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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	Position of the Council at first reading with a view to the adoption of 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

REGULATION (EU) 2026/…
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of …

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

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

Acting in accordance with the ordinary legislative procedure[2],

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1 OJ C, C/2023/864, 8.12.2023, ELI: http://data.europa.eu/eli/C/2023/864/oj.
2 Position of the European Parliament of 13 March 2024 (OJ C, C/2025/1035, 27.2.2025, ELI: http://data.europa.eu/eli/C/2025/1035/oj) and position of the Council at first reading of … (not yet published in the Official Journal). Position of the European Parliament of … (not yet published in the Official Journal).

Whereas:

(1) The Union and the functioning of the internal market are based upon the customs union. In the interests both of economic operators and of the customs authorities in the Union, Regulation (EU) No 952/2013 of the European Parliament and of the Council[3] assembled in a single act, the Union Customs Code, customs legislation that previously contained in several different legal acts. That Regulation contains the general rules and procedures for ensuring the implementation of the tariff measures and other measures introduced at Union level in connection with trade in goods between the Union and countries or territories outside the customs territory of the Union, and the provisions relating to the collection of import duties. Member States' customs authorities are responsible for implementing those rules by way of operational tasks such as applying customs procedures, carrying out risk analysis and controls, and applying penalties in the event of infringements of the customs legislation.

[3] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1, ELI: http://data.europa.eu/eli/reg/2013/952/oj).

(2) The implementation of Regulation (EU) No 952/2013 has disclosed weaknesses in several areas. Those weaknesses include: insufficient or 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 limited capacity of customs authorities to effectively handle the increasing volume of goods imported from third countries via distance sales (e-commerce transactions); the limited capacity of the IT systems architecture created by Regulation (EU) No 952/2013 to digitalise customs processes in order to keep up with the pace of technological progress, and in particular technologies based on the exploitation of data; and the lack of effective governance structures of the customs union, resulting in divergent practices and non-uniform implementation of the customs 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 take account of the rapid development of global trade patterns, technology, business models and the needs of stakeholders, including businesses, consumers and residents. Therefore, a great number of amendments need 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, namely the European Union Customs Data Hub (the 'EU Customs Data Hub'). A European Union Customs Authority (the 'EU Customs Authority') should be established as a central, operational body providing 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 law laying down requirements for goods subject to customs supervision, in particular the non-financial requirements for goods that are necessary for such goods to enter into and circulate in the internal market. Such non-financial requirements have increased exponentially over the years in line with the growing expectations of Union businesses and residents regarding safety, security, accessibility for persons with disabilities, sustainability, human, animal and plant health and life, the environment, protection of human rights and intellectual property rights, and Union values. New tools, such as the digital product passport established by Regulation (EU) 2024/1781 of the European Parliament and of the Council[4], are to be introduced to ensure that other legislation applied by the customs authorities, as defined in this Regulation, related to products continues to respond to those 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 the protection of the public interests within their competence and, where appropriate, in close cooperation with other competent authorities.

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[4] Regulation (EU) 2024/1781 of the European Parliament and of the Council of 13 June 2024 establishing a framework for the setting of ecodesign requirements for sustainable products, amending Directive (EU) 2020/1828 and Regulation (EU) 2023/1542 and repealing Directive 2009/125/EC (OJ L, 2024/1781, 28.6.2024, ELI: http://data.europa.eu/eli/reg/2024/1781/oj).

(6) In light of the evolution of the role of customs authorities and of the business models within 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 that customs authorities have to achieve by indicating more accurately their objectives and tasks. Furthermore, rapid technological evolution, in particular of artificial intelligence, will have a significant impact on the activities of customs authorities, including in the area of real-time risk analysis.

(7) While striving to achieve their mission, customs authorities should also aim for cost-efficiency by avoiding duplication and by 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 in accordance with Regulation (EU) 2024/2747 of the European Parliament and of the Council[5], customs authorities can contribute to the flow of crisis-relevant goods.

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5 Regulation (EU) 2024/2747 of the European Parliament and of the Council of 9 October 2024 establishing a framework of measures related to an internal market emergency and to the resilience of the internal market and amending Council Regulation (EC) No 2679/98 (Internal Market Emergency and Resilience Act) (OJ L, 2024/2747, 8.11.2024, ELI: http://data.europa.eu/eli/reg/2024/2747/oj).

(8) It is appropriate to maintain in this Regulation 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 Council Directive 2006/112/EC[6] or Council Directive (EU) 2020/262[7] apply and parts of that territory where those Directives do not apply, or to trade in Union goods between parts of that territory where those Directives do not apply. Considering that the traded goods concerned are Union goods and considering the fiscal nature of the measures relevant to that intra-Union trade, it is justified to introduce appropriate simplifications to the customs formalities to be applied to such goods.

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6 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, ELI: http://data.europa.eu/eli/dir/2006/112/oj).

7 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, ELI: http://data.europa.eu/eli/dir/2020/262/oj).

(9) 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 legal 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 authorities for compliance of the goods with which those persons deal, including for financial and non-financial risks, in accordance with product-specific legislation, in order to strengthen customs supervision. Regarding 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 as the importer and is obliged to assume the corresponding responsibilities, and should ensure that the relevant economic operator is obliged to comply with the relevant customs legislation and other legislation applied by the customs authorities when the goods enter or exit the customs territory of the Union and to provide or make available, and keep, 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 contained in Union 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, to the extent that the latter agreements regulate the conformity of goods.

(10) Beyond their traditional role of collecting customs duties, VAT and excise duty and applying customs legislation, customs authorities also play a critical role in enforcing other Union legal acts and, where applicable, other relevant national legislation. A definition of 'other legislation applied by the customs authorities' should be introduced in order to build an effective framework for regulating the application and supervision of the particular requirements on goods laid down in those legal acts. The notion of other legislation applied by the customs authorities should include measures justified on the basis of public morality, public policy or public security, protection of the health and life of humans, animals or plants, protection of the environment, protection of national treasures possessing artistic, historic or archaeological value and protection of industrial or commercial property and other public interests, including controls on drug precursors, goods infringing certain intellectual property rights and cash, as well as commercial policy measures, fishery conservation and management measures, and restrictive measures adopted on the basis of Article 215 of the Treaty on the Functioning of the European Union (TFEU). Divergences in national lists of prohibitions and restrictions create significant difficulties for importing into 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 is important to adopt harmonised definitions of the legal terms used where prohibitions and restrictions are provided for in order to avoid diverging interpretations by Member States.

(11) 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 competent customs authority for the place where the applicant is established, because establishment is the main principle according to which certain economic operators, under 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 30-day time limit by which an applicant is to provide additional information to customs authorities if they consider that the application for a customs decision does not contain all the information required should also be introduced for the sake of completeness and legal clarity.

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

(13) As highlighted by the Court of Auditors in its Special Report No 4/2021 entitled ‘Customs controls: insufficient harmonisation hampers EU financial interests’ 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 the fulfilment of the criteria and the compliance with the obligations set out in customs decisions by reinforcing the relevant provisions. On one side, the holders of customs decisions should not only comply with obligations set out in the relevant decision but also monitor on a continuous basis their compliance and provide for an internal organisation through which 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 where those holders are established in the customs territory of the Union for less than three years and are therefore potentially more likely to cause risks, in order to ensure that the holder complies with the obligations established by that decision. Where customs authorities become aware that a holder of a customs decision no longer fulfils the criteria or complies with the 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 a specific status, such as that of authorised economic operator or Trust and Check trader, and therefore enjoy certain 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 customs decisions taken further to an application and inform it about the monitoring activities, so that that information can be taken into account for risk management purposes.

(14) In addition to the decisions relating to binding tariff information (‘BTI decisions’) and 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) 2024/1072[8]. In the interest of the users of customs legislation, it is appropriate to lay down in the same legal act the rules regarding those three types of decisions relating to binding information.

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[8] 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, ELI: http://data.europa.eu/eli/reg_del/2024/1072/oj).

(15) The rights and obligations of the persons responsible for 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 kept up to date. Economic operators should therefore have the obligation to inform the customs authorities about any change in their registration data. The persons responsible for goods entering into and exiting from the customs territory of the Union should ensure that the goods comply with the applicable law, 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 Regulation (EU) 2023/988 of the European Parliament and of the Council[9] concerning general product safety, Directive (EU) 2024/2853 of the European Parliament and of the Council[10] concerning product liability and Regulation (EU) 2019/1020 of the European Parliament and of the Council[11] concerning market surveillance and compliance of products. The obligations of the importer should also be laid down, in particular the obligation to be established in the customs territory of the Union and the exceptions to that obligation. Those obligations should follow the existing rules for the declarant to be established in the Union. Similarly, the obligations of the exporter should be laid down.

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[9] 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, ELI: http://data.europa.eu/eli/reg/2023/988/oj).

[10] Directive (EU) 2024/2853 of the European Parliament and of the Council of 23 October 2024 on liability for defective products and repealing Council Directive 85/374/EEC (OJ L, 2024/2853, 18.11.2024, ELI: http://data.europa.eu/eli/dir/2024/2853/oj).

[11] Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1, ELI: http://data.europa.eu/eli/reg/2019/1020/oj).

(16) Where the person supplying goods in distance sales or facilitating distance sales of goods indicates that he or she is acting as the importer, that person 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.

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

(18) Changes in the customs processes and in the way customs authorities operate necessitate a new partnership between customs authorities and economic operators, namely the Trust and Check traders scheme. The criteria and conditions for becoming a Trust and Check trader should build on the criteria for the status of authorised economic operator but should also ensure that the trader is considered transparent for the customs authorities. It is therefore appropriate to require Trust and Check traders 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. Such transparency should be accompanied by certain benefits, which can include the possibility to release the goods on behalf of customs authorities 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. The Trust and Check trader status should not be given to persons who committed repeated or serious infringements of other legislation applied by the customs authorities.

(19) To ensure the 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 trader status. Such a mechanism should enable the EU Customs Authority, in cooperation with the competent customs authorities, to verify compliance with the requirements of Trust and Check trader status, particularly when a Member State other than the one where the trader is established has reasonable doubts about the trader's compliance. That mechanism is essential to prevent unlawful application of the Trust and Check trader status and prevent backdoor entry into the customs territory of the Union. 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 that Member State to suspend or revoke the Trust and Check trader status.

(20) The option to operate a customs warehouse for distance sales should, in combination with other provisions on distance sales and simplifications, incentivise the use of bulk quantities rather than parcels, making the flow of individual parcels more manageable for customs authorities. A customs warehouse for distance sales should provide for releasing goods for free circulation at the moment of sale and outbound of the warehouse, meaning that at the moment of placing goods in the warehouse the goods need to meet the conditions that would be applicable to them if they were placed on the Union market at that moment. Customs authorities should be able to check whether the goods brought in bulk quantities comply with Union market rules at the moment of entry into the customs warehouse. Such customs warehouse for distance sales should only be available for economic operators that meet the trustworthiness criteria of Trust and Check trader status, to avoid misuse by non-trustworthy economic operators.

(21) Changes in the customs processes also necessitate clarification of 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 that importer or exporter, meaning not only the obligation to pay or guarantee the customs debt but also compliance with other legislation applied by the customs authorities. For that reason, customs representatives need to 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 of the importers' and exporters' obligations. 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 should be able to 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.

(22) Micro, small and medium-sized enterprises, as defined in Commission Recommendation 2003/361/EC[12], 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 to take account of their specific situation and support measures that facilitate their compliance, including through simplified procedures, clear guidance and accessible customs representation. Guidelines should be adopted with a view to supporting micro, small and medium-sized enterprises, recognising the unique challenges such enterprises face, while maintaining the integrity and security of external trade processes when applying the status of authorised economic operator and Trust and Check trader. Continuous efforts should be made to simplify and make more accessible the procedures for micro, small and medium-sized enterprises, ensuring their vital role in the Union's external trade is facilitated and promoted.

[12] Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36, ELI: http://data.europa.eu/eli/reco/2003/361/oj).

(23) 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, Union handling fee, excise duty and VAT; guarantee management; and customs surveillance of goods. The EU Customs Data Hub should also contribute to the implementation of other legislation applied by the customs authorities. It should ensure the quality, integrity, traceability and non-repudiation of data processed therein, so that 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 cybersecurity and the processing of personal data. 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 given the task of developing, operating and maintaining the EU Customs Data Hub and should be able to entrust that task to the EU Customs Authority.

(24) 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 Union and national law, from unauthorised access and any other threat 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 be made subject to certain conditions to ensure Union sovereignty in that respect. Respect of those conditions should be demonstrated through evidence and, in the case of critical services, it is important that that evidence be complemented by security screening of natural and legal persons, as provided for under Union or national law. Furthermore, the EU Customs Data Hub should be designed as far as possible to avoid vendor lock-in situations.

(25) 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. That includes comprehensive functional and non-functional testing, structured pilot phases involving representative stakeholders, and clearly defined acceptance criteria to validate performance, compliance and security. Those 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.

(26) Activities implementing the EU Customs Data Hub should include measures to ensure its uninterrupted availability and operation, even in the event of a serious crisis. Business continuity measures should include, in particular, 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.

(27) 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. Those existing national electronic systems will not be revived in the event that the EU Customs Data Hub functionalities are not available within the set deadlines. Therefore, a temporary solution should be provided for such a case. In line with recent case-law of the Court of Justice of the European Union[13], 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 economic operators in relation to the customs processes concerned. Even where the involvement of a customs authority in the adoption of a measure is limited to electronic communication via the EU Customs Data Hub, it should be considered that the measure in question is adopted by that authority, as if the EU Customs data Hub acted on its behalf.

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[13] Order of the General Court of 7 February 2023, *Euranimi* v *Commission,* T-81/22, ECLI:EU:T:2023:57.

(28) 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, in order to increase the effectiveness of controls in the internal market. In line with the approach set out in Regulation (EU) 2024/903 of the European Parliament and of the Council[14] and the Commission Communication of 23 March 2017 entitled 'European Interoperability Framework – Implementation Strategy', 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) and 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 facilitate risk analysis, economic analysis and predictive analysis to anticipate possible risks related to consignments coming into, or moving from, the Union.

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[14] 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, ELI: http://data.europa.eu/eli/reg/2024/903/oj).

(29) To ensure better supervision of trade flows and a streamlined method of collaboration with competent authorities other than customs authorities, the EU Customs Data Hub should be capable of making use of the framework for collaboration under the EU Single Window Environment for Customs and, where that framework cannot be used, offer those other competent authorities a specific service through which they can obtain the relevant data, provide information to and share information with the customs authorities, and make sure that the sectorial requirements are complied with. That specific service would be necessary where the other competent authorities do not have an electronic system that could be federated with the EU Customs Data Hub.

(30) 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 the customs process concerned, it is appropriate to allow the Commission to decide to establish a pilot phase, on a voluntary basis. Such a pilot exercise would test the implementation of certain processes and functions on a voluntary basis without legal obligation. For the sake of transparency and the provision of information to interested stakeholders, it is important that the Commission make public the planning, organisation and duration of that pilot phase and the functionalities that are to be applied and tested.

(31) Authorities, businesses, consumers and residents should be able to report goods to be imported into or exported from the Union that are not in compliance with relevant Union legislation applied by the customs authorities. The information reported on those goods should be available in the EU Customs Data Hub and it should be possible to use it for risk management purposes.

(32) Alongside the EU Customs Data Hub, it should remain possible for Member States to develop their own applications to use data from the EU Customs Data Hub. Member States are to ensure that their applications comply with Directive (EU) 2022/2555 of the European Parliament and of the Council[15], in particular in regard to cybersecurity risk-management measures. To decrease the time to market, Member States should be able to entrust the EU Customs Authority with the finances and the mandate to develop such applications. In such cases, the EU Customs Authority should develop the applications for the benefit of all Member States. That could be done by creating non-vendor lock-in open-source code applications following the Sharing and Reuse Framework for IT Solutions.

(33) The EU Customs Data Hub should enable the flow of data. Users should be able to transmit and process in the EU Customs Data Hub all relevant data required to fulfil their obligations under the 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 to Member States' customs authorities, which then 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 enable processing of the data available therein with minimum delay.

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[15] Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive) (OJ L 333, 27.12.2022, p. 80, ELI: http://data.europa.eu/eli/dir/2022/2555/oj).

(34) The data submitted to the EU Customs Data Hub are to a large extent non-personal data submitted by economic operators about the goods they are trading. Nevertheless, those data could also include personal data, in particular the names of individuals acting for an economic operator or an authority. To ensure that personal data and commercial information are equally protected, specific access rules, rules for confidentiality and conditions for the use of the EU Customs Data Hub should be established. In particular, it should be established which entities are able to access or process data available in the EU Customs Data Hub, in addition to the persons concerned, the Commission, the customs authorities and the EU Customs Authority, balancing the needs of those entities with the need to ensure that the personal and confidential data collected for customs purposes are used for additional purposes only to the minimum extent necessary.

(35) Member States should have the possibility to designate, in consultation with the Commission, 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 is limited to the competent authorities of the Member State concerned, unless those authorities expressly authorise further processing. The person who transmits the data to the EU Customs Data Hub should clearly set the processing limitations of such data that can be linked to the specific supply chains or the data categories. In order to use that 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 regarding data processing within the EU Customs Data Hub.

(36) 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.

(37) To ensure that the European Anti-Fraud Office (OLAF) can exercise its investigation powers in relation to fraudulent activities that are affecting the interests of the Union, it is appropriate that it have 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 that data in accordance with the conditions relating to data protection set out in the relevant Union legislation, including Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council[16] and Council Regulation (EC) No 515/97[17].

(38) Likewise, the European Public Prosecutor's Office (EPPO) should be able, upon request, to obtain data available in the EU Customs Data Hub in order to ensure that it can conduct its investigations on customs-related matters.

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[16] 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, ELI: http://data.europa.eu/eli/reg/2013/883/oj).

[17] 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, ELI: http://data.europa.eu/eli/reg/1997/515/oj).

(39) The European Union Agency for Law Enforcement Cooperation (Europol) should be able, upon request, to obtain data available in the EU Customs Data Hub to perform its tasks as specified in Regulation (EU) 2016/794 of the European Parliament and of the Council[18]. The European Border and Coast Guard Agency (Frontex) should be able, upon request, to obtain non-personal data available in the EU Customs Data Hub.

(40) To preserve the functions that are performed in Member States' national IT systems, the tax authorities of the Member States should have the possibility to process data directly within the EU Customs Data Hub. As such, the authorities responsible for food safety in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council[19] 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 risk that non-compliant products enter the Union.

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[18] 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, ELI: http://data.europa.eu/eli/reg/2016/794/oj).

[19] 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, ELI: http://data.europa.eu/eli/reg/2017/625/oj).

(41) Pursuant to Article 24 of Council Regulation (EU) 2017/1939[20], the EU Customs Authority and the competent customs authorities are to report to the EPPO without undue delay any criminal conduct in respect of which the EPPO 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 jeopardise the confidentiality of any criminal investigation into the same facts undertaken by the competent national judicial or law enforcement authority or by the EPPO.

(42) The rules and provisions regarding access to the EU Customs Data Hub and exchange of information should not affect the Customs Information System (CIS) established by Regulation (EC) No 515/97 and reporting obligations in the context of situational awareness under Regulation (EU) 2019/1896 of the European Parliament and of the Council[21].

(43) The Commission should establish implementing rules laying down modalities for the access of the authorities concerned to the EU Customs Data Hub, 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.

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[20] 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, ELI: http://data.europa.eu/eli/reg/2017/1939/oj).

[21] Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1, ELI: http://data.europa.eu/eli/reg/2019/1896/oj).

(44) It is appropriate that the EU Customs Data Hub store personal data for a maximum period of 10 years. That 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, the EPPO, customs authorities and other competent authorities can cross-check the information in the EU Customs Data Hub against the information stored in and exchanged with other systems. Moreover, that period 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, of investigations and during post-clearance controls, the retention period be suspended to avoid personal data being erased and therefore not able to be used for those purposes.

(45) 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 be able to 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. Such restrictions should be duly justified against the activities and prerogatives of the customs authorities, the Commission or the EU Customs Authority and limited to the time necessary to preserve those prerogatives.

(46) Any processing of personal data under this Regulation should be carried out in compliance with Regulation (EU) 2016/679 of the European Parliament and of the Council[22], Regulation (EU) 2018/1725 of the European Parliament and of the Council[23] or Directive (EU) 2016/680 of the European Parliament and of the Council[24], within their respective scope of application. Any authority or body other than the customs authorities, the Commission and the EU Customs Authority that processes personal data in the EU Customs Data Hub is to be regarded as a controller in accordance with the applicable rules.

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22 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1, ELI: http://data.europa.eu/eli/reg/2016/679/oj).

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

24 Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89, ELI: http://data.europa.eu/eli/dir/2016/680/oj).

(47) In order to ensure the interoperability and exchange of data with certain other Union non-customs systems and in respect of the customs formalities referred to in Regulation (EU) 2022/2399 of the European Parliament and of the Council[25], the EU Customs Data Hub should integrate the European Union Customs Single Window Certificates Exchange System (EU CWS-CERTEX) established by Regulation (EU) 2022/2399. Until the EU Customs Data Hub fully integrates the EU CWS-CERTEX, the EU Customs Data Hub should perform the business and technical transformation of data to enable the exchange of data through the EU CWS-CERTEX.

(48) Data requirements should be defined in order to provide common guidance to economic operators regarding the data they need in order to fulfil their purposes, related in particular to the implementation of the customs legislation. The EU Customs Data Hub will be a unique point of entry for such data, and therefore the rules for formatting and coding such data should be laid down in the technical specifications for the EU Customs Data Hub, which are a more flexible instrument than legal rules. However, a harmonised customs data model with semantic data requirements is necessary.

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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, ELI: http://data.europa.eu/eli/reg/2022/2399/oj).

(49) A Union-level customs risk management layer is fundamental for ensuring a harmonised application of customs controls in the Member States. There is currently a common risk management framework comprising the possibility of identifying common priority control 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, which harms the financial and non-financial interests of the Union and of the Member States, it is appropriate to revise the rules on risk management to establish a more solid risk management approach addressing both financial and non-financial risks. That includes tackling the structural challenges on the risk management of financial risks identified by the 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 empower the Commission to establish common priority control areas and common risk criteria and standards, and to 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.

(50) 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. Common risk analysis and the issue of corresponding Union control recommendations to customs authorities should be provided for. In line with the principle of 'comply or explain', those control recommendations should be followed, or compelling reasons provided for not following them. The possibility to issue an instruction that goods destined for the Union are not to be loaded or transported should also be provided for. The analysis of Union-level risks and threats should be based on continuously 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.

(51) 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 Europol and Frontex to contribute to the efficient and effective prevention of, and the fight against, crime. Infringement of customs legislation and other legislation applied by the customs authorities should have an impact on the risk profile of importers, including importers for distance sales, or exporters.

(52) 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 that procedure. Therefore, responsibility for providing the information to the customs authorities is to be assumed by the person responsible for the goods, namely the importer, the exporter or the holder of the transit procedure, rather than the declarant. The person responsible should provide or make available the data to customs as soon as that data are 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.

(53) However, in the case of e-commerce, and taking into account the higher volume of transactions by e-commerce, 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 ('Import One-Stop Shop scheme' or 'IOSS scheme') should provide data on their sales of goods to be imported at the latest on the day after the acceptance of the payment.

(54) 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 those traders continuously share data on their transactions with customs and can be considered reliable. Such circumstances could be linked to the supporting documents or to the impossibility of determining the final customs value of the goods at the moment of release.

(55) 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 into the customs territory of the Union 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, and should do so at the earliest possible stage, if possible before the goods physically arrive. A service provider or customs agent should be able to provide information in the importer's name and on its behalf, but the importer should remain 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 it 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, it should be possible to require certain other persons to complete the information on the goods to be brought into 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 intend to control.

(56) Non-Union goods that are brought into 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, that situation should be limited in time and not last more than 90 days, except in exceptional cases.

(57) It is necessary to maintain the rules that determine whether 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.

(58) 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 time pass with the result that the goods are considered released. The customs authorities should take such decision in cooperation with other competent 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 relation to distance sales by an economic operator should constitute such evidence for a period of at least six months for all goods notified for arrival for the release for free circulation by that economic operator. Where the customs authorities need to consult other competent authorities to determine whether or not the goods comply with applicable legal requirements, they should suspend the release of those goods at least until that consultation takes place. In such cases, the customs authorities' subsequent decision on the goods should depend on the other competent authorities' reply. To avoid blocking both traders and authorities in cases for which reaching a conclusion on compliance requires some time, the customs authorities should have the possibility to release the goods on the condition that the trader continues informing them about the location of the goods.

(59) 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, goods that have not been selected for a control after a reasonable period should be considered released. The Commission should be entitled to define that period in delegated acts, adapting it, where necessary, to the type of traffic or type of border crossing point in question.

(60) As Trust and Check traders are considered reliable and provide customs in as close to real time as technically possible with data on the movement of the goods and on compliance and with full access to their systems, records and operations, such traders should be able to release their goods under the supervision of the customs authorities without waiting for their intervention. Accordingly, Trust and Check traders should be able to release goods on behalf of the customs authorities upon receipt of those goods at the place of business of the importer, owner or consignee or upon dispatch from the place of business of the exporter, owner or consignor. As Trust and Check traders are supposed to operate in a transparent way, each arrival and delivery of goods should be properly recorded in the EU Customs Data Hub. Trust and Check traders should be obliged to inform the customs authorities where a problem arises so that those authorities can take a final decision on the release of the goods. Where the internal control systems of Trust and Check traders are robust enough, the customs authorities should be able, in cooperation with other competent authorities, to authorise those traders to perform certain checks on their own. However, the customs authorities should retain the possibility to control the goods at any time.

(61) It is appropriate to provide measures to regulate the transition from a system based on customs declarations to a system based on the provision or making available of information to the EU Customs Data Hub. Economic 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, economic 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 economic operator to apply for simplifications in relation to the customs declaration. At the end of the transition period, all authorisations should cease to be valid, as customs declarations will no longer exist. In relation to 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 distance sales are available.

(62) 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.

(63) In the case of distance sales, it is considered that the person supplying goods in distance sales or facilitating distance sales of goods is the person that determines that goods from a third country are to be brought into the customs territory of the Union because they determine the chain of supply and are responsible for 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, the importer will be either the person supplying goods in distance sales or the person facilitating distance sales of goods, depending on the arrangements made, and the importer determined in that way should be indicated as such.

(64) The person supplying goods in distance sales or facilitating distance sales of goods to be imported from third countries into the customs territory of the Union who is the importer should be responsible for providing the required information on distance sales to the customs authorities before the release of the goods. The person so identified should fulfil the obligations of an importer.

(65) Where a person supplying goods in distance sales 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, it should be possible to place the goods under a customs procedure where an indirect representative having the status of authorised economic operator places the goods in its own name and on behalf of the importer for distance sales and assumes the obligations of the importer for distance sales in that regard.

(66) 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.

(67) Article 29 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.

(68) The process of taking goods outside the customs territory of the Union should be streamlined and simplified, in line with the entry process. Therefore, it is appropriate to require that there be a person established in the Union who is responsible for the goods, namely 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 the goods are Union or non-Union goods to be exported, and adapting the information as necessary.

(69) To ensure that there is proper risk management of goods taken out of the customs territory of the Union, the customs authority responsible for 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 the customs territory of the Union. 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 competent authorities, in addition to the measures provided for placing the goods under a customs procedure that are also applicable where the goods are to be exported.

(70) To ensure that the duty-suspensive procedures are also transparent, it is appropriate to streamline the requirement provisions for 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 acts. Moreover, as the effect on interests of Union producers might depend on the quantity of goods that are placed under the special procedure, a certain threshold should be set under which it is estimated that there is no negative effect on such interests.

(71) Article 9 of the Revised Convention for the Navigation of the Rhine refers to an Annex (the '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 the national frontiers of four Member States, namely Belgium, Germany, France and the Netherlands, as well as Switzerland. According to information from customs administrations, the Rhine Manifest is no longer used in practice as a customs transit procedure in the Member States bordering the Rhine. Instead, goods on the Rhine and its tributaries are now transported using the Union transit procedure established by Regulation (EU) No 952/2013, through the New Computerised Transit System. It is therefore appropriate to remove the reference to the Rhine Manifest from cases where a movement of goods is considered as external or internal transit.

(72) 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 initiating the movement of the goods, the means of transport and the identification of the goods placed under that procedure. Such information would enable the customs authorities to supervise more effectively the Union transit procedure concerned and to carry out a risk analysis. The Union transit procedure should be compulsory unless goods are put under another customs regime immediately upon entry into or exit out of the customs territory of the Union. Where 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.

(73) An amendment to Annex 6 to the Customs Convention on the International Transport of Goods under Cover of TIR Carnets (TIR Convention)[26] that entered into force on 1 June 2021 modified 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 that new possibility in this Regulation in order to align Union customs legislation with that international agreement.

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[26] Amendments to the Customs Convention on the International Transport of goods under cover of TIR carnets (TIR Convention 1975) (OJ L 193, 1.6.2021, p. 1, ELI: http://data.europa.eu/eli/agree_amend/2021/601/oj).

(74) 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 Directive 2006/112/EC. Such distance sales should constitute the basis for the declaration of customs value under the transaction value method. That 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 customs warehousing procedure.

(75) Transactions in distance sales differ significantly from traditional business-to-business transactions, resulting in increased complexity. Those differences impact how customs authorities effectively apply valuation rules in practice. Particular challenges are the massive scale and speed at which e-commerce transactions are concluded, the vast number of buyers and sellers involved, and 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 should be able to exercise flexibility in the determination of the appropriate secondary valuation method to redetermine the customs value of those goods.

(76) 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 that 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 use different rules to define the place where the customs debt occurs so that the import duties are paid to the Member State where that trader is established. It is appropriate because that is the place where the customs authority has the most complete knowledge of the records, operations and commercial behaviour of the relevant economic operators. However, the customs debt of economic operators other than Trust and Check traders should be incurred at the place where the goods are physically located, at least until the supervision model is evaluated.

(77) In the case of e-commerce transactions, the importer for distance sales is the person responsible for the customs debt. When use is made of the IOSS scheme, the customs debt should be incurred at the moment of the acceptance of payment of the online sale. Where no use of that scheme is made, the customs debt should arise when the availability of the goods is notified in the Member States where the goods are to be delivered.

(78) To cover the increasing costs of handling an enormous number of requests for placing goods sold in distance sales under the release for free circulation procedure, 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 those goods are directly shipped to the consumer, making it impossible for other authorities to check them after customs clearance. While it will be up to the Member States to decide whether to recover from economic operators the costs of exceptional control measures or the costs incurred by authorities other than customs authorities in connection with the verification or destruction of the goods, the Union handling fee should cover, in particular, the cost of checking the data and carrying out a risk analysis, and of the relevant infrastructure and controls, including relevant services rendered by the EU Customs Authority.

(79) A lower Union handling fee should be provided for 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.

(80) 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 IOSS scheme, or an indirect customs representative. Consequently, the consumer should not be a debtor of the Union handling fee.

(81) It is appropriate to provide that the first delegated act setting the amount of the handling fee enter 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 significant volume of parcels entering the customs territory of the Union.

(82) 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. That definition should be applicable both in relation to 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 in relation to the appropriate data requirements determined for that purpose once the EU Customs Data Hub becomes available.

(83) It is appropriate to enhance the mechanism aimed at supervising the consistent and effective implementation of restrictive measures on the flow of goods adopted by the Council in accordance with Article 215 TFEU. Where such measures are adopted, 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 example 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 those measures and should inform the Commission and the EU Customs Authority accordingly. The EU Customs Authority should identify potential discrepancies in the application of those measures and monitor their implementation, and report accordingly to the Commission.

(84) 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 Commission Communication of 28 September 2020 entitled 'Taking the Customs Union to the Next Level: a Plan for Action'. 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 crisis response readiness throughout the whole duration of the crisis.

(85) 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 the implementation of, 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 authorities that has existed since the creation of the customs union and that has led to the exchange of best practices and 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 Union risk prioritisation, limited coordinated customs action and controls, and no cooperation frameworks for different authorities serving the single market.

(86) A central, operational Union structure to pool expertise and resources and to 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 should prepare the training content for customs officers and customs professionals in the Union to complement and support 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 entitled 'EU Customs Certificate of Recognition', and 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 used, type of goods or border type. The creation of a new authority, the EU Customs Authority, is crucial to ensure the efficient and adequate functioning of the customs union, to centrally coordinate customs action and to support the customs authorities' activities.

(87) 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.

(88) When selecting the seat of the EU Customs Authority, the European Parliament and the Council are to ensure that, given the nature of that authority, its location enables it to fully execute its tasks and powers, to recruit highly qualified and specialised staff and 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 seat of the EU Customs Authority: the availability of appropriate office premises and the ability to accommodate the relevant staff before the EU Customs Authority becomes operational; the accessibility of the location and the existence of adequate education facilities for the children of staff members; appropriate access to the labour market, social security and medical care for both children and spouses of staff members; and geographical balance. Considering those criteria, the EU Customs Authority should be located in Lille, France.

(89) Member States should ensure that customs authorities are properly resourced, trained and equipped to have the capacity to fulfil their mission.

(90) It is important that customs invest in a sufficient number of properly trained staff in order to guarantee the functioning of the Union's customs systems, which are facing an exponential increase in demand. 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 for their training, in order to ensure the necessary skills for using state-of-the-art equipment and technology for big data analytics, detection and controls, and thus guarantee that customs controls are conducted uniformly across the Union.

(91) 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 principle of gender balance and take into account relevant experience and qualifications. Given the Union's exclusive competence on the customs union, and the close link between customs and other policy fields, either the Chairperson or the Deputy Chairperson should be elected from the members of the Management Board designated by the Commission. 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 EU Customs 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 EU Customs Authority, appoint an Executive Director, and establish procedures for the taking of decisions by the Executive Director relating to the operational tasks of the EU Customs Authority. The Management Board should be assisted by an Executive Board.

(92) The EU Customs Authority should establish the Customs Advisory Board, whose task will be to provide the EU Customs Authority with advice on the implementation of technical actions and decisions, on implementation and standardisation issues, including harmonisation activities, on the operational aspects of other legislation applied by the customs authorities, and on any other activities of the EU Customs Authority. The Customs Advisory Board should endeavour to ensure a balanced stakeholder representation between commercial and non-commercial interests and, within the category of commercial interests, with regard to micro, small and medium-sized enterprises and other undertakings. The Customs Advisory Board should be consulted regularly and should be able to provide advice to the EU Customs Authority on its own initiative.

(93) 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 be able to receive additional revenue through contribution agreements or grants and through charges for publications and other services it provides.

(94) The EU Customs Authority should make use of the information at its disposal regarding challenges on customs legislation and other legislation applied by the customs authorities to periodically carry out a threat assessment. On the basis of such a threat assessment, the EU Customs Authority should prepare recommendations and transmit them to the Commission. Based on those recommendations, the Commission should identify areas that warrant priority treatment. It is important that the Council have a political, strategic discussion on those areas that warrant priority treatment and that the EU Customs Authority provide appropriate follow-up, including when preparing its annual and multiannual work programme and preparing the annual report of its activities.

