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COMMISSION

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COMMISSION DELEGATED REGULATION (EU) …/...

of XXX

supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council with regard to detailed rules of specifying some of the provisions of the Union Customs Code

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

For many years work has been on-going on modernising customs legislation with effectiveness, simplification and trade facilitation as important principles. On this basis the Union Customs Code (UCC)[1] was adopted in 2013.In line with the changes to the types of European Union legal acts introduced by the Treaty of Lisbon, it concentrates on policy direction and objectives without entering into overly technical debates. Accordingly, this Regulation will become applicable as from 1 May 2016 subject to appropriate supplementing and implementing legal acts (Delegated Act and Implementing Act) being put into place. Their timely adoption is needed to enable the economic operators as well as customs administrations to prepare for their application.

These Delegated and Implementing Acts, together with the Union Customs Code form a legal package (UCC legal package) which aims to ensure:

(a) the modernisation of customs legislation and procedures and the use of Customs Information systems to facilitate doing business with customs and ensuring safe and secure trade of goods in the European Union;

(b) respect of the requirements of the Treaty of Lisbon;

(c) taking into account the evolution of policies, and legislation in other fields that might impact customs legislation such as safety and security in the transport field;

(d) rendering the customs business processes more streamlined and adequate based upon more clarity and better coherence in the customs legislation

(e) the reduction of administrative burden for economic operators through the use of electronic procedures and storage facilities, which will reduce reporting formalities and pave the way for further modernisation and better coordinated border management;

(f) following up on horizontal EU policies like the Digital Agenda and also initiatives to promote SMEs, which are among other initiatives seen as a major tools to generate employment and economic development and competitiveness;

(g) fully aligning EU customs rules to global standards as well as other international and global developments, including in the EU major trading partners, which will facilitate and streamline trade, thus increasing export opportunities for EU economic operators;

(h) protecting the Union financial resources (own resources) and fraud-proofing European customs legislation by closing loopholes, avoiding inconsistent interpretation and application of rules and providing electronic access to relevant information without creating additional burden for trade;

(i) ensuring a common set of information tools operating throughout the Customs Union, which will greatly contribute to achieve the objectives of better control and duty and tax collection whilst facilitating trade through harmonisation and streamlined electronic processes.

[1] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (recast)

The main policy objective of the Union Customs Code and the related Commission Acts is to improve the functioning of the EU customs union as a whole by enhancing the uniform application of the customs regulation throughout the customs territory of the EU by the Member States' national customs services. This proposal is also intended to streamline and to digitalise customs procedures in order to make them simpler and better structured. These improvements should result in substantial and tangible benefits to traders and to customs administrations.

The content of the Delegated Act can be divided into two distinct areas. Firstly there are provisions which touch on basic customs elements such as valuation or rules of origin where the texts build on existing practices and clarify existing rules. Secondly the texts provide the legal underpinning for the process of digitalising customs processes in line with the ambitions of the UCC and provide a platform for the work to be carried out by the Member States, trade and the Commission on the construction and deployment of computerised systems under their respective budgets.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The elaboration of this Delegated Act was done in accordance with the Framework Agreement on relations between the European Parliament and the European Commission and the Common Understanding of the European Parliament, Council and Commission on delegated acts. Member States and all other relevant stakeholders have been duly involved and been constantly consulted on the draft provisions.

Consultation and preparation as well as finalisation of draft legal texts were carried out from 2013 onwards with the Commission being committed to the UCC Delegated Act being adopted in the first half of 2015 with a view to its application as from May 2016.

Member States and the relevant stakeholders (TAXUD's Trade Contact Group - TCG) have been involved in the preparation of the preliminary draft Delegated act. Member States through meetings of the group of experts (Customs Code Expert Group) have expressed their views on the preliminary draft Delegated Act. Trade representatives within the Trade Contact Group gave their opinion on the preliminary draft provisions but were also consulted in ad hoc experts meetings or in joint meetings with Member States experts.

The preliminary draft UCC Delegated Act (together with the Implementing Act) has been first distributed to Member States and TCG on 13 January 2014. The first review cycle on the draft provisions took place between January and July 2014. More than 6000 comments were received and were responded to by the Commission (5000 from Member States and 1000 from TCG) during this review process. In order to complete the first round of the discussions, 52 days of meetings have been held (39 days with Member States, 5 days with TCG and 8 days of joint events). As a result of the 1st review cycle, the provisions were redrafted and the new versions were distributed to the stakeholders.

These amended provisions resulting from the 1st review cycle were used for discussions during a 2nd review cycle with the MS and with the TCG during the time period of September - December 2014. The second round of discussions encompassed 29 days of meetings (20 days with MS, 4 days with TCG and 5 days of joint events). The results of the 2nd review cycle have been incorporated to the preliminary draft provisions and the 3rd consolidated version was distributed to the stakeholders during December 2014.

Outstanding issues and the main changes have been discussed, explained and clarified in meetings in January 2015 with both Member States and the TCG.

Preliminary discussions with the relevant Commission services on the basis of the consolidated version of the preliminary draft Delegated Act started at the end of October 2014 and ran in parallel with the discussions with stakeholders. In the meantime, working sessions with the Legal Service (lawyer linguists) took place in parallel as well as briefing sessions with the EP (IMCO) and the CUWP at the Council.

On the basis of this work the draft UCC Delegated Act has been subject to Interservice Consultation and has been thoroughly discussed with the Legal Service in order to ensure that it is timely adopted and to allow the European Parliament and the Council to exercise their "right of objection", within 2 to 4 months of the adoption of the Delegated Act, before the act can be published and enter into force.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The recast of the Modernised Customs Code, the Union Customs Code (UCC) was adopted on 9 October 2013 as Regulation (EU) No 952/2013 of the European Parliament and of the Council. It entered into force on 30 October 2013 and repealed 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 or 'MCC') (OJ L 145, 4.6.2008, p.1).

However, its substantive provisions will apply only on 1 May 2016, once the UCC-related Commission acts (Delegated (DA) and Implementing Acts (IA)) are adopted and in force. The legal basis for the DA is contained in the UCC provisions on Delegation of Power.

Subsidiarity principle

As the UCC was not subject to a subsidiarity test it is not appropriate to carry out such a test on the Delegated Act. It should be noted that the smooth functioning of the Customs Union requires the creation of a framework at EU level and that the interdependence of Member States in an area without internal borders means that solutions, particularly involving cross-border systems operating in a harmonised and automated environment, require action at the level of the EU.

Proportionality principle

In terms of proportionality the Delegated Act respects the limits of the empowerments granted by the co-legislators and provides only for elements to complete the existing legal provisions on basic rules as well as providing the legal structure on which the planned IT systems can be built.

Budgetary implications: budgetary implications are the same as the ones of Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9/10/2013, laying down the Union Customs Code. Commission, Member States and economic operators will have to invest in accessible, inter-operable customs systems.

Simplification: the implementation of Regulation (EU) No 952/2013 through the Delegated and Implementing Act provides for better adequacy of legislation with business practices, supported by an optimal architecture and planning for IT developments, while encompassing all the advantages of the Regulation (EU) No 952/2013, namely the simplification of administrative procedures for public authorities (EU or national) and private parties. The full automation of systems and procedures will also reduce administrative burden for economic operators by reducing repetitive submission of data and by providing better streamlined processes.

Soft law instruments like guidelines and explanatory notes will be developed once the basic legal framework has been completed by the Delegated and Implementing Acts. In addition,

the UCC package is being supported and accompanied by adequate business process modelling (BPM) as well. This will ensure consistent and uniform interpretation and application of the customs rules by Member States, which will be of great benefit to economic operators as well as, where applicable, to private persons.

Repeal of existing legislation: provisions in the Implementing and Delegated Acts, together with the provisions contained within the UCC, will repeal and replace the following Regulations:

Council Regulation (EEC) No 2913/92 of 12 October 1992, establishing the Community Customs Code;

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;

Council Regulation (EEC) No 3925/91 of 19 December 1991 concerning the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing;

Council Regulation (EC) No 1207/2001 of 11 June 2001 on procedures to facilitate the issue or the making out in the Community of proofs of origin and the issue of certain approved exporter authorisations under the provisions governing preferential trade between the European Community and certain countries; as from the date of application of Regulation (EU) No 952/2013; and

Regulation (EC) N° 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code).

COMMISSION DELEGATED REGULATION (EU) …/...

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supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council with regard to detailed rules of specifying some of the provisions of the Union Customs Code

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 290

Having regard to Regulation (EU) No 952/2013 of the European Parliament and the Council of 9 October 2013 laying down the Union Customs Code[2], and in particular Articles 2, 7, 10, 24, 31, 36, 40, 62, 65, 75, 88, 99, 106, 115, 122, 126, 131, 142, 151, 156, 160, 164, 168, 175, 180, 183, 186, 196, 206, 212, 216, 221, 224, 231, 235, 253, 265 thereof,

Whereas:

(1) 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 is therefore called to exercise new powers in the post-Lisbon Treaty context, in order to allow for a clear and proper application of the Code.

(2) During its preparatory work, the Commission has carried out appropriate consultations, including at expert level and with the relevant stakeholders, who actively contributed to the drafting of this Regulation.

(3) The Code promotes the use of information and communication technologies, as laid down in Decision No 70/2008/EC of the European Parliament and of the Council[3], which is a key element in ensuring trade facilitation and, at the same time, the effectiveness of customs controls, thus reducing costs for business and risk for society. Therefore, all exchanges of information between customs authorities and between economic operators and customs authorities and the storage of such information using electronic data-processing techniques require specifications on the information systems dealing with the storage and processing of customs information and the need to provide for the scope and purpose of the electronic systems to be put in place in agreement with the Commission and the Member States. More specific information needs also to be provided for the specific systems related to customs formalities or procedures, or in the case of systems where the EU harmonised interface is defined as a component of the system offering a direct and EU harmonised access to trade, in the form of a service integrated in the electronic customs system.

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2 OJ L 269, 10.10.2013, p. 1.

3 Decision No 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless environment for customs and trade (OJ L 23, 26.1.2008, p. 21).

(4) The procedures based on electronic systems laid down in Commission Regulation (EEC) No 2454/93[4] and already applied for the areas of import, export and transit have proven to be efficient. Therefore, continuity in the application of those rules should be ensured.

(5) To facilitate the use of electronic data-processing techniques and to harmonise their use, common data requirements should be laid down for each of the areas for which those data-processing techniques are to be applied. The common data requirements should be in line with Union and national data protection provisions in force.

(6) In order to ensure a level playing field between postal operators and other operators, a uniform framework for the customs clearance of items of correspondence and postal consignments should be adopted in order to allow for the use of electronic systems. With a view to providing trade facilitation while preventing fraud and protecting the rights of consumers, appropriate and feasible rules for declaring postal items to customs should be laid down that take into due consideration the obligation of postal operators to provide universal postal service in accordance with the acts of the Universal Postal Union.

(7) In order to achieve additional flexibility for economic operators and customs authorities, it should be possible to allow for the use of means other than electronic data-processing techniques in situations where also the risk of fraud is limited. Those situations should in particular cover the notification of the customs debt, exchange of the information establishing the conditions for the relief of import duty; notification by the same means by the customs authorities where the declarant has lodged a declaration using means other than electronic data-processing techniques; presentation of the Master Reference Number (MRN) for transit in ways other than on a transit accompanying document, the possibility to lodge retrospectively an export declaration and to present the goods at the customs office of exit as well as evidence that the goods have left the custom territory of the Union or the exchange and storage of information relating to an application and a decision relating to binding origin information.

(8) In situations where the use of electronic data-processing techniques would mean excessive efforts for the economic operators, for the sake of the alleviation of those efforts, the use of other means should be allowed, in particular for the proof of the customs status of Union goods for commercial consignments of limited value or the use of oral declaration for export also for commercial goods provided that their value does not exceed the statistical threshold. The same applies to a traveller other than an economic operator for situations where he makes a request for a proof of the customs status of Union goods or for fishing vessels up to a certain length. Moreover, due to obligations emanating from international agreements which foresee that procedures are carried on paper it would be contrary to those agreements to impose an obligation to use electronic data-processing techniques.

(9) For the purpose to have a unique identification of economic operators it should be clarified that each economic operator is to register only once with a clearly defined data set. The registration of economic operators not established in the European Union as well as of persons other than economic operators allows for the proper functioning of electronic systems that require an EORI number as an unequivocal reference to the

[4] 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).

economic operator. Data should not be stored for longer than needed and therefore rules for the invalidation of an EORI number should be foreseen.

(10) The period for exercising the right to be heard by a person applying for a decision relating to the application of the customs legislation (applicant) should be sufficient to allow the applicant to prepare and submit his point of view to the customs authorities. That period, should, nevertheless, be reduced in cases where the decision pertains to the results of the control of goods not properly declared to customs.

(11) In order to strike a balance between the effectiveness of the customs authorities' tasks and the respect of the right to be heard, it is necessary to provide for certain exemptions from the right to be heard.

(12) In order to enable the customs authorities to take decisions which will have a Union-wide validity in the most efficient way, uniform and clear conditions for both the customs administrations and the applicant should be established. Those conditions should relate in particular to the acceptance of an application for a decision, not only with regard to new applications, but also taking into account any previous decision annulled or revoked, as this acceptance should encompass only applications that provide customs authorities with the necessary elements to analyse the request.

(13) In cases where the customs authorities ask for additional information which is necessary for them to reach their decision, it is appropriate to provide for an extension of the time-limit for taking that decision, in order to assure an adequate examination of all the information provided by the applicant.

(14) In certain cases a decision should take effect from a date which is different from the date on which the applicant receives it or is deemed to have received it, namely when the applicant has requested a different date of effect or the effect of the decision is conditional to the completion of certain formalities by the applicant. Those cases should be thoroughly identified, for the sake of clarity and legal certainty.

(15) For the same reasons, the cases where a customs authority has the obligation to re-assess and, where appropriate, suspend a decision should also be thoroughly identified.

(16) With a view to ensuring the necessary flexibility and in order to facilitate audit-based controls, a supplementary criterion should be established for those cases where the competent customs authority cannot be determined according to the third subparagraph of Article 22(1) of the Code.

(17) For the sake of trade facilitation, it is desirable to determine that applications for decisions relating to binding information may also be submitted in the Member State where the information is to be used.

(18) In order to avoid the issuing of incorrect or non-uniform decisions relating to binding information, it is appropriate to determine that specific time-limits should apply for issuing such decisions in cases where the normal time-limit cannot be met.

(19) While the simplifications for an Authorised Economic Operator (AEO) should be determined as part of the specific provisions on customs simplifications for reasons of convenience, facilitations for AEO have to be assessed against the security and safety risks associated with a particular process. Since the risks are addressed where an economic operator authorised for security and safety as referred to in Article 38(2)(b) of the Code (AEOS) lodges a customs declaration or a re-export declaration for goods taken out of the customs territory of the Union, risk analysis for security and safety purposes should be carried out on the basis of such declaration and no additional

particulars related to security and safety should be required. With a view to the criteria for granting the status, the AEO should enjoy a favourable treatment in the context of controls unless the controls are jeopardised or required according to a specific threat level or by other Union legislation.

(20) By Decision 94/800/EC[5] the Council approved the Agreement on Rules of Origin (WTO-GATT 1994), annexed to the final act signed in Marrakesh on 15 April 1994. The Agreement on Rules of Origin states that specific rules for origin determination of some product sectors should first of all be based on the country where the production process has led to a change in tariff classification. Only where that criterion does not allow to determine the country of last substantial transformation can other criteria be used, such as a value added criterion or the determination of a specific processing operation. Considering that the Union is party to that Agreement it is appropriate to lay down provisions in the Union customs legislation reflecting those principles laid down in that Agreement for the determination of the country where goods underwent their last substantial transformation.

(21) In order to prevent manipulation of the origin of imported goods with the purpose of avoiding the application of commercial policy measures, the last substantial processing or working should in some cases be deemed not to be economically justified.

(22) Rules of origin applicable in connection with the definition of the concept of 'originating products' and with cumulation within the framework of the Union's Generalised System of Preferences (GSP) and of the preferential tariff measures adopted unilaterally by the Union for certain countries or territories should be established in order to ensure that the preferences concerned are only granted to products genuinely originating in GSP beneficiary countries and in these countries or territories, respectively and thus benefit their intended recipients.

(23) In view of avoiding disproportionate administrative costs while ensuring protection of the financial interests of the Union, it is necessary, in the context of simplification and facilitation, to ensure that the authorisation granted to determine specific amounts relating to the customs value on the basis of specific criteria is subject to appropriate conditions.

(24) It is necessary to establish calculation methods in order to determine the amount of import duty to be charged on processed products obtained under inward processing, as well as for cases where a customs debt is incurred for processed products resulting from the outward processing procedure and where specific import duty is involved. .

(25) No guarantee should be required for goods placed under the temporary admission procedure where this is not economically justified.

(26) The types of security most used for ensuring payment of a customs debt are a cash deposit or its equivalent or the provision of an undertaking given by a guarantor; however, economic operators should have the possibility to provide to the customs authoritiesother types of guarantee as long as those types provide equivalent assurance that the amount of import or export duty corresponding to the customs debt and other charges will be paid. It is therefore necessary to determine those other types of guarantee and specific rules regarding their use.

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[5] Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regards matters within its competence, of the agreements reached in the Uruguay Round multilateral negotiations (1986-1994) (OJ L 336, 23.12.1994, p. 1).

(27) In order to ensure a proper protection of the financial interests of the Union and of the Member States and a level playing field between economic operators, economic operators should only benefit from a reduction of the level of the comprehensive guarantee or from a guarantee waiver if they fulfil certain conditions demonstrating theirreliability

(28) In order to ensure legal certainty it is necessary to supplement the rules of the Code on the release of the guarantee where goods are placed under the Union transit procedure and where a CPD carnet or an ATA carnet is used.

(29) The notification of the customs debt is not justified under certain circumstances where the amount concerned is less than EUR 10. The customs authorities should therefore be exempted from notification for the customs debt in those cases.

(30) In order to avoid recovery proceedings where remission of import or export duty is likely to be granted, there is a need to provide for a suspension of the time-limit for payment of the amount of duty until the decision has been taken. In order to protect the financial interests of the Union and the Member States a guarantee should be required to benefit from such suspension except where this would cause serious economic or social difficulties. The same should apply where the customs debt is incurred through non-compliance, provided that no deception or obvious negligence can be attributed to the person concerned.

(31) In order to ensure uniform conditions for the implementation of the Code and to offer clarification as to the detailed rules on the basis of which the UCC provisions are to be put into practice, including the specifications and the procedures to be fulfilled, requirements and clarifications should be included on the conditions for application for repayment or remission, the notification of a decision on repayment or remission, the formalities and the time-limit to take a decision on repayment or remission. General provisions should be applicable when decisions are to be taken by the Member States' customs authorities, whereas it is appropriate to lay down a specific procedure for those cases where a decision is to be taken by the Commission.. This Regulation regulates the procedure concerning the decision of repayment or remission to be taken by the Commission, notably on the transmission of the file to the Commission, the notification of the decision and the application of the right to be heard, , taking into account the Union interest in ensuring that the customs provisions are respected and the interests of economic operators acting in good faith.

(32) Where the extinguishment of the customs debt occurs due to situations of failures with no significant effect on the correct operation of the customs procedure concerned, those situations should include in particular cases of non-compliance with certain obligations provided that the non-compliance can be remedied afterwards.

(33) The experience gained with the electronic system relating to entry summary declarations and the requirements for customs stemming from the EU Action Plan on Air Cargo Security[6] have highlighted the need for improving the data quality of such declarations, notably by requiring the real supply-chain parties to motivate the transaction and movements of goods. Since contractual arrangements prevent the carrier from providing all of the required particulars, those cases and the persons holding and required to provide that data should be determined.

(34) In order to allow for further improving the effectiveness of security and safety related risk analysis for air transport and, in the case of containerised cargo, for maritime

[6] Council document 16271/1/10 Rev. 1

transport, required data should be submitted before loading the aircraft or the vessel, while in the other cases of transport of goods risk analysis can effectively also be carried out where the data is submitted before the arrival of goods in the customs territory of the Union. For the same reason, it is justified to replace the general waiver from the obligation to lodge an entry summary declaration for goods moved under the acts of the Universal Postal Union by a waiver for items of correspondence and to remove the waiver based on the value of the goods as the value cannot be a criterion for assessing the security and safety risk.

(35) In order to ensure a smooth flow in the movement of goods, it is appropriate to apply certain customs formalities and controls to trade in Union goods between parts of the customs territory of the Union to which the provisions of Council Directive 2006/112/EC[7] or of Council Directive 2008/118/EC[8] apply and the rest of the customs territory of the Union, or to trade between parts of that territory where those provisions do not apply.

(36) The presentation of the goods on arrival in the customs territory of the Union and the temporary storage of goods should as a general rule take place in the premises of the competent customs office or in temporary storage facilities operated exclusively by the holder of an authorisation granted by the customs authorities. However, in order to achieve additional flexibility for economic operators and customs authorities, it is appropriate to provide for the possibility to approve, a place other than the competent customs office for the purposes of the presentation of goods or a place other than a temporary storage facility for the temporary storage of the goods.

(37) In order to increase clarity for the economic operators in respect of the customs treatment of goods entering the customs territory of the Union, rules should be defined for situations where the presumption of the customs status of Union goods does not apply. Furthermore, rules should be laid down for situations where goods keep their customs status as Union goods when they have temporarily left the customs territory of the Union and re-enter so that both traders and the customs administrations can handle those goods efficiently at re-entry. Conditions for the granting of facilitation in the establishment of the proof of the customs status of Union goods should be determined with a view to alleviating the administrative burden for the economic operators.

(38) In order to facilitate the correct application of the benefit of relief from import duty, it is appropriate to determine the cases where goods are considered to be returned in the state in which they were exported and the specific cases of returned goods which have benefited from measures laid down under the common agricultural policy and also benefit from relief from import duty.

(39) In the case where asimplified declaration for placing goods under a customs procedure is regularly used, appropriate conditions and criteria, similar to the ones applying to AEOs', should be fulfilled by the authorisation holder, in order to ensure the adequate use of simplified declarations. The conditions and criteria should be proportionate to the benefits of the regular use of simplified declarations. Moreover, harmonised rules should be established with regard to the time-limits for lodging a supplementary

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[7] 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)

[8] Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ L 9, 14.1.2009, p.12)

declaration and any supporting documents which are missing at the time where the simplified declaration is lodged.

(40) In order to seek a balance between facilitation and control, appropriate conditions, distinct from the ones applicable for special procedures, should be laid down for the use of the simplified declaration and entry in the declarant's records as simplifications for placing goods under a customs procedure.

(41) Due to the requirements as regards the supervision of the exit of goods, entry in the declarant's records for export or re-export should be possible only where the customs authorities can deal without a customs declaration on the basis of a transaction and limited to specific cases.

(42) Where an amount of import duty is potentially not payable as a result of a request for the granting of a tariff quota, the release of the goods should not be conditional upon the lodging of a guarantee where there is no reason to suppose that the tariff quota will be very shortly exhausted.

(43) In order to achieve additional flexibility for economic operators and customs authorities, authorized banana weighers should be allowed to draw up banana weighing certificate that will be used as supporting documents for the verification of the customs declaration for release for free circulation..

(44) In certain situations it is appropriate that a customs debt does not incur and import duty is not payable by the holder of the authorisation. Therefore, it should be possible to extend the time-limit for the discharge of a special procedure in such cases.

(45) In the interest of having the right balance between minimising the administrative burden for both the customs administrations and the economic operators and ensuring the correct application of the transit procedures and preventing misuse, transit simplifications should be made available to reliable economic operators and on the basis of harmonised criteria to the widest possible extent. Therefore, the requirements for access to those simplifications should be aligned with the conditions and criteria applying to the economic operators who wish to be granted the status of AEO.

(46) In order to prevent possible fraudulent actions in cases of certain transit movements linked with export, rules for specific cases should be determined where goods having the customs status of Union goods are placed under the external transit procedure.

(47) The Union is a contracting party to the Convention on temporary admission[9], including any subsequent amendments thereof (Istanbul Convention). Therefore, the requirements of specific use under temporary admission which allow the temporary use of non-Union goods in the customs territory of the Union with total or partial relief from import duty, which are laid down in this Regulation, have to be in line with that Convention.

(48) Customs procedures concerning customs warehousing, free zones, end-use, inward processing and outward processing should be simplified and rationalised in order to make the use of special procedures more attractive for trade. Therefore, the various inward processing procedures under the drawback system and the suspension system and the processing under customs control should be merged into a single procedure of inward processing.

[9] OJ L 130, 27 May 1993, p.1

(49) Legal certainty and equal treatment between economic operators require the indication of the cases in which an examination of the economic conditions for inward and outward processing is required.

(50) In order for traders to benefit from increased flexibility regarding the use of equivalent goods, it should be possible to use equivalent goods under the outward processing procedure.

(51) In order to reduce administrative costs, a longer period of validity of authorisations for specific use and processing than the one applied under Regulation (EEC) No 2454/93 should be laid down.

(52) A bill of discharge should not only be required for inward processing but also for end-use in order to facilitate the recovery of any amount of import duty and hence, to safeguard the financial interests of the Union.

(53) It is appropriate to determine clearly the cases in which movement of goods which have been placed under a special procedure other than transit is allowed, so that it is not necessary to use the external Union transit procedure whichwould require two additional customs declarations.

(54) In order to ensure the most effective and the least disruptive risk analysis, the pre-departure declaration should be lodged within time-limits taking account of the particular situation of the mode of transport concerned. For maritime transport, in the case of containerised cargo, required data should be submitted already within a time-limit before loading the vessel, while in the other cases of transport of goods risk analysis can effectively also be carried out where the data is submitted within a time-limit subject to the departure of goods from the customs territory of the Union. The obligation to lodge a pre-departure declaration should be waived where the type of goods, their transport modalities or their specific situation allow for the assessment that no security and safety risk related data need to be required without prejudice to the obligations related to export or re-export declarations.

(55) In order to achieve additional flexibility for the customs authorities when dealing with certain irregularities in the framework of the export procedure, it should be possible to invalidate the customs declaration on customs initiative.

(56) In order to safeguard the legitimate interests of economic operators and ensure the continued validity of decisions taken and authorisations granted by customs authorities on the basis of the provisions of the Code and or on the basis of Council Regulation (EEC) No 2913/92[10] and Regulation (EEC) No 2454/93, it is necessary to establish transitional provisions in order to allow for the adaptation of those decisions and authorisations to the new legal rules.

(57) In order to afford Member States sufficient time to adjust customs seals and seals of a special type used to ensure the identification of goods under a transit procedure to the new requirements laid down in this Regulation, it is appropriate to provide for a transitional period during which Member States may continue using seals satisfying the technical specifications laid down in Regulation (EEC) No 2454/93.

(58) The general rules supplementing the Code are closely interlinked, they cannot be separated due to the interrelatedness of their subject matter while they contain horizontal rules that apply across several customs procedures. Therefore, it is

[10] Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code OJ L 302, 19.10.1992, p.91.

appropriate to group them together in a single Regulation in order to ensure legal coherence,

(59) The provisions of this Regulation should apply as from 1 May 2016 in order to enable the full application of the Code,

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

CHAPTER 1

Scope of the customs legislation, mission of customs and definitions

Article 1

Definitions

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

(1) 'agricultural policy measure' means the provisions related to import and export activities for products which are covered by Annex 71-02, points 1, 2 and 3.;

(2) 'ATA Carnet' means an international customs document for temporary admission issued in accordance with the ATA Convention or the Istanbul Convention;

(3) 'ATA Convention´ means the Customs Convention on the ATA carnet for the temporary admission of goods done at Brussels on 6 December 1961;

(4) 'Istanbul Convention´ means the Convention on temporary admission done at Istanbul on 26 June 1990;

(5) 'baggage' means all goods carried by whatever means in relation to a journey of a natural person;

(6) 'Code' means Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code;

(7) 'Union airport' means any airport situated in the customs territory of the Union;

(8) 'Union port' means any sea port situated in the customs territory of the Union;

(9) 'Convention on a common transit procedure' means the Convention on a common transit procedure[11];

(10) 'common transit country' means any country, other than a Member State of the Union that is a contracting party to the Convention on a common transit procedure;

(11) 'third country' means a country or territory outside the customs territory of the Union;

(12) 'CPD Carnet' means an international customs document used for temporary admission of means of transport issued in accordance with the Istanbul Convention;

(13) 'customs office of departure' means the customs office where the customs declaration placing goods under a transit procedure is accepted;

(14) 'customs office of destination' means the customs office where the goods placed under a transit procedure are presented in order to end the procedure;

(15) 'customs office of first entry' means the customs office which is competent for customs supervision at the place where the means of transport carrying the goods arrives in the customs territory of the Union from a territory outside that territory.

[11] OJ L 226, 13.8.1987, p. 2

(16) 'customs office of export' means the customs office where, the export customs declaration or the re-export declaration is lodged for goods being taken out of the customs territory of the Union;

(17) 'customs office of placement' means customs office indicated in the authorisation for a special procedure as referred to in Article 211(1) of the Code, empowered to release goods for a special procedure;

(18) ‘Economic Operators Registration and Identification number' (EORI number) means an identification number, unique in the customs territory of the Union, assigned by a customs authority to an economic operator or to another person in order to register him for customs purposes;

(19) 'exporter' means

(a) the person established in the customs territory of the Union who, at the time when the declaration is accepted, holds the contract with the consignee in the third country and has the power for determining that the goods are to be brought to a destination outside the customs territory of the Union,

(b) the private individual carrying the goods to be exported where these goods are contained in the private individual’s personal baggage,

(c) in other cases, the person established in the customs territory of the Union who has the power for determining that the goods are to be brought to a destination outside the customs territory of the Union.

