

I

(Legislative acts)

REGULATIONS

REGULATION (EU) No 952/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 9 October 2013

laying down the Union Customs Code

(recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 33, 114 and 207 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

(1) A number of amendments are to be made to Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code) ⁽³⁾. In the interests of clarity, that Regulation should be recast.

(2) It is appropriate to ensure that Regulation (EC) No 450/2008 is consistent with the Treaty on the Functioning of the European Union (TFEU), in particular Articles 290 and 291 thereof. It is also appropriate that the Regulation take account of the evolution of Union law and that some of its provisions are adapted in order to facilitate their application.

(3) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(4) In particular, when preparing and drawing up delegated acts, the Commission should ensure that Member States' experts and the business community are consulted in a transparent manner, and well in advance.

(5) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in order: to specify the format and code of the common data requirements for the purpose of the exchange of information between the customs authorities and between economic operators and customs authorities and the storage of such information and the procedural rules on the exchange and storage of information which can be made by means other than electronic data-processing techniques; to adopt decisions allowing one or several Member States to use means for the exchange and storage of information other than electronic data-processing techniques; to specify the customs authority which is responsible for the registration of economic operators and of other persons; to specify the technical arrangements for developing, maintaining and employing electronic systems; to specify the procedural rules on the conferral and proving of the entitlement for a customs representative to provide services in a Member State other than the one where he or she is established; the procedural rules on the submission and acceptance of an application for a decision relating to the application of the customs legislation, and on the taking and the monitoring of such a decision; the procedural rules on the annulment,

⁽¹⁾ OJ C 229, 31.7.2012, p. 68.

⁽²⁾ Position of the European Parliament of 11 September 2013 (not yet published in the Official Journal) and decision of the Council of 27 September 2013.

⁽³⁾ OJ L 145, 4.6.2008, p. 1.

revocation and amendment of favourable decisions; the procedural rules on the use of a decision relating to binding information after it ceases to be valid or is revoked; the procedural rules on the notification to the customs authorities that the taking of such decisions is suspended and on the withdrawal of such suspension; to adopt decisions requesting Member States to revoke decisions relating to binding information; to adopt the modalities for the application of the criteria for the granting of the status of authorised economic operator; to adopt measures to ensure uniform application of customs controls, including the exchange of risk information and analysis,

common risk criteria and standards, control measures and priority control areas; to determine the ports or airports where customs controls and formalities are to be carried out on cabin and hold baggage; to lay down the rules on currency conversion; to adopt measures on the uniform management of tariff quota and tariff ceilings and the management of the surveillance of the release for free circulation or export of goods; to adopt measures to determine the tariff classification of goods; to specify the procedural rules on the provision and the verification of the proof of non-preferential origin; the procedural rules on the facilitation of the establishment in the Union of the preferential origin of goods; to adopt measures to determine the origin of specific goods; the granting of a temporary derogation from the rules on preferential origin of goods benefiting from preferential measures adopted unilaterally by the Union; the determination of the origin of specific goods;

to specify the procedural rules on the determination of the customs value of goods; to specify the procedural rules on the provision of a guarantee, the determination of its amount, its monitoring and release and the revocation and cancellation of an undertaking given by a guarantor; to specify the procedural rules regarding temporary prohibitions of the use of comprehensive guarantees; to adopt measures to ensure mutual assistance between the customs authorities in the event of the incurrance of a customs debt; to specify the procedural rules on repayment and remission of an amount of import or export duty and the information to be provided to the Commission; to adopt decisions on repayment or remission of an amount of import or export duty; to specify the procedural rules on the lodging, amendment and invalidation of an entry summary declaration; to specify the time-limit within which a risk analysis is to be carried out on the basis of the entry summary declaration; to specify the procedural rules on the notification of arrival of sea-going vessels and aircraft and on the conveyance of goods to the appropriate place; to specify the procedural rules on the presentation of goods to customs; the procedural rules on the lodging, amendment and invalidation of the temporary storage declaration and on the movement of goods in temporary storage; the procedural rules for the provision and verification of the proof of the customs status of Union goods; the procedural rules on the determination of competent customs offices and on the lodging of the customs declaration where other

means than electronic data processing techniques are used; the procedural rules on the lodging of a standard customs declaration and on the making available of supporting documents; the procedural rules on the lodging of a simplified declaration and a supplementary declaration; the procedural rules on the lodging of a customs declaration prior to the presentation of goods to customs, the acceptance of the customs declaration and the amendment of the customs declaration after the release of the goods; to adopt measures for the determination of the tariff subheading of the goods which are subject to the highest rate of import or export duty where a consignment is made of goods falling under different tariff subheadings; to specify the procedural rules on centralised clearance and on the waiver from the obligation for goods to be presented in that context; the procedural rules on entry in the declarant's records; the procedural rules on the customs formalities and controls to be carried out by the holder of the authorisation in the context of self-assessment; to adopt measures on the verification of the customs declaration, the examination and sampling of goods and the results of the verification;

the procedural rules on the disposal of goods; the procedural rules on the provision of information establishing that the conditions for relief from import duty for returned goods are fulfilled and on the provision of evidence that the conditions for relief from import duty for products of sea-fishing and other products taken from the sea are fulfilled; the procedural rules on the examination of the economic conditions in the context of special procedures; the procedural rules on the discharge of a special procedure; the procedural rules on the transfer of rights and obligations and the movement of goods in the context of special procedures; the procedural rules on the use of equivalent goods in the context of special procedures; the procedural rules for the application of the provisions of international transit instruments in the customs territory of the Union; the procedural rules on the placing of goods under the Union transit procedure and on the end of that procedure, on the operation of the simplifications of that procedure and on the customs supervision of goods passing through the territory of a country or territory outside the customs territory of the Union under the external Union transit procedure; the procedural rules on the placing of goods under the customs warehousing or free zone procedure; to lay down the time-limit within which risk analysis is to be carried out on the basis of the pre-departure declaration; to specify the procedural rules on the exit of goods;

the procedural rules on the lodging, amendment and invalidation of the exit summary declaration; the procedural rules on the lodging, amendment and invalidation of the re-export notification; to adopt a work programme supporting the development of related electronic systems and governing the setting up of transitional periods; to adopt decisions authorising Member States to test simplifications in the application of the customs legislation, especially when those simplifications are information technology (IT) related. Those powers

- should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers ⁽¹⁾.
- (6) Considering the cooperation which is needed between the Member States and the Commission to develop, maintain and employ the electronic systems required for the implementation of the Union Customs Code (the Code), the Commission should not adopt the work programme supporting that development and governing the setting up of transitional periods where no opinion is delivered by the committee examining the draft implementing act.
- (7) The advisory procedure should be used for the adoption of: decisions allowing one or several Member States to use means for the exchange and storage of information other than electronic data-processing techniques, given that those decisions do not affect all Member States; decisions requesting Member States to revoke decisions relating to binding information, given that those decisions affect only one Member State and aim at ensuring compliance with the customs legislation; decisions on repayment or remission of an amount of import or export duty given that those decisions directly affect the applicant for that repayment or remission.
- (8) In duly justified cases, where imperative grounds of urgency so require, the Commission should adopt immediately applicable implementing acts relating to: measures to ensure uniform application of customs controls, including the exchange of risk information and analysis, common risk criteria and standards, control measures and priority control areas; the determination of the tariff classification of goods; the determination of the origin of specific goods; measures temporarily prohibiting the use of comprehensive guarantees.
- (9) The Union is based upon a customs union. It is advisable, in the interests both of economic operators and of the customs authorities in the Union, to assemble current customs legislation in a code. Based on the concept of an internal market, that code should contain the general rules and procedures which ensure the implementation of the tariff and other common policy measures introduced at Union level in connection with trade in goods between the Union and countries or territories outside the customs territory of the Union, taking into account the requirements of those common policies. Customs legislation should be better aligned on the provisions relating to the collection of import charges without change to the scope of the tax provisions in force.
- (10) In order to ensure effective administrative simplification, the views of economic operators should be taken into account when the customs legislation is further modernised.
- (11) In accordance with the Commission Communication of 9 August 2004 entitled "Protecting the Communities' financial interests - Fight against fraud - Action Plan for 2004-2005", it is appropriate to adapt the legal framework for the protection of the financial interests of the Union.
- (12) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽²⁾ was based upon integration of the customs procedures applied separately in the respective 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 that Regulation were introduced by Regulation (EC) No 648/2005 of the European Parliament and of the Council of 13 April 2005 ⁽³⁾ - and subsequently included in Regulation (EC) No 450/2008 - as a consequence of the important legal changes which have occurred in recent years, at both Union and international level, such as the expiry of the Treaty establishing the European Coal and Steel Community and the entry into force of the 2003, 2005 and 2011 Acts of Accession, as well as the amendment to the International Convention on the simplification and harmonisation of customs procedures (the Revised Kyoto Convention), the Union's accession to which was approved by Council Decision 2003/231/EC of 17 March 2003 ⁽⁴⁾.
- (13) It is appropriate to introduce in the Code a legal framework for the application of certain provisions of the customs legislation to trade in Union goods between parts of the customs territory to which the provisions of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽⁵⁾ or Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty ⁽⁶⁾ apply and parts of that territory where those provisions do not apply, or to trade between parts where those provisions do not apply. Considering the fact that the goods concerned are Union goods and considering the fiscal nature of the measures at stake in that intra-Union trade, it is justified to introduce, appropriate simplifications to the customs formalities to be applied to those goods.

⁽¹⁾ OJ L 55, 28.2.2011, p. 13.

⁽²⁾ OJ L 302, 19.10.1992, p. 1.

⁽³⁾ OJ L 117, 4.5.2005, p. 13.

⁽⁴⁾ OJ L 86, 3.4.2003, p. 21.

⁽⁵⁾ OJ L 347, 11.12.2006, p. 1.

⁽⁶⁾ OJ L 9, 14.1.2009, p. 12.

- (14) In order to take into account the special fiscal regime of certain parts of the customs territory of the Union, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the customs formalities and controls to be applied to the trade in Union goods between those parts and the rest of the customs territory of the Union.
- (15) 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 Commission Communication of 24 July 2003 entitled "A simple and paperless environment for customs and trade", to simplify customs legislation, to allow the use of modern tools and technology and to promote further the uniform application of customs legislation and modernised approaches to customs control, thus helping to ensure 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.
- (16) 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 Union have transformed the role of customs authorities giving them a leading role within the supply chain and, in their monitoring and management of international trade, making them a catalyst to the competitiveness of countries and companies. The customs legislation should therefore reflect the new economic reality and the new role and mission of customs authorities.
- (17) The use of information and communication technologies, as laid down in Decision No 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless environment for customs and trade⁽¹⁾, 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 in the Code the legal framework within which that Decision can be implemented, in particular the legal principle that all customs and trade transactions are to be handled electronically and that information and communication systems for customs operations are to offer, in each Member State, the same facilities to economic operators.
- (18) In order to ensure a paperless environment for customs and trade, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of common data requirements for the purpose of the exchange and storage of information using electronic data processing techniques, cases where other means may be used for such exchange and storage and registration of persons. Means other than electronic data processing techniques could be used in particular on a transitional basis, where the necessary electronic systems are not yet operational, but not beyond 31 December 2020. Insofar as centralised clearance is concerned, those transitional measures would consist, until the necessary electronic systems are operational, in maintaining the procedure currently known as the 'single authorisation for simplified procedures'.
- (19) Use of information and communication technologies should be accompanied by harmonised and standardised application of customs controls by the Member States, to ensure an equivalent level of customs control throughout the Union so as not to give rise to anti-competitive behaviour at the various Union entry and exit points.
- (20) In the interests of facilitating business, while at the same time providing for the proper levels of control of goods brought into or taken out of the customs territory of the Union, it is desirable that the information provided by economic operators be shared, taking account of the relevant data-protection provisions, between customs authorities and with other agencies involved in that control. Those controls should be harmonised, so that the economic operator need give the information only once and that goods are controlled by those authorities at the same time and at the same place.
- (21) In the interests of facilitating business, all persons should continue to have the right to appoint a representative in their dealings with the customs authorities. However, it should no longer be possible for that right of representation to be reserved under a law laid down by one of the Member States. Furthermore, a customs representative who complies with the criteria for the granting of the status of authorised economic operator for customs simplifications should be entitled to provide his or her services in a Member State other than the Member State where he or she is established. As a general rule, a customs representative should be established in the customs territory of the Union. That obligation should be waived where the customs representative acts on behalf of persons who are not required to be established within the customs territory of the Union or in other justified cases.
- (22) All decisions relating to the application of the customs legislation, including to binding information, should be covered by the same rules. Any such decisions should be valid throughout the Union and should be capable of being annulled, amended except where otherwise stipulated, or revoked where they do not conform to the customs legislation or its interpretation.

⁽¹⁾ OJ L 23, 26.1.2008, p. 21.

- (23) 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 penalties throughout the internal market.
- (24) Compliant and trustworthy economic operators should enjoy the status of 'authorised economic operator' subject to the granting of an authorisation for customs simplifications or an authorisation for security and safety, or both. Depending on the type of authorisation granted, authorised economic operators should be able to take maximum advantage of widespread use of customs simplifications or benefit from facilitations relating to security and safety. They should also be given more favourable treatment in respect of customs controls, such as fewer physical and document-based controls.
- (25) Compliant and trustworthy economic operators should benefit from international mutual recognition of the status of 'authorised economic operator'.
- (26) In order to secure a balance between, on the one hand, the need for customs authorities to ensure the correct application of the 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.
- (27) In accordance with the Charter of Fundamental Rights of the European Union, 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 or her. However, restrictions to that right may be justified in particular where the nature or the level of the threat to the security and safety of the Union and its residents, to human, animal or plant health, to the environment or to consumers so requires.
- (28) In order to minimise the risk to the Union, its citizens and its trading partners, the harmonised 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.
- (29) In order to ensure a consistent and equal treatment of persons concerned by customs formalities and controls, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of determining other cases where the customs representative is not obliged to be established in the customs territory of the Union and rules relating to decisions taken by the customs authorities, including those relating to binding information, authorised economic operator and simplifications.
- (30) It is necessary to establish the factors on the basis of which import or export duty and other measures in respect of trade in goods are applied. It is also appropriate to lay down more detailed provisions for issuing proofs of origin in the Union, where the exigencies of trade so require.
- (31) In order to supplement the factors on the basis of which import or export duty and other measures are applied, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of rules on origin of goods.
- (32) It is desirable to group together all cases of incurrence of a customs debt on import, 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 cases of incurrence of a customs debt on export.
- (33) It is appropriate to establish the place where the customs debt is incurred and where the import or export duty should be recovered.
- (34) 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.
- (35) A comprehensive guarantee with a reduced amount, including for customs debts and other charges which have been incurred, or a comprehensive guarantee with a guarantee waiver, should be authorised under certain conditions. A comprehensive guarantee with a reduced amount for customs debts and other charges which have been incurred should be equivalent to the provision of a guarantee for the whole amount of import or export duty payable, in particular for the purposes of the release of the goods concerned and of the entry in the accounts.

- (36) In order to ensure better protection of the financial interests of the Union and of the Member States, a guarantee should cover non-declared or incorrectly declared goods included in a consignment or in a declaration for which it is provided. For the same reason, the undertaking of the guarantor should also cover amounts of import or export duty which fall to be paid following post-release controls.
- (37) In order to safeguard the financial interests of the Union 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 concerned.
- (38) 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 the customs legislation and to minimise the impact of negligence on the part of the debtor.
- (39) In order to protect the financial interests of the Union and of the Member States and to supplement the rules concerning the customs debt and the guarantees, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the place of incurrance of the customs debt, the calculation of the amount of import and export duty, the guarantee of that amount and the recovery, repayment, remission and extinguishment of the customs debt.
- (40) It is necessary to lay down the principle of how to determine the customs status of Union goods and the circumstances pertaining to the loss of such status, and to provide a basis for determining when that status remains unaltered in cases where goods are temporarily taken out of the customs territory of the Union.
- (41) In order to ensure free movement of Union goods in the customs territory of the Union and customs treatment of non-Union goods brought into that territory, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the determination of the customs status of goods, the loss of the customs status of Union goods, the preservation of that status for goods temporarily leaving the customs territory of the Union and the duty relief for returned goods.
- (42) 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 competent in respect of the premises of the economic operator.
- (43) The rules for customs declarations and for the placing of goods under a customs procedure should be modernised and streamlined, in particular by requiring that, as a rule, customs declarations be made electronically and by providing for only one type of simplified declaration and for the possibility to lodge a customs declaration in the form of an entry in the declarant's records.
- (44) Since the Revised 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 centralised clearance at the place where the economic operator is established.
- (45) It is appropriate to lay down at Union level the rules governing the destruction or disposal otherwise of goods by the customs authorities, since these are matters which previously required national legislation.
- (46) In order to supplement the rules regarding the placing of goods under a customs procedure and ensure equal treatment of the persons concerned, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the rules relating to the customs declaration and the release of goods.
- (47) It is appropriate to lay down common and simple rules for the special procedures, supplemented by a small set of rules for each category of special procedure, in order to make it simple for the operator to choose the right procedure, to avoid errors and to reduce the number of post-release recoveries and repayments.
- (48) The granting of authorisations 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 incurrance 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 to be assessed at the time when the customs debt is incurred. However, it should also be possible, where economically justified, to assess the goods at the time when they were placed under a special procedure. The same principles should apply to usual forms of handling.

- (49) In view of increased security-related measures, 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.
- (50) Given that the intention of re-export 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 single inward processing procedure should also cover destruction, except where destruction is carried out by, or under the supervision of, customs.
- (51) In order to supplement the rules on special procedures and ensure equal treatment of the persons concerned, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the rules relating to cases where goods are placed under special procedures, movements, usual forms of handling and equivalence of those goods and discharge of those procedures.
- (52) Security-related measures relating to Union goods taken out of the customs territory of the Union should apply equally to the re-export of non-Union goods. The same 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 Union.
- (53) In order to ensure the customs supervision of goods brought into and taken out of the customs territory of the Union and the application of security-related measures, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the rules relating to entry summary declaration and pre-departure declarations.
- (54) In order to explore further customs and trade facilitation, in particular by making use of the most recent tools and technology, Member States should be authorised, under certain conditions and upon application, to test for a limited period of time simplifications in the application of the customs legislation. That possibility should not jeopardise the application of the customs legislation or create new obligations for economic operators, who may take part in these tests on a purely voluntary basis.
- (55) In accordance with the principle of proportionality, as set out in Article 5 of the Treaty on European Union (TEU), it is necessary and appropriate, for the achievement of the basic objectives of enabling the customs union to function effectively and implementing the common commercial policy, to lay down the general rules and procedures applicable to goods brought into or taken out of the customs territory of the Union. In accordance with the first subparagraph of Article 5(4) TEU, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (56) In order to simplify and rationalise customs legislation, a number of provisions contained in autonomous Union acts have, for the sake of transparency, been incorporated into the Code. Council Regulation (EEC) No 3925/91 of 19 December 1991 concerning the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing⁽¹⁾, Regulation (EEC) No 2913/92, Council Regulation (EC) No 1207/2001 of 11 June 2001 on procedures to facilitate the issue or the making out in the Community of proofs of origin and the issue of certain approved exporter authorisations under the provisions governing preferential trade between the European Community and certain countries⁽²⁾, and Regulation (EC) No 450/2008 should therefore be repealed.
- (57) The provisions of this Regulation setting out the delegation of power and the conferral of implementing powers and the provisions on charges and costs should apply from the date of entry into force of this Regulation. The other provisions should apply from 1 June 2016.
- (58) This Regulation should be without prejudice to existing and future Union rules on access to documents adopted in accordance with Article 15(3) TFEU. It should also be without prejudice to national rules on access to documents.
- (59) The Commission should make every effort to ensure that the delegated and implementing acts provided for in this Regulation enter into force sufficiently in advance of the application date of the Code to allow its timely implementation by Member States,

HAVE ADOPTED THIS REGULATION:

⁽¹⁾ OJ L 374, 31.12.1991, p. 4.

⁽²⁾ OJ L 165, 21.6.2001, p. 1.

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TITLE I

GENERAL PROVISIONS

CHAPTER 1

Scope of the customs legislation, mission of customs and definitions

Article 1

Subject matter and scope

1. This Regulation establishes the Union Customs Code (the Code), laying down the general rules and procedures applicable to goods brought into or taken out of the customs territory of the Union.

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

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

3. Certain provisions of the customs legislation, including the simplifications for which it provides, shall apply to the trade in Union goods between parts of the customs territory of the Union to which the provisions of Directive 2006/112/EC or of Directive 2008/118/EC apply and parts of that territory where those provisions do not apply, or to trade between parts of that territory where those provisions do not apply.

Article 2

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 284 specifying the provisions of the customs legislation and the simplifications thereof with respect to the customs declaration, the proof of the customs status, the use of the internal Union transit procedure insofar as it does not affect a proper application of the fiscal measures at stake, which apply to the trade in Union goods referred to in Article 1(3). Those acts may address particular circumstances pertaining to the trade in Union goods involving only one Member State.

Article 3

Mission of customs authorities

Customs authorities shall be primarily responsible for the supervision of the Union's international trade, thereby contributing to fair and open trade, to the implementation of the external aspects of the internal market, of the common trade policy and of the other common Union policies having a bearing on trade, and 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 Union and its Member States;
- (b) protecting the Union from unfair and illegal trade while supporting legitimate business activity;
- (c) ensuring the security and safety of the Union and its residents, and the protection of the environment, where appropriate in close cooperation with other authorities; and
- (d) maintaining a proper balance between customs controls and facilitation of legitimate trade.