(95) To fulfil their mission, the EU Customs Authority and the customs authorities should 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 the increase in e-commerce, it is necessary to structure and reinforce that cooperation at Union, international and national level. Instead of a cooperation focused on individual consignments or specific events along the supply chain, a framework to support 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 specific areas; the exchange and analysis of information; the building of an 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 innovation and research activities in areas relevant for customs.

(96) The Commission should also facilitate the application of part of the other legislation applied by the customs authorities by drawing up 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 plant health and life, consumers and the environment.

(97) 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 administrations[27] (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 the EPPO. It is important that the EU Customs Authority also cooperate with the EU Innovation Hub for Internal Security where relevant to the EU Customs Authority's activities.

(98) 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 temporary assignments should be determined by the Member States concerned. The EU Customs Authority should, upon request, provide support or coordination. Where appropriate, it can develop guidance or model arrangements to facilitate this form of cooperation.

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

(99) The EU Customs Authority and Europol should be able to exchange strategic and other non-operational information such as risk indicators where required for preventing and combatting 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 could be used by the EU Customs Authority for risk analysis purposes.

(100) In order to increase clarity and make the cooperation framework between customs authorities and other partner authorities more efficient, a list of services offered by customs authorities should define clearly the possible role of customs authorities in the application of other relevant policies at the borders of the Union. In addition, the application of that 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 bodies, offices and agencies, such as Europol, the EPPO and Frontex, as well as with specialised agencies and networks in policy fields relevant for the EU Customs Authority's activities, such as the EU Product Compliance Network.

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

(102) 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, if such agreements are compatible with Union law. That capacity includes agreements relating to shared border-crossing points, situated either in the territory of a Member State or in 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.

(103) A common framework establishing a minimum list of infringements of customs legislation subject to penalties and certain rules for non-criminal penalties should be laid down in this Regulation, to be implemented by Member States. It is up to the Member States to choose the appropriate type of measure to address those infringements. It is also appropriate to establish a minimum list of circumstances to which Member States should give due regard, in accordance with national law, when deciding whether to impose a penalty and when deciding on the type or severity thereof. The Commission should monitor the correct implementation of those provisions, as appropriate. Penalties for infringements of customs legislation should be effective, proportionate and dissuasive.

(104) This Regulation does not harmonise national procedural rules concerning administrative penalties, nor does it regulate which authorities impose penalties, as long as the principle that penalties are effective, proportionate and dissuasive is maintained. For example, the rules on penalties can be applied in such a manner that the penalty is imposed directly by competent authorities, or 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 having equivalent effect.

(105) 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 to establish a coherent, proportionate and dissuasive framework of penalties to apply where importers for distance sales fail to comply with their obligations. In particular for continued and systematic non-compliance with customs legislation in the 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 economic operator, be set in this Regulation, while preserving the possibility for Member States to provide for additional penalties in their national legislation. The harmonisation of penalties for systematic non-compliance across the Union aims to prevent 'border-shopping' by economic operators engaging in distance sales. Economic operators that engage in systematic non-compliance should be classified as high-risk economic operators and should lose any trusted trade status and facilitation measures.

(106) 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, creates unfair competitive advantages for non-compliant economic operators, and possibly harms consumers. Accordingly, and in view of fulfilling the mission of the customs authorities, a further layer of strict penalties is to be put in place to discourage any occurrence of such multi-systematic non-compliance. In response to such 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 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 regarding the situation and to ensure a coordinated response.

(107) To enable effective monitoring and an appropriate degree of transparency, records of all non-criminal penalties imposed by Member States' customs authorities should be made available in the EU Customs Data Hub. Those records should indicate the nature of the infringement and the amount of the pecuniary charge imposed or the identification of 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.

(108) The Commission should review the provisions of this Regulation on infringements and penalties in order to ensure proper functioning and application thereof and 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 risks of disparities or distortions in the internal market are identified. It is important to ensure a level playing field and to address any regulatory gaps or inconsistencies in the application of penalties.

(109) Where an infringement of customs legislation is committed that falls within the jurisdiction of more than one Member State, cooperation between those Member States is necessary. In such cases, competent authorities of the Member States concerned by the same infringement of customs legislation should cooperate in accordance with applicable law. The EU Customs Authority should have the possibility to support and facilitate that cooperation.

(110) 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 can publish a non-confidential version of the evaluation report. The collection of information from customs authorities should be formalised and deepened, as more comprehensive reporting would improve benchmarking and could help to homogenise practices and to 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 of customs activities should be done not only at national level but also at local level.

(111) 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 an operational perspective, in strategic analyses and threat assessments conducted at Union level, including those carried out by Europol and Frontex.

(112) Trust and Check traders should be supervised by their Member State of establishment. By derogation and subject to review, economic operators that are not Trust and Check traders should remain under the supervision of the customs authority of the Member State where the goods are physically located. By 31 December 2031, the Commission should evaluate those two supervision models, including as regards their effectiveness for detecting and preventing fraud. That evaluation should also consider indirect taxation aspects. Based on that evaluation, the Commission should be entitled to decide by delegated act whether the two supervision models should continue or whether, in all cases, the customs authority responsible for the place of establishment of the Trust and Check trader should release the goods. The place of incurrence of customs debt should also be regulated in accordance with the determination of the customs authority responsible.

(113) In order to ensure that Union customs rules remain adapted to economic, social, political and technological developments and 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 which provisions of the customs legislation apply to the trade in Union goods involving special fiscal territories and certain simplifications of those provisions;

– the cases where the competent customs authority is not the customs authority of the Member State where the applicant is established;

– in relation to decisions regarding the application of the customs legislation: 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 from which the decision takes effect; the cases where the decision is not valid without limitation of time; the period for the applicant to exercise its right to be heard; rules relating to the cases where the applicant's right to be heard does not apply; the possible shortening of the time limits for the adoption of customs decisions once the EU Customs Data Hub is operational; detailed rules for monitoring of decisions; the cases where a decision is to be re-assessed and the related rules; 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; and the rules for taking Commission decisions requesting Member States to revoke a decision relating to binding information;

– the amount of the 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 facilitation measures for authorised economic operators;

– in relation to the customs representative, the cases in which the requirement of being established in the customs territory of the Union is waived;

– the functionalities of the EU Customs Data Hub and the data subject to 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; requests from other Union bodies, offices and agencies to obtain data available in the EU Customs Data Hub; and the data that constitute the EU Customs Data Model;

– 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, and the cases where the data can be amended or invalidated after the release;

– the reasonable period after which, and the cases when the customs authorities are deemed to have released the goods where they have not selected them for control;

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

– in relation to customs declarations: the cases where a customs declaration can 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, the time limits for the supporting documents to be available and the cases in which the obligation to lodge such declarations is not to apply; the cases where a customs declaration can be invalidated without application by the declarant; and 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 or made available; the time limits; the specific cases in which advance cargo information can be provided or made available by other persons than the importer; the cases where the obligation to provide such data is not to apply; the conditions under which a person that provides or makes available advance cargo information can restrict the visibility of the particulars of the identification; and the data in 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 by which the risk analysis is to be carried out; the specific cases and the other persons who can be required to notify the actual customs of first entry of the arrival of the goods, in the case of diversion; and 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 where 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 invalidating temporary storage information; the conditions for authorising temporary storage facilities; the cases and conditions of movement of goods in temporary storage; and 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 the release for free circulation procedure 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 data to be provided or made available to the customs authorities for placing goods under the export procedure;

– the cases where a re-export notification is to be 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 by which it is to be provided or made available; the cases where that obligation is not to apply; the conditions under which the person that provides or makes available pre-departure information can restrict the visibility of identification and commercially sensitive data; and the data in pre-departure information which cannot be amended;

– in relation to the exit of goods: the specific time limits by which risk analysis of the pre-departure information is to be carried out; and the data to be notified to the customs office responsible for the place where the goods are taken out of the customs territory of the Union;

– 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 considered to exist; the list of goods considered to be sensitive; the types of information and the data 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 period for discharging a special procedure; the cases, conditions, form and required data and information for the transfer of rights and obligations; the cases in which importers and exporters can move goods placed under a special procedure other than transit or in a free zone and the related conditions; the usual forms of handling for goods placed under customs warehousing or a processing procedure; and 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; and 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;

– in relation to the determination of the customs value: 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 duty purposes;

– in relation to establishing 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 where a temporary storage did not end properly; the cases where the customs authorities are exempted from the notification of the customs debt; and the information to be provided by Trust and Check traders and importers for distance sales for the purposes of the notification of 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 granting a guarantee waiver; and the time limits for the release of a guarantee;

– in relation to paying customs debts: the suspension of the time limit for payment of the amount of import or export duty corresponding to a customs debt and the determination of 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 are to 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; and, for the extinguishment of a customs debt, the list of failures with no significant effect on the correct operation of the temporary storage or of the customs procedure concerned;

– 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;

– in relation to penalties in the case of distance sales: the substantive number of customs 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, in order to determine systematic non-compliance in a uniform and effective manner and to ensure a high level of compliance and to tackle systematic failures, and taking 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;

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

(114) 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 the Trade Contact Group, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[28].

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[28] OJ L 123, 12.5.2016, p. 1, ELI: http://data.europa.eu/eli/agree_interinstit/2016/512/oj.

(115) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in order to:

– lay down the procedural rules for the cooperation between customs authorities in relation to controls;

– lay down the procedure for the submission and the acceptance of an application for a customs decision, and for taking such decisions;

– lay down the rules for annulling favourable customs decisions;

– lay down the procedural rules for revoking, suspending or amending favourable customs decisions;

– adopt decisions requesting Member States to revoke decisions relating to binding information;

– 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;

– lay down the procedure for collecting the Union handling fee from the economic operator;

– lay down the rules on currency conversion;

– lay down the 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 upon such request;

– lay down rules for determining the customs authority responsible for the registration of economic operators and certain other persons;

– lay down 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 trader 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 the EU Customs Authority's recommendation is not sufficient;

– lay down the rules on the consultation with other authorities for the determination of Trust and Check trader status, on the reassessment of that status and related consultations, and on the types 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;

- lay down modalities for the EPPO to request and obtain data from the EU Customs Data Hub;
- lay down 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 a specific contact point, person or persons or to provide additional safeguards;
- establish 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 safeguards to prevent the abuse of, unlawful access to, or transmission of, personal data subject to restrictions;
- lay down the technical arrangements for interoperability and connection regarding the EU Customs Data Hub;
- exceptionally and temporarily authorise Member States to use electronic services or systems other than those implemented in the EU Customs Data Hub;
- lay down measures to ensure the harmonised application of customs controls and risk management, including the exchange of information and the establishment of common priority control areas and common risk criteria and standards;

– lay down measures on the verification of data provided or made available, examination and sampling of goods, results of the verification, and identification;

– lay down the measures to apply to post-release controls and appropriate methodologies;

– specify the ports or airports where customs controls and formalities are to be carried out on cabin and hold baggage;

– lay down the procedural rules for the provision and verification of the means of proof of the customs status of Union goods;

– lay down the procedural rules for amending and for invalidating the data for placing goods under a customs procedure;

– lay down the procedure for the lodging of the customs declaration where means other than electronic data processing techniques are used and for determining the competent customs offices;

– lay down the procedure for lodging a standard customs declaration, a simplified declaration and a supplementary declaration;

– lay down 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;

– lay down the procedure for selling and donating goods, for the destruction of goods and for the abandonment of goods to the State;

– lay down the procedure for providing, receiving, amending and invalidating the advance cargo information and mitigation measures;

– lay down the procedure on the notification of arrival;

– lay down the procedure for the physical presentation of goods to customs;

– lay down the procedure for lodging, amending and invalidating temporary storage information and for the movement of goods between temporary storage facilities;

– lay down the procedural rules on the provision of information establishing that the conditions for relief from import duty for returned goods are fulfilled and on providing the evidence that the conditions for relief from import duty for products of sea-fishing and other products taken from the sea are fulfilled;

– lay own the procedural rules on export and exit;

– lay down the procedure for lodging, amending or invalidating a re-export notification;

– lay down the procedure for providing, making available, receiving, amending and invalidating the pre-departure information and for instructing the person who provided the pre-departure information that the goods are not to be loaded or transported;

– lay down 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 determining and monitoring the quantity beyond which such adverse effect occurs;

– lay down the procedural rules for discharging a special procedure and for transferring the rights and obligations, for the movement of goods and for the use of equivalent goods in the context of special procedures;

– lay down the procedural rules for the application of the provisions of international transit instruments in the customs territory of the Union;

– lay down 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;

– lay down the procedure for the placing of goods under the customs warehousing procedure or free zone procedure;

– lay down the procedural rules regarding the conditions for placing goods intended for distance sales under the customs warehousing procedure in a customs warehouse for distance sales;

– lay down measures on the uniform management of tariff and other quotas 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;

– lay down the procedural rules on the provision and verification of a proof of non-preferential origin of goods;

– lay down 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;

– lay down measures to determine the origin of specific goods;

– lay down the procedural rules for determining the customs value of goods;

– lay down measures establishing the appropriate method of customs valuation or criteria to be used for determining the customs value in specific situations, including distance sales;

– lay down the procedural rules for the provision, determining the amount of, monitoring and release of guarantees, and for the revocation and the cancellation of an undertaking given by a guarantor;

– lay down the procedural rules regarding the temporary prohibitions relating to the use of comprehensive guarantees;

– lay down measures to ensure mutual assistance between the customs authorities in cases of incurrence of a customs debt;

– lay down the procedural rules for the repayment and remission of an amount of import or export duty, for informing the Commission of repayments and remissions, and on the decisions to be adopted by the Commission on repayment or remission;

– activate the necessary actions and arrangements to be applied in the event of a crisis;

– specify the independent status and lay down detailed tasks and responsibilities of the Data Auditor of the EU Customs Authority;

– authorise the Member States to enter into bilateral agreements with third countries 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 the data's level of confidentiality, and the design of the performance measurement.

Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[29].

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[29] 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).

(116) 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 to ensure compliance with the customs legislation;

– implementing acts on the 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 and laying down the detailed tasks and responsibilities of the Data Auditor of the EU Customs Authority;

– implementing acts authorising a Member State to enter into a bilateral agreement on the exchange of information for the purpose of customs cooperation, given that such bilateral agreements affect only one Member State.

(117) 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 priority control areas and common risk criteria and standards;

– 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 the event of a crisis;

– rapidly empowering a Member State to enter into a bilateral agreement with a third country on the exchange of information for the purpose of customs cooperation.

(118) 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.

(119) 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.

(120) This Regulation should be applied within an ambitious timeline, but applied gradually. Accordingly, the provisions of this Regulation 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, where appropriate, to adopt new delegated and implementing acts based on the new delegations of powers and empowerments as soon as this Regulation enters into force. By contrast, to enable the Member States and the economic operators to adapt to the new rules, the vast majority of the provisions of this Regulation should apply from 12 months after its entry into force. That includes the repeal of the current Union Customs Code, which should only be effective after that 12-month adaptation period. Finally, the provisions referring to distance sales and the EU Customs Authority, except those governing the EU Customs Authority's legal status and the start of its activities, should apply from 1 July 2028.

(121) 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 Regulation to allow for their timely implementation by Member States.

(122) 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,

HAVE ADOPTED THIS REGULATION:

TITLE I
GENERAL PROVISIONS

Chapter 1
Scope of customs legislation and mission of the customs authorities

Article 1

Subject matter and scope

1. This Regulation establishes the Union Customs 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, the common standards and the governance framework for the establishment of the European Union Customs Data Hub (the ‘EU Customs Data Hub’).

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

3. Certain provisions of the customs legislation apply outside the customs territory of the Union under Union law governing specific fields or 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 Directive 2006/112/EC or Directive (EU) 2020/262 apply and parts of that territory where those Directives do not apply, or to trade between parts of that territory where those Directives do not apply.

Article 2

Mission of customs authorities

With a view to making the customs union act as one, achieving a uniform implementation of the customs legislation, including harmonised customs control rules, and enabling 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 collecting customs duties and other charges effectively and by combatting fraud, facilitate legitimate business activity, contribute to fair trade and to the overall supply chain security, and combat illicit trade.

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

(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 Part Four of the Treaty on the Functioning of the European Union (TFEU) applies;

(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

(za) 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) in relation to 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) in relation to 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 282 to supplement this Regulation by specifying which provisions of the customs legislation concerning the provision of data, the proof of customs status and the use of the internal Union transit procedure apply to the trade in Union goods referred to in Article 1(4) and laying down simplifications of those provisions, provided that those delegated acts do not affect the proper application of the relevant fiscal measures. Those delegated 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 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 all of the following:

(a) this Regulation and the provisions amending, supplementing or implementing it adopted at Union or national level;

(b) the Common Customs Tariff;

(c) the legal acts establishing a Union system of reliefs from customs duty;

(d) customs provisions contained in international agreements, if those provisions are applicable in the Union; and

(e) Regulation (EU) 2022/2399 and the provisions amending, supplementing or implementing it;

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

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

(5) ‘person’ means a natural person, a legal person or an 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, its 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 resources and the necessary technical resources are permanently present and through which a person’s customs-related operations are wholly or partly carried out;

(9) ‘Member State of establishment’ means:

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

(b) where 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 in which the main accounts for customs purposes of that person or association of persons are held or accessible, and in which at least part of the customs activities are carried out or are to be carried out;

(10) 'customs decision' means any act by the customs authorities that relates to the customs legislation, gives a ruling on a particular case and has legal effects for the person or persons concerned;

(11) 'customs procedure' means any of the following procedures under which goods can be placed in accordance with this Regulation:

(a) release for free circulation;

(b) special procedures;

(c) export;

(12) '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;

(13) 'importer' means:

(a) in the case of distance sales, the importer for distance sales;

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

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

(ii) a person who has taken over the power from the person in (i);

(iii) a 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 of the Union; or

(v) the holder of the goods;

(14) ‘importer for distance sales’ means either the person supplying goods in distance sales or the person facilitating distance sales;

(15) ‘distance sales’ 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;

(16) ‘IOSS scheme’ means the special scheme laid down in Title XII, Chapter 6, Section 4, of Directive 2006/112/EC;

(17) ‘exporter’ means:

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

(b) in cases not covered by point (a):

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

(ii) if there is no person as referred to in point (i), any person established in the customs territory of the Union who is a party to a contract under which goods are to be taken out of that customs territory;

(18) ‘re-export’ means the act whereby an exporter takes non-Union goods out of the customs territory of the Union;

(19) ‘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;

(20) ‘customs representative’ means any person appointed by another person to carry out the acts and formalities required under the customs legislation in that other person’s dealings with the customs authorities;

(21) ‘data’ means any digital or 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;

(22) ‘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 those movements at Union level, to ensure the uniform application of customs controls and compliance with the customs legislation and other legislation applied by the customs authorities, and to contribute to risk analysis and management;

(23) ‘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) the financial or economic interests of the Union and its Member States;

(b) the safety and security of the Union and its residents, to human, animal or plant health, to the environment or to any other public interest;

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

(24) ‘economic analysis’ means the evaluation or quantification of a policy or an economic phenomenon in order 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 in the future;

(25) ‘risk management’ means the systematic identification of risk, including identifying profiles of economic operators presenting a risk and suspicious transactions, and the implementation of all measures necessary for limiting exposure to risk and minimising its potential impact;

(26) ‘customs supervision’ means actions 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 complied with, or with a view to otherwise contributing to the management of risks related to goods and their supply chains;

(27) ‘customs controls’ means specific acts performed by the customs authorities with a view to ensuring compliance with the customs legislation and, where appropriate, other legislation applied by the customs authorities, or with a view to otherwise contributing to the management of risks related to goods and their supply chains;

(28) ‘audit’ means a type of customs control in the form of 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;

(29) ‘place of release’ means:

(a) the competent customs office;

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

(c) a free zone;

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

(31) ‘random controls’ means customs controls based on principles of random sampling with regard to a population of interest;

(32) ‘holder of the goods’ means the person who has physical control of the goods;

(33) ‘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;

(34) 'risk analysis' means the processing of data, including personal data, with a view to the identification or quantification of possible risks, using where relevant analytical methods and artificial intelligence (AI) systems as defined in Article 3, point (1), of Regulation (EU) 2024/1689 of the European Parliament and of the Council[30];

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

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[30] 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).

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

(37) ‘risk mitigation measures’ means the measures to prevent, reduce or manage a risk or to limit its impact, including:

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

(b) requesting relevant additional information or action;

(c) identifying situations where action by another customs authority or other competent authority might be appropriate;

(d) recommending the most appropriate place to carry out controls and the most appropriate measures for those controls;

(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;

(38) ‘control recommendation’ means the risk analysis-based conclusion of a customs authority or of the EU Customs Authority as regards whether a risk mitigation measure should be carried out and, where relevant, when and where it should be carried out;

(39) ‘control decision’ means the individual act by which customs authorities decide whether a control is to take place;

(40) ‘control result’ means the preliminary and final outcomes of a control, including any further action indicated and the competent authorities concerned with the outcomes;

(41) ‘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;

(42) ‘common risk criteria and standards’ means parameters for risk analysis of a risk area and accompanying standards regarding the practical application of those parameters;

(43) ‘supervision strategy’ means an approach to handling a risk which aims to balance operational customs supervision efforts and risk mitigation measures throughout the supply chain in a proportionate and effective manner;

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

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

(46) ‘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);

(47) ‘non-Union goods’ means goods other than Union goods or goods which have lost their customs status as Union goods;

(48) ‘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 the goods are intended to be placed;

(49) ‘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;

(50) ‘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;

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

(52) ‘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;

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

(54) ‘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;

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

(56) ‘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;

(57) ‘manufacturer’ means:

(a) the manufacturer of the product pursuant to the other legislation applied by the customs authorities that is applicable to that product;

(b) in the case of agricultural products as defined in Article 38(1) TFEU or raw materials, the producer; 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 that manufactured the product or had the product manufactured, and that markets that product under that person's or association's name or trademark;

(58) 'product supplier' means any natural or legal person or association of persons in the supply chain that manufactures a product in whole or in part, whether as manufacturer or in any other circumstance;

(59) '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 the arrival of the goods in the customs territory of the Union and their placement under a customs procedure or their re-export;

(60) '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;

(61) 'advance cargo information' means the set of data provided or made available to customs authorities in relation to goods that are to be brought into the customs territory of the Union;

(62) 'processed products' means goods placed under a processing procedure which have undergone processing operations;

(63) ‘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 such goods are entirely or partially used up in the process (production accessories);

(64) ‘holder of the transit procedure’ means the person that 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;

(65) ‘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;

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

(67) ‘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;

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

(69) 'import duty' means the customs duty payable on the import of goods;

(70) 'export duty' means the customs duty payable on the export of goods;

(71) 'repayment' means the refunding of an amount of import or export duty that has been paid;

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

(73) 'buying commission' means a fee paid by an importer to an agent for representing the importer in the purchase of goods being valued;

(74) 'crisis' means an event, whether natural or man-made, of an exceptional nature and scale, taking place inside or outside of the Union, that endangers the safety, security, health and life of residents, economic operators, or personnel of customs authorities and that requires urgent measures as regards the entry, exit or transit of goods;

(75) 'crisis response cell' means a service within the EU Customs Authority that coordinates the Union's crisis response efforts within the customs union;

(76) 'micro, small and medium-sized enterprises' or 'SMEs' means micro, small and medium-sized enterprises as defined in Article 2 of Recommendation 2003/361/EC;

(77) 'Economic Operator Registration and Identification number' or '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 that economic operator or person for customs purposes;

(78) ‘item’ means one or more goods in a consignment sharing the same tariff classification, description and, where provided for as part of the data requirements applicable to the relevant customs declaration or to the data to be provided or made available to the customs authorities, origin;

(79) ‘shared border-crossing point’ means any customs border-crossing point, situated either in the territory of a Member State or in 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 3
Competent customs authority and operational rules of customs offices

Article 6

Competent customs authority

1. The competent customs authority shall be:

   (a) for the decisions relating to the application of the customs legislation in accordance with Chapter 4, except for specific cases laid down in the customs legislation, the customs authority of the Member State of establishment of the applicant;

   (b) for the activities to be carried out under Articles 97 to 100, the customs authority competent for the customs office of first entry;

(c) for the activities to be carried out under Articles 101, 102 and 103, the customs authority competent for the customs office of first entry or the customs authority of the Member State in which the goods are unloaded or transhipped, depending on the specific situation as referred to in Article 101(1), (2) and (3);

(d) for the activities to be carried out under Articles 104 to 108 and Title V, the customs authority of the Member State in which:

(i) the goods to be in temporary storage are located, including the place where the transit procedure ends, depending on the specific situation; or

(ii) the goods to be placed under a customs procedure are located;

(e) for the activities to be carried out under Title VII, other than those linked to the placement of the goods under a customs procedure, the customs authority responsible for the place where the goods leave the customs territory of the Union.

2. By way of derogation from paragraph 1, point (d), the competent customs authority shall be:

(a) for the release for free circulation in the case of distance sales where the importer for distance sales is not making use of the IOSS scheme, the customs authority of the Member State in which 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 that importer or exporter or its customs representative;

(c) where the declarant has been authorised to use centralised clearance in accordance with Article 91, the customs authority of the Member State of establishment of that declarant.

3. 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;

(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 after the goods have arrived in the customs territory of the Union or before they have left that 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.

4. 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 in accordance with paragraph 3, points (c) and (d), and centralised clearance authorisation holders, and provide that customs authority with the results of those controls, without prejudice to its own controls pertaining to goods brought into or taken out of the customs territory of the Union.

5. The competent customs authorities shall have access to the information necessary for ensuring the correct application of customs legislation and other legislation applied by the customs authorities.

6. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by laying down the specific cases referred to in paragraph 1, point (a), of this Article.

7. The Commission shall adopt implementing acts laying down the procedural rules for the cooperation between customs authorities referred to in paragraph 4 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

8. The Commission shall adopt guidelines to specify tasks for the cooperation between customs authorities referred to in paragraph 4.

Article 7

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 4
Customs decisions

SECTION 1
GENERAL PRINCIPLES

Article 8

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 30 calendar days from the date of receipt of an application for a decision, verify whether the conditions for the acceptance of that application are fulfilled.

Where a customs authority establishes that the application for a decision contains all the information required in order for them to be able to take that decision, it shall communicate the application's acceptance to the applicant within 30 calendar days from the date of receipt of that application.

Where the customs authority establishes that the application does not contain all the information required, it shall ask the applicant to provide the relevant additional information within a reasonable period, which shall not exceed 30 calendar days. In such cases, the customs authority shall decide whether the application is complete and therefore is to be accepted, or whether it is incomplete and therefore is to be refused, within a period of no more than 60 calendar days from the date of receipt of the first application. If the customs authority does not communicate its decision to the applicant within that period, the application shall be considered to have been accepted at the end of the period of 60 calendar days.

3. Except in specific cases laid down in the customs legislation, the competent customs authority shall take a decision as referred to in paragraph 1 at the latest 120 calendar days from the date of acceptance of the application and shall notify the applicant of that decision without delay.

Where the customs authority is 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, it shall inform the applicant of that fact before the expiry of that time limit, stating the reasons for the delay and indicating the further period that it considers necessary in order to take a decision. Except in specific cases laid down in the customs legislation, that further period shall not exceed 30 calendar days.

In addition, the customs authority may extend the time limit for taking a decision that is 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 necessary to carry them out shall be communicated to the customs authority, which shall decide whether to grant the requested extension.

Where the customs authority fails to take a decision within the time limits established in the first, second and third subparagraphs, the applicant shall receive an automatic notification. The applicant may consider that failure to take a decision constitutes a negative decision.

4. Except in specific cases laid down in the customs legislation, or where otherwise specified in the decision itself, a 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 19(2), decisions shall be enforceable by the customs authorities from their date of adoption.

5. Except in specific cases laid down in the customs legislation, a decision shall be valid without limitation of time.

6. Before taking a decision which would adversely affect the applicant, the customs authority shall communicate to the applicant the grounds on which it intends to base its decision. The applicant shall be given the opportunity to express its opinion within a prescribed period calculated from the date on which it received 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 way, of the decision.

The rights and obligations referred to in the first subparagraph shall not apply:

(a) where the decision concerned relates to binding information referred to in Article 15(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 166(4), first subparagraph;

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

(d) where the decision concerned aims to secure the implementation of another decision on which the applicant has been given the opportunity to express its opinion, without prejudice to the law of the Member State concerned;

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

(f) where the application does not satisfy the conditions for its acceptance;

(g) where the customs authority instructs the person who lodged the entry summary declaration, or who provided or made available the advance cargo information, that the goods are not to be loaded or transported;

(h) where the decision concerns a notification to the applicant of a Commission decision as referred to in Article 217(3);

(i) where an EORI number is to be invalidated, at the request of the economic operator concerned, or where there is no customs activity for three years or an economic operator no longer exists;

(j) where the nature or the level of a threat to financial interests of the Union or its Member States so requires.

7. A decision that 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 18.

8. The Commission is empowered to adopt delegated acts in accordance with Article 282 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 specific cases in which the time limit for taking a specific decision and the time limit for a possible extension of that time limit differs from the time limits referred to in paragraph 3 of this Article;

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

(e) the specific cases, referred to in paragraph 5 of this Article, in which 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 relating to the cases referred to in paragraph 6, second subparagraph, of this Article.

9. The Commission is empowered to adopt delegated acts in accordance with Article 282 to amend paragraphs 2 and 3 of this Article to shorten the time limits referred to therein, if appropriate, once the EU Customs Data Hub is operational.

10. The Commission shall adopt implementing acts laying down 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 decisions 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 283(4).

Article 9

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 criteria and the compliance with the conditions, as well as the compliance with the obligations, resulting from that decision 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 that arises after the decision was taken that could 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 to 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 of which the holder is aware, or should reasonably have been aware, or of information that could lead to its detection, in particular in accordance with Articles 27, 28, 30 and 31. Based on such monitoring activity, the customs authorities 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 three years, the customs authorities shall closely monitor the holder 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 28 February 2034, the customs authorities shall record their decisions in the existing electronic systems for the exchange of information developed by the Commission and the Member States. The Commission and the Member States 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 EU Customs Data Hub.

8. In specific cases laid down in the customs legislation, the customs authorities shall re-assess a decision.

9. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by determining:

(a) detailed rules for monitoring decisions as referred to in paragraphs 2, 3 and 4 of this Article;

(b) the specific cases where decisions are to be re-assessed, as referred to in paragraph 8 of this Article, and the rules for such re-assessing.

Article 10

Union-wide validity of decisions

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

Article 11

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 should reasonably 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. The annulment of a decision shall take effect from the date on which the initial decision took effect, unless otherwise specified in the decision on that annulment in accordance with the customs legislation.

4. The Commission shall adopt implementing acts laying down the rules for annulling favourable decisions. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 12

Revocation, suspension and amendment of favourable decisions

1. A favourable decision shall be revoked or amended:

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

   (b) where the holder of the decision fails to fulfil the obligations imposed by that decision; or

   (c) at the application of the holder of the decision.

2. 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 by 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 the holder is temporarily unable to fulfil the conditions for that decision or the obligations imposed by that decision.

In the cases referred to in points (b) and (c), the holder of the decision shall notify the customs authority competent to take the decision of the measures that the holder will take to ensure the fulfilment of the conditions or compliance with the obligations, as well as the period needed to take those measures.

3. Except in specific cases laid down in the customs legislation, a favourable decision addressed to several persons may be revoked only in respect of a person who fails to comply with an obligation imposed by that decision.

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

5. Article 8(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 the revocation or amendment takes effect by up to one year. That date shall be indicated in the revoking or amending decision.

6. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by determining:

(a) the specific cases, referred to in paragraph 3, in which the customs authorities are permitted to revoke a favourable decision addressed to several persons in respect of persons other than the person who failed to comply with an obligation imposed by that decision;

(b) the exceptional cases in which the customs authorities are permitted to defer the date on which revocation or amendment takes effect in accordance with paragraph 5, second subparagraph.

7. The Commission shall adopt implementing acts laying down 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 283(4).

Article 13
Decisions taken without an application

Except when a customs authority acts as a judicial authority, Article 8(4) to (7), Article 9(7) and Articles 10, 11 and 12 shall apply *mutatis mutandis* to decisions taken by the customs authorities without an application by the person concerned.

Article 14
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 when the revocation, amendment or suspension takes effect, have already been placed under a customs procedure and are still under that customs procedure, or are in temporary storage, as a result of the revoked, amended or suspended decision.

SECTION 2

BINDING INFORMATION

Article 15

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 applications 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 in the same circumstances determining the acquisition of origin;

(iii) for BVI decisions, in respect of goods in 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 the determination of the origin or of customs value of the goods concerned, on:

(a) the customs authorities, in relation to 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, in relation to 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 three years from the date on which they take 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:

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

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

Article 16

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 15(3) where it no longer conforms to the law as a result of either of:

(a) the adoption of an amendment to the nomenclatures referred to in Article 166(2), points (a) and (b); or

(b) the adoption of measures referred to in Article 167(4).

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

2. A BOI decision shall cease to be valid before the end of the period referred to in Article 15(3):

(a) where the BOI decision is no longer compliant with Union law as a result of the adoption of a legally binding act of the Union or the conclusion of an agreement by the Union that becomes applicable in the Union, with the BOI decision ceasing to be valid with effect from the date of application of that act or agreement; or

(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 the BOI decision ceasing to be valid 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 15(3):

(a) where the BVI decision is no longer compliant with Union law as a result of the adoption of a legally binding act of the Union, with the BVI decision ceasing to be valid from the date of application of that act; or

(b) where the BVI decision is no longer compatible with the Article VII of the General Agreement on Tariffs and Trade, or the Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994[31], or with the decisions adopted for the interpretation of that Agreement by the Committee on Customs Valuation, with the BVI decision ceasing to be valid from the date of their 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 9(7) and Article 11, the customs authorities shall annul decisions relating to binding information only where they are based on inaccurate or incomplete information from the applicants.

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[31] OJ L 336, 23.12.1994, p. 119,
ELI: http://data.europa.eu/eli/agree_internation/1994/800(9)/oj.

6. The customs authorities shall revoke decisions relating to binding information in accordance with Article 9(7) and Article 12. However, such decisions shall not be revoked at the application of the holder of the decision.

7. Decisions relating to binding information shall 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 166(2), points (a) and (b), as a result of any of the following:

   (a) the adoption of explanatory notes referred to in Article 9(1), point (a), first indent of Council Regulation (EEC) No 2658/87[32], the BTI decision being revoked with effect from the date of publication of those explanatory notes in the *Official Journal of the European Union*;

   (b) the delivery of a judgment of the Court of Justice of the European Union, the BTI decision being revoked with effect from the date of publication of the operative part of the judgment in the *Official Journal of the European Union*;

   (c) the adoption of classification decisions, classification opinions or amendments to 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, the BTI decision being revoked with effect from the date of publication of the relevant Commission communication in the 'C' series of the *Official Journal of the European Union*.

[32] Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1, ELI: http://data.europa.eu/eli/reg/1987/2658/oj).

