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INFORMATION NOTE

From: Chair of the European Parliament Committee on the Internal Market and Consumer Protection

To: Chair of COREPER II

Subject: Council's position in view of the adoption of the 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

- Letter from the chair of the European Parliament Committee on the Internal Market and Consumer Protection

Delegations are informed that the Chair of the European Parliament Committee on the Internal Market and Consumer Protection has sent the attached letter, together with its Annex, to the Presidency.

E-MAIL

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Committee on the Internal Market and Consumer Protection
The Chair

Received on
28.04.2026

Ms Christina RAFTI
Permanent Representative of Cyprus to the EU
Chair of COREPER II
Council of the European Union
Rue de la Loi 175
1048 Brussels

D 202009 28.04.2026

Subject: Council's position in view of the adoption of a Regulation of the European Parliament and the Council establishing the Union Customs Code and the European Union Customs Authority, and repealing Regulation (EU) No 952/2013 (2023/0156/COD) - Early second reading agreement

Dear Ms Rafti,

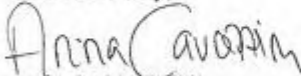
I understand that at its meeting of 15 April 2026, COREPER II decided to accept the outcome of the interinstitutional negotiations regarding the abovementioned Regulation, following the political agreement reached on 26 March 2026. The agreed text has also been approved by the IMCO Committee on 16 April 2026.

I would therefore like to inform you that should the Council transmit formally to the Parliament its position in the form as it stands in the Annex, subject to legal-linguistic verification, I will, in my capacity as Chair of the Committee of the Internal Market and Consumer Protection, recommend to the Plenary that the Council's position be accepted without amendment at Parliament's second reading.

Moreover, I would like to highlight that all efforts must be made during the lawyer-linguistic finalisation to ensure that this file can be approved in the Plenary of September 2026.

At the same time, I would like to thank the Cyprus Presidency and previous Presidencies for the efforts made and the work accomplished to achieve an early second reading agreement on this file.

Yours sincerely,


Anna CAVAZZINI

Annex: Agreed text and statements made at the trilogue on 26 March 2026.

B-1047 Brussels

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 Committee¹,

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 Council² 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

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).

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 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 businesses, consumers and 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, simplified and harmonised. 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 intellectual property 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. Furthermore, the rapid technological evolution, in particular of artificial intelligence, will have a significant impact on the activities of the customs authorities, including in the area of real-time risk analysis.
- (6a) While striving to achieve their mission, customs authorities should also aim for cost-efficiency by avoiding duplication and promoting effectiveness in customs processes and an efficient use of related resources at Union and national level. They should gather, analyse, and exchange relevant information to support evidence-based decision making. Where the internal market emergency mode has been activated (Reg. 2024/2747) customs authorities can contribute to the flow of crisis-relevant goods.
- (6b) 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/EC³ or Council Directive (EU) 2020/262⁴ 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.

- (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 responsible towards customs for compliance of the goods, including for financial and non-financial risks, in accordance with products specific legislation in order to strengthen customs supervision. In the case of the new concept of importer for distance sales, 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, and should ensure that the relevant economic operator has complied with the relevant legislation applied by the customs authorities when the goods enter or exit the customs territory of the Union and is providing, keeping and making available appropriate records of such compliance. New definitions should also be introduced in relation to the broader scope of the provisions of customs supervision, risk management and customs controls. It should also be clarified that where the definitions of customs legislation refer to customs provisions contained in international agreements, that includes the relevant multilateral environmental agreements to which the Union and the Member States are a party, insofar as they regulate the conformity of goods.
- (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 relevant national legislation. A definition of this ‘other

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).

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. This other legislation may concern 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. Divergences in the national lists of prohibition and restrictions create significant difficulties for importing in multiple Member States. In order to facilitate trade and the functioning of customs, it is important that the Union works to gradually harmonise national lists of prohibitions and restrictions. Furthermore, it would be important to also adopt harmonised definitions of the legal terms used in providing for prohibitions and restrictions, in order to avoid diverging interpretations by Member States.

- (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 Auditors⁵ 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. Where customs authorities become aware that a holder of a decision no longer fulfills the criteria or obligations set out in that decision, they should take appropriate actions without undue delay, in accordance with the applicable rules. 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 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) 2024/1072⁶. 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.

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

⁶ 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).

- (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. 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 should ensure that the goods comply with the applicable legislation including rules protecting the safety and security of residents, as well as legislation aimed at preventing risks to human, animal or plant health and life, the environment or consumers, such as the legislation on general product safety⁷, product liability⁸, market surveillance⁹ and others. 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) Where the person supplying or facilitating distance sales indicates that he is acting as the importer, he should ensure that the goods comply with the customs legislation and other legislation applied by the customs authorities 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

⁷ Regulation (EU) 2023/988 of the European Parliament and of the Council of 10 May 2023 on general product safety, amending Regulation (EU) No 1025/2012 of the European Parliament and of the Council and Directive (EU) 2020/1828 of the European Parliament and the Council, and repealing Directive 2001/95/EC of the European Parliament and of the Council and Council Directive 87/357/EEC, OJ L 135, 23.5.2023, p. 1.

⁸ Directive (EU) on Product Liability

⁹ Regulation (EU) XXX/XX on market surveillance

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, provided that such access is proportionate and strictly necessary. The transparency should be accompanied by certain benefits, which can include 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. Trust and Check status should not be given to persons with repeated or serious infringements to other Union legislation applied by customs authorities. To ensure integrity of the Customs Union and consistent application of the Trust and Check trader status by the customs authorities of the Member States, it is necessary to establish a mechanism allowing the EU Customs Authority and the Commission to intervene in cases where there are indications of non-compliance by a trader having Trust and Check status. Such a mechanism should enable the EU Customs Authority, in cooperation with the competent customs authorities, to verify compliance with the Trust and Check status requirements, particularly when a Member State other than the one where the trader is established has reasonable doubts about the trader's compliance. This mechanism is essential to prevent unlawful application of the Trust and Check status and prevent backdoors to the Union customs territory. To prevent disparities in enforcement, where the Member State of establishment fails to act in a timely or appropriate manner, the Commission should be empowered to intervene via implementing act requiring the responsible Member state to suspend or revoke the Trust and Check status.
- (16a) The option to operate a customs warehouse for distance sales should, in combination with other provisions on distance sales and simplifications, incentivise the channel of bulk rather than parcels, making the flow of individual parcels more manageable for customs authorities. A customs warehouse for distance sales should provide for placing goods into free circulation at the moment of sales and outbound of the warehouse, whereby at the

moment of placing goods in the warehouse the goods need to meet the conditions as if these would be placed on the EU market at that moment. Customs should be able to check EU market compliance of goods into bulk quantities at the inbound. This customs warehouse for distance sales should only be available for economic operators that meet the trustworthiness criteria of Trust and Check status, to avoid misuse by non-trustworthy economic operators.

- (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.
- (17a) Micro, small and medium-sized enterprises, as defined in Commission Recommendation 2003/361/EC, play a vital role in the Union's external trade but often face proportionately higher administrative and compliance burdens in fulfilling customs requirements. It is therefore important that the Code takes account of their specific situation and supports measures that facilitate their compliance, including through simplified procedures, clear guidance and accessible customs representation.

Guidelines should be adopted with a view to supporting small and medium-sized companies, recognizing the unique challenges faced by small and medium-sized companies, while maintaining the integrity and security of external trade processes when applying the status of Authorised Economic Operators and Trust and Check traders. Continuous efforts should be made to simplify and make the procedures more accessible for small and medium-sized companies, ensuring their vital role in the EU's external trade is facilitated and promoted.

- (18) In order to ensure a uniform level of digitalisation and to create a level playing field for economic operators in all Member States as well as contributing to the smooth functioning of the internal market, 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 allow for the implementation of the customs legislation, such as 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. It should also contribute to the implementation of other legislation applied by the customs authorities. 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 the EU Customs Data Hub should comply with the relevant rules 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 developing, operating and maintaining the EU Customs Data Hub and should be able to entrust these tasks to the EU Customs Authority.
- (18a) Having regard to the role of the EU Customs Data Hub in ensuring the integrity and security of data treated in the Union for customs purposes, which constitutes a public interest and can be considered a fundamental interest of society, it is necessary to protect the data managed in the EU Customs Data Hub, including personal data and other sensitive data relating to the flow of goods and the implementation of EU and national laws, from unauthorised access and any other threats to the integrity and security of such data. It is therefore necessary that the infrastructure and services through which the EU Customs Data Hub operates are made subject to certain conditions to ensure Union sovereignty in this respect. Respect of these conditions should be demonstrated through evidence, which for critical services it is important that it is complemented by security screening of natural and legal persons which is provided for under the law of the Union or a Member State. Furthermore, the EU Customs Data Hub should be designed as far as possible to avoid vendor lock-in situations.
- (18b) 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.

- (18c) Activities implementing the EU Customs Data Hub should include measures to ensure its uninterrupted availability and operation even in situations of serious crisis. Business continuity measures should notably include redundancy, failover mechanisms and data recovery protocols, as well as procedures to follow in the event of unavailability or failure of the EU Customs Data Hub. Where the EU Customs Data Hub relies on physical infrastructure, redundant solutions in geographically dispersed sites should be considered to ensure business continuity in the event of failure of one site.
- (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. Therefore, a temporary solution should be provided in such case. In line with recent case-law of the European Court of Justice¹⁰, it is appropriate to clarify that the automated exchange of information between economic operators, customs authorities 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

¹⁰ Case T-81/22 (OJ C 148, 4.4.2022).

market. In line with the approach set out in Regulation (EU) 2024/903 of the European Parliament and of the Council¹¹ and the European Interoperability Framework¹², 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 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.

- (20a) In order to test the functionalities of the EU Customs Data Hub before its entry into operation for all economic operators regardless of their status or customs process concerned, the Commission may decide to establish a pilot phase, on a voluntary basis. Such a pilot exercise would test implementation of certain processes and functions on a voluntary basis without legal obligation. For the sake of transparency and information to interested stakeholders, the Commission should make public the planning, organisation and duration of the pilot and the functionalities to be applied and tested.

¹¹ 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

¹² 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).

- (20b) Authorities, businesses, consumers and residents should be able to report goods to be imported into or exported from the EU that are not in compliance with relevant Union legislation applied by customs authorities. The information reported on those goods should be available in the EU Customs Data Hub and may be used for risk management purposes.
- (21) Alongside the EU Customs Data Hub, Member States may develop their own applications to use data from the EU Customs Data Hub. Member States should ensure that their applications comply with the provisions of Directive (EU) 2022/2555 of the European Parliament and of the Council in particular in regard to cybersecurity risk-management measures. 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. Persons should be able to transmit and process 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 process the data to fulfil their obligations. Finally, the outcome of the controls performed following the processing of data from the EU Customs Data Hub should be reported back to that Data Hub. It is important that the EU Customs Data Hub enables processing of the data available therein with minimum delay.
- (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 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. Member states may in

consultation with the Commission designate specific data the disclosure of which would harm the essential interests of their security, to be technically tagged within the EU Customs Data Hub in such a way that any further processing of such data should be limited to the competent authorities of the concerned Member State, unless such authorities expressly authorize further processing. The person who transmits the data to the EU Customs Data Hub should clearly set the processing limitations of such categories of data that can be linked to the specific supply chains or the data categories. In order to use this possibility, the Member State concerned should inform the Commission about the specific essential interests of security that are at stake and explain why it considers that those interests could not be sufficiently protected under the general framework of provisions on data processing in the EU Customs Data Hub.

- (23a) Subject to compliance with the data protection rules, especially rules on sensitive customs data and commercially sensitive data, aggregate non-confidential, non-personal and non-commercially sensitive customs data could be made available to third parties for specific purposes upon duly justified request.
- (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 Council¹³ and Council Regulation (EC) No 515/97¹⁴. To ensure that EPPO can conduct its investigations on customs-related matters, it should be entitled to obtain access to the data in the EU Customs Data Hub upon request. To preserve the functions that are performed in Member States' national IT systems, the tax authorities of the Member States should obtain the possibility to process data directly within the EU Customs Data Hub. As such,

¹³ 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).

¹⁴ 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).

authorities responsible for food safety in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council¹⁵ 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 with customs authorities to minimise the risks that non-compliant products enter the Union. It is appropriate that Europol may upon request obtain data from the EU Customs Data Hub to perform its tasks as specified in Regulation (EU) 2016/794 of the European Parliament and of the Council¹⁶. European Border and Coast Guard Agency (Frontex), may upon request obtain access to non-personal data contained in the EU Customs Data Hub.

- (24a) Pursuant to Article 24 of Council Regulation (EU) 2017/1939¹⁷, the EU Customs Authority and the competent customs authorities should without undue delay report to the EPPO any criminal conduct in respect of which it could exercise its competence in accordance with Article 22 and Article 25(2) and (3) of that Regulation. The EU Customs Authority and competent customs authorities should refrain from taking measures which could jeopardize the confidentiality of criminal investigations into the same facts of the competent national judicial or law enforcement authority or the EPPO.
- (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

¹⁵ 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).

¹⁶ 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).

¹⁷ 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).

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 relevant 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 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, EPPO, 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.
- (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. The authorities and bodies, other than the customs authorities, the Commission and the EU Customs

Authority, that process personal data in the EU Customs Data Hub are to be regarded as controllers in accordance with relevant applicable rules.

- (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).
- (30a) In order to ensure the interoperability and exchange of data with certain other Union non-customs systems and formalities referred in Regulation (EU) 2022/2399, the EU Customs Data Hub should integrate the European Union Single Window Certificates Exchange System ('EU-CWS-CERTEX') established by Article 4 of Regulation (EU) 2022/2399. Until the EU Customs Data Hub fully integrates the EU-CWS-CERTEX, it should perform the business and technical transformation of data to enable the exchange of data through the EU Customs Single Window Certificate Exchange System.
- (30b) The data requirements should be defined in order to provide common guidance to economic operators regarding the data needed in order to fulfill their purposes, related notably to the implementation of the customs legislation. The EU Customs Data Hub will be a unique point of entry for the data, so the rules for formatting and coding can be laid down in the technical specifications, which are a more flexible instrument. However, a harmonized Data Model, with semantic data requirements is necessary.
- (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 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. In line with the principle of 'comply or explain', these control recommendations should be implemented, or compelling reasons provided for not applying them. 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. Infringement of customs legislation and other legislation applied by customs authorities should have an impact on the risk profile of importers, exporters or importers for distance sales.
- (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.

By derogation, in case of e-commerce taking into account the higher volume of transactions, it is appropriate that persons making use of the special scheme laid down in

Title XII, chapter 6, section 4 of Directive 2006/112/EC should provide data on their sales of goods to be imported at the latest on the day after the acceptance of the payment.

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, or where these are linked to supporting documents.

- (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 or an indirect representative acting on behalf of the importer established in the Union that takes the responsibility for those goods. The importer or the indirect representative acting on behalf of 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.
- (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 90 days, except in exceptional cases.

- (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. The determination of repeated systematic infringement in case of distance sales by an economic operator should constitute such evidence for a period of at least 6 months for all goods notified for arrival for the release for free circulation by this economic operator. 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. 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 as close to real time as technically possible data on the movement of the goods and the compliance, 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 on their behalf upon receipt of those goods at the place of business of the importer, owner, or

consignee or upon dispatch from the place of the business of the exporter, owner or consignor. 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. Where it concerns distance sales of goods the transition period for lodging customs declarations should be limited until the capabilities of the EU Customs Data Hub to process the relevant data for these distance sales are available.
- (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, in order for goods to be released for free circulation, depending on the arrangements made, either the person supplying or the person facilitating distance sales of goods is the importer and should be indicated as such.

- (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 the importer, is responsible to provide the required information on distance sales before the release of the goods to the customs authorities. The person so identified should be responsible for the obligations of an importer.
- (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 importer for distance sales and assumes the rights and obligations of the deemed importer in this regard.
- (40e) The provisions of this Regulation, including those relating to the importer for distance sales, do not amount, either de jure or de facto, to a general monitoring obligation for providers of intermediary services.
- (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 customs legislation and other legislation applied by the customs authorities.
- (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
- (43) To ensure that there is proper risk management of the goods taken out of the customs territory of the Union, the customs authority 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 authority responsible for the place of dispatch of

the goods and for the place 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 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, a certain threshold should be set out 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.¹⁸ 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 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

¹⁸ 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.

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')¹⁹ 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.
- (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.
- (48b) Transactions in distance sales differ significantly from traditional business-to-business transactions, resulting in increased complexity. These differences impact how customs authorities effectively apply valuation rules in practice. Particularly, challenging defies are the massive scale and speed in which e-commerce transactions are concluded, the vast

¹⁹ Amendments to the Customs Convention on the International Transport of goods under cover of TIR carnets (TIR Convention 1975) According to UN Depository 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.

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 customs procedure and pay duties in another Member State. For Trust and Check traders, 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 this 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. 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 case of e-commerce transactions, the importer for distance sales is the person responsible for the customs debt. When it is made use of the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC, the customs debt incurs at the moment of the acceptance of payment of the online sale. Where the importer for distance sales is not making use of the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC, the customs debt arises when the availability of the goods is notified in the Member States and where the goods are to be delivered.
- (50a) To cover the increasing costs of handling an enormous number of requests for placing goods sold in distance sales under release for free circulation, a Union handling fee, commensurate to the approximate cost of the services closely connected to the customs supervision of such goods should be established, as these goods are directly shipped to the consumer, making it impossible for other authorities to check them after customs clearance. While the Member States would decide whether to recover from operators the

costs of exceptional control measures or the costs incurred by other than customs authorities for verification or destruction of the goods, the Union handling fee should cover, in particular, the cost of the checking of the data, carrying out a risk analysis, the relevant infrastructure and controls, including relevant services rendered by EUCA. It is appropriate to foresee a lower Union handling fee where the goods are sold in distance sales from a customs warehouse for distance sales, as it is easier and more effective for the customs authorities to supervise bulk quantities of goods stored in a warehouse than goods packed in individual parcels and directly shipped to the consumer. The debtor of the Union handling fee should be the same person as the debtor of the customs debt, which should be the importer for distance sales. Where provisions on importers for distance sales do not yet apply, the debtor should be the declarant. In the case of distance sales, the declarant would typically be the person entitled to use the special scheme foreseen in Title XII Chapter 6 of the Directive 2006/112/EC, or an indirect customs representative, and not the consumer. Consequently, the consumer should not be a debtor of the Union handling fee. It is appropriate to provide that the first delegated act setting the amount of the handling fee enters into force rapidly so as to allow the practical application of the Union handling fee introduced by this Regulation to respond to the increasing pressure on customs authorities due to the important volume of parcels entering the customs territory of the Union.

- (50b) As several measures such as duties and fees apply per item, it is appropriate to introduce a definition thereof. An item should be defined as one or more goods in a consignment, sharing certain data elements, including the tariff classification and origin, in accordance with the applicable data requirements. In this manner, the definition should be applicable both with the customs declarations in the existing national and Union digital tools, including where the tariff classification for the goods concerned in the customs declaration is only at the level of sub-headings of the Harmonised System, and with the appropriate data requirements defined for this purpose, once the EU Customs Data Hub becomes available.
- (51) It is appropriate to enhance the mechanism aimed at supervising the consistent and effective 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. It should provide guidance for the customs authorities in the form of non-binding recommendations, for instance, by

promoting consistent customs practices, within the responsibilities of the Member States for the implementation of such measures. Customs authorities should ensure that they take all the necessary steps, within their competences, to comply with the measures and should inform the Commission and the EU Customs Authority accordingly. The EU Customs Authority should identify potential discrepancies in the application of measures and monitor their implementation, and report accordingly to the Commission.