Article 4

Customs territory

1. The customs territory of the Union 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 Faroe Islands and Greenland,
- the territory of the Federal Republic of Germany, except the Island of Heligoland and the territory of Büsingen (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 the French overseas countries and territories to which the provisions of Part Four of the TFEU apply,

- the territory of the Republic of Croatia,
- 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 2003 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 Hungary,
- the territory 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 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, and
- 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 into account the conventions and treaties applicable to them, be considered to be part of the customs territory of the Union:

(a) FRANCE

The territory of Monaco as defined in the Customs Convention signed in Paris on 18 May 1963 (Journal officiel de la République française (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 5

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 all of the following:
 - (a) the Code and the provisions supplementing or implementing it adopted at Union or national level;
 - (b) the Common Customs Tariff;
 - (c) the legislation setting up a Union system of reliefs from customs duty;
 - (d) international agreements containing customs provisions, insofar as they are applicable in the Union;

- (3) "customs controls" means specific acts performed by the customs authorities in order to ensure compliance with the customs legislation and other legislation governing the entry, exit, transit, movement, storage and end-use of goods moved between the customs territory of the Union and countries or territories outside that territory, and the presence and movement within the customs territory of the Union of non-Union goods and goods placed under the end-use procedure;
- (4) "person" means a natural person, a legal person, and any association of persons which is not a legal person but which is recognised under Union or national law as having the capacity to perform legal acts;
- (5) "economic operator" means a person who, in the course of his or her business, is involved in activities covered by the customs legislation;
- (6) "customs representative" means any person appointed by another person to carry out the acts and formalities required under the customs legislation in his or her dealings with customs authorities;
- (7) "risk" means the likelihood and the impact of an event occurring, with regard to the entry, exit, transit, movement or end-use of goods moved between the customs territory of the Union and countries or territories outside that territory and to the presence within the customs territory of the Union of non-Union goods, which would:
- (a) prevent the correct application of Union or national measures;
 - (b) compromise the financial interests of the Union and its Member States; or
 - (c) pose a threat to the security and safety of the Union and its residents, to human, animal or plant health, to the environment or to consumers;
- (8) "customs formalities" means all the operations which must be carried out by a person and by the customs authorities in order to comply with the customs legislation;
- (9) "entry summary declaration" means the act whereby a person informs the customs authorities, in the prescribed form and manner and within a specific time-limit, that goods are to be brought into the customs territory of the Union;
- (10) "exit summary declaration" means the act whereby a person informs the customs authorities, in the prescribed form and manner and within a specific time-limit, that goods are to be taken out of the customs territory of the Union;
- (11) "temporary storage declaration" means the act whereby a person indicates, in the prescribed form and manner, that goods are in temporary storage;
- (12) "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;
- (13) "re-export declaration" means the act whereby a person indicates, in the prescribed form and manner, a wish to take non-Union goods, with the exception of those under the free zone procedure or in temporary storage, out of the customs territory of the Union;
- (14) "re-export notification" means the act whereby a person indicates, in the prescribed form and manner, a wish to take non-Union goods which are under the free zone procedure or in temporary storage out of the customs territory of the Union;
- (15) "declarant" means the person lodging a customs declaration, a temporary storage declaration, an entry summary declaration, an exit summary declaration, a re-export declaration or a re-export notification in his or her own name or the person in whose name such a declaration or notification is lodged;
- (16) "customs procedure" means any of the following procedures under which goods may be placed in accordance with the Code:
- (a) release for free circulation;
 - (b) special procedures;
 - (c) export;
- (17) 'temporary storage' means the situation of non-Union goods temporarily stored under customs supervision in the period between their presentation to customs and their placing under a customs procedure or re-export;

- (18) "customs debt" means the obligation on a person to pay the amount of import or export duty which applies to specific goods under the customs legislation in force;
- (19) "debtor" means any person liable for a customs debt;
- (20) "import duty" means customs duty payable on the import of goods;
- (21) "export duty" means customs duty payable on the export of goods;
- (22) "customs status" means the status of goods as Union or non-Union goods;
- (23) "Union goods" means goods which fall into any of the following categories:
- (a) goods wholly obtained in the customs territory of the Union and not incorporating goods imported from countries or territories outside the customs territory of the Union;
 - (b) goods brought into the customs territory of the Union from countries or territories outside that territory and released for free circulation;
 - (c) goods obtained or produced in the customs territory of the Union, either solely from goods referred to in point (b) or from goods referred to in points (a) and (b);
- (24) "non-Union goods" means goods other than those referred to in point 23 or which have lost their customs status as Union goods;
- (25) "risk management" means the systematic identification of risk, including through random checks, and the implementation of all measures necessary for limiting exposure to risk;
- (26) "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;
- (27) "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;
- (28) "repayment" means the refunding of an amount of import or export duty that has been paid;
- (29) "remission" means the waiving of the obligation to pay an amount of import or export duty which has not been paid;
- (30) "processed products" means goods placed under a processing procedure which have undergone processing operations;
- (31) "person established in the customs territory of the Union" means:
- (a) in the case of a natural person, any person who has his or her habitual residence in the customs territory of the Union;
 - (b) in the case of a legal person or an association of persons, any person having its registered office, central headquarters or a permanent business establishment in the customs territory of the Union;
- (32) "permanent business establishment" means a fixed place of business, where both the necessary human and technical resources are permanently present and through which a person's customs-related operations are wholly or partly carried out;
- (33) "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;
- (34) "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;
- (35) "holder of the procedure" means:
- (a) the person who lodges the customs declaration, or on whose behalf that declaration is lodged; or
 - (b) the person to whom the rights and obligations in respect of a customs procedure have been transferred;

(36) "commercial policy measures" means non-tariff measures established, as part of the common commercial policy, in the form of Union provisions governing international trade in goods;

issues a bill of lading or air waybill for the actual carriage of the goods into the customs territory of the Union;

(37) "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);

(b) in the context of exit, the person who takes the goods, or who assumes responsibility for the carriage of the goods, out of the customs territory of the Union. However:

(i) in the case of combined transportation, where the active means of transport leaving the customs territory of the Union is only transporting another means of transport which, after the arrival of the active means of transport at its destination, will move by itself as an active means of transport, 'carrier' means the person who will operate the means of transport which will move by itself once the means of transport leaving the customs territory of the Union has arrived at its destination;

(ii) in the case of maritime or air traffic under a vessel-sharing or contracting arrangement, "carrier" means the person who concludes a contract, and issues a bill of lading or air waybill, for the actual carriage of the goods out of the customs territory of the Union;

(38) "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;

(41) "buying commission" means a fee paid by an importer to an agent for representing him or her in the purchase of goods being valued.

(39) "decision" means any act by the customs authorities pertaining to the customs legislation giving a ruling on a particular case, and having legal effects on the person or persons concerned;

CHAPTER 2

Rights and obligations of persons with regard to the customs legislation

Section 1

Provision of information

Article 6

Means for the exchange and storage of information and common data requirements

(40) "carrier" means:

(a) in the context of entry, the person who brings the goods, or who assumes responsibility for the carriage of the goods, into the customs territory of the Union. However,

(i) in the case of combined transportation, "carrier" means the person who operates the means of transport which, once brought into the customs territory of the Union, moves by itself as an active means of transport;

(ii) in the case of maritime or air traffic under a vessel-sharing or contracting arrangement, "carrier" means the person who concludes a contract and

1. All exchanges of information, such as declarations, applications or decisions, between customs authorities and between economic operators and customs authorities, and the storage of such information, as required under the customs legislation, shall be made using electronic data-processing techniques.

2. Common data requirements shall be drawn up for the purpose of the exchange and storage of information referred to in paragraph 1.

3. Means for the exchange and storage of information, other than the electronic data-processing techniques referred to in paragraph 1, may be used as follows:

- (a) on a permanent basis where duly justified by the type of traffic or where the use of electronic data-processing techniques is not appropriate for the customs formalities concerned;
- (b) on a temporary basis, in the event of a temporary failure of the computerised system of the customs authorities or of the economic operators.

4. By way of derogation from paragraph 1, the Commission may adopt in exceptional cases decisions allowing one or several Member States to use means for the exchange and storage of information other than electronic data-processing techniques.

Such a decision on a derogation shall be justified by the specific situation of the Member State requesting it and the derogation shall be granted for a specific period of time. The derogation shall be reviewed periodically and may be extended for further specific periods of time upon further application by the Member State to which it is addressed. It shall be revoked where no longer justified.

The derogation shall not affect the exchange of information between the Member State to which it is addressed and other Member States nor the exchange and storage of information in other Member States for the purpose of the application of the customs legislation.

Article 7

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the following:

- (a) the common data requirements referred to in Article 6(2), taking into account the need to accomplish the customs formalities laid down in the customs legislation and the nature and purpose of the exchange and storage of information referred to in Article 6(1);
- (b) the specific cases where means for the exchange and storage of information, other than electronic data-processing techniques, may be used in accordance with point (a) of Article 6(3);
- (c) the type of information and the particulars that are to be contained in the records referred to in Articles 148(4) and 214(1).

Article 8

Conferral of implementing powers

1. The Commission shall specify, by means of implementing acts:
 - (a) where necessary, the format and code of the common data requirements referred to in Article 6(2);
 - (b) the procedural rules on the exchange and storage of information which can be made by means other than the electronic data-processing techniques referred to in Article 6(3).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

2. The Commission shall adopt the decisions on derogations referred to in Article 6(4) by means of implementing acts.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 285(2).

Article 9

Registration

1. Economic operators established in the customs territory of the Union shall register with the customs authorities responsible for the place where they are established.
2. In specific cases, economic operators which are not established in the customs territory of the Union shall register with the customs authorities responsible for the place where they first lodge a declaration or apply for a decision.
3. Persons other than economic operators shall not be required to register with the customs authorities unless otherwise provided.

Where persons referred to in the first subparagraph are required to register, the following shall apply:

- (a) where they are established in the customs territory of the Union, they shall register with the customs authorities responsible for the place where they are established;

(b) where they are not established in the customs territory of the Union, they shall register with the customs authorities responsible for the place where they first lodge a declaration or apply for a decision.

4. In specific cases, the customs authorities shall invalidate the registration.

Article 10

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 284, in order to determine:

(a) the cases referred to in Article 9(2), where economic operators which are not established in the customs territory of the Union are required to register with the customs authorities;

(b) the cases referred to in the first subparagraph of Article 9(3), where persons other than economic operators are required to register with the customs authorities;

(c) the cases referred to in Article 9(4) where the customs authorities invalidate a registration.

Article 11

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the customs authority responsible for the registration referred to in Article 9.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Article 12

Communication of information and data protection

1. All information acquired by the customs authorities in the course of performing their duty 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 in Article 47(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 customs authorities are obliged or authorised to do so pursuant to the provisions in force, particularly in respect of data protection, or in connection with legal proceedings.

2. Confidential information referred to in paragraph 1 may be communicated to the customs authorities and other competent authorities of countries or territories outside the customs territory of the Union for the purpose of customs cooperation with those countries or territories in the framework of an international agreement or Union legislation in the area of the common commercial policy.

3. Any disclosure or communication of information as referred to in paragraphs 1 and 2 shall ensure an adequate level of data protection in full compliance with data protection provisions in force.

Article 13

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 cooperation 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 cooperation referred to in paragraph 1 shall be confidential unless both parties agree otherwise.

Article 14

Provision of information by the customs authorities

1. Any person may request information concerning the application of the 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 customs legislation, general administrative rulings and application forms freely available, wherever practical without charge, and through the Internet.

Article 15

Provision of information to the customs authorities

1. Any person directly or indirectly involved in the accomplishment of customs formalities or in customs controls 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 assistance necessary for the completion of those formalities or controls.

2. The lodging of a customs declaration, temporary storage declaration, entry summary declaration, exit summary declaration, re-export declaration or re-export notification by a person to the customs authorities, or the submission of an application for an authorisation or any other decision, shall render the person concerned responsible for all of the following:

- (a) the accuracy and completeness of the information given in the declaration, notification or application;
- (b) the authenticity, accuracy and validity of any document supporting the declaration, notification or application;
- (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 authorised operations.

The first subparagraph shall also apply 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 customs representative of the person concerned, as referred to in Article 18, that customs representative shall also be bound by the obligations set out in the first subparagraph of this paragraph.

Article 16

Electronic systems

1. Member States shall cooperate with the Commission to develop, maintain and employ electronic systems for the exchange of information between customs authorities and with the Commission and for the storage of such information, in accordance with the Code.
2. Member States to which a derogation has been granted in accordance with Article 6(4) shall not be required to develop, maintain and employ within the scope of that derogation the electronic systems referred to in paragraph 1 of this Article.

Article 17

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the technical arrangements for developing, maintaining and employing the electronic systems referred to in Article 16(1).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 2

Customs representation

Article 18

Customs representative

1. Any person may appoint a customs representative.

Such 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 or her own name but on behalf of another person.

2. A customs representative shall be established within the customs territory of the Union.

Except where otherwise provided, that requirement shall be waived where the customs representative acts on behalf of persons who are not required to be established within the customs territory of the Union.

3. Member States may determine, in accordance with Union law, the conditions under which a customs representative may provide services in the Member State where he or she is established. However, without prejudice to the application of less stringent criteria by the Member State concerned, a customs representative who complies with the criteria laid down in points (a) to (d) of Article 39 shall be entitled to provide such services in a Member State other than the one where he or she is established.

4. Member States may apply the conditions determined in accordance with the first sentence of paragraph 3 to customs representatives not established within the customs territory of the Union.

Article 19

Empowerment

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

Persons who fail to state that they are acting as a customs representative or who state that they are acting as a customs representative without being empowered to do so shall be deemed to be acting in their own name and on their own behalf.

2. The customs authorities may require persons stating that they are acting as a customs representative to provide evidence of their empowerment by the person represented.

In specific cases, the customs authorities shall not require such evidence to be provided.

3. The customs authorities shall not require a person acting as a customs representative, carrying out acts and formalities on a regular basis, to produce on every occasion evidence of empowerment, provided that such person is in a position to produce such evidence on request by the customs authorities.

Article 20

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine:

- (a) the cases where the waiver referred to in the second subparagraph of Article 18(2) does not apply;
- (b) the cases where the evidence of empowerment referred to in the first subparagraph of Article 19(2) is not required by the customs authorities.

Article 21

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules on the conferral and proving of the entitlement referred to in Article 18(3).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 3

Decisions relating to the application of the customs legislation

Article 22

Decisions taken upon application

1. Where a person applies for a decision relating to the application of the customs legislation, that person shall supply all the information required by the competent customs authorities in order to enable them to take that decision.

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

Except where otherwise provided, the competent customs authority shall be that of the place where the applicant's main accounts for customs purposes are held or accessible, and where at least part of the activities to be covered by the decision are to be carried out.

2. Customs authorities shall, without delay and at the latest within 30 days of receipt of the application for a decision, verify whether the conditions for the acceptance of that application are fulfilled.

Where the customs authorities establish that the application contains all the information required in order for them to be able to take the decision, they shall communicate its acceptance to the applicant within the period specified in the first subparagraph.

3. The competent customs authority shall take a decision as referred to in paragraph 1, and shall notify the applicant without delay, and at the latest within 120 days of the date of acceptance of the application, except where otherwise provided.

Where the customs authorities are unable to comply with the time-limit for taking a decision, they shall inform the applicant of that fact before the expiry of that time-limit, stating the reasons and indicating the further period of time which they consider necessary in order to take a decision. Except where otherwise provided, that further period of time shall not exceed 30 days.

Without prejudice to the second subparagraph, the customs authorities may extend the time-limit for taking a decision, as laid down in the customs legislation, where the applicant requests an extension to carry out adjustments in order to ensure the fulfilment of the conditions and criteria. Those adjustments and the further period of time necessary to carry them out shall be communicated to the customs authorities, which shall decide on the extension.

4. Except where otherwise specified in the decision or in the customs legislation, the decision shall take effect from the date on which the applicant receives it, or is deemed to have received it. Except in the cases provided for in Article 45(2), decisions adopted shall be enforceable by the customs authorities from that date.

5. Except where otherwise provided in the customs legislation, the decision shall be valid without limitation of time.

6. Before taking a decision which would adversely affect the applicant, the customs authorities shall communicate the grounds on which they intend to base their decision to the applicant, who shall be given the opportunity to express his or her point of view within a period prescribed from the date on which he or she receives that communication or is deemed to have received it. Following the expiry of that period, the applicant shall be notified, in the appropriate form, of the decision.

The first subparagraph shall not apply in any of the following cases:

- (a) where it concerns a decision referred to in Article 33(1);
- (b) in the event of refusal of the benefit of a tariff quota where the specified tariff quota volume is reached, as referred to in the first subparagraph of Article 56(4);
- (c) where the nature or the level of a threat to the security and safety of the Union and its residents, to human, animal or plant health, to the environment or to consumers so requires;
- (d) where the decision aims at securing the implementation of another decision for which the first subparagraph has been applied, without prejudice to the law of the Member State concerned;
- (e) where it would prejudice investigations initiated for the purpose of combating fraud;
- (f) in other specific cases.

7. A decision which adversely affects the applicant shall set out the grounds on which it is based and shall refer to the right of appeal provided for in Article 44.

Article 23

Management of decisions taken upon application

1. The holder of the decision shall comply with the obligations resulting from that decision.
2. The holder of the decision shall inform the customs authorities without delay of any factor arising after the decision was taken, which may influence its continuation or content.
3. Without prejudice to provisions laid down in other fields which specify the cases in which decisions are invalid or

become null and void, the customs authorities which took a decision may at any time annul, amend or revoke it where it does not conform to the customs legislation.

4. In specific cases the customs authorities shall carry out the following:

- (a) re-assess a decision;
- (b) suspend a decision which is not to be annulled, revoked or amended.

5. The customs authorities shall monitor the conditions and criteria to be fulfilled by the holder of a decision. They shall also monitor compliance with the obligations resulting from that decision. Where the holder of the decision has been established for less than three years, the customs authorities shall closely monitor it during the first year after the decision is taken.

Article 24

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 284, in order to determine:

- (a) the exceptions to the third subparagraph of Article 22(1);
- (b) the conditions for the acceptance of an application, referred to in Article 22(2);
- (c) the time-limit to take a specific decision, including the possible extension of that time-limit, in accordance with Article 22(3);
- (d) the cases, referred to in Article 22(4), where the decision takes effect from a date which is different from the date on which the applicant receives it or is deemed to have received it;
- (e) the cases, referred to in Article 22(5), where the decision is not valid without limitation of time;
- (f) the duration of the period referred to in the first subparagraph of Article 22(6);
- (g) the specific cases, referred to in point (f) of the second subparagraph of Article 22(6), where the applicant is given no opportunity to express his or her point of view;

(h) the cases and the rules for re-assessing and suspending decisions in accordance with Article 23(4);

Article 25

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules for:

- (a) the submission and the acceptance of the application for a decision, referred to in Article 22(1) and (2);
- (b) taking the decision referred to in Article 22, including, where appropriate, the consultation of the Member States concerned;
- (c) monitoring a decision, in accordance with Article 23(5).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Article 26

Union-wide validity of decisions

Except where the effect of a decision is limited to one or several Member States, decisions relating to the application of the customs legislation shall be valid throughout the customs territory of the Union.

Article 27

Annulment of favourable decisions

1. The customs authorities shall annul a decision favourable to the holder of the decision if all the following conditions are fulfilled:

- (a) the decision was taken on the basis of incorrect or incomplete information;
- (b) the holder of the decision 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 holder of the decision 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.

Article 28

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 27:

- (a) one or more of the conditions for taking that decision were not or are no longer fulfilled; or
- (b) upon application by the holder of the decision.

2. Except where otherwise provided, 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 holder of the decision shall be notified of its revocation or amendment.

4. Article 22(4) shall apply to the revocation or amendment of the decision.

However, in exceptional cases where the legitimate interests of the holder of the decision so require, the customs authorities may defer the date on which revocation or amendment takes effect up to one year. That date shall be indicated in the revoking or amending decision.

Article 29

Decisions taken without prior application

Except when a customs authority acts as a judicial authority, Article 22(4), (5), (6) and (7), Article 23(3) and Articles 26, 27 and 28 shall also apply to decisions taken by the customs authorities without prior application by the person concerned.

Article 30

Limitations applicable to decisions on goods placed under a customs procedure or in temporary storage

Except where the person concerned so requests, the revocation, amendment or suspension of a favourable decision shall not affect goods which, at the moment where the revocation, amendment or suspension takes effect, have already been placed and are still under a customs procedure or in temporary storage by virtue of the revoked, amended or suspended decision.

*Article 31***Delegation of power**

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine:

- (a) the cases, referred to in Article 28(2), where a favourable decision addressed to several persons may be revoked also in respect of persons other than the person who fails to fulfil an obligation imposed under that decision;
- (b) the exceptional cases, in which the customs authorities may defer the date on which revocation or amendment takes effect in accordance with the second subparagraph of Article 28(4).

*Article 32***Conferral of implementing powers**

The Commission shall specify, by means of implementing acts, the procedural rules for annulling, revoking or amending favourable decisions.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

*Article 33***Decisions relating to binding information**

1. The customs authorities shall, upon application, take decisions relating to binding tariff information (BTI decisions), or decisions relating to binding origin information (BOI decisions).

Such an application shall not be accepted in any of the following circumstances:

- (a) where the application is made, or has already been made, at the same or another customs office, by or on behalf of the holder of a decision in respect of the same goods and, for BOI decisions, under the same circumstances determining the acquisition of origin;
- (b) where the application does not relate to any intended use of the BTI or BOI decision or 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:

(a) on the customs authorities, as against the holder of the decision, only in respect of goods for which customs formalities are completed after the date on which the decision takes effect;

(b) on the holder of the decision, as against the customs authorities, only with effect from the date on which he or she 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 holder of the decision shall 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.

*Article 34***Management of decisions relating to binding information**

1. A BTI decision shall cease to be valid before the end of the period referred to in Article 33(3) where it no longer conforms to the law, as a result of either of the following:

(a) the adoption of an amendment to the nomenclatures referred to in points (a) and (b) of Article 56(2);

(b) the adoption of measures referred to in Article 57(4);

with effect from the date of application of such amendment or measures.

2. A BOI decision shall cease to be valid before the end of the period referred to in Article 33(3) in any of the following cases:

(a) where a regulation is adopted or an agreement is concluded by, and becomes applicable in, the Union, and the BOI decision no longer conforms to the law thereby laid down, with effect from the date of application of that regulation or agreement;

(b) where it is no longer compatible with the Agreement on Rules of Origin established in the World Trade Organisation (WTO) or with the explanatory notes or an origin opinion adopted for the interpretation of that Agreement, with effect from the date of their publication in the *Official Journal of the European Union*.

3. BTI or BOI decisions shall not cease to be valid with retroactive effect.

4. By way of derogation from Article 23(3) and Article 27, BTI and BOI decisions shall be annulled where they are based on inaccurate or incomplete information from the applicants.

5. BTI and BOI decisions shall be revoked in accordance with Article 23(3) and Article 28. However, such decisions shall not be revoked upon application by the holder of the decision.

6. BTI and BOI decisions may not be amended.

7. The customs authorities shall revoke BTI decisions:

(a) where they are no longer compatible with the interpretation of any of the nomenclatures referred to in points (a) and (b) of Article 56(2) resulting from any of the following:

(i) explanatory notes referred to in the second indent of point (a) of Article 9(1) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff⁽¹⁾, with effect from the date of their publication in the *Official Journal of the European Union*;

(ii) a judgment of the Court of Justice of the European Union, with effect from the date of publication of the operative part of the judgment in the *Official Journal of the European Union*;

(iii) classification decisions, classification opinions or amendments of the explanatory notes to the Nomenclature of the Harmonized Commodity Description and Coding System, adopted by the Organization set-up by the Convention establishing a Customs Co-operation Council, done at Brussels on 15 December 1950, with effect from the date of publication of the Commission Communication in the 'C' series of the *Official Journal of the European Union*; or

(b) in other specific cases.

8. BOI decisions shall be revoked:

(a) where they are no longer compatible with a judgment of the Court of Justice of the European Union, with effect from the date of publication of the operative part of the judgment in the *Official Journal of the European Union*; or

(b) in other specific cases.

9. Where point (b) of paragraph 1 or paragraphs 2, 7 or 8 apply, a BTI or BOI decision may still be used in respect of binding contracts which were based upon that decision and were concluded before it ceased to be valid or was revoked. That extended use shall not apply where a BOI decision is taken for goods to be exported.

