COMMISSION IMPLEMENTING REGULATION (EU) 2016/1253

of 29 July 2016

amending Regulation (EU) No 92/2010 as regards the data exchange between customs authorities and national statistical authorities and the compilation of statistics

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 471/2009 of the European Parliament and the Council of 6 May 2009 on Community statistics relating to the external trade with non-member countries and repealing Council Regulation (EC) No 1172/95 ([1]), and in particular Articles 6(1) and 7(2) thereof,

Whereas:

(1) Regulation (EC) No 471/2009 establishes a common framework for the systematic production of European statistics relating to the trading of goods with non-member countries. The main data source for those statistics is data obtained from customs declarations. That Regulation was set up to take account of specific and new customs clearance simplifications to become implemented under Regulation (EC) No 450/2008 of the European Parliament and of the Council ([2]) ('the Modernised Customs Code'). This concerned especially 'self-assessment' which was to include a waiver to provide a declaration to customs and the scheme of Centralised Clearance where customs import or export formalities could be fulfilled in more than one Member State.

(2) Regulation (EU) No 952/2013 of the European Parliament and of the Council ([3]) ('the Union Customs Code') repealed the Modernised Customs Code and replaced from 1 May 2016 the customs provisions provided by Council Regulation (EEC) No 2913/92 ([4])

(3) Commission Implementing Decision (EU) 2016/578 ([5]) lays down the work programme referred to in Article 280 of the Union Customs Code and relates to the electronic customs systems which are to be developed under it.

(4) Until those electronic systems become available, Commission Delegated Regulation (EC) No 2016/341 ([6]) ('the Transitional Delegated Act') provides for transitional measures for the exchange and storage of information between the customs authorities themselves and between the customs authorities and the economic operators

(5) Regulation (EC) No 471/2009 was implemented by Commission Regulation (EU) No 92/2010 ([7]).

([1]) OJ L 152, 16.6.2009, p. 23.
([2]) Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code) (OJ L 145, 4.6.2008, p. 1).
([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).
([4]) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, p. 1).
([5]) Commission Implementing Decision (EU) 2016/578 of 11 April 2016 establishing the Work Programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code (OJ L 99, 15.4.2016, p. 6.)
([6]) 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).
([7]) Commission Regulation (EU) No 92/2010 of 2 February 2010 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards data exchange between customs authorities and national statistical authorities, compilation of statistics and quality assessment (OJ L 31, 3.2.2010, p. 4).

(6) It is necessary to adapt Regulation (EU) No 92/2010 to provisions of the Union Customs Code with regard to the specific procedures for data exchange between customs authorities and national statistical authorities, especially with the respect to the customs simplification referred to as centralised clearance provided for in Article 179 of the Union Customs Code.

(7) The agreement of customs authorities on a simplification for drawing up the customs declarations for goods falling under different tariff subheadings, should be reflected in the compiled statistics.

(8) To obtain information on economically relevant movements between Member States following the customs clearance, on imports or preceding it, on exports, measures should be taken aiming at identifying the concerned Member States for trade statistics purposes.

(9) Amendments requiring an adjustment of the data transmission from Member States to the Commission (Eurostat) should only become applicable to the monthly reference periods, starting with reference month January 2017.

(10) Regulation (EU) No 92/2010 should be amended accordingly.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Committee on statistics relating to the trading of goods with non-member countries,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 92/2010 is amended as follows:

(1) Article 1 is replaced by the following:

'Article 1

Data exchange modalities between customs authorities and national statistical authorities

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

(a) "Centralised clearance in the transitional period" means centralised clearance as referred to in Article 179 of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (*) ("the Union Customs Code"), which involves customs authorities of more than one Member State, and where the means of exchange of information between the customs authorities is covered by Article 18 of Commission Delegated Regulation (EU) 2016/341 (**);

(b) "automated centralised clearance" means centralised clearance which involves customs authorities of more than one Member State and where the means of exchange of information between the customs authorities is covered by the respective transnational electronic system for centralised clearance for import or export as specified in the work programme referred to in Article 280 of the Union Customs Code (***).

2. National customs authorities shall provide their national statistical authorities without delay and at the latest during the month following the month the customs declarations were accepted or were subject to decisions by customs pertaining to them, with the records on imports and exports from customs declarations:

(a) which were lodged with them; or

(b) for which the supplementary declaration is, in accordance with Article 225 of Commission Implementing Regulation (EU) 2015/2447 (****), available to them through direct electronic access in the authorisation holder's system.

The customs authorities shall provide the national statistical authorities with revised records on imports and exports where statistical data already provided are amended or changed.