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 paragraph 2 or 3, or is revoked in accordance with paragraph 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 period of extended use referred to in the first subparagraph shall be no longer than six 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 167(4), a measure referred to in Article 172 or a measure referred to in Article 182 may exclude that extended use or lay down a shorter period. In the case of products for which an import or export certificate is submitted when customs formalities are carried out, the period of six 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 submit 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 during the period of extended use. That customs authority shall take a decision on the extended use and notify the holder thereof without delay and at the latest 30 days from the date on which it receives all the information required in order to enable it to take such 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 implementing acts, in the form of decisions, requesting Member States to revoke a BTI decision, BOI decision or BVI decision to ensure a correct and uniform tariff classification or determination of the origin of goods or 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 decision, BOI decision or BVI decision, who shall be given the opportunity to express its views within a period prescribed from the date on which the holder receives that communication or is deemed to have received it.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 283(2).

13. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by laying down 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 decisions and the time limit within which those persons may express their views.

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 of this Article;

(b) notifying the customs authorities in accordance with paragraph 11 of this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

SECTION 3

APPEALS

Article 17

Decisions taken by a judicial authority

Articles 18 and 19 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 18

Right of appeal

1. A person shall have a right to appeal against any decision taken by the customs authorities relating to the application of the customs legislation, provided that the decision concerns that person directly and individually.

   Any person who has applied to the customs authorities for a decision and has not obtained one within the time limits referred to in Article 8(3) shall also be entitled to exercise its right of appeal.

2. It shall be possible to exercise the right of appeal in at least two stages:

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

(b) subsequently, before a higher independent body, which can be a judicial authority or an equivalent specialised body, depending on the national law of the Member State concerned.

3. The appeal shall be lodged in the Member State in which 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 19

Suspension of implementation

1. The submission of an appeal shall not have the effect of suspending the implementation of the decision being appealed.

2. Notwithstanding paragraph 1, the customs authorities shall suspend the implementation of such a decision in whole or in part where they have good reason to believe that the decision being appealed is inconsistent with the customs legislation or that irreparable damage might be suffered by the person concerned.

3. In the cases referred to in paragraph 2, where the decision being appealed has the effect of causing import or export duty to be payable, the 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 20

Charges, costs and Union handling fee

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

2. 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 the release for free circulation procedure where those goods are sold in distance sales.

3. The amount of the Union handling fee referred to in paragraph 2 shall correspond to the approximate costs of the services referred to in that paragraph. Those costs shall include at least the costs of checking the data, of carrying out risk analysis, of the relevant infrastructure and of controls, including services rendered by the EU Customs Authority.

4. The amount referred to in paragraph 2 shall be lower where the subject of release for free circulation is goods sold in distance sales from a customs warehouse for distance sales.

5. 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 the event of a customs debt shall be the debtor for the Union handling fee.

   As regards matters in relation to which no specific rules are laid down in, or established pursuant to, this Article, the provisions on customs debt shall apply *mutatis mutandis* to the Union handling fee.

6. The Union handling fee shall be non-refundable.

7. Until 30 June 2028, in accordance with Article 285(2), the Commission shall provide an appropriate IT solution at Union level for the purpose of the calculation of the Union handling fee.

8. The Commission shall produce a report every two years to assess the approximate costs of the services referred to in paragraphs 2 and 3.

9. Member States may determine and apply charges or recover costs for specific services other than those referred to in paragraph 2, 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, in particular in respect of decisions taken pursuant to Article 15 or the provision of information in accordance with Article 25;

(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 necessary due to the nature of the goods or to a potential risk.

10. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Article by establishing the amount of the Union handling fee referred to in paragraphs 2 and 3 of this Article.

11. The Commission may adopt implementing acts laying down the procedure for collecting the Union handling fee from the economic operator. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Chapter 5
Currency conversion and time limits

Article 21

Currency conversion

1. The competent authorities shall publish, where appropriate also by making available online, the applicable exchange rate where currency conversion 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 in which the customs value is determined;

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

2. Where currency conversion 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 adopt implementing acts laying down rules on currency conversion for the purposes 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 283(4).

Article 22

Periods, dates and time limits

1. 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, unless otherwise provided therein.

2. The rules applicable to periods, dates and time limits set out in Regulation (EEC, Euratom) No 1182/71 of the Council[33] shall apply, except where otherwise provided for in the customs legislation.

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[33] 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, p. 1, ELI: http://data.europa.eu/eli/reg/1971/1182/oj).

Chapter 6

Other provisions

Article 23

Confidentiality of data

1. Data acquired by the customs authorities or by the EU Customs Authority which is by its nature confidential or which is provided on a confidential basis shall be kept confidential. This notwithstanding, 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 reasons related to legal proceedings.

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 is limited to the competent authorities of the Member State concerned, unless those authorities expressly authorise further processing by another person. The person who transmits the data to the EU Customs Data Hub shall clearly set the processing limitations of such data that can be linked to the specific supply chains or the data categories.

3. For the purposes of paragraph 2, the Member State concerned shall inform the Commission about the specific essential interests of their security that are at stake and explain why it considers that those interests could not be sufficiently protected under the general framework of provisions regarding data processing within the EU Customs Data Hub.

4. Any disclosure, extraction or communication of data under this Regulation shall be carried out with an adequate level of data protection.

5. Without prejudice to Directive (EU) 2016/943 of the European Parliament and of the Council[34], from 1 March 2031, 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.

6. The Commission shall adopt implementing acts laying down the procedures for the data requests referred to in paragraph 5 of this Article, and the form and categories of data that can be made available upon such request. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 24

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, and in particular for the purpose of mutual cooperation with the aim of identifying and countering risk. That exchange may take place pursuant to a written agreement and may include access by the customs authorities to the electronic systems of economic operators.

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[34] Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1, ELI: http://data.europa.eu/eli/dir/2016/943/oj).

2. Any information provided by one party to another in the course of the cooperation referred to in paragraph 1 shall be confidential unless both parties agree otherwise or unless otherwise provided in Union or national law.

Article 25

Provision of information by the customs authorities

1. Any person may request from the customs authorities information concerning the application of the customs legislation. 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 relevant application forms freely available, wherever practical without charge, including online.

TITLE II

OBLIGATIONS AND RIGHTS OF PERSONS WITH REGARD TO CUSTOMS LEGISLATION

Chapter 1

Registration

Article 26

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 EORI number. Where possible, that registration shall also include the electronic identification of the economic operator in the national electronic identification schemes referred to in Regulation (EU) No 910/2014 of the European Parliament and of the Council[35].

2. Registered economic operators shall inform the customs authorities about any modification in their registration data, in particular as regards any modification of their place of establishment.

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[35] Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73, ELI: http://data.europa.eu/eli/reg/2014/910/oj).

3. In specific cases laid down in the customs legislation, economic operators which are not established in the customs territory of the Union shall register with the customs authority of the Member State in which 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, except in specific cases laid down in the customs legislation.

Where persons other than economic operators are required to register with the customs authorities, the following shall apply:

(a) if such persons are established in the customs territory of the Union, they shall register with the customs authority of the Member State of establishment;

(b) if such persons are not established in the customs territory of the Union, they shall register with the customs authority of the Member State in which they first lodge a declaration, provide or make available data or apply for a decision.

5. In specific cases laid down in the customs legislation, the customs authorities shall invalidate the registration referred to in paragraph 1. Such invalidation shall be duly justified.

6. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by:

(a) laying down the minimum data requirements for the registration referred to in paragraph 1 of this Article;

(b) determining the specific cases referred to in paragraph 3 of this Article where economic operators which are not established in the customs territory of the Union are required to register with the customs authorities;

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

(d) determining the specific cases referred to in paragraph 5 of this Article where the customs authorities are required to invalidate a registration.

7. The Commission shall adopt implementing acts laying down rules for determining the customs authority responsible for the registration referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Chapter 2
Importer

Article 27

Importers

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

2. The importer shall:

(a) provide or make available to customs authorities, as soon as it is available and in any event prior to the release of the goods, and keep 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 Article 74, 104, 109, 142, 153, 156 or 158 or required to discharge the outward processing procedure;

(b) ensure payment of any customs duties and other applicable charges;

(c) ensure that the goods entering the customs territory of the Union comply with relevant other legislation applied by the customs authorities and provide or make available and keep appropriate records of such compliance;

(d) notify customs authorities of any information concerning suspicious movements or unauthorised handling of goods of which the importer is aware;

(e) fulfil any other obligation on the importer established by customs legislation.

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

This requirement shall not apply to an importer that:

(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 28

Exporters

1. The exporter shall:

(a) provide or make available to customs authorities, as soon as it is available and in any event prior to the release of the goods, and keep all the information required in respect of the customs procedure under which the goods are placed in accordance with Article 114, Article 116 or Article 161 or required to discharge the procedure referred to in Article 54(4), Article 142, Article 153, or Article 158;

(b) ensure payment of any customs duties and other applicable charges;

(c) ensure that the goods exiting the customs territory of the Union comply with relevant other legislation applied by the customs authorities and provide or make available and keep appropriate records of such compliance;

(d) notify customs authorities of any information concerning suspicious movements or an unauthorised handling of goods of which the exporter is aware;

(e) fulfil any other obligation on the exporter established by customs legislation.

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

This requirement shall not apply to an exporter that:

(a) places goods under the transit procedure, discharges the temporary admission procedure or re-exports goods from temporary storage;

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

(c) occasionally places goods under customs procedures or re-exports them, provided that the customs authorities consider such placing or re-export 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 exporter 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 4

Authorised economic operators and Trust and Check traders

Article 29

Application and authorisation for authorised economic operators

1. An economic operator that is established in the customs territory of the Union and meets the criteria set out in Article 30 may apply for the status of authorised economic operator.

2. 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 enables the holder to benefit from such simplifications in accordance with the customs legislation; or

   (b) that of an authorised economic operator for safety and security, which entitles the holder to facilitation measures in respect of safety and security.

3. An economic operator referred to in paragraph 1 may hold both types of authorisation referred to in paragraph 2 at the same time.

4. An authorised economic operator shall comply with the obligations set out in Article 9(2) and (3). The customs authorities shall monitor whether the authorised economic operator continues to meet the relevant criteria and to comply with the relevant obligations in accordance with Article 9(4).

At least every three years, the customs authorities shall perform in-depth monitoring, including an on-site visit, of the authorised economic operator's activities and internal records.

5. The status of authorised economic operator shall, subject to paragraph 6 of this Article and to Article 30, be recognised by the customs authorities in all Member States.

6. 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 economic operator to benefit from that simplification. Customs authorities shall not re-examine the criteria which have already been examined when granting the status of authorised economic operator.

7. An authorised economic operator shall enjoy more facilitation measures 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.

8. The customs authorities shall grant benefits resulting from the status of authorised economic operator for safety and security to persons established in third countries who fulfil the criteria and comply with the obligations laid down in the relevant legislation of those countries, if those criteria 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 to which the Union is a party, or by a Union legal act in the area of common commercial policy.

9. As part of the protocols and procedures for crisis management laid down in Article 227, the EU Customs Authority shall develop 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. The business continuity mechanism shall provide that the customs authorities can facilitate and expedite, to the extent possible, priority cargos related to authorised economic operators.

10. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by determining:

(a) the simplifications referred to in paragraph 6 of this Article;

(b) the facilitation measures referred to in paragraph 7 of this Article.

11. The Commission shall adopt implementing acts laying down procedural rules for the consultations in respect of the determination of the status of authorised economic operators referred to in paragraph 2 of this Article, including the deadlines for replying. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 30

Granting of the status of authorised economic operator

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

   (a) the applicant has no record of serious criminal offences relating to economic or business activities and no serious infringement or repeated infringements relating to those activities, and concerning:

      (i) customs legislation and taxation rules;

      (ii) other legislation applied by the customs authorities, where the customs authority competent to grant the status of authorised economic operator is aware of such infringements or offences;

   (b) the applicant demonstrates that:

      (i) it exercises a high level of control over its operations and the flow of goods, by means of a system for managing commercial records, and, where appropriate, transport records, that allows for appropriate customs controls;

      (ii) it has satisfactory procedures in place for the handling of licences, authorisations and requirements under other legislation applied by the customs authorities, including product safety legislation, and that any non-compliance has been effectively remedied;

(iii) it ensures that relevant personnel 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

(iv) it has procedures in place for informing the customs authorities of the cases referred to in point (iii);

(c) the applicant is financially solvent, which is to be deemed the case where it has sufficiently good financial standing to enable it to fulfil its commitments, having due regard to the characteristics of the type of business activity concerned;

(d) with regard to the authorisation referred to in Article 29(2), point (a), the applicant has practical standards of competence or professional qualifications directly related to the type and size of the activity carried out;

(e) with regard to the authorisation referred to in Article 29(2), point (b), the applicant has appropriate safety, security and compliance standards, adapted to the type and size of the activity carried out, which is considered to be the case where the applicant demonstrates that it has appropriate measures in place to ensure the safety and security of the international supply chain, including in the fields of physical integrity and access controls, logistical processes and the handling of specific types of goods, personnel and the identification of its business partners.

2. The Commission shall adopt implementing acts laying down modalities for the application of the criteria set out in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 31

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 its business for at least two 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 customs authorities and other competent authorities, where necessary, and after having had access to the relevant data of the applicant for the last three years in order to assess compliance with the criteria set out in paragraph 3.

3. The criteria for granting the status of Trust and Check trader shall be the following:

   (a) the applicant has no record of serious criminal offences relating to economic or business activities and no serious infringement or repeated infringements relating to those activities, and concerning:

      (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 status is aware of such infringements or offences;

(b) the applicant demonstrates that:

(i) it exercises a high level of control over its operations and the flow of goods, by means of a system for managing commercial records, and, where appropriate, transport records, that allows for appropriate customs controls;

(ii) it has satisfactory procedures in place for the handling of licences, authorisations and requirements under other legislation applied by the customs authorities, including product safety legislation, and that any non-compliance has been effectively remedied;

(iii) it ensures that relevant personnel 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

(iv) has procedures in place for informing the customs authorities of the cases referred to in point (iii);

(c) the applicant is financially solvent, which is to be deemed the case where it has sufficiently good financial standing to enables it to fulfil its commitments, having due regard to the characteristics of the type of business activity concerned, and, in particular, that, during the three years preceding the submission of the application, it has fulfilled its 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) the applicant has practical standards of competence or professional qualifications directly related to the type and size of the activity carried out, including on how to interact through the EU Customs Data Hub;

(e) the applicant has appropriate safety, security and compliance standards, including product safety standards, adapted to the type and size of the activity carried out, which is considered to be the case where the applicant demonstrates that it has appropriate measures in place to ensure the safety and security of the international supply chain, including in the fields of physical integrity and access controls, logistical processes and the handling of specific types of goods, personnel and the identification of its business partners;

(f) the applicant has 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 its compliance with all requirements applicable to those goods, including those relating to safety and security, and, where relevant, that it makes available to the customs authorities via the EU Customs Data Hub:

(i) customs records, including those needed to check the correctness of the establishment of the customs debt;

(ii) the accounting system used;

(iii) commercial and transport records;

(iv) tracking and logistics systems which identify goods as Union or non-Union goods and indicate, where appropriate, the location of goods;

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

(g) in the case of an applicant that is an importer for distance sales, it has been registered and has been making appropriate use of the IOSS scheme for at least two years.

4. A Trust and Check trader shall comply with the obligations set out in Article 9(2) and (3). The customs authorities shall monitor whether the trader continues to meet the relevant criteria and to comply with the relevant obligations in accordance with Article 9(4).

At least every two years, the customs authorities 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 verifying in particular the practical application of the procedures in place to comply with the criteria referred to in paragraph 3 of this Article. The Trust and Check trader shall inform the customs authorities of any changes in its corporate structure, ownership, solvency situation or 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 those changes have a significant impact on the Trust and Check trader status. The customs authorities may suspend the Trust and Check trader's status 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 or trading models or any other significant changes in its situation and activities if any of those changes might have an impact on the Trust and Check trader status.

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

6. 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 trader status by a specific economic operator.

The outcome of the verification referred to in the first subparagraph 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 trader 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 EU Customs Authority's recommendation.

Where the competent customs authority fails to provide the information referred to in the third subparagraph or where the action referred to in that subparagraph taken on the basis of the EU Customs Authority's 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 trader status to suspend or revoke it within the deadline set in the relevant decision. Such a suspension or revocation shall be recorded in the EU Customs Data Hub.

7. Where a Trust and Check trader is involved in fraudulent activity in relation to its economic or business activity or where customs authorities become aware of infringement by a Trust and Check trader of relevant other legislation applied by the customs authorities pursuant to Article 27(2), point (c), that Trust and Check trader's status shall be suspended by the customs authorities. That suspension shall be recorded in the EU Customs Data Hub.

8. Customs authorities shall authorise Trust and Check traders to benefit from one or more of the following simplifications, depending on their economic activities:

(a) provide or make available part of the data on their goods after the release of those goods, in accordance with Article 74(5);

(b) perform certain controls and release the goods upon receipt of those goods at the place of business of the importer, owner or consignee or upon delivery from the place of business of the exporter, owner or consignor, in accordance with Article 78(1) and (3);

(c) consider that it provides the necessary assurance of the proper conduct of the operations for the purposes of temporary storage in accordance with Article 108(2), or of obtaining authorisations for special procedures in accordance with Article 125(4), Article 126 and Article 133(2);

(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 205(5);

(e) defer the payment of the customs debt in accordance with Article 212(2);

(f) by way of derogation from Article 134, 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.

9. Customs authorities shall make best efforts to align their practice of granting authorisations referred to in paragraph 8 with those of other customs authorities in order to ensure a uniform approach across the Union.

10. Trust and Check traders shall enjoy more facilitation measures 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.

11. As part of the protocols and procedures for crisis management laid down in Article 227, the EU Customs Authority shall develop 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. The business continuity mechanism shall provide that the customs authorities can facilitate and expedite, to the extent possible, priority cargos related to Trust and Check traders.

12. The Commission shall adopt implementing acts laying down:

(a) the rules on the consultation of other competent authorities for the determination of the status of Trust and Check trader referred to in paragraph 2 of this Article, including the deadlines for replying;

(b) the modalities on the application of the criteria set out in paragraph 3 of this Article;

(c) the types of monitoring activities referred to in paragraph 4 of this Article;

(d) the rules on the consultation of the customs authorities referred to in paragraph 5 of this Article;

(e) the rules about reassessment of the Trust and Check trader status referred to in paragraph 5 of this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to Article 283(4).

Article 32

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 those of micro, small and medium-sized enterprises, when assessing whether they fulfil the criteria for being granted the status of authorised economic operators and of Trust and Check traders.

2. The Commission shall adopt guidelines with a view to helping micro, small and medium-sized enterprises to make use of the status of authorised economic operators and Trust and Check traders.

Chapter 5

Customs representation

Article 33

Customs representatives

1. Any person may appoint a customs representative.

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

2. An indirect customs representative acting in its own name but on behalf of an importer or an exporter that is established in the customs territory of the Union shall be jointly and severally responsible with that importer for the purposes of Article 27(2) or with that exporter for the purposes of Article 28(1).

3. An indirect customs representative acting in its own name but on behalf of an importer or an exporter that is not established in the customs territory of the Union shall be considered to be the importer for the purposes of Article 27(2) or exporter for the purposes of Article 28(1).

4. The customs representative shall be established in the customs territory of the Union.

Except in specific cases laid down in the customs legislation, 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.

5. A customs representative having the status of Trust and Check trader shall only be recognised as a Trust and Check trader when acting as an 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 Trust and Check trader.

6. A customs representative having the status of authorised economic operator shall be recognised as an authorised economic operator when acting as a direct or indirect representative.

7. Only a customs representative having the status of authorised economic operator for customs simplification or a customs representative having the status of Trust and Check trader shall be entitled to one or both of the following:

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

(b) the placing under the release for free circulation procedure of goods sold in a distance sale.

8. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by determining the specific cases in which the waiver referred to in paragraph 4, second subparagraph, of this Article does not apply.

Article 34

Representatives' empowerment

1. When dealing with the customs authorities, a customs representative shall state that it 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 that they represent.

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. This notwithstanding, such person shall always be in a position to produce such evidence if requested to do so by the customs authorities.

TITLE III
EU CUSTOMS DATA HUB

Chapter 1
General provisions

Article 35

Establishment of the EU Customs Data Hub

This Regulation establishes the EU Customs Data Hub.

Article 36

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 37

Digital sovereignty

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

   The EU Customs Data Hub infrastructure other than 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 Union.

2. When performing tasks related to the development, hosting, operation and maintenance of the EU Customs Data Hub, and any related data processing in that Hub, suppliers and other service providers and their subcontractors shall be reliable, secure and free from the 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 could require the disclosure of data in the EU Customs Data Hub to any authorities of that country. They shall also ensure the reliability, security and independence of the EU Customs Data Hub.

Those suppliers and other service providers, and their subcontractors, 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, point (7), of Regulation (EU) 2019/452 of the European Parliament and of the Council[36].

For critical services, including any data-related activities, the contracting authority may require the supplier, other service provider or subcontractor to have a security clearance.

3. The contracting authority for the EU Customs Data Hub may at any time require tenderers, suppliers and other service providers, and their subcontractors, 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 establishing that they fulfil the obligations set out in paragraph 2 with regard to independence and non-disclosure, and to provide evidence of the fact that they are reliable, secure and free 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. The contracting authority for the EU Customs Data Hub may require suppliers and other service providers, and their subcontractors, to provide evidence in that regard.

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[36] Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (OJ L 79I, 21.3.2019, p. 1, ELI: http://data.europa.eu/eli/reg/2019/452/oj).

5. Where the contracting authority for the EU Customs Data Hub has reason to believe that the measures taken by tenderers, suppliers and other service providers, or their subcontractors, to comply with their obligations under paragraphs 2, 3 and 4 are insufficient, or that the evidence provided by them under this Article is not wholly reliable, it may take any measures under the relevant contract or in the relevant procurement process that it considers necessary to remedy the situation, including the suspension or termination in part or in full of that contract or the exclusion from that procurement process. This shall be without prejudice to any other additional remedial rights provided for:

(a) by the contracting authority for the EU Customs Data Hub in the relevant contract; or

(b) in Union or national law.

6. Unless provided for in Title III or XIII or in 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 organisation 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, hinder or prevent the transfer or porting of data, applications or digital assets by the contracting authority to another service provider, or their use in an interoperable environment.

Chapter 2

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

Article 38

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 set out in Article 41.

2. The EU Customs Data Hub shall be developed to enable compliance with the provisions of Regulations (EU) 2016/679 and (EU) 2018/1725, Regulation (EU) 2023/2841 of the European Parliament and of the Council[37] and Directive (EU) 2016/680 relating to the processing of personal data.

3. The EU Customs Data Hub shall have the following functionalities:

   (a) enabling the electronic implementation of customs legislation and contributing 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, VAT and excise duty at import; guarantee management;

[37] Regulation (EU, Euratom) 2023/2841 of the European Parliament and of the Council of 13 December 2023 laying down measures for a high common level of cybersecurity at the institutions, bodies, offices and agencies of the Union (OJ L, 2023/2841, 18.12.2023, ELI: http://data.europa.eu/eli/reg/2023/2841/oj).

(b) ensuring the quality, integrity, security, preservation, traceability, confidentiality and non-repudiation of data processed in the EU Customs Data Hub, including applying the rules for the amendment, invalidation and deletion of such data;

(c) enabling and ensuring 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;

(d) enabling interoperability with other electronic systems, platforms or environments for the purpose of cooperation in accordance with Title XIII of this Regulation;

(e) enabling interoperability with the European Maritime Single Window Environment for the provision and fulfilment of the customs formalities indicated in the Annex to Regulation (EU) 2019/1239 of the European Parliament and of the Council[38];

(f) integrating the European Union Customs Single Window Certificates Exchange System (EU CSW-CERTEX) 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) enabling the exchange of information with third countries and other authorities and bodies according to Title XIII of this Regulation;

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[38] Regulation (EU) 2019/1239 of the European Parliament and of the Council of 20 June 2019 establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU (OJ L 198, 25.7.2019, p. 64, ELI: http://data.europa.eu/eli/reg/2019/1239/oj).

(h) enabling the customs surveillance of goods;

(i) enabling reporting capabilities, including the possibility of reporting goods to be imported or exported that are not in compliance with relevant Union legislation applied by the customs authorities;

(j) integrating information security management capabilities, a governance-based framework designed to prevent data breaches by safeguarding data from loss, manipulation or unauthorised access, including through a mechanism for tagging data according to its level of confidentiality;

(k) enabling portability of data from the EU Customs Data Hub into national systems;

(l) providing for a single access point and multilingual interfaces;

(m) allowing the re-use of data to the highest extent possible;

(n) facilitating the necessary interoperability with Member States' systems for identity management and authorisation of access to the EU Customs Data Hub.

4. Acts performed by persons, the Commission, the customs authorities, the EU Customs Authority or other authorities using the functionalities listed in paragraph 3 shall remain the acts of those persons and authorities, even if they have been automated.

5. The Commission is empowered to adopt delegated acts in accordance with Article 282:

(a) to amend paragraph 3 of this Article as regards the functionalities referred to therein in order to take account of new tasks conferred on the authorities referred to in Article 41 of this Regulation by Union law or to adapt those functionalities to the evolving needs of those authorities when implementing the customs legislation or other legislation applied by the customs authorities;

(b) to supplement this Regulation by determining the data that can be subject to portability from the EU Customs Data Hub into national systems as referred to in paragraph 3, point (k), of this Article.

6. The Commission shall adopt implementing acts laying down:

(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, taking into account the provisions included in Regulation (EU) 2022/2399 in relation to Regulation (EU) 2023/2841 and to 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, to be designed to ensure a seamless transition.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 39

Pilot phase for the EU Customs Data Hub

1. Before 1 March 2034, the Commission may establish a pilot phase to test the functionalities of the EU Customs Data Hub (the ‘pilot phase’). Participation in 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 purposes of paragraph 1, the Commission shall publish the following information:

   (a) the technical arrangements for the planning and organisation of the pilot phase;

   (b) the functionalities of the EU Customs Data Hub to be applied and tested during the pilot phase;

   (c) the exact duration of the pilot phase.

Article 40

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, where such 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. Where appropriate, the EU Customs Authority shall coordinate the co-financing of such development among the Member States. If appropriate funding and resources are available in its budget, such development may be partially funded by the EU Customs Authority.

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

(a) that application shall be made available free of charge to all co-financing Member States, and, if all those co-financing Member States agree, it shall also be made available free of charge to other Member States;

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

Chapter 3

Data

Article 41

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

1. Persons may process data available in the EU Customs Data Hub, including personal and commercially sensitive data, that they transmitted or that were transmitted on their behalf or that are addressed to or intended for them. Such processing shall take place exclusively to:

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

   (b) demonstrate that person's compliance with customs legislation and other legislation applied by the 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 in accordance with the rules laid down in an implementing act adopted pursuant to paragraph 12 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 any duty, fees and taxes 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 the tasks provided for in Articles 42 and 43;

(b) to carry out its tasks on customs risk management, as provided for in Title IV, Chapter 2;

(c) to carry out the tasks provided for in Title XII, Chapter 2, and in Title XI;

(d) to carry out the tasks relevant for cooperation under the conditions 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 2;

(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 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 any duty, fees and taxes due in the Union;

(h) to develop, produce and disseminate European official statistics and other analyses provided for in Union legal acts for which the data in the EU Customs Data Hub is necessary;

(i) where relevant, to contribute to the implementation of other legislation applied by the customs authorities, in accordance with the scope and purpose provided for therein.

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 and to Regulation (EC) No 515/97, and under the conditions relating to data protection laid down in those Regulations.

6. 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 any excise duty, fees and taxes due in the Union in connection with the relevant goods, and in accordance with the rules laid down in an implementing act adopted pursuant to paragraph 12.

7. The national statistical authorities of the Member States may process data, including personal data and commercially sensitive data, available in the EU Customs Data Hub exclusively and to the extent necessary for the development, production and dissemination of European and national official statistics, and in accordance with the rules laid down in an implementing act adopted pursuant to paragraph 12.

8. The competent authorities as defined in Article 3, point (3), of Regulation (EU) 2017/625 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 legal acts 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 in accordance with the rules laid down in an implementing act adopted pursuant to paragraph 12 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 legal acts governing the placing on the market or the safety of products and for cooperating with customs authorities to minimise the risks that non-compliant goods enter the Union, and in accordance with the rules laid down in an implementing act adopted pursuant to paragraph 12 of this Article.

10. Until 28 February 2034, the Commission, OLAF and, once it is established, the EU Customs Authority may 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, provided that they do so exclusively for the purposes stated in paragraphs 3, 4 and 5 of this Article.

11. The Commission is empowered to adopt delegated acts in accordance with Article 282 to amend paragraphs 2, 3 and 4 of this Article by clarifying and complementing the purposes laid down in those paragraphs in light of evolving needs of the customs authorities, the EU Customs Authority and the Commission when implementing customs legislation or other legislation applied by the customs authorities.

12. The Commission shall adopt implementing acts laying down rules and modalities for processing data in the EU Customs Data Hub by the authorities referred to in paragraphs 2 and 6 to 9. In establishing those rules and modalities, the Commission shall, for each authority or category of authorities:

(a) assess the existing safeguards applied by the authority or category of authorities concerned to ensure that the data is processed only for the relevant 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 can process;

(d) require the authorities referred to in paragraphs 6 to 9, where necessary, to provide a specific contact point or additional safeguards;

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

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 42

Right for the European Public Prosecutor's Office 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 Regulation (EU) 2017/1939 in accordance with the modalities laid down in an implementing act adopted pursuant to paragraph 4 of this Article.

2. The EPPO shall send the requests referred to in paragraph 1 to the EU Customs Authority. Customs authorities shall be automatically notified of such requests when they are made.

   The EU Customs Authority shall provide the relevant data to the EPPO expeditiously. The EU Customs Authority shall inform the customs authorities concerned of whether it complied with the request.

3. The EU Customs Data Hub shall provide a digital interface via which the EPPO can request and obtain data easily and without delay.

4. The Commission shall adopt implementing acts laying down the modalities for the EPPO to request and obtain data, including personal and commercially sensitive data, available in the EU Customs Data Hub, and in particular:

(a) laying down the modalities for requests from the EPPO for data, including personal or commercially sensitive data, available in the EU Customs Data Hub;

(b) establishing the procedure to verify the compliance of those requests with paragraph 1 of this Article, without prejudice to the confidentiality of the EPPO's investigations;

(c) where appropriate, addressing the need for the EU Customs Authority to designate a specific contact point, person or persons;

(d) where appropriate, addressing the need to provide additional safeguards.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 43

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, provided that those tasks relate to customs matters and in accordance with the rules laid down in an implementing act adopted pursuant to paragraph 8 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 as set out in Regulation (EU) 2019/1896.

3. Any request referred to in paragraph 1 or 2 shall be submitted to the EU Customs Authority. The requestor of the data shall provide the reasons for the request and ensure that it falls within the scope of the legal framework under which the requestor operates.

4. The EU Customs Authority shall process the request for data referred to in paragraph 1 or 2 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 the relevant Member State, a liaison officer, whether the customs authority concerned has objected to the transmission of those data to the requestor of the data on the grounds specified in the implementing act referred to in paragraph 8 and in accordance with the procedure established therein.

5. The data exchanged under this Article shall be only those necessary for the purposes stated in the request. The EU Customs Authority shall make those data available via the EU Customs Data Hub expeditiously.

6. Each Union body, office or agency covered by this Article shall ensure that the data requested are necessary, appropriate and proportionate. The Union body, office or agency concerned shall also ensure that the use of the data is in accordance with the safeguards laid down in the applicable Union legal acts.

7. The Commission is empowered to adopt delegated acts in accordance with Article 282 to amend this Article in order to allow Union bodies, offices and agencies other than those referred to in paragraphs 1 and 2 of this Article to request and obtain data available in the EU Customs Data Hub in accordance with the rules laid down in paragraphs 3 to 6 of this Article to the extent necessary for carrying out their tasks under Union law and provided that those tasks relate to other legislation applied by the customs authorities.

8. The Commission shall adopt implementing acts:

(a) laying down the modalities for the Union bodies, offices and agencies covered by this Article to request and obtain data;

(b) establishing the procedure for the verification referred to in paragraph 4 of this Article, in particular by specifying:

(i) how to identify the customs authorities concerned with the data;

(ii) how to handle situations where multiple customs authorities are concerned with the data;

(iii) the grounds on which the customs authorities concerned with the data can object to the transmission of the data, including taking into consideration the sensitivity of the data requested;

(c) laying down restrictions on, and liability for, the onward transfer of the data by the requester;

(d) where appropriate, addressing the need for the requestor to designate a specific contact point, person or persons or to provide additional safeguards.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 44

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 41:

   (a) data subjects registered or applying for registration in accordance with Article 26(1), (3) or (4);

   (b) data subjects other than those referred to in point (a) of this paragraph 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 55(3), point (a);

   (c) data subjects whose personal information is contained in the supporting documents referred to in Article 76, or in any additional evidence required for the fulfilment of the obligations imposed by the customs legislation and other legislation applied by the customs authorities;

   (d) authorised staff of customs authorities, of other competent authorities or of 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;

(e) staff or authorised third parties working on behalf of the Commission, the EU Customs Authority or other Union bodies, offices or agencies 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 41:

(a) personal data in the EU Customs Data model referred to in Article 49, and those collected for risk management purposes pursuant to Article 55(3), point (a), namely:

(i) identification data;

(ii) contact data, namely address and electronic contact details;

(iii) identity document (ID) data;

(iv) financial and payment data;

(v) location and transport data;

(vi) employment or work position data;

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

(viii) employee data;

(ix) electronic identification data;

(x) customs representation data;

(xi) identification data of customs representative;

(xii) customs transaction data;

(xiii) user technical data;

(xiv) law infringement and offences data;

(xv) control results and mitigation results data;

(b) 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 (d) and (e), of this Article, namely:

(i) identification data;

(ii) contact data, namely address and electronic contact details;

(iii) identity document (ID) data;

(iv) employment or work position data;

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

(vi) employee data;

(vii) electronic identification data;

(viii) user technical data.

Article 45

Retention period of personal data in the EU Customs Data Hub

1. Personal data in the EU Customs Data Hub may not be stored for longer than is necessary for its processing, and in any event may not be stored for longer than 10 years from the date on which they are recorded in the EU Customs Data Hub. In the cases provided for in Article 68 and in relation to investigations launched by OLAF, the EPPO or by Member States' competent authorities, to infringement procedures launched by the Commission and to administrative and judicial proceedings involving personal data of the categories referred to in Article 44(2), points (a) and (b), those data may be kept for a period longer than 10 years if necessary for the purpose of those investigations, procedures or proceedings.

2. After the expiry of the period provided for in paragraph 1, personal data shall be erased or anonymised, as appropriate taking into account the circumstances.

3. The controller or joint controller of the relevant data processing operation shall carry out periodic reviews of the data stored in the EU Customs Data Hub to ensure that personal data is not retained longer than necessary.

Article 46

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 in relation to the processing of personal data in the EU Customs Data Hub for the purposes of risk management and cooperation, as referred to in Article 41(2), points (b) and (c), Article 41(3), points (b) and (d), and Article 41(4), points (a) and (e).

2. Each customs authority individually shall be considered to be a controller in relation to the personal data that it processes for the purposes referred to in Article 41(2), point (a). Where two or more customs authorities are involved in carrying out the tasks referred to in Article 41(2), point (a), for joint purposes and by joint means, they shall be considered to be joint controllers.

3. The Commission shall be considered to be the sole controller in relation to the personal data it processes for the purposes referred to in Article 41(4), points (c), (d), (f) and (g).