The extended use referred to in the first subparagraph shall not exceed six months from the date on which the BTI or BOI decision ceases to be valid or is revoked. However, a measure referred to in Article 57(4) or in Article 67 may exclude that extended use or lay down a shorter period of time. In the case of products for which an import or export certificate is submitted when customs formalities are carried out, the period of six months shall be replaced by the period of validity of the certificate.

In order to benefit from the extended use of a BTI or BOI decision, the holder of that decision shall lodge an application to the customs authority that took the decision within 30 days of the date on which it ceases to be valid or is revoked, indicating the quantities for which a period of extended use is requested and the Member State or Member States in which goods will be cleared under the period of extended use. That customs authority shall take a decision on the extended use and notify the holder, without delay, and at the latest within 30 days of the date on which it receives all the information required in order to enable it to take that decision.

10. The Commission shall notify the customs authorities where:

(a) the taking of BTI and BOI decisions, for goods whose correct and uniform tariff classification or determination of origin is not ensured, is suspended; or

(b) the suspension referred to in point (a) is withdrawn.

11. The Commission may adopt decisions requesting Member States to revoke BTI or BOI decisions, to ensure a correct and uniform tariff classification or determination of the origin of goods.

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

*Article 35***Decisions relating to binding information with regard to other factors**

In specific cases, the customs authorities shall, upon application, take decisions relating to binding information with regard to other factors referred to in Title II, on the basis of which import or export duty and other measures in respect of trade in goods are applied.

*Article 36***Delegation of power**

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine:

- (a) the specific cases referred to in point (b) of Article 34(7) and point (b) of Article 34(8), where BTI and BOI decisions are to be revoked;
- (b) the cases referred to in Article 35, where decisions relating to binding information are taken with regard to other factors on the basis of which import or export duty and other measures in respect of trade in goods are applied.

*Article 37***Conferral of implementing powers**

1. The Commission shall adopt, by means of implementing acts, the procedural rules for:

- (a) using a BTI or BOI decision after it ceases to be valid or is revoked, in accordance with Article 34(9);
- (b) the Commission to notify the customs authorities in accordance with points (a) and (b) of Article 34(10);
- (c) using decisions referred to in Article 35 and determined in accordance with point (b) of Article 36 after they cease to be valid;
- (d) suspending decisions referred to in Article 35 and determined in accordance with point (b) of Article 36 and notifying the suspension or the withdrawal of the suspension to the customs authorities.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

2. The Commission shall adopt, by means of implementing acts, the decisions requesting Member States to revoke:

- (a) decisions referred to in Article 34(11);
- (b) decisions referred to in Article 35 and determined in accordance with point (b) of Article 36.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 285(2).

Where the opinion of the committee referred to in Article 285(1) is to be obtained by written procedure, Article 285(6) shall apply.

Section 4

Authorised economic operator*Article 38***Application and authorisation**

1. An economic operator who is established in the customs territory of the Union and who meets the criteria set out in Article 39 may apply for the status of authorised economic operator.

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

2. The status of authorised economic operator shall consist in the following types of authorisations:

- (a) that of an authorised economic operator for customs simplifications, which shall enable the holder to benefit from certain simplifications in accordance with the customs legislation; or
- (b) that of an authorised economic operator for security and safety that shall entitle the holder to facilitations relating to security and safety.

3. Both types of authorisations referred to in paragraph 2 may be held at the same time.

4. The status of authorised economic operator shall, subject to Articles 39, 40 and 41, be recognised by the customs authorities in all Member States.

5. Customs authorities shall, on the basis of the recognition of the status of authorised economic operator for customs simplifications and provided that the requirements related to a specific type of simplification provided for in the customs legislation are fulfilled, authorise the operator to benefit from that simplification. Customs authorities shall not re-examine those criteria which have already been examined when granting the status of authorised economic operator.

6. The authorised economic operator referred to in paragraph 2 shall enjoy more favourable treatment than other economic operators in respect of customs controls according to the type of authorisation granted, including fewer physical and document-based controls.

7. The customs authorities shall grant benefits resulting from the status of authorised economic operator to persons established in countries or territories outside the customs territory of the Union, who fulfil conditions and comply with obligations defined by the relevant legislation of those countries or territories, insofar as those conditions and obligations are recognised by the Union as equivalent to those imposed to authorised economic operators established in the customs territory of the Union. Such a granting of benefits shall be based on the principle of reciprocity unless otherwise decided by the Union, and shall be supported by an international agreement or Union legislation in the area of the common commercial policy.

Article 39

Granting of status

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

- (a) the absence of any serious infringement or repeated infringements of customs legislation and taxation rules, including no record of serious criminal offences relating to the economic activity of the applicant;
- (b) the demonstration by the applicant of a high level of control of his or her operations and of the flow of goods, by means of a system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls;
- (c) financial solvency, which shall be deemed to be proven where the applicant has good financial standing, which enables him or her to fulfil his or her commitments, with due regard to the characteristics of the type of business activity concerned;
- (d) with regard to the authorisation referred to in point (a) of Article 38(2), practical standards of competence or

professional qualifications directly related to the activity carried out; and

- (e) with regard to the authorisation referred to in point (b) of Article 38(2), appropriate security and safety standards, which shall be considered as fulfilled where the applicant demonstrates that he or she maintains appropriate measures to ensure the security and safety of the international supply chain including in the areas of physical integrity and access controls, logistical processes and handling of specific types of goods, personnel and identification of his or her business partners.

Article 40

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the following:

- (a) the simplifications referred to in point (a) of Article 38(2);
- (b) the facilitations referred to in point (b) of Article 38(2);
- (c) the more favourable treatment referred to in Article 38(6).

Article 41

Conferral of implementing powers

The Commission shall adopt, by means of implementing acts, the modalities for the application of the criteria referred to in Article 39.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 5

Penalties

Article 42

Application of penalties

1. Each Member State shall provide for penalties for failure to comply with the customs legislation. Such penalties shall be effective, proportionate and dissuasive.
2. Where administrative penalties are applied, they may take, inter alia, one or both of the following forms:
 - (a) a pecuniary charge by the customs authorities, including, where appropriate, a settlement applied in place of and in lieu of a criminal penalty;

- (b) the revocation, suspension or amendment of any authorisation held by the person concerned.

3. Member States shall notify the Commission, within 180 days from the date of application of this Article, as determined in accordance with Article 288(2), of the national provisions in force, as envisaged in paragraph 1 of this Article, and shall notify it without delay of any subsequent amendment affecting those provisions.

Section 6

Appeals

Article 43

Decisions taken by a judicial authority

Articles 44 and 45 shall not apply to appeals lodged with a view to the annulment, revocation or amendment of a decision relating to the application of the customs legislation taken by a judicial authority, or by customs authorities acting as judicial authorities.

Article 44

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 the customs legislation which concerns him or her directly and individually.

Any person who has applied to the customs authorities for a decision and has not obtained a decision on that application within the time-limits referred to in Article 22(3) 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 specialised body, according to the provisions in force in the Member States.

3. The appeal shall be lodged in the Member State where the decision was taken or was applied for.

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

Article 45

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 a decision in whole or in part where they have good reason to believe that the disputed decision is inconsistent with the 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 or export duty to be payable, suspension of implementation 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.

Section 7

Control of goods

Article 46

Risk management and customs controls

1. The customs authorities may carry out any customs controls they deem necessary.

Customs controls may in particular consist of examining goods, taking samples, verifying the accuracy and completeness of the information given in a declaration or notification and the existence, authenticity, accuracy and validity of documents, examining the accounts of economic operators and other records, inspecting means of transport, inspecting luggage and other goods carried by or on persons and carrying out official enquiries and other similar acts.

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, Union and, where available, international level.

3. Customs controls shall be performed within a common risk management framework, based upon the exchange of risk information and risk analysis results between customs administrations and establishing common risk criteria and standards, 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 paragraph 1 or with other provisions in force.

4. Customs authorities shall undertake risk management to differentiate between the levels of risk associated with goods subject to customs control or supervision and to determine whether the goods will be subject to specific customs controls, and if so, where.

The risk management shall include activities such as collecting data and information, analysing and assessing risk, prescribing and taking action and regularly monitoring and reviewing that process and its outcomes, based on international, Union and national sources and strategies.

5. Customs authorities shall exchange risk information and risk analysis results where:

- (a) the risks are assessed by a customs authority as being significant and requiring customs control and the results of the control establish that the event triggering the risks has occurred; or
- (b) the control results do not establish that the event triggering the risks has occurred, but the customs authority concerned considers the threat to present a high risk elsewhere in the Union.

6. For the establishment of the common risk criteria and standards, the control measures and the priority control areas referred to in paragraph 3, account shall be taken of all of the following:

- (a) the proportionality to the risk;
- (b) the urgency of the necessary application of the controls;
- (c) the probable impact on trade flow, on individual Member States and on control resources.

7. The common risk criteria and standards referred to in paragraph 3 shall include all of the following:

- (a) a description of the risks;
- (b) the factors or indicators of risk to be used to select goods or economic operators for customs control;
- (c) the nature of customs controls to be undertaken by the customs authorities;

(d) the duration of the application of the customs controls referred to in point (c).

8. Priority control areas shall cover particular customs procedures, types of goods, traffic routes, modes of transport or economic operators which are subject to increased levels of risk analysis and customs controls during a certain period, without prejudice to other controls usually carried out by the customs authorities.

Article 47

Cooperation 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 cooperation with those other authorities, endeavour to have those controls performed, wherever possible, at the same time and place as customs controls (one-stop-shop), with customs authorities having the coordinating role in achieving this.

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 with each other and with the Commission data received in the context of the entry, exit, transit, movement, storage and end-use of goods, including postal traffic, moved between the customs territory of the Union and countries or territories outside the customs territory of the Union, the presence and movement within the customs territory of the Union of non-Union goods and goods placed under the end-use procedure, and the results of any control. Customs authorities and the Commission may also exchange such data with each other for the purpose of ensuring a uniform application of the customs legislation.

Article 48

Post-release control

For the purpose of customs controls, the customs authorities may verify the accuracy and completeness of the information given in a customs declaration, temporary storage declaration, entry summary declaration, exit summary declaration, re-export declaration or re-export notification, and the existence, authenticity, accuracy and validity of any supporting document and may examine the accounts of the declarant and other records relating to the operations in respect of the goods in question or to prior or subsequent commercial operations involving those goods after having released them. Those authorities may also examine such goods and/or take samples where it is still possible for them to do so.

Such controls may be carried out at the premises of the holder of the goods or of the holder's 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 49***Intra-Union flights and sea crossings**

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

2. Paragraph 1 shall apply without prejudice to either of the following:

(a) security and safety checks;

(b) checks linked to prohibitions or restrictions.

*Article 50***Conferral of implementing powers**

1. The Commission shall adopt, by means of implementing acts, measures to ensure uniform application of the customs controls, including the exchange of risk information and risk analysis results, the common risk criteria and standards, the control measures and the priority control areas referred to in Article 46(3).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

On imperative grounds of urgency relating to such measures, duly justified by the need to rapidly update the common risk management framework and adapt the exchange of risk information and analysis, common risk criteria and standards, control measures and priority control areas to the evolution of risks, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 285(5).

Where the opinion of the committee referred to in Article 285(1) is to be obtained by written procedure, Article 285(6) shall apply.

2. The Commission shall determine, by means of implementing acts, the ports or airports where, in accordance with Article 49, customs controls and formalities are applied to the following:

(a) the cabin and hold baggage of persons:

(i) taking a flight in an aircraft which comes from a non-Union airport and which, after a stopover at a Union airport, continues to another Union airport;

(ii) taking a flight in an aircraft which stops over at a Union airport before continuing to a non-Union airport;

(iii) using a maritime service provided by the same vessel and comprising successive legs departing from, calling at or terminating in a non-Union port;

(iv) on board pleasure craft and tourist or business aircraft;

(b) cabin and hold baggage:

(i) arriving at a Union airport on board an aircraft coming from a non-Union airport and transferred at that Union airport to another aircraft proceeding on an intra-Union flight;

(ii) loaded at a Union airport onto an aircraft proceeding on an intra-Union flight for transfer at another Union airport to an aircraft whose destination is a non-Union airport.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 8**Keeping of documents and other information, and charges and costs***Article 51***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 15(1) for at least three 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 or of goods in temporary storage, that period shall run from the end of the year in which the customs procedure concerned has been discharged or temporary storage has ended.

2. Without prejudice to Article 103(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 shall be kept for the period provided for in paragraph 1 or until the appeals procedure or court proceedings are terminated, whichever is the later.

Article 52

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.

2. 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 official 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 33 or the provision of information in accordance with Article 14(1);
- (c) the examination or sampling of goods for verification purposes, or the destruction of goods, where costs other than the cost of using customs staff are involved;
- (d) exceptional control measures, where these are necessary due to the nature of the goods or to a potential risk.

CHAPTER 3

Currency conversion and time-limits

Article 53

Currency conversion

1. The competent authorities shall publish and/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 duty, including value thresholds in the Common 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.

Article 54

Conferral of implementing powers

The Commission shall lay down, by means of implementing acts, rules on currency conversions for the purposes referred to in Article 53(1) and (2).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Article 55

Periods, dates and time-limits

1. Unless otherwise provided, 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.

2. The rules applicable to periods, dates and time-limits set out in Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time-limits⁽¹⁾ shall apply, except where otherwise provided for in the customs legislation.

TITLE II

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

CHAPTER 1

Common Customs Tariff and tariff classification of goods

Article 56

Common Customs Tariff and surveillance

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

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

⁽¹⁾ OJ L 124, 8.6.1971, p. 1.

2. The Common Customs Tariff shall comprise all of the following:

- (a) the Combined Nomenclature of goods as laid down in Regulation (EEC) No 2658/87;
- (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 Union provisions governing specific fields with a view to the application of tariff measures relating to trade in goods;
- (c) the conventional or normal autonomous customs duty applicable to goods covered by the Combined Nomenclature;
- (d) the preferential tariff measures contained in agreements which the Union has concluded with certain countries or territories outside the customs territory of the Union or groups of such countries or territories;
- (e) preferential tariff measures adopted unilaterally by the Union in respect of certain countries or territories outside the customs territory of the Union or groups of such countries or territories;
- (f) autonomous measures providing for a reduction in, or exemption from, customs duty 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 Union 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, upon application by 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 Union.

5. The release for free circulation or the export of goods, to which the measures referred to in paragraphs 1 and 2 apply, may be made subject to surveillance.

Article 57

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 Union 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 paragraphs 1 and 2 shall be used for the purpose of applying the measures linked to that subheading.

4. The Commission may adopt measures to determine the tariff classification of goods in accordance with paragraphs 1 and 2.

Article 58

Conferral of implementing powers

1. The Commission shall adopt, by means of implementing acts, measures on the uniform management of the tariff quotas and the tariff ceilings referred to in Article 56(4) and on the management of the surveillance of the release for free circulation or export of goods, referred to in Article 56(5).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

2. The Commission shall adopt, by means of implementing acts, the measures referred to in Article 57(4).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

On imperative grounds of urgency relating to such measures, duly justified by the need to rapidly ensure the correct and uniform application of the Combined Nomenclature, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 285(5).

Where the opinion of the committee referred to in Article 285(1) is to be obtained by written procedure, Article 285(6) shall apply.

CHAPTER 2

Origin of goods

Section 1

Non-preferential origin

Article 59

Scope

Articles 60 and 61 shall 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 56(2);
- (b) measures, other than tariff measures, established by Union provisions governing specific fields relating to trade in goods; and
- (c) other Union measures relating to the origin of goods.

Article 60

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 involves more than one country or territory shall be deemed to originate in the country or territory where they underwent their last, substantial, economically-justified processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture.

Article 61

Proof of origin

1. Where an origin has been indicated in the customs declaration pursuant to the 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 the customs legislation or other Union legislation governing specific fields, the customs authorities may, in the event of reasonable doubt, require any additional evidence needed in order to ensure that the indication of origin complies with the rules laid down by the relevant Union legislation.

3. Where the exigencies of trade so require, a document proving origin may be issued in the Union in accordance with the rules of origin in force in the country or territory of destination or any other method identifying the country where the goods were wholly obtained or underwent their last substantial transformation.

Article 62

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 284, laying down the rules under which goods, whose determination of non-preferential origin is required for the purposes of applying the Union measures referred to in Article 59, are considered as wholly obtained in a single country or territory or to have undergone their last, substantial, economically-justified processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture in a country or territory, in accordance with Article 60.

Article 63

Conferral of implementing powers

The Commission shall adopt, by means of implementing acts, the procedural rules for the provision and verification of the proof of origin referred to in Article 61.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 2

Preferential origin

Article 64

Preferential origin of goods

1. In order to benefit from the measures referred to in points (d) or (e) of Article 56(2) or from non-tariff preferential measures, goods shall comply with the rules on preferential origin referred to in paragraphs 2 to 5 of this Article.

2. In the case of goods benefiting from preferential measures contained in agreements which the Union has concluded with certain countries or territories outside the customs territory of the Union or with 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 Union in respect of certain countries or territories outside the customs territory of the Union or groups of such countries or territories, other than those referred to in paragraph 5, the Commission shall adopt measures laying down the rules on preferential origin.

Those rules shall be based either on the criterion that goods are wholly obtained or on the criterion that goods result from sufficient processing or working.

4. In the case of goods benefiting from preferential measures applicable in trade between the customs territory of the Union and Ceuta and Melilla, as contained in Protocol 2 to the 1985 Act of Accession, the rules on preferential origin shall be adopted in accordance with Article 9 of that Protocol.

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 Union, the rules on preferential origin shall be adopted in accordance with Article 203 TFEU.

6. Upon its own initiative or at the request of a beneficiary country or territory, the Commission may, for certain goods, grant that country or territory a temporary derogation from the rules on preferential origin referred to in paragraph 3.

The temporary derogation shall be justified by one of the following reasons:

- (a) internal or external factors temporarily deprive the beneficiary country or territory of the ability to comply with the rules on preferential origin;
- (b) the beneficiary country or territory requires time to prepare itself to comply with those rules.

A request for derogation shall be made in writing to the Commission by the beneficiary country or territory concerned. The request shall state the reasons, as indicated in the second subparagraph, why derogation is required and shall contain appropriate supporting documents.

The temporary derogation shall be limited to the duration of the effects of the internal or external factors giving rise to it or the length of time needed for the beneficiary country or territory to achieve compliance with the rules.

Where a derogation is granted, the beneficiary country or territory concerned shall comply with any requirements laid down as to information to be provided to the Commission concerning the use of the derogation and the management of the quantities for which the derogation is granted.

Article 65

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 284, laying down the rules on preferential origin referred to in Article 64(3).

Article 66

Conferral of implementing powers

The Commission shall adopt by means of implementing acts:

- (a) the procedural rules, referred to in Article 64(1), to facilitate the establishment in the Union of the preferential origin of goods;
- (b) a measure granting a beneficiary country or territory the temporary derogation referred to in Article 64(6).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 3

Determination of origin of specific goods

Article 67

Measures taken by the Commission

The Commission may adopt measures to determine the origin of specific goods in accordance with the rules of origin applicable to those goods.

Article 68

Conferral of implementing powers

The Commission shall adopt, by means of implementing acts, the measures referred to in Article 67. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

On imperative grounds of urgency relating to such measures, duly justified by the need to rapidly ensure the correct and uniform application of rules of origin, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 285(5).

Where the opinion of the committee referred to in Article 285(1) is to be obtained by written procedure, Article 285(6) shall apply.

CHAPTER 3

Value of goods for customs purposes

Article 69

Scope

The customs value of goods, for the purposes of applying the Common Customs Tariff and non-tariff measures laid down by Union provisions governing specific fields relating to trade in goods, shall be determined in accordance with Articles 70 and 74.

Article 70

Method of customs valuation based on the transaction value

1. The primary basis for the customs value of goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the customs territory of the Union, adjusted, where necessary.

2. The price actually paid or payable shall be the total payment made or to be made by the buyer to the seller or by the buyer to a third party for the benefit of the seller for the imported goods and include all payments made or to be made as a condition of sale of the imported goods.

3. The transaction value shall apply provided that all of the following conditions are fulfilled:

(a) there are no restrictions as to the disposal or use of the goods by the buyer, other than any of the following:

(i) restrictions imposed or required by a law or by the public authorities in the Union;

(ii) limitations of the geographical area in which the goods may be resold;

(iii) restrictions which do not substantially affect the customs 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;

(d) the buyer and seller are not related or the relationship did not influence the price.

Article 71

Elements of the transaction value

1. In determining the customs value under Article 70, the price actually paid or payable for the imported goods shall be supplemented by:

(a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:

(i) commissions and brokerage, except buying commissions;

(ii) the cost of containers which are treated as being one, for customs purposes, with the goods in question; and

(iii) the cost of packing, whether for labour or materials;

(b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:

(i) materials, components, parts and similar items incorporated into the imported goods;

(ii) tools, dies, moulds and similar items used in the production of the imported goods;

(iii) materials consumed in the production of the imported goods; and

- (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Union and necessary for the production of the imported goods;
- (c) royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;
- (d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller; and
- (e) the following costs up to the place where goods are brought into the customs territory of the Union:
- (i) the cost of transport and insurance of the imported goods; and
- (ii) loading and handling charges associated with the transport of the imported goods.
2. Additions to the price actually paid or payable, pursuant to paragraph 1, shall be made only on the basis of objective and quantifiable data.
3. No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.
- imported goods, irrespective of whether the finance is provided by the seller or another person, provided that the financing arrangement has been made in writing and, where required, the buyer can demonstrate that the following conditions are fulfilled:
- (i) such goods are actually sold at the price declared as the price actually paid or payable;
- (ii) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided;
- (d) charges for the right to reproduce the imported goods in the Union;
- (e) buying commissions;
- (f) import duties or other charges payable in the Union by reason of the import or sale of the goods;
- (g) notwithstanding point (c) of Article 71(1), payments made by the buyer for the right to distribute or resell the imported goods, if such payments are not a condition of the sale for export to the Union of the goods.

Article 72

Elements not to be included in the customs value

In determining the customs value under Article 70, none of the following shall be included:

- (a) the cost of transport of the imported goods after their entry into the customs territory of the Union;
- (b) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after the entry into the customs territory of the Union of the imported goods such as industrial plants, machinery or equipment;
- (c) charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of the

Article 73

Simplification

The customs authorities may, upon application, authorise that the following amounts be determined on the basis of specific criteria, where they are not quantifiable on the date on which the customs declaration is accepted:

- (a) amounts which are to be included in the customs value in accordance with Article 70(2); and
- (b) the amounts referred to in Articles 71 and 72.

Article 74

Secondary methods of customs valuation

1. Where the customs value of goods cannot be determined under Article 70, it shall be determined by proceeding sequentially from points (a) to (d) of paragraph 2, until the first point under which the customs value of goods can be determined.

The order of application of points (c) and (d) of paragraph 2 shall be reversed if the declarant so requests.

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 Union 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 Union 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 Union in the greatest aggregate quantity to persons not related to the sellers; or
 - (d) the computed value, consisting of the sum of:
 - (i) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
 - (ii) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of export for export to the Union;
 - (iii) the cost or value of the elements referred to in point (e) of Article 71(1).