(20) 'generally accepted accounting principles' means the principles which are recognised or have substantial authoritative support within a country at a particular time as to which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed, and which financial statements should be prepared;

(21) 'goods of a non-commercial nature' means

(a) goods contained in consignments sent by one private individual to another, where such consignments:

(i) are of an occasional nature,

(ii) contain goods exclusively for the personal use of the consignee or his family, which do not by their nature or quantity reflect any commercial interest and

(iii) are sent to the consignee by the consignor free of payment of any kind;

(b) goods contained in travellers' personal baggage, where they:

(i) are of an occasional nature, and

(ii) consist exclusively of goods for the personal use of the travellers or their families, or of goods intended as presents; the nature and quantity of such goods must not be such as might indicate that they are being imported or exported for commercial reasons;

(22) 'Master Reference Number' (MRN) means the registration number allocated by the competent customs authority to declarations or notifications referred to in Article

5(9) to (14) of of the Code, to TIR operations or to proofs of the customs status of Union goods;

(23) 'period for discharge' means the time by which goods placed under a special procedure, except transit, or processed products must be placed under a subsequent customs procedure, must be destroyed, must have been taken out of the customs territory of the Union or must be assigned to their prescribed end-use. In case of outward processing the period for discharge means the period within which goods temporarily exported may be re-imported into the customs territory of the Union in the form of processed products and placed under release for free circulation, in order to able to benefit from total or partial relief from import duties;

(24) 'goods in postal consignment' means goods other than items of correspondence, contained in a postal parcel or package and conveyed under the responsibility of or by a postal operator in accordance with the provisions of the Universal Postal Union Convention adopted on 10 July 1984 under the aegis of the United Nations Organisation;

(25) 'postal operator' means an operator established in and designated by a Member State to provide the international services governed by the Universal Postal Convention;

(26) 'items of correspondence' means letters, postcards, braille letters and printed matter not liable to import or export duty;

(27) outward processing IM/EX' means the prior import of processed products obtained from equivalent goods under outward processing before the export of the goods they are replacing, referred to in Article 223(2)(d) of the Code;

(28) ‘outward processing EX/IM’ means the export of Union goods under outward processing before the import of processed products;

(29) inward processing EX/IM' means the prior export of processed products obtained from equivalent goods under inward processing before the import of the goods they are replacing, referred to in Article 223(2)(c) of the Code;

(30) ‘inward processing IM/EX’ means the import of non-Union goods under inward processing before the export of processed products;

(31) 'private individual' means natural persons other than taxable persons acting as such as defined by Council Directive 2006/112/EC ;

(32) 'public customs warehouse type I' means a public customs warehouse where the responsibilities referred to in Article 242(1) of the Code lie with the holder of the authorisation and with the holder of the procedure;

(33) 'public customs warehouse type II' means a public customs warehouse where the responsibilities referred to in Article 242(2) of the Code lie with the holder of the procedure;

(34) 'single transport document' means in the context of customs status a transport document issued in a Member State covering the carriage of the goods from the point of departure in the customs territory of the Union to the point of destination in that territory under the responsibility of the carrier issuing the document;

(35) 'special fiscal territory' means a part of the customs territory of the Union where the provisions of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax or Council Directive 2008/118/EC of 16 December 2008

concerning the general arrangements for excise duty and repealing Directive 92/12/EEC do not apply;

(36) 'supervising customs office' means

(a) in case of temporary storage as referred to in Title IV of the Code or in case of special procedures other than transit as referred to in Title VII of the Code, the customs office indicated in the authorisation to supervise either the temporary storage of the goods or the special procedure concerned;

(b) in case of simplified customs declaration, as referred to in Article 166 of the Code, centralised clearance, as referred to in Article 179 of the Code, entry in the records, as referred to in Article 182 of the Code the customs office indicated in the authorisation to supervise the placing of the goods under the customs procedure concerned;

(37) 'TIR Convention' means the Customs Convention on the International Transport of Goods under cover of TIR carnets done at Geneva on 14 November 1975;

(38) 'TIR operation' means the movement of goods within the customs territory of the Union in accordance with the TIR Convention;

(39) 'transhipment' means the unloading of products and goods on board of a of means of transport to another means of transport;

(40) 'traveller' means any natural person who:

(a) enters into the customs territory of the Union temporarily and is not normally resident there, or

(b) returns to the customs territory of the Union where he is normally resident, after having been temporarily outside this territory, or

(c) temporarily leaves the customs territory of the Union where he is normally resident, or

(d) leaves the customs territory of the Union after a temporary stay, without being normally resident there;

(41) 'waste and scrap' means either of the following:

(a) goods or products which are classified as waste and scrap in accordance with the Combined Nomenclature;

(b) in the context of end-use or inward processing, goods or products resulting from a processing operation, which have no or low economic value and which cannot be used without further processing.

(42) ‘pallets’ means a device on the deck of which a quantity of goods can be assembled to form a unit load for the purpose of transporting it, or of handling or stacking it with the assistance of mechanical appliances. This device is made up of two decks separated by bearers, or of a single deck supported by feet; its overall height is reduced to the minimum compatible with handling by fork lift trucks or pallet trucks; it may or may not have a superstructure;

(43) 'Union factory ship' means a vessel which is registered in a part of a Member State's territory forming part of the customs territory of the Union, flies the flag of a Member State and does not catch products of sea-fishing but does process such products on board;

(44) 'Union fishing vessel' means a vessel which is registered in a part of a Member State's territory forming part of the customs territory of the Union, flies the flag of a Member State, catches products of sea-fishing and, as the case may be, processes them on board;

(45) 'regular shipping service' means a service which carries goods in vessels that ply only between Union ports and does not come from, go to or call at any points outside the customs territory of the Union or any points in a free zone of a Union port.

CHAPTER 2

Rights and obligations of persons with regard to the customs legislation

SECTION 1

PROVISION OF INFORMATION

SUBSECTION 1

COMMON DATA REQUIREMENTS FOR DATA EXCHANGE AND STORAGE

Article 2

Common data requirements

(Article 6(2) of the Code)

1. The exchange and storage of information required for applications and decisions shall be subject to the common data requirements set out in Annex A.

2. The exchange and storage of information required for declarations, notifications and proof of customs status shall be subject to the common data requirements set out in Annex B.

SUBSECTION 2

REGISTRATION OF PERSONS WITH THE CUSTOMS AUTHORITIES

Article 3

Data content of EORI record

(Article 6(2) of the Code)

At the time of registration of a person, the customs authorities shall collect and store the data laid down in Annex 12-01 concerning that person. That data shall constitute the EORI record.

Article 4

Submission of particulars for EORI registration

(Article 6(4) of the Code)

Customs authorities may allow persons to submit the particulars necessary for the EORI registration by means other than electronic data-processing techniques.

Article 5

Economic operators not established in the customs territory of the Union

(Article 22(2) and 9(2) of the Code)

1. An economic operator not established in the customs territory of the Union shall register before:

(a) lodging a customs declaration in the customs territory of the Union other than the following declarations:

  (i) a customs declaration made in accordance with Articles 135 to 144;

  (ii) a customs declaration for placing goods under the temporary admission procedure or a re-export declaration to discharge that procedure;

  (iii) a customs declaration made under the Convention on a common transit procedure [12] by an economic operator established in a common transit country;

  (iv) a customs declaration made under the Union transit procedure by an economic operator established in Andorra or in San Marino;

(b) lodging an exit or entry summary declaration in the customs territory of the Union;

(c) lodging a temporary storage declaration in the customs territory of the Union;

(d) acting as a carrier for the purposes of transport by sea, inland waterway or air;;

(e) acting as a carrier who is connected to the customs system and wishes to receive any of the notifications provided for in the customs legislation regarding the lodging or amendment of entry summary declarations..

2. Notwithstanding paragraph 1(a)(ii), economic operators not established in the customs territory of the Union shall register with the customs authorities before lodging a customs declaration for placing goods under the temporary admission procedure or a re-export declaration to discharge that procedure where registration is required for the use of the common guarantee management system.

3. Notwithstanding paragraph 1(a)(iii), economic operators established in a common transit country shall register with the customs authorities before lodging a customs declaration under the Convention on a common transit procedure where that declaration is lodged instead of an entry summary declaration or is used as a pre-departure declaration.

[12] OJ L 226, 13.8.1987, p. 2.

4. Notwithstanding paragraph 1(a)(iv), economic operators established in Andorra or in San Marino shall register with the customs authorities before lodging a customs declaration made under the Union transit procedure where that declaration is lodged instead of an entry summary declaration or is used as a pre-departure declaration.

5. By derogation from paragraph 1(d), an economic operator acting as a carrier for the purposes of transport by sea, inland waterway or air shall not register with the customs authorities where he has been assigned a third country unique identification number in the framework of a third country traders' partnership programme which is recognised by the Union.

6. Where registration is required in accordance with this Article, it shall be done with the customs authorities responsible for the place where the economic operator lodges a declaration or applies for a decision.

Article 6

Persons other than economic operators

(Article 9(3) of the Code)

1. Persons other than economic operators shall register with the customs authorities where one of the following conditions is met:
   (a) such registration is required by the legislation of a Member State;
   (b) the person engages in operations for which an EORI number must be provided pursuant to Annex A and Annex B.
2. By way of derogation from paragraph 1, where a person other than an economic operator only occasionally lodges customs declarations, and the customs authorities consider this to be justified, registration shall not be required.

Article 7

Invalidation of an EORI number

(Article 9(4) of the Code)

1. The customs authorities shall invalidate a EORI number in any of the following cases:
   (a) upon request by the registered person;
   (b) when the customs authority is aware that the registered person has ceased the activities requiring the registration.
2. The customs authority shall record the date of invalidation of the EORI number and shall notify it to the registered person.

SECTION 2

DECISIONS RELATING TO THE APPLICATION OF THE CUSTOMS LEGISLATION

SUBSECTION 1

RIGHT TO BE HEARD

Article 8

Period for the right to be heard

(Article 22(6) of the Code)

1. The period for the applicant to express his point of view before a decision which would adversely affect him is taken shall be 30 days.
2. Notwithstanding paragraph 1, where the decision pertains to the results of the control of goods for which no summary declaration, temporary storage declaration, re-export declaration or customs declaration has been lodged, the customs authorities may require the person concerned to express his point of view within 24 hours.

Article 9

Means for the communication of the grounds

(Article 6(3)(a) of the Code)

Where the communication referred to in the first subparagraph of Article 22(6) of the Code is made as part of the process of verification or control, the communication may be made using means other than electronic data-processing techniques.

Where the application is submitted or the decision is notified using means other than electronic data-processing techniques, the communication may be made using the same means.

Article 10

Exceptions to the right to be heard

(Article 22(6), 2nd subparagraph of the Code)

The specific cases where the applicant is not given an opportunity to express his point of view shall be the following:

(a) where the application for a decision does not fulfil the conditions laid down in Article 11 ;

(b) where the customs authorities notify the person who lodged the entry summary declaration that the goods are not to be loaded in the case of containerised maritime traffic and of air traffic;

(c) where the decision concerns a notification to the applicant of a Commission decision as referred to in Article 116(3) of the Code;

(d) where an EORI number is to be invalidated.

SUBSECTION 2

GENERAL RULES ON DECISIONS TAKEN UPON APPLICATION

Article 11

Conditions for the acceptance of an application

(Article 22(2) of the Code)

1. An application for a decision relating to the application of the customs legislation shall be accepted provided that the following conditions are met:

   (a) where required under the procedure which the application concerns, the applicant is registered in accordance with Article 9 of the Code;

   (b) where required under the procedure which the application concerns, the applicant is established in the customs territory of the Union;

   (c) the application has been submitted to a customs authority designated to receive applications in the Member State of the competent customs authority referred to in the third subparagraph of Article 22(1) of the Code;

   (d) the application does not concern a decision with the same purpose as a previous decision addressed to the same applicant which, during the one year period preceding the application, was annulled or revoked on the grounds that the applicant failed to fulfil an obligation imposed under that decision.

2. By way of derogation from paragraph 1(d), the period referred to therein shall be three years where the previous decision was annulled in accordance with Article 27(1) of the Code, or the application is an application for the status of authorised economic operator submitted in accordance with Article 38 of the Code.

Article 12

Customs authority competent to take the decision

(Article 22(1) of the Code)

Where it is not possible to determine the competent customs authority in accordance with the third subparagraph of Article 22(1) of the Code, the competent customs authority shall be that

of the place where the applicant's records and documentation enabling the customs authority to take a decision (main accounts for customs purposes) are held or accessible.

Article 13

Extension of the time-limit for taking a decision

(Article 22(3) of the Code)

1. Where, after acceptance of the application, the customs authority competent to take the decision considers it necessary to ask for additional information from the applicant in order to reach its decision, it shall set a time-limit that shall not exceed 30 days for the applicant to provide that information.The time-limit for taking a decision laid down in Article 22(3) of the Code shall be extended by that period of time. The applicant shall be informed of the extension of the time-limit for taking a decision.
2. Where Article 8 (1) is applied, the time-limit for taking the decision laid down in Article 22(3) of the Code shall be extended by a period of 30 days. The applicant shall be informed of the extension.
3. Where the customs authority competent to take the decision has extended the period for consultation of another customs authority, the time-limit for taking the decision shall be extended by the same period of time as the extension of the consultation period. The applicant shall be informed of the extension of the time-limit for taking a decision.
4. Where there are serious grounds for suspecting an infringement of customs legislation and the customs authorities conduct investigations based on those grounds, the time-limit to take the decision shall be extended by the time necessary to complete those investigations. That extension shall not exceed nine months. Unless it would jeopardise the investigations, the applicant shall be informed of the extension.

Article 14

Date of effect

(Article 22(4) and (5) of the Code)

The decision shall take effect from a date which is different from the date on which the applicant receives it or is deemed to have received it in the following cases:

(a) where the decision will favourably affect the applicant and the applicant has requested a different date of effect, in which case the decision shall take effect from the date requested by the applicant provided it is subsequent to the date on which the applicant receives the decision or is deemed to have received it;

(b) where a previous decision has been issued with a limitation of time and the sole aim of the current decision is to extend its validity, in which case the decision shall take effect from the day after the expiry of the period of validity of the former decision;

(c) where the effect of the decision is conditional on the completion of certain formalities by the applicant, in which case the decision shall take effect from the day on which the applicant receives, or is deemed to have received, the notification from the competent customs authority stating that the formalities have been satisfactorily completed.

Article 15

Re-assessment of a decision

(Article 23(4)(a) of the Code)

1. The customs authority competent to take the decision shall re-assess a decision in the following cases:

   (a) where there are changes to the relevant Union legislation affecting the decision;

   (b) where necessary as a result of the monitoring carried out;

   (c) where necessary due to information provided by the holder of the decision in accordance with Article 23(2) of the Code or by other authorities.

2. The customs authority competent to take the decision shall communicate the result of the re-assessment to the holder of the decision.

Article 16

Suspension of a decision

(Article 23(4)(b) of the Code)

1. The customs authority competent to take the decision shall suspend the decision instead of annulling, revoking or amending it in accordance with Articles 23(3), 27 or 28 of the Code where:

   (a) that customs authority considers that there may be sufficient grounds for annulling, revoking or amending the decision, but does not yet have all necessary elements to decide on the annulment, revocation or amendment;

   (b) that customs authority considers that the conditions for the decision are not fulfilled or that the holder of the decision does not comply with the obligations imposed under that decision, and it is appropriate to allow the holder of the decision time to take measures to ensure the fulfilment of the conditions or the compliance with the obligations;

   (c) the holder of the decision requests such suspension because he is temporarily unable to fulfil the conditions laid down for the decision or to comply with the obligations imposed under that decision.

2. In cases referred to in points (b) and (c) of paragraph 1, the holder of the decision shall notify the customs authority competent to take the decision of the measures he will take to ensure the fulfilment of the conditions or compliance with the obligations, as well as the period of time he needs to take those measures.

Article 17

Period of suspension of a decision

(Article 23(4)(b) of the Code)

1. In cases referred to in Article 16(1)(a) the period of suspension determined by the competent customs authority shall correspond to the period of time needed by that customs authority to establish whether the conditions for an annulment, revocation or amendment are fulfilled. That period cannot exceed 30 days.

   However, where the customs authority considers that the holder of the decision may not fulfil the criteria set out in Article 39(a) of the Code**,** the decision shall be suspended until it is established whether a serious infringement or repeated infringements have been committed by any of the following persons:

   (a) the holder of the decision;

   (b) the person in charge of the company which is the holder of the decision concerned or exercising control over its management;

   (c) the person responsible for customs matters in the company which is the holder of the decision concerned.

2. In cases referred to in Article 16(1)(b) and (c), the period of suspension determined by the customs authority competent to take the decision shall correspond to the period of time notified by the holder of the decision in accordance with Article 16(2). The period of suspension may where appropriate be further extended at the request of the holder of the decision.

   The period of suspension may be further extended by the period of time needed by the competent customs authority to verify that those measures ensure fulfilment of the conditions or compliance with the obligations. That period of time shall not exceed 30 days.

3. Where, following the suspension of a decision, the customs authority competent to take the decision intends to annul, revoke or amend that decision in accordance with Articles 23(3), 27 or 28 of the Code, the period of suspension, as determined in accordance with paragraphs 1 and 2 of this Article, shall be extended, where appropriate, until the decision on annulment, revocation or amendment takes effect.

Article 18

End of the suspension

(Article 23(4)(b) of the Code)

1. A suspension of a decision shall end at the expiry of the period of suspension unless before the expiry of that period any of the following situations occurs:

   (a) the suspension is withdrawn on the basis that, in the cases referred to in Article 16(1)(a), there are no grounds for the annulment, revocation or amendment of the decision in accordance with Articles 23(3), 27 or 28 of the Code, in which case the suspension shall end on the date of withdrawal;

   (b) the suspension is withdrawn on the basis that, in cases referred to in Article 16(1)(b) and (c), the holder of the decision has taken, to the satisfaction of the customs authority competent to take the decision, the necessary measures to ensure fulfilment of the conditions laid down for the decision or compliance with the obligations imposed under that decision, in which case the suspension shall end on the date of withdrawal;

   (c) the suspended decision is annulled, revoked or amended, in which case the suspension shall end on the date of annulment, revocation or amendment.

2. The customs authority competent to take the decision shall inform the holder of the decision of the end of the suspension.

SUBSECTION 3

DECISIONS RELATING TO BINDING INFORMATION

Article 19

Application for a decision relating to binding information

(Article 22(1), 3rd subparagraph and Article 6(3)(a) of the Code)

1. By way of derogation from the third subparagraph of Article 22(1) of the Code, an application for a decision relating to binding information and any documents accompanying or supporting it shall be submitted either to the competent customs authority in the Member State in which the applicant is established, or to the competent customs authority in the Member State in which the information is to be used.

2. By submitting an application for a decision relating to binding information, the applicant shall be considered to agree to all data of the decision, including any photographs, images and brochures, with the exception of confidential information, being disclosed to the public via the internet site of the Commission. Any public disclosure of data shall respect the right to personal data protection.

3. Where there is no electronic system in place for the submission of applications for a decision relating to binding origin information (BOI), Member States may allow for those applications to be submitted using means other than electronic data-processing techniques.

Article 20

Time-limits

(Article 22(3) of the Code)

1. Where the Commission notifies the customs authorities of cases where the correct and uniform tariff classification or determination of origin is not ensured, the time-limit for taking the decision referred to in the first subparagraph of Article 22(3) of the Code shall be further extended until the Commission notifies the customs authorities that the correct and uniform tariff classification or determination of origin is ensured.

   That extended period referred to in subparagraph 1 shall not exceed 10 months, but in exceptional circumstances an additional extension not exceeding 5 months may be applied.

2. The period of time referred to in the second subparagraph of Article 22(3) of the Code may exceed 30 days where it is not possible within that period to complete an analysis which the customs authority competent to take a decision considers necessary in order to take that decision.

Article 21

Notification of BOI decisions

(Article 6(3)(a) of the Code)

Where an application for a BOI decision has been submitted using means other than electronic data-processing techniques, the customs authorities may notify the applicant of the BOI decision using means other than electronic data-processing techniques.

Article 22

Limitation of application of rules on re-assessment and suspension

(Article 23(4) of the Code)

Articles 15 to 18 concerning the re-assessment and suspension of decisions shall not apply to decisions relating to binding information.

SECTION 3

AUTHORISED ECONOMIC OPERATOR

SUBSECTION 1

BENEFITS RESULTING FROM THE STATUS OF AUTHORISED ECONOMIC OPERATOR

Article 23

Facilitations regarding pre-departure declarations

(Article 38(2)(b) of the Code)

1. Where an economic operator authorised for security and safety as referred to in Article 38(2)(b) of the Code (AEOS) lodges on his own behalf a pre-departure declaration in the form of a customs declaration or a re-export declaration, no other particulars than those stated in those declarations shall be required.
2. Where an AEOS lodges on behalf of another person who is also an AEOS a pre-departure declaration in the form of a customs declaration or a re-export declaration, no other particulars than those stated in those declarations shall be required.

Article 24

More favourable treatment regarding risk assessment and control

(Article 38(6) of the Code)

1. An authorised economic operator (AEO) shall be subject to fewer physical and document-based controls than other economic operators.
2. Where an AEOS has lodged an entry summary declaration or, in the cases referred to in Article 130 of the Code, a customs declaration or a temporary storage declaration or where an AEOS has lodged a notification and given access to the particulars related to his entry summary declaration in his computer system as referred to in Article 127(8) of the Code, the customs office of first entry referred to in the first subparagraph of Article 127(3) of the Code shall, where the consignment has been selected for physical control, notify that AEOS of that fact. That notification shall take place before the arrival of the goods in the customs territory of the Union.

That notification shall be made available also to the carrier if different from the AEOS referred to in the first subparagraph, provided that the carrier is an AEOS and is connected to the electronic systems relating to the declarations referred to in the first subparagraph**.**

That notification shall not be provided where it may jeopardise the controls to be carried out or the results thereof.

3. Where an AEO lodges a temporary storage declaration or a customs declaration in accordance with Article 171 of the Code, the customs office competent to receive that temporary storage declaration or that customs declaration shall, where the consignment has been selected for customs control, notify the AEO of that fact. That notification shall take place before the presentation of the goods to customs.

That notification shall not be provided where it may jeopardise the controls to be carried out or the results thereof.

4. Where consignments declared by an AEO have been selected for physical or document-based control, those controls shall be carried out as a matter of priority.

On request from an AEO the controls may be carried out at a place other than the place where the goods have to be presented to customs.

5. The notifications referred to in paragraphs 2 and 3 shall not concern the customs controls decided on the basis of the temporary storage declaration or the customs declaration after the presentation of the goods.

Article 25

Exemption from favourable treatment

(Article 38(6) of the Code)

The more favourable treatment referred to in Article 24 shall not apply to any customs controls related to specific elevated threat levels or control obligations set out in other Union legislation.

However, customs authorities shall carry out the necessary processing, formalities and controls for consignments declared by an AEOS as a matter of priority.

SUBSECTION 2

APPLICATION FOR THE STATUS OF AUTHORISED ECONOMIC OPERATOR

Article 26

Conditions for the acceptance of an application for the status of AEO

(Article 22(2) of the Code)

1. In addition to the conditions for the acceptance of an application provided for in the Article 11(1), in order to apply for the status of AEO the applicant shall submit a self-assessment questionnaire, which the customs authorities shall make available, together with the application.

2. An economic operator shall submit one single application for the status of AEO covering all its permanent business establishments in the customs territory of the Union.

Article 27

Competent customs authority

(Third subparagraph of Article 22(1) of the Code)

Where the competent customs authority cannot be determined in accordance with the third subparagraph of Article 22(1) of the Code or Article 12 of this Regulation, the application shall be submitted to the customs authorities of the Member State where the applicant has a permanent business establishment and where the information about its general logistical management activities in the Union is kept or is accessible as indicated in the application.

Article 28

Time-limit for taking decisions

(Article 22(3) of the Code)

1. The time-limit for taking the decision referred to in the first subparagraph of Article 22(3) of the Code may be extended by a period of up to 60 days.

2. Where criminal proceedings are pending which give rise to doubts whether the applicant fulfils the conditions referred to in Article 39(a) of the Code, the time-limit to take the decision shall be extended by the time necessary to complete those proceedings.

Article 29

Date of effect of the AEO authorisation

(Article 22(4) of the Code)

By way of derogation from Article 22(4) of the Code, the authorisation granting the status of AEO ('AEO authorisation') shall take effect on the fifth day after the decision is taken.

Article 30

Legal effects of suspension

(Article 23(4)(b) of the Code)

1. Where an AEO authorisation is suspended due to the non-compliance with any of the criteria referred to in Article 39 of the Code, any decision taken with regard to that AEO which is based on the AEO authorisation in general or on any of the specific criteria which led to the suspension of the AEO authorisation, the customs authority having taken that decision shall suspend it.

2. The suspension of a decision relating to the application of the customs legislation taken with regard to an AEO shall not lead to the automatic suspension of the AEO authorisation.

3. Where a decision relating to a person who is both an AEOS and an economic operator authorised for customs simplifications as referred to in Article 38(2)(a) of the Code (AEOC) is suspended in accordance with Article 16(1) due to non-fulfilment of the conditions laid down in Article 39(d) of the Code, his AEOC authorisation shall be suspended, but his AEOS authorisation shall remain valid.

   Where a decision relating to a person who is both an AEOS and an AEOC is suspended in accordance with Article 16(1) due to non-fulfilment of the conditions laid down in Article 39(e) of the Code, his AEOS authorisation shall be suspended, but his AEOC authorisation shall remain valid.

TITLE II

FACTORS ON THE BASIS OF WHICH IMPORT OR EXPORT DUTIES AND OTHER MEASURES IN RESPECT OF TRADE IN GOODS ARE APPLIED

CHAPTER 1

Origin of goods

SECTION 1

NON-PREFERENTIAL ORIGIN

Article 31

Goods wholly obtained in a single country or territory

(Article 60(1) of the Code)

The following goods shall be considered as wholly obtained in a single country or territory:

(a) mineral products extracted within that country or territory;

(b) vegetable products harvested there;

(c) live animals born and raised there;

(d) products derived from live animals raised there;

(e) products of hunting or fishing carried on there;

(f) products of sea fishing and other products taken by vessels registered in the country or territory concerned and flying the flag of that country or territory from the sea outside any country's territorial waters ;

(g) goods obtained or produced on board factory ships from the products referred to in point (f) originating in that country or territory, provided that such factory ships are registered in that country or territory and fly its flag;

(h) products taken from the seabed or subsoil beneath the seabed outside the territorial waters provided that that country or territory has exclusive rights to exploit that seabed or subsoil;

(i) waste and scrap products derived from manufacturing operations and used articles, if they were collected there and are fit only for recovery of raw materials;

(j) goods produced there exclusively from products specified in points (a) to (i).

Article 32

Goods the production of which involves more than one country or territory

(Article 60(2) of the Code)

Goods listed in Annex 22-01 shall be considered to have undergone their last substantial processing or working, resulting in the manufacture of a new product or representing an important stage of manufacture, in the country or territory in which the rules set out in that Annex are fulfilled or which is identified by those rules.

Article 33

Processing or working operations which are not economically justified

(Article 60(2) of the Code)

Any processing or working operation carried out in another country or territory shall be deemed not to be economically justified if it is established on the basis of the available facts that the purpose of that operation was to avoid the application of the measures referred to in Article 59 of the Code.

For goods covered by Annex 22-01-DA, the Chapter residual rules for those goods shall apply.

For goods not covered by Annex 22-01-DA,where the last working or processing is deemed not to be economically justified, the goods shall be considered to have undergone their last substantial, economically justified processing or working, resulting in the manufacture of a new product or representing an important stage of manufacture, in the country or territory where the major portion of the materials originated, as determined on the basis of the value of the materials.

Article 34

Minimal operations

(Article 60(2) of the Code)

The following shall not be considered as substantial, economically justified processing or working for the purposes of conferring origin:

(a) operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying, removal of damaged parts and similar operations) or operations facilitating shipment or transport;

(a) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching, washing, cutting up;

(b) changes of packing and breaking-up and assembly of consignments, simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards, and all other simple packaging operations;

(c) putting up of goods in sets or ensembles or putting up for sale;

(d) affixing of marks, labels or other similar distinguishing signs on products or their packaging;

(e) simple assembly of parts of products to constitute a complete product;

(f) disassembly or change of use;

(g) a combination of two or more operations specified in points (a) to (g).

Article 35

Accessories, spare parts or tools

(Article 60 of the Code)

1. Accessories, spare parts or tools which are delivered with any of the goods listed in Sections XVI, XVII and XVIII of the Combined Nomenclature and which form part of its standard equipment shall be deemed to have the same origin as those goods.

2. Essential spare parts for use with any of the goods listed in Sections XVI, XVII and XVIII of the Combined Nomenclature previously released for free circulation in the Union shall be deemed to have the same origin as those goods if the incorporation of the essential spare parts at the production stage would not have changed their origin.

