

Commission Delegated Regulation (EU) 2020/877 of 3 April 2020 amending and correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013, and amending Delegated Regulation (EU) 2016/341 supplementing Regulation (EU) No 952/2013, laying down the Union Customs Code

COMMISSION DELEGATED REGULATION (EU) 2020/877

of 3 April 2020

amending and correcting Delegated Regulation (EU) 2015/2446 supplementing Regulation (EU) No 952/2013, and amending Delegated Regulation (EU) 2016/341 supplementing Regulation (EU) No 952/2013, laying down the Union Customs Code

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code<sup>(1)</sup>, and in particular Articles 7, 10, 24, 88, 131, 156, 160, 168, 175, 183, 212, 216, 253 and 265 thereof,

Whereas:

- (1) The practical implementation of Regulation (EU) No 952/2013 (the Code) in combination with Commission Delegated Regulation (EU) 2015/2446<sup>(2)</sup> has shown that some amendments need to be made to that Delegated Regulation in order to better adjust it to the needs of economic operators and customs administrations as well as to take into account legislative developments and developments regarding the deployment of the IT systems established for the purposes of the Code.
- (2) In order to clarify which customs office must ensure that the pre-arrival risk analysis is carried out on the basis of the entry summary information, the definition of ‘customs office of first entry’ in Article 1(15) of Delegated Regulation (EU) 2015/2446 should be amended to spell out that, where that term is used, it refers to the office responsible for the place at which the means of transport is destined to arrive even if, for any reason, the means of transport actually arrives at a different place for which a different office is responsible.
- (3) In order to clearly delimit the scope of application of the rules on the entry summary declaration covering goods in express consignments and of the formalities applicable to the import and to the export of such goods, the terms ‘express consignment’ and ‘express carrier’ should be defined.
- (4) In order to ensure a uniform application of the customs provisions based on the intrinsic value of the goods, a definition of the term ‘intrinsic value’ is needed.
- (5) In line with the Action Plan on Military Mobility<sup>(3)</sup>, there is a need to streamline and simplify the customs formalities for goods moved or used in the context of military activities. That objective should be met by establishing a definition of such goods, and by establishing an EU form 302 as a customs document to be used by the EU Member

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States, including in the context of military activities pertaining to the Common Security and Defence Policy of the Union.

- (6) In order to allow that, pursuant to Union legislation other than customs legislation, the economic operator registration and identification number (EORI) is used for identification, persons other than economic operators should be obliged to register in EORI where such registration is required by Union legislation and not only where it is required by the legislation of a Member State. Article 6 of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly.
- (7) Article 13(4) of Delegated Regulation (EU) 2015/2446 provides for a possibility to extend the time limit to take a decision relating to the application of the customs legislation where the competent customs authorities are investigating an infringement of customs legislation. That possibility should also apply for cases in which the competent customs and fiscal authorities are investigating an infringement of tax legislation, as some authorisations can only be granted in the absence of serious or repeated infringements of taxation rules. Article 17(1) of Delegated Regulation (EU) 2015/2446 sets out an obligation for the customs authorities to suspend a decision until it is established whether an economic operator has committed a serious infringement or repeated infringements. That obligation should also cover cases of serious criminal offences relating to the applicant's economic activity but should not extend to infringements or criminal offences committed by persons in charge of the company's customs matters who are not employees of that company, in line with Article 24(1) of Commission Implementing Regulation (EU) 2015/2447<sup>(4)</sup>. Articles 13(4) and 17(1) of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly.
- (8) Article 86(3) of the Code sets out special rules for calculating the amount of a customs debt where the debt is incurred for processed products resulting from the inward processing procedure. At the request of the declarant, that customs debt is determined on the basis of the tariff classification, customs value, quantity, nature and origin of the goods placed under the inward processing procedure at the time of acceptance of the customs declaration relating to those goods. Article 76 of Delegated Regulation (EU) 2015/2446 lays down the conditions under which Article 86(3) of the Code is to apply without a request from the declarant. In order to avoid the circumvention of anti-dumping and countervailing duties, safeguard measures and additional duties resulting from a suspension of concessions that would be applicable to goods when first placed under the inward processing procedure, the obligation to apply Article 86(3) of the Code without a request from the declarant should also cover processed products obtained from such goods placed under inward processing. Article 76 of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly. A transitional period of 1 year should be granted in order to allow economic operators time to adapt to the new rules.
- (9) Article 104(1) of Delegated Regulation (EU) 2015/2446 sets out exceptions from the requirement to lodge an entry summary declaration for goods brought into the customs territory of the Union. In order not to delay the import of organs and other human or animal tissue or human blood suitable for permanent grafting, implantation