- (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 Plan²⁰. 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.
- (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. The intensity of external border traffic of goods is not equal across the Union. 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. There is no central risk analysis capacity, no common view on an EU risk prioritisation, limited coordinated customs action and controls, and no cooperation frameworks of various authorities serving the single market. A central, operational Union layer to pool expertise, resources and assist Member States and the Commission in taking decisions together should address such weaknesses. It should focus in particular on areas such as data management and risk management and, and should prepare the training content for customs officers and customs professionals in the Union to complement and support

²⁰ 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).

training provided by Member states. It should also contribute to the creation of a Union system to recognise the excellence of educational institutions that offer training and education in the customs field, building on the Commission's initiative "EU Customs Certificate of Recognition", and it should coordinate and support the voluntary creation of specialised centres of excellence by Member States. This aims to make the customs union 'act as one', while recognising that divergent practices in Member States could result from objective specificities, for example geographical differences, mode of transport, type of goods or border type. 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 taking into account the principles of the Joint Statement and common approach of the European Parliament, the Council and the Commission on decentralised agencies of 19 July 2012.²¹
- (55) When selecting the seat of the EU Customs Authority, the European Parliament and the Council are to ensure that, given the nature of the Authority, its location enables it to fully execute its tasks and powers, to recruit highly qualified and specialised staff, to offer adequate training opportunities. In addition, the European Parliament and the Council are to take into account the following criteria for the selection of the Authority's seat: the availability of appropriate office premises as well as the ability to host the relevant staff in time for the Authority to become operational, 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. Another element to take into consideration is geographical balance. Considering these criteria, the EU Customs Authority should be located in Lille, France.
- (55a) Member States should ensure that customs authorities are properly resourced, trained, and equipped to have the capacity to fulfil their mission.

²¹ [joint_statement_on_decentralised_agencies_en.pdf \(europa.eu\)](#)

- (55b) It is important that customs invest in sufficient number of properly trained staff in order to guarantee the functioning of Union's customs systems which are facing an exponential increase in demands. Whereas without the necessary investments into staff, digital solutions cannot achieve their full potential. Therefore, investments into digital systems should guarantee sufficient funding for staff and their training in order to require the necessary skills for state-of-the-art equipment, technology for big data analytics, detection and controls and thus, to guarantee that customs controls are conducted uniformly across the Union.
- (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 either chairperson or its deputy 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 and publish a consolidated annual activity report on the activities of the EU Customs Authority ensuring that no sensitive information is disclosed, 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.
- (56a) The EU Customs Authority should establish the Customs Advisory Board, which should assist the Authority. It should be tasked to provide advice on the implementation of technical actions and decisions, on implementation and standardisation issues, including harmonisation activities, provide advice on the operational aspects of other legislation applied by customs, and provide advice in the context of any other activities of the Authority. The Customs Advisory Board should endeavour to a balanced stakeholder representation between commercial and non-commercial interest and, within the category of commercial interests, with regard to SMEs and other undertakings. The Customs Advisory Board shall be consulted regularly and may independently provide advice to the Authority.

- (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 and transmit them to the Commission. Based on those recommendations, the Commission identifies areas that warrant priority treatment. It is important that the Council has a political, strategic discussion on those areas that warrant priority treatment 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, the EU Customs Authority and customs authorities cooperate closely and regularly with market surveillance authorities, sanitary and phytosanitary 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 framework to support the cooperation between customs authorities and other authorities responsible for relevant policy areas should be developed and regularly updated by the EU Customs Authority. Such cooperation should include: 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, cooperation on operational implementation, monitoring and controls, the exchange of relevant skills and best practices and, finally, innovation and research activities in areas relevant for customs. 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 coordinate and support the operational coordination in customs cooperation, including in the area of risk management. The EU Customs Authority in cooperation with the Member states 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 administrations¹ (Naples II). The EU Customs Authority should maintain the necessary collaboration with relevant Union and national authorities conducting relevant investigations and anti-fraud activities, including OLAF and EPPO. It is important that the EU Customs Authority also cooperates with the EU Innovation Hub for Internal Security about its activities.
- (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.
- (58c) The EU Customs Authority and Europol may exchange strategic and other non-operational information such as risk indicators where required for preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy. Such information may be used by the EU Customs Authority for risk analysis purposes.
- (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, the EPPO 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.
- (60a) Effective cooperation between neighbouring countries is essential to ensure the smooth functioning of customs operations, the facilitation of legitimate trade, and the protection of the financial interests and policies of the Union. Such cooperation is of particular importance at shared customs border crossing points, where coordinated customs controls enhance efficiency and legal certainty. Member States should therefore retain the capacity to conclude or maintain bilateral agreements with neighbouring third countries concerning customs cooperation at shared border crossing points, in so far as such agreements are compatible with Union law. This capacity includes agreements relating to shared border crossing points situated either on the territory of a Member State or on the territory of a neighbouring third country, at which the customs authorities of that Member State and of that neighbouring third country apply their respective customs legislation pursuant to a bilateral agreement.
- (61) A common framework establishing a minimum list of infringements of customs legislation and of rules for non-criminal penalties should be laid down in the Union Customs Code, for Member States to implement. It is up to the Member States to choose the appropriate type of measure for those infringements. The Commission should monitor the correct implementation of these provisions, as appropriate. Penalties for infringements of customs legislation should be effective, proportionate and dissuasive.

- (61a) This Regulation does not harmonise national procedural rules concerning administrative penalties, nor does it regulate which authorities should be imposing penalties. For example, it is understood that the rules on penalties can also be applied in such a manner that the penalty is imposed by a competent national court upon an application brought by a competent administrative authority, or by the competent customs authorities through a settlement procedure, while ensuring that the penalty is effective, proportionate and dissuasive, and have an effect equivalent to the penalties imposed by competent authorities.
- (61b) Given the central role of importers for distance sales in organising large volumes of low value imports, including via online platforms and websites, there is a need for establishing a coherent proportionate and dissuasive framework of penalties when they fail to comply with their obligations. Particularly for continued and systematic non-compliance with customs legislation in case of distance sales, penalties should be dissuasive and effective. The scale, cross-border reach, and wide-spread impact of systematic non-compliance justifies that severe minimum and maximum levels of pecuniary penalties, based on the total value of the goods imported to the Union by the non-compliant operator, should be set in this Regulation, while preserving the possibility for Member States to foresee additional penalties in their national legislation. The harmonisation of penalties for systematic non-compliance across the Union should prevent ‘border-shopping’ by economic operators engaging in distance sales. Economic operators that engage in systematic non-compliance should be classified as high-risk operators and should lose any trusted status and facilitations.
- (61c) Where systematic non-compliance persists despite the imposition of progressively severe pecuniary charges, further penalties should be imposed. This is necessary on account of continued disregard for obligations under this Regulation, which undermines the integrity of the customs union and the internal market, as well as creates unfair competitive advantages for non-compliant operators and possibly harms consumers. Accordingly and in view of fulfilling the mission of customs authorities, a further layer of strict penalties is to be put in place in order to discourage any cases of such multi-systematic non-compliance. In response to this behaviour, the customs authorities should be able to suspend the release for free circulation of all goods imported by an economic operator in distance sales. In addition, where relevant and where justified by the nature of such further systematic infringement, relevant competent authorities should be able to temporarily

suspend the access to the online interface of the infringing economic operator. To that end, the timely transmission of information about the infringement to the relevant authorities should enable them to obtain the full picture of the situation and to ensure a coordinated response.

- (61d) For the purposes of ensuring that systematic non-compliance in the case of distance sales is determined in a uniform and effective manner, the Commission should be empowered to supplement this Regulation by defining the substantive number of controls to be carried out by competent authorities and the threshold of cases, based on the gravity of the infringement, that is considered sufficiently representative to establish such systematic failure. For this, and to ensure a high level of compliance and to tackle systematic failures, the Commission should take into account factors, such as the volume and specific impact of distance sales, the risks to consumer safety, the proportionality, different business models, and the need to protect the financial and non-financial interests of the Union and its Member States.
- (61e) To enable effective monitoring and appropriate degree of transparency, all non-criminal penalties imposed by Member States' customs authorities should be made available in the EU Customs Data Hub. This recording should include the nature of the infringement, the amount of the pecuniary charge imposed, or any other non-criminal penalty applied. Such centralised system should provide the necessary data for assessing enforcement practices and identifying potential market distortions or 'border-shopping' practices by economic operators.
- (61f) The Commission should review the provisions of this Regulation on infringements and penalties, in order to ensure proper functioning and application thereof, as well as to prevent possible internal market fragmentation or jurisdictional avoidance by economic operators. Such review should take place following an assessment of the data on penalties recorded in the EU Customs Data Hub, particularly where the risks of disparities or distortions in the internal market are identified. It is important to ensure a level playing field and address any regulatory gaps or inconsistencies in the application of penalties.
- (62) It is also appropriate to foresee in this Regulation the minimum list of circumstances, due regard to which should be given, in accordance with national law, when deciding whether to impose a penalty and deciding on the type or severity thereof. Cooperation between Member States is necessary in cases where the customs infringement falls within the

jurisdiction of more than one Member State. In such cases, the Member State should cooperate with the other authorities concerned by the same customs infringement in accordance with the applicable legislation. The EU Customs Authority may support and facilitate this cooperation.

- (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 Commission should be able to publish a non-confidential version of the evaluation report. 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 local 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 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 ensure that Union customs rules remain adapted to economic, social, political and technological developments as well as to the needs of economic operators and of

customs administration, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the following:

- specifying the provisions of customs legislation that apply to the trade in Union goods involving special fiscal territories and certain simplifications of those provisions;
- in relation to customs decisions, the data required for applications and decisions, the conditions for the acceptance of an application for a decision, exceptions concerning certain time limits, the date when the decision takes effect and its validity without limitation of time and the rules to supplement the cases where the applicant's right to be heard does not apply; possible shortening of the time limits for the adoption of customs decisions once the EU Customs Data Hub is operational; detailed rules on the monitoring of decisions, the specific cases where a decision is to be re-assessed and the related rules; determining the cases where a favourable decision can be revoked in respect of other than non-compliant persons and where the effect of revocation or amendment can be deferred; determining the rules for taking Commission decisions requesting Member States to revoke a decision relating to binding information;
- the amount of Union handling fee for distance sales;
- the minimum data requirements and specific cases for the registration of economic operators and certain other persons with the customs authorities and for the invalidation of such registration;
- the simplifications and facilitations for authorised economic operators;
- in relation to the customs representative, the cases in which the requirement of being established therein is waived;
- amending the functionalities of the EU Customs Data Hub and determining the data subject to the portability from the EU Customs Data Hub into national systems; clarifying and complementing the purposes for which the customs authorities, the EU Customs Authority and the Commission are authorised to process data; allowing other Union bodies to request and obtain data available in the EU Customs Data Hub; and specifying the data that constitute the EU Customs Data Model;
- determining the specific cases where the competent customs authority is not the customs authority of the Member State where the applicant is established;

- certain detailed rules in relation to the customs status of goods;
- the data, conditions, time limits and specific cases for placing goods under a customs procedure, as well as the cases where the data can be amended or invalidated after the release;
- the reasonable period of time after which, and the specific cases when, the customs authorities shall be deemed to have released the goods where they have not selected them for 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 for the lodging of a customs declaration in the form of an entry into the declarant's records;
- the cases where goods can be confiscated;
- in relation to the advance cargo information: the expected office of first entry, the advance cargo information to be provided, the time limits, the specific cases in which advance cargo information can be provided or made available by multiple persons, the cases where the obligation to provide such data is waived, the conditions under which a person who provides or makes available advance cargo information can restrict the visibility of the particulars of the identification, and the particulars of advance cargo information that cannot be amended;
- in relation to the entry of the goods into the customs territory of the Union: the specific time-limits within which the risk analysis is to be carried out; the specific cases and the other persons who may be required to notify the arrival of the goods to the actual customs office of first entry, in case of diversion; the conditions and time limits for designating and approving the places other than the designated customs office for presenting the goods;

- in relation to temporary storage: the cases when temporary storage information is not to be required; the data to be provided or made available to the customs authorities; the specific cases for amending or invalidation temporary storage information; the conditions for authorising temporary storage facilities; the cases and conditions of movement of goods in temporary storage; the type of information to be contained in the records to be provided or made available in the EU Customs Data Hub;
- the data to be provided or made available to the customs authorities for placing goods under a release for free circulation or derogations justified for the type of traffic;
- the cases in which goods are considered to be returned in the state in which they were exported;
- the cases where a re-export notification is lodged and the cases where it can be amended or invalidated;
- in relation to the pre-departure information at exit from the customs territory of the Union: the data of the pre-departure information and the time limits within which it is to be provided or made available; the specific cases where that obligation is waived; the conditions under which the person who provides or makes available pre-departure information can restrict the visibility of the particulars of identification and commercially sensitive data; and the particulars of pre-departure information which cannot be amended;
- in relation to the exit of goods, the specific time limits within which risk analysis of the pre-departure information is to be carried out; the data to be notified to the customs authority competent for the place where the goods are taken out of the customs territory of the Union; and 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 the Union transit procedure, the storage procedure, the temporary admission procedure, the end-use procedure, the inward processing procedure and the outward processing procedure; the conditions for granting an authorisation for special procedures and the exceptions therefrom; 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 cases, conditions, form and required data and information 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; certain 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 and the conditions for authorising simplifications;
- in relation to storage: the conditions for granting the authorisation for the operation of a customs warehouse for distance sales;
- 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; and the data required for the determination of the customs value for export purposes;
- in relation to customs debt: 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 which 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; the cases

where the customs authorities are exempted from notification of the customs debt; the reasonable time for considering lack of disagreement with the notification of customs debt; and the information to be provided by the Trust and Check trader's and the deemed importer's for the purposes of the notification of customs debt;

- 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 updating of the thresholds 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 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 and the threshold for waiving the provision of a guarantee; 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 forms for the 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, the conditions and procedures according to which a Member State can be empowered to maintain, or enter into negotiations with third countries for, a bilateral agreement on the exchange of information;
 - 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 incurrance 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-Making²².

- (69) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in order to:
- specify the procedure for the submission and the acceptance of an application for a customs decision, and for taking such decision;
 - specify the rules for annulling favourable customs decisions;
 - specify the procedural rules for revoking, suspending or amending favourable customs decisions;
 - lay down the procedural rules on the use of a decision relating to binding information after it ceases to be valid or is revoked and on notifying to the customs authorities that the taking of such decisions is suspended and on the withdrawal of such suspension;
 - adopt decisions requesting Member States to revoke decisions relating to binding information;
 - adopt the rules setting out the procedure for collecting the Union handling fee per item from the economic operator;
 - lay down procedures for requests for aggregate non-confidential, non-personal and non-commercially sensitive customs data made to the customs authorities of the Member States or the EU Customs Authority and the form and categories of data that can be made available;
 - specify the customs authority responsible for the registration of economic operators and certain other persons;
 - specify the procedural rules for the consultations in respect of the determination of the status of authorised economic operators;
 - adopt the modalities for the application of the criteria for granting the status of authorised economic operator and of Trust and Check trader, and individual decisions regarding the suspension or revocation of the Trust and Check status where the competent authority fails to provide information to the EU Customs Authority for the verification of that status, or where the action taken on the basis of EU Customs Authority’s recommendation is not sufficient;
 - adopt the rules on the consultation with other authorities for the determination of Trust

²² OJ L 123, 12.5.2016, p. 1.

and Check trader status, on the reassessment of that status and related consultations, and on the type of related monitoring activities;

- lay down the technical arrangements for the current electronic customs systems and a work programme for their phase-out and the phase-in of the EU Customs Data Hub;
- lay down rules and modalities for processing data in the EU Customs Data Hub;
- specify the modalities for the EPPO to request and obtain data from the EU Customs Data Hub;
- determine the modalities for Europol and Frontex to request and obtain data in the EU Customs Data Hub, establish the procedure for the verification of such requests, specify restrictions and liabilities on the onward transfer of such data and, if needed, require the requesting authority to designate specific contact point, person or persons or to provide additional safeguards;
- lay down the roles of the joint controllers as regards the data processing in the EU Customs Data Hub and their relationship to data subjects;
- lay down the safeguards to prevent the abuse and unlawful access or transmission of personal data subject to restrictions;
- adopt technical arrangements for interoperability and connection regarding the EU Customs Data Hub;
- exceptionally and temporarily authorise Member States to use other electronic services or other techniques than those implemented in the EU Customs Data Hub;
- specify the procedural rules for cooperation between customs offices in relation to controls;
- specify measures on the verification of data provided or made available, examination and sampling of goods, results of the verification, and identification;
- specify measures on post-release controls and appropriate methodologies;
- determine the ports or airports where customs controls and formalities are to be carried out on cabin and hold baggage;
- adopt measures to ensure the harmonised application of customs controls and risk management, including the exchange of information and the establishment of common risk criteria and standards and common priority control areas;
- specify the procedural rules for the provision and verification of the proof of the customs status of Union goods;
- specify the procedural rules for amending and for invalidating the information for placing goods under a customs procedure;

- adopt the procedure for the lodging of the customs declaration where other means than electronic data processing techniques are used and for the determination of competent customs offices;
- specify the procedure for lodging a standard customs declaration, a simplified declaration and a supplementary declaration;
- specify the procedure for lodging a customs declaration prior to the presentation of goods to customs, for accepting a customs declaration, for amending or invalidating a customs declaration after the release of the goods, for centralised clearance and for the lodging of a customs declaration in the form of an entry in the declarant’s records;
- specify the procedure for the disposal of goods, selling and donating goods and the abandonment of goods to the State;
- specify the procedure for providing, receiving, amending and invalidating the advance cargo information and for instructing the person who provided or made available that information that the goods will not be loaded or transported;
- specify the procedure on the notification of arrival;
- adopt the procedure regarding the physical presentation of the goods to the customs authority;
- specify the procedure for lodging, amending and invalidating temporary storage information and for the movement of goods between temporary storage facilities;
- specify 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;
- specify the procedure for lodging, amending or invalidating a re-export notification;
- specify the procedure for providing, receiving, amending and invalidating the pre-departure information and for instructing the person who provided the pre-departure information that the goods will not be loaded or transported;
- specify procedural rules on export and exit;
- adopt the procedural rules for granting the authorisation for special procedures or the operation of storage facilities for the customs warehousing of goods, the procedural rules for the examination of the economic conditions, including for issuing the reasoned 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, and rules for fixing and monitoring the quantity beyond which such adverse effect occurs;

- specify the procedural rules on the discharge of a special procedure and on the transfer of rights and obligations, the movement of goods and the use of equivalent goods in the context of special procedures;
- specify the procedural rules for the application of the provisions of international transit instruments in the customs territory of the Union;
- specify 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;
- specify the procedure for the placing of goods under the customs warehousing or free zone procedure;
- specify the procedural rules regarding the conditions for distance sales placed under the customs warehousing procedure in a customs warehouse for distance sales;
- 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;
- determine the tariff classification of goods;
- adopt the procedural rules on the provision and the verification of the proof of non-preferential origin;
- adopt the procedural rules on the preferential origin of goods and measures granting a beneficiary country or territory a temporary derogation from the rules on preferential origin of goods benefiting from preferential measures adopted unilaterally by the Union;
- adopt measures to determine the origin of specific goods;
- specify the procedural rules on the determination of the customs value of goods;
- 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;
- specify the procedural rules on the provision, determination of the amount, monitoring and release of guarantees, as well as on the revocation and cancellation of an undertaking given by a guarantor;
- specify the rules regarding the temporary prohibitions relating to the use of comprehensive guarantees;
- adopt measures to ensure mutual assistance between the customs authorities in the event of the incurrence of a customs debt;

- 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;
- activate the necessary actions and arrangements to be applied in case of crisis;
- specify the independent status, the detailed tasks and the responsibilities of the Data Auditor of the EU Customs Authority;
- authorise Member States to enter into a bilateral agreement on the exchange of information for the purpose of customs cooperation;
- specify the data that Member States are to provide to the EU Customs Authority for the purpose of assessment and reporting, as well as their level of confidentiality, and the design of the performance measurement;
- 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 Council¹.

