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Subject : Proposal for a Regulation of the European Parliament and of the Council laying
down the Community Customs Code (Modernized Customs Code)
- Implementing the Community Lisbon programme
= Revised text

Following the second Article by Article read-through of the above Proposal, delegations will find in the Annex a revised text prepared by the Presidency.

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Implementing the Community Lisbon programme
Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

laying down the Community Customs Code

(Modernized Customs Code)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 26, 95, 133 and 135 thereof,

Having regard to Protocol 2 to the Act of Accession of Spain and Portugal, concerning the Canary Islands and Ceuta and Melilla, and in particular Article 9 (1) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with the procedure laid down in Article 251 of the Treaty³,

Whereas:

- (1) The Community is based upon a customs union. It is advisable, in the interests both of economic operators and the customs authorities in the Community, to assemble current customs legislation in a Community Customs Code (hereinafter called 'the Code'). Based on the concept of an internal market, the Code should contain the general rules and procedures which ensure the implementation of the tariff and other common policy measures introduced at Community level in connection with trade in goods between the Community and countries or territories outside the customs territory of the Community, taking into account the requirements of those common policies. This should be without prejudice to specific

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ [Opinion of the European Parliament of [...], Council Common Position of [...]] and Position of the European Parliament of [...]].

provisions laid down in other fields as may exist or be introduced in the context, *inter alia*, of legislation relating to agriculture, the environment, the common commercial policy, statistics or own resources. Customs legislation should be better aligned on the provisions relating to the collection, suspension or reimbursement of Value Added Tax (VAT) and excise duties, without change to the scope of the tax provisions in force.

- (2) In accordance with the Communication from the Commission concerning the protection of the Community's financial interests and the Action Plan for 2004-2005⁴, it is appropriate to adapt the legal framework for the protection of the financial interests of the Community.
- (3) Council Regulation (EEC) No 2913/92 of 12 October 1992, establishing the Community Customs Code⁵, was based upon integration of the customs procedures applied separately in the Member States during the 1980s. That Regulation has been repeatedly and substantially amended since its introduction, in order to address specific problems such as the protection of good faith or the taking into account of security requirements. Further amendments to the Code are necessary as a consequence of the important legal changes which have occurred in recent years, both at Community and international level, such as the expiry of the Treaty establishing the European Coal and Steel Community and the entry into force of the Act of Accession on 1 May 2004, as well as the Amendment to the International Convention on the simplification and harmonization of customs procedures (hereinafter referred to as the 'Kyoto Convention'), the Accession of the Community to which was approved by Council Decision 2003/231/EC⁶. The time has now come to streamline customs procedures and to take into account the fact that electronic declarations and processing are the rule and paper-based declarations and processing the exception. For all of these reasons, further amendment of the present Code is not sufficient; a complete overhaul is necessary.

⁴ COM(2004) 544 final, 9.8.2004.

⁵ OJ L 302, 19.10.1992, p. 1; Regulation as last amended by Regulation (EC) No 648/2005 of the European Parliament and of the Council, (OJ L 117, 4.5.2005, p. 13).

⁶ OJ L 86, 3.4.2003, p. 21.

- (4) The facilitation of legitimate trade and the fight against fraud require simple, rapid and standard customs procedures and processes. It is therefore appropriate, in line with the Communication from the Commission on a simple and paperless environment for customs and trade⁷, to simplify customs legislation, so as to allow the use of modern tools and technology and to promote further the uniform application of customs legislation, thus contributing to ensuring the basis for efficient and simple clearance procedures. Customs procedures should be merged or aligned and the number of procedures reduced to those that are economically justified, with a view to increasing the competitiveness of business.
- (5) The completion of the internal market, the reduction of barriers to international trade and investment and the reinforced need to ensure security and safety at the external borders of the Community have transformed the role of customs, making them a central part of the globalization process and, in the monitoring and management of international trade, a catalyst to the competitiveness of countries and companies. Customs legislation should therefore reflect the new economic reality and the new role and mission of customs.
- (6) The use of Information and Communication Technology (hereinafter referred to as ‘IT’) 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. It is therefore necessary to establish the legal principle that all customs and trade transactions are to be handled electronically and that IT systems for customs operations offer, in each Member State, the same facilities to economic operators.
- (7) In the interests of facilitating business, while at the same time providing for the proper levels of control of goods brought into or out of the customs territory of the Community, it is appropriate that the information provided by economic operators is shared, taking account of the relevant data protection provisions, between customs authorities and with other agencies involved in that control, such as police, border guards, veterinary and environmental

⁷ COM(2003) 452 final, 24.7.2003.

authorities, so that the economic operator need give the information only once ('single window') and that the goods are controlled by those authorities at the same time and at the same place ('one stop shop').

- (8) In the interests of facilitating business, economic operators should have the right to appoint a representative in their dealings with the customs authorities.
- (9) Compliant and trustworthy economic operators should, as 'Authorized Economic Operators', be able to take maximum advantage of widespread use of simplification and, taking account of security and safety aspects, benefit from reduced levels of customs control.
- (10) All decisions, that is official acts by the customs authorities pertaining to customs legislation and having legal effect on one or more persons, including binding information issued by those authorities, should be covered by the same rules. Any such decisions should be valid throughout the Community and be able to be annulled, amended except where stipulated, or revoked where they do not conform to the customs legislation or its interpretation.
- (11) In accordance with the Charter of Fundamental Rights, it is necessary, in addition to the right of appeal against any decision taken by the customs authorities, to provide for the right of every person to be heard before any decision is taken which would adversely affect him. Such a provision within the Code should also apply to cases of post-clearance recovery and to decisions on repayment or remission claims.
- (12) The streamlining of customs procedures within an electronic environment requires the sharing of responsibilities between the customs authorities of different Member States. It is necessary to ensure an appropriate level of effective, dissuasive and proportionate sanctions throughout the Internal Market in order to discourage any serious infringements of the customs rules and thus reduce the risk of fraud, of threats to safety and security, and to protect the financial interests of the Community. This can only be achieved through a common Community framework, which allocates jurisdiction for the imposition of penalties and delimits those penalties, in full respect of the Charter of Fundamental Rights.

- (13) In order to secure a balance between, on the one hand, the need for customs authorities to ensure the correct application of customs legislation and, on the other, the right of economic operators to be treated fairly, the customs authorities should be granted extensive powers of control and economic operators a right of appeal.
- (14) In order to minimize the occurrence of risk to the Community, its citizens and its trading partners, the harmonized application of customs controls by the Member States should be based upon a common risk management framework and an electronic system for its implementation. The establishment of a risk management framework common to all Member States should not prevent them from controlling goods by random checks.
- (15) It is necessary to establish the factors on the basis of which import or export duties and other measures in respect of trade in goods are applied. It is also appropriate to lay down clear provisions for issuing proofs of origin in the Community, where the exigencies of trade so require.
- (16) As regards the rules on preferential origin, it is appropriate, in order to expedite the decision-making process within the Community, to confer on the Commission powers for the adoption of these rules in the case of goods benefiting from preferential measures applicable to trade between the customs territory of the Community and Ceuta and Melilla.
- (17) It is desirable to group together all cases of incurrence of a customs debt on importation, other than following the submission of a customs declaration for release for free circulation or temporary admission with partial relief, in order to avoid difficulties in determining the legal basis on which the customs debt was incurred. The same should apply in case of incurrence of a customs debt on exportation.
- (18) Since the new role of customs authorities implies the sharing of responsibilities and co-operation between inland and border customs offices, the customs debt should, in most cases, be incurred at the place where the debtor is established, as the customs office competent for this place can best supervise the activities of the person concerned.

- (19) Furthermore, in line with the Kyoto Convention, it is appropriate to provide for a reduced number of cases where administrative co-operation between Member States is required in order to establish the place where the customs debt was incurred and to recover the duties.
- (20) The rules for special procedures should allow for the use of a single guarantee for all categories of special procedures and for that guarantee to be comprehensive, covering a number of transactions.
- (21) In order to ensure better protection of the financial interests of the Community and of the Member States, a guarantee should cover non-declared or incorrectly declared goods included in a consignment or a declaration for which it is provided. For the same reason, the undertaking of the guarantor should also cover amounts of duties which fall to be paid following post-release controls.
- (22) In order to safeguard the financial interests of the Community and of the Member States and to curb fraudulent practices, arrangements involving graduated measures for the application of a comprehensive guarantee are advisable. Where there is an increased risk of fraud it should be possible to prohibit temporarily the application of the comprehensive guarantee, taking account of the particular situation of the economic operators.
- (23) It is appropriate to take account of the good faith of the person concerned in cases where a customs debt is incurred through non-compliance with customs legislation and to minimize the impact of negligence on the part of the debtor.
- (24) It is necessary to lay down the principle of how to determine the status of Community goods, the circumstances pertaining to the loss of such status, and to provide a basis for determining when this status remains unaltered in cases where goods temporarily leave the customs territory of the Community.
- (25) It is appropriate, where an economic operator has provided, in advance, the information necessary for risk-based controls on the admissibility of the goods, to ensure that quick release of goods is then the rule. Fiscal and trade policy controls should primarily be performed by the customs office responsible for the premises of the economic operator.

- (26) The rules for customs declarations should be modernized and streamlined, in particular requiring that customs declarations are, as a rule, made electronically and providing for only one type of simplified declaration.
- (27) Since the Kyoto Convention favours the lodging, registering and checking of the customs declaration prior to the arrival of the goods and, furthermore, the dissociation of the place where the declaration is lodged from the place where the goods are physically located, it is appropriate to provide for centralized clearance at the place where the economic operator is established. Centralized clearance should include the facility for the use of simplified declarations, deferment of the date of the submission of a complete declaration and required documents, periodic declaration and deferred payment.
- (28) In order to contribute to ensuring neutral conditions for competition throughout the Community it is appropriate to lay down at Community level the rules governing the destruction or disposal otherwise of goods by the customs authorities, which have previously required national legislation.
- (29) It is appropriate to provide common and simple rules for the special procedures (transit, storage, specific use and processing), supplemented by a small set of rules for each category of special procedure, in order to make the choice for the operator of the right procedure simple, to avoid errors and to reduce the number of post-release recoveries and repayments.
- (30) The granting of authorizations for several special procedures with a single guarantee and a single supervising customs office should be facilitated and there should be simple rules on the incurrence of a customs debt in these cases. The basic principle should be that goods placed under a special procedure, or the products made from them, are assessed at the time the customs debt is incurred. However, it should also be possible, where economically justified, to assess the goods at the time they were placed under a special procedure. The same principles should apply to usual forms of handling.
- (31) In view of the increased security-related measures introduced into the Code under Regulation (EC) No 648/2005, the placing of goods into free zones should become a customs procedure and the goods should be subject to customs controls at entry and with regard to records.

- (32) For goods placed under a specific use, a basic legal framework should be established relating to the suspension of excise duty, provided for under Council Directive 92/12/EEC of 25 February 1992, on the General Arrangements for products subject to excise duty and on the holding, movement and monitoring of such products⁸, VAT at importation provided for under Articles 7(3) and 10(3) of Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes – Common system of value added tax; uniform basis of assessment⁹, and commercial policy measures.
- (33) Given that the intention of re-exportation is no longer necessary, the inward processing suspension procedure should be merged with processing under customs control and the inward processing drawback procedure abandoned. This one inward processing procedure should also cover destruction, except where destruction is carried out by, or under the supervision of, customs.
- (34) Security-related measures relating to Community goods brought out of the customs territory of the Community should apply equally to the re-export of non-Community goods. The same basic rules should apply to all types of goods, with the possibility of exceptions where necessary, such as for goods only transiting through the customs territory of the Community.
- (35) It is appropriate, in order to ensure an effective decision-making process and uniformity, to streamline mechanisms for the adoption of implementing measures, explanatory notes, guidelines and decisions of the Commission requesting the withdrawal of a decision taken by the customs authorities, as well as for the preparation of a common position in committees, working groups and panels introduced by or under international agreements dealing with customs legislation. The management procedure is most appropriate for the adoption of implementing provisions, and the consultative procedure most appropriate for the adoption of guidelines and explanatory notes.

⁸ OJ L 76, 23.3.1992, p. 1; Directive as last amended by Directive 2004/106/EC (OJ L 359, 4.12.2004, p. 30).

⁹ OJ L 145, 13.6.1977, p. 1; Directive as last amended by Directive 2004/66/EC (OJ L 168, 1.5.2004, p. 35).

- (36) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 January 1999 laying down the procedure for the exercise of implementing powers conferred on the Commission¹⁰.
- (37) It is appropriate to provide empowerment for the adoption of implementing provisions, notably where the Community accepts commitments and obligations in relation to international agreements which require the adaptation of provisions of the Code.
- (38) In order to simplify and rationalize customs legislation, a number of provisions presently contained in autonomous Community acts have, for the sake of transparency been incorporated into the Code.

The following Regulations, together with Regulation (EEC) No 2913/92, should therefore be repealed:

Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duties¹¹,

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 crossing¹²,

Council Regulation (EC) No 82/2001 of 5 December 2000 concerning the definition of the concept of "originating products" and methods of administrative co-operation in trade between the customs territory of the Community and Ceuta and Melilla¹³,

Council Regulation (EC) No 1207/2001 of 11 June 2001 on procedures to facilitate the issue of movement certificates EUR.1, the making-out of invoice declarations and forms EUR.2 and the issue of certain approved exporter authorizations under the provisions governing preferential trade between the European Community and certain countries¹⁴.

¹⁰ OJ L 184, 17.7.1999, p. 23.

¹¹ OJ L 105, 23.4.1983, p. 1; Regulation as last amended by the Act of Accession of 2003.

¹² OJ L 374, 31.12.1991, p. 4; Regulation as last amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

¹³ OJ L 20, 20.1.2001, p. 1.

¹⁴ OJ L 165, 21.6.2001, p. 1.

(39) In accordance with the principle of proportionality, it is necessary, and appropriate for the effective functioning of the Customs Union as a central pillar of the internal market, to lay down rules and procedures applicable to goods brought into or out of the customs territory of the Community. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with the third paragraph of Article 5 of the Treaty,

HAVE ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

CHAPTER 1

SCOPE OF CUSTOMS LEGISLATION, MISSION OF CUSTOMS AND DEFINITIONS

Article 1

Subject matter and scope

1. This regulation establishes the Community Customs Code, hereinafter ‘the Code’, laying down the general rules and procedures applicable to goods brought into or out of the customs territory of the Community.

Without prejudice to international law and conventions and Community legislation in other fields, the Code shall apply uniformly throughout the customs territory of the Community.

2. Certain provisions of the customs legislation may apply outside the customs territory of the Community within the framework of legislation governing specific fields or of international conventions.

Article 2

Mission of customs authorities

Customs authorities shall be primarily responsible for administering international trade at the Community’s external borders, thereby contributing to open trade, to the implementation of the external aspects of the internal market and of common Community policies with a bearing on trade, as well as to overall supply chain security. Customs authorities shall put in place measures aimed ,in particular, at the following:

- (a) protecting the financial interests of the Community and its Member States;
- (b) protecting the Community from unfair and illegal trade while supporting legitimate business activity;
- (c) ensuring the security and safety of the Community and its residents, and the environment, where appropriate in close co-operation with other authorities;
- (d) facilitating international trade.

Article 3

Customs territory

1. The customs territory of the Community shall comprise the following territories, including their territorial waters, internal waters and airspace:
 - the territory of the Kingdom of Belgium;
 - the territory of the Republic of Bulgaria;
 - the territory of the Czech Republic;
 - the territory of the Kingdom of Denmark, except the Faeroe Islands and Greenland;
 - the territory of the Federal Republic of Germany, except the Island of Heligoland and the territory of Buesingen (Treaty of 23 November 1964 between the Federal Republic of Germany and the Swiss Confederation);
 - the territory of the Republic of Estonia;
 - the territory of Ireland;
 - the territory of the Hellenic Republic;
 - the territory of the Kingdom of Spain, except Ceuta and Melilla;
 - the territory of the French Republic, except New Caledonia, Mayotte, Saint-Pierre and Miquelon, Wallis and Futuna Islands and French Polynesia;
 - the territory of the Italian Republic, except the municipalities of Livigno and Campione d'Italia and the national waters of Lake Lugano which are between the bank and the political frontier of the area between Ponte Tresa and Porto Ceresio;

- the territory of the Republic of Cyprus, in accordance with the provisions of the Act of Accession;
- the territory of the Republic of Latvia;
- the territory of the Republic of Lithuania;
- the territory of the Grand Duchy of Luxembourg;
- the territory of the Republic of Hungary;
- the territory of the Republic of Malta;
- the territory of the Kingdom of the Netherlands in Europe;
- the territory of the Republic of Austria;
- the territory of the Republic of Poland;
- the territory of the Portuguese Republic;
- the territory of the Republic of Romania;
- the territory of the Republic of Slovenia;
- the territory of the Slovak Republic;
- the territory of the Republic of Finland;
- the territory of the Kingdom of Sweden;
- the territory of the United Kingdom of Great Britain and Northern Ireland and of the Channel Islands and the Isle of Man.

2. The following territories, including their territorial waters, internal waters and airspace, situated outside the territory of the Member States shall, taking the conventions and treaties applicable to them into account, be considered to be part of the customs territory of the Community:

(a) FRANCE

The territory of Monaco as defined in the Customs Convention signed in Paris on 18 May 1963 (Official Journal of the French Republic of 27 September 1963, p. 8679);

(b) CYPRUS

The territory of the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia as defined in the Treaty concerning the Establishment of the Republic of Cyprus, signed in Nicosia on 16 August 1960 (United Kingdom Treaty Series No 4 (1961) Cmnd. 1252).

Article 4

Definitions

For the purposes of the Code, the following definitions shall apply.

- (1) ‘Customs authorities’ means the customs administrations of the Member States responsible for applying the customs legislation and any other authorities empowered under national law to apply certain customs legislation.
- (2) ‘Customs legislation’ means the body of legislation made up of the following:
 - (a) the Code and the provisions adopted at Community level and, where appropriate, at national level, to implement it;
 - (b) the Common Customs Tariff;
 - (c) international agreements containing customs provisions, in so far as they are applicable in the Community.
- (3) ‘Person’ means natural persons, legal persons, and any association of persons which is not a legal person but which is recognized under Community or national law as having the capacity to perform legal acts.

- (4) 'Economic operator' means a person who, in the course of his business, is professionally involved in activities covered by customs legislation.
- (5) 'Risk' means the likelihood of an event that may occur, with regard to the entry, exit, transit, transfer or end-use of goods moved between the customs territory of the Community and countries or territories outside that territory and to the presence of goods which do not have Community status, which would have any of the following results:
- (a) it would prevent the correct application of Community or national measures;
 - (b) it would compromise the financial interests of the Community and its Member States;
 - (c) it would pose a threat to the security and safety of the Community and its residents, to human, animal or plant health, to the environment or to consumers.
- (6) 'Customs formalities' means all the operations which must be carried out by the persons concerned and by the Customs in order to comply with the customs legislation;
- (7) 'Summary declaration' means the act whereby, before or at the time of the event, a person informs the customs authorities, in the prescribed form and manner, that goods are to be brought into or out of the customs territory of the Community.
- (8) 'Customs declaration' means the act whereby a person indicates in the prescribed form and manner a wish to place goods under a given customs procedure, with an indication, where appropriate, of any specific arrangements to be applied.
- (8a) 'Declarant' means the person making a summary declaration or a customs declaration in his own name or the person in whose name such a declaration is made.