4. Until 28 February 2034, the Commission, OLAF and the EU Customs Authority shall each be considered to be the sole controller for the data that they process under Article 41(10).

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

   (a) work together to process the requests made by the data subjects 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 adopt implementing acts establishing the roles and relationships of each of the joint controllers referred to in paragraph 1 in relation to 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 283(4) of this Regulation.

Article 47

Restriction of the rights of data subjects

1. Where the exercise by a data subject of the right of access and the right to a 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, those rights may be wholly or partly restricted, provided that the restriction is necessary and proportionate. That restriction shall be imposed:

   (a) by the customs authorities in accordance with Article 23(1), points (c), (e), (f) and (h), of Regulation (EU) 2016/679; or

   (b) by the Commission and the EU Customs Authority in accordance with Article 25(1), points (a), (c), (e), and (g), of Regulation (EU) 2018/1725.

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, taking into consideration 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 their tasks, the customs authorities, the EU Customs Authority or the Commission, when acting as a controller or a joint controller, shall, before applying a restriction of the rights referred to in paragraph 1, consult those organisations on the potential grounds for such restriction and whether they are necessary and proportionate.

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 for that restriction, 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 that restriction, and the reasons why providing access would jeopardise risk management and customs controls.

The provision of information referred to in the first subparagraph, point (a), of this paragraph 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 or intranet providing general information to data subjects on the possibility of restriction of data subjects' rights.

6. The Commission shall adopt implementing acts laying down safeguards to prevent the abuse of, unlawful access to, or transmission of, the personal data in respect of which restrictions apply or could be applied. Such safeguards shall, inter alia, determine the roles and responsibilities of the various actors, lay down the procedural steps to be followed in relation to such restrictions, specify what constitutes due monitoring of restrictions, and provide for the periodic review of their application, which is to take place at least every six months. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 48

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 49

EU Customs Data Model

The Commission shall adopt delegated acts in accordance with Article 282 to supplement this Regulation by specifying the required data for the achievement of the purposes referred to in Article 41(1) to (4). Those data requirements shall constitute the EU Customs Data Model.

Article 50

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, offices or agencies referred to in Article 41(6) to (9) and Articles 42 and 43 for the purposes of cooperation under this Regulation.

2. Where economic operators use the EU Customs Data Hub to comply with customs formalities pursuant to this Regulation, the EU Customs Data Hub shall provide the functionalities referred to in Article 8(2), (3) and (4) of Regulation (EU) 2022/2399.

3. Where authorities other than the customs authorities or Union bodies, offices and agencies make use of electronic means established by, used to achieve the objectives of or referred to in Union legal acts, the cooperation under this Regulation may take place through the interoperability of those electronic means with the EU Customs Data Hub.

4. Where authorities other than the customs authorities do not make use of electronic means established by, used to achieve the objectives of or referred to in Union legal acts, they may use the specific services and systems of the EU Customs Data Hub in accordance with Article 41.

5. The Commission shall adopt implementing acts laying down the technical arrangements for interoperability and connection pursuant to paragraphs 3 and 4 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Chapter 4
Other provisions

Article 51

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 whether the EU Customs Authority is in a position to carry out those tasks.

3. The development, operation and maintenance of the EU Customs Data Hub shall include:

(a) the establishment of technical specifications for the processing of 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 38(3), with the exception of maintenance and updates in line with the applicable national VAT and excise duty provisions, which are to be done by the Member States;

(d) making available general guidance for the use of the EU Customs Data Hub;

(e) the establishment of a public contact point for assistance to EU Customs Data Hub users, including for security threats;

(f) the adoption of measures to ensure business continuity of the EU Customs Data Hub.

Article 52

Business continuity

1. The Commission and the EU Customs Authority shall ensure that the EU Customs Data Hub has business continuity measures in place including, where necessary redundancy, failover mechanisms and data recovery protocols, so that it can operate even in the event of a serious crisis or that it has adequate fall-back procedures in place. 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. The Commission shall adopt implementing acts providing for the fall-back procedures referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 53

Derogations

In exceptional and duly justified circumstances, the Commission may, at the request of one or more Member States, adopt an implementing act, in the form of a decision, authorising that Member State or Member States to use functionally equivalent electronic services or systems other than those implemented in the EU Customs Data Hub or to use means other than electronic data-processing techniques for functionalities implemented in the EU Customs Data Hub.

An implementing act referred to in the first paragraph:

(a) shall not affect the functioning of the 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 requesting Member State or Member States;

(c) shall be limited in time, reviewed periodically and revoked where no longer justified;

(d) shall be adopted only if it does not affect the exchange of information between the requesting Member State or Member States 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 result in the permanent exclusion of the requesting Member State or Member States from using the EU Customs Data Hub;

(f) may be extended in duly justified cases at the request of the Member State or Member States concerned.

TITLE IV
CUSTOMS SUPERVISION, RISK MANAGEMENT AND CUSTOMS CONTROLS

Chapter 1
Customs supervision

Article 54

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 in relation to those goods.

2. Goods brought into the customs territory of the Union shall be under customs supervision from the time of their entry into that territory.

3. Goods brought into the customs territory of the Union shall remain under customs supervision:

   (a) in the case of non-Union goods, until 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, until their customs status is confirmed, unless they are placed under the end-use procedure.

4. Union goods placed under the end-use procedure shall remain under customs supervision:

(a) where the goods are suitable for repeated use, for a period not exceeding two years from the date of their first use for the purposes laid down for the application of 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 rate of duty and the applicable import duty has been paid.

5. 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.

6. Union goods placed under the internal transit procedure shall remain under customs supervision until the customs authorities discharge the procedure in accordance with Article 129(2).

7. Goods shall not be removed from 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 2
Customs risk management

Article 55

General principles

1. The EU Customs Authority, the Commission and the customs authorities shall, based on risk management and primarily on automated risk analysis, and in accordance with their roles as set out in this Chapter, determine 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 types of risks associated with goods, persons, economic operators, means of transport and supply chains in accordance with this Chapter.

3. Customs risk management shall include at least the following activities, which shall, where appropriate, be 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 sources identified in national or Union law, as well as 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 necessary measures to manage 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.

4. When taking decisions related to the customs risk management referred to in paragraph 2, the customs authorities shall take into account available information on non-compliance, by an importer, an exporter or an importer for distance sales, with other legislation applied by the customs authorities that has been notified to the customs authorities. Such non-compliance shall be taken into account for the purpose of the risk profile of the relevant importer or exporter.

Article 56

Role of the Commission

1. Without prejudice to the role of the customs authorities pursuant to Article 58(1), point (e), and Article 63, the Commission may, taking into consideration, where available, the outcome of the process pursuant to Article 232(6), 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.

2. In addition to the actions referred to in paragraph 1, the Commission may:

   (a) provide the EU Customs Authority with policy orientations 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 57(1).

3. The Commission may, where it is necessary for the purposes referred to in paragraphs 1 and 2, process and analyse data available in the EU Customs Data Hub and from other sources, including sources identified in national or Union law, as well as from authorities other than customs authorities.

Article 57

Role of the EU Customs Authority

1. The EU Customs Authority shall conduct a periodic threat assessment to serve as a basis for the recommendations referred to in Article 232(6).

2. The EU Customs Authority shall perform Union-level risk management activities, duly taking into account the policy orientations referred to in Article 56(2), point (a), and the possible outcome of the process referred to in Article 232(6). In particular, the EU Customs Authority:

(a) may submit input to the Commission for the establishment of common priority control areas and common risk criteria and standards referred to in Article 56(1);

(b) may assist the Commission in establishing the common priority control areas and common risk criteria and standards referred to in Article 56(1), taking into consideration operation knowledge and technical expertise in risk management;

(c) shall develop supervision strategies, where appropriate with authorities other than the customs authorities, and conduct ad-hoc customs threat assessments as referred to in Article 56(2), point (c);

(d) 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 60;

(e) where it identifies or suspects cases of fraud, shall inform OLAF thereof and provide it with all the necessary information related to those cases; it may also inform Europol within the limits of Europol’s mandate;

(f) shall develop operational guidance for risk management activities involving more than one customs authorities;

(g) 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 and the reasonably expected impact on trade flows and on individual Member States’ control resources;

(h) may provide input to the Commission for the development of a framework on the ‘comply or explain principle’ applicable to control recommendations, to be used by the customs authorities in the event that they do not follow such control recommendations;

(i) 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 it is not feasible to follow the control recommendations due to resource constraints of a relevant customs office.

3. The EU Customs Authority may, where it is 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 sources identified in national or Union law, as well as from authorities other than customs authorities.

4. The EU Customs Authority shall inform the Commission and the customs authorities about its risk management activities and their outcomes on an ad-hoc basis, where necessary, or when requested to do so by the Commission. In this regard, the EU Customs Authority shall provide the Commission with all necessary information.

5. Until 30 June 2028, the Commission may carry out the risk management tasks of the EU Customs Authority referred to in this Article.

Article 58

Role 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 priority control areas and common risk criteria and standards;

(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 mitigation measures;

(d) 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 57(2), point (f);

(e) take control decisions;

(f) perform controls in accordance with Chapter 2 and with any applicable common risk criteria and standards;

(g) provide an explanation to the EU Customs Authority in the event that a control recommendation was not followed or a risk mitigation measure was not taken.

2. The customs authorities may, where it is 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 sources identified in national or Union law, as well as from authorities other than customs authorities.

Article 59

Common risk criteria and standards

1. The common risk criteria and standards shall include:

   (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; and

   (e) the duration of the application of the customs controls referred to in point (c).

2. When establishing common risk criteria and standards, the Commission shall take account of all of the following:

   (a) proportionality to the risk;

   (b) urgency of the necessary application of the controls;

   (c) the reasonably expected impact on trade flow and on the control resources of individual Member States.

Article 60

Information relevant for risk management and controls

1. All risk information, risk signals, risk analysis results, control recommendations, control decisions, 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 are based on national or common risk analysis or 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 56 to 58 and Article 61 and building on their respective data access and processing rights set out in Article 41.

3. The EU Customs Authority shall, where possible, use the EU Customs Data Hub 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 system other 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 30 June 2028, the Commission shall carry out the tasks of the EU Customs Authority referred to in this Article.

Article 61

Evaluation of customs risk management

1. At least every year, 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 and publish non-sensitive information on that evaluation. The Commission may in addition arrange evaluation activities to be carried out where it considers necessary, and on an ongoing basis.

2. For the purposes of the evaluation referred to in paragraph 1, 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 that regard unless that information can be extracted from the EU Customs Data Hub.

3. For the purposes of the evaluation referred to in paragraph 1 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 priority control areas and common risk criteria and standards as referred to in Article 56(1), Article 57(2), points (a) and (b), and Article 59, the EU Customs Authority and the Commission shall take account, where relevant, of evaluations carried out under this Article.

Article 62

Conferral of implementing powers

1. The Commission shall adopt implementing acts laying down measures to ensure the harmonised application of customs controls and risk management, including the exchange of information and the establishment of common priority control areas and common risk criteria and standards referred to in this Title. Such measures shall include:

(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, control results and the rights to access and process such information;

(b) procedural measures for the transitional use of or access to existing customs information systems;

(c) procedural measures for the management of interoperability between the EU Customs Data Hub and other systems;

(d) procedural measures in relation to the application of the reporting requirement in the context of post-release controls and random controls;

(e) arrangements for cooperation, including exchange of information, between the EU Customs Authority and specific other Union institutions, bodies, offices and agencies for the purposes of this Title;

(f) the identification of the competent customs authority in the case of specific risk management processes which concern more than one Member State;

(g) 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;

(h) arrangements for the sharing of risk information between customs authorities, the EU Customs Authority and the Commission;

(i) common priority control areas and common risk criteria and standards as referred to in Article 56(1), Article 57(2), points (a) and (b), and Article 59, including the modalities for their application on an urgent basis where necessary;

(j) the framework on the 'comply or explain' principle in the event that a control recommendation was not followed, as referred to in Article 57(2), point (h).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

2. On duly justified imperative grounds of urgency concerning the measures referred to in paragraph 1 of this Article, including the modalities for their application on an urgent basis to respond effectively to crises or incidents which could pose an imminent safety or security risk, relating to the need to rapidly update common risk management and adapt the exchange of information, common priority control areas and common risk criteria and standards to the evolution of risks, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 283(5).

Chapter 3

Customs controls

Article 63

Customs controls

1. Without prejudice to Chapter 2, the customs authorities may carry out any customs controls they consider necessary, including random controls.

2. Customs controls may in particular consist of:

   (a) examining goods;

   (b) taking samples of goods;

   (c) verifying the authenticity, integrity, accuracy and completeness of the data provided or made available by any person;

   (d) verifying the existence, authenticity, accuracy and validity of documents;

   (e) examining the accounts, commercial records and data sources of economic operators;

   (f) inspecting means of transport;

   (g) inspecting luggage and other goods carried by or on persons;

(h) carrying out official enquiries; and

(i) other similar acts.

Where necessary, customs controls may include the processing electronic data, and the source of the data provided or made available in the EU Customs Data Hub.

3. Where controls other than customs controls are to be performed by other authorities on the same goods, the customs authorities shall closely cooperate with those other authorities so that, wherever possible, those other controls can be performed at the same time and place as customs controls (the ‘one-stop-shop’ principle). When other controls are carried out at the same time as customs controls, the customs authorities shall have the coordinating role.

4. The customs authorities may decide to carry out controls at a place that they designate.

Article 64

Verification of the data provided or made available

1. From the moment persons provide or make available data to the customs authorities, those authorities may, for the purpose of verifying the accuracy of such data:

(a) examine the data and the supporting documents, including accessing data sources held by the economic operators or stored on their behalf by service providers;

(b) require the provision of other documents or data, including data held by the economic operators or stored on their behalf by service providers;

(c) require access to the electronic records of the person;

(d) examine the goods;

(e) take samples for analysis or for detailed examination of the goods.

2. The Commission shall adopt implementing acts laying down measures on the verification of 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 283(4).

Article 65

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 of them or examining the means of transport used to carry them.

2. 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.

3. 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.

4. Provided that samples are taken in accordance with Union or national law, the customs authorities shall not be liable to pay any compensation in respect thereof but shall bear the costs of their analysis or examination.

5. 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 of 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 it 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. That request shall be granted provided that the goods have not been released or, if they have been released, provided that the importer, exporter, carrier or holder of the transit procedure proves that they have not been altered in any way.

Notwithstanding the first and second subparagraphs, the importer, exporter, carrier or holder of the transit procedure may, at its own expense, request additional examination or sampling.

6. The Commission shall adopt implementing acts laying down measures on the examination and sampling of the goods referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 66

Results of the verification

1. The results of verifying, in accordance with Article 64, 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 of other obligations established in the customs legislation.

2. The results of the verification made by the customs authorities shall have the same conclusive force throughout the customs territory of the Union.

3. Where the data provided or made available by the importer, exporter, carrier or holder of the transit procedure is not verified, paragraph 1 shall apply on the basis of those data.

4. Where customs authorities find that a certain good or certain goods forming part of a consignment are non-compliant, they 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 adopted pursuant to paragraph 5. 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 77(4).

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

5. The Commission shall adopt implementing acts laying down:

   (a) measures on the results of the verification referred to in this Article; and

   (b) the criteria under which the customs authorities may consider verification results as evidence that other goods present a similar risk of non-compliance as referred to in paragraph 4 of this Article.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 67

Identification measures

1. The customs authorities or, where appropriate, the 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, the removal or destruction of such means of identification is essential to ensure the protection of the goods or the means of transport.

3. The Commission shall adopt implementing acts specifying 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 283(4).

Article 68

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 economic operators’ systems to verify compliance with the obligation to provide or make available data to the EU Customs Data Hub.

2. The controls referred to in paragraph 1 may be carried out at the premises of the importer, exporter, holder of the goods, any other person directly or indirectly involved in the operations in respect of the goods in question in a business capacity or any other person in possession of the documents and data referred to in that paragraph for business purposes.

3. The Commission shall adopt implementing acts laying down the measures to apply to the controls referred to in paragraph 1 of this Article, including where operations take place in more than one Member State, and on the application of appropriate methodologies in the context of such controls. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 69

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 the 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, any other person directly or indirectly involved in those operations in a business capacity or any other person in possession of the documents and data relevant for the audit.

Article 70

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 so provides.

2. Paragraph 1 shall apply without prejudice to:

   (a) safety and security;

   (b) controls linked to other legislation applied by the customs authorities.

3. The Commission shall adopt implementing acts specifying 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 283(4).

TITLE V
PLACING GOODS UNDER A CUSTOMS PROCEDURE

Chapter 1
Customs status of goods

Article 71

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 laid down in the customs legislation, the presumption in paragraph 1 shall not apply. As a result, it shall be necessary to prove that the goods concerned have the customs status of Union goods.

3. In specific cases laid down in the customs legislation, goods wholly obtained in the customs territory of the Union that are obtained from goods in temporary storage, or from goods placed under the external transit procedure, a storage procedure, the temporary admission procedure or the inward processing procedure, shall not have the customs status of Union goods.

4. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by:

(a) determining the specific cases where the presumption laid down in paragraph 1 of this Article does not apply;

(b) laying down the conditions for granting facilitation measures for the task of proving that goods have the customs status of Union goods, as referred to in paragraph 2 of this Article;

(c) determining the specific cases where the goods referred to in paragraph 3 of this Article do not have the customs status of Union goods.

5. The Commission shall adopt implementing acts laying down the procedural rules on the provision and verification of the means of proof of the customs status of Union goods. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 72

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, provided that 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, if allowed by the customs legislation;

(c) where they were placed under the end-use procedure and are either subsequently abandoned to the State, or are destroyed with waste remaining;

(d) where the information provided or made available, or where applicable the declaration, for release for free circulation is invalidated after the goods have been released.

Article 73

Union goods leaving the customs territory of the Union temporarily

1. In the cases referred to in Article 136(2), points (b) to (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 laid down in the customs legislation, 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 282 to supplement this Regulation by determining the specific cases where the customs status of goods is not altered, as referred to in paragraph 2 of this Article.

Chapter 2
Placement and release

Article 74

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 the customs procedure concerned as soon as those data are available and in any event prior to the notification of availability of the goods.

2. 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 customs procedure concerned.

3. A person that is making use of the IOSS scheme shall provide or make available the data on distance sales of goods to be placed under the release for free circulation procedure in the customs territory of the Union at the latest on the day following the date on which the payment for the sale was accepted and in any event prior to the notification of the availability of the goods.

4. By way of derogation from paragraph 1 of this Article and without prejudice to Article 178, in duly justified circumstances linked to the supporting documentation or the determination of the customs value of the goods, the customs authorities may allow an exporter, holder of the transit procedure or importer other than the importer for distance sales to provide or make available a 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 the importer for distance sales shall provide or make available the omitted information within a specific time limit.

5. By way of derogation from paragraph 1 of this Article and without prejudice to Article 178, in duly justified circumstances linked to the supporting documentation or the determination of the customs value of the goods, a Trust and Check trader other than the importer for distance sales may provide or make available a part of the data, other than advance cargo information, after the release of the goods. The Trust and Check trader shall provide or make available the omitted information within a specific time limit.

6. By way of derogation from paragraph 1 of this Article, in specific cases laid down in the customs legislation, goods may be placed under a customs procedure using means other than the EU Customs Data Hub.

7. The goods shall be placed under the customs procedure concerned 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.

8. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by:

(a) determining the data referred to in paragraphs 1 and 3 of this Article;

(b) laying down the conditions for applying the simplification referred to in paragraph 4 of this Article;

(c) determining the specific data that can be provided or made available after release of the goods and the time limits for providing or making available such data, where paragraph 4 or 5 of this Article is applied;

(d) determining the specific cases referred to in paragraph 6 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 75

Other forms of notification of availability of the goods

The importer, exporter or holder of the transit procedure may provide or make available the notification of availability of the goods through:

(a) the notification of arrival of the goods in the customs territory of the Union if the temporary storage or placement under a customs procedure takes place at the customs office of entry; or

(b) the notification of arrival of the goods at the point of exit if the temporary storage takes place at the customs office of exit.

Article 76

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 the original paper documents used to obtain that data and information, where such original paper documents exist.

2. Until 28 February 2034, 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 that that declaration is lodged.

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 (EU CSW-CERTEX) in accordance with Article 10(1), points (a) and (c), of that Regulation.

4. Supporting documents shall also be provided or made available 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 three years, in a form that can be accessed by the customs authorities and is acceptable to them. That period shall run:

   (a) 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, from the end of the year in which they cease to be subject to customs supervision;

(b) in the case of goods placed under another customs procedure or of goods in temporary storage, from the end of the year in which the customs procedure concerned has been discharged or temporary storage has ended;

(c) in cases not covered by points (a) and (b), from the end of the year in which the goods are released.

7. Without prejudice to Article 206(4), where a customs control in respect of a customs debt shows that the relevant entry in the accounts needs to be corrected and the person concerned has been notified of this, the documents and information shall be kept for three 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 77

Release of the goods

1. The customs authorities responsible for placing the goods in a customs procedure in accordance with Article 6(1), point (d), and Article 6(2) shall decide on the release of the goods, taking into account the results of the risk analysis of the data in the customs declaration or the data provided or made available by the importer or exporter or holder of the transit procedure and, where applicable, the results of any control or risk mitigation measure.

2. The release of the goods shall not be considered to be proof of conformity.

3. Goods shall be released if the following conditions are met:

(a) the customs authorities have been informed of which person is the importer, exporter or holder of the transit procedure responsible for the goods;

(b) the conditions for placing the goods under the customs procedure concerned pursuant to Articles 74, 109, 114, 140, 142, 145, 153, 156, 158 and 161 have been met; and

(c) the goods have not been selected for any control or have been selected for controls and those controls did not result in any findings that justify refusing the release of those goods.

4. The customs authorities shall refuse the release in any of the following cases:

(a) where the conditions for placing the goods under the customs procedure concerned have not been met, including any Union non-customs formalities as defined in Article 2, point (11), 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 or made available is not accurate.

5. The customs authorities shall suspend the release in any of the following cases:

(a) where they have reason to believe that the goods do not comply with customs legislation or other legislation applied by the customs authorities or that they do present a serious risk to human, animal or plant health and life, or to the environment, or to any other public interest;

(b) where other competent authorities have so requested in accordance with other legislation applied by the customs authorities.

A systematic infringement, determined for an economic operator in accordance with Article 276(5), shall constitute a reason to believe, as referred to in point (a) of the first subparagraph of this paragraph, in respect of all goods notified as available for the release for free circulation by that economic operator within at least six months from the determination of the infringement.

6. Where the release has been suspended in accordance with paragraph 5, the customs authorities shall carry out the consultations provided for in the relevant other legislation applied by the customs authorities, and:

(a) if the other competent authorities have so requested in accordance with the relevant other legislation applied by the customs authorities, refuse the release;

(b) if the other competent authorities have approved the release, release the goods;

(c) if the other competent 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 five days, release the goods; or

(d) if the other competent 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, maintain the suspension for no longer than 90 days.

7. 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 within a reasonable period after:

(a) the goods of importers for distance sales have arrived in the customs territory of the Union;

(b) the goods of importers have arrived at their final destination; or

(c) the exporter has sent the pre-departure information.

8. Where the customs authorities suspend the release of the goods in accordance with paragraph 5, or refuse the release of the goods in accordance with paragraph 4 or paragraph 6, point (a), they shall record their decision and any other information required by Union law in the EU Customs Data Hub, where applicable. That information shall be made available to the other customs authorities.

9. Where the customs authorities have refused the release of the goods in accordance with paragraph 4 or paragraph 6, point (a):

(a) if the other competent authorities have not objected, the goods may 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 competent authorities have objected to placing the goods under a customs procedure, the customs authorities shall record that information in the EU Customs Data Hub and act in accordance with Title V, Chapter 4.

10. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by:

(a) determining the reasonable periods of time referred to in paragraph 7 of this Article;

(b) further specifying the specific cases listed in paragraph 7 of this Article; or

(c) establishing additional special cases in which customs authorities are deemed to have released the goods.

Article 78

Release of the goods on behalf of the customs authorities by Trust and Check traders

1. By way of derogation from Article 77(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 are provided or made available to the customs authorities.

2. Trust and Check traders operating a customs warehouse for distance sales in accordance with Article 145 shall only release the goods that are placed under the customs warehousing procedure and are ready to be offered for sale in the customs territory of the Union.

3. Without prejudice to Article 63, 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 competent authorities before granting such authorisation and may agree a control plan with them.

4. Where a Trust and Check trader authorised pursuant to paragraph 3 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. Upon receiving such notification, the customs authorities shall decide on the release or on the control of those goods.

5. Where necessary, the customs authorities may require a Trust and Check trader to present the goods for a control in a customs office or at the place where the goods were meant to be released.

6. 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 the authorisations granted pursuant to paragraphs 1 and 3 of this Article in accordance with Article 12(2).

7. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by:

   (a) establishing the procedure for the release of goods on behalf of the customs authorities by Trust and Check traders;

   (b) laying down the conditions, specifying the content and establishing the procedure for the controls carried out by Trust and Check traders.

Article 79

Amendment of information for placing goods under a customs procedure

1. Before the date of release of the goods, the importer, the exporter or the holder of the transit procedure shall amend one or more data elements provided or made available for placing those goods under a customs procedure:

   (a) when it comes to their knowledge that relevant information has changed in their records, or that such information is incorrect; or

   (b) when a customs authority requests them to do so due to the inaccuracy or incompleteness of the data or issues with the quality of the data.

2. The importer, the exporter or the holder of the transit procedure shall not amend the information where:

   (a) the customs authorities have informed it that they intend to examine the goods;

   (b) the customs authorities have informed it that they have established that the data provided or made available is incorrect; or

   (c) the goods have already been released.

3. Within three years from the date of release of the goods, the importer, the exporter or the holder of the transit procedure may request the amendment of one or more data elements 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.

4. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by specifying the cases where the data may be amended after the date of release in accordance with paragraph 3 of this Article.

5. The Commission shall adopt implementing acts laying down the procedural rules for amending the information referred to in paragraphs 1 and 3 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 80

Invalidation of data for placing goods under a customs procedure

1. If it comes to the knowledge of the importer, the exporter or the holder of the transit procedure that goods to be placed under a customs procedure will not be brought into or taken out of the customs territory of the Union, it shall as soon as possible invalidate the data for placing those goods under that customs procedure.

If goods to be placed under a customs procedure are not brought into or taken out of the customs territory of the Union within 200 days from the date on which the data for placing those goods under that customs procedure was provided or made available to the customs authorities, the customs authorities shall invalidate that data.

2. The customs authorities shall, at the application of 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 where the customs authorities are satisfied that:

(a) the goods are immediately to be placed under another customs procedure; or

(b) 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, the exporter or the holder of the transit procedure of their intention to examine the goods, an application for invalidation of the data shall not be accepted before the examination has taken place.

3. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by specifying the cases where data for placing goods under a customs procedure can be invalidated after the date of release of the goods.

4. The Commission shall adopt implementing acts laying down the procedural rules for invalidating the data for placing goods under a customs procedure. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Chapter 3

Transitional provisions on customs declarations

Article 81

Customs declaration

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

2. In specific cases laid down in the customs legislation, a customs declaration may be lodged using means other than electronic data-processing techniques.

3. Except where otherwise provided in the customs legislation, 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 in the customs territory of the Union; or

   (b) the customs office responsible for the place of unloading of the goods arriving in the customs territory of the Union 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.

4. The Commission is empowered to adopt delegated acts in accordance with Article 282 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.

5. The Commission shall adopt implementing acts:

(a) laying down the procedure for lodging the customs declaration in the cases referred to in paragraph 2 of this Article;

(b) laying down the rules for determining the competent customs offices other than the one referred to in paragraph 3 of this Article, 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 283(4).

Article 82

Standard customs declaration

1. Until 28 February 2034, standard customs declarations shall contain all the data necessary for the application of the provisions governing the customs procedure for which the goods are declared and the supporting documents referred to in Article 76.

2. The Commission shall adopt implementing acts laying down the procedure for lodging the standard customs declaration referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 83

Simplified declaration

1. Until 28 February 2034, the customs authorities may accept that a person has goods placed under a customs procedure on the basis of a simplified declaration which omits certain of the data or the supporting documents referred to in Article 76.

2. Until 28 February 2031, 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 282 to supplement this Regulation by laying down the conditions for granting the authorisation referred to in paragraph 2 of this Article.

4. The Commission shall adopt implementing acts laying down the procedure for lodging a simplified declaration. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 84

Supplementary declaration

1. In the case of a simplified declaration referred to in Article 83 or of an entry in the declarant's records referred to in Article 92, the declarant shall lodge a supplementary declaration containing the data necessary for the customs procedure concerned at the competent customs office within a specific time limit.

   In the case of a simplified declaration referred to in Article 83, 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 not apply in the following cases:

   (a) where the goods are placed under a customs warehousing procedure;

   (b) in other specific cases laid down in the customs legislation.

3. The customs authorities may waive the requirement to lodge a supplementary declaration where:

(a) the simplified declaration referred to in Article 83 concerns goods the value and quantity of which is below the threshold referred to in Article 194(8);

(b) the simplified declaration referred to in Article 83 already contains all the information needed for the customs procedure concerned; and

(c) the simplified declaration referred to in Article 83 is not made by entry in the declarant's records.

4. The simplified declaration referred to in Article 83 and the supplementary declaration shall be deemed to constitute a single, indivisible instrument taking effect on the date on which the simplified declaration is accepted in accordance with Article 87.

The entry in the declarant's records referred to in Article 92 and the supplementary declaration shall be deemed to constitute a single, indivisible instrument taking effect 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 193, to be the place where the customs declaration has been lodged.

6. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by determining:

(a) the specific time limit referred to in paragraph 1, first subparagraph, of this Article within which the supplementary declaration is to be lodged;

(b) the specific time limit referred to in paragraph 1, second subparagraph, of this Article 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 does not apply in accordance with paragraph 2, point (b), of this Article.

7. The Commission shall adopt implementing acts laying down the procedural rules for lodging the supplementary declaration. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 85

Lodging a customs declaration

1. Until 28 February 2034, without prejudice to Article 84(1), a customs declaration may be lodged by any person that 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 relevant goods to customs or be able to have them presented to customs by another person.

However, where acceptance of a customs declaration imposes particular obligations on a specific person, that declaration shall be lodged by that person or by its representative.

2. Until 30 June 2028, the customs declaration for release for free circulation of goods sold in distance sales shall be lodged by one of the following persons:

(a) the person permitted to make use of the IOSS scheme or its indirect representative;

(b) the person permitted to make use of the special arrangement laid down in Title XII, Chapter 7, of Directive 2006/112/EC or its indirect representative;

(c) in cases other than those referred to in points (a) and (b), the indirect representative of the importer;

(d) in cases other than those referred to in points (a), (b) and (c), any other person that is able to provide all of the information which is required for the application of the provisions governing the customs procedure for 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 that lodge a customs declaration for transit or temporary admission;

(b) persons that occasionally lodge a customs declaration, including for end-use or inward processing, provided that the customs authorities consider this to be justified;

(c) persons that 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) importers for distance sales involved in the distance sale of goods which are to be imported in the customs territory of the Union under the IOSS scheme, provided that they appoint an indirect representative.

Article 86

Lodging a customs declaration prior to the presentation of goods to customs

1. A customs declaration may be lodged prior to the expected presentation of the relevant 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 adopt implementing acts laying down the procedural rules for lodging a customs declaration as referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 87

Acceptance of a customs declaration

1. Customs declarations which comply with the conditions laid down in this Chapter and with Article 76 shall be accepted by the customs authorities immediately, provided that the goods to which they refer have been presented to customs.

2. Except where otherwise provided, the date of acceptance of the customs declaration by the customs authorities shall 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 adopt implementing acts laying down the procedural rules for accepting a customs declaration, including the application of those rules in the cases referred to in Article 91. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 88

Amendment of a customs declaration

1. The declarant shall, upon application, be permitted to amend one or more of the data elements in the customs declaration after that declaration has been accepted by the customs authorities. The amendment shall not render the customs declaration applicable to goods other than those which it originally covered.

2. An amendment of the customs declaration after that declaration has been accepted by the customs authorities shall not be permitted where it is applied for:

(a) after the customs authorities have informed the declarant that they intend to examine the goods;

(b) after the customs authorities have established that the data in the customs declaration are incorrect; or

(c) after the customs authorities have released the goods.

3. At the application of the declarant, within three years of the date of acceptance of the customs declaration, the customs authorities may permit an amendment of the customs declaration after the release of the goods in order to enable the declarant to comply with its obligations relating to the placing of the goods under the customs procedure concerned.

4. The Commission shall adopt implementing acts laying down the procedure for amending the customs declaration after the release of the goods in accordance with paragraph 3 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 89

Invalidation of a customs declaration

1. The customs authorities shall, at the application of the declarant, invalidate a customs declaration already accepted where they are satisfied that:

   (a) the goods are immediately to be placed under a customs procedure; or

   (b) 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 laid down in the customs legislation, the customs authorities may invalidate the customs declaration without prior application by the declarant.

3. The customs authorities shall not invalidate the customs declaration after the goods have been released, except in specific cases laid down in the customs legislation.

4. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by determining the specific cases in which customs authorities may invalidate the customs declaration without application by the declarant, 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 adopt implementing acts laying down the procedure for invalidating the customs declaration after the release of the goods referred to in paragraph 3 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 90

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, at the application of the declarant, provide for a simplified method of charging import or export duty whereby import or export duty is 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 simplified method of charging import or export duty referred to in paragraph 1:

   (a) where the Union handling fee applies; or

   (b) in relation to goods subject to other legislation applied by the customs authorities, to prohibitions or restrictions or to excise duty where the correct classification is necessary to apply those measures.

Article 91

Centralised clearance

1. Until 28 February 2031, the customs authorities may, upon application, authorise a person to lodge, at a customs office responsible for the place where that person is established, a customs declaration for goods which are presented to customs at another customs office.

   The customs authorities may waive the requirement for the authorisation referred to in the first subparagraph if the customs office where the customs declaration is lodged and the customs office where the goods are presented to customs are under the responsibility of the same customs authority.

2. Only an authorised economic operator for customs simplifications, as referred to in Article 29(2), point (a), may apply for the authorisation referred to in paragraph 1 of this Article.

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 paragraph 3, point (c), and communicate the results of those controls to the customs office at which the customs declaration is lodged.

6. The customs office at which the customs declaration is lodged shall release the goods, taking into account the results of:

(a) its own controls for the verification of the customs declaration;

(b) 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 282 to supplement this Regulation by laying down the conditions for granting the authorisation referred to in paragraph 1, first subparagraph, of this Article.

8. The Commission shall adopt implementing acts laying down the procedure for the centralised clearance, including the relevant customs formalities and controls. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 92

Entry in the declarant's records

1. Until 28 February 2031, 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 data in that declaration are available to 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 declarant's 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 simplifications as referred to in Article 29(2), point (a);

   (b) the nature and flow of the goods concerned warrant a waiver and are known by the customs authority;

   (c) the supervising customs office has access to all the information that it considers necessary to enable it to exercise, should the need arise, its right to examine the goods;

(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 referred to in paragraph 1 of this Article.

However, the supervising customs office may, in specific situations, request that the goods be presented even in the event of such waiver.