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or transfusion in case of emergency, the exceptions should also cover those goods. In addition, in order to facilitate military mobility, those exceptions should be extended to goods moved under cover of a NATO form 302 or an EU form 302. Furthermore, following the inclusion of Campione d'Italia and the Italian waters of Lake Lugano in the customs territory of the Union<sup>(5)</sup>, the exception should no longer apply to goods brought from those territories. Article 104(1) of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly.

- (10) Directive (EU) 2019/883 of the European Parliament and of the Council<sup>(6)</sup> aims to protect the marine environment against the negative effect from discharges of waste from ships using ports located in the Union, by improving the availability and use of adequate port reception facilities and the delivery of waste to those facilities. In order not to jeopardise the objective of that Directive, the customs formalities for such waste should be streamlined and simplified by waiving the obligation to lodge an entry summary declaration and by considering the presentation to customs as a customs declaration for release for free circulation. Those simplifications should apply only if the advance waste notification referred to in Article 6 of Directive (EU) 2019/883 has been made to the competent authorities. Articles 104, 138, 141, and 142 of Delegated Regulation (EU) 2015/2446 should be amended accordingly.
- (11) Article 104 of Delegated Regulation (EU) 2015/2446 sets out a waiver of the obligation to lodge an entry summary declaration for goods in postal consignments and for goods of a value not exceeding EUR 22, until the date of the upgrading of the Import Control System. However, the Commission has, by Commission Implementing Decision (EU) 2019/2151 (the Work Programme)<sup>(7)</sup>, decided to set up a new electronic system (ICS2) to support customs pre-arrival security and safety risk analysis and related controls. The implementation of the new system is to be carried out through three releases (release 1, release 2 and release 3). The general reference to the upgrading of the Import Control System in Article 104 of Delegated Regulation (EU) 2015/2446 should therefore be replaced by more specific references to the different releases of the new system, to which the carriers will gradually connect. In accordance with the Work Programme, as regards air transport, postal operators and express carriers will connect to the new system from release 1 but they will only be obliged to lodge the minimum dataset of the entry summary declaration for goods in postal consignments having the Union as final destination and for goods in express consignments. Other economic operators or operations within the field of air transport will be covered by the new system from release 2. For rail, road, sea and inland waterways transport, the relevant economic operators must connect from release 3. Accordingly, the waiver for goods in postal consignments should not apply for air consignments having a Member State as final destination after release 1. In addition, it should not apply for air consignments having a third country as final destination after release 2, and for postal consignments that are transported by sea, inland waterways, road or rail after release 3. Similarly, the waiver for goods not exceeding EUR 22 in express consignments transported by air should not apply after release 1. In addition, it should not apply after release 2 for such goods in air consignments that are neither post nor express consignments. For goods in consignments transported by sea, inland waterways, road or rail it should not apply after

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release 3. The Member States are to determine, in cooperation with the Commission, the specific dates at which the economic operators are obliged to use the different releases of the new system in accordance with the Annex to the Work Programme. Article 104 of Delegated Regulation (EU) 2015/2446 should be amended accordingly.