1. 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, ELI: <http://data.europa.eu/eli/reg/2011/182/oj>).

- (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 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;
 - implementing acts specifying the independent status, the detailed tasks and the responsibilities of the Data Auditor of the EU Customs Authority;
 - implementing acts on an authorisation of a Member State to enter into a bilateral agreement on the exchange of information for the purpose of customs cooperation, as they affect only one Member State.
- (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 and risk management,

including the exchange of risk information and analysis, common risk criteria and standards and common priority control areas;

- determining the tariff classification of goods;
- determining the origin of specific goods;
- 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;
- temporary prohibitions relating to the use of comprehensive guarantees;
- activating the necessary actions and arrangements to be applied in case of crisis;
- authorising a Member State to enter into a bilateral agreement with a third country on the exchange of information for the purpose of customs cooperation.

- (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 relevant provisions in this Code to allow its timely implementation by Member States.
- (73) This Regulation should be applied within an ambitious timeline but gradually. 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 12 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, The provisions referring to distance sales and the EU Customs Authority, except Articles 205 and 238, should apply from 1 July 2028.
- (74) From 1 March 2031, economic operators should be able to start using, on a voluntary basis, the capabilities of the EU Customs Data Hub. By 1 March 2034, the EU Customs Data Hub should be fully developed, and all economic operators should 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 2031/2035], 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/EC²³ or of Council Directive (EU) 2020/262²⁴ 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

For making the customs union act as one and with a view to achieving a uniform implementation of the customs legislation, including of harmonised customs control rules/provisions, and the smooth functioning of the internal market, the mission of the customs authorities is to protect the financial and economic interests of the Union and its Member States by effectively collecting customs duties and other charges and by combating fraud, to facilitate legitimate business activity, to contribute to fair trade, to the overall supply chain security and to combatting illicit trade.

In addition, customs authorities shall contribute to ensuring the safety and security of the Union and its residents, to the protection of human, animal or plant health and life, consumers, the environment and other public interests protected by other legislation, within their competence and, where appropriate, in close cooperation with relevant other authorities.

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,

²³ 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).

²⁴ 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).

- (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 this Regulation by specifying the provisions of the customs legislation 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 Council²⁵ and the provisions amending, supplementing or implementing it;
- (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

²⁵ 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).

increased tariffs on specific goods, and including in particular special surveillance measures and safeguard measures in the form of 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:
- (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) ‘importer for distance sales’ means either the person supplying or the person facilitating distance sales as defined in point (47);
- (14) ‘exporter’ means:
- (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 dealing 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) financial or economic interests of the Union and its Member States;
 - (b) the security and safety of the Union and its residents, to human, animal or plant health, to the environment, or any other public interest;
 - (c) 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 suspicious transactions, and the implementation of all measures necessary for limiting exposure to risk and 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 those 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 person who has physical control of the goods;
- (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 artificial intelligence as defined Article 3, point (1), of Regulation (EU) 2024/1689 of the European Parliament and of the Council²⁶;

- (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;
 - (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;
 - (e) carrying out a customs control;
 - (f) 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;
- (29) ‘control recommendation’ means the risk analysis based conclusion of a customs authority or of the EU Customs Authority, as regards whether and if so when and where which risk mitigation measure should be carried out;
- (30) ‘control decision’ means the individual act by which the customs authorities decide a control shall or shall not take place;

²⁶ Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending 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, ELI:<http://data.europa.eu/eli/reg/2024/1689/oj>).

- (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 to increased levels of risk analysis and risk mitigation measures 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 risk, which aims to balance operational customs supervision efforts and risk mitigation measures across the supply chain in a proportionate and effective manner;
- (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 (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;
- (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;
- (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, natural or man-made, of an exceptional nature and scale, taking place inside or outside of the Union, that endangers the safety, the security, the health and life of the citizens, economic operators and personnel of customs authorities and that requires urgent measures as regards the entry, exit or transit of goods;
- (64a) ‘crisis response cell’ means a service within the EU Customs Authority that coordinates EU crises response efforts within the customs union;
- (64b) ‘micro, small and medium-sized enterprises’ or ‘SMEs’ means micro, small and medium-sized enterprises as defined in Article 2 of Commission Recommendation 2003/361/EC;
- (64k) ‘Economic Operator Registration and Identification number’ (EORI number) means an identification number, unique in the customs territory of the Union, assigned by a customs authority to an economic operator or to another person in order to register for customs purposes;
- (64l) ‘item’ means one or more goods in a consignment sharing the same tariff classification, description and, if provided in accordance with the data requirements applicable to the relevant customs declaration or to the data to be provided or made available to the customs authorities, origin;
- (64m) ‘shared border crossing point’ means any customs border crossing point situated either on the territory of a Member State or on the territory of a neighbouring third country, at which the customs authorities of that Member State and of that neighbouring third country apply their respective customs legislation pursuant to a bilateral agreement.

Chapter 2a

Competence and operational rules of customs offices

Article 5a

Competent customs authority

- 1a. 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 where the transit procedure ends, 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.
3. By way of derogation from paragraph 1(d), the competent customs authority shall be:
- (a) for the release for free circulation in case of distance sales where the 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;
 - (b) where the importer or the exporter is a Trust and Check trader, the customs authority of the Member State of establishment of such importer, exporter or their customs representative;
 - (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.
4. The customs authority responsible for the place of establishment of the Trust and Check trader 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
 - (c) where justified, request the customs authority 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 can only be mitigated as soon as the goods arrive to the customs territory of the Union or before they leave such territory, request the customs authority 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. Taking into account the reasonably expected impact on trade flows, the available control resources and the severity of the risk, the customs authority responsible for the place of dispatch or final destination of the goods, or 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 authority responsible for the place of establishment of the trust and check trader according to paragraph 4 points (c) and (d) and centralised clearance authorisation holders, and provide that customs authority 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 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. The Commission shall specify, by means of implementing acts, the procedural rules for cooperation between customs authorities under paragraph 5. These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4). The Commission shall adopt guidelines to specify tasks for cooperation between customs authorities.

Article 5b

Operational rules on the competent customs offices

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 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 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.

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 that the application is complete and has been accepted, the application shall be considered to be 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 including where such a delay is due to ongoing consultations with other competent authorities or international bodies, 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 shall receive an automatic notification and may consider the request to have been denied.

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) where the customs authorities notify the person who lodged the entry summary declaration or provided or made available the advance cargo information that the goods are not to be loaded;
- (fa) where the decision concerns a notification to the applicant of a Commission decision as referred to in Article 193(3);
- (fb) where an EORI number is to be invalidated, upon request of the economic operator concerned, or where there is no customs activity for three years or an economic operator no longer exists;

- (fc) where the nature or the level of a threat to financial interests of the Union or its Member States so requires.
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;
 - (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 rules to supplement the cases, referred to in paragraph 6 of this Article.
- 8a. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to amend this Regulation to shorten the time limits referred to in paragraphs 2 and 3 of this Article, if appropriate, once the EU Customs Data Hub is operational.
9. The Commission shall adopt implementing acts specifying 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 they are aware or should reasonably have been aware of or information that could lead to its detection in particular in accordance with Articles 20, 22, 24 and 25. 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 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 specifying 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, unless this information is already available in the Customs Data Hub.
8. In specific cases the customs authorities shall re-assess a decision.
10. The Commission is 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 adopt implementing acts specifying 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:
 - (a) one or more of the conditions for taking that decision were not or are no longer fulfilled;
 - (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. A favourable decision shall be suspended 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) 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 for that decision or the obligations imposed under that decision.

In the cases referred to 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 adopt implementing acts specifying 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, 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 implementing acts laying down 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 implementing acts in the form of 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

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 to be rendered for handling a request for placing goods under release for free circulation of goods sold in distance sales.
 - 1b. The amount of the Union handling fee shall correspond to the approximate costs of the services indicated in paragraph 1a, at least including costs of the checking of the data, carrying out risk analysis, the relevant infrastructure and controls, including services rendered by the EU Customs Authority.
 - 1c. The amount referred to in paragraph 1b shall be lower where the subject of release for free circulation are goods sold in distance sales from a customs warehouse for distance sales.
 - 1e. The debtor of the customs debt at import shall pay the Union handling fee at least once a month to the customs authorities competent for the release for free circulation of the goods at the moment of the payment of the customs debt. Where there is no customs debt, the person that would have been the debtor in case of a customs debt shall be the debtor. In matters not regulated, the provisions on customs debt shall apply *mutatis mutandis* to the Union handling fee.
 - 1f. The Union handling fee shall be non-refundable.
 - 1g. Until the date referred to in Article 264(3), the Commission shall provide an appropriate IT solution at EU level for the purpose of the calculation of the Union handling fee.
 - 1h. The Commission shall draw a report to assess the approximate costs of services indicated in paragraph 1a and 1b. Such report shall be prepared every 2 years.
2. Member States may determine charges or recover costs for specific services, 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 18e;
 - (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 supplement this Article by establishing the amount of Union handling fee referred to in paragraph 1a and 1b.
4. The Commission may adopt, by means of implementing acts, rules setting out the procedure for collecting the Union handling fee per item from the economic operator. The implementing act shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Chapter 3a

Currency conversion and time limits

Article 18a

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

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 Council²⁷ shall apply, except where otherwise provided for in the customs legislation.

Chapter 4

Other provisions

Article 18c

Confidentiality of data

1. Data 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 national law, in particular for the reasons related to or in connection with legal proceedings.

²⁷ 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.).

2. Member States may in consultation with the Commission designate specific data, the disclosure of which would harm the essential interests of their security, to be technically tagged within the EU Customs Data Hub in such a way that any further processing of such data shall be limited to the competent authorities of the concerned Member State, unless such authorities expressly authorize further processing. The person who transmits the data to the EU Customs Data Hub shall clearly set the processing limitations of such categories of data that can be linked to the specific supply chains or the data categories.
 - 2a. For the purposes of paragraph 2, the Member State concerned shall inform the Commission about the specific essential interests of security that are at stake and explain why it considers that those interests could not be sufficiently protected under the general framework of provisions on data processing in the EU Customs Data Hub.
 - 2b. Any disclosure, extraction or communication of data under this Regulation shall ensure an adequate level of data protection.
3. Without prejudice to Directive (EU) 2016/943, and after the date specified in Article 265(4), customs authorities of the Member States or the EU Customs Authority shall make available, upon request, aggregate non-confidential, non-personal and non-commercially sensitive customs data.

The Commission shall lay down, by means of an implementing act, the procedures for these data requests, and the form and categories of data that can be made available.

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

Article 18d

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

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 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 authority of the Member State where they carry out the first activity covered by the customs legislation.

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 authority 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 authority the Member State where they first lodge a declaration or apply for a decision.

5. In specific and duly justified 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;

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 examination procedure referred to in Article 262(4).

Chapter 2

Importer and deemed importer

Article 20

Importers

- 1. There shall be only one importer at a time.
1. The importer shall:
 - (a) provide, keep and 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, 135 and 137, or to discharge the outward processing procedure;
 - (b) ensure payment of any customs duties and other charges applicable;
 - (c) ensure that the goods entering 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;
 - (d) fulfil any other obligation on the importer established in customs legislation;
 - (e) notify customs authorities of any information concerning suspicious movements or unauthorised handling of goods that they are aware of.
2. The importer shall be established in the customs territory of the Union.
2. This requirement does not apply to an importer who:
 - (a) places goods under the transit procedure or temporary admission procedure;
 - (b) brings goods that remain in temporary storage;
 - (c) occasionally places goods under customs procedures, provided that the customs authorities consider such placing to be justified;
 - (d) is established in a country the territory of which is adjacent to the customs territory of the Union, and presents the goods at a Union border customs office adjacent to that country, provided that the country in which the importer is established grants reciprocal benefits to persons established in the customs territory of the Union; or

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

Chapter 3

Exporter

Article 22

Exporters

1. The exporter shall comply with the following obligations:
 - (a) provide, keep and 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 customs procedure under which the goods are placed in accordance with Article 94a and Article 140 or re-export in accordance with Article 94c or to discharge the procedure referred to in Articles 118 and 132, Article 135(5), point (b) and Article 137;
 - (b) ensure payment of customs duties and any other charges, if applicable;
 - (c) ensure that the goods 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;
 - (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 that they are aware of.

3. The exporter shall be established in the customs territory of the Union unless the exporter:
 - (a) places goods under the transit procedure, discharges the temporary admission procedure or re-export from temporary storage;
 - (aa) trans-ships goods within, or directly re-exports them from, a free zone;
 - (b) occasionally places goods under customs procedures or re-exports them, provided that the customs authorities consider this to be justified;

- (c) is established in a country the territory of which is adjacent to the customs territory of the Union and who presents the goods at a Union border customs office adjacent to that country, provided that the country in which the 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. An economic operator who is 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 in accordance with Article 7(4).

The customs authorities at least every 3 years shall perform in-depth monitoring, including an on-site visit, of the AEO trader's activities and internal records.

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 of authorised economic operator.
6. The authorised economic operator referred to in paragraph 1 shall enjoy more facilitations than other economic operators in respect of customs 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 prepare a business continuity mechanism to respond to disruptions in trade flows due to increases in security alert levels, border closures or 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 authorised economic operators.
9. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining:
 - (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 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. 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) no record of serious criminal offences and the absence of any serious infringement or repeated infringements related of:
 - (i) customs legislation and taxation rules;
 - (ii) other legislation applied by the customs authorities, where the customs authority competent to grant the AEO authorisation is aware of such infringements or offences,

The offences and infringements 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, satisfactory procedures in place for the handling of licenses, authorizations and requirements related to other legislation applied by the customs authorities, including product safety, and evidence that non-compliance has been effectively remedied; the applicant ensures that relevant employees are instructed to inform the customs authorities in a secured way whenever they are aware of compliance difficulties, suspicious movements or unauthorised handling of goods and establish procedures for informing the customs authorities of such cases;

- (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.
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, exporter or indirect representative, who is 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 years, may apply for the status of Trust and Check trader to the customs authority of the Member State of establishment.
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 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) no record of serious criminal offences and the absence of any serious infringement or repeated infringements of:
 - (i) customs legislation and taxation rules;
 - (ii) other legislation applied by the customs authorities, where the customs authority competent to grant the Trust and Check trader authorisation is aware of such infringements or offences.

The offences and infringements 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, satisfactory procedures in place for the handling of licences, authorisations and requirements related to other legislation applied by the customs authorities, including product safety, and evidence that non-compliance has been effectively remedied; the applicant shall ensure that relevant employees are instructed to inform the customs authorities in a secured way whenever they are aware of compliance difficulties, suspicious movements or unauthorised handling of goods and establish procedures for informing the customs authorities of such cases;
- (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 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 on how to interact through the EU Customs Data Hub;

- (e) appropriate security, safety and compliance standards, including product safety 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;
- (f) having an electronic system providing or making available to the customs authorities as close to real time as technically possible 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 where relevant making available via the EU Customs Data Hub to customs authorities:
 - (i) customs records, including those needed to check the correctness of the establishment of the customs debt;
 - (ii) accounting system;
 - (iii) commercial and transport records;
 - (iv) tracking and logistics systems, which identify goods as Union or non-Union goods and indicate, where appropriate, their location;
 - (v) licences and authorisations granted in accordance with other legislation applied by the customs authorities;
- (fb) for applicants that are deemed importers, being registered and making appropriate use of the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC for at least 2 years.

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 in accordance with Article 7(4).

The customs authorities at least every 2 years shall perform in-depth monitoring, including an on-site visit, 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. 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 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.

The customs authorities of the receiving Member State shall reassess the Trust and Check authorisation, in consultation with the Member State that initially granted or later reassessed the status. During the reassessment, the customs authority of the receiving Member State may suspend the authorisation. Such suspension shall be notified in the EU Customs Data Hub.

- 5a. Where justified on the basis of indications of non-compliance by the Trust and Check trader, the EU Customs Authority, in co-operation with the competent customs authorities involved, may verify the compliance with the Trust and Check status by a specific economic operator.

The outcome of such verification shall be communicated to the Commission and to the competent customs authorities involved. Based on the outcome of the verification, the EU Customs Authority may recommend to the competent customs authority the suspension or revocation of the Trust and Check status.

The competent customs authority shall, without undue delay, inform the EU Customs Authority and the Commission about the actions taken on the basis of the recommendation.

Where the competent authority fails to provide the information or the action taken on the basis of the recommendation is not sufficient, the Commission may, by means of implementing acts, adopt individual decisions requesting the Member State that granted the Trust and Check status to suspend or revoke it within the deadline set in that implementing act.

Such a suspension or revocation shall be recorded in the EU Customs Data Hub.

6. Where a Trust and Check trader is involved in fraudulent activity in relation to its economic or business activity or customs authorities are aware of infringement of relevant other legislation applied by a Trust and Check Trader pursuant to Article 20(1) point (c) of this Regulation, its status shall be suspended by the customs authorities. That suspension shall be recorded on the Customs Data Hub.
7. Customs authorities shall authorise Trust and Check traders to any or all of the following simplifications, according to their economic activity:
 - (a) provide part of the data on their goods after the release of those goods, in accordance with Article 59(3a);
 - (b) perform certain controls and 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);
 - (c) 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) 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) 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 make best efforts to align their practice of granting authorisations referred to in paragraph 7 with those of other customs authorities in order to ensure a uniform approach across the Union.

8. The Trust and Check traders shall enjoy more facilitations than other economic operators in respect of customs controls. The status of Trust and Check trader shall be taken into account favourably for customs risk management purposes.
- 9a. As part of the protocols and procedures for crisis management laid down in Article 203, the EU Customs Authority shall prepare 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.
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, including the deadlines for replying;
 - (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.
- (ca) the type of the monitoring activities referred to in paragraph 4;
 - (cb) the rules about reassessment of the Trust and Check status as referred to in paragraph 5.

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

Article 25a

Adaptation of the status of Authorised Economic Operators and Trust and Check traders

1. The customs authorities shall take into account the specific characteristics of economic operators, in particular of small and medium-sized companies, where assessing whether they fulfil the criteria for the status of Authorised Economic Operators and of Trust and Check trader.
2. The Commission shall adopt guidelines with a view to supporting small and medium-sized companies, when applying the status of Authorised Economic Operators and of the Trust and Check traders.

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 his or her own name but on behalf of an importer or exporter that is established in the customs territory of the Union is jointly and severally responsible with importer or 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, a customs representative having the status of Trust and Check trader shall:

- (a) 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;
- (b) enjoy the benefits of the status of authorised economic operator if the person in whose name and on whose behalf that representative is acting has not been granted the status of a Trust and Check trader.

- 3a. A customs representative having the status of authorised economic operator shall be recognised as such when acting as direct or indirect representative.
4. 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.
6. The Commission is empowered to adopt delegated acts, in accordance with Article 261 to supplement this Regulation by determining the cases in which the waiver referred to in paragraph 2, second subparagraph, does not apply;

Article 28

Representatives' empowerment

1. When dealing with the customs authorities, a customs representative shall state 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.
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.

Title III

EU CUSTOMS DATA HUB

Chapter I

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 and between customs authorities.

Article 28c

Digital sovereignty

1. The EU Customs Data Hub shall be designed to ensure that data available therein is protected from unauthorised access and other threats to its integrity and security, which constitutes a public interest.

