways:

(a) under the internal Union transit procedure**,** provided that such a possibility is provided for in an international agreement;

(b) in accordance with the TIR Convention;

(c) in accordance with the ATA or Istanbul Conventions, where a transit movement takes place;

(d) under cover of **NATO** form 302 as provided for in the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951 ~~and~~ **or** EU form 302;

(e) under the postal system in accordance with the acts of the Universal Postal Union, when the goods are carried by or for holders of rights and obligations under such acts.

3. The Commission shall specify, by means of implementing acts the procedural rules to apply paragraph 2, points (b) to (e), in the customs territory of the Union, taking into account the needs of the Union. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 113

Single territory for transit purposes

Where goods are moved from one point in the customs territory of the Union to another in accordance with the TIR Convention, the ATA or Istanbul Conventions, under cover of form~~s~~ 302, EU form 302 or under the postal system, the customs territory of the Union shall, for the purposes of such transport, be considered to form a single territory.

Article 114

Exclusion of persons from TIR operations

1. Where the customs authorities of a Member State decide to exclude a person from TIR operations under Article 38 of the TIR Convention, that decision shall apply throughout the customs territory of the Union and TIR carnets lodged by that person shall not be accepted by any customs office.

2. A Member State shall communicate its decision referred to in paragraph 1, together with the date of its application, to the other Member States**,** ~~and~~ to the Commission and **to** the EU Customs Authority.

Article 115

Authorised ~~consignor~~ consignee and authorised ~~consignee~~ consignor for TIR purposes

1. The customs authorities may, upon application, authorise a person~~, referred to as (~~an 'authorised consignee'**)** to receive goods moved in accordance with the TIR Convention at an authorised place, so that the procedure is terminated in accordance with Article 1, point (d), of the TIR Convention.

2. The customs authorities may, upon application, authorise a person**, (an** 'authorised consignor'**)** to send goods to be moved in accordance with the TIR Convention ~~at~~ **from** an authorised place, so that the procedure is started in accordance with Article 1, point (c) of the TIR Convention.

   For the purpose of the first subparagraph, the authorised consignor shall be authorised to use seals of a special type **as referred to** in ~~accordance with~~ Article 116(4), point (c).

3. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the conditions for the granting of the authorisations referred to in paragraphs 1 and 2.

SECTION ~~3~~2

UNION TRANSIT

Article 116

Obligations of the holder of the Union transit procedure and of the carrier and recipient of goods moving under the Union transit procedure

1. The holder of the Union transit procedure shall be responsible for all of the following obligations:

   (a) provision of **the required** ~~the~~ data **or making them available to the customs authorities** ~~enabling the customs authorities to supervise the goods, including at least the identification of the goods placed under that procedure, the means of transport, the importer or the exporter, the customs status and the movements~~;

   (b) **notification** ~~presentation~~ of **availability of** the goods ~~intact~~ and the required data, at the customs office of destination, within the prescribed time limit and in compliance with the measures taken by the customs authorities to ensure their identification;

(c) observance of the customs provisions relating to the procedure;

(d) unless otherwise provided for in the customs legislation, provision of a guarantee in order to ensure payment of the amount of import or export duty corresponding to any customs debt or other charges, which may be incurred in respect of the goods.

2. The obligation of the holder of the procedure shall be met and the transit procedure shall end when the goods placed under the procedure and the required information are available at the customs office of destination in accordance with the customs legislation.

3. A carrier or recipient of goods who accepts goods knowing that they are moving under the Union transit procedure shall also be responsible for ~~presentation~~ **notification of availability** of the goods ~~intact~~ at the customs office of destination within the prescribed time-limit and in compliance with the measures taken by the customs authorities to ensure their identification.

4. Upon application, the customs authorities may authorise any of the following simplifications regarding the placing of goods under the Union transit procedure or the ~~discharge~~ **end** of that procedure:

(a) the status of authorised consignor, allowing the holder of the authorisation to place goods under the Union transit procedure without presenting them to customs;

(b) the status of authorised consignee, allowing the holder of the authorisation to receive goods moved under the Union transit procedure at an authorised place, to ~~discharge~~ **end** the procedure in accordance with **Article 105** ~~paragraph~~ **(**2**)**;

(c) the use of seals of a special type, where sealing is required to ensure the identification of the goods placed under the Union transit procedure;

(ca) the provision of a reduced data set, or, where applicable, the use of a customs declaration with a reduced data set, for placing the goods under transit procedure;

(d) the use of an electronic transport document to place goods under the Union transit procedure, provided it contains the necessary information, and this is available to the customs authorities at departure and at destination to allow the customs supervision of the goods and the discharge of the procedure.

~~5. The customs authorities at least every 3 years shall perform an in-depth monitoring of the activities of authorised consignors and consignees in order to assess their compliance with the authorisation requirements.~~

6. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by**:**

(a) further specifying the data requirements laid down in paragraph 1, points (a) and (b) and the conditions for granting the authorisations referred to in paragraph 4**;**

(b) determining the data to be provided or made available to the customs authorities for placing goods under the Union transit procedure as referred to in paragraph 1, point (a).

7. The Commission shall specify, by means of implementing acts, the procedural rules on:

(a) the placing of goods under the Union transit procedure and the discharge of that procedure;

(b) the operation of the simplifications referred to in paragraph 4.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 117

Goods passing through the territory of a third country under the external Union transit procedure

1. The external Union transit procedure shall apply to goods passing through a third country if one of the following conditions is fulfilled:

(a) provision is made to that effect under an international agreement;

(b) carriage through that third country is effected under cover of a single transport document drawn up in the customs territory of the Union.

2. In the case referred to in paragraph 1, point (b), the operation of the external Union transit procedure shall be suspended while the goods are outside the customs territory of the Union.

3. The Commission ~~shall specify, by means of~~ **is empowered to adopt** implementing acts~~,~~ **to specify** the procedural rules on the customs supervision of goods passing through the territory of a third country under the external Union transit procedure. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Chapter 3

Storage

SECTION 1

COMMON PROVISIONS

Article 118

Scope

1. Under a storage procedure, non-Union goods may be stored in the customs territory of the Union without being subject to any of the following:

   (a) import duty;

   (b) other charges as provided for under other relevant provisions in force;

   (c) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union.

2. The conditions for placing goods under **a** storage **procedure** shall be the following:

   (a) ~~the minimum data has been provided or made available to customs, which must include at least the importer responsible for the goods, the manufacturer, the value, the origin, the tariff classification and description of the goods and the list of relevant other legislation applied by the customs authorities on those goods, unless otherwise provided~~ **the required data has been provided or made available to the customs authorities**; ~~and~~

   (b) the goods comply with the **relevant** other legislation applied by the customs authorities~~.~~**; and**

(c) the goods have arrived to the place of release for the procedure.

3. Union goods may be placed under the customs warehousing or free zone procedure in accordance with the other legislation applied by the customs authorities or in order to benefit from a decision granting repayment or remission of import duty.

3a. The customs authorities may, where an economic need exists and customs supervision will not be adversely affected, authorise that Union goods ~~may~~ be entered, stored, moved, used, processed or consumed in a customs warehouse or in a free zone. In such cases**,** the goods shall not be regarded as being under a storage procedure.

~~4. The importer shall place non-Union goods brought into a customs warehouse or a free zone under the appropriate storage procedure.~~

4a. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the data to be provided or made available to the customs authorities for placing goods under a storage procedure as referred to in paragraph 2, point (a).

5. The Commission shall specify, by means of implementing acts, the procedure for the placing of Union goods under the customs warehousing or free zone procedure as referred to in paragraph ~~2~~ **3**. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

~~*Article 119*~~

~~**Storage information**~~

~~1. The operator of a customs warehouse or a free zone shall provide or make available to the customs authorities the minimum data necessary for the application of the provisions governing the storage of the goods located therein, in particular the data referred to in Article 118(2), point (a), the customs status of the goods placed under the storage procedure and the subsequent movements of those goods.~~

~~2. Where the importer or the carrier has already provided or made available all or part of the information referred to in paragraph 1, the customs warehouse or free zone operator shall link its own additional information to the importer's or carrier's information.~~

~~3. The operator must not accept goods for which the minimum information has not been provided or made available to customs.~~

~~4. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining the minimum information referred to in paragraph 1 of this Article.~~

~~*Article 120*~~

~~**Amendment and invalidation of storage information**~~

~~1. The operator of a customs warehouse or a free zone may amend one or more particulars of the information on the goods in its facility after it has been provided or made available, unless the customs authorities have informed the operator that they intend to examine the goods or that they have established that the information on the goods is incorrect.~~

~~2. The importer, the carrier or the operator of the warehouse or a free zone shall invalidate the information on goods that are not brought into the customs territory of the Union as soon as possible. The customs authorities shall invalidate the information on those goods after 30 days from the date in which the information was provided or made available.~~

Article 121

Duration of a storage procedure

1. There shall be no limit to the length of time goods may remain under a storage procedure.

2. **By way of derogation from paragraph 1**~~In exceptional circumstances~~, the customs authorities may set a time limit by which a storage procedure must be discharged**:**

   (a) in exceptional circumstances, in particular where the type and nature of the goods may, in the case of long-term storage, pose a threat to human, animal or plant health and life or to the environment**;**

   (b) where an authorisation for the operation of a storage facility has been revoked.

SECTION 2

CUSTOMS WAREHOUSING

Article 122

Storage in customs warehouses

1. Under the customs warehousing procedure**,** non-Union goods may be stored in premises or any other location authorised for that procedure by the customs authorities and under customs supervision ('customs warehouses').

2. Customs warehouses may be available for use by any importer for the customs warehousing of goods ('public customs warehouse'), or for the storage of goods ~~imported~~ by the holder of an authorisation for customs ~~warehousing~~ **warehouse** ('private customs warehouse').

3. Goods placed under the customs warehousing procedure may be temporarily removed from the customs warehouse. Such removal shall, except in case of force majeure, be authorised in advance by the customs authorities.

Article 122a

Customs warehouse for distance sales

1. Only the deemed importers making use of the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC or their indirect representatives, having the status of a Trust and Check trader, may be authorised to store and operate the goods in a private customs warehouse for distance sales prior to a distance sale.

2. Goods intended for distance sales may be placed under the customs warehousing

procedure in a customs warehouse for distance sales only if the following conditions are fulfilled in respect of those goods:

(a) The goods comply with the relevant other legislation applied by the Customs authorities that would apply for the release for free circulation

(b) they are packed in collective packages containing alike goods, in a state prior to the preparation of individual consignments when the distance sale is concluded,

(c) they are brought into the customs territory of the Union in quantities that facilitate preforming effective customs controls.

The customs authority shall assess the fulfilment of the condition referred to in point (c) in relation to the size of the entity planning to conduct distance sales from the customs warehouse.

3. Customs authorities and other competent authorities are entitled to control whether the goods shall comply with the requirements for release for free circulation before being placed under the customs warehousing procedure and during their storage.

4. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the conditions for granting the authorisation referred to in paragraph 1.

5. The Commission is empowered to adopt implementing acts, to specify the procedural rules regarding the conditions referred to in paragraph 2 to this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

~~*Article 123*~~

~~**Authorisation for the operation of customs warehouses**~~

~~1. The operation of a customs warehouse requires an authorisation from the customs authorities, unless the operator of the customs warehouse is the customs authority itself. The authorisation shall set out the conditions for the operation of the customs warehouse.~~

~~2. The authorisation referred to in paragraph 1 shall be granted only to persons who satisfy the following conditions:~~

(b) they are established in the customs territory of the Union;

they provide the necessary assurance of the proper conduct of the operations;

a Trust and Check trader shall be deemed to fulfil this condition insofar as the operation of customs warehouse is taken into account in the authorisation referred to in Article 25;

they provide a guarantee for the potential customs debt.

3. The authorisation referred to in paragraph 1 shall be granted only where the customs authorities are able to exercise customs supervision without having to introduce administrative arrangements which are disproportionate to the economic needs involved.

4. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the conditions for granting the authorisation referred to in paragraph 1 of this Article.

Article 124

Movement of goods in customs warehouse

1. The customs authorities may authorise an operator of a customs warehouse to move goods under the following conditions:

(c) the possibility to move the goods is provided for in the customs warehouse authorisation;

the operator of the customs warehouse is an authorised economic operator trust and check;

information on the movements is recorded in the operator's records and provided or made available to the customs authorities of departure and arrival of the goods.

2. The Commission shall specify, by means of implementing acts, the procedure for the movement of goods in customs warehouse referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 125

Processing in a customs warehouse

The customs authorities may, where an economic need exists and customs supervision is not adversely affected, authorise ~~that~~ **the processing of** goods ~~in customs warehousing are subsequently placed~~ under the inward processing or end-use procedure**s** to ~~be processed~~ **take place** in ~~the~~**a** customs warehouse, subject to the conditions provided for by those procedures.

In such cases, the goods shall not be regarded as being under the customs warehousing procedure.

Article 126

~~**Customs supervision**~~ **Responsibilities of the holder of the authorisation**

Without prejudice to Article 20, ~~T~~the holder of the authorisation **referred to in Article 102(1), point (b) and Article 102(1a) and the importer** shall be responsible for**:**

(a) ensuring that goods under the customs warehousing procedure are not removed from customs supervision**;**

(b) **fulfilling the obligations arising from the storage of goods covered by the customs warehousing procedure; and**

(c) **fulfilling the obligations arising from the placing of the goods under the customs warehousing procedure.**

SECTION 3
FREE ZONES

Article 127

Designation of free zones

1. Member States may designate parts of the customs territory of the Union as free zones.

   For each free zone the Member State shall determine the area covered and define the entry and exit points.

2. Member States shall communicate to the Commission **and to the EU Customs Authority** information on their free zones which are in operation.

3. Free zones shall be enclosed.

The perimeter and the entry and exit points of the area of free zones shall be subject to customs supervision.

4. Persons, goods and means of transport entering or leaving free zones may be subject to customs controls.

Article 128

Buildings and activities in free zones

1. The construction of any building in a free zone shall require the prior approval of the customs authorities.

2. Subject to the customs legislation, any industrial, commercial or service activity shall be permitted in a free zone. The carrying on of such activities shall be subject to notification, in advance, to the customs authorities.

3. The customs authorities may prohibit or restrict the activities referred to in paragraph 2, having regard to the nature of the goods in question, or the requirements of customs supervision, or security and safety requirements.

4. The customs authorities may prohibit persons who do not provide the necessary assurance of compliance with the customs provisions from carrying on an activity in a free zone.

Article 129

Non-Union goods in free zones

1. Non-Union goods may, while they remain in a free zone, be released for free circulation or be placed under the inward processing, temporary admission or end-use procedure, under the conditions laid down for those procedures.

   In such cases**,** the goods shall not be regarded as being under the free zone procedure.

2. Without prejudice to the provisions applicable to supplies or to victualling storage, where the procedure concerned so provides, paragraph 1 shall not preclude the use or consumption of goods of which the release for free circulation or temporary admission would not entail application of import duty **or** measures laid down under the common agricultural or commercial policies or measures prohibiting the use of those goods in the Union.

   Such use or consumption requires that the appropriate information ~~shall~~ be provided or made available to customs.

Article 130

Taking goods out of a free zone

~~Goods may be taken out of a free zone only if they have been placed under another customs procedure.~~

1. Without prejudice to the relevant other legislation applied by the customs authorities, goods in a free zone may be exported or re-exported from the customs territory of the Union, or brought into another part of the customs territory of the Union.

2. Articles 41, 44, 45, 84, and 85 shall apply to goods taken out of a free zone into other parts of the customs territory of the Union.

Article 131

Customs status

1. Upon application by the person concerned, the customs authorities shall establish the customs status as Union goods of the following goods:

(a) Union goods which enter a free zone;

(b) Union goods which have undergone processing operations within a free zone;

(c) goods released for free circulation within a free zone.

2. Where goods are taken out of a free zone into another part of the customs territory of the Union or placed under a customs procedure, they shall be regarded as non-Union goods unless their customs status as Union goods has been proven.

3. However, for the purposes of applying export duty and export licences or export control measures laid down under the common agricultural or commercial policies, such goods shall be regarded as Union goods, unless it is established that they do not have the customs status of Union goods.

Chapter 4

Specific use

SECTION 1

TEMPORARY ADMISSION

Article 132

Scope

1. Under the temporary admission procedure**,** non-Union goods intended for **re-**export may be subject to specific use in the customs territory of the Union~~,~~ with total or partial relief from import duty, and without being subject to any of the following:

(a) other charges as provided for under other relevant provisions in force;

(b) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union.

2. The temporary admission procedure may only be used provided that the following conditions are met:

(a) the goods are not intended to undergo any change, except normal depreciation due to the use made of them;

(b) it is possible to ensure that the goods placed under the procedure can be identified, except where, in view of the nature of the goods or of the intended use, the absence of identification measures is not liable to give rise to any abuse of the procedure or, in the case referred to in Article 109, where compliance with the conditions laid down in respect of equivalent goods can be verified;

(c) where required, an authorisation has been granted in accordance with Article 102**;**

(ca) ~~and the minimum data has been provided or made available to customs prior to the release of the goods, which must include at least the importer responsible for the goods, the value, the origin, the tariff classification and a description of and the intended use of the goods~~ **the required data has been provided or made available to the customs authorities**;

(d) the requirements for total or partial duty relief laid down in the customs legislation are met;

(e) the goods have arrived to the ~~customs territory of the Union~~ **place of release for the customs procedure**; **and**

(f) the goods comply with the relevant other legislation applied by the customs authorities.

3. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining:

(a) the specific use referred to in paragraph 1 of this Article;

(b) the requirements for total **or partial** relief from import duty referred to in paragraph 2, point (d), of this Article**;**

(c) the data to be provided or made available to the customs authorities for placing goods under the temporary admission procedure as referred to in paragraph 2, point (ca).

Article 133

Period during which goods may remain under the temporary admission procedure

1. The customs authorities shall determine the period ~~within which goods placed under~~ **for discharge of** the temporary admission procedure ~~must be placed under a subsequent customs procedure~~. Such period shall be long enough for the objective of authorised use to be achieved.

2. The maximum period during which goods may remain under the temporary admission procedure for the same purpose and under the responsibility of the same authorisation holder shall be 24 months, even where the procedure was discharged by placing the goods under another special procedure and subsequently placing them under the temporary admission procedure again.

3. Where, in exceptional circumstances, the authorised use cannot be achieved within the period referred to in paragraph~~s 1 and~~ 2, the customs authorities may grant an extension of reasonable duration of that period, upon justified application by the importer.

4. The overall period during which goods may remain under the temporary admission procedure shall not exceed 10 years, except in the case of an unforeseeable event.

Article 134

Amount of import duty in case of temporary admission with partial relief from import duty

1. The amount of import duty in respect of goods placed under the temporary admission procedure with partial relief from import duty shall be set at 3 % of the amount of import duty which would have been payable on those goods had they been released for free circulation on the date on which they were placed under the temporary admission procedure.

   That amount shall be payable for every month or fraction of a month during which the goods have been placed under the temporary admission procedure with partial relief from import duty.

2. The amount of import duty shall not exceed that which would have been payable if the goods in question had been released for free circulation on the date on which they were placed under the temporary admission procedure.

SECTION 2

END-USE

Article 135

End-use procedure

1. Under the end-use procedure, goods may be released for free circulation under a duty exemption or at a reduced rate of duty that is provided in Union legislation on condition that the importer assigns the goods to a specific use.

2. The conditions for placing goods under the end-use procedure shall be the following:

   (a) ~~where required,~~ an authorisation has been granted in accordance with Article 102;

   (b) ~~the minimum data has been provided or made available to customs, which must include at least the importer responsible for the goods, the seller, the buyer, the manufacturer, the product supplier where this is different from the manufacturer, the responsible economic operator in the Union pursuant to Article 4 of Regulation (EU)~~

~~2019/1020 and Art. 16 of Regulation (EU) 2023/XXXX[36] the value, the origin, the tariff classification and a description of the goods, the unique reference of the consignment and its location, and the list of relevant other legislation applied by the customs authorities on those goods~~ **the required data has been provided or made available to the customs authorities**;

(c) any import duty or other charges due, including anti-dumping duties, countervailing duties or safeguard measures, shall be paid or guaranteed, unless the goods are the subject of a drawing request on a tariff quota;

(d) the goods have arrived to the ~~customs territory of the Union~~ **place of release for the customs procedure**; **and**

(e) the goods comply with the relevant ~~the~~ other legislation applied by the customs authorities.

3. Where the goods are at a production stage, which would allow economically the prescribed end-use only, the customs authorities may establish in the authorisation the conditions under which the goods shall be deemed to have been used for the purposes laid down in the Union legislation providing the duty exemption or reduced rate of duty.

4. Where goods are suitable for repeated use and the customs authorities consider it appropriate in order to avoid abuse, customs supervision shall continue for a period not exceeding 2 years after the date of their first use for the purposes laid down in the Union legislation providing the duty exemption or reduced rate of duty.

5. Customs supervision under the end-use procedure shall end in any of the following cases:

(a) where the goods have been used for the purposes laid down in the Union legislation providing the duty exemption or reduced rate of duty;

(b) where the goods have been taken out of the customs territory of the Union, destroyed or abandoned to the State;

~~36 [OP : please insert final reference in the text see footnote 19]~~

(c) where the goods have been used for purposes other than those laid down in the Union legislation providing the duty exemption or reduced duty rate and the applicable import duty has been paid.

6. Where a rate of yield is required, Article 136 shall apply to the end-use procedure.

7. Waste and scrap which result from the working or processing of goods according to the prescribed end-use and losses due to natural wastage shall be considered as goods assigned to the prescribed end-use.

8. Waste and scrap resulting from the destruction of goods placed under the end-use procedure shall be deemed to be placed under the customs warehousing procedure.

9. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the data to be provided or made available to the customs authorities for placing goods under the end-use procedure as referred to in paragraph 2, point (b).

Chapter 5
Processing

SECTION 1
GENERAL PROVISIONS

Article 136

Rate of yield

Except where a rate of yield has been specified in Union legislation governing specific fields, the customs authorities shall set either the rate of yield or average rate of yield of the processing operation or where appropriate, the method of determining such rate.

The rate of yield or average rate of yield shall be determined on the basis of the actual circumstances in which processing operations are, or are to be, carried out. That rate may be adjusted, where appropriate, in accordance with Article 10.

SECTION 2
INWARD PROCESSING

Article 137

Scope

1. Without prejudice to Article 109, under the inward processing procedure non-Union goods may be used in the customs territory of the Union in one or more processing operations without such goods being subject to any of the following:

   (a) import duty or other charges including anti-dumping duties, countervailing duties or safeguard measures;

   (b) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union.

2. The conditions for placing goods under the inward processing procedure shall be the following:

(a) ~~where required,~~ an authorisation has been granted in accordance with Article 102~~, for one of the uses referred to in paragraph 3 of this Article~~;

(b) ~~the minimum data has been provided or made available to customs, which must include at least the importer responsible for the goods, the seller, the buyer, the manufacturer, the value, the origin, the tariff classification and a description of the goods and their location, and the list of relevant other legislation applied by the customs authorities~~ **the required data has been provided or made available to the customs authorities**;

(ba) the goods comply with the relevant other legislation applied by the customs authorities; and

(c) the goods have arrived to the ~~customs territory of the Union~~ **place of release for the customs procedure**.