- (9) ‘Customs procedure’ means any of the following procedures under which goods may be placed in accordance with this Code:
- (a) release for free circulation;
 - (b) special procedures;
 - (c) export.
- (9a) ‘Customs debt’ means the amount payable as a result of the application of customs legislation with respect of the goods concerned.
- (10) ‘Import duties’ means customs duties as laid down in the Common Customs Tariff, payable on the importation of goods.
- (11) ‘Export duties’ means customs duties as laid down in the Common Customs Tariff, payable on the exportation of goods.
- (12) ‘Non-Community goods’ means goods other than those referred to in point (20) or which have lost their status as Community goods.
- (13) ‘Risk management’ means the systematic identification of risk and the implementation of all measures necessary for limiting exposure to risk. This includes activities such as collecting data and information, analysing and assessing risk, prescribing and taking action and regular monitoring and review of the process and its outcomes, based on international, Community and national sources and strategies.
- (14) ‘Release of goods’ means the act whereby the customs authorities make goods available for the purposes specified for the customs procedure under which they are placed.

(15) 'Customs supervision' means action taken in general by the customs authorities with a view to ensuring that customs legislation and, where appropriate, other provisions applicable to goods subject to such action are observed.

(15a) 'Repayment' means the refunding of import or export duties which have been paid;

(15b) 'Remission' means the waiving of the obligation to pay import or export duties which have not been paid.

(17) 'Processed products' means goods placed under a processing procedure which have undergone processing operations.

(18) 'Person established in the customs territory of the Community' means:

(a) in the case of a natural person, any person who has his habitual residence in the customs territory of the Community;

(b) in the case of a legal person or an association of persons, any person who has his registered office, central headquarters or a permanent business establishment in the customs territory of the Community.

(19) 'Customs status' means the status of goods as Community or non-Community goods.

(20) 'Community goods' means goods which fall into any of the following categories:

(a) goods wholly obtained in the customs territory of the Community and not incorporating goods imported from countries or territories outside of the customs territory of the Community. Goods wholly obtained in the customs territory of the Community shall not include goods obtained from goods placed under external transit, storage, temporary admission or inward processing in cases determined in accordance with Article 107(2)

(a);

- (b) goods brought in this territory from countries or territories outside of the customs territory of the Community and released for free circulation;
 - (c) goods obtained or produced in the customs territory of the Community, either solely from goods referred to in point (b) or from goods referred to in points (a) and (b).
- (21) ‘Presentation of goods to customs’ means the notification to the customs authorities of the arrival of goods at the customs office or at any other place designated or approved by the customs authorities and the availability of those goods for customs controls.
- (22) ‘Holder of the goods’ means the person who is the owner of the goods or who has a similar right of disposal over them or who has physical control of them.
- (23) ‘Holder of the procedure’ means the person who makes the declaration, or on whose behalf the customs declaration is made, or the person to whom the rights and obligations of that person in respect of a customs procedure have been transferred.
- (24) ‘Commercial policy measures’ means non-tariff measures established, as part of the common commercial policy, in the form of Community provisions governing the international trade in of goods.

(25) 'Processing operations' means any of the following:

- (a) the working of goods, including erecting or assembling them or fitting them to other goods;
- (b) the processing of goods;
- (c) the destruction of goods;
- (d) the repair of goods, including restoring them and putting them in order;
- (e) the use of goods which are not to be found in the processed products, but which allow or facilitate the production of those products, even if they are entirely or partially used up in the process (production accessories).

(26) 'Rate of yield' means the quantity or percentage of processed products obtained from the processing of a given quantity of goods placed under a processing procedure.

CHAPTER 2

RIGHTS AND OBLIGATIONS OF PERSONS WITH REGARD TO CUSTOMS LEGISLATION

Section 1

Provision of information

Article 5

Exchange and storage of data

1. All required exchanges of data, accompanying documents, decisions and notifications between customs authorities and between economic operators and customs authorities required under the customs legislation, and the storage of such data as required under the customs legislation, shall be made using electronic data processing techniques.

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures laying down exceptions to the first subparagraph of this paragraph.

These measures shall define the cases in which and the conditions under which paper or other transactions may be used in place of electronic exchanges of data, taking the following, in particular, into account:

- (a) the possibility of temporary failure of the customs authorities' computerized systems;
- (b) the possibility of temporary failure of the economic operator's computerized systems;
- (c) international conventions and agreements which provide for the use of paper documents;
- (d) travellers without direct access to the computerized systems and with no means of providing electronic information;
- (e) practical requirements for declarations to be made orally or by any other act.

2. Save where otherwise specifically provided, the Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the following:
 - (a) the rules defining and governing the messages to be exchanged between customs offices, as required for the application of the customs legislation;
 - (b) a common data set and format of the data messages to be exchanged under the customs legislation.

The data referred to in point (b) of the first subparagraph shall contain the particulars necessary for risk analysis and the proper application of customs controls, using, where appropriate, international standards and commercial practices.

Article 6

Data protection

1. All information acquired by the customs authorities in the course of performing their duties which is by its nature confidential or which is provided on a confidential basis shall be covered by the obligation of professional secrecy. Except as provided for under Article 28(2), such information shall not be disclosed by the competent authorities without the express permission of the person or authority that provided it.

Such information may, however, be disclosed without permission where the competent authorities are obliged or authorized to do so pursuant to the provisions in force, particularly in respect of data protection, or in connection with legal proceedings.

2. Communication of confidential data to the customs authorities and other bodies of countries or territories outside the customs territory of the Community shall be permitted only in the framework of an international agreement, ensuring an adequate level of data protection.
3. The disclosure or communication of information shall take place in full compliance with data protection provisions in force.

Article 7

Exchange of additional information between customs authorities and economic operators

1. Customs authorities and economic operators may exchange any information not specifically required under the customs legislation, in particular for the purpose of mutual co-operation in the identification and counteraction of risk. That exchange may take place under a written agreement and may include access to the computer systems of economic operators by the customs authorities.
2. Any information provided by one party to the other in the course of the co-operation referred to in paragraph 1 shall be confidential unless both parties agree otherwise.

Article 8

Provision of information by the customs authorities

1. Any person may request information concerning the application of customs legislation from the customs authorities. Such a request may be refused where it does not relate to an activity pertaining to international trade in goods that is actually envisaged.
2. Customs authorities shall maintain a regular dialogue with economic operators and other authorities involved in international trade in goods. They shall promote transparency by making the legislation, general administrative rulings and application forms pertaining to international trade in goods freely available, wherever practical without charge, and through the Internet.

Article 9

Provision of information to the customs authorities

1. Any person directly or indirectly involved in the accomplishment of customs formalities shall, at the request of the customs authorities and within any time limit specified, provide those authorities with all the requisite documents and information, in an appropriate form, and all the requisite assistance, for the completion of those formalities. .

2. The lodging of a summary declaration or customs declaration, or notification, or the submission of an application for an authorization or any other decision, shall render the person concerned responsible for the following:
 - (a) the accuracy and completeness of the information given in the declaration, notification or application;
 - (b) the authenticity of any documents lodged or made available;
 - (c) where applicable, compliance with all of the obligations relating to the placing of the goods in question under the customs procedure concerned, or to the conduct of the authorized operations.

The first subparagraph shall apply also to the provision of any information in any other form required by or given to the customs authorities.

Where the declaration or notification is lodged, the application is submitted or information is provided by a representative of the person concerned, the representative shall also be bound by the obligations set out in first subparagraph.

Article 10

Common electronic systems

1. Member States shall co-operate with the Commission with a view to developing, maintaining and employing electronic systems for the exchange of information between customs offices and for the common registration and maintenance of records relating, in particular, to the following:
 - (a) economic operators directly or indirectly involved in the accomplishment of customs formalities;
 - (b) applications and authorizations concerning a customs procedure or the status of Authorized Economic Operator;
 - (c) applications and special decisions granted in accordance with Article 21;
 - (d) common risk management, as referred to in Article 27.

2. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the following:
 - (a) the standard form and content of the data to be registered;
 - (b) and maintenance of that data, by the customs authorities of Members States;
 - (c) the rules for access to that data by
 - (i) economic operators,
 - (ii) other competent authorities.

Section 2
Customs representation

Article 11

Customs representative

1. Any person may appoint a representative in his dealings with the customs authorities to perform the acts and formalities laid down in the customs legislation, hereinafter a 'customs representative'.

Such customs representation may be either direct, in which case the customs representative shall act in the name of and on behalf of another person, or indirect, in which case the customs representative shall act in his own name but on behalf of another person.

2. A customs representative must be established within the customs territory of the Community.

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the conditions under which the requirement referred to in the first subparagraph of this paragraph may be waived.

Article 12

Empowerment

1. When dealing with the customs authorities, a customs representative shall state that he is acting on behalf of the person represented and specify whether the customs representation is direct or indirect.

A person who fails to state that he is acting as a customs representative or who states that he is acting as a customs representative without being empowered to do so shall be deemed to be acting in his own name and on his own behalf.

2. The customs authorities may require any person stating that he is acting as a customs representative to produce evidence of his powers to act as that representative, except where a person belongs to a category of persons entitled to act on behalf of another person in dealing with the customs authorities.

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures identifying the categories of persons referred to in the first subparagraph of this paragraph.

Article 13

Customs Representation and Authorised Economic Operator status

Where a customs representative acts on a regular and commercial basis he may be granted the status of ‘authorized economic operator’ in accordance with Article 14.

Section 3

Authorized Economic Operator

Article 14

Application and authorization

1. An economic operator who is established in the customs territory of the Community and who meets the conditions set out in Articles 15 and 16 may request the status of authorized economic operator.

The customs authorities shall, if necessary following consultation with other competent authorities, grant that status, which shall be subject to continuous monitoring.

2. An authorized economic operator may benefit from facilitations with regard to customs controls relating to security and safety or from simplifications provided for in accordance with the Community customs legislation.
3. The status of authorized economic operator shall, subject to Articles 15 and 16, be recognized by the customs authorities in all Member States, without prejudice to customs controls.
4. Customs authorities shall, on the basis of the recognition of the status of authorized economic operator and provided that the requirements related to a specific type of simplification provided for in Community customs legislation are fulfilled, authorize the operator to benefit from that simplification.
5. The status of authorized economic operator may be suspended or revoked in accordance with the conditions laid down pursuant to point (h) of Article 16.
6. The authorized economic operator shall notify the customs authorities of all factors arising after that status was granted which may influence its continuation or content.

Article 15

Granting of status

The criteria for the granting of the status of authorized economic operator shall be the following:

- an appropriate record of compliance with customs requirements ;
- a satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls;
- sufficient proven financial solvency;

- where appropriate, practical standards of competence or professional qualifications directly related to the activity carried out;
- where applicable, appropriate security and safety standards.

Article 16

Implementing measures

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures governing the following matters:

- (a) the granting of the status of authorized economic operator;
- (b) the cases in which review of the status of authorized economic operator shall be carried out;
- (c) the granting of authorizations for the use of simplifications by authorized economic operators;
- (d) identification of the customs authority competent for the granting of such status and authorizations;
- (e) the type and extent of facilitations that may be granted to authorized economic operators in respect of customs controls relating to security and safety;
- (f) consultation with and provision of information to other customs authorities;
- (g)
- (h) the conditions under which the status of authorized economic operator may be suspended or revoked;
- (i) the conditions under which the requirement of being established in the customs territory of the Community may be waived for specific categories of authorized economic operators, taking into account, in particular, international agreements.

These measures shall take account of the following:

- the rules adopted pursuant to Article 27(3);
- professional involvement in activities covered by customs legislation;

- practical standards of competence or professional qualifications directly related to the activity carried out;
- the economic operator as the holder of any internationally recognized certificate issued on the basis of relevant international conventions.

Section 4

Decisions relating to the application of customs legislation

Article 17

General provisions

1. Where a person requests that the customs authorities take a decision relating to the application of customs legislation, that person shall supply all the information required by those authorities in order for them to be able to take that decision.

A decision may also be requested by, and taken with regard to, several persons, in accordance with the conditions laid down in the customs legislation.

2. A decision as referred to in paragraph 1 shall be taken, and the applicant notified, at the latest within [two months] of the date on which, all the information required by the customs authorities in order for them to be able to take that decision, is received by those authorities, except where otherwise provided for in the customs legislation.

However, where the customs authorities are unable to comply with those time limits, they shall inform the applicant of that fact before the expiry of those time limits, stating the reasons and indicating the further period of time which they consider necessary in order to give a decision on the request.

3. Unless otherwise specified in the decision or in the customs legislation, the decision shall take effect from the date on which the applicant receives the decision, or is deemed to have received it. Except in the cases provided for in Article 25(2), decisions adopted shall be enforceable by the customs authorities from that date.

4. Before taking a decision which would adversely affect the person or persons to whom it is addressed, the customs authorities shall communicate the grounds on which they intend to base their decision to the person or persons concerned, who shall be given the opportunity to express their point of view, within a period prescribed from the date on which the communication was made.

Upon expiry of this period, the person concerned shall be notified, in the appropriate form, of the decision, which shall set out the grounds on which it is based. The decision shall refer to the right of appeal provided for in Article 24.

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the following:

- (a) the cases in which and conditions under which the first subparagraph of this paragraph shall not apply;
 - (b) the period referred to in the first subparagraph of this paragraph.
5. Without prejudice to provisions laid down in other fields which specify the cases in which, and the conditions under which, decisions are invalid or become null and void, the customs authorities who issued a decision may annul, amend or revoke it where it does not conform with the customs legislation.
 6. The provisions of paragraphs 3, 4 and 5 of this Article and of Articles 18, 19 and 20 shall also apply to decisions taken by the customs authorities without prior request from the person concerned and, in particular, to the notification of a customs debt as set out in Article 72 (3).

Article 18

Community-wide validity of decisions

Unless otherwise requested or specified, decisions taken by the customs authorities based upon or related to the application of customs legislation shall be valid throughout the customs territory of the Community.

Article 19

Annulment of favourable decisions

1. The customs authorities shall annul a decision favourable to the person to whom it is addressed if all the following conditions are satisfied:
 - (a) the decision was issued on the basis of incorrect or incomplete information;
 - (b) the applicant knew or ought reasonably to have known that the information was incorrect or incomplete;
 - (c) if the information had been correct and complete, the decision would have been different.
2. The person to whom the decision was addressed shall be notified of its annulment.
3. Annulment shall take effect from the date on which the initial decision took effect, unless otherwise specified in the decision in accordance with the customs legislation.
4. The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of paragraphs 1, 2 and 3 of this Article, in particular in respect of decisions addressed to several persons.

Article 20

Revocation and amendment of favourable decisions

1. A favourable decision shall be revoked or amended where, in cases other than those referred to in Article 19, one or more of the conditions laid down for its issue were not or are no longer fulfilled.
2. Unless otherwise specified in the customs legislation, a favourable decision addressed to several persons may be revoked only in respect of a person who fails to fulfil an obligation imposed under that decision.

3. The person to whom the decision was addressed shall be notified of its revocation or amendment.
4. Article 17 (3) shall apply to the revocation or amendment of the decision.

However, in exceptional cases where the legitimate interests of the person to whom the decision was addressed so require, the customs authorities may defer the date on which revocation or amendment takes effect.

5. The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of paragraphs 1 to 4 of this Article, in particular in respect of decisions addressed to several persons.

Article 21

Decisions relating to binding information

1. The customs authorities shall, on formal request, issue decisions specifying binding tariff information, hereinafter ‘BTI decisions’, or decisions specifying binding origin information, hereinafter ‘BOI decisions’.

Such a request shall be refused where the application is made by, or on behalf of, the holder of a decision in respect of the same goods. The request may also be refused where an application has already been made by, or on behalf of, the holder for such a decision in respect of the same goods at another customs office. Such a request may also be refused where it does not relate to any intended use of a customs procedure.

2. BTI or BOI decisions shall be binding only in respect of the tariff classification or determination of the origin of goods.

They shall be binding on the customs authorities, as against the person to whom the decision was addressed, only in respect of goods for which customs formalities are completed after the date on which the decision takes effect.

They shall be binding on the person addressed, as against the customs authorities, only with effect from the date on which he receives, or is deemed to have received, notification of the decision.

3. BTI or BOI decisions shall be valid for a period of three years from the date on which the decision takes effect.
4. For the application of a BTI or BOI decision in the context of a particular customs procedure, the person to whom that decision is addressed must be able to prove that:
 - (a) in the case of a BTI decision, the goods declared correspond in every respect to those described in the decision;
 - (b) in the case of a BOI decision, the goods in question and the circumstances determining the acquisition of origin correspond in every respect to the goods and the circumstances described in the decision.
5. By way of derogation from Article 17(5) and Article 19, BTI or BOI decisions shall be annulled where they are based on inaccurate or incomplete information from the applicants.
6. BTI or BOI decisions shall be revoked in accordance with Article 17(5) and Article 20.

They may not be amended.

7. Notwithstanding Article 20, the Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the following:
 - (a) the conditions under which, and the moment when, the BTI or BOI decision ceases to be valid;
 - (b) the conditions under which, and the period of time for which, a decision as referred to in point (a) may still be used in respect of binding contracts based upon the decision and concluded before the expiry of its validity.

8. The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the conditions under which other decisions relating to binding information are to be issued.

Section 5

Penalties

Article 22

Application of penalties

1. Each Member State shall provide for penalties for failure to comply with Community customs legislation. Such penalties shall be effective, proportionate and dissuasive.

2. Where administrative penalties are applied, they may take, *inter alia*, one of the following forms, or both:
 - (a) a pecuniary charge by the customs authorities, including a settlement applied in place of and in lieu of a criminal penalty;
 - (b) the revocation, suspension or amendment of any authorization held by the person concerned.

3. Member States shall notify the Commission, by six months after the date of application of this Regulation at the latest, of the national provisions in force in accordance with paragraph 1 and shall notify it without delay of any subsequent amendment affecting them.
4. [The Member States shall, every two years send the Commission a report on the application of this Article, in particular related to infringements, notably number, categories and pertaining penalties.

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the detailed content and form of the report. The details of these specifications shall be subject of an examination by the Customs Code Committee in accordance with Article 197.]

Section 6

Appeals

Article 23

Decisions taken by a judicial authority

Articles 24, 25 and 26 shall not apply to appeals lodged with a view to the annulment, revocation or amendment of a decision relating to the application of customs legislation taken by a judicial authority.

Article 24

Right of appeal

1. Any person shall have the right to appeal against any decision taken by the customs authorities relating to the application of customs legislation which concerns him directly and individually.

Any person who has applied to the customs authorities for a decision and has not obtained a decision on that request within the time limits referred to in Article 17(2) shall also be entitled to exercise the right of appeal.

2. The right of appeal may be exercised in at least two steps:
 - (a) initially, before the customs authorities or a judicial authority or other body designated for that purpose by the Member States;
 - (b) subsequently, before a higher independent body, which may be a judicial authority or an equivalent specialized body, according to the provisions in force in the Member States.
3. The appeal must be lodged in the Member State where the decision has been taken or applied for.

Article 25

Suspension of implementation

1. The submission of an appeal shall not cause implementation of the disputed decision to be suspended.
2. The customs authorities shall, however, suspend implementation of such decision in whole or in part where they have good reason to believe that the disputed decision is inconsistent with customs legislation or that irreparable damage is to be feared for the person concerned.
3. In the cases referred to in paragraph 2, where the disputed decision has the effect of causing import duties or export duties to be payable, suspension of that decision shall be conditional upon the provision of a guarantee, unless it is established, on the basis of a documented assessment, that such a guarantee would be likely to cause the debtor serious economic or social difficulties.

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of the first subparagraph of this paragraph.

Article 26

Decision on the appeal

Article 17 shall apply with regard to decisions by the customs authorities on appeals.

Member States shall ensure that the appeals procedure enables the prompt confirmation or correction of decisions taken by the customs authorities.