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. In the context of tasks related to the development, hosting, operation and maintenance, and any related data processing on the EU Customs Data Hub:
 - (a) Any supplier and other service provider, and any subcontractor, shall ensure reliability, security and independence from influence of governments of third countries and shall not be directly or indirectly subject to any law, including executive orders, of a third country that may require the disclosure of the EU Customs Data Hub data to any authorities of that country. For critical services, including any data-related activities, the contracting authority may require a security clearance.
 - (b) Any supplier, other service provider, and any subcontractor shall be legally established in the Union and not controlled, directly or indirectly, by any undertaking of a third country as defined in Article 2(7) Regulation (EU) 2019/452.

3. The contracting authority for the EU Customs Data Hub may at any time require any suppliers, tenderers, sub-contractors and any other service providers, to provide evidence of the measures that they have in place to prevent any unauthorised disclosure of data from the EU Customs Data Hub, including documentation that they fulfil the obligations set out in paragraph 2a with regard to independence and non-disclosure, and of the fact that they ensure the reliability, security and independence from influence of governments of third countries.
4. The security of the supply-chain of all IT components, hardware and software shall be ensured to the greatest extent possible. Any suppliers, sub-contractors and any other service providers may be required by the contracting authority for the EU Customs Data Hub to provide evidence in this regard.
5. Where the contracting authority for the EU Customs Data Hub has reason to believe that the measures taken by any suppliers, tenderers, subcontractors or any other service providers to ensure their obligations under paragraphs 2-4 of this Article, are insufficient, or that the evidence provided by them under this Article is not wholly reliable, the contracting authority for the EU Customs Data Hub may take measures under the contract or in a procurement process it deems necessary to remedy the situation, including the suspension or termination in part or in full of the contract and exclusion from the procurement process. This shall be without prejudice to other additional remedial rights the contracting authority for the EU Customs Data Hub may have established under the relevant contract or under other provisions in force.
6. Unless provided for in or by Title III, Title XIII or an international agreement by which the Union is bound, 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.
7. The EU Customs Data Hub shall be designed to the highest extent possible to avoid pre-commercial, commercial, technical, contractual and organisational obstacles that discourage, impede or prevent the contracting authority from transferring or porting data, applications, or digital assets to another service provider, or their use in an interoperable environment.

Chapter II

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

Article 29

Functionalities 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 process and store data, including personal data, for the purposes laid down in Article 31.
1. The EU Customs Data Hub shall be developed to enable compliance with the provisions of Regulation (EU) 2016/679, Regulation (EU) 2018/1725 of the European Parliament and of the Council, Regulation (EU) 2023/2841 of the European Parliament and of the Council, and Directive (EU) 2016/680 of the European Parliament and of the Council relating to the processing of personal data;

The EU Customs Data Hub shall provide the following functionalities:

- (a) enable the electronic implementation of customs legislation and contribute to the implementation of other legislation applied by the customs authorities, in particular: customs formalities, customs controls, calculation and notification of the customs debt and Union handling fee, as well as VAT and excise duty at import, guarantee management and customs surveillance of goods;
- (b) ensure the quality, integrity, security, preservation, traceability, confidentiality and non-repudiation of data processed therein, including applying the rules for the amendment, invalidation and deletion of such data;
- (d) enable and ensure risk analysis, economic analysis and data analysis, customs simplification and trade facilitation including through the use of artificial intelligence systems in accordance with Regulation (EU) 2024/1689;
- (e) enable the interoperability with other electronic systems, platforms or environments for the purpose of cooperation in accordance with Title XIII;
- (eb) enable the interoperability with the European Maritime Single Window Environment for the provision and fulfilment of the customs formalities indicated in the Annex of Regulation 2019/1239;

- (f) integrate the European Union Single Window Certificates Exchange System established by Article 4 of Regulation (EU) 2022/2399 to enable interoperability with the Union non-customs systems and formalities referred to in that Regulation;
- (g) enable the exchange of information with third countries and other authorities and bodies according to Title XIII;
- (h) enable the customs surveillance of goods;
- (hb) enable reporting capabilities, including the possibility of reporting goods to be imported or exported that are not in compliance with relevant Union legislation applied by customs authorities.
- (k) integrate information security management capabilities, 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;
- (l) enable portability of data from the EU Customs Data Hub into national systems;
- (m) provide for a single access point and multilingual interfaces;
- (n) allow the reuse of data to the highest extent possible;
- (hh) facilitate the necessary interoperability with member States' systems for identity management and authorisation 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 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.

4. The Commission is empowered to adopt delegated acts in accordance with Article 261:

- (a) to amend the functionalities referred to in paragraph 1b 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;

(b) to supplement this Regulation by determining the data that can be subject to the portability from the EU Customs Data Hub into national systems as referred to in paragraph 1b, point (1).

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 2013, taking into account the provisions included in Regulation (EU) 2022/2399 in relation with Regulation (EU) 2023/2841 and with Directive (EU) 2022/2555, including guidelines issued by the European Union Agency for Cybersecurity (ENISA);

(b) a work programme for the progressive phase out of the systems referred to in point (a) of this paragraph 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 29a

Pilot phase on the EU Customs Data Hub

1. Before the date specified in Article 265(3), the Commission may establish a pilot phase for the use of the EU Customs Data Hub to test the functionalities thereof. The pilot phase shall be voluntary.
2. The Commission shall cooperate with the EU Customs Authority, customs authorities and other authorities, and relevant stakeholders during the planning and organisation of the pilot phase.
3. For the purpose of paragraph 1, the Commission shall publish:
 - (a) the technical arrangements for the planning and organisation;
 - (b) the functionalities to be applied and tested;
 - (c) the exact duration of the pilot phase.

Article 30

National applications complementing the EU Customs Data Hub

1. Member States may develop:
 - (a) 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, if those applications do not already exist.
 - (b) additional applications within the EU Customs Data Hub in coordination with the EU Customs Authority or the Commission;
2. Member States may request the EU Customs Authority to develop the applications referred to in paragraph 1, points (a) and (b). Where appropriate, the EU Customs Authority shall coordinate a co-financing among Member States. This development may be partially funded by the EU Customs Authority if appropriate funding and resources are available in the Authority budget.
3. Where the EU Customs Authority develops an application in accordance with paragraph 2:
 - (a) that application shall be made 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.

Chapter IV

Data

Article 31

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

1. Persons may process data, including personal and commercially sensitive data, 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 processing shall take place exclusively to:

- (a) fulfil that person's 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, available in the EU Customs Data Hub, exclusively and to the extent 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, 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;
- (c) to carry out the tasks necessary for the cooperation under the conditions provided for in Title XIII.

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 available in the EU Customs Data Hub exclusively and to the extent necessary for the following purposes:

- (-a) to carry out its tasks as provided for in Article 31a and Article 31b;
- (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 available in the EU Customs Data Hub exclusively and to the extent necessary for the following purposes:
- (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 verifying 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.
 - (ha) where relevant, to contribute to the implementation of other legislation applied by customs authorities, in accordance with the scope and purpose provided by that legislation.
5. The European Anti-Fraud Office ('OLAF') may process data, including personal and commercially sensitive data available in the EU Customs Data Hub, exclusively and to the extent 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.

7. The tax authorities of the Member States may process data, including personal and commercially sensitive data, available in the EU Customs Data Hub, exclusively and to the extent necessary to determine the liability of any person for excise duty, fees and taxes that may be due in the Union in connection with the relevant goods and according to the rules laid down 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 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 as defined in Article 3, point (3), of Regulation (EU) 2017/625²⁸ may process data, including personal and commercially sensitive data, 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 food, feed and plants and for cooperating with customs authorities to minimise the risks that non-compliant products enter the Union and according to the rules laid down 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 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

²⁸ 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).

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

12. Until the date set out in Article 265(3), the Commission, OLAF and the EU Customs Authority once it is established shall, exclusively for the purposes stated in paragraphs 3, 4 and 5, 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 need in implementing customs legislation or other legislation applied by the customs authorities.
14. The Commission shall lay down, by means of implementing acts, rules and modalities for processing data in the EU Customs Data Hub by the authorities referred to in paragraphs 2, 6 to 9. 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;
 - (c) determine the specific categories of data, which the authority may process;
 - (d) require for the authorities referred to in paragraphs 6-9, where necessary, to provide a specific contact point, or additional safeguards;
 - (e) assess the need to restrict the subsequent sharing of the data.

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

Article 31a

Right for EPPO to obtain data available in the EU Customs Data Hub

1. The European Public Prosecutor's Office ('EPPO') shall upon request obtain data available in the EU Customs Data Hub, to the extent necessary for carrying out its tasks pursuant to Article 4 of Council Regulation (EU) 2017/1939²⁹ according to the modalities determined in an implementing act adopted pursuant to paragraph 4 of this Article.
2. The requests to obtain data referred in paragraphs 1 of this Article shall be sent to the EU Customs Authority. Customs authorities shall be automatically notified of the requests from the EPPO at the same time as the EU Customs Authority. Where a request is made in accordance with paragraph 1, the EU Customs Authority shall provide the relevant data to the EPPO expeditiously. The EUCA shall inform the customs authorities concerned whether the data was provided to the EPPO.
3. The EU Customs Data Hub shall provide a digital interface via which the EPPO can request and obtain data in an easy and swift way without undue delay.
4. The Commission shall specify, by means of an implementing act:
 - (a) the modalities for EPPO to request and obtain data, including personal and commercially sensitive data available in the EU Customs Data Hub. In particular, the Commission shall:
 - (i) determine the modalities for requests from EPPO for data, including personal or commercially sensitive data available in the EU Customs Data Hub;
 - (ii) establish the procedure to verify the compliance of those requests with paragraph 1 of this Article, without prejudice to the confidentiality of the investigations;
 - (iii) consider the need for EUCA to designate a specific contact point, person or persons;

²⁹ 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).

- (iv) consider the need to provide additional safeguards.

Article 31b

Rights for Europol and Frontex to obtain data available in the EU Customs Data Hub

1. The European Union Agency for Law Enforcement Cooperation (Europol) may upon request obtain data, including personal data and commercially sensitive data, available in the EU Customs Data Hub, to the extent necessary to perform its tasks in accordance with Article 4 of Regulation (EU) 2016/794 as long as those tasks relate to customs matters and according to the rules laid down in an implementing act adopted pursuant to paragraph 5 of this Article.
2. The European Border and Coast Guard Agency (Frontex), may, upon request, obtain non-personal data or aggregated data available in the EU Customs Data Hub, to the extent necessary for risk analysis and operational coordination related to border management activities falling within its mandate in Regulation (EU) 2019/1896.
3. Any request for data referred to in paragraph 1 or 2 shall be submitted to the EU Customs Authority. The requesting body shall provide the reasons for the request and ensure that it falls within the scope of the legal framework under which the body operates.
4. The EU Customs Authority shall process the request and verify whether it is made in accordance with this Article. The EU Customs Authority shall also verify, in co-operation with the relevant national central unit or, if designated by a Member State, a liaison officer whether the Member State concerned with the data has not objected to the transmission on the grounds and in accordance with the procedure established in the implementing act referred to in paragraph 5.
5. The data exchanged under this Article shall be only those necessary for the purposes stated in the request and shall be made available by EUCA via the EU Customs Data Hub expeditiously.
6. The Commission shall by means of implementing acts adopted in accordance with the examination procedure referred to in Article 262(4):
 - (a) determine the modalities for the EU bodies covered by this Article to request and obtain data;

- (b) establish the procedure for the verification referred to in paragraph 3a of this Article.
In particular, by:
- (i) specifying how to identify the customs authorities concerned with the data;
 - (ii) specifying how to handle situations where multiple customs authorities are concerned with the data;
 - (iii) specifying the grounds for the customs authorities concerned with the data to possibly object to the transmission of the data, including taking into the consideration the sensitivity of the data requested.
- (c) specify restrictions and liabilities on the onward transfer of the data by the requesting authority.
- (d) consider the need for the authority requesting the data to designate specific contact point, person or persons or to provide additional safeguards.
7. The Commission is empowered to amend this Regulation, by means of delegated acts, to allow other Union bodies to request and obtain data available in the EU Customs Data Hub in accordance with the rules laid down in paragraphs 3, 3a, 4 and 5 of this Article, and within the limits of what is necessary to perform their tasks under Union law and as long as those tasks relate to other legislation applied by customs authorities.
8. Each Union body covered by this Article shall ensure that the data requested are necessary, appropriate and proportionate. They shall also ensure that the use of the data is in accordance with the safeguards laid down in the applicable Union legislation.

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 other than those referred to in paragraph 1 point (a) who are occasionally involved in activities covered by the customs legislation or by other legislation applied by the customs authorities, or whose personal data is contained in the data collected for risk management purposes pursuant to Article 50(3), point (a).
- (c) data subjects whose personal information is contained in the supporting documents referred to in Article 59b, or in any additional evidence required for the fulfilment of the obligations imposed by customs legislation and other legislation applied by the customs authorities;
- (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;
- (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.

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 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 the 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.

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 or joint controller of relevant processing operation 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.

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), paragraph (3), paragraph (4), points (a) and (e).
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) for joint purpose and by joint means, 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), (d) and (f) to (g).
4. Until 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 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), (c), (e), and (g), of Regulation (EU) 2018/1725, restrict wholly or partly those rights as long as the restriction is necessary and proportionate.
2. 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 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 their reply to the request, of the restriction applied and of the 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 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

The Commission shall adopt delegated acts in accordance with Article 261 to supplement this Regulation in order to specify the data 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.

Article 37

Technical means for cooperation

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. Where economic operators use the EU Customs Data Hub to fulfil customs formalities pursuant to this Regulation, the EU Customs Data Hub shall provide for the functionalities referred to in Article 8(2), (3) and (4) of Regulation (EU) 2022/2399.
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 technical arrangements for interoperability and connection pursuant to paragraphs 3 and 4. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Chapter I

Other provisions

Article 39a

Development, operation and maintenance of the EU Customs Data Hub

1. The Commission shall develop, operate and maintain the EU Customs Data Hub.
2. After consulting the Member States, the Commission may entrust the development, operation and maintenance of the EU Customs Data Hub to the EU Customs Authority, taking into account its readiness to carry out these tasks.
3. The development, operation and maintenance of the EU Customs Data Hub shall include:
 - (a) the establishment of technical specifications to process data within the EU Customs Data Hub;
 - (b) the establishment of a data quality framework;
 - (c) the implementation of the EU Customs Data Hub functionalities provided for in Article 29(1), except for the maintenance and updates in line with the applicable national VAT and excise duty provisions, which shall be done by the Member States;
 - (d) making available general guidance for the use of the EU Customs Data Hub;
 - (e) a public contact point for assistance to EU Customs Data Hub users, including for security threats.
 - (f) to adopt measures to ensure business continuity of the EU Customs Data Hub.

Article 39b
Business continuity

1. The Commission and the EU Customs Authority shall ensure that business continuity measures are in place, where necessary including redundancy, failover mechanisms and data recovery protocols, for the EU Customs Data Hub to operate even in situations of serious crises or for having fall back procedures. Infrastructure sites of the 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. To that end, the Commission shall adopt implementing acts providing for the procedures in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

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.

Title IV

CUSTOMS SUPERVISION, RISK MANAGEMENT AND CUSTOMS CONTROLS

Chapter 1

Customs supervision

Article 41

Customs supervision

1. Goods to be brought into the customs territory of the Union may be subject to risk mitigation measures based, in particular, on the data provided or made available on those goods.
 - 1a. Goods brought into the customs territory of the Union shall be under customs supervision from the time of their entry therein.
2. Goods brought into the customs territory of the Union shall remain under customs supervision until:
 - (a) 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;
 - (b) in the case of Union goods, their customs status is confirmed, unless they are placed under the end-use procedure.
5. Union goods placed under the end-use procedure shall remain under 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 placed under the export or outward processing procedure shall remain under customs supervision until they are taken out of the customs territory of the Union, abandoned to the State or destroyed or until the customs declaration or relevant data on the export or outward processing procedure are invalidated.
7. Union goods placed under the internal transit procedure shall remain under customs supervision until the customs authorities discharge the procedure in accordance with Article 105(2).
- 7a. Goods shall not be removed from the customs supervision without the permission of the customs authorities.
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.

Chapter 3

Customs controls

Article 43

Customs controls

1. Without prejudice to the provisions in Chapter 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 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 :
 - (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.
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

- 1. 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.

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, carrier or holder of the transit procedure. The costs incurred shall be borne by the importer, exporter or holder of the transit procedure.
2. The importer, exporter, 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, 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, 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, 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, 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, exporter, carrier or holder of the transit procedure.
3. The results of the verification made by the customs authorities shall have the same conclusive force throughout the customs territory of the Union.
- 3a. Where customs authorities find that a certain good or certain goods forming part of a consignment are non-compliant, the customs authorities shall assess whether other goods contained in any other consignment present a similar risk in accordance with criteria to be laid down in an implementing act in accordance with paragraph 4. In such cases, the customs authorities may deem the goods concerned to be non-compliant and take risk mitigation measures, where relevant in cooperation with other competent authorities, or refuse the release of those other goods pursuant to Article 60(3).

This paragraph shall not apply where the importer provides proof that the goods that have not been verified are compliant.

4. The Commission shall specify, by means of implementing acts, measures on the results of the verification referred to in this Article and the criteria under which the customs authorities may consider verification results as evidence that other goods presenting a similar risk do not comply as referred to in paragraph 3a. 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, where they are authorised to do so by the customs authorities, by other persons, unless, as a result of unforeseeable circumstances or force majeure, their removal or destruction is essential 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 take samples where appropriate and 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 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:
 - (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.

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

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 risk mitigation measures, and if so, where and when those 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, including those explicitly identified in national or Union law, including 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 ;
 - (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.
- 4a. When taking decisions related to the customs risk management referred to in paragraph 2, the customs authorities take into account available information on non-compliance by an importer, an exporter or a deemed importer with other legislation applied by the customs authorities that has been notified to the customs authorities. That non-compliance shall be taken into account for the purpose of the risk profile of the relevant importer or exporter.

Article 51
Role of the Commission

1. The Commission, taking into consideration, whenever available, the outcome of the process pursuant to Article 208(2a), 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, without prejudice to the role of customs authorities pursuant to Article 51b (1) point (f) and to Article 43.
2. The Commission may in addition:
 - (a) provide policy orientations to the EU Customs Authority on risk management projects and supervision strategies;
 - (b) request the EU Customs Authority to carry out a periodic or ad-hoc evaluation of the implementation of any risk management activities;
 - (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(1).
3. The Commission may, where necessary for the purposes referred to in paragraphs 1 to 2, process and analyse data available in the EU Customs Data Hub and from other sources, including those identified in national or Union law, as well as from authorities other than customs authorities.

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).
2. 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) and the possible outcome of the process referred to in Article 208(2a). In particular:

- (a) It may submit input to the Commission for the establishment of common priority control areas and common risk criteria and standards for any type of risk by the Commission referred to in Article 51(2), point (a);
- (b) It may assist the Commission in establishing the common priority controls areas and common risk criteria and standards, taking into consideration operation knowledge and technical expertise in risk management;
- (c) It shall develop supervision strategies, where appropriate with authorities other than customs, and conduct ad-hoc customs threat assessments as referred to in Article 51(2), point (d).
- (d) It shall exchange relevant data with the customs authorities and with other authorities for the purposes of this Title, where possible through the EU Customs Data Hub, in accordance with Article 53;
- (da) It shall inform OLAF where it identifies or suspects cases of fraud and provide it with all the necessary information related to these cases. It may also inform Europol within the limits of Europol's mandate;
- (db) It shall develop operational guidance for the risk management activities where different customs authorities are involved;
- (e) It shall develop and perform common risk analysis and generate risk analysis results and where 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 and for dealing with crisis situations taking into account the severity of the risk, reasonably expected impact on trade flows and on individual Member States control resources;
- (g) It may provide input to the Commission for the development of the framework on the 'comply or explain principle' for control recommendations, to be used by national customs authorities in the event that the control recommendations were not executed.
- (h) It shall take measures to manage the number of control recommendations, taking into account the reasonably expected impact on trade flows and severity of the risk, 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, including those identified in national or Union law, as well as 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 where necessary or requested by the Commission, on ad hoc basis. It shall provide all necessary information to the Commission in this regard.
4. Until 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.