3. ~~Importers may use the inward processing procedure for any of the following:~~

~~(a) repairing the goods that are intended to be placed under inward processing;~~

~~(b) destroying the goods that are intended to be placed under inward processing;~~

~~(c) producing processed products in which the goods placed under inward processing can be identified, without prejudice to the use of production accessories;~~

~~(d) undergoing operations on the goods placed under inward processing to ensure their compliance with technical requirements for their release for free circulation;~~

~~(e) subjecting the goods placed under the inwards processing to usual forms of handling in accordance with Article 108;~~

~~(f) producing processed products with goods equivalent to the goods placed under the inward processing procedure, in accordance with Article 109.~~

The inward processing procedure may be used in cases other than repair and destruction only where, without prejudice to the use of production accessories, the goods placed under the procedure can be identified in the processed products.

In the case referred to in Article 109, the inward processing procedure may be used where compliance with the conditions laid down therein in respect of equivalent goods can be verified.

4. In addition to paragraphs 1, 2 and 3, the inward processing procedure may also be used for any of the following goods:

(a) goods intended to undergo operations to ensure their compliance with technical requirements for their release for free circulation;

(b) goods which have to undergo usual forms of handling in accordance with Article 108.

5. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the data to be provided or made available to the customs authorities for placing goods under the inward processing procedure as referred to in paragraph 2, point (b).

Article 138

Period for discharge

1. The customs authorities shall specify the period within which the inward processing procedure is to be discharged, in accordance with Article 105.

That period shall run from the date on which the non-Union goods are placed under the procedure and shall take account of the time required to carry out the processing operations and to discharge the procedure.

2. The customs authorities may grant an extension, of reasonable duration, of the period specified pursuant to paragraph 1, upon justified application by the holder of the authorisation.

The authorisation may specify that a period which commences in the course of a month, quarter or semester shall end on the last day of a subsequent month, quarter or semester respectively.

3. In the case of prior export in accordance with Article 109(2), point (c), the authorisation shall specify the period within which the non-Union goods shall be ~~declared for~~ **placed under** the inward processing procedure, taking account of the time required for procurement and transport to the customs territory of the Union.

The period referred to in the first subparagraph shall be set in months and shall not exceed ~~6~~**12** months. It shall run from the date of ~~acceptance of the export declaration relating to~~ **placing** the processed products obtained from the corresponding equivalent goods **under the export procedure**.

~~4. At the request of the holder of the authorisation, the period of 6 months referred to in paragraph 3 may be extended, even after its expiry, provided that the total period does not exceed 12 months.~~

Article 139

Temporary re-export for further processing

1. Upon application, the customs authorities may authorise some or all of the goods placed under the inward processing procedure, or the processed products, to be temporarily **re-**exported for the purpose of further processing outside the customs territory of the Union~~, in accordance with the conditions laid down for the outward processing procedure~~.

2. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the conditions for temporarily re-exporting goods for further processing as referred to in paragraph 1.

3. The Commission shall specify, by means of implementing acts, the procedural rules for the temporary re-export for further processing referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

SECTION 3

OUTWARD PROCESSING

Article 140

Scope

1. Under the outward processing procedure**,** Union goods may be temporarily exported from the customs territory of the Union in order to undergo processing operations. The processed products resulting from those goods may be released for free circulation with total or partial relief from import duty upon application by the holder of the authorisation or by any other person established in the customs territory of the Union, provided that that person has obtained the consent of the holder of the authorisation and the conditions of the authorisation are fulfilled.

2. The conditions for placing goods under outward processing shall be the following:

   (a) ~~where required,~~ an authorisation has been granted in accordance with Article 102 and this Article;

   (b) ~~the minimum data has been provided or made available to customs, which must include at least the exporter responsible for the goods, the seller, the buyer, the value, the origin, the tariff classification and a description of the goods~~**the required data has been provided or made available to the customs authorities**;

   (c) any export duty or other charges due are paid or guaranteed; **and**

   (d) the goods comply with the relevant other legislation applied by the customs authorities**.**~~;~~

3. The customs authorities shall not grant an authorization for an outward processing procedure for any of the following Union goods:

   (a) goods the export of which gives rise to repayment or remission of import duty;

   (b) goods which, prior to export, were released for free circulation under a duty exemption or at a reduced rate of duty by virtue of their end-use, for as long as the purposes of such end-use have not been fulfilled, unless those goods have to undergo repair operations;

   ~~(c) goods the export of which gives rise to the granting of export refunds;~~

   (d) goods in respect of which a financial advantage~~ other than refunds as referred to in point (c)~~ is granted under the common agricultural policy by virtue of the export of those goods.

4. The customs authorities shall specify the period within which goods temporarily exported must be re-imported into the customs territory of the Union in the form of processed products, and released for free circulation, in order to be able to benefit from total or partial relief from import duty. They may grant an extension, of reasonable duration, of that period, upon justified application by the holder of the authorisation.

5. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the data to be provided or made available to the customs authorities for placing goods under the outward processing procedure as referred to in paragraph 2, point (b).

Article 141

Goods repaired or replaced free of charge

1. Where it is established to the satisfaction of the customs authorities that goods have been repaired or replaced free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing or material defect, or because the goods did not meet the specifications requested by the buyer to the seller of the goods, they shall be granted total relief from import duty.

2. Paragraph 1 shall not apply where account was taken of the manufacturing or material defect at the time when the goods in question were first released for free circulation.

Article 142

Goods repaired or altered in the context of international agreements

1. Total relief from import duty shall be granted to processed products resulting from goods placed under the outward processing procedure where it is established to the satisfaction of the customs authorities that:

   (a) those goods have been repaired or altered in a third country with which the Union has concluded an international agreement providing for such relief; and

   (b) the conditions for the relief from import duty laid down in the agreement referred to in point (a) are fulfilled.

2. Paragraph 1 shall not apply to processed products resulting from equivalent goods as referred to in Article 109 and to replacement products as referred to in Articles 143 and 144.

Article 143

Standard exchange system

1. Under the standard exchange system an imported product ('replacement product') may, in accordance with paragraphs 2 to 5, replace a processed product.

2. The customs authorities shall, upon application, authorise the standard exchange system to be used where the processing operation involves the repair of defective Union goods other than those subject to measures laid down under the common agricultural policy or to the specific arrangements applicable to certain goods resulting from the processing of agricultural products.

3. Replacement products shall have the same eight-digit Combined Nomenclature code, the same commercial quality and the same technical characteristics as the defective goods had the latter undergone repair.

4. Where the defective goods have been used before export, the replacement products must also have been used.

   The customs authorities shall, however, waive the requirement set out in the first subparagraph if the replacement product has been supplied free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a material or manufacturing defect.

5. The provisions which would be applicable to the processed products shall apply to the replacement products.

Article 144

Prior import of replacement products

1. The customs authorities shall, under the conditions they lay down, upon application by the person concerned, authorise replacement products to be imported before the defective goods are exported.

In the event of such prior import of a replacement product, a guarantee shall be provided, covering the amount of the import duty that would be payable should the defective goods not be exported in accordance with paragraph 2.

2. The defective goods shall be exported within a period of 2 months from the date of ~~acceptance by the customs authorities of the declaration for~~ the release for free circulation of the replacement products.

3. Where, in exceptional circumstances, the defective goods cannot be exported within the period referred to in paragraph 2, the customs authorities may grant an extension, of reasonable duration, of that period, upon justified application by the holder of the authorisation.

Title IX

TARIFF CLASSIFICATION, ORIGIN AND CUSTOMS VALUE OF GOODS

Chapter 1

Common Customs Tariff and tariff classification of goods

Article 145

Common Customs Tariff and customs surveillance

1. Import and export duty due shall be based on the Common Customs Tariff.

   Other measures prescribed by Union provisions governing specific fields relating to trade in goods shall, where appropriate, be applied in accordance with the tariff classification of those goods.

2. The Common Customs Tariff shall comprise all of the following:

   (a) the Combined Nomenclature of goods as laid down in Regulation (EEC) No 2658/87;

   (b) any other nomenclature which is wholly or partly based on the Combined Nomenclature, or which provides for further subdivisions to it, and which is established by Union provisions governing specific fields with a view to the application of tariff measures relating to trade in goods;

   (c) the conventional or normal autonomous customs duty applicable to goods covered by the Combined Nomenclature;

   (d) the preferential tariff measures contained in agreements which the Union has concluded with certain third countries or groups of third countries;

   (e) preferential tariff measures adopted unilaterally by the Union in respect of certain third countries or groups of third countries;

(f) autonomous measures providing for a reduction in, or exemption from, customs duty on certain goods;

(g) favourable tariff treatment specified for certain goods, by reason of their nature or end-use, in the framework of measures referred to under points (c) to (f) or (h);

(h) other measures provided for by agricultural or commercial or other Union legislation that are based on the tariff classification of the goods, in particular, a provisional or definitive anti-dumping duty, countervailing duty or safeguard measure.

3. Where the goods concerned fulfil the conditions included in the measures laid down in paragraph 2, points (d) to (g), these measures may apply instead of those provided for in point (c) of that paragraph. Such measures may be applied retrospectively, provided that the time-limits and conditions laid down in the relevant measure or in this Regulation are complied with and that:

(a) insofar as the measures laid down in points (d) and (e) are concerned, they provide for such retrospective application;

(b) insofar as the measures laid down in point (d) are concerned, the third country or group of third countries also allow for such retrospective application.

4. Where application of the measures referred to in paragraph 2, points (d) to (g), or the exemption from measures referred to in point (h) thereof, is restricted to a certain volume of imports or exports, such application or exemption shall, in the case of tariff quotas, or other quotas, cease as soon as the specified volume of imports or exports is reached.

In the case of tariff ceilings such application shall cease by virtue of a legal act of the Union.

5. The customs authorities shall refuse the application of the simplified tariff for distance sales where they establish, based on relevant and objective data, that the distance sale of goods imported from third countries was intended for persons other than those referred to in Article 14 (4) **point (2)(a) of Directive 2006/112/EC** ~~(2)(a) VAT Directive~~.

6. The Commission may subject to customs surveillance the release for free circulation, the export and the placement under certain special procedures of goods, for the purposes referred to in Article 31(4) **point (b)**.

7. The Commission shall adopt, by means of implementing acts, the measures on the uniform management of the tariff and other quotas and the tariff and other ceilings referred to in paragraph 4, and on the management of the customs surveillance referred to in paragraph 6. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 146

Tariff classification of goods

1. For the application of the Common Customs Tariff, tariff classification of goods shall consist in the determination of one of the subheadings or further subdivisions of the Combined Nomenclature under which those goods are to be classified.

2. For the application of non-tariff measures, tariff classification of goods shall consist in the determination of one of the subheadings or further subdivisions of the Combined Nomenclature, or of any other nomenclature which is established by Union provisions and which is wholly or partly based on the Combined Nomenclature or which provides for further subdivisions to it, under which those goods are to be classified.

3. The subheading or further subdivision determined in accordance with paragraphs 1 and 2 shall be used for the purpose of applying the measures linked to that subheading.

4. The Commission may, by means of implementing acts, determine the tariff classification of goods in accordance with paragraphs 1 and 2.
Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

On duly justified imperative grounds of urgency related to the need to rapidly ensure the correct and uniform application of the Combined Nomenclature, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 262(5).

Chapter 2

Origin of goods

Article 147

Non-preferential origin

The rules for the determination of the non-preferential origin of goods in Articles 148 and 149 shall be used for applying the following:

(a) the Common Customs Tariff, except for the measures referred to in Article 145(2), points (d) and (e);

(b) measures, other than tariff measures, established by Union provisions governing specific fields relating to trade in goods; and

(c) other Union measures relating to the origin of goods.

Article 148

Acquisition of <u>non-preferential</u> origin

1. Goods wholly obtained in a single country or territory shall be regarded as having their origin in that country or territory.

2. Goods the production of which involves more than one country or territory shall be deemed to originate in the country or territory where they underwent their last, substantial, economically justified processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture.

3. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by laying down the rules under which goods, whose determination of non-preferential origin is required for the purposes of applying the Union measures referred to in Article 147, are considered as wholly obtained in a single country or territory or to have undergone their last, substantial, economically justified processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a

new product or representing an important stage of manufacture in a country or territory, in accordance with paragraphs 1 and 2 of this Article.

Article 149

Proof of non-preferential origin

1. Where the importer has indicated an origin of the goods pursuant to the customs legislation, the customs authorities may require **the importer** ~~a proof of~~ **to prove the** origin of the goods.

2. Where a proof of origin of goods is provided pursuant to the customs legislation or other Union legislation governing specific fields, the customs authorities may, in the event of reasonable doubt, require any additional evidence needed in order to ensure that the indication of origin complies with the rules laid down by the relevant Union legislation.

3. Where the exigencies of trade so require, a document proving origin may be issued in the Union in accordance with the rules of origin in force in the country or territory of destination or any other method identifying the country where the goods were wholly obtained or underwent their last substantial transformation.

4. ~~Where the importer has opted to apply the simplified tariff treatment for distance sales as referred to in Article 156(2), the customs authorities shall not require the importer to prove the origin of the goods.~~

5. The Commission shall adopt, by means of implementing acts, the procedural rules for the provision and verification of a proof of origin. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 150

Preferential origin of goods

1. In order to benefit from the measures referred to in Article 145(2), points (d) ~~and~~ **or** (e), or from non-tariff preferential measures, goods shall comply with the rules on preferential origin referred to in paragraphs 2 to 5 of this Article.

2. In the case of goods benefiting from preferential measures contained in agreements, which the Union has concluded with certain third countries or with groups of such countries, the rules on preferential origin shall be laid down in those agreements.

~~3.~~ *[Moved to paragraph 10a]*

4. In the case of goods benefiting from preferential measures applicable in trade between the customs territory of the Union and Ceuta and Melilla, as contained in Protocol 2 to the 1985 Act of Accession, the rules on preferential origin shall be adopted in accordance with Article 9 of that Protocol.

5. In the case of goods benefiting from preferential measures contained in preferential arrangements in favour of the overseas countries and territories associated with the Union, the rules on preferential origin shall be adopted in accordance with Article 203 TFEU.

6. Upon its own initiative or at the request of a beneficiary country or territory, the Commission may, for certain goods, grant that country or territory a temporary derogation from the rules on preferential origin referred to in paragraph 3.

The temporary derogation shall be justified by one of the following reasons:

(a) internal or external factors temporarily deprive the beneficiary country or territory of the ability to comply with the rules on preferential origin;

(b) the beneficiary country or territory requires time to prepare itself to comply with those rules.

7. A request for derogation shall be made to the Commission by the beneficiary country or territory concerned. The request shall state the reasons, as indicated in the second subparagraph **of paragraph 6**, why **the** derogation is required and shall contain **the** appropriate supporting documents.

8. The temporary derogation shall be limited to the duration of the effects of the internal or external factors giving rise to it or the length of time needed for the beneficiary country or territory to achieve compliance with the rules.

9. Where a derogation is granted, the beneficiary country or territory concerned shall comply with any requirements laid down as to information to be provided to the Commission

concerning the use of the derogation and the management of the quantities for which the derogation is granted.

10. [Where the importer has opted to apply the simplified tariff treatment for distance sales, the importer may not benefit from the measures referred to in Article 145(2), points (d) and (e), or from non-tariff preferential measures.]

10a. In the case of goods benefiting from preferential measures adopted unilaterally by the Union in respect of certain third countries or groups of such countries, other than those referred to in paragraph 5, the Commission shall adopt delegated acts in accordance with Article 261 to supplement this Regulation by laying down rules on preferential origin. Those rules shall be based either on the criterion that goods are wholly obtained or on the criterion that goods result from sufficient processing or working *[Moved from paragraph 3]*

11. The Commission shall adopt by means of implementing acts:

(a) the procedural rules on the preferential origin of goods for the purposes of the measures referred to in paragraph 1;

(b) a measure granting a beneficiary country or territory the temporary derogation referred to in paragraph 6.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 151

Determination of origin of specific goods

The Commission may, by means of implementing acts, adopt measures to determine the origin of specific goods in accordance with the rules of origin applicable to those goods. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

On imperative grounds of urgency relating to such measures, duly justified by the need to rapidly ensure the correct and uniform application of rules of origin, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 262(5).

Chapter 3
Value of goods for customs purposes

Article 152

Scope

The customs value of goods, for the purposes of applying the Common Customs Tariff and non-tariff measures laid down by Union provisions governing specific fields relating to trade in goods, shall be determined in accordance with Articles 153 and 157.

Article 153

Method of customs valuation based on the transaction value

1. The primary basis for the customs value of goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the customs territory of the Union, adjusted in accordance with Articles 154 and 155.

2. The price actually paid or payable shall be the total payment made or to be made by the buyer to the seller or by the buyer to a third party for the benefit of the seller for the imported goods and include all payments made or to be made as a condition of sale of the imported goods.

3. The transaction value shall apply provided that all of the following conditions are fulfilled:

   (a) there are no restrictions as to the disposal or use of the goods by the buyer, other than any of the following:

      (i) restrictions imposed or required by a law or by the public authorities in the Union;

      (ii) limitations of the geographical area in which the goods may be resold;

      (iii) restrictions which do not substantially affect the customs value of the goods;

   (b) the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;

(c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made;

(d) the buyer and seller are not related or the relationship did not influence the price.

4. The Commission shall specify, by means of implementing acts, the procedural rules for determining the customs value in accordance with paragraphs 1 and 2, including those for adjusting the price actually paid or payable, and for the application of the conditions referred to in paragraph 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 153a

Transaction value for goods purchased in distance sales

1. The transaction value for goods purchased in distance sale as referred to in Article 5(47) shall be determined on the basis of that sale.

2. Where the goods are purchased in distance sale not before they were brought into the customs territory of the Union but while placed under the warehousing customs procedure as referred to in Article 122a, the transaction value shall be determined on the basis of that sale.

Article 154

Elements of the transaction value

1. In determining the customs value under Article 153, the price actually paid or payable for the imported goods shall be supplemented by:

(a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:

(i) commissions and brokerage, except buying commissions;

(ii) the cost of containers which are treated as being one, for customs purposes, with the goods in question; and

(iii) the cost of packing, whether for labour or materials;

(b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:

(i) materials, components, parts and similar items incorporated into the imported goods;

(ii) tools, dies, moulds and similar items used in the production of the imported goods;

(iii) materials consumed in the production of the imported goods; and

(iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Union and necessary for the production of the imported goods;

(c) royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;

(d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller; and

(e) the following costs up to the place where goods are brought into the customs territory of the Union:

(i) the cost of transport and insurance of the imported goods; and

(ii) loading, **unloading** and handling charges associated with the transport of the imported goods.

2. Additions to the price actually paid or payable, pursuant to paragraph 1, shall be made only on the basis of objective and quantifiable data.

3. No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.

4. The Commission shall specify, by means of implementing acts, the procedural rules for determining the customs value in accordance with this Article, including those for adjusting the price actually paid or payable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 155

Elements not to be included in the customs value

1. In determining the customs value under Article 153, none of the following shall be included:

   (a) the cost of transport of the imported goods after their entry into the customs territory of the Union;

   (b) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after the entry into the customs territory of the Union of the imported goods such as industrial plants, machinery or equipment;

   (c) charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of the imported goods, irrespective of whether the finance is provided by the seller or another person, provided that the financing arrangement has been made in writing and, where required, the buyer can demonstrate that the following conditions are fulfilled:

      (i) such goods are actually sold at the price declared as the price actually paid or payable;

      (ii) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided;

   (d) charges for the right to reproduce the imported goods in the Union;

(da) buying commissions;

(e) import duties or other charges payable in the Union by reason of the import or sale of the goods;

(f) notwithstanding Article 154(1), point (c), payments made by the buyer for the right to distribute or resell the imported goods, if such payments are not a condition of the sale for export to the Union of the goods.

2. The Commission shall specify, by means of implementing acts, the procedural rules for determining the customs value in accordance with this Article, including those for adjusting the price actually paid or payable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 156

Simplifications

1. The customs authorities may, upon application, authorise that the following amounts be determined on the basis of specific criteria, where they are not quantifiable on the date on which the customs declaration is accepted **or on the date on which the data must be available to the customs authorities**:

(a) amounts which are to be included in the customs value in accordance with Article 153(2); and

(b) the amounts referred to in Articles 154 and 155.

2. [Where the importer has opted to apply the simplified tariff treatment for distance sales, Article 155(1), point (a), shall not apply and both the costs of transport of the imported goods up to the place where goods are brought into the customs territory of the Union and the costs of transport after their entry into that territory, shall be included in the customs value.]

3. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the conditions for granting the authorisation referred to in paragraph 1.

Article 157

Secondary methods of customs valuation

1. Where the customs value of goods cannot be determined under Article 153, it shall be determined by proceeding sequentially from points (a) to (d) of paragraph 2, until the first point under which the customs value of goods can be determined.

   The order of application of points (c) and (d) of paragraph 2 shall be reversed if the importer ~~or the exporter~~ or, where applicable, the declarant so requests.

2. The customs value, pursuant to paragraph 1, shall be:

   (a) the transaction value of identical goods sold for export to the customs territory of the Union and exported at or about the same time as the goods being valued;

   (b) the transaction value of similar goods sold for export to the customs territory of the Union and exported at or about the same time as the goods being valued;

   (c) the value based on the unit price at which the imported goods, or identical or similar imported goods, are sold within the customs territory of the Union in the greatest aggregate quantity to persons not related to the sellers; or

   (d) the computed value, consisting of the sum of:

      (i) the cost or value of materials and fabrication or other processing employed in producing the imported goods;

      (ii) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of export for export to the Union;

      (iii) the cost or value of the elements referred to in Article 154(1), point (e).

3. Where the customs value cannot be determined under paragraph 1, it shall be determined on the basis of data available in the customs territory of the Union, using reasonable means consistent with the principles and general provisions of all of the following:

(a) the agreement on implementation of Article VII of the General Agreement on Tariffs and Trade;

(b) Article VII of the General Agreement on Tariffs and Trade;

(c) this Chapter.

3a. **In the case of distance sales, where the importer does not dispel reasonable doubts that the declared transaction value represents the total price actually paid or payable as referred to in Article 153(1), customs authorities may use flexibility in the determination of the appropriate secondary valuation method to redetermine the customs value of those goods. This is without prejudice to the possibility for the importer to provide the necessary information, within a reasonable time limit, to justify that the customs value may be determined in the manner prescribed in paragraph 1.**

4. The Commission shall specify, by means of implementing acts, the procedural rules for determining the customs value referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 158

Determination of the value of goods in specific situations

1. The Commission may, by means of implementing acts, adopt measures establishing the appropriate method of customs valuation or criteria to be used for determining the customs value of goods in specific situations**, including distance sales**.
Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

2. On imperative grounds of urgency relating to such measures, duly justified by the need to rapidly ensure the correct and uniform application of rules for the determination of the customs value of goods, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 262(5)**.**

Title X

CUSTOMS DEBTS AND GUARANTEES

Chapter 1

Incurrence of a customs debt

SECTION 1

CUSTOMS DEBT ON IMPORT

Article 159

Release for free circulation and temporary admission

1. ~~The importer shall incur a~~ **A** customs debt **on import for placing the goods under the** ~~at the time of~~ release ~~of the goods~~ for free circulation procedure, ~~for~~ the end-use procedure, or ~~for~~ the temporary admission procedure with partial relief from import duty**, shall be incurred at the time when the importer notifies of availability of the goods referred to in Article 59(1) in respect of goods for which the necessary data has been provided or made available**.

1a. By way of derogation from paragraph 1, the customs debt shall be incurred at the time of:

(a) the release of the goods, in the case of application of Article 181(4);

(b) the acceptance of the customs declaration, where applicable until 31 December 2037;

(c) the acceptance of the payment for the distance sale by the deemed importer making use of the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC.

2. The importer shall be the debtor. In the event of indirect representation, the importer and the ~~person on whose behalf the importer is acting~~ **customs representative** shall both be the debtors and be jointly and severally liable for the customs debt.