Section 7

Control of goods

Article 27

Customs controls

1. The customs authorities may carry out all of the controls they deem necessary to ensure the correct application of customs legislation and other legislation governing the entry, exit, transit, transfer, storage and end-use of goods moved between the customs territory of the Community and other territories, and the presence and movement within the customs territory of non-Community and end-use goods.

Those controls, hereinafter ‘customs controls’, may in particular consist in examining goods, verifying declaration data and the existence and authenticity of electronic or written documents, examining the accounts of economic operators and other records, inspecting means of transport, inspecting luggage and other goods carried by or on persons.

2. Customs controls, other than random checks, shall primarily be based on risk analysis using electronic data processing techniques, with the purpose of identifying and evaluating the risks and developing the necessary counter-measures, on the basis of criteria developed at national, Community and, where available, international level.

Member States, in co-operation with the Commission, shall develop, maintain and employ a common risk management framework, based upon the exchange of risk information and analysis between customs administrations and establishing, inter alia, common risk evaluation criteria, control measures and priority control areas.

Controls based upon such information and criteria shall be carried out without prejudice to other controls carried out in accordance with paragraphs (1) and (2) of this Article or with other provisions in force.

3. The Commission, without prejudice to paragraph 2, shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the following:
 - (a) rules for a common risk management framework;
 - (b) rules for establishing common criteria and priority control areas;
 - (c) rules governing the exchange of risk information and analysis between customs administrations.

Article 28

Co-operation between authorities

1. Where, in respect of the same goods, controls other than customs controls are to be performed by competent authorities other than the customs authorities, customs authorities shall, in close co-operation with those other authorities, endeavour to have those controls performed, wherever possible, at the same time and place as customs controls (one-stop-shop).

2. In the framework of the controls referred to in this Section, customs and other competent authorities may, where necessary for the purposes of minimising risk and combating fraud, exchange data received, in the context of the entry, exit, transit, transfer, storage and end-use of goods moved between the customs territory of the Community and other territories, and the presence and movement within the customs territory of non-Community and end-use goods, and the results of any control with each other and with the Commission. Customs authorities and the Commission may also exchange such data with each other for the purpose of ensuring a uniform application of Community customs legislation.

Article 29

Post-release control

The customs authorities may, after releasing the goods and in order to ascertain the accuracy of the particulars contained in the summary or customs declaration, inspect any documents and data relating to the operations in respect of the goods in question or to prior or subsequent commercial operations involving those goods. Those authorities may also examine such goods or take samples where it is still possible for them to do so.

Such inspections may be carried out at the premises of the holder of the goods or his representative, of any other person directly or indirectly involved in those operations in a business capacity or of any other person in possession of those documents and data for business purposes.

Article 30

Intra-Community flights and sea crossings

1. Customs controls or formalities shall be carried out in respect of either the cabin and hold baggage of persons taking an intra-Community flight, or making an intra-Community sea crossing, only where the customs legislation provides for such controls or formalities.

2. Paragraph 1 shall not apply to either of the following:

- (a) the security and safety checks carried out on baggage by the authorities of the Member States, port or airport authorities or carriers;
- (b) checks linked to prohibitions or restrictions laid down by the Member States, provided that such prohibitions or restrictions are compatible with the Treaty.

Article 30a

Implementing provisions

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of this Section, laying down, the cases in which and the conditions under which customs controls and formalities may be applied to the following:

(i) the cabin and hold baggage of the following:

- persons taking a flight in an aircraft which comes from a non-Community airport and which, after a stopover at a Community airport, continues to another Community airport;
- persons taking a flight in an aircraft which stops over at a Community airport before continuing to a non-Community airport;
- persons using a maritime service provided by the same vessel and comprising successive legs departing from, calling at or terminating in a non-Community port;
- persons on board pleasure craft and tourist or business aircraft;

(ii) cabin and hold baggage

- arriving at a Community airport on board an aircraft coming from a non-Community airport transferred at that Community airport, to another aircraft proceeding on an intra-Community flight;
- loaded at a Community airport onto an aircraft proceeding on an intra-Community flight for transfer at another Community airport, to an aircraft whose destination is a non-Community airport.

When adopting these measures account shall be taken, as appropriate, of the following;

- the particulars necessary for risk analysis and the proper application of customs controls;
- the need for effective risk analysis and for customs controls to be carried out at the most suitable place;
- the amount of risk involved with regard to the type of goods concerned, based upon information gained from fraud investigations as well as analysis of trends in international trade and the potential amount of import or export duties at stake.
- the approval of ports and airports by the customs authorities for traffic with non-Community ports and airports;
- the need for effective control of persons and baggage during transfers;
- the status, where appropriate, of authorized economic operator.

Section 8

Keeping of documents and other information; fees and costs

Article 31

Keeping of documents and other information

1. The person concerned shall, for the purposes of customs controls, keep the documents and information referred to in Article 9(1) for at least three calendar years, by any means accessible by and acceptable to the customs authorities.

In the case of goods released for free circulation in circumstances other than those referred to in the third subparagraph, or goods declared for export, that period shall run from the end of the year in which the customs declarations for release for free circulation or export are accepted.

In the case of goods released for free circulation duty-free or at a reduced rate of import duty on account of their end-use, that period shall run from the end of the year in which they cease to be subject to customs supervision.

In the case of goods placed under another customs procedure, that period shall run from the end of the year in which the customs procedure concerned has ended.

2. Without prejudice to Article 73(4), where a customs control in respect of a customs debt shows that the relevant entry in the accounts has to be corrected and the person concerned has been notified of this, the documents and information shall be kept for three years beyond the time limit provided for in paragraph 1 of this Article.

Where an appeal has been lodged or where court proceedings have begun, the documents and information must be kept for the time limit provided for in paragraph 1 of this Article or until the appeals procedure or court proceedings are terminated, whichever is the later.

Article 32

Charges and costs

1. Customs authorities shall not impose charges for the performance of customs controls or any other application of the customs legislation during the official opening hours of their competent customs offices.

However, the customs authorities may impose charges or recover costs where specific services are rendered, in particular the following:

- (a) attendance, where requested, by customs staff outside normal office hours or at premises other than customs premises;

- (b) analyses or expert reports on goods and postal fees for the return of goods to an applicant, particularly in respect of decisions taken pursuant to Article 21 or the provision of information in accordance with Article 8(1);
 - (c) the examination or sampling of goods for verification purposes, or the destruction of goods, where costs other than that of using customs staff are involved;
 - (d) exceptional control measures, where these are necessary due to the nature of the goods or to potential risk.
2. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of the second subparagraph of paragraph 1.

CHAPTER 3

CURRENCY CONVERSION, TIME LIMITS AND SIMPLIFICATION

Article 33

Currency conversion

1. The competent authorities shall publish, or make available on the Internet, the rate of exchange applicable where the conversion of currency is necessary for one of the following reasons:
 - (a) because factors used to determine the customs value of goods are expressed in a currency other than that of the Member State where the customs value is determined;
 - (b) because the value of the euro is required in national currencies for the purposes of determining the tariff classification of goods and the amount of import and export duties, including value thresholds in the Community Customs Tariff.
2. Where the conversion of currency is necessary for reasons other than those referred to in paragraph 1, the value of the euro in national currencies to be applied within the framework of the customs legislation shall be fixed at least once a year.
3. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of paragraphs 1 and 2 of this Article.

Article 34

Time limits

1. Where a period, date or time limit is laid down in the customs legislation, such period shall not be extended or reduced and such date or time limit shall not be deferred or brought forward unless specific provision is made in the provisions concerned.

2. The rules applicable to periods, dates and time limits set out in Council Regulation (EEC, Euratom) No1182/71¹⁵ shall apply, except where specifically provided for in Community customs legislation.

Article 35

Simplification

1. The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures laying down in which cases, and under which conditions, the application of this Code may be simplified.
2. Simplified procedures to be defined in accordance with the procedure referred to in Article 196 shall be applied to Community goods moving between a third territory belonging to the Community and referred to in Council Directive 77/388/EEC, and another part of the Community customs territory.
3. Subject to approval by the Commission acting in accordance with the procedure referred to in Article 196, a Member State may apply simplified procedures to Community goods as referred to in paragraph 2 and moving exclusively within its territory, and correspondingly two or more Member States may mutually agree upon simplified procedures to be applied to such goods moving between them.

¹⁵ OJ L 124, 8.6.1971, p. 1.

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

COMMON CUSTOMS TARIFF AND TARIFF CLASSIFICATION OF GOODS

Article 36

Common Customs Tariff

1. Import and export duties shall be based on the Common Customs Tariff.

Other measures prescribed by Community provisions governing specific fields relating to trade in goods shall, where appropriate, be applied according to the tariff classification of those goods.

2. The Common Customs Tariff shall comprise the following:
 - (a) the Combined Nomenclature of goods as laid down in Council Regulation (EEC) No 2658/87¹⁶;
 - (b) any other nomenclature which is wholly or partly based on the Combined Nomenclature or which provides for further subdivisions to it, and which is established by Community provisions governing specific fields with a view to the application of tariff measures relating to trade in goods;
 - (c) the conventional or normal autonomous import duties applicable to goods covered by the Combined Nomenclature;

¹⁶ OJ L 256, 7.9.1987, p. 1.

- (d) the preferential tariff measures contained in agreements which the Community has concluded with certain countries or territories outside the customs territory of the Community or groups of such countries or territories;
 - (e) preferential tariff measures adopted unilaterally by the Community in respect of certain countries or territories outside the customs territory of the Community or groups of such countries or territories;
 - (f) autonomous measures providing for a reduction in or exemption from import duties on certain goods;
 - (g) favourable tariff treatment specified for certain goods, by reason of their nature or end-use, in the framework of measures referred to under points (c) to (f) or (h);
 - (h) other tariff measures provided for by agricultural, or commercial, or other Community legislation.
3. Where the goods concerned fulfil the conditions included in the measures laid down in points (d) to (g) of paragraph 2, the measures referred to in those provisions shall apply, at the request of the declarant, instead of those provided for in point (c) of that paragraph. Such application may be made retrospectively, provided that the time limits and conditions laid down in the relevant measure or in the Code are complied with.
4. Where application of the measures referred to in points (d) to (g) of paragraph 2, or the exemption from measures referred to in point (h) thereof, is restricted to a certain volume of imports or exports, such application or exemption shall, in the case of tariff quotas, cease as soon as the specified volume of imports or exports is reached.

In the case of tariff ceilings such application shall cease by virtue of a legal act of the Community.

Article 37

Tariff classification of goods

1. For the application of the Common Customs Tariff, 'tariff classification' of goods shall consist in the determination of one of the subheadings or further subdivisions of the Combined Nomenclature under which those goods are to be classified.
2. For the application of non-tariff measures, 'tariff classification' of goods shall consist in the determination of one of the subheadings or further subdivisions of the Combined Nomenclature, or of any other nomenclature which is established by Community provisions and which is wholly or partly based on the Combined Nomenclature or which provides for further subdivisions to it, under which those goods are to be classified.
3. The subheading or further subdivision determined in accordance with the first or the second paragraph shall be used for the purpose of applying the measures attached to that subheading.

CHAPTER 2

ORIGIN OF GOODS

Section 1

Non-preferential origin

Article 38

Scope

Articles 39, 40 and 41 lay down rules for the determination of the non-preferential origin of goods for the purposes of applying the following:

- (a) the Common Customs Tariff with the exception of the measures referred to in points (d) and (e) of Article 36(2);
- (b) measures, other than tariff measures, established by Community provisions governing specific fields relating to trade in goods;
- (c) other Community measures relating to the origin of goods.

Article 39

Acquisition of origin

1. Goods wholly obtained in a single country or territory shall be regarded as having their origin in that country or territory.
2. Goods the production of which involved more than one country or territory shall be deemed to originate in the country or territory where they underwent their last substantial transformation.

Article 40

Proof of origin

1. Where an origin has been indicated in the customs declaration pursuant to customs legislation, the customs authorities may require the declarant to prove the origin of the goods.
2. Where proof of origin of goods is provided pursuant to customs legislation or other Community legislation governing specific fields, the customs authorities may, in the event of reasonable doubt, require any additional evidence to ensure that the indication of origin does comply with the rules laid down by the relevant Community legislation.
3. A document proving origin may be issued in the Community where the exigencies of trade so require.

Article 41

Implementing measures

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of Articles 39 and 40.

Section 2

Preferential origin

Article 42

Preferential origin of goods

1. In order to benefit from the measures referred to in points (d) or (e) of Article 36(2) or from non-tariff preferential measures, goods shall comply with the rules on preferential origin referred to in paragraphs 2, 3 and 4 of this Article.

2. In the case of goods benefiting from preferential measures contained in agreements which the Community has concluded with certain countries or territories outside the customs territory of the Community or groups of such countries or territories, the rules on preferential origin shall be laid down in those agreements.
3. In the case of goods benefiting from preferential measures adopted unilaterally by the Community in respect of certain countries or territories outside the customs territory of the Community or groups of such countries or territories, other than those referred to in paragraph 5, the Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the rules on preferential origin.
4. In the case of goods benefiting from preferential measures applicable in trade between the customs territory of the Community and Ceuta and Melilla, contained in Protocol 2 to the Act of Accession of Spain and Portugal, the Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the rules on preferential origin.
5. In the case of goods benefiting from preferential measures contained in preferential arrangements in favour of the overseas countries and territories associated with the Community, the rules on preferential origin shall be adopted in accordance with Article 187 of the Treaty.
6. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures necessary for the implementation of the rules referred to in paragraphs 2 to 5 of this Article.

CHAPTER 3

VALUE OF GOODS FOR CUSTOMS PURPOSES

Article 43

Scope

The customs value of goods, for the purposes of applying the Common Customs Tariff and non-tariff measures laid down by Community provisions governing specific fields relating to trade in goods, shall be determined in accordance with Articles 44 to 46.

Article 44

Transaction value

1. The customs value of imported goods, hereinafter ‘transaction value’, shall be the price actually paid or payable for the goods when sold for export to the customs territory of the Community, adjusted, where necessary, in accordance with measures adopted pursuant to point (a) of paragraph 4..
2. The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods and includes all payments made or to be made as a condition of sale of the imported goods
3. The transaction value shall apply provided that the following conditions are satisfied:
 - (a) there are no restrictions as to the disposal or use of the goods by the buyer, other than the following:

- (i) restrictions imposed or required by a law or by the public authorities in the Community;
 - (ii) limitations of the geographical area in which the goods may be resold;
 - (iii) restrictions which do not substantially affect the value of the goods;
- (b) the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
 - (c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with measures adopted pursuant to point (a) of paragraph 4;
 - (d) the buyer and seller are not related.
4. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down
- (a) the elements which, for the purposes of determining the customs value, must be added to the price actually paid or payable, or which may be excluded, and
 - (b) any further conditions, provisions and rules for the application of paragraphs 1 to 3.

Article 45

Secondary methods of customs valuation

1. Where the customs value cannot be determined under Article 44, it shall be determined by proceeding sequentially from point (a) to point (d) of paragraph 2 of this Article, until the first point under which the customs value can be determined.

2. The customs value, pursuant to paragraph 1, shall be:
 - (a) the transaction value of identical goods sold for export to the customs territory of the Community and exported at or about the same time as the goods being valued;
 - (b) the transaction value of similar goods sold for export to the customs territory of the Community and exported at or about the same time as the goods being valued;
 - (c) the value based on the unit price at which the imported goods, or identical or similar imported goods, are sold within the customs territory of the Community in the greatest aggregate quantity to persons not related to the sellers;
 - (d) the value based on the computed value.

2. Where the customs value cannot be determined under this Article and Article 44, it shall be determined, on the bases of data available in the customs territory on the Community, using reasonable means consistent with the principles and general provisions of the following:
 - a) the agreement on implementation of Article VII of the General Agreement on Tariffs and Trade;
 - b) Article VII of General Agreement on Tariffs and Trade;
 - c) this chapter.

3. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down any further conditions, provisions and rules for the application of paragraphs 1 and 2.

Article 46

Implementing measures

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the rules for the application of Articles 43-45, the determination of the customs value in specific cases, and with regard to goods for which a customs debt is incurred after the use of a special procedure.

TITLE III

CUSTOMS DEBT AND GUARANTEES

CHAPTER 1

INCURRENCE OF A CUSTOMS DEBT

Section 1

General provisions

Article 48

Customs duty

Duty on import or export shall be payable in respect of the goods concerned under the Common Customs Tariff.

Section 2

Customs debt on importation

Article 49

Release for free circulation, temporary admission

1. A customs debt on importation shall be incurred through the placing of non-Community goods liable to import duties under either of the following procedures:
 - (a) release for free circulation, including under the end-use provisions;
 - (b) temporary admission with partial relief from import duties;

2. A customs debt shall be incurred at the time of acceptance of the customs declaration.

3. The declarant shall be the debtor. In the event of indirect representation, the person on whose behalf the customs declaration is made shall also be a debtor.

Where a customs declaration in respect of one of the procedures referred to in paragraph 1 is drawn up on the basis of information which leads to all or part of the import duties not being collected, the person who provided the information required to draw up the declaration and who knew, or who ought reasonably to have known, that such information was false shall also be a debtor.

Article 50

Special provisions relating to non-originating goods

1. Where a prohibition of drawback of, or exemption from, import duties applies to non-originating goods used in the manufacture of products, for which a proof of origin is issued or made out in the framework of a preferential arrangement between the Community and certain countries or territories outside the customs territory of the Community or groups of such countries or territories, a customs debt on importation shall be incurred in respect of the non-originating goods incorporated in these products, through either of the following:
 - (a) the acceptance of the re-export notification relating to the products in question, obtained under inward processing;
 - (b) the acceptance, in the case of prior exportation of the processed products, of the declaration relating to the goods placed under the inward processing procedure in question.
2. Where a customs debt is incurred pursuant to point (a) of paragraph 1, its amount shall be determined under the same conditions as in the case of a customs debt resulting from the acceptance, on the same date, of the declaration for release for free circulation of the non-originating goods used in the manufacture of the products in question for the purpose of ending the inward processing procedure.

3. Article 49 (2) and (3) shall apply *mutatis mutandis*. However, in the case of non-Community goods as referred to in Article 189, the person who lodges the re-export notification shall be the debtor. In the event of indirect representation, the person on whose behalf the notification is lodged shall also be a debtor.

Article 51

Customs debt incurred through non-compliance

1. For goods liable to import duties, a customs debt on importation shall be incurred through non-compliance with either of the following:
 - (a) one of the obligations laid down in customs legislation concerning the introduction of non-Community goods into the customs territory of the Community, or for the movement, processing, storage, temporary admission or disposal of such goods within that territory;
 - (b) one of the obligations laid down in customs legislation concerning the end-use of goods within the customs territory of the Community;
 - (c) a condition governing the placing of non-Community goods under a customs procedure or the granting, by virtue of the end-use of the goods, of duty exemption or a reduced rate of import duty.
2. The time at which the customs debt is incurred shall be either of the following:
 - (a) the moment when the obligation the non-fulfilment of which gives rise to the customs debt is not met or ceases to be met;
 - (b) the moment when the goods are placed under the customs procedure or declared for that purpose where it is established subsequently that a condition governing the placing of the goods under that procedure or the granting of a duty exemption or a reduced rate of import duty by virtue of the end-use of the goods was not in fact fulfilled.
3. In cases referred to under points (a) and (b) of paragraph 1, the debtor shall be any of the following:

- (a) any person who was required to fulfil the obligations concerned;
 - (b) any person who was aware or should reasonably have been aware that an obligation under the customs legislation was not fulfilled and who acted on behalf of the person who was obliged to fulfil the obligation, or who participated in the act which led to the non-fulfilment of the obligation;
 - (c) any person who acquired or held the goods in question and who was aware or should reasonably have been aware at the time of acquiring or receiving the goods that an obligation under the customs legislation was not fulfilled.
4. In cases referred to under point (c) of paragraph 1, the debtor shall be person who is required to comply with the conditions governing the placing of the goods under a customs procedure or declaring the goods concerned under that procedure or the granting of a duty exemption or reduced rate of duty by virtue of the end-use of the goods.