3. For the purposes of this article, essential spare parts shall mean parts which are:

(a) components without which the proper operation of a piece of equipment, machine, apparatus or vehicle which have been put into free circulation or previously exported cannot be ensured, and

(b) characteristic of those goods, and

(c) intended for their normal maintenance and to replace parts of the same kind which are damaged or have become unserviceable.

Article 36

Neutral elements and packing

(Article 60 of the Code)

1. In order to determine whether goods originate in a country or territory, the origin of the following elements shall not be taken into account:

   (a) energy and fuel;

   (b) plant and equipment;

(c) machines and tools;

(d) materials which neither enter into the final composition of the goods nor are intended to do so.

2. Where, under general rule 5 for the interpretation of the combined nomenclature set out in Annex I to Council Regulation (EEC) No 2658/87[13], packing materials and packing containers are considered as part of the product for classification purposes, they shall be disregarded for the purpose of determining origin, except where the rule in Annex 22-01 for the goods concerned is based on an added value percentage.

SECTION 2

PREFERENTIAL ORIGIN

Article 37

Definitions

For the purposes of this Section, the following definitions shall apply:

(1) 'beneficiary country' means a beneficiary country of the generalised system of preferences (GSP) listed in Annex II to Regulation (EC) No 978/2012;

(2) 'manufacture' means any kind of working or processing including assembly;

(3) 'material' means any ingredient, raw material, component or part, etc., used in the manufacture of the product;

(4) 'product' means the product being manufactured, even if it is intended for later use in another manufacturing operation;

(5) 'goods' means both materials and products;

(6) 'bilateral cumulation' means a system that allows products originate in the Union, to be considered as originating materials in a beneficiary country when they are further processed or incorporated into a product in that beneficiary country;

(7) 'cumulation with Norway, Switzerland or Turkey' means a system that allows products which originate in Norway, Switzerland or Turkey to be considered as originating materials in a beneficiary country when they are further processed or incorporated into a product in that beneficiary country and imported into the Union;

(8) 'regional cumulation' means a system whereby products which according to this Regulation originate in a country which is a member of a regional group are considered as materials originating in another country of the same regional group (or a country of another regional group where cumulation between groups is possible) when further processed or incorporated in a product manufactured there;

(9) 'extended cumulation' means a system, conditional upon the granting by the Commission, on a request lodged by a beneficiary country and whereby certain materials, originating in a country with which the Union has a free-trade agreement in accordance with Article XXIV of the General Agreement on Tariffs and Trade (GATT) in force, are considered to be materials originating in the beneficiary

[13] Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L256, 7.9.1987, p.1).

country concerned when further processed or incorporated in a product manufactured in that country;

(10) 'fungible materials' means materials that are of the same kind and commercial quality, with the same technical and physical characteristics, and which cannot be distinguished from one another once they are incorporated into the finished product;

(11) 'regional group' means a group of countries between which regional cumulation applies;

(12) 'customs value' means the value as determined in accordance with the 1994 Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Agreement on Customs Valuation);

(13) 'value of materials' means the customs value at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the country of production; where the value of the originating materials used needs to be established, this point should be applied mutatis mutandis;

(14) 'ex-works price' means the price paid for the product ex-works to the manufacturer in whose undertaking the last working or processing is carried out, provided that the price includes the value of all the materials used and all other costs related to its production, minus any internal taxes which are, or may be, repaid when the product obtained is exported.

Where the actual price paid does not reflect all costs related to the manufacturing of the product which are actually incurred in the country of production, the ex-works price means the sum of all those costs, minus any internal taxes which are, or may be, repaid when the product obtained is exported;

Where the last working or processing has been subcontracted to a manufacturer, the term ‘manufacturer’ referred to in the first sub-paragraph may refer to the enterprise that has employed the subcontractor.

(15) 'maximum content of non-originating materials' means the maximum content of non-originating materials which is permitted in order to consider a manufacture as working or processing sufficient to confer originating status on the product. It may be expressed as a percentage of the ex-works price of the product or as a percentage of the net weight of these materials used falling under a specified group of chapters, chapter, heading or sub-heading;

(16) 'net weight' means the weight of the goods themselves without packing materials and packing containers of any kind;

(17) 'chapters', 'headings' and ‘sub-headings’ mean the chapters, the headings and sub-headings (four- or six-digit codes) used in the nomenclature which makes up the Harmonized System with the changes pursuant to the Recommendation of 26 June 2004 of the Customs Cooperation Council;

(18) For the purposes of preferential rules of origin, 'classified' refers to the classification of a product or material under a particular heading or sub-heading of the Harmonized System;

(19) 'consignment' means products which are either:

(a) sent simultaneously from one exporter to one consignee; or

(b) covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such document, by a single invoice

(20) 'exporter' means a person exporting the goods to the Union or to a beneficiary country who is able to prove the origin of the goods, whether or not he is the manufacturer and whether or not he himself carries out the export formalities;

(21) 'registered exporter' means, in the context of preferential origin:

(a) an exporter who is established in a beneficiary country and is registered with the competent authorities of that beneficiary country for the purpose of exporting products under the scheme, be it to the Union or another beneficiary country with which regional cumulation is possible; or

(b) an exporter who is established in a Member State and is registered with the customs authorities of that Member State for the purpose of exporting products originating in the Union to be used as materials in a beneficiary country under bilateral cumulation; or

(c) a re-consignor of goods who is established in a Member State and is registered with the customs authorities of that Member State for the purpose of making out replacement statements on origin in order to re-consign originating products elsewhere within the customs territory of the Union or, where applicable, to Norway, Switzerland or Turkey ('a registered re-consignor');

(22) 'statement on origin' means a statement made out by the exporter or the re-consignor of the goods indicating that the products covered by it comply with the rules of origin of the scheme.

SUBSECTION 1

ISSUE OR MAKING OUT OF PROOFS OF ORIGIN

Article 38

Means for applying for and the issuing of Information Certificates INF 4

(Article 6(3)(a) of the Code)

1. Application for the Information Certificate INF 4 may be made by means other than electronic data-processing techniques and shall comply with the data requirements listed in Annex 22-02.

2. The Information Certificate INF 4 shall comply with the data requirements listed in Annex 22-02.

Article 39

Means for applying for and the issuing of approved exporter authorisations

(Article 6(3)(a) of the Code)

Application for the status of approved exporter for the purpose of making out proofs of preferential origin may be submitted and approved exporter authorisation may be issued by means other than electronic data-processing techniques .

Article 40

Means for applying to become a registered exporter

(Article 6(3)(a) of the Code)

Applications to become a registered exporter may be submitted by means other than electronic data-processing techniques.

SUBSECTION 2

DEFINITION OF THE CONCEPT OF ORIGINATING PRODUCTS APPLICABLE WITHIN THE FRAMEWORK OF THE GSP OF THE UNION

Article 41

General principles

(Article 64(3) of the Code)

The following products shall be considered as originating in a beneficiary country:

(a) products wholly obtained in that country within the meaning of Article 44;

(b) products obtained in that country incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing within the meaning of Article 45.

Article 42

Principle of territoriality

(Article 64(3) of the Code)

1. The conditions set out in this Subsection for acquiring originating status shall be fulfilled in the beneficiary country concerned.

2. The term 'beneficiary country' shall cover and cannot exceed the limits of the territorial sea of that country within the meaning of the United Nations Convention on the Law of the Sea (Montego Bay Convention, 10 December 1982).

3. If originating products exported from the beneficiary country to another country are returned, they shall be considered as non-originating unless it can be demonstrated to the satisfaction of the competent authorities that the following conditions are fulfilled:

(a) the products returned are the same as those which were exported, and

(b) they have not undergone any operations beyond that necessary to preserve them in good condition while in that country or while being exported.

Article 43

Non-manipulation

(Article 64(3) of the Code)

1. The products declared for release for free circulation in the Union shall be the same products as exported from the beneficiary country in which they are considered to originate. They shall not have been altered, transformed in any way or subjected to operations other than operations to preserve them in good condition or the adding or affixing of marks, labels, seals or any other documentation to ensure compliance with specific domestic requirements applicable in the Union, prior to being declared for release for free circulation.

2. The products imported into a beneficiary country for the purpose of cumulation under Articles 53, 54, 55 or 56 shall be the same products as exported from the country in which they are considered to originate. They shall not have been altered, transformed in any way or subjected to operations other than operations to preserve them in good condition, prior to being declared for the relevant customs procedure in the country of imports.

3. Storage of products may take place provided they remain under customs supervision in the country or countries of transit.

4. The splitting of consignments may take place where carried out by the exporter or under his responsibility, provided the goods concerned remain under customs supervision in the country or countries of transit.

Compliance with paragraph 1 to 4 shall be considered as satisfied unless the customs authorities have reason to believe the contrary; in such cases, the customs authorities may request the declarant to provide evidence of compliance, which may be given by any means, including contractual transport documents such as bills of lading or factual or concrete evidence based on marking or numbering of packages or any evidence related to the goods themselves.

Article 44

Wholly obtained products

(Article 64(3) of the Code)

1. The following shall be considered as wholly obtained in a beneficiary country:

(a) mineral products extracted from its soil or from its seabed;

(b) plants and vegetable products grown or harvested there;

(c) live animals born and raised there;

(d) products from live animals raised there;

(e) products from slaughtered animals born and raised there;

(f) products obtained by hunting or fishing conducted there;

(g) products of aquaculture where the fish, crustaceans and molluscs are born and raised there;

(h) products of sea fishing and other products taken from the sea outside any territorial sea by its vessels;

(i) products made on board its factory ships exclusively from the products referred to in point (h);

(j) used articles collected there that are fit only for the recovery of raw materials;

(k) waste and scrap resulting from manufacturing operations conducted there;

(l) products extracted from the seabed or below the seabed which is situated outside any territorial sea but where it has exclusive exploitation rights;

(m) goods produced there exclusively from products specified in points (a) to (l).

2. The terms 'its vessels' and 'its factory ships' in paragraph 1(h) and (i) shall apply only to vessels and factory ships which meet each of the following requirements:

(a) they are registered in the beneficiary country or in a Member State;

(b) they sail under the flag of the beneficiary country or of a Member State;

(c) they meet one of the following conditions:

(i) they are at least 50% owned by nationals of the beneficiary country or of Member States, or

(ii) they are owned by companies:

- which have their head office and their main place of business in the beneficiary country or in Member States, and

- which are at least 50% owned by the beneficiary country or Member States or public entities or nationals of the beneficiary country or Member States.

3. The conditions of paragraph 2 may each be fulfilled in Member States or in different beneficiary countries insofar as all the beneficiary countries involved benefit from regional cumulation in accordance with Article 55(1) and (5). In this case, the products shall be deemed to have the origin of the beneficiary country under which flag the vessel or factory ship sails in accordance with point (b) of paragraph 2.

The first sub-paragraph shall apply only provided that the conditions laid down in Article 55(2)(a), (c) and (d) have been fulfilled.

Article 45

Sufficiently worked or processed products

(Article 64(3) of the Code)

1. Without prejudice to Articles 47 and 48, products which are not wholly obtained in the beneficiary country concerned within the meaning of Article 44 shall be considered to originate there, provided that the conditions laid down in the list in Annex 22-03 for the goods concerned are fulfilled.

2. If a product which has acquired originating status in a country in accordance with paragraph 1 is further processed in that country and used as a material in the manufacture of another product, no account shall be taken of the non-originating materials which may have been used in its manufacture.

Article 46

Averages

(Article 64(3) of the Code)

1. The determination of whether the requirements of Article 45(1) are met, shall be carried out for each product.

   However, where the relevant rule is based on compliance with a maximum content of non-originating materials, in order to take into account fluctuations in costs and currency rates, the value of the non-originating materials may be calculated on an average basis as set out in paragraph 2.

2. In the case referred to in the second sub-paragraph of paragraph 1, an average ex-works price of the product and average value of non-originating materials used shall be calculated respectively on the basis of the sum of the ex-works prices charged for all sales of the products carried out during the preceding fiscal year and the sum of the value of all the non-originating materials used in the manufacture of the products over the preceding fiscal year as defined in the country of export, or, where figures for a complete fiscal year are not available, a shorter period which should not be less than three months.

3. Exporters having opted for calculations on an average basis shall consistently apply such a method during the year following the fiscal year of reference, or, where appropriate, during the year following the shorter period used as a reference. They may cease to apply such a method where during a given fiscal year, or a shorter representative period of no less than three months, they record that the fluctuations in costs or currency rates which justified the use of such a method have ceased.

4. The averages referred to in paragraph 2 shall be used as the ex-works price and the value of non-originating materials respectively, for the purpose of establishing compliance with the maximum content of non-originating materials.

Article 47

Insufficient working or processing

(Article 64(3) of the Code)

1. Without prejudice to paragraph 3, the following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 45 are satisfied:

(a) preserving operations to ensure that the products remain in good condition during transport and storage;

(b) breaking-up and assembly of packages;

(c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;

(d) ironing or pressing of textiles and textile articles;

(e) simple painting and polishing operations;

(f) husking and partial or total milling of rice**;** polishing and glazing of cereals and rice;

(g) operations to colour or flavour sugar or form sugar lumps; partial or total milling of crystal sugar;

(h) peeling, stoning and shelling, of fruits, nuts and vegetables;

(i) sharpening, simple grinding or simple cutting;

(j) sifting, screening, sorting, classifying, grading, matching (including the making-up of sets of articles);

(k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;

(l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;

(m) simple mixing of products, whether or not of different kinds; mixing of sugar with any material;

(n) simple addition of water or dilution or dehydratation or denaturation of products;

(o) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;

(p) slaughter of animals ;

(q) a combination of two or more of the operations specified in points (a) to (p).

2. For the purposes of paragraph 1, operations shall be considered simple when neither special skills nor machines, apparatus or tools especially produced or installed for those operations are required for their performance.

3. All the operations carried out in a beneficiary country on a given product shall be taken into account when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.

Article 48

General tolerance

(Article 64(3) of the Code)

1. By way of derogation from Article 45 and subject to paragraphs 2 and 3 of this Article, non-originating materials which, according to the conditions set out in the list in Annex 22-03 are not to be used in the manufacture of a given product may nevertheless be used, provided that their total value or net weight assessed for the product does not exceed:

   (a) 15% of the weight of the product for products falling within Chapters 2 and 4 to 24 of the Harmonized System, other than processed fishery products of Chapter 16;

   (b) 15% of the ex-works price of the product for other products, except for products falling within Chapters 50 to 63 of the Harmonized System, for which the tolerances mentioned in Notes 6 and 7 of Part I of Annex 22-03, shall apply.

2. Paragraph 1 shall not allow to exceed any of the percentages for the maximum content of non-originating materials as specified in the rules laid down in the list in Annex 22-03.

3. Paragraphs 1 and 2 shall not apply to products wholly obtained in a beneficiary country within the meaning of Article 44. However, without prejudice to Articles 47 and 49(2), the tolerance provided for in those paragraphs shall nevertheless apply to the sum of all the materials which are used in the manufacture of a product and for which the rule laid down in the list in Annex 22-03 for that product requires that such materials be wholly obtained.

Article 49

Unit of qualification

(Article 64(3) of the Code)

1. The unit of qualification for the application of the provisions of this Subsection shall be the particular product which is considered as the basic unit when determining classification using the Harmonized System.

2. When a consignment consists of a number of identical products classified under the same heading of the Harmonized System, each individual item shall be taken into account when applying the provisions of this Subsection.

3. Where, under General Interpretative rule 5 of the Harmonized System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

Article 50

Accessories, spare parts and tools

(Article 64(3) of the Code)

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment and included in the ex-works price thereof, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

Article 51

Sets

(Article 64(3) of the Code)

Sets, as defined in General Interpretative rule 3 (b) of the Harmonized System, shall be regarded as originating when all the component products are originating products.

When a set is composed of originating and non-originating products, the set as a whole shall however be regarded as originating, provided that the value of the non-originating products does not exceed 15% of the ex-works price of the set.

Article 52

Neutral elements

(Article 64(3) of the Code)

In order to determine whether a product is an originating product, no account shall be taken of the origin of the following which might be used in its manufacture:

(a) energy and fuel;

(b) plant and equipment;

(c) machines and tools;

(d) any other goods which do not enter, and which are not intended to enter, into the final composition of the product.

SUBSECTION 3

RULES ON CUMULATION AND MANAGEMENT OF STOCKS OF MATERIALS APPLICABLE WITHIN THE FRAMEWORK OF THE GSP OF THE UNION

Article 53

Bilateral cumulation

(Article 64(3) of the Code)

Bilateral cumulation shall allow products originating in the Union to be considered as materials originating in a beneficiary country when incorporated into a product manufactured

in that country, provided that the working or processing carried out there goes beyond the operations described in Article 47(1).

Articles 41 to 52, and provisions concerning subsequent verification of proofs of origin shall apply *mutatis mutandis* to exports from the Union to a beneficiary country for the purposes of bilateral cumulation.

Article 54

Cumulation with Norway, Switzerland or Turkey

(Article 64(3) of the Code)

1. Cumulation with Norway, Switzerland or Turkey shall allow products originating in these countries to be considered as materials originating in a beneficiary country provided that the working or processing carried out there goes beyond the operations described in Article 47(1).
2. Cumulation with Norway, Switzerland or Turkey shall not apply to products falling within Chapters 1 to 24 of the Harmonized System.

Article 55

Regional cumulation

(Article 64(3) of the Code)

1. Regional cumulation shall apply to the following four separate regional groups:
   (a) Group I: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar/Burma, Philippines, Thailand, Vietnam;
   (b) Group II: Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Peru, Venezuela;
   (c) Group III: Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, Sri Lanka;
   (d) Group IV: Argentina, Brazil, Paraguay and Uruguay.
2. Regional cumulation between countries within the same group shall apply only where the following conditions are fulfilled:
   (a) the countries involved in the cumulation are, at the time of exportation of the product to the Union, beneficiary countries for which the preferential arrangements have not been temporarily withdrawn in accordance with Regulation (EU) No 978/2012;
   (b) for the purpose of regional cumulation between the countries of a regional group the rules of origin laid down in Subsection 2 apply;
   (c) the countries of the regional group have undertaken:
      (i) to comply or ensure compliance with this Subsection, and

(ii) to provide the administrative cooperation necessary to ensure the correct implementation of this Subsection both with regard to the Union and between themselves;

(d) the undertakings referred to in point (c) have been notified to the Commission by the Secretariat of the regional group concerned or another competent joint body representing all the members of the group in question.

For the purposes of point (b), where the qualifying operation laid down in Part II of Annex 22-03 is not the same for all countries involved in cumulation, the origin of products exported from one country to another country of the regional group for the purpose of regional cumulation shall be determined on the basis of the rule which would apply if the products were being exported to the Union.

Where countries in a regional group have already complied with points (c) and (d) of the first subparagraph before 1 January 2011, a new undertaking shall not be required.

3. The materials listed in Annex 22-04 shall be excluded from the regional cumulation provided for in paragraph 2 in the case where:

(a) the tariff preference applicable in the Union is not the same for all the countries involved in the cumulation; and

(b) the materials concerned would benefit, through cumulation, from a tariff treatment more favourable than the one they would benefit from if directly exported to the Union.

4. Regional cumulation between beneficiary countries in the same regional group shall apply only under the condition that the working or processing carried out in the beneficiary country where the materials are further processed or incorporated goes beyond the operations described in Article 47(1) and, in the case of textile products, also beyond the operations set out in Annex 22-05.

Where the condition laid down in the first subparagraph is not fulfilled and the materials are subject to one or more of the operations described in Article 47(1) (b) to (q), the country to be stated as country of origin on the proof of origin issued or made out for the purposes of exporting the products to the Union shall be the country of the regional group which accounts for the highest share of the value of the materials used originating in countries of the regional group.

Where the products are exported without further working or processing, or were only subject to operations described in Article 47(1)(a), the country to be stated as country of origin on the proof of origin issued or made out for the purposes of exporting the products to the Union shall be the beneficiary country appearing on the proofs of origin issued or made out in the beneficiary country where the products were manufactured.

5. At the request of the authorities of a Group I or Group III beneficiary country, regional cumulation between countries of those groups may be granted by the Commission, provided that the Commission is satisfied that each of the following conditions is met:

(a) the conditions laid down in paragraph 2(a) and (b) are met, and

(b) the countries to be involved in such regional cumulation have undertaken and jointly notified to the Commission their undertaking:

(i) to comply or ensure compliance with this Subsection, Subsection 2 and all other provisions concerning the implementation of the rules of origin, and

(ii) to provide the administrative cooperation necessary to ensure the correct implementation of this Subsection and Subsection 2 both with regard to the Union and between themselves.

The request referred to in the first sub-paragraph shall be supported with evidence that the conditions laid down in that sub-paragraph are met. It shall be addressed to the Commission. The Commission will decide on the request taking into account all the elements related to the cumulation deemed relevant, including the materials to be cumulated.

6. When granted, regional cumulation between beneficiary countries of Group I or Group III shall allow materials originating in a country of one regional group to be considered as materials originating in a country of the other regional group when incorporated in a product obtained there, provided that the working or processing carried out in the latter beneficiary country goes beyond the operations described in Article 47(1) and, in the case of textile products, also beyond the operations set out in Annex 22-05.

Where the condition laid down in the first subparagraph is not fulfilled and the materials are subject to one or more of the operations described in Article 47(1) (b) to (q), the country to be stated as country of origin on the proof of origin for the purposes of exporting the products to the Union shall be the country participating in the cumulation which accounts for the highest share of the value of the materials used originating in countries participating in the cumulation.

Where the products are exported without further working or processing, or were only subject to operations described in Article 47(1)(a), the country to be stated as country of origin on the proof of origin issued or made out for the purposes of exporting the products to the Union shall be the beneficiary country appearing on the proofs of origin issued or made out in the beneficiary country where the products were manufactured.

7. The Commission will publish in the *Official Journal of the European Union* (C series) the date on which the cumulation between countries of Group I and Group III provided for in paragraph 5 takes effect, the countries involved in that cumulation and, where appropriate, the list of materials in relation to which the cumulation applies.

8. Articles 41 to 52 and provisions concerning the issue or making out of proofs of origin and provisions concerning subsequent verification of proofs of origin shall apply *mutatis mutandis* to exports from one beneficiary country to another for the purposes of regional cumulation.

Article 56

Extended cumulation

(Article 64(3) of the Code)

1. At the request of any beneficiary country's authorities, extended cumulation between a beneficiary country and a country with which the Union has a free-trade agreement in accordance with Article XXIV of the General Agreement on Tariffs and Trade (GATT) in force, may be granted by the Commission, provided that each of the following conditions is met:

   (a) the countries involved in the cumulation have undertaken to comply or ensure compliance with this Subsection, Subsection 2 and all other provisions concerning the implementation of the rules of origin, and to provide the administrative co-operation necessary to ensure the correct implementation of this Subsection and Subsection 2 both with regard to the Union and also between themselves;

   (b) the undertaking referred to in point (a) has been notified to the Commission by the beneficiary country concerned.

   The request referred to in the first sub-paragraph shall contain a list of the materials concerned by the cumulation and shall be supported with evidence that the conditions laid down in points (a) and (b) of the first sub-paragraph are met. It shall be addressed to the Commission. Where the materials concerned change, another request shall be submitted.

   Materials falling within Chapters 1 to 24 of the Harmonized System shall be excluded from extended cumulation.

2. In cases of extended cumulation referred to in paragraph 1, the origin of the materials used and the documentary proof of origin applicable shall be determined in accordance with the rules laid down in the relevant free-trade agreement. The origin of the products to be exported to the Union shall be determined in accordance with the rules of origin laid down in Subsection 2.

   In order for the obtained product to acquire originating status, it shall not be necessary that the materials originating in a country with which the Union has a free-trade agreement and used in a beneficiary country in the manufacture of the product to be exported to the Union have undergone sufficient working or processing, provided that the working or processing carried out in the beneficiary country concerned goes beyond the operations described in Article 47(1).

3. The Commission will publish in the *Official Journal of the European Union* (C series) the date on which the extended cumulation takes effect, the countries involved in that cumulation and the list of materials in relation to which the cumulation applies.

Article 57

Application of bilateral cumulation or cumulation with Norway, Switzerland or Turkey in combination with regional cumulation

(Article 64(3) of the Code)

Where bilateral cumulation or cumulation with Norway, Switzerland or Turkey is used in combination with regional cumulation, the product obtained shall acquire the origin of one of the countries of the regional group concerned, determined in accordance with the first and the

second sub-paragraphs of Article 55(4) or, where appropriate, with the first and the second sub-paragraphs of Article 55(6).

Article 58

Accounting segregation of Union exporters' stocks of materials

(Article 64(3) of the Code)

1. If originating and non-originating fungible materials are used in the working or processing of a product, the customs authorities of the Member States may, at the written request of economic operators established in the customs territory of the Union, authorise the management of materials in the Union using the accounting segregation method for the purpose of subsequent export to a beneficiary country within the framework of bilateral cumulation, without keeping the materials on separate stocks.

2. The customs authorities of the Member States may make the granting of authorisation referred to in paragraph 1 subject to any conditions they deem appropriate.

   The authorisation shall be granted only if by use of the method referred to in paragraph 1 it can be ensured that, at any time, the quantity of products obtained which could be considered as 'originating in the Union' is the same as the number that would have been obtained by using a method of physical segregation of the stocks.

   If authorised, the method shall be applied and the application thereof shall be recorded on the basis of the general accounting principles applicable in the Union.

3. The beneficiary of the method referred to in paragraph 1 shall make out or, until the application of the registered exporter system, apply for proofs of origin for the quantity of products which may be considered as originating in the Union. At the request of the customs authorities of the Member States, the beneficiary shall provide a statement of how the quantities have been managed.

4. The customs authorities of the Member States shall monitor the use made of the authorisation referred to in paragraph 1.

   They may withdraw the authorisation in the following cases:

   (a) the holder makes improper use of the authorisation in any manner whatsoever, or

   (b) the holder fails to fulfil any of the other conditions laid down in this Subsection, Subsection 2 and all other provisions concerning the implementation of the rules of origin.

SUBSECTION 4

DEFINITION OF THE CONCEPT OF ORIGINATING PRODUCTS APPLICABLE WITHIN THE FRAMEWORK OF THE RULES OF ORIGIN FOR THE PURPOSES OF

PREFERENTIAL TARIFF MEASURES ADOPTED UNILATERALLY BY THE UNION FOR CERTAIN COUNTRIES OR TERRITORIES

Article 59

General requirements

(Article 64(3) of the Code)

1. For the purposes of the provisions concerning preferential tariff measures adopted unilaterally by the Union for certain countries, groups of countries or territories (hereinafter referred to as 'beneficiary countries or territories'), with the exception of those referred to in Subsection 2 of this Section and the overseas countries and territories associated with the Union, the following products shall be considered as products originating in a beneficiary country:

   (a) products wholly obtained in that beneficiary country with the meaning of Article 60;

   (b) products obtained in that beneficiary country, in the manufacture of which products other than those referred to in (a) are used, provided that the said products have undergone sufficient working or processing within the meaning of Article 61.

2. For the purposes of this Subsection, products originating in the Union, within the meaning of paragraph 3, which are subject in a beneficiary country to working or processing going beyond that described in Article 62 shall be considered as originating in that beneficiary country.

3. Paragraph 1 shall apply *mutatis mutandis* in establishing the origin of the products obtained in the Union.

Article 60

Wholly obtained products

(Article 64(3) of the Code)

1. The following shall be considered as wholly obtained in a beneficiary country or in the Union:

   (a) mineral products extracted from its soil or from its seabed;

   (b) vegetable products harvested there;

   (c) live animals born and raised there;

   (d) products from live animals raised there;

   (e) products from slaughtered animals born and raised there;

   (f) products obtained by hunting or fishing conducted there;

(g) products of sea-fishing and other products taken from the sea outside the territorial waters by its vessels;

(h) products made on board its factory ships exclusively from the products referred to in (g);

(i) used articles collected there, fit only for the recovery of raw materials;

(j) waste and scrap resulting from manufacturing operations conducted there;

(k) products extracted from the seabed or below the seabed which is situated outside its territorial waters but where the beneficiary country or a EU Member State has exclusive exploitation rights;

(l) goods produced there exclusively from products specified in (a) to (k).

2. The terms 'its vessels' and 'its factory ships' in paragraph 1(g) and (h) shall apply only to vessels and factory ships which fulfil the following conditions:

(a) they are registered or recorded in the beneficiary country or in a Member State;

(b) they sail under the flag of a beneficiary country or of a Member State;

(c) they are owned to the extent of at least 50 % by nationals of the beneficiary country or of Member States or by a company with its head office in that country or in one of the Member States, of which the manager or managers, Chairman of the Board of Directors or of the Supervisory Board, and the majority of the members of such boards are nationals of that beneficiary country or of the Member States and of which, in addition, in the case of companies, at least half the capital belongs to that beneficiary country or to the Member States or to public bodies or nationals of that beneficiary country or of the Member States;

(d) the master and officers of the vessels and factory ships are nationals of the beneficiary country or of the Member States;

(e) at least 75 % of the crew are nationals of the beneficiary country or of the Member States.

3. The terms 'beneficiary country' and 'Union' shall also cover the territorial waters of that country or of the Member States.

4. Vessels operating on the high seas, including factory ships on which the fish caught is worked or processed, shall be considered as part of the territory of the beneficiary country or of the Member State to which they belong, provided that they satisfy the conditions set out in paragraph 2.