3. Where the customs value cannot be determined under paragraph 1, it shall be determined on the basis of data available in the customs territory of the Union, using reasonable means consistent with the principles and general provisions of all of the following:

- (a) the agreement on implementation of Article VII of the General Agreement on Tariffs and Trade;
- (b) Article VII of the General Agreement on Tariffs and Trade;
- (c) this Chapter.

Article 75

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the conditions for granting the authorisation referred to in Article 73.

Article 76

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules for:

- (a) determining the customs value in accordance with Articles 70(1) and (2) and Articles 71 and 72, including those for adjusting the price actually paid or payable;
- (b) the application of the conditions referred to in Article 70(3);
- (c) determining the customs value referred to in Article 74.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

TITLE III

CUSTOMS DEBT AND GUARANTEES

CHAPTER 1

Incurrence of a customs debt

Section 1

Customs debt on import

Article 77

Release for free circulation and temporary admission

1. A customs debt on import shall be incurred through the placing of non-Union goods liable to import duty under either of the following customs procedures:

- (a) release for free circulation, including under the end-use provisions;
- (b) temporary admission with partial relief from import duty.

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 duty 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 78

Special provisions relating to non-originating goods

1. Where a prohibition of drawback of, or exemption from, import duty 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 Union and certain countries or territories outside the customs territory of the Union or groups of such countries or territories, a customs debt on import shall be incurred in respect of those non-originating goods, through the acceptance of the re-export declaration relating to the products in question.

2. Where a customs debt is incurred pursuant to paragraph 1, the amount of import duty corresponding to that debt 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 customs 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 77(2) and (3) shall apply. However, in the case of non-Union goods as referred to in Article 270 the person who lodges the re-export declaration shall be the debtor. In the event of indirect representation, the person on whose behalf the declaration is lodged shall also be a debtor.

Article 79

Customs debt incurred through non-compliance

1. For goods liable to import duty, a customs debt on import shall be incurred through non-compliance with any of the following:

(a) one of the obligations laid down in the customs legislation concerning the introduction of non-Union goods into the customs territory of the Union, their removal from customs supervision, or the movement, processing, storage, temporary storage, temporary admission or disposal of such goods within that territory;

(b) one of the obligations laid down in the customs legislation concerning the end-use of goods within the customs territory of the Union;

(c) a condition governing the placing of non-Union 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 a customs declaration is accepted for the placing of goods under a customs procedure 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 the person who is required to comply with the conditions governing the placing of the goods under a customs procedure or the customs declaration of the goods placed under that customs procedure or the granting of a duty exemption or reduced rate of import duty by virtue of the end-use of the goods.

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

Article 80

Deduction of an amount of import duty already paid

1. Where a customs debt is incurred, pursuant to Article 79(1) in respect of goods released for free circulation at a reduced rate of import duty on account of their end-use, the amount of import duty paid when the goods were released for free circulation shall be deducted from the amount of import duty corresponding to the customs debt.

The first subparagraph shall apply 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 79(1) in respect of goods placed under temporary admission with partial relief from import duty, the amount of import duty paid under partial relief shall be deducted from the amount of import duty corresponding to the customs debt.

Section 2

Customs debt on export

Article 81

Export and outward processing

1. A customs debt on export shall be incurred through the placing of goods liable to export duty 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 customs 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 duty 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 82

Customs debt incurred through non-compliance

1. For goods liable to export duty, a customs debt on export shall be incurred through non-compliance with either of the following:

- (a) one of the obligations laid down in the customs legislation for the exit of the goods;
- (b) the conditions under which the goods were allowed to be taken out of the customs territory of the Union with total or partial relief from export duty.

2. The time at which the customs debt is incurred shall be one of the following:

- (a) the moment at which the goods are actually taken out of the customs territory of the Union without a customs declaration;
- (b) the moment at which the goods reach a destination other than that for which they were allowed to be taken out of the customs territory of the Union with total or partial relief from export duty;

(c) should the customs authorities be unable to determine the moment referred to 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 be taken out of the customs territory of the Union with total or partial relief from export duty.

Section 3

Provisions common to customs debts incurred on import and export

Article 83

Prohibitions and restrictions

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

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

(a) the unlawful introduction into the customs territory of the Union of counterfeit currency;

(b) the introduction into the customs territory of the Union 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.

3. 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, import or export duty or the existence of a customs debt provide the basis for determining penalties.

Article 84

Several debtors

Where several persons are liable for payment of the amount of import or export duty corresponding to one customs debt, they shall be jointly and severally liable for payment of that amount.

Article 85

General rules for calculating the amount of import or export duty

1. The amount of 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 86

Special rules for calculating the amount of import duty

1. Where costs for storage or usual forms of handling have been incurred within the customs territory of the Union in respect of goods placed under a customs procedure or in temporary storage, 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 those costs is provided by the declarant.

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

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 Union, 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 import duty corresponding to such debt shall, at the request of the declarant, be determined on the basis of the tariff classification, customs value, quantity, nature and origin of the goods placed under the inward processing procedure at the time of acceptance of the customs declaration relating to those goods.

4. In specific cases, the amount of import duty shall be determined in accordance with paragraphs 2 and 3 of this Article without a request of the declarant in order to avoid the circumvention of tariff measures referred to in point (h) of Article 56(2).

5. Where a customs debt is incurred for processed products resulting from the outward processing procedure or replacement products as referred to in Article 261(1), the amount of import duty shall be calculated on the basis of the cost of the processing operation undertaken outside the customs territory of the Union.

6. Where the customs legislation provides for a favourable tariff treatment of goods, or for relief or total or partial exemption from import or export duty pursuant to points (d) to (g) of Article 56(2), Articles 203, 204, 205 and 208 or Articles 259 to 262 of this Regulation or pursuant to Council Regulation (EC) No 1186/2009 of 16 November 2009 setting up a Community system of reliefs from customs duty⁽¹⁾ such favourable tariff treatment, relief or exemption shall also apply in cases where a customs debt is incurred pursuant to Articles 79 or 82 of this Regulation, on condition that the failure which led to the incurrence of a customs debt did not constitute an attempt at deception.

Article 87

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 declaration referred to in Articles 77, 78 and 81 is 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 placed under a customs procedure which has not been discharged or when a temporary storage did not end properly, and the place where the customs debt is incurred cannot be determined pursuant to the second or third subparagraphs of paragraph 1 within a specific time-limit, 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 Union under that procedure or were in temporary storage.

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 79 or Article 82 in another Member State and the amount of import or export duty corresponding to that debt is lower than EUR 10 000, the customs debt shall be deemed to have been incurred in the Member State where the finding was made.

Article 88

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine:

- (a) the rules for the calculation of the amount of import or export duty applicable to goods for which a customs debt is incurred in the context of a special procedure, which supplement the rules laid down in Articles 85 and 86;
- (b) the cases referred to in Article 86(4);
- (c) the time-limit referred to in Article 87(2).

CHAPTER 2

Guarantee for a potential or existing customs debt

Article 89

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 otherwise specified.

2. Where the customs authorities require a guarantee for a potential or existing customs debt to be provided, that guarantee shall cover the amount of import or export duty and the other charges due in connection with the import or export of the goods where:

- (a) the guarantee is used for the placing of goods under the Union transit procedure; or
- (b) the guarantee may be used in more than one Member State.

A guarantee which may not be used outside the Member State where it is required shall be valid only in that Member State and shall cover at least the amount of import or export duty.

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 97, 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 amount of import or export duty corresponding 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.

⁽¹⁾ OJ L 324, 10.12.2009, p. 23.

If the guarantee has not been released, it may also be used, within the limits of the secured amount, for the recovery of amounts of import or export duty and other charges payable following post-release control of those goods.

5. Upon application by the person referred to in paragraph 3 of this Article, the customs authorities may, in accordance with Article 95(1), (2) and (3), authorise the provision of a comprehensive guarantee to cover the amount of import or export duty corresponding to the customs debt in respect of two or more operations, declarations or customs procedures.

6. The customs authorities shall monitor the guarantee.

7. 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.

8. No guarantee shall be required in any of the following situations:

- (a) goods carried on the Rhine, the Rhine waterways, the Danube or the Danube waterways;
- (b) goods carried by a fixed transport installation;
- (c) in specific cases where goods are placed under the temporary admission procedure;
- (d) goods placed under the Union transit procedure using the simplification referred to in point (e) of Article 233(4) and carried by sea or air between Union ports or between Union airports.

9. 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 value threshold for declarations laid down in Article 3(4) of Regulation (EC) No 471/2009 of the European Parliament and of the Council of 6 May 2009 on Community statistics relating to external trade with non-member countries ⁽¹⁾.

Article 90

Compulsory guarantee

1. Where it is compulsory for a guarantee to be provided, the customs authorities shall fix the amount of such guarantee at a level equal to the precise amount of import or export duty corresponding to the customs debt and of other charges where that amount can be established with certainty at the time when the guarantee is required.

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 import or export duty corresponding to the customs debt and of other charges which have been or may be incurred.

2. Without prejudice to Article 95 where a comprehensive guarantee is provided for the amount of import or export duty corresponding to customs debts and other charges which vary in amount over time, the amount of such guarantee shall be set at a level enabling the amount of import or export duty corresponding to customs debts and other charges to be covered at all times.

Article 91

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 the amount of import or export duty corresponding to 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 90.

Article 92

Provision of a guarantee

1. A guarantee may be provided in one of the following forms:

- (a) by a cash deposit or by any other means of payment recognised 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 amount of import or export duty corresponding to the customs debt and other charges will be paid.

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

Where a guarantee is given by making a cash deposit or any other equivalent means of payment, no interest thereon shall be payable by the customs authorities.

⁽¹⁾ OJ L 152, 16.6.2009, p. 23

*Article 93***Choice of guarantee**

The person required to provide a guarantee may choose between the forms of guarantee laid down in Article 92(1).

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

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

*Article 94***Guarantor**

1. The guarantor referred to in point (b) of Article 92(1) shall be a third person established in the customs territory of the Union. The guarantor shall be approved by the customs authorities requiring the guarantee, unless the guarantor is a credit institution, financial institution or insurance company accredited in the Union in accordance with Union provisions in force.

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

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

*Article 95***Comprehensive guarantee**

1. The authorisation referred to in Article 89(5) shall be granted only to persons who satisfy all of the following conditions:

- (a) they are established in the customs territory of the Union;
- (b) they fulfil the criteria laid down in point (a) of Article 39;
- (c) they are regular users of the customs procedures involved or operators of temporary storage facilities or they fulfil the criteria laid down in point (d) of Article 39.

2. Where a comprehensive guarantee is to be provided for customs debts and other charges which may be incurred, an

economic operator may be authorised to use a comprehensive guarantee with a reduced amount or to have a guarantee waiver, provided that he or she fulfils the criteria laid down in points (b) and (c) of Article 39.

3. Where a comprehensive guarantee is to be provided for customs debts and other charges which have been incurred, an authorised economic operator for customs simplification shall, upon application, be authorised to use a comprehensive guarantee with a reduced amount.

4. The comprehensive guarantee with a reduced amount referred to in paragraph 3 shall be equivalent to the provision of a guarantee.

*Article 96***Temporary prohibitions relating to the use of comprehensive guarantees**

1. In the context of special procedures or temporary storage, the Commission may decide to temporarily prohibit recourse to any of the following:

- (a) the comprehensive guarantee for a reduced amount or a guarantee waiver referred to in Article 95(2);
- (b) the comprehensive guarantee referred to in Article 95, in respect of goods which have been identified as being subject to large-scale fraud.

2. Where point (a) or point (b) of paragraph 1 of this Article applies, recourse to the comprehensive guarantee for a reduced amount or a guarantee waiver or recourse to the comprehensive guarantee referred to in Article 95 may be authorised where the person concerned fulfils either of the following conditions:

- (a) that person can show that no customs debt has arisen in respect of the goods in question in the course of operations which that person has undertaken in the two years preceding the decision referred to in paragraph 1;
- (b) where customs debts have arisen in the two years preceding the decision referred to in paragraph 1, the person concerned can show that those debts were fully paid by the debtor or debtors or the guarantor within the prescribed time-limit.

To obtain authorisation to use a temporarily prohibited comprehensive guarantee, the person concerned must also fulfil the criteria laid down in points (b) and (c) of Article 39.

*Article 97***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 within the prescribed period of the amount of import or export duty corresponding to the customs debt and other charges, they shall require any of the persons referred to in Article 89(3) either to provide an additional guarantee or to replace the original guarantee with a new guarantee, according to his choice.

*Article 98***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.

*Article 99***Delegation of power**

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine:

- (a) the specific cases, referred to in point (c) of Article 89(8), where no guarantee is required for goods placed under the temporary admission procedure;
- (b) the form of the guarantee, referred to in point (c) of Article 92(1), and the rules concerning the guarantor referred to in Article 94;
- (c) the conditions for the granting of an authorisation to use a comprehensive guarantee with a reduced amount or to have a guarantee waiver referred to in Article 95(2);
- (d) time-limits for the release of a guarantee.

*Article 100***Conferral of implementing powers**

1. The Commission shall specify, by means of implementing acts, the procedural rules:

- (a) for determining the amount of the guarantee, including the reduced amount referred to in Article 95(2) and (3);
- (b) regarding the provision and the monitoring of the guarantee referred to in Article 89, the revocation and cancellation of the undertaking given by the guarantor referred to in Article 94, and the release of the guarantee referred to in Article 98;
- (c) regarding the temporary prohibitions referred to in Article 96.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

2. The Commission shall adopt the measures referred to in Article 96 by means of implementing acts.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

On imperative grounds of urgency relating to such measures, duly justified by the need to rapidly enhance the protection of the financial interests of the Union and of its Member States, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 285(5).

Where the opinion of the committee referred to in Article 285(1) is to be obtained by written procedure, Article 285(6) shall apply.

CHAPTER 3

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

Section 1

Determination of the amount of import or export duty, notification of the customs debt and entry in the accounts*Article 101***Determination of the amount of import or export 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 87, as soon as they have the necessary information.

2. Without prejudice to Article 48, the customs authorities may accept the amount of import or export duty payable determined by the declarant.

3. Where the amount of import or export duty payable does not result in a whole number, that amount may be rounded.

Where the amount referred in the first subparagraph is expressed in euros, rounding may not be more than a rounding up or down to the nearest whole number.

A Member State whose currency is not the euro may either apply *mutatis mutandis* the provisions of the second subparagraph or derogate from that subparagraph, provided that the rules applicable on rounding do not have a greater financial impact than the rule set out in the second subparagraph.

Article 102

Notification of the customs debt

1. The customs debt shall be notified to the debtor in the form prescribed at the place where the customs debt is incurred, or is deemed to have been incurred in accordance with Article 87.

The notification referred to in the first subparagraph shall not be made in any of the following cases:

- (a) where, pending a final determination of the amount of import or export duty, a provisional commercial policy measure taking the form of a duty has been imposed;
- (b) where the amount of import or export duty payable exceeds that determined on the basis of a decision made in accordance with Article 33;
- (c) where the original decision not to notify the customs debt or to notify it with an amount of import or export duty at a figure less than the amount of import or export duty payable was taken on the basis of general provisions invalidated at a later date by a court decision;
- (d) where the customs authorities are exempted under the customs legislation from notification of the customs debt.

2. Where the amount of import or export duty payable is equal to the amount entered in the customs declaration, release of the goods by the customs authorities shall be equivalent to notifying the debtor of the customs debt.

3. Where paragraph 2 does not apply, the customs debt shall be notified to the debtor by the customs authorities when they are in a position to determine the amount of import or export duty payable and take a decision thereon.

However, where the notification of the customs debt would prejudice a criminal investigation, the customs authorities may defer that notification until such time as it no longer prejudices the criminal investigation.

4. Provided that payment has been guaranteed, the customs debt corresponding to the total amount of import or export duty relating to all the goods released to one and the same person during a period fixed by the customs authorities may be notified at the end of that period. The period fixed by the customs authorities shall not exceed 31 days.

Article 103

Limitation of the customs debt

1. No customs debt shall be notified 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 incurred as 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 a minimum of five years and a maximum of 10 years in accordance with national law.

3. The periods laid down in paragraphs 1 and 2 shall be suspended where:

- (a) an appeal is lodged in accordance with Article 44; such suspension shall apply from the date on which the appeal is lodged and shall last for the duration of the appeal proceedings; or
- (b) the customs authorities communicate to the debtor, in accordance with Article 22(6), the grounds on which they intend to notify the customs debt; such suspension shall apply from the date of that communication until the end of the period within which the debtor is given the opportunity to express his or her point of view.

4. Where a customs debt is reinstated pursuant to Article 116(7), the periods laid down in paragraphs 1 and 2 shall be considered as suspended from the date on which the application for repayment or remission was submitted in accordance with Article 121, until the date on which the decision on the repayment or remission was taken.

Article 104

Entry in the accounts

1. The customs authorities referred to in Article 101 shall enter in their accounts, in accordance with the national legislation, the amount of import or export 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 102(1).

2. The customs authorities need not enter in the accounts amounts of import or export duty which, pursuant to Article 103, correspond to a customs debt which could no longer be notified to the debtor.

3. Member States shall determine the practical procedures for the entry in the accounts of the amounts of import or export duty. Those procedures may differ according to whether, in view of the circumstances in which the customs debt was incurred, the customs authorities are satisfied that those amounts will be paid.

Article 105

Time of entry in the accounts

1. Where a customs debt is incurred as a result of the acceptance of the customs declaration of goods for a customs procedure, other than temporary admission with partial relief from import duty, or of any other act having the same legal effect as such acceptance, the customs authorities shall enter the amount of import or export duty payable in the accounts within 14 days of the release of the goods.

However, provided that payment has been guaranteed, the total amount of import or export 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 14 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 import or export duty payable or its collection, entry in the accounts shall take place within 14 days of the day on which the amount of import or export 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 import or export 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 import or export duty payable shall be entered in the accounts within 14 days of the date on which the customs authorities are in a position to determine the amount of import or export duty in question and take a decision.

4. Paragraph 3 shall apply with regard to the amount of import or export duty to be recovered or which remains to be recovered where the amount of import or export 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.

6. The entry in the accounts may be deferred in the case referred to in the second subparagraph of Article 102(3), until such time as the notification of the customs debt no longer prejudices a criminal investigation.

Article 106

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the cases referred to in point (d) of Article 102(1) where the customs authorities are exempted from notification of the customs debt.

Article 107

Conferral of implementing powers

The Commission shall adopt, by means of implementing acts, measures to ensure mutual assistance between the customs authorities in case of incurrence of a customs debt.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 2

Payment of the amount of import or export duty

Article 108

General time-limits for payment and suspension of the time-limit for payment

1. Amounts of import or export duty, corresponding to a customs debt notified in accordance with Article 102, shall be paid by the debtor within the period prescribed by the customs authorities.

Without prejudice to Article 45(2), that period shall not exceed 10 days following notification to the debtor of the customs debt. In the case of aggregation of entries in the accounts under the conditions laid down in the second subparagraph of Article 105(1), it shall be so fixed as not to enable the debtor to obtain a longer period for payment than if he or she had been granted deferred payment in accordance with Article 110.

The customs authorities may extend that period upon application by the debtor where the amount of import or export duty payable has been determined in the course of post-release control as referred to in Article 48. Without prejudice to Article 112(1), such extensions shall not exceed the time necessary for the debtor to take the appropriate steps to discharge his or her obligation.

2. If the debtor is entitled to any of the payment facilities laid down in Articles 110 to 112, payment shall be made within the period or periods specified in relation to those facilities.

3. The time-limit for payment of the amount of import or export duty corresponding to a customs debt shall be suspended in any of the following cases:

- (a) where an application for remission of duty is made in accordance with Article 121;
- (b) where goods are to be confiscated, destroyed or abandoned to the State;
- (c) where the customs debt was incurred pursuant to Article 79 and there is more than one debtor.

Article 109

Payment

1. Payment shall be made in cash or by any other means with similar discharging effect, including by adjustment of a credit balance, in accordance with 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 import or export duty without awaiting expiry of the period he or she has been granted for payment.

Article 110

Deferment of payment

The customs authorities shall, upon application by the person concerned and upon provision of a guarantee, authorise deferment of payment of the duty payable in any of the following ways:

- (a) separately in respect of each amount of import or export duty entered in the accounts in accordance with the first subparagraph of Article 105(1), or Article 105(4);
- (b) globally in respect of all amounts of import or export duty entered in the accounts in accordance with the first subparagraph of Article 105(1) during a period fixed by the customs authorities and not exceeding 31 days;
- (c) globally in respect of all amounts of import or export duty forming a single entry in accordance with the second subparagraph of Article 105(1).

Article 111

Periods for which payment is deferred

1. The period for which payment is deferred under Article 110 shall be 30 days.

2. Where payment is deferred in accordance with point (a) of Article 110, the period shall begin on the day following that on which the customs debt is notified to the debtor.

3. Where payment is deferred in accordance with point (b) of Article 110, 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 110, 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 weeks, Member States may provide that the amount of import or export duty in respect of which payment has been deferred is to be paid on the Friday of the fourth week following the week in question at the latest.

If those periods are months, Member States may provide that the amount of import or export duty in respect of which payment has been deferred is to be paid by the 16th day of the month following the month in question.

Article 112

Other payment facilities

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

2. Where facilities are granted pursuant to paragraph 1, credit interest shall be charged on the amount of import or export duty.

For a Member State whose currency is the euro, the rate of credit interest shall be equal to the interest rate as published in the *Official Journal of the European Union*, C series, which the European Central Bank applied to its main refinancing operations, on the first day of the month in which the due date fell, increased by one percentage point.

For a Member State whose currency is not the euro, the rate of credit interest shall be equal to the rate applied on the first day of the month in question by the National Central Bank for its main refinancing operations, increased by one percentage point, or, for a Member State for which the National Central Bank rate is not available, the most equivalent rate applied on the first day of the month in question on the Member State's money market, increased by one percentage point.

3. 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.

4. The customs authorities shall refrain from charging credit interest where the amount for each recovery action is less than EUR 10.

Article 113

Enforcement of payment

Where the amount of import or export 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 under the law of the Member State concerned.

Article 114

Interest on arrears

1. Interest on arrears shall be charged on the amount of import or export duty from the date of expiry of the prescribed period until the date of payment.

For a Member State whose currency is the euro, the rate of interest on arrears shall be equal to the interest rate as published in the *Official Journal of the European Union*, C series, which the European Central Bank applied to its main refinancing operations, on the first day of the month in which the due date fell, increased by two percentage points.

For a Member State whose currency is not the euro, the rate of interest on arrears shall be equal to the rate applied on the first day of the month in question by the National Central Bank for its main refinancing operations, increased by two percentage points, or, for a Member State for which the National Central Bank rate is not available, the most equivalent rate applied on the first day of the month in question on the Member State's money market, increased by two percentage points.

2. Where the customs debt is incurred on the basis of Article 79 or 82, or where the notification of the customs debt results from a post-release control, interest on arrears shall be charged over and above the amount of import or export duty, from the date on which the customs debt was incurred until the date of its notification.