Where a customs declaration in respect of one of the procedures referred to in paragraph 1 is drawn up, or any information required under the customs legislation relating to the conditions governing the placing of the goods under a customs procedure is given to the customs authorities, which leads to all or part of the import duties not being collected, the person who provided the information required to draw up the declaration and who knew, or who ought reasonably to have known, that such information was false shall also be a debtor.

Article 52

Deduction of duties already paid

1. Where a customs debt is incurred, pursuant to Article 51(1), in respect of goods released for free circulation at a reduced rate of import duty on account of their end-use, the amount paid when the goods were released for free circulation shall be deducted from the amount of the customs debt.

The first subparagraph shall apply *mutatis mutandis* where a customs debt is incurred in respect of scrap and waste resulting from the destruction of such goods.

2. Where a customs debt is incurred, pursuant to Article 51(1), in respect of goods placed under temporary admission with partial relief from import duties, the amount paid under partial relief shall be deducted from the amount of the customs debt.

Section 3

Customs debt on exportation

Article 53

Goods declared for export or outward processing

1. A customs debt on exportation shall be incurred through the placing of goods liable to export duties under the export procedure or the outward processing procedure.
2. The customs debt shall be incurred at the time of acceptance of the customs declaration.
3. The declarant shall be the debtor. In the event of indirect representation, the person on whose behalf the declaration is made shall also be a debtor.

Where a customs declaration is drawn up on the basis of information which leads to all or part of the export duties not being collected, the person who provided the information required for the declaration and who knew, or who should reasonably have known, that such information was false shall also be a debtor.

Article 54

Customs debt incurred through non-compliance

1. For goods liable to export duties, a customs debt on exportation shall be incurred through non-compliance with either of the following:
 - (a) one of the obligations laid down in customs legislation for the exit, movement or disposal of the goods;

- (b) the conditions under which the goods were allowed to leave the customs territory of the Community with total or partial relief from export duties.
2. The time at which the customs debt is incurred shall be one of the following:
- (a) the moment at which the goods actually leave the customs territory of the Community without a customs declaration;
 - (b) the moment at which the goods reach a destination other than that for which they were allowed to leave the customs territory of the Community with total or partial relief from export duties;
 - (c) should the customs authorities be unable to determine the moment referred in point (b), the expiry of the time limit set for the production of evidence that the conditions entitling the goods to such relief have been fulfilled.
3. In cases referred to under point (a) of paragraph 1, the debtor shall be any of the following:
- (a) any person who was required to fulfil the obligation concerned;
 - (b) any person who was aware or should reasonably have been aware that the obligation concerned was not fulfilled and who acted on behalf of the person who was obliged to fulfil the obligation;
 - (c) any person who participated in the act which led to the non-fulfilment of the obligation and who was aware or should reasonably have been aware that a customs declaration had not been lodged but should have been.
4. In cases referred to under point (b) of paragraph 1, the debtor shall be any person who is required to comply with the conditions under which the goods were allowed to leave the customs territory of the Community with total or partial relief from export duties.

Section 4

Provisions common to customs debts incurred on importation and exportation

Article 55

Prohibitions and restrictions

The customs debt on importation or exportation shall be incurred even if it relates to goods which are subject to measures of prohibition or restriction on importation or exportation of any kind.

However, no customs debt shall be incurred on either of the following:

- (a) the unlawful introduction into the customs territory of the Community of counterfeit currency;
- (b) the introduction into the customs territory of the Community of narcotic drugs and psychotropic substances other than where strictly supervised by the competent authorities with a view to their use for medical and scientific purposes.

For the purposes of penalties as applicable to customs offences, the customs debt shall nevertheless be deemed to have been incurred where, under the law of a Member State, customs duties or the existence of a customs debt provide the basis for determining penalties.

Article 56

Several debtors

Where several persons are liable for payment of one customs debt, they shall be jointly and severally liable for the totality of the debt.

[Where one or more of those persons have deliberately infringed the customs legislation, recovery of the customs debt shall first be sought from those persons.]

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the cases and conditions under which this provision shall be applied.

Article 57

General rules for calculation of the amount of duty

1. The amount of the import or export duty shall be determined on the basis of those rules for calculation of duty which were applicable to the goods concerned at the time at which the customs debt in respect of them was incurred.
2. Where it is not possible to determine precisely the time at which the customs debt is incurred, that time shall be deemed to be the time at which the customs authorities conclude that the goods are in a situation in which a customs debt has been incurred.

However, where the information available to the customs authorities enables them to establish that the customs debt had been incurred prior to the time at which they reached that conclusion, the customs debt shall be deemed to have been incurred at the earliest time that such a situation can be established.

Article 58

Special rules for calculation of the amount of duty

1. Where costs for storage or usual forms of handling have been incurred within the customs territory of the Community in respect of goods placed under a customs procedure, such costs or the increase in value shall not be taken into account for the calculation of the amount of import duty where satisfactory proof of these costs is provided by the declarant.

However, the customs value, nature, quantity and origin of non-Community goods used in the operations shall be taken into account for the calculation of the amount of import duties.

2. Where the tariff classification of goods placed under a customs procedure changes as a result of usual forms of handling within the customs territory of the Community, the original tariff classification for the goods placed under the procedure shall be applied at the request of the declarant.

3. Where a customs debt is incurred for processed products resulting from the inward processing procedure, the amount of such debt shall, at the request of the declarant, be determined on the basis of the tariff classification, customs value, nature and origin of the goods placed under the inward processing procedure at the time of acceptance of the declaration relating to these goods.
4. Where customs legislation provides for a favourable tariff treatment of goods, relief or total or partial exemption from import or export duties, pursuant to points (d) to (g) of Article 36(2), Articles 136 to 140, 178, 181 to 184, or pursuant to Council Regulation (EEC) No 918/83, such favourable tariff treatment, relief or exemption shall also apply in cases where a customs debt is incurred pursuant to Articles 51 or 54, on condition that the failure which lead to the incurrence of a customs debt had no significant effect on the correct operation of the procedure declared and did not constitute an attempt at deception.

Article 59

Implementing measures

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the following:

- (a) the rules for the calculation of the amount of the import duty or export duty applicable to goods;
- (b) further special rules for specific procedures;
- (c) derogations from Articles 57 and 58.

Article 60

Place where the customs debt is incurred

1. A customs debt shall be incurred at the place where the customs declaration or the re-export notification referred to in Articles 49, 50 and 53 is lodged or where the supplementary declaration referred to in Article 128(3), shall be lodged.

In all other cases, the place where a customs debt is incurred shall be the place where the events from which it arises occur.

If it is not possible to determine that place, the customs debt shall be incurred at the place where the customs authorities conclude that the goods are in a situation in which a customs debt is incurred.

2. If the goods have been entered for a customs procedure which has not been discharged, and the place cannot be determined, pursuant to the second or third subparagraphs of paragraph 1, within a specified period of time, the customs debt shall be incurred at the place where the goods were either placed under the procedure concerned or were introduced into the customs territory of the Community under that procedure.

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the period of time referred to in the first subparagraph of this paragraph.

3. Where the information available to the customs authorities enables them to establish that the customs debt may have been incurred in several places, the customs debt shall be deemed to have been incurred at the place where it was first incurred.
4. If a customs authority establishes that a customs debt has been incurred under Article 51 or Article 54 in another Member State and the amount of that debt is lower than EUR 10,000, the debt shall be deemed to have been incurred in the Member State where the finding was made.

CHAPTER 2

GUARANTEE FOR A POTENTIAL OR EXISTING CUSTOMS DEBT

Article 61

General provisions

1. This Chapter shall apply to guarantees both for customs debts which have been incurred and for those which may be incurred, unless it is otherwise specified.
2. Customs authorities may require a guarantee to be provided in order to ensure payment of a customs debt. Where the relevant provisions so provide, the guarantee required may also cover other charges as provided for under other relevant provisions in force.
3. Where the customs authorities require a guarantee to be provided, it shall be required from the debtor or the person who may become the debtor. They may also permit the guarantee to be provided by a person other than the person from whom it is required.
4. Without prejudice to Article 69, the customs authorities shall require only one guarantee to be provided in respect of specific goods or a specific declaration.

The guarantee provided for a specific declaration shall apply to the customs debt and other charges in respect of all goods covered by or released against that declaration, whether or not that declaration is correct.

5. At the request of the person referred to in paragraph 3 of this Article, the customs authorities may, in accordance with Article 67(1) and (2), authorize the provision of a comprehensive guarantee to cover the customs debt in respect of two or more operations, declarations or procedures.

6. No guarantee shall be required from States, regional and local government authorities or other bodies governed by public law, in respect of the activities in which they engage as public authorities.
7. The customs authorities may waive the requirement for provision of a guarantee where the amount of import or export duty to be secured does not exceed the statistical threshold for declarations laid down in accordance with Article 12 of Council Regulation (EC) No 1172/95¹⁷.
8. A guarantee accepted or authorized by the customs authorities shall be valid throughout the customs territory of the Community, for the purposes for which it is given.
9. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down:

other cases than those laid down in paragraph 6, in which no guarantee is to be required, exceptions to paragraph 8.

Article 62

Compulsory guarantee

1. Where it is compulsory for a guarantee to be provided, and subject to the rules adopted pursuant to paragraph 3, the customs authorities shall fix the amount of such guarantee at a level equal to the precise amount of the customs debt and of other charges where that amount can be established with certainty at the time when the guarantee is required.

¹⁷ OJ L 118, 25.5.1995, p. 10.

Where it is not possible to establish the precise amount, the guarantee shall be fixed at the maximum amount, as estimated by the customs authorities, of the customs debt and of other charges which have been or may be incurred.

2. Without prejudice to Article 67, where a comprehensive guarantee is provided for customs debts and other charges which vary in amount over time, the amount of such guarantee shall be set at a level enabling the customs debts and other charges to be covered at all times.
3. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of paragraph 1 of this Article.

Article 63

Optional guarantee

Where the provision of a guarantee is optional, such guarantee shall in any case be required by the customs authorities if they consider that a customs debt and other charges are not certain to be paid within the prescribed period. Its amount shall be fixed by those authorities so as not to exceed the level referred to in Article 62.

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down when a guarantee is optional.

Article 64

Provision of a guarantee

1. A guarantee may be provided in one of the following ways:
 - (a) by a cash deposit or by any other means of payment recognized by the customs authorities as being equivalent to a cash deposit, made in euro or in the currency of the Member State in which the guarantee is required;

- (b) by an undertaking given by a guarantor;
- (c) by another form of guarantee which provides equivalent assurance that the customs debt will be paid.

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures specifying the forms of guarantee referred in point (c) of the first subparagraph of this paragraph.

2. A guarantee in the form of a cash deposit or payment deemed equivalent to a cash deposit shall be given in accordance with the provisions in force in the Member State in which the guarantee is required.

Article 65

Choice of guarantee

The person required to provide a guarantee may choose between the types of guarantee laid down in Article 64(1).

However, the customs authorities may refuse to accept the type of guarantee chosen where it is incompatible with the proper functioning of the customs procedure concerned.

The customs authorities may require that the type of guarantee chosen be maintained for a specific period.

Article 66

Guarantor

1. The guarantor referred to in point (b) of Article 64(1) must be a third person established in the customs territory of the Community. The guarantor must be approved by the customs authorities requiring the guarantee, unless the guarantor is a credit institution or a financial

institution or an insurance company, accredited in the Community in accordance with Community provisions in force.

2. The guarantor shall undertake in writing to pay the secured amount of a customs debt and other charges.

The undertaking shall also cover, within the limits of the secured amount, amounts of import or export duties and other charges payable following post-release control.

3. The customs authorities may refuse to approve the guarantor or type of guarantee proposed where either does not appear certain to ensure payment of the customs debt and of other charges within the prescribed period.

Article 67

Comprehensive guarantee

1. The authorization referred to in Article 61(5) shall be granted only to persons who satisfy the following conditions:
 - (a) they are established within the customs territory of the Community;
 - (b) they have not committed serious or repeated offences against customs or tax legislation;
 - (c) they are regular users of the procedures involved or are known to the customs authorities to have the capacity to fulfil their obligation in relation to these procedures.

2. Where a comprehensive guarantee is to be provided for customs debts and other charges which may be incurred, an [authorized] economic operator may be authorised to use a comprehensive guarantee with a reduced amount or to have a guarantee waiver, in accordance with Article 61(9), provided that, he fulfils the following criteria;
 - (a) the correct use of the customs procedure concerned during a given period;
 - (b) co-operation with the customs authorities;
 - (c) in respect of the guarantee waiver, a good financial standing which is sufficient to fulfil his commitments.

3. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures governing the granting of authorizations under paragraphs 1 and 2 of this Article.

Article 68

Additional provisions relating to the use of guarantees

1. In cases where a customs debt may be incurred in the framework of special procedures, paragraphs 2 and 3 shall apply.
2. The guarantee waiver authorized in accordance with Article 67(2) shall not apply to goods which are considered to present increased risks of fraud.
3. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of paragraph 2, temporarily prohibiting the use of a comprehensive guarantee with a reduced amount referred to in Article 67(2), as an exceptional measure in special circumstances temporarily prohibiting the use of a comprehensive guarantee in respect of goods which have been identified as being subject to large-scale fraud while under a comprehensive guarantee.

Article 69

Additional or replacement guarantee

Where the customs authorities establish that the guarantee provided does not ensure, or is no longer certain or sufficient to ensure, payment of the customs debt within the prescribed period, they shall require any of the persons referred to in Article 61(3), either to provide an additional guarantee or to replace the original guarantee with a new guarantee, according to his choice.

Article 70

Release of the guarantee

1. The customs authorities shall release the guarantee immediately when the customs debt or liability for other charges is extinguished or can no longer arise.
2. Where the customs debt or liability for other charges has been extinguished in part, or may arise only in respect of part, of the amount which has been secured, a corresponding part of the guarantee shall be released accordingly at the request of the person concerned, unless the amount involved does not justify such action.
3. The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of paragraphs 1 and 2 of this Article.

CHAPTER 3

RECOVERY AND PAYMENT OF DUTY AND REPAYMENT AND REMISSION OF DUTY

Section 1

Duty determination, notification and recovery

Article 71

Determination of the amount of duty

1. The amount of import or export duty payable shall be determined by the customs authorities responsible for the place where the customs debt is incurred, or is deemed to have been incurred in accordance with Article 60, as soon as they have the necessary information.
2. Without prejudice to Article 29, the customs authorities may accept the amount of import or export duty payable determined by the declarant.

Article 72

Notification of the customs debt

1. The decision determining the amount of duty payable shall be notified to the debtor in the form prescribed by the national legislation applicable at the place where the customs debt is incurred, or is deemed to have been incurred in accordance with Article 60.

The notification referred to in the first subparagraph shall not be made in the following situations:

- (a) where, pending a final determination of the amount of duty, a provisional commercial policy measure taking the form of a duty has been imposed;
- (b) where the amount of duty payable exceeds that determined on the basis of a decision made in accordance with Article 21;

- (c) where the original decision not to notify the amount of duty or to notify the amount of duty at a figure less than the amount payable was taken on the basis of general provisions invalidated at a later date by a court decision;
- (d) in cases where the customs authorities are exempted under the customs legislation from notification of amounts of duty.

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of point (d) of the second subparagraph of this paragraph.

- 2. Where the amount of duty payable is equal to the amount entered in the customs declaration, the debtor need not be notified of the decision referred to in paragraph 1.

In such cases, release of the goods by the customs authorities shall be equivalent to notifying the debtor of the amount of duty payable.

- 3. Where paragraph 2 of this Article does not apply, the decision determining the amount of duty payable shall be notified to the debtor within fourteen days of the date on which the customs authorities are in a position to take that decision in accordance with Article 17(4).

Article 73

Time limit for notification of a customs debt

- 1. Notification of a decision determining the amount of duty may not be issued to the debtor after the expiry of a period of three years from the date on which the customs debt was incurred.
- 2. Where the customs debt is the result of an act which, at the time it was committed, was liable to give rise to criminal court proceedings, the three year period laid down in paragraph 1 shall be extended to a period of [ten] years.

3. Where an appeal is lodged under Article 24, the periods laid down in paragraphs 1 and 2 of this Article shall be suspended, for the duration of the appeal proceedings, from the date on which the appeal is lodged.
4. Where liability for a customs debt is reinstated pursuant to Article 85(5) the periods laid down in paragraphs 1 and 2 of this Article shall be considered as suspended from the date on which the repayment or remission application was submitted in accordance with Article 90, until a decision on the repayment or remission is taken.

Article 74

Entry in the accounts

1. The customs authorities referred to in Article 71 shall enter in their accounts the amount of duty payable as determined in accordance with that Article.

The first subparagraph shall not apply in cases referred to in the second subparagraph of Article 72(1).

The customs authorities need not enter in the accounts amounts of duty which, pursuant to Article 73, could no longer be notified to the debtor.

2. The Member States shall determine the practical procedures for the entry in the accounts of the amounts of duty. Those procedures may differ according to whether or not, in view of the circumstances in which the customs debt was incurred, the customs authorities are satisfied that those amounts will be paid.

Time of entry in the accounts

1. Where a customs debt is incurred as a result of the acceptance of the declaration of goods for a customs procedure, other than temporary admission with partial relief from import duties, or of any other act having the same legal effect as such acceptance, the customs authorities shall enter the amount of duty payable in the accounts within fourteen days of the release of the goods.

However, provided that payment has been guaranteed, the total amount of duty relating to all the goods released to one and the same person during a period fixed by the customs authorities, which may not exceed 31 days, may be covered by a single entry in the accounts at the end of that period. Such entry in the accounts shall take place within fourteen days of the expiry of the period concerned.

2. Where goods may be released subject to certain conditions which govern either the determination of the amount of duty payable or its collection, entry in the accounts shall take place within fourteen days of the day on which the amount of duty payable is determined or the obligation to pay that duty is fixed.

However, where the customs debt relates to a provisional commercial policy measure taking the form of a duty, the amount of duty payable shall be entered in the accounts within two months of the date of publication in the *Official Journal of the European Union* of the Regulation establishing the definitive commercial policy measure.

3. Where a customs debt is incurred in circumstances not covered by paragraph 1, the amount of duty payable shall be entered in the accounts within fourteen days of the date on which the customs authorities are in a position to determine the amount of duty in question and take a decision in accordance with Article 17(4).

4. Paragraph 3 shall apply *mutatis mutandis* with regard to the amount of duty to be recovered or which remains to be recovered where the amount of duty payable has not been entered in the accounts in accordance with paragraphs 1, 2 and 3, or has been determined and entered in the accounts at a level lower than the amount payable.
5. The time limits for entry in the accounts laid down in paragraphs 1, 2 and 3 shall not apply in unforeseeable circumstances or in cases of *force majeure*.

Article 76

Implementing measures

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures laying down rules for entry in the accounts.

Section 2

Payment of duty

Article 77

General time limits for payment, supervision of payment

1. Amounts of duty notified in accordance with Article 72 shall be paid by the debtor within the period prescribed by the customs authorities

Without prejudice to Article 25(2), that period shall not exceed ten days following notification to the debtor of the amount of duty payable. In the case of aggregation of entries in the accounts under the conditions laid down in the second subparagraph of Article 75(1), it shall be so fixed as not to enable the debtor to obtain a longer period for payment than if he had been granted deferred payment in accordance with Article 79.

An extension of that period shall be granted automatically where it is established that the person concerned received the notification too late to enable him to make payment within the period prescribed.