Article 61

Sufficiently worked or processed products

(Article 64(3) of the Code)

For the purposes of Article 59, products which are not wholly obtained in a beneficiary country or in the Union are considered to be sufficiently worked or processed when the conditions set out in the list in Annex 22-11 are fulfilled.

Those conditions indicate, for all products covered by this Subsection, the working or processing which must be carried out on non-originating materials used in manufacturing and apply only in relation to such materials.

If a product which has acquired originating status by fulfilling the conditions set out in the list is used in the manufacture of another product, the conditions applicable to the product in which it is incorporated do not apply to it, and no account shall be taken of the non-originating materials which may have been used in its manufacture.

Article 62

Insufficient working or processing

(Article 64(3) of the Code)

1. Without prejudice to paragraph 2, the following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 61 are satisfied:

   (a) preserving operations to ensure that the products remain in good condition during transport and storage;

   (b) breaking-up and assembly of packages;

   (c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;

   (d) ironing or pressing of textiles;

   (e) simple painting and polishing operations;

   (f) husking, partial or total milling, polishing and glazing of cereals and rice;

   (g) operations to colour or flavour sugar or form sugar lumps; partial or total milling of sugar;

   (h) peeling, stoning and shelling, of fruits, nuts and vegetables;

   (i) sharpening, simple grinding or simple cutting;

   (j) sifting, screening, sorting, classifying, grading, matching; (including the making-up of sets of articles);

   (k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;

   (l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;

   (m) simple mixing of products, whether or not of different kinds; mixing of sugar with any material;

   (n) simple addition of water or dilution or dehydration or denaturation of products;

   (o) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;

   (p) slaughter of animals;

   (q) a combination of two or more of the operations specified in points (a) to (p).

2. All the operations carried out in either a beneficiary country or the Union on a given product shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.

Article 63

Unit of qualification

(Article 64(3) of the Code)

1. The unit of qualification for the application of the provisions of this Subsection shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the Harmonised System.

   Accordingly, it follows that:

   (a) when a product composed of a group or assembly of articles is classified under the terms of the Harmonised System in a single heading, the whole constitutes the unit of qualification;

   (b) when a consignment consists of a number of identical products classified under the same heading of the Harmonised System, each product must be taken individually when applying the provisions of this Subsection.

2. Where, under general interpretative rule 5 of the Harmonised System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

Article 64

General tolerance

(Article 64(3) of the Code)

1. By way of derogation from the provisions of Article61, non-originating materials may be used in the manufacture of a given product, provided that their total value does not exceed 10 % of the ex-works price of the product.

   Where, in the list, one or several percentages are given for the maximum value of non-originating materials, such percentages must not be exceeded through the application of the first subparagraph.

2. Paragraph 1 shall not apply to products falling within Chapters 50 to 63 of the Harmonised System.

Article 65

Accessories, spare parts and tools

(Article 64(3) of the Code)

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

Article 66

Sets

(Article 64(3) of the Code)

Sets, as defined in general interpretative rule 3 of the Harmonised System, shall be regarded as originating when all the component products are originating products. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating provided that the value of the non-originating products does not exceed 15 % of the ex-works price of the set.

Article 67

Neutral elements

(Article 64(3) of the Code)

In order to determine whether a product is an originating product, it shall not be necessary to determine the origin of the following which might be used in its manufacture:

(a) energy and fuel;

(b) plant and equipment;

(c) machines and tools;

(d) goods which do not enter, and which are not intended to enter, into the final composition of the product.

SUBSECTION 5

TERRITORIAL REQUIREMENTS APPLICABLE WITHIN THE FRAMEWORK OF THE RULES OF ORIGIN FOR THE PURPOSES OF PREFERENTIAL TARIFF MEASURES ADOPTED UNILATERALLY BY THE UNION FOR CERTAIN COUNTRIES OR TERRITORIES

Article 68

Principle of territoriality

(Article 64(3) of the Code)

The conditions set out in this Subsection for acquiring originating status must continue to be fulfilled at all times in the beneficiary country or in the Union.

If originating products exported from the beneficiary country or from the Union to another country are returned, they shall be considered as non-originating unless it can be demonstrated to the satisfaction of the competent authorities that the following conditions are fulfilled:

(a) the products returned are the same as those which were exported, and

(b) they have not undergone any operation beyond that necessary to preserve them in good condition while in that country or while being exported.

Article 69

Direct transport

(Article 64(3) of the Code)

1. The following shall be considered as transported directly from the beneficiary country to the Union or from the Union to the beneficiary country:

   (a) products transported without passing through the territory of any other country;

   (b) products constituting one single consignment transported through the territory of countries other than the beneficiary country or the Union, with, should the occasion arise, trans-shipment or temporary warehousing in those countries, provided that the products remain under the supervision of the customs authorities in the country of transit or of warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition;

   (c) products which are transported by pipeline without interruption across a territory other than that of the exporting beneficiary country or of the Union.

2. Evidence that the conditions set out in paragraph 1(b) are fulfilled shall be supplied to the competent customs authorities by the production of any of the following:

   (a) a single transport document covering the passage from the exporting country through the country of transit;

   (b) a certificate issued by the customs authorities of the country of transit:

      (i) giving an exact description of the products;

      (ii) stating the dates of unloading and reloading of the products and, where applicable, the names of the ships, or the other means of transport used, and

      (iii) certifying the conditions under which the products remained in the country of transit;

   (c) or, failing these, any substantiating documents.

Article 70

Exhibitions

(Article 64(3) of the Code)

1. Originating products, sent from a beneficiary country for exhibition in another country and sold after the exhibition for importation into the Union, shall benefit on importation from the tariff preferences referred to in Article 59, provided that they meet the requirements of this Subsection entitling them to be recognised as originating in that beneficiary country and provided that it is shown to the satisfaction of the competent Union customs authorities that:

   (a) an exporter has consigned the products from the beneficiary country directly to the country in which the exhibition is held and has exhibited them there;

   (b) the products have been sold or otherwise disposed of by that exporter to a person in the Union;

   (c) the products have been consigned during the exhibition or immediately thereafter to the Union in the state in which they were sent for exhibition;

   (d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. A movement certificate EUR.1 shall be submitted to the Union customs authorities in the normal manner. The name and address of the exhibition must be indicated thereon. Where necessary, additional documentary evidence of the nature of the products and the conditions under which they have been exhibited may be required.

3. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organised for private purposes in shops or business premises with a view to the sale of foreign products, and during which the products remain under customs control.

CHAPTER 2

Value of goods for customs purposes

Article 71

Simplification

(Article 73 of the Code)

1. The authorisation referred to in Article 73 of the Code may be granted where the following conditions are met:

   (a) the application of the procedure referred to in Article 166 of the Code would, in the circumstances, represent disproportioned administrative costs;

   (b) the customs value determined, will not significantly differ from that determined in the absence of an authorisation.

2. The grant of the authorisation is conditional to the fulfilment, by the applicant, of the following conditions:

(a) he complies with the criterion laid down in Article 39(a) of the Code;

(b) he maintains an accounting system which is consistent with the generally accepted accounting principles applied in the Member State where the accounts are held and which will facilitate audit-based customs control. The accounting system shall maintain a historical record of data that provides an audit trail from the moment the data enters the file;

(c) he has an administrative organisation which corresponds to the type and size of business and which is suitable for the management of the flow of goods, and have internal controls capable of detecting illegal or irregular transactions;

TITLE III

CUSTOMS DEBT AND GUARANTEES

CHAPTER 1

Incurrence of a customs debt

SECTION 1

PROVISIONS COMMON TO CUSTOMS DEBTS INCURRED ON IMPORT AND EXPORT

SUBSECTION 1

RULES FOR CALCULATION OF THE AMOUNT OF IMPORT OR EXPORT DUTY

Article 72

Calculation of the amount of import duty on processed products resulting from inward processing

(Article 86(3) of the Code)

1. In order to determine the amount of import duty to be charged on processed products in accordance with Article 86(3) of the Code, the quantity of the goods placed under the inward processing procedure considered to be present in the processed products for which a customs debt is incurred shall be determined in accordance with paragraphs 2 to 6.

2. The quantitative scale method laid down in paragraphs 3 and 4 shall be applied in the following cases:

   (a) where only one kind of processed products is derived from the processing operations;

   (b) where different kinds of processed products are derived from the processing operations and all constituents or components of the goods placed under the procedure are found in each of those processed products.

3. In the case referred to in paragraph 2(a), the quantity of the goods placed under the inward processing procedure considered to be present in the processed products for which a customs debt is incurred shall be determined by applying the percentage which the processed products for which a customs debt is incurred constitute of the total quantity of the processed products resulting from the processing operation, to the total quantity of the goods placed under the inward processing procedure.

4. In the case referred to in paragraph 2(b), the quantity of the goods placed under the inward processing procedure considered to be present in the processed products for which a customs debt is incurred shall be determined by applying, to the total

quantity of the goods placed under the inward processing procedure, a percentage calculated by multiplying the following factors:

(a) the percentage which the processed products for which a customs debt is incurred constitute of the total quantity of the processed products of the same kind resulting from the processing operation;

(b) the percentage which the total quantity of the processed products of the same kind, irrespective of whether a customs debt is incurred, constitutes of the total quantity of all processed products resulting from the processing operation.

5. Quantities of goods placed under the procedure which are destroyed and lost during the processing operation, in particular by evaporation, desiccation, sublimation or leakage, shall not be taken into account in the application of the quantitative scale method.

6. In cases other than those referred to in paragraph 2, the value scale method shall apply in accordance with the second, third and fourth subparagraphs.

The quantity of the goods placed under the inward processing procedure considered to be present in processed products for which a customs debt is incurred shall be determined by applying, to the total quantity of the goods placed under the inward processing procedure, a percentage calculated by multiplying the following factors:

(a) the percentage which the processed products for which a customs debt is incurred constitute of the total value of the processed products of the same kind resulting from the processing operation;

(b) the percentage which the total value of the processed products of the same kind, irrespective of whether a customs debt is incurred, constitute of the total value of all processed products resulting from the processing operation.

For the purposes of applying the value scale method, the value of the processed products shall be established on the basis of current ex-works prices in the customs territory of the Union or, where such ex-works prices cannot be determined, the current selling prices in the customs territory of the Union for identical or similar products. Prices between parties which appear to be associated or to have a compensatory arrangement with each other may not be used for the determination of the value of the processed products unless it is determined that the prices are unaffected by the relationship.

Where the value of the processed products cannot be determined pursuant to the third subparagraph, it shall be determined by any reasonable method.

Article 73

Application of the provisions on end-use procedure to processed products resulting from inward processing

(Article 86(3) of the Code)

1. For the purposes of the application of Article 86(3) of the Code, when determining the amount of import duty corresponding to the customs debt on processed products resulting from the inward processing procedure, the goods placed under that

procedure shall benefit from a duty exemption or a reduced rate of duty on account of their specific use, which would have been applied to those goods if they had been placed under the end-use procedure in accordance with Article 254 of the Code.

2. Paragraph 1 shall apply where the following conditions are fulfilled:

(a) an authorisation to place the goods under the end-use procedure could have been issued, and

(b) the conditions for the duty exemption or the reduced rate of duty on account of specific use of those goods would have been fulfilled at the time of acceptance of the customs declaration for placing goods under the inward processing procedure.

Article 74

Application of the preferential tariff treatment to goods placed under inward processing

(Article 86(3) of the Code)

For the purposes of the application of Article 86(3) of the Code, where, at the time of the acceptance of the customs declaration for placing goods under the inward processing procedure the imported goods fulfil the conditions to qualify for preferential tariff treatment within tariff quotas or ceilings, those goods shall be eligible for any preferential tariff treatment provided for in respect of identical goods at the time of acceptance of the declaration of release for free circulation.

Article 75

Specific import duty on processed products resulting from outward processing or replacement products

(Article 86(5) of the Code)

Where a specific import duty is to be applied in relation to processed products resulting from the outward processing procedure or replacement products, the amount of the import duty shall be calculated on the basis of the customs value of the processed products at the time of acceptance of the customs declaration for release for free circulation minus the statistical value of the corresponding temporary export goods at the time when they were placed under outward processing, multiplied by the amount of import duty applicable to the processed products or replacement products, divided by the customs value of the processed products or replacement products.

Article 76

Derogation for the calculation of the amount of import duty on processed products resulting from inward processing

(Article 86(3) and 86(4) of the Code)

Article 86(3) of the Code shall apply without a request from the declarant where all of the following conditions are fulfilled:

(a) the processed products resulting from the inward processing procedure are imported directly or indirectly by the relevant holder of the authorisation within a period of one year after their re-export;

(b) the goods would, at the time of the acceptance of the customs declaration for placing the goods under the inward -processing procedure, have been subject to a commercial or an agricultural policy measure or an anti-dumping duty, countervailing duty, safeguard duty or retaliation duty had they been released for free circulation at that time

(c) no examination of the economic conditions was required in accordance with Article 166 .

SUBSECTION 2

TIME-LIMIT FOR ESTABLISHING THE PLACE WHERE THE CUSTOMS DEBT IS INCURRED

Article 77

Time-limit for establishing the place where the customs debt is incurred under Union transit

(Article 87(2) of the Code)

For goods placed under the Union transit procedure, the time-limit referred to in Article 87(2) of the Code shall be either of the following:

(a) seven months from the latest date on which the goods should have been presented at the customs office of destination, unless before the expiry of that time limit a request to transfer the recovery of the customs debt was sent to the authority responsible for the place where, according to the evidence obtained by the customs authority of the Member State of departure, the events from which the customs debt arises occurred, in which case that time-limit is extended by a maximum of one month;

(b) one month from the expiry of the time-limit for the reply by the holder of the procedure to a request for the information needed to discharge the procedure, where the customs authority of the Member State of departure has not been notified of the arrival of the goods and the holder of the procedure has provided insufficient or no information.

Article 78

Time-limit for establishing the place where the customs debt is incurred under transit in accordance with the TIR Convention

(Article 87(2) of the Code)

For goods placed under transit in accordance with the Customs Convention on the international transport of goods under cover of TIR carnets, including any subsequent amendments, (TIR Convention), the time-limit referred to in Article 87(2) of the Code shall be seven months from the latest date on which the goods should have been presented at the customs office of destination or exit.

Article 79

Time-limit for establishing the place where the customs debt is incurred under transit in accordance with the ATA Convention or the Istanbul Convention

(Article 87(2) of the Code)

For goods placed under transit in accordance with the Customs Convention on the ATA Carnet for the Temporary Admission of Goods done at Brussels on 6 December 1961, including any subsequent amendments, (ATA Convention) or with the Convention on Temporary Admission, including any subsequent amendments, (Istanbul Convention) the time-limit referred to in Article 87(2) of the Code shall be seven months from the date on which the goods should have been presented at the customs office of destination.

Article 80

Time-limit for establishing the place where the customs debt is incurred in cases other than transit

(Article 87(2) of the Code)

For goods placed under a special procedure other than transit or for goods which are in temporary storage, the time-limit referred to in Article 87(2) of the Code shall be seven months from the expiry of any of the following periods:

(a) the prescribed period for discharge of the special procedure;

(b) the prescribed period for ending the customs supervision of end-use goods;

(c) the prescribed period for ending the temporary storage;

(d) the prescribed period for ending the movement of goods placed under the warehousing procedure between different places in the customs territory of the Union where the procedure was not discharged.

CHAPTER 2

Guarantee for a potential or existing customs debt

SECTION 1

GENERAL PROVISIONS

Article 81

Cases where no guarantee shall be required for goods placed under the temporary admission procedure

(Article 89(8)(c) of the Code)

The placing of goods under the temporary admission procedure shall not be subject to the provision of a guarantee in the following cases:

(a) where the customs declaration may be made orally or by any other act as referred to in Article 141;

(b) in the case of materials used in international traffic by airlines, shipping or railway companies or providers of postal services provided that those materials are distinctively marked;

(c) in the case of packings imported empty, provided that they carry indelible non-removable markings;

(d) where the previous holder of the authorisation for temporary admission has declared the goods for the temporary admission procedure in accordance with Article 136 or Article 139 and those goods are subsequently placed under temporary admission for the same purpose.

Article 82

Guarantee in the form of an undertaking by a guarantor

(Article 94, 22(4) and 6(3)(a) of the Code)

1. Where the guarantee is provided in the form of an undertaking by a guarantor and may be used in more than one Member State, the guarantor shall indicate an address for service or appoint an agent in each Member State in which the guarantee may be used.

2. The revocation of the approval of the guarantor or of the undertaking of the guarantor shall take effect on the 16th day following the date on which the decision on the revocation is received or is deemed to have been received by the guarantor.

3. The cancellation of the undertaking by the guarantor shall take effect on the 16th day following the date on which the cancellation is notified by the guarantor to the customs office where the guarantee was provided.

4. Where a guarantee covering a single operation (individual guarantee) is provided in the form of vouchers, it may be made using means other than electronic data processing techniques.

Article 83

Forms of guarantee other than a cash deposit or an undertaking given by a guarantor

(Article 92(1)(c) of the Code)

1. The forms of guarantee other than a cash deposit or an undertaking given by a guarantor shall be the following:

   (a) the creation of a mortgage, a charge on land, an antichresis or other right deemed equivalent to a right pertaining to immovable property;

   (b) the cession of a claim, the pledging, with or without surrendering possession, of goods, securities or claims or a savings bank book or entry in the national debt register;

   (c) the assumption of joint contractual liability for the full amount of the debt by a third party approved for that purpose by the customs authorities or the lodging of a bill of exchange the payment of which is guaranteed by such third party;

   (d) a cash deposit or means of payment deemed equivalent thereto other than in euro or the currency of the Member State in which the guarantee is required;

   (e) participation, subject to payment of a contribution, in a general guarantee scheme administered by the customs authorities.

2. The forms of guarantee referred to in paragraph 1 shall not be accepted for the placing of goods under the Union transit procedure.

3. The Member States shall accept the forms of guarantee referred to in paragraph 1 insofar as those forms of guarantee are accepted under national law.

SECTION 2

COMPREHENSIVE GUARANTEE AND GUARANTEE WAIVER

Article 84

Reduction of the level of the comprehensive guarantee and guarantee waiver

(Article 95(2) of the Code)

1. An authorisation to use a comprehensive guarantee with an amount reduced to 50 % of the reference amount shall be granted where the applicant demonstrates that he fulfils the following conditions:

(a) the applicant maintains an accounting system which is consistent with the generally accepted accounting principles applied in the Member State where the accounts are held, allows audit-based customs control and maintains a historical record of data that provides an audit trail from the moment the data enters the file;

(b) the applicant has an administrative organisation which corresponds to the type and size of business and which is suitable for the management of the flow of goods, and has internal controls capable of preventing, detecting and correcting errors and of preventing and detecting illegal or irregular transactions;

(c) the applicant is not subject to bankruptcy proceedings;

(d) during the last three years preceding the submission of the application, the applicant has fulfilled his financial obligations regarding payments of customs duties and all other duties, taxes or charges which are collected on or in connection with the import or export of goods;

(e) the applicant demonstrates on the basis of the records and information available for the last three years preceding the submission of the application that he has sufficient financial standing to meet his obligations and fulfil his commitments having regard to the type and volume of the business activity, including having no negative net assets, unless where they can be covered;

(f) the applicant can demonstrate having sufficient financial resources to meet his obligations, for the part of the reference amount not covered by the guarantee.

2. An authorisation to use a comprehensive guarantee with an amount reduced to 30 % of the reference amount shall be granted where the applicant demonstrates that he fulfils the following conditions:

(a) the applicant maintains an accounting system which is consistent with the generally accepted accounting principles applied in the Member State where the accounts are held, allows audit-based customs control and maintains a historical record of data that provides an audit trail from the moment the data enters the file;

(b) the applicant has an administrative organisation which corresponds to the type and size of business and which is suitable for the management of the flow of goods, and has internal controls capable of preventing, detecting and correcting errors and of preventing and detecting illegal or irregular transactions;

(c) the applicant ensures that relevant employees are instructed to inform the customs authorities whenever compliance difficulties are discovered and establishes procedures for informing the customs authorities of such difficulties;

(d) the applicant is not subject to bankruptcy proceedings;

(e) during the last three years preceding the submission of the application, the applicant has fulfilled his financial obligations regarding payments of customs duties and all other duties, taxes or charges which are collected on or in connection with the import or export of goods;

(f) the applicant demonstrates on the basis of the records and information available for the last three years preceding the submission of the application that he has sufficient financial standing to meet his obligations and fulfil his

commitments having regard to the type and volume of the business activity, including having no negative net assets, unless where they can be covered;

(g) the applicant can demonstrate having sufficient financial resources to meet his obligations, for the part of the reference amount not covered by the guarantee.

3. A guarantee waiver shall be granted where the applicant demonstrates that he fulfils the following requirements:

(a) the applicant maintains an accounting system which is consistent with the generally accepted accounting principles applied in the Member State where the accounts are held, allows audit-based customs control and maintains a historical record of data that provides an audit trail from the moment the data enters the file;

(b) the applicant allows the customs authority physical access to its accounting systems and, where applicable, to its commercial and transport records;

(c) the applicant has a logistical system which identifies goods as Union or non-Union goods and indicates, where appropriate, their location;

(d) the applicant has an administrative organisation which corresponds to the type and size of business and which is suitable for the management of the flow of goods, and has internal controls capable of preventing, detecting and correcting errors and of preventing and detecting illegal or irregular transactions;

(e) where applicable, the applicant has satisfactory procedures in place for the handling of licences and authorisations granted in accordance with commercial policy measures or relating to trade in agricultural products;

(f) the applicant has satisfactory procedures in place for the archiving of its records and information and for protection against the loss of information;

(g) the applicant ensures that relevant employees are instructed to inform the customs authorities whenever compliance difficulties are discovered and establishes procedures for informing the customs authorities of such difficulties;

(h) the applicant has appropriate security measures in place to protect the applicant's computer system from unauthorised intrusion and to secure the applicant's documentation;

(i) the applicant is not subject to bankruptcy proceedings;

(j) during the last three years preceding the submission of the application, the applicant has fulfilled his financial obligations regarding payments of customs duties and all other duties, taxes or charges which are collected on or in connection with the import or export of goods;

(k) the applicant demonstrates on the basis of the records and information available for the last three years preceding the submission of the application that he has sufficient financial standing to meet his obligations and fulfil his commitments having regard to the type and volume of the business activity, including having no negative net assets, unless where they can be covered;

(l) the applicant can demonstrate having sufficient financial resources to meet his obligations, for the part of the reference amount not covered by the guarantee.

4. Where the applicant has been established for less than three years, the requirement as referred to in paragraphs 1(d), 2(e) and 3(j) shall be checked on the basis of available records and information.

SECTION 3

PROVISIONS FOR THE UNION TRANSIT PROCEDURE AND THE PROCEDURE UNDER THE ISTANBUL AND THE ATA CONVENTION

Article 85

Release of the guarantor's obligations under the Union transit procedure

(Articles 6(2), 6(3)(a) and 98 of the Code)

1. Where the Union transit procedure has not been discharged, the customs authorities of the Member State of departure shall, within nine months from the prescribed time limit for presentation of the goods at the office of destination, notify the guarantor that the procedure has not been discharged.
2. Where the Union transit procedure has not been discharged, the customs authorities, determined in accordance with Article 87 of the Code, shall, within three years from the date of acceptance of the transit declaration, notify the guarantor that he is or might be required to pay the debt for which he is liable in respect of the Union transit operation in question.
3. The guarantor shall be released from his obligations if either of the notifications provided for in paragraphs 1 and 2 have not been issued to him before the expiry of the time limit.
4. Where either of the notifications has been issued, the guarantor shall be informed of the recovery of the debt or the discharge of the procedure.
5. The common data requirements for the notification as referred to in paragraph 1 are set out in Annex 32-04.

   The common data requirements for the notification as referred to in paragraph 2 are set out in Annex 32-05.
6. In accordance with Article 6(3)(a) of the Code, the notification as referred to in paragraphs 1 and 2 may be sent by means other than electronic data-processing techniques.

Article 86

Claim for payment against a guaranteeing association for goods covered by ATA carnet and notification of the non-discharge of CPD carnets to a guaranteeing association under the procedure of the ATA Convention or Istanbul Convention

(Articles 6(2), 6(3)(a) and 98 of the Code)

1. In case of non-compliance with one of the obligations under ATA carnet or CPD carnet customs authorities shall regularise the temporary admission papers (claim for payment against a guaranteeing association or notification of the non-discharge, respectively) in accordance with Articles 9, 10 and 11 of Annex A to the Istanbul Convention or where applicable, in accordance with Articles 7, 8 and 9 of the ATA Convention.

2. The amount of import duty and taxes arising from the claim for payment against a guaranteeing association shall be calculated by means of a model taxation form.

3. The common data requirements for the claim for payment against a guaranteeing association referred to in paragraph 1 are set out in Annex 33-01.

4. The common data requirements for the notification of the non-discharge of CPD carnets referred to in paragraph 1are set out in Annex 33-02.

5. In accordance with Article 6(3)(a) of the Code, the claim for payment against a guaranteeing association and the notification of the non-discharge of CPD carnets may be sent to the relevant guaranteeing association by means other than by electronic data-processing techniques.

CHAPTER 3

Recovery and payment of duty and repayment and remission of the amount of import and export duty

SECTION 1

DETERMINATION OF THE AMOUNT OF IMPORT OR EXPORT DUTY, NOTIFICATION OF THE CUSTOMS DEBT AND ENTRY IN THE ACCOUNTS

SUBSECTION 1

NOTIFICATION OF THE CUSTOMS DEBT AND CLAIM FOR PAYMENT FROM GUARANTEEING ASSOCIATION

Articles 87

Means of notification of the customs debt

(Article 6(3)(a) of the Code)

The notification of the customs debt in accordance with Article 102 of the Code may be made by means other than by electronic data-processing techniques.

Article 88

Exemption from notification of the customs debt

(Article 102(1)(d) of the Code)

1. The customs authorities may refrain from notifying a customs debt incurred through non-compliance under Article 79 or 82 of the Code where the amount of import or export duty concerned is less than EUR 10.
2. Where the customs debt was initially notified with an amount of import or export duty which was less than the amount of import or export duty payable, the customs authorities may refrain from notifying the customs debt for the difference between those amounts provided that it is less than EUR 10.

3 The limitation of EUR10 referred to in paragraphs 1 and 2 shall apply to each recovery action.

SECTION 2

PAYMENT OF THE AMOUNT OF IMPORT OR EXPORT DUTY

Article 89

Suspension of the time-limit for payment in case of application for remission

(Article 108(3)(a) of the Code)

1. The customs authorities shall suspend the time-limit for payment of the amount of import or export duty corresponding to a customs debt until they have taken a decision on the application for remission, provided that the conditions are fulfilled:

   (a) where an application for remission pursuant to Article 118, 119 or 120 of the Code has been presented, the conditions laid down in the relevant Article are likely to be met;

   (b) where an application for remission pursuant to Article 117 of the Code has been presented, the conditions laid down in Article 117 and Article 45(2) of the Code are likely to be met.

2. Where the goods subject to an application for remission are no longer under customs supervision at the time of the application, a guarantee shall be provided.

3. By way of derogation from paragraph 2, the customs authorities shall not require a guarantee if it is established that providing a guarantee would be likely to cause the debtor serious economic or social difficulties.

Article 90

Suspension of the time-limit for payment in the case of goods that are to be confiscated, destroyed or abandoned to the State

(Article 108(3)(b) of the Code)

The customs authorities shall suspend the time-limit for payment of the amount of import or export duty corresponding to a customs debt where the goods are still under customs supervision and they are to be confiscated, destroyed or abandoned to the State and the customs authorities consider that the conditions for confiscation, destruction or abandonment are likely to be met, until the final decision on their confiscation, destruction or abandonment is taken.

Article 91

Suspension of the time-limit for payment in the case of customs debts incurred through non-compliance

(Article 108(3)(c) of the Code)

1. The customs authorities shall suspend the time-limit for payment, by the person referred to in Article 79(3)(a) of the Code, of the amount of import or export duty corresponding to a customs debt where a customs debt has been incurred through non-compliance as referred to in Article 79 of the Code, provided that the following conditions are fulfilled:

   (a) at least one other debtor has been identified in accordance with Article 79(3)(b) or (c) of the Code;

   (b) the amount of import or export duty concerned has been notified to the debtor referred to in point (a) in accordance with Article 102 of the Code;

   (c) the person referred to in Article 79(3)(a) of the Code is not considered a debtor in accordance with Article 79(3)(b) or (c) of the Code and no deception or obvious negligence may be attributed to that person;

2. The suspension shall be conditional on the person for whose benefit it is granted issuing a guarantee for the amount of the import or export duty at stake, except in either of the following situations:

   (a) a guarantee covering the whole amount of import or export duty at stake already exists and the guarantor has not been released from his obligations;

   (b) it is established, on the basis of a documented assessment , that the requirement of a guarantee would be likely to cause the debtor serious economic or social difficulties.

3. The duration of the suspension shall be limited to one year. However, this period may be extended by the customs authorities for justified reasons.

SECTION 3

REPAYMENT AND REMISSION

SUBSECTION 1

GENERAL PROVISIONS AND PROCEDURE

Article 92

Application for repayment or remission

(Articles 6(3)(a), 22(1) and 103 of the Code)

1. By way of derogation from the third subparagraph of Article 22(1) of the Code, the application for repayment or remission of import or export duties referred to in Article 116 of the Code shall be submitted to the competent customs authority of the Member State where the customs debt was notified.

