



Brussels, **XXX**  
[...](2016) **XXX** draft

**COMMISSION DELEGATED REGULATION (EU) No .../..**

**of **XXX****

**correcting Delegated Regulation (EU) No .../... 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**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

Regulation (EU) No 952/2013 (Code), in its consistency with the Treaty on the Functioning of the European Union (TFEU), delegates on the Commission the power to supplement certain non-essential elements of the Code, in accordance with Article 290 TFEU. The Commission, while exercising these powers, has adopted on 17 December 2015, Commission Delegated Regulation (EU) 2016/... 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. This Commission Delegated Regulation established provisions of general application to supplement the Code in accordance with its delegations of power and with a view to allow for a clear and proper application of the Code in the transitional period where the electronic systems for which the Code and its implementing acts have been conceived are not yet fully updated or deployed.

Following the entry into force of Delegated Regulation (EU) 2016/..., wrong references were discovered in some forms of Annex 12, in the part concerning simplifications. In addition, certain missing forms in this same Annex were detected that were unintentionally not included in the Annex. The adjustment of these inaccuracies is of major importance for the Commission, Member States and Trade and an absolute precondition for the proper implementation of Union customs legislation.

Regulation (EU) No 952/2013 and Commission Delegated Regulation (EU) 2016/... will be applicable as of 1 May 2016. It is therefore necessary to correct Delegated Regulation (EU) 2016/... in order to replace the forms with problematic references and add the the other missing forms as quickly as possible with a view to ensure that the necessary forms are in place for the application of the Code and its implementing provisions.

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

A consultation was carried out in line with paragraph 4 of the Common Understanding on delegated acts between the European Parliament, the Council and the European Commission.

The draft act was presented at the Customs Code Expert Group on 17 March 2016 to the delegates of the Member States. Member States agreed with the proposed correction.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

Annex 12 of Commission Delegated Regulation (EU) 2016/... needs to be corrected in order to rectify the spotted omissions and mistakes.

As these modifications affect the substance of the delegated act, the appropriate instrument is a Commission Delegated Regulation correcting Delegated Regulation (EU) 2016/.... It will apply as long as no objection is expressed by the European Parliament or the Council within a period of two months with the possibility of an extension of this period for another two months.

### **4. BUDGETARY IMPLICATIONS**

This measure does not involve any additional Union expenditure.

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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 laying down the Union Customs Code<sup>1</sup>, and in particular Article 279 thereof,

Whereas:

- (1) Following the adoption of Commission Delegated Regulation (EU) 2016/...<sup>2</sup>, it was detected that certain forms had erroneously been omitted from the part concerning simplifications of Annex 12 to that Delegated Regulation.
- (2) Also in Annex 12 to Delegated Regulation (EU) 2016/..., in the part concerning simplifications, certain errors affecting legal clarity were detected in the terminology used in three of the forms. Those errors concern, mainly, the reference to procedures that do not exist anymore under the Union Customs Code
- (3) Delegated Regulation (EU) 2016/... should therefore be corrected. .
- (4) The provisions of this Regulation should apply from 1 May 2016 in order to enable the full application of the Code.

HAS ADOPTED THIS REGULATION:

*Article 1*

***Amendment of Delegated Regulation (EU) No 2016/...***

In Delegated Regulation (EU) 2016/..., Annex 12 is corrected as follows:

- (1) the forms “Application for authorisation to use simplified declaration and Entry in the declarant’s records”, “Application for authorisation to use simplifications, Continuation form – IMPORT” and “Explanatory notes to the different boxes of the application form” are replaced by the forms set out in Annex I to this Regulation;
- (2) the forms set out in Annex II to this Regulation are added.

<sup>1</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (recast), OJ L 269, 10.10.2013, p. 269.

<sup>2</sup> Commission Delegated Regulation (EU)... 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 ..., 15.04.2016?, p. ...).

*Article 2*  
**Entry into force**

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

It shall apply from 1 May 2016.

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

Done at Brussels,

*For the Commission*  
*The President*  
*Jean-Claude JUNCKER*