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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 952/2013 laying down the Union Customs Code, as regards goods that have temporarily left the customs territory of the Union by sea or air - Outcome of the European Parliament's first reading (Brussels, 30 November to 1 December 2016)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

In this context, the Rapporteur, Ms Maria GRAPINI (S&D, RO), recommended in her report, on behalf of the Committee on Internal Market and Consumer Protection, to take over the Commission proposal without any changes. This had been agreed during the informal contacts referred to above.

¹ OJ C 145, 30.6.2007, p.5

II. VOTE

When it voted on 1 December 2016, the plenary adopted the report and approved the Commission proposal without changes. This text and the legislative resolution constitute the Parliament's first-reading position, it reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

Union Customs Code, as regards goods that have temporarily left the customs territory of the Union by sea or air *I**

European Parliament legislative resolution of 1 December 2016 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 952/2013 laying down the Union Customs Code, as regards goods that have temporarily left the customs territory of the Union by sea or air (COM(2016)0477 – C8-0328/2016 – 2016/0229(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0477),
 - having regard to Article 294(2) and Article 207 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0328/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on the Internal Market and Consumer Protection (A8-0329/2016),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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Position of the European Parliament adopted at first reading on 1 December 2016 with a view to the adoption of Regulation (EU) 2016/... of the European Parliament and of the Council amending Regulation (EU) No 952/2013 laying down the Union Customs Code, as regards goods that have temporarily left the customs territory of the Union by sea or air

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure²,

Whereas:

² Position of the European Parliament of 1 December 2016.

- (1) With a view to facilitating trade flows, Article 136 of Regulation (EU) No 952/2013 of the European Parliament and of the Council³ excludes the application of certain provisions of that Regulation to goods that have temporarily left the customs territory of the Union while moving between two Union ports or airports without stopping outside the customs territory of the Union. Those provisions govern the obligation to lodge the entry summary declaration, the obligation to notify the arrival of a sea-going vessel or an aircraft, the obligation to convey the goods to certain places and to present them to the customs at the point where they are unloaded or transhipped, and temporary storage.
- (2) As a consequence of that exclusion, there is no legal basis for requiring goods that are unloaded or transhipped to be presented at the point where they re-enter the customs territory of the Union after having temporarily left it. Without such presentation, it may be more difficult for customs authorities to ensure the supervision of the goods concerned, and there is a risk both that import duty and other charges will not be correctly levied and that non-fiscal measures such as veterinary and phytosanitary controls will not be properly applied.

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).

- (3) Article 136 of Regulation (EU) No 952/2013 should therefore be amended in order to take into account the different situations of non-Union and Union goods.
- (4) In order to ensure effective customs supervision of non-Union goods, the provisions governing the obligation to convey the goods to certain places, to present them to customs upon unloading or transshipment, and to wait for authorisation before unloading or transshipping, as well as the provisions governing temporary storage, should continue to apply to non-Union goods. Article 136 of Regulation (EU) No 952/2013 should therefore be amended to provide that only the rules governing the obligation to lodge the entry summary declaration and the obligation to notify the arrival of a sea-going vessel or an aircraft are excluded with regard to non-Union goods.
- (5) In order to ensure effective supervision of Union goods, Article 136 of Regulation (EU) No 952/2013 should distinguish between the situation of Union goods the status of which needs to be proven pursuant to Article 153(2) of that Regulation and Union goods that have retained their status by virtue of Article 155(2) of that Regulation.

- (6) As regards Union goods the status of which needs to be proven pursuant to Article 153(2) of Regulation (EU) No 952/2013, only application of the rules governing the obligation to lodge the entry summary declaration and the obligation to notify the arrival of a sea-going vessel or an aircraft should be excluded, thereby allowing appropriate customs supervision.
- (7) The rules laid down in Article 139 of Regulation (EU) No 952/2013 governing the obligation to present the goods to customs upon unloading or transshipment and the obligation under Article 140 of that Regulation to wait for authorisation before unloading or transshipping the goods should likewise not apply to Union goods that have retained their status by virtue of Article 155(2) of that Regulation, having regard to the fact that, even if the goods have temporarily left the customs territory of the Union, their status has not been altered and does not need to be proven.
- (8) The references in Article 136 of Regulation (EU) No 952/2013 to Article 135(1) and Article 137 of that Regulation should be deleted in order to oblige the person bringing goods into the customs territory of the Union to convey them to the place designated by the customs authorities, so as to enable those authorities, if necessary, to check whether the goods are Union or non-Union goods.

- (9) The reference in Article 136 of Regulation (EU) No 952/2013 to Article 141 of that Regulation should be deleted so as to make it clear that Article 141(1) of that Regulation, which excludes the application of certain provisions to goods moved under the transit procedure, also applies when the goods re-enter the customs territory of the Union after having temporarily left it by direct sea or air route.
- (10) The reference in Article 136 of Regulation (EU) No 952/2013 to Articles 144 to 149 of that Regulation on temporary storage should likewise be deleted. While the rules laid down in those Articles do not apply to Union goods, they should apply to non-Union goods. In this regard, Article 136 of Regulation (EU) No 952/2013 should be amended accordingly.
- (11) This Regulation should enter into force as soon as possible in order to ensure effective supervision of goods without further delay,

HAVE ADOPTED THIS REGULATION:

Article 1

Article 136 of Regulation (EU) No 952/2013 is replaced by the following:

"Article 136

Goods that have temporarily left the customs territory of the Union by sea or air

1. Articles 127 to 130 and Article 133 shall not apply in cases where non-Union goods are brought into the customs territory of the Union after having temporarily left that territory by sea or by air and having been carried by direct route without a stop outside the customs territory of the Union.
2. Articles 127 to 130 and Article 133 shall not apply in cases where Union goods whose customs status as Union goods needs to be proven pursuant to Article 153(2) are brought into the customs territory of the Union after having temporarily left that territory by sea or by air and having been carried by direct route without a stop outside the customs territory of the Union.
3. Articles 127 to 130 and Articles 133, 139 and 140 shall not apply in cases where Union goods which move without alteration of their customs status in accordance with Article 155(2) are brought into the customs territory of the Union after having temporarily left that territory by sea or air and having been carried by direct route without a stop outside the customs territory of the Union."

Article 2

This Regulation shall enter into force on the 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.

Done at

For the European Parliament

For the Council

The President

The President