4. The conditions under which the release of the goods is allowed shall be set out in the authorisation referred to in paragraph 1.

5. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by laying down the conditions for granting the authorisation referred to in paragraph 1 of this Article.

6. The Commission shall adopt implementing acts laying down the procedural rules on the entry in the declarant's records, including the relevant customs formalities and controls, referred to in paragraph 1 of this Article, and the waiver from the obligation of presenting the goods referred to in paragraph 3 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 93

Cessation of validity

The authorisations for simplified declarations, centralised clearance and entry into the declarant's records referred to in Articles 83, 91 and 92, respectively, shall expire on 1 March 2034.

Chapter 4
Disposal of goods

Article 94

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 to dispose of goods, including confiscation or forfeiture to the State in accordance with national law, sale, donation for humanitarian purposes or destruction, 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 or made available before the goods can be placed under, or released for, the customs procedure requested have not been provided or made available;

(iii) payments or a guarantee which should have been made or provided in respect of import or export duty have not been made or provided within the prescribed period;

(iv) the goods do not fulfil the conditions for release laid down in Articles 77 and 78;

(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 96.

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 have been placed under the customs warehousing procedure. Such goods shall be entered in the records of the operator of storage facilities for the customs warehousing or, where they are held by the customs authorities, in the records of the customs authorities.

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 concerned shall be invalidated.

3. The costs of the measures referred to in paragraph 1 shall be borne:

(a) in the case referred to in paragraph 1, point (a), by the carrier, importer, holder of the transit procedure, holder of the goods or person that withheld the goods from customs supervision;

(b) in the cases referred to in paragraph 1, points (b), (c) and (d), by the importer, exporter, holder of the transit procedure or holder of the goods;

(c) in the case referred to in paragraph 1, point (e), by the person that abandons the goods to the State.

4. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by determining the cases where goods can be confiscated.

5. The Commission shall adopt implementing acts laying down the procedure for selling and donating the goods by the customs authorities as referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 95

Destruction of goods

1. Where the customs authorities have reasonable grounds for so doing, they may require goods for which a notification of availability was provided or made available to be destroyed and shall inform the importer, the exporter or the holder of the transit procedure and the holder of the goods thereof. 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.

2. Where the customs authorities consider it necessary and proportionate to do so, they may, in accordance with national law, seize, destroy or otherwise render inoperable goods for which no notification of availability was provided or made available and that present a risk to the health and safety of end-users. The cost of such measure shall be borne by the importer, exporter or holder of the goods.

3. The Commission shall adopt implementing acts laying down the procedure for the destruction of goods. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 96

Abandonment

1. The importer, the exporter, the holder of the transit procedure or the holder of the goods may, with prior permission of the customs authorities, abandon to the State non-Union goods and goods placed under the end-use procedure.

2. The Commission shall adopt implementing acts laying down 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 283(4).

TITLE VI
GOODS BROUGHT
INTO THE CUSTOMS TERRITORY OF THE UNION

Chapter 1
Entry of goods

Article 97

Advance cargo information

1. Goods shall not enter the customs territory of the Union unless 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 specific time limits.

2. Where no advance cargo information has been provided or made available in accordance with paragraph 1, the advance cargo information shall be provided or made available to the actual customs office of first entry at the latest upon the arrival of the means of transport used for carrying the goods.

3. The advance cargo information shall include at least the identity of the importer responsible for the goods, the unique reference for the consignment, the identity of the consignor, the identity of 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 the identification of the means of transport used for bringing the goods and the transportation cost.

4. The importer may provide or make available to the relevant customs office a part of the advance cargo information required within the specific time limits.

5. Where the importer has already provided or made available a part of the required advance cargo information, the carrier shall link the advance cargo information that it provides or makes available to the information already provided or made available by the importer.

6. The importer shall be notified where a carrier links the advance cargo information that it has provided or made available to the part of the advance cargo information provided or made available by the importer.

7. In specific cases laid down in the customs legislation, where the carrier or the importer does not have all the advance cargo information referred to in paragraphs 1 and 3, other persons holding that information may be required to provide it or to make it available.

8. The advance cargo information shall contain the data necessary for the customs authorities to carry out a risk analysis.

9. A person that provides or makes available advance cargo information may restrict the visibility of its identification and commercially sensitive data to one or more persons that also provide or make available data, without prejudice to the use of all data for customs supervision.

10. The obligation to provide or make available advance cargo information shall not apply:

(a) to means of transport and the goods carried thereon that are only passing through the territorial waters or the airspace of the customs territory of the Union without a stop within that territory;

(b) to 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;

(c) to Union goods the customs status of which needs to be proven pursuant to Article 71(2) 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 a direct route, without a stop, outside the customs territory of the Union;

(d) to Union goods which move without alteration of their customs status in accordance with Article 73(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 a direct route without a stop, outside the customs territory of the Union; and

(e) in other cases, where such non-application is fully justified by the type of goods or traffic, or is required by international agreements.

11. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by:

(a) laying down rules for determining the expected customs office of first entry referred to in paragraph 1 of this Article;

(b) specifying the advance cargo information to be provided or made available in accordance with paragraph 1 of this Article and the data referred to in paragraph 8 of this Article, which is to include specific information enabling customs authorities to carry out a risk analysis in terms of the safety and security of the goods;

(c) determining the specific time limits referred to in paragraphs 1 and 4 of this Article;

(d) determining the specific cases and the other persons that can be required to provide or to make available the advance cargo information, as referred to in paragraph 7 of this Article;

(e) specifying the cases in which the type of goods or traffic fully justify the non-application of the obligation to provide or make available advance cargo information, as referred to in paragraph 10, point (e), of this Article;

(f) laying down the conditions under which the person that provides or makes available advanced cargo information can restrict the visibility of the identification data or the commercially sensitive data, as referred to in paragraph 9 of this Article.

12. The Commission shall adopt implementing acts laying down the procedure for providing, making available and receiving the advance cargo information as referred to in paragraphs 1 to 8 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

13. In accordance with the dates set out in the work programme referred to in Article 38(6), point (b), and until 28 February 2034 at the latest, the formalities referred to in paragraphs 1 to 12 of this Article and in Articles 98 to 103 of this Regulation may continue to be fulfilled in accordance with the rules and data requirements provided for in Regulation (EU) No 952/2013 applicable to the electronic systems that the Member States and the Commission have developed pursuant to Article 16(1) of Regulation (EU) No 952/2013.

Article 98

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. That risk analysis shall be primarily for safety and security purposes and shall be carried out, where appropriate, in collaboration with other customs offices and, where possible, on the basis of the advance cargo information and other information provided or made available through the EU Customs Data Hub. The customs office of first entry 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 States involved in the risk analysis process, may take appropriate mitigation measures, including:

(a) instructing the person that provided or made available the advance cargo information that the goods are not to be loaded or transported and, if the carrier is a person other than the person who submitted the data, similarly instructing the carrier that the goods are not to be loaded or transported;

(b) requesting additional information or action;

(c) identifying situations where action by another authority might be appropriate;

(d) recommending the most appropriate place to carry out a customs control and the most appropriate measures for that control.

3. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by determining the specific time limits by which the risk analysis referred to in paragraph 1 of this Article is to be carried out.

4. The Commission shall adopt implementing acts laying down the procedural rules applicable to the mitigation measures referred to in paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

5. Until 28 February 2034, the risk analysis referred to in paragraph 1 shall be carried out based on the entry summary declaration.

Article 99

Amendment of advance cargo information

1. The importer, the carrier or the other persons referred to in Article 97 shall amend one or more data elements in the advance cargo information where:

   (a) it comes to the knowledge of the importer, the carrier or the other person concerned that the relevant information has changed in its records or that the information is incorrect; or

   (b) a customs authority requests the importer, the carrier or the other person concerned to do so due to the inaccuracy or incompleteness of the data or issues with the quality of the data, in particular when identified as a result of the risk analysis performed.

2. The importer, the carrier or the other persons referred to in Article 97 shall not amend the advance cargo information where:

   (a) the customs authorities have instructed the person that provided or made available the advance cargo information and the carrier, if different from that person, that the goods shall not be loaded or transported as referred to in Article 98(2), point (a);

   (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 data in the advance cargo information have been included in the list of data which cannot be amended.

3. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by determining the data in the advance cargo information which cannot be amended, as referred to in paragraph 2, point (d), of this Article.

4. The Commission shall adopt implementing acts laying down the procedure for amending the advance cargo information in accordance with paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 100

Invalidation of advance cargo information

1. If it comes to the knowledge of the carrier or other persons providing or making available the advance cargo information that goods covered by that advanced cargo information will not be brought into the customs territory of the Union, it shall as soon as possible submit a request to the customs authority to invalidate the advance cargo information.

If goods covered by the advanced cargo information are not brought into the customs territory of the Union within 200 days from the date on which the advanced cargo information was provided or made available, the customs authorities shall invalidate that advance cargo information.

2. Persons providing or making available the advance cargo information and the importer providing or making available information in the EU Customs Data Hub shall inform each other of the invalidation of the information they have provided or made available.

3. The Commission shall adopt implementing acts laying down the procedure for invalidating the advance cargo information in accordance with paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 101

Notification of arrival in relation to the entry of means of transport and of goods

1. The carrier shall notify the actual customs office of first entry of the arrival of the means of transport bringing goods into the customs territory of the Union upon its arrival.

2. The carrier shall notify the customs office responsible for the port or airport where the goods are unloaded or transhipped of the arrival of goods brought into the customs territory of the Union by sea or air when the means of transport by which those goods are brought into the customs territory of the Union arrives at that port or airport.

3. The carrier shall notify the customs office of first entry of the arrival of goods brought into the customs territory of the Union by road, rail or inland waterways when the means of transport by which those goods are brought into the customs territory of the Union arrives at that customs office.

4. The carrier shall link the notification of arrival of the goods to the advance cargo information provided or made available on those goods.

5. Notwithstanding the obligations of the carrier referred to in paragraphs 1, 2 and 3, any of the following persons may notify the arrival of the goods, at the point in time referred to in those paragraphs:

(a) the person in whose name or on whose behalf the person that brought the goods into that territory acts;

(b) the person that assumed responsibility for carriage of the goods after they were brought into the customs territory of the Union;

(c) any person that immediately places the goods under a customs procedure; or

(d) the holder of an authorisation for the operation of a temporary storage facility or any person that carries out an activity in a free zone.

6. In specific cases laid down in the customs legislation, where not all the data in the advance cargo information referred to in Article 97(8) on the goods can be obtained from the carrier, a subsequent carrier, or other persons, having those data and the appropriate rights to provide them, may be required to notify the actual customs office of first entry of the arrival of the goods.

7. Subject to the approval of the customs authority, the notification of arrival of the means of transport and of the goods may be provided or made available to the customs authorities by means other than the EU Customs Data Hub, such as commercial, port or transport information systems, provided that such systems contain the necessary data for such notification and those data are available at the point in time referred to in paragraph 1, 2 or 3, as appropriate. In such cases, the data provided or made available by those other means shall be transferred to the EU Customs Data Hub.

8. By way of derogation from paragraph 2, the obligation to notify the arrival of the goods shall not apply in the following cases:

(a) where, upon their arrival in the customs territory of the Union, goods are unloaded and reloaded onto the same means of transport during its voyage solely in order to enable the unloading or loading of other goods at the same Union port or airport;

(b) where Union goods which move without alteration of their customs status in accordance with Article 73(2) are brought into the customs territory of the Union after having temporarily left that territory by sea or air, having been carried by direct route without a stop outside the customs territory of the Union.

9. The carrier shall not unload, in the customs territory of the Union, goods for which the advance cargo information referred to in Article 97(8) has not been provided or made available to the customs authorities, unless the customs authorities have requested the carrier to present those goods in accordance with Article 103.

10. By way of derogation from paragraph 9, 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.

11. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by determining the specific cases referred to in paragraph 6 of this Article and the other persons referred to in that paragraph that may be required to notify the actual customs office of first entry of the arrival of the goods.

12. The Commission shall adopt implementing acts laying down 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 283(4).

13. In accordance with the dates set out in the work programme referred to in Article 38(6), point (b), and until 28 February 2034 at the latest, a notification of arrival referred to in this Article may continue to be submitted, and a physical presentation of goods to customs referred to in Article 103(1) of this Regulation may continue to be carried out, in accordance with the rules and data requirements provided for in Regulation (EU) No 952/2013 applicable 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.

Article 102

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.

2. 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.

3. Where, due to unforeseeable circumstances or force majeure, the carriers cannot comply with the obligation set out in paragraph 1, they shall, without delay, inform the customs authorities of the situation and of the precise location of the goods.

4. 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 3, and to ensure, where appropriate, that the goods are subsequently conveyed to a customs office designated by the customs authorities or to any other place designated or approved by those authorities, or into a free zone.

5. The customs authorities may subject goods that are still outside the customs territory of the Union to customs controls, as a result of an agreement concluded with the relevant third country. The customs authorities shall treat those goods in the same way as they treat goods brought into the customs territory of the Union.

6. By way of derogation from paragraphs 1 and 3, 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 jeopardised as a result.

7. Paragraph 1 shall not apply to means of transport, or to the goods carried thereon, that only pass through the territorial waters or the airspace of the customs territory of the Union without a stop within that territory.

Article 103

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 customs upon their arrival at the customs office designated by the customs authorities or to any other place designated or approved by those authorities, or into the free zone.

2. The customs authorities shall notify the carrier or the holder of the goods of the obligation to physically present those goods to customs.

3. Goods physically presented to customs shall not be removed from the place where they were presented without the permission of the customs authorities.

4. The obligation to physically present goods to customs shall be waived for Union goods which move without alteration of their customs status in accordance with Article 73(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.

5. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by laying down the conditions for designating and approving the places other than the designated customs office, as referred to in paragraph 1 of this Article.

6. The Commission shall adopt implementing acts laying down the procedure for the physical presentation of goods to customs in accordance with this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 104

Temporary storage of goods

1. Non-Union goods shall be in temporary storage from the moment the person referred to in Article 101 notifies their arrival in the customs territory of the Union in accordance with that Article until they are placed under a customs procedure or taken out of the customs territory of the Union, or until the customs authorities regularise the situation of the goods in accordance with paragraph 7 of this Article.

2. Non-Union goods moving under a transit procedure shall be in temporary storage after the transit procedure has ended until they are placed under another customs procedure or taken out of the customs territory of the Union, or until the customs authorities regularise the situation of the goods in accordance with paragraph 7.

3. Non-Union goods in temporary storage shall be stored in temporary storage facilities authorised in accordance with Article 108 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 an authorisation for the operation of a temporary storage facility referred to in Article 108, or the person storing the goods in 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 modifying their appearance or technical characteristics.

5. Unless otherwise provided in Union or national law, non-Union goods in temporary storage shall be placed under a customs procedure or taken out of the customs territory of the Union within 90 days from the start of the temporary storage. In exceptional cases laid down in the customs legislation, customs authorities may extend that time limit.

6. Non-Union goods in temporary storage in places designated or approved by the customs authorities, including places indicated by Trust and Check traders, shall be placed under a customs procedure or re-exported within a specific time limit.

7. 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 Title V.

8. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by laying down the conditions for designating or approving the places referred to in paragraph 3 of this Article, the time limit referred to in paragraph 6 of this Article and the exceptional cases where the time limit referred to in paragraph 5 of this Article may be extended.

9. In accordance with the dates set out in the work programme referred to in Article 38(6), point (b), and until 28 February 2034 at the latest, a temporary storage declaration shall be submitted in accordance with the rules and data requirements provided for in Regulation (EU) No 952/2013.

Article 105

Temporary storage information

1. Non-Union goods for which a 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 101, the holder of an authorisation for the operation of a temporary storage facility or another person that 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 customs authorities shall not require the temporary storage information to be provided or made available where:

(a) at the latest at the time of the notification of arrival of the goods in the customs territory of the Union, the customs status of those goods as Union goods is determined in accordance with Article 71; or

(b) the data necessary for the customs procedure or re-export has already been provided or made available to the customs authorities.

4. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by:

(a) further specifying the cases referred to in paragraph 3 of this Article in which the customs authorities are not to require the provision or making available of temporary storage information;

(b) determining the data to be provided or made available to the customs authorities for the application of the provisions governing temporary storage.

5. The Commission shall adopt implementing acts laying down the procedural rules for lodging the temporary storage 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 283(4).

Article 106

Amendment of temporary storage information

1. The persons referred to in Article 105(2) shall amend one or more data elements in the temporary storage information:

(a) where it comes to their knowledge that relevant information has changed in their records; or

(b) where a customs authority requests them to do so due to the inaccuracy or incompleteness of the data or issues with the quality of the data.

2. The persons referred to in Article 105(2) shall not amend the temporary storage information where:

(a) the customs authorities have informed such persons that they intend to examine the goods;

(b) the customs authorities have informed such persons that they have established that the data provided or made available are 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 acts in accordance with Article 282 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 adopt implementing acts laying down the procedural rules for amending, in accordance with paragraph 1 of this Article, the information referred to therein. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 107

Invalidation of temporary storage information

1. If it comes to the knowledge of a person referred to in Article 105(2) that goods will not be brought into the customs territory of the Union, it shall as soon as possible invalidate that temporary storage information.

If goods in respect of which temporary storage information has been provided or made available are not brought into the customs territory of the Union within 30 days from the date when that information was provided or made available, the customs authorities shall invalidate that data.

Temporary storage information shall also be invalidated in other cases laid down in the customs legislation.

2. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by further specifying the cases referred to in paragraph 1, third subparagraph, of this Article in which a temporary storage information is to be invalidated.

3. The Commission shall adopt implementing acts laying down the procedural rules for invalidating the temporary storage 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 283(4).

Article 108

Authorisation for the operation of temporary storage facilities

1. An authorisation from the customs authorities shall be required for the operation of a temporary storage facility. Such authorisation shall not be required where the temporary storage facility is operated by the customs authority itself.

The conditions under which the operation of a temporary storage facility is permitted shall be set out in that authorisation.

2. The authorisation referred to in paragraph 1 of this Article shall be granted only to persons that:

(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 194.

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 have complied with the condition referred to in the first subparagraph, point (b), of this paragraph if the activity pertaining to the operating of the temporary storage facilities concerned is taken into account in the authorisation referred to in Article 30 or 31, 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 referred to in paragraph 1 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.

Those records shall contain the information and the data to 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 or a Trust and Check trader shall be deemed to comply with the obligation laid down in paragraph 4 if as its records are appropriate for the purpose of the operation of temporary storage facilities.

6. The customs authorities may authorise the holder of the authorisation referred to in paragraph 1 to move goods in temporary storage between different temporary storage facilities, provided that such movements do not increase the risk of fraud, for the 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 that is issued to an authorised economic operator for customs simplifications or to a Trust and Check trader; or

(c) other cases of movement laid down in the customs legislation.

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 282 to supplement this Regulation by determining:

(a) the conditions for granting the authorisation for the operation of temporary storage facilities;

(b) the type of information and data 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 of this Article;

(c) the other cases of movement of goods in temporary storage referred to in paragraph 6, point (c), of this Article and the related conditions.

9. The Commission shall adopt implementing acts laying down the procedural rules for the movement of goods between temporary storage facilities in accordance with paragraph 6 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Chapter 2
Release for free circulation

Article 109

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 the release for free circulation procedure.

2. Release for free circulation shall confer on non-Union goods the customs status of Union goods.

3. The conditions for placing goods under the release for free circulation procedure shall be the following:

   (a) the required data has been provided or made available to customs authorities, which must include at least the identity of the importer responsible for the goods, the seller, the buyer, the manufacturer, the product supplier where different from the manufacturer, and of the responsible economic operator in the Union pursuant to Article 4 of Regulation (EU) 2019/1020 and Article 16 of Regulation (EU) 2023/988, 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;

(b) in the case of goods imported by an importer for distance sales that has chosen to use the IOSS scheme, the required data shall, in addition to those referred to in point (a), include the information set out in the records of the transactions covered by the IOSS scheme, kept by the taxable person, in accordance with Article 369x(1) of Directive 2006/112/EC;

(c) any import duty or other charges due, including anti-dumping duties, countervailing duties or safeguard measures, have been paid or are guaranteed, unless the goods are the subject of a drawing request on a tariff quota;

(d) the goods have arrived at the place of release in the customs territory of the Union; and

(e) 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 282 to supplement this Regulation by further determining the data to be provided or made available to the customs authorities for placing goods under the release for free circulation procedure as referred to in paragraph 3, point (a), of this Article or providing for derogations from that point justified for the type of traffic concerned.

Article 110

Application of commercial policy measures to inward and outward processing

1. Where processed products obtained under inward processing are released for free circulation and the calculation of the amount of import duty is made in accordance with Article 192(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 191(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 169;

   (b) the outward processing involves repair, including the standard exchange system referred to in Article 164; or

   (c) the outward processing follows further processing operations in accordance with Article 160.

Chapter 3
Relief from import duty

Article 111

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 three years and placed under the release for free circulation procedure shall, at the application of 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 three-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 were released for free circulation duty-free or at a reduced rate of import duty because of a particular end-use, relief from import duty under paragraph 1 shall be granted only if those goods 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. If the latter amount exceeds the amount 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 72 and are subsequently released for free circulation, paragraphs 1, 2 and 3 of this Article shall apply.

5. Relief from import duty under paragraph 1 shall be granted only if goods are returned in the state in which they were exported.

6. Relief from import duty under paragraph 1 shall be supported by information establishing that the conditions for that relief are met.

7. The Commission is empowered to adopt delegated acts in accordance with Article 282 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 adopt implementing acts laying down 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 283(4).

Article 112

Goods previously placed under the inward processing procedure

1. Article 111(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, provided that the release for free circulation of those processed products results in the collection of the import duty due for the goods which were placed under the first inward processing procedure.

2. If the processed products referred to in paragraph 1 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 import duty shall be collected for the goods referred to in paragraph 1.

3. The amount of import duty on the goods covered by paragraph 1 of this Article shall be determined in accordance with Article 192(3).

4. The relief from import duty provided for in Article 111 shall be granted for processed products which were exported in accordance with Article 133(2), point (c), only where it is ensured that no goods that were replaced by equivalent goods will be placed under the inward processing procedure.

Article 113

Products of sea-fishing and other products taken from the sea

1. Without prejudice to Article 169(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) of this paragraph onboard 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 adopt implementing acts laying down the procedure for providing the evidence referred to in paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

TITLE VII
GOODS TAKEN OUT
OF THE CUSTOMS TERRITORY OF THE UNION

Chapter 1
Export and re-export

Article 114

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 shall be 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 import duty;

(b) the formalities required under provisions applicable to other charges;

(c) the procedural rules on export and exit.

4. Paragraph 1 shall not apply to 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 as aircraft or ship supplies exempted from VAT or excise duty or subject to zero VAT or excise duty, 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;

(e) moved temporarily out of the customs territory of the Union in accordance with Article 73.

5. The customs formalities applicable to the export procedure shall apply in the cases referred to in paragraph 4, points (a) and (b), as well as in paragraph 4, point (c), regardless of the destination of the aircraft or ship.

6. Goods dispatched to Helgoland shall not be considered to be exported from the customs territory of the Union.

7. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by determining the data to be provided or made available to the customs authorities for placing goods under the export procedure as referred to in paragraph 2, point (a), of this Article.

8. The Commission shall adopt implementing acts laying down the procedural rules on export and exit referred to in paragraph 3, point (c), of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 115

Relief from export duty for Union goods temporarily exported

Without prejudice to Article 161, Union goods which are temporarily exported from the customs territory of the Union shall benefit from export duty relief, if they are re-imported.

Article 116

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 have been provided or made available and that the goods intended to be re-exported comply with the other legislation applied by the customs authorities in respect of non-Union goods.

2. Re-export data shall include, where applicable, the data necessary to discharge the previous customs procedure or to end the temporary storage.

3. Articles 74 to 80 and Article 123 shall apply to re-export.

4. Paragraph 1 shall not apply:

   (a) to non-Union goods placed under the external transit procedure which only pass through the customs territory of the Union;

   (b) where non-Union 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 28 February 2034, 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 a temporary storage facility.

6. Until 28 February 2034, Articles 81 to 93 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 282 to supplement this Regulation by determining the cases where a re-export notification is to be lodged and the cases where it can be amended or invalidated.

8. The Commission shall adopt implementing acts laying down 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 283(4).

Chapter 2

Exit of goods

Article 117

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 specific time limits and at the latest upon notification of arrival of the goods at the point of exit.

2. The pre-departure information shall contain the data necessary for the customs authorities to carry out risk analysis primarily for safety and security purposes.

3. The exporter may provide or make available to the competent customs authority part or all of the pre-departure information.

4. Where the exporter has already provided or made available a part of the required pre-departure information, the carrier shall link the part of the required pre-departure information that it provides or makes available to the information already provided or made available by the exporter.

5. Where the exporter has already provided or made available all the required pre-departure information, the carrier shall provide or make available additional pre-departure information only where it is aware that the information previously provided or made available is incorrect.

6. The exporter shall be notified where a carrier links the pre-departure information it has provided or made available to the part of the pre-departure information provided or made available by the exporter.

7. In specific cases laid down in the customs legislation, where the carrier or the exporter has not provided or made available all the pre-departure information referred to in paragraphs 3 and 5, other persons holding that information may be required to provide it or to make it available.

8. A person that provides or makes available pre-departure information may restrict the visibility of its identification and commercially sensitive data to one or more persons that also provide or make available data, without prejudice to the use of all data for customs supervision.

9. The obligation to provide or make available pre-departure information shall not apply:

   (a) to means of transport and the goods carried thereon that are 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) to goods moved temporarily out of the customs territory of the Union in accordance with Article 73;

(d) to 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.

10. In the cases referred to in paragraph 9 of this Article, re-export data shall be provided or made available in accordance with Article 116.

11. 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.

12. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by:

(a) specifying what data of the pre-departure information are to be provided or made available to the customs authorities, as referred to in paragraph 1 of this Article;

(b) laying down the specific time limits referred to in paragraph 1 of this Article, taking into account the type of traffic and the means of transport;

(c) determining the specific cases in which the obligation to provide or to make available pre-departure information is not to apply, as referred to in paragraph 9, point (b), of this Article;

(d) laying down the conditions under which the person that provides or makes available pre-departure information can restrict the visibility of the identification and commercially sensitive data, as referred to in paragraph 8 of this Article.

13. The Commission shall adopt implementing acts laying down the procedure for providing, making available 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 283(4).

14. In accordance with the dates set out in the work programme referred to in Article 38(6), point (b), and until 28 February 2034 at the latest, the formalities on the exit of goods may continue to be carried out 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.

Article 118

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 specific time limits, ensure that a risk analysis is carried out. That risk analysis shall be primarily for safety and security purposes and shall be carried out, where appropriate, in collaboration with other customs offices and, where possible, on the basis of the pre-departure information and other data provided or made available through the EU Customs Data Hub. The competent customs authority 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 that provided or made available the pre-departure information that the goods are not to be loaded or transported and, if the carrier is a person other than the person who submitted the pre-departure information, similarly instructing the carrier that the goods are not to be loaded or transported;

   (b) requesting additional information or action;

   (c) identifying situations where action by another authority might be appropriate;

   (d) recommending the most appropriate place to carry out a customs control and the most appropriate measures for that control.

3. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by determining the specific time limits by which the risk analysis referred to in paragraph 1 of this Article is to be carried out.

4. The Commission may adopt implementing acts laying down the procedural rules for instructing the persons, as referred to in paragraph 2, point (a), of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

5. In accordance with the dates set out in the work programme referred to in Article 38(6), point (b), and until 28 February 2034 at the latest, the risk analysis shall be carried out based on the data submitted pursuant to Article 117(14). After that date, the risk analysis shall be carried out based on the data available in the EU Customs Data Hub.

Article 119

Amendment of the pre-departure information

1. The exporter or the persons referred to in Article 117 shall amend one or more data elements in the pre-departure information where:

   (a) it comes to the knowledge of the exporter or the persons referred to in Article 117 that the relevant information has changed in its records or that the information is incorrect; or

(b) a customs authority requests the exporter or the persons referred to in Article 117 to do so due to the inaccuracy or incompleteness of the data or issues with the quality of the data, in particular when identified as a result of the risk analysis performed.

2. The exporter or the other persons referred to in Article 117 shall not amend the pre-departure information where:

(a) the customs authorities have instructed the person that provided or made available the pre-departure information and the carrier, if different from that person, that the goods are not to be loaded or transported as referred to in Article 118(2), point (a);

(b) the customs authorities have informed the carrier or the person that provided or made available the pre-departure information that they intend to examine the goods;

(c) the customs authorities have established that the pre-departure information is incorrect;

(d) the data in the pre-departure information have been included in the list of data which cannot be amended;

(e) the customs authorities have already granted the release of the goods for exit.

3. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by determining the data in pre-departure information which cannot be amended, as referred to in paragraph 2, point (d), of this Article.

4. The Commission shall adopt implementing acts laying down the procedure for amending the pre-departure information in accordance with paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 120

Invalidation of pre-departure information

1. If it comes to the knowledge of the carrier or other persons providing or making available the pre-departure information that the goods covered by that pre-departure information will not be taken out of the customs territory of the Union, it shall as soon as possible request that the customs authority invalidate the pre-departure information without delay.

   If goods covered by the pre-departure information are not taken out of the customs territory of the Union within 200 days from the date on which the pre-departure information was provided or made available to the customs authorities, the customs authorities shall invalidate that pre-departure information.

2. Persons providing or making available the pre-departure information, including the exporter, shall inform each other that the pre-departure information that they provided or made available has been invalidated.

3. The Commission shall adopt implementing acts laying down the procedure for invalidating the pre-departure information in accordance with paragraph 1, second subparagraph, of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 121

Notification of arrival of the goods at the point of exit

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

2. Notwithstanding the obligations of the carrier referred to in paragraph 1, any of the following persons may notify the arrival of the goods:

   (a) an exporter; or

   (b) the person that assumes responsibility for the carriage of the goods prior to their exit from the customs territory of the Union.

3. Subject to the approval of the customs authority, the notification of arrival of the goods may be provided or made available to the customs authorities by means other than the EU Customs Data Hub, such as commercial, port or transport information systems, provided that such systems contain the necessary data for such notification and those data are available within the specific time limits referred to in paragraph 1. In such cases, the data provided or made available through those other means shall be transferred to the EU Customs Data Hub.

4. The obligation referred to in paragraph 1 shall not apply where 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 solely in order to enable the unloading or loading of other goods at the same Union port or airport.

5. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by determining the data to be notified to the customs office responsible for the place where the goods are taken out of the customs territory of the Union.

Article 122

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 those goods to be taken out of the customs territory of the Union to customs before the departure of those goods.

2. The customs authorities shall notify the carrier or the holder of the goods of the requirement to physically present the goods to customs.

3. Goods physically presented to customs shall not be removed from the place where they were presented without the permission of the customs authorities.

Article 123

Exit confirmation

The carrier who takes the goods outside the customs territory of the Union or the person that 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 124

Scope

Goods may be placed under any of the following categories of special procedure:

(a) transit, which comprises external and internal transit;

(b) storage, which comprises customs warehousing and free zones;

(c) specific use, which comprises temporary admission and end-use;

(d) processing, which comprises inward and outward processing.

Article 125

Authorisation

1. Importers, exporters or their indirect representatives intending to place goods under a special procedure shall need 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 in cases where the customs authority concerned is the storage facility operator.

2. The following persons and authorities may operate storage facilities for the customs warehousing of goods by any importer:

   (a) persons who have the relevant authorisation from the customs authorities; and

   (b) the customs authority concerned where it is the storage facility operator.

3. The authorisations referred to in paragraphs 1 and 2 shall set out the conditions for the use of the special procedures concerned or for the operation of the storage facilities concerned.

4. Except in specific cases laid down in Union law, the customs authorities shall grant the authorisations referred to in paragraph 1 and 2 only where all of the following conditions are met:

   (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;

(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 194;

(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').

An authorised economic operator for customs simplifications or a Trust and Check trader shall be deemed to fulfil the condition laid down in point (b) of the first subparagraph of this paragraph if the activity pertaining to the special procedure concerned is taken into account in the authorisation referred to in Article 30 or 31, respectively.

5. Where evidence exists that granting an authorisation for an inward processing procedure is likely to adversely affect the essential interests of Union producers, the competent customs authorities shall, before taking a decision on that authorisation, request the reasoned opinion of the EU Customs Authority, unless the grant of the authorisation is otherwise justified by the economic nature of the processing.

6. Where evidence exists that granting an authorisation for an outward processing procedure is likely to adversely affect the essential interests of Union producers of goods that are considered to be sensitive, and the goods are not intended to be repaired, the competent customs authorities shall, before taking a decision on that authorisation, request the reasoned opinion of the EU Customs Authority.

7. When requested in accordance with paragraphs 5 and 6, the EU Customs Authority may issue one of the following opinions:

   (a) that granting the authorisation does not adversely affect the essential interests of Union producers;

   (b) that granting the authorisation adversely affects the essential interests of Union producers;

   (c) that granting the authorisation for a duly substantiated and monitored quantity of goods that is determined 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 that opinion, the EU Customs Authority may take account of views and information received from stakeholders, provided that those stakeholders provide that information to the EU Customs Authority within the time limits specified in the procedural rules referred to in paragraph 11, point (b).

8. 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.

9. Where evidence exists that the essential interest of Union producers could be adversely affected by the use of an authorisation that has already been granted, the Commission or Member States may request the EU Customs Authority to issue a reasoned opinion following the procedure laid down in paragraphs 5 and 6.

10. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by:

    (a) laying down the conditions referred to in paragraphs 3 and 4 of this Article for granting authorisations for the use of special procedures referred to in paragraph 1, point (a), of this Article or the operation of the storage facilities referred to in paragraph 1, point (b), and paragraph 2 of this Article;

(b) determining the specific cases referred to in paragraph 4 of this Article;

(c) specifying the cases referred to in paragraph 5 of this Article where the economic nature of the processing justifies that the customs authorities assess without the opinion of the EU Customs Authority whether granting an authorisation for an inward processing procedure adversely affects the essential interest of Union producers;

(d) specifying the cases referred to in paragraph 5 of this Article where evidence is considered to exist that the essential interests of Union producers are likely to be adversely affected and the cases referred to in paragraphs 5 and 6 of this Article where the economic conditions are deemed to be fulfilled;

(e) laying down the list of goods considered to be sensitive referred to in paragraph 6 of this Article.

11. The Commission shall adopt implementing acts laying down:

(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 2 of this Article;

(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 determining and monitoring the quantity referred to in paragraph 7 of this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

12. Until … [12 months from the date of entry into force of this Regulation]:

(a) an examination of the economic conditions referred to in paragraph 4, point (g), of this Article shall take place at Union level in accordance with the procedural rules referred to in paragraph 11, point (b) of this Article;

(b) where reference is made to the opinion of the EU Customs Authority under this Chapter, it refers to the examination of the economic conditions at Union level by the Commission provided for in paragraphs 5, 6 and 7 of this Article.