The rate of interest on arrears shall be set in accordance with paragraph 1.

3. 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.

4. The customs authorities shall refrain from charging interest on arrears where the amount for each recovery action is less than EUR 10.

Article 115

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the rules for the suspension of the time-limit for payment of the amount of import or export duty corresponding to a customs debt referred to in Article 108(3) and the period of suspension.

Section 3

Repayment and remission*Article 116***General provisions**

1. Subject to the conditions laid down in this Section, amounts of import or export duty shall be repaid or remitted on any of the following grounds:

- (a) overcharged amounts of import or export duty;
- (b) defective goods or goods not complying with the terms of the contract;
- (c) error by the competent authorities;
- (d) equity.

Where an amount of import or export duty has been paid and the corresponding customs declaration is invalidated in accordance with Article 174, that amount shall be repaid.

2. The customs authorities shall repay or remit the amount of import or export duty referred to in paragraph 1 where it is EUR 10 or more, except where the person concerned requests the repayment or remission of a lower amount.

3. Where the customs authorities consider that repayment or remission should be granted on the basis of Article 119 or 120, the Member State concerned shall transmit the file to the Commission for decision in any of the following cases:

- (a) where the customs authorities consider that the special circumstances are the result of the Commission failing in its obligations;
- (b) where the customs authorities consider that the Commission committed an error within the meaning of Article 119;
- (c) where the circumstances of the case relate to the findings of a Union investigation carried out under Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to

ensure the correct application of the law on customs and agricultural matters ⁽¹⁾, or under any other Union legislation or any agreement concluded by the Union with countries or groups of countries in which provision is made for carrying out such Union investigations;

- (d) where the amount for which the person concerned may be liable in respect of one or more import or export operations equals or exceeds EUR 500 000 as a result of an error or special circumstances.

Notwithstanding the first subparagraph, files shall not be transmitted in either of the following situations:

- (a) where the Commission has already adopted a decision on a case involving comparable issues of fact and of law;
- (b) where the Commission is already considering a case involving comparable issues of fact and of law.

4. Subject to the rules of competence for a decision, where the customs authorities themselves discover within the periods referred to in Article 121(1) that an amount of import or export duty is repayable or remissible pursuant to Articles 117, 119 or 120 they shall repay or remit on their own initiative.

5. No repayment or remission shall be granted when the situation which led to the notification of the customs debt results from deception by the debtor.

6. 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, unless the failure to meet the deadline was outside the control of the customs authorities.

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 in accordance with Article 112.

7. Where the customs authorities have granted repayment or remission in error, the original customs debt shall be reinstated insofar as it is not time-barred under Article 103.

⁽¹⁾ OJ L 82, 22.3.1997, p. 1.

In such cases, any interest paid under the second subparagraph of paragraph 5 shall be reimbursed.

Article 117

Overcharged amounts of import or export duty

1. An amount of import or export duty shall be repaid or remitted insofar as the amount corresponding to the customs debt initially notified exceeds the amount payable, or the customs debt was notified to the debtor contrary to points (c) or (d) of Article 102(1).

2. Where the application for repayment or remission is based on the existence, at the time when the declaration for release for free circulation was accepted, of a reduced or zero rate of import duty on the goods under a tariff quota, a tariff ceiling or other favourable tariff measures, repayment or remission shall be granted provided that, at the time of lodging the application accompanied by the necessary documents, either of the following conditions are fulfilled:

- (a) in the case of a tariff quota, its volume has not been exhausted;
- (b) in other cases, the rate of duty normally due has not been re-established.

Article 118

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

1. An amount of import duty shall be repaid or remitted if the notification of the customs debt 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. Notwithstanding paragraph 3, repayment or remission 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 they are taken out of the customs territory of the Union.

3. Repayment or remission shall not be granted where:

- (a) the goods, before being released for free circulation, were placed under a special procedure for testing, unless it is

established that the fact that the goods were defective or did not comply with the terms of the contract could not normally have been detected in the course of such tests;

- (b) the defective nature of the goods was taken into consideration in drawing up the terms of the contract, in particular the price, before the goods were placed under a customs procedure involving the incurrence of a customs debt; or

- (c) the goods are sold by the applicant after it has been ascertained that they are defective or do not comply with the terms of the contract.

4. Instead of being taken out of the customs territory of the Union, and upon application by the person concerned, the customs authorities shall authorise that the goods be placed under the inward processing procedure, including for destruction, or the external transit, the customs warehousing or the free zone procedure.

Article 119

Error by the competent authorities

1. In cases other than those referred to in the second subparagraph of Article 116(1) and in Articles 117, 118 and 120, an amount of import or export duty shall be repaid or remitted where, as a result of an error on the part of the competent authorities, the amount corresponding to the customs debt initially notified was lower than the amount payable, provided the following conditions are met:

- (a) the debtor could not reasonably have detected that error; and

- (b) the debtor was acting in good faith.

2. Where the conditions laid down in Article 117(2) are not fulfilled, repayment or remission shall be granted where failure to apply the reduced or zero rate of duty was as a result of an error on the part of the customs authorities and the customs declaration for release for free circulation contained all the particulars and was accompanied by all the documents necessary for application of the reduced or zero rate.

3. Where the preferential treatment of the goods is granted on the basis of a system of administrative cooperation involving the authorities of a country or territory outside the customs territory of the Union, 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 paragraph 1.

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 or she can demonstrate that, during the period of the trading operations concerned, he or she 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 120

Equity

1. In cases other than those referred to in the second subparagraph of Article 116(1) and in Articles 117, 118 and 119 an amount of import or export duty shall be repaid or remitted in the interest of equity where a customs debt is incurred under special circumstances in which no deception or obvious negligence may be attributed to the debtor.

2. The special circumstances referred to in paragraph 1 shall be deemed to exist where it is clear from the circumstances of the case that the debtor is in an exceptional situation as compared with other operators engaged in the same business, and that, in the absence of such circumstances, he or she would not have suffered disadvantage by the collection of the amount of import or export duty.

Article 121

Procedure for repayment and remission

1. Applications for repayment or remission in accordance with Article 116 shall be submitted to the customs authorities within the following periods:

- (a) in the case of overcharged, amounts of import or export duty, error by the competent authorities or equity, within three years of the date of notification of the customs debt;
- (b) in the case of defective goods or goods not complying with the terms of the contract, within one year of the date of notification of the customs debt;

- (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 or she was prevented from submitting an application within the prescribed period as a result of unforeseeable circumstances or force majeure.

2. Where the customs authorities are not in a position, on the basis of the grounds adduced, to grant repayment or remission of an amount of import or export duty, it is required to examine the merits of an application for repayment or remission in the light of the other grounds for repayment or remission referred to in Article 116.

3. Where an appeal has been lodged under Article 44 against the notification of the customs debt, the relevant period specified in the first subparagraph of paragraph 1 shall be suspended, from the date on which the appeal is lodged, for the duration of the appeal proceedings.

4. Where a customs authority grants repayment or remission in accordance with Articles 119 and 120, the Member State concerned shall inform the Commission thereof.

Article 122

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, laying down the rules with which it has to comply when taking a decision referred to in Article 116(3) and in particular on the following:

- (a) the conditions for the acceptance of the file;
- (b) the time-limit to take a decision and the suspension of that time-limit;
- (c) the communication of the grounds on which the Commission intends to base its decision, before taking a decision which would adversely affect the person concerned;
- (d) the notification of the decision;
- (e) the consequences of a failure to take a decision or to notify such decision.

*Article 123***Conferral of implementing powers**

1. The Commission shall specify, by means of implementing acts, the procedural rules for:

- (a) repayment and remission, as referred to in Article 116;
- (b) informing the Commission in accordance with Article 121(4) and the information to be provided.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

2. The Commission shall adopt the decision referred to in Article 116(3) by means of implementing acts.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 285(2).

Where the opinion of the committee referred to in Article 285(1) is to be obtained by written procedure, Article 285(6) shall apply.

*CHAPTER 4***Extinguishment of a customs debt***Article 124***Extinguishment**

1. Without prejudice to the provisions in force relating to non-recovery of the amount of import or export duty corresponding to a customs debt in the event of the judicially established insolvency of the debtor, a customs debt on import or export shall be extinguished in any of the following ways:

- (a) where the debtor can no longer be notified of the customs debt, in accordance with Article 103;
- (b) by payment of the amount of import or export duty;
- (c) subject to paragraph 5, by remission of the amount of import or export duty;
- (d) where, in respect of goods declared for a customs procedure entailing the obligation to pay import or export duty, the customs declaration is invalidated;

(e) where goods liable to import or export duty are confiscated or seized and simultaneously or subsequently confiscated;

(f) where goods liable to import or export duty are destroyed under customs supervision or abandoned to the State;

(g) 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; for the purpose of this point, goods shall be considered as irretrievably lost when they have been rendered unusable by any person;

(h) where the customs debt was incurred pursuant to Article 79 or 82 and where the following conditions are fulfilled:

(i) the failure which led to the incurrence of a customs debt had no significant effect on the correct operation of the customs procedure concerned and did not constitute an attempt at deception;

(ii) all of the formalities necessary to regularise the situation of the goods are subsequently carried out;

(i) 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;

(j) where it was incurred pursuant to Article 78 and where the formalities carried out in order to enable the preferential tariff treatment referred to in that Article to be granted are cancelled;

(k) where, subject to paragraph 6, the customs debt was incurred pursuant to Article 79 and evidence is provided to the satisfaction of the customs authorities that the goods have not been used or consumed and have been taken out of the customs territory of the Union.

2. In the cases referred to in point (e) 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, import or export duty or the existence of a customs debt provide the basis for determining penalties.

3. Where, in accordance with point (g) 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-Union goods.

4. The provisions in force pertaining to standard rates for irretrievable loss due to the nature of goods shall apply where the person concerned fails to show that the real loss exceeds that calculated by applying the standard rate for the goods in question.

5. Where several persons are liable for payment of the amount of import or export duty corresponding to the customs debt and remission is granted, the customs debt shall be extinguished only in respect of the person or persons to whom the remission is granted.

6. In the case referred to in point (k) of paragraph 1, the customs debt shall not be extinguished in respect of any person or persons who attempted deception.

7. Where the customs debt was incurred pursuant to Article 79, it 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.

Article 125

Application of penalties

Where the customs debt is extinguished on the basis of point (h) of Article 124(1), Member States shall not be precluded from the application of penalties for failure to comply with the customs legislation.

Article 126

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the list of failures with no significant effect on the correct operation of the customs procedure concerned and to supplement point (i) of point (h) of Article 124(1).

TITLE IV

GOODS BROUGHT INTO THE CUSTOMS TERRITORY OF THE UNION

CHAPTER 1

Entry summary declaration

Article 127

Lodging of an entry summary declaration

1. Goods brought into the customs territory of the Union shall be covered by an entry summary declaration.

2. The obligation referred to in paragraph 1 shall be waived:

(a) for means of transport and the goods carried thereon only passing through the territorial waters or the airspace of the customs territory of the Union without a stop within that territory; and

(b) in other cases, where duly justified by the type of goods or traffic, or where required by international agreements.

3. The entry summary declaration shall be lodged at the customs office of first entry within a specific time-limit, before the goods are brought into the customs territory of the Union.

Customs authorities may allow the entry summary declaration to be lodged at another customs office, provided that the latter immediately communicates or makes available electronically the necessary particulars to the customs office of first entry.

4. The entry summary declaration shall be lodged by the carrier.

Notwithstanding the obligations of the carrier, 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 carrier acts;

(b) any person who is able to present the goods in question or have them presented at the customs office of entry.

5. The entry summary declaration shall contain the particulars necessary for risk analysis for security and safety purposes.

6. In specific cases, where all the particulars referred to in paragraph 5 cannot be obtained from the persons referred to in paragraph 4, other persons holding those particulars and the appropriate rights to provide them may be required to provide those particulars.

7. Customs authorities may accept that commercial, port or transport information systems are used for the lodging of an entry summary declaration provided such systems contain the necessary particulars for such declaration and those particulars are available within a specific time-limit, before the goods are brought into the customs territory of the Union.

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

Article 128

Risk analysis

The customs office referred to in Article 127(3) shall, within a specific time-limit, ensure that a risk analysis is carried out, primarily for security and safety purposes, on the basis of the entry summary declaration referred to in Article 127(1) or the particulars referred to in Article 127(8) and shall take the necessary measures based on the results of that risk analysis.

Article 129

Amendment and invalidation of an entry summary declaration

1. The declarant may, upon application, be permitted to amend one or more particulars of the entry summary declaration after it has been lodged.

No amendment shall be possible after any of the following:

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

2. When the goods for which an entry summary declaration has been lodged are not brought into the customs territory of the Union, the customs authorities shall invalidate that declaration in either of the following cases:

- (a) upon application by the declarant;
- (b) within 200 days after the lodging of the declaration.

Article 130

Declarations lodged instead of an entry summary declaration

1. The customs office referred to in Article 127(3) may waive the lodging of an entry summary declaration in respect of goods for which, prior to the expiry of the time-limit for lodging that declaration, a customs declaration is lodged. In that 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 172, it shall have the status of an entry summary declaration.

2. The customs office referred to in Article 127(3) may waive the lodging of an entry summary declaration in respect of goods for which, prior to the expiry of the time-limit for lodging that declaration, a temporary storage declaration is lodged. That declaration shall contain at least the particulars necessary for the entry summary declaration. Until such time as the goods declared are presented to customs in accordance with Article 139, the temporary storage declaration shall have the status of an entry summary declaration.

Article 131

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 284, in order to determine:

- (a) the cases where the obligation to lodge an entry summary declaration is waived, in accordance with point (c) of Article 127(2);
- (b) the specific time-limit referred to in Article 127(3) and (7), within which the entry summary declaration is to be lodged before the goods are brought into the customs territory of the Union, taking into account the type of goods or traffic;
- (c) the cases referred to in Article 127(6) and the other persons who may be required to provide particulars of the entry summary declaration in those cases.

Article 132

Conferral of implementing powers

The Commission shall specify, by means of implementing acts:

- (a) the procedural rules for lodging the entry summary declaration referred to in Article 127;

- (b) the procedural rules and the provision of particulars of the entry summary declaration by the other persons referred to in Article 127(6);
- (c) the time-limit within which a risk analysis is to be carried out and the necessary measures to be taken, in accordance with Article 128;
- (d) the procedural rules for amending the entry summary declaration, in accordance with Article 129(1);
- (e) the procedural rules for invalidating the entry summary declaration in accordance with Article 129(2), taking into account the proper management of the entry of the goods.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

CHAPTER 2

Arrival of goods

Section 1

Entry of goods into the customs territory of the Union

Article 133

Notification of arrival of a sea-going vessel or of an aircraft

1. The operator of a sea-going vessel or of an aircraft entering the customs territory of the Union shall notify the arrival to the customs office of first entry upon arrival of the means of transport.

Where information on arrival of a sea-going vessel or of an aircraft is available to the customs authorities they may waive the notification referred to in the first subparagraph.

2. Customs authorities may accept that port or airport systems or other available methods of information be used to notify the arrival of the means of transport.

Article 134

Customs supervision

1. Goods brought into the customs territory of the Union 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 such prohibitions and restrictions as are 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 and the protection of industrial or commercial property, including controls on drug precursors, goods infringing certain intellectual property rights and cash, as well as to the implementation of fishery conservation and management measures and of commercial policy measures.

They shall remain under such supervision for as long as is necessary to determine their customs status and shall not be removed therefrom without the permission of the customs authorities.

Without prejudice to Article 254, Union goods shall not be subject to customs supervision once their customs status is established.

Non-Union goods shall remain under customs supervision until their customs status is changed, or they are taken out of the customs territory of the Union 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.

Article 135

Conveyance to the appropriate place

1. The person who brings goods into the customs territory of the Union 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.

2. 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 Union, where the free zone adjoins the land frontier between a Member State and a third country.

3. Any person who assumes responsibility for the carriage of goods after they have been brought into the customs territory of the Union shall become responsible for compliance with the obligations laid down in paragraphs 1 and 2.

4. Goods which, although still outside the customs territory of the Union, 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 Union, shall be treated in the same way as goods brought into the customs territory of the Union.

5. Paragraphs 1 and 2 shall not preclude application of special rules with respect to goods transported within frontier zones or in pipelines and wires as well as for traffic of negligible economic importance such as letters, postcards and printed matter and their electronic equivalents held on other media or to goods carried by travellers, provided that customs supervision and customs control possibilities are not thereby jeopardised.

6. 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 Union without a stop within that territory.

Article 136

Intra-Union air and sea services

Articles 127 to 130 and 133, Article 135(1) and Articles 137, 139 to 141, and 144 to 149 shall not apply to non-Union goods and goods referred to in Article 155, which have temporarily left the customs territory of the Union while moving between two points in that territory by sea or air, provided they have been carried by direct route without a stop outside the customs territory of the Union.

Article 137

Conveyance under special circumstances

1. Where, by reason of unforeseeable circumstances or force majeure, the obligation laid down in Article 135(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 135(6) is forced to put into port or to land temporarily in the customs territory of the Union and the obligation laid down in Article 135(1) cannot be complied with, the person who brought the vessel or aircraft into the customs territory of the Union, 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.

Article 138

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules on:

- (a) the notification of arrival referred to in Article 133;
- (b) the conveyance of goods referred to in Article 135(5).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 2

Presentation, unloading and examination of goods

Article 139

Presentation of goods to customs

1. Goods brought into the customs territory of the Union 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 Union;
- (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 Union.

2. Goods which are brought into the customs territory of the Union by sea or air and which remain on board the same means of transport for carriage, shall be presented to customs only at the port or airport where they are unloaded or transhipped. However, goods brought into the customs territory of the Union which are unloaded and reloaded onto the same means of transport during its voyage in order to enable the unloading or loading of other goods, shall not be presented to customs at that port or airport.

3. 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 authorisation for the operation of storage facilities or any person who carries out an activity in a free zone.

4. The person presenting the goods shall make a reference to the entry summary declaration or, in the cases referred to in Article 130, the customs declaration or temporary storage declaration which has been lodged in respect of the goods, except where the obligation to lodge an entry summary declaration is waived.

5. Where non-Union goods presented to customs are not covered by an entry summary declaration, and except where the obligation to lodge such declaration is waived, one of the persons referred to in Article 127(4) shall, without prejudice to Article 127(6), lodge immediately such declaration or shall instead lodge a customs declaration or temporary storage declaration.

6. Paragraph 1 shall not preclude application of special rules with respect to goods transported within frontier zones or in pipelines and wires as well as for traffic of negligible economic importance such as letters, postcards and printed matter and their electronic equivalents held on other media or to goods carried by travellers, provided that customs supervision and customs control possibilities are not thereby jeopardised.

7. Goods presented to customs shall not be removed from the place where they have been presented without the permission of the customs authorities.

Article 140

Unloading and examination of goods

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

However, such authorisation 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.

Article 141

Goods moved under transit

1. Article 135(2) to (6) and Articles 139, 140 and 144 to 149 shall not apply when goods already under a transit procedure are brought into the customs territory of the Union.

2. Articles 140 and 144 to 149 shall apply to non-Union goods moved under a transit procedure, once such goods have been presented to the customs office of destination in the customs territory of the Union in accordance with the rules governing the transit procedure.

Article 142

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 284, in order to determine the conditions for approving the places referred to in Article 139(1).

Article 143

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules regarding the presentation of goods to customs referred to in Article 139.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 3

Temporary storage of goods

Article 144

Goods in temporary storage

Non-Union goods shall be in temporary storage from the moment they are presented to customs.

Article 145

Temporary storage declaration

1. Non-Union goods presented to customs shall be covered by a temporary storage declaration containing all the particulars necessary for the application of the provisions governing temporary storage.

2. Documents related to goods in temporary storage shall be provided to the customs authorities where Union legislation so requires or where necessary for customs controls.

3. The temporary storage declaration shall be lodged by one of the persons referred to in Article 139(1) or (2) at the latest at the time of the presentation of the goods to customs.

4. The temporary storage declaration shall, unless the obligation to lodge an entry summary declaration is waived, include a reference to any entry summary declaration lodged for the goods presented to customs, except where they have already been in temporary storage or have been placed under a customs procedure and have not left the customs territory of the Union.

5. Customs authorities may accept that the temporary storage declaration also takes one of the following forms:

- (a) a reference to any entry summary declaration lodged for the goods concerned, supplemented by the particulars of a temporary storage declaration;
- (b) a manifest or another transport document, provided that it contains the particulars of a temporary storage declaration, including a reference to any entry summary declaration for the goods concerned.

6. Customs authorities may accept that commercial, port or transport information systems are used to lodge a temporary storage declaration provided that they contain the necessary particulars for such declaration and these particulars are available in accordance with paragraph 3.

7. Articles 188 to 193 shall apply to the temporary storage declaration.

8. The temporary storage declaration may be used also for the purpose of:

- (a) the notification of arrival referred to in Article 133; or
- (b) the presentation of the goods to customs referred to in Article 139, insofar as it fulfils the conditions laid down in those provisions.

9. A temporary storage declaration shall not be required where, at the latest at the time of the presentation of the goods to customs, their customs status as Union goods is determined in accordance with Articles 153 to 156.

10. The temporary storage declaration shall be kept by, or be accessible to, the customs authorities for the purpose of verifying that the goods to which it relates are subsequently placed under a customs procedure or re-exported in accordance with Article 149.

11. For the purpose of paragraphs 1 to 10, where non-Union goods moved under a transit procedure are presented to customs at an office of destination within the customs territory of the Union, the particulars for the transit operation concerned shall be deemed to be the temporary storage declaration, provided they meet the requirements for that purpose. However, the holder of the goods may lodge a temporary storage declaration after the end of the transit procedure.

Article 146

Amendment and invalidation of a temporary storage declaration

1. The declarant shall, upon application, be permitted to amend one or more particulars of the temporary storage declaration after it has been lodged. The amendment shall not render the declaration applicable to goods other than those which it originally covered.

No amendment shall be possible after any of the following:

- (a) the customs authorities have informed the person who lodged the declaration that they intend to examine the goods;
- (b) the customs authorities have established that particulars of the declaration are incorrect.

2. Where the goods for which a temporary storage declaration has been lodged are not presented to customs, the customs authorities shall invalidate that declaration in either of the following cases:

- (a) upon application by the declarant;
- (b) within 30 days after the lodging of the declaration.

Article 147

Conditions and responsibilities for the temporary storage of goods

1. Goods in temporary storage shall be stored only in temporary storage facilities in accordance with Article 148 or, where justified, in other places designated or approved by the customs authorities.

2. Without prejudice to Article 134(2), goods in temporary storage 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.

3. The holder of the authorisation referred to in Article 148 or the person storing the goods in the cases where the goods are stored in other places designated or approved by the customs authorities, shall be responsible for all of the following:

- (a) ensuring that goods in temporary storage are not removed from customs supervision;
- (b) fulfilling the obligations arising from the storage of goods in temporary storage.

4. Where, for any reason, goods cannot be maintained in temporary storage, the customs authorities shall without delay take all measures necessary to regularise the situation of the goods in accordance with Articles 197, 198 and 199.

