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COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

amending Implementing Regulation (EU) 2015/2447 as regards decisions relating to binding information in the field of customs valuation and introducing an electronic system for binding origin and valuation information

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

COMMISSION IMPLEMENTING REGULATION (EU) .../...

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amending Implementing Regulation (EU) 2015/2447 as regards decisions relating to binding information in the field of customs valuation and introducing an electronic system for binding origin and valuation information

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code¹, and in particular Articles 17, 25, 37(1), points (b), (c) and (d), and 58(1) thereof,

After consulting the Customs Code Committee,

Whereas:

- (1) Commission Delegated Regulation (EU) 2022/ [PO: please insert number of the act amending Delegated Regulation (EU) 2015/2446 adopted on the same day as this act]² introduced into Commission Delegated Regulation (EU) 2015/2446³ decisions relating to binding valuation information ('BVI decisions').
- (2) In order to ensure a smooth implementation of the introduction of BVI decisions in the customs legislation through Delegated Regulation (EU) 2015/2446 it is necessary to lay down procedural rules for those BVI decisions in Commission Implementing Regulation (EU) 2015/2447⁴, following the model set by the existing procedural rules for BTI and BOI decisions in Commission Implementing Regulation (EU) 2015/2447. Also, in order to ensure consistency among different types of binding information, to the extent possible, those procedural rules should be aligned with the ones pertaining to BTI and BOI decisions.
- (3) Articles 16, 17, 21, Article 22(1) and Article 23 of Implementing Regulation (EU) 2015/2447 should be amended to extend their scope to BVI decisions and, where appropriate, to BOI decisions taking into account the specific nature of both BVI and BOI decisions and to ensure the consistency of electronic management among all types of decisions relating to binding information. In addition, Article 16(4) of that Regulation should be deleted and the text of that provision should be inserted in

¹ OJ L 269, 10.10.2013, p. 1.

² [PO: please insert official journal number]

³ Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code (OJ L 343, 29.12.2015, p. 1).

⁴ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

Article 17 of that Regulation, since both provisions refer to consultation of the electronic system, for various purposes.

- (4) Article 6(1) of Regulation (EU) No 952/2013 requires that all exchanges of information, such as declarations, applications or decisions, between customs authorities of Member States and between economic operators and customs authorities of Member States, and the storage of that information, be made by using electronic data-processing techniques. Due to the inclusion of BOI decisions into the electronic system for the purposes of the exchange and storage of information concerning BOI decisions, Articles 18, 19, and Annex 12-02, of Implementing Regulation (EU) 2015/2447 should be deleted.
- (5) In order to ensure sufficient time to deploy the electronic system for the purposes of the exchange and storage of information concerning BVI and BOI decisions the application of this Regulation should be deferred.
- (6) Implementing Regulation (EU) 2015/2447 should therefore be amended accordingly.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Customs Code Committee,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2015/2447 is amended as follows:

- (1) Article 16 is amended as follows:
 - (a) the following paragraph 3a is inserted:
'3a. An application for a BVI decision shall relate to only one set of circumstances for the determination of the customs value of the goods.';
 - (b) paragraph 4 is deleted;
- (2) Article 17 is replaced by the following:

'Article 17

Consultation by the customs authority of the electronic system on applications for a decision and decisions relating to binding information

(Article 22(1) and (3) of the Code)

1. When a customs authority receives an application for a decision relating to binding information and any documents accompanying or supporting it pursuant to Article 19(1) of Delegated Regulation (EU) 2015/2446, it shall consult the electronic system referred to in Article 21 of this Regulation to verify the following:

- (a) compliance with the requirement set out in Article 33(1), second subparagraph, point (a), of the Code in relation to an application for a decision relating to binding tariff information ('BTI decision') or a decision relating to binding origin information ('BOI decision');

(b) compliance with the requirement set out in Article 18a(1), second subparagraph, point (a), of Delegated Regulation (EU) 2015/2446 in relation to an application for a BVI decision.

2. For the purposes of ensuring that a decision relating to binding information which it intends to issue is consistent with existing decisions relating to binding information that have already been issued, the customs authority competent to take the decision shall consult the electronic system referred to in the first paragraph of this Article.