Article 126

Authorisations with retroactive effect

1. The customs authorities shall, upon application, grant an authorisation with retroactive effect, if 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 or made available for placing goods under a customs procedure;

(e) no authorisation with retroactive effect has been granted to the applicant for the same special procedure within three years of the date on which the application was accepted;

(f) unless the application concerns renewal of an authorisation for the same kind of operation and goods, 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;

(g) the application does not concern the operation of storage facilities for the customs warehousing of goods; and

(h) where an application concerns renewal of an authorisation for the same kind of operation and goods, the application is submitted within three years after expiry of the original authorisation.

2. Customs authorities may grant an authorisation with retroactive effect 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 127

Retroactive amendment to the authorisation

1. At a justified application of the holder of the authorisation, submitted within the period of validity of the authorisation referred to in Article 125(1) and (2), the customs authorities may retroactively amend the granted authorisation.

However, the holder of the authorisation may submit the application to amend the authorisation after the expiration of the period of validity of the authorisation if there are goods placed under the relevant customs 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 is to take effect.

3. A retroactive amendment shall not take effect prior to the date of effect of the authorisation.

4. No retroactive amendment shall be permitted where any of the following apply:

(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 the holder of the authorisation that they have established that the data in the authorisation are incorrect;

(c) the application is related to an attempted deception or abuse by the holder of the authorisation.

5. The application for retroactive amendment shall not concern the period of validity of the authorisation granted.

6. Amending the authorisation retroactively shall not require an opinion of the EU Customs Authority, as referred to in Article 125(5) and (6).

Article 128

Records

1. The holder of an authorisation referred to in Article 125(1) and (2), importer or exporter and any person 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, save for exceptions laid down in the customs legislation, shall provide those records or make them available in the EU Customs Data Hub.

Those records shall contain the information and the data to enable the customs authorities to supervise the procedure concerned, in particular with regard to the 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 considered to comply with the obligation laid down in paragraph 1 if its records are appropriate for the purpose of the special procedure concerned.

3. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by specifying the types of information and the data 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 laid down in paragraph 1 of this Article.

Article 129

Discharge of a special procedure

1. In cases other than the transit procedure and without prejudice to Article 156, 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 96.

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 special procedure has not been discharged under the conditions prescribed.

4. The discharge of a special procedure shall take place within specific periods, unless otherwise provided in the customs legislation.

5. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by specifying the length of the periods referred to in paragraph 4 of this Article.

6. The Commission shall adopt implementing acts laying down the procedural rules for discharging a special procedure. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 130

Transfer of rights and obligations

1. The customs authorities may, upon application, authorise the holder of an authorisation for a special procedure other than transit to fully or partially transfer its rights and obligations with regard to goods that have been placed under that special procedure to an importer, to an exporter or to any other person.

2. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by determining:

   (a) the cases where, and the conditions under which, the transfer of rights and obligations referred to in paragraph 1 of this Article is allowed;

(b) the form in which the customs authorities authorise such transfer of rights and obligations;

(c) the data and information required for applications and authorisations for such transfer of rights and obligations.

3. The Commission shall adopt implementing acts laying down 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 referred to in Article 283(4).

Article 131

Movement of goods

1. In specific cases laid down in the customs legislation, the importers, the exporters, the holders of the authorisation for the operation of storage facilities for the customs warehousing of goods and the persons to whom rights and obligations have been transferred in accordance with Article 130 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 282 to supplement this Regulation by determining the specific cases in which goods can be moved as referred to in paragraph 1 of this Article and laying down the conditions under which this can occur.

3. The Commission shall adopt implementing acts laying down 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 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 132
Usual forms of handling

1. Goods placed under a customs warehousing or a processing procedure or in a free zone may undergo usual forms of handling intended to preserve them, to improve their appearance or marketable quality or to prepare them for distribution or resale.

2. Goods intended for distance sales from a private customs warehouse for distance sales referred to in Article 145 may be subject to the usual forms of handling that are strictly necessary for the purpose of preparing for the distance sale.

3. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by determining the usual forms of handling for goods referred to in paragraphs 1 and 2 of this Article.

Article 133

Equivalent goods

1. Equivalent goods shall be 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 be non-Union goods which are processed instead of Union goods placed under the outward processing procedure.

Except in specific cases laid down in the customs legislation, equivalent goods shall have the same eight-digit code in the combined nomenclature of goods laid down in Regulation (EEC) No 2658/87 ('Combined Nomenclature'), the same commercial quality and the same technical characteristics as the goods that they are replacing.

2. Provided that the proper conduct of the special procedure, in particular as regards customs supervision, is ensured, the customs authorities shall, upon application, authorise the following actions:

(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 laid down in the customs legislation;

(c) the use of equivalent goods under the inward processing procedure;

(d) 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;

(e) the use of equivalent goods under the outward processing procedure;

(f) 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 considered to fulfil the condition of ensuring the proper conduct of the special procedure if the activity pertaining to the use of equivalent goods for the procedure concerned was taken into account when that economic operator or trader was granted an authorisation referred to in Article 30 or 31.

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 132 are carried out under the inward processing procedure;

(b) where a prohibition of drawback of import duty, 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

(d) where provided for in Union legal acts.

4. In the case referred to in paragraph 2, point (d), of this Article and where, if they were not being exported in the context of the inward processing procedure, the processed products would be liable to export duty, the holder of the authorisation shall provide a guarantee to ensure payment of the export duty in the event that the non-Union goods are not imported within the period referred to in Article 159(3).

5. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by:

(a) determining the specific cases referred to in paragraph 1, third subparagraph, of this Article;

(b) laying down the conditions under which equivalent goods are used in accordance with paragraph 2 of this Article;

(c) determining the specific cases referred to in paragraph 2, point (b), of this Article where equivalent goods are used under the temporary admission procedure; and

(d) specifying the cases where the use of equivalent goods is not authorised in accordance with paragraph 3, point (c), of this Article.

6. The Commission shall adopt implementing acts laying down the procedural rules for the use of equivalent goods authorised in accordance with paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Chapter 2

Transit

SECTION 1

GENERAL RULES

Article 134

Scope

1. Upon their entry into the customs territory of the Union, goods shall be placed under a transit procedure, without alteration of their customs status in accordance with Article 73(2), unless they have already been placed under a transit procedure specified in Articles 135 and 136 or under another customs procedure within the time limit set out in Article 104(5).

2. The holder of the transit procedure shall be considered to be 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 person identifying it as the importer or exporter.

Article 135

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 laid down in the customs legislation, Union goods shall be placed under the external transit procedure.

3. The movement 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 Customs Convention on the A.T.A. Carnet for the temporary admission of goods, done in Brussels on 6 December 1961 (ATA Convention), or the Convention relating to temporary admission, done in Istanbul on 26 June 1990 (Istanbul Convention)[39], 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, where 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 282 to supplement this Regulation by determining the specific cases referred to in paragraph 2 of this Article where Union goods are to be placed under the external transit procedure.

5. The Commission shall adopt implementing acts laying down the procedural rules for the application of paragraph 3, points (b) to (e), of this Article 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 283(4).

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39 OJ L 130, 27.5.1993, p. 4, ELI: http://data.europa.eu/eli/convention/1993/329/oj.

Article 136

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, passing 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 Convention or the Istanbul Convention, where a transit movement takes place;

   (d) under cover of NATO form 302 or EU form 302;

   (e) under the postal system in accordance with the acts of the Universal Postal Union, where the goods are carried by or for holders of rights and obligations under such acts.

3. The Commission shall adopt implementing acts laying down the procedural rules for the application of paragraph 2, points (b) to (e), of this Article 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 283(4).

Article 137

Single territory for transit purposes

When goods are moved from one point to another within the customs territory of the Union in accordance with the TIR Convention, the ATA Convention or the Istanbul Convention, under cover of NATO form 302 or 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 138

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 the 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 139

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 within the meaning of 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 within the meaning of Article 1, point (c), of the TIR Convention.

   For that purpose, the authorised consignor shall be authorised to use seals of a special type, as referred to in Article 140(4), point (c), of this Regulation.

3. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by laying down the conditions for the granting of the authorisations referred to in paragraphs 1 and 2 of this Article.

SECTION 2

UNION TRANSIT

Article 140

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 fulfilling the following obligations:

   (a) providing or making available the required data 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 provisions of customs legislation relating to the Union transit procedure;

   (d) unless otherwise provided for in the customs legislation, the 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 incurred in respect of the goods.

2. The obligations of the holder of the procedure shall be met and the Union 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 notifying the 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 the identification of those goods.

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 paragraph 2;

   (c) the use of seals of a special type, where sealing is required to ensure the identification of the goods placed under the Union transit procedure;

   (d) 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 the Union transit procedure;

(e) the use of an electronic transport document to place goods under the Union transit procedure, provided it contains the necessary information and that information 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 282 to supplement this Regulation by:

(a) further specifying the data requirements laid down in paragraph 1, points (a) and (b), of this Article and the conditions for granting the authorisations referred to in paragraph 4 of this Article;

(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), of this Article.

7. The Commission shall adopt implementing acts laying down 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 of this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 141

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 any 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 laying down 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 283(4).

Chapter 3

Storage

SECTION 1

COMMON PROVISIONS

Article 142

Scope

1. Under a storage procedure, non-Union goods may be stored in the customs territory of the Union without being subject to:

   (a) import duty;

   (b) other charges provided for by Union or national law;

   (c) commercial policy measures other than those that 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 at the place of release for the procedure.

3. Union goods may be placed under the customs warehousing procedure or the free zone procedure either in accordance with the relevant other legislation applied by the customs authorities or in order to benefit from a decision granting repayment or remission of import duty.

4. Where an economic need exists and customs supervision will not be adversely affected, the customs authorities may authorise the entry, storage, movement, use, processing or consumption of Union goods in a customs warehouse or in a free zone. In such cases, those goods shall not be regarded as being under a storage procedure.

5. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by specifying 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), of this Article.

6. The Commission shall adopt implementing acts laying down the procedure for the placing of Union goods under the customs warehousing procedure or free zone procedure as referred to in paragraph 3 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 143

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 could, 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 144

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 the operation of a customs warehouse (‘private customs warehouse’).

3. Goods placed under the customs warehousing procedure may be temporarily removed from the customs warehouse. Except in cases of force majeure, such removal shall need to be authorised by the customs authorities in advance.

Article 145

Customs warehouse for distance sales

1. Only importers for distance sales that have chosen to use the IOSS scheme and that have the status of Trust and Check trader, or their indirect representatives having the status of 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 goods meet all of the following conditions:

   (a) they comply with the relevant other legislation applied by the customs authorities that would apply in respect of 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.

When assessing whether the condition referred to in point (c) of the first subparagraph is fulfilled, the customs authorities shall take account of 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 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 282 to supplement this Regulation by laying down the conditions for granting the authorisation referred to in paragraph 1 of this Article.

5. The Commission is empowered to adopt implementing acts laying down the procedural rules regarding the conditions referred to in paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 146

Processing in a customs warehouse

Where an economic need exists and customs supervision will not be adversely affected, the customs authorities may 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 147

Responsibilities of the holder of the authorisation

Without prejudice to Article 27, the holder of the authorisation referred to in Article 125(1), point (b), or Article 125(2), point (a), 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 148

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 its 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 149

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 out of such activities shall be notified to the customs authorities in advance.

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, the requirements of customs supervision, or safety and security requirements.

4. The customs authorities may prohibit persons that do not provide the necessary assurance of compliance with the customs provisions from carrying out an activity in a free zone.

Article 150

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, those 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, and notwithstanding paragraph 1, non-Union goods may be used or consumed in a free zone provided that:

(a) their release for free circulation or temporary admission would not entail the application of import duty, of measures laid down under the common agricultural or commercial policies or of measures prohibiting the use of those goods in the Union;

(b) appropriate information about that use or consumption is provided or made available to the customs authorities.

Article 151

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 102 and 103 shall apply to goods taken out of a free zone into other parts of the customs territory of the Union.

Article 152

Customs status

1. At the application of 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 proved.

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 153
Scope

1. Under the temporary admission procedure, non-Union goods intended for re-export may be subject to a specific use in the customs territory of the Union with total or partial relief from import duty and without being subject to:

   (a) other charges provided for by Union or national law;

   (b) commercial policy measures other than those that 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 if the following conditions are met:

   (a) the goods are not intended to undergo any change, except normal depreciation due to the use that is made of them;

(b) it is possible to ensure that the goods placed under the procedure can be identified, except:

(i) where, in view of the nature of the goods or of their intended use, the absence of identification measures is not liable to give rise to any abuse of the procedure; or

(ii) in the case referred to in Article 133, 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 125 and this Article;

(d) the required data has been provided or made available to the customs authorities;

(e) the requirements for total or partial relief from import duty laid down in the customs legislation are met;

(f) the goods have arrived at the place of release for the customs procedure; and

(g) 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 282 to supplement this Regulation by:

(a) determining the specific use referred to in paragraph 1 of this Article;

(b) specifying 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 (d), of this Article;

(c) laying down the requirements for total or partial relief from import duty referred to in paragraph 2, point (e), of this Article.

Article 154

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 a reasonable extension of that period, at a justified application of the importer.

4. Except in the case of an unforeseeable event, the overall period during which goods may remain under the temporary admission procedure shall not exceed 10 years.

Article 155

Amount of import duty in the 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 total amount of import duty payable in accordance with paragraph 1 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 156

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 provided for in Union legal acts, 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 125 and this Article;

(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, have been paid or are guaranteed, unless the goods are the subject of a drawing request on a tariff quota;

(d) the goods have arrived at 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 only lead economically to the prescribed end-use, the customs authorities may establish in the authorisation the conditions to be fulfilled for those goods to be deemed to have been used for the purposes laid down in the Union legal acts providing for 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 two years from the date of their first use for the purposes laid down in the Union legal acts providing for the duty exemption or reduced rate of duty.

5. Where a rate of yield is required, Article 157 shall apply to the end-use procedure.

6. Waste and scrap which result from the working or processing of goods in accordance with the prescribed end-use and losses due to natural wastage shall be considered as goods assigned to the prescribed end-use.

7. Waste and scrap resulting from the destruction of goods placed under the end-use procedure shall be deemed to have been placed under the customs warehousing procedure.

8. The Commission is empowered to adopt delegated acts in accordance with Article 282 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), of this Article.

Chapter 5
Processing

SECTION 1
GENERAL PROVISIONS

Article 157
Rate of yield

Except where a rate of yield has been specified in Union legal acts 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 of the processing operation shall be determined on the basis of the actual circumstances in which processing operations are, or are to be, carried out. That rate may where appropriate, be adjusted in accordance with Article 12.

SECTION 2

INWARD PROCESSING

Article 158

Scope

1. Without prejudice to Article 133, 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 being subject to:

   (a) import duty or other charges, including anti-dumping duties, countervailing duties or safeguard measures;

   (b) commercial policy measures other than those that 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 125 and this Article;

   (b) the required data has been provided or made available to the customs authorities;

   (c) the goods comply with the relevant other legislation applied by the customs authorities; and

(d) the goods have arrived at the place of release for the customs procedure.

3. The inward processing procedure may be used in cases other than repair and destruction only under the condition that the goods placed under that procedure, without prejudice to the use of production accessories, can be identified in the processed products.

In the case referred to in Article 133, 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 of this Article, 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 132.

5. The Commission is empowered to adopt delegated acts in accordance with Article 282 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), of this Article.

Article 159

Period for discharge

1. The customs authorities shall specify the period for discharge of the inward processing procedure in accordance with Article 129.

   That period shall run from the date on which the non-Union goods are placed under the inward processing procedure and shall take account of the time required to carry out the processing operations and to discharge that procedure.

2. The customs authorities may grant a reasonable extension of the period specified pursuant to paragraph 1, at a justified application of the holder of the authorisation.

   The authorisation may specify that a period that begins in the course of a month, quarter or semester is to end on the last day of a subsequent month, quarter or semester, respectively.

3. In the case of prior export in accordance with Article 133(2), point (d), the authorisation shall specify the period within which the non-Union goods are to be placed under the inward processing procedure. When specifying that period, the customs authorities shall take account of the time required for procurement and transport to the customs territory of the Union, as indicated by the applicant.

   That period 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 160

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, for temporary re-export 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 282 to supplement this Regulation by laying down the conditions for temporarily re-exporting goods for further processing, as referred to in paragraph 1 of this Article.

SECTION 3

OUTWARD PROCESSING

Article 161

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 at the application of the holder of the authorisation, or of any other person established in the customs territory of the Union that has obtained the consent of the holder of the authorisation, and provided that 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 125 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 have been paid or are guaranteed; and

(d) the goods comply with the relevant other legislation applied by the customs authorities.

3. The customs authorities shall not grant an authorisation for an outward processing procedure for any of the following Union goods:

(a) goods the export of which gives rise to repayment or remission of import duty;

(b) goods which, prior to export, were released for free circulation under a duty exemption or at a reduced rate of duty by virtue of their end-use, for as long as the purposes of such end-use have not been fulfilled, unless those goods have to undergo repair operations;

(c) goods 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 are to 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 a reasonable extension of that period, at a justified application of the holder of the authorisation.

5. The Commission is empowered to adopt delegated acts in accordance with Article 282 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), of this Article.

Article 162

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 163

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 of this Article shall not apply to processed products resulting from equivalent goods as referred to in Article 133 and to replacement products as referred to in Articles 164 and 165.

Article 164

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 would have had if they had 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 that requirement 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 165

Prior import of replacement products

1. Under the conditions they lay down and at the application of the person concerned, the customs authorities shall 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 two 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 a reasonable extension of that period, at a justified application of 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 166

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;

   (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 legal acts 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, within the framework of measures referred to under points (c) to (f) or point (h);

(h) other measures provided for by Union legal acts concerning agricultural policy, commercial policy or other areas that are based on the tariff classification of the goods, in particular provisional or definitive anti-dumping duties, countervailing duties or safeguard measures.

3. Where the goods concerned meet the conditions included in the measures referred to in paragraph 2, points (d) to (g), those measures may apply instead of the measures provided for in point (c) of that paragraph. The measures referred to in paragraph 2, points (d) to (g), may be applied retroactively provided that the time limits and conditions laid down in the relevant measure or in this Regulation are complied with and that:

   (a) as regards the measures laid down in paragraph 2, points (d) and (e), those measures provide for such retroactive application;

   (b) as regards the measures laid down in paragraph 2, point (d), the third country or group of third countries also allow for such retroactive application.

4. Where the application of the measures referred to in paragraph 2, points (d) to (g), or the exemption from measures referred to in point (h) of that paragraph is restricted to a certain volume of imports or exports, that 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, the application of such measures shall cease by virtue of a Union legal act.

5. The Commission may subject the release for free circulation, the export and the placement under certain special procedures of goods to customs surveillance for the purposes referred to in Article 41(4).

6. The Commission shall adopt implementing acts laying down the measures on the uniform management of the tariff and other quotas and the tariff ceilings referred to in paragraph 4 of this Article, and on the management of the customs surveillance referred to in paragraph 5 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 167

Tariff classification of goods

1. For the application of the Common Customs Tariff, tariff classification of goods shall consist of 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 of the determination of one of the subheadings or further subdivisions of the Combined Nomenclature, or of any other nomenclature which is established by Union legal acts 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 adopt implementing acts determining the tariff classification of goods in accordance with paragraphs 1 and 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

On duly justified imperative grounds of urgency relating 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 283(5).

Chapter 2
Origin of goods

Article 168

Non-preferential origin

The rules for the determination of the non-preferential origin of goods in Articles 169 and 170 shall be used for applying the following:

(a) the Common Customs Tariff, except for the measures referred to in Article 166(2), points (d) and (e);

(b) measures, other than tariff measures, established by Union legal acts governing specific fields relating to trade in goods; and

(c) other Union measures relating to the origin of goods.

Article 169

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 282 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 168 are considered to be 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 170

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 those goods.

2. Where a proof of origin of goods is provided pursuant to the customs legislation or other Union legal acts 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 legal act.

3. Where the exigencies of trade so require, a document proving the origin of goods 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 those goods were wholly obtained or underwent their last substantial transformation.

4. The Commission shall adopt implementing acts laying down the procedural rules for the provision and verification of a proof of origin of goods. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 171

Preferential origin

1. In order to benefit from the measures referred to in Article 166(2), point (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 those laid down in those agreements.

3. 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 those adopted in accordance with Article 9 of that Protocol.

4. 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 those adopted in accordance with Article 203 TFEU.

5. 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 9 ('temporary derogation').

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 the rules on preferential origin.

6. A request for temporary derogation shall be made to the Commission by the beneficiary country or territory concerned. That request shall state the reasons, as indicated in paragraph 5, second subparagraph, why the temporary derogation is required and shall contain the appropriate supporting documents.

7. 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.

8. Where a temporary 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 temporary derogation is granted.

9. The Commission shall adopt delegated acts in accordance with Article 282 to supplement this Regulation by laying down rules on preferential origin as regards 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 4 of this Article. 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.

10. The Commission shall adopt implementing acts:

(a) laying down the procedural rules on the preferential origin of goods for the purposes of the measures referred to in paragraph 1;

(b) laying down a measure granting a beneficiary country or territory the temporary derogation.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 172

Determination of origin of specific goods

The Commission may adopt implementing acts laying down 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 283(4).

On duly justified imperative grounds of urgency relating to 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 283(5).

Chapter 3
Value of goods for customs purposes

Article 173

Scope

The customs value of goods for the purposes of applying the Common Customs Tariff and non-tariff measures laid down by Union legal acts governing specific fields relating to trade in goods ('customs value') shall be determined in accordance with Articles 174 and 179.

Article 174

Method of customs valuation based on the transaction value

1. The primary basis for the customs value 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 176 and 177.

2. The price actually paid or payable referred to in paragraph 1 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 referred to in paragraph 1 shall be used 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 public authorities in the Union;

(ii) limitations of the geographical area in which the goods can be resold;

(iii) restrictions which do not substantially affect the customs value of the goods concerned;

(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; and

(d) the buyer and seller are not related or the relationship did not influence the price.

Article 175

Transaction value for goods purchased in distance sales

1. The transaction value for goods purchased in distance sales shall be determined on the basis of that sale.

2. Where the goods are purchased in distance sales while placed under the customs warehousing procedure in accordance with Article 145, after they were brought into the customs territory of the Union, the transaction value shall be determined on the basis of that sale.

Article 176

Elements of the transaction value

1. In determining the customs value under Article 174, the following elements shall be added to the price actually paid or payable for the imported goods:

(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 until the place where the 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.

Article 177

Elements not to be included in the customs value

When determining the customs value under Article 174, 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, that 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;

(e) buying commissions;

(f) import duties or other charges payable in the Union by reason of the import or sale of the goods;

(g) notwithstanding Article 176(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.

Article 178

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 174(2); and

   (b) the amounts referred to in Articles 176 and 177.

2. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by laying down the conditions for granting the authorisation referred to in paragraph 1 of this Article.

Article 179

Secondary methods of customs valuation

1. Where the customs value cannot be determined under Article 174, it shall be determined by proceeding sequentially from point (a) to point (d) of paragraph 2, until the first point under which the customs value can be determined.

   The order of application of points (c) and (d) of paragraph 2 shall be reversed if the importer or, where applicable, if 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 176(1), point (e).

3. Where the customs value cannot be determined under paragraph 1 of this Article, 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 1994;

(b) Article VII of the General Agreement on Tariffs and Trade;

(c) this Chapter.

4. In the case of distance sales, where the importer does not dispel reasonable doubts concerning whether the declared transaction value represents the total price actually paid or payable as referred to in Article 174(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 of this Article.

Article 180

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, in accordance with paragraphs 2 and 3, 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) of this paragraph 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 282 to supplement this Regulation by determining the data required for the determination of the customs value for export duty purposes as referred to in this Article.

Article 181

Procedural rules for determining the customs value

The Commission shall adopt implementing acts laying down the procedural rules:

(a) for determining the customs value on the basis of the transaction value, in accordance with Article 174(1) and (2), including procedural rules for adjusting the price actually paid or payable, in accordance with Articles 176 and 177, and for the application of the conditions referred to in Article 174(3);

(b) for determining the customs value by secondary methods, in accordance with Article 179;

(c) for determining the customs value for export duty purposes, in accordance with Article 180.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 182

Determination of the customs value in specific situations

The Commission may adopt implementing acts laying down measures establishing the appropriate method of customs valuation or criteria to be used for determining the customs value in specific situations, including distance sales. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

On duly justified imperative grounds of urgency concerning the measures referred to in the first paragraph of this Article, relating to 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 283(5).

TITLE X
CUSTOMS DEBTS AND GUARANTEES

Chapter 1
Incurrence of a customs debt

SECTION 1
CUSTOMS DEBT ON IMPORT

Article 183

Release for free circulation and temporary admission

1. A customs debt on import for placing the goods under the release for free circulation procedure or under the temporary admission procedure with partial relief from import duty or the end-use procedure shall be incurred when the importer notifies the availability of the goods in accordance with Article 74(1).

2. By way of derogation from paragraph 1 of this Article, the customs debt shall be incurred upon:

   (a) the release of the goods, where Article 205(5) applies;

(b) the acceptance of the customs declaration, where applicable, until 28 February 2034;

(c) the acceptance of the payment by the person that has chosen to use the IOSS scheme.

3. 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 shall be jointly and severally liable for the customs debt.

4. 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 that provided that information and who knew, or who should reasonably have known, that such information was false shall also be a debtor.

5. Until 28 February 2034, where a customs declaration is lodged the declarant shall be the debtor. In the event of indirect representation, the person on whose behalf the customs representative is acting shall also be a debtor.

Article 184

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 that would have been incurred if the non-originating goods that were used in the manufacture of the products being re-exported had been 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 be the debtors and shall be jointly and severally liable for the customs debt.

Article 185

Customs debt incurred through non-compliance

1. For goods liable to import duty, a customs debt on import shall be incurred when there is non-compliance with any of the following:

(a) an obligation 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) an obligation 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) where the non-fulfilment of an obligation gives rise to the customs debt, the moment when that obligation is not fulfilled or ceases to be fulfilled;

(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, by virtue of the end-use of the goods, of a duty exemption or a reduced rate of import duty was not in fact fulfilled.

3. In the cases referred to in paragraph 1, points (a) and (b), the debtor shall be any of the following:

(a) any person that was required to fulfil the obligations concerned;

(b) any person who knew, or who should reasonably have known that an obligation under the customs legislation had not been 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 that acquired or held the goods in question and who knew, or who should reasonably have known at the time of acquiring or receiving the goods that an obligation under the customs legislation had not been fulfilled.

4. In the cases referred to in paragraph 1, point (c), the debtor shall be the person that is required to comply with the conditions governing the placing of the goods under a customs procedure or the granting, by virtue of the end-use of the goods, of a duty exemption or reduced rate of import duty.

5. 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 that provided that information and who knew, or who should reasonably have known, that such information was false shall also be a debtor.

Article 186

Deduction of an amount of import duty already paid

1. Where a customs debt is incurred pursuant to Article 185(1) in respect of goods released for free circulation at a reduced rate of import duty by virtue 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 183(1) or Article 185(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 187

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 in accordance with Article 74(1).

2. By way of derogation from paragraph 1, the customs debt shall be incurred at the time of:

   (a) where Article 205(5) applies, the release of the goods;

   (b) the acceptance of the customs declaration, where applicable, until 28 February 2034.

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 be the debtors and shall be jointly and severally liable for the customs debt.

4. 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 that provided that information and who knew, or who should reasonably have known, that such information was false shall also be a debtor.

Article 188

Customs debt incurred through non-compliance

1. For goods liable to export duty, a customs debt on export shall be incurred when there is non-compliance with either of the following:

   (a) an obligation laid down in the customs legislation for the exit of the goods;

   (b) a condition 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) where the customs authorities are 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 the cases referred to in paragraph 1, point (a), the debtor shall be any of the following:

(a) any person that was required to fulfil the obligation concerned;

(b) any person who knew, or should reasonably have known, that the obligation concerned had not been fulfilled and who was acting on behalf of the person that was obliged to fulfil the obligation;

(c) any person that participated in the act which led to the non-fulfilment of the obligation and who knew, or should reasonably have known that the required information had not been provided or, where applicable, a customs declaration that should have been lodged was not lodged.

4. In the cases referred to in paragraph 1, point (b), the debtor shall be any person that 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 189

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. By way of derogation from paragraph 1, 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 when strictly supervised by the competent authorities with a view to their use for medical and scientific purposes.

For the purposes of penalties for infringements of customs legislation, the customs debt shall nevertheless be deemed to have been incurred where, under this Regulation or under national law, import or export duty, or the existence of a customs debt, constitute the basis for imposing penalties.

Article 190

Several debtors

Where more than one person is liable for payment of the amount of import or export duty corresponding to one customs debt, those persons shall be jointly and severally liable for payment of that amount.

Article 191

General rules for calculating the amount of import or export duty

1. The amount of import or export duty shall be calculated based on the tariff classification, customs value, quantity, destination and origin of the goods. The rules for the calculation of duty shall be those applicable to the goods concerned at the time when the customs debt in respect of them was incurred.

2. In relation to distance sales under the IOSS scheme, the amount of import duty shall be determined on the basis of the rules for calculation of duty which were applicable to the goods concerned at the time when the payment for distance sale was accepted.

3. Where it is not possible to determine precisely when the customs debt was incurred, that time shall be deemed to be when the customs authorities reaches its conclusion 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 was incurred before they reached their conclusion, the customs debt shall be deemed to have been incurred at the earliest time that such a situation can be established.

4. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by laying down 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 192

Special rules for calculating the amount of import duty

1. Where costs for storage or for 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 any increase in value shall not be taken into account for the calculation of the amount of import duty, provided that satisfactory proof of those costs is provided by the importer or, where applicable, by the declarant.

   However, the customs value, quantity 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, at the request of the importer or, where applicable, of the declarant, be applied.

3. Where a customs debt is incurred for processed products resulting from the inward processing procedure, the amount of import duty corresponding to the debt shall, at the request of the importer, be determined on the basis of the tariff classification, customs value, quantity and origin of the goods placed under the inward processing procedure when they were placed under that procedure.

4. Where the processed products result from subsequent inward processing procedures in respect of the goods that have been placed under a first inward processing procedure, in accordance with paragraph 3, the importer may only request the calculation of the debt on the basis of the tariff classification, customs value, quantity and origin of the goods placed under that first inward processing procedure.

5. In specific cases laid down in the customs legislation, the amount of import duty shall be determined in accordance with paragraphs 2, 3 and 4 of this Article without the request of the importer or the exporter or, where applicable, of the declarant in order to avoid the circumvention of the measures referred to in Article 166(2), point (h).

6. Where a customs debt is incurred for processed products resulting from the outward processing procedure or replacement products, 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 185 or Article 188 of this Regulation, and provided that 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;

(b) the relief or total or partial exemption from import or export duty pursuant to Article 166(2), points (d) to (g), or Articles 111, 112 and 113 or Articles 161 to 165 of this Regulation; or

(c) the relief pursuant to Regulation (EC) No 1186/2009.

8. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by laying down 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 of this Article.

Article 193

Place where the customs debt is incurred

1. The customs debt shall be incurred:

(a) in the cases referred to in Article 6(1), point (d)(ii), where the goods are located;

(b) in the cases referred to in Article 6(2), point (a), where the goods are to be delivered;

(c) in the cases referred to in Article 6(2), point (c), where the declarant authorised to apply centralised clearance is established;

(d) in the cases referred to in Article 6(2), point (b), in the Member State of establishment of the Trust and Check trader.

In all other cases, the customs debt shall be incurred at the place where the events from which it arises occurred. If it is not possible to determine that place, the customs debt shall be incurred at the place where 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 if temporary storage did not end properly, and the place where the customs debt is incurred cannot be determined pursuant to paragraph 1, second or third subparagraph, 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 might 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 185 or 188 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 282 to supplement this Regulation by laying down the time limit referred to in paragraph 2 of this Article.

Chapter 2

Guarantee for a potential or existing customs debt

Article 194

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 if a customs debt might be incurred ('potential customs debts').

2. Where customs authorities require a guarantee for a potential or existing customs debt, 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 the guarantee:

   (a) is used for the placing of goods under the Union transit procedure; or

   (b) can 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 by a person that might become the debtor or, if the customs authorities so allow, by any other person.

4. Without prejudice to Article 202, 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. At the application of the person referred to in paragraph 3 of this Article, the customs authorities may, in accordance with Article 200(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:

(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, laid down in the customs legislation, where goods are placed under the temporary admission procedure; and

(e) for goods placed under the Union transit procedure using the simplification referred to in Article 140(4), point (e), and carried by sea or air between Union ports or between Union airports.

8. The customs authorities may waive the requirement for 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 282 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), of this Article and setting the threshold for waiving the requirement for provision of a guarantee as referred to in paragraph 8 of this Article.

10. The Commission shall adopt implementing acts laying down the procedural rules for 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 283(4).

Article 195

Reference amount of a compulsory guarantee

1. Where the customs authorities are obliged to 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 might be incurred.

2. Without prejudice to Article 200, 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 196

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 does not exceed the level referred to in Article 195.

Article 197

Provision of a guarantee

1. A guarantee may only 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; or

   (c) in another form on condition that it 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 recognised by the customs authorities shall be provided in accordance with the law of the Member State in which the guarantee is required.

   The customs authorities shall not be required to pay interest thereon.

3. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by laying down the form of the guarantee referred to in paragraph 1, point (c), of this Article.

Article 198

Choice of guarantee

The person required to provide a guarantee may choose between the forms of guarantee laid down in Article 197(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 199

Guarantor

1. The guarantor referred to in Article 197(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 applicable Union law.

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 there is uncertainty about whether either of them is able, within the prescribed period, to ensure payment 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 282 to supplement this Regulation by laying down the forms of guarantee and the rules applicable to the guarantor referred to in this Article.

5. The Commission shall adopt implementing acts laying down the procedural rules for the revocation and the cancellation of the undertaking given by the guarantor, as referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 200

Comprehensive guarantee

1. The customs authorities may only grant the authorisation referred to in Article 194(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 30(1), point (a); and

(c) they are regular users of the customs procedures involved or holders of an authorisation for the operation of temporary storage facilities or they fulfil the criteria laid down in Article 30(1), point (d).

2. The customs authorities may authorise an economic operator fulfilling the criteria laid down in Article 30(1), points (b) and (c), or a Trust and Check trader to provide a comprehensive guarantee with a reduced amount, in respect of potential customs debts and other charges, or not to provide a guarantee ('guarantee waiver').

3. Upon application, the customs authorities may authorise an authorised economic operator for customs simplifications or a Trust and Check trader to provide a comprehensive guarantee with a reduced amount in respect of existing customs debts and other charges. Such comprehensive guarantees shall be deemed to be equivalent to guarantees provided in accordance with other provisions of this Regulation.

4. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by laying down the conditions for granting an authorisation to use a comprehensive guarantee with a reduced amount or granting a guarantee waiver referred to in paragraphs 2 and 3 of this Article.

5. The Commission shall adopt implementing acts laying down the procedural rules for determining the amount of the guarantee, including the reduced amount referred to in paragraphs 2 and 3 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Article 201

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) a comprehensive guarantee with a reduced amount or a guarantee waiver referred to in Article 200(2);

   (b) the comprehensive guarantee referred to in Article 200 in respect of goods which have been identified as being the subject of large-scale fraud.