- (12) Article 106 of Delegated Regulation (EU) 2015/2446 sets out time limits to lodge the entry summary declaration in case of transport by air. Those time limits should also reflect the decision to set up the electronic system (ICS2) in three releases. The provision should clearly distinguish the general rule on the time limit to submit the entry summary declaration from the time limits to submit the minimum dataset of the entry summary declaration and the time limits to provide other particulars. This is so because, as stated in Article 183 of Implementing Regulation (EU) 2015/2447, from release 2 of the new system, the provision of the particulars of the entry summary declaration by different persons (multiple filing) will be gradually possible. From release 1 of the new system, postal operators and express carriers should be required to submit the minimum dataset of the entry summary declaration as soon as possible and at the latest before the goods are loaded into the aircraft that will bring them into the customs territory of the Union. The obligation to submit the minimum dataset should apply to all air carriers and economic operators involved in air transport activities from release 2. From release 2 of the new system, air carriers should be required to supplement the minimum dataset with the rest of the particulars so that the full entry summary declaration is lodged by the general time limits. However, between the dates of release 1 and release 2, the minimum dataset lodged by the postal operators and express carriers should be considered as the full entry summary declaration for goods in postal consignments and for goods in express consignments with an intrinsic value not exceeding EUR 22. The reason is that in that interval air carriers will not be connected to the new system and therefore they will not be able to supplement the minimum dataset. The rule establishing an obligation on air carriers and economic operators to submit the minimum dataset of entry summary declaration as early as possible, and at the latest before the goods are loaded onto the aircraft on which they are to be brought into the customs territory of the Union, ensures that customs authorities are in position to carry out risk analysis and undertake the necessary measures in the context of air cargo security. This is represents an important complementary action to the existing EU regulatory framework for aviation security, namely, Regulation (EC) No 300/2008 of the European Parliament and of the Council<sup>(8)</sup>.
- (13) Articles 112 and 113 of Delegated Regulation (EU) 2015/2446 set out obligations for other persons than the carrier to provide particulars of the entry summary declaration as regards, respectively, transport by sea or inland waterways and transport by air. Both articles contain transitional rules suspending the obligations until the upgrade of the Import Control System. Those transitional rules should reflect the fact that the provision of the particulars of the entry summary declaration by different persons will only occur from release 2 of the new system in the case of transport by air, and from release 3 in the case of transport by sea or inland waterways. Accordingly, the obligation of persons other than the carrier to provide the particulars of the entry summary declaration should distinguish between both releases. Moreover, the rule establishing that each person is responsible for the particulars of the entry summary declaration that he or

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she has submitted should be deleted from Articles 112 and 113 and become a new general provision applicable to any transport mode, and not to air and sea or inland waterways alone. To the extent that the entry summary declaration waiver for postal consignments and goods below EUR 22 will progressively disappear, that provision should also include a new obligation on postal operators and express carriers to provide the particulars of the entry summary declaration to the customs office of first entry, if they have not provided those particulars to the carriers having the obligation to supplement the minimum dataset provided by the postal operators or express carriers. Articles 112 and 113 of Delegated Regulation (EU) 2015/2446 should be amended accordingly, and a new Article 113a should be inserted.

- (14) In order to facilitate military mobility, the EU form 302 should also serve as proof of the customs status of Union goods. Article 127 of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly.
- (15) Article 128d of Delegated Regulation (EU) 2015/2446 sets out the conditions for granting the authorization to draw up the shipping company's manifest after departure. Those conditions should continue to apply as long as that authorization can be granted, regardless of whether or not the UCC Customs Decision System has been deployed. The reference to the UCC Customs Decision System should, therefore, be deleted. Article 128d of Delegated Regulation (EU) 2015/2446 should be amended accordingly.
- (16) Article 141 of Delegated Regulation (EU) 2015/2446 lists certain acts that are to be deemed customs declarations for goods referred to in Articles 138(a) to (d), 139 and 140(1) of that Regulation. The formalities to declare, both for import and for export, organs and other human or animal tissue or human blood suitable for permanent grafting, implantation or transfusion in case of emergency should be as limited as possible in order not to delay their release through cumbersome customs formalities at the border and to ensure their timely usage. Such organs, tissue or blood should therefore be allowed to be declared by any of the acts listed in Article 141 of Delegated Regulation (EU) 2015/2446. Articles 138, 140 and 141 of that Delegated Regulation should therefore be amended accordingly.
- (17) In order to further simplify the movement of goods moved or used in the context of military activities, the presentation to customs of a NATO form 302 or of an EU form 302 should be considered as a customs declaration for release for free circulation with import duty relief as returned goods, for temporary admission, for export or re-export, or for transit. In the absence of an electronic system for the submission of a NATO form 302 or of an EU form 302 to customs, it is also appropriate to allow for the submission of those forms by means other than electronic data-processing techniques. Articles 138 to 142 of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly.
- (18) Once the new value added tax (VAT) rules for distance sales laid down in Council Directive (EU) 2017/2455<sup>(9)</sup> enter into force, VAT will be due on all goods imported into the Union, regardless of their value. In order to ensure that VAT is collected for these goods, an electronic customs declaration will be required. The current possibility to declare postal consignments by any act listed in Article 141 of Delegated Regulation (EU) 2015/2446, needs, therefore, to be modified. That possibility should only apply

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until the end of the deployment window for release 1 of ICS2, since all postal operators should by that time have the electronic data necessary to submit the entry summary declaration. To ensure a proper collection of VAT, that possibility should, in addition, be subject to the approval of customs authorities and be limited to cases in which the import VAT is collected upon entry of the goods under the standard procedure. Articles 138 and 141 of Delegated Regulation (EU) 2015/2446 should be amended accordingly.