Where the information provided or made available for the purpose of the procedures referred to in paragraph 1 leads to all or part of the import duty not being collected, the person who provided that information and who knew, or who ought reasonably to have known, that such information was false shall also be a debtor.

3. ~~Where Title XII, Chapter 6, Section 4 of Directive 2006/112/EC applies to the distance sales of goods to be imported from third countries or territories to a customer in the customs territory of the Union, the deemed importer shall incur a customs debt when the payment for the distance sale is accepted and shall be the debtor.~~

Article 160

Special provisions relating to non-originating goods

1. ~~The exporter~~ **A customs debt** shall **be** incur**red** ~~a customs debt~~ at the moment of the release of the products for **re-**export where:

(a) a preferential arrangement between the Union and certain third countries or groups of such countries provides that the preferential tariff treatment of products originating in the Union requires non-originating goods used in their manufacture be subject to payment of the import duties; and

(b) a proof of origin for those products has been issued or made out.

2. The ~~exporter~~ **customs debt** shall **be** calculate**d as** the amount of import duty corresponding to the debt as if the non-originating goods that were used in the manufacture of the products being **re-**exported were released for free circulation on the same date.

3. **The exporter shall be the debtor.** In the event of indirect representation, the exporter and the ~~person on whose behalf the exporter is acting~~ **customs representative** shall both become debtors and be jointly and severally liable for the customs debt.

Article 161

Customs debt incurred through non-compliance

1. For goods liable to import duty, a customs debt on import shall be incurred through non-compliance with any of the following:

   (a) one of the obligations laid down in the customs legislation concerning the introduction of non-Union goods into the customs territory of the Union, their removal from customs supervision, or the movement, processing, storage, temporary storage, temporary admission or disposal of such goods within that territory;

   (b) one of the obligations laid down in the customs legislation concerning the end-use of goods within the customs territory of the Union;

   (c) a condition governing the placing of non-Union goods under a customs procedure or the granting, by virtue of the end-use of the goods, of duty exemption or a reduced rate of import duty.

2. The time at which the customs debt is incurred shall be either of the following:

   (a) the moment when the obligation the non-fulfilment of which gives rise to the customs debt is not met or ceases to be met;

   (b) the time when goods are placed under a customs procedure where it is established subsequently that a condition governing the placing of the goods under that procedure or the granting of a duty exemption or a reduced rate of import duty by virtue of the end-use of the goods was not in fact fulfilled.

3. In cases referred to under paragraph 1, points (a) and (b), the debtor shall be any of the following:

   (a) any person who was required to fulfil the obligations concerned;

   (b) any person who was aware or should reasonably have been aware that an obligation under the customs legislation was not fulfilled and who acted on behalf of the person who was obliged to fulfil the obligation, or who participated in the act which led to the non-fulfilment of the obligation;

(c) any person who acquired or held the goods in question and who was aware or should reasonably have been aware at the time of acquiring or receiving the goods that an obligation under the customs legislation was not fulfilled.

4. In cases referred to under paragraph 1, point (c), the debtor shall be ~~the~~ **any** person who is required to comply with the conditions governing the placing of the goods under a customs procedure or the granting of a duty exemption or reduced rate of import duty by virtue of the end-use of the goods.

Where the information required under the customs legislation relating to the conditions governing the placing of the goods under that customs procedure **referred to in paragraph 1, point (c),** is provided to the customs authorities, and such information leads to all or part of the import duty not being collected, ~~the~~ **any** person who provided the **required** information and who knew, or who ought reasonably to have known, that such information was false shall also be a debtor.

Article 162

Deduction of an amount of import duty already paid

1. Where a customs debt is incurred, pursuant to Article 161(1) in respect of goods released for free circulation at a reduced rate of import duty on account of their end-use, the amount of import duty paid when the goods were released for free circulation shall be deducted from the amount of import duty corresponding to the customs debt.

The first subparagraph shall **also** apply where a customs debt is incurred in respect of scrap and waste resulting from the destruction of such goods.

2. Where a customs debt is incurred, pursuant to Article 159(1) or Article 161(1) in respect of goods placed under temporary admission with partial relief from import duty, the amount of import duty paid under partial relief shall be deducted from the amount of import duty corresponding to the customs debt.

SECTION 2

CUSTOMS DEBT ON EXPORT

Article 163

Export and outward processing

1. ~~The exporter shall incur a~~ **A** customs debt **on export for placing goods** ~~at the time of release of goods liable to export duty~~ under the export procedure or the outward processing procedure **shall be incurred at the time when the exporter notifies of availability of the goods referred to in Article 59(1) in respect of goods for which the necessary data has been provided or made available**.

1a. By way of derogation from paragraph 1, the customs debt shall be incurred at the time of:

(a) release of the goods, in the case of application of Article 181(4);

(b) acceptance of the customs declaration, where applicable until 31 December 2037.

2. The exporter shall be the debtor. In the event of indirect representation, the exporter and the ~~person on whose behalf the exporter is acting~~ **customs representative** shall both become debtors and be jointly and severally liable for the customs debt.

3. Where the information provided for placing the goods under the export **procedure or the outward processing** procedure leads to all or part of the export duty not being collected, the person who provided the information and who knew, or who should reasonably have known, that such information was false shall also be a debtor.

Article 164

Customs debt incurred through non-compliance

1. For goods liable to export duty, a customs debt on export shall be incurred through non-compliance with either of the following:

(a) one of the obligations laid down in the customs legislation for the exit of the goods;

(b) the conditions under which the goods were allowed to be taken out of the customs territory of the Union with total or partial relief from export duty.

2. The time at which the customs debt is incurred shall be one of the following:

(a) the moment at which the goods are actually taken out of the customs territory of the Union without providing **or making available** information to the customs authorities on such export;

(b) the moment at which the goods reach a destination other than that for which they were allowed to be taken out of the customs territory of the Union with total or partial relief from export duty;

(c) should the customs authorities be unable to determine the moment referred to in point (b), the expiry of the time-limit set for the production of evidence that the conditions entitling the goods to such relief have been fulfilled.

3. In cases referred to under paragraph 1, point (a), the debtor shall be any of the following:

(a) any person who was required to fulfil the obligation concerned;

(b) any person who was aware or should reasonably have been aware that the obligation concerned was not fulfilled and who acted on behalf of the person who was obliged to fulfil the obligation;

(c) any person who participated in the act which led to the non-fulfilment of the obligation and who was aware or should reasonably have been aware that the required information had not been provided or, where applicable, a customs declaration had not been lodged, but should have been.

4. In cases referred to under paragraph 1, point (b), the debtor shall be any person who is required to comply with the conditions under which the goods were allowed to be taken out of the customs territory of the Union with total or partial relief from export duty.

SECTION 3

PROVISIONS COMMON TO CUSTOMS DEBT INCURRED ON IMPORT AND EXPORT

Article 165

Customs debt ~~in case of prohibitions and restrictions~~ where goods are subject to other legislation applied by the customs authorities

1. The customs debt on import or export shall be incurred even if it relates to goods which are subject to other legislation applied by the customs authorities on import or export of any kind.

2. However, no customs debt shall be incurred on either of the following:

   (a) the unlawful introduction into the customs territory of the Union of counterfeit currency;

   (b) the introduction into the customs territory of the Union of narcotic drugs and psychotropic substances other than where strictly supervised by the competent authorities with a view to their use for medical and scientific purposes.

3. For the purposes of ~~sanctions~~ **penalties** as applicable to customs infringements, the customs debt shall nevertheless be deemed to have been incurred where, ~~under this Regulation or~~ under the law of a Member State, import or export duty or the existence of a customs debt provide the basis for determining ~~sanctions~~ **penalties**.

Article 166

Several debtors

Where several persons are liable for payment of the amount of import or export duty corresponding to one customs debt, they shall be jointly and severally liable for payment of that amount.

Article 167

General rules for calculating the amount of import or export duty

1. The amount of import or export duty shall be determined **on the basis** ~~based on the tariff classification, customs value, quantity, nature and origin of the goods. The~~ **of those** rules for calculation of duty **which were** ~~shall be those~~ applicable to the goods concerned at the time at which the customs debt in respect of them was incurred.

1a. In terms of distance sales under the special scheme set out in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC, the amount of import duty shall be determined on the basis of those rules for calculation of duty which were applicable to the goods concerned at the time when the payment for distance sale has been accepted.

2. Where it is not possible to determine precisely the time at which the customs debt is incurred, that time shall be deemed to be the time at which the customs authorities conclude that the goods are in a situation in which a customs debt has been incurred.

However, where the information available to the customs authorities enables them to establish that the customs debt had been incurred prior to the time at which they reached that conclusion, the customs debt shall be deemed to have been incurred at the earliest time that such a situation can be established.

3. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the rules referred to in this Article for the calculation of the amount of import or export duty applicable to goods for which a customs debt is incurred in the context of a special procedure.

Article 168

Special rules for calculating the amount of import duty

1. Where costs for storage or usual forms of handling have been incurred within the customs territory of the Union in respect of goods placed under a customs procedure or in temporary storage, such costs or the increase in value shall not be taken into account for the calculation of the amount of import duty where satisfactory proof of those costs is provided by the importer ~~or by the exporter~~ or, where applicable, by the declarant.

However, the customs value, quantity, nature and origin of non-Union goods used in the operations shall be taken into account for the calculation of the amount of import duty.

2. Where the tariff classification of goods placed under a customs procedure changes as a result of usual forms of handling within the customs territory of the Union, the original tariff classification for the goods placed under the procedure shall be applied at the request of the importer or, where applicable, of the declarant.

3. Where a customs debt is incurred for processed products resulting from the inward processing procedure, the amount of import duty corresponding to such debt shall, at the request of the importer, be determined on the basis of the tariff classification, customs value, quantity, nature and origin of the goods placed under the inward processing procedure **at the time of release of the goods under that inward processing procedure**.

4. Where the processed products result from subsequent inward processing procedures, the importer may only request the debt to be determined on the basis of the tariff classification, customs value, quantity, nature and origin of the goods placed under the first inward processing procedure**, provided that the first inward processing procedure has been applied in accordance with Article 168(3)**.

5. In specific cases, the amount of import duty shall be determined in accordance with paragraphs 2, 3 and 4 of this Article without a request of importer or the exporter or, where applicable, of the declarant in order to avoid the circumvention of tariff measures referred to in Article 145(2), point (h).

6. Where a customs debt is incurred for processed products resulting from the outward processing procedure or replacement products as referred to in Article 143(1), the amount of import duty shall be calculated on the basis of the cost of the processing operation undertaken outside the customs territory of the Union.

7. Where a customs debt is incurred pursuant to Article 161 or Article 164 of this Regulation, if the failure which led to the incurrence of a customs debt did not constitute an attempt at deception, the following shall also apply:

   (a) the favourable tariff treatment of goods pursuant to customs legislation; or

   (b) the relief or total or partial exemption from import or export duty pursuant to Article 145(2), points (d), (e), (f) and (g) or Articles 90, 91, 92 and 93 or Articles 140, 141, 142, 143 and 144; or

   (c) the relief pursuant to Regulation (EC) No 1186/2009.

8. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the rules referred to in this Article for the calculation of the amount of import or export duty applicable to goods for which a customs debt is incurred in the context of a special procedure, and the specific cases referred to in paragraph 5.

Article 169

Place where the customs debt is incurred

1. ~~A customs debt shall be incurred at the place where the importer or exporter is established~~.

~~By way of derogation from the first subparagraph, in~~ ~~relation to importers and exporters other than Trust and Check traders and deemed importers~~, ~~t~~**T**he customs debt shall be incurred at the place where:

(a) the **goods are located, in the cases referred to in Article 42 paragraph 1, point (d) (ii);**

(b) the goods are to be delivered, in the cases referred to in Article 42 paragraph 2, letter (a);

(c) the declarant authorised to apply centralised clearance is established, in the cases referred to in Article 42(2)(c)~~customs declaration has been lodged or would have been lodged in accordance with Article 63(4) but for the modification concerning the method of providing information laid down Article 63(2)~~.

In all other cases, the customs debt shall be incurred at the place where the events from which it arises occur.

If it is not possible to determine that place, the customs debt shall be incurred at the place where the customs authorities conclude that the goods are in a situation in which a customs debt is incurred.

2. If the goods have been placed under a customs procedure which has not been discharged or when a temporary storage did not end properly, and the place where the customs debt is incurred cannot be determined pursuant to the second or third subparagraphs of paragraph 1 within a specific time-limit, the customs debt shall be incurred at the place where the

goods were either placed under the procedure concerned or were introduced into the customs territory of the Union under that procedure or were in temporary storage.

3. Where the information available to the customs authorities enables them to establish that the customs debt may have been incurred in several places, the customs debt shall be deemed to have been incurred at the place where it was first incurred.

4. If a customs authority establishes that a customs debt has been incurred under Article 161 or Article 164 in another Member State and the amount of import or export duty corresponding to that debt is lower than EUR 10 000, the customs debt shall be deemed to have been incurred in the Member State where the finding was made.

4a. By way of derogation from paragraphs 1 to 4, in relation to a Trust and Check trader, the customs debt shall be incurred in the Member State of establishment of the Trust and Check trader.

5. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the time limits referred to in paragraph 2.

Chapter 2
Guarantee for a potential or existing customs debt

Article 170

General provisions

1. Unless otherwise specified, this Chapter shall apply to guarantees for customs debts which have been incurred ~~but whose payment is deferred~~ ('existing customs debts') and to guarantees that are required in case a customs debt may be incurred ('potential customs debts').

2. Where customs authorities require a guarantee for a potential or existing customs debt to be provided, that guarantee shall cover the amount of import or export duty and the other charges due in connection with the import or export of the goods where:

(a) the guarantee is used for the placing of goods under the Union transit procedure; or

(b) the guarantee may be used in more than one Member State.

~~A guarantee accepted or authorised by the customs authorities shall be valid throughout the customs territory of the Union, for the purposes for which it is given~~.

A guarantee which may not be used outside the Member State where it is required shall be valid only in that Member State and shall cover at least the amount of import or export duty.

3. The guarantee shall be provided by the debtor or the person who may become the debtor or, if the customs authorities allow it, by any other person.

4. Without prejudice to Article 178, the customs authorities shall require only one guarantee to be provided in respect of specific goods **.**

The guarantee provided for specific goods shall apply to the amount of import or export duty corresponding to the customs debt and other charges in respect of those goods, whether or not the information provided or made available on those goods is correct.

If the guarantee has not been released, it may also be used, within the limits of the secured amount, for the recovery of amounts of import or export duty and other charges payable following post-release control of those goods.

5. Upon application by the person referred to in paragraph 3, the customs authorities may, in accordance with Article 176(1)**,** ~~and~~ (2) **and (3)** authorise the provision of a comprehensive guarantee to cover the amount of import or export duty corresponding to the customs debt in respect of two or more operations or customs procedures.

6. The customs authorities shall monitor the guarantee.

7. No guarantee shall be required in any of the following situations:

(a) from States, regional and local government authorities or other bodies governed by public law, in respect of the activities in which they engage as public authorities;

(b) for goods carried on the Rhine, the Rhine waterways, the Danube or the Danube waterways;

(c) for goods carried by a fixed transport installation;

(d) in specific cases where goods are placed under the temporary admission procedure;

(e) for goods **placed under the Union transit procedure using the simplification referred to in Article 116(4), point (d) and** carried by sea or air between Union ports or between Union airports**;**

(f) for potential customs debt of Trust and Check traders.

8. The customs authorities may waive the requirement for provision of a guarantee where the amount of import or export duty to be secured does not exceed ~~the statistical value~~ **a certain** threshold ~~of EUR 1 000 in value~~.

9. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the specific cases where no guarantee is required for goods placed under the temporary admission procedure, as referred to in paragraph 7, point (d) **and the threshold for waiving the provision of a guarantee as referred to in paragraph 8**.

10. The Commission shall specify, by means of implementing acts, the procedural rules regarding the provision and the monitoring of the guarantee referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 171

Reference amount of a compulsory guarantee

1. Where the customs authorities must require a guarantee and can establish the precise amount of import or export duty corresponding to the customs debt and of other charges at the time when the guarantee is required, the guarantee shall cover that precise amount.

Where it is not possible to establish the precise amount, the guarantee shall be fixed at the maximum amount, as estimated by the customs authorities, of import or export duty corresponding to the customs debt and of other charges which have been or may be incurred.

2. Without prejudice to Article 176, where a comprehensive guarantee is provided for the amount of import or export duty corresponding to customs debts and other charges which

vary in amount over time, the amount of such guarantee shall be set at a level enabling the amount of import or export duty corresponding to customs debts and other charges to be covered at all times.

Article 172

Reference amount of a precautionary guarantee

Where providing a guarantee is not compulsory but the customs authorities are not certain that the amount of import or export duty corresponding to a customs debt and other charges will be paid within the prescribed period, they shall require a guarantee for an amount that may not exceed the level referred to in Article 171.

Article 173

Provision of a guarantee

1. A guarantee may be provided in one of the following forms:

   (a) by any means of payment recognised by the customs authorities, made in euro or in the currency of the Member State in which the guarantee is required;

   (b) by an undertaking given by a guarantor;

   (c) by another form of guarantee which provides equivalent assurance that the amount of import or export duty corresponding to the customs debt and other charges will be paid.

2. A guarantee in the form of ~~a cash deposit or any other equivalent~~ **any** means of payment shall be given in accordance with the provisions in force in the Member State in which the guarantee is required.

   Where a guarantee is given by any means of payment recognised by the customs authorities, no interest thereon shall be payable by the customs authorities.

3. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the form of the guarantee referred to in paragraph 1, point (c).

Article 174

Choice of guarantee

The person required to provide a guarantee may choose between the forms of guarantee laid down in Article 173(1).

However, the customs authorities may refuse to accept the form of guarantee chosen where it is incompatible with the proper functioning of the customs procedure concerned.

The customs authorities may require that the form of guarantee chosen be maintained for a specific period.

Article 175

Guarantor

1. The guarantor referred to in Article 173(1), point (b) shall be a third person ~~resident, registered or~~ established in the customs territory of the Union. The guarantor shall be approved by the customs authorities requiring the guarantee, unless the guarantor is a credit institution, financial institution or insurance company accredited in the Union in accordance with Union provisions in force.

2. The guarantor shall undertake in writing to pay the secured amount of import or export duty corresponding to a customs debt and other charges.

3. The customs authorities may refuse to approve the guarantor or the ~~type~~ **form** of guarantee proposed where either does not appear certain to ensure payment within the prescribed period of the amount of import or export duty corresponding to the customs debt and of other charges.

4. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the ~~rules concerning the~~ forms for the ~~provision of a~~ guarantee and the rules applicable to the guarantor referred to in this Article.

5. The Commission shall specify, by means of implementing acts, the procedural rules regarding the revocation and cancellation of the undertaking given by the guarantor

referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 176

Comprehensive guarantee

1. The customs authorities ~~may only~~ **shall** grant the authorisation referred to in Article 170(5) **only** to persons who satisfy the following conditions:

   (a) they are established in the customs territory of the Union;

   (b) they fulfil the criteria laid down in Article 24(1), point (a);

   (c) they are regular users of the customs procedures involved or ~~operators~~ **holder of the authorisation for the operation** of temporary storage facilities or they fulfil the criteria laid down in Article 24(1), point (d).

2. The customs authorities may authorise an economic operator fulfilling the criteria laid down in Article 24(1), points (b) and (c) ~~and Trust and Check traders~~ to provide a comprehensive guarantee for potential customs debts and other charges with a reduced amount or to have a guarantee waiver.

3. ~~The~~ **Upon application, the** customs authorities may authorise an authorised economic operator for customs simplifications and a Trust and Check trader to provide a comprehensive guarantee for existing customs debts and other charges, ~~upon application,~~ with a reduced amount.

4. The comprehensive guarantee with a reduced amount referred to in paragraph 3 shall be equivalent to the provision of a guarantee.

5. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the conditions for the granting of an authorisation to use a comprehensive guarantee with a reduced amount or to have a guarantee waiver referred to in paragraph**s** 2 **and 3**.

6. The Commission shall specify, by means of implementing acts, the procedural rules for determining the amount of the guarantee, including the reduced amount referred to in

paragraph**s** 2 **and 3**. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Article 177

Temporary prohibitions relating to the use of comprehensive guarantees

1. In the context of special procedures or temporary storage, the Commission may decide to temporarily prohibit recourse to any of the following:

   (a) the comprehensive guarantee for a reduced amount or a guarantee waiver referred to in Article 176(2);

   (b) the comprehensive guarantee referred to in Article 176, in respect of goods which have been identified as being subject to large-scale fraud.

2. Where point (a) or point (b) of paragraph 1 applies, recourse to the comprehensive guarantee for a reduced amount or a guarantee waiver or recourse to the comprehensive guarantee referred to in Article 176 may be authorised where the person concerned fulfils either of the following conditions:

   (a) that person can show that no customs debt has arisen in respect of the goods in question in the course of operations which that person has undertaken in the 2 years preceding the decision referred to in paragraph 1;

   (b) where customs debts have arisen in the 2 years preceding the decision referred to in paragraph 1, the person concerned can show that those debts were fully paid by the debtor or debtors or the guarantor within the prescribed time limit.

   To obtain authorisation to use a temporarily prohibited comprehensive guarantee, the person concerned must also fulfil the criteria laid down in Article 24(1), points (b) and (c).

3. The Commission shall specify, by means of implementing acts, the rules regarding the temporary prohibitions relating to the use of comprehensive guarantees referred to in ~~paragraph 1~~ **this Article**. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

4. On imperative grounds of urgency relating to such measures, duly justified by the need to rapidly enhance the protection of the financial interests of the Union and of its Member States, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 262(5).

Article 178

Additional or replacement guarantee

Where the customs authorities establish that the guarantee provided does not ensure, or is no longer certain or sufficient to ensure, payment within the prescribed period of the amount of import or export duty corresponding to the customs debt and other charges, they shall require any of the persons referred to in Article 170(3) either to provide an additional guarantee or to replace the original guarantee with a new guarantee, according to that person's choice.

Article 179

Release of the guarantee

1. The customs authorities shall release the guarantee immediately when the customs debt or liability for other charges is extinguished or can no longer arise.

2. Where the customs debt or liability for other charges has been extinguished in part, or may arise only in respect of part of the amount which has been secured, a corresponding part of the guarantee shall be released accordingly at the request of the person concerned, unless the amount involved does not justify such action.

3. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the time limits for the release of a guarantee.

4. The Commission shall specify, by means of implementing acts, the procedural rules regarding the release of the guarantee referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Chapter 3

Recovery, payment, repayment and remission of the amount of import or export duty

SECTION 1

DETERMINATION OF THE AMOUNT OF IMPORT OR EXPORT DUTY, NOTIFICATION OF THE CUSTOMS DEBT AND ENTRY INTO THE ACCOUNTS

Article 180

Determination of the amount of import or export duty

1. ~~The importer and the exporter shall calculate t~~**T**he amount of import or export duty payable **shall be determined by the customs authorities responsible for the place where the customs debt is incurred, or is deemed to have been incurred in accordance with Article 169, taking into account the data provided or made available**. ~~Upon release of the goods, the customs authorities are deemed to accept the amount of import or export duty payable as calculated by the importer and the exporter, without prejudice to post-release controls. If that person does not calculate the amount or the customs authorities disagree with the amount calculated by that person, the customs authorities responsible for the place where the customs debt is incurred or is deemed to have been incurred in accordance with Article 169, shall determine the amount of import or export duty payable as soon as they have the necessary information.~~

2. By way of derogation from paragraph 1, until ~~the date set out in Article 265(3)~~ **31 December 2037**, where a customs declaration has been lodged, the customs authorities may accept the amount of import or export duty payable determined in the customs declaration, without prejudice to post-release controls. If the customs authorities disagree with that amount they shall determine the amount of import or export duty payable as soon as they have the necessary information.