Article 51b

Roles of national customs authorities

1. The customs authorities shall:
 - (a) perform national risk management activities, including risk analysis, cooperation, and exchange of information on risk management with relevant national authorities, and take risk mitigation measures;
 - (b) implement national processes necessary for the implementation of common risk criteria and standards and common priority control areas;
 - (c) carry out, where appropriate, national risk analysis to implement the risk signals, risk analysis results and control recommendations generated by the EU Customs Authority or other customs authorities and, where necessary, take appropriate risk mitigations measures;
 - (e) issue control recommendations and indicate appropriate risk mitigation measures to the customs authorities of other Member States, taking into account the 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 an explanation to the EU Customs Authority in the event that a control recommendation or risk mitigation measure was not executed;
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, 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 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.
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 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 every year and publish non-sensitive information of the evaluation. 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 EU Customs Authority may request periodic or ad-hoc reports from one or more Member States in this regard unless that information 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 information not available therein from the EU Customs Authority and from the customs authorities.

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 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 controls, 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;
 - (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;
- (g) arrangements for the sharing of risk information between customs authorities, the EU Customs Authority and with the Commission;
- (h) common priority control areas and common risk criteria and standards as referred to in Article 51(1) and (2) and Article 52, including the modalities for their application on an urgent basis where this is necessary:
- (i) the framework on the comply or explain principle in the event that a control recommendation was not executed, referred to Article 51a(4)(i);

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 shall provide or make available in the EU Customs Data Hub the data necessary 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.
 - 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, the [person] 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 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 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 customs value of the goods, the customs authorities may allow 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 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 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 , shall 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 referred to in paragraphs 1 and 2 of this Article;
 - (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 paragraphs 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.

Article 59a

The other forms of notification of availability of the goods

1. The importer, exporter or holder of the transit procedure may provide or make available the notification of availability through:
 - (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.

Article 59b

Information and supporting documents

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 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 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 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 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 5a paragraph 1, 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 importer, exporter or holder of the transit procedure responsible for the goods;
 - (c) the conditions for placing the goods under the procedure concerned pursuant to Articles 59, 88, 94a, 116, 118, 122a, 132, 135, 137 and 140 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 any evidence that the goods do not comply with the relevant other legislation applied by the customs authorities;
 - (c) where they have evidence that the data provided is not accurate.
4. The customs authorities 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 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. If a systematic infringement was determined for an economic operator in accordance with paragraph 5 of Article 254a, then this shall constitute such a reason for all goods notified for arrival for the release for free circulation by this economic operator within at least 6 months since the finding of the infringement;
 - (b) where 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 carry out the consultations provided for in the relevant other legislation applied by the customs authorities, 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 the competent authorities have approved the release;
 - (c) 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, in the absence of such time limit, within 5 days, or
 - (d) maintain the suspension for no longer than 90 days if the other authorities 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.
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 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 under customs procedure, the customs authorities shall record that information in the EU Customs Data Hub and act, 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, further specifying the special cases or determining the additional special cases when customs authorities shall be 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 release the goods on their behalf 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.

1a. 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 perform certain controls on goods under customs supervision. For controls to be carried out pursuant to other legislation applied by the customs authorities, the customs authorities shall consult other relevant authorities before granting such 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. In that case, the customs authorities shall decide on the release or on the control.

4. Where necessary, the customs authorities may 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).
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

Amendment of information for placing goods under a customs procedure

1. Before the date of release, the importer, 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) where customs authority requests them to do so, due to data inaccuracy, incompleteness or quality issues.
- 1a. The importer and the exporter or the holder of the transit procedure may not amend the information where:
 - (a) the customs 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 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.

- 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 the information referred to in paragraphs 1 and 1b 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 the importer, the exporter and the holder of the transit 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 the customs authorities after 200 days from the date in which the information was provided or made available
- 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 on customs declarations

Article 63

Customs declaration

Customs declarations shall be made using electronic data-processing techniques.

3. In specific cases, a customs declaration may be lodged using means other than electronic data-processing techniques.
4. Except where otherwise provided, 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.

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 the date set out in Article 265(3), 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 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 59b.
2. Until 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 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. The customs declaration for release for free circulation of goods sold in distance sales shall be lodged by one of the following:
 - (a) the person permitted to make use of the special scheme laid down in Title XII, Chapter 6, Section 4 of the Directive 2006/112/EC or its indirect representative;
 - (b) the person permitted to make use of the special arrangement laid down in Title XII, Chapter 7 of the Directive 2006/112/EC or its indirect representative;
 - (c) the indirect representative of the importer, where (a) or (b) do not apply;
 - (d) where (a), (b) or (c) do not apply, any other 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.
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.

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 59b 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 or the handling fee.

Article 72

Centralised clearance

1. Until 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 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 the date set out in Article 265(3).

Chapter 4

Disposal of goods

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 or forfeiture to the

State in accordance with the procedures under national law, sale, donation for humanitarian purpose, destruction, 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 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 Articles 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 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, 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, 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, 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 cases where goods can be confiscated.
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

1. Where the customs authorities have reasonable grounds for so doing, they may require goods to which 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, the exporter, the holder of the transit procedure, or the holder of the goods.
3. If they consider it is necessary and proportionate to do so, the customs authorities may, in accordance with national law, seize, destroy or otherwise render inoperable a product that has not been 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, 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

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 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

Article 80

Advance cargo information

1. Goods may enter the customs territory of the Union only if carriers bringing goods into the customs territory of the Union provide or make available advance cargo information on those goods to the expected customs office of first entry within specified time limits.
 - 1a. 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 final destination of the

goods if available, the data on the route and the nature and identification of the means of transport bringing the goods and the transportation cost.

3. The importer may provide part of the advance cargo information referred to in paragraph 1 within specific time limits .
 - 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 to the part of information provided or made available 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 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 and commercially sensitive data 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 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;
 - (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 advance cargo information as referred to in paragraph 1 and the particulars of that information as referred to in paragraph 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, 3 and 5;
 - (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 the person which provides or makes available advanced cargo information may restrict the visibility of the particulars of the identification as referred to in paragraph 5b.
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 5a. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).
9. At the latest by the date set out in Article 264(11) and in accordance with the dates set out in the work programme referred to in point (b) of Article 29(5), the formalities in

accordance with the Articles 80 to 85 submitted in accordance with the rules and data requirements provided for in Regulation (EU) No 952/2013 which apply to the electronic systems that the Member States and the Commission have developed pursuant to Article 16(1) of Regulation (EU) No 952/2013 shall be considered the formalities in accordance with this Regulation.

Article 81

Risk analysis of 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 risk analysis is carried out, primarily for security and safety purposes, in collaboration with other customs offices, where appropriate and, where possible, on the basis of the advance cargo information and other information 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 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 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 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, as referred to in paragraph 1 of this Article.
- 3a. The Commission shall specify, by means of implementing acts, the procedural rules to apply the mitigation measures referred to in paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

4. Until the date set in Article 265(3), the risk analysis shall be carried out based on the entry summary declaration.

Article 82

Amendment of advance cargo information

2. The importer, carrier or other persons referred to in Article 80 shall amend one or more particulars of the advance cargo information where:
 - (a) it comes to their knowledge that the relevant information has changed in their records or that the information is incorrect, or
 - (b) a customs authority requests them to do so due to a data inaccuracy, incompleteness or quality issues, in particular when identified as a result of the risk analysis performed.
- 2a. The importer, carrier or other persons referred to in Article 80 may not amend 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.
- 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 . 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. 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 as soon as it comes to their knowledge that the goods are not to be brought into the customs territory of the Union; or
 - (b) 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.
3. 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 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 or transshipped 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 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 goods to the actual customs office of first entry.
3. Subject to the approval of the customs authority, notification on arrival of the means of transport and 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.
5. By way of derogation from paragraph 1a, the obligation to notify the arrival of the goods shall be waived in the following cases:

- (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 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 goods to the actual customs of first entry.
- 9. The Commission shall specify, by means of implementing acts, the procedure on the notification of arrival referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).
- 9a. At the latest by the date set out in Article 264(11) and in accordance with the dates set out in the work programme referred to in point (b) of Article 29(5), a notification for arrival submitted and a presentation to customs referred to in Article 85(1) in accordance with the rules and data requirements provided for in Regulation (EU) No 952/2013 apply to the electronic systems that the Member States in cooperation with the Commission have developed pursuant to Article 16(1) of Regulation (EU) No 952/2013 shall be considered to be, respectively, the notification of arrival of the means of transport and of the consignments therein.

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.
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.
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.

Article 85

Physical 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.
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. 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. The Commission shall adopt, by means of implementing acts, the procedure regarding the physical presentation of the goods to the customs authority 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 person referred to in Article 83 notifies their arrival to the customs territory of the Union in accordance with Article 83 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 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. 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 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. 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.

- 7a. At the latest by the date set out in Article 264(11) and in accordance with the dates set out in the work programme referred to in point (b) of Article 29(5), a temporary storage declaration shall be submitted in accordance with the rules and data requirements pursuant to Regulation (EU) No 952/2013.

Article 86a

Temporary storage information

1. Non-Union goods for which notification of arrival 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.
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

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).

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).

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. Release for free circulation shall confer on non-Union goods the customs 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/XXXX³⁰, 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 importer for distance sales that has chosen to use the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC, the 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 are paid or guaranteed, unless the goods are the subject of a drawing request on a tariff quota;
- (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 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 or provide for derogations from that point justified for the type of traffic.

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

³⁰ 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...).

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

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 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 92

Goods previously placed under the inward processing procedure

1. Article 90 (1), (2), (5) and (6) shall apply *mutatis mutandis* to processed products that were originally re-exported from the customs territory of the Union subsequent to an inward processing procedure under the condition that the release for free circulation of those processed products entails the collection of the import duty due for the goods which were placed under the first inward processing procedure.

- 1a. If the processed products referred to in the previous subparagraph are placed under a subsequent inward processing procedure, and processed products other than those obtained under the previous inward processing are released for free circulation, the collection of import duty shall be carried out for the goods referred to in the previous subparagraph.
2. The amount of import duty on the goods covered by paragraph 1 shall be determined in accordance with Article 168(3).
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), 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
Export, re-export and exit of goods

Article 94a
Export

1. Union goods 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 are the following:
 - (a) the required data have been provided or made available to the customs authorities;
 - (b) any export duty or other charges due have been paid or are guaranteed; and
 - (c) the goods comply with 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 export duty;
 - (c) the formalities required under provisions 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 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 procedural rules on export and exit as referred to in paragraph 3 point (d). 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

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 to be taken out of the customs territory of the Union shall be re-exported, provided that the relevant re-export data has been provided and that the goods intended to be re-exported comply with the other legislation applied by the customs authorities that applies to non-Union goods.
2. Re-export data shall include, where applicable, the data to discharge the previous customs procedure or to end the temporary storage.
3. Articles 59 to 62a, and 98c shall apply to re-export.
4. Paragraph 1 shall not apply:

- (a) to the non-Union goods placed under the external transit procedure which only pass through the customs territory of the Union.
 - (b) where the goods to be taken out of the customs territory of the Union are unloaded and reloaded into 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.
5. Until 31 December 2037, re-export data may be provided in:
- (a) a re-export declaration, or
 - (b) a re-export notification, where goods are trans-shipped within, or are re-exported directly from a free zone, or from a temporary storage facility.
6. Until 31 December 2037, the provisions laid down in Article 63 to 74 shall apply to the re-export declaration and the re-export notification.
7. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement this Regulation by determining the cases where a re-export notification is lodged and the cases where it can be amended or invalidated.
8. The Commission shall specify, by means of implementing acts, the procedure for lodging, amending or invalidating a re-export notification.
Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

Chapter 1a

Exit of goods

Article 95

Pre-departure information

- 1. Carriers taking goods out of the customs territory of the Union shall provide or make available minimum pre-departure information on those goods to the competent customs authority within the specific time limits and at the latest upon notification of arrival of the goods at the point of exit.

- 1a. The pre-departure information shall contain the particulars necessary for the customs authorities to carry out risk analysis primarily for safety and security purposes.
- 1b. The exporter may provide part or all of the pre-departure information.
- 1c. 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.
- 1d. Where the exporter has already provided or made available all the required pre-departure information, the carrier shall provide additional pre-departure information only where it is aware that the information previously provided is incorrect.

The exporter shall be notified where a carrier links its own pre-departure information to the pre-departure information provided or made available by the exporter.

- 1e. In specific cases, where the carrier or the exporter have not provided or made available all the pre-departure information referred to in paragraphs 0a and 0b other persons holding that information may be required to provide it.
 - 1f. The person who provides or makes available pre-departure information may restrict the visibility of the particulars of the identification and commercially sensitive data to one or more other persons who also provide or make available particulars, without prejudice to the use of all particulars for customs supervision.
2. The obligation referred to in 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) 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;
 - (cd) for goods which are supplied for incorporation as part of or accessories in vessels or aircraft and for the operation of the engines, machines and other equipment of

vessels or aircraft, as well as foodstuffs and other items to be consumed or sold on board.

3. In cases referred to in paragraph 2, re-export data shall be provided or made available in accordance to Article 94c.
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.
8. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to supplement or amend this Regulation by determining:
 - (a) the data of the pre-departure information to be provided or made available to the customs authorities as referred to in paragraph -1;
 - (b) the specific time limits referred to in paragraph -1, 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 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 identification and commercially sensitive data as referred to in paragraph -1 f.
9. The Commission shall specify, by means of implementing acts the procedure for providing and receiving the pre-departure information referred to in this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).
10. At the latest by the date set out in Article 264(11) and in accordance with the dates set out in the work programme referred to in point (b) of Article 29(5), the formalities on the exit of goods submitted in accordance with the rules and data requirements provided for in Regulation (EU) No 952/2013 which apply to the electronic systems that the Member States and the Commission have developed pursuant to Article 16(1) of Regulation (EU) No 952/2013 shall be considered the formalities in accordance with this Regulation.

Article 95a

Risk analysis of the pre-departure information

1. Without prejudice to the activities of the EU Customs Authority set out in Title IV, the competent customs authority shall, within a specific time-limit, ensure that a risk analysis is carried out primarily for safety and security purposes in collaboration with other customs offices, where appropriate and where possible, on the basis of the pre-departure information and other 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 of exit may take appropriate mitigation measures, including:
 - (a) instructing the person who provided or made available the pre-departure information 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;
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.
4. The Commission may 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).
5. At the latest by the date set out in Article 264(11) and in accordance with the dates set out in the work programme referred to in point (b) of Article 29(5), 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 data available in the EU Customs Data Hub.

Article 96

Amendment of the pre-departure information

1. The exporter or persons referred to in Article 95 shall amend one or more particulars of the pre-departure information :

- (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

The exporter or the other persons referred to in Article 95 may not amend the pre-departure information where:

- (-a) 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/data 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).

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 customs authority shall invalidate the pre-departure information without delay in either of the following cases:
 - (a) upon request 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) after 200 days from the date in which the pre-departure information was provided or made available.
- 1a. 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 invalidating the pre-departure information 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 98a

Notification of arrival to the point of exit

0. The carrier shall notify to the customs office responsible for the place where the goods are to be taken out of the customs territory of the Union the arrival of those goods at the point of exit within the specific time limits.
- 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.

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 goods are taken out of the customs territory of the Union.

Article 98b

Physical 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 to be taken out of the customs territory of the Union to the customs authorities 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.

Article 98c

Exit confirmation

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.

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.

Article 102
Authorisation

1. Importers, exporters or their indirect representatives intending to place goods under a special 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;
 - (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 the special procedures or the operation of the storage facilities.

2. The customs authorities shall grant the authorisations referred to in paragraph 1 and 1a only where all of the following conditions are met, except where otherwise provided:
- (a) the applicant is established in the customs territory of the Union;
 - (b) 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 Articles 24 or 25, respectively;
 - (c) 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) in the case of the temporary admission procedure, the applicant uses the goods or arranges for their use;
 - (f) in the case of the inward processing procedure, the 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 ('economic conditions').
3. Unless otherwise justified by the economic nature of the processing, for assessing whether granting an authorisation for an inward processing procedure adversely affects the essential interest of the Union producers, the competent customs authorities shall, before taking a decision on the authorisation, request the reasoned opinion of the EU Customs Authority where:
- evidence exists that the essential interests of Union producers are likely to be adversely affected.
4. For assessing whether granting an authorisation for an outward processing procedure adversely affects the essential interest of the Union producers, the competent customs

authorities shall, before 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 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 as well as by any other customs authorities dealing with similar authorisations.

To provide the opinion, the EU Customs Authority may take account of views and information received from stakeholders as long as they provide the information to the EU Customs Authority within the time limits specified in the procedure.

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 that sensitive information shall be restricted.
 - 6a. Where evidence exists that the interest of Union producers could be adversely affected by the use of an authorization that has already been granted, Member States or the Commission may request the EU Customs Authority to issue an opinion following the procedure in paragraphs 3 and 4.
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 exist 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 paragraphs 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 rules for fixing and monitoring the 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), an examination of the economic conditions referred to in paragraph 2, point (g), shall take place at Union level in accordance with the 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 as provided under paragraphs 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 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. 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 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 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. 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 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, are taken out of the customs territory of the Union, 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 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 .
- 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. 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 intended for distance sales from a private warehouse referred to in Article 122a may be subject to the usual forms of handling which are strictly necessary for the purpose of preparing 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 paragraphs 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;
- (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 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 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 Articles 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), goods 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 under another customs procedure within the time limit set out in Article 86 (5).
2. The holder of the 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 charges unless the customs authorities have data on another importer or exporter.

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 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, 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 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 NATO form 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, to the Commission and to the EU Customs Authority.

Article 115

Authorised consignee and authorised consignor for TIR purposes

1. The customs authorities may, upon application, authorise a person (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 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 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 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 data or making them available to the customs authorities ;
 - (b) notification of availability of the goods 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 notification of availability of the goods 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 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 end the procedure in accordance with Article 105 (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 shall regularly monitor 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 adopt implementing acts specifying 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 required data has been provided or made available to the customs authorities;
 - (b) the goods comply with the relevant other legislation applied by the customs authorities.
 - (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 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.
 - 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 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 262(4).

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, 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 by the holder of an authorisation for customs 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 importers for distance sales that have chosen to use 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 performing 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 125

Processing in a customs warehouse

The customs authorities may, where an economic need exists and customs supervision is not adversely affected, authorise the processing of goods under the inward processing or end-use procedures to take place in 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

Responsibilities of the holder of the authorisation

Without prejudice to Article 20, 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

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 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) 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 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 for discharge of the temporary admission 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 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) an authorisation has been granted in accordance with Article 102;
 - (b) 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 place of release for the customs procedure; and
 - (e) the goods comply with the relevant 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.
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) an authorisation has been granted in accordance with Article 102;
 - (b) 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 place of release for the customs procedure.

3. 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 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 12 months. It shall run from the date of placing the processed products obtained from the corresponding equivalent goods under the export procedure.

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.
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.

