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2017/0030 (NLE)

Proposal for a

COUNCIL REGULATION

amending Council Regulation (EU) No 479/2013 of 13 May 2013 on the waiver from the requirement to submit entry and exit summary declarations for Union goods that are moved across the Neum corridor

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Neum corridor is where the territory of Bosnia and Herzegovina reaches the Adriatic coast, thus separating the area of Dubrovnik from the rest of Croatia.

- **Reasons for and objectives of the proposal**

Article 3 of the Neum Regulation waives, under certain conditions, the requirement to submit an exit or an entry summary declaration in respect of consignments crossing the Neum corridor. The waiver may be invoked if the total value of each consignment does not exceed EUR 10 000 (Article 4(a)) and that other conditions laid down in Article 4 (b) are met. In so doing, the Neum Regulation derogates from certain provisions in Council Regulation (EEC) No 2913/92 establishing the Community Customs Code and in Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of the Community Customs Code.

On 1 May 2016, Council Regulation (EEC) No 2913/92 was replaced by Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (UCC).

Commission Regulation (EEC) No 2454/93, the implementing act for Regulation (EEC) No 2913/92, was:

- repealed by Commission Implementing Regulation (EU) 2016/481;
- subsequently replaced by:
- Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council on detailed rules concerning certain provisions of the Union Customs Code; and
- 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 UCC.

- **Consistency with existing policy provisions in the policy area**

The scope of the Article 3 of the Neum Regulation including the threshold of EUR 10 000 is now covered by Article 126 of the Commission Delegated Regulation in that it increases the threshold applicable to the waiver to EUR 15 000.

The Commission considers that the Neum Regulation should be amended in order to align the scope of the waiver to the sum provided in Article 126 of the Commission Delegated Regulation (EUR 15 000). In addition, both the legal references and the terminology used in the Neum Regulation should be aligned with the UCC legal framework.

Pursuant to Article 6 of the Neum Regulation, the Republic of Croatia committed to monitor the situation and to inform the Commission of any irregularities found and of the measures subsequently taken to remedy them by 1 March 2014.

In accordance with Article 7 of the Neum Regulation, the Commission needed to submit, within two years of its entry into force, a report to the Council providing an assessment of the application of the Neum Regulation. On 11 November 2015, the Commission submitted that

report to the Council and concluded ‘that the level of application of the Neum Regulation is satisfactory and there is no reason to suspend or repeal the regulation.’

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

This Regulation amends Council Regulation (EU) No 479/2013 of 13 May 2013 (the ‘Neum Regulation’) which was adopted on the basis of Article 43 of the Act on the conditions of accession of the Republic of Croatia to the EU ("Act of Accession). The Act provides that the Council, on a proposal from the Commission, defines the terms under which the requirement for an entry or exit summary declaration may be waived for Union goods that are moved across the Neum corridor. Therefore, Article 43 of the Act of Accession is the correct legal basis.

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THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the Treaty of Accession of the Republic of Croatia to the European Union,

Having regard to the Act concerning the conditions of accession of Croatia, and in particular Article 43 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 4(a) of Council Regulation (EU) No 479/2013 provides for a waiver from the requirement to submit entry and exit summary declarations for Union goods that are moved across the Neum corridor where the consignments of Union goods have a total value not exceeding EUR 10 000 and where the Union goods are accompanied by invoices or transport documents fulfilling the conditions laid down in Article 4(b) of that Regulation.
- (2) The threshold of EUR 10 000 was established by reference to the threshold of an equivalent value which is laid down in Article 317(4) of Commission Regulation (EEC) No 2454/93¹ and is the limit below which in order for customs authorities to consider that the customs status of Union goods is proven it is sufficient that these goods are accompanied by an invoice or transport document. If these conditions are met an endorsement by the competent customs authorities shall not be required.
- (3) With effect from 1 May 2016 the Community Customs Code laid down in Council Regulation (EEC) No 2913/92² was replaced by the Union Customs Code laid down in Regulation (EU) No 952/2013 of the European Parliament and of the Council³. As a result, the provisions of Regulation (EEC) No 2454/93 were replaced by those of

¹ Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 253, 11.10.1993, p. 1).

² Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code (OJ L 302, 19.10.1992, 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).

Commission Delegated Regulation (EU) 2015/2446⁴ and Commission Implementing Regulation (EU) 2015/2447⁵.

- (4) The subject-matter of Article 317(4) of Regulation (EEC) No 2454/93 is now governed by Article 126 (1) of Delegated Regulation (EU) 2015/2446. It provides that for goods whose value is below the threshold of EUR 15 000 the status of Union goods is to be considered proven on the basis of an invoice or transport document without any endorsement by the competent customs authorities.
- (5) In order to ensure a uniform application of the Union customs legislation it is therefore appropriate to align the scope of the waiver laid down in Article 4(a) of Regulation (EU) No 479/2013 to that provided for in Article 126 (1) of Delegated Regulation (EU) 2015/2446.
- (6) In addition, for reasons of legal certainty and legal clarity, the legal references in Article 4 of Regulation (EU) No 479/2013 to Regulation (EEC) No 2913/92 and to Regulation (EEC) No 2454/93 should be replaced by the relevant references to the Union Customs Code and Delegated Regulation (EU) 2015/2446.
- (7) It is therefore appropriate to amend Regulation (EU) No 479/2013 accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 479/2013 is amended as follows:

- (1) In Article 2, point (1) is replaced by the following:
‘(1) ‘Union goods’ means the goods defined in Article 5(23) of Regulation (EU) No 952/2013’;
- (2) Article 4 is amended as follows:
 - (a) point (a) is replaced by the following:
‘(a) the total value of each consignment of Union goods moved across the Neum Corridor does not exceed EUR 15 000 or its equivalent in local currency;’
 - (b) in point (b), point (i) is replaced by the following:
‘(i) include at least proofs by any of the means listed in Article 126 of Delegated Regulation (EU) 2015/2446,’.

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*.

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

⁴ 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).

⁵ 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).

Done at Brussels,

*For the Council
The President*