3. Where the amount of import or export duty payable does not result in a whole number, that amount may be rounded.

Where the amount referred in the first subparagraph is expressed in euro, rounding may not be more than a rounding up or down to the nearest whole number.

~~Importers and exporters established in a~~ **A** Member State**s** whose currency is not ~~the~~ euro may either apply mutatis mutandis the provisions of the second subparagraph or derogate from that subparagraph, provided that the rules applicable on rounding do not have a greater financial impact than the rule set out in the second subparagraph.

Article 181

Notification of the customs debt

1. **The customs authority shall notify the customs debt to debtor at the place where the customs debt is incurred, or is deemed to have been incurred in accordance with Article 169.**
Where the amount of import or export duty payable is equal to the amount calculated on the basis of the data provided or made available, release of the goods by the customs authorities shall be equivalent to notifying the debtor of the customs debt.

~~Upon release of the goods, the customs authorities are deemed to have notified the customs debt to the importer or the exporter.~~

2. ~~Where the customs authorities have determined the amount of import or export duty payable, they shall notify it to the debtor in the form prescribed at the place where the customs debt is incurred, or is deemed to have been incurred in accordance with Article 169~~.

The notification referred to in ~~the first sub~~paragraph **1** shall not be made in any of the following cases:

(a) where, pending a final determination of the amount of import or export duty, a provisional anti-dumping duty or a provisional countervailing duty or a provisional safeguard measure has been imposed;

(b) where the amount of import or export duty payable exceeds that determined on the basis of a decision made in accordance with Article 13;

(c) where the original decision not to notify the customs debt or to notify it with an amount of import or export duty at a figure less than the amount of import or export duty payable was taken on the basis of general provisions invalidated at a later date by a court decision;

(d) where the customs authorities are exempted under the customs legislation from notification of the customs debt.

3. Where the customs authorities must notify the amount of import or export duty payable in accordance with paragraph **1** ~~2~~, **first subparagraph** the customs authorities shall notify the customs debt to the debtor when they are in a position to determine that amount and take a decision thereon.

However, where **customs authorities are informed by the competent authority that** the notification of the customs debt would prejudice a criminal investigation, the customs authorities **shall** ~~may~~ defer that notification until such time as it no longer prejudices the criminal investigation.

4. ~~The customs authorities may allow a~~ A Trust and Check trader **may** ~~to~~ calculate the customs debt corresponding to the total amount of import or export duty relating to all the goods that ~~this operator~~ **such trader** has released on behalf of the customs authorities during a period that shall not exceed 31 calendar days, and communicate **within five days from the expiry of that period,** this to the customs authorities with a breakdown of amounts related to each specific ~~consignments of~~ goods.

~~The customs authorities shall be deemed to have notified the customs debt where they have not disagreed with the communication within a reasonable period of time after the trader has submitted it~~. **Upon receipt of the communication the customs authorities shall be deemed to have notified the customs debt.**

5. ~~By way of derogation from paragraph 1, where Title XII, Chapter 6, Section 4 of Directive 2006/112/EC applies to the distance sales of goods to be imported from third countries to a customer in the customs territory of the Union, the customs authorities may authorise a deemed importer to calculate and communicate the customs debt, corresponding to the total amount of import duty relating to all the goods released to that deemed importer during one month by the end of the following month, with breakdown of amounts related to each specific consignments of goods.~~

The deemed importer making use of the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC, having the status of Trust and Check trader shall, in the ~~This~~ communication **referred to in paragraph 4,** ~~may~~ amend or invalidate the information ~~that the deemed importer had~~ provided in accordance with Article 59(2) **where goods sold by that deemed importer under distance sales are returned to the customs warehouse for distance sale, to the original consignor's address or to another address outside the customs territory of the Union during the period covered by the communication. The deemed importer shall provide or make available the proof of entry to the customs warehouse or exit of the goods out of the customs territory of the Union**. ~~If the customs authorities disagree with the amount calculated and communicated, they shall determine the amount of import or export duty payable. The customs authorities shall be deemed to have notified the customs debt where they have not disagreed with the communication within a reasonable period of time after the trader has submitted it.~~

6. Until **31 December 2037** ~~the date set out in Article 265(3)~~, where a customs declaration is lodged, provided that payment has been guaranteed, the customs authorities may allow that the customs debt corresponding to the total amount of import or export duty relating to all the goods released to one and the same person during a fixed period be notified at the end of that period. The period fixed by the customs authorities shall not exceed 31 days.

7. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining:

   (a) the cases referred to in paragraph 2, second subparagraph, point (d), where the customs authorities are exempted from notification of the customs debt;

   (b) ~~the reasonable time for considering lack of disagreement as referred to in paragraph 5;~~

   (c) the information to be provided **by** ~~in~~ **the Trust and Check trader's and** the deemed importer's communication **referred to** in paragraph **4 and** 5;

Article 182

Limitation of the customs debt

1. The customs authorities shall not notify a customs debt to the debtor after the expiry of a period of 3 years from the date on which the customs debt was incurred.

2. Where the customs debt is incurred as the result of an act which, at the time it was committed, was liable to give rise to criminal court proceedings, the three-year period laid down in paragraph 1 shall be extended to a period of a minimum of 5 years and a maximum of 10 years in accordance with national law.

3. The periods laid down in paragraphs 1 and 2 shall be suspended where:

(a) an appeal is lodged in accordance with Article 16;

~~(b)~~ such suspension shall apply from the date on which the appeal is lodged and shall last for the duration of the appeal proceedings; ~~or~~

(~~c~~**b**) the customs authorities communicate to the debtor, in accordance with Article 6(6), the grounds on which they intend to notify the customs debt; such suspension shall apply from the date of that communication until the end of the period within which the debtor is given the opportunity to express his or her point of view**; or**

(c) the notification of the customs debt is deferred pursuant to Article 181(3).

4. Where a customs debt is reinstated pursuant to Article 193(7), the periods laid down in paragraphs 1 and 2 shall be considered as suspended from the date on which the application for repayment or remission was submitted in accordance with Article 198, until the date on which the decision on the repayment or remission was taken.

Article 183

Entry in the accounts

1. The customs authorities referred to in Article 180 shall enter in their accounts, in accordance with the national legislation, the amount of import or export duty payable as notified in accordance with Article 181.

The obligation of customs authorities in the first subparagraph shall not apply in cases referred to in Article 181(2)~~, second subparagraph~~.

2. The customs authorities do not need to enter in the accounts amounts of import or export duty that, pursuant to Article 182, correspond to a customs debt which could no longer be notified to the debtor.

3. Member States shall determine the practical procedures for the entry in the accounts of the amounts of import or export duty. Those procedures may differ according to whether, in view of the circumstances in which the customs debt was incurred, the customs authorities are satisfied that those amounts will be paid.

Article 184

Time of entry in the accounts

1. The customs authorities shall enter the amount of import or export duty payable in the accounts within 14 days of the release of the goods except where the goods are placed in temporary admission with partial relief from import duty.

2. By way of derogation from paragraph 1, the customs authorities may ~~cover~~ **enter** the total amount of import or export duty relating to all the goods released to a Trust and check trader during a fixed period, in accordance with Article 181(4), with a single entry in the accounts at the end of that period.

   Such entry in the accounts shall take place within 14 days of the expiry of the period concerned.

3. ~~By way of derogation from paragraph 1, the total amount of import duty relating to all the goods released to a deemed importer during one month in accordance with Article 181(5) may be covered by a single entry in the accounts by the end of the following month containing the breakdown of amounts related to each specific consignments of goods.~~

4. ~~Until the date set out in Article 265(3), where a customs declaration is lodged, provided that payment has been guaranteed, the customs authorities may allow that the customs debt~~

~~corresponding to the total amount of import or export duty relating to all the goods released to one and the same person during a fixed period, which may not exceed 31 days, be notified at the end of that period.~~

Where customs debt is notified in accordance with Article 181(6) ~~Such~~ **it shall be** ent**ered**~~ry~~ in the accounts ~~shall take place~~ within 14 days of the expiry of the period concerned.

5. Where goods may be released subject to certain conditions which govern either the determination of the amount of import or export duty payable or its collection, **that amount shall be** ent**ered**~~ry~~ in the accounts ~~shall take place~~ within 14 days of the day on which the amount of import or export duty payable is determined or the obligation to pay that duty is fixed.

However, where the customs debt relates to a provisional anti-dumping duty, a provisional countervailing duty or a provisional safeguard measure, the amount of import or export duty payable shall be entered in the accounts within two months of the date of publication in the Official Journal of the European Union of the Regulation establishing the definitive duty.

6. Where a customs debt is incurred in circumstances not covered by paragraph 1, the amount of import or export duty payable shall be entered in the accounts within 14 days of the date on which the customs authorities are in a position to determine the amount of import or export duty in question and take a decision.

7. Paragraph 6 shall apply with regard to the amount of import or export duty to be recovered or which remains to be recovered where the amount of import or export duty payable has not been entered in the accounts in accordance with paragraphs 1 to 6 or has been determined and entered in the accounts at a level lower than the amount payable.

8. The time-limits for entry in the accounts laid down in paragraphs 1 to 6 shall not apply in unforeseeable circumstances or in cases of force majeure.

9. The entry in the accounts may be deferred in the case referred to in Article 181(3), second subparagraph, until such time as the notification of the customs debt no longer prejudices a criminal investigation.

Where Article 181(3) second subparagraph applies, the amount of import or export duty payable shall be entered in the accounts within 14 days of the date on which the amount is notified to the debtor.

Article 185

Conferral of implementing powers

The Commission shall adopt, by means of implementing acts, measures to ensure mutual assistance between the customs authorities in case of incurrence of a customs debt.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

SECTION 2

PAYMENT OF THE AMOUNT OF IMPORT OR EXPORT DUTY

Article 186

General time-limits for payment and suspension of the time-limit for payment

1. The debtor shall pay the amounts of import or export duty, corresponding to a customs debt notified in accordance with Article 181 within the period prescribed by the customs authorities.

   Without prejudice to Article 17(2), that period shall not exceed 10 days following notification to the debtor of the customs debt.

   The customs authorities may extend that period upon application by the debtor where the amount of import or export duty payable has been determined in the course of post-release controls as referred to in Article 48.Without prejudice to Article 190(2), such extensions shall not exceed the time necessary for the debtor to take the appropriate steps to discharge his or her obligation.

2. ~~By way of derogation from paragraph 1, the amount of import duty corresponding to a customs debt notified in accordance with Article 181(5) shall be paid by the debtor at the latest at the expiry of the deadline by which the customs debt must be notified.~~

3. If the debtor is entitled to any of the payment facilities laid down in Article 188 to Article 190, payment shall be made within the period or periods specified in relation to those facilities.

4. The time-limit for payment of the amount of import or export duty corresponding to a customs debt shall be suspended in any of the following cases:

   (a) where an application for remission of duty is made in accordance with Article 198;

   (b) where goods are to be confiscated, destroyed or abandoned to the State;

   (c) where the customs debt was incurred pursuant to Article 161 and there is more than one debtor.

5. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the rules for the suspension of the time-limit for payment of the amount of import or export duty corresponding to a customs debt referred to in paragraph ~~3~~ **4**, and by determining the period of suspension.

Article 187

Payment

1. Payment shall be made ~~in cash or~~ by any ~~other~~ means **of payment** with ~~similar~~ discharging effect, including by adjustment of a credit balance, in accordance with national legislation.

2. Payment may be made by a third person instead of the debtor.

3. The debtor may in any case pay all or part of the amount of import or export duty without awaiting expiry of the period he or she has been granted for payment.

Article 188

Deferment of payment

1. The customs authorities shall, upon application by the person concerned and upon provision of a guarantee, authorise to defer the payment of the duty payable in any of the following ways:

(a) separately in respect of each amount of import or export duty entered in the accounts in accordance with Article 184(1), or Article 184(7);

(b) globally in respect of all amounts of import or export duty entered in the accounts in accordance with Article 184(1) during a period fixed by the customs authorities and not exceeding 31 days;

(c) globally in respect of all amounts of import or export duty forming a single entry in accordance with Article 184~~(2), (3) and~~ (4).

2. Upon provision of a guarantee, Trust and Check trader may defer the payment of the duty payable globally in respect of all amounts of import or export duty forming a single entry in accordance with Article 184(2).

Article 189

Periods for which payment is deferred

1. The period for which payment is deferred under Article 188 shall be 30 days.

2. Where payment is deferred in accordance with Article 188**(1),** point **(a)**, the period shall begin on the day following that on which the customs debt is notified to the debtor.

3. Where payment is deferred in accordance with Article 188**(1)**, point (b), the period shall begin on the day following that on which the aggregation period ends. It shall be reduced by the number of days corresponding to half the number of days covered by the aggregation period.

4. Where payment is deferred in accordance with Article 188**(1),** point (c)**, and Article 188(2)** the period shall begin on the day following the end of the period fixed for release of the goods in question. It shall be reduced by the number of days corresponding to half the number of days covered by the period concerned.

5. Where the number of days in the periods referred to in paragraphs 3 and 4 is an odd number, the number of days to be deducted from the 30-day period pursuant to those paragraphs shall be equal to half the next lowest even number.

6. Where the periods referred to in paragraphs 3 and 4 are weeks, Member States may provide that the amount of import or export duty in respect of which payment has been deferred is to be paid on the Friday of the fourth week following the week in question at the latest.

If those periods are months, Member States may provide that the amount of import or export duty in respect of which payment has been deferred is to be paid by the 16th day of the month following the month in question. ~~Those periods may not be extended even if the end of the period falls on a public holiday.~~

Article 190

Other payment facilities

1. The customs authorities may grant the debtor payment facilities other than deferred payment on condition that a guarantee is provided.

2. Where facilities are granted pursuant to paragraph 1, credit interest shall be charged on the amount of import or export duty.

For a Member State whose currency is the euro, the rate of credit interest shall be equal to the interest rate as published in the Official Journal of the European Union, C series, which the European Central Bank applied to its main refinancing operations, on the first day of the month in which the due date fell, increased by one percentage point.

For a Member State whose currency is not the euro, the rate of credit interest shall be equal to the rate applied on the first day of the month in question by the National Central Bank for its main refinancing operations, increased by one percentage point, or, for a Member State for which the National Central Bank rate is not available, the most equivalent rate applied on the first day of the month in question on the Member State's money market, increased by one percentage point.

3. The customs authorities may refrain from requiring a guarantee or from charging credit interest where it is established, on the basis of a documented assessment of the situation of the debtor, that this would create serious economic or social difficulties.

4. The customs authorities shall refrain from charging credit interest where the amount for each recovery action is ~~less than EUR 10~~ **below a certain threshold**.

5. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the threshold referred to in paragraph 4.

Article 191

Enforcement of payment

Where the amount of import or export duty payable has not been paid within the prescribed period, the customs authorities shall secure payment of that amount by all means available to them under the law of the Member State concerned.

Article 192

Interest on arrears

1. Interest on arrears shall be charged on the amount of import or export duty from the date of expiry of the prescribed period until the date of payment.

For a Member State whose currency is the euro, the rate of interest on arrears shall be equal to the interest rate as published in the Official Journal of the European Union, C series, which the European Central Bank applied to its main refinancing operations, on the first day of the month in which the due date fell, increased by two percentage points.

For a Member State whose currency is not the euro, the rate of interest on arrears shall be equal to the rate applied on the first day of the month in question by the National Central Bank for its main refinancing operations, increased by two percentage points, or, for a Member State for which the National Central Bank rate is not available, the most equivalent rate applied on the first day of the month in question on the Member State's money market, increased by two percentage points.

2. Where the customs debt is incurred on the basis of Article 161 or Article 164, or where the notification of the customs debt results from a post-release control, interest on arrears shall be charged over and above the amount of import or export duty, from the date on which the customs debt was incurred until the date of its notification.

The rate of interest on arrears shall be set in accordance with paragraph 1.

3. The customs authorities may refrain from charging interest on arrears where it is established, on the basis of a documented assessment of the situation of the debtor, that to charge it would create serious economic or social difficulties.

4. The customs authorities shall refrain from charging interest on arrears where the amount for each recovery action is ~~less than EUR 10~~ **below a certain threshold**.

5. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the threshold as referred to in paragraph 4.

SECTION 3

REPAYMENT AND REMISSION

Article 193

Repayment and remission

1. Subject to the conditions laid down in this Section, the customs authorities shall repay or remit amounts of import or export duty on any of the following grounds:

(a) overcharged amounts of import or export duty;

(b) defective goods or goods not complying with the terms of the contract;

(c) error by the competent authorities;

(d) equity;

(e) invalidation of the data on the basis of which the customs debt was established for the corresponding goods or, where applicable, **invalidation** of the ~~corresponding~~ customs declaration.

2. The customs authorities shall repay or remit the amount of import or export duty referred to in paragraph 1 where it ~~is EUR 10 or more,~~ **exceeds a certain threshold** except where the person concerned requests the repayment or remission of a lower amount.

3. Where the customs authorities consider that repayment or remission should be granted on the basis of Articles 196 and 197, the Member State concerned shall transmit the file to the Commission for decision in any of the following cases:

(a) where the customs authorities consider that the special circumstances are the result of the Commission failing in its obligations;

(b) where the customs authorities consider that the Commission committed an error within the meaning of Article 196;

(c) where the circumstances of the case relate to the findings of a Union investigation carried out under Regulation (EC) No 515/97, or under any other Union legislation or any agreement concluded by the Union with countries or groups of countries in which provision is made for carrying out such Union investigations;

(d) where the amount for which the person concerned may be liable in respect of one or more import or export operations equals or exceeds EUR 500 000 as a result of an error or special circumstances.

Notwithstanding the first subparagraph, files shall not be transmitted in either of the following situations:

(a) where the Commission has already adopted a decision on a case involving comparable issues of fact and of law;

(b) where the Commission is already considering a case involving comparable issues of fact and of law.

4. Subject to the rules of competence for a decision, where the customs authorities themselves discover within the periods referred to in Article 198(1) that an amount of import or export

duty is repayable or remissible pursuant to Articles 194, 196 and 197, they shall repay or remit on their own initiative.

5. No repayment or remission shall be granted when the situation which led to the notification of the customs debt results from deception by the debtor.

6. Repayment shall not give rise to the payment of interest by the customs authorities concerned, except in the cases referred to paragraph 1, points (a) and (c).

However, in those cases repayment shall not give rise to the payment of interest by the customs authorities concerned if the customs authorities repay an amount of import or export duty without undue delay after it has been discovered that the amount is repayable. In case the customs authorities fail to repay that amount without undue delay and the debtor initiates proceedings with the view to obtaining repayment, the interest shall be paid for the period from the date of payment of those duties to the date of their repayment.

The second subparagraph of this paragraph shall not apply in the cases referred to in Article 194(2) or where the repayment concerns customs duty calculated on the basis of data provided or made available without their verification, or where the repayment customs duty is the consequence of providing incomplete or incorrect data.

In addition, interest shall be paid where a decision granting repayment is not implemented within three months of the date on which that decision was taken, unless the failure to meet the deadline was outside the control of the customs authorities.

In such cases, the interest shall be paid from the date of expiry of the three-month period until the date of repayment. The rate of interest shall be established in accordance with Article 190.

7. Where the customs authorities have granted repayment or remission in error, the original customs debt shall be reinstated insofar as it is not time-barred under Article 182.

In such cases, any interest paid under the second subparagraph of paragraph 6 shall be reimbursed.

8. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by **determining the threshold referred to in paragraph 2**

and laying down the rules with which it has to comply when taking a decision referred to in paragraph 3 and in particular on the following:

(a) the conditions for the acceptance of the file;

(b) the time-limit to take a decision and the suspension of that time-limit;

(c) the communication of the grounds on which the Commission intends to base its decision, before taking a decision which would adversely affect the person concerned;

(d) the notification of the decision;

(e) the consequences of a failure to take a decision or to notify such decision.

9. The Commission shall specify, by means of implementing acts, the procedural rules for repayment and remission and for the decision referred to in paragraph 3. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262 (4).**

10. The Commission shall adopt the decision referred to in paragraph 3 by means of an implementing act. Th**at**~~ese~~ implementing act~~s~~ shall be adopted in accordance with the advisory procedure referred to in Article 262(2)**.**

Where the opinion of the committee referred to in Article 262(1) is to be obtained by written procedure, Article 262(6) shall apply.

Article 194

Overcharged amounts of import or export duty

1. An amount of import or export duty shall be repaid or remitted insofar as the amount corresponding to the customs debt initially notified exceeds the amount payable, or the customs debt was notified to the debtor contrary to Article 181(~~1~~ **2**), points (c) and (d).

2. Where the application for repayment or remission is based on the existence, at the time where the goods were released for free circulation, of a reduced or zero rate of import duty on the goods under a tariff quota, a tariff ceiling or other favourable tariff measures,

repayment or remission shall be granted provided that, at the time of lodging, the application was accompanied by the necessary documents and either of the following conditions is fulfilled:

(a) in the case of a tariff quota, its volume has not been exhausted;

(b) in other cases, the rate of duty normally due has not been re-established.

Article 195

Defective goods or goods not complying with the terms of the contract

1. The customs authorities shall repay or remit an amount of import duty where the following conditions are met:

(a) the notification of the customs debt relates to goods which the importer has rejected because, at the time of release, they were defective or did not comply with the terms of the contract on the basis of which they were imported;

(b) the goods have not been used, except for such initial use as may have been necessary to establish that they were defective or did not comply with the terms of the contract;

(c) the goods are taken out of the customs territory of the Union or, upon application by the person concerned, the customs authorities have authorised that the goods are placed under the inward processing procedure, including for destruction, or under the external transit, the customs warehousing or the free zone procedure.

2. The customs authorities shall not repay or remit an amount of import duty in any of the following cases:

(a) the goods, before being released for free circulation, were placed under a special procedure for testing, unless it is established that the fact that the goods were defective or did not comply with the terms of the contract could not normally have been detected in the course of such tests;

(b) the defective nature of the goods was taken into consideration in drawing up the terms of the contract, in particular the price, before the goods were placed under a customs procedure involving the incurrence of a customs debt;

(c) the goods are sold by the applicant after it has been ascertained that they are defective or do not comply with the terms of the contract.

3. Defective goods shall be deemed to include goods damaged before their release.

Article 196

Error by the ~~customs~~ competent authorities

1. In cases other than those referred to in Article 193(1), point (e) and in Articles 194, 195 and 197, the customs authorities shall repay or remit an amount of import or export duty where, as a result of an error ~~on their part~~ **by the competent authorities**, they have notified an amount corresponding to the customs debt lower than the amount payable, provided **that** ~~the following conditions are met~~:

(a) the debtor could not reasonably have detected that error; **and**

(b) the debtor was acting in good faith.

2. Where the conditions laid down in Article 194(2) are not fulfilled, the customs authorities shall repay or remit where failure to apply the reduced or zero rate of duty was as a result of an error on their part and the data based on which the goods were released, or where applicable, the customs declaration for release for free circulation contained all the particulars and was accompanied by all the documents necessary for application of the reduced or zero rate.

3. Where the preferential treatment of the goods is granted on the basis of a system of administrative cooperation involving the authorities of a third country, the issue of a certificate by those authorities, should it prove to be incorrect, shall constitute an error which could not reasonably have been detected within the meaning of paragraph 1, point (a).

The issue of an incorrect certificate shall not, however, constitute an error where the certificate is based on an incorrect account of the facts provided by the exporter, except where it is evident that the issuing authorities were aware or should have been aware that the goods did not satisfy the conditions laid down for entitlement to the preferential treatment.