The obligation to provide records from the customs declarations to the national statistical authority shall not apply to customs declarations covered by automated centralised clearance which are to be provided to another Member State pursuant to paragraph 3.

The first subparagraph shall not affect the rights of national statistical authorities on their access to and the use of administrative records as referred to in Article 17a of Regulation (EC) No 223/2009 of the European Parliament and of the Council (*****).

3. With effect from the date of the implementation of the mechanism for mutual data exchange by electronic means pursuant to Article 7(2) of Regulation (EC) No 471/2009, which shall mean, as soon as the respective Member State applies automated Centralised Clearance, the following shall apply:

Where a customs declaration is covered by automated centralised clearance, the customs authority at which that customs declaration is lodged shall ensure that copies of the data of that customs declaration are transmitted under the same time frame as set out under paragraph 2 first subparagraph to the customs authority of the Member State where the goods are located at the time of release into the customs procedure. The obligation to transmit the data shall also refer to a customs declaration where the supplementary declaration is, in accordance with Article 225 of Implementing Regulation (EU) 2015/2447, available through direct electronic access in the authorisation holder's system,

Transmission is considered to be ensured and the time frame respected where the transmission between Member States takes place under the arrangements provided for in Articles 231 and 232 of Implementing Regulation (EU) 2015/2447.

The receiving customs authority shall forward the data without delay to their national statistical authority. This shall, however, not affect the rights of the national statistical authorities on their access to and the use of administrative records referred to in Article 17a of Regulation (EC) No 223/2009.

4. The customs authorities shall verify, at the request of the national statistical authorities, the correctness and completeness of the records on imports and exports provided by them.

(*) 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).

(**) 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).

(***) The most recent being Commission Implementing Decision (EU) 2016/578 of 11 April 2016 establishing the Work Programme relating to the development and deployment of the electronic systems provided for in the Union Customs Code (OJ L 99, 15.4.2016, p. 6).

(****) 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).

(*****) Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).'.

(2) In Article 2(1), point (a) is replaced by the following:

'(a) records on imports and exports which customs authorities provided pursuant to the obligations referred to in Article 1;'.

(3) Article 2(2) is amended as follows:

(i) point (g) is replaced by the following:

'(g) goods code;

where the statistics are compiled using the data source referred to in Article 4(1) of Regulation (EC) No 471/2009 and this data source is, to the findings of the national statistical authorities, affected by the agreement of the customs authorities referred to in Article 177 of the Union Customs Code, national statistical authorities shall provide for a possibility to identify in their compiled statistics the data whose relevance or quality is affected by that agreement;';

(ii) point (h) is replaced by the following:

'(h) Member State where the goods are located at the time of release into the customs procedure. However, national statistical authorities shall only be obliged to compile this information, where the imports or exports relate to customs declarations covered by centralised clearance in the transitional period;

Member State where the customs declaration is lodged. However, national statistical authorities shall only be obliged to compile this information, where the imports or exports relate to customs declarations covered by automated centralised clearance;';

(iii) point (i) is replaced by the following:

'(i) Member State of destination on import.

For those import records for which customs data on Member State of destination are not available, Member States shall use any other information of the customs declaration they deem relevant for the compilation of external trade statistics by Member State of destination.

Where national statistical authorities cannot obtain any direct or indirect information allowing that compilation, they shall indicate Geonomenclature Code "QV" where they consider that the Member State of destination is different from the Member State where the goods are located at the time of release into the customs procedure;';

(iv) point (j) is replaced by the following:

'(j) Member State of actual export on export.

For export records for which customs data on Member State of actual export are not available, national statistical authorities shall exploit any other information of the customs declaration they deem relevant for the compilation of external trade statistics by Member State of actual export.

Where national statistical authorities cannot obtain any direct or indirect information allowing that compilation, they shall indicate Geonomenclature Code "QV" where they consider that the Member State of actual export is different from the Member State where the goods are located at the time of release into the customs procedure;';

(v) point (l) is replaced by the following:

'(l) country of consignment/dispatch on import;'.

(4) In Article 2(3), the first sentence is replaced by the following:

'The statistics shall contain adjustments on missing, delayed or incomplete records.'.

(5) In Article 2(4), the first sentence is replaced by the following:

'Member States may compile less detailed information than specified in Article 6(1) of Regulation (EC) No 471/2009 for individual transactions below the statistical threshold.'.

Article 2

Entry into force and application

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

Article 1(3) and Article 1(4) shall apply to reference periods from January 2017.

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

Done at Brussels, 29 July 2016.

For the Commission
The President
Jean-Claude JUNCKER