Extension of that period may also be granted by the customs authorities at the request of the debtor where the amount of duty payable has been determined in the course of post-release verification as referred to in Article 29. Without prejudice to Article 82(1), such extensions shall not exceed the time necessary for the debtor to take the appropriate steps to discharge his obligation.

2. If the debtor is entitled to any of the payment facilities laid down in Articles 79 to 82, payment shall be made within the period or periods specified in relation to those facilities.
3. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the conditions for the suspension of the time limit for payment of debt in the following situations:
 - (a) where an application for remission of duty is made in accordance with Article 90;
 - (b) where goods are to be confiscated, destroyed or abandoned to the State;
 - (c) where the customs debt was incurred pursuant to Article 51 and there is more than one debtor.

These measures shall lay down, in particular, the period of the suspension, taking into account the time which is reasonable for the conclusion of any formalities or for the recovery of the debt, particularly in respect of the implementation of the second paragraph of Article 56.

Article 78

Payment

1. Payment shall be made in cash or by any other means with similar discharging effect, including by adjustment of credit balance, in accordance with the national legislation.
2. Payment may be made by a third person instead of the debtor.
3. The debtor may in any case pay all or part of the amount of duty without awaiting expiry of the period he has been granted for payment.

Article 79

Deferment of payment

Without prejudice to Article 85, the customs authorities shall, at the request of the person concerned and upon provision of a guarantee, permit deferment of payment of the duty payable in any of the following ways:

- (a) separately in respect of each amount of duty entered in the accounts in accordance with the first subparagraph of Article 75(1), or Article 75(4);
- (b) globally in respect of all amounts of duty entered in the accounts in accordance with the first subparagraph of Article 75(1) during a period fixed by the customs authorities and not exceeding 31 days;
- (c) globally in respect of all amounts of duty forming a single entry in accordance with the second subparagraph of Article 75(1).

Article 80

Time limits for deferred payment

1. The period for which payment is deferred under Article 79 shall be 30 days.
2. Where payment is deferred in accordance with point (a) of Article 79, the period shall begin on the day following that on which the amount of duty payable is notified to the debtor.
3. Where payment is deferred in accordance with point (b) of Article 79, the period shall begin on the day following that on which the aggregation period ends. It shall be reduced by the number of days corresponding to half the number of days covered by the aggregation period.

4. Where payment is deferred in accordance with point (c) of Article 79, the period shall begin on the day following the end of the period fixed for release of the goods in question. It shall be reduced by the number of days corresponding to half the number of days covered by the period concerned.
5. Where the number of days in the periods referred to in paragraphs 3 and 4 is an odd number, the number of days to be deducted from the 30-day period pursuant to those paragraphs shall be equal to half the next lowest even number.
6. Where the periods referred to in paragraphs 3 and 4 are calendar weeks, Member States may provide that the amount of duty in respect of which payment has been deferred is to be paid on the Friday of the fourth week following the calendar week in question at the latest.

If these periods are calendar months, Member States may provide that the amount of duty in respect of which payment has been deferred is to be paid by the sixteenth day of the month following the calendar month in question.

Article 81

Implementing measures

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the rules for deferment of payment in cases where the customs declaration is simplified in accordance with Articles 125 .

Article 82

Other payment facilities

1. The customs authorities may grant the debtor payment facilities other than deferred payment on condition that a guarantee is provided.

Where facilities are granted pursuant to the first subparagraph, credit interest shall be charged on the amount of duty. The level of interest which the debtor is obliged to pay, shall be the sum of the interest rate applied by the European Central Bank to its most recent main refinancing operation carried out before the first calendar day of the half-year in question ("the reference rate"), plus one percentage point ("the margin").

For a Member State which is not participating in the third stage of economic and monetary union, the reference rate referred to above shall be the equivalent rate set by its national central bank. In both cases, the reference rate in force on the first calendar day of the half-year in question shall apply for the following six months.

2. The customs authorities may refrain from requiring a guarantee or from charging credit interest where it is established, on the basis of a documented assessment of the situation of the debtor, that this would create serious economic or social difficulties.
3. The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of paragraphs 1 and 2.

Enforcement of payment, arrears

1. Where the amount of duty payable has not been paid within the prescribed period, the customs authorities shall secure payment of that amount by all means available to them according to the law of the Member State.

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures in respect of securing payment from guarantors within the framework of a special procedure.

2. Interest on arrears shall be charged on the amount of duty from the date of expiry of the prescribed period until the date of payment.

The level of interest on arrears, which the debtor is obliged to pay, shall be the sum of the interest rate applied by the European Central Bank to its most recent main refinancing operation carried out before the first calendar day of the half-year in question ("the reference rate"), plus two percentage points ("the margin").

For a Member State which is not participating in the third stage of economic and monetary union, the reference rate referred to above shall be the equivalent rate set by its national central bank. In both cases, the reference rate in force on the first calendar day of the half-year in question shall apply for the following six months.

3. Where the amount of a customs debt has been notified pursuant to Articles 72(3), interest on arrears shall be charged over and above the amount of duty, from the date on which the customs debt was incurred until the date of notification.

The rate of interest on arrears shall be set in accordance with paragraph 2.

4. The customs authorities may refrain from charging interest on arrears where it is established, on the basis of a documented assessment of the situation of the debtor, that to charge it would create serious economic or social difficulties.
5. The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the cases, in terms of time and amounts, in which the customs authorities may waive the collection of interest on arrears.

Article 84

[Deleted]

Section 3

Repayment and remission of duty

Article 85

Repayment and remission

1. Subject to the conditions laid down in this Section, import or export duties shall, provided that the amount to be repaid or remitted exceeds a certain amount, be repaid or remitted on the following grounds:
 - (a) overcharged duties;
 - (b) defective goods or goods not complying with the terms of the contract;
 - (c) error by the competent authorities;
 - (d) equity.

In addition, where duties have been paid and the corresponding customs declaration is invalidated, in accordance with Article 117, those duties shall be repaid.

2. Subject to the rules of competence for a decision, where the customs authorities themselves discover within the periods referred to in Article 90(1) that import or export duties are repayable or remissible pursuant to Articles 86, 88 or 89, they shall repay or remit on their own initiative.
3. No repayment or remission shall be granted when the situation which led to the decision determining an amount of duty results from deception by the debtor.
4. Repayment shall not give rise to the payment of interest by the customs authorities concerned.

However, interest shall be paid where a decision granting repayment is not implemented within three months of the date on which that decision was taken.

In such cases, the interest shall be paid from the date of expiry of the three month period until the date of repayment. The rate of interest shall be established according to Article 82.

5. Where the competent authority has granted repayment or remission in error, duty liability shall be reinstated in so far as recovery of the original customs debt is not time-barred under Article 73.

In such cases, any interest paid under the second subparagraph of paragraph 4 must be reimbursed.

Article 86

Repayment and remission of overcharged duties

Import or export duties shall be repaid or remitted in so far as the amount set out in the original customs decision exceeds the amount payable, or was notified to the debtor contrary to points (c) or (d) of Article 72(1).

Article 87

Defective goods or goods not complying with the terms of the contract

1. Import duties shall be repaid or remitted if the decision determining the amount of such duties relates to goods which have been rejected by the importer because, at the time of release, they were defective or did not comply with the terms of the contract on the basis of which they were imported.

Defective goods shall be deemed to include goods damaged before their release.

2. Repayment or remission of import duties shall be granted provided the goods have not been used, except for such initial use as may have been necessary to establish that they were defective or did not comply with the terms of the contract and provided that they are exported from the customs territory of the Community.
3. Instead of being exported, at the request of the person concerned, the customs authorities shall permit the goods to be destroyed, or to be placed under the inward processing procedure, the external transit procedure or the warehousing or free zone procedure..

Article 88

Repayment or remission on account of error by the competent authorities

1. In situations other than those referred to in the second subparagraph of Article 85(1) and in Articles 86, 87 and 89, a decision to repay or remit import or export duties shall be taken where the original decision determining the amount of duty did not correspond to the amount payable, as a result of an error on the part of the competent authorities, provided the following conditions are met:
 - (a) the debtor could not reasonably have detected that error;
 - (b) the debtor was acting in good faith.

2. Where the preferential status of the goods is established on the basis of a system of administrative co-operation involving the authorities of a country or territory outside the customs territory of the Community, the issue of a certificate by those authorities, should it prove to be incorrect, shall constitute an error which could not reasonably have been detected within the meaning of point (a) of the first paragraph.

The issue of an incorrect certificate shall not, however, constitute an error where the certificate is based on an incorrect account of the facts provided by the exporter, except where it is evident that the issuing authorities were aware or should have been aware that the goods did not satisfy the conditions laid down for entitlement to the preferential treatment.

The debtor shall be considered to be in good faith if he can demonstrate that, during the period of the trading operations concerned, he has taken due care to ensure that all the conditions for the preferential treatment have been fulfilled.

The debtor may not rely on a plea of good faith if the Commission has published a notice in the *Official Journal of the European Union*, stating that there are grounds for doubt concerning the proper application of the preferential arrangements by the beneficiary country or territory.

Article 89

Repayment and remission in equity

In situations other than those referred to in the second subparagraph of Article 85(1) and in Articles 86, 87 and 88, import and export duties shall be repaid or remitted in the interest of equity where a customs debt is incurred under special circumstances, as laid down in the customs legislation, in which no deception or obvious negligence may be attributed to the debtor..

Article 90

Procedure for repayment and remission

1. Applications for repayment or remission in accordance with Article 85 shall be submitted to the appropriate customs office within the following periods:
 - (a) in the case of overcharged duties, error by the competent authorities, or equity, within three years of the date of notification of the amount;
 - (b) in the case of defective goods or goods not complying with the contract, within one year of the date of notification of the amount;
 - (c) in the case of invalidation of a customs declaration, within the period specified in the rules applicable to invalidation.

The period specified in points (a) and (b) of the first subparagraph shall be extended where the applicant provides evidence that he was prevented from submitting his application within the prescribed period as a result of unforeseeable circumstances or *force majeure*.

2. Where an appeal has been lodged under Article 24 against the notification of the customs debt, the relevant period specified in the first subparagraph of paragraph 1 of this Article shall be suspended, from the date on which the appeal is lodged, for the duration of the appeal proceedings.

Article 91

Implementing measures

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of this Section. These measures shall lay down, in particular, the cases in which the Commission shall, in accordance with the procedure referred to in Article 196(3), decide whether remission or repayment of an amount of duty is justified.

CHAPTER 4

EXTINCTION OF CUSTOMS DEBT

Article 92

Extinction

1. Without prejudice to the provisions in force relating to the time-barring of a customs debt and non-recovery of such a debt in the event of the legally established insolvency of the debtor, a customs debt on importation or exportation shall be extinguished in any of the following ways:
 - (a) by payment of the amount of duty;
 - (b) subject to paragraph 4, by remission of the amount of duty;
 - (c) where, in respect of goods declared for a customs procedure entailing the obligation to pay duties, the customs declaration is invalidated;
 - (d) where goods liable to import or export duties are confiscated;
 - (e) where goods liable to import or export duties are destroyed under customs supervision or abandoned to the State;
 - (f) where the disappearance of the goods or the non-fulfilment of obligations arising from the customs legislation results from the total destruction or irretrievable loss of those goods as a result of the actual nature of the goods or unforeseeable circumstances or *force majeure*, or as a consequence of instruction by the customs authorities;
 - (g) where the debt was incurred pursuant to Article 51 or 54 and where the following conditions are fulfilled:
 - (i) the failure which lead to the incurrence of a customs debt had no significant effect on the correct operation of the procedure declared and did not constitute an attempt at deception,
 - (ii) all of the formalities necessary to regularize the situation of the goods are subsequently carried out;

- (h) where goods released for free circulation duty-free, or at a reduced rate of import duty by virtue of their end-use, have been exported with the permission of the customs authorities;
- (i) where it was incurred pursuant to Article 50 and where the formalities carried out in order to enable the preferential tariff treatment referred to in that Article to be granted are cancelled;
- (j) where, subject to paragraph 5 of this Article, the debt was incurred pursuant to Article 51 and evidence is provided to the satisfaction of the customs authorities that the goods have not been used or consumed and have been exported from the customs territory of the Community.

For the purposes of point (f) of the first subparagraph, goods shall be considered as irretrievably lost when they have been rendered unusable by any person.

2. In the event of confiscation, as referred to in point (d) of paragraph 1, the customs debt shall, nevertheless, for the purposes of penalties applicable to customs offences, be deemed not to have been extinguished where, under the law of a Member State, customs duties or the existence of a customs debt provide the basis for determining penalties.
3. Where, in accordance with point (f) of paragraph 1, a customs debt is extinguished in respect of goods released for free circulation duty-free or at a reduced rate of import duty on account of their end-use, any scrap or waste resulting from their destruction shall be deemed to be non-Community goods.
4. Where several persons are liable for payment of the customs debt and remission is granted, the obligation to pay the amount of duty shall be extinguished only in respect of the person or persons to whom the remission is granted.
5. In the case referred to in point (j) of paragraph 1, the obligation to pay the amount of duty shall not be extinguished in respect of any person or persons who attempted deception.

6. Where the debt was incurred pursuant to Article 51, the obligation to pay the amount of duty shall be extinguished with regard to the person whose behaviour did not involve any attempt at deception and who contributed to the fight against fraud.
7. The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of paragraphs 1 to 6 of this Article.

TITLE IV

GOODS BROUGHT INTO THE CUSTOMS TERRITORY OF THE COMMUNITY

CHAPTER 1

ENTRY SUMMARY DECLARATION

Article 93

Obligation to lodge an entry summary declaration

1. Goods brought into the customs territory of the Community shall be covered by an entry summary declaration, with the exception of means of transport temporarily imported and means of transport and the goods carried thereon only passing through the territorial waters or the airspace of the customs territory of the Community without a stop within that territory.
2. Except where otherwise specified in the customs legislation,, an entry summary declaration shall be lodged at the competent customs office before the goods are brought into the customs territory of the Community.

Customs authorities may accept, instead of the lodging of the entry summary declaration, the lodging of a notification and access to the summary declaration data in the economic operator's computer system.

3. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures concerning the following:
 - (a) the cases, other than those referred to in paragraph 1 of this Article, and the conditions under which the requirement for an entry summary declaration may be waived or adapted;
 - (b) the deadline by which the entry summary declaration shall be lodged or made available before the goods are brought into the customs territory of the Community;

- (c) the rules for exceptions from and variations to the deadline referred to in point (b);
- (d) the determination of the competent customs office at which the entry summary declaration shall be lodged or made available and where risk analysis and risk-based entry controls are to be carried out.

In adopting these measures, account shall be taken of the following:

- (i) special circumstances;
- (ii) the application of these measures to certain types of goods traffic, modes of transport or economic operators;
- (iii) international agreements which provide for special security arrangements.

Article 94

Lodgement and responsible person

1. The entry summary declaration shall be lodged using an electronic data processing technique. Commercial, port or transport information may be used provided it contains the necessary particulars for an entry summary declaration.

Customs authorities may, in exceptional circumstances, accept paper-based entry summary declarations, provided that they apply the same level of risk management as that applied to entry summary declarations made using an electronic data processing technique and that the requirements for the exchange of such data with other customs offices can be met.

2. The entry summary declaration shall be lodged by the person who brings the goods, or who assumes responsibility for the carriage of the goods, into the customs territory of the Community.
3. Notwithstanding the obligations of the person referred to in paragraph 2, the entry summary declaration may be lodged instead by one of the following persons:

- (a) the importer or consignee or other person in whose name or on whose behalf the person referred to in paragraph 2 acts;
- (b) any person who is able to present the goods in question or to have them presented to the competent customs authority.

Article 95

Amendment of entry summary declaration

1. The person who lodges the entry summary declaration shall, at his request, be permitted to amend one or more particulars of the declaration after it has been lodged.

However, no such amendment shall be possible after any of the following events:

- (a) the customs authorities have informed the person who lodged the summary declaration that they intend to examine the goods;
- (b) the customs authorities have established that the particulars in question are incorrect;
- (c) the customs authorities have allowed the removal of the goods from the place where they were presented.

2. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down exceptions to point (c) of paragraph 1 of this Article, defining, in particular, the following:

- (a) criteria for establishing grounds for amendments after removal;
- (b) the data elements which may be amended;
- (c) the time limit after removal within which amendment may be permitted.

These measures shall take into account the intended disposal of the goods and their availability for customs control.

Article 96

Customs declaration replacing summary declaration

The competent customs office may waive the lodging of an entry summary declaration in respect of goods for which, prior to the expiry of the deadline referred to in point (b) of Article 93(3), a customs declaration is lodged. In this case, the customs declaration shall contain at least the particulars necessary for the entry summary declaration. Until such time as the customs declaration is accepted in accordance with Article 114, it shall have the status of an entry summary declaration.

CHAPTER 2

ARRIVAL OF GOODS

Section 1

Entry of goods into the customs territory of the Community

Article 97

Customs supervision

1. Goods brought into the customs territory of the Community shall, from the time of their entry, be subject to customs supervision and may be subject to customs controls. Where applicable, they shall be subject to the prohibitions and restrictions, justified on grounds of, *inter alia*, public morality, public policy or public security, the protection of the health and life of humans, animals or plants, the protection of the environment, the protection of national treasures possessing artistic, historic or archaeological value, the implementation of fishery conservation and management measures, commercial policy measures or the protection of industrial or commercial property, including controls on drug pre-cursors, counterfeit goods and cash entering the Community.

They shall remain under such supervision for as long as is necessary to determine their customs status.

Without prejudice to Article 176, Community goods shall not be subject to customs supervision once their status is established.

Non-Community goods shall remain under customs supervision until their customs status is changed, or they are re-exported or destroyed.

2. The holder of goods under customs supervision may, with the permission of the customs authorities, at any time examine the goods or take samples, in particular in order to determine their tariff classification, customs value or customs status.
3. Goods shall not be removed from customs supervision until release is granted by the customs authorities.

Article 98

Conveyance to the appropriate place

1. The person who brings goods into the customs territory of the Community shall convey them without delay, by the route specified by the customs authorities and in accordance with their instructions, if any, to the customs office designated by the customs authorities, or to any other place designated or approved by those authorities, or into a free zone.

Goods brought into a free zone shall be brought into that free zone directly, either by sea or air or, if by land, without passing through another part of the customs territory of the Community, where the free zone adjoins the land frontier between a Member State and a third country.

The goods shall be presented to the customs authorities in accordance with Article 101.

2. Any person who assumes responsibility for the carriage of goods after they have been brought into the customs territory of the Community shall become responsible for compliance with the obligation laid down in paragraph 1.
3. Goods which, although still outside the customs territory of the Community, may be subject to customs controls by the customs authority of a Member State as a result of an agreement concluded with the relevant country or territory outside the customs territory of the Community, shall be treated in the same way as goods brought into the customs territory of the Community.

4. Paragraph 1 shall not preclude application of any special provisions with respect to letters, postcards and printed matter or to goods carried by travellers, goods transported within frontier zones or in pipelines and wires as well as any other traffic of negligible economic importance, provided that customs supervision and customs control possibilities are not thereby jeopardised.
5. Paragraph 1 shall not apply to means of transport and goods carried thereon only passing through the territorial waters or the airspace of the customs territory of the Community without a stop within that territory.

Article 99

Intra-Community air and sea services

1. Articles 93 to 96, 98 (1) and 100 to 103 shall not apply to goods which have temporarily left the customs territory of the Community while moving between two points in that territory by sea or air, provided that carriage has been effected by a direct route and by an air or regular shipping service without a stop outside the customs territory of the Community.
2. The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures laying down special provisions for air and regular shipping services.