The debtor shall be considered to be in good faith if he or she can demonstrate that, during the period of the trading operations concerned, he or she has taken due care to ensure that all the conditions for the preferential treatment have been fulfilled.

The debtor may not rely on a plea of good faith if the Commission has published a notice in the Official Journal of the European Union stating that there are grounds for doubt concerning the proper application of the preferential arrangements by the beneficiary country or territory.

Article 197

Equity

1. In cases other than those referred to in Article 193(1), point (e) and in Articles 194, 195 and 196, the customs authorities shall repay or remit an amount of import or export duty in the interest of equity where a customs debt is incurred under special circumstances in which no deception or obvious negligence may be attributed to the debtor.

2. The special circumstances referred to in paragraph 1 shall be deemed to exist where it is clear from the circumstances of the case that the debtor is in an exceptional situation as compared with other operators engaged in the same business, and that, in the absence of such circumstances, ~~he or she~~ **that debtor** would not have suffered disadvantage by the collection of the amount of import or export duty.

Article 198

Procedure for repayment and remission

1. Applications for repayment or remission in accordance with Article 193 shall be submitted to the customs authorities within the following periods:

   (a) in the case of overcharged, amounts of import or export duty, error by the competent authorities or equity, within 3 years of the date of notification of the customs debt;

   (b) in the case of defective goods or goods not complying with the terms of the contract, within one year of the date of notification of the customs debt;

(c) in the case of invalidation of the data or, where applicable, of a customs declaration, based on which the goods were released, within one year of the date of invalidation of that data or of that customs declaration unless otherwise specified in the rules applicable to invalidation.

The period specified in the first subparagraph, points (a) and (b), shall be extended where the applicant provides evidence that he or she was prevented from submitting an application within the prescribed period as a result of unforeseeable circumstances or force majeure.

2. Where the customs authorities are not in a position, on the basis of the grounds adduced, to grant repayment or remission of an amount of import or export duty, it is required to examine the merits of an application for repayment or remission in the light of the other grounds for repayment or remission referred to in Article 193.

3. Where an appeal has been lodged under Article 16 against the notification of the customs debt, the relevant period specified in the first subparagraph of paragraph 1 as well as the examining of the remission and repayment applications and the related time-limits shall be suspended, from the date on which the appeal is lodged, for the duration of the appeal proceedings.

4. Where a customs authority grants repayment or remission in accordance with Articles 196 and 197, the Member State concerned shall inform the Commission thereof.

5. The Commission shall specify, by means of implementing acts, the procedural rules for informing the Commission pursuant to paragraph 4 and the information to be provided. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Chapter 4

Extinguishment of a customs debt

Article 199

Extinguishment

1. Without prejudice to the provisions in force relating to non-recovery of the amount of import or export duty corresponding to a customs debt in the event of the judicially established insolvency of the debtor, a customs debt on import or export shall be extinguished in any of the following ways:

(a) where the debtor can no longer be notified of the customs debt in accordance with Article ~~181~~**182**;

(b) by payment of the amount of import or export duty;

(c) subject to paragraph 5, by remission of the amount of import or export duty;

(d) where, in respect of goods released for a customs procedure entailing the obligation to pay import or export duty, the data on the basis of which the release was carried out or the customs declaration are invalidated;

(e) where goods liable to import or export duty are confiscated or seized and simultaneously or subsequently confiscated;

(f) where goods liable to import or export duty are destroyed under customs supervision or abandoned to the State;

(g) where the disappearance of the goods or the non-fulfilment of obligations arising from the customs legislation results from the total destruction or irretrievable loss of those goods as a result of the actual nature of the goods or unforeseeable circumstances or force majeure, or as a consequence of instruction by the customs authorities; for the purpose of this point, goods shall be considered as irretrievably lost when they have been rendered unusable by any person;

(h) where the customs debt was incurred pursuant to Article 161 or Article 164 and where the following conditions are fulfilled:

(i) the failure which led to the incurrence of a customs debt had no significant effect on **the introduction of non-Union goods into the customs territory of the Union or** the correct operation of the temporary storage or of the customs procedure concerned and did not constitute an attempt at deception;

(ii) all of the formalities necessary to regularise the situation of the goods are subsequently carried out;

i) where goods released for free circulation ~~duty-free~~ **under a duty exemption**, or at a reduced rate of import duty by virtue of their end-use, have been exported with the permission of the customs authorities;

j) where it was incurred pursuant to Article 160 and where the formalities carried out in order to enable the preferential tariff treatment referred to in that Article to be granted are cancelled;

k) where, subject to paragraph 6, the customs debt was incurred pursuant to Article 161 and evidence is provided to the satisfaction of the customs authorities that the goods have not been used or consumed and have been taken out of the customs territory of the Union**;**

(l) where a customs debt was incurred due to exceeding the quantity and/ or value of goods specified in authorisation for special procedures, where, in case a request to that effect had been submitted in time, the authorisation could have been amended without examination of economic condition in a way that covered the larger quantity and/or value or a new authorisation could have been granted without examination of the economic condition and where the following conditions are fulfilled:

(i) the failure which led to the incurrence of a customs debt had no significant effect on the correct operation of the customs procedure concerned and did not constitute an attempt at deception;

(ii) all of the formalities necessary to regularise the situation of the goods are subsequently carried out;

(m) where the goods subject to the distance sale are either not finally brought into the customs territory of the Union and released for free circulation or the distance sale is cancelled before the customs debt is notified and the deemed importer has invalidated the data provided for placing goods under a customs procedure according to Article 62 paragraph 2.

2. In the cases referred to in paragraph 1, point (e), the customs debt shall, nevertheless, for the purposes of ~~sanctions~~ **penalties** applicable to customs infringements, be deemed not to have been extinguished where, under this Regulation and under the law of a Member State, import or export duty or the existence of a customs debt provide the basis for determining ~~sanctions~~ **penalties**.

3. Where, in accordance with paragraph 1, point (g), a customs debt is extinguished in respect of goods released for free circulation ~~duty-free~~ **under a duty exemption** or at a reduced rate of import duty on account of their end-use, any scrap or waste resulting from their destruction shall be deemed to be non-Union goods.

4. The provisions in force pertaining to standard rates for irretrievable loss due to the nature of goods shall apply where the person concerned fails to show that the real loss exceeds that calculated by applying the standard rate for the goods in question.

5. Where several persons are liable for payment of the amount of import or export duty corresponding to the customs debt and remission is granted, the customs debt shall be extinguished only in respect of the person or persons to whom the remission is granted.

6. In the case referred to in paragraph 1, point (k), the customs debt shall not be extinguished in respect of any person or persons who attempted deception.

7. Where the customs debt was incurred pursuant to Article 161, it shall be extinguished with regard to the person whose behaviour did not involve any attempt at deception and who contributed to the fight against fraud.

8. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation, by determining the list of failures with no significant effect on the correct operation of the temporary storage or of the customs procedure concerned as referred to in paragraph 1, point (h)(i).

Article 200

Application of ~~sanctions~~ penalties

Where the customs debt is extinguished on the basis of Article 199(1), point (h), Member States shall not be precluded from the application of ~~sanctions~~ **penalties** for failure to comply with the customs legislation.

Title XI
RESTRICTIVE MEASURES AND CRISIS MANAGEMENT MECHANISM

Chapter 1
Restrictive measures

Article 201

Role of the EU Customs Authority and of the customs authorities

1. The EU Customs Authority shall contribute to the correct application of restrictive measures adopted in accordance with Article 215 TFEU by monitoring their implementation in the area**s** falling under its competence**. It shall provide guidance to customs authorities, in order to contribute to the consistency** and~~,~~ **effectiveness of the application of these measures. That guidance will be** subject to review and authorisation by the Commission, **and will take the form of recommendations,** ~~by providing appropriate guidance to the customs authorities~~ **while respecting the implementation responsibilities of Member States**.
2. Customs authorities shall take all necessary ~~steps~~ **actions, within their competences,** to ~~comply with the~~ **implement** restrictive measures, taking into account the guidance ~~of~~ **provided by** the EU Customs Authority.

Article 202

Reporting

1. The EU Customs Authority shall **support customs authorities in** ~~regularly and whenever necessary report to the Commission on~~ the implementation of the restrictive measures **and shall collect and analyse information to assess the operational effectiveness of such implementation** ~~by the customs authorities~~ and **the impact of restrictive measures on trade flows and customs compliance. It shall provide periodic and ad hoc reports to the Commission. The EU Customs Authority shall also identify possible discrepancies among Member States** in the ~~case of any breach thereof.~~ **implementation of restrictive measures.**

2. The customs authorities shall inform the EU Customs Authority~~,~~ **and** the Commission ~~and the national authorities of the Member States competent for sanctions implementation~~ of any ~~suspicion and case~~ **detected or well-founded indications** of circumvention of restrictive measures and of ~~their~~ **the risk** mitigation measures **taken** ~~in that respect.~~ **That exchange of information shall, wherever possible, be carried out through the EU Customs Data Hub.**

Chapter 2
Crisis management mechanism

Article 203

Preparation of protocols and procedures

1. The EU Customs Authority shall prepare procedures and protocols ~~that~~**, in close cooperation with Member States and the Commission, with a view to ensuring adequate response to crisis situations. Those procedures and protocols** can be activated in accordance with Article 204(1) in **the event** ~~case~~ of:

   (a) a crisis ~~at the border of~~ **in** one or more Member States that has ~~an~~**a significant, or potentially significant** impact on the customs ~~processes~~ **formalities**~~;~~ **and may disrupts the flow of goods, customs controls or related procedures;**

   (b) a crisis in **a given** ~~another~~ sector that requires ~~an action by the~~ customs authorities ~~in cooperation~~ **to take coordinated action** with relevant authorities~~,~~ **.**

   ~~(c) with a view to ensuring a rapid, effective and proportionate response to the situation concerned.~~

2. Protocols and procedures may cover in particular:

   (a) the application of common risk criteria, common priority control areas and risk profiles, **as well as** appropriate **risk** mitigation measures, **customs formalities, including payment terms** ~~and customs controls~~;

   (b) a collaboration framework ~~enabling making temporarily available~~ **to support the temporary deployment of** customs officials and customs control equipment ~~from one to another~~ **among** Member State**s;**

(c) **the conditions for the activation, prolongation, and deactivation of the different measures and arrangements to face crisis situations, based on clearly defined needs and appropriate justification;**

(d) **a business continuity mechanism as referred to in Article 23(8) and 25(9a)**.

Article 204

Activation of the crisis management mechanism

1. The Commission~~, on~~ **upon** its own initiative or ~~based~~ on the request of one or more Member States or the EU Customs Authority, may adopt ~~an~~ implementing act **activating the necessary actions and arrangements to be applied in case of crisis. This implementing act shall:**

(a) **be adopted** in accordance with the examination procedure referred to in Articles 262 (4) and (5) of this Regulation, ~~taking~~

(b) **take** into account the protocols and procedures referred to in Article 203,

(c) **identify** the ~~appropriate and necessary~~ **specific** measures and arrangements ~~that should apply~~ **required** to address a crisis situation or to mitigate its negative effects**,**

(d) **establish the duration of the measures and arrangements to be applied and the relevant conditions for their prolongation and deactivation**.

2. The EU Customs Authority shall coordinate **the implementation of the measures and arrangements referred to in paragraph 1 by the customs authorities. It shall** ~~and supervise the application and~~ **assess the effectiveness of their** implementation**, also taking into account customs authorities' reports referred to in paragraph 4** ~~of the appropriate measures and arrangements by the customs authorities~~ and ~~shall~~ report ~~back on~~ the results ~~of this implementation~~ to the Commission **and to the customs authorities**.

3. The EU Customs Authority shall set up a crisis response cell that is permanently available throughout the crisis. **The competencies, areas of expertise, and composition of the crisis response cell shall be determined at the time of its establishment, taking into account the protocols and procedures referred to in Article 203 as well as the nature and scope of the crisis.**

4. Customs authorities shall implement and apply the measures and arrangements **activated** ~~adopted~~ pursuant to this Article and shall report to the EU Customs Authority on their implementation and application. **The scope, format, and frequency of reporting shall be determined by the EU Customs Authority in consultation with the Member States, taking into account the nature of the crisis and the measures applied.**

Title XII

THE EUROPEAN UNION CUSTOMS AUTHORITY

Chapter 1

Principles

Article 205

Legal status

1. The EU Customs Authority **is hereby established and** shall be a body of the Union and shall have legal personality.

2. In each of the Member States, the EU Customs Authority shall enjoy the most extensive legal capacity accorded to legal persons under their national laws. It may, in particular, acquire or dispose of movable and immovable property and be a party to legal proceedings.

3. The EU Customs Authority shall be represented by its Executive Director.

Article 206

Seat

The seat of the EU Customs Authority shall be […].

Article 207

Mission and objectives of the EU Customs Authority

1. The EU Customs Authority shall contribute to achieving the mission of **the** customs authorities as set out in Article 2.

2. Without prejudice to the respective responsibilities of the Commission, of OLAF and of the Member States, the EU Customs Authority shall pursue the following objectives:

(a) **to facilitate the implementation of customs processes, enhance data-driven decision-making, and improve customs supervision, control and risk management;**

~~the EU Customs Authority shall contribute to the operational management of the customs union, and thereby coordinate and supervise operational cooperation between customs authorities and pool and provide technical expertise to increase efficiency and delivery of results;~~

~~(b) the EU Customs Authority shall develop, operate and maintain information technologies to implement the procedures laid down in this Regulation and contribute to making optimal use of the available data for customs supervision, control and risk management purposes;~~

(c) ~~the EU Customs Authority shall~~ support customs authorities in achieving a uniform implementation of customs legislation, notably **by bringing together technical expertise, coordinating and assisting the setting up of operational cooperation between customs authorities and conducting** ~~with a view to ensuring that~~ **risk management aiming at having** customs controls**, that** are carried out in a harmonised way, **acknowledging the different geographical circumstances and other objective specificities in which the customs authorities operate;**

(d) ~~the EU Customs Authority shall contribute to the enforcement of Union~~ **assist the customs authorities in the application** of other **Union** legislation applied by the customs authorities.

Chapter 2

Tasks

Article 208

Tasks ~~Core tasks~~

0a. **When entrusted with the development, operation and maintenance of the EU Customs Data Hub, as laid down in Title III, the EU Customs Authority shall be responsible for those tasks. EU Customs Authority shall than contribute to the efficient operation of the electronic customs environment at Union level.**

0b. **The EU Customs Authority shall carry out data management and data processing activities necessary for the fulfilment of its tasks.**

1. The EU Customs Authority shall carry out risk management tasks, in accordance with Title IV, Chapter 3.

2. The EU Customs Authority shall carry out tasks in relation to restrictive measures and crisis management mechanism in accordance with Title XI.

2a. **The EU Customs Authority shall, on the basis of a threat assessment conducted pursuant to Article 51a(1) and Article 51a(2), point (c), periodically develop recommendations to support customs authorities in accomplishing their mission as referred to in Article 2. The EU Customs Authority shall submit those recommendations, after consulting the Commission, to the Council for information and consideration.**

3. The EU Customs Authority shall perform capacity building activities and provide operational support and coordination to customs authorities. In particular, it shall:

   (a) carry out diagnostics ~~and monitoring of border crossing points and other control locations~~ **evaluation of customs offices**, **and** develop **indicative** common standards and issue recommendations for best practices **on this basis, taking into account** ~~diversity of the Member States and border type;~~ **different circumstances in which**

the customs authorities operate, including competences of national organisations, geographical circumstances and affected means of transport;

(b) carry out performance measurement for the customs union, and support the Commission in its evaluation of the performance of the customs union, in accordance with Title XV, Chapter 1;

(c) prepare ~~the~~ **recommendations of** minimum common training content for customs officers **and customs professionals** in the Union ~~and monitor its use~~ **to complement and support training provided** by ~~customs authorities~~ **Member States as appropriate**;

(d) contribute to **the creation of** a Union ~~recognition~~ system **to recognise the excellence of educational institutions** ~~for universities and other schools~~ that offer training and education programmes in the customs field**, building on the Commission's initiative "EU Customs Certificate of Recognition"**;

(e) coordinate and support the **voluntary** creation by the Member States of specialised centres of excellence for Union-wide purposes in relevant customs areas, in particular **for** training **of customs officers, customs professionals** and customs laboratories;

(f) facilitate and coordinate research and innovation activities in the customs field;

(g) ~~elaborate~~ **prepare** and disseminate operational manuals for the practical application of customs processes and working methods**, in collaboration with the customs authorities,** and develop **indicative** common standards in this regard;

~~(h) issue an opinion on whether granting an authorisation for special procedures would adversely affect the interest of the Union producers, in accordance with Article 102(3), (4) and (5);~~

(i) cooperate with Union bodies and national authorities other than customs in accordance with Article 240**(7)**~~(9),~~ **or with the authorities of third countries and international organisations in accordance with Article 243**;

(j) **upon request of a Member State** coordinate and support the operational cooperation between customs authorities and between customs authorities and other authorities ~~at national level~~ in **different Member States** accordance with Title XIII;

(k) **plan,** organise and coordinate the joint controls referred to in Article 241;

(l) provide support and expertise to the Commission for the resolution of complex classification, valuation, and origin cases~~, and monitoring of decisions and the application of the decisions in this regard.~~**;**

(m) provide support and expertise to customs authorities to resolve uncertainties regarding the determination of the place of establishment of economic operators when the applicable criteria refer to more than one Member State.

3a. The EU Customs Authority shall develop and maintain communication channels with stakeholders in relation to information on its tasks and activities.

3b. The EU Customs Authority shall set up a consultation mechanism with the business sector within the context of its responsibilities.

3c. The Commission may task the EU Customs Authority to support it with the development and implementation of an operational strategy for activities related to customs control equipment and other customs-related programs. In that case, the EU Customs Authority shall cooperate with the Commission and may carry out the role of grant coordinator. This role may include tasks such as assessing needs, securing funding, coordinating joint procurement, purchasing equipment and facilitating its co-sharing.

3d. The EU Customs Authority may in accordance with Article 102(3), (4) and (5), issue an opinion.

~~4. The EU Customs Authority shall carry out data management and processing activities necessary for the fulfilment of its tasks and for developing the national applications referred to in Article 30 of this Regulation~~.

~~*Article 209*~~

~~**Other tasks**~~

~~The Commission may entrust to the EU Customs Authority the following tasks for the implementation of the customs-related funding programmes:~~

(e) ~~activities related to the development, operation and maintenance of the information technology systems used for the implementation of the Customs Union, such as the EU Customs Data Hub, as laid down in Title III;~~

(f) ~~providing support to the Commission for developing and implementing an operational strategy for activities relating to the allocation, funding and procurement of control equipment, including the assessment of needs, joint procurement and co-sharing of equipment.~~

Article 210

Further tasks

The EU Customs Authority may be assigned further tasks ~~in~~ **within** the ~~area~~ **framework** of ~~free movement, import~~ **its mission** and ~~export of third country goods~~ **objectives**, if so**,** ~~,~~ provided by relevant Union legal acts. Where such tasks are assigned or entrusted to the EU Customs Authority, ~~appropriate~~ **the necessary** financial and human resources shall be ensured for their implementation.

Chapter 3
Organisation of the EU Customs Authority

Article 211

Administrative and management structure

The administrative and management structure of the EU Customs Authority shall comprise:

(a) a Management Board, which shall exercise the functions set out in Article 215;

(b) an Executive Board which shall exercise the functions set out in Article 217**, if the Management Board decides to establish such a board**;

(c) an Executive Director, who shall exercise the responsibilities set out in Article 219;

(d) a Deputy Executive Director, who shall exercise the responsibilities set out in Article 221, if the Management Board decides to create such a ~~function~~ **post**.

SECTION 1
THE MANAGEMENT BOARD

Article 212

Composition of the Management Board

1. The Management Board shall be composed of one ~~representative~~ **member** ~~from~~ **designated by** each Member State and ~~two~~ **one** ~~representatives~~ **member** ~~of~~ **designated by** the Commission, all with voting rights.

2. The Management Board shall also include one member designated by the European Parliament, without the right to vote.

3. Each member of the Management Board shall have an alternate. The alternate shall represent the member in his/or her absence.

4. Members of the Management Board and their alternates shall be appointed in the light of their knowledge in the field of customs, taking into account relevant managerial,

administrative and budgetary skills. All parties represented in the Management Board shall make efforts to limit turnover of their representatives, in order to ensure continuity of its work. All parties shall aim to achieve a gender-balanced representation on the Management Board.

5. **Without prejudice to the right of the Member States, of the Commission and of the European Parliament to revoke the designation of their respective members and alternates.** The term of office for members and their alternates **of the Management Board** shall be 4 years. **That term may be renewed** ~~shall be extendable~~.

Article 213

Chairperson of the Management Board

1. The Management Board shall elect**, by a majority of two-thirds of its members with voting rights,** a Chairperson ~~from among the Commission representatives~~ and a Deputy Chairperson from among its ~~other~~ members with voting rights.

2. The Deputy Chairperson shall automatically replace the Chairperson if he **or** ~~/~~ she is prevented from attending to his **or** ~~/~~ her duties.

3. The term of office of the Chairperson and of the Deputy Chairperson shall be 4 years. Their term of office may be renewed once. If, however, their membership of the Management Board ends at any time during their term of office, their term of office shall automatically expire on that date.

4. Detailed rules for the election and removal of the Chairperson and Deputy Chairperson shall be laid down in the rules of procedure of the Management Board.

Article 214

Meetings of the Management Board

1. The Chairperson shall convene the meetings of the Management Board.

2. The Executive Director shall take part in the ~~deliberations,~~ **meetings** without the right to vote.

3. The Management Board shall hold at least **two** ~~four~~ ordinary meetings a year. In addition, it shall meet on the initiative of its Chairperson, at the request of the Commission, or at the request of at least one third of its members. **If a provisional decision has been taken in accordance with Article 217(4), the Management Board shall also meet within the stipulated time limit.**

4. The Management Board may invite **on an ad-hoc basis** any person whose opinion may be ~~of interest~~ **relevant for the discussion** to attend its meetings ~~as an observer~~ **without the right to vote**.

5. The members of the Management Board and their alternates may, subject to its rules of procedure, be assisted at the meetings by advisers or experts.

6. When a matter of confidentiality or conflict of interests is on the agenda, the Management Board shall discuss and decide on this matter without the presence of the member concerned. Detailed rules for the application of this provision may be laid down in the rules of procedure **of the Management Board**.

7. The EU Customs Authority shall provide the secretariat for the Management Board.

Article 215

Functions of the Management Board

0a. The Management Board shall elect its Chairperson and Deputy Chairperson in accordance with Article 213 and, where relevant, renew their terms of office.

0b. The Management Board may decide to establish an Executive Board. The Management Board shall determine the conditions under which the Executive Board is established and operates.