2. The application referred to in paragraph 1 may be made by means other than electronic data-processing techniques, in accordance with the provisions in the Member State concerned.

Article 93

Supplementary information where goods are situated in another Member State

(Articles 6(2) and 6(3)(a) of the Code)

The common data requirements for the request of supplementary information where goods are situated in another Member State are set out in Annex 33-06.

The request for supplementary information referred to in the first subparagraph may be made by means other than electronic data-processing techniques.

Article 94

Means of notification of the decision on repayment or remission

(Article 6(3)(a) of the Code)

The decision on repayment or remission of import or export duty may be notified to the person concerned by means other than electronic data-processing techniques.

Article 95

Common data requirements related to formalities where goods are located in another Member State

(Article 6(2) of the Code)

The common data requirements for the reply to the request for information concerning the completion of formalities where the application for repayment or remission relates to goods which are located in a Member State other than that in which the customs debt was notified are set out in Annex 33-07.

Article 96

Means for sending information on the completion of formalities where goods are located in another Member State

(Article 6(3)(a) of the Code)

The reply referred to in Article 95 may be sent by means other than electronic data-processing techniques.

Article 97

Extension of the time-limit for taking a decision on repayment or remission

(Article 22(3) of the Code)

Where the first subparagraph of Article 116(3) of the Code or point (b) of the second subparagraph of Article 116(3) of the Code applies, the time-limit for taking the decision on repayment or remission shall be suspended until such time as the Member State concerned has received the notification of the Commission's decision or the notification by the Commission of the return of the file for the reasons provided in Article 98(6).

Where point (b) of the second subparagraph of Article 116 (3) of the Code applies, the time-limit for taking the decision on repayment or remission shall be suspended until such time as the Member State concerned has received the notification of the Commission's decision on the case involving comparable issues in fact and of law.

SUBSECTION 2

DECISIONS TO BE TAKEN BY THE COMMISSION

Article 98

Transmission of the file to the Commission for a decision

(Article 116(3) of the Code)

1. The Member State shall notify the person concerned of their intention to transmit the file to the Commission before the transmission and give to the person concerned 30 days to sign a statement certifying that he has read the file and stating that he has nothing to add or listing all the additional information that he considers should be included. Where the person concerned does not provide that statement within those 30 days, the person concerned shall be deemed to have read the file and to have nothing to add.

2. Where a Member State transmits a file to the Commission for decision in the cases referred to Article 116(3) of the Code, the file shall include at least the following:

   (a) a summary of the case;

(b) detailed information establishing that the conditions referred to in Article 119 or Article 120 of the Code, are fulfilled;

(c) the statement referred to in paragraph 1 or a statement by the Member State certifying that the person concerned is deemed to have read the file and to have nothing to add.

3. The Commission shall acknowledge receipt of the file to the Member State concerned as soon as it has received it.

4. The Commission shall make available to all Member States a copy of the summary of the case referred to in paragraph 2(a) within 15 days from the date on which it received the file.

5. Where the information transmitted by the Member State is not sufficient for the Commission to take a decision, the Commission may request additional information from the Member State.

6. The Commission shall return the file to the Member State and the case shall be deemed never to have been submitted to the Commission in any of the following cases:

(a) the file is obviously incomplete since it contains nothing that would justify its consideration by the Commission;

(b) under the second subparagraph of Article 116(3) of the Code, the case should not have been submitted to the Commission;

(c) the Member State has transmitted to the Commission new information of a nature to alter substantially the presentation of the facts or the legal assessment of the case while the Commission is still considering the file.

Article 99

Right for the person concerned to be heard

(Article 116(3) of the Code)

1. Where the Commission intends to take an unfavourable decision in the cases referred to Article 116(3) of the Code, it shall communicate its objections to the person concerned in writing, together with a reference to all the documents and information on which it bases those objections. The Commission shall inform the person concerned of his right to have access to the file.

3. The Commission shall inform the Member State concerned of its intention and the sending of the communication as referred to in paragraph 1.

2. The person concerned shall be given the opportunity to express his point of view in writing to the Commission within the period of 30 days from the date on which he has received the communication referred to in paragraph 1.

Article 100

Time-limits

(Article 116(3) of the Code)

1. The Commission shall decide whether or not repayment or remission is justified within nine months from the date on which it has received the file referred to in Article 98(1).

2. Where the Commission has found it necessary to request additional information from the Member State as laid down in Article 98(5), the period referred to in paragraph 1 shall be extended by the same period of time as the period between the date on which the Commission sent the request for additional information and the date on which it received that information. The Commission shall notify the person concerned of the extension.

3. Where the Commission conducts investigations in order to take a decision, the period referred to in paragraph 1 shall be extended by the time necessary to complete the investigations. Such an extension shall not exceed nine months. The Commission shall notify the Member State and the person concerned of the dates on which investigations are initiated and closed.

4. Where the Commission intends to take an unfavourable decision as referred to in Article 99(1), the period referred to in paragraph 1 shall be extended by 30 days.

Article 101

Notification of the decision

(Article 116(3) of the Code)

1. The Commission shall notify the Member State concerned of its decision as soon as possible and in any event within 30 days of the expiry of the period specified in Article 100(1).

2. The customs authority competent to take the decision shall issue a decision on the basis of the Commission's decision notified in accordance with paragraph 1.

   The Member State to which the customs authority competent to take the decision belongs shall inform the Commission accordingly by sending to it a copy of the decision concerned.

3. Where the decision in the cases referred to Article 116(3) of the Code is favourable to the person concerned, the Commission may specify the conditions under which the customs authorities are to repay or remit duty in cases involving comparable issues of fact and of law.

Article 102

Consequences of a failure to take or notify a decision

(Article 116(3) of the Code)

If the Commission does not take a decision within the time-limit provided for in Article 100, or does not notify a decision to the Member State in question within the time-limit provided for in 101(1), the customs authority competent to take the decision shall take a decision favourable to the person concerned.

CHAPTER 4

Extinguishment of a customs debt

Article 103

Failures which have no significant effect on the correct operation of a customs procedure

(Article 124(1)(h)(i) of the Code)

The following situations shall be considered a failure with no significant effect on the correct operation of the customs procedure:

(a) exceeding a time-limit by a period of time which is not longer than the extension of the time-limit that would have been granted had that extension been applied for;

(b) where a customs debt has been incurred for goods placed under a special procedure or in temporary storage pursuant to Article 79(1)(a) or (c) of the Code and those goods were subsequently released for free circulation;

(c) where the customs supervision has been subsequently restored for goods which are not formally a part of a transit procedure, but which previously were in a temporary storage or were placed under a special procedure together with goods formally placed under that transit procedure;

(d) in the case of goods placed under a special procedure other than transit and free zones or in the case of goods which are in temporary storage, where an error has been committed concerning the information in the customs declaration discharging the procedure or ending the temporary storage provided that error has no impact on the discharge of the procedure or the end of the temporary storage;

(e) where a customs debt has been incurred pursuant to Article 79(1)(a) or (b) of the Code, provided that the person concerned informs the competent customs authorities about the non-compliance before either the customs debt has been notified or the customs authorities have informed that person that they intend to perform a control.

TITLE IV

GOODS BROUGHT INTO THE CUSTOMS TERRITORY OF THE UNION

CHAPTER 1

Entry summary declaration

Article 104

Waiver from the obligation to lodge an entry summary declaration

(Article 127(2)(b) of the Code)

1. The lodging of an entry summary declaration shall be waived in respect of the following goods:

(a) electrical energy;

(b) goods entering by pipeline;

(c) items of correspondence;

(d) household effects as defined in Article 2(1)(d) of Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty[14], provided that they are not carried under a transport contract;

(e) goods for which an oral customs declaration is permitted in accordance with Article 135 and Article 136(1) provided that they are not carried under a transport contract;

(f) goods referred to in Article 138(b) to (d) or Article 139(1) which are deemed to be declared in accordance with Article 141 provided that they are not carried under a transport contract;

(g) goods contained in travellers' personal baggage;

(h) goods moved under cover of the form 302 provided for in the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951;

(i) weapons and military equipment brought into the customs territory of the Union by the authorities in charge of the military defence of a Member State, in military transport or transport operated for the sole use of the military authorities;

(j) the following goods brought into the customs territory of the Union directly from offshore installations operated by a person established in the customs territory of the Union:

  (i) goods which were incorporated in those offshore installations for the purposes of their construction, repair, maintenance or conversion;

  (ii) goods which were used to fit or equip the offshore installations;

  (iii) provisions used or consumed on the offshore installations;

[14] OJ L 324, 10.12.2009, p. 23

(iv) non-hazardous waste from the said offshore installations;

(k) goods entitled to relief pursuant to the Vienna Convention on diplomatic relations of 18 April 1961, the Vienna Convention on consular relations of 24 April 1963, other consular conventions or the New York Convention of 16 December 1969 on special missions;

(l) the following goods on board vessels and aircraft:

(i) goods which have been supplied for incorporation as parts of or accessories in those vessels and aircraft;

(ii) goods for the operation of the engines, machines and other equipment of those vessels or aircrafts;

(iii) foodstuffs and other items to be consumed or sold on board;

(m) goods brought into the customs territory of the Union from Ceuta and Melilla, Gibraltar, Helgoland, the Republic of San Marino, the Vatican City State, the municipalities of Livigno and Campione d'Italia, or the Italian national waters of Lake Lugano which are between the bank and the political frontier of the area between Ponte Tresa and Porto Ceresio;

(n) products of sea-fishing and other products taken from the sea outside the customs territory of the Union by Union fishing vessels;

(o) vessels, and the goods carried thereon, entering the territorial waters of a Member State with the sole purpose of taking on board supplies without connecting to any of the port facilities;

(p) goods covered by ATA or CPD carnets provided they are not carried under a transport contract.

2. Until 31 December 2020, the lodging of an entry summary declaration shall be waived in respect of goods in postal consignments the weight of which does not exceed 250 grams.

Where goods in postal consignments the weight of which does exceed 250 grams are brought into the customs territory of the Union but are not covered by an entry summary declaration penalties shall not be applied. Risk analysis shall be carried out upon the presentation of the goods and, where available, on the basis of the temporary storage declaration or the customs declaration covering those goods.

By 31 December 2020, the Commission shall review the situation of goods in postal consignments pursuant to this paragraph with a view to making such adaptations as may appear necessary taking into account the use of electronic means by postal operators covering the movement of goods.

Article 105

Time-limits for lodging the entry summary declaration in case of transport by sea

(Article 127(3) and (7) of the Code)

Where the goods are brought into the customs territory of the Union by sea, the entry summary declaration shall be lodged within the following time-limits:

(a) for containerised cargo, other than where point (c) or point (d) applies, at the latest 24 hours before the goods are loaded onto the vessel on which they are to be brought into the customs territory of the Union;

(b) for bulk or break bulk cargo, other than where point (c) or (d) applies, at the latest four hours before the arrival of the vessel at the first port of entry into the customs territory of the Union;

(c) at the latest two hours before arrival of the vessel at the first port of entry into the customs territory of the Union in case of goods coming from any of the following:

(i) Greenland;

(ii) the Faeroe Islands;

(iii) Iceland;

(iv) ports on the Baltic Sea, the North Sea, the Black Sea and the Mediterranean Sea;

(v) all ports of Morocco;

(d) for movement, other than where point (c) applies, between a territory outside the customs territory of the Union and the French overseas departments, the Azores, Madeira or the Canary Islands, where the duration of the voyage is less than 24 hours, at the latest two hours before arrival at the first port of entry into the customs territory of the Union.

Article 106

Time-limits for lodging the entry summary declaration in case of transport by air

(Article 127(3) and (7) of the Code)

1. Where the goods are brought into the customs territory of the Union by air, the entry summary declaration shall be lodged as early as possible.

The minimum dataset of the entry summary declaration shall be lodged 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.

2. Where only the minimum dataset of the entry summary declaration has been provided within the time-limit referred to in the second subparagraph of paragraph 1, the other particulars shall be provided by the following time-limits:

(a) for flights with a duration of less than four hours, at the latest by the time of the actual departure of the aircraft;

(b) for other flights, at the latest four hours before the arrival of the aircraft at the first airport in the customs territory of the Union.

Article 107

Time-limits for lodging the entry summary declaration in case of transport by rail

(Article 127(3) and (7) of the Code)

Where the goods are brought into the customs territory of the Union by rail, the entry summary declaration shall be lodged within the following time-limits:

(a) where the train voyage from the last train formation station located in a third country to the customs office of first entry takes less than two hours, at the latest one hour before arrival of the goods at the place for which that customs office is competent;

(b) in all other cases, at the latest two hours before the arrival of the goods at the place for which the customs office of first entry is competent.

Article 108

Time-limits for lodging the entry summary declaration in case of transport by road

(Article 127(3) and (7) of the Code)

Where the goods are brought into the customs territory of the Union by road, the entry summary declaration shall be lodged at the latest one hour before the arrival of the goods at the place for which the customs office of first entry is competent.

Article 109

Time-limits for lodging the entry summary declaration in case of transport by inland waterways

(Article 127(3) and (7) of the Code)

Where the goods are brought into the customs territory of the Union by inland waterways, the entry summary declaration shall be lodged at the latest two hours before arrival of the goods at the place for which the customs office of first entry is competent.

Article 110

Time-limits for lodging the entry summary declaration in case of combined transportation

(Article 127(3) and (7) of the Code)

Where the goods are brought into the customs territory of the Union on a means of transport which is, itself, transported on an active means of transport, the time-limit for lodging the entry summary declaration shall be the time-limit applicable to the active means of transport.

Article 111

Time-limits for lodging the entry summary declaration in case of force majeure

(Article 127(3) and (7) of the Code)

The time-limits referred to in Articles 105 to 109 shall not apply in the case of *force majeure*.

Article 112

Provision of particulars of the entry summary declaration by other persons in specific cases as regards transport by sea or inland waterways

(Article 127(6) of the Code)

1. Where, in the case of transport by sea or inland waterways, for the same goods one or more additional transport contracts covered by one or more bills of lading have been concluded by one or more persons other than the carrier, and the person issuing the bill of lading does not make the particulars required for the entry summary declaration available to his contractual partner who issues a bill of lading to him or to his contractual partner with whom he concluded a goods co-loading arrangement, the person who does not make the required particulars available shall provide those particulars to the customs office of first entry in accordance with Article 127(6) of the Code.

   Where the consignee indicated in the bill of lading that has no underlying bills of lading does not make the particulars required for the entry summary declaration available to the person issuing that bill of lading, he shall provide those particulars to the customs office of first entry.

2. Each person submitting the particulars referred to in Article 127(5) of the Code shall be responsible for the particulars that he has submitted in accordance with Article 15(2)(a) and (b) of the Code.

Article 113

Provision of particulars of the entry summary declaration by other persons in specific cases as regards transport by air

(Article 127(6) of the Code)

1. Where, in the case of transport by air, for the same goods one or more additional transport contracts covered by one or more air waybills have been concluded by one or more persons other than the carrier and the person issuing the air waybill does not make the particulars required for the entry summary declaration available to his contractual partner who issues an air waybill to him or to his contractual partner with whom he concluded a goods co-loading arrangement, the person who does not make

the required particulars available shall provide those particulars to the customs office of first entry in accordance with Article 127(6) of the Code.

2. Where, in the case of transport by air, goods are moved under the rules of the acts of the Universal Postal Union and the postal operator does not make the particulars required for the entry summary declaration available to the carrier, the postal operator shall provide those particulars to the customs office of first entry in accordance with Article 127(6) of the Code.

3. Each person submitting the particulars referred to in Article 127(5) of the Code shall be responsible for the particulars that he has submitted in accordance with Article 15(2)(a) and (b) of the Code.

CHAPTER 2

Arrival of goods

Article 114

Trade with special fiscal territories

(Article 1(3) of the Code)

Member States shall apply this Chapter and Articles 133 to 152 of the Code to goods in trade between a special fiscal territory and another part of the customs territory of the Union, which is not a special fiscal territory.

Article 115

Approval of a place for the presentation of goods to customs and temporary storage

(Articles 139(1) and 147(1) of the Code)

1. A place other than the competent customs office may be approved for the purposes of the presentation of goods where the following conditions are fulfilled.

   (a) the requirements laid down in Article 148(2) and (3) of the Code and in Article 117 are fulfilled;

   (b) the goods declared for a customs procedure in the following day after their presentation, unless the customs authorities requires the goods to be examined in accordance with article 140(2) of the Code.

   Where the place is already authorised for the purpose of the operation of the temporary storage facilities that approval shall not be required.

2. A place other than a temporary storage facility may be approved for temporary storage of the goods where the following conditions are fulfilled:

   (a) the requirements laid down in Article 148(2) and (3) of the Code and in Article 117 are fulfilled;

   (b) the goods declared for a customs procedure in the following day after their presentation, unless the customs authorities requires the goods to be examined in accordance with Article 140(2) of the Code.

Article 116

Records

(Article 148(4) of the Code)

1. The records referred to in Article 148(4) of the Code shall contain the following information and particulars:

   (a) reference to the relevant temporary storage declaration for the goods stored and reference to the corresponding end of temporary storage;

   (b) the date and particulars identifying the customs documents concerning the goods stored and any other documents relating to the temporary storage of the goods;

   (c) particulars, identifying numbers, number and kind of packages, the quantity and usual commercial or technical description of the goods and, where relevant, the identification marks of the container necessary to identify the goods;

   (d) location of goods and particulars of any movement of goods;

   (e) customs status of goods;

   (f) particulars of forms of handling referred to in Article 147(2) of the Code;

   (g) concerning the movement of goods in temporary storage between temporary storage facilities located in different Member States, the particulars about the arrival of the goods at the temporary storage facilities of destination.

   Where the records are not part of the main accounts for customs purposes, the records shall refer to the main accounts for customs purposes.

2. The customs authorities may waive the requirement for some of the information referred to in paragraph 1 where this does not adversely affect the customs supervision and controls of the goods. However, in the case of movement of goods between temporary storage facilities, this waiver shall not be applicable

Article 117

Retail sale

(Article 148(1) of the Code)

Authorisations for the operation of temporary storage facilities referred to in Article 148 of the Code shall be granted on the following conditions:

(a) the temporary storage facilities are not used for the purpose of retail sale;

(b) where the goods stored present a danger or are likely to spoil other goods or require special facilities for other reasons, the temporary storage facilities are specially equipped to store them;

(c) the temporary storage facilities are exclusively operated by the holder of the authorisation.

Article 118

Other cases of movement of goods in temporary storage

(Article 148(5)(c) of the Code)

In accordance with Article 148(5)(c) of the Code, the customs authorities may authorise the movement of goods in temporary storage between different temporary storage facilities covered by different authorisations to operate temporary storage facilities provided the holders of those authorisations are AEOC.

TITLE V

GENERAL RULES ON CUSTOMS STATUS, PLACING GOODS UNDER A CUSTOMS PROCEDURE, VERIFICATION, RELEASE AND DISPOSAL OF GOODS

CHAPTER 1

Customs status of goods

SECTION 1

GENERAL PROVISIONS

Article 119

Presumption of customs status

(Articles 153(1) and 155(2) of the Code)

1. The presumption of having the customs status of Union goods does not apply to the following goods:

   (a) goods brought into the customs territory of the Union which are under customs supervision to determine their customs status;

   (b) goods in temporary storage;

   (c) goods placed under any of the special procedures with the exception of the internal transit, outward processing and the end-use procedures;

   (d) products of sea-fishing caught by a Union fishing vessel outside the customs territory of the Union, in waters other than the territorial waters of a third country which are brought into the customs territory of the Union as laid down in Article 129;

   (e) goods obtained from the products referred to in point (d) on board that vessel or a Union factory ship, in the production of which other products having the customs status of Union goods may have been used which are brought into the customs territory of the Union as laid down in Article 129;

   (f) products of sea-fishing and other products taken or caught by vessels flying the flag of a third country within the customs territory of the Union.

2. Union goods may move, without being subject to a customs procedure, from one point to another within the customs territory of the Union and temporarily out of that territory without alteration of their customs status in the following cases:

   (a) where the goods are carried by air and have been loaded or transhipped at a Union airport for consignment to another Union airport, provided that they are carried under cover of a single transport document issued in a Member State;

(b) where the goods are carried by sea and have been shipped between Union ports by a regular shipping service authorised in accordance with Article 120;

(c) where the goods are carried by rail and have been transported through a third country which is a contracting party to the Convention on a common transit procedure under cover of a single transport document issued in a Member State and such a possibility is provided for in an international agreement.

3. Union goods may move, without being subject to a customs procedure, from one point to another within the customs territory of the Union and temporarily out of that territory without alteration of their customs status in the following cases provided that their customs status of Union goods is proven:

(a) goods which have been brought from one point to another within the customs territory of the Union and temporarily leave that territory by sea or air;

(b) goods which have been brought from one point to another within the customs territory of the Union through a territory outside the customs territory of the Union without being transhipped, and are carried under cover of a single transport document issued in a Member State;

(c) goods which have been brought from one point to another within the customs territory of the Union through a territory outside the customs territory of the Union and were transhipped outside the customs territory of the Union on a means of transport other than that onto which they were initially loaded with a new transport document being issued, covering carriage from the territory outside the customs territory of the Union, provided that the new document is accompanied by a copy of the original single transport document;

(d) motorised road vehicles registered in a Member State which have temporarily left and re-entered the customs territory of the Union;

(e) packaging, pallets and other similar equipment, excluding containers, belonging to a person established in the customs territory of the Union which are used for the transport of goods that have temporarily left and re-entered the customs territory of the Union;

(f) goods in baggage carried by a passenger which are not intended for commercial use and have temporarily left and re-entered the customs territory of the Union.

SECTION 2

REGULAR SHIPPING SERVICE FOR CUSTOMS PURPOSES

Article 120

Authorisation to establish regular shipping services

(Article 155(2) of the Code)

1. An authorisation may be granted by the customs authority competent to take the decision to a shipping company for the purposes of regular shipping services entitling it to move Union goods from one point to another within the customs territory of the Union and temporarily out of that territory without alteration of the customs status of Union goods.

2. An authorisation shall be granted only where:

(a) the shipping company is established in the customs territory of the Union;

(b) it fulfils the criterion laid down in Article 39(a) of the Code;

(c) it undertakes to communicate to the customs authority competent to take the decision the information referred to in Article 121(1) after the authorisation is issued; and

(d) it undertakes not to make any calls on the routes of the regular shipping service at any port in a territory outside the customs territory of the Union or at any free zone in a Union port, and not to make any transhipments of goods at sea.

3. Shipping companies having been granted an authorisation in accordance with this Article shall provide the regular shipping service stated therein.

The regular shipping service shall be provided using vessels registered for that purpose in accordance with Article 121.

Article 121

Registration of vessels and ports

(Articles 22(4) and 155(2) of the Code)

1. The shipping company authorised to establish regular shipping services for the purposes of Article 119(2)(b) shall register the vessels it intends to use and the ports it intends to call at for the purposes of that service by communicating to the customs authority competent to take the decision the following information:

(a) the names of the vessels assigned to the regular shipping service;

(b) the port where the vessel starts its operation as a regular shipping service;

(c) the ports of call.

2. The registration referred to in paragraph 1 shall take effect on the first working day following that of the registration by the decision taking customs authority.

3. The shipping company authorised to establish regular shipping services for the purposes of Article 119(2)(b) shall notify any modification to the information referred to in points (a), (b) and (c) of paragraph 1 and the date and time when that modification takes effect to the customs authority competent to take the decision.

Article 122

Unforeseen circumstances during the transport by regular shipping services

(Articles 153(1) and 155(2) of the Code)

Where a vessel registered to a regular shipping service for the purposes of Article 119(2)(b) as a result of unforeseen circumstances tranships goods at sea, calls at or loads or unloads goods in a port outside the customs territory of the Union, in a port that is not part of the regular shipping service or in a free zone of a Union port, the customs status of those goods shall not be altered unless they were loaded or unloaded at those locations.

Where the customs authorities have reason for doubt whether the goods fulfil those conditions, the customs status of those goods shall be proven.

SECTION 3

PROOF OF THE CUSTOMS STATUS OF UNION GOODS

SUBSECTION 1

GENERAL PROVISIONS

Article 123

Period of validity of a T2L, T2LF or a customs goods manifest

(Article 22(5) of the Code)

The proof of the customs status of Union goods in the form of a T2L, T2LF or a customs goods manifest shall be valid for 90 days from the date of registration or where in accordance with Article 128 there is no obligation to register the customs goods manifest, from the date of its establishment. At the request of the person concerned, and for justified reasons, the customs office may set a longer period of validity of the proof.

Article 124

Means of communication of the MRN of a T2L, T2LF or a customs goods manifest

(Article 6(3)(a) of the Code)

The MRN of a T2L, T2LF or a customs goods manifest may be submitted by any of the following means other than electronic data-processing techniques:

(a) a bar code;

(b) a status registration document;

(c) other means as allowed by the receiving customs authority.

SUBSECTION 2

PROOFS SUBMITTED BY MEANS OTHER THAN ELECTRONIC DATA-PROCESSING TECHNIQUES

Article 125

Proof of the customs status of Union goods for travellers other than economic operators

(Article 6(3)(a) of the Code)

A traveller, other than an economic operator, may make a request on paper for a proof of the customs status of Union goods.

Article 126

Proof of the customs status of Union goods by production of an invoice or transport document

(Articles 6(2) and 6(3)(a) of the Code)

1. The proof of the customs status of Union goods of which the value does not exceed EUR 15 000 may be submitted by any of the following means other than electronic data-processing techniques:

   (a) invoice relating to the goods;

   (b) transport document relating to the goods.

2. The invoice or transport document referred to in paragraph 1 shall include at least the full name and address of the consignor, or of the person concerned where there is no consignor, the competent customs office, the number of packages and their kind, marks and reference numbers of the packages, a description of the goods, the gross mass of the goods (kg), the value of the goods and, where necessary, the container numbers.

   The consignor, or the person concerned where there is no consignor, shall identify the customs status of the Union goods by indicating the code 'T2L' or 'T2LF', as appropriate, accompanied by his signature in the invoice or transport document.

Article 127

Proof of the customs status of Union goods in TIR or ATA carnets or forms 302

(Article 6(3)(a) of the Code)

Where Union goods are transported in accordance with the TIR Convention, the ATA Convention, the Istanbul Convention or the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951, the proof of the customs status of Union goods may be submitted by means other than electronic data-processing techniques.

SUBSECTION 3

PROOF OF THE CUSTOMS STATUS OF UNION GOODS ISSUED BY AN AUTHORISED ISSUER

Article 128

Facilitation for issuing a proof by an authorised issuer

(Article 153(2) of the Code)

1. Any person established in the customs territory of the Union and fulfilling the criteria laid down in Article 39(a) and (b) of the Code may be authorised to issue:

(a) the T2L or T2LF without having to request an endorsement;

(b) the customs goods manifest without having to request an endorsement and registration of the proof from the competent customs office.

2. The authorisation referred to in paragraph 1 shall be issued by the competent customs office at the request of the person concerned.

SUBSECTION 4

SPECIFIC PROVISIONS CONCERNING PRODUCTS OF SEA-FISHING AND GOODS OBTAINED FROM SUCH PRODUCTS

Article 129

The customs status of products of sea-fishing and goods obtained from such products

(Article 153(2) of the Code)

For the purposes of proving the customs status of the products and goods listed in Article 119(1)(d) and (e) as Union goods, it shall be established that those goods have been transported directly to the customs territory of the Union in one of the following ways:

(a) by the Union fishing vessel which caught the products and, where applicable, processed them;

(b) by the Union fishing vessel following the transhipment of the products from the vessel referred to in point (a);

(c) by the Union factory ship which processed the products following their transhipment from the vessel referred to in point (a);

(d) by any other vessel onto which the said products and goods were transhipped from the vessels referred to in points (a), (b) or (c), without any further changes being made;

(e) by a means of transport covered by a single transport document made out in the country or territory not forming part of the customs territory of the Union where the products or goods were landed from the vessels referred to in points (a), (b), (c) or (d).

Article 130

The proof of customs status of products of sea-fishing and goods obtained from such products

(Articles 6(2) and 6(3)(a) of the Code)

1. For the purposes of proving the customs status in accordance with Article 129, the fishing logbook, the landing declaration, the transhipment declaration and the vessel monitoring system data, as appropriate, as required in accordance with Council Regulation (EC) No 1224/2009[15] shall include the following information:

[15] Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations

(a) the place where the products of sea-fishing were caught allowing to establish that the products or goods have the customs status of Union goods in accordance with Article 129;

(b) the products of sea-fishing (name and type) and their gross mass (kg);

(c) the kind of goods obtained from the products of sea-fishing referred to in point (b) described in a way allowing their classification within the Combined Nomenclature and gross mass (kg).

2. In case of transhipment of products and goods referred to in Article 119(1)(d) and (e) to a Union fishing vessel or Union factory ship (receiving vessel), the fishing logbook or the transhipment declaration of the Union fishing vessel or Union factory ship from which the products and goods are transhipped shall include, in addition to the information listed in paragraph 1, the name, flag state, registration number and full name of the master of the receiving vessel onto which the products and goods were transhipped.

The fishing logbook or the transhipment declaration of the receiving vessel shall include, in addition to the information listed in paragraph 1(b) and (c), the name, flag state, registration number and full name of the master of the Union fishing vessel or Union factory ship from which the products or goods were transhipped.