Article 100

Conveyance under special circumstances

1. Where, by reason of unforeseeable circumstances or *force majeure*, the obligation laid down in Article 98(1) cannot be complied with, the person bound by that obligation or any other person acting on that person's behalf shall inform the customs authorities of the situation without delay. Where the unforeseeable circumstances or *force majeure* do not result in total loss of the goods, the customs authorities shall also be informed of their precise location.

2. Where, by reason of unforeseeable circumstances or *force majeure*, a vessel or aircraft covered by Article 98(5) is forced to put into port or to land temporarily in the customs territory of the Community and the obligation laid down in Article 98(1) cannot be complied with, the person who brought the vessel or aircraft into the customs territory of the Community, or any other person acting on that person's behalf, shall inform the customs authorities of the situation without delay.
3. The customs authorities shall determine the measures to be taken in order to permit customs supervision of the goods referred to in paragraph 1, or of the vessel or aircraft and any goods thereon in the circumstances specified in paragraph 2, and to ensure, where appropriate, that they are subsequently conveyed to a customs office or other place designated or approved by the authorities.

Section 2

Presentation, unloading and examination of goods

Article 101

Presentation of goods to customs

1. Goods brought into the customs territory of the Community shall be presented to customs immediately upon their arrival at the designated customs office or any other place designated or approved by the customs authorities or in the free zone by one of the following persons:
 - (a) the person who brought the goods into the customs territory of the Community;
 - (b) the person in whose name or on whose behalf the person who brought the goods into that territory acts;
 - (c) the person who assumed responsibility for carriage of the goods after they were brought into the customs territory of the Community.
2. Notwithstanding the obligations of the person described in paragraph 1, presentation of the goods may be effected instead by one of the following persons:

- (a) any person who immediately places the goods under a customs procedure;
 - (b) the holder of an authorization for the operation of storage facilities or any person who carries out activity in a free zone.
3. The person presenting the goods shall make a reference to the entry summary declaration or customs declaration which has been lodged in respect of the goods.
4. Paragraph 1 shall not preclude application of simplifications with respect to letters, postcards and printed matter or to goods carried by travellers, goods transported within frontier zones or in pipelines and wires as well as any other traffic of negligible economic importance, provided that customs supervision and customs control possibilities are not thereby jeopardised.

Article 102

Unloading and examination of goods

1. Goods shall be unloaded or trans-shipped from the means of transport carrying them solely with the permission of the customs authorities in places designated or approved by those authorities.

However, such permission shall not be required in the event of an imminent danger necessitating the immediate unloading of all or part of the goods. In that case, the customs authorities shall immediately be informed accordingly.

2. The customs authorities may at any time require goods to be unloaded and unpacked for the purpose of examining them, taking samples or examining the means of transport carrying them.
3. Goods presented to customs shall not be removed from the place where they have been presented without the permission of the customs authorities.

Section 3
Formalities after presentation

Article 103

Obligation to place non-Community goods under a customs procedure

1. Without prejudice to Articles 131 and 133, non-Community goods presented to customs shall be placed under a customs procedure.
2. Except as otherwise provided, the declarant shall be free to choose at any time the customs procedure under which he wishes to place the goods, irrespective of their nature or quantity, or their country of origin, consignment or destination.

Article 104

Goods deemed to be placed in temporary storage

1. Except where goods are immediately placed under a customs procedure for which a customs declaration has been accepted, or have been placed in a free zone, non-Community goods presented to customs shall be deemed to have been placed under temporary storage, in accordance with Article 160.
2. Without prejudice to the obligation laid down in Article 93(2) and the exceptions or waiver provided for by the measures adopted under Article 93(3), where it is found that non-Community goods presented to customs are not covered by an entry summary declaration, the holder of the goods shall lodge such a declaration immediately.

Section 4

Goods which have moved under a transit procedure

Article 105

Waiver for goods arriving under transit

Article 98, with the exception of the first subparagraph of paragraph 1 thereof, and Articles 101 to 104 shall not apply when goods already under a transit procedure are brought into the customs territory of the Community.

Article 106

Provisions applicable to non-Community goods after a transit procedure has ended

Articles 102, 103 and 104 shall apply to non-Community goods moving under a transit procedure, once such goods have been presented to the customs office of destination in the customs territory of the Community, in accordance with the rules governing transit.

TITLE V

GENERAL RULES ON CUSTOMS STATUS, CUSTOMS PROCEDURE AND DISPOSAL OF GOODS

CHAPTER 1

STATUS OF GOODS

Article 107

Presumption of customs status of goods as Community goods

1. Without prejudice to Article 171 all goods in the customs territory of the Community shall be presumed to be Community goods, unless it is established that they do not have Community status.
2. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the following:
 - (a) the cases in which the presumption referred to in paragraph 1 of this Article shall not apply;
 - (b) the means by which the Community status of goods may be established.

Article 108

Loss of Community status

Community goods shall become non-Community goods in the following cases:

- (a) where they are temporarily moved out of the customs territory of the Community, in so far as the rules on internal transit or the measures laid down in accordance with Article 109 do not apply;

- (b) where they have been placed under the external transit, storage or inward processing procedure, in so far as the customs legislation so allows;
- (c) where they have been placed under the end-use procedure and are subsequently abandoned to the State, or are destroyed and waste remains;
- (d) where the declaration for release for free circulation is invalidated after release in accordance with measures adopted pursuant to the second subparagraph of Article 117(2).

Article 109

Goods leaving the customs territory temporarily

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the conditions under which Community goods may move, without being subject to a customs procedure, from one point to another within the customs territory of the Community and temporarily out of that territory without alteration of their customs status.

CHAPTER 2

PLACING GOODS UNDER A CUSTOMS PROCEDURE

Section 1

General provisions

Article 110

Customs declaration of goods, supervision of Community goods

1. All goods intended to be placed under a customs procedure, except for the free zone procedure, shall be covered by a customs declaration appropriate for the particular procedure.
2. Community goods declared for export, internal Community transit or outward processing shall be subject to customs supervision from the time of acceptance of the declaration referred to in paragraph 1 until such time as they leave the customs territory of the Community or are abandoned to the State or are destroyed or the customs declaration is invalidated.

Article 111

Competent customs offices

1. Except where Community legislation provides otherwise, Member States shall determine the location and competence of the various customs offices situated in their territory.

Member States shall ensure that official opening hours are appointed for these offices that are reasonable and appropriate, taking into account the nature of the traffic and of the goods and the customs procedures under which they are to be placed, so that the flow of international traffic is neither hindered nor distorted.

2. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures determining the competent customs office:
 - (a) at which a customs declaration shall be lodged or made available;
 - (b) where risk analysis and risk-based entry, import, export or exit controls are to be carried out.

[Article 111a

Centralized clearance

1. Customs authorities may authorize a person to lodge at the customs office responsible for the place where he is established a customs declaration for goods which are presented to customs at another customs office. In such cases, the customs debt shall be deemed to incurred at the customs office at which the customs declaration is lodged.

For the purposes of this Article, the place where a person is established shall be the place where his main accounts are held facilitating audit based control of the arrangements.

2. The customs office at which the customs declaration is lodged shall carry out the formalities for the verification of the declaration, the recovery of any customs debt and for the release of the goods.
3. The customs office at which the goods are presented shall, without prejudice to security and safety controls, carry out any examination requested by the office at which the customs declaration is lodged and shall release the goods, taking into account information received from the customs office where the declaration has been lodged.
4. Where the customs office at which the customs declaration is lodged and the customs office at which the goods are presented are in different Member States, the authorization referred to in paragraph 1 of this Article shall be granted only to persons granted the status of authorized economic operator in accordance with Article 14.

5. The Commission shall, in accordance with the procedure laid down in Article 196(2) adopt measures for the implementation of this Article.]

Article 112

Types of customs declaration

1. The customs declaration shall be lodged using an electronic data-processing technique. The customs authorities may allow that the customs declaration takes the form of an entry in the declarant's records, provided that the customs authorities have access to this data in the declarant's electronic system and that the requirements for any necessary exchange of such data between customs offices are met.
2. Where this is provided for in the customs legislation, the customs authorities may accept a paper-based declaration, or a declaration made orally or by any other act whereby goods can be placed under a customs procedure.
3. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of paragraphs 1 and 2 of this Article.

Section 2

Standard declarations

Article 113

Content of a declaration, supporting documents

1. Customs declarations shall contain all the particulars necessary for application of the provisions governing the customs procedure for which the goods are declared. Customs declarations made using a data processing technique shall contain an electronic signature or other means of authentication. Paper-based declarations shall be signed.

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the specifications to which customs declarations must correspond.

2. The supporting documents required for the application of the provisions governing the customs procedure for which the goods are declared shall be available to the customs authorities at the time the declaration is lodged.
3. When a customs declaration is lodged using an electronic data processing technique, the customs authorities may also allow supporting documents to be lodged using this technique. Customs authorities may accept, instead of the lodging of these documents, access to the relevant data in the economic operator's computer system.

However, upon request of the declarant, the customs authorities may allow those documents to be made available after release of the goods.

4. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of paragraphs 2 and 3 of this Article.

Article 114

Person lodging a declaration

1. A customs declaration may be made by any person who is able to present or make available all of the documents which are required for the application of the rules governing the customs procedure in respect of which the goods are declared. This person shall also be able to present the goods in question or to have them presented to the competent customs office.

However, where acceptance of a customs declaration imposes particular obligations on a specific person, the declaration must be made by that person or on his behalf.

2. The declarant shall be established in the customs territory of the Community.

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the conditions under which the requirement referred to in the first subparagraph of this paragraph may be waived.

Article 115

Acceptance of a declaration

1. Declarations which comply with the conditions laid down in Article 113 shall be accepted by the customs authorities immediately, provided that the goods to which they refer are available for customs controls

Where the declaration takes the form of an entry in the declarant's records and access to this data by the customs authorities, the declaration shall be deemed to have been accepted at the moment at which the goods are entered into the records. The customs authorities may, without prejudice to the legal obligations of the declarant or to the application of security and safety controls waive the obligation for the goods to be available for control.

2. Where, in accordance with measures adopted pursuant to Article 111(2), a customs declaration is lodged at an office other than the office at which the goods are presented, the declaration may be accepted when the office at which the goods are presented confirms the availability of goods for customs controls.
3. The date of acceptance of the customs declaration by the customs authorities shall, except where otherwise provided, be the date to be used for the application of the provisions governing the customs procedure for which the goods are declared and for all other import and export formalities.

4. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down detailed rules for the implementation of paragraphs 1, 2 and 3 of this Article.

Article 116

Amendment of a declaration

1. The declarant shall, at his request, be permitted to amend one or more of the particulars of the declaration after the declaration has been accepted by customs. The amendment shall not render the declaration applicable to goods other than those it originally covered.
2. No such amendment shall be permitted where it is requested after any of the following events:
 - (a) the customs authorities have informed the declarant that they intend to examine the goods;
 - (b) the customs authorities have established that the particulars in question are incorrect;
 - (c) the customs authorities have released the goods, except where specifically provided for under the rules adopted in accordance with paragraph 3.
3. The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures laying down exceptions to point (c) of paragraph 2 of this Article.

Article 117

Invalidation of a declaration

1. The customs authorities shall, at the request of the declarant, invalidate a declaration already accepted in the following cases:
 - (a) where they are satisfied that the goods are immediately to be placed under another customs procedure;

- (b) where they are satisfied that as a result of special circumstances, the placing of the goods under the customs procedure for which they were declared is no longer justified.

However, where the customs authorities have informed the declarant of their intention to examine the goods, a request for invalidation of the declaration shall not be accepted before the examination has taken place.

- 2. The declaration shall not be invalidated after the goods have been released.

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures laying down exceptions to the first subparagraph of this paragraph.

Section 3

Verification

Article 118

Verification of a declaration

- 1. The customs authorities may, for the purpose of verifying the accuracy of the particulars contained in a declaration which they have accepted:
 - (a) examine the declaration and all of the documents required for the application of the provisions of the customs procedure for which the goods are declared;
 - (b) require the declarant to present documents other than those referred to in point (a);
 - (c) examine the goods;
 - (d) take samples for analysis or for detailed examination of the goods.

Article 119

Examination and sampling of goods

1. Transport of the goods to the places where they are to be examined and samples are to be taken, and all the handling necessitated by such examination or taking of samples, shall be carried out by or under the responsibility of the declarant. The costs incurred shall be borne by the declarant.
2. The declarant shall have the right to be present or represented when the goods are examined and when samples are taken. Where the customs authorities have reasonable grounds, they may require the declarant to be present or represented when the goods are examined or samples are taken or to provide them with the assistance necessary to facilitate such examination or taking of samples.
3. Provided that samples are taken in accordance with the provisions in force, the customs authorities shall not be liable for payment of any compensation in respect thereof but shall bear the costs of their analysis or examination.

Article 120

Partial examination and sampling of goods

1. Where only part of the goods covered by a declaration is examined, or samples are taken, the results of the partial examination, or of the analysis or examination of the samples, shall be taken to apply to all the goods covered by the same declaration.

However, the declarant may request a further examination or sampling of the goods if he considers that the results of the partial examination, or of the analysis or examination of the samples taken, are not valid as regards the remainder of the goods declared. The request shall be granted, provided that the goods have not been released or that, if they have been released, the declarant proves that they have not been altered in any way.

2. For the purposes of paragraph 1, where a declaration covers two or more items, the particulars relating to each item shall be deemed to constitute a separate declaration.
3. The Commission shall in accordance with the procedure referred to in Article 196(2) adopt measures laying down the procedure in case of divergent results of examinations in accordance with paragraph 1.

Article 121

Results of the verification

1. The results of verifying the declaration shall be used for the application of the provisions governing the customs procedure under which the goods are placed.
2. Where the declaration is not verified, paragraph 1 shall apply on the basis of the particulars contained in the declaration.
3. The results of the verification made by the customs authorities shall have the same conclusive force throughout the customs territory of the Community.

Article 122

Identification measures

1. The customs authorities or, where appropriate, economic operators, authorized to do so by the customs authorities, shall take the measures necessary to identify the goods where identification is required in order to ensure compliance with the conditions governing the customs procedure for which those goods have been declared.

Those identification measures shall have the same legal effect throughout the customs territory of the Community.

2. Means of identification affixed to the goods or means of transport shall be removed or destroyed only by the customs authorities or, where they are authorized to do so by the customs authorities, by economic operators, unless, as a result of unforeseeable circumstances or *force majeure*, their removal or destruction is essential to ensure the protection of the goods or the means of transport.

Section 4

Release

Article 123

Release of the goods

1. Without prejudice to Article 124, where the conditions for placing the goods under the procedure concerned are fulfilled and provided that any restriction has been applied and the goods are not subject to any prohibition, the customs authorities shall release the goods as soon as the particulars in the declaration have been verified or are accepted without verification.

The first subparagraph shall also apply where verification as referred to in Article 118 cannot be completed within a reasonable period of time and the goods are no longer required to be present for verification purposes.

2. All the goods covered by the same declaration shall be released at the same time.

For the purposes of the first subparagraph, where a declaration covers two or more items, the particulars relating to each item shall be deemed to constitute a separate declaration.

3. Where the goods are presented, in accordance with the measures adopted pursuant to Article 111(2), at a customs office other than the office at which the customs declaration has been accepted, the customs authorities involved shall exchange the information necessary for the release of the goods, without prejudice to appropriate controls.

Article 124

Release dependent upon payment of the customs debt or provision of a guarantee

1. Where the placing of goods under a customs procedure gives rise to a customs debt, the release of the goods shall be conditional upon the payment of the debt or the provision of a guarantee to cover that debt.

However, without prejudice to subparagraph 3, the first subparagraph shall not apply to temporary admission with partial relief from import duties.

Where, pursuant to the provisions governing the customs procedure for which the goods are declared, the customs authorities require the provision of a guarantee, those goods shall not be released for the customs procedure in question until such guarantee is provided.

2. The Commission may in accordance with the procedure referred to in Article 196(2) adopt measures laying down exceptions to paragraph 1, subparagraph 3.

Article 124a

Simplification of formalities

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures for the simplification of the formalities for the placing of goods under a customs procedure.

CHAPTER 3

SIMPLIFICATIONS RELATING TO CUSTOMS DECLARATIONS

Section 1

Simplified declarations

Article 125

Simplified declaration

1. The customs authorities shall authorize an economic operator to have goods placed under a customs procedure on the basis of a simplified declaration which may omit certain of the particulars and documents referred to under Article 113.
2. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures concerning the following:
 - (a) the conditions under which the authorization referred to in paragraph 1 of this Article is given;
 - (b) the specifications to which the simplified declarations must correspond;

Article 126

[Deleted]

Article 127

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Supplementary declaration

1. In the case of a simplified declaration pursuant to Article 125(1), the declarant shall furnish a supplementary declaration containing the further particulars necessary to complete the customs declaration for the customs procedure concerned.

The supplementary declaration may be of a general, periodic or recapitulative nature.

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures laying down exceptions to the first subparagraph of this paragraph.

2. The supplementary declaration and the simplified declaration referred to in Article 125(1) shall be deemed to constitute a single, indivisible instrument taking effect on the date on which the simplified declaration is accepted in accordance with Article 114.

Where the simplified declaration takes the form of an entry in the declarant's records and access to this data by the customs authorities, the declaration shall take effect from the date on which the goods are entered into the records.

3. The place where the supplementary declaration is to be lodged in accordance with the authorization shall be deemed, for the purposes of Article 60, to be the place where the customs declaration has been lodged.

Article 129

Application of the rules for standard declarations

Articles 113 to 122 shall apply *mutatis mutandis* to simplified and supplementary declarations.

Section 2

Other simplifications

Article 130

Facilitation of classification

Where a consignment is made up of goods falling within different tariff classifications, and dealing with each of those goods in accordance with its tariff classification for the purpose of drawing up the declaration would entail a burden of work and expense disproportionate to the import duties chargeable, the customs authorities may, at the request of the declarant, agree that import duties be charged on the whole consignment on the basis of the tariff classification of the goods which are subject to the highest rate of import or export duty.

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of this Article.

CHAPTER 4

DISPOSAL OF GOODS

Article 131

Destruction of goods

Where the customs authorities have reasonable grounds, they may require goods which have been presented to customs to be destroyed and shall inform the holder of the goods accordingly. The costs of destruction shall be borne by the holder(s) of the goods.

Article 132

Measures to be taken by the customs authorities

1. The customs authorities shall take any necessary measures, including confiscation and sale, or destruction, to dispose of goods in the following cases:
 - (a) where the goods have been brought unlawfully into the customs territory of the Community or have been withheld from customs supervision;
 - (b) where the goods cannot be released for any of the following reasons:
 - (i) it has not been possible to undertake or continue examination of the goods within the period prescribed by the customs authorities for reasons attributable to the declarant,
 - (ii) the documents which must be produced before the goods can be placed under, or released for, the customs procedure requested have not been made available,
 - (iii) payments or a guarantee which should have been made or provided in respect of import or export duties, as the case may be, have not been made or provided within the period prescribed,
 - (iv) they are subject to prohibitions or restrictions;

- (c) where the goods have not been removed within a reasonable period after their release;
 - (d) where after their release, the goods are found not to have fulfilled the conditions for that release;
 - (e) where goods are abandoned to the State in accordance with Article 133.
2. Non-Community goods which have been abandoned to the State, seized or confiscated shall be deemed to be placed under the temporary storage procedure.

Article 133

Abandonment

1. Non-Community goods and end-use goods, provided they have not been used, may with prior permission of the customs authorities be abandoned to the State by the holder of the procedure or, where applicable, the holder of the goods.
2. Abandonment shall not entail any expense for the State. The holder of the procedure or, where applicable, the holder of goods, shall bear the costs of any destruction or other disposal of goods.

Article 134

Implementing measures

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of this Chapter.