1. The Management Board shall:

(a) give the general orientations of the EU Customs Authority's activities**, where relevant taking into, account the position that, the Council may have taken on the recommendations referred to in Article 208(2a)**;

(b) adopt~~, by a majority of two-thirds of members with voting rights,~~ the annual budget of the EU Customs Authority and exercise other functions in respect of the EU Customs Authority's budget pursuant to Chapter 4;

(c) assess and adopt the consolidated annual activity report on the EU Customs Authority's activities, including an overview of the fulfilment of its tasks and its overall performance in achieving customs policy objectives, and send both the report and its assessment by 1 July each year to the European Parliament, the Council, the Commission and the Court of Auditors. ~~The consolidated annual activity report shall be made public;~~

(d) adopt the financial rules applicable to the EU Customs Authority in accordance with Article 222;

(e) adopt an **internal** anti-fraud strategy, proportionate to risk of fraud taking into account the costs and benefits of the measures to be implemented;

(f) adopt rules for the prevention and management of conflicts of interests in respect of its members; and shall publish annually on ~~its~~ **the EU Customs Authority** website ~~the~~ **a** declaration ~~of interests of~~ **by** the **M**~~m~~anagement **B**~~b~~oard members **indicating the absence of any conflicts of interest**;

~~(g) adopt and regularly update the communication and dissemination plans referred to in Article 232, based on an analysis of needs;~~

(h) adopt its rules of procedure;

(i) in accordance with paragraph (2), exercise, with respect to the staff of the EU Customs Authority, the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Empowered to Conclude a Contract of Employment[37] ('the appointing authority powers');

[37] Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission (OJ L 56, 4.3.1968, p. 1).

(j) adopt implementing rules for giving effect to the Staff Regulations of Officials and the Conditions of Employment of Other Servants in accordance with Article 110(2) of the Staff Regulations;

(ja) adopt the rules governing the secondment of national experts to the EU Customs Authority, as referred to in Article 230(2);

(k) establish, where appropriate, an internal audit capacity**, and ensure, together with the Executive Board, if established, adequate follow-up to the findings and recommendations stemming from internal or external audit reports and evaluations, as well as from investigations of OLAF and of EPPO**;

(l) adopt the EU Customs Authority's security rules within the meaning of Article 233;

(m) appoint the Executive Director and Deputy Executive Director, if such a post is created, and where relevant extend their terms of office or remove them from office in accordance with Article **218** ~~217~~;

(ma) appoint members of the Executive Board, if such a board is created, and, where relevant, extend their terms of office or remove them from office;

(n) appoint an Accounting Officer, who may be the Commission's Accounting Officer, who shall be subject to the Staff Regulations of Officials and the Conditions of Employment of other servants and who shall be ~~totally~~ independent in the performance of his **or**~~/~~ her- duties;

(o) take all decisions on the establishment of the EU Customs Authority's internal structures and, where necessary, their modification taking into consideration the EU Customs Authority's activity needs and having regard to sound budgetary management.

~~(p) authorise the conclusion of working arrangements in accordance with Article 240(9).~~ *[Moved to letter (zc)]*

~~(q) set up working groups and expert panels and adopt their rules of procedure;~~ *[Moved to letter (zc)]*

(r) adopt the draft single programming document referred to in Article 223 before its submission to the Commission for its opinion;

(s) taking into account the opinion of the Commission, adopt the EU Customs Authority's single programming document ~~by a majority of two-thirds of members with voting rights and~~ in accordance with Article 216;

(t) adopt an efficiency gains and synergies strategy;

~~(u) adopt a strategy for cooperation with third countries and/or international organisations;~~

(s) adopt a strategy for the organisational management and internal control systems;

(w) carry out the tasks set out in Article 232(1) and (2);

(x) adopt performance indicators allowing the evaluation of the performance of the Executive Director;

(y) adopt the recommendations referred to in Article 208(2a) and submit them to the Council;

(za) adopt and regularly update the communication and dissemination plans referred to in Article 232(3), based on an analysis of needs;

(zb) authorise the conclusion of working arrangements in accordance with Article 243;

(zc) set up working groups and expert panels to support the EU Customs Authority in fulfilling its tasks and adopt their rules of procedure;

(zd) adopt a strategy for cooperation with customs and other relevant authorities at national and EU level, as referred to in Title XIII;

(ze) adopt the protocols and procedures referred to in Article 203;

(zf) confirm the provisional decisions taken by Executive Board in accordance with Article 217 (3).

2. The Management Board shall adopt, in accordance with Article 110 of the Staff Regulations, a decision based on Article 2(1) of the Staff Regulations and Article 6 of the

Conditions of Employment, delegating relevant appointing authority powers to the Executive Director and setting out the conditions under which this delegation of powers can be suspended. The Executive Director shall be authorised to sub-delegate those powers.

3. Where exceptional circumstances so require, the Management Board may, by way of decision, temporarily suspend the delegation of the appointing authority powers to the Executive Director and those sub-delegated by the Executive Director and exercise them itself or delegate them to one of its members or to a staff member other than the Executive Director.

Article 216

Voting rules of the Management Board

1. **Decisions of the Management Board shall, as a rule, be taken by an absolute majority of its members with voting rights, except for decisions under Article 215(0a), and (0b), and Article 215(1), points (a), (b), (e), (f), (j), (m), (r) (s), (w), and (zd), which shall require a majority of two-thirds of its members with voting rights.**

~~Without prejudice to Article 215(1), points (b), (m) and (s), the Management Board shall take decisions by absolute majority of its members with voting rights.~~

~~2. The decision referred to in Article 215(1), points (b), (c), (e), (f), (j), (m), (n), (o) and (s) may only be taken if the representatives of the Commission cast a positive vote. For the purposes of taking the decision referred to in Article 215(1), point (s), the consent of the representatives of the Commission shall only be required on the elements of the decision not related to the annual and multi-annual work programme of the EU Customs Authority.~~.

3. Each member with voting rights shall have one vote. In the absence of a member with the right to vote,~~his/~~ or her alternate shall be entitled to exercise his/ or her right to vote.

4. The Chairperson **and the Deputy Chairperson** shall take part in the voting.

5. The Executive Director shall not take part in the voting.

6. The Management Board's rules of procedure shall establish more detailed voting arrangements, in particular **on abstentions, the use of written procedures, and** the circumstances in which a member may act on behalf of another member.

SECTION 2

THE EXECUTIVE BOARD

Article 217

Executive Board

0. The Executive Board shall be accountable to the Management Board.

1. **The members of the Executive Board shall be appointed by the Management Board in accordance with Article 216 (1).** ~~The Management Board shall be assisted by an Executive Board.~~

2. The Executive Board shall:

   (a) ~~supervise~~ **assist and monitor** the preparatory work for decisions to be adopted by the Management Board;

   (b) ensure, together with the Management Board, adequate follow-up to the findings and recommendations stemming from the internal or external audit reports and evaluations, as well as from investigations of OLAF and of EPPO;

   (c) ~~supervise~~ **follow up** the implementation of the decisions of the Management Board, with a view to reinforcing supervision of administrative and budgetary management.

3. When necessary, because of urgency, the Executive Board may take certain provisional decisions on behalf of the Management Board, ~~in particular~~ **as regards** the following matters:

   (a) on administrative management matters, including the suspension of the delegation of the appointing authority powers and budgetary matters;

   (b) where a crisis situation has been identified as laid down in Title XI, and requires immediate action or adjustment of the EU Customs Authority's activities.

4. **The provisional decision taken by the Executive Board pursuant to paragraph 3 shall be confirmed by a formal decision of the Management Board no later than 90 days after the provisional decision was taken. Where the formal decision of the Management Board is not taken within that time limit, the provisional decision of the Executive Board ceases to apply.**

5. The Executive Board shall be composed of the ~~two representatives~~ **member of the Management Board designated by** ~~of~~ the Commission ~~to the Management Board~~ and ~~three~~ **four** other members appointed by the Management Board from among its members with the right to vote. The **Executive Board shall elect the** Chairperson ~~of the Management Board shall also be the Chairperson of the Executive Board~~ **from among its members**. The Executive Director shall take part in the meetings of the Executive Board, but shall not have the right to vote.

5a. The decisions of the Executive Board shall be taken by ~~simple~~ **absolute** majority. ~~Decisions with respect to paragraph (2), point (b) may only be taken if one representative of the Commission casts a positive vote.~~

6. The term of office of members of the Executive Board shall be ~~4~~ **2** years, and ~~shall be renewable~~ **may be renewed once for 2 years.** The term of office of members of the Executive Board shall end **upon the decision of the Management Board or** when their membership of the Management Board ends.

7. The Executive Board shall hold at least ~~one~~ **four** ordinary ~~meeting every three months~~ **meetings a year**. In addition, it shall meet on the initiative of its Chairperson or at the request of ~~its~~members **with the right to vote**..

8. The Management Board shall lay down the rules of procedure of the Executive Board. **Those rules of procedures shall include, inter alia, detailed rules for the election of the Chairperson and the appointment of the members of the Executive Board, which shall ensure appropriate rotation among the members designated by the Member States taking into account, inter alia, the different geographical circumstances and regional specificities within the Union.**

SECTION 3

THE EXECUTIVE DIRECTOR

Article 218

Appointment, dismissal, and extension of the term of office

1. The Executive Director shall be engaged as a temporary agent of the EU Customs Authority in accordance with Article 2(a) of the Conditions of Employment of other servants.

   The Executive Director shall be appointed by the Management Board on grounds of merit and documented administrative and managerial skills, as well as relevant competence and experience, from a list of at least three candidates proposed by the Commission, following an open**, non-discriminatory** and transparent selection procedure.

   The selection procedure shall include the publication of a call for interest in the Official Journal of the European Union and in other appropriate channels. The Commission shall consult the Management Board on the draft call for interest.

   For the purpose of concluding the contract of the Executive Director, the EU Customs Authority shall be represented by the Chairperson of the Management Board.

2. The term of office of the Executive Director shall be 5 years. In due time before the end of that period, the ~~Commission~~ **Management Board** shall carry out an assessment that takes into account an evaluation of the performance of the Executive Director ~~and the EU Customs Authority's future tasks and challenges~~.

3. The Management Board, ~~acting on a proposal from the Commission which takes~~ **taking** into account the assessment referred to in paragraph 2, may extend the term of office of the Executive Director once for no more than 5 years.

4. An Executive Director whose term of office has been extended may not participate in another selection procedure for the same post at the end of the overall period.

5. The Executive Director may be removed from office only upon a decision of the Management Board ~~acting on a proposal from the Commission~~.

6. The Management Board shall reach decisions on appointment, extension of the term of office or removal from office of the Executive Director and Deputy Executive Director on the basis of a two-thirds majority of its members with voting rights.

Article 219

Tasks and responsibilities of the Executive Director

1. The Executive Director shall manage the EU Customs Authority. The Executive Director shall be accountable to the Management Board.

2. Without prejudice to the powers of the Commission and the Management Board, the Executive Director shall be independent in the performance of his~~/~~ or her tasks and shall neither seek nor take instructions from any government nor from any other body.

3. The Executive Director shall report to the European Parliament and the Council on the performance of his or her duties and the overall performance of the EU Customs Authority when invited to do so.

4. The Executive Director shall be the legal representative of the EU Customs Authority.

5. The Executive Director shall be responsible for the implementation of the tasks assigned to the EU Customs Authority by this Regulation. In particular, the Executive Director shall:

(0a) prepare the recommendations referred to in Article 208(2a) and submit them to the Management Board for adoption;

(a) ensure the day-to-day administration of the EU Customs Authority;

(b) implement decisions adopted by the Management Board;

(c) prepare the draft single programming document referred to in Article **223** and submit it to the Management Board ~~after consulting the Commission~~;

(d) implement the single programming document referred to in Article **223** and report to the Executive Board and the Management Board on its implementation;

(e) prepare the consolidated annual **activity** report on the EU Customs Authority's activities and present them to the Management Board for assessment and adoption;

(f) prepare an action plan following up on the conclusions of internal or external audit reports and evaluations, as well as on investigations by OLAF and by the EPPO, and report on progress twice a year to the Commission and regularly to the Executive Board and the Management Board;

(g) without prejudice to the investigative competence of the EPPO and of OLAF, protect the financial interests of the Union **in relation to the internal functioning of the EU Customs Authority,** by applying internal preventive measures against fraud, corruption and any other illegal activities, by effective checks and, if irregularities are detected, by recovering amounts wrongly paid and, where appropriate, by imposing effective, proportionate and dissuasive administrative and financial penalties;

(h) prepare an internal anti-fraud strategy, an efficiency gains and synergies strategy, a strategy for cooperation with **customs authorities and other authorities of** third countries and/or international organisations and a strategy for the organisational management and internal control systems, for the EU Customs Authority and present ~~it~~ **them** to the Management Board for approval;

(i) prepare draft financial rules applicable to the EU Customs Authority and submitting them to the Management Board for adoption after consulting the Commission;

(j) prepare provisional draft statements of estimates of the EU Customs Authority's revenue and expenditure in accordance with Article 224, and implementing its budget;

(k) with regard to the EU Customs Authority's staff, exercise the powers of the appointing authority referred to in Article 215(1), point (i),to the extent that those powers have been delegated to him or her in accordance with Article 215(2);

(l) **take** ~~taking~~ decisions with regard to the EU Customs Authority's internal structures including, where necessary, deputising functions which may cover the day-to-day management of the EU Customs Authority and, where necessary, ~~their amendment~~ **amend them**, taking into account the needs relating to the EU Customs Authority's activities and sound budgetary management;

(m) **negotiate** ~~negotiating~~ and, after approval by the Management Board, ~~signing~~ **sign** a Headquarters Agreement concerning the seat of the EU Customs Authority, and, where applicable, similar agreements with the host Member States where local offices are located;

(n) **prepare** ~~preparing~~ the ~~practical arrangements~~ **detailed rules** for ~~the implementation of~~ **the application of** Regulation (EC) No 1049/2001 of the European Parliament and of the Council[38] and ~~submitting~~ **submit** them to the Management Board for adoption;

(o) promote diversity and aim at ensuring gender balance as regards the recruitment of the EU Customs Authority's staff;

(p) aiming at recruiting staff on the broadest possible geographical basis, bearing in mind that recruitment criteria must solely be based on merits.

Article 220

Deputy Executive Director

1. The Management Board may decide to create ~~a function~~ **the post** of a Deputy Executive Director to assist the Executive Director.

2. In ~~the~~ **that** case ~~the Management Board decides to create a function of a Deputy Executive Director, the provisions of~~ Article ~~217~~ **218** shall apply to the Deputy Executive Director accordingly.

Article 221

Tasks ~~and Responsibilities~~ of the Deputy Executive Director

If the ~~function~~ **post** of the Deputy Executive Director is created, the Deputy Executive Director shall assist the Executive Director in the management of the ~~Agency~~ **EU Customs Authority** and

[38] Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

in the performance of the tasks referred to in Article ~~218~~ **219**. If the Executive Director is absent or indisposed, or the post is vacant, the Deputy Executive Director shall take his or her place.

SECTION 3a
THE DATA AUDITOR

Article 221a
Appointment, status and independence of the Data Auditor

1. **The Data Auditor shall be appointed by the Management Board on grounds of merit and documented professional skills, as well as relevant competence and experience in the fields of data security, cybersecurity and data protection.**

2. **The Data Auditor is a member of the staff of the EU Customs Authority and shall act independently.**

3. **The Data Auditor shall act in full respect of Union law on confidentiality and secrecy.**

Article 221b
Responsibilities and tasks of the Data Auditor

1. **The Data Auditor shall independently monitor and assess the lawfulness of access to and protection of data processed through the EU Customs Data Hub, in accordance with the applicable Union law. The Data Auditor shall report on his or her activities on annual basis to the Management Board. The Data Auditor shall perform his or her tasks in coordination with the Data Protection Officer and without prejudice to respect the responsibilities of other Union or national oversight bodies.**

2. **The Commission shall specify, by means of implementing acts, the detailed tasks, and responsibilities of the Data Auditor. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 262(2).**

SECTION 3b
CONFIDENTIALITY

Article 221c

Obligation of professional secrecy

1. **Members of the Management Board and the Executive Board, the Executive Director, the Deputy Executive Director, the Data Auditor and all members of staff of the EU Customs Authority, including officials seconded by Member States on a temporary basis, as well as all other persons carrying out tasks for the Authority on a contractual basis, shall be subject to the requirements of professional secrecy pursuant to Article 339 TFEU and Article 67 of Directive (EU) 2024/1640, including after their duties have ceased.**

2. **The Executive Board shall ensure that individuals who provide any service, directly or indirectly, permanently or occasionally, relating to the tasks of the EU Customs Authority, are subject to requirements of professional secrecy equivalent to those provided for in paragraph 1.**

3. **For the purpose of carrying out the tasks conferred on it by this Regulation, the EU Customs Authority shall be authorised, within the limits and under the conditions set out in this Regulation, to exchange information with Union or national authorities and bodies.**

4. **The Authority shall establish practical arrangements for implementing the confidentiality rules referred to in paragraphs 1 and 2.**

Chapter 4

Establishment and structure of the budget of the EU Customs Authority

Article 222

General provisions

The financial rules applicable to the EU Customs Authority shall be adopted by the Management Board after consulting the Commission. They shall not depart from Commission Delegated

Regulation (EU) 2019/715[39]unless such a departure is specifically required for the EU Customs Authority's operation and the Commission has given its prior consent.

Article 223

Single programming document

1. Each year, the Executive Director shall draw up a draft single programming document containing in particular multiannual and annual programming in accordance with the provisions laid down in Commission Delegated Regulation (EU) 2019/715, and with the relevant provision of the EU Customs Authority's financial rules adopted pursuant to Article 222 of this Regulation and taking into account guidelines set by the Commission. The annual and multiannual programming shall be in line with the customs policy and overall priorities of the customs union.

2. The Management Board shall transmit the draft single programming document to the Commission, the European Parliament and the Council ~~and to the European Court of Auditors~~ by 31 January of the year preceding the programming period**. The Commission shall provide its opinion to the draft single programming document by 1 July of the year N**.

3. By 30 November each year, the Management Board shall adopt the single programming document. It shall forward the single programming document to the European Parliament, the Council and the Commission, as well as any later updated version of that document. The single programming document shall become definitive after final adoption of the general budget of the Union and~~,~~ if necessary shall be adjusted accordingly.

4. The annual work programme shall set out detailed objectives and expected results including performance indicators. It shall also contain a description of the actions to be financed and an indication of the financial and human resources allocated to each action. The annual work programme shall be consistent with the multiannual work programme referred to in paragraph 5. It shall clearly indicate tasks that have been added, changed or

[39] Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (OJ L 122, 10.5.2019, p. 1).

deleted in comparison with the previous financial year. The Management Board shall amend the adopted annual work programme when a new task is given to the EU Customs Authority within the scope of this Regulation. Any substantial amendment to the annual work programme shall be adopted in accordance with the same procedure as the initial annual work programme. The Management Board may delegate the power to make non-substantial amendments to the annual work programme to the Executive Director.

5. The multiannual work programme shall set out the overall strategic programming including objectives, expected results and performance indicators. It shall also show, for each activity, the indicative financial and human resources considered necessary to attain the objectives set. The strategic programming shall be updated where **appropriate and** shall demonstrate the contribution of the EU Customs Authority to the achievement of the Union's political priorities.

Article 224

Establishment of the budget

1. Each year, the Executive Director shall draw up a provisional draft statement of estimates of the EU Customs Authority's revenue and expenditure for the following financial year, including the establishment plan, and send it to the Management Board. The information contained in the provisional draft statement of estimates shall be consistent with the draft single programming document referred to in Article 223(1).

2. The Management Board shall, on the basis of the provisional draft statement of estimates referred to in paragraph 1, adopt a draft statement of estimates of the EU Customs Authority's revenue and expenditure for the following financial year.

3. The Management Board shall send the draft statement of estimates of the EU Customs Authority's revenue and expenditure to the Commission by 31 January each year.

4. The Commission shall send the draft statement of estimates to the budgetary authority together with the draft general budget of the European Union.

5. On the basis of the draft statement of estimates, the Commission shall enter in the draft general budget of the Union the estimates it considers necessary for the establishment plan

and the amount of the contribution to be charged to the general budget, which it shall place before the budgetary authority in accordance with Articles 313 and 314 TFEU.

6. The budgetary authority shall authorise the appropriations for the contribution fromthe general budget of the Union to the EU Customs Authority.

7. The budgetary authority shall adopt the EU Customs Authority's establishment plan.

8. The Management Board shall adopt the EU Customs Authority's budget. That budget shall become final following the final adoption of the general budget of the Union Where necessary, the EU Customs Authority's budget shall be adjusted accordingly.

Article 225

Structure of the budget

1. Estimates of all revenue and expenditure of the EU Customs Authority shall be prepared each financial year and shall be shown in the EU Customs Authority's budget. The financial year shall correspond to the calendar year.

2. The EU Customs Authority's budget shall be balanced in terms of revenue and of expenditure.

3. Without prejudice to other resources, the EU Customs Authority's revenue shall comprise:

   (a) a contribution from the Union entered in the general budget of the Union;

   (b) any voluntary- financial contribution from the Member States;

   (c) possible Union funding in the form of contribution agreements or grants in accordance with the EU Customs Authority's financial rules referred to in Article

222 and with the provisions of the relevant instruments supporting the policies of the Union;

(d) charges for publications and any service provided by the EU Customs Authority**;**

(e) revenue from third parties in respect of goods, services or work supplied at their request.

4. The expenditure of the EU Customs Authority shall include staff remuneration, administrative and infrastructure expenses and operational expenditure.

5. Budgetary commitments for actions relating to large-scale projects extending over more than one financial year may be broken down into several annual instalments.

Article 226

Implementation of the EU Customs Authority's budget

1. The Executive Director shall implement the EU Customs Authority's budget **respecting the principles of economy, efficiency, effectiveness and sound financial management**.

2. Each year, the Executive Director shall send to the budgetary authority all the information needed for the exercise of its evaluation duties.

Article 227

Presentation of accounts and discharge

1. ~~The~~ **By 1 March of the** following financial year (year N+1)**,** the EU Customs Authority's accounting officer shall send the provisional accounts for the financial year (year N) to the Commission's Accounting Officer and to the Court of Auditors ~~by 1 March of the following financial year (year N+1)~~.

2. By 31 March of year N+1, the EU Customs Authority shall send the report on the budgetary and financial management for year N to the European Parliament, the Council and the Court of Auditors.

3. By 31 March of year N+1, the Commission's accounting officer shall send the EU Customs Authority's provisional accounts, consolidated with the Commission's accounts, to the Court of Auditors.

4. On receipt of the Court of Auditors' observations on the EU Customs Authority's provisional accounts pursuant to Article 246 of Regulation (EU, Euratom) 2018/1046[40] of the European Parliament and of the Council, the EU Customs Authority's accounting officer shall draw up the EU Customs Authority's final accounts for that year. The Executive Director shall send them to the Executive Board for an opinion. That opinion shall be adopted by the Management Board.

5. The EU Customs Authority's accounting officer shall, by 1 July of year N+1, send the final accounts for year N to the European Parliament, the Council, the Commission and the Court of Auditors, together with the opinion adopted by the Management Board.

6. The final accounts for year N shall be published in the Official Journal of the European Union by 15 November of year N+1.

7. The Executive Director shall send a reply to the Court of Auditors' observations by 30 September of year N+1. The Executive Director shall also send that reply to the Management Board.

8. The Executive Director shall submit to the European Parliament, at the latter's request, any information required for the smooth application of the discharge procedure for the financial year N, in accordance with Article ~~261~~**267**(3) of Regulation (EU, Euratom) ~~2018/1046~~ **2024/2509**.

9. On a recommendation from the Council acting by a qualified majority, the European Parliament shall, before 15 May of year N+2, give a discharge to the Executive Director in respect of the implementation of the budget for year N.

[40] Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

Article 228

Combating fraud

1. **On a recommendation from the Council acting by a qualified majority, the European Parliament shall, before 15 May of year N+2, give a discharge to the Executive Director in respect of the implementation of the budget for year N**.

~~In order to combat fraud, corruption and other unlawful activities within the EU Customs Authority, the provisions of Regulation (EU, Euratom) No 883/2013 shall apply without restriction~~

2. The EU Customs Authority shall accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by OLAF[41] ~~within~~ **by …[**six months from ~~[XXX~~ **the date of entry into force of this Regulation**] and shall adopt the appropriate provisions applicable to its staff using the template set out in the Annex to that Agreement.