3. For the purposes of paragraphs 1 and 2, the customs authorities shall accept a paper based fishing logbook, landing declaration or transhipment declaration for vessels having an overall length equal to, or more than 10 metres but not more than 15 metres.

Article 131

Transhipment

(Article 6(3) of the Code)

1. In case of transhipment of products and goods referred to in Article 119(1)(d) and (e) to receiving vessels other than Union fishing vessels or Union factory ships, the proof of the customs status of Union goods shall be provided by means of a printout of the transhipment declaration of the receiving vessel, accompanied by a printout of the fishing logbook, transhipment declaration and vessel monitoring system data, as appropriate, of the Union fishing vessel or Union factory ship from which the products or goods were transhipped.

. In case of multiple transhipments a printout of all transhipment declarations shall also be submitted.

(EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p.1).

Article 132

Proof of the customs status of Union goods for products of sea-fishing and other products taken or caught by vessels flying the flag of a third country within the customs territory of the Union

(Article 6(3)(a) of the Code)

The proof of the customs status of Union goods for products of sea-fishing and other products taken or caught by vessels flying the flag of a third country within the customs territory of the Union may be provided by means of a printout of the fishing logbook.

Article 133

Products and goods transhipped and transported through a country or territory which is not part of the customs territory of the Union

(Article 6(2) of the Code)

Where the products and goods referred to in Article 119(1)(d) and (e) are transhipped and transported through a country or territory which are not part of the customs territory of the Union, a printout of the fishing logbook of the Union fishing vessel of Union factory ship, accompanied by a printout of the transhipment declaration, where applicable, shall be provided on which the following information is stated:

(a) an endorsement by the customs authority of the third country;

(b) the date of arrival in and of departure from the third country of the products and goods;

(c) the means of transport used for reconsignment to the customs territory of the Union;

(d) the address of the customs authority referred to in point (a).

CHAPTER 2

Placing goods under a customs procedure

SECTION 1

GENERAL PROVISIONS

Article 134

Customs declarations in trade with special fiscal territories

(Article 1(3) of the Code)

1. The following provisions shall apply to the trade in Union goods referred to in Article 1(3) of the Code:

   (a) Chapters 2, 3 and 4 of Title V of the Code;

   (b) Chapters 2 and 3 of Title VIII of the Code;

   (c) Chapters 2, 3 and 4 of Title V of this Regulation;

   (d) Chapters 2 and 3 of Title VIII of this Regulation.

2. Any person may comply with its obligations under the provisions referred to in paragraph 1 by presenting an invoice or a transport document in the following cases:

   (a) where goods are dispatched from the special fiscal territory to another part of the customs territory of the Union, which is not a special fiscal territory, within the same Member State;

   (b) where goods are introduced into the special fiscal territory from another part of the customs territory of the Union, which is not a special fiscal territory, within the same Member State;

   (c) where goods are dispatched from another part of the customs territory of the Union, which is not a special fiscal territory, to the special fiscal territory within the same Member State;

   (d) where goods are introduced into another part of the customs territory of the Union, which is not a special fiscal territory, from the special fiscal territory within the same Member State.

Article 135

Oral declaration for release for free circulation

(Article 158(2) of the Code)

1. Customs declarations for release for free circulation may be lodged orally for the following goods:

   (a) goods of a non-commercial nature;

(b) goods of a commercial nature contained in the travellers' personal baggage provided that they do not exceed either EUR 1 000 in value or 1 000 kg in net mass;

(c) products obtained by Union farmers on properties located in a third country and products of fishing, fish-farming and hunting activities, which benefit from duty relief under Articles 35 to 38 of Regulation (EC) No 1186/2009;

(d) seeds, fertilizers and products for the treatment of soil and crops imported by agricultural producers in third countries for use in properties adjoining those countries, which benefit from duty relief under Articles 39 and 40 of Regulation (EC) No 1186/2009.

2. Customs declarations for release for free circulation may be lodged orally for the goods referred to in Article 136 (1) provided that the goods benefit from relief from import duty as returned goods.

Article 136

Oral declaration for temporary admission and re-export

(Article 158(2) of the Code)

1. Customs declarations for temporary admission may be lodged orally for the following goods:

(a) pallets, containers and means of transport, and spare parts, accessories and equipment for those pallets, containers and means of transport, as referred to in Articles 208 to 213;

(b) personal effects and goods for sports purposes referred to in Article 219;

(c) welfare materials for seafarers used on a vessel engaged in international maritime traffic;

(d) medical, surgical and laboratory equipment referred to in Article 222;

(e) animals referred to in Article 223 provided that they are intended for transhumance or grazing or for the performance of work or transport;

(f) equipment referred to in Article 224(a);

(g) instruments and apparatus necessary for a doctor to provide assistance for a patient awaiting an organ transplant satisfying the conditions laid down in Article 226(1);

(h) disaster relief material used in connection with measures taken to counter the effects of disasters or similar situations affecting the customs territory of the Union;

(i) portable musical instruments temporarily imported by travellers and intended to be used as professional equipment;

(j) packings which are imported filled and are intended for re-export, whether empty or filled, bearing the permanent, indelible markings identifying a person established outside the customs territory of the Union;

(k) radio and television production and broadcasting equipment and vehicles specially adapted for use for the purposes of radio and television production

and broadcasting and their equipment, imported by public or private organisations established outside the customs territory of the Union and approved by the customs authorities issuing the authorisation for the temporary admission of such equipment and vehicles;

(l) other goods, where this is authorised by the customs authorities.

2. Re-export declarations may be made orally when discharging a temporary admission procedure for the goods referred to in paragraph 1.

Article ª137

Oral declaration for export

(Article 158(2) of the Code)

1. Customs declarations for export may be made orally for the following goods:

(a) goods of a non-commercial nature;

(b) goods of a commercial nature provided that they do not exceed either EUR 1 000 in value or 1 000 kg in net mass;

(c) means of transport registered in the customs territory of the Union and intended to be re-imported, and spare parts, accessories and equipment for those means of transport;

(d) domesticated animals exported at the time of transfer of agricultural activities from the Union to a third country which benefit from duty relief under Article 115 of Regulation (EC) No 1186/2009;

(e) products obtained by agricultural producers farming on properties located in the Union, which benefit from duty relief under Articles 116, 117 and 118 of Regulation (EC) No 1186/2009;

(f) seeds exported by agricultural producers for use on properties located in third countries, which benefit from duty relief under Articles 119 and 120 of Regulation (EC) No 1186/2009;

(g) fodder and feeding stuffs accompanying animals during their exportation and benefitting from duty relief under Article 121 of Regulation (EC) No 1186/2009.

2. Customs declarations for export may be lodged orally for the goods referred to in Article 136 (1) where those goods are intended to be re-imported.

Article 138

Goods deemed to be declared for release for free circulation in accordance with Article 141

(Article 158(2) of the Code)

Where not declared using other means, the following goods shall be deemed to be declared for release for free circulation in accordance with Article 141:

(a) goods of a non-commercial nature contained in traveller's personal baggage, which benefit from relief from import duty either under Article 41 of Regulation (EC) No 1186/2009 or as returned goods;

(b) goods referred to in Article 135(1)(c) and (d);

(c) means of transport which benefit from relief from import duty as returned goods in accordance with Article 203 of the Code;

(d) portable musical instruments re-imported by travellers and benefitting from relief from import duty as returned goods in accordance with Article 203 of the Code;

(e) items of correspondence;

(f) goods in a postal consignment, which benefit from a relief from import duty in accordance with Articles 23 to 27 of Regulation (EC) No 1186/2009.

Article 139

Goods deemed to be declared for temporary admission and re-export in accordance with Article 141

(Article 158(2) of the Code)

1. Where not declared using other means, the goods referred to in points (e) to (j) of Article 136(1) shall be deemed to be declared for temporary admission in accordance with Article 141.

2. Where not declared using other means, the goods referred to in points (e) to (j) of Article 136(1) shall be deemed to be declared for re-export in accordance with Article 141 discharging the temporary admission procedure.

Article 140

Goods deemed to be declared for export in accordance with Article 141

(Article 158(2) of the Code)

1. Where not declared using other means, the following goods shall be deemed to be declared for export in accordance with Article 141:

   (a) goods referred to in Article 137;

   (b) portable musical instruments of travellers.

2. Where goods are dispatched to Heligoland, the goods shall be deemed to be declared for export in accordance with Article 141.

Article 141

Acts deemed to be a customs declaration

(Article 158(2) of the Code)

1. In respect of goods referred to in Articles 138(a) to (d), 139 and 140(1), any of the following acts shall be deemed to be a customs declaration:

   (a) going through the green or 'nothing to declare' channel in a customs office where the two-channel system is in operation;

   (b) going through a customs office which does not operate the two-channel system;

(c) affixing a 'nothing to declare' sticker or customs declaration disc to the windscreen of passenger vehicles where this possibility is provided for in national provisions.

2. Items of correspondence shall be deemed to be declared for release for free circulation by their entry into the customs territory of the Union.

Items of correspondence shall be deemed to be declared for export or re-export by their exit from the customs territory of the Union.

3. Goods in a postal consignment, which benefit from a relief from import duty in accordance with Articles 23 to 27 of Regulation (EC) No 1186/2009, shall be deemed to be declared for release for free circulation by their presentation to customs pursuant to Article 139 of the Code provided that the data required are accepted by the customs authorities.

4. Goods in a postal consignment not exceeding EUR 1 000 which are not liable for export duty, shall be deemed to be declared for export by their exit from the customs territory of the Union.

Article 142

Goods which cannot be declared orally or in accordance with Article 141

(Article 158(2) of the Code)

Articles 135 to 140 shall not apply to the following:

(a) goods in respect of which formalities have been completed with a view to obtaining refunds or financial advantages on export under the common agricultural policy;

(b) goods in respect of which an application for the repayment of duty or other charges is made;

(c) goods which are subject to a prohibition or restriction;

(d) goods which are subject to any other special formality provided for in Union legislation which the customs authorities are required to apply.

Article 143

Paper-based customs declarations

(Article 158(2) of the Code)

Travellers may lodge a paper-based customs declaration in respect of goods carried by them.

Article 144

Customs declaration for goods in postal consignments

(Article 6(2) of the Code)

A postal operator may lodge a customs declaration for release for free circulation containing the reduced data set referred to in Annex B in respect of goods in a postal consignment where the goods fulfil all of the following conditions:

(a) their value does not exceed EUR 1 000;

(b) no application for repayment or remission is made in relation to them;

(c) they are not subject to prohibitions and restrictions.

SECTION 2

SIMPLIFIED CUSTOMS DECLARATIONS

Article 145

Conditions for authorisation of regular use of simplified customs declarations

(Article 166(2) of the Code)

1. An authorisation to regularly place goods under a customs procedure on the basis of a simplified declaration in accordance with Article 166 (2) of the Code shall be granted if the following conditions are fulfilled:

   (a) the applicant complies with the criterion laid down in Article 39(a) of the Code;

   (b) where applicable, the applicant has satisfactory procedures in place for the handling of licences and authorisations granted in accordance with commercial policy measures or relating to trade in agricultural products;

   (c) the applicant ensures that relevant employees are instructed to inform the customs authorities whenever compliance difficulties are discovered and establishes procedures for informing the customs authorities of such difficulties;

   (d) where applicable, the applicant has satisfactory procedures in place for the handling of import and export licences connected to prohibitions and restrictions, including measures to distinguish goods subject to the prohibitions or restrictions from other goods and to ensure compliance with those prohibitions and restrictions.

2. AEOCs shall be deemed to fulfil the conditions referred to in points (b), (c) and (d) of paragraph 1, insofar as their records are appropriate for the purposes of the placement of goods under a customs procedure on the basis of a simplified declaration.

Article 146

Supplementary declaration

(Article 167(1) of the Code)

1. Where the customs authorities are to enter the amount of import or export duty payable in the accounts in accordance with the first subparagraph of Article 105(1) of the Code, the supplementary declaration referred to in the first subparagraph of Article 167(1) of the Code shall be lodged within 10 days of the release of the goods.

2. Where an entry in the accounts takes place in accordance with the second subparagraph of Article 105(1) of the Code and the supplementary declaration is of a

general, periodic or recapitulative nature, the period of time covered by the supplementary declaration shall not exceed one calendar month.

3. The time-limit for lodging the supplementary declaration referred to in paragraph 2 shall be set by the customs authorities. It shall not exceed 10 days from the end of the period of time covered by the supplementary declaration.

Article 147

Time-limit for the declarant to be in possession of the supporting documents in the case of supplementary declarations

(Article 167(1) of the Code)

1. The supporting documents that were missing when the simplified declaration was lodged shall be in the possession of the declarant within the time-limit for lodging the supplementary declaration in accordance with Article 146(1) or (3).

2. The customs authorities may, in duly justified circumstances, allow for a longer time-limit for providing the supporting documents than the one provided for in paragraph 1. That time-limit shall not exceed 120 days from the date of the release of the goods.

3. Where the supporting document concerns the customs value, the customs authorities may, in duly justified circumstances, set a longer time-limit than the one provided for in paragraphs 1 or 2 taking due account of the limitation period referred to in Article 103(1) of the Code.

SECTION 3

PROVISIONS APPLYING TO ALL CUSTOMS DECLARATIONS

Article 148

Invalidation of a customs declaration after release of the goods

(Article 174(2) of the Code)

1. Where it is established that goods have been declared in error for a customs procedure under which a customs debt on import is incurred instead of being declared for another customs procedure, the customs declaration shall be invalidated after the goods have been released, upon reasoned application by the declarant, if the following conditions are fulfilled:

   (a) the application is made within 90 days of the date of acceptance of the declaration;

   (b) the goods have not been used in a way incompatible with the customs procedure under which they would have been declared had the error not occurred;

   (c) at the time of the erroneous declaration, the conditions were fulfilled for placing the goods under the customs procedure under which they would have been declared had the error not occurred;

(d) a customs declaration for the customs procedure under which the goods would have been declared had the error not occurred has been lodged.

2. Where it is established that the goods have been declared in error instead of other goods, for a customs procedure for which a customs debt on import is incurred, the customs declaration shall be invalidated after the goods have been released, upon reasoned application by the declarant, if the following conditions are fulfilled:

(a) the application is made within 90 days of the date of acceptance of the declaration;

(b) the goods erroneously declared have not been used other than as authorised in their original state and have been restored to their original state;

(c) the same customs office is competent with regard to the goods erroneously declared and the goods which the declarant had intended to declare;

(d) the goods are to be declared for the same customs procedure as those erroneously declared.

3. Where goods which have been sold under a distance contract as defined in Article 2(7) of Directive 2011/83/EU of the European Parliament and of the Council[16] have been released for free circulation and are returned, the customs declaration shall be invalidated after the goods have been released, upon reasoned application by the declarant, if the following conditions are fulfilled:

(a) the application is made within 90 days of the date of acceptance of the customs declaration;

(b) the goods have been exported with a view to their return to the original supplier's address or to another address indicated by that supplier.

4. In addition to the cases referred to in paragraphs 1, 2 and 3, customs declarations shall be invalidated after the goods have been released, upon reasoned application by the declarant, in any of the following cases:

(a) where goods have been released for export, re-export or outward processing and have not left the customs territory of the Union;

(b) where Union goods have been declared in error for a customs procedure applicable to non-Union goods, and their customs status as Union goods has been proved afterwards by means of a T2L, T2LF or a customs goods manifest;

(c) where goods have been erroneously declared under more than one customs declaration;

(d) where an authorisation with retroactive effect is granted in accordance with Article 211(2) of the Code;

(e) where Union goods have been placed under the customs warehousing procedure in accordance with Article 237(2) of the Code and can no longer be placed under that procedure in accordance with Article 237(2) of the Code.

5. A customs declaration in respect of goods which are subject to export duty, to an application for repayment of import duty, to refunds or other export amounts or to

[16] Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).

other special measures on export, may only be invalidated in accordance with paragraph 4(a) if the following conditions are fulfilled:

(a) the declarant provides the customs office of export or, in case of outward processing, the customs office of placement, with evidence that the goods have not left the customs territory of the Union;

(b) where the customs declaration is paper-based, the declarant returns, to the customs office of export or, in case of outward processing, the customs office of placement, all copies of the customs declaration, together with any other documents issued to him on acceptance of the declaration;

(c) the declarant provides the customs office of export with evidence that any refunds and other amounts or financial advantages provided for on export for the goods in question have been repaid or that the necessary measures have been taken by the competent authorities to ensure that they are not paid;

(d) the declarant complies with any other obligations by which he is bound in respect of the goods;

(e) any adjustments made on an export licence presented in support of the customs declaration are cancelled.

SECTION 4

OTHER SIMPLIFICATIONS

Article 149

Conditions for granting authorisations for centralised clearance

(Article 179(1) of the Code)

1. In order for centralised clearance to be authorised in accordance with Article 179 of the Code, applications for centralised clearance shall pertain to any of the following:

(a) release for free circulation;

(b) customs warehousing;

(c) temporary admission;

(d) end-use;

(e) inward processing;

(f) outward processing;

(g) export;

(h) re-export.

2. Where the customs declaration takes the form of an entry in the declarant's records, centralised clearance may be authorised under the conditions laid down in Article 150.

Article 150

Conditions for granting authorisations for entry in the declarant's records

(Article 182(1) of the Code)

1. An authorisation to lodge a customs declaration in the form of an entry in the declarant's records shall be granted where the applicants demonstrate that they fulfil the criteria laid down in Article 39(a), (b) and (d) of the Code.

2. In order for an authorisation to lodge a customs declaration in the form of an entry in the declarant's records to be granted in accordance with Article 182(1) of the Code, the application shall pertain to any of the following:

   (a) release for free circulation;

   (b) customs warehousing;

   (c) temporary admission;

   (d) end-use;

   (e) inward processing;

   (f) outward processing;

   (g) export and re-export.

3. Where the application for authorisation concerns release for free circulation, the authorisation shall not be granted for the following:

   (a) simultaneous release for free circulation and home use of goods which are exempt from VAT in accordance with Article 138 of Directive 2006/112/EC and, when applicable, an excise duty suspension in accordance with Article 17 of Directive 2008/118/EC;

   (b) re-import with simultaneous release for free circulation and home use of goods which are exempt from VAT in accordance with Article 138 of Directive 2006/112/EC and, when applicable, an excise duty suspension in accordance with Article 17 of Directive 2008/118/EC.

4. Where the application for authorisation concerns export and re-export, an authorisation shall only be granted where both of the following conditions are fulfilled:

   (a) the obligation to lodge a pre-departure declaration is waived in accordance with Article 263(2) of the Code;

   (b) the customs office of export is also the customs office of exit or the customs office of export and the customs office of exit have made arrangements ensuring that the goods are subject to customs supervision on exit.

5. Where the application for authorisation concerns export and re-export, export of excise goods is not allowed, unless Article 30 of Directive 2008/118/EC is applicable.

6. An authorisation for entry in the declarant's records shall not be granted where the application concerns a procedure for which a standardised exchange of information between customs authorities is required in accordance with Article 181 unless the

customs authorities agree to other means of electronic exchange of information being used.

Article 151

Conditions for granting authorisations for self-assessment

(Article 185(1) of the Code)

Where an applicant referred to in Article 185(2) of the Code is a holder of an authorisation for entry in the declarant's records, self-assessment shall be authorised on condition that the application for self-assessment pertains to the customs procedures referred to in Article 150(2) or to re-export.

Article 152

Customs formalities and controls under self-assessment

(Article 185(1) of the Code)

Holders of authorisations for self-assessment may be authorised to carry out controls, under customs supervision, of compliance with prohibitions and restrictions as specified in the authorisation.

CHAPTER 3

Verification and release of goods

Article 153

Release not conditional upon provision of a guarantee

(Article 195(2) of the Code)

Where, before the release of goods which are the subject of a request for the granting of a tariff quota, the tariff quota in question is not considered critical, the release of the goods shall not be conditional upon the provision of a guarantee in respect of those goods.

Article 154

Notification of the release of the goods

(Article 6(3)(a) of the Code)

1. Where the declaration for a customs procedure or re-export is lodged using means other than electronic data-processing techniques, the customs authorities may, for the purposes of notifying the declarant of the release of the goods, use means other than electronic data-processing techniques.

2. Where goods were in temporary storage before their release, and the customs authorities are to inform the holder of the authorisation for the operation of the relevant temporary storage facilities of the release of the goods, the information may be provided using means other than electronic data-processing techniques.

TITLE VI

RELEASE FOR FREE CIRCULATION AND RELIEF FROM IMPORT DUTY

CHAPTER 1

Release for free circulation

Article 155

Authorisation for the drawing up of banana weighing certificates

(Article 163(3) of the Code)

The customs authorities shall grant an authorisation for the drawing up of supporting documents for standard customs declarations certifying the weighing of fresh bananas falling within CN code 0803 90 10 subject to import duty ("banana weighing certificates") if the applicant for such an authorisation fulfils all the following conditions:

(a) he fulfils the criterion laid down in Article 39(a) of the Code;

(b) he is involved in the import, carriage, storage or handling of fresh bananas falling within CN code 0803 90 10 subject to import duty;

(c) he provides the necessary assurance of the proper conduct of the weighing;

(d) he has at his disposal appropriate weighing equipment;

(e) he keeps records enabling the customs authorities to carry out the necessary controls.

Article 156

Time-limit

(Article 22(3) of the Code)

A decision on an application for an authorisation referred to in Article 155 shall be taken without delay and at the latest 30 days from the date of acceptance of the application.

Article 157

Means of communication of the banana weighing certificate

(Articles 6(2) and 6(3)(a) of the Code)

The banana weighing certificates may be drawn up and submitted using means other than electronic data processing techniques

CHAPTER 2

Relief from import duty

SECTION 1

RETURNED GOODS

Article 158

Goods considered to be returned in the state in which they were exported

(Article 203(5) of the Code)

1. Goods shall be considered to be returned in the state in which they were exported where, after having been exported from the customs territory of the Union, they have not received a treatment or handling other than that altering their appearance or necessary to repair them, restore them to good condition or maintain them in good condition.

2. Goods shall be considered to be returned in the state in which they were exported where, after having been exported from the customs territory of the Union, they have received a treatment or handling other than that altering their appearance or necessary to repair them, restore them to good condition or maintain them in good condition but it became apparent after such treatment or handling had commenced that that treatment or handling is unsuitable for the intended use of the goods.

3. Where the goods referred to in paragraph 1 or 2 have undergone treatment or handling that would have rendered them liable to import duty if they had been placed under the outward processing procedure, those goods shall be considered to be returned in the state in which they were exported only on the condition that that treatment or handling, including the incorporation of spare parts, does not exceed what is strictly necessary to enable the goods to be used in the same way as at the time of export from the customs territory of the Union.

Article 159

Goods which on export benefited from measures laid down under the common agricultural policy

(Article 204 of the Code)

1. Returned goods which on export benefited from measures laid down under the common agricultural policy shall be granted relief from import duty provided that all of the following conditions are fulfilled:

   (a) the refunds or other amounts paid under those measures have been repaid, the necessary steps have been taken by the competent authorities to withhold sums to be paid under the measures in respect of those goods , or the other financial advantages granted have been cancelled;

   (b) the goods were in one of the following situations:

(i) they could not be put on the market in the country to which they were sent;

(ii) they were returned by the consignee as being defective or non-contractual;

(iii) they were re-imported into the customs territory of the Union because they could not be used for the purposes intended owing to other circumstances outside the exporter's control;

(c) the goods are declared for release for free circulation in the customs territory of the Union within 12 months of the date of completion of the customs formalities relating to their export or later where allowed by the customs authorities of the Member State of re-import in duly justified circumstances.

2. The circumstances referred to in paragraph 1(b)(iii) shall be the following :

(a) goods returned to the customs territory of the Union following damage occurring before delivery to the consignee, either to the goods themselves or to the means of transport on which they were carried;

(b) goods originally exported for the purposes of consumption or sale in the course of a trade fair or similar occasion which have not been so consumed or sold;

(c) goods which could not be delivered to the consignee on account of his physical or legal incapacity to honour the contract under which the goods were exported;

(d) goods which, because of natural, political or social disturbances, could not be delivered to their consignee or which reached him after the contractual delivery date;

(e) fruit and vegetables, covered by the common market organisation for those products, exported and sent for sale on consignment, but which were not sold in the market of the country of destination.

Article 160

Means of communication of information sheet INF 3

(Article 6(3)(a) of the Code)

A document certifying that the conditions for the relief from import duty have been fulfilled ("information sheet INF 3") may be communicated using means other than electronic data-processing techniques.

TITLE VII

SPECIAL PROCEDURES

CHAPTER 1

General provisions

SECTION 1

APPLICATION FOR AN AUTHORISATION

Article 161

Applicant established outside the customs territory of the Union

(Article 211(3)(a) of the Code)

By way of derogation from Article 211(3)(a) of the Code, the customs authorities may in occasional cases, where they consider it justified, grant an authorisation for the end-use procedure or the inward processing procedure to persons established outside the customs territory of the Union.

Article 162

Place for submitting an application where the applicant is established outside the customs territory of the Union

(Article 22(1) of the Code)

1. By way of derogation from the third subparagraph of Article 22(1) of the Code, where the applicant for an authorisation for the use of the end-use procedure is established outside the customs territory of the Union, the competent customs authority shall be that of the place where the goods are to be first used.

2. By way of derogation from the third subparagraph of Article 22(1) of the Code, where the applicant for an authorisation for the use of the inward processing procedure is established outside the customs territory of the Union, the competent customs authority shall be that of the place where the goods are to be first processed.

Article 163

Application for an authorisation based on a customs declaration

(Articles 6(1), 6(2), 6(3)(a) and 211(1) of the Code)

1. A customs declaration shall, provided that it is supplemented by additional data elements as laid down in Annex A, be considered an application for an authorisation in any of the following cases:

   (a) where goods are to be placed under the temporary admission procedure, unless the customs authorities require a formal application in cases covered by Article 236(b);

(b) where goods are to be placed under the end-use procedure and the applicant intends to wholly assign the goods to the prescribed end-use;

(c) where goods other than those listed in Annex 71-02 are to be placed under the inward processing procedure;

(d) where goods other than those listed in Annex 71-02 are to be placed under the outward processing procedure;

(e) where an authorisation for the use of the outward processing procedure has been granted and replacement products are to be released for free circulation using the standard exchange system, which is not covered by that authorisation;

(f) where processed products are to be released for free circulation after outward processing and the processing operation concerns goods of a non-commercial nature.

2. Paragraph 1 shall not apply in any of the following cases:

(a) simplified declaration;

(b) centralised clearance;

(c) entry in the declarant's records;

(d) where an authorisation other than for temporary admission involving more than one Member State is applied for;

(e) where the use of equivalent goods is applied for in accordance with Article 223 of the Code;

(f) where the competent customs authority informs the declarant that an examination of the economic conditions is required in accordance with Article 211(6) of the Code ;

(g) where Article 167(1)(f) applies;

(h) where a retroactive authorisation in accordance with Article 211(2) of the Code is applied for, except in cases referred to in paragraph 1(e) or (f) of this Article.

3. Where the customs authorities consider that the placement of means of transport or spare parts, accessories and equipment for means of transport under the temporary admission procedure would entail a serious risk of non-compliance with one of the obligations laid down in the customs legislation, the customs declaration referred to in paragraph 1 shall not be made orally or in accordance with Article 141. In that case the customs authorities shall inform the declarant thereof without delay after the presentation of goods to customs.

4. The obligation to provide additional data elements referred to in paragraph 1 shall not apply in cases involving any of the following types of customs declarations:

(a) customs declarations for release for free circulation made orally in accordance with Article 135;

(b) customs declarations for temporary admission or re-export made orally in accordance with Article 136;

(c) customs declarations for temporary admission or re-export in accordance with Article 139 deemed to be made in accordance with Article 141.

5. ATA and CPD carnets shall be considered applications for an authorisation for temporary admission where they fulfil all of the following conditions:

(a) the carnet has been issued in a contracting party to the ATA Convention or Istanbul Convention and endorsed and guaranteed by an association forming part of a guaranteeing chain as defined in Article 1(d) of Annex A to the Istanbul Convention;

(b) the carnet relates to goods and uses covered by the Convention under which it was issued;

(c) the carnet is certified by the customs authorities;

(d) the carnet is valid throughout the customs territory of the Union.

Article 164

Application for renewal or amendment of an authorisation

(Article 6(3)(a) of the Code)

The customs authorities may allow an application for renewal or amendment of an authorisation referred to in Article 211(1) of the Code to be submitted in a written form.

Article 165

Supporting document for an oral customs declaration for temporary admission

(Articles 6(2), 6(3)(a) and 211(1) of the Code)

Where an oral customs declaration is considered an application for an authorisation for temporary admission in accordance with 163, the declarant shall present a supporting document as set out in Annex 71-01.

SECTION 2

TAKING A DECISION ON THE APPLICATION

Article 166

Examination of the economic conditions

(Article 211(3) and (4) of the Code)

1. The condition laid down in Article 211(4)(b) of the Code shall not apply to authorisations for inward processing except in any of the following cases:

(a) where the calculation of the amount of import duty is made in accordance with Article 86(3) of the Code, evidence exists that the essential interests of Union producers are likely to be adversely affected and the case is not covered by Article 167(1)(a) to (f);

(b) where the calculation of the amount of import duty is made in accordance with Article 85 of the Code, the goods intended to be placed under the inwardprocessing procedure would be subject to an agricultural or a

commercial policy measure, a provisional or definitive anti-dumping duty, a countervailing duty, a safeguard measure or an additional duty resulting from a suspension of concessions if they were declared for release for free circulation and the case is not covered by Article 167(1) (h), (i), (m), (p) (or (s);

(c) where the calculation of the amount of import duty is made in accordance with Article 85 of the Code, the goods intended to be placed under the inwardprocessing procedure would not be subject to an agricultural or a commercial policy measure, a provisional or definitive anti-dumping duty, a countervailing duty, a safeguard measure or an additional duty resulting from a suspension of concessions if they were declared for release for free circulation, evidence exists that the essential interests of Union producers are likely to be adversely affected; and the case is not covered by Article 167(1)(g) to (s).