Article 148

Authorisation for the operation of temporary storage facilities

1. An authorisation from the customs authorities shall be required for the operation of temporary storage facilities. Such authorisation shall not be required where the operator of the temporary storage facility is the customs authority itself.

The conditions under which the operation of temporary storage facilities is permitted shall be set out in the authorisation.

2. The authorisation referred to in paragraph 1 shall be granted only to persons who satisfy all of the following conditions:

- (a) they are established in the customs territory of the Union;
- (b) they provide the necessary assurance of the proper conduct of the operations; an authorised economic operator for customs simplifications shall be deemed to fulfil that condition insofar as the operation of temporary storage facilities is taken into account in the authorisation referred to in point (a) of Article 38(2);
- (c) they provide a guarantee in accordance with Article 89.

Where a comprehensive guarantee is provided, compliance with the obligations attached to that guarantee shall be monitored by appropriate audit.

3. The authorisation referred to in paragraph 1 shall be granted only where the customs authorities are able to exercise customs supervision without having to introduce administrative arrangements which are disproportionate to the economic needs involved.

4. The holder of the authorisation shall keep appropriate records in a form approved by the customs authorities.

The records shall contain the information and the particulars which enable the customs authorities to supervise the operation of the temporary storage facilities, in particular with regard to the identification of the goods stored, their customs status and their movements.

An authorised economic operator for customs simplifications shall be deemed to comply with the obligation referred to in the first and second subparagraphs, insofar as his or her records are appropriate for the purpose of the operation of temporary storage.

5. The customs authorities may authorise the holder of the authorisation to move goods in temporary storage between different temporary storage facilities under the condition that such movements would not increase the risk of fraud, as follows:

- (a) such movement takes place under the responsibility of one customs authority;
- (b) such movement is covered by only one authorisation, issued to an authorised economic operator for customs simplifications; or
- (c) in other cases of movement.

6. The customs authorities may, where an economic need exists and customs supervision will not be adversely affected, authorise the storage of Union goods in a temporary storage facility. Those goods shall not be regarded as goods in temporary storage.

Article 149

End of temporary storage

Non-Union goods in temporary storage shall be placed under a customs procedure or re-exported within 90 days.

*Article 150***Choice of a customs procedure**

Except where otherwise provided, the declarant shall be free to choose the customs procedure under which to place the goods, under the conditions for that procedure, irrespective of their nature or quantity, or their country of origin, consignment or destination.

*Article 151***Delegation of power**

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine:

- (a) the conditions for approving the places referred to in Article 147(1);
- (b) the conditions for granting the authorisation for the operation of temporary storage facilities, referred to in Article 148;
- (c) the cases of movement referred to in point (c) of Article 148(5).

*Article 152***Conferral of implementing power**

The Commission shall specify, by means of implementing acts, the procedural rules for:

- (a) lodging the temporary storage declaration referred to in Article 145;
- (b) amending the temporary storage declaration, in accordance with Article 146(1);
- (c) invalidating the temporary storage declaration, in accordance with Article 146(2);
- (d) the movement of goods in temporary storage referred to in Article 148(5).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

TITLE V

GENERAL RULES ON CUSTOMS STATUS, PLACING GOODS UNDER A CUSTOMS PROCEDURE, VERIFICATION, RELEASE AND DISPOSAL OF GOODS

CHAPTER 1

Customs status of goods*Article 153***Presumption of customs status of Union goods**

1. All goods in the customs territory of the Union shall be presumed to have the customs status of Union goods, unless it is established that they are not Union goods.
2. In specific cases, where the presumption laid down in paragraph 1 does not apply, the customs status of Union goods shall need to be proven.
3. In specific cases, goods wholly obtained in the customs territory of the Union do not have the customs status of Union goods if they are obtained from goods in temporary storage or placed under the external transit procedure, a storage procedure, the temporary admission procedure or the inward processing procedure.

*Article 154***Loss of customs status of Union goods**

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

- (a) where they are taken out of the customs territory of the Union, insofar as the rules on internal transit do not apply;
- (b) where they have been placed under the external transit procedure, a storage procedure or the inward processing procedure, insofar as the customs legislation so allows;
- (c) where they have been placed under the end-use procedure and are either subsequently abandoned to the State, or are destroyed and waste remains;
- (d) where the declaration for release for free circulation is invalidated after release of the goods.

*Article 155***Union goods leaving the customs territory of the Union temporarily**

1. In the cases referred to in points (b) to (f) of Article 227(2), goods shall keep their customs status as Union goods only if that status is established under certain conditions and by means laid down in the customs legislation.

2. In specific cases, Union goods may move, without being subject to a customs procedure, from one point to another within the customs territory of the Union and temporarily out of that territory without alteration of their customs status.

Article 156

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine:

- (a) the cases where the presumption laid down in Article 153(1) does not apply;
- (b) the conditions for granting facilitation in the establishment of the proof of customs status of Union goods;
- (c) the cases where the goods referred to in Article 153(3) do not have the customs status of Union goods;
- (d) the cases where the customs status of goods referred to in Article 155(2) is not altered.

Article 157

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules for the provision and verification of the proof of the customs status of Union goods.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

CHAPTER 2

Placing goods under a customs procedure

Section 1

General provisions

Article 158

Customs declaration of goods and customs supervision of Union 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. In specific cases, other than those referred to in Article 6(2), a customs declaration may be lodged using means other than electronic data-processing techniques.

3. Union goods declared for export, internal Union 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 are taken out of the customs territory of the Union or are abandoned to the State or destroyed or the customs declaration is invalidated.

Article 159

Competent customs offices

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

2. Member States shall ensure that official opening hours are fixed for those 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.

3. Except where otherwise provided, the competent customs office for placing the goods under a customs procedure shall be the customs office responsible for the place where the goods are presented to customs.

Article 160

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the cases where a customs declaration may be lodged using means other than electronic data-processing techniques in accordance with Article 158(2).

Article 161

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules for:

- (a) determining the competent customs offices other than the one referred to in Article 159(3), including customs offices of entry and customs offices of exit;
- (b) lodging the customs declaration in the cases referred to in Article 158(2).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 2

Standard customs declarations*Article 162***Content of a standard customs declaration**

Standard customs declarations shall contain all the particulars necessary for application of the provisions governing the customs procedure for which the goods are declared.

*Article 163***Supporting documents**

1. The supporting documents required for the application of the provisions governing the customs procedure for which the goods are declared shall be in the declarant's possession and at the disposal of the customs authorities at the time when the customs declaration is lodged.

2. Supporting documents shall be provided to the customs authorities where Union legislation so requires or where necessary for customs controls.

3. In specific cases, economic operators may draw up the supporting documents provided they are authorised to do so by the customs authorities.

*Article 164***Delegation of power**

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, laying down the rules for granting the authorisation referred to in Article 163(3).

*Article 165***Conferral of implementing powers**

The Commission shall specify, by means of implementing acts, the procedural rules:

(a) for lodging the standard customs declaration referred to in Article 162;

(b) on the making available of the supporting documents referred to in Article 163(1).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 3

Simplified customs declarations*Article 166***Simplified declaration**

1. The customs authorities may accept that a person has goods placed under a customs procedure on the basis of a simplified declaration which may omit certain of the particulars referred to in Article 162 or the supporting documents referred to in Article 163.

2. The regular use of a simplified declaration referred to in paragraph 1 shall be subject to an authorisation from the customs authorities.

*Article 167***Supplementary declaration**

1. In the case of a simplified declaration pursuant to Article 166 or of an entry in the declarant's records pursuant to Article 182, the declarant shall lodge a supplementary declaration containing the particulars necessary for the customs procedure concerned at the competent customs office within a specific time-limit.

In the case of a simplified declaration pursuant to Article 166, the necessary supporting documents shall be in the declarant's possession and at the disposal of the customs authorities within a specific time-limit.

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

2. The obligation to lodge a supplementary declaration shall be waived in the following cases:

(a) where the goods are placed under a customs warehousing procedure;

(b) in other specific cases.

3. The customs authorities may waive the requirement to lodge a supplementary declaration where the following conditions apply:

(a) the simplified declaration concerns goods the value and quantity of which is below the statistical threshold;

- (b) the simplified declaration already contains all the information needed for the customs procedure concerned; and
- (c) the simplified declaration is not made by entry in the declarant's records.

4. The simplified declaration referred to in Article 166 or the entry in the declarant's records referred to in Article 182, and the supplementary declaration shall be deemed to constitute a single, indivisible instrument taking effect, respectively, on the date on which the simplified declaration is accepted in accordance with Article 172 and on the date on which the goods are entered in the declarant's records.

5. The place where the supplementary declaration is to be lodged shall be deemed, for the purposes of Article 87, to be the place where the customs declaration has been lodged.

Article 168

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 284, in order to determine:

- (a) the conditions for granting the authorisation referred to in Article 166(2);
- (b) the specific time-limit referred to in the first subparagraph of Article 167(1) within which the supplementary declaration is to be lodged;
- (c) the specific time-limit referred to in the second subparagraph of Article 167(1) within which supporting documents are to be in the possession of the declarant;
- (d) the specific cases where the obligation to lodge a supplementary declaration is waived in accordance with point (b) of Article 167(2).

Article 169

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules for lodging:

- (a) the simplified declaration referred to in Article 166;

- (b) the supplementary declaration referred to in Article 167.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 4

Provisions applying to all customs declarations

Article 170

Lodging a customs declaration

1. Without prejudice to Article 167(1), a customs declaration may be lodged by any person who is able to provide all of the information which is required for the application of the provisions governing the customs procedure in respect of which the goods are declared. That person shall also be able to present the goods in question or to have them presented to customs.

However, where acceptance of a customs declaration imposes particular obligations on a specific person, that declaration shall be lodged by that person or by his or her representative.

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

3. By way of derogation from paragraph 2, the following declarants shall not be required to be established in the customs territory of the Union:

- (a) persons who lodge a customs declaration for transit or temporary admission;
- (b) persons, who occasionally lodge a customs declaration, including for end-use or inward processing, provided that the customs authorities consider this to be justified;
- (c) persons who are established in a country the territory of which is adjacent to the customs territory of the Union, and who present the goods to which the customs declaration refers at a Union border customs office adjacent to that country, provided that the country in which the persons are established grants reciprocal benefits to persons established in the customs territory of the Union.

- 4. Customs declarations shall be authenticated.

*Article 171***Lodging a customs declaration prior to the presentation of the goods**

A customs declaration may be lodged prior to the expected presentation of the goods to customs. If the goods are not presented within 30 days of lodging of the customs declaration, the customs declaration shall be deemed not to have been lodged.

*Article 172***Acceptance of a customs declaration**

1. Customs declarations which comply with the conditions laid down in this Chapter shall be accepted by the customs authorities immediately, provided that the goods to which they refer have been presented to customs.

2. 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 or export formalities.

*Article 173***Amendment of a customs declaration**

1. The declarant shall, upon application, be permitted to amend one or more of the particulars of the customs declaration after that declaration has been accepted by customs. The amendment shall not render the customs declaration applicable to goods other than those which it originally covered.

2. No such amendment shall be permitted where it is applied for 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 of the customs declaration are incorrect;
- (c) the customs authorities have released the goods.

3. Upon application by the declarant, within three years of the date of acceptance of the customs declaration, the amendment of the customs declaration may be permitted after release of the goods in order for the declarant to comply with his or her obligations relating to the placing of the goods under the customs procedure concerned.

*Article 174***Invalidation of a customs declaration**

1. The customs authorities shall, upon application by the declarant, invalidate a customs declaration already accepted in either of 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, an application for invalidation of the customs declaration shall not be accepted before the examination has taken place.

2. The customs declaration shall not be invalidated after the goods have been released unless where otherwise provided.

*Article 175***Delegation of power**

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the cases where the customs declaration is invalidated after the release of the goods, as referred to in Article 174(2).

*Article 176***Conferral of implementing powers**

The Commission shall specify, by means of implementing acts, the procedural rules for:

- (a) lodging a customs declaration in accordance with Article 171;
- (b) accepting a customs declaration as referred to in Article 172, including the application of those rules in the cases referred to in Article 179;
- (c) amending the customs declaration after the release of the goods in accordance with Article 173(3).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 5

Other simplifications*Article 177***Simplification of the drawing-up of customs declarations for goods falling under different tariff subheadings**

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

2. Customs authorities shall refuse the use of the simplification referred to in paragraph 1 to goods subject to prohibitions or restrictions or excise duty where the correct classification is necessary to apply the measure.

*Article 178***Conferral of implementing powers**

The Commission shall adopt, by means of implementing acts, measures for the determination of the tariff subheading for the application of Article 177(1).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

*Article 179***Centralised clearance**

1. The customs authorities may, upon application, authorise a person to lodge at a customs office responsible for the place where such person is established, a customs declaration for goods which are presented to customs at another customs office.

The requirement for the authorisation referred to in the first subparagraph may be waived where the customs declaration is lodged and the goods presented to customs offices under the responsibility of one customs authority.

2. The applicant for the authorisation referred to in paragraph 1 shall be an authorised economic operator for customs simplifications.

3. The customs office at which the customs declaration is lodged shall:

(a) supervise the placing of the goods under the customs procedure concerned;

(b) carry out the customs controls for the verification of the customs declaration, referred to in points (a) and (b) of Article 188;

(c) where justified, request that the customs office at which the goods are presented carry out the customs controls for the verification of the customs declaration referred to in points (c) and (d) of Article 188; and

(d) carry out the customs formalities for the recovery of the amount of import or export duty corresponding to any customs debt.

4. The customs office at which the customs declaration is lodged and the customs office at which the goods are presented shall exchange the information necessary for the verification of the customs declaration and for the release of the goods.

5. The customs office at which the goods are presented shall, without prejudice to its own controls pertaining to goods brought into or taken out of the customs territory of the Union, carry out the customs controls referred to in point (c) of paragraph 3 and provide the customs office at which the customs declaration is lodged with the results of these controls.

6. The customs office at which the customs declaration is lodged shall release the goods in accordance with Articles 194 and 195, taking into account:

(a) the results of its own controls for the verification of the customs declaration;

(b) the results of the controls carried out by the customs office at which the goods are presented for the verification of the customs declaration and the controls pertaining to goods brought into or taken out of the customs territory of the Union.

*Article 180***Delegation of power**

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the conditions for granting the authorisation referred to in the first subparagraph of Article 179(1).

*Article 181***Conferral of implementing powers**

The Commission shall specify, by means of implementing acts, the procedural rules concerning:

- (a) the centralised clearance, including the relevant customs formalities and controls, referred to in Article 179;
- (b) the waiver from the obligation for goods to be presented referred to in Article 182(3) in the context of centralised clearance.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

*Article 182***Entry in the declarant's records**

1. The customs authorities may, upon application, authorise a person to lodge a customs declaration, including a simplified declaration, in the form of an entry in the declarant's records, provided that the particulars of that declaration are at the disposal of the customs authorities in the declarant's electronic system at the time when the customs declaration in the form of an entry in the declarant's records is lodged.
2. The customs declaration shall be deemed to have been accepted at the moment at which the goods are entered in the records.
3. The customs authorities may, upon application, waive the obligation for the goods to be presented. In that case, the goods shall be deemed to have been released at the moment of entry in the declarant's records.

That waiver may be granted where all of the following conditions are fulfilled:

- (a) the declarant is an authorised economic operator for customs simplifications;
- (b) the nature and flow of the goods concerned so warrant and are known by the customs authority;
- (c) the supervising customs office has access to all the information it considers necessary to enable it to exercise its right to examine the goods should the need arise;

- (d) at the time of the entry into the records, the goods are no longer subject to prohibitions or restrictions, except where otherwise provided in the authorisation.

However, the supervising customs office may, in specific situations, request that the goods be presented.

4. The conditions under which the release of the goods is allowed shall be set out in the authorisation.

*Article 183***Delegation of power**

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the conditions for granting the authorisation referred to in Article 182(1).

*Article 184***Conferral of implementing powers**

The Commission shall specify, by means of implementing acts, the procedural rules on entry in the declarant's records referred to in Article 182, including the relevant customs formalities and controls.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

*Article 185***Self-assessment**

1. Customs authorities may, upon application, authorise an economic operator to carry out certain customs formalities which are to be carried out by the customs authorities, to determine the amount of import and export duty payable, and to perform certain controls under customs supervision.
2. The applicant for the authorisation referred to in paragraph 1 shall be an authorised economic operator for customs simplifications.

*Article 186***Delegation of power**

The Commission shall be empowered to adopt delegated acts in accordance with Article 284, in order to determine:

- (a) the conditions for granting the authorisation referred to in Article 185(1);
- (b) the customs formalities and the controls to be carried out by the holder of the authorisation referred to in Article 185(1).

Article 187

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules regarding the customs formalities and the controls to be carried out by the holder of the authorisation in accordance with Article 185(1).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

CHAPTER 3

Verification and release of goods

Section 1

Verification

Article 188

Verification of a customs declaration

The customs authorities may, for the purpose of verifying the accuracy of the particulars contained in a customs declaration which has been accepted:

- (a) examine the declaration and the supporting documents;
- (b) require the declarant to provide other documents;
- (c) examine the goods;
- (d) take samples for analysis or for detailed examination of the goods.

Article 189

Examination and sampling of goods

1. Transport of the goods to the places where they are to be examined and where 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 for so doing, 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 190

Partial examination and sampling of goods

1. Where only part of the goods covered by a customs 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 or she 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, if they have been released, that the declarant proves that they have not been altered in any way.

2. For the purposes of paragraph 1, where a customs declaration covers goods falling under two or more items, the particulars relating to goods falling under each item shall be deemed to constitute a separate declaration.

Article 191

Results of the verification

1. The results of verifying the customs declaration shall be used for the application of the provisions governing the customs procedure under which the goods are placed.

2. Where the customs declaration is not verified, paragraph 1 shall apply on the basis of the particulars contained in that declaration.

3. The results of the verification made by the customs authorities shall have the same conclusive force throughout the customs territory of the Union.

*Article 192***Identification measures**

1. The customs authorities or, where appropriate, economic operators authorised 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 provisions 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 Union.

2. Means of identification affixed to the goods, packaging or means of transport shall be removed or destroyed only by the customs authorities or, where they are authorised 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.

*Article 193***Conferral of implementing powers**

The Commission shall specify, by means of implementing acts, measures on the verification of the customs declaration, the examination and sampling of goods and the results of the verification.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 2**Release***Article 194***Release of the goods**

1. 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 customs declaration have been verified or are accepted without verification.

The first subparagraph shall also apply where verification as referred to in Article 188 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 customs declaration covers goods falling under two or more items the particulars relating to goods falling under each item shall be deemed to constitute a separate customs declaration.

*Article 195***Release dependent upon payment of the amount of import or export duty corresponding to 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 amount of import or export duty corresponding to the customs debt or the provision of a guarantee to cover that debt.

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

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. In specific cases, the release of the goods shall not be conditional upon the provision of a guarantee in respect of goods which are the subject of a drawing request on a tariff quota.

3. Where a simplification as referred to in Articles 166, 182 and 185 is used and a comprehensive guarantee is provided, release of the goods shall not be conditional upon a monitoring of the guarantee by the customs authorities.

*Article 196***Delegation of power**

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the cases referred to in Article 195(2).

CHAPTER 4**Disposal of goods***Article 197***Destruction of goods**

Where the customs authorities have reasonable grounds for so doing, 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 the destruction shall be borne by the holder of the goods.

*Article 198***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 one of the obligations laid down in the customs legislation concerning the introduction of non-Union goods into the customs territory of the Union has not been fulfilled, or the goods 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, for reasons attributable to the declarant, to undertake or continue examination of the goods within the period prescribed by the customs authorities;

(ii) the documents which must be provided before the goods can be placed under, or released for, the customs procedure requested have not been provided;

(iii) payments or a guarantee which should have been made or provided in respect of import or export duty, as the case may be, have not been made or provided within the prescribed period;

(iv) the goods 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; or

(e) where goods are abandoned to the State in accordance with Article 199.

2. Non-Union goods which have been abandoned to the State, seized or confiscated shall be deemed to be placed under the customs warehousing procedure. They shall be entered in the records of the customs warehousing operator, or, where they are held by the customs authorities, by the latter.

Where goods to be destroyed, abandoned to the State, seized or confiscated are already subject to a customs declaration, the records shall include a reference to the customs declaration. Customs authorities shall invalidate that customs declaration.

3. The costs of the measures referred to in paragraph 1 shall be borne:

(a) in the case referred to in point (a) of paragraph 1, by any person who was required to fulfil the obligations concerned or who withheld the goods from customs supervision;

(b) in the cases referred to in points (b) and (c) of paragraph 1, by the declarant;

(c) in the case referred to in point (d) of paragraph 1, by the person who is required to comply with the conditions governing the release of the goods;

(d) in the case referred to in point (e) of paragraph 1, by the person who abandons the goods to the State.

*Article 199***Abandonment**

Non-Union goods and goods placed under the end-use procedure 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.

*Article 200***Conferral of implementing powers**

The Commission shall specify, by means of implementing acts, the procedural rules on:

(a) the destruction of goods, referred to in Article 197;

(b) the sale of goods, referred to in Article 198(1);

(c) abandonment of goods to the State in accordance with Article 199.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

TITLE VI

RELEASE FOR FREE CIRCULATION AND RELIEF FROM IMPORT DUTY

CHAPTER 1

Release for free circulation*Article 201***Scope and effect**

1. Non-Union goods intended to be put on the Union market or intended for private use or consumption within the customs territory of the Union shall be placed under release for free circulation.

2. Release for free circulation shall entail the following:

- (a) the collection of any import duty due;
- (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 insofar as they do not have to be applied at an earlier stage; and
- (d) completion of the other formalities laid down in respect of the import of the goods.

3. Release for free circulation shall confer on non-Union goods the customs status of Union goods.

*Article 202***Commercial policy measures**

1. Where processed products obtained under inward processing are released for free circulation and the calculation of the amount of import duty is made in accordance with Article 86(3), the commercial policy measures to be applied shall be those applicable to the release for free circulation of the goods which were placed under inward processing.

2. Paragraph 1 shall not apply to waste and scrap.

3. Where processed products obtained under inward processing are released for free circulation and the calculation of the amount of import duty is made in accordance with Article 85(1), the commercial policy measures applicable to those goods shall be applied only where the goods which were placed under inward processing are subject to such measures.

4. Where Union legislation establishes commercial policy measures on release for free circulation, such measures shall not apply to processed products released for free circulation following outward processing where:

- (a) the processed products retain their Union origin within the meaning of Article 60;
- (b) the outward processing involves repair, including the standard exchange system referred to in Article 261; or
- (c) the outward processing follows further processing operations in accordance with Article 258.

CHAPTER 2

Relief from import duty

Section 1

Returned goods*Article 203***Scope and effect**

1. Non-Union goods which, having originally been exported as Union goods from the customs territory of the Union, are returned to that territory within a period of three years and declared for release for free circulation shall, upon application by the person concerned, be granted relief from import duty.