3. The European Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds from the EU Customs Authority.

4. OLAF may carry out investigations, including on-the-spot checks and inspections with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the EU Customs Authority, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and Council Regulation (Euratom, EC) No 2185/96[42].

~~[41] OJ L 136, 31.5.1999, p. 15.~~

[42] Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

5. Without prejudice to paragraphs 1, 2, 3, and 4, contracts, grant agreements and grant decisions of the EU Customs Authority shall contain provisions expressly empowering the European Court of Auditors and OLAF to conduct such audits and investigations, according to their respective competences. Working arrangements with competent authorities of third countries and international organisations shall cover the assistance and cooperation of those authorities and international organisation in relation to audits and investigations carried out by the Court of Auditors and OLAF.

6. In accordance with Regulation (EU) 2017/1939, EPPO may investigate and prosecute fraud and other illegal activities affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council[43].

Chapter 5
Provisions on staff

Article 229

General provision

The Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union and the rules adopted by agreement between the Union institutions for giving effect to the Staff Regulations of Officials and the Conditions of Employment of Other Servants shall apply to the staff of the EU Customs Authority.

Article 230

Seconded national experts and other staff

1. The EU Customs Authority may make use of seconded national experts or other staff not employed by the EU Customs Authority.

[43] Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

2. The Management Board shall adopt a decision laying down rules on the secondment of national experts to the EU Customs Authority.

Article 231

Privileges and immunities

Protocol No 7 on the Privileges and Immunities of the European Union annexed to the Treaty on the Functioning of the European Union shall apply to the EU Customs Authority and its staff.

Chapter 6
General and final provisions

Article 232

Transparency and ~~C~~communication

1. Regulation (EC) No 1049/2001 shall apply to documents held by the EU Customs Authority. The Management Board shall, within six months of the date of its first meeting, adopt the detailed rules for applying Regulation (EC) No 1049/2001.

2. The processing of personal data by the EU Customs Authority shall be subject to Regulation (EU) 2018/1725. The Management Board shall, within six months of the date of its first meeting, establish measures for the application of Regulation (EU) 2018/1725 by the EU Customs Authority, including those concerning the appointment of a Data Protection Officer of the EU Customs Authority. Those measures shall be established after consultation of the European Data Protection Supervisor.

3. The EU Customs Authority may engage in communication activities on its own initiative within its field of competence. The allocation of resources to communication activities shall ~~not be detrimental~~ **contribute** to the effective exercise of the tasks of the EU Customs Authority. Communication activities shall be carried out in accordance with relevant communication and dissemination plans adopted by the Management Board.

Article 233

Security rules on the protection of classified and sensitive non-classified information

1. The EU Customs Authority shall adopt its own security rules that shall be based on the principles and rules laid down in the Commission's security rules for protecting European Union classified information (EUCI) and sensitive non-classified information including, inter alia, provisions for the exchange of such information with third countries, and processing and storage of such information as set out in Commission Decisions (EU, Euratom) 2015/443[44] and (EU, Euratom) 2015/444[45].

   Any administrative arrangement on the exchange of classified information with the relevant authorities of a third country or, in the absence of such arrangement, any exceptional ad hoc release of EUCI to those authorities, shall be subject to the Commission's prior approval.

2. The management board shall adopt the EU Customs Authority's security rules following approval by the Commission. When assessing the proposed security rules, the Commission shall ensure that they are compatible with Decisions (EU, Euratom) 2015/443 and (EU, Euratom) 2015/444.

3. Members of the Management Board, the Executive Director, ~~external~~ experts participating in ad hoc working groups, and members of ~~the~~ staff of the EU Customs Authority shall comply with the confidentiality requirements under Article 339 TFEU, even after their duties have ceased.

4. The EU Customs Authority may take the necessary measures to facilitate the exchange of information relevant to its tasks with the Commission and the Member States and, where appropriate, the relevant Union institutions, bodies, offices and agencies. Any administrative arrangements concluded to that end with regard to the sharing of ~~EU classified information (~~EUCI~~)~~ or, in the absence of such arrangements, any exceptional ad hoc release of EUCI, shall ~~have received~~ **be subject to** the Commission's prior approval.

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[44] Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

[45] Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (OJ L 72, 17.3.2015, p. 53).

Article 234

Language arrangements

1. The provisions laid down in Council Regulation No 1[46] shall apply to the EU Customs Authority.

2. The Management Board shall decide on the internal language arrangements for the EU Customs Authority.

3. ~~The translation~~ **All linguistic** services required ~~for the functioning of~~ **by** the EU Customs Authority**, other than interpretation,** shall be provided by the Translation Centre for the Bodies of the European Union.

Article 235

Evaluation

1. Not later than [OP please insert the date = 5 years after the date of entry into force of this Regulation], and every 5 years thereafter, the Commission shall ensure that an evaluation ~~in accordance with Commission guidelines~~ of the EU Customs Authority's performance in relation to its objectives, mandate, tasks and governance and location(s) is carried out.

2. The evaluation shall, in particular, address the possible need to modify the mandate of the EU Customs Authority, and the financial implications of any such modification.

3. On the occasion of every second evaluation referred to in paragraph 1, the results achieved by the EU Customs Authority shall be assessed, having regard to its objectives, mandate, tasks and governance, including an assessment of whether the continuation of the EU Customs Authority is still justified with regard to those objectives, mandate, governance and tasks.

[46] Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385).

4. The Commission shall report to the European Parliament and the Council on the findings of the evaluation ~~referred to in paragraph 2~~. The findings of the evaluation shall be made public.

Article 236

Liability of the EU Customs Authority

1. The contractual liability of the EU Customs Authority shall be governed by the law applicable to the contract in question.

2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the EU Customs Authority.

3. In the event of non-contractual liability, the EU Customs Authority shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its departments or by its staff in the performance of their duties.

4. The Court of Justice of the European Union shall have jurisdiction in disputes over compensation for the damage referred to in paragraph 3.

5. The personal liability of its staff towards the EU Customs Authority shall be governed by the provisions laid down in the Staff Regulations of Officials or Conditions of Employment of Other Servants applicable to them.

~~6. The financial liability of the Union and the Member States for the debts of the EU Customs Authority shall be limited to their contribution already made for the administrative costs.~~

Article 237

Headquarters Agreement and operating conditions

1. The necessary arrangements concerning the accommodation to be provided for the EU Customs Authority in the host Member State and the facilities to be made available by that Member State together with the specific rules applicable in the host Member State to the Executive Director, members of the Management Board, EU Customs Authority staff and members of their families shall be laid down in a Headquarters Agreement between the EU Customs Authority and Member State where the seat is located, concluded after obtaining

the approval of the Management Board and no later than-…[OP please insert the date = two years after the date of entry into force of this Regulation].

2. The EU Customs Authority's host Member State shall provide the best possible conditions to ensure the functioning of the EU Customs Authority, including multilingual, European-oriented schooling and appropriate transport connections.

3. Where exceptional circumstances so require, the Executive Director may decide to establish a local office in another Member State for the purposes of carrying out the EU Customs Authority's tasks in a more, efficient, effective and coherent manner.

Before deciding to establish a local office, the Executive Director shall obtain the prior consent of the ~~Commission, the~~ Management Board and the Member State concerned. The decision shall be based on an appropriate cost-benefit analysis that demonstrates in particular the added value of such decision. The decision shall specify the scope of the activities to be carried out at the local office in a manner that avoids unnecessary costs and duplication of administrative functions of the EU Customs Authority.

Article 238

Start of the EU Customs Authority's activities

1. ~~The EU Customs Authority is established as of 2026 and shall become fully operational by 2028.~~

2. The Commission shall be responsible for the establishment and initial operation of the EU Customs Authority until ~~the EU Customs Authority has the operational capacity to implement its own budget~~ **31 December of the second year after the date of entry into force of this Regulation**. For that purpose:

(a) until the Executive Director takes up his or her duties following his or her appointment by the Management Board in accordance with Article 218**,** the Commission may designate a Commission official to act as interim Executive Director and exercise the duties assigned to the Executive Director;

(b) by derogation from Article 215(1), point (i)-and until the adoption of a decision as referred to in Article 215(2), the interim Executive Director shall exercise the appointing authority powers;

(c) the Commission may offer assistance to the EU Customs Authority, in particular by seconding Commission officials to carry out the activities of the EU Customs Authority under the responsibility of the interim Executive Director or the Executive Director;

(d) the interim Executive Director may authorise all payments covered by appropriations entered in the EU Customs Authority's budget and may conclude contracts, including staff contracts, following the adoption of the EU Customs Authority's establishment plan**;**

(e) by derogation from Article 214(1), until the Chairperson of the Management Board is elected the interim Executive Director shall convene and chair the meetings of the Management Board, without the right to vote.

Title XIII
CUSTOMS COOPERATION

Chapter 1

Cooperation between customs authorities within the Union

Article 239

Internal customs cooperation

1. Without prejudice to the provisions of Regulation (EC) No 515/97, customs authorities shall cooperate with each other, with the Commission and with the EU Customs Authority in accordance with the customs legislation and any other Union legislation providing for such cooperation, with a view to ensuring a correct and uniform application of those legislations and supporting the achievement of their mission, as set out in Article 2.

2. Customs authorities may **upon request of another Member State's customs authorities,** temporarily make customs officers available to work in the customs authorities of **that** ~~an~~other Member State. The EU Customs Authority shall be informed and may**, at the request of customs authorities concerned, support and** coordinate such assignments. **An agreement between Member States concerned shall lay down all necessary condition of such assignment.**

~~3.~~ *[Moved to Article 241 (4)]*

4. The Commission, OLAF and the EU Customs Authority may exchange data **in accordance with Title III, for the purpose of** ~~relevant for~~ the cooperation referred to in this **Chapter**~~Title~~. ~~including risk information~~ **Where this encompasses risk information,** ~~T~~**t**he EU Customs Authority shall ensure the effective use of such information in its risk management activities in accordance with this Title and Title XII.

Article 241

Joint controls

[Moved between Article 239 and Article 240]

1. The EU Customs Authority shall**, in cooperation with the Member States,** plan, organise and coordinate joint controls ~~that are~~ carried out by customs authorities~~;~~**.**

   ~~w~~**Where** relevant ~~in~~**, joint controls may involve** cooperation with **the Commission or** other **Union** authorities, bodies**, offices or** agencies**,** in accordance with Article 240~~(9)~~**(8).**

2. For this purpose, the EU Customs Authority shall follow ~~the~~ customs policy priorities and ~~ensure~~ **maintain** the necessary links ~~and coordination~~ with anti-fraud activities **conducted** by ~~OLAF and, EPPO~~ **relevant Union authorities and bodies,** and national customs investigations.

   At the request of national customs authorities, the EU Customs Authority may facilitate their cooperation with relevant authorities and bodies in case of ongoing investigations. Where appropriate, the results of these investigations, as well as the outcomes of joint controls referred to in paragraph 1 shall be used in accordance with Article 50(3)**, point (f)**.

3. To allow the EU Customs Authority to draw up a report and perform an evaluation, the customs authorities shall provide feedback to the EU Customs Authority on the activities and controls they have carried out in the context of a joint control **referred to in paragraph 1**.

4. **In addition to the joint controls referred to in paragraph 1,** ~~C~~**c**ustoms authorities **of Member States** may carry out joint controls **on their own initiative** ~~in addition to those provided for in Article 241~~. ~~The customs authorities shall~~ **They may inform** inform the EU Customs Authority of such joint controls. *[Moved from Article 239 (3)]*

Chapter 2

Cooperation with other authorities within the Union

Article 240

~~Framework for~~ Customs cooperation with other authorities within the Union

1. Without prejudice to Regulation (EC) No 515/97, the EU Customs Authority and the customs authorities shall cooperate with other competent authorities or bodies at Union and national level, including market surveillance authorities, sanitary and phytosanitary authorities, other law enforcement authorities or bodies, statistical authorities, and tax authorities, within the applicable legal frameworks.

It shall also cover, where applicable, Union bodies or agencies in the limit of their tasks related to customs-related matters, such as the European Union Agency for Law-Enforcement Cooperation (Europol), the European Public Prosecutor's Office (EPPO) and the European Border and Coast Guard Agency (Frontex).

~~Customs authorities shall cooperate with other authorities at national level, including, but not limited to, market surveillance authorities, sanitary and phytosanitary authorities, law enforcement authorities and tax authorities, in the field other legislation applied by the customs authorities, collection of duties and taxes and other relevant fields of cooperation. Where appropriate, customs authorities shall also cooperate with relevant bodies, expert groups, agencies, offices or networks coordinating the activities of other authorities at Union level. Where appropriate, customs authorities shall also cooperate with other relevant parties at EU level, as referred to in paragraph 9, and the involved customs authorities shall notify the EU Customs Authority.~~

2. The cooperation referred to in paragraph 1 shall take place regularly and in a structured way. It shall pursue, in particular, the following objectives:

(a) contributing to and following legislative developments in policy areas of relevance for customs;

(b) the exchange of data, in particular data relevant for risk management in accordance with Title IV, Chapter 3;

(c) the development of coherent and coordinated supervision strategies for risk management of goods under the areas of responsibilities of both customs authorities and other authorities, in accordance with Title IV, Chapter 3;

(d) the operational implementation, including performance of joint controls in accordance with Article 241**;**

(e) contribution to innovation and research activities, development of new technologies and joint procurement in areas relevant for customs.

2a. The customs authorities and the EU Customs Authority, under the cooperation referred to in paragraph 1, may only exchange information with other authorities or bodies at national and Union level on a need-to-know and confidential basis and within the boundaries of their respective mandates.

2b. Where cooperation under paragraph 1 involves the extraction and communication of data from the EU Customs Data Hub, such data shall be provided only upon duly justified requests with the approval by the relevant customs authorities. The extraction and communication shall be limited to data strictly necessary for the purpose stated in the request and shall comply with Union rules on confidentiality and the data protection.

The EU Customs Authority shall, in cooperation with the customs authorities, develop and regularly update a framework supporting the cooperation referred to in this Article by proposing objectives and key areas of cooperation and providing orientations for its practical implementation.

Customs authorities and the EU Customs Authority shall use electronic means for complying with obligations listed in paragraph 1.

Customs authorities shall designate a central unit to ensure reception of the duly justified request and its validation.

~~3. The EU Customs Authority shall, without prejudice to the powers of the Commission and subject to its prior approval, conclude working arrangements to develop and update a framework for the cooperation referred to in paragraph 1, involving other relevant parties, as referred to in paragraph 9, providing orientations for its practical implementation,~~

~~objectives and key areas of cooperation, in accordance with paragraph 2 of this Article and Title III of this Regulation.~~

4. Where a customs authority cooperates with another authority in a different Member State, it ~~shall~~ **may** notify the customs authority of that Member State. Where the cooperation involves more than two Member States, the involved customs authorities ~~shall~~ **may** notify the EU Customs Authority, who may provide operational and coordination support in accordance with Article 208.

5. The Member States shall **periodically** report ~~on an annual basis~~ to the EU Customs Authority on the application ~~of the framework for cooperation~~. The EU Customs Authority shall take into account the findings of ~~this~~ **such** reporting in its monitoring activities referred to in Article 208(3), point (a), and its performance measurement tasks referred to in Article 208(3), point (b).

6. Until ~~the date~~ **[1 July 2028]** ~~indicated in Article 238(1),~~ the Commission may carry out the tasks of the EU Customs Authority~~, as referred to in paragraph 3~~.

7. The **cooperation under this Article, between** the EU Customs Authority ~~may~~ ~~cooperates with~~ **and national authorities** other **than customs** ~~authorities at national level, and with the Commission and other Union institutions, offices, agencies, networks and bodies~~, ~~in order to contribute to the objectives referred to in paragraph 2, and to the framework for cooperation~~ ~~referred to in paragraph 3~~ **shall be conducted in coordination with the customs authority of the Member State concerned, and shall ensure the respect of the roles and responsibilities of the different authorities under national law**.

~~To that end, the The EU Customs Authority may, subject to the authorisation of its Management Board and after the approval by consultation of the Commission, establish working arrangements with the Union bodies or other authorities at the national level. Those administrative arrangements shall not create legal obligations and shall define the nature, extent, and manner in which the intended cooperation shall take place. The EU Customs Authority shall inform the national customs authorities of such working arrangements.~~

~~8. The EU Customs Authority shall closely cooperate with OLAF where fraud or suspicion of fraud occurs in any of its cooperation activities.~~

9. The EU Customs Authority ~~may develop a framework for operational cooperation with other EU bodies, offices and agencies, including Europol and Frontex, in accordance with~~

~~paragraphs 2, 4 and 5,~~ may participate in and contribute to strategic analyses and threat assessments, ~~policy cycles,~~ innovation programmes, training activities, networks and other activities which are relevant for the implementation of its tasks and are organised by ~~such other~~ **Union relevant** bodies**, offices and agencies**.

10. The Commission shall, by means of implementing acts adopted in accordance with the examination procedure referred to in Article 262(4), lay down the detailed rules governing any extraction and communication of data under this Article. Those implementing acts shall, for each category of requesting authority or body, specify in particular:

(a) the precise categories of data that may be shared;

(b) the conditions and modalities for the exchange, including for automated exchanges;

(c) any restrictions and liabilities on the onward transfer of the data by the requesting authority;

(d) the need for the authority concerned to designate a specific contact point, person or persons or to provide additional safeguards;

~~*Article 241*~~

~~**Joint controls**~~

[Moved between Article 239 and Article 240]

Article 242

Actions to be taken by the customs authorities

1. In accordance with the other legislation applied by the customs authorities, the customs authorities may take any of the following measures:

(a) collecting specific data for all consignments, including automated checks of Union non-customs formalities, provided that they are stored in a Union central registry;

(b) providing statistics, analytics and trends, in particular in the area of risks;

(c) facilitating and coordinating the controls by other authorities;

(d) carrying out controls on certain consignments, selected on the basis of risk management in accordance with Title IV and taking into account the analysis referred to in point (b);

(e) consulting other authorities before release of the goods in accordance with Article 60;

(f) taking any necessary measure on non-compliant goods, including confiscation, sale or destruction of those goods;

(g) implementing the framework for cooperation referred to in Article 240;

(h) alerting other authorities about risks relevant for their work;

(i) following-up where the movement of goods is infringing other legislation applied by the customs authorities;

(j) any other complementary action.

2. A Member State may designate a specialised customs border crossing point, on certain other legislation applied by the customs authorities. The constraints resulting from such designation to pass through a specialised customs border crossing points must not be disproportionate, as far as economic operators are concerned, to the objective in question, having due regard to the circumstances which may justify that obligation.

~~3. The Member State shall notify the EU Customs Authority about the designation referred to in paragraph 2 and the EU Customs Authority shall keep up to date and publish a list of these specialised customs border crossing points .~~

~~4. In order to facilitate the identification, application and enforcement of other legislation applied by the customs authorities, the Commission shall draw up and regularly update an integrated list of Union legislation laying down requirements applicable to goods subject to customs controls aimed at protecting public interests and publish it on its website.~~

~~5. The Commission is empowered to adopt delegated acts in accordance with Article 261, to supplement this Regulation by determining any other complementary action as referred to in paragraph (1), point (j).~~

Chapter 3

Customs cooperation with other authorities outside the Union

Article 243

~~International c~~Customs cooperation with other authorities outside the Union

1. The EU Customs Authority may, ~~without prejudice~~ to the ~~powers of the Commission and subject~~ to **the extent necessary for** its ~~prior approval~~ **tasks, and after consulting the Commission** conclude working arrangements with ~~the~~ **customs** authorities **and other competent authorities** of third countries**,** ~~and~~ **as well as with** international organisations.

2. ~~These~~ **Those working** arrangements shall **be limited to the tasks of the EU Customs Authority and shall** not create legal obligations ~~incumbent on~~ **for** the Union **or its Member States. The EU Customs Authority shall inform the customs authorities of the Member States of such arrangements**.

Article 243a

Bilateral agreements with third countries

1. **Member States may, upon notification to the Commission, maintain or enter into negotiations with a third country with a view to conclude bilateral agreements, including agreements with neighboring third countries regarding shared border crossing points, which are limited to the implementation of Union law obligations.**

2. **Member States may conclude non-binding working arrangements with customs authorities and other competent authorities of third countries.**

Article 244

Exchange of data with third countries

1. The ~~Commission, the~~ customs authorities**,** ~~and~~ the EU Customs Authority **and the Commission** may**, in accordance with applicable Union law,** exchange and share data **processed in accordance** with **this Regulation with** customs authorities ~~and other authorities~~ of third countries ~~for the purpose of customs cooperation,~~ **including by systematic and automated exchanges** where:

(a) an international agreement ~~of~~ **concluded between** the Union~~, customs legislation,~~ **and the third country or countries concerned provides for such an exchange; or**

(b) Union legislation in the area of the **customs,** common commercial policy ~~or~~**,** common foreign and security policy, ~~as well as~~ **or** Union other legislation applied by the customs authorities, provides for such an exchange**; or**

(c) **a bilateral agreement concluded in accordance with the procedure laid down in paragraphs 5, 6 and 7 between a Member State and a third country provides for such an exchange.**

1a. **The exchange referred to in paragraph 1 shall:**

(a) ~~and it is~~ ensure~~d~~ that the transfer of personal data is in conformity with the ~~provisions of Chapter V of Regulation (EU) 2018/1725 or~~ Chapter V of Regulation (EU) 2016/679, **as applicable;** ~~respectively.~~

(b) **ensure the confidentiality information in accordance with this Regulation;**

(c) **ensure that the exchange of data takes place through appropriate secure; means of communication; and**

(d) **ensure that the exchange of data is subject to prior consultation and agreement with the customs authorities of the Member States concerned by the data stored or otherwise available in the EU Customs Data Hub. Where the exchange is carried out on a systematic and automated basis, the arrangement with the Member States concerned shall specify the conditions for such exchange.**

~~The Commission shall be informed about exchanges of data between customs authorities and the EU Customs Authority with customs authorities and other authorities of third countries.~~

2. The exchange referred to in paragraph 1 may concern, in particular, the following categories of data:

(a) data elements included in decisions taken by the customs authorities or similar decisions taken in third countries, relating to binding information, authorised economic operator status, **Trust and Check trader status,** customs valuation, customs status of goods or special procedures;

(b) data elements included in declarations, **or made available to customs,** notifications and proof of the customs status of goods and in supporting documents, lodged either with the customs authorities of the Member States or the Commission, **on the one hand,** or with the authorities of third countries competent for customs matters, on the other **hand**, or issued by those authorities;

(c) data, **including image-based data** on risks identified, findings made**,** and results obtained by the customs authorities of ~~the~~ Member States or the Commission, on the one hand, and the authorities of third countries competent for customs matters, on the other, in the course of performing their risk analysis and controls.

~~3.~~ ~~The exchange referred to in paragraph 1 shall take place through appropriate secure means of communication, either upon request or on own initiative, and is subject to the respect for confidential data and the protection of personal data in accordance with Articles 31, 35 and paragraph 1 of this Article.~~

4. The exchange referred to in paragraph 1 is without prejudice to exchanges of information conducted under the mutual administrative assistance provisions contained in agreements between the Union and third countries and to the provisions of Regulation (EC) ~~517~~**515**/97.

5. A Member State may be empowered in accordance with the procedures and conditions laid down in a delegated act adopted in accordance with paragraph 6 to enter into negotiations with a third country with a view to concluding a bilateral agreement on the exchange **of information** referred to in paragraph 1 ~~or to maintain an existing agreement. Such a bilateral agreement will cease to apply upon the entry into force of an agreement providing for exchange of customs information between the Union and the third country concerned~~.