2. The condition laid down in Article 211(4)(b) of the Code shall not apply to authorisations for outward processing except where evidence exists that the essential interests of Union producers of goods listed in Annex 71-02 are likely to be adversely affected and the goods are not intended to be repaired.

Article 167

Cases in which the economic conditions are deemed to be fulfilled for inward processing

(Article 211(5) of the Code)

1. The economic conditions for inward processing shall be deemed to be fulfilled where the application concerns any of the following operations:

(a) the processing of goods not listed in Annex 71-02;

(b) repair;

(c) the processing of goods directly or indirectly put at the disposal of the holder of the authorisation, carried out according to specifications on behalf of a person established outside of the customs territory of the Union, generally against payment of processing costs alone;

(d) the processing of durum wheat into pasta;

(e) the placing of goods under inward processing within the limits of the quantity determined on the basis of a balance in accordance with Article 18 of Council Regulation (EU) No 510/2014;

(f) the processing of goods which are listed in Annex 71-02, in any of the following situations:

(i) unavailability of goods produced in the Union sharing the same 8-digit CN code, the same commercial quality and technical characteristics as the goods intended to be imported for the processing operations envisaged;

(ii) differences in price between goods produced in the Union and those intended to be imported, where comparable goods cannot be used because their price would not make the proposed commercial operation economically viable;

(iii) contractual obligations where comparable goods do not conform to the contractual requirements of the third-country purchaser of the processed products, or where, in accordance with the contract, the processed products must be obtained from the goods intended to be placed under inward processing in order to comply with provisions concerning the protection of industrial or commercial property rights.

(iv) the aggregate value of goods to be placed under the inward processing procedure per applicant and calendar year for each eight-digit CN code does not exceed EUR 150 000

(g) the processing of goods to ensure their compliance with technical requirements for their release for free circulation;

(h) the processing of goods of a non-commercial nature;

(i) the processing of goods obtained under a previous authorisation, the issuing of which was subject to an examination of the economic conditions;

(j) the processing of solid and fluid fractions of palm oil, coconut oil, fluid fractions of coconut oil, palm kernel oil, fluid fractions of palm kernel oil, babassu oil or castor oil into products which are not destined for the food sector;

(k) the processing into products to be incorporated in or used for civil aircraft for which an airworthiness certificate has been issued;

(l) the processing into products benefitting from the autonomous suspension of import duty on certain weapons and military equipment in accordance with Council Regulation (EC) No 150/2003;

(m) the processing of goods into samples;

(n) the processing of any electronic type of components, parts, assemblies or any other materials into information technology products;

(o) the processing of goods falling within CN codes 2707 or 2710 into products falling within CN codes 2707, 2710 or 2902;

(p) the reduction to waste and scrap, destruction, recovery of parts or components;

(q) denaturing;

(r) usual forms of handling referred to in Article 220 of the Code;

(s) the aggregate value of goods to be placed under the inward processing procedure per applicant and calendar year for each eight-digit CN code does not exceed EUR 150 000 with regard to goods which are covered by Annex 71-02 and EUR 300 000 for other goods, except where the goods intended to be placed under the inward-processing procedure would be subject to a provisional or definitive anti-dumping duty, a countervailing duty, a safeguard measure or an additional duty resulting from a suspension of concessions if they were declared for release for free circulation..

2. The unavailability referred to in paragraph 1(f)(i) shall cover any of the following cases:

(a) the total absence of production of comparable goods within the customs territory of the Union;

(b) the unavailability of a sufficient quantity of those goods in order to carry out the processing operations envisaged;

(c) comparable Union goods cannot be made available to the applicant in time for the proposed commercial operation to be carried out, despite a request having been made in good time.

Article 168

Calculation of the amount of import duty in certain cases of inward processing

(Article 86(4) of the Code)

1. Where no examination of the economic conditions is required and the goods intended to be placed under the inward processing procedure would be subject to an agricultural or a commercial policy measure, a provisional or definitive anti-dumping duty, a countervailing duty, a safeguard measure or an additional duty resulting from a suspension of concessions if they were declared for release for free circulation, the amount of import duty shall be calculated in accordance with Article 86(3) of the Code.

   The first subparagraph shall not apply if the economic conditions are deemed to be fulfilled in the cases set out in Article 167(1) (h), (i), (m), (p) or (s).

2. Where the processed products resulting from the inward processing procedure are imported directly or indirectly by the holder of the authorisation and released for free circulation within a period of one year after their re-export, the amount of import duty shall be determined in accordance with Article 86(3) of the Code.

Article 169

Authorisation for the use of equivalent goods

(Articles 223(1) and (2) and 223(3)(c) of the Code)

1. Whether the use of equivalent goods is systematic or not shall not be relevant for the purposes of granting an authorisation in accordance with Article 223(2) of the Code.

2. The use of equivalent goods as referred to in the first subparagraph of Article 223(1) of the Code shall not be authorised where the goods placed under the special procedure would be subject to a provisional or definitive anti-dumping, countervailing, safeguard duty or an additional duty resulting from a suspension of concessions if they were declared for release for free circulation.

3. The use of equivalent goods as referred to in the second subparagraph of Article 223(1) of the Code shall not be authorised where the non-Union goods processed instead of the Union goods placed under the outward processing procedure would be subject to a provisional or definitive anti-dumping, countervailing, safeguard duty or an additional duty resulting from a suspension of concessions if they were declared for release for free circulation.

4. The use of equivalent goods under customs warehousing shall not be authorised where the non-Union goods placed under the customs warehousing procedure are of those referred to in Annex 71-02.

5. The use of equivalent goods shall not be authorised for goods or products that have been genetically modified or contain elements that have undergone genetic modification.

6. By way of derogation from the third subparagraph of Article 223(1) of the Code, the following shall be regarded as equivalent goods for inward processing:

   (a) goods at a more advanced stage of manufacture than the non-Union goods placed under the inward processing procedure where the essential part of the processing with regard to these equivalent goods is carried out in the undertaking of the holder of the authorisation or in the undertaking where the operation is being carried out on his behalf;

   (b) in case of repair, new goods instead of used goods or goods in a better condition than the non-Union goods placed under the inward processing procedure;

   (c) goods with technical characteristics similar to the goods which they are replacing provided that they have the same eight-digit Combined Nomenclature code and the same commercial quality.

7. By way of derogation from the third subparagraph of Article 223(1) of the Code, for goods referred to in Annex 71-04 the special provisions set out in that Annex shall apply.

8. In case of temporary admission, equivalent goods may be used only where the authorisation for temporary admission with total relief from import duty is granted in accordance with Articles 208 to 211.

Article 170

Processed products or goods placed under inward processing IM/EX

(Article 211(1) of the Code)

1. The authorisation for inward processing IM/EX shall, upon request by the applicant, specify that processed products or goods placed under that inward processing IM/EX which have not been declared for a subsequent customs procedure or re-exported on expiry of the period for discharge shall be deemed to have been released for free circulation on the date of expiry of the period for discharge.

2. Paragraph 1 shall not apply insofar as the products or goods are subject to prohibitive or restrictive measures.

Article 171

Time-limit for taking a decision on an application for an authorisation referred to in Article 211(1) of the Code

(Article 22(3) of the Code)

1. Where an application for an authorisation referred to in Article 211(1)(a) of the Code involves one Member State only, a decision on that application shall, by way of derogation from the first subparagraph of Article 22(3) of the Code, be taken without delay and at the latest within 30 days from the date of acceptance of the application.

Where an application for an authorisation referred to in Article 211(1)(b) of the Code involves one Member State only, a decision on that application shall, by way of derogation from the first subparagraph of Article 22(3) of the Code, be taken without delay and at the latest within 60 days from the date of acceptance of the application.

2. Where the economic conditions have to be examined in accordance with Article 211(6) of the Code, the time-limit referred to in the first subparagraph of paragraph 1 of this Article shall be extended to one year from the date on which the file was transmitted to the Commission.

The customs authorities shall inform the applicant, or the holder of the authorisation, of the need to examine the economic conditions and, if the authorisation has not yet been issued, of the extension of the time-limit in accordance with the first subparagraph.

Article 172

Retroactive effect

(Article 22(4) of the Code)

1. Where the customs authorities grant an authorisation with retroactive effect in accordance with Article 211(2) of the Code, the authorisation shall take effect at the earliest on the date of acceptance of the application.

2. In exceptional circumstances, the customs authorities may allow an authorisation referred to in paragraph 1 to take effect at the earliest one year, in case of goods covered by Annex 71-02 three months, before the date of acceptance of the application.

3. If an application concerns renewal of an authorisation for the same kind of operation and goods, an authorisation may be granted with retroactive effect from the date on which the original authorisation expired.

Where, in accordance with Article 211(6) of the Code, an examination of the economic conditions is required in connection with a renewal of an authorisation for the same kind of operation and goods, an authorisation with retroactive effect shall take effect at the earliest on the date on which the conclusion on the economic conditions has been drawn.

Article 173

Validity of an authorisation

(Article 22(5) of the Code)

1. Where an authorisation is granted in accordance with Article 211(1)(a) of the Code, the period of validity of the authorisation shall not exceed five years from the date on which the authorisation takes effect

2. The period of validity referred to in paragraph 1 shall not exceed three years where the authorisation relates to goods referred to in Annex 71-02.

Article 174

Time-limit for the discharge of a special procedure

(Article 215(4) of the Code)

1. At the request of the holder of the procedure, the time-limit for discharge specified in an authorisation granted in accordance with Article 211(1) of the Code may be extended by the customs authorities, even after the time-limit originally set has expired.

2. Where the time-limit for discharge expires on a specific date for all the goods placed under the procedure in a given period, the customs authorities may establish in the authorisation as referred to in Article 211(1)(a) of the Code that the time-limit for discharge is automatically extended for all goods still under the procedure on that date. The customs authorities may decide to terminate the automatic extension of the time-limit with regard to all or some of the goods placed under the procedure.

Article 175

Bill of discharge

(Articles 6(2), 6(3)(a) and 211(1) of the Code)

1. Authorisations for the use of inward processing IM/EX, inward processing EX/IM without the use of standardised exchange of information as referred to in Article 176, or end-use shall stipulate that the holder of the authorisation must present the bill of discharge to the supervising customs office within 30 days after the expiry of the time-limit for discharge.

   However, the supervising customs office may waive the obligation to present the bill of discharge where it considers it unnecessary.

2. At the request of the holder of the authorisation, the customs authorities may extend the period referred to in paragraph 1 to 60 days. In exceptional cases, the customs authorities may extend the period even if it has expired.

3. The bill of discharge shall contain the particulars listed in Annex 71-06, unless otherwise determined by the supervising customs office.

4. Where processed products or goods placed under the inward processing IM/EX procedure are deemed to have been released for free circulation in accordance with Article 169, that fact shall be stated in the bill of discharge.

5. Where the authorisation for inward processing IM/EX specifies that processed products or goods placed under that procedure are deemed to have been released for free circulation on the date of expiry of the period for discharge, the holder of the authorisation shall present the bill of discharge to the supervising customs office as referred to in paragraph 1 of this Article.

6. The customs authorities may allow that the bill of discharge be presented by means other than electronic data-processing techniques.

Article 176

Standardised exchange of information and obligations of the holder of an authorisation for the use of a processing procedure

(Article 211(1) of the Code)

1. Authorisations for the use of inward processing EX/IM or outward processing EX/IM which involve one or more than one Member State and authorisations for the use of inward processing IM/EX or outward processing IM/EX which involve more than one Member State shall establish the following obligations:

   (a) use of the standardised exchange of information (INF) as referred to in Article 181, unless the customs authorities agree other means of electronic exchange of information;

   (b) the holder of the authorisation shall provide the supervising customs office with information as referred to in Section A of Annex 71-05;

   (c) where the following declarations or notifications are lodged, they shall refer to the relevant INF number:

      (i) customs declaration for inward processing;

      (ii) export declaration for inward processing EX/IM or outward processing;

      (iii) customs declarations for release for free circulation after outward processing;

      (iv) customs declarations for the discharge of the processing procedure;

      (v) re- export declarations or re-export notifications.

2. Authorisations for the use of inward processing IM/EX which involve only one Member State shall establish that, at the request of the supervising customs office, the holder of the authorisation shall provide that customs office with sufficient information about the goods which were placed under the inward processing procedure allowing the supervising customs office to calculate the amount of import duty in accordance with Article 86(3) of the Code.

Article 177

Storage of Union goods together with non-Union goods in a storage facility

(Article 211(1) of the Code)

Where Union goods are stored together with non-Union goods in a storage facility for customs warehousing and it is impossible or would only be possible at disproportionate cost to identify at all times each type of goods, the authorisation as referred to in Article 211(1)(b) of the Code shall establish that accounting segregation shall be carried out with regard to each type of goods, customs status and, where appropriate, origin of the goods.

SECTION 3

OTHER PROVISIONS

Article 178

Records

(Articles 211(1) and 214(1) of the Code)

1. The records referred to in Article 214(1) of the Code shall contain the following:

   (a) where appropriate, the reference to the authorisation required for placing the goods under a special procedure;

   (b) the MRN or, where it does not exist, any other number or code identifying the customs declarations by means of which the goods are placed under the special procedure and, where the procedure has been discharged in accordance with Article 215(1) of the Code, information about the manner in which the procedure was discharged;

   (c) data that unequivocally allows the identification of customs documents other than customs declarations, of any other documents relevant to the placing of goods under a special procedure and of any other documents relevant to the corresponding discharge of the procedure;

   (d) particulars of marks, identifying numbers, number and kind of packages, the quantity and usual commercial or technical description of the goods and, where relevant, the identification marks of the container necessary to identify the goods;

   (e) location of goods and information about any movement thereof;

   (f) customs status of goods;

   (g) particulars of usual forms of handling and, where applicable, the new tariff classification resulting from those usual forms of handling;

   (h) particulars of temporary admission or end-use;

   (i) particulars of inward or outward processing including information about the nature of the processing;

   (j) where Article 86(1) of the Code applies, the costs for storage or usual forms of handling;

   (k) the rate of yield or its method of calculation, where appropriate;

   (l) particulars enabling customs supervision and controls of the use of equivalent goods in accordance with Article 223 of the Code;

   (m) where accounting segregation is required, information about type of goods, customs status and, where appropriate, origin of the goods;

   (n) in the cases of temporary admission referred to in Article 238, the particulars required by that Article;

   (o) in the cases of inward processing referred to in Article 241, the particulars required by that Article;

(p) where appropriate, particulars of any transfer of rights and obligations in accordance with Article 218 of the Code;

(q) where the records are not part of the main accounts for customs purposes, a reference to those main accounts for customs purposes;

(r) additional information for special cases, at the request of the customs authorities for justified reasons.

2. In the case of free zones, the records shall, in addition to the information provided for in paragraph 1, contain the following:

(a) particulars identifying the transport documents for the goods entering or leaving the free zones;

(b) particulars concerning the use or consumption of goods of which the release for free circulation or temporary admission would not entail application of import duty or measures laid down under the common agricultural or commercial policies in accordance with Article 247(2) of the Code.

3. The customs authorities may waive the requirement for some of the information provided for in paragraphs 1 and 2, where this does not adversely affect the customs supervision and controls of the use of a special procedure.

4. In the case of temporary admission, records shall be kept only if required by the customs authorities.

Article 179

Movement of goods between different places in the customs territory of the Union

(Article 219 of the Code)

1. Movement of goods placed under inward processing, temporary admission or end-use may take place between different places in the customs territory of the Union without customs formalities other than those set out in Article 178(1)(e).

2. Movement of goods placed under outward processing may take place within the customs territory of the Union from the customs office of placement to the customs office of exit.

3. Movement of goods placed under customs warehousing may take place within the customs territory of the Union without customs formalities other than those set out in Article 178(1)(e) as follows:

(a) between different storage facilities designated in the same authorisation;

(b) from the customs office of placement to the storage facilities; or

(c) from the storage facilities to the the customs office of exit or any customs office indicated in the authorisation for a special procedure as referred to in Article 211(1) of the Code, empowered to release goods to a subsequent customs procedure or to receive the re-export declaration for the purposes of discharging the special procedures.

Movements under customs warehousing shall end within 30 days after goods have been removed from the customs warehouse.

At the request of the holder of the procedure, the customs authorities may extend the 30-days period.

4. Where goods are moved under customs warehousing from the storage facilities to the customs office of exit, the records referred to in Article 214(1) of the Code shall provide information about the exit of the goods within 100 days after the goods have been removed from the customs warehouse.

At the request of the holder of the procedure, the customs authorities may extend the 100-days period.

Article 180

Usual forms of handling

(Article 220 of the Code)

The usual forms of handling provided for in Article 220 of the Code shall be those set out in Annex 71-03.

Article 181

Standardised exchange of information

(Article 6(2) of the Code)

1. The supervising customs office shall make the relevant data elements set out in Section A of Annex 71-05 available in the electronic system set up pursuant to Article 16(1) of the Code for the purposes of standardised exchange of information (INF), for:

   (a) inward processing EX/IM or outward processing EX/IM which involves one or more than one Member State;

   (b) inward processing IM/EX or outward processing IM/EX which involves more than one Member State.

2. Where the responsible customs authority as referred to in Article 101(1) of the Code has requested a standardised exchange of information between customs authorities with regard to goods placed under inward processing IM/EX which involves only one Member State, the supervising customs office shall make the relevant data elements set out in Section B of Annex 71-05 available in the electronic system set up pursuant to Article 16(1) of the Code for the purposes of INF.

3. Where a customs declaration or re-export declaration or re-export notification refers to an INF, the competent customs authorities shall make the specific data elements set out in Section A of Annex 71-05 available in the electronic system set up pursuant to Article 16(1) of the Code for the purposes of INF.

4. The customs authorities shall disclose updated information concerning the INF to the holder of the authorisation at his request.

Article 182

Customs status of animals born of animals placed under a special procedure

(Article 153(3) of the Code)

Where the total value of animals, born in the customs territory of the Union of animals subject to one customs declaration and placed under the storage procedure, the temporary admission procedure or the inward processing procedure, exceeds EUR 100, those animals shall be deemed to be non-Union goods and to be placed under the same procedure as the animals of which they were born.

Article 183

Waiver from the obligation to lodge a supplementary declaration

(Article 167(2)(b) of the Code)

The obligation to lodge a supplementary declaration shall be waived for goods for which a special procedure other than transit has been discharged by placing them under a subsequent special procedure other than transit provided that all of the following conditions are fulfilled:

(a) the holder of the authorisation of the first and subsequent special procedure is the same person;

(b) the customs declaration for the first special procedure was lodged in the standard form, or the declarant has lodged a supplementary declaration in accordance with the first sub-paragraph of Article 167(1) of the Code in respect of the first special procedure;

(c) the first special procedure is discharged by the placement of goods under a subsequent special procedure other than end-use or inward processing, following the lodging of a customs declaration in the form of an entry in the declarant's records .

CHAPTER 2

Transit

SECTION 1

EXTERNAL AND INTERNAL TRANSIT PROCEDURE

Article 184

Means of communication of the MRN of a transit operation and of the MRN of a TIR operation to the customs authorities

(Article 6(3)(a) of the Code)

The MRN of a transit declaration or of a TIR operation may be submitted to the customs authorities by any of the following means other than electronic data-processing techniques:

(a) a bar code;

(b) a transit accompanying document;

(c) a transit/security accompaning document;

(d) in case of a TIR operation, a TIR carnet;

(e) other means as allowed by the receiving customs authority.

Article 185

Transit accompanying document and transit/security accompanying document

(Article 6(2) of the Code)

The common data requirements for the transit accompanying document and, if necessary, for the List of items, and for the transit/security accompanying document and the Transit/Security list of items shall contain the data referred to in Annex B.

Article 186

Applications for the status of authorised consignee for TIR operations

(Article 22(1) 3rd subparagraph of the Code)

For the purposes of TIR operations, applications for the status of authorised consignee referred to in Article 230 of the Code shall be submitted to the customs authority competent to take the decision in the Member State where the TIR operations of the applicant are due to be terminated.

Article 187

Authorisations for the status of authorised consignee for TIR operations

(Article 230 of the Code)

1. The status of authorised consignee laid down in Article 230 of the Code shall be granted to applicants fulfilling the following conditions:

   (a) the applicant is established in the customs territory of the Union;

   (b) the applicant declares that he will regularly receive goods moved under a TIR operation;

   (c) the applicant fulfils the criteria laid down in Article 39(a), (b) and (d) of the Code.

2. The authorisations shall only be granted provided that the customs authority considers that it will be able to supervise the TIR operations and carry out controls without an administrative effort disproportionate to the requirements of the person concerned.

3. The authorisation concerning the status of authorised consignee shall apply to TIR operations that are due to be terminated in the Member State where the authorisation was granted, at the place or places in that Member State specified in the authorisation.

SECTION 2

EXTERNAL AND INTERNAL UNION TRANSIT PROCEDURE

Article 188

Special fiscal territories

(Article 1(3) of the Code)

1. Where Union goods are moved from a special fiscal territory to another part of the customs territory of the Union, which is not a special fiscal territory, and that movement ends at a place situated outside the Member State where they entered that part of the customs territory of the Union, those Union goods shall be moved under the internal Union transit procedure referred to in Article 227 of the Code.

2. In situations other than those covered by paragraph 1, the internal Union transit procedure may be used for Union goods moved between a special fiscal territory and another part of the customs territory of the Union.

Article 189

Application of the Convention on a common transit procedure in specific cases

(Article 226(2) of the Code)

Where Union goods are exported to a third country which is a contracting party to the Convention on a common transit procedure or where Union goods are exported and pass through one or more common transit countries and the provisions of the Convention on a

common transit procedure apply, the goods shall be placed under the external Union transit procedure as referred to in Article 226 (2) of the Code in the following cases:

(a) the Union goods have undergone customs export formalities with a view to refunds being granted on export to third countries under the common agricultural policy;

(b) the Union goods have come from intervention stocks, they are subject to measures of control as to their use or destination, and they have undergone customs formalities on export to third countries under the common agricultural policy;

(c) the Union goods are eligible for the repayment or remission of import duties on condition that they are placed under external transit in accordance with Article 118(4) of the Code.

Article 190

Receipt endorsed by the customs office of destination

(Article 6(3)(a) of the Code)

A receipt endorsed by the customs office of destination at the request of the person presenting the goods and the information required by that office shall contain the data referred to in Annex 72-03.

Article 191

General provisions on authorisations of simplifications

(Article 233(4) of the Code)

1. Authorisations referred to in Article 233(4) of the Code shall be granted to applicants fulfilling the following conditions:

   (a) the applicant is established in the customs territory of the Union,

   (b) the applicant declares that he will regularly use the Union transit arrangements;

   (c) the applicant fulfils the criteria laid down in Article 39(a), (b) and (d) of the Code.

2. The authorisations shall only be granted provided that the customs authority considers that it will be able to supervise the Union transit procedure and carry out controls without an administrative effort disproportionate to the requirements of the person concerned.

Article 192

Applications for the status of authorised consignor for placing goods under the Union transit procedure

(Article 22(1) 3rd subparagraph of the Code)

For the purposes of placing goods under the Union transit procedure, applications for the status of authorised consignor referred to in Article 233(4)(a) of the Code shall be submitted to the customs authority competent to take the decision in the Member State where the Union transit operations of the applicant are due to begin.

Article 193

Authorisations for the status of authorised consignor for placing goods under the Union transit procedure

(Article 233(4) of the Code)

The status of authorised consignor referred to in Article 233(4)(a) of the Code shall only be granted to applicants who are authorised in accordance with Article 89(5) of the Code to provide a comprehensive guarantee or to use a guarantee waiver in accordance with Article 95(2) of the Code.

Article 194

Applications for the status of authorised consignee for receiving goods moved under the Union transit procedure

(Article 22(1) 3rd subparagraph of the Code)

For the purposes of receiving goods moved under the Union transit procedure, applications for the status of authorised consignee referred to in Article 233(4)(b) of the Code shall be submitted to the customs authority competent to take the decision in the Member State where the Union transit operations of the applicant are due to be ended.

Article 195

Authorisations for the status of authorised consignee for receiving goods moved under the Union transit procedure

(Article 233(4) of the Code)

The status of authorised consignee referred to in Article 233(4)(b) of the Code shall only be granted to applicants who declare that they will regularly receive goods that have been placed under a Union transit procedure.

Article 196

Receipt issued by authorised consignee

(Article 6(3)(a) of the Code)

A receipt issued by the authorised consignee to the carrier upon delivering the goods and the information required shall contain the data referred to in Annex 72-03.

Article 197

Authorisation for use of seals of a special type

(Article 233(4) of the Code)

1. Authorisations in accordance with Article 233(4)(c) of the Code to use seals of a special type on means of transport, containers or packages used for the Union transit

procedure shall be granted where the customs authorities approve the seals set out in the application for the authorisation.

2. The customs authority shall accept in the context of authorisation the seals of a special type that have been approved by the customs authorities of another Member State unless they have information that the particular seal is not suitable for customs purposes.

Article 198

Authorisation for the use of a transit declaration with reduced data requirements

(Article 233(4)(d) of the Code)

Authorisations in accordance with Article 233(4)(d) of the Code to use a customs declaration with reduced data requirements to place goods under the Union transit procedure shall be granted for:

(a) transport of goods by rail;

(b) transport of goods by air and sea where an electronic transport document is not used as a transit declaration.

Article 199

Authorisations for the use of an electronic transport document as a transit declaration for air transport

(Article 233(4)(e) of the Code)

For the purposes of air transport, authorisations for the use of an electronic transport document as a transit declaration to place goods under the Union transit procedure in accordance with Article 233(4)(e) of the Code shall only be granted where:

(a) the applicant operates a significant number of flights between Union airports;

(b) the applicant demonstrates that he will be able to ensure that the particulars of the electronic transport document are available to the customs office of departure at the airport of departure and to the customs office of destination at the airport of destination and that those particulars are the same at the customs office of departure and the customs office of destination.

Article 200

Authorisations for the use of an electronic transport document as a transit declaration for maritime transport

(Article 233(4)(e) of the Code)

For the purposes of maritime transport, authorisations for the use of an electronic transport document as a transit declaration to place goods under the Union transit procedure in accordance with Article 233(4)(e) of the Code shall only be granted where:

(a) the applicant operates a significant number of voyages between Union ports;

(b) the applicant demonstrates that he will be able to ensure that the particulars of the electronic transport document are available to the customs office of departure in the port of departure and to the customs office of destination in the port of destination and that those particulars are the same at the customs office of departure and the customs office of destination.

CHAPTER 3

Customs warehousing

Article 201

Retail sale

(Article 211(1) of the Code)

Authorisations for the operation of storage facilities for the customs warehousing of goods shall be granted on condition that the storage facilities are not used for the purpose of retail sale, unless goods are retailed in any of the following situations:

(a) with relief from import duty to travellers to or from countries or territories outside the customs territory of the Union;

(b) with relief from import duty to members of international organisations;

(c) with relief from import duty to NATO forces;

(d) with relief from import duty under diplomatic or consular arrangements;

(e) remotely, including via the Internet.

Article 202

Specially equipped storage facilities

(Article 211(1)(b) of the Code)

Where goods present a danger or are likely to spoil other goods or require special facilities for other reasons, authorisations for the operation of storage facilities for the customs warehousing of goods may specify that the goods may only be stored in storage facilities specially equipped to receive them.

Article 203

Type of storage facilities

(Article 211(1)(b) of the Code)

Authorisations for the operation of storage facilities for the customs warehousing of goods shall specify which of the following types of customs warehouses is to be used under each authorisation:

(a) public customs warehouse type I;

(b) public customs warehouse type II;

(c) private customs warehouse.

CHAPTER 4

Specific use

SECTION 1

TEMPORARY ADMISSION

SUBSECTION 1

GENERAL PROVISIONS

Article 204

General provisions

(Article 211(1)(a) of the Code)

Unless otherwise provided for, authorisations for the use of the temporary admission procedure shall be granted on condition that the state of the goods placed under the procedure remains the same.

However, repairs and maintenance, including overhaul and adjustments or measures to preserve the goods or to ensure their compliance with the technical requirements for their use under the procedure shall be admissible.

Article 205

Place for submitting an application

(Article 22(1) of the Code)

1. By way of derogation from the third subparagraph of Article 22(1) of the Code, an application for an authorisation for temporary admission shall be submitted to the customs authority competent for the place where the goods are to be first used.

2. By way of derogation from the third subparagraph of Article 22(1) of the Code, where an application for an authorisation for temporary admission is made by means of an oral customs declaration in accordance with Article 136, an act in accordance with Article 139 or an ATA or a CPD carnet in accordance with Article 163, it shall be made at the place where the goods are presented and declared for temporary admission.

Article 206

Temporary admission with partial relief from import duty

(Articles 211(1) and 250(2)(d) of the Code)

1. The authorisation for the use of the temporary admission procedure with partial relief from import duty shall be granted in respect of goods which do not meet all the relevant requirements for total relief from import duty laid down in Articles 209 to 216 and 218 to 236.