The first subparagraph shall apply even where the returned goods represent only a part of the goods previously exported from the customs territory of the Union.

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 Union, 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 duty 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 Union goods have lost their customs status as Union goods pursuant to Article 154 and are subsequently released for free circulation, paragraphs 1, 2 and 3 shall apply.

5. The relief from import duty shall be granted only if goods are returned in the state in which they were exported.

6. The relief from import duty shall be supported by information establishing that the conditions for the relief are fulfilled.

Article 204

Goods which benefited from measures laid down under the common agricultural policy

Relief from import duty provided for in Article 203 shall not be granted to goods which have benefited from measures laid down under the common agricultural policy involving their export out of the customs territory of the Union, except where otherwise provided in specific cases.

Article 205

Goods previously placed under the inward processing procedure

1. Article 203 shall apply to processed products which were originally re-exported from the customs territory of the Union subsequent to an inward processing procedure.

2. Upon application by the declarant and provided the declarant submits the necessary information, the amount of import duty on the goods covered by paragraph 1 shall be determined in accordance with Article 86(3). The date of acceptance of the re-export declaration shall be regarded as the date of release for free circulation.

3. The relief from import duty provided for in Article 203 shall not be granted for processed products which were exported in accordance with point (c) of Article 223(2), unless it is ensured that no goods will be placed under the inward processing procedure.

Article 206

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine:

(a) the cases where goods are considered to be returned in the state in which they were exported;

(b) the specific cases referred to in Article 204.

Article 207

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules for the provision of information referred to in Article 203(6).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 2

Sea-fishing and products taken from the sea

Article 208

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

1. Without prejudice to Article 60(1), the following shall be granted relief from import duty 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 Union 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 relief from import duty referred to in paragraph 1 shall be supported by evidence that the conditions laid down in that paragraph are fulfilled.

Article 209

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules for the provision of the evidence referred to in Article 208(2).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

TITLE VII

SPECIAL PROCEDURES

CHAPTER 1

General provisions

Article 210

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 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 211

Authorisation

1. An authorisation from the customs authorities shall be required for the following:

- (a) the use of the inward or outward processing procedure, the temporary admission procedure or the end-use procedure;
- (b) the operation of storage facilities for the customs warehousing of goods, except where the storage facility operator is the customs authority itself.

The conditions under which the use of one or more of the procedures referred to in the first subparagraph or the operation of storage facilities is permitted shall be set out in the authorisation.

2. The customs authorities shall grant an authorisation with retroactive effect, where all of the following conditions are fulfilled:

- (a) there is a proven economic need;
- (b) the application is not related to attempted deception;

(c) the applicant has proven on the basis of accounts or records that:

- (i) all the requirements of the procedure are met;
- (ii) where appropriate, the goods can be identified for the period involved;
- (iii) such accounts or records allow the procedure to be controlled;

(d) all the formalities necessary to regularise the situation of the goods can be carried out, including, where necessary, the invalidation of the customs declarations concerned;

(e) no authorisation with retroactive effect has been granted to the applicant within three years of the date on which the application was accepted;

(f) an examination of the economic conditions is not required, except where an application concerns renewal of an authorisation for the same kind of operation and goods;

(g) the application does not concern the operation of storage facilities for the customs warehousing of goods;

(h) where an application concerns renewal of an authorisation for the same kind of operation and goods, the application is submitted within three years of expiry of the original authorisation.

Customs authorities may grant an authorisation with retroactive effect also where the goods which were placed under a customs procedure are no longer available at the time when the application for such authorisation was accepted.

3. Except where otherwise provided, the authorisation referred to in paragraph 1 shall be granted only to persons who satisfy all of the following conditions:

- (a) they are established in the customs territory of the Union;
- (b) they provide the necessary assurance of the proper conduct of the operations; an authorised economic operator for customs simplifications shall be deemed to fulfil this condition, insofar as the activity pertaining to the special procedure concerned is taken into account in the authorisation referred to in point (a) of Article 38(2);

(c) where a customs debt or other charges may be incurred for goods placed under a special procedure, they provide a guarantee in accordance with Article 89;

(d) in the case of the temporary admission or inward processing procedure, they use the goods or arrange for their use or they carry out processing operations on the goods or arrange for them to be carried out, respectively.

4. Except where otherwise provided and in addition to paragraph 3, the authorisation referred to in paragraph 1 shall be granted only where all of the following conditions are fulfilled:

(a) the customs authorities are able to exercise customs supervision without having to introduce administrative arrangements disproportionate to the economic needs involved;

(b) the essential interests of Union producers would not be adversely affected by an authorisation for a processing procedure (economic conditions).

5. The essential interests of Union producers shall be deemed not to be adversely affected, as referred to in point (b) of paragraph 4, except where evidence to the contrary exists or where the economic conditions are deemed to be fulfilled.

6. Where evidence exists that the essential interests of Union producers are likely to be adversely affected, an examination of the economic conditions shall take place at Union level.

Article 212

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine:

(a) the conditions for granting the authorisation for the procedures referred to in Article 211(1);

(b) the exceptions to the conditions referred to in Article 211(3) and (4);

(c) the cases in which the economic conditions are deemed to be fulfilled as referred to in Article 211(5).

Article 213

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules for examining the economic conditions referred to in Article 211(6).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Article 214

Records

1. Except for the transit procedure, or where otherwise provided, the holder of the authorisation, 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 appropriate records in a form approved by the customs authorities.

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

2. An authorised economic operator for customs simplifications shall be deemed to comply with the obligation laid down in paragraph 1 insofar as his or her records are appropriate for the purpose of the special procedure concerned.

Article 215

Discharge of a special procedure

1. In cases other than the transit procedure and without prejudice to Article 254, 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 been taken out of the customs territory of the Union, or have been destroyed with no waste remaining, or are abandoned to the State in accordance with Article 199.

2. The transit procedure 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 those available to the customs office of destination, that the procedure has ended correctly.

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

4. The discharge of the procedure shall take place within a certain time-limit, unless otherwise provided.

Article 216

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the time-limit referred to in Article 215(4).

Article 217

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules for the discharge of a special procedure, referred to in Article 216.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Article 218

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 be fully or partially transferred to another person who fulfils the conditions laid down for the procedure concerned.

Article 219

Movement of goods

In specific cases, 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 Union.

Article 220

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 221

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 284:

- (a) laying down the cases and the conditions for the movement of goods placed under a special procedure other than transit or in a free zone in accordance with Article 219;

- (b) determining the usual forms of handling for goods placed under customs warehousing or a processing procedure or in a free zone as referred to in Article 220.

Article 222

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules for:

- (a) transferring the rights and obligations of the holder of the procedure with regard to goods which have been placed under a special procedure other than transit in accordance with Article 218;
- (b) the movement of goods placed under a special procedure other than transit or in a free zone in accordance with Article 219.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Article 223

Equivalent goods

1. Equivalent goods shall consist in Union 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-Union goods which are processed instead of Union goods placed under the outward processing procedure.

Except where otherwise provided, equivalent goods shall have the same eight-digit Combined Nomenclature code, the same commercial quality and the same technical characteristics as the goods which they are replacing.

2. The customs authorities shall, upon application, authorise 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 customs warehousing, free zones, end-use and a processing procedure;
- (b) the use of equivalent goods under the temporary admission procedure, in specific cases;

- (c) in the case of the inward processing procedure, the export of processed products obtained from equivalent goods before the import of the goods they are replacing;
- (d) in the case of the outward processing procedure, the import of processed products obtained from equivalent goods before the export of the goods they are replacing.

An authorised economic operator for customs simplifications shall be deemed to fulfil the condition that the proper conduct of the procedure is ensured, insofar as the activity pertaining to the use of equivalent goods for the procedure concerned is taken into account in the authorisation referred to in point (a) of Article 38(2).

3. The use of equivalent goods shall not be authorised in any of the following cases:

- (a) where only usual forms of handling as defined in Article 220 are carried out under the inward processing procedure;
- (b) where a prohibition of drawback of, or exemption from, import duty applies to non-originating goods used in the manufacture of processed products under the inward processing procedure, for which a proof of origin is issued or made out in the framework of a preferential arrangement between the Union and certain countries or territories outside the customs territory of the Union or groups of such countries or territories;
- (c) where it would lead to an unjustified import duty advantage or where provided for in Union legislation.

4. In the case referred to in point (c) of paragraph 2, and where the processed products would be liable to export duty if they were not being exported in the context of the inward processing procedure, the holder of the authorisation shall provide a guarantee to ensure payment of the export duty should the non-Union goods not be imported within the period referred to in Article 257(3).

Article 224

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine:

- (a) the exceptions from the third subparagraph of Article 223(1);

- (b) the conditions under which equivalent goods are used in accordance with Article 223(2);
- (c) the specific cases where equivalent goods are used under the temporary admission procedure, in accordance with point (b) of Article 223(2);
- (d) the cases where the use of equivalent goods is not authorised in accordance with point (c) of Article 223(3).

Article 225

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules for the use of equivalent goods authorised in accordance with Article 223(2).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

CHAPTER 2

Transit

Section 1

External and internal transit

Article 226

External transit

1. Under the external transit procedure, non-Union goods may be moved from one point to another within the customs territory of the Union without being subject to any of the following:

- (a) import duty;
- (b) other charges as provided for under other relevant provisions in force;
- (c) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union.

2. In specific cases, Union goods shall be placed under the external transit procedure.

3. Movement as referred to in paragraph 1 shall take place in one of the following ways:

- (a) under the external Union transit procedure;
- (b) in accordance with the TIR Convention, provided that such movement:
 - (i) began or is to end outside the customs territory of the Union;
 - (ii) is effected between two points in the customs territory of the Union through the territory of a country or territory outside the customs territory of the Union;
- (c) in accordance with the ATA Convention/Istanbul Convention, where a transit movement takes place;
- (d) under cover of the Rhine Manifest (Article 9 of the Revised Convention for the Navigation of the Rhine);
- (e) under cover of 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.

Article 227

Internal transit

1. Under the internal transit procedure, and under the conditions laid down in paragraph 2, Union goods may be moved from one point to another within the customs territory of the Union, and pass through a country or territory outside that customs 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 Union transit procedure provided that such a possibility is provided for in an international agreement;
 - (b) in accordance with the TIR Convention;
 - (c) in accordance with the ATA Convention/Istanbul Convention, where a transit movement takes place;

- (d) under cover of the 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.

Article 228

Single territory for transit purposes

Where goods are moved from one point in the customs territory of the Union to another in accordance with the TIR Convention, the ATA Convention / Istanbul Convention, under cover of form 302 or under the postal system, the customs territory of the Union shall, for the purposes of such transport, be considered to form a single territory.

Article 229

Exclusion of persons from TIR operations

1. Where the customs authorities of a Member State decide to exclude a person from TIR operations under Article 38 of the TIR Convention, that decision shall apply throughout the customs territory of the Union and TIR carnets lodged by that person shall not be accepted by any customs office.
2. A Member State shall communicate its decision referred to in paragraph 1, together with the date of its application, to the other Member States and to the Commission.

Article 230

Authorised consignee for TIR purposes

The customs authorities may, upon application, authorise a person, referred to as an 'authorised consignee' to receive goods moved in accordance with the TIR Convention at an authorised place, so that the procedure is terminated in accordance with point (d) of Article 1 of the TIR Convention.

Article 231

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine:

- (a) the specific cases where Union goods are to be placed under the external transit procedure in accordance with Article 226(2);

- (b) the conditions for the granting of the authorisation referred to in Article 230.

Article 232

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules to apply points (b) to (f) of Article 226(3) and points (b) to (f) of Article 227(2) in the customs territory of the Union, taking into account the needs of the Union.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 2

Union transit

Article 233

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

1. The holder of the Union transit procedure shall be responsible for all of the following:

- (a) presentation of the goods intact and the required information 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 the amount of import or export duty corresponding to 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. The obligation of the holder of the procedure shall be met and the transit procedure shall end when the goods placed under the procedure and the required information are available at the customs office of destination in accordance with the customs legislation.

3. A carrier or recipient of goods who accepts goods knowing that they are moving under the Union 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.

4. Upon application, the customs authorities may authorise any of the following simplifications regarding the placing of goods under the Union transit procedure or the end of that procedure:

- (a) the status of authorised consignor, allowing the holder of the authorisation to place goods under the Union transit procedure without presenting them to customs;
- (b) the status of authorised consignee, allowing the holder of the authorisation to receive goods moved under the Union transit procedure at an authorised place, to end the procedure in accordance with Article 233(2);
- (c) the use of seals of a special type, where sealing is required to ensure the identification of the goods placed under the Union transit procedure;
- (d) the use of a customs declaration with reduced data requirements to place goods under the Union transit procedure;
- (e) the use of an electronic transport document as customs declaration to place goods under the Union transit procedure, provided it contains the particulars of such declaration and those particulars are available to the customs authorities at departure and at destination to allow the customs supervision of the goods and the discharge of the procedure.

Article 234

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

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

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

2. In the case referred to in point (b) of paragraph 1, the operation of the external Union transit procedure shall be suspended while the goods are outside the customs territory of the Union.

*Article 235***Delegation of power**

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the conditions for granting the authorisations referred to in Article 233(4).

*Article 236***Conferral of implementing powers**

The Commission shall specify, by means of implementing acts, the procedural rules on:

- (a) the placing of goods under the Union transit procedure and the end of that procedure;
- (b) the operation of the simplifications referred to in Article 233(4);
- (c) the customs supervision of goods passing through the territory of a country or territory outside the customs territory of the Union under the external Union transit procedure, referred to in Article 234.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

CHAPTER 3

Storage

Section 1

Common provisions*Article 237***Scope**

1. Under a storage procedure, non-Union goods may be stored in the customs territory of the Union without being subject to any of the following:
 - (a) import duty;
 - (b) other charges as provided for under other relevant provisions in force;
 - (c) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union.
2. Union goods may be placed under the customs warehousing or free zone procedure in accordance with

Union legislation governing specific fields, or in order to benefit from a decision granting repayment or remission of import duty.

3. The customs authorities may, where an economic need exists and customs supervision will not be adversely affected, authorise the storage of Union goods in a storage facility for customs warehousing. Those goods shall not be regarded as being under the customs warehousing procedure.

*Article 238***Duration of a storage procedure**

1. There shall be no limit to the length of time goods may remain under a storage procedure.
2. In exceptional circumstances, the customs authorities may set a time-limit by which a storage procedure must be discharged in particular where the type and nature of the goods may, in the case of long-term storage, pose a threat to human, animal or plant health or to the environment.

*Article 239***Conferral of implementing powers**

The Commission shall specify, by means of implementing acts, the procedural rules for the placing of Union goods under the customs warehousing or free zone procedure as referred to in Article 237(2).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 2

Customs warehousing*Article 240***Storage in customs warehouses**

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

*Article 241***Processing**

1. The customs authorities may, where an economic need exists and customs supervision is not adversely affected, authorise the processing of goods under the inward processing or end-use procedure to take place in a customs warehouse, subject to the conditions provided for by those procedures.

2. The goods referred to in paragraph 1 shall not be regarded as being under the customs warehousing procedure.

*Article 242***Responsibilities of the holder of the authorisation or procedure**

1. The holder of the authorisation and the holder of the procedure shall be responsible for the following:

(a) ensuring that goods under the customs warehousing procedure are not removed from customs supervision; and

(b) fulfilling the obligations arising from the storage of goods covered by the customs warehousing procedure.

2. By way of derogation from paragraph 1, where the authorisation 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 be responsible for fulfilling the obligations arising from the placing of the goods under the customs warehousing procedure.

Section 3**Free zones***Article 243***Designation of free zones**

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

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

2. Member States shall communicate to the Commission information on their free zones which are in operation.

3. Free zones shall be enclosed.

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

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

*Article 244***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 the 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 and 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 245***Presentation of goods and their placing under the procedure**

1. Goods brought into a free zone shall be presented to customs and undergo the prescribed customs formalities in any of the following cases:

(a) where they are brought into the free zone directly from outside the customs territory of the Union;

(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 duty;

(d) where legislation other than the customs legislation provides for such formalities.

2. Goods brought into a free zone in circumstances other than those covered by paragraph 1 shall not be presented to customs.

3. Without prejudice to Article 246, 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; or

(b) at the moment when a transit procedure is ended, unless they are immediately placed under a subsequent customs procedure.

Article 246

Union goods in free zones

1. Union 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. Upon application by the person concerned, the customs authorities shall establish the customs status as Union goods of any of the following goods:

(a) Union goods which enter a free zone;

(b) Union goods which have undergone processing operations within a free zone;

(c) goods released for free circulation within a free zone.

Article 247

Non-Union goods in free zones

1. Non-Union 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 those 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 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 duty or measures laid down under the common agricultural or commercial policies.

In the case of such use or consumption, no customs 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 248

Taking goods out of a free zone

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

2. Articles 134 to 149 shall apply to goods taken out of a free zone into other parts of the customs territory of the Union.

Article 249

Customs status

Where goods are taken out of a free zone into another part of the customs territory of the Union or placed under a customs procedure, they shall be regarded as non-Union goods unless their customs status as Union goods has been proven.

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

CHAPTER 4

Specific use

Section 1

Temporary admission

Article 250

Scope

1. Under the temporary admission procedure non-Union goods intended for re-export may be subject to specific use in the customs territory of the Union, with total or partial relief from import duty, and without being subject to any of the following:

(a) other charges as provided for under other relevant provisions in force;

(b) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union.

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 223, 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 Union, except where otherwise provided;

(d) the requirements for total or partial duty relief laid down in the customs legislation are met.

Article 251

Period during which goods may remain under the temporary admission procedure

1. The customs authorities shall determine the period within which goods placed under the temporary admission procedure must be re-exported or placed under a subsequent customs procedure. Such period shall be long enough for the objective of authorised use to be achieved.

2. Except where otherwise provided, the maximum period during which goods may remain under the temporary admission procedure for the same purpose and under the responsibility of the same authorisation holder 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 authorised use cannot be achieved within the period referred to in paragraphs 1 and 2, the customs authorities may grant an extension, of reasonable duration of that period, upon justified application by the holder of the authorisation.

4. The overall period during which goods may remain under the temporary admission procedure shall not exceed 10 years, except in the case of an unforeseeable event.

Article 252

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

1. The amount of import duty in respect of goods placed under the temporary admission procedure with partial relief from import duty shall be set at 3 % of the amount of import duty 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 the temporary admission procedure with partial relief from import duty.

2. The amount of import duty 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.

Article 253

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 243, in order to determine:

(a) the specific use referred to in Article 250(1);

(b) the requirements referred to in point (d) of Article 250(2).

Section 2

End-use

Article 254

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 specific use.

2. Where the goods are at a production stage which would allow economically the prescribed end-use only, the customs authorities may establish in the authorisation the conditions under which the goods shall be deemed to have been used for the purposes laid down for applying the duty exemption or reduced rate of duty.

3. Where goods are suitable for repeated use and the customs authorities consider it appropriate in order to avoid abuse, customs supervision shall continue for a period not exceeding two years after the date of their first use for the purposes laid down for applying the duty exemption or reduced rate of duty.

4. Customs supervision under the end-use procedure shall end in any of 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 have been taken out of the customs territory of the Union, 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 duty has been paid.

5. Where a rate of yield is required, Article 255 shall apply to the end-use procedure.

6. Waste and scrap which result from the working or processing of goods according to the prescribed end-use and losses due to natural wastage shall be considered as goods assigned to the prescribed end-use.

7. Waste and scrap resulting from the destruction of goods placed under the end-use procedure shall be deemed to be placed under the customs warehousing procedure.

CHAPTER 5

Processing

Section 1

General provisions

Article 255

Rate of yield

Except where a rate of yield has been specified in Union legislation governing specific fields, the customs authorities shall set either the rate of yield or average rate of yield of the processing operation 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. That rate may be adjusted, where appropriate, in accordance with Article 28.

Section 2

Inward processing

Article 256

Scope

1. Without prejudice to Article 223, under the inward processing procedure non-Union goods may be used in the customs territory of the Union in one or more processing operations without such goods being subject to any of the following:

- (a) import duty;
- (b) other charges as provided for under other relevant provisions in force;
- (c) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Union.

2. The inward processing procedure may be used in cases other than repair and destruction 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 223, 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 any of the following goods:

- (a) goods intended to undergo operations to ensure their compliance with technical requirements for their release for free circulation;
- (b) goods which have to undergo usual forms of handling in accordance with Article 220.

Article 257

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 216.

That period shall run from the date on which the non-Union 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, upon justified application by the holder of the authorisation.

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

3. In the case of prior export in accordance with point (c) of Article 223(2), the authorisation shall specify the period within which the non-Union goods shall be declared for the inward processing procedure, taking account of the time required for procurement and transport to the customs territory of the Union.

The period referred to in the first subparagraph shall be set in months and shall not exceed six months. It shall run from the date of acceptance of the export declaration relating to the processed products obtained from the corresponding equivalent goods.

4. At the request of the holder of the authorisation, the period of six months referred to in paragraph 3 may be extended, even after its expiry, provided that the total period does not exceed 12 months.

Article 258

Temporary re-export for further processing

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

Section 3

Outward processing

Article 259

Scope

1. Under the outward processing procedure Union goods may be temporarily exported from the customs territory of the Union 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 duty upon application by the holder of the authorisation or any other person established in the customs territory of the Union provided that that person has obtained the consent of the holder of the authorisation and the conditions of the authorisation are fulfilled.

2. Outward processing shall not be allowed for any of the following Union goods:

- (a) goods the export of which gives rise to repayment or remission of import duty;
- (b) goods which, prior to export, 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 those 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 export of those goods.

3. The customs authorities shall specify the period within which goods temporarily exported must be re-imported into the customs territory of the Union in the form of processed products, and released for free circulation, in order to be able to benefit from total or partial relief from import duty. They may grant an extension, of reasonable duration, of that period, upon justified application by the holder of the authorisation.

Article 260

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 granted total relief from import duty.

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 261

Standard exchange system

1. Under the standard exchange system an imported product ('replacement product') may, in accordance with paragraphs 2 to 5, replace a processed product.

2. The customs authorities shall, upon application authorise the standard exchange system to be used where the processing operation involves the repair of defective Union goods other than those subject to measures laid down under the common agricultural policy 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 262

Prior import of replacement products

1. The customs authorities shall, under the conditions they lay down, upon application by the person concerned, authorise replacement products to be imported before the defective goods are exported.

In the event of such prior import of a replacement product, a guarantee shall be provided, covering the amount of the import duty 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 grant an extension, of a reasonable duration, of that period, upon justified application by the holder of the authorisation.

TITLE VIII

GOODS TAKEN OUT OF THE CUSTOMS TERRITORY OF THE UNION

CHAPTER 1

Formalities prior to the exit of goods

Article 263

Lodging a pre-departure declaration

1. Goods to be taken out of the customs territory of the Union shall be covered by a pre-departure declaration to be lodged at the competent customs office within a specific time-limit before the goods are taken out of the customs territory of the Union.