- (19) Due to the growth in e-commerce, the number of low value consignments exported from the Union is increasing. Postal operators and express carriers play an important part in those exports. Whilst postal consignments can be declared for export by their exit from the customs territory of the Union in accordance with Article 141(4) of Delegated Regulation (EU) 2015/2446, other commercial goods not exceeding EUR 1 000 in value and 1 000 kg in weight are to be declared for export orally pursuant to Article 137(1)(b) of that Regulation. Since the oral declaration is to be made at the customs office competent for the place of exit, this facilitation does not fit with the business model of express carriers that is based on a single transport contract type facilitation. In case a single transport contract is used, all the exit formalities, including the formal closing of the export movement, can be completed at an inland customs office so that the customs office competent for the place of exit may only request to examine the goods on an ad hoc basis. The information about the exit of the goods is available in the express carrier's records and may be verified by the customs authorities in the framework of post-audit controls. In order to enable the smooth export clearance of low value consignments by express carriers and thus avoid bottlenecks at border customs offices, those consignments should be allowed to be declared by any act listed in Article 141 of Delegated Regulation (EU) 2015/2446. Articles 140 and 141 of that Regulation should be amended accordingly.
- (20) Article 141 of Delegated Regulation (EU) 2015/2446 should also be amended to clarify that means of transport benefitting from total relief from import duty can be declared for temporary admission by the sole act of the goods crossing the frontier of the customs territory of the Union in any of the situations listed in point d) of paragraph 1 of that Article. The same applies for means of transport that are to be released for free circulation as returned goods according to Article 203 of the Code. Such clarification is needed for the sake of legal certainty.
- (21) Article 142 of Delegated Regulation (EU) 2015/2446 lists certain goods that may not be declared orally or in accordance with Article 141 of that Regulation, such as goods subject to an application for the repayment of duty or other charges. As of the entry into force of the new value added tax (VAT) rules for distance sales laid down in Council Directive (EU) 2017/2455, VAT will be due for all goods imported to the Union, regardless of their value. Consequently, if such goods are returned, the declarant is to ask for the repayment of the VAT charged upon the release for free circulation of the goods. In such cases, the declarant will need to provide evidence that the goods left the customs territory of the Union. In order to keep the administrative burden at a reasonable level for low value consignments, re-export of such consignments should be allowed by any other act in accordance with Article 141 of Delegated Regulation (EU) 2015/2446, even

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if an application for the repayment of the VAT has been submitted. Therefore, Article 142 of Delegated Regulation (EU) 2015/2446 should be amended accordingly.