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) an authorisation has been granted in accordance with Article 102 and this Article;
 - (b) 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;
 - (d) goods in respect of which a financial advantage 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 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.

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).
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 non-preferential 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 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.
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) 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.
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.

- 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.
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 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.
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, 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 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 157a

Customs value for export duty purposes

- 1. Where export duties are established, the value for export duty purposes shall be determined on the basis of:

(a) *the price actually paid or payable for the goods when sold for export from the customs territory of the Union, provided that the buyer and seller are not related or their relationship did not influence that price, adjusted, where necessary, according to paragraphs 2 and 3 of this Article, and as resulting from the data provided by the exporter; or*

(b) a value based on objective and verifiable data, including the market price of identical or similar goods exported from the Union at the same place and time, where the price referred to in point (a) is unavailable, incomplete, or does not reflect the economic value of the goods.

2. The value for export duty purposes shall include all costs directly linked to the export transaction.
3. The value for export duty purposes shall exclude costs incurred after the goods have left the customs territory of the Union and any payments not related to the exported goods.
4. Where necessary, the customs authorities may request additional evidence in order to verify the data provided by the exporter or to determine the value for export duty purposes in accordance with this Article.
5. The Commission is empowered to adopt delegated acts in accordance with Article 261 to supplement this Regulation in order to determine the data required for the fulfilment of the purposes referred to in this Article.
6. 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. A customs debt on import for placing the goods under release for free circulation procedure, the end-use procedure, or the temporary admission procedure with partial relief from import duty, shall be incurred when the importer notifies the availability of the goods referred to in Article 59(1).
 - 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 the date specified in Article 264/265(3);
 - (c) the acceptance of the payment by the person that has chosen to use 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 customs representative and the person on whose behalf the customs representative is acting 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.

- 3a. Until the EU Customs Data Hub is operational, where a customs declaration is lodged, the declarant shall be considered the debtor. In the event of indirect representation, the person on whose behalf the customs representative is acting shall also be a debtor.

Article 160

Special provisions relating to non-originating goods

1. A customs debt shall be incurred 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 customs debt shall be calculated 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 customs representative and the person on whose behalf the customs representative is acting 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 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 is provided to the customs authorities, and such information leads to all or part of the import duty not being collected, the 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. A customs debt on export for placing goods under the export procedure or the outward processing procedure shall be incurred at the time when the exporter notifies the availability of the goods referred to in Article 59(1).
 - 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 the date specified in Article 264/265(3).

2. The exporter shall be the debtor. In the event of indirect representation, the customs representative and the person on whose behalf the customs representative is acting shall 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 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 penalties, as applicable, for infringements of customs legislation, 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 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 based on the tariff classification, customs value, quantity, destination and origin of the goods. The rules for calculation of duty 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, 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 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. The customs debt shall be incurred:
- (a) where the goods are located, in the cases referred to in Article 5a paragraph 1, point (d) (ii);
 - (b) where the goods are to be delivered, in the cases referred to in Article 5a paragraph 2, letter (a);
 - (c) where the declarant authorised to apply centralised clearance is established, in the cases referred to in Article 5a(2)(c).
 - (d) in the Member State of establishment of the Trust and Check trader referred to in Article 5a(2)(b).

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.
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 ('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. Where the guarantee is linked to the activities of the debtor in one Member State, it 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), (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;
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 a certain threshold
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 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 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 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 forms for the 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 grant the authorisation referred to in Article 170(5) 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 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. 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, 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 paragraphs 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 paragraphs 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 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 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.
2. By way of derogation from paragraph 1, until the date set out in Article 265(3), 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.

A Member State whose currency is not 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, the customs authorities are deemed to have notified the customs debt to the importer or the exporter upon release of the goods.

3. Where the customs authorities must notify the amount of import or export duty payable in accordance with paragraph 1, 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 national or Union authorities that the notification of the customs debt would prejudice a criminal investigation, the customs authorities shall defer that notification until such time as it no longer prejudices the criminal investigation even if that investigation takes place in a different Member State.

4. A Trust and Check trader may calculate the customs debt corresponding to the total amount of import or export duty relating to all the goods that 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 goods.

Upon receipt of the communication the customs authorities are deemed to have notified the customs debt.

5. The importer for distance sales that has chosen to use 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 communication referred to in paragraph 4, amend or invalidate the information provided in accordance with Article 59(2) where goods sold by that importer for 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. That importer for distance sales 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.
6. 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 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;
 - (c) the information to be provided by the Trust and Check trader and the importer for distance sales in the 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; such suspension shall apply from the date on which the appeal is lodged and shall last for the duration of the appeal proceedings; or
 - (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).
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 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.

4. Where customs debt is notified in accordance with Article 181(6), it shall be entered in the accounts 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 entered in the accounts 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, even if that investigation takes place in a different Member State.
- 9a. 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.

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 4, and by determining the period of suspension.

Article 187

Payment

1. Payment shall be made by any means of payment with 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(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.

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.
5. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to amend this Regulation by updating the threshold referred to in paragraph 4 to reflect changes in economic conditions.

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.
- 4a. The Commission is empowered to adopt delegated acts, in accordance with Article 261, to amend this Regulation by updating the threshold referred to in paragraph 4 to reflect changes in economic conditions.

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 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, 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.

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 updating 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. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 262(2).

9a. 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(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 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 by the competent authorities, they have notified an amount corresponding to the customs debt lower than the amount payable, provided that:
- (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, 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 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 incurrance of a customs debt had no significant effect on 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 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.
- (ka) within 5 years from where a customs debt was incurred due to exceeding the quantity and value of goods specified in authorisation for special procedures, where, in case a request to that effect had been submitted within that 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 incurrance 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(2).
2. In the cases referred to in paragraph 1, point (e), the customs debt shall, nevertheless, for the purposes of 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 penalties.
 3. Where, in accordance with paragraph 1, point (g), a customs debt is extinguished in respect of goods released for free circulation 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 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 penalties for infringements of 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, consistent and effective application of restrictive measures adopted in accordance with Article 215 TFEU by monitoring their implementation in the areas falling under its competence and, subject to review and authorisation by the Commission, by providing appropriate guidance to the customs authorities.
2. Customs authorities shall take all necessary steps to comply with the restrictive measures, taking into account the guidance of the EU Customs Authority.

Article 202

Reporting

1. The EU Customs Authority shall regularly and whenever necessary report to the Commission on the implementation of the restrictive measures by the customs authorities, in particular identifying possible discrepancies among Member States. It shall furthermore collect and analyse information on the impact of restrictive measures on trade flows and customs compliance.
2. The customs authorities shall inform the EU Customs Authority, the Commission and the national authorities of the Member States competent for sanctions implementation of any suspicion of cases of circumvention of restrictive measures and of the risk mitigation measures taken. That information shall, wherever possible, be given 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, taking into account the views of the Member States, 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 of:
 - (a) a crisis in one or more Member States that has a significant, or potentially significant impact on the customs formalities and may disrupt the flow of goods, customs controls or related procedures;
 - (b) a crisis in a given sector that requires customs authorities to take coordinated action with relevant authorities.

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 controls and formalities, including payment terms;
 - (b) a collaboration framework to support the temporary deployment of customs officials and customs control equipment among Member States;
 - (ba) fast lanes at borders to minimize delays and backups in freight flows;
 - (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;
 - (bc) the avoidance of trade restrictions concerning crisis-relevant goods as defined in point (6) of Article 3 of Regulation (EU) 2024/2747.
 - (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 upon its own initiative or on the request of one or more Member States or the EU Customs Authority, may adopt 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,
 - (b) take into account the protocols and procedures referred to in Article 203,
 - (c) identify the specific measures and arrangements 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.

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. The Commission may support the EU Customs Authority during the planning stage and in the setting up of such a crisis response cell. The crisis response cell shall be financed by the budget that is granted to the EU Customs Authority.

4. Customs authorities shall implement and apply the measures and arrangements activated 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.

- 4a. The EU Customs Authority shall coordinate and supervise the implementation of the measures and arrangements referred to in paragraph 1 by the customs authorities. It shall assess the effectiveness of their implementation, also taking into account customs authorities' reports referred to in paragraph 4 and report the results to the Commission and to the customs authorities.

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 in Lille, France.

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 contribute to the development, operation and maintenance of the information technologies to implement the procedures laid down in this Regulation and to making optimal use of the available data for customs supervision, control and risk management purposes;
 - (b) To support customs authorities in achieving a uniform implementation of customs legislation, in particular as regard to risk management and customs controls

- (c) To contribute to the operational management of the customs union by coordinating and facilitating the operational cooperation between customs authorities and to pool and provide technical expertise to increase efficiency and delivery of results;
- (d) To contribute to the implementation of other Union legislation applied by the customs authorities.
- (da) To cooperate with Union institutions, other bodies, offices and agencies in areas where their activities relate to the management of goods crossing the external border;

Chapter 2

Tasks

Article 208

Tasks

- 1. 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 then contribute to the efficient operation of the electronic customs environment at Union level.
- 1a. The EU Customs Authority shall carry out data management and 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 support the Member States and the Commission so that they can supervise more efficiently the implementation of the restrictive measures that the Council may adopt in accordance with Article 215(2) TFEU on the flow of goods, to ensure that those measures are not circumvented.
- 2b. 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 to the Commission, which, taking these into account, identifies areas that warrant priority treatment for Council's information and possible consideration.

3. The EU Customs Authority shall perform capacity building activities and provide operational support and coordination to customs authorities and the Commission. In particular, it shall:
 - (a) carry out diagnostics evaluation of customs offices, and develop indicative common standards and issue recommendations for best practices on this basis;
 - (aa) develop indicative common standards and issue recommendations for best practices and monitor their use, in particular in relation to the implementation of the Union Customs Code;
 - (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 training content for customs officers and customs professionals in the Union to complement and support training provided by Member States as appropriate;
 - (d) contribute to the creation of a Union system to recognise the excellence of educational institutions that offer training and education programmes in the customs field, including for AEO and Trust and Check status;
 - (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) prepare and disseminate operational manuals for the practical application of customs processes and working methods, in collaboration with the customs authorities, and develop common standards in this regard; prepare simplified guidelines and manuals

for small and micro enterprises and support their application on Union customs legislation and formalities;

- (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);
- (j) coordinate and support the operational cooperation between customs authorities and with other competent authorities in different Member States in accordance with Title XIII;
- (ja) upon request of a Member State, facilitate and support the cooperation between customs authorities and with other competent authorities within one Member State in accordance with Title XIII;
- (k) plan, organise and coordinate the joint controls referred to in Article 239a;
- (l) provide support and expertise to the Commission for the resolution of complex classification, valuation, and origin cases, and evaluation 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.

The EU Customs Authority shall assist the Commission, at its request, in its management of relations with third countries and international organisations, relating to matters covered by this Regulation.

- 3a. The EU Customs Authority shall develop and maintain communication channels with stakeholders in relation to the Customs Data Hub and facilitate access to information on tariffs, quotas and restrictive measures.
- 3c. The Commission may task the EU Customs Authority to provide support 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 tasks, such as assessing needs, managing funding, coordinating joint procurement, purchasing equipment and facilitating its co-sharing.

Article 210

Further tasks

The EU Customs Authority may be assigned further tasks in the area of free movement, import and export of third country goods, if so provided by relevant Union legal acts. Where such tasks are assigned or entrusted to the EU Customs Authority, appropriate 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;
- (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 post.
- (da) a Customs Advisory Board that shall exercise the functions set out in Article 221a.

Section 1

The Management Board

Article 212

Composition of the Management Board

1. The Management Board shall be composed of one representative from each Member State and two representatives of 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/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 their relevant managerial, administrative and budgetary skills, and experience with policies of the customs union. 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. The term of office for members and their alternates of the Management Board shall be 4 years. That term may be renewed.
- 5a. The Commission, Member States and the European Parliament have the right to revoke the designation of their respective members and alternates. When the mandate of a member of the Management Board or its alternate is revoked, the Commission, the Member State or the European Parliament shall inform the Chairperson and Deputy Chairperson of the Management Board thereof and on its replacement.
- 5b. Each member and alternate shall submit a written statement at the time of taking office declaring that they are not in the situation of conflict of interests. Each member and alternate shall update his or her statement in the case of a change of circumstances with regard to any conflict of interests, or at least on an annual basis.

Article 213

Chairperson of the Management Board

1. The Management Board shall elect a Chairperson and a Deputy Chairperson from among its members with voting rights. If a representative of the Commission is not elected to be the Chairperson, then one of the representatives of the Commission is automatically appointed to be Deputy Chairperson. If a representative of the Commission is elected to be the Chairperson, then the Deputy Chairperson is elected from among the other members of the Management Board 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 meetings without the right to vote.
3. The Management Board shall hold at least two 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 relevant for the discussion to attend its meetings 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. This shall not affect the right of the Member States, the European Parliament and of the Commission to be represented by an alternate. 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

0. The Management Board shall, where relevant, renew the terms of office of the Chair and Deputy Chairperson.
- 1a. The Management Board shall establish an Executive Board at the latest by 3 years after the entry into force of this Regulation.
1. The Management Board shall:
 - (a) give the general orientations of the EU Customs Authority's activities;
 - (b) adopt 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 and make publicly available the rules for the prevention and management of conflicts of interests in respect of its members; and shall publish annually on the EU Customs Authority website a declaration by the Management Board members indicating the absence of any conflicts of interest;
 - (g) adopt and regularly update the communication and dissemination plans referred to in Article 232(3), based on an analysis of needs;
 - (h) adopt and make publicly available 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 Employment³¹ ('the appointing authority powers');
- (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;
- (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 ;
- (ma) appoint members of the Executive Board 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 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.

³¹ 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).

- (p) authorise the conclusion of working arrangements in accordance with Article 240.
- (pa) establish and adopt the rules of procedure of the Customs Advisory Board;
- (q) set up working groups and expert panels to support the EU Customs Authority in fulfilling its tasks and adopt their rules of procedure;
- (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 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;
- (v) adopt a strategy for the organisational management and internal control systems;
- (w) carry out the tasks set out in Article 232;
- (x) adopt performance indicators allowing the evaluation of the performance of the Executive Director;
- (zb) authorise the conclusion of working arrangements in accordance with Article 243;
- (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).
- (vj) initiate the verification by the EU Customs Authority as referred to in Article 25(5a).

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(0), and Article 215(1), points (b), (f), (m), (s), and (zd), which shall require a majority of two-thirds of its members with voting rights.
3. Each member with voting rights shall have one vote. In the absence of a member with the right to vote, his/her alternate shall be entitled to exercise his/her right to vote.
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

1. The Management Board shall be assisted by an Executive Board.
2. The Executive Board shall:
 - (a) guide 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) follow up the implementation of the decisions of the Management Board, with a view to reinforcing supervision of administrative and budgetary management.
- 2a. The Executive Board shall be accountable to the Management Board.
- 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.
- 4. The Executive Board shall be composed of one of the two representatives of the Commission to the Management Board and four other members appointed by the Management Board from among its members with the right to vote and with the aim to ensure gender balance. The Executive Board shall elect the Chairperson 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.
- 4a. The decisions of the Executive Board shall be taken by absolute majority.
- 5. The term of office of members of the Executive Board shall be 2 years and may be renewed once. 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.
- 6. The Executive Board shall hold at least four ordinary meetings a year. In addition, it shall meet on the initiative of its Chairperson or at the request of its members.

7. The Management Board shall lay down the rules of procedure of the Executive Board. Those rules of procedures shall include, inter alia, detailed rules the appointment of the members of the Executive Board, which shall aim at appropriate rotation among the members designated by the Member States taking into account, inter alia, the Member States' diversity.

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, aiming to ensure gender balance.

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.

- 1a. The committee responsible of the European Parliament may invite the candidates for the post of Executive Director to answer questions from its Members before being appointed without delaying the appointment procedure and without constraining the decision making of the Management Board.

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 shall carry out an assessment, in consultation with the Management Board, 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 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.

The committee responsible of the European Parliament may invite the candidates for the post of Executive Director to answer questions from its members before being extended without delaying the appointment procedure and without constraining the decision making of the Management Board.

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. The European Parliament and the Council shall be informed of the reasons.
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. The Executive Director may be called upon at any time by the European Parliament or by the Council to attend a hearing on any matter linked to the Agency's activities.
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 sustainable and efficient 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 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 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 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, amend them, taking into account the needs relating to the EU Customs Authority's activities and sound budgetary management;
- (m) negotiate and, after approval by the Management Board, 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) preparing the practical arrangements for the application of Regulation (EC) No 1049/2001 of the European Parliament and of the Council³² and submitting 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

³² 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).

1. The Management Board may decide to create a post of a Deputy Executive Director to assist the Executive Director.
2. In that case Article 218 shall apply to the Deputy Executive Director accordingly.

Article 221

Tasks and Responsibilities of the Deputy Executive Director

If the post of the Deputy Executive Director is created, the Deputy Executive Director shall assist the Executive Director in the management of the EU Customs Authority and in the performance of the tasks referred to in Article 219. If the Executive Director is absent or indisposed, or the post is vacant, the Deputy Executive Director shall take his or her place.

Article 221a

Customs Advisory Board

1. The EU Customs Authority shall establish a Customs Advisory Board to assist the Authority.
2. The Customs Advisory Board shall serve as a consultation mechanism with relevant stakeholders within the Authority's responsibilities. It is tasked to provide advice:
 - (a) on the implementation of technical actions and decisions;
 - (b) on implementation and standardisation issues, including harmonisation activities;
 - (c) on the operational aspects of other legislation applied by customs;
 - (d) as appropriate in the context of any other activities of the Authority upon request.
3. The Customs Advisory Board shall be comprised of representatives and associations for relevant stakeholders to the work of the EU Customs Authority, including representatives from the business sector. The Management Board shall determine its composition.
5. The Customs Advisory Board shall be consulted regularly and may independently provide advice to the Authority on the subjects listed in paragraph 2(a-c) in this Article.
6. The Customs Advisory Board shall hold at least one ordinary meeting every six months. In addition, it may meet at the request of the Authority's Executive Director, Management Board or Executive Board.

Section 3a
DATA AUDITOR

Article 221b

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 221c

Responsibilities and tasks of the Data Auditor

1. The Data Auditor shall monitor and assess the lawfulness of access to the EU Customs Data Hub, in accordance with the applicable Union law.
2. The Data Auditor shall report on his or her activities on an annual basis to the Management Board.
3. 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.
4. The Commission shall specify, by means of implementing acts, the independent status, the detailed tasks, and the responsibilities of the Data Auditor. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 262(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) 2019/715³³ 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.
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 deleted in comparison with the previous financial year. The Management Board shall

³³ 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).

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 from the 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) revenue from or charges for publications and other goods or services provided by the EU Customs Authority.
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. 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.
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) 2018/1046³⁴ 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.

³⁴ 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).

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 267(3) of Regulation (EU, Euratom) 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.

Article 228

Combating fraud

1. 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 by ...[six months from 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 2185/96³⁵.
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. Article 24 of that Regulation shall apply to the reporting to the EPPO of any relevant criminal conduct.

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.

³⁵ 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).

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.
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 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 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 232a

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. 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.

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) 2015/443³⁶ and (EU, Euratom) 2015/444³⁷. Any administrative arrangement on the exchange of classified information with the relevant authorities of a third country or, in

³⁶ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41).

³⁷ 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).

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.
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 the Commission's prior approval.

Article 234

Language arrangements

1. The provisions laid down in Council Regulation No 1³⁸ shall apply to the EU Customs Authority.
2. The Management Board shall decide on the internal language arrangements for the EU Customs Authority.
3. Translation and all other linguistic services required 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

³⁸ 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).