2. Where paragraph 1 applies, recourse to the comprehensive guarantee with a reduced amount or a guarantee waiver or recourse to the comprehensive guarantee referred to in Article 200 may be authorised in either of the following cases:

   (a) where the person concerned 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 two years preceding the decision referred to in paragraph 1 of this Article;

   (b) where customs debts have arisen in the two years preceding the decision referred to in paragraph 1 of this Article and the person concerned can show that those debts were fully paid by the debtor or debtors or the guarantor within the prescribed period.

   To obtain authorisation to use a temporarily prohibited comprehensive guarantee, the person concerned must also fulfil the criteria laid down in Article 30(1), points (b) and (c).

3. The Commission shall adopt implementing acts laying down the procedural 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 283(4).

On duly justified imperative grounds of urgency concerning the measures referred to in this Article, relating to 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 283(5).

Article 202

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 a person referred to in Article 194(3) to remedy the situation by either providing an additional guarantee or replacing the original guarantee with a new guarantee. The requested person shall have a choice between the two options.

Article 203

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 might arise in respect of only part of the amount which has been secured, a corresponding part of the guarantee shall, at the request of the person concerned, be released, unless the amount concerned does not justify such action.

3. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by laying down the time limits for the release of a guarantee.

4. The Commission shall adopt implementing acts laying down 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 283(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 204

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 193. For the purpose of that determination, the customs authorities shall take into account the data provided or made available.

2. By way of derogation from paragraph 1, until 28 February 2034, where a customs declaration has been lodged, the customs authorities may accept the amount of import or export duty payable set out 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 up or down.

Where the amount referred in the first subparagraph is expressed in euro, it shall be rounded no more than up or down to the nearest whole number.

A Member State whose currency is not the euro may either:

(a) apply the second subparagraph *mutatis mutandis;* or

(b) derogate from that subparagraph, provided that its rounding rules do not have a greater financial impact than the rule set out in the second subparagraph.

Article 205

Notification of the customs debt

1. The customs authority shall notify the customs debt to the debtor at the place where the customs debt is incurred, or is deemed to have been incurred, in accordance with Article 193.

2. 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 by the importer or the exporter, the release of the goods by the customs authorities constitutes the notification of the customs debt to the importer or the exporter.

3. The notification referred to in paragraph 1 or 2 of this Article shall not be made in any of the following cases:

(a) where, pending a final determination of the amount of import or export duty, a provisional anti-dumping duty or a provisional countervailing duty or a provisional safeguard measure has been imposed;

(b) where the amount of import or export duty payable exceeds that determined on the basis of a decision made in accordance with Article 15;

(c) where the original decision not to notify the customs debt or to notify it with an amount of import or export duty at a figure less than the amount of import or export duty payable was taken on the basis of general provisions invalidated at a later date by a court decision;

(d) where the customs authorities are exempted under the customs legislation from notification of the customs debt.

4. Where the customs authorities are obliged to notify the amount of import or export duty payable in accordance with paragraph 1, they shall notify the customs debt to the debtor when they are in a position to determine the amount and take a decision thereon.

However, where the customs authorities are informed by the competent Union or national authorities that the notification of the customs debt would prejudice a criminal investigation in the Member State of the customs authorities or in a different Member State, the customs authorities shall defer that notification until such time as it no longer prejudices that criminal investigation.

5. 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 that customs debt, including a breakdown of amounts related to each specific good, to the customs authorities within five days from the expiry of that period.

Upon receipt of that communication, the customs authorities shall be deemed to have notified the customs debt.

6. An importer for distance sales that has chosen to use the IOSS scheme and has the status of Trust and Check trader shall, in the communication referred to in paragraph 5 of this Article, amend or invalidate the information provided in accordance with Article 74(3) 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 that 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.

7. Until 28 February 2034, where a customs declaration is lodged the customs authorities may, provided that payment has been guaranteed, allow 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 to be notified at the end of that period. The period fixed by the customs authorities shall not exceed 31 days.

8. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by laying down:

(a) the cases referred to in paragraph 3, point (d), of this Article where the customs authorities are exempted from notification of the customs debt;

(b) the information to be provided by the Trust and Check trader and the importer for distance sales in the communication referred to in paragraphs 5 and 6 of this Article.

Article 206

Limitation of the customs debt

1. The customs authorities shall have a period of three years from the date on which the debt was incurred to notify it to the debtor. After the expiry of that period the customs debt shall be considered to be time-barred.

2. Where the customs debt is incurred as the result of an act which, at the time it was committed, could 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 five years and a maximum of 10 years in accordance with national law.

3. The periods laid down in paragraphs 1 and 2 of this Article shall be suspended where:

(a) an appeal is lodged in accordance with Article 18, for the period from the date on which the appeal is lodged to the end of the appeal proceedings;

(b) the customs authorities communicate to the debtor, in accordance with Article 8(6), the grounds on which they intend to notify the customs debt, for the period from the date of that communication to the end of the period within which the debtor is given the opportunity to express its opinion; or

(c) the notification of the customs debt is deferred pursuant to Article 205(4), second subparagraph.

4. Where a customs debt is reinstated pursuant to Article 217(8), the periods laid down in paragraphs 1 and 2 of this Article shall be considered to be suspended from the date on which the application for repayment or remission was submitted in accordance with Article 222 to the date on which the decision on the repayment or remission was taken.

Article 207

Entry in the accounts

1. The customs authorities referred to in Article 204 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 205.

The obligation laid down in the first subparagraph of this paragraph shall not apply in cases referred to in Article 205(2).

2. The customs authorities shall not be obliged to enter in their accounts amounts of import or export duty that, pursuant to Article 206, correspond to a customs debt which can no longer be notified to the debtor.

3. Member States shall determine the practical procedures for the entry in their accounts of 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 such amounts will be paid.

Article 208

Time of entry in the accounts

1. The customs authorities shall enter the amount of import or export duty payable in their accounts within 14 days of the release of the goods, except where those goods are placed under the temporary admission procedure 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 205(5), by means of a single entry in their accounts at the end of that period, provided that that entry is made within 14 days of the expiry of that fixed period.

3. Where a customs debt is notified in accordance with Article 205(7), it shall be entered in the accounts within 14 days of the expiry of the period concerned.

4. Where goods can 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 date 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 Union legal act establishing the definitive duty or measure.

5. 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.

6. Paragraph 5 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 duty payable has not been entered in the accounts in accordance with paragraphs 1 to 5 or has been determined and entered in the accounts at a level lower than the amount payable.

7. 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.

8. Entry in the accounts may be deferred in the case referred to in Article 205(4), second subparagraph, until such time as the notification of the customs debt no longer prejudices the criminal investigation concerned, even if that investigation takes place in a different Member State.

In such a case, 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 209

Conferral of implementing powers

The Commission shall adopt implementing acts laying down measures to ensure mutual assistance between the customs authorities in cases of incurrence of a customs debt. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

SECTION 2

PAYMENT OF THE AMOUNT OF IMPORT OR EXPORT DUTY

Article 210

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 205 within the period prescribed by the customs authorities.

   Without prejudice to Article 19(2), that period shall not exceed 10 days following notification to the debtor of the customs debt.

   The customs authorities may extend that period at the application of the debtor in cases where the amount of import or export duty payable has been determined in the course of post-release controls as referred to in Article 68. Without prejudice to Article 214(2), such extensions shall not exceed the time necessary for the debtor to take the appropriate steps to discharge his or her obligation.

2. If the debtor is entitled to any of the payment options laid down in Articles 212, 213 and 214, payment shall be made within the period or periods specified in relation to those options.

3. The time limit for payment of the amount of import or export duty corresponding to a customs debt shall be suspended in the following cases:

(a) where an application for remission of duty is made in accordance with Article 222;

(b) where goods are to be confiscated, destroyed or abandoned to the State; or

(c) where the customs debt was incurred pursuant to Article 185 and there is more than one debtor.

4. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by laying down the rules for the suspension of the time limit for payment of the amount of import or export duty corresponding to a customs debt referred to in paragraph 3 of this Article, and by laying down the period of suspension.

Article 211

Payment

1. Payment shall be made by any means of payment that has the effect of discharging the debt, including by adjusting a credit balance, in accordance with national law.

2. Payment may be made by a third person instead of by the debtor.

3. The debtor may pay all or part of the amount of import or export duty owed without waiting for expiry of the period granted to the debtor for payment.

Article 212

Deferment of payment

1. The customs authorities shall, at the application of the person concerned and on condition that it provides a guarantee, authorise that the payment of the duty payable be deferred 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 208(1) or Article 208(6);

   (b) globally in respect of all amounts of import or export duty entered in the accounts in accordance with Article 208(1) during a period fixed by the customs authorities and not exceeding 31 days; or

   (c) globally in respect of all amounts of import or export duty forming a single entry in the accounts in accordance with Article 208(3).

2. On condition that it provides a guarantee, a 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 the accounts in accordance with Article 208(2).

Article 213

Periods for which payment is deferred

1. The period for which payment is deferred under Article 212 (the 'deferral period') shall be 30 days.

2. Where payment is deferred in accordance with Article 212(1), point (a), the deferral 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 212(1), point (b), the deferral 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 212(1), point (c), or Article 212(2), the deferral 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 fixed for release of the goods..

5. Where the number of days in the aggregation period referred to in paragraph 3 or the period fixed for release of the goods referred to in paragraph 4 is an odd number, the number of days to be deducted from the deferral period pursuant to those paragraphs shall be equal to half the next lowest even number.

6. Where the aggregation period referred to in paragraph 3 or the period fixed for release of the goods referred to in paragraph 4 is expressed in 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 at the latest on the Friday of the fourth week following the week by which the payment was due.

Where the aggregation period referred to in paragraph 3 or the period fixed for release of the goods referred to in paragraph 4 is expressed in 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 by which the payment was due.

Article 214

Other payment options

1. The customs authorities may grant the debtor options for payment other than deferred payment ('other payment options') on condition that a guarantee is provided.

2. Where other payment options 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 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 for the debt concerned 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 which the due date for the debt concerned fell by the relevant 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 that month 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 requiring a guarantee or charging credit interest 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 282 to amend paragraph 4 of this Article by updating the threshold set out therein to reflect changes in economic circumstances.

Article 215

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 216

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 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 for the debt concerned 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 which the due date for the debt concerned fell by the relevant 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 that month on the Member State's money market, increased by two percentage points.

2. Where the customs debt is incurred on the basis of Article 185 or 188, 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 of this Article.

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.

5. The Commission is empowered to adopt delegated acts in accordance with Article 282 to amend paragraph 4 of this Article by updating the threshold set out therein to reflect changes in economic circumstances.

SECTION 3

REPAYMENT AND REMISSION

Article 217

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) amounts of import or export duty were overcharged;

   (b) goods were defective or did not complying with the terms of the contract;

   (c) there was an error by the competent authorities;

(d) equity;

(e) the data on the basis of which the customs debt was established was invalidated 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. They shall repay or remit a lower amount only where the person concerned requests it.

3. Where the customs authorities consider that repayment or remission should be granted on the basis of Article 220 or 221, the Member State concerned shall transmit the file to the Commission for a 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 220;

(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 legal act, or under 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 could 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.

4. The obligation to transmit the file in paragraph 3 shall not apply where the Commission has already adopted a decision on a case involving comparable issues of fact and of law, or where it is already considering such a case.

5. Where the customs authorities themselves discover within the periods referred to in Article 222(1) that an amount of import or export duty is repayable or remissible pursuant to Article 218, 220 or 221, and it is within their competence to do so, they shall repay or remit it on their own initiative.

6. No repayment or remission shall be granted when the situation which led to the notification of the customs debt is the result of deception on the part of the debtor.

7. Repayment shall not give rise to the payment of interest by the customs authorities concerned.

However, in the cases referred to in paragraph 1, points (a) and (c), repayment shall not give rise to the payment of interest by the customs authorities concerned only if those customs authorities repay an amount of import or export duty without undue delay after it has been discovered that the amount is repayable. Where the customs authorities fail to repay that amount without undue delay and the debtor initiates proceedings with a 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. Such 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 214.

8. Where the customs authorities have granted repayment or remission in error, the original customs debt shall be reinstated, provided that it is not time-barred under Article 206(1) and any interest paid under paragraph 7, second subparagraph, of this Article shall be reimbursed.

9. The Commission is empowered to adopt delegated acts in accordance with Article 282 to amend paragraph 2 of this Article by updating the threshold set out therein to reflect changes in economic circumstances.

10. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by laying down the rules with which it has to comply when taking a decision referred to in paragraph 3 of this Article, 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, before taking a decision which would adversely affect the person concerned, of the grounds on which the Commission intends to base its decision;

(d) the notification of the decision;

(e) the consequences of a failure to take a decision or to notify such decision.

11. The Commission shall adopt implementing acts laying down the procedural rules for repayment and remission. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

12. The Commission shall adopt an implementing act, in the form of a decision, authorising repayment or remission of an amount of import or export duty in any of the cases referred to in paragraph 3 of this Article where the requirements of that paragraph have been met. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 283(2).

Where the opinion of the committee referred to in Article 283(1) is to be obtained by written procedure, Article 283(6) shall apply.

Article 218

Overcharged amounts of import or export duty

1. An amount of import or export duty shall be repaid or remitted if 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 205(3), points (c) and (d).

2. Where the application for repayment or remission is based on the existence, at the time when 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, that repayment or remission shall be granted if, at the time of lodging, the application was accompanied by the necessary documents, and if, in the case of a tariff quota, its volume has not been exhausted, and in other cases, the rate of duty normally due has not been re-established.

Article 219

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 was necessary to establish that they were defective or did not comply with the terms of the contract; and

(c) the goods are taken out of the customs territory of the Union or, at the application of 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 procedure, the customs warehousing procedure 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 include goods damaged before their release.

Article 220

Error by the customs authorities

1. In cases other than those referred to in Article 217(1), point (e), and in Articles 218, 219 and 221, 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 that is lower than the amount payable, provided that the debtor could not reasonably have detected that error and was acting in good faith.

2. Where the conditions laid down in Article 218(2) are not met, the customs authorities shall repay or remit an amount of import or export duty 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 data 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 which later proves to be incorrect shall constitute an error which could not reasonably have been detected within the meaning of paragraph 1.

   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 acting in good faith if the debtor can demonstrate that, during the period of the trading operations concerned, it 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 third country.

Article 221

Equity

1. In cases other than those referred to in Article 217(1), point (e), and in Articles 218, 219 and 220, 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 can 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 economic operators engaged in the same business and that, in the absence of such circumstances, that debtor would not have suffered a disadvantage by the collection of the amount of import or export duty.

Article 222

Procedure for repayment and remission

1. Applications for repayment or remission of an amount of import or export duty in accordance with Article 217 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 three 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 on the basis of 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 referred to in the first subparagraph, points (a) and (b), shall be extended where the applicant provides evidence that it 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 to repay or remit an amount of import or export duty on the basis of the grounds relied upon, they shall 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 217.

3. Where an appeal has been lodged, under Article 18, against the notification of the customs debt, the relevant period specified in paragraph 1, first subparagraph, of this Article, 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 Article 220 or 221, the Member State concerned shall inform the Commission thereof.

5. The Commission shall adopt implementing acts laying down the procedural rules for informing the Commission pursuant to paragraph 4 of this Article and the information to be provided. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4).

Chapter 4
Extinguishment of a customs debt

Article 223

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 one of the following ways:

   (a) by the customs debt becoming time-barred in accordance with Article 206;

(b) by payment of the amount of import or export duty;

(c) subject to paragraph 5 of this Article, by remission of the amount of import or export duty;

(d) in respect of goods released for a customs procedure entailing the obligation to pay import or export duty, by the data on the basis of which the release was carried out or the customs declaration being invalidated;

(e) by the goods liable to import or export duty being confiscated or seized and simultaneously or subsequently confiscated;

(f) by the destruction under customs supervision or the abandonment to the State of the goods liable to import or export duty;

(g) by the disappearance of the goods or the non-fulfilment of the obligations arising from the customs legislation as a result of the total destruction or irretrievable loss of those goods due to the actual nature of the goods or unforeseeable circumstances or force majeure, or as a consequence of an instruction by the customs authorities, including when they have been rendered unusable by any person and are therefore to be considered to have been irretrievably lost;

(h) where the customs debt was incurred pursuant to Article 185 or 188, by meeting the following conditions:

   (i) the failure which led to the incurrence 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; and

   (ii) all of the customs formalities required to be carried out in order to regularise the situation of the goods are subsequently carried out;

(i) in the case of goods released for free circulation under a duty exemption, or at a reduced rate of import duty by virtue of their end-use, by having been exported with the permission of the customs authorities;

(j) where the customs debt was incurred pursuant to Article 184, by cancelling the customs formalities required to be carried out in order to enable the preferential tariff treatment referred to in that Article to be granted;

(k) where, subject to paragraph 6 of this Article, the customs debt was incurred pursuant to Article 185, by providing evidence that satisfies the customs authorities that the goods have not been used or consumed and have been taken out of the customs territory of the Union;

(l) where a customs debt was incurred due to exceeding the quantity or value of goods specified in an authorisation for a special procedures, by the expiry of a period of five years from the date that the customs debt was incurred, provided that it would have been possible to amend the authorisation or grant a new authorisation without examination of the economic conditions to cover that larger quantity or value if a request to that effect had been submitted within that period, and subject to the following two conditions being met:

   (i) the failure which led to a customs debt being incurred had no significant effect on the correct operation of the customs procedure concerned and did not constitute an attempt at deception; and

   (ii) all of the customs formalities required to be carried out in order to regularise the situation of the goods were subsequently carried out;

(m) in the case of goods subject to a distance sale, either:

   (i) by not eventually bringing those goods into the customs territory of the Union and releasing them for free circulation; or

   (ii) by the cancellation of a distance sale before the customs debt is notified and the invalidation by the importer for distance sales of the data provided for placing goods under a customs procedure in accordance with Article 80(1), first subparagraph.

2. In the cases referred to in paragraph 1, point (e), the customs debt shall nevertheless, for the purposes of penalties for infringements of customs legislation, be deemed not to have been extinguished 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 imposing penalties.

3. Where, in accordance with paragraph 1, point (i), 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 by virtue 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 have attempted to deceive.

7. Where the customs debt was incurred pursuant to Article 185, it shall only be extinguished with regard to persons whose behaviour involved no attempt at deception and who contributed to the fight against fraud.

8. The Commission is empowered to adopt delegated acts in accordance with Article 282 to supplement this Regulation by establishing 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, points (h)(i) and (l)(i), of this Article.

Article 224

Application of penalties

The fact that the customs debt is extinguished on the basis of Article 223(1), point (h) or (l), shall not preclude the application of penalties for related infringements of customs legislation.

TITLE XI

RESTRICTIVE MEASURES AND CRISIS MANAGEMENT MECHANISM

Chapter 1

Restrictive measures

Article 225

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 (‘restrictive measures’) 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 restrictive measures, taking into account the guidance of the EU Customs Authority.

Article 226

Reporting

1. The EU Customs Authority shall regularly and whenever necessary report to the Commission on the implementation of 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 implementing restrictive measures of any cases, or suspected cases, of circumvention of restrictive measures and of the risk mitigation measures taken. That information shall, wherever possible, be provided through the EU Customs Data Hub.

Chapter 2
Crisis management mechanism

Article 227

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 an adequate response to crisis situations. Those procedures and protocols may be activated in accordance with Article 228(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 required to be carried out and which could 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. The protocols and procedures referred to in paragraph 1 of this Article may cover in particular:

   (a) the application of common priority control areas, common risk criteria and standards and risk profiles, as well as appropriate risk mitigation measures, customs controls and customs formalities required to be carried out, including payment terms;

(b) a collaboration framework to support the temporary deployment from one Member State to another of customs officials and customs control equipment;

(c) fast lanes at borders to minimise delays and congestion in freight flows;

(d) the conditions for the activation, prolongation and deactivation of the different measures and arrangements for facing crisis situations, based on clearly defined needs and appropriate justification;

(e) the avoidance of trade restrictions concerning crisis-relevant goods as defined in Article 3, point (6), of Regulation (EU) 2024/2747;

(f) a business continuity mechanism as referred to in Article 29(9) and Article 31(11) of this Regulation.

Article 228

Activation of the crisis management mechanism

1. The Commission, upon its own initiative or at the request of one or more Member States or the EU Customs Authority, may adopt implementing acts activating the necessary actions and arrangements to be applied in the event of a crisis. Those implementing acts shall:

(a) take into account the protocols and procedures referred to in Article 227;

(b) identify the specific measures and arrangements required to address a crisis situation or to mitigate its negative effects;

(c) establish the duration of the measures and arrangements to be applied and the relevant conditions for their prolongation and deactivation.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 283(4) and (5).

2. In the event of a crisis, the EU Customs Authority shall establish a crisis response cell that is permanently available throughout that 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 227 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 from the budget appropriations granted to the EU Customs Authority.

3. 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.

4. 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, taking into account, inter alia, customs authorities' reports referred to in paragraph 3, and report the results of that assessment to the Commission and to the customs authorities.

TITLE XII
THE EUROPEAN UNION CUSTOMS AUTHORITY

Chapter 1
Principles

Article 229

Establishment and legal status

1. The EU Customs Authority is hereby established and shall be a body of the Union and 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 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 230

Seat

The seat of the EU Customs Authority shall be in Lille, France.

Article 231

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, OLAF and 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 necessary 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 with 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 by pooling and providing technical expertise to increase efficiency and delivery of results;

(d) to contribute to the implementation of other legislation applied by the customs authorities;

(e) to cooperate with other Union institutions, bodies, offices and agencies in areas where their activities relate to the management of goods crossing the external border of the customs territory of the Union.

Chapter 2

Tasks

Article 232

Tasks

1. From the date that it is entrusted with the development, operation and maintenance of the EU Customs Data Hub in accordance with Article 51(2), the EU Customs Authority shall be responsible for those tasks, and shall contribute to the efficient operation of the electronic customs environment at Union level.

2. The EU Customs Authority shall carry out data management and processing activities necessary for the fulfilment of its tasks.

3. The EU Customs Authority shall carry out risk management tasks in accordance with Title IV, Chapter 2.

4. The EU Customs Authority shall carry out tasks in relation to restrictive measures and crisis management mechanisms in accordance with Title XI.

5. The EU Customs Authority shall support the Commission and the Member States so that they can supervise more efficiently the application of restrictive measures that the Council may adopt in accordance with Article 215(2) TFEU and that affect the flow of goods, to ensure that those measures are not circumvented.

6. The EU Customs Authority shall, on the basis of a threat assessment conducted pursuant to Article 57(1) and Article 57(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 shall take them into account when identifying areas that warrant priority treatment for the Council's information and possible consideration.

7. 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) develop indicative common standards in relation to the implementation of this Regulation, on the basis of diagnostics and evaluation of customs offices, and issue recommendations for best practices and monitor their use;

(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, where 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 the authorised economic operator status and the Trust and Check trader 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 that regard;

(h) prepare simplified guidelines and manuals for micro and small enterprises and support them in the application of Union customs legislation and customs formalities;

(i) issue an opinion on whether granting an authorisation for special procedures would adversely affect the interests of Union producers, in accordance with Article 125(5), (6) and (7);

(j) cooperate with other Union institutions, bodies, offices and agencies and with national authorities other than customs authorities in accordance with Article 268(10);

(k) coordinate and support the operational cooperation between customs authorities of different Member States, and between customs authorities and other competent authorities in different Member States, in accordance with Title XIII;

(l) at the request of a Member State, facilitate and support cooperation between customs authorities, and cooperation between customs authorities and other competent authorities, within one Member State in accordance with Title XIII;

(m) plan, organise and coordinate the joint controls referred to in Article 267;

(n) 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 that regard;

(o) provide support and expertise to customs authorities to resolve uncertainties regarding the determination of the place of establishment of economic operators where the applicable criteria refer to more than one Member State;

(p) assist the Commission, at its request, in its management of relations with third countries and international organisations relating to matters covered by this Regulation.

8. The EU Customs Authority shall develop and maintain communication channels with stakeholders in relation to the EU Customs Data Hub and facilitate access to information on tariffs, quotas and restrictive measures.

9. The Commission may entrust the EU Customs Authority with the task of providing support on the development and implementation of an operational strategy for activities related to customs control equipment and other customs-related programmes. 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 233

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

SECTION 1

ADMINISTRATIVE AND MANAGEMENT STRUCTURE

Article 234

Administrative and management structure

The administrative and management structure of the EU Customs Authority shall comprise:

(a) a Management Board to exercise the functions set out in Article 238;

(b) an Executive Board to exercise the functions set out in Article 240;

(c) an Executive Director to exercise the tasks and responsibilities set out in Article 242;

(d) a Deputy Executive Director to exercise the tasks and responsibilities set out in Article 244, if the Management Board decides to create such a post;

(e) a Customs Advisory Board to exercise the functions set out in Article 245.

SECTION 2

THE MANAGEMENT BOARD

Article 235

Composition of the Management Board

1. The Management Board shall be composed of:

   (a) one member from each Member State;

   (b) two members designated by the Commission;

   (c) one member designated by the European Parliament.

   The members referred to in the first subparagraph, points (a) and (b), shall have voting rights.

2. Every member of the Management Board shall have an alternate member. That alternate shall represent the member in his or her absence.

3. Members of the Management Board and their alternates shall be appointed on the basis of their knowledge in the field of customs, taking into account their relevant managerial, administrative and budgetary skills and their experience with the policies of the customs union. All parties represented in the Management Board shall make efforts to limit turnover of the members designated by them, in order to ensure continuity of its work. All parties shall aim to ensure a gender-balanced representation on the Management Board.

4. The term of office for members of the Management Board and their alternates shall be four years, and may be renewed.

5. The European Parliament, the Commission and the Member States have the right to revoke the designation of their respective members and their alternates. When the designation of a member of the Management Board or his or her alternate is revoked, the European Parliament, the Commission or the relevant Member State shall inform the Chairperson and Deputy Chairperson of the Management Board of the revocation and of that member's or alternate's replacement.

6. Each member and alternate shall submit a written statement at the time of taking office declaring that he or she does not have any conflict of interest. Each member and alternate shall update his or her statement in the event of a change of circumstances with regard to a conflict of interest and in any case at least once a year.

Article 236

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 member designated by the Commission is not elected as Chairperson, then one of the members designated by the Commission shall automatically be appointed as Deputy Chairperson. If a member designated by the Commission is elected as Chairperson, then the Deputy Chairperson shall be 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 carrying out his or her duties.

3. The term of office of the Chairperson and of the Deputy Chairperson shall be four years and may be renewed once. If, however, the Chairperson's or Deputy Chairperson's membership of the Management Board ends at any time during his or her term of office, that term of office shall end simultaneously.

4. Detailed rules for the election of the Chairperson and Deputy Chairperson and on the renewal of their term of office shall be laid down in the rules of procedure of the Management Board.

Article 237

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. Furthermore, if a provisional decision has been taken by the Executive Board in accordance with Article 240(4), the Management Board shall meet within the time limit laid down in Article 240(5).

4. The Management Board may invite on an ad-hoc basis any person whose opinion is 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 the rules of procedure of the Management Board, be assisted at its meetings by advisers or experts.

6. When a matter of confidentiality or conflict of interest is on the agenda of a meeting, the Management Board shall discuss and decide on that matter without the presence of the member concerned. That shall not affect the right of the European Parliament, the Commission and the Member States 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 238

Functions of the Management Board

1. The Management Board shall elect the Chairperson and the Deputy Chairperson and, where relevant, renew their terms of office in accordance with Article 236.

2. The Management Board shall establish the Executive Board by … [three years from the entry into force of this Regulation].

3. The Management Board shall:

(a) provide the general orientation of the activities of the EU Customs Authority;

(b) adopt the annual budget of the EU Customs Authority and exercise other functions in respect of that budget pursuant to Chapter 4;

(c) assess, adopt and make publicly available 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 the assessment by 1 July each year to the European Parliament, the Council, the Commission and the Court of Auditors;

(d) adopt the financial rules applicable to the EU Customs Authority in accordance with Article 248;

(e) adopt an internal anti-fraud strategy, proportionate to the 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 interest in respect of its members, and publish annually on the EU Customs Authority website a statement by the Management Board members indicating the absence of any conflict of interest;

(g) adopt and regularly update the communication and dissemination plans referred to in Article 258(3), based on an analysis of needs;

(h) adopt and make publicly available its rules of procedure;

(i) adopt implementing rules for giving effect to the Staff Regulations of Officials of the European Union (the ‘Staff Regulations’) and the Conditions of Employment of Other Servants of the European Union (the ‘Conditions of Employment’)[40] in accordance with Article 110(2) of the Staff Regulations;

(j) in accordance with paragraph 4, 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 on the authority empowered to conclude a contract of employment (the ‘appointing authority powers’);

(k) adopt the rules governing the secondment of national experts to the EU Customs Authority, as referred to in Article 256(2);

(l) establish, where appropriate, an internal audit capacity;

(m) adopt the EU Customs Authority’s security rules referred to in Article 260;

(n) appoint the Executive Director and, if such a post is created, the Deputy Executive Director and, where relevant, extend their terms of office or remove them from office in accordance with Article 241;

(o) adopt performance indicators allowing the evaluation of the performance of the Executive Director;

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40 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, ELI: http://data.europa.eu/eli/reg/1968/259(1)/oj).

(p) appoint members of the Executive Board and, where relevant, extend their terms of office or remove them from office;

(q) appoint an Accounting Officer, who can be the Commission's Accounting Officer, and who is to be subject to the Staff Regulations and the Conditions of Employment and be independent in the performance of his or her duties;

(r) 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;

(s) authorise the conclusion of working arrangements in accordance with Article 268;

(t) establish and adopt the rules of procedure of the Customs Advisory Board;

(u) set up working groups and expert panels to support the EU Customs Authority in performing its tasks and adopt their rules of procedure;

(v) adopt the draft single programming document referred to in Article 249 before its submission to the Commission for its opinion;

(w) taking into account the opinion of the Commission, adopt the EU Customs Authority's single programming document in accordance with Article 239;

(x) adopt an 'efficiency gains and synergies' strategy;

(y) adopt a strategy for cooperation with third countries and international organisations;

(z) adopt a strategy for the organisational management and internal control systems;

(za) carry out the tasks set out in Article 258;

(zb) authorise the conclusion of working arrangements in accordance with Article 270;

(zc) adopt the protocols and procedures referred to in Article 227;

(zd) in accordance with Article 240(5), confirm the provisional decisions taken by the Executive Board pursuant to Article 240(4);

(ze) initiate the verification by the EU Customs Authority as referred to in Article 31(6);

(zf) adopt the framework for cooperation with customs authorities and other competent authorities or bodies at Union and national level, as referred to in Article 268(3).

4. 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 that delegation of powers can be suspended. The Executive Director shall be authorised to subdelegate those powers.

5. Where exceptional circumstances so require, the Management Board may take a decision to temporarily suspend the delegation of the appointing authority powers to the Executive Director and those subdelegated by the Executive Director and exercise those powers itself or delegate them to one of its members or to a staff member other than the Executive Director.

Article 239

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 238(1) and Article 238(3), points (b), (f), (n) and (w), which shall require a majority of two-thirds of its members with voting rights.

2. Each member with voting rights shall have one vote. In the absence of a member with the right to vote, his or her alternate shall be entitled to exercise his or her right to vote.

3. The Executive Director shall not take part in the voting.

4. 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 can act on behalf of another member.

SECTION 3

THE EXECUTIVE BOARD

Article 240

The 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 the EPPO;

(c) check the implementation of the decisions of the Management Board, with a view to reinforcing supervision of administrative and budgetary management.

3. The Executive Board shall be accountable to the Management Board.

4. Where necessary for reasons of urgency, the Executive Board may take certain provisional decisions on behalf of the Management Board, in particular:

(a) on administrative management matters, including the suspension of the delegation of the appointing authority powers, and on budgetary matters;

(b) where a crisis situation has been identified as laid down in Title XI which requires immediate action or immediate adjustment of the EU Customs Authority's activities.

5. A provisional decision taken by the Executive Board pursuant to paragraph 4 shall need to be confirmed by a formal decision of the Management Board no later than 90 days after that provisional decision was taken. Where a formal decision of the Management Board is not taken within that time limit, the provisional decision of the Executive Board shall cease to apply.

6. The Executive Board shall be composed of one of the two members of the Management Board designated by the Commission and four other members appointed by the Management Board from among its members with the right to vote. When appointing members of the Executive Board, the Management Board shall 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.

7. The decisions of the Executive Board shall be taken by absolute majority of its members.

8. The term of office of members of the Executive Board shall be two 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.

9. 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.

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

SECTION 4

THE EXECUTIVE DIRECTOR

Article 241

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, point (a), of the Conditions of Employment.

   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 designed in such a way as 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 via other appropriate channels. The Commission shall consult the Management Board on the draft call for interest.

2. The relevant committee of the European Parliament may invite the candidates for the post of Executive Director to answer questions from its members prior to the appointment of the Executive Director, without delaying the appointment procedure or constraining the decision-making of the Management Board.

3. For the purpose of concluding the contract with the Executive Director, the EU Customs Authority shall be represented by the Chairperson of the Management Board.

4. The term of office of the Executive Director shall be five 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.

5. The Management Board, acting on a proposal from the Commission that takes into account the assessment referred to in paragraph 4, may extend the term of office of the Executive Director once for no more than five years.

The relevant committee of the European Parliament may invite the Executive Director to answer questions from its members prior to his or her term of office being extended, without delaying the extension procedure or constraining the decision-making of the Management Board.

6. An Executive Director whose term of office has been extended shall not participate in another selection procedure for the same post at the end of the extended period of his or her term of office.

7. 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 for such a decision.

8. The decisions of the Management Board on appointment, extension of the term of office or removal from office of the Executive Director and Deputy Executive Director shall be taken by a two-thirds majority of its members with voting rights.

Article 242

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 to 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 activities of the EU Customs Authority.

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:

   (a) prepare the recommendations referred to in Article 232(6) and submit them to the Management Board for adoption;

   (b) ensure the sustainable and efficient day-to-day administration of the EU Customs Authority;

(c) implement decisions adopted by the Management Board;

(d) prepare the draft single programming document referred to in Article 249 and submit it to the Management Board, after consulting the Commission;

(e) implement the single programming document referred to in Article 249 and report to the Executive Board and the Management Board on its implementation;

(f) prepare the consolidated annual report on the EU Customs Authority's activities and present it to the Management Board for assessment and adoption;

(g) 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;

(h) without prejudice to the investigative competence of OLAF and of the EPPO, 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;

(i) 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 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;

(j) prepare draft financial rules applicable to the EU Customs Authority and submit them to the Management Board for adoption;

(k) prepare provisional draft statements of estimates of the EU Customs Authority's revenue and expenditure in accordance with Article 250, and implement its budget;

(l) with regard to the EU Customs Authority's staff, exercise the powers of the appointing authority referred to in Article 238(3), point (j), to the extent that those powers have been delegated to him or her in accordance with Article 238(4);

(m) take decisions with regard to the EU Customs Authority's internal structures including, where necessary, deputising functions relating to 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;

(n) 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 in which local offices are located;

(o) prepare the practical arrangements for the application of Regulation (EC) No 1049/2001 of the European Parliament and of the Council[41] and submit them to the Management Board for adoption;

(p) promote diversity and aim to ensure gender balance as regards the recruitment of the EU Customs Authority's staff;

(q) aim to recruit the EU Customs Authority's staff on the broadest possible geographical basis, bearing in mind that recruitment criteria are to be based solely on merit.