- (22) In order to clarify that the submission of the data required for the release for free circulation of low value consignments can be made in different electronic formats, the wording of Article 143a should be modified. In addition, a transitional measure should be provided for the declaration of low value consignments in the National Import Systems that have not yet been updated in accordance with the Code. Pursuant to Article 278(2) of the Code and to the Work Programme, Member States can update their National Import Systems until the end of 2022. By contrast, the new VAT measures in Directive (EU) 2017/2455 will enter into force before that date. It is therefore necessary to provide for an alternative dataset for the electronic customs declaration of low value consignments in the non-updated electronic systems that function with the transitional data requirements. Member States should therefore be allowed to provide for the use of the simplified declaration or standard customs declaration dataset set out in Commission Delegated Regulation (EU) 2016/341<sup>(10)</sup>, instead of the customs declaration for certain low-value consignments set out in Article 143a(1) of Delegated Regulation (EU) 2015/2446, until the National Import Systems have been updated.
- (23) Article 144 of Delegated Regulation (EU) 2015/2446 sets out rules for customs declaration for goods in postal consignments. Those rules should reflect the changes in the declaration of such goods as of the entry into force of the relevant provisions of Directive (EU) 2017/2455. The rule setting out who is to be considered as debtor and declarant in the declaration of postal consignments by presentation should be deleted because from 1 January 2021 goods in postal consignments not exceeding EUR 150 are to be declared by means of an electronic customs declaration. In that declaration, the debtor and the declarant are to be clearly indicated. A transitional measure should be provided for the declaration of goods in postal consignments with a value of between EUR 150 and EUR 1000 in the Member States that have not yet updated their National Import Systems in accordance with the Code. The possibility to declare for release for free circulation those goods by presentation accompanied by declaration CN22 or CN23 until the end of the period to update the National Import Systems, that is until the end of 2022, should be maintained since the Member States are not obliged to implement the different datasets for electronic declarations until the end of that period. Article 144 of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly.
- (24) Article 146 of Delegated Regulation (EU) 2015/2446 sets out the time limits for lodging the supplementary declaration referred to in the first subparagraph of Article 167(1) of the Code. Those rules should connect in a clearer manner the customs authorities' deadlines for entering the amount of import or export duty in the accounts in accordance with Article 105(1) of the Code and the time limits for the declarants to lodge the different types of supplementary declaration. Accordingly, it should be clarified that supplementary declarations covering a single simplified declaration and giving rise to a single entry in the accounts in accordance with the first subparagraph of Article 105(1) of the Code are supplementary declarations of a general nature. Supplementary declarations of a general nature should be lodged within ten days of the release of the goods. It should further be clarified that supplementary declarations of a periodic or

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recapitulative nature cover one or several simplified declarations by the same declarant during a fixed period and give rise to a single entry for a global amount of import duty in accordance with the second subparagraph of Article 105(1) of the Code. Those declarations should be lodged within ten days following the end of the period that they cover.

- (25) In order to better adapt the current rules to the needs of economic operators, customs authorities should be allowed to provide declarants with a longer time limit to lodge the supplementary declaration and to obtain the relevant supporting documents where the lodging of the customs declaration cannot lead to the incurrence of a customs debt. The longer time limit should be up to 120 days from the release of the goods in the case of supplementary declarations of a general nature. In addition, the time limit may be up to two years, in exceptional and duly justified circumstances, where the reasons for allowing a longer time limit are related to the customs value of the goods. Article 146 of Delegated Regulation (EU) 2015/2446 and Article 147 of that Regulation, which sets out the time limit for the declarant to be in possession of the supporting documents in the case of supplementary declarations, should therefore be amended accordingly.
- (26) Article 163 of Delegated Regulation (EU) 2015/2446 establishes the cases in which a customs declaration is to be considered as an application for an authorisation for a special procedure other than transit. That provision should also include the destruction of consignments with a value of EUR 150 000 or less in order to facilitate the customs formalities for economic operators in such cases. The destruction of consignments should be possible without the use of the Customs Decision System so that the customs authorities can take a decision on the application at the time when goods to be destroyed are declared for the customs procedure. In addition, sensitive goods listed in Annex 71-02 to Delegated Regulation (EU) 2015/2446 should be excluded from the above-mentioned facilitation, unless they are to be destroyed and the value of the consignment does not exceed EUR 150 000. Article 163 of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly.
- (27) Article 163(2)(g) of Delegated Regulation (EU) 2015/2446 establishes that a customs declaration may not be considered as an application for an authorisation for a special procedure other than transit where Article 167(1)(f) of that Delegated Regulation applies. That provision refers to the processing of sensitive goods, which are already excluded from the scope of Article 163(1)(c) of Delegated Regulation (EU) 2015/2446. In order to avoid this repetition, Article 163(2)(g) of Delegated Regulation (EU) 2015/2446 should be deleted.
- (28) Article 166(1) of Delegated Regulation (EU) 2015/2446 sets out that the condition for granting an authorisation for a processing procedure in Article 211(4)(b) of the Code, namely that the procedure would not adversely affect the essential interests of Union producers (the economic conditions), does not apply to authorisations for inward processing except in certain cases, including applications covering goods subject to measures such as anti-dumping or countervailing duties. Such applications should however be excluded from the examination of the economic conditions, as those duties are meant to protect the essential interests of Union producers. Moreover, the