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.
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 local offices in other Member States 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

2. The Commission shall be responsible for the establishment and initial operation of the EU Customs Authority in accordance with the date established in Article 264 until the EU Customs Authority has the operational capacity to implement its own budget. 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 I
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 other Member State. The EU Customs Authority shall be informed and may propose its support and, with the consent of customs authorities concerned, coordinate such assignments. Member States concerned may lay down all necessary conditions of such assignment in an agreement or working arrangements.
3. Customs authorities of Member States may carry out joint controls on their own initiative in addition to the joint controls referred to Article 239a. They shall inform the EU Customs Authority of such joint controls.
4. The Commission, OLAF and the EU Customs Authority may exchange data in accordance with Title III, for the purpose of the cooperation referred to in this Chapter. Where this encompasses risk information, the 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 239a
Joint controls

1. The EU Customs Authority shall, in cooperation with the Member States, plan, organise and coordinate joint controls carried out by customs authorities.

Where relevant, joint controls may involve cooperation with the Commission or other Union authorities, bodies, offices or agencies, in accordance with Article 240.

2. For this purpose, the EU Customs Authority shall follow the customs policy priorities and ensure the cooperation on the anti-fraud activities conducted by relevant Union authorities and bodies and national customs investigations.
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.

Chapter II

Cooperation with other authorities within the Union

Article 240

Customs cooperation with other authorities within the Union

1. Without prejudice to Regulation (EC) No 515/97 and to Articles 31, 31a and 31b of this Regulation, 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, law enforcement authorities or bodies, statistical authorities, and tax authorities within the applicable legal frameworks.
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 239a;
 - (da) where appropriate, the exchange of skills and best practices through joint trainings on how to detect non-compliant products;
 - (e) contribution to innovation and research activities, development of new technologies and joint procurement in areas relevant for customs.
- 2a. The EU Customs Authority shall, without prejudice to the powers of the Commission and subject to its prior approval, 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. The EU Customs Authority may conclude working arrangements to develop and update such framework. The EU Customs Authority shall involve other relevant parties when it develops the framework or working arrangements referred to in this paragraph.

- 2b. Where, under the cooperation under paragraph 1 customs authorities receive a request for the extraction and communication of data from the EU Customs Data Hub by other national authorities, such data shall be provided only upon justified requests with the approval by the relevant customs authorities concerned with the data.

The extraction and communication shall be limited to data that the receiving authority is entitled to obtain in accordance with the legal framework under which it operates and that are strictly necessary for the purpose stated in the request. Member States shall adopt measures to ensure that Union rules on confidentiality and data protection are complied with.

Customs authorities shall designate a central unit to receive the requests referred to in this paragraph and ensure their processing.

Customs authorities and the EU Customs Authority shall use electronic means for complying with obligations listed in paragraph 1.

- 3a. Where a customs authority suspects that goods are not compliant with other legislation applied by customs authorities, it shall immediately share that information with relevant competent authorities using the technical means and within the time frames provided in the applicable legislation.
4. Where a customs authority cooperates with another authority in a different Member State, it shall notify the customs authority of that Member State about the fact that the cooperation is taking place. Where the cooperation involves more than two Member States, the involved customs authorities shall notify the EU Customs Authority, who upon request may provide operational and coordination support in accordance with Article 208.
5. Where the Member States apply the framework for cooperation as referred to in paragraph 2a of this Article, they shall periodically and at least every two years report to the EU Customs Authority on its application. The EU Customs Authority shall take into account the findings of 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 indicated in Article 238(1), the Commission may carry out the tasks of the EU Customs Authority.
7. The EU Customs Authority may cooperate with other 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. The customs authority of the Member State concerned shall be informed of cooperation with other national authorities.
8. The EU Customs Authority shall closely cooperate with OLAF and EPPO where fraud or suspicion of fraud occurs in any of its cooperation activities.
9. The EU Customs Authority may participate in and contribute to strategic analyses and threat assessments, innovation programmes, training activities, networks and other activities which are relevant for the implementation of its tasks and are organised by Union relevant bodies, offices and agencies.

Article 242

Actions to be taken by the customs authorities

1. Customs authorities shall implement the measures provided in other legislation applicable by the customs authorities in accordance with its provisions. These measures may include, for example:
 - (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 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, as well as reporting suspicions of fraud and crime;
 - (i) following-up where the movement of goods is infringing other legislation applied by the customs authorities;
 - (j) any other complementary action.
2. When a Member State designates a specialised customs border crossing point on certain other legislation applied by the customs authorities, it shall notify the EU Customs Authority about the designation. The EU Customs Authority shall keep up to date and publish a list of these specialised customs border crossing points. 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.
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.

Chapter III

Customs cooperation with other authorities outside the Union

Article 243

Customs cooperation with authorities of third countries and international organisations

1. The EU Customs Authority may, to the extent necessary for its tasks, after consulting the Commission and subject to its prior approval, conclude working arrangements with customs authorities and other competent authorities of third countries, as well as with

international organisations. Those working arrangements may include joint activities and sharing best practices.

2. The working arrangements referred to in paragraph 1 shall be limited to the tasks of the EU Customs Authority and shall not create legal obligations for the Union or its Member States.
3. The EU Customs Authority shall inform the customs authorities of the Member States of the working arrangements referred to in paragraph 1.

Article 243a

Bilateral agreements with third countries

1. Where the Member States enter into negotiations with a third country with a view to conclude bilateral agreements on the implementation of customs legislation, they shall, without undue delay, notify the draft agreements that they intend to sign to the Commission.
2. Before concluding or amending any bilateral agreement on shared border crossing points with a neighbouring third country, the Member State concerned shall consult the Commission as to the compatibility of the agreement with Union law. If the Commission considers the agreement to be incompatible with Union law, it shall notify the Member State concerned. The Member State shall take all appropriate steps to amend the agreement within a reasonable period in such a way as to eliminate the incompatibilities established.
3. Member states shall notify the existing bilateral agreements to the Commission by (OJ please insert the date of application of this regulation).

Article 244

Exchange of data with third countries

1. The Commission, the customs authorities, and the EU Customs Authority 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 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 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.

The exchange referred to in paragraph 1 shall:

- (a) ensure that the transfer of personal data is in conformity with the Chapter V of Regulation (EU) 2016/679, as applicable;
- (b) ensure the confidentiality information in accordance with this Regulation; and
- (c) ensure that the exchange of data takes place through appropriate secure; means of communication.

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 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.
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) 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. When an EU agreement on exchange of information referred to in paragraph 1 between the EU and a given third country enters into force, this agreement shall take precedence over any relevant parts of existing bilateral agreements, which may no longer be used.
- 5a. Existing agreements which provide for the exchange of customs-related information shall be notified to the Commission upon the entry into force of this Regulation. If the Commission considers the agreement to be incompatible with Union law, it shall notify the Member State concerned. The Member State shall take all appropriate steps to amend the agreement within a reasonable period set by the Commission in such a way as to eliminate the incompatibilities established.
6. The Commission is empowered to adopt a delegated act in accordance with Article 261, to supplement this Regulation by determining conditions and procedures according to which a Member State can be empowered to enter into negotiations referred to in paragraph 5. These shall include the requirement that the Member State concerned shall notify its intention to conclude such bilateral agreement and its content to the Commission, EU Customs Authority and all other Member States. The Commission 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. The Commission shall decide within 60 days from receipt of the notification, by means of an implementing act, whether to authorise the Member State to enter into 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

INFRINGEMENTS OF CUSTOMS LEGISLATION AND NON-CRIMINAL PENALTIES

Article 245

Subject matter and general provisions

1. This Title provides for a minimum list of infringements of customs legislation and non-criminal penalties for those infringements. Member States shall lay down in their national law infringements of customs legislation and non-criminal penalties applicable to these infringements, in accordance with this Title.
2. This Title does not prevent Member States from providing for additional infringements of customs legislation or from taking more stringent measures for infringements of customs legislation.
3. Penalties for infringements of customs legislation shall be effective, proportionate and dissuasive.
4. Member States shall notify to the Commission the provisions of their national law which they adopt pursuant to this Title by [DQL: 180 days from the date of application of this Article] and, without delay, any subsequent amendment affecting such provisions.

Article 252

Infringements of customs legislation

1. Without prejudice to Article 200, 245 and 254, Member States shall ensure that at least the following infringements of customs legislation are subject to penalties laid down in their national law:

- (a) failure of the holder of a customs decision to comply with the obligations resulting from that decision;
 - (b) failure to comply with the obligation to provide or make available complete, accurate data to customs authorities in accordance with customs legislation;
 - (c) failure to comply with the obligation to keep records required by customs legislation;
 - (e) failure to comply with the rules on removal of goods from customs supervision;
 - (f) failure to comply with the obligations on customs procedures;
 - (g) failure to comply with the obligations of an importer, in accordance with Article 20(1);
 - (ga) failure to comply with the obligations of an exporter, in accordance with Article 22(1).
2. Paragraph 1 is without prejudice to the right of Member States to provide for further conduct, acts or omissions that constitute infringements of customs legislation.

Article 254

Penalties

1. Member States shall ensure that when deciding whether to impose a penalty and deciding on the type or severity thereof due regard shall be given to the following:
- (a) whether customs infringements are committed intentionally or negligently;
 - (b) the nature, gravity, repetition and duration of the customs infringement;
 - (c) the impact on the financial and other security and safety interests of the Union and of the Member States;
 - (ca) the degree of cooperation with the customs authority in order to remedy the infringement and mitigate the possible adverse effects of the infringement;
 - (cb) any other mitigating or aggravating circumstances of the case, in accordance with national law.

2. Penalties shall take at least one of the following forms:
 - (a) a pecuniary charge by the customs authorities, or, where appropriate, a penalty imposed by the competent customs authorities through a settlement procedure applied instead of a criminal penalty;
 - (b) revocation, suspension or amendment of an authorisation held by the person concerned.
 - (c) confiscation of the goods involved in the infringement of customs legislation;
 - (d) a warning;
 - (e) other penalties.
3. All non-criminal penalties for infringements of customs legislation imposed by customs authorities shall be recorded by indicating the nature of infringement, the amount of the pecuniary charge imposed or any other non-criminal penalty imposed for that infringement. This information shall be made available to the EU Customs Authority through the EU Customs Data Hub.
4. By 6 years after the entry into force of this Regulation the Commission in consultation with the EU Customs Authority shall evaluate the application of this Article and assess whether the pecuniary charges are imposed efficiently across the Member States and do not lead to any distortions of the internal market, where there is a need to set out harmonised pecuniary charges for infringements. Based on the outcome of this evaluation, the Commission may, where appropriate, present a legislative proposal to amend this Regulation.

Article 254a

Penalties for systematic non-compliance in the case of distance sales

1. Where, in the context in the release for free circulation of goods sold in distance sales, the customs authorities determine systematic failure by the same economic operator to comply with the obligations referred to in Article 252(1), this shall be considered a systematic infringement and Member States shall ensure that the penalties imposed for that infringement take at least the form of pecuniary charges of at least 1% and up to 4% of the

total value of the goods imported into the Union by that economic operator during the preceding 12 months.

2. For the purposes of this Article, the failure to comply by the economic operator shall be considered systematic where the results of a substantive number of customs controls within one calendar month show non-compliance in a sufficiently representative number of cases.
3. Where a systematic infringement referred to in paragraph 1 is determined, the competent authorities shall also suspend, revoke or annul any trusted trader status, AEO or equivalent facilitation granted under this Regulation to the economic operator who committed that infringement.
4. Where, within the period of 6 months following imposition of a penalty referred to in paragraph 1, customs authorities determine an additional such infringement by the same economic operator the penalties imposed for that infringement shall take at least the form of pecuniary charges of at least 3% and up to 6% of the total value of the goods imported into the Union by that economic operator during the preceding 12 months.
5. Where, within the period of 6 months following imposition of a penalty referred to in paragraph 4, customs authorities determine an additional such infringement as referred to in paragraph 1 by the same economic operator the penalty for such further systematic infringement shall take at least the form of one of the penalties referred to in paragraph 4. Where relevant and taking into the gravity of such further systematic infringement, the penalty may additionally take the form of a temporary restriction of access to the online interface of this economic operator. For that purpose, the competent customs authority shall transmit the information about the infringement to the relevant authorities without undue delay. In addition, measures shall be taken in accordance with Article 60(4) point (a).
6. The Commission shall adopt delegated acts not later than 1 March 2028 in accordance with Article 261, to supplement this Regulation by determining the substantive number of controls, taking into account the volume and impact of relevant distance sales, and the threshold of cases based on the gravity of the infringement that is considered sufficiently representative for the purpose of determining systematic failure, as referred to paragraph 2.

Article 254b

Classification of high-risk economic operators

1. If a penalty is imposed under Article 254a, the relevant importer for distance sales shall be classified as a high-risk operator in the EU Customs Data Hub, in accordance with Article 50(2).
2. Such a classification shall be taken into account in:
 - (a) customs risk management in accordance with Article 50 of this Regulation; and
 - (b) the establishment and implementation of common priority control areas and common risk criteria in accordance with Articles 51, 51a and 51b of this Regulation.

Article 254c

Cooperation between Member States

1. Where an infringement of customs legislation falls within the jurisdiction of more than one Member State, the competent authorities of those Member States shall cooperate in accordance with applicable legislation.
2. For the purposes of paragraph 1, the EU Customs Authority may support and facilitate the cooperation between the competent authorities of the Member States.

Title XV

FINAL PROVISIONS

Chapter 1

Performance measurement of the customs union

Article 255

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 the

national and local levels. Such measurement may build on existing tools developed by the Commission and Member States for this purpose.

2. Member States and the EU Customs Authority shall assist the Commission with the task referred to in paragraph 1. In particular:
 - (a) Member States shall provide data to the EU Customs Authority containing information both from national and local level. The data shall allow the production of input, activity and outcome indicators of performance;
 - (b) based on those data and other available information, the EU Customs Authority shall identify how customs activities, operations and the resources assigned to those 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, including information on the functioning of the authorised economic operator and Trust and Check trader status, as referred to in Article 25.
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.
- 3a. No later than [OJ: please insert the date of 1 year after publication], the Commission shall assess the functioning of the Union handling fee referred to in Article 18(1a), including the impact on the functioning of distance sales. The Commission shall present such assessment to the European Parliament and to the Council.
4. The Commission shall specify, by means of implementing acts, the data referred to in paragraphs 2, point (a) and 3a, 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).

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 Authority in the EU Customs Data Hub.

Article 258

Evaluation and reporting

0. 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. The non-confidential part of that report shall be publicly available.
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 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.
 - (ba) an overview of the disaggregated costs incurred by the Union and by the Member States for the implementation of this Regulation.
2. Unless otherwise available in the EU Customs Data Hub, at 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 1.

4. By 31 December 2031, 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 5a(3), second subparagraph, and Article 169(1) second subparagraph.

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 Article 4, Article 5a(6a), Article 6(8) and 8a, Article 7(10), Article 10(5), Article 14(13), Article 18(3), Article 19(6), Article 23(9), Article 27(6), Article 29(4), Article 31(13), Article 31b(7), Article 36, Article 56(4), Article 58(3), Article 59(5), Article 60(9), Article 61(6), Article 62(2a), Article 62a(2), Article 63(5), Article 65(3), Article 66(6), Article 71(4), Article 72(7), Article 73(5), Article 77(4), Article 80(7), Article 81(3), Article 82(3a), Article 83(8), Article 85(4), Article 86(7), Article 86a(4), Article 86b(3), Article 86c(2), Article 86d(8), Article 88(4), Article 90(7), Article 94a(4), Article 94c(5), Article 95(8), Article 95a(3), Article 96(1b), Article 98a(2), Article 102(7), Article 104(2a), Article 105(5), Article 106(3a), Article 107(2), Article 108(2), Article 109(5), Article 111(4), Article 115(3), Article 116(6), Article 118(4a), Article 122a(4), Article 132(3), Article 135(8a), Article 137(3b), Article 139(2), Article 140(4a), Article 148(3), Article 150(10a), Article 156(3), Article 157a(5),

Article 167(3), Article 168(8), Article 169(5), Article 170(9), Article 173(3), Article 175(4), Article 176(5), Article 179(3), Article 181(7), Article 186(5), Article 190(5), Article 192(4), Article 193(8), Article 199(8), Article 244(6), 254a(6), 258(3a) shall be conferred on the Commission.

3. The delegation of power referred to in Article 4, Article 5a(6a), Article 6(8) and 8a, Article 7(10), Article 10(5), Article 14(13), Article 18(3), Article 19(6), Article 23(9), Article 27(6), Article 29(4), Article 31(13), Article 31b(7), Article 36, Article 56(4), Article 58(3), Article 59(5), Article 60(9), Article 61(6), Article 62(2a), Article 62a(2), Article 63(5), Article 65(3), Article 66(6), Article 71(4), Article 72(7), Article 73(5), Article 77(4), Article 80(7), Article 81(3), Article 82(3a), Article 83(8), Article 85(4), Article 86(7), Article 86a(4), Article 86b(3), Article 86c(2), Article 86d(8), Article 88(4), Article 90(7), Article 94a(4), Article 94c(5), Article 95(8), Article 95a(3), Article 96(1b), Article 98a(2), Article 102(7), Article 104(2a), Article 105(5), Article 106(3a), Article 107(2), Article 108(2), Article 109(5), Article 111(4), Article 115(3), Article 116(6), Article 118(4a), Article 122a(4), Article 132(3), Article 135(8a), Article 137(3b), Article 139(2), Article 140(4a), Article 148(3), Article 150(10a), Article 156(3), Article 157a(5), Article 167(3), Article 168(8), Article 169(5), Article 170(9), Article 173(3), Article 175(4), Article 176(5), Article 179(3), Article 181(7), Article 186(5), Article 190(5), Article 192(4), Article 193(8), Article 199(8), Article 244(6), 254a(6), 258(3a) 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 Article 4, Article 5a(6a), Article 6(8) and 8a, Article 7(10), Article 10(5), Article 14(13), Article 18(3), Article 19(6), Article 23(9), Article 27(6), Article 29(4), Article 31(13), Article 31b(7), Article 36, Article 56(4), Article 58(3),

Article 59(5), Article 60(9), Article 61(6), Article 62(2a), Article 62a(2), Article 63(5), Article 65(3), Article 66(6), Article 71(4), Article 72(7), Article 73(5), Article 77(4), Article 80(7), Article 81(3), Article 82(3a), Article 83(8), Article 85(4), Article 86(7), Article 86a(4), Article 86b(3), Article 86c(2), Article 86d(8), Article 88(4), Article 90(7), Article 94a(4), Article 94c(5), Article 95(8), Article 95a(3), Article 96(1b), Article 98a(2), Article 102(7), Article 104(2a), Article 105(5), Article 106(3a), Article 107(2), Article 108(2), Article 109(5), Article 111(4), Article 115(3), Article 116(6), Article 118(4a), Article 122a(4), Article 132(3), Article 135(8a), Article 137(3b), Article 139(2), Article 140(4a), Article 148(3), Article 150(10a), Article 156(3), Article 157a(5), Article 167(3), Article 168(8), Article 169(5), Article 170(9), Article 173(3), Article 175(4), Article 176(5), Article 179(3), Article 181(7), Article 186(5), Article 190(5), Article 192(4), Article 193(8), Article 199(8), Article 244(6), 254a(6), 258(3a) 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.

- 6a. By derogation to paragraph 6, the delegated act adopted pursuant to Article 264a shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 30 days 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.

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 pursuant to Regulation (EU) No 952/2013 or adopted pursuant to legal acts replaced by that Regulation or by previous versions of that Regulation, shall continue to apply 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 the date set out in Article 264(9), 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 the date set out in Article 264(9), 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 the day after publication in the Official Journal of the European Union.