2. The obligation referred to in paragraph 1 shall be waived:

(a) for means of transport and the goods carried thereon only passing through the territorial waters or the airspace of the customs territory of the Union without a stop within that territory; or

(b) in other specific cases, where duly justified by the type of goods or traffic or where required by international agreements.

3. The pre-departure declaration shall take the form of one of the following:

(a) a customs declaration, where the goods to be taken out of the customs territory of the Union are placed under a customs procedure for which such declaration is required;

(b) a re-export declaration, in accordance with Article 270;

(c) an exit summary declaration, in accordance with Article 271.

4. The pre-departure declaration shall contain the particulars necessary for risk analysis for security and safety purposes.

Article 264

Risk analysis

The customs office to which the pre-departure declaration referred to in Article 263 is lodged shall ensure that, within a specific time-limit, a risk analysis is carried out, primarily for security and safety purposes, on the basis of that declaration and shall take the necessary measures based on the results of that risk analysis.

*Article 265***Delegation of power**

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine:

- (a) the specific time-limit, referred to in Article 263(1), within which the pre-departure declaration is to be lodged before the goods are taken out of the customs territory of the Union taking into account the type of traffic;
- (b) the specific cases where the obligation to lodge a pre-departure declaration is waived in accordance with point (c) of Article 263(2).

*Article 266***Conferral of implementing powers**

The Commission shall specify, by means of implementing acts, the time-limit referred to in Article 264, within which risk analysis is to be carried out taking into account the time-limit referred to in Article 263(1).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

*CHAPTER 2***Formalities on exit of goods***Article 267***Customs supervision and formalities on exit**

1. Goods to be taken out of the customs territory of the Union shall be subject to customs supervision and may be subject to customs controls. Where appropriate, the customs authorities may determine the route to be used, and the time-limit to be respected when goods are to be taken out of the customs territory of the Union.

2. Goods to be taken out of the customs territory of the Union shall be presented to customs on exit by one of the following persons:

- (a) the person who takes the goods out of the customs territory of the Union;
- (b) the person in whose name or on whose behalf the person who takes the goods out of the customs territory of the Union acts;
- (c) the person who assumes responsibility for the carriage of the goods prior to their exit from the customs territory of the Union.

3. Goods to be taken out of the customs territory of the Union shall be subject, as appropriate, to the following:

- (a) the repayment or remission of import duty;
- (b) the payment of export refunds;
- (c) the collection of export duty;
- (d) the formalities required under provisions in force with regard to other charges;
- (e) 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 and the protection of industrial or commercial property, including controls against drug precursors, goods infringing certain intellectual property rights and cash, as well as the implementation of fishery conservation and management measures and of commercial policy measures.

4. Release for exit shall be granted by the customs authorities on condition that the goods in question will be taken out of the customs territory of the Union in the same condition as when:

- (a) the customs or re-export declaration was accepted; or
- (b) the exit summary declaration was lodged.

*Article 268***Conferral of implementing powers**

The Commission shall specify, by means of implementing acts, the procedural rules on the exit referred to in Article 267.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

*CHAPTER 3***Export and re-export***Article 269***Export of Union goods**

1. Union goods to be taken out of the customs territory of the Union shall be placed under the export procedure.

2. Paragraph 1 shall not apply to any of the following Union goods:

- (a) goods placed under the outward processing procedure;
- (b) goods taken out of the customs territory of the Union after having been placed under the end-use procedure;
- (c) goods delivered, VAT or excise duty exempted, as aircraft or ship supplies, regardless of the destination of the aircraft or ship, for which a proof of such supply is required;
- (d) goods placed under the internal transit procedure;
- (e) goods moved temporarily out of the customs territory of the Union in accordance with Article 155.

3. The formalities concerning the export customs declaration laid down in the customs legislation shall apply in the cases referred to in points (a), (b) and (c) of paragraph 2.

Article 270

Re-export of non-Union goods

1. Non-Union goods to be taken out of the customs territory of the Union shall be subject to a re-export declaration to be lodged at the competent customs office.

2. Articles 158 to 195 shall apply to the re-export declaration.

3. Paragraph 1 shall not apply to any of the following goods:

- (a) goods placed under the external transit procedure which only pass through the customs territory of the Union;
- (b) goods trans-shipped within, or directly re-exported from, a free zone;
- (c) goods in temporary storage which are directly re-exported from a temporary storage facility.

CHAPTER 4

Exit summary declaration

Article 271

Lodging an exit summary declaration

1. Where goods are to be taken out of the customs territory of the Union and a customs declaration or a re-export

declaration is not lodged as pre-departure declaration, an exit summary declaration shall be lodged at the customs office of exit.

Customs authorities may allow the exit summary declaration to be lodged at another customs office, provided that the latter immediately communicates or makes available electronically the necessary particulars to the customs office of exit.

2. The exit summary declaration shall be lodged by the carrier.

Notwithstanding the obligations of the carrier, the exit summary declaration may be lodged instead by one of the following persons:

- (a) the exporter or consignor or other person in whose name or on whose behalf the carrier acts;
- (b) any person who is able to present the goods in question or have them presented at the customs office of exit.

3. Customs authorities may accept that commercial, port or transport information systems may be used to lodge an exit summary declaration, provided that they contain the necessary particulars for such declaration and that these particulars are available within a specific time-limit, before the goods are taken out of the customs territory of the Union.

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

Article 272

Amendment and invalidation of the exit summary declaration

1. The declarant may, upon application, be permitted to amend one or more particulars of the exit summary declaration after it has been lodged.

No amendment shall be possible after any of the following:

- (a) the customs authorities have informed the person who lodged the exit summary declaration that they intend to examine the goods;

(b) the customs authorities have established that one or more particulars of the exit summary declaration are inaccurate or incomplete;

(c) the customs authorities have already granted the release of the goods for exit.

2. Where the goods for which an exit summary declaration has been lodged are not taken out of the customs territory of the Union, the customs authorities shall invalidate that declaration in either of the following cases:

(a) upon application by the declarant;

(b) within 150 days after the lodging of the declaration.

Article 273

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules for:

(a) lodging the exit summary declaration referred to in Article 271;

(b) amending the exit summary declaration, in accordance with the first subparagraph of Article 272(1);

(c) invalidating the exit summary declaration, in accordance with Article 272(2).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

CHAPTER 5

Re-export notification

Article 274

Lodging a re-export notification

1. Where non-Union goods referred to in points (b) and (c) of Article 270(3) are taken out of the customs territory of the Union and the obligation to lodge an exit summary declaration for those goods is waived, a re-export notification shall be lodged.

2. The re-export notification shall be lodged at the customs office of exit of the goods by the person responsible for the presentation of goods on exit in accordance with Article 267(2).

3. The re-export notification shall contain the particulars necessary to discharge the free zone procedure or to end the temporary storage.

Customs authorities may accept that commercial, port or transport information systems may be used to lodge a re-export notification, provided that they contain the necessary particulars for such notification and these particulars are available before the goods are taken out of the customs territory of the Union.

4. Customs authorities may accept, instead of the lodging of the re-export notification, the lodging of a notification and access to the particulars of a re-export notification in the economic operator's computer system.

Article 275

Amendment and invalidation of the re-export notification

1. The declarant may, upon application, be permitted to amend one or more particulars of the re-export notification after it has been lodged.

No amendment shall be possible after any of the following:

(a) the customs authorities have informed the person who lodged the re-export notification that they intend to examine the goods;

(b) the customs authorities have established that one or more particulars of the re-export notification are inaccurate or incomplete;

(c) the customs authorities have already granted the release of the goods for exit.

2. Where the goods for which a re-export notification has been lodged are not taken out of the customs territory of the Union, the customs authorities shall invalidate that notification in either of the following cases:

(a) upon application by the declarant;

(b) within 150 days after the lodging of the notification.

*Article 276***Conferral of implementing powers**

The Commission shall specify, by means of implementing acts, the procedural rules for:

- (a) lodging the re-export notification referred to in Article 274;
- (b) amending the re-export notification, in accordance with the first sub-paragraph of Article 275(1);
- (c) invalidating the re-export notification in accordance with Article 275(2).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

CHAPTER 6

Relief from export duty*Article 277***Relief from export duty for Union goods temporarily exported**

Without prejudice to Article 259, Union goods which are temporarily exported from the customs territory of the Union shall benefit from export duty relief, conditional upon their re-import.

TITLE IX

ELECTRONIC SYSTEMS, SIMPLIFICATIONS, DELEGATION OF POWER, COMMITTEE PROCEDURE AND FINAL PROVISIONS

CHAPTER 1

Development of electronic systems*Article 278***Transitional measures**

Means for the exchange and storage of information, other than the electronic data-processing techniques referred to in Article 6(1), may be used on a transitional basis, until 31 December 2020 at the latest, where the electronic systems which are necessary for the application of the provisions of the Code are not yet operational.

*Article 279***Delegation of power**

The Commission shall be empowered to adopt delegated acts in accordance with Article 284 specifying the rules on the exchange and storage of data in the situation referred to in Article 278.

*Article 280***Work programme**

1. In order to support the development of the electronic systems referred to in Article 278 and govern the setting up of transitional periods, the Commission shall, by 1 May 2014, draw up a work programme relating to the development and deployment of the electronic systems referred to in Article 16(1).

2. The work programme referred to in paragraph 1 shall have the following priorities:

- (a) the harmonised exchange of information on the basis of internationally accepted data models and message formats;
- (b) the reengineering of customs and customs related processes in view of enhancing their efficiency, effectiveness and uniform application and reducing compliance costs; and
- (c) the offering to economic operators of a wide range of electronic customs services, enabling them to interact in the same way with the customs authorities of any Member State.

3. The work programme referred to in paragraph 1 shall be updated regularly.

*Article 281***Conferral of implementing powers**

The Commission shall adopt, by means of implementing acts, the work programme referred to in Article 280.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Where the committee delivers no opinion, the Commission shall not adopt the implementing acts referred to in paragraph 1 and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

CHAPTER 2

Simplifications in the application of the customs legislation*Article 282***Tests**

The Commission may authorise one or more Member States, upon application, to test for a limited period of time simplifications in the application of the customs legislation, especially when IT-related. The test shall not affect the application of the customs legislation in those Member States that are not participating in such test and shall be evaluated periodically.

*Article 283***Conferral of implementing powers**

The Commission shall adopt, by means of implementing act, the decisions referred to in Article 282.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

CHAPTER 3

Delegation of power and committee procedure*Article 284***Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 2, 7, 10, 20, 24, 31, 36, 40, 62, 65, 75, 88, 99, 106, 115, 122, 126, 131, 142, 151, 156, 160, 164, 168, 175, 180, 183, 186, 196, 206, 212, 213, 221, 224, 231, 235, 253, 265, and 279 shall be conferred on the Commission for a period of five years from 30 October 2013. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles 2, 7, 10, 20, 24, 31, 36, 40, 62, 65, 75, 88, 99, 106, 115, 122, 126, 131, 142, 151, 156, 160, 164, 168, 175, 180, 183, 186, 196, 206, 212, 213, 221, 224, 231, 235, 253, 265, and 279 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 2, 7, 10, 20, 24, 31, 36, 40, 62, 65, 75, 88, 99, 106, 115, 122, 126, 131, 142, 151, 156, 160, 164, 168, 175, 180, 183, 186, 196, 206, 212, 213, 221, 224, 231, 235, 253, 265, or 279 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within two months of

notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

*Article 285***Committee procedure**

1. The Commission shall be assisted by the Customs Code Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011 in conjunction with Article 4 thereof shall apply.

4. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

5. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011 in conjunction with Article 5 thereof shall apply.

6. Where the opinion of the committee is to be obtained by written procedure and reference is made to this paragraph, that procedure shall be terminated without result only when, within the time-limit for delivery of the opinion, the chair of the committee so decides.

CHAPTER 4

Final provisions*Article 286***Repeal and amendment of legislation in force**

1. Regulation (EC) No 450/2008 is repealed.

2. Regulation (EEC) No 3925/91, Regulation (EEC) No 2913/92 and Regulation (EC) No 1207/2001 are repealed from the date referred to in Article 288(2).

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

4. In the sixth indent of Article 3(1) of Regulation (EEC) No 2913/92, the phrase 'and Mayotte' is deleted as from 1 January 2014.

5. The first indent of point (a) of Article 9(1) of Regulation (EEC) No 2658/87 is deleted from the date referred to in Article 288(2).

Article 287

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*.

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

Done at Strasbourg, 9 October 2013.

For the European Parliament

The President

M. SCHULZ

Article 288

Application

1. Articles 2, 7, 8, 10, 11, 17, 20, 21, 24, 25, 31, 32, 36, 37, 40, 41, 50, 52, 54, 58, 62, 63, 65, 66, 68, 75, 76, 88, 99, 100, 106, 107, 115, 122, 123, 126, 131, 132, 138, 142, 143, 151, 152, 156, 157, 160, 161, 164, 165, 168, 169, 175, 176, 178, 180, 181, 183, 184, 186, 187, 193, 196, 200, 206, 207, 209, 212, 213, 216, 217, 221, 222, 224, 225, 231, 232, 235, 236, 239, 253, 265, 266, 268, 273, 276, 279, 280, 281, 283, 284, 285 and 286 shall apply as from 30 October 2013.

2. Articles other than those referred to in paragraph 1 shall apply as from 1 June 2016.

For the Council

The President

V. LEŠKEVIČIUS

ANNEX

CORRELATION TABLE

Regulation (EC) No 450/2008	This Regulation
Article 1(1) and (2)	Article 1(1) and (2)
Article 1(3), first subparagraph	Article 1(3)
Article 1(3), second subparagraph	Article 2
Article 2	Article 3
Article 3	Article 4
Article 4, points 1 to 8	Article 5, points 1 to 8
Article 4, point 9	Article 5, points 9 and 10
Article 4, point 10	Article 5, point 12
Article 4, points 11 and 12	Article 5, points 15 and 16
Article 4, points 13 to 17	Article 5, points 18 to 22
Article 4, point 18(a), first sentence	Article 5, point 23(a)
Article 4, point 18(a), second sentence	Article 130(3)
Article 4, point 18(b) and (c)	Article 5, point 23(b) and (c)
Article 4, points 19 to 26	Article 5, points 24 to 31
Article 4, point 27 to 32	Article 5, points 33 to 38
Article 4, point 33	—
Article 5(1), first subparagraph	Article 6(1)
Article 5(1), second and third subparagraphs	Articles 6(3) and 7(b)
Article (5)(2)	Articles 6(2), 7(a) and 8(1)(a)
Article 6	Article 12
Article 7	Article 13
Article 8	Article 14
Article 9	Article 15
Article 10(1)	Articles 9 and 16(1)
Article 10(2)	Articles 10, 11 and 17
Article 11(1), first and second subparagraphs	Article 18
Article 11(1), third subparagraph	Article 18(2), first subparagraph
Article 11(2)	Article 18(3)
Article 11(3)(a)	Article 18(2), second subparagraph and Article 21
Article 11(3)(b)	Article 21
Article 11(3)(c)	—
Article 12(1)	Article 19(1)
Article 12(2), first subparagraph	Article 19(2), first subparagraph
Article 12(2), second subparagraph	Article 19(2), second subparagraph and Article 20(b)

Regulation (EC) No 450/2008	This Regulation
Article 13(1)	Article 38(1)
Article 13(2)	Article 38(2) and (3)
Article 13(3)	Article 38(4)
Article 13(4)	Article 38(5), first sentence
Article 13(5)	—
Article 13(6)	Article 23(2)
Article 14	Article 39
Article 15(1)(a)	Article 22, Article 24(a) to (g) and Article 25(a) and (b)
Article 15(1)(b)	Articles 23(4)(b) and 24(h)
Article 15(1)(c)	—
Article 15(1)(d)	Article 22(1), third subparagraph and 24(a)
Article 15(1)(e)	Article 40(b)
Article 15(1)(f)	Article 25(b)
Article 15(1)(g)	Articles 23(4)(b), 24(h), 24(c), 28, 31(b) and 32
Article 15(1)(h)	—
Article 15(2)	—
Article 16(1)	Article 22(1), first and second subparagraphs
Article 16(2)	Article 22(3), first and second subparagraphs
Article 16(3)	Article 22(2)
Article 16(4), first subparagraph	Article 22(6), first subparagraph, first sentence
Article 16(4), second subparagraph	Article 22(6), first subparagraph, second sentence and Article 22(7)
Article 16(5)(a)	Article 22(6), second subparagraph and Article 24(g)
Article 16(5)(b)	Article 24(f)
Article 16(6)	Article 23(3)
Article 16(7)	Article 29
Article 17	Article 26
Article 18(1) to (3)	Article 27
Article 18(4)	Article 32
Article 19(1)	Article 28(1)(a)
Article 19(2) and (3)	Article 28(2) and (3)
Article 19(4)	Article 28(4), first subparagraph and second subparagraph, first sentence
Article 19(5)	Article 31(a)
Article 20(1) to (4)	Article 33
Article 20(5)	Article 34(4)
Article 20(6), first subparagraph	Article 34(5), first sentence
Article 20(6), second subparagraph	Article 34(6)

Regulation (EC) No 450/2008	This Regulation
Article 20(7)	Articles 22, 23, 24, 25 and 32
Article 20(8)(a)	Article 34(1) to (3)
Article 20(8)(b)	Article 34(9) and Article 37(1)(a)
Article 20(8)(c)	Article 34(11) and 37(2)
Article 20(9)	Articles 35, 36(b) and 37(1)(c) and (d)
Article 21	Article 42
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Article 24(3), second subparagraph	—
Article 25(1)	Article 46(1)
Article 25(2), first subparagraph	Article 46(2)
Article 25(2), second and third subparagraphs	Article 46(3)
Article 25(3)	Article 46(4) to (8) and Article 50(1)
Article 26	Article 47
Article 27	Article 48
Article 28(1) and (2)	Article 49
Article 28(3)	Article 50(2)
Article 29	Article 51
Article 30(1)	Article 52
Article 30(2)	—
Article 31(1)	Article 53(1)
Article 31(2)	Article 53(3)
Article 31(3)	Article 54
Article 32	Article 55
Article 33(1) to (4)	Article 56(1) to (4)
Article 33(5)	Articles 56(5) and 58(1)
Article 34	Article 57(1),(2) and (3)
Article 35	Article 59
Article 36	Article 60
Article 37	Article 61
Article 38	Articles 62, 63, 67 and 68
Article 39(1) and (2)	Article 64(1) and (2)
Article 39(3)	Article 64(3), first subparagraph
Article 39(4) and (5)	Article 64(4) and (5)

Regulation (EC) No 450/2008	This Regulation
Article 39(6)	Article 64(3), second subparagraph, Article 64(6) and Articles 63 to 68
Article 40	Article 69
Article 41	Article 70
Article 42(1)	Article 74(1)
Article 42(2)	Article 74(2)(a) to (c) and the introductory sentence of point (d)
Article 42(3)	Article 74(3)
Article 43(a)	Articles 71, 72 and 76(a)
Article 43(b)	Article 74(2)(d), points (i), (ii) and (iii)
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Article 46	Article 79
Article 47	Article 80
Article 48	Article 81
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Article 51	Article 84
Article 52	Article 85
Article 53(1) to (3)	Article 86(1) to (3)
Article 53(4)	Article 86(6)
Article 54(a) and (b)	Article 86(5) and Article 88(a)
Article 54(c)	Article 86(4) and Article 88(b)
Article 55(1)	Article 87(1)
Article 55(2), first subparagraph	Article 87(2)
Article 55(2), second subparagraph	Article 88(c)
Article 55(3) and (4)	Article 87(3) and (4)
Article 56(1) to (5)	Article 89(1) to (5)
Article 56(6)	Article 89(7)
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Article 56(8)	Article 89(2), second subparagraph
Article 56(9), first indent	Article 100(1)(b)
Article 56(9), second indent	Articles 89(8) and 99(a)
Article 56(9), third indent	Article 89(2), second subparagraph
Article 57(1) and (2)	Article 90
Article 57(3)	Article 100(1)(a)

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Article 58, first paragraph	Article 91
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Article 59(1), first subparagraph	Article 100(1)
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Article 59(2)	Article 92(2)
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Article 62(1) and (2)	Article 95(1) and (2)
Article 62(3)	Article 22, Article 24(a) to (g), Article 25(a) and (b) and Article 99(c)
Article 63(1) and (2)	—
Article 63(3)(a)	—
Article 63(3)(b)	Articles 96(1)(a), 96(2), 100(1)(c) and 100(2)
Article 63(3)(c)	Article 96(1)(b), 96(2), 100(1)(c) and 100(2)
Article 64	Article 97
Article 65(1) and (2)	Article 98
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Article 66	Article 101(1) and (2)
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Article 67(1), third subparagraph	Article 106
Article 67(2) and (3)	Article 102(2) and (3), first subparagraph
Article 68(1) and (2)	Article 103(1) and (2)
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Article 68(4)	Article 103(4)
Article 69	Article 104
Article 70	Article 105(1) to (5)
Article 71	Article 105(6)
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Article 72(3)	Articles 108(3) and 115
Article 73	Article 109
Article 74	Article 110
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Article 76	—
Article 77(1), first subparagraph	Article 112(1)
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Article 78(1), second subparagraph	Articles 99(d) and 100(1)(b)
Article 78(2) to (4)	Article 114(1) to (3)
Article 78(5)	Article 114(4)
Article 79(1)	Article 116(1)
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Article 85, first sentence	Articles 116(2), 117(2), 118(3), 119(2), 120(2), 121(2) and 123(1)
Article 85, second sentence	Articles 106(3), 122 and 123(2)
Article 86(1) introductory sentence	Article 124(1) introductory sentence and point (a)
Article 86(1) (a) to (c)	Article 124(1) (b) to (d)
Article 86(1) (d) and (e)	Article 124(1) (e)
Article 86(1) (f) to (k)	Article 124(1) (f) to (k)
Article 86(2) and (3)	Article 124(2) and (3)
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Article 86(7)	Article 126
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Article 87(2), second subparagraph	Article 127(8)
Article 87(3), first subparagraph, point (a)	Articles 127(2)(b) and 131(a)
Article 87(3), first subparagraph, points (b) and (c)	Article 131(b)
Article 87(3), first subparagraph, point (d)	Articles 127(3) and 161(a)
Article 87(3), second subparagraph	—
Article 88(1), first subparagraph, first sentence	Article 6(1)
Article 88(1), first subparagraph, second sentence	Article 127(7)
Article 88(1), second subparagraph	Article 6(2)
Article 88(2)	Article 127(4), first subparagraph
Article 88(3)	Article 127(4), second subparagraph and (6)
Article 88(4), first subparagraph	Article 133(1), first subparagraph

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Article 101(2)(c)	Articles 153(3) and 156(c)
Article 102	Article 154
Article 103	Articles 155(2) and 156(d)
Article 104(1)	Article 158(1)
Article 104(2)	Article 158(3)
Article 105(1)	Article 159(1) and (2)
Article 105(2)(a) and (b)	Articles 159(3) and 161(a)
Article 105(2)(c)	Articles 22(1), third subparagraph, and 25(c)
Article 106(1), first subparagraph, first sentence	Article 179(1), first subparagraph
Article 106(1), first subparagraph, second sentence	—
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