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- examination of the economic conditions will no longer be needed in such cases since Article 76 of Delegated Regulation (EU) 2015/2446 as amended by this Regulation provides for an automatic application of the anti-dumping and countervailing duties to the goods placed under inward processing when the procedure is discharged. Article 166(1) of Delegated Regulation (EU) 2015/2446 should be amended accordingly.
- (29) Article 168 of Delegated Regulation (EU) 2015/2446 concerns the calculation of the amount of import duty in certain cases of inward processing. That provision is however redundant, due to the amendments to Articles 76 and 166 of that Delegated Regulation. According to those amendments, the calculation of import duty is made in accordance with Article 86(3) of the Code in the cases mentioned in Article 168 of Delegated Regulation (EU) 2015/2446. In addition, if the goods are subject to agricultural or commercial policy measures the economic conditions have to be examined according to Article 166 of Delegated Regulation (EU) 2015/2446 as amended by this Regulation. Article 168 of Delegated Regulation (EU) 2015/2446 should therefore be deleted.
- (30) Article 177 of Delegated Regulation (EU) 2015/2446 sets out rules concerning accounting segregation where Union goods are stored together with non-Union goods in a storage facility for customs warehousing. In order to avoid any possible misuse of those rules, the storage of Union and non-Union goods together in a storage facility for customs warehousing (common storage) should only be allowed where the goods have the same CN code, commercial quality and technical characteristics. Goods subject to measures such as anti-dumping or countervailing duties should not be allowed to be placed in common storage, unless they have become Union goods after having been subjected to the relevant anti-dumping or countervailing duties. Article 177 of Delegated Regulation (EU) 2015/2446 should be amended accordingly.
- (31) In order to simplify the use of the temporary admission procedure in international maritime traffic, in frontier zones and with respect to certain pedagogical, scientific and technical equipment, the applicant and the holder of the temporary admission procedure should exceptionally be allowed to be established inside the customs territory of the Union, and should not have to be established outside that territory as required in Article 250(2)(c) of the Code. Articles 220, 224, 227, 229 and 230 of Delegated Regulation (EU) 2015/2446 should be amended accordingly.
- (32) Where military goods are declared for temporary admission, they should benefit from total relief of import duty and the period for discharge should be fixed at 24 months, with the possibility of an extension. A new Article 235a should therefore be inserted in Delegated Regulation (EU) 2015/2446 and Article 237 of that Regulation should be amended accordingly.
- (33) Article 245(1) of Delegated Regulation (EU) 2015/2446 sets out exceptions from the requirement to lodge a pre-departure declaration for goods leaving certain Union territories outside the customs territory of the Union. In order to facilitate military mobility, this exception should be extended to goods moved under cover of a NATO form 302 or an EU form 302. In addition, following the inclusion of Campione d'Italia and the Italian waters of Lake Lugano into the customs territory of the Union, that exception should no longer refer to Campione d'Italia and the Italian waters of Lake

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- Lugano. Points (i) and (p) of Article 245(1) of Delegated Regulation (EU) 2015/2446 should therefore be amended accordingly.
- (34) Article 248 of Delegated Regulation (EU) 2015/2446 should be amended to clarify that the customs office of export must invalidate the export declaration and must invalidate the relevant certification of exit of goods, where the customs office of exit has informed that a transport operation that should have terminated outside the customs territory of the Union will terminate inside.
- (35) Annex 71-03 to Delegated Regulation (EU) 2015/2446 provides a list of the usual forms of handling for the purposes of goods placed under a processing procedure pursuant to Article 220 of the Code. In order to avoid the misuse of usual forms of handling to obtain unjustified duty advantages, that Annex should be amended accordingly.
- (36) Point 7 of Annex 71-04 of Delegated Regulation (EU) 2015/2446 sets out the conditions under which recourse to the use of equivalence is permitted under the inward processing arrangements with regard to milk and milk products. The conditions concern the weight of the different components in such products, namely dry matter, fat matter and protein. In order to simplify those provisions, so that milk and milk products are subject to the general rules on equivalence established in third subparagraph of Article 223(1) of the Code, Annex 71-04 of Delegated Regulation (EU) 2015/2446 should be amended accordingly.
- (37) Annex 71-05 to Delegated Regulation (EU) 2015/2446 lists the data elements that are to be made available for the standardised exchange of information between customs authorities in the context of processing procedures. It should be clarified that some data elements can be expressed in measurement units other than kilograms and in currencies other than the euro because, unlike other provisions on data elements to be provided by the economic operators, Articles 176, 181 and Annex 71-05 do not explicitly mention this possibility. It should also be possible for a customs declaration to be considered as an application for an authorisation for inward or outward processing as allowed in Article 163 of Delegated Regulation (EU) 2015/2446. Finally, a new data element should be added in Section B regarding the date on which the customs debt was incurred or on which potential commercial policy measures applied, as this is a relevant data element to be exchanged by the customs authorities when using the INF system. Annex 71-05 to Delegated Regulation (EU) 2015/2446 should be amended accordingly.
- (38) Delegated Regulation (EU) 2016/341 should also be amended to reflect certain changes to other Union legislation. First, the introduction of the Member States' reporting obligation on progress with the electronic systems in Article 278a of the Code is stricter than the reporting obligation set out in Article 56(2) of Delegated Regulation (EU) 2016/341 and the latter should therefore be deleted. Second, Annex 1 to Delegated Regulation (EU) 2016/341, which sets out the common data requirements for declarations, notifications and proof of Union status that apply until the electronic systems of the Code are deployed, should reflect the Commission Decision on the updated Work Programme to deploy the ICS2 system in three releases. That Annex should exclusively refer to the Annexes to that Delegated Regulation providing data requirements for the transition period but should not refer to Annex B to Delegated