2. The authorisation for the use of the temporary admission procedure with partial relief from import duty shall not be granted for consumable goods.

3. The authorisation for the use of the temporary admission procedure with partial relief from import duties shall be granted on condition that the amount of import duty due in accordance with the second subparagraph of Article 252(1) of the Code shall be paid when the procedure has been discharged.

SUBSECTION 2

MEANS OF TRANSPORT, PALLETS AND CONTAINERS INCLUDING THEIR ACCESSORIES AND EQUIPMENT

Article 207

General provisions

(Article 211(3) of the Code)

Total relief from import duty may be granted for goods as referred to in Articles 208 to 211 and Article 213 also where the applicant and the holder of the procedure are established inside the customs territory of the Union.

Article 208

Pallets

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for pallets.

Article 209

Spare parts, accessories and equipment for pallets

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for spare parts, accessories and equipment for pallets where they are temporarily imported to be re-exported separately or as part of pallets.

Article 210

Containers

(Articles 18(2) and 250(2)(d) of the Code)

1. Total relief from import duties shall be granted for containers where they have been durably marked in an appropriate and clearly visible place with all of the following information:

   (a) the identification of the owner or operator, which may be shown either by its full name or by an established identification system, excluding symbols such as emblems or flags;

   (b) the identification marks and numbers of the container, given by the owner or operator;

   (c) the tare weight of the container, including all its permanently fixed equipment.

   For freight containers considered for maritime use, or for any other container utilising an ISO standard prefix consisting of four capital letters ending in U, the identification of the owner or principal operator and the container serial number and check digit of the container shall adhere to International Standard ISO 6346 and its annexes.

2. Where the application for authorisation is made in accordance with Article 163(1), the containers shall be monitored by a person established in the customs territory of the Union or by a person established outside of the customs territory of the Union who is represented in the customs territory of the Union.

   That person shall upon request supply to the customs authorities detailed information concerning the movements of each container granted temporary admission including the dates and places of its entry and discharge.

Article 211

Spare parts, accessories and equipment for containers

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for spare parts, accessories and equipment for containers where they are temporarily imported to be re-exported separately or as part of containers.

Article 212

Conditions for granting total relief from import duty for means of transport

(Article 250(2)(d) of the Code)

1. For the purposes of this Article the term 'means of transport' shall include normal spare parts, accessories and equipment accompanying the means of transport.

2. Where means of transport are declared for temporary admission orally in accordance with Article 136 or by another act in accordance with Article 139, the authorisation shall be granted to the person who has the physical control of the goods at the moment of the release of goods for the temporary admission procedure unless that person acts on behalf of another person. If so, the authorisation shall be granted to the latter person.

3. Total relief from import duty shall be granted for means of road, rail, air, sea and inland waterway transport where they fulfil the following conditions:

(a) they are registered outside the customs territory of the Union in the name of a person established outside that territory or ,where the means of transport are not registered, they are owned by a person established outside the customs territory of the Union;

(b) they are used by a person established outside the customs territory of the Union, without prejudice to Articles 214, 215 and 216.

Where those means of transport are used privately by a third person established outside the customs territory of the Union, total relief from import duty shall be granted provided that that person is duly authorised in writing by the holder of the authorisation.

Article 213

Spare parts, accessories and equipment for non-Union means of transport

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for spare parts, accessories and equipment for means of transport where they are temporarily imported to be re-exported separately or as part of means of transport.

Article 214

Conditions for granting total relief from import duty to persons established in the customs territory of the Union

(Article 250(2)(d) of the Code)

Persons established in the customs territory of the Union shall benefit from total relief from import duty where any of the following conditions is fulfilled:

(a) in the case of means of rail transport, they are put at the disposal of such persons under an agreement whereby each person may use the rolling stock of the other within the framework of that agreement;

(b) in the case of means of road transport registered in the customs territory of the Union, a trailer is coupled to the means of transport;

(c) the means of transport are used in connection with an emergency situation;

(d) the means of transport are used by a professional hire firm for the purpose of re-export.

Article 215

Use of means of transport by natural persons who have their habitual residence in the customs territory of the Union

(Article 250(2)(d) of the Code)

1. Natural persons who have their habitual residence in the customs territory of the Union shall benefit from total relief from import duty in respect of means of transport which they use privately and occasionally, at the request of the registration holder, provided that the registration holder is in the customs territory of the Union at the time of use.

2. Natural persons who have their habitual residence in the customs territory of the Union shall benefit from total relief from import duty in respect of means of transport which they have hired under a written contract and use privately for one of the following purposes:

   (a) to return to their place of residence in the customs territory of the Union;

   (b) to leave the customs territory of the Union.

3. Natural persons who have their habitual residence in the customs territory of the Union shall benefit from total relief from import duties in respect of means of transport which they use commercially or privately provided that they are employed by the owner, hirer or lessee of the means of transport and that the employer is established outside that customs territory.

   Private use of the means of transport is allowed for journeys between the place of work and the place of residence of the employee or with the purpose of performing a professional task of the employee as stipulated in the contract of employment.

   At the request of the customs authorities, the person using the means of transport shall present a copy of the contract of employment.

4. For the purposes of this article,

   (a) private use means the use other than commercial of a means of transport;

   (b) commercial use means the use of means of transport for the transport of persons for remuneration or the industrial or commercial transport of goods, whether or not for remuneration.

Article 216

Relief from import duty in respect of means of transport in other cases

(Article 250(2)(d) of the Code)

1. Total relief from import duty shall be granted where means of transport are to be registered under a temporary series in the customs territory of the Union, with a view to re-export in the name of one of the following persons:

   (a) a person established outside that territory;

(b) a natural person who has his or her habitual residence inside that territory where that person is preparing to transfer normal residence to a place outside that territory.

2. Total relief from import duties may in exceptional cases be granted where means of transport are commercially used for a limited period by persons established in the customs territory of the Union.

Article 217

Time-limits for discharge of the temporary admission procedure in the case of means of transport and containers

(Article 215(4) of the Code)

The discharge of the temporary admission procedure in the case of means of transport and containers shall take place within the following time-limits from the time the goods are placed under the procedure:

(a) for means of rail transport: 12 months;

(b) for commercially used means of transport other than rail transport: the time required for carrying out the transport operations;

(c) for means of road transport privately used:

(i) by students: the period they stay in the customs territory of the Union for the sole purpose of pursuing their studies;

(ii) by persons fulfilling assignments of a specified duration: the period they stay in the customs territory of the Union for the sole purpose of fulfilling their assignment;

(iii) in other cases, including saddle or draught animals and the vehicles drawn by them: 6 months;

(d) for privately used means of air transport: 6 months;

(e) for privately used means of sea and inland waterway transport: 18 months;

(f) for containers, their equipment and accessories: 12 months.

Article 218

Time-limits for re-export in the case of professional hire services

(Articles 211(1) and 215(4) of the Code)

1. Where a means of transport has been temporarily imported into the Union with total relief from import duty in accordance with Article 212, and has been returned to a professional hire service established in the customs territory of the Union, the re-export discharging the temporary admission procedure shall be carried out within six months of the date of entry of the means of transport into the customs territory of the Union.

Where the means of transport is rehired by the professional hire service to a person established outside that territory or to natural persons who have their habitual residence inside the customs territory of the Union, the re-export discharging the

temporary admission procedure shall be carried out within six months of the date of entry of the means of transport into the customs territory of the Union and within three weeks of the conclusion of the contract on the rehiring.

The date of entry into the customs territory of the Union shall be deemed to be the date of conclusion of the hiring contract under which the means of transport was used at the time of entry into that territory, unless the actual date of entry has been proven.

2. An authorisation for the temporary admission of a means of transport as referred to in paragraph 1 shall be granted on condition that the means of transport is not used for other purposes than re-export.

3. In the case referred to in Article 215(2), the means of transport shall, within three weeks of the conclusion of the rehiring contract, be returned to the hire service established in the customs territory of the Union where the means of transport is used by the natural person to return to his place of residence in the customs territory of the Union, or be re-exported where the means of transport is used by him to leave the customs territory of the Union.

SUBSECTION 3

GOODS OTHER THAN MEANS OF TRANSPORT, PALLETS AND CONTAINERS

Article 219

Personal effects and goods for sports purposes imported by travellers

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted in respect of goods imported by travellers resident outside of the customs territory of the Union where any of the following conditions is fulfilled:

(a) the goods are personal effects reasonably required for the journey;

(b) the goods are intended to be used for sports purposes.

Article 220

Welfare material for seafarers

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for welfare materials for seafarers in the following cases:

(a) they are used on a vessel engaged in international maritime traffic;

(b) they are unloaded from such a vessel and temporarily used ashore by the crew;

(c) they are used by the crew of such a vessel in cultural or social establishments managed by non-profit-making organisations or in places of worship where services for seafarers are regularly held.

Article 221

Disaster relief material

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for disaster relief material where it is used in connection with measures taken to counter the effects of disasters or similar situations affecting the customs territory of the Union.

The applicant and the holder of the procedure may be established inside the customs territory of the Union.

Article 222

Medical, surgical and laboratory equipment

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for medical, surgical and laboratory equipment which is dispatched on loan at the request of a hospital or other medical institution which has urgent need of such equipment to make up for the inadequacy of its own facilities and where it is intended for diagnostic or therapeutic purposes. The applicant and the holder of the procedure may be established inside the customs territory of the Union.

Article 223

Animals

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for animals owned by a person established outside the customs territory of the Union.

Article 224

Goods for use in frontier zones

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for the following goods intended to be used in frontier zones:

(a) equipment owned and used by persons established in a frontier zone of a third country adjacent to the frontier zone in the Union where the goods are to be used;

(b) goods used for projects for the building, repair or maintenance of infrastructure in such a frontier zone in the Union under the responsibility of public authorities.

Article 225

Sound, image or data carrying media and publicity material

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for the following goods:

(a) media carrying sound, image or data supplied free of charge and used for the purposes of demonstration prior to commercialisation, producing sound track, dubbing or reproduction;

(b) material used exclusively for publicity purposes, which includes means of transport specially equipped for those purposes.

Article 226

Professional equipment

(Article 250(2)(d) of the Code)

1. Total relief from import duty shall be granted for professional equipment which fulfils the following conditions:

   (a) it is owned by a person established outside the customs territory of the Union;

   (b) it is imported either by a person established outside the customs territory of the Union or by an employee of the owner established in the customs territory of the Union;

   (c) it is used by the importer or under their supervision, except in cases of audiovisual co-productions.

2. Notwithstanding paragraph 1, total relief from import duty shall be granted for portable musical instruments temporarily imported by travellers in order to be used as professional equipment. The travellers may be resident inside or outside the customs territory of the Union.

3. Total relief from import duty shall not be granted in respect of professional equipment which is to be used for any of the following:

   (a) the industrial manufacture of goods;

   (b) the industrial packaging of goods;

   (c) the exploitation of natural resources;

   (d) the construction, repair or maintenance of buildings;

   (e) earth moving and like projects.

   Points (c), (d) and (e) shall not apply to hand tools.

Article 227

Pedagogic material and scientific equipment

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for pedagogic material and scientific equipment where the following conditions are fulfilled:

(a) they are owned by a person established outside the customs territory of the Union;

(b) they are imported by not-for-profit public or private scientific, teaching or vocational training establishments, and are exclusively used in teaching, vocational training or scientific research under the responsibility of the importing establishment;

(c) they are imported in reasonable numbers, having regard to the purpose of the import;

(d) they are not used for purely commercial purposes

Article 228

Packings

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for the following goods:

(a) packings imported filled and intended for re-export, whether empty or filled;

(b) packings imported empty and intended for re-export filled.

Article 229

Moulds, dies, blocks, drawings, sketches, measuring, checking and testing instruments and other similar articles

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for moulds, dies, blocks, drawings, sketches, measuring, checking and testing instruments and other similar articles where the following conditions are fulfilled:

(a) they are owned by a person established outside the customs territory of the Union;

(b) they are used in manufacturing by a person established in the customs territory of the Union and more than 50 % of the production resulting from their use is exported.

Article 230

Special tools and instruments

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for special tools and instruments where the following conditions are fulfilled:

(a) they are owned by a person established outside the customs territory of the Union;

(b) they are made available to a person established in the customs territory of the Union for the manufacture of goods and more than 50 % of the resulting goods is exported.

Article 231

Goods used to carry out tests or subject to tests

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for goods in any of the following situations:

(a) they are subject to tests, experiments or demonstrations;

(b) they are subject to a satisfactory acceptance test provided for in a sales contract;

(c) they are used to carry out tests, experiments or demonstrations without financial gain.

Article 232

Samples

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for samples solely used for being shown or demonstrated in the customs territory of the Union provided that the quantity of the samples is reasonable having regard to that use.

Article 233

Replacement means of production

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for replacement means of production which are temporarily made available to a customer by a supplier or repairer pending the delivery or repair of similar goods.

Article 234

Goods for events or for sale in certain situations

(Article 250(2)(d) of the Code)

1. Total relief from import duty shall be granted for goods to be exhibited or used at a public event not purely organised for the commercial sale of the goods, or obtained at such events from goods placed under the temporary admission procedure.

   In exceptional cases, the customs authorities may grant total relief from import duty for goods to be exhibited or used at other events, or obtained at such other events from goods placed under the temporary admission procedure.

2. Total relief from import duty shall be granted for goods delivered by the owner for inspection to a person in the Union who has the right to purchase them after inspection.

3. Total relief from import duty shall be granted for the following:

   (a) works of art, collector's items and antiques as defined in Annex IX to Directive 2006/112/EC, imported for the purposes of exhibition, with a view to possible sale;

   (b) goods other than newly manufactured ones imported with a view to their sale by auction.

Article 235

Spare parts, accessories and equipment

(Article 250(2)(d) of the Code)

Total relief from import duty shall be granted for spare parts, accessories and equipment which are used for repair and maintenance, including overhaul, adjustments and preservation, of goods placed under the temporary admission procedure.

Article 236

Other goods

(Article 250(2)(d) of the Code)

Total relief from import duty may be granted for goods other than those referred to in Articles 208 to 216 and 219 to 235 or not complying with the conditions of those Articles, in either of the following situations:

(a) the goods are imported occasionally for a period not exceeding three months;

(b) the goods are imported in particular situations having no economic effect in the Union.

Article 237

Special time-limits for discharge

(Article 215(4) of the Code)

1. For the goods referred to in Articles 231(c), 233 and 234(2), the time-limit for discharge shall be 6 months from the time the goods are placed under the temporary admission procedure.

2. For animals referred to in Article 223, the time-limit for discharge shall not be shorter than 12 months from the time the animals are placed under the temporary admission procedure.

SUBSECTION 4

OPERATION OF THE PROCEDURE

Article 238

Particulars to be included in the customs declaration

(Article 6(2) of the Code)

1. Where goods placed under the temporary admission procedure are subsequently placed under a customs procedure enabling the temporary admission procedure to be discharged in accordance with Article 215(1) of the Code, the customs declaration for the subsequent customs procedure other than by ATA/CPD carnet shall contain the indication "TA" and the relevant authorisation number, if applicable.

2. Where goods placed under the temporary admission procedure are re-exported in accordance with Article 270(1) of the Code, the re-export declaration other than by ATA/CPD carnet shall contain the particulars referred to in paragraph 1.

SECTION 2

END-USE

Article 239

Obligation of the holder of the end-use authorisation

(Article 211(1)(d) of the Code)

An authorisation for the use of the end-use procedure shall be granted provided that the holder of the authorisation undertakes to fulfil either of the following obligations:

(a) to use the goods for the purposes laid down for the application of the duty exemption or reduced rate of duty;

(b) to transfer the obligation as referred to in point (a) to another person under the conditions laid down by the customs authorities.

CHAPTER 5

Processing

Article 240

Authorisation

(Article 211 of the Code)

1. An authorisation for a processing procedure shall specify the measures to establish either of the following:

   (a) that the processed products have resulted from processing of goods placed under a processing procedure;

   (b) that the conditions for using the equivalent goods system in accordance with Article 223 of the Code or the standard exchange system in accordance with Article 261 of the Code are fulfilled.

2. An authorisation for inward processing may be granted for production accessories within the meaning of Article 5(37)(e) of the Code, with the exception of the following:

   (a) fuels and energy sources other than those needed for the testing of processed products or for the detection of faults in the goods placed under the procedure needing repair;

   (b) lubricants other than those needed for the testing, adjustment or withdrawal of processed products;

   (c) equipment and tools.

3. An authorisation for inward processing shall be granted only where the following conditions are fulfilled:

   (a) the goods cannot be economically restored after processing to their description or state as it was when they were placed under the procedure;

   (b) the use of the procedure cannot result in circumvention of the rules concerning origin and of quantitative restrictions applicable to the imported goods.

The first subparagraph shall not apply where the amount of import duty is determined in accordance with Article 86(3) of the Code.

Article 241

Particulars to be included in the customs declaration for inward processing

(Article 6(2) of the Code)

1. Where goods placed under the inward processing procedure or the resulting processed products are subsequently placed under a customs procedure enabling the inward processing procedure to be discharged in accordance with Article 215(1) of the Code, the customs declaration for the subsequent customs procedure other than

by ATA/CPD carnet shall contain the indication "IP" and the relevant authorisation number or INF number.

Where goods placed under the inward processing procedure are subject to specific commercial policy measures and such measures continue to be applicable at the time when the goods, whether in the form of processed products or not, are placed under a subsequent customs procedure, the customs declaration for the subsequent customs procedure shall contain the particulars referred to in the first subparagraph as well as the indication

"C P M".

2. Where goods placed under the inward processing procedure are re-exported in accordance with Article 270(1) of the Code, the re-export declaration shall contain the particulars referred to in paragraph 1.

Article 242

Outward processing IM/EX

(Article 211(1) of the Code)

1. In the case of outward processing IM/EX, the authorisation shall specify the time-limit within which the Union goods, which are replaced by equivalent goods, shall be placed under outward processing. That time-limit shall not exceed six months.

   At the request of the holder of the authorisation, the time-limit may be extended even after its expiry, provided that the total time-limit does not exceed one year.

2. In the case of prior import of processed products, a guarantee shall be provided covering the amount of the import duty that would be payable should the replaced Union goods not be placed under outward processing in accordance with paragraph 1.

Article 243

Repair under outward processing

(Article 211(1) of the Code)

Where the outward processing procedure is requested for repair, the temporary export goods shall be capable of being repaired and the procedure shall not be used to improve the technical performance of the goods.

TITLE VIII

GOODS TAKEN OUT OF THE CUSTOMS TERRITORY OF THE UNION

CHAPTER 1

Formalities prior to the exit of goods

Article 244

Time-limit for the lodging of pre-departure declarations

(Article 263(1) of the Code)

1. The pre-departure declaration referred to in Article 263 of the Code shall be lodged at the competent customs office within the following time-limits:

   (a) in the case of maritime traffic:

      (i) for containerised cargo movements other than those referred to in points (ii) and (iii), at the latest 24 hours before the goods are loaded onto the vessel on which they are to leave the customs territory of the Union;

      (ii) for containerised cargo movements between the customs territory of the Union and Greenland, the Faeroe Islands, Iceland or ports on the Baltic Sea, the North Sea, the Black Sea or the Mediterranean and all ports of Morocco, at the latest two hours before departure from a port in the customs territory of the Union;

      (iii) for containerised cargo movements between the French overseas departments, the Azores, Madeira or the Canary Islands and a territory outside the customs territory of the Union, where the duration of the voyage is less than 24 hours, at the latest two hours before departure from a port in the customs territory of the Union;

      (iv) for movements not involving containerised cargo, at the latest 2 hours prior to departure from a port in the customs territory of the Union;

   (b) in the case of air traffic, at the latest 30 minutes prior to departure from an airport in the customs territory of the Union;

   (c) in the case of road and inland waterways traffic, at the latest one hour before the goods are to leave the customs territory of the Union;

   (d) in the case of rail traffic:

      (i) where the train voyage from the last train formation station to the customs office of exit takes less than two hours, at the latest one hour before arrival of the goods at the place for which the customs office of exit is competent;

      (ii) in all other cases, at the latest two hours before the goods are to leave the customs territory of the Union.

2. Notwithstanding paragraph 1, where the pre-departure declaration concerns goods for which a refund is claimed in accordance with Commission Regulation (EC) No

612/2009[17], it shall be lodged at the competent customs office at the latest at the time of loading the goods in accordance with Article 5(7) of that Regulation.

3. In the following situations, the time-limit for lodging the pre-departure declaration shall be that applicable to the active means of transport used to leave the customs territory of the Union:

(a) where the goods have arrived at the customs office of exit on another means of transport from which they are transferred before leaving the customs territory of the Union (inter-modal transport);

(b) where the goods have arrived at the customs office of exit on a means of transport which is itself transported on an active means of transport when leaving the customs territory of the Union (combined transportation).

4. The time-limits referred to in paragraphs 1, 2 and 3 shall not apply in the case of *force majeure*.

Article 245

Waiver from the obligation to lodge a pre-departure declaration

(Article 263(2)(b) of the Code)

1. Without prejudice to the obligation to lodge a customs declaration in accordance with Article 158(1) of the Code or a re-export declaration in accordance with Article 270(1) of the Code, the lodging of a pre-departure declaration shall be waived for the following goods:

(a) electrical energy;

(b) goods leaving by pipeline;

(c) items of correspondence;

(d) goods moved under the rules of the acts of the Universal Postal Union;

(e) household effects as defined in Article 2(1)(d) of Regulation (EC) No 1186/2009 provided that they are not carried under a transport contract;

(f) goods contained in travellers' personal baggage;

(g) goods referred to in Article 140(1) with the exception, when carried under a transport contract, of:

(i) pallets, spare parts, accessories and equipment for pallets;

(ii) containers, spare parts, accessories and equipment for containers;

(iii) means of transport, spare parts, accessories and equipment for means of transport;

(h) goods covered by ATA and CPD carnets;

(i) goods moved under cover of the form 302 provided for in the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951;

[17] Commission Regulation (EC) No 612/2009 of 7 July 2009 on laying down common detailed rules for the application of the system of export refunds on agricultural products (OJ L 186, 17.7.2009, p. 1).

(j) goods carried on vessels moving between Union ports without any intervening call at any port outside the customs territory of the Union;

(k) goods carried on aircraft moving between Union airports without any intervening call at any airport outside the customs territory of the Union;

(l) weapons and military equipment taken out of the customs territory of the Union by the authorities in charge of the military defence of a Member State, in military transport or transport operated for the sole use of the military authorities;

(m) the following goods taken out of the customs territory of the Union directly to offshore installations operated by a person established in the customs territory of the Union:

(i) goods to be used for construction, repair, maintenance or conversion of the offshore installations;

(ii) goods to be used to fit or equip the offshore installations;

(iii) provisions to be used or consumed on the offshore installations;

(n) goods for which relief can be claimed pursuant to the Vienna Convention on diplomatic relations of 18 April 1961, the Vienna Convention on consular relations of 24 April 1963, other consular conventions or the New York Convention of 16 December 1969 on special missions;

(o) goods which are supplied for incorporation as part of or accessories in vessels or aircraft and for the operation of the engines, machines and other equipment of vessels or aircraft, as well as foodstuffs and other items to be consumed or sold on board;

(p) goods dispatched from the customs territory of the Union to Ceuta and Melilla, Gibraltar, Helgoland, the Republic of San Marino, the Vatican City State, and the municipalities of Livigno and Campione d'Italia, or to the Italian national waters of Lake Lugano which are between the bank and the political frontier of the area between Ponte Tresa and Porto Ceresio.

2. The lodging of a pre-departure declaration shall be waived for goods in the following situations:

(a) where a vessel that transports the goods between Union ports is to call at a port outside the customs territory of the Union and the goods are to remain loaded on board the vessel during the call at the port outside the customs territory of the Union;

(b) where an aircraft that transports the goods between Union airports is to call at an airport outside the customs territory of the Union and the goods are to remain loaded on board the aircraft during the call at the airport outside the customs territory of the Union;

(c) where, in a port or airport, the goods are not unloaded from the means of transport which carried them into the customs territory of the Union and which will carry them out of that territory;

(d) where the goods were loaded at a previous port or airport in the customs territory of the Union where a pre-departure declaration was lodged or a waiver from the obligation to lodge a pre-departure declaration was applicable and

remain on the means of transport that will carry them out of the customs territory of the Union;

(e) where goods in temporary storage or placed under the free zone procedure are transhipped from the means of transport that brought them to that temporary storage facility or free zone under the supervision of the same customs office onto a vessel, airplane or railway that will carry them out of the customs territory of the Union, provided that the following conditions are fulfilled:

(i) the transhipment is undertaken within 14 days of the presentation of the goods in accordance with Articles 144 or 245 of the Code or in exceptional circumstances, within a longer period authorised by the customs authorities where the period of 14 days is not sufficient to deal with those circumstances;

(ii) information about the goods is available to the customs authorities;

(iii) the destination of the goods and the consignee do not change to the knowledge of the carrier;

(f) where goods were brought into the customs territory of the Union but they were rejected by the competent customs authority and were immediately returned to the country of export.

CHAPTER 2

Formalities on exit of goods

Article 246

Means for the exchange of information in cases of presentation of goods at the customs office of exit

(Article 6(3)(a) of the Code)

Where goods are presented at the customs office of exit in accordance with Article 267(2) of the Code means for the exchange of information other than electronic data-processing techniques may be used for the following:

(a) identification of the export declaration;

(b) communications regarding discrepancies between the goods declared and released for the export procedure and the goods presented.

Article 247

Means for providing evidence that the goods have left the customs territory of the Union

(Article 6(3)(a) of the Code)

For the purposes of certifying the exit of goods, evidence that the goods have left the customs territory of the Union may be provided to the customs office of export using means other than electronic data- processing techniques.

CHAPTER 3

Export and re-export

Article 248

Invalidation of the customs declaration

(Article 174 of the Code)

1. Where there is a discrepancy in the nature of the goods released for export, re-export or outward processing compared to those presented to the customs office of exit, the customs office of export shall invalidate the declaration concerned.

2. Where, after a period of 150 days from the date of release of the goods for the export procedure, the outward processing procedure or re-export, the customs office of export has received neither information on the exit of the goods nor evidence that the goods have left the customs territory of the Union, that office may invalidate the declaration concerned.

Article 249

Means for the retrospective lodgement of an export or re-export declaration

(Article 6(3)(a) of the Code)

Where an export or re-export declaration was required but the goods have been taken out of the customs territory of the Union without such declaration, means of exchange of information other than electronic data-processing techniques may be used for the retrospective lodgement of that export or re-export declaration.

TITLE IX

FINAL PROVISIONS

Article 250

Re-assessment of authorisations already in force on 1 May 2016

1. Authorisations granted on the basis of Regulation (EEC) No 2913/92 or Regulation (EEC) No 2454/93 which are valid on 1 May 2016 and which do not have a limited period of validity shall be re-assessed.

2. By derogation from paragraph 1, the following authorisations shall not be subject to re-assessment:

   (a) authorisations of exporters for making out invoice declarations as referred to in Articles 97v and 117 of Regulation (EEC) No 2454/93;

   (b) authorisations for the management of materials using the accounting segregation method as referred to in Article 88 of Regulation (EEC) No 2454/93.

Article 251

Validity of authorisations already in force on 1 May 2016

1. Authorisations granted on the basis of Regulation (EEC) No 2913/92 or Regulation (EEC) No 2454/93 which are valid on 1 May 2016 shall remain valid as follows:

   (a) for authorisations having a limited period of validity, until the end of that period or 1 May 2019, whichever is the earlier;

   (b) for all other authorisations, until the authorisation is reassessed in accordance with Article 250(1).

2. By way of derogation from paragraph 1 of this Article, the authorisations referred to in Article 250(2)(a) and (b) shall remain valid for the period set out in those authorisations.

Article 252

Validity of decisions on binding information already in force on 1 May 2016

Decisions relating to binding information already in force on 1 May 2016 shall remain valid for the period set out in those decisions. Such a decision shall as of 1 May 2016 be binding both on the customs authorities and on the holder of the decision.

Article 253

Validity of decisions granting deferment of payment already in force on 1 May 2016

Decisions granting deferment of payment taken in accordance with Article 224 of Regulation (EEC) No 2913/92 which are valid on 1 May 2016 shall remain valid as follows:

(a) where the decision was granted for the use of the procedure referred to in Article 226(a) of Regulation (EEC) No 2913/92, it shall remain valid without limitation of time;

(b) where the decision was granted for the use of one of the procedures referred to in Article 226(b) or (c) of Regulation (EEC) No 2913/92, it shall remain valid until the re-assessment of the authorisation to use a comprehensive guarantee linked to it.

Article 254

Use of authorisations and decisions already in force on 1 May 2016

Where a decision or an authorisation remains valid after 1 May 2016 in accordance with Articles 251 to 253, the conditions under which that decision or authorisation is applied shall, from 1 May 2016, be those laid down in the corresponding provisions of the Code, Implementing Regulation […] and this Regulation as set out in the table of correspondence laid down in Annex 90.

Article 255

Transitional provisions on the use of seals

Customs seals and seals of a special type compliant with Annex 46a to Regulation (EEC) No 2454/93 may continue to be used until stocks run out or 1 May 2019, whichever is the earlier.

Article 256

This Regulation shall enter into force on the twentieth day following that 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