TITLE VI

RELEASE FOR FREE CIRCULATION AND RELIEF FROM IMPORT DUTIES

CHAPTER 1

RELEASE FOR FREE CIRCULATION

Article 135

Scope and effect

1. Non-Community goods intended to be put on the Community market or for private use or consumption within the Community shall be placed under release for free circulation.
2. Release for free circulation shall entail the following:
 - (a) the collection of any import duties; (b) the collection, as appropriate, of other charges, as provided for under relevant provisions in force relating to the collection of those charges;
 - (c) the application of commercial policy measures and prohibitions and restrictions in so far as they do not have to be applied at an earlier stage;
 - (d) completion of the other formalities laid down in respect of the importation of goods.
3. Release for free circulation shall confer on non-Community goods the customs status of Community goods.

CHAPTER 2

RELIEF FROM IMPORT DUTIES

Section 1

Returned goods

Article 136

Scope and effect

1. Non-Community goods which, having originally been exported as Community goods from the customs territory of the Community, are returned to that territory within a period of three years and declared for release for free circulation shall, at the request of the person concerned, be granted relief from import duties.
2. The three-year period referred to in paragraph 1 may be exceeded in order to take account of special circumstances.
3. Where, prior to their export from the customs territory of the Community, the returned goods had been released for free circulation duty-free or at a reduced rate of import duty because of a particular end-use, relief from duty under paragraph 1 shall be granted only if they are to be released for free circulation for the same end-use.

Where the end-use for which the goods in question are to be released for free circulation is no longer the same, the amount of import duties shall be reduced by any amount collected on the goods when they were first released for free circulation. Should the latter amount exceed that levied on the release for free circulation of the returned goods, no repayment shall be granted.

4. Where Community goods have lost their Community status pursuant to Article 108 and are subsequently released for free circulation, paragraphs 1, 2 and 3 of this Article shall apply *mutatis mutandis*.

5. The relief from import duties shall be granted only if goods are re-imported in the state in which they were exported.

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures laying down derogations from the first subparagraph.

Article 137

Cases in which no relief from import duties is granted

1. The relief from import duties provided for in Article 136 shall not be granted in the following cases:
 - (a) goods exported from the customs territory of the Community under the outward processing procedure, unless one of the following apply:
 - (i) those goods remain in the state in which they were exported;
 - (ii) the rules adopted in accordance with paragraph 2 allow for this.
 - (b) goods which have benefited from measures laid down under the common agricultural policies involving their export out of the customs territory of the Community, except where the rules adopted in accordance with paragraph 2 allow for this.
2. The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of paragraph 1 of this Article.

Article 138

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Article 139

Goods previously placed under the inward processing procedure

1. Article 136(1) and (2) shall apply *mutatis mutandis* to processed products which were originally re-exported from the customs territory of the Community subsequent to an inward processing procedure.
2. At the request of the declarant and provided he submits the necessary information, the amount of import duty on the goods covered by paragraph 1 of this Article shall be determined in accordance with Article 58(3). The date of acceptance of the re-export notification shall be regarded as the date of release for free circulation.
3. The relief from import duties provided for in Article 136 shall not be granted for processed products which were exported in accordance with point (b) of Article 150(2), unless it is ensured that no import goods will be placed under the inward processing procedure.

Section 2

Sea-fishing and products taken from the sea

Article 140

Products of sea-fishing and other products taken from the sea

1. Without prejudice to Article 39(1), the following shall be exempt from import duties when they are released for free circulation:
 - (a) products of sea-fishing and other products taken from the territorial sea of a country or territory outside the customs territory of the Community by vessels solely registered or recorded in a Member State and flying the flag of that state;
 - (b) products obtained from products referred to in point (a) on board factory-ships fulfilling the conditions laid down in that point.

2. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of paragraph 1 of this Article.

Section 3

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Article 141

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TITLE VII

SPECIAL PROCEDURES

CHAPTER 1

GENERAL PROVISIONS

Article 142

Scope

Goods may be placed under any of the following categories of special procedures:

- (a) transit; which shall comprise external and internal transit;
- (b) storage; which shall comprise temporary storage, customs warehousing and free zones;
- (c) specific use; which shall comprise temporary admission and end use;
- (d) processing; which shall comprise inward and outward processing.

Article 143

Authorization

1. The use of the inward or outward processing or the, temporary admission or the end use procedure shall be conditional upon authorization being issued by the customs authorities. The operation of storage facilities for the temporary storage or customs warehousing of goods shall also be conditional upon such an authorization which shall lay down the conditions for their operation.

The conditions under which the use of one or more special procedures is permitted shall be set out in the authorization.

An authorization may involve the customs authorities of more than one Member State (single authorization) or the use of more than one special procedure (integrated authorization).

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the conditions and procedures under which authorizations may be granted.

2. Except where otherwise provided for in the customs legislation, the authorization referred to in paragraph 1 shall be granted only to the following persons:
 - (a) persons who are established in the customs territory of the Community, except where otherwise provided for in the customs legislation;
 - (b) persons who provide the necessary assurance of the proper conduct of the operations and, in cases where a customs debt or other charges may be incurred for goods placed under a special procedure, provide a guarantee in accordance with Article 61;
 - (c) in the case of the temporary admission or inward processing procedure, the person who uses the goods or arranges for their use or who carries out processing operations on the goods or arranges for them to be carried out, respectively.

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures providing for derogations from points (a), (b) and (c) of the first subparagraph of this paragraph.

3. Except where otherwise provided for and in addition to paragraph 2, the authorization referred to in paragraph 1, shall be granted only where the following conditions are fulfilled:
 - (a) where the customs authorities are able to supervise the procedure without having to introduce administrative arrangements disproportionate to the economic needs involved;
 - (b) where the essential interests of Community producers would not be adversely affected by an authorization for the processing procedure (economic conditions).

The essential interests of Community producers shall be deemed not to be adversely affected, as referred to in point (b) of the first subparagraph, except where evidence to the contrary exists.

Where evidence exists that the essential interests of Community producers are likely to be adversely affected, an examination of the economic conditions shall take place in accordance with Article 197.

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures governing the examination of the economic conditions.

4. The holder of the authorization shall notify the customs authorities of all factors arising after the authorization was granted which may influence its continuation or content.

Article 144

Application

1. The application for an authorization for use of the processing, the temporary admission or the end use procedure shall be submitted to the customs authorities competent for the place where the applicant's main accounts for customs purposes are held, facilitating audit based controls.
2. The application for authorization for the operation of storage facilities for the temporary storage or customs warehousing of goods shall be submitted to the customs authorities competent for the place where those facilities are located or are to be located.

However, if the facilities are, or are to be, located in more than one Member States, paragraph 1 shall apply.

3. The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures providing for the implementation of and for derogations from paragraphs 1 and 2 of this Article.

Article 145

Records

1. Except for the transit procedure, , or where otherwise provided for under the customs legislation. the holder of the authorization, the holder of the procedure, and all persons carrying on an activity involving the storage, working or processing of goods, or the sale or purchase of goods in free zones, shall keep records in a form approved by the customs authorities.

The records must enable the customs authorities to supervise the procedure concerned, in particular with regard to the identification of the goods placed under that procedure, their customs status and their movements.

2. The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of paragraph 1 of this Article.

Article 146

Discharge of a procedure

1. In cases other than the transit procedure and without prejudice to Article 176, a special procedure shall be discharged when the goods placed under the procedure, or the processed products, are placed under a subsequent customs procedure, have left the customs territory of the Community or are abandoned to the State in accordance with Article 133.
2. In the case of the transit procedure, the procedure and the obligations of the holder of the procedure shall end when the goods placed under the procedure and the required data are produced at the customs office of destination in accordance with the provisions of the procedure concerned.

That procedure and those obligations shall be discharged by the customs authorities when they are in a position to establish, on the basis of a comparison of the data available to the customs office of departure and that available to the customs office of destination, that the procedure has ended correctly.

3. The customs authorities shall take all the measures necessary to regularize the situation of the goods in respect of which a procedure has not been discharged under the conditions prescribed.

Article 147

Transfer of rights and obligations

The rights and obligations of the holder of a procedure with regard to goods which have been placed under a special procedure other than transit may, under the conditions laid down by the customs authorities, be fully or partially transferred to other persons who fulfil the conditions laid down for the procedure concerned.

Article 148

Movement of goods

1. Goods placed under a special procedure other than transit or in a free zone may be moved between different places in the customs territory of the Community, in so far as this is provided for in the authorization or under the customs legislation..
2. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of the first paragraph of this Article.

Article 149

Usual forms of handling

Goods placed under customs warehousing or a processing procedure or in a free zone may undergo usual forms of handling intended to preserve them, improve their appearance or marketable quality or prepare them for distribution or resale.

Article 150

Equivalent goods

1. Equivalent goods shall consist in Community goods which are stored, used or processed instead of the goods placed under a special procedure.

Under the outward processing procedure, equivalent goods shall consist in non-Community goods which are processed instead of Community goods placed under the outward processing procedure.

Equivalent goods shall have the same eight-digit Combined Nomenclature code, the same commercial quality and the same technical characteristics as the goods they are replacing.

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures providing for derogations from the third subparagraph of this paragraph.

2. The customs authorities shall authorize the following, provided that the proper conduct of the procedure, in particular as regards customs supervision, is ensured:
 - (a) the use of equivalent goods under a special procedure other than the transit, temporary admission and temporary storage procedure;
 - (b) in the case of the inward processing procedure, the exportation of processed products obtained from equivalent goods before the importation of the goods they are replacing;
 - (c) in the case of the outward processing procedure, the importation of processed products obtained from equivalent goods before the exportation of the goods they are replacing.

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the cases in which the customs authorities may authorize the use of equivalent goods under temporary admission.

3. The use of equivalent goods shall not be permitted in connection with usual forms of handling as defined in Article 149 under inward processing or where it would lead to an unjustified import duty advantage.

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures specifying additional cases where equivalent goods may not be used.

4. In the case referred to in point (b) of paragraph 2 of this Article, and where the processed products would be liable to export duties if they were not being exported in the context of the inward processing procedure, the holder of the authorization shall provide a guarantee to ensure payment of the duties should the non-Community goods not be imported within the period referred to in Article 179 (3).

Article 151

Implementing measures

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures for the operation of the procedures under this Title.

CHAPTER 2

TRANSIT

Section 1

External and internal transit

Article 152

External transit

1. Under the external transit procedure, non-Community goods may be moved from one point to another within the customs territory of the Community without being subject to any of the following:
 - (a) import duties;
 - (b) other charges as provided for under other relevant provisions in force;
 - (c) commercial policy measures, in so far as they do prohibit the entry or exit of goods into or from the customs territory of the Community.
2. The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures laying down cases in which and the conditions under which Community goods shall be placed under external transit.
3. Movement as referred to in paragraph 1 shall take place in one of the following ways:
 - (a) under the external Community transit procedure referred to in Article 154(1);
 - (b) under cover of a TIR carnet (TIR Convention) provided that such movement:
 - (i) began or is to end outside the customs territory of the Community, or
 - (ii) is effected between two points in the customs territory of the Community through the territory of a country or territory outside the customs territory of the Community;

- (c) under cover of an ATA carnet (ATA Convention/Istanbul Convention) used as a transit document;
- (d) under cover of the Rhine Manifest (Article 9 of the Revised Convention for the Navigation of the Rhine);
- (e) 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;
- (f) under the postal system in accordance with the acts of the Universal Postal Union, when the goods are carried by or for holders of rights and obligations under such acts.

4. External transit shall apply without prejudice to Article 148.

Article 153

Internal transit

1. Under the internal transit procedure, and under the conditions laid down in paragraphs 2 and 3, Community goods may be moved from one point to another within the customs territory of the Community, and pass through another territory outside that territory, without any change in their customs status.
2. The movement referred to in paragraph 1 shall take place in one of the following ways:
 - (a) under the internal Community transit procedure, referred to in Article 154(2), provided that such a possibility is provided for in an international agreement;
 - (b) under cover of a TIR carnet (TIR Convention);

- (c) under cover of an ATA carnet (ATA Convention/Istanbul Convention) used as a transit document;
 - (d) under cover of a Rhine Manifest (Article 9 of the Revised Convention for the Navigation of the Rhine);
 - (e) under cover of form 302 as 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;
 - (f) under the postal system in accordance with the acts of the Universal Postal Union, when the goods are carried by or for holders of rights and obligations under such acts.
3. In the cases referred to in points (b) to (f) of paragraph 2, goods shall keep their customs status as Community goods only if that status is established under certain conditions and in the form laid down in the customs legislation.

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the conditions for and the form of the establishment of that customs status.

Section 2

Community transit

Article 154

Scope

1. Under the external Community transit procedure, the goods referred to in Article 152(1) and (2) may be moved in accordance with that Article and Articles 155 and 156.
2. Under the internal Community transit procedure, the goods referred to in Article 153(1) may be moved in accordance with that Article and Article 155.

Article 155

Obligations of the holder of the Community transit procedure and of the carrier and recipient of goods moving under the Community transit procedure

1. The holder of the Community transit procedure shall be responsible for the following:
 - (a) presentation of the goods intact at the customs office of destination within the prescribed time limit and in compliance with the measures taken by the customs authorities to ensure their identification;
 - (b) observance of the customs provisions relating to the procedure;
 - (c) unless otherwise provided for in the customs legislation, provision of a guarantee in order to ensure payment of any customs debt or other charges, as provided for under other relevant provisions in force, which may be incurred in respect of the goods.

2. A carrier or recipient of goods who accepts goods knowing that they are moving under the Community transit procedure shall also be responsible for presentation of the goods intact at the customs office of destination within the prescribed time limit and in compliance with the measures taken by the customs authorities to ensure their identification.

Article 156

Goods passing through the territory of a country outside of the customs territory of the Community under the external Community transit procedure

1. The external Community transit procedure shall apply to goods passing through a territory outside the customs territory of the Community if one of the following conditions is satisfied:

- (a) provision is made to that effect under an international agreement;
- (b) carriage through that territory is effected under cover of a single transport document drawn up in the customs territory of the Community.

In the case referred to in point (b) of the first paragraph, the operation of the external Community transit procedure shall be suspended while the goods are outside the customs territory of the Community.

CHAPTER 3

STORAGE

Section 1

Common provisions

Article 157

Scope

1. Under a storage procedure, non-Community goods may be stored in the customs territory of the Community without being subject to any of the following:
 - (a) import duties;
 - (b) other charges as provided for under other relevant provisions in force;
 - (c) commercial policy measures, in so far as they do not prohibit the entry or exit of goods into or from the customs territory of the Community.

2. Community goods may be placed under the customs warehousing or free zone procedure in accordance with the customs legislation or Community legislation governing specific fields, or in order to benefit from a decision granting repayment or remission of import duties;

The Commission may, in accordance with the procedure referred to in Article 196(2), adopt measures laying down cases in which, and the conditions under which, Community goods may be placed under the customs warehousing or free zone procedures.

Article 158

Responsibilities of the holder of the authorization or procedure

1. The holder of the authorization and the holder of the procedure shall be responsible for the following:
 - (a) ensuring that goods under the temporary storage or customs warehousing procedures are not removed from customs supervision;
 - (b) fulfilling the obligations arising from the storage of goods covered by the temporary storage or customs warehousing procedures;
 - (c) complying with the particular conditions specified in the authorization for the operation of a customs warehouse or temporary storage facilities.

2. By way of derogation from paragraph 1, where the authorization concerns a public customs warehouse, it may provide that the responsibilities referred to in points (a) or (b) of paragraph 1 devolve exclusively upon the holder of the procedure.

3. The holder of the procedure shall at all times be responsible for fulfilling the obligations arising from the placing of the goods under the temporary storage or customs warehousing procedures.

Article 159

Discharge of the storage procedure

There shall be no limit to the length of time goods may remain under a storage procedure.

However, in exceptional cases, the customs authorities may set a time limit by which a storage procedure must be discharged.

Section 2
Temporary storage

Article 160

Placing of goods in temporary storage

1. Where not otherwise declared for a customs procedure, the following non-Community goods shall be deemed to be declared for the temporary storage procedure by the holder of the goods at the moment of their presentation to customs:
 - (a) goods which are brought into the customs territory of the Community, other than directly into a free zone;
 - (b) goods which are brought from a free zone into another part of the customs territory of the Community;
 - (c) goods for which the external transit procedure is ended.

The customs declaration shall be considered to have been lodged and accepted by the customs authorities at the moment of presentation of the goods to customs.

2. The entry summary declaration, or a transit document replacing it, shall constitute the customs declaration for the temporary storage procedure.
3. The customs authorities may require the holder of the goods to provide a guarantee with a view to ensuring payment of any customs debt or other charges, as provided for under other relevant provisions in force, which may be incurred.
4. Where, for any reason, goods cannot be placed under the temporary storage procedure, the customs authorities shall without delay take all measures necessary to regularize the situation of the goods. Articles 131 to 133 shall apply *mutatis mutandis*.

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of the first subparagraph of this paragraph.

Article 161

Goods in temporary storage

1. Goods under the temporary storage procedure shall be stored only in places authorized for temporary storage.
2. Without prejudice to the provisions of Article 97(2), goods under the temporary storage procedure shall be subject only to such forms of handling as are designed to ensure their preservation in an unaltered state without modifying their appearance or technical characteristics.

Section 3

Customs warehousing

Article 162

Storage in customs warehouses

1. Under the customs warehousing procedure, non-Community goods may be stored in premises or any other location authorized for that procedure by and under the supervision of the customs authorities, hereinafter ‘customs warehouses’.
2. Customs warehouses may be available for use by any person for the warehousing of goods (public customs warehouse), or for the storage of goods by the holder of an authorization for customs warehousing (private customs warehouse).
3. Goods placed under the customs warehousing procedure may be temporarily removed from the customs warehouse. Such removal must, except in case of *force majeure*, be authorized in advance by the customs authorities.

Article 163

Community goods, end-use and processing activities

1. The customs authorities may, where an economic need exists and customs supervision will not be adversely affected, authorize the following to take place in a customs warehouse:
 - (a) storage of Community goods;
 - (b) processing of goods under the inward processing or end-use procedure, subject to the conditions provided for by these procedures.
2. In the cases referred to in paragraph 1, the goods shall not be regarded as being under the customs warehousing procedure.

Section 4

Free zones

Article 164

Designation of free zones

1. Member States may designate parts of the customs territory of the Community as free zones.

For each free zone the Member State shall determine the area covered and define the entry and exit points.

2. Free zones shall be enclosed.

The perimeter and the entry and exit points of the area of free zones shall be subject to supervision by the customs authorities.

3. Persons, goods and means of transport entering or leaving free zones may be subject to customs controls.

Article 165

Buildings and activities in free zones

1. The construction of any building in a free zone shall require the prior approval of the customs authorities.
2. Subject to customs legislation, any industrial, commercial or service activity shall be permitted in a free zone. The carrying on of such activities shall be subject to notification, in advance, to the customs authorities.
3. The customs authorities may impose prohibitions or restrictions on the activities referred to in paragraph 2, having regard to the nature of the goods in question, or the requirements of customs supervision, or security or safety requirements.
4. The customs authorities may prohibit persons who do not provide the necessary assurance of compliance with the customs provisions from carrying on an activity in a free zone.

Article 166

[Deleted]

Article 167

Presentation of goods and their placement under the procedure

1. Goods brought into a free zone shall be presented to customs and undergo the prescribed customs formalities in the following cases:
 - (a) where they are brought into the free zone directly from outside the customs territory of the Community;
 - (b) where they have been placed under a customs procedure which is ended or discharged when they are placed under the free zone procedure;

- (c) where they are placed under the free zone procedure in order to benefit from a decision granting repayment or remission of import duties;
 - (d) where they qualify for agricultural policy measures involving the export of such goods.
2. Goods brought into a free zone in circumstances other than those covered by paragraph 1 need not be presented to customs.
 3. Without prejudice to Article 168, goods brought into a free zone are deemed to be placed under the free zone procedure:
 - (a) at the moment of their entry into a free zone, unless they have already been placed under another customs procedure;
 - (b) at the moment when a transit procedure is ended, unless they are immediately placed under a subsequent customs procedure.