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Regulation (EU) 2015/2446, as this does not apply during the transition. Finally, after the inclusion of the definition of express consignment and express carrier in Article 1 of Delegated Regulation (EU) 2015/2446, the definition of express consignment in Annex 9 to Delegated Regulation (EU) 2016/341 should be deleted to avoid confusion.

- (39) Article 128a of Delegated Regulation (EU) 2015/2446 should be corrected to clarify the instructions on the stamp and signature of certain proofs of union status. First, some instructions are duplicated and therefore one set of such instructions should be deleted. Second, the reference to a special stamp described in Part II, Chapter II of Annex 72-04 to Implementing Regulation (EU) 2015/2447 should be added. Third, authorized issuers and authorized consignors are two distinct authorizations and the provision wrongly refers to authorized consignors in the context of authorizations for issuance of the proof. The provision should refer to ‘authorized issuer’ instead of ‘authorized consignor’, in all languages.
- (40) The reference in Article 150 of Delegated Regulation (EU) 2015/2446 to Article 138 of Council Directive 2006/112/EC<sup>(11)</sup> is not correct and should be replaced by a reference to Article 143(1) of that Directive, as that Article is the one providing for the applicable VAT exemption.
- (41) The possibility to declare organs and other human or animal tissue or human blood suitable for permanent grafting, implantation or transfusion, in case of emergency by any other act should retroactively apply from 15 March 2020 to facilitate the import of these goods in the crisis created by the coronavirus,

HAS ADOPTED THIS REGULATION:

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**Changes to legislation:** There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2020/877. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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- (1) [OJ L 269, 10.10.2013, p. 1.](#)
- (2) Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code ([OJ L 343, 29.12.2015, p. 1.](#)).
- (3) Joint Communication to the European Parliament and to the Council on the Action Plan on Military Mobility, JOIN(2018) 5 final of 28 March 2018.
- (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.](#)).
- (5) Article 1(1) of Regulation (EU) 2019/474 of the European Parliament and of the Council of 19 March 2019 amending Regulation (EU) No 952/2013 laying down the Union Customs Code ([OJ L 83, 25.3.2019, p. 38.](#)).
- (6) Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC ([OJ L 151, 7.6.2019, p. 116.](#)).
- (7) Commission Implementing Decision (EU) 2019/2151 of 13 December 2019 establishing the work programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code ([OJ L 325, 16.12.2019, p. 168.](#)).
- (8) Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002 ([OJ L 97, 9.4.2008, p. 72.](#)).
- (9) Council Directive (EU) 2017/2455 of 5 December 2017 amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods ([OJ L 348, 29.12.2017, p. 7.](#)).
- (10) Commission Delegated Regulation (EU) 2016/341 of 17 December 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards transitional rules for certain provisions of the Union Customs Code where the relevant electronic systems are not yet operational and amending Delegated Regulation (EU) 2015/2446 ([OJ L 69 15.3.2016, p. 1.](#)).
- (11) 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.](#)).

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole legislation item and associated provisions**

- Signature words omitted by virtue of S.I. 2019/715, reg. 7(1)(f) (as inserted) by [S.I. 2020/1379 reg. 6\(b\)](#)