2. The following provisions shall apply from the day of the entry into force of this Regulation:
 - (a) Articles 5, indents (35), (47) and (64l);
 - (a) Article 18, except paragraphs 1, 1a and 1c;
 - (c) Article 31(12) – for the existing electronic systems developed by Commission
 - (d) Article 67(2) – customs declarations until the date set out in Art. 264(7)
 - (e) Articles 153a and 157(3a);
 - (f) Article 157a;
 - (g) Articles 205 to 207, 211 to 221, 229 to 238;
 - (h) Article 28a to 29a and Article 39a;
 - (i) the provisions empowering the Commission to adopt delegated acts as referred to in Article 261 and implementing acts as referred to Article 262.
3. Article 18(1a) shall apply as from 10 days after the entry into force of the delegated act adopted pursuant to Article 265(1).
4. All other provisions shall apply from [OJ: please insert 12 months after entry into force].
5. By way of derogation from paragraph 4 of this Article, the following provisions shall apply from 1 July 2028:
 - (a) Articles 18c, 59, 59a, 88(3) point (aa), 122a, 159(1a) point (c), 167(1a), 199(1) point (m);
 - (b) Article 31, except paragraph 12, and Articles 31a to 33;
 - (c) Article 61;
 - (d) Articles 181(4) and 181(5), 184(2).
6. Until 30 June 2028 all goods intended to be placed under a customs procedure shall be covered by a customs declaration appropriate for the particular procedure.

7. From 1 July 2028, importers for distance sales or persons that have chosen to make use of the special scheme laid down in Title XII, Chapter 6, Section 4 of Directive 2006/112/EC 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. Accordingly, the relevant delegated and implementing acts referred to in Article 29 and 36 shall be adopted not later than 1 July 2027 and the functionalities of the EU Customs Data Hub shall become operational no later than 1 June 2028.
8. Until 28 February 2031, importers other than the persons referred to in paragraph 7 of this Article, exporters and holders of the transit procedure shall, for placing goods under a customs procedure, lodge a customs declaration appropriate for the particular procedure.
9. From 1 March 2031, 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 in accordance with Article 59., Accordingly, the relevant delegated and implementing acts referred to in Article 29 and 36 shall be adopted not later than 1 March 2029.
10. From 1 March 2034, 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. Accordingly, the relevant delegated and implementing acts referred to in Article 29 and 36 shall be adopted no later than 31 January 2033.
11. The functionalities of the EU Customs Data Hub laid down in Article 29 shall be fully operational at the latest by 1 February 2034.
12. In case of exceptional circumstances where a relevant functionality of the EU Customs Data Hub is not operational by the deadlines set out in this Regulation, the Commission shall provide a transitional solution in coordination with the Member States by the same deadlines. The transitional solution shall be in place for not longer than 6 months after the deadlines set out in this Regulation, while making sure that the relevant functionality of the EU Customs Data Hub will be operational by then.

Article 265

Transitional measures related to the date of adoption of certain delegated acts

1. By [OJ: please insert the date of 10 days after the publication of this Regulation] the Commission shall adopt a delegated act establishing the amount of Union handling fee referred to in Article 18, paragraph 1a and 1b, pursuant to the empowerment in Article 18(3).

Done at Brussels,

For the European Parliament
The President

For the Council
The President

Annex³⁹
Correlation table

Regulation (EU) 952/2013	This Regulation
Article 1	Article 1
Article 3	Article 2
Article 4	Article 3
Article 2	Article 4
Article 5	Article 5
Article 22	Article 6
Article 23	Article 7
Article 26	Article 8
Article 27	Article 9
Article 28	Article 10
Article 29	Article 11
Article 30	Article 12
Article 33	Article 13
Article 34	Article 14
Article 43	Article 15
Article 44	Article 16
Article 45	Article 17
Article 52	Article 18
Article 9	Article 19
—	Article 20
—	Article 21
—	Article 22
Article 38	Article 23
Article 39	Article 24
—	Article 25
—	Article 26
Article 18	Article 27
Article 19	Article 28

³⁹ NOTE: the correlation table will be updated at the stage of legal-linguistic revision.

Regulation (EU) 952/2013	This Regulation
—	Article 29
—	Article 30
—	Article 31
—	Article 32
—	Article 33
—	Article 34
—	Article 35
—	Article 36
—	Article 37
Article 13	Article 38
Article 14	Article 39
Article 51 and 163	Article 40
Articles 134(1) first sentence and 158	Article 41(1)
Article 134(1) second subparagraph	Article 41(2)
Article 134(1) fourth subparagraph	Article 41(3)
Article 158(3)	Article 41(6)
Article 134(2)	Article 41(7)
Article 159 (1) (2)	Article 42 (1) (2)
Article 46(1)	Article 43 (1) (2)
Article 47(1)	Article 43(3)
Article 188(1)	Article 44 (1)
Article 189	Article 45 (1) (2) (3)
Article 190 (1)	Article 45(4)
Article 191	Article 46
Article 192	Article 47
Article 48	Article 48 (1) (2)
Article 49	Article 49
Article 46(4) second subparagraph	Article 50 (2)
Article 46(6) (7)	Article 52
Article 153	Article 51
Article 154	Article 52
—	Article 53
—	Article 54

Regulation (EU) 952/2013	This Regulation
—	Article 55
Article 153	Article 56
Article 154	Article 57
Article 155	Article 58
—	Article 59
Article 194 (1) first subparagraph	Article 60 (2)
	Article 61
Article 129	Article 62 (1) (2)
Article 158(1) (2)	Article 63 (1) and (3)
Article 159(3)	Article 63 (4)
Article 162	Article 64
Article 166	Article 65
Article 167	Article 66
Article 170	Article 67
Article 171	Article 68
Article 172	Article 69
Article 173	Article 70
Article 174	Article 71
Article 179	Article 72
Article 182	Article 73
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Article 197	Article 76
Article 198	Article 77
Article 199	Article 78
Article 127 (1)	Article 79
Article 127 (3) first subparagraph and (4) first subparagraph	Article 80 (1)
Article 127 (2)	Article 80 (6)
Article 128	Article 81 (1)
Article 129	Article 82
Articles 133	Article 83
Article 135	Article 84

Regulation (EU) 952/2013	This Regulation
Article 139	Article 85
Article 147 (1) (2)	Article 86 (2) (3)
—	Article 87
Article 201 (1)	Article 88 (1)
Article 201 (2)	Article 88 (3)
Article 202	Article 89
Article 203	Article 90
Article 204	Article 91
Article 205	Article 92
Article 208	Article 93
—	Article 94
Article 263 (1) (2), 270, 271, 274	Article 95 (1) (2)
Article 272 and 275	Article 96
Article 264	Article 97
—	Article 98
Article 269 (1) and 274	Article 99 (1)
Article 277	Article 100
Article 210	Article 101
Article 211	Article 102
Article 211 (2)	Article 103
Article 214	Article 104
Article 215	Article 105
Article 218	Article 106
Article 219	Article 107
Article 220	Article 108
Article 223	Article 109
—	Article 110
Article 226	Article 111
Article 227	Article 112
Article 228	Article 113
Article 229	Article 114
Article 230	Article 115
Article 233	Article 116

Regulation (EU) 952/2013	This Regulation
Article 234	Article 117
Articles 237 and 246	Article 118
Article 145 (1)	Article 119 (1)
Article 146	Article 120
Article 238	Article 121
Article 240	Article 122
Article 148 (1) (2) (3)	Article 123
Articles 148 (5) (6) and 240 (3)	Article 124
Article 241	Article 125
Article 242	Article 126
Article 243	Article 127
Article 244	Article 128
Article 247	Article 129
Article 248	Article 130
Article 249	Article 131
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Article 254	Article 135
Article 255	Article 136
Article 256	Article 137
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Article 258	Article 139
Article 259	Article 140
Article 260	Article 141
Article 260a	Article 142
Article 261	Article 143
Article 262	Article 144
Article 56	Article 145
Article 57	Article 146
Article 59	Article 147
Article 60	Article 148
Article 61	Article 149

Regulation (EU) 952/2013	This Regulation
Article 64	Article 150
Article 67	Article 151
Article 69	Article 152
Article 70	Article 153
Article 71	Article 154
Article 72	Article 155
Article 73	Article 156
Article 74	Article 157
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Article 78	Article 160
Article 79	Article 161
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Article 86	Article 168
Article 87	Article 169
Article 89	Article 170
Article 90	Article 171
Article 91	Article 172
Article 92	Article 173
Article 93	Article 174
Article 94	Article 175
Article 95	Article 176
Article 96	Article 177
Article 97	Article 178
Article 98	Article 179
Article 101	Article 180
Article 102	Article 181
Article 103	Article 182

Regulation (EU) 952/2013	This Regulation
Article 104	Article 183
Article 105	Article 184
Article 107	Article 185
Article 108	Article 186
Article 109	Article 187
Article 110	Article 188
Article 111	Article 189
Article 112	Article 190
Article 113	Article 191
Article 114	Article 192
Article 116	Article 193
Article 117	Article 194
Article 118	Article 195
Article 119	Article 196
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Article 121	Article 198
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Regulation (EU) 952/2013	This Regulation
—	Article 216
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Regulation (EU) 952/2013	This Regulation
—	Article 249
—	Article 250
—	Article 251
—	Article 252
—	Article 253
—	Article 254
—	Article 255
—	Article 256
—	Article 257
—	Article 258
Article 53	Article 259
Article 56	Article 260
Article 284	Article 261
Article 285	Article 262
Article 286	Article 263
Article 287	Article 264
Article 288	Article 265

Commission statement on budgetary nature of the Union Handling Fee

Once established in the Union Customs Code, the Union handling fee will constitute a traditional own resource (TOR) within the meaning of Article 2(1)(a) of [current Own resources decision] Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union, because it is an amount to be established by the institutions of the Union in respect of trade with third countries.

Accordingly, under the current Own Resources Decision (ORD), Member States retain 25% of TOR whereas the rest is EU budget revenue.

However, Article 13(9) of the Commission Proposal for the new Own Resources Decision introduces a transitory measure under which the handling fee shall not be made available to the Union budget until the end of this MFF. Should this provision be agreed, it would mean that the Member States would be the beneficiaries of the revenue generated by the fee until the end of 2027.

The details of implementing such an agreement will be laid down in the Making Available Regulation proposal.

Until this provision is agreed by the Member States and enters into force, the provisions of the ORD currently in force apply. It is hence in the clear interest of the Member States to agree on the new Own Resources Decision as soon as possible.

Narrative revised LFS customs reform

With the negotiations on the customs reform proposal close to conclusion, the Commission is preparing a revised Legislative Financial Statement to present to the co-legislators during the final political trilogue.

Without pre-empting the final agreement, the need to revise the budget to implement the reform is mainly driven by two major results of the negotiations:

1. First, **the need to frontload the recruitment of EUCA's staff** to allow earlier delivery on the EU Customs Data Hub for Trust and Check traders (and others on a voluntary basis) by year x and all other traders by year z.
2. Second, a call for **more staff because of the additional tasks** assigned by co-legislators to the EUCA.

The revision only has an impact on the budget required under the next MFF as for the current MFF the Commission will ensure the necessary funds are foreseen for the e-commerce Data Hub through redeployment. The Commission can provide EUR 62 million⁴⁰ to cover the earlier than originally proposed tasks of EUCA – in particular the early deployment of the e-commerce Data Hub and other related tasks. The Commission will develop the core functionalities of that part of the Data Hub and hand-over to EUCA by July 2028.

In line with the interinstitutional agreement⁴¹ on budgetary discipline, cooperation in budgetary matters and sound financial management from 2020, the Commission has agreed to assist the co-legislators with the assessment of the impact of their amendments on EUCA's resources (staff). This assessment points to a need to increase EUCA's staff with **35 FTEs and to frontload the staff already envisaged in the current LF(D)S**. A detailed analysis of the amendments and their impact in terms of required FTEs can be found in **Annex 1**. Importantly, to optimize Member States' involvement in EUCA's activities further strengthening EUCA's resources could be considered through the additional and proportionate inclusion of **25 cost-free seconded national experts (SNEs)**

⁴⁰ €62 M are composed by €55 M of internal redeployment and € 7 M of cost savings. Of the € 55M reserved for the e-Commerce Data Hub, € 1,2M were used in 2025. The remaining € 53,8M should be covered for € 3,2M in 2026 and € 50,6M to be put in a global transfer for use in 2027 to finance e-commerce Data Hub procurement. Further to this, in order to enable the e-Commerce implementation, the required existing systems of customs and taxation (IOSS, TARIC, SURV, ICS2 etc.) for e-commerce shall be adapted to interface with the Customs Data Hub and share essential data for e-commerce purposes.

⁴¹ [eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020Q1222\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020Q1222(01))

from Member States. **Table 1** below provides an **overview of the revised total of EUCA staff (FTE)** at cruising speed in 2034.

Table 1. Revised total of EUCA staff (FTE):

COM proposal	250
Amendments co-legislators	+ 35
TOTAL	285
Additional cost-free SNEs	+25

Without prejudice to the eventual recruitment strategy by EUCA, the **updated breakdown of the staff per job category** compared to the Commission proposal would be updated accordingly as follows:

Table 2. Breakdown per job category

Administrative ⁴²	Data/IT (Data Hub) ⁴³	Coordination/Capacity building ⁴⁴
27 (22 + 5)	128 (115 + 13)	130 (113 +17)

Split down, this results in the updated **year-by-year recruitment planning** illustrated in Table 3.

Table 3. Year-by-year recruitment planning (comprising front loading of already planned resources and additional 35 FTEs)

	2026	2027	2028	2029	2030	2031	2032	2033	2034
Total									
<i>COM proposal</i>	7	14	30	50	90	140	190	230	250
<i>Revised</i>	7	16	80	125	167	210	237	257	285

⁴² *Administrative* profiles would deal with issues such as human resources, finance, accounting, legal affairs, communications, quality control and audit, administrative support to senior management, the EUCA's own IT, and logistics.

⁴³ *Data/IT* profiles would deal with the EU Customs Data Data Hub including management of IT development, operations and infrastructure, data projects and their management and data governance.

⁴⁴ *Co-ordination and Capacity building* profiles would deal with the operational co-ordination of work involving the Member States customs and co-operation with other external experts, in areas including risk management, crisis management, co-operation with other non-customs authorities, training and guidance on working methods

Administrative									
<i>COM proposal</i>	6	8	12	20	22	22	22	22	22
<i>Revised</i>	6	9	27	27	27	27	27	27	27
Data and IT									
<i>COM proposal</i>	1	4	10	18	40	65	90	105	115
<i>Revised</i>	1	5	30	50	70	90	100	110	128
Coordination/capacity building									
<i>COM proposal</i>		2	8	12	28	53	78	103	113
<i>Revised</i>		2	23	48	70	93	110	120	130

Staff recruitment under the current MFF would slightly increase from 14 to 16 FTEs, which would be covered by the Commission through reallocation within the limits of available funds. To allow earlier delivery on the Data Hub, a gradual frontloading of EUCA's staff in data/IT is foreseen from year 2028 onwards. In addition, the administrative staff executing the necessary support, budgetary and HR functions are recruited earlier as are part of the risk management experts (covered under coordination/capacity building).

Budgetary impact

For the current MFF the necessary funds will be secured through internal redeployment of funds by the Commission. For the development of e-commerce Data Hub, the Commission will manage to cover the budgetary needs of 62.5M under its current budget through internal reallocation and additional savings resulting from cost efficiencies.

For the next MFF, the budget estimations for the Data Hub remain stable compared to the Commission's initial proposal in 2023. However, the frontloading of EUCA's staff recruitment and additional staff required for the new tasks added by the co-legislators increase the costs under EUCA's budget line for the next MFF with EUR 83 million. Overall, the costs of the reform under next MFF would go up with 4.5%. **Table 4** below provides an **overview of the total costs for the Data Hub, EUCA and the reform overall**.

Table 4. Total costs next MFF

	Table 4. Total cost (millions €) next MFF 2028-2034		
	Data Hub⁴⁵	EUCA⁴⁶	Total
LFS 2023 (proposal)	1 574.594	280.471	1 855.065
Revised LFS	1 574.594	363.955	1 938.549
Change %	/	+29.8%	+4.5%
Change € (m)	/	+83.484	+83.484

⁴⁵ **The EU Customs Data hub** funding is coming from the customs part of the proposed Single Market and Customs programme (COM(2025) 590 final), next MFF budget line: 05.0304 – Customs.

⁴⁶ **The EU Customs Authority** staff expenditure, infrastructure and other (non-staff) administrative expenditure (of around €92 million) is covered by a separate budget line with a total proposed budget (in the 2023 LFS) of €280 million for 2028-2034.

Annex 1. Estimated impact (FTE) of amendments by co-legislators

Legal ref.	Topic amendment	Inst.	FTE increase	Cost-free SNEs	Explanation
Row 22321 -u, Art. 221b-c	Data auditor	CNL	+3	+ 25 (to be distributed over various tasks by EUCA)	The Data Auditor , an autonomous, independent entity responsible for the security of data in the Data Hub requires a small team to support and fulfill the tasks.
Rows 668j+k; Art. 39a(3) (d)+(e)	Data hub helpdesk	CNL	+10		10 FTEs for support to maintain 2 FTE Duty Officers on a 24/7/365 basis taking account of shift patterns and leave.
Row 2102b, Art. 208(2) b)	Stronger role for EUCA in risk management: threat assessments (risk prioritisation), and inputs for common risk criteria and priority control areas	CNL	+3		The extended role for EUCA in risk management, including for conducting a periodic threat assessment with recommendations for priorities and submitting inputs for common risk criteria and priority control areas to the Commission requires additional risk management experts.

Row 2110, Art. 208(3)(g)	Simplified guidelines for SMEs	EP	+1		The EP proposes that EUCA prepares simplified guidelines for SMEs next to the standard guidelines for all operators.
Row 511a Art. 25(5)	<ul style="list-style-type: none"> • in reviewing T&C authorisations • for ensuring business continuity for AEO and T&C 	EP	+5		<p>EUCA competence to recommend suspension/revocation of T&C authorisations in case of non-compliance of the operators to ensure the EU dimension of T&C status granted by individual MS.</p> <p>CNL attributes to EUCA the competence to prepare the business continuity mechanism for AEO and T&C in case of disruption in trade flows (e.g. pandemic situation). COM proposal did not specify who would establish this mechanism; attributing it to EUCA creates an additional task that can relate to its role for crisis management in preparing crisis protocols and procedures.</p>
Row 478 Art. 23(8)		CNL			
Row 521a Art. 25(9a)					
Row 2106, Art. 208(3)(c)	Minimum common training content for customs professionals (private sector)	CNL	+3		CNL proposes that EUCA not only develops minimum common training content for customs officials but also for customs professionals (e.g. in private sector). As this requires

					targeted training modules additional staff is required for this task.
Row 2115c, Art. 208(3a)	Assisting the Commission in its management of international relations (third countries and international organisations)	EP	+2		A strengthened role for and involvement of EUCA in international relations requires additional staff.
Row 2115d Art. 208(3a)	Communication channel with stakeholders on Data Hub and to facilitate access to information on autonomous and restrictive measures	CNL EP	+2		For developing and managing a communication channel to stakeholders on Data Hub related matters and to facilitate access to information on autonomous and restrictive measures more communication experts should be foreseen.
Row 2232a Art. 221a and further	EUCA Advisory Board	EP	+1		The advisory board with stakeholders from private sector and civil society to advise EUCA's Management Board would need staff for its secretariat, coordination and follow-up. This amendment also addresses Council's desire to set up a consultation mechanism with trade.
	Additional administrative staff		+5		Financial, procurement, HR etc.

	TOTAL		35	25	
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