6. The Commission is empowered to adopt a delegated act in accordance with Article 261, to supplement this Regulation by determining ~~the~~ conditions and procedures according to which a Member State can be empowered to enter into negotiations referred to in paragraph 5. These shall include ~~a notification by~~ **at least the requirement that** the Member State concerned **shall notify this intention** to the Commission**, EU Customs Authority** and all other Member States of the possible content of the bilateral agreement ~~and an assessment by t.~~ **T**he Commission ~~of~~ **shall assess** its impact on Union law and future negotiations at Union level~~, including whether its content is limited to implementation of Union or international law obligations. The delegated act shall also provide for the monitoring of the implementation of those agreements~~.

7~~8~~. The Commission shall decide within 90 days from receipt of the notification, by means of an implementing act, whether to authorise the Member State to enter into **negotiations on** the bilateral agreement. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 262(2).

On imperative grounds of urgency relating to such authorisation, duly justified by the need to rapidly allow for the requested exchange of information, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 262(5).

Title XIV

PENALTIES

~~COMMON PROVISIONS ON CUSTOMS INFRINGEMENTS AND ON NON-CRIMINAL SANCTIONS~~

~~Chapter 1~~

~~General provisions~~

Article 245

Application of penalties ~~**Subject matter**~~

~~This Title establishes a list of customs infringements and non-criminal sanctions for those infringements. It does not prevent Member States from taking more stringent measures by providing for administrative or criminal sanctions in accordance with their national law. Neither does it affect other infringements provided for under Union legislation.~~

1. Each Member State shall provide for penalties for failure to comply with the customs legislation. Such penalties shall be effective, proportionate and dissuasive.

2. Where administrative penalties are applied they may take, inter alia, one or both of the following forms:

(a) a pecuniary charge;

(b) the withdrawal, suspension or amendment of any authorisation held by the person concerned.

3. Member States shall inform the Commission of measures referred to in paragraph 1 and of any subsequent substantial amendments in timely manner in accordance with national legislation.

~~Article 246~~

~~General requirements~~

~~1. Acts or omissions referred to in Article 252 constitute customs infringements.~~

2. Inciting or aiding and abetting an act or omission referred to in Article 252 constitutes a customs infringement.

An attempt to commit an act or omission referred to in Article 252 constitutes a customs infringement.

3. Member States shall determine whether the infringements referred to in Article 252 are committed intentionally or by obvious negligence or manifest error.

4. Clerical or minor errors shall not constitute a customs infringement unless the customs authority can establish that they were committed intentionally, or as a result of obvious negligence or manifest error.

5. In case of an act or an omission resulting in a customs infringement referred to in Article 252 and committed as a reaction to abnormal and unforeseeable circumstances extraneous to the person concerned, the consequences of which, in spite of the exercise of all due care, could not have been avoided, the responsibility of the person that committed it is excluded.

Article 247

Extenuating and mitigating circumstances

1. When the person responsible for an act or an omission resulting in a customs infringement referred to in Article 252 provides the evidence that that person acted in good faith, it is taken into account in determining the sanction referred to in Article 254.

2. The following circumstances shall be taken into account for reducing the sanction to be applied for the customs infringement:

(a) the goods involved are not subject to the other legislation applied by the customs authorities;

(b) the customs infringement has no impact on the determination of the amount of customs duties and other taxes to be paid;

(c) the person responsible for the customs infringement cooperates effectively with the customs authority.

Article 248

Aggravating circumstances

The following circumstances shall be taken into account for aggravating the sanction referred to in Article 254 to be applied for the customs infringements:

(a) the person responsible for the customs infringement has been sanctioned previously for a customs infringement, or has committed continuous and repeated customs infringements;

(b) the customs infringement has a significant impact on other legislation applied by the customs authorities;

(c) the customs infringement has a significant financial impact on collecting customs duties or other charges;

(d) the customs infringement poses a threat to the security and safety of the Union and its residents.

Article 249

Limitation

1. Member States shall establish the limitation period for initiating proceedings concerning a customs infringement referred to in Article 252 between 5 and 10 years from the date on which the act or omission was committed.

2. Member States shall ensure that, in the case of continuous or repeated customs infringements, the limitation period starts to run on the day on which the act or omission constituting the customs infringement ceases.

3. Member States shall ensure that the limitation period is interrupted by any act of the competent authority, notified to the person in question, relating to an investigation or legal proceedings concerning the same customs infringement. The limitation period shall start to run on the day of the interrupting act.

~~4. Member States shall ensure that the initiation or continuation of any proceedings concerning a customs infringement referred to in Article 252 is precluded after the expiry of a period of eight years from the day referred to in paragraph 1 or 2.~~

~~5. Member States shall ensure that the limitation period for the enforcement of a decision imposing a sanction is three years. That period shall start to run on the day on which that decision becomes final.~~

~~6. Member States shall lay down the cases where the limitation periods set out in paragraphs 1, 4 and 5 are suspended.~~

~~*Article 250*~~

~~**Jurisdiction**~~

~~Member States shall exercise jurisdiction over the customs infringements referred to in Article 252 in accordance with national law and where that infringement is committed in whole or part within the territory of that Member State.~~

~~*Article 251*~~

~~**Cooperation between Member States**~~

~~1. Where customs infringements referred to in Article 252 are committed in more than one Member States and a competent authority of a Member State first initiates proceedings concerning that infringement, that competent authority shall cooperate with the competent authorities of the Member States concerned by the same customs infringement against the same person for the same facts.~~

~~2. The Commission shall monitor the cooperation between Member States in accordance with paragraph 1.~~

~~Chapter 2~~

~~Union customs infringements and non-criminal sanctions~~

~~Article 252~~

~~Union customs infringements~~

~~1. The following acts or omissions shall constitute customs infringements:~~

~~(a) failure of the holder of a decision relating to the application of customs legislation to comply with the obligations resulting from that decision and to inform the customs authorities without delay of any factor arising after the taking of a decision by those authorities which influences its continuation or content, in accordance with Titles I and II;~~

~~(b) failure to comply with the obligation to provide information to customs in accordance with this Regulation, including the failure to lodge a customs declaration;~~

~~(c) provision of incomplete, inaccurate, invalid, inauthentic, false or falsified information or documents to customs;~~

~~(d) failure of the person responsible to keep the documents and information related to the accomplishment of customs formalities;~~

~~(e) removal of goods from customs supervision;~~

~~(f) failure of the person responsible to comply with the obligations related to customs procedures;~~

~~(g) non-payment of import or export duties by the person liable to pay within the period prescribed in accordance with Title X, Chapter 3.~~

~~2. Without prejudice to paragraph 1, Member States may provide for further acts and omissions that constitute customs infringements.~~

~~3. Members States shall notify the Commission within 180 days from the date of application of this Article, of the national provisions in force, as envisaged in paragraph 2 of this~~

~~Article, and shall notify it without delay of any subsequent amendment affecting those provisions.~~

~~*Article 253*~~

~~General requirements for sanctions~~

~~1. Without prejudice to the sanctions laid down in Article 254, Member States may provide for additional sanctions for customs infringements referred to in Article 252 and for all measures necessary to ensure that such sanctions are implemented. Such sanctions shall be effective, proportionate and dissuasive.~~

~~2. Members States shall notify the Commission within 180 days from the date of application of this Article, of the national provisions in force, as envisaged in paragraph 1 of this Article, and shall notify it without delay of any subsequent amendment affecting those provisions.~~

~~*Article 254*~~

~~Minimum non-criminal sanctions~~

~~Where sanctions to customs infringements referred to in Article 252 are applied, they shall take at least one or several of the following forms, while ensuring that sanctions are effective, proportionate and dissuasive and taking into account extenuating and mitigating circumstances referred to in Article 247 and aggravating circumstances referred to in Article 248:~~

~~(a) a pecuniary charge by the customs authorities, including, where appropriate, a settlement applied in place of a criminal penalty and calculated on the following minimum amounts or percentages:~~

~~(i) where the customs infringement has an impact on customs duties and other charges, the pecuniary charge shall be calculated based on the amount of customs duties and other charges eluded, as follows:~~

~~(1) where the customs infringement has been committed intentionally, the pecuniary charge shall comprise an amount equal to between 100% and 200% of the amount of customs duties and other charges eluded;~~

(2) in other cases, the pecuniary charge shall comprise an amount equal to between 30% and 100% of the amount of customs duties and other charges eluded;

(ii) where it is not possible to calculate the pecuniary charge in accordance with point (i), the pecuniary charge shall be calculated based on the customs value of the goods, as follows:

(1) where the customs infringement has been committed intentionally, the pecuniary charge shall comprise an amount equal to between 100% and 200% of the amount of the customs value of the goods;

(2) in other cases, the pecuniary charge shall comprise an amount equal to between 30% and 100% of the amount of the customs value of the goods;

(iii) where the customs infringement is not related to specific goods, the pecuniary charge shall comprise an amount equal to between EUR 150 and EUR 150 000;

(b) the revocation, suspension or amendment of customs decisions held by the person concerned, when such decision is affected by the infringement;

(c) the confiscation of the goods and means of transport.

The acts or decisions on sanctions applied for any customs infringement shall be recorded in the EU Customs Data Hub alongside the outcome of the customs controls.

Title XV
FINAL PROVISIONS

Chapter 1
Performance measurement of the customs union

Article 255

~~Scope and objectives~~ Assessment and reporting

1. The Commission shall assess and evaluate the performance of the customs union at least on an annual basis. This includes the measurement of customs activities performed by the customs authorities of the Member States and where possible candidate countries **from** ~~at~~ **the** national and ~~border crossing points~~ **local** levels. Such measurement may build on existing tools developed by the Commission and Member States for this purpose.

2. **Member States and t**~~T~~he EU Customs Authority shall assist the Commission with th**e**~~at~~ task **referred to in paragraph 1. In particular:**

   (a) Member States shall provide data to the EU Customs Authorities containing information both from national and, when appropriate, local level

   (b) based on those data ~~To support the Commission in its evaluation of the performance of the custom union,~~ the EU Customs Authority shall identify how customs activities and operations support the achievement of the strategic objectives and priorities of the customs union and contribute to the mission of customs authorities laid down in Article 2. In particular, the EU Customs Authority shall **in cooperation with the customs authorities produce annual reports and other types of documents to** identify key trends, strengths, weaknesses, gaps, and potential risks, and provide recommendations for improvement to the Commission.

3. The EU Customs Authority shall transmit the draft annual report referred to in paragraph 2, point (b), to the Commission for approval and transmission to the Member States for information.

4. The Commission shall specify, by means of implementing acts, the data referred to in paragraph 2, point (a), as well as their level of confidentiality, and the design of the performance measurement. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

~~*Article 256*~~

~~**Framework definition and annual reporting**~~

~~1. The EU Customs Authority shall, in cooperation with the customs authorities, produce reports and other types of documents to deliver on the objectives set in Article 255.~~

~~2. Member States shall provide data to the EU Customs Authority containing information both at national and border crossing point levels. Based on the data received from the customs authorities, the EU Customs Authority shall produce an annual report, containing facts and figures on the elapsed year for each customs authority at national and border crossing point level.~~

~~3. The EU Customs Authority shall transmit the draft annual report to the Commission for approval.~~

~~4. The Commission shall verify the report and transmit it afterwards to the Member States for information.~~

~~5. The Commission shall specify, by means of implementing acts, the data referred to in paragraph 2 as well as their level of confidentiality, and the design of the performance measurement framework. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).~~

Chapter 2
Monitoring, evaluation and reporting

Article 257

Monitoring

The Commission shall ~~regularly~~ monitor the implementation of this Regulation, taking into account, inter alia, information and analysis relevant for monitoring purposes that are provided or made available by customs authorities and the EU Customs Data Hub.

Article 258

Evaluation and reporting

0. *[Moved from Article 265 (6)]* Before 31 December 2027, the Commission shall present a report to the European Parliament and to the Council providing an assessment of centralised clearance referred to in Article 72. If appropriate, the Commission may present a legislative proposal with a view to ensuring a fair distribution of the rights and obligations of the Member States in connection with the assessment of and liability for the customs debt at import.

1. By ... [OP please insert the date = 5 years after the entry into force] and every 5 years thereafter, the Commission shall carry out an evaluation of this Regulation in light of the objectives that it pursues and shall present a report thereon to the European Parliament, to the Council and to the European Economic and Social Committee.

   That report shall include:

   (a) an overview of the state of ~~progress that Member States have reached in relation to~~ **play of** the implementation of this Regulation;

   (b) an assessment of the effectiveness, efficiency, coherence, relevance and Union added value of this Regulation, in particular with regard to the objectives referred to in Article 2.

~~3.~~ **Unless otherwise available in the EU Customs Data Hub,** ~~A~~**a**t the request of the Commission and in accordance with Chapter 1 of this Title, the Member States shall provide information on the implementation of this Regulation that is necessary for the preparation of the report referred to in paragraph ~~2~~**1**.

4. *[Moved from Article 265 (7) and (8)]* By 31 December 2035, the Commission shall present a report to the European Parliament and to the Council to assess, in particular:

(a) the effectiveness of the customs supervision of the Trust and Check traders by the customs authorities of the Member State of establishment and of the implementation of the provisions governing the place of the incurrence of the customs debt;

(b) the effectiveness of the customs supervision of economic operators other than Trust and Check traders;

(c) the possible impact of the modifications foreseen in paragraph 8.

The Commission is empowered to adopt delegated acts, in accordance with Article 261, to amend this Regulation, if appropriate in the light of the report referred to in paragraph 7, by deleting or modifying the derogations foreseen in Article 42(3), second subparagraph, and Article 169(1) second subparagraph.

Article 258a

Evaluation

No later than [OJ: please insert the date of 6 months after publication], the Commission shall assess the budgetary implications of the Union handling fee and its impact on the functioning of distance sales.

Chapter 3

Currency conversion and time-limits

~~Article 259~~

~~**Currency conversion**~~

[Moved to Title I Article 18a]

~~*Article 260*~~

~~**Periods, dates and time limits**~~

[Moved to Title I Article 18b]

Chapter 4
Delegation of power and committee procedure

Article 261

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles ~~4, 6, 7, 10, 14, 19, 23, 25, 27, 28, 29, 31, 32, 56, 58, 59, 60, 63, 65, 66, 71, 72, 73, 77, 80, 81, 83, 85, 86, 88, 90, 91, 95, 97, 99, 101, 102, 105, 107, 108, 109, 111, 115, 116, 119, 123, 132, 148, 150, 156, 167, 168, 169, 170, 173, 175, 176, 179, 181, 186, 193, 199, 242, 244, 265~~

4, 6(8), 7(10), 10(5), 14(13), 18(3),23(9), 27(6), 29(4), 42(6a), 56(4), 58(3), 59(5), 59a(2), 60(9), 61(6,) 62(2a), 62a(2), 63(5), 65(3), 66(6), 71(4), 71(5), 72(7), 73(5), 80(7), 81(3), 82(3a), 83(8), 85(4), 86(7), 86a(4), 86b(3), 86c(2), 86d(8), 88(4), 90(7), 94a(4), 94c(5), 95(9), 95a(3), 95a(4), 96(1b), 98a(2), 102(7), 104(3), 105(5), 106(3a), 107(2), 108(2), 109(5), 111(4), 115(3), 116(6), 118(4a), 122a(4), 132(3), 135(9), 137(5), 139(2), 140(5), 148(3), 150(10a), 156(3), 167(3), 168(8), 169(5), 170(9), 173(3), 175(4), 176(5), 179(3), 181(7), 186(5), 190(5), 192(5), 193(8), 199(8), 244(6), 258(4) shall be conferred on the Commission.

3. The delegation of power referred to in Articles ~~4, 6, 7, 10, 14, 19, 23, 25, 27, 28, 29, 31, 32, 56, 58, 59, 60, 63, 65, 66, 71, 72, 73, 77, 80, 81, 83, 85, 86, 88, 90, 91, 95, 97, 99, 101, 102, 105, 107, 108, 109, 111, 115, 116, 119, 123, 132, 148, 150, 156, 167, 168, 169, 170, 173, 175, 176, 179, 181, 186, 193, 199, 242, 244, 265~~

4, 6(8), 7(10), 10(5), 14(13), 18(3), 23(9), 27(6), 29(4), 42(6a), 56(4), 58(3), 59(5), 59a(2), 60(9), 61(6,) 62(2a), 62a(2), 63(5), 65(3), 66(6), 71(4), 71(5), 72(7), 73(5), 80(7), 81(3),

82(3a), 83(8), 85(4), 86(7), 86a(4), 86b(3), 86c(2), 86d(8), 88(4), 90(7), 94a(4), 94c(5), 95(9), 95a(3), 95a(4), 96(1b), 98a(2), 102(7), 104(3), 105(5), 106(3a), 107(2), 108(2), 109(5), 111(4), 115(3), 116(6), 118(4a), 122a(4), 132(3), 135(9), 137(5), 139(2), 140(5), 148(3), 150(10a), 156(3), 167(3), 168(8), 169(5), 170(9), 173(3), 175(4), 176(5), 179(3), 181(7), 186(5), 190(5), 192(5), 193(8), 199(8), 244(6), 258(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles ~~4, 6, 7, 10, 14, 19, 23, 25, 27, 28, 29, 31, 32, 56, 58, 59, 60, 63, 65, 66, 71, 72, 73, 77, 80, 81, 83, 85, 86, 88, 90, 91, 95, 97, 99, 101, 102, 105, 107, 108, 109, 111, 115, 116, 119, 123, 132, 148, 150, 156, 167, 168, 169, 170, 173, 175, 176, 179, 181, 186, 193, 199, 242, 244, 265~~

4, 6(8), 7(10), 10(5), 14(13), 18(3),23(9), 27(6), 29(4), 42(6a), 56(4), 58(3), 59(5), 59a(2), 60(9), 61(6,) 62(2a), 62a(2), 63(5), 65(3), 66(6), 71(4), 71(5), 72(7), 73(5), 80(7), 81(3), 82(3a), 83(8), 85(4), 86(7), 86a(4), 86b(3), 86c(2), 86d(8), 88(4), 90(7), 94a(4), 94c(5), 95(9), 95a(3), 95a(4), 96(1b), 98a(2), 102(7), 104(3), 105(5), 106(3a), 107(2), 108(2), 109(5), 111(4), 115(3), 116(6), 118(4a), 122a(4), 132(3), 135(9), 137(5), 139(2), 140(5), 148(3), 150(10a), 156(3), 167(3), 168(8), 169(5), 170(9), 173(3), 175(4), 176(5), 179(3), 181(7), 186(5), 190(5), 192(5), 193(8), 199(8), 244(6), 258(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 262

Committee procedure

1. The Commission shall be assisted by the Customs Code Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011 in conjunction with Article 4 thereof shall apply.

4. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

5. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011 in conjunction with Article 5 thereof shall apply.

6. Where the opinion of the committee is to be obtained by written procedure and reference is made to this paragraph, that procedure shall be terminated without result only when, within the time limit for delivery of the opinion, the chair of the committee so decides.

Chapter 5
Final provisions

Article 263

Repeal

1. Regulation (EU) No 952/2013 is repealed.

2. **However, existing delegated and implementing acts adopted by the Commission pursuant to Regulation (EU) No 952/2013 or legal acts replaced by such Regulation or by previous versions of such Regulation, shall remain in force and continue to apply unless and until repealed by delegated or implementing acts adopted by the Commission pursuant to this Regulation.** References to Regulation (EU) No 952/2013

shall be construed as references to this Regulation and read in accordance with the correlation table in the Annex.

3. From **1 March 2032**~~the date set out in Article 265(4),~~ **all** references to the customs declaration shall be construed as covering the provision of the data necessary to place goods under a customs procedure using the capabilities of the EU Customs Data Hub.

4. From **1 March 2032**~~the date set out in Article 265(4)~~, **all** references to the declarant shall be construed as covering the carrier, the importer, the exporter or the holder of the transit procedure, as appropriate.

Article 264

Entry into force and application

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

2. It shall apply from [OJ: please insert the date of 18 months after publication]

3. By way of derogation from paragraph 2 of this Article:

(a) Articles 28a, 205, 238 and all the provisions empowering the Commission to adopt delegated and implementing acts under this Regulation, shall apply from the entry into force of this Regulation;

(b) Article 18 (1a) to (1g) shall apply from the moment in which the Commission IT solution, referred to in Article 18 (1f), is operational and in any case no later than 1 November 2026;

(c) Articles 5(13), 18(3) and (4), 88(3) point (aa), 122a, 145(5), 150(10), 153a, 157(3a), 159(1a) point (c), 167(1a), 181(5), 199 (1) point (m), shall apply from 1 July 2028, on the condition that EU Customs Data Hub is operational;

(d) Articles 206 to 237, 255(2) and 255(3) shall apply from 1 July 2028.

4. Until 29 February 2028 all goods intended to be placed under a customs procedure shall be covered by a customs declaration appropriate for the particular procedure in accordance with Chapter 3 of Title V.

5. From 1 July 2028, deemed importers shall, for placing goods under the customs warehouse procedure in a customs warehouse for distance sales or under release for

free circulation, provide or make available the data using the EU Customs Data Hub in accordance with Article 59, providing that the corresponding functionalities in the EU Customs Data Hub shall be operational by that date. Accordingly, the relevant delegated and implementing acts referred to in Article 29 and 36 shall be adopted and applicable not later than 1 July 2026.

6. **From 1 March 2032, importers, exporters and holders of the transit procedure may, for placing goods under a customs procedure, lodge a customs declaration in accordance with Chapter 3 of Title V or provide or make available the relevant information appropriate for the relevant procedure using the EU Customs Data Hub in accordance with Article 59, providing that the corresponding functionalities in the EU Customs Data Hub shall be operational by that date.**

Accordingly, the relevant delegated and implementing acts referred to in Article 29 and 36 shall be adopted and applicable not later than 1 March 2030.

7. **From 1 March 2037, importers, exporters and holders of the transit procedure shall, for placing goods under a customs procedure, provide or make available the information appropriate for the relevant procedure using the EU Customs Data Hub in accordance with this Article 59, providing that the corresponding functionalities in the EU Customs Data Hub shall be operational by that date. Accordingly, the relevant delegated and implementing acts referred to in Article 29 and 36 shall be adopted and applicable no later than 31 January 2035.**

7a. **Where the operationality of the EU Customs Data Hub and its functionalities does not meet the deadlines set in this Regulation, the Commission shall provide a transitional solution in coordination with the Member States.**

~~*Article 265*~~

~~**Application**~~

~~1. Articles 205 to 237 shall apply from 1 January 2028.~~

~~2. The following provisions shall apply from 1 March 2028:~~

~~(a) the provisions on the simplified tariff treatment laid down in Article 145(5), (6) and (7) and Article 147, point (a)(ii);~~

~~(b) the provisions on the simplified tariff treatment for distance sales laid down in Articles 149(4), 150(10) and 156(2);~~

~~(c) the provisions on deemed importers laid down in Article 20(3), point (e), Article 21, Article 59(2), Article 60(6), point (a), Article 67(2), Article 67(4), point (d), and Articles 159(2), 181(5) and 184(3).~~3.

~~3.~~ *[Moved to Article 264]*

~~4.~~ *[Moved to Article 264]*

~~5.~~ ~~The customs authorities shall, *where needed*, reassess the authorisations granted pursuant to Regulation (EU) No 952/2013 from 1 January 2035 to 31 December 2037.~~ *[covered by Article 7 paragraph 8 and 10(b)]*

~~6.~~ *[Moved to Article 258 (0)]*

~~7.~~ *[Moved to Article 258 (4)]*

~~8.~~ *[Moved to Article 258 (4)]*

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*