3. The customs authority shall keep a record of its consultation of the electronic system.’;

(3) Articles 18 and 19 are deleted;

(4) Article 21 is replaced by the following:

‘Article 21

Electronic system on applications and decisions relating to binding information

(Articles 16(1), 23(5) and 56(5) of the Code)

1. For the exchange and storage of information pertaining to applications and decisions relating to binding information or to any subsequent event which may affect the original application or decision, an electronic system set up for those purposes pursuant to Article 16(1) of the Code shall be used.
2. Customs authorities shall make information pertaining to applications and decisions relating to binding information available through the electronic system referred to in paragraph 1 without delay and at the latest 7 days after the customs authority has acquired that information.
3. The surveillance referred to in Article 55 shall include data that are relevant for monitoring the usage of decisions relating to binding information.
4. The customs authority that has received the application and has taken the decision relating to binding information shall notify through the electronic system referred to in paragraph 1 if a period of extended use of the decision relating to binding information is granted, indicating the end date of the period of extended use and the quantities of the goods covered by this period.
5. The Commission shall communicate the results of the monitoring referred to in paragraph 3 to the Member States on a regular basis in order to support the monitoring by the customs authorities of the compliance with the obligations derived from the decision relating to binding information.
6. An EU harmonised trader interface designed by the Commission and Member States in agreement with each other shall be used for the exchange of information pertaining to applications and decisions relating to binding information.
7. When processing an application for a decision relating to binding information, the customs authorities shall indicate the status of the application in the electronic system referred to in paragraph 1.

8. Until the date of deployment of the first phase of the upgrading of the system referred to in paragraph 1 of this Article and the system referred to in Article 56 of this Regulation, the customs authorities shall carry out the monitoring of the usage of decisions relating to binding information when conducting customs controls or post-release controls in accordance with Articles 46 and 48 of the Code. By derogation from paragraph 5 of this Article, until that date of deployment, the Commission shall not be obliged to communicate results of the monitoring referred to in paragraph 3 of this Article to the Member States.;
- (5) Article 22 is amended as follows:
- (a) the legal reference to Article 35 of the Code is added in its title;
- (b) paragraph (1) is replaced by the following:
- ‘1. Where the customs authorities decide to grant a period of extended use in accordance with Article 34(9), third subparagraph, of the Code or with Article 20a(7), third subparagraph, of Delegated Regulation (EU) 2015/2446 they shall specify the date on which the period of extended use of the decision concerned expires.’;
- (6) Article 23 is replaced by the following:

‘Article 23

Actions to ensure the correct and uniform tariff classification, determination of origin or determination of customs value

(Article 34(10) and Article 35 of the Code)

1. The Commission shall, without delay, notify the customs authorities of the suspension of the taking of BTI and BOI decisions in accordance with Article 34(10), point (a), of the Code and of decisions relating to binding valuation information (‘BVI decisions’) in accordance with Article 20a(8), point (a), of Delegated Regulation (EU) 2015/2446 where:
- (a) the Commission has identified incorrect or non-uniform decisions;
- (b) the customs authorities have submitted to the Commission cases where they failed to resolve, within a maximum period of 90 days, their differences of opinion with regard to the correct and uniform tariff classification, determination of origin or determination of customs value.

Customs authorities shall not take decisions related to binding information for goods subject to point (a) or (b) from the date when the Commission has notified the customs authorities of the suspension until the correct and uniform tariff classification, determination of origin or determination of customs value is ensured.

2. The Commission shall organise a consultation at Union level on the correct and uniform tariff classification, determination of origin or determination of customs value, at the earliest opportunity and at the latest within 120 days of the Commission notification referred to in paragraph 1.

3. The Commission shall notify the customs authorities immediately once a suspension is withdrawn.

4. For the purposes of paragraphs 1, 2 and 3, BOI decisions shall be deemed to be non-uniform where they confer different origin on goods which:

(a) fall under the same tariff heading and whose origin was determined in accordance with the same origin rules; and

(b) have been obtained under identical conditions using the same manufacturing process and equivalent materials as regards notably their originating or non-originating status.

5. For the purposes of paragraphs 1, 2 and 3, BVI decisions shall be deemed to be non-uniform where they provide a different method of customs valuation or criteria for the establishment of the customs value in identical or similar circumstances.’;

(7) Annex 12-02 is deleted.

Article 2

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

It shall apply from [1 December 2025].

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

Done at Brussels,

*For the Commission
The President*

On behalf of the President

[Position]