Article 243

Deputy Executive Director

The Management Board may decide to create the post of Deputy Executive Director to assist the Executive Director. If the post of Deputy Executive Director is created, Article 241 shall apply to the Deputy Executive Director accordingly.

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[41] 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, ELI: http://data.europa.eu/eli/reg/2001/1049/oj).

Article 244

Tasks and responsibilities of the Deputy Executive Director

If the post of 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 242. If the Executive Director is absent or indisposed, or the post is vacant, the Deputy Executive Director shall take his or her place.

Article 245

Customs Advisory Board

1. The EU Customs Authority shall establish a Customs Advisory Board.

2. The Customs Advisory Board shall assist the EU Customs Authority by serving as a mechanism for consultation with relevant stakeholders on matters falling within the EU Customs Authority's responsibilities. It shall 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 the customs authorities;

   (d) where appropriate and upon request, on any other activities of the EU Customs Authority.

3. The Customs Advisory Board shall be composed of representatives of stakeholders relevant to the work of the EU Customs Authority, including representatives from the business sector, and of representatives of associations of such stakeholders. The Management Board shall determine the composition of the Customs Advisory Board.

4. The Customs Advisory Board shall be consulted regularly and may provide advice to the EU Customs Authority on its own initiative on the matters listed in paragraph 2, points (a), (b) and (c).

5. The Customs Advisory Board shall hold at least one ordinary meeting every six months. In addition, it may meet at the request of the Management Board, the Executive Board or the Executive Director.

SECTION 5
DATA AUDITOR

Article 246

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 shall be 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 247

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 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 of the EU Customs Authority and without prejudice to respect of the responsibilities of other Union or national oversight bodies.

4. The Commission shall adopt implementing acts specifying the independent status and laying down detailed tasks and responsibilities of the Data Auditor. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 283(2).

Chapter 4

Establishment and structure of the budget of the EU Customs Authority

Article 248

General provisions

The financial rules applicable to the EU Customs Authority shall be adopted by the Management Board after consulting the Commission. They shall not depart from Commission Delegated Regulation (EU) 2019/715[42] unless such a departure is specifically required for the EU Customs Authority's operation and the Commission has given its prior consent.

Article 249

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 Delegated Regulation (EU) 2019/715 and with the relevant provision of the EU Customs Authority's financial rules adopted pursuant to Article 248 of this Regulation, and taking into account any guidelines set by the Commission. Such annual and multiannual programming shall be in line with the customs policy and overall priorities of the customs union.

[42] 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, ELI: http://data.europa.eu/eli/reg_del/2019/715/oj).

2. The Management Board shall transmit the draft single programming document to the European Parliament, the Council, the Commission and the 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 that 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 of the EU Customs Authority 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 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 of the EU Customs Authority 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 250

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 249(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 (the 'draft statement of estimates').

3. The Management Board shall send the draft statement of estimates 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 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 251

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 248 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 252

Implementation of the 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 253

Presentation of accounts and discharge

1. The EU Customs Authority's accounting officer shall send the provisional accounts for the financial year (year N) to the Commission's Accounting Officer and to the Court of Auditors by 1 March of the following financial year (year N+1).

2. By 31 March of year N+1, the EU Customs Authority shall send the report on the budgetary and financial management for year N to the European Parliament, the Council and the Court of Auditors.

3. By 31 March of year N+1, the Commission's accounting officer shall send the EU Customs Authority's provisional accounts, consolidated with the Commission's accounts, to the Court of Auditors.

4. On receipt of the Court of Auditors' observations on the EU Customs Authority's provisional accounts pursuant to Article 252 of Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council[43], 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 those final accounts to the Executive Board for an opinion. That opinion shall be adopted by the Management Board.

5. The EU Customs Authority's accounting officer shall, by 1 July of year N+1, send the final accounts for year N to the European Parliament, the Council, the Commission and the Court of Auditors, together with the opinion adopted by the Management Board.

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[43] Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (OJ L, 2024/2509, 26.9.2024, ELI: http://data.europa.eu/eli/reg/2024/2509/oj).

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 254

Combating fraud

1. In order to combat fraud, corruption and other unlawful activities within the EU Customs Authority, 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[44] 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.

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[44] OJ L 136, 31.5.1999, p. 15, ELI: http://data.europa.eu/eli/agree_interinstit/1999/531/oj.

3. The Court of Auditors shall have the power of audit, on the basis of documents and on the spot, over all grant beneficiaries, contractors and subcontractors who have received Union funds from the EU Customs Authority.

4. OLAF may carry out investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant or a contract funded by the EU Customs Authority, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 and Council Regulation (Euratom, EC) No 2185/96[45].

5. Without prejudice to paragraphs 1 to 4, contracts, grant agreements and grant decisions of the EU Customs Authority shall contain provisions expressly empowering the 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.

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[45] 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, ELI: http://data.europa.eu/eli/reg/1996/2185/oj).

6. In accordance with Regulation (EU) 2017/1939, the 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[46]. Article 24 of Regulation (EU) 2017/1939 shall apply to reporting to the EPPO of any relevant criminal conduct.

Chapter 5
Provisions on staff

Article 255

General provision

The Staff Regulations, the Conditions of Employment and the rules adopted by agreement between the Union institutions for giving effect to the Staff Regulations and the Conditions of Employment shall apply to the staff of the EU Customs Authority.

Article 256

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.

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[46] Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29, ELI: http://data.europa.eu/eli/dir/2017/1371/oj).

2. The Management Board shall adopt a decision laying down rules on the secondment of national experts to the EU Customs Authority.

Article 257

Privileges and immunities

Protocol No 7 on the privileges and immunities of the European Union, annexed to the Treaty on European Union and the TFEU, shall apply to the EU Customs Authority and its staff.

Chapter 6

General and final provisions

Article 258

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 that Regulation.

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 that Regulation 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 259

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 EU Customs 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 its tasks in accordance with 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 other Union institutions, bodies, offices and agencies or with national authorities and bodies.

4. The EU Customs Authority shall establish practical arrangements for implementing the requirements of professional secrecy referred to in paragraphs 1 and 2.

Article 260

Security rules on the protection of classified and sensitive non-classified information

1. The EU Customs Authority shall adopt its own security rules that shall be based on the principles and rules laid down in the Commission's security rules for protecting European Union classified information (EUCI) and sensitive non-classified information including, inter alia, provisions for the exchange of such information with third countries, and processing and storage of such information as set out in Commission Decisions (EU, Euratom) 2015/443[47] and (EU, Euratom) 2015/444[48]. Any administrative arrangement on the exchange of classified information with the relevant authorities of a third country or, in the absence of such arrangement, any exceptional ad hoc release of EUCI to those authorities shall be subject to the Commission's prior approval.

2. The management board shall adopt the EU Customs Authority's security rules following approval by the Commission. When assessing the proposed security rules, the Commission shall ensure that they are compatible with Decisions (EU, Euratom) 2015/443 and (EU, Euratom) 2015/444.

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[47] Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission (OJ L 72, 17.3.2015, p. 41, ELI: http://data.europa.eu/eli/dec/2015/443/oj).

[48] 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, ELI: http://data.europa.eu/eli/dec/2015/444/oj).

3. 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, with other relevant Union institutions, bodies, offices and agencies. Any administrative arrangements concluded to that end with regard to the sharing of EUCI or, in the absence of such arrangements, any exceptional ad hoc release of EUCI shall be subject to the Commission's prior approval.

Article 261

Language arrangements

1. Council Regulation No 1[49] 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.

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[49] 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, ELI: http://data.europa.eu/eli/reg/1958/1(1)/oj).

Article 262

Evaluation

1. The Commission shall ensure that no later than … [5 years from the date of entry into force of this Regulation], and every five years thereafter, an evaluation of the EU Customs Authority's performance in relation to its objectives, mandate, tasks, governance and locations is carried out in accordance with guidelines laid down by the Commission.

2. The evaluation referred to in paragraph 1 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, tasks and governance.

4. The Commission shall report to the European Parliament and to the Council on the findings of the evaluation referred to in paragraph 1. The findings of that evaluation shall be made public.

Article 263

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 or Conditions of Employment 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 its administrative costs.

Article 264

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 the host Member State, concluded after obtaining the approval of the Management Board and no later than … [two years from 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 265

Start of the EU Customs Authority's activities

The Commission shall be responsible for the establishment and initial operation of the EU Customs Authority until the EU Customs Authority has the operational capacity to implement its own budget. 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 241, the Commission may designate a Commission official to act as interim Executive Director and exercise the duties assigned to the Executive Director;

(b) by way of derogation from Article 238(3), point (j), and until the adoption of a decision as referred to in Article 238(4), 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 way of derogation from Article 237(1), until the Chairperson of the Management Board is elected, the interim Executive Director shall convene and chair the meetings of the Management Board, without the right to vote.

TITLE XIII
CUSTOMS COOPERATION

Chapter 1
Cooperation between customs authorities within the Union

Article 266

Internal customs cooperation

1. Without prejudice to 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 legal acts providing for such cooperation, with a view to ensuring a correct and uniform application of those legal acts and supporting the achievement of their mission, as set out in Article 2 of this Regulation.

2. Customs authorities may, at the 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 customs authorities shall inform the EU Customs Authority of such temporary assignments. The EU Customs Authority may propose its support and, with the consent of the customs authorities concerned, coordinate such assignments. The Member States concerned may lay down the necessary conditions for such assignments in an agreement or working arrangements.

3. Customs authorities of different Member States may carry out joint controls on their own initiative, in addition to the joint controls referred to in Article 267. 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 such exchange involves information regarding risk, 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 267

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 institutions, bodies, offices or agencies, in accordance with Article 268.

2. For the purpose of the joint controls referred to in paragraph 1, the EU Customs Authority shall follow the customs policy priorities and ensure cooperation on the anti-fraud activities conducted by relevant Union institutions, bodies, offices or agencies and on investigations carried out by the customs authorities.

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 any joint control referred to in paragraph 1.

Chapter 2
Cooperation with other authorities within the Union

Article 268

Customs cooperation with other authorities within the Union

1. Without prejudice to Regulation (EC) No 515/97 and to Articles 41, 42 and 43 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 of this Article shall take place regularly and in a structured way. It shall pursue, in particular, the following objectives:

   (a) to contribute to and follow legislative developments in policy areas of relevance for customs;

   (b) to exchange data, in particular data relevant for risk management in accordance with Title IV, Chapter 2;

(c) to develop 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 2;

(d) to facilitate operational implementation, including through the performance of joint controls in accordance with Article 267;

(e) where appropriate, to exchange skills and best practices through joint training sessions on how to detect non-compliant products;

(f) in areas relevant for customs, to contribute to innovation and research activities, to develop new technologies and to facilitate joint procurement.

3. 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, adopt 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.

4. Where, within the context of the cooperation referred to in paragraph 1, customs authorities receive a request from other competent authorities at national level for the extraction and communication of data available in the EU Customs Data Hub, such data shall be provided only upon justified request and with the approval of the customs authorities concerned with the data.

That 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 relevant 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.

5. Customs authorities and the EU Customs Authority shall use electronic means for complying with the obligations listed in paragraph 4.

6. Where a customs authority suspects that goods are not compliant with other legislation applied by the customs authorities, it shall immediately share that information with relevant competent authorities using the technical means and within the timeframes provided in the applicable legislation.

7. 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 participating customs authorities shall notify the EU Customs Authority which, upon request, may provide them with operational and coordination support in accordance with Article 232.

8. Where the Member States apply the framework for cooperation referred to in paragraph 3 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 the findings of such reporting into account in its monitoring activities referred to in Article 232(7), point (a), and in its performance measurement tasks referred to in Article 232(7), point (b).

9. Until … [12 months from the date of entry into force of this Regulation], the Commission may carry out the tasks of the EU Customs Authority.

10. The EU Customs Authority may cooperate with other national authorities, 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. Where the EU Customs Authority cooperates with other national authorities of a Member State, it shall inform the customs authority of that Member State.

11. The EU Customs Authority shall closely cooperate with OLAF and the EPPO where fraud or suspicion of fraud occurs in any of its cooperation activities.

12. 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 relevant Union institutions, bodies, offices and agencies.

Article 269

Actions to be taken by the customs authorities

1. The customs authorities shall implement the measures laid down in other legislation applied by the customs authorities in accordance with the provisions of that other legislation, such as:

   (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 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) of this paragraph;

   (e) consulting other authorities before release of the goods in accordance with Article 77;

(f) taking any necessary measure on non-compliant goods, including the sale or destruction of those goods;

(g) implementing the framework for cooperation referred to in Article 268;

(h) alerting other authorities about risks relevant for their work, and 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. Where a Member State designates a specialised customs border crossing point for applying certain other legislation applied by the customs authorities, it shall notify the EU Customs Authority about that designation. The EU Customs Authority shall draw up and regularly update a list of such specialised customs border crossing points and publish that list on its website. The constraints resulting from an obligation to pass through such a designated specialised customs border crossing point shall not be disproportionate, as far as economic operators are concerned, to the pursued objective, having due regard to the circumstances which justify that obligation.

3. 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 legal acts laying down requirements applicable to goods subject to customs controls aimed at protecting public interests and publish that list on its website.

Chapter 3
Customs cooperation with other authorities outside the Union

Article 270

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 the 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 271

Bilateral agreements with third countries

1. Where a Member State enters into negotiations with a third country for the conclusion of a bilateral agreement on the implementation of customs legislation, it shall, without undue delay, notify the draft agreement that it intends 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 that agreement with Union law. If the Commission considers the agreement to be incompatible with Union law, it shall notify the Member State concerned. That Member State shall take all appropriate steps to amend the agreement within a reasonable period in such a way as to eliminate those incompatibilities.

3. Member States shall notify their existing bilateral agreements to the Commission by … [12 months from the date of entry into force of this Regulation].

Article 272

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 and the third country or countries concerned provides for such an exchange;

(b) Union legal acts in the areas of customs, common commercial policy or common foreign and security policy, or other Union legislation applied by the customs authorities, provide for such exchange; or

(c) a bilateral agreement concluded or maintained in accordance with the procedure and conditions laid down in paragraphs 6 to 9 between a Member State and a third country provides for such exchange.

2. Where customs authorities or the EU Customs Authority exchange data with customs authorities and other authorities of third countries, they shall inform the Commission of such exchange.

3. The exchange referred to in paragraph 1 of this Article shall:

(a) ensure that the transfer of personal data is in conformity with Chapter V of Regulation (EU) 2016/679, as applicable;

(b) ensure the confidentiality of information in accordance with this Regulation; and

(c) ensure that the exchange of data takes place through appropriate secure means of communication.

4. 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, notifications and proof of the customs status of goods and in supporting documents, or otherwise provided or made available to the customs authorities of the Member States, to the Commission, or to the customs authorities of third countries, 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 customs authorities of third countries, on the other, in the course of performing their risk analyses and controls.

5. The exchange referred to in paragraph 1 of this Article 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 Regulation (EC) No 515/97.

6. A Member State may be empowered to enter into negotiations with a third country for the conclusion of a bilateral agreement on the exchange of information referred to in paragraph 1 in accordance with the general procedures and conditions laid down in a delegated act adopted in accordance with paragraph 8.

When an agreement on exchange of information referred to in paragraph 1 between the Union and a given third country enters into force, that agreement shall take precedence over any relevant parts of existing bilateral agreements, which may no longer be applied.

7. Member States shall notify their existing bilateral agreements which provide for the exchange of customs-related information to the Commission upon the entry into force of this Regulation. If the Commission considers an agreement to be incompatible with Union law, it shall notify the Member State concerned. That 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 those incompatibilities.

8. The Commission is empowered to adopt a delegated act in accordance with Article 282 to supplement this Regulation by determining conditions and procedures in accordance with which a Member State can be empowered to enter into negotiations referred to in paragraph 6. Those conditions shall include the requirement for the Member State concerned to notify its intention to conclude such bilateral agreement and its content to the Commission, the EU Customs Authority and all other Member States. The Commission shall assess its impact on Union law and on future negotiations at Union level. The delegated act shall also provide for the monitoring of the implementation of those agreements.

9. The Commission may, within 60 days from receipt of the notification referred to in paragraph 8 of this Article, adopt an implementing act empowering the Member State concerned to enter into the bilateral agreement concerned. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 283(2).

On duly justified imperative grounds of urgency concerning such empowerment, relating to the need to rapidly allow for the requested exchange of information, the Commission shall adopt an immediately applicable implementing act in accordance with the procedure referred to in Article 283(5).

The Commission shall, within the same period, inform the Member State concerned where it decides not to adopt an implementing act pursuant to this paragraph.

TITLE XIV
INFRINGEMENTS OF CUSTOMS LEGISLATION AND NON-CRIMINAL PENALTIES

Article 273

Subject matter and general provisions

1. This Title establishes 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 those 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 the Commission of the provisions of their national law which they adopt pursuant to this Title by … [12 months plus 180 days from the entry into force of this Regulation], and notify it without delay of any subsequent amendment affecting such provisions.

Article 274

Infringements of customs legislation

1. Without prejudice to Articles 224, 273 and 275, 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 and accurate data to customs authorities in accordance with customs legislation;

(c) failure to comply with the obligation to keep records required by customs legislation;

(d) failure to comply with the rules on removal of goods from customs supervision;

(e) failure to comply with the obligations related to customs procedures;

(f) failure to comply with the obligations of an importer set out in Article 27(2);

(g) failure to comply with the obligations of an exporter set out in Article 28(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 275

Penalties

1. Member States shall ensure that, when deciding on the type of penalty and the severity thereof, due regard is given to the following:

(a) whether the infringement of customs legislation was committed intentionally or negligently;

(b) the nature, gravity, repetition and duration of the infringement of customs legislation;

(c) the impact of the infringement of customs legislation on the financial and other safety and security interests of the Union and of the Member States;

(d) the degree of cooperation with the customs authority in order to remedy the infringement of customs legislation and mitigate its possible adverse effects;

(e) any other mitigating or aggravating circumstances of the case, in accordance with national law.

2. Penalties shall take one or more 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) the revocation, suspension or amendment of an authorisation held by the person concerned;

(c) the confiscation of the goods involved in the infringement of customs legislation;

(d) a warning;

(e) another penalty.

3. All non-criminal penalties for infringements of customs legislation imposed by customs authorities shall be recorded by indicating the nature of infringement and the amount of any pecuniary charge or the identification of any other non-criminal penalty imposed for that infringement. That information shall be made available to the EU Customs Authority through the EU Customs Data Hub.

4. By … [6 years from the date of 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 without leading to any distortions of the internal market, or whether there is a need to set harmonised pecuniary charges for infringements. Based on the outcome of that evaluation, the Commission may, where appropriate, present a legislative proposal to the European Parliament and to the Council to amend this Regulation.

Article 276

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

1. Where, in the context of 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 274(1), that shall be considered a systematic infringement. Member States shall ensure that the penalty imposed for a systematic infringement takes 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 purpose 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. In the event of a systematic infringement as referred to in paragraph 1, the competent authorities shall also suspend, revoke or annul any authorised economic operator or Trust and Check trader status or equivalent facilitation measure granted under this Regulation to the economic operator who committed that infringement.

4. Where, within a period of six months following imposition of a penalty referred to in paragraph 1, customs authorities determine further systematic 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 a period of six months following imposition of a penalty referred to in paragraph 4 of this Article, customs authorities determine further systematic infringement 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 that paragraph. Where relevant, and taking into account the gravity of such further systematic infringement, access to the online interface of that economic operator may be temporarily restricted. 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 77(5), first subparagraph, point (a).

6. The Commission shall adopt delegated acts in accordance with Article 282 to supplement this Regulation by determining the substantive number of customs 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 in paragraph 2 of this Article.

Article 277

Classification of high-risk economic operators

1. If a penalty is imposed under Article 276, the relevant importer for distance sales shall be classified as a high-risk economic operator in the EU Customs Data Hub in accordance with Article 55(2).

2. Classification as a high-risk economic operator shall be taken into account in:

   (a) customs risk management in accordance with Article 55; and

   (b) the establishment and implementation of common priority control areas and common risk criteria and standards in accordance with Articles 56, 57 and 58.

Article 278

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 law.

2. The EU Customs Authority may support and facilitate cooperation between the competent authorities of the Member States for the purposes referred to in paragraph 1.

TITLE XV
FINAL PROVISIONS

Chapter 1
Performance measurement of the customs union

Article 279

Assessment and reporting

1. The Commission shall assess and evaluate the performance of the customs union at least on an annual basis. That includes the measurement of customs activities performed by the customs authorities of the Member States and, where possible, candidate countries at national and local level. Such measurement may build on existing tools developed by the Commission and Member States for that purpose.

2. Member States and the EU Customs Authority shall assist the Commission with the task referred to in paragraph 1. In particular, they shall provide data to the EU Customs Authority containing information at both national and local level. The data shall be such as to allow the production of input, activity and outcome indicators of performance.

Based on those data and other available information, the EU Customs Authority shall identify how customs activities and 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 draft 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. Those draft annual reports shall include information on the functioning of the authorised economic operator status and of the Trust and Check trader status, as referred to in Article 31.

3. The EU Customs Authority shall submit the draft annual reports referred to in paragraph 2, second subparagraph, to the Commission for approval and transmission to the Member States for information.

4. No later than … [1 year after the entry into force of this Regulation], the Commission shall assess the functioning of the Union handling fee referred to in Article 20(2), including its impact on the functioning of distance sales. The Commission shall present that assessment to the European Parliament and to the Council.

5. The Commission shall adopt implementing acts specifying the data to be provided by Member States in accordance with paragraph 2, first subparagraph, of this Article, 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 283(4).

Chapter 2
Monitoring, evaluation and reporting

Article 280

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 281

Evaluation and reporting

1. 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 91. The non-confidential part of that report shall be made publicly available. Where appropriate, the Commission may present a legislative proposal to the European Parliament and to the Council 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.

2. By … [5 years from the date of entry into force of this Regulation] and every five 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;

(c) an overview of the disaggregated costs incurred by the Union and by the Member States for the implementation of this Regulation.

3. At the request of the Commission and in accordance with Chapter 1, 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 of this Article and that is not available in the EU Customs Data Hub.

4. By 31 December 2031, the Commission shall present a report to the European Parliament and to the Council assessing, in particular:

(a) the effectiveness of the customs supervision of Trust and Check traders by the customs authorities of the Member State of establishment and of the application 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 5.

5. The Commission is empowered to adopt delegated acts in accordance with Article 282 to amend Article 6(2) and Article 193(1), points (b), (c) and (d), by deleting or modifying the derogations provided for therein, if appropriate in the light of the report referred to in paragraph 4 of this Article.

Chapter 3

Delegation of power and committee procedure

Article 282

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 6(6), Article 8(8) and (9), Article 9(9), Article 12(6), Article 16(13), Article 20(10), Article 26(6), Article 29(10), Article 33(8), Article 38(5), Article 41(11), Article 43(7), Article 49, Article 71(4), Article 73(3), Article 74(8), Article 77(10), Article 78(7), Article 79(4), Article 80(3), Article 81(4), Article 83(3), Article 84(6), Article 89(4), Article 91(7), Article 92(5), Article 94(4), Article 97(11), Article 98(3), Article 99(3), Article 101(11), Article 103(5), Article 104(8), Article 105(4), Article 106(3), Article 107(2), Article 108(8), Article 109(4), Article 111(7), Article 114(7), Article 116(7), Article 117(12), Article 118(3), Article 119(3), Article 121(5), Article 125(10), Article 128(3), Article 129(5), Article 130(2), Article 131(2), Article 132(3), Article 133(5), Article 135(4), Article 139(3), Article 140(6), Article 142(5), Article 145(4), Article 153(3), Article 156(8), Article 158(5), Article 160(2), Article 161(5), Article 169(3), Article 171(9), Article 178(2), Article 180(5), Article 191(4), Article 192(8), Article 193(5), Article 194(9), Article 197(3), Article 199(4), Article 200(4), Article 203(3), Article 205(8), Article 210(4), Article 214(5), Article 216(5), Article 217(9) and (10), Article 223(8), Article 272(8), Article 276(6) and Article 281(5) shall be conferred on the Commission.

3. The delegation of power referred to in Article 4, Article 6(6), Article 8(8) and (9), Article 9(9), Article 12(6), Article 16(13), Article 20(10), Article 26(6), Article 29(10), Article 33(8), Article 38(5), Article 41(11), Article 43(7), Article 49, Article 71(4), Article 73(3), Article 74(8), Article 77(10), Article 78(7), Article 79(4), Article 80(3), Article 81(4), Article 83(3), Article 84(6), Article 89(4), Article 91(7), Article 92(5), Article 94(4), Article 97(11), Article 98(3), Article 99(3), Article 101(11), Article 103(5), Article 104(8), Article 105(4), Article 106(3), Article 107(2), Article 108(8), Article 109(4), Article 111(7), Article 114(7), Article 116(7), Article 117(12), Article 118(3), Article 119(3), Article 121(5), Article 125(10), Article 128(3), Article 129(5), Article 130(2), Article 131(2), Article 132(3), Article 133(5), Article 135(4), Article 139(3), Article 140(6), Article 142(5), Article 145(4), Article 153(3), Article 156(8), Article 158(5), Article 160(2), Article 161(5), Article 169(3), Article 171(9), Article 178(2), Article 180(5), Article 191(4), Article 192(8), Article 193(5), Article 194(9), Article 197(3), Article 199(4), Article 200(4), Article 203(3), Article 205(8), Article 210(4), Article 214(5), Article 216(5), Article 217(9) and (10), Article 223(8), Article 272(8), Article 276(6) and Article 281(5) 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 6(6), Article 8(8) and (9), Article 9(9), Article 12(6), Article 16(13), Article 20(10), Article 26(6), Article 29(10), Article 33(8), Article 38(5), Article 41(11), Article 43(7), Article 49, Article 71(4), Article 73(3), Article 74(8), Article 77(10), Article 78(7), Article 79(4), Article 80(3), Article 81(4), Article 83(3), Article 84(6), Article 89(4), Article 91(7), Article 92(5), Article 94(4), Article 97(11), Article 98(3), Article 99(3), Article 101(11), Article 103(5), Article 104(8), Article 105(4), Article 106(3), Article 107(2), Article 108(8), Article 109(4), Article 111(7), Article 114(7), Article 116(7), Article 117(12), Article 118(3), Article 119(3), Article 121(5), Article 125(10), Article 128(3), Article 129(5), Article 130(2), Article 131(2), Article 132(3), Article 133(5), Article 135(4), Article 139(3), Article 140(6), Article 142(5), Article 145(4), Article 153(3), Article 156(8), Article 158(5), Article 160(2), Article 161(5), Article 169(3), Article 171(9), Article 178(2), Article 180(5), Article 191(4), Article 192(8), Article 193(5), Article 194(9), Article 197(3), Article 199(4), Article 200(4), Article 203(3), Article 205(8), Article 210(4), Article 214(5), Article 216(5), Article 217(9) and (10), Article 223(8), Article 272(8), Article 276(6) and Article 281(5) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months from notification of that act to the European Parliament and to 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.

7. By way of derogation to paragraph 6 of this Article, the first delegated act adopted pursuant to Article 20(10) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of 30 days from notification of that act to the European Parliament and to 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 283

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 Customs Code Committee is to be obtained by written procedure and reference is made to this paragraph, that procedure shall be terminated without result only where, within the time limit for delivery of such opinion, the chair of that committee so decides.

Chapter 4
Final provisions

Article 284

Repeal

1. Regulation (EU) No 952/2013 is repealed.

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 set out in the Annex to this Regulation.

2. From 1 July 2028:

(a) 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, as appropriate;

(b) 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 285

Transitional measures related to the establishment of the EU Customs Data Hub

1. Until 30 June 2028, all goods intended to be placed under a customs procedure shall be covered by a customs declaration appropriate for that procedure.

2. From 1 July 2028, importers for distance sales and persons that have chosen to make use of the IOSS scheme shall, for placing goods under the customs warehousing procedure in a customs warehouse for distance sales or under the release for free circulation procedure, provide or make available the data using the EU Customs Data Hub in accordance with Article 74. To enable that, the functionalities of the EU Customs Data Hub shall become operational no later than 1 June 2028.

3. Until 28 February 2031, importers other than the persons referred to in paragraph 2, exporters and holders of the transit procedure shall, for placing goods under a customs procedure, lodge a customs declaration appropriate for that procedure.

4. 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 74.

5. 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 Article 74.

6. The functionalities of the EU Customs Data Hub laid down in Article 38 shall be fully operational at the latest by 1 February 2034.

7. In the 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 no longer than six months after the deadlines set out in this Regulation. The Commission shall ensure that the relevant functionality of the EU Customs Data Hub is operational before the expiration of the transitional solution.

Article 286

The date of adoption of certain delegated and implementing acts

1. The Commission shall adopt the following acts, for the first time, within the following deadlines:

(a) a delegated act establishing the amount of Union handling fee referred to in Article 20(2) and (3), pursuant to the empowerment in Article 20(10), by … [10 days from the date of publication of this Regulation];

(b) a delegated act referred to in Article 276(6), by 1 March 2028.

2. The Commission shall adopt:

(a) the delegated and implementing acts referred to in Article 38(5) and (6) and Article 49 that are necessary for the application of Article 285(2), by 1 July 2027;

(b) the delegated and implementing acts referred to in Article 38(5) and (6) and Article 49 that are necessary for the application of Article 285(4), by 1 March 2029;

(c) the delegated and implementing acts referred to in Article 38(5) and (6) and Article 49 that are necessary for the application of Article 285(5), by 31 January 2033.

Article 287

Entry into force and application

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

2. This Regulation shall apply from … [12 months after the entry into force of this Regulation].

3. By way of derogation from paragraph 2 of this Article, the following provisions shall apply from the day of entry into force of this Regulation:

(a) Article 5, points (15), (16), (44) and (78);

(b) Article 20, except paragraphs 1, 2 and 4;

(c) Articles 35 to 39 and Article 51;

(d) Article 41(10);

(e) Article 85(2);

(f) Article 175 and Article 179(4);

(g) Article 180;

(h) Articles 229, 230, 231, 234 to 244 and 255 to 265;

(i) Article 268(9);

(j) Article 272(7);

(k) all the provisions of this Regulation empowering the Commission to adopt delegated acts and implementing acts, as well as Articles 282 and 283.

4. By way of derogation from paragraph 2 of this Article, Article 20(2) shall apply from 10 days after the entry into force of the delegated act adopted pursuant to Article 20(10).

5. By way of derogation from paragraph 2 of this Article, the following provisions shall apply from 1 July 2028:

(a) Article 20(4), Articles 74 and 75, Article 109(3), point (b), Article 145, Article 183(2), point (c), Article 191(2) and Article 223(1), point (m);

(b) Article 41, except paragraph 10, and Articles 42 to 45;

(c) Article 78;

(d) Article 205(5) and (6) and Article 208(2).

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

Done at …, …

For the European Parliament	*For the Council*
The President	*The President*

ANNEX

Correlation table

Regulation (EU) 952/2013	This Regulation
Title I	Title I
Article 1(1)	Article 1(1)
Article 1(2)	Article 1(3)
Article 1(3)	Article 1(4)
Article 2	Article 4
Article 3	Article 2
Article 4	Article 3
Article 5, point (1)	Article 5, point (1)
Article 5, point (2)	Article 5, point (2)
Article 5, point (3)	Article 5, point (27)
Article 5, point (4)	Article 5, point (5)
Article 5, point (5)	Article 5, point (6)
Article 5, point (6)	Article 5, point (20)
Article 5, point (7)	Article 5, point (23)
Article 5, point (8)	Article 5, point (12)
Article 5, point (9)	Article 5, point (49)
Article 5, point (10)	Article 5, point (50)
Article 5, point (11)	Article 5, point (51)
Article 5, point (12)	Article 5, point (52)
Article 5, point (13)	Article 5, point (55)
Article 5, point (14)	Article 5, point (56)
Article 5, point (15)	Article 5, point (54)
Article 5, point (16)	Article 5, point (11)

Regulation (EU) 952/2013	This Regulation
Article 5, point (17)	Article 5, point (59)
Article 5, point (18)	Article 5, point (67)
Article 5, point (19)	Article 5, point (68)
Article 5, point (20)	Article 5, point (69)
Article 5, point (21)	Article 5, point (70)
Article 5, point (22)	Article 5, point (45)
Article 5, point (23)	Article 5, point (46)
Article 5, point (24)	Article 5, point (47)
Article 5, point (25)	Article 5, point (25)
Article 5, point (26)	Article 5, point (48)
Article 5, point (27)	Article 5, point (26)
Article 5, point (28)	Article 5, point (71)
Article 5, point (29)	Article 5, point (72)
Article 5, point (30)	Article 5, point (62)
Article 5, point (31)	Article 5, point (7)
Article 5, point (32)	Article 5, point (8)
Article 5, point (33)	Article 5, point (53)
Article 5, point (34)	Article 5, point (32)
Article 5, point (35)	–
Article 5, point (36)	Article 5, point (4)
Article 5, point (37)	Article 5, point (63)
Article 5, point (38)	Article 5, point (65)
Article 5, point (39)	Article 5, point (10)
Article 5, point (40)	Article 5, point (33)
Article 5, point (41)	Article 5, point (73)
Article 6(1)	Article 9; Article 74(1); Article 77(4); Article 81(1); Article 108(4); Article 125(8)

Regulation (EU) 952/2013	This Regulation
Article 6(2)	Article 49
Article 6(3)	Articles 74(6); Article 81(2) and (4)
Article 6(4)	Article 53
Article 7, point (a)	Article 49
Article 7, points (b) and (c)	–
Article 8(1)	–
Article 8(2)	Article 53
Article 9(1)	Article 26(1)
Article 9(2)	Article 26(3)
Article 9(3)	Article 26(4)
Article 9(4)	Article 26(5)
Article 10, point (a)	Article 26(6), point (b)
Article 10, point (b)	Article 26(6), point (c)
Article 10, point (c)	Article 26(6), point (d)
Article 11	Article 26(7)
Article 12(1)	Article 23(1)
Article 12(2)	Article 272(1)
Article 12(3)	Article 23(4)
Article 13	Article 24
Article 14	Article 25
Article 15	–
Article 16	–
Article 17	–
Article 18(1)	Article 33(1)
Article 18(2)	Article 33(4)

Regulation (EU) 952/2013	This Regulation
Article 18(3), first sentence	–
Article 18(3), second sentence	Article 33(7), point (a)
Article 18(4)	–
Article 19(1)	Article 34(1)
Article 19(2), first subparagraph	Article 34(2)
Article 19(2), second subparagraph	–
Article 19(3)	Article 34(3)
Article 20, point (a)	Article 33(8)
Article 20, point (b)	–
Article 21	–
Article 22(1), first and second subparagraphs	Article 8(1)
Article 22(1), third subparagraph	Article 6(1), point (a)
Article 22(2)	Article 8(2), first and second subparagraph
Article 22(3)	Article 8(3), first, second and third subparagraph
Article 22(4)	Article 8(4)
Article 22(5)	Article 8(5)
Article 22(6)	Article 8(6)
Article 22(7)	Article 8(7)
Article 23(1)	Article 9(1)
Article 23(2)	Article 9(2)
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