Article 168

Community goods in free zones

1. Community goods may be entered, stored, moved, used, processed or consumed in a free zone. In such cases the goods shall not be regarded as being under the free zone procedure.
2. At the request of the person concerned, the customs authorities shall certify the Community status of the following goods:
 - (a) Community goods which enter into a free zone;
 - (b) Community goods which have undergone processing operations within a free zone;
 - (c) goods released for free circulation within a free zone.

Article 169

Non-Community goods in free zones

1. Non-Community goods may, while they remain in a free zone, be released for free circulation or be placed under the inward processing, temporary admission or end-use procedure, under the conditions laid down for these procedures.

In such cases the goods shall not be regarded as being under the free zone procedure.

2. Without prejudice to the provisions applicable to supplies or to victualling storage, where the procedure concerned so provides, paragraph 1 of this Article shall not preclude the use or consumption of goods of which the release for free circulation or temporary admission would not entail application of import duties or measures laid down under the common agricultural or commercial policies.

In the case of such use or consumption, no declaration for the release for free circulation or temporary admission procedure shall be required.

Such declaration shall, however, be required if such goods are subject to a tariff quota or ceiling.

Article 170

Bringing goods out of a free zone

Without prejudice to legislation in other fields, goods in a free zone may be exported or re-exported from the customs territory of the Community, or brought into another part of the customs territory of the Community.

Articles 97 to 104 shall apply *mutatis mutandis* to goods brought into other parts of the customs territory of the Community.

Article 171

Customs status

Where goods are brought out of a free zone into another part of the customs territory of the Community or placed under a customs procedure, they shall be regarded as non-Community goods unless their status as Community goods has been proven by the certificate referred to in Article 168(2) or by any other status document provided for in Community customs legislation.

However, for the purposes of applying export duties and export licences or export control measures laid down under the common agricultural or commercial policies, such goods shall be regarded as Community goods, unless it is established that they do not have the customs status of Community goods.

CHAPTER 4

SPECIFIC USE

Section 1

Temporary admission

Article 172

Scope

1. Under the temporary admission procedure non-Community goods intended for re-export may be used in the customs territory of the Community, with total or partial relief from import duties, and without being subject to measures laid down under the common commercial policy, in so far as they do not apply to the entry or exit of goods into or from the customs territory of the Community.

Such goods shall also benefit from relief from other charges in accordance with other relevant provisions in force.

2. The temporary admission procedure may only be used provided that the following conditions are met:
 - (a) the goods are not intended to undergo any change, except normal depreciation due to the use made of them;
 - (b) it is possible to ensure that the goods placed under the procedure can be identified, except where, in view of the nature of the goods or of the intended use, the absence of identification measures is not liable to give rise to any abuse of the procedure or, in the case referred to in Article 150, where compliance with the conditions laid down in respect of equivalent goods can be verified;
 - (c) the holder of the procedure is established outside the customs territory of the Community, except where otherwise provided for in the customs legislation;
 - (d) the requirements for total or partial duty relief laid down in the Community customs legislation are met.

Article 173

Period during which goods may remain under temporary admission

1. The customs authorities shall determine the period within which goods placed under the temporary admission procedure must have been re-exported or placed under a subsequent customs procedure. Such period must be long enough for the objective of authorized use to be achieved.
2. The maximum period during which goods may remain under the temporary admission procedure for the same purpose and under the responsibility of the same holder of the authorization shall be 24 months, even where the procedure was discharged by placing the goods under another special procedure and subsequently placing them under the temporary admission procedure again.
3. Where, in exceptional circumstances, the authorized use cannot be achieved within the periods referred to in paragraphs 1 and 2, the customs authorities may, at the request of the holder of the authorization, extend those periods for a reasonable duration.

Article 174

Situations covered by temporary admission

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the cases in which, and the conditions under which, the temporary admission procedure may be used and total or partial relief from import duties may be granted.

In adopting these measures, account shall be taken of international agreements and of the nature and the use of the goods.

Article 175

Amount of import duties in case of temporary admission with partial relief from import duties

1. The amount of import duties in respect of goods placed under the temporary admission procedure with partial relief from import duties shall be set at 3% of the amount of import duties which would have been payable on those goods had they been released for free circulation on the date on which they were placed under the temporary admission procedure.

That amount shall be payable for every month or fraction of a month during which the goods have been placed under temporary admission with partial relief from import duties.

2. The amount of import duties shall not exceed that which would have been payable if the goods in question had been released for free circulation on the date on which they were placed under the temporary admission procedure.

Section 2

End-use

Article 176

End-use procedure

1. Under the end-use procedure, goods may be released for free circulation under a duty exemption or at a reduced rate of duty on account of their end-use. They shall remain under customs supervision.
2. Customs supervision under the end-use procedure shall end in the following cases:
 - (a) where the goods have been used for the purposes laid down for the application of the duty exemption or reduced rate of duty;
 - (b) where the goods are exported, destroyed or abandoned to the State;

- (c) where the goods have been used for purposes other than those laid down for the application of the duty exemption or reduced duty rate and the applicable import duties have been paid.
3. Where a rate of yield is required, Article 177 shall apply *mutatis mutandis* to the end-use procedure.

CHAPTER 5

PROCESSING

Section 1

General provisions

Article 177

Rate of yield

Except where a rate of yield has been specified in Community legislation governing specific fields, the customs authorities shall set either the rate of yield or average rate of yield of the operation carried out under the processing procedure or where appropriate, the method of determining such rate.

The rate of yield or average rate of yield shall be determined on the basis of the actual circumstances in which processing operations are, or are to be, carried out. This rate may be adjusted, where appropriate, in accordance with Articles 19 and 20.

Section 2

Inward processing

Article 178

Scope

1. Without prejudice to Article 150, under the inward processing procedure non-Community goods may be used in the customs territory of the Community in one or more processing operations without such goods being subject to any of the following:
 - (a) import duties;
 - (b) other charges as provided for under other relevant provisions in force;

- (c) measures laid down under the common commercial policy, in so far as they do not apply to the entry or exit of goods into or from the customs territory of the Community.
2. The inward processing procedure may be used in cases other than repair only where, without prejudice to the use of production accessories, the goods placed under the procedure can be identified in the processed products.

In the case referred to in Article 150, the procedure may be used where compliance with the conditions laid down in respect of equivalent goods can be verified.

3. In addition to paragraphs 1 and 2, the inward processing procedure may also be used for the following goods:
- (a) goods intended to undergo operations to ensure their compliance with technical provisions for their release for free circulation;
 - (b) goods which have to undergo usual forms of handling in accordance with Article 149.

Article 179

Period for discharge

1. The customs authorities shall specify the period within which the inward processing procedure is to be discharged, in accordance with Article 146.

That period shall run from the date on which the non-Community goods are placed under the procedure and shall take account of the time required to carry out the processing operations and to discharge the procedure.

2. The customs authorities may, grant an extension, of reasonable duration, of the period specified pursuant to paragraph 1, on submission of a duly substantiated request by the holder of the authorization.

The authorization may specify that a period which commences in the course of a calendar month, quarter or semester shall end on the last day of a subsequent calendar month, quarter or semester respectively.

3. In cases of prior exportation in accordance with point (b) of Article 150(2), the customs authorities shall specify the period within which the non-Community goods must be declared for the procedure. That period shall run from the date of acceptance of the export declaration relating to the processed products obtained from the corresponding equivalent goods.

Article 180

Temporary re-export for further processing

Subject to authorization by the customs authorities, some or all of the goods placed under the inward processing procedure, or the processed products, may be temporarily re-exported for the purpose of further processing outside the customs territory of the Community, in accordance with the conditions laid down for the outward processing procedure.

Section 3

Outward processing

Article 181

Scope

1. Under the outward processing procedure Community goods may be temporarily exported from the customs territory of the Community in order to undergo processing operations. The processed products resulting from those goods may be released for free circulation with total or partial relief from import duties at the request of the holder of the authorization or any other person established in the customs territory of the Community provided that that person has obtained the consent of the holder of the authorization and the conditions of the authorization are fulfilled.

2. Outward processing shall not be allowed for the following Community goods:
 - (a) goods the export of which gives rise to repayment or remission of import duties;
 - (b) goods which, prior to exportation, were released for free circulation under a duty exemption or at a reduced rate of duty by virtue of their end-use, for as long as the purposes of such end-use have not been fulfilled, unless these goods have to undergo repair operations;
 - (c) goods the export of which gives rise to the granting of export refunds;
 - (d) goods in respect of which a financial advantage other than refunds referred to in point (c) is granted under the common agricultural policy by virtue of the exportation of those goods.

3. In cases not covered by Articles 182 and 183 and where *ad valorem* duties are involved, the amount of the import duty shall be calculated on the basis of the cost of the processing operation undertaken outside the customs territory of the Community.

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the rules for such calculation and the rules where specific duties are involved.

4. The customs authorities shall specify the period within which goods temporarily exported must be re-imported into the customs territory of the Community in the form of processed products, and placed under release for free circulation, in order to be able to benefit from total or partial relief from import duties. They may, extend that period, for a reasonable duration, on submission of a duly substantiated request by the holder of the authorization.

Article 182

Goods repaired free of charge

1. Where it is established to the satisfaction of the customs authorities that goods have been repaired free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing or material defect they shall be eligible for total relief from import duties.
2. Paragraph 1 shall not apply where account was taken of the manufacturing or material defect at the time when the goods in question were first released for free circulation.

Article 183

Standard exchange system

1. Under the standard exchange system an imported product, hereinafter referred to as a replacement product, may, in accordance with paragraphs 2 to 5, replace a processed product.
2. The customs authorities shall authorize the standard exchange system to be used where the processing operation involves the repair of Community goods other than those subject to measures laid down under the common agricultural policies or to the specific arrangements applicable to certain goods resulting from the processing of agricultural products.
3. Replacement products shall have the same eight digit Combined Nomenclature code, the same commercial quality and the same technical characteristics as the defective goods had the latter undergone repair.
4. Where the defective goods have been used before export, the replacement products must also have been used.

The customs authorities shall, however, waive the requirement set out in the first subparagraph if the replacement product has been supplied free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a material or manufacturing defect.

5. The provisions which would be applicable to the processed products shall apply to the replacement products.

Article 184

Prior importation of replacement products

1. The customs authorities shall, under the conditions they lay down, and at the request of the person concerned, authorize replacement products to be imported before the defective goods are exported.

In the event of such prior importation of a replacement product, a guarantee shall be provided covering the amount of the import duties that would be payable should the defective goods not be exported in accordance with paragraph 2.

2. The defective goods shall be exported within a period of two months from the date of acceptance by the customs authorities of the declaration for the release for free circulation of the replacement products.
3. Where, in exceptional circumstances, the defective goods cannot be exported within the period referred to in paragraph 2, the customs authorities may, at the request of the person concerned, extend that period for a reasonable duration.

TITLE VIII

DEPARTURE OF GOODS FROM THE CUSTOMS TERRITORY OF THE COMMUNITY

CHAPTER 1

GOODS LEAVING THE CUSTOMS TERRITORY

Article 185

Obligation to lodge a pre-departure declaration

1. Goods destined to leave the customs territory of the Community shall be covered by a pre-departure declaration lodged or made available at the competent customs office before the goods are to be brought out of the customs territory of the Community.

However, the first subparagraph shall not apply to goods carried on means of transport which only pass through the territorial waters or the airspace of the customs territory of the Community without a stop therein.

2. The pre-departure declaration shall take the form of one of the following:
 - (a) where goods leaving the customs territory of the Community are placed under a customs procedure for the purpose of which a customs declaration is required, the appropriate customs declaration;
 - (b) a re-export notification, in accordance with Article 189;
 - (c) where neither a customs declaration nor a re-export notification is required, the exit summary declaration referred to in Article 190.
3. The pre-departure declaration shall contain at least the particulars necessary for the exit summary declaration.

Article 186

Measures establishing certain details

1. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures concerning the following:

- (a) the cases in which, and the conditions under which, goods leaving the customs territory of the Community are not subject to a pre-departure declaration;
- (b) the conditions under which the requirement for a pre-departure declaration may be waived or adapted;
- (c) the deadline by which the pre-departure declaration shall be lodged or made available before the goods are brought out of the customs territory of the Community;
- (d) any exceptions from and variations to the deadline referred to in point (c);
- (e) the determination of the competent customs office at which the pre-departure declaration shall be lodged or made available and where risk analysis and risk-based export and exit controls are to be carried out.

2. In adopting these measures, account shall be taken of the following:

- (a) special circumstances;
- (b) the application of these measures to certain types of goods traffic, modes of transport or economic operators;
- (c) international agreements which provide for special security arrangements.

Article 187

Formalities and customs supervision

1. Goods destined to leave the customs territory of the Community shall be subject to the application of exit formalities, which shall, as appropriate, include the following:

- (a) the repayment or remission of import duties or the payment of export refunds;
- (b) the collection of export duties;

- (c) the formalities required under provisions in force with regard to other charges;
 - (d) the application of prohibitions and restrictions, justified on grounds of, inter alia, public morality, public policy or public security, the protection of the health and life of humans, animals or plants, the protection of the environment, the protection of national treasures possessing artistic, historic or archaeological value, the implementation of fishery conservation and management measures or the protection of industrial or commercial property, including controls on drug pre-cursors, counterfeit goods and cash leaving the Community;
 - (e) the application of measures laid down under the commercial policy;
2. Goods leaving the customs territory of the Community shall be subject to customs supervision and may be subject to customs control. Where appropriate, the customs authorities may, in accordance with the measures adopted under paragraph 4, determine the route to be used, and the time limit to be respected when goods are to leave the customs territory of the Community.
 3. Release for exit shall be granted on condition that the goods in question leave the customs territory of the Community in the same condition as when the pre-departure declaration was accepted.
 4. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of paragraphs 1, 2 and 3 of this Article.

CHAPTER 2

EXPORT AND RE-EXPORT

Article 188

Community goods

1. Community goods destined to leave the customs territory of the Community shall be placed under the export procedure.
2. The first paragraph shall not apply to the following goods:
 - (a) goods placed under the end-use or outward processing procedure;
 - (b) goods placed under the internal transit procedure or leaving the customs territory of the Community temporarily, in accordance with Article 109.

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the export formalities applicable to goods placed under the end-use or outward processing procedure.

3. Goods dispatched to Heligoland shall not be considered to be exports from the customs territory of the Community.

Article 189

Non-Community goods

1. Non-Community goods destined to leave the customs territory of the Community shall be subject to a re-export notification to be lodged at the competent customs office and to the exit formalities.
2. Articles 110 to 124 shall apply *mutatis mutandis* to the re-export notification.

- 3 Paragraph 1 shall not apply to the following goods:
- (a) goods placed under the external transit procedure and which only pass through the customs territory of the Community;
 - (b) goods trans-shipped within, or directly re-exported from, a free zone;
 - (c) goods under the temporary storage procedure which are directly re-exported from an authorized temporary storage facility.

Article 190

Exit summary declaration

1. Where goods are destined to leave the customs territory of the Community and a customs declaration or a re-export notification is not required, an exit summary declaration shall be lodged at the competent customs office, in accordance with Article 185.
2. The exit summary declaration shall be made using an electronic data processing technique. Commercial, port or transport information may be used, provided that it contains the necessary particulars for an exit summary declaration.
3. In exceptional circumstances, customs authorities may accept paper-based exit summary declarations, provided that they apply the same level of risk management as that applied to exit summary declarations made using an electronic data processing technique and that the requirements for the exchange of such data with other customs offices can be met.

Customs authorities may accept, instead of the lodging of the exit summary declaration, the lodging of a notification and access to the summary declaration data in the economic operator's computer system.

4. The exit summary declaration shall be lodged by one of the following persons:
 - (a) the person who brings the goods, or who assumes responsibility for the carriage of the goods, out of the customs territory of the Community;

- (b) the exporter or consignor or other person in whose name or on whose behalf the persons referred to in point (a) act;
- (c) any person who is able to present the goods in question or to have them presented to the competent customs authority.

Article 191

Amendment of the exit summary declaration

The person who lodges the exit summary declaration shall, at his request, be permitted to amend one or more particulars of that declaration after it has been lodged.

However, no amendment shall be possible after any of the following events:

- (a) the customs authorities have informed the person who lodged the summary declaration that they intend to examine the goods;
- (b) the customs authorities have established that the particulars in question are incorrect;
- (c) the customs authorities have already allowed the removal of the goods.

The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down exceptions to point (c) of the second subparagraph of this Article.

CHAPTER 3

RELIEF FROM EXPORT DUTIES

Article 192

Temporary export

1. Without prejudice to Article 181 Community goods may be temporarily exported from the customs territory of the Community and benefit from export duty relief, conditional upon re-importation.
2. The Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures for the implementation of paragraph 1 of this Article.

Article 193

[Deleted]

TITLE IX

CUSTOMS CODE COMMITTEE AND FINAL PROVISIONS

CHAPTER 1

CUSTOMS CODE COMMITTEE

[Article 194

Further implementing measures

1. In addition to the implementing measures referred to in this Code, the Commission shall, in accordance with the procedure referred to in Article 196(2), adopt measures laying down the following:
 - (a) rules and standards for the inter-operability of Member States' customs systems as well as for the relevant Community components to bring about improved co-operation based upon electronic data exchange between customs authorities, between customs authorities and the Commission and between customs authorities and economic operators;
 - (b) the conditions under which, the Commission may issue decisions requesting Member States to revoke or amend
 - a special decision issued in accordance with Article 21 and giving a different binding information compared with other special decisions on the same subject, or
 - a decision issued within the framework of the Customs legislation which deviates from comparable decisions of other competent authorities and thereby compromises the uniform application of customs legislation.
 - (c) any other implementing measures, where necessary, including where the Community has accepted commitments and obligations in relation to international agreements which require the adaptation of provisions of the Code.

2. The Commission may, in accordance with the procedure referred to in Article 196(4), adopt measures laying down further cases and conditions under which the application of this Code may be simplified.]

[Article 195

Explanatory notes and guidelines

The Commission shall, in accordance with the procedure referred to in Article 196(3), adopt the following:

- (a) explanatory notes to this Code and the provisions adopted for its implementation, as well as to the rules of origin referred to in Article 42;
- (b) guidelines providing a Community interpretation of the provisions of the Code and other customs legislation.]

Article 196

Committee

1. The Commission shall be assisted by the Customs Code Committee, hereinafter referred to as ‘the Committee’.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4 (3) of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
4. Where reference is made to this paragraph, Article 5a of Decision 1999/468/EC as amended by Decision 2006/512/EC shall apply.
5. The Committee shall adopt its rules of procedure.

Article 197

Further matters

The Committee may examine any question concerning the Code, or the measures adopted for its implementation which is raised by its chairman, either on the initiative of the Commission or at the request of a representative of a Member State, and which concerns, in particular, the following:

- (a) any problems arising from the application of customs legislation;
- (b) any position to be taken by the Community in committees, working groups and panels introduced by or under international agreements dealing with customs legislation.

CHAPTER 2

FINAL PROVISIONS

Article 198

Repeal

Regulations (EEC) No 3925/91, (EEC) No 2913/92, (EC) No 82/2001 and (EC) No 1207/2001 are hereby repealed.

References to the repealed Regulations shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in the Annex.

Article 199

[Deleted]

Article 200

Entry into force

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 January 2009.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President