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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 06.01.2010  
TAXUD/C2 ER

**TAXUD/1717/2008 Rev 1.3**

**Consolidated preliminary draft of the MCCIP**

**ONLY FOR INFORMATION PURPOSE**

**COMMISSION REGULATION (EC) No .../..**

**N.B. The new articles/versions/new issuing dates of the working documents incorporated in Rev 1.3 are indicated with bold in the table under point II of the DISCLAIMER.**

## DISCLAIMER:

### I. Purpose of the document

This document is NOT an official draft neither a proposal of the Commission. It is only to inform the Member States and the Trade Contact Group about the work achieved so far in the various Sections of the Customs Code Committee and in the working groups and subgroups assisting the Commission by drafting the implementing provisions of the Modernized Customs Code. The document will serve as a basis for further analysis regarding especially

- legal consistency
- overall structure
- unified and commonly agreed definitions
- unified and consistent numbering of the Articles
- proper references of the MCC and its empowering provision, proper cross references within the preliminary draft itself.

The units concerned by drafting the different parts will proceed with their further work on the basis of the latest consolidated version, which will be regularly updated.

### II. Documents used for the consolidation of TAXUD/1717/2008 Rev 1.3

The current consolidation is based on the following documents, where **new articles/versions/new issuing dates of the working documents are indicated with bold**.

Article from	Article to	Document	Date	Unit
110-02		TAXUD/1849/2007 Rev 2 from C4 + definitions from different units	18/03/2008	different units
121-1-01	121-1-03	Data protection rules	19/06/2009	C1
121-2-01	121-2-05	TAXUD/415988/2009	7/12/2009	C1
122-01	122-04	TAXUD/1709/2008 Final	28/11/2008	C2
123-01	123-27	TAXUD/1851/2008 Rev 2.2	08/12/2009	C6
<b>124-1-01</b>	<b>124-1-02</b>	TAXUD/1712/2008 Rev 1	10/11/2009	C2
<b>124-1-03</b>	<b>124-2-19</b>	<b>TAXUD/1707/2009 Rev 2.1</b>	30/11/2009	C2
124-3-01	124-3-08	TAXUD/674/2006 Rev 9.2	15/12/2009	B3
127-1-01	127-1-05	TAXUD/1642/2007 Rev 1	01/01/2008	C6
127-2-01	<b>127-3-03</b>	TAXUD/1452/2007 Rev 1	16/12/2009	C1
131-01		TAXUD/677/2008	05/03/2008	B3
210-01	210-04	TAXUD/1034/2007 Rev 6	08/10/2009	B4
221-01	221-3-02	TAXUD/2232/2008 Rev 3	03/12/2008	C5

<b>222-01</b>	<b>222-08</b>	<b>TAXUD/106096/09-Rev.2</b>	<b>02/12/2009</b>	<b>C5</b>
230-01	230-22	TAXUD/2233/2008 Rev 7	07/12/2009	C5
313-1-01	313-2-04	TAXUD/1704/2008 Rev 2	01/10/2009	C2
321-01	323-2-01	TAXUD/1705/2008 Rev 2	09/10/2009	C2
331-01	333-28	TAXUD/1706/2008 Rev 2.1	17/11/2009	C2
341-01	342-02	TAXUD/1707/2008 Rev 2.1	20/11/2009	C2
<b>410-01</b>	<b>422-01</b>	TAXUD/1811/2008 Rev 1	<b>06/01/2010</b>	<b>C4</b>
511-01 721-01	513-19 722-40	TAXUD/1639/2006 Rev 9	07/04/2009	C4
<b>521-1-01</b>	<b>521-3-04</b>	<b>TAXUD/9100/2009</b>	<b>14/12/2009</b>	<b>C4</b>
<b>522-1-01</b>	<b>522-5-03</b>	<b>TAXUD/9101/2009</b>	<b>06/01/2010</b>	<b>C4</b>
<b>523-01</b>	<b>523-02</b>	<b>TAXUD/9102/2009</b>	<b>15/12/2009</b>	<b>C4</b>
<b>524-01</b>	<b>524-04</b>	<b>TAXUD/9103/2009</b>	<b>15/12/2009</b>	<b>C4</b>
<b>525-1-01</b>	<b>525-2-04</b>	<b>TAXUD/9104/2009</b>	<b>16/12/2009</b>	<b>C4</b>
<b>531-01</b>	<b>531-06</b>	<b>TAXUD/9105/2009</b>	<b>16/12/2009</b>	<b>C4</b>
<b>532-01</b>	<b>532-04</b>	<b>TAXUD/9106/2009</b>	<b>16/12/2009</b>	<b>C4</b>
<b>540-01</b>	<b>540-05</b>	<b>TAXUD/9107/2009</b>	<b>17/12/2009</b>	<b>C4</b>
<b>621-01</b>	<b>622-01</b>	<b>TAXUD/9108/2009</b>	<b>17/12/2009</b>	<b>C4</b>
<b>710-01</b> 731-01	<b>710-21a</b> 753-03	TAXUD/1668/2006 Rev 6	18/12/2009	C4
<b>810-01</b>	<b>820-18</b>	TAXUD/1816/2007 Rev 3	<b>06/01/2010</b>	<b>C4</b>
<b>920-01</b>	<b>920-02</b>	<b>TAXUD/1707/2009 Rev 2.1</b>	<b>30/11/2009</b>	<b>C2</b>

The **Annexes** will be incorporated in the consolidated version at a later stage.

### **III. How to read the document**

1. The provisional structure of this consolidated preliminary draft of the MCCIP is fully based on the one of the MCC, including Chapters or Sections which do not call for any implementing provisions. The aim at this stage is to allow an easy comparison between the MCC and the MCCIP.

The provisional numbering of the Articles follows the structure of the Modernized Customs Code using the location in the structure as a "path". Example: *Article 124-01 is the first Article of Section 4 of Chapter 2 of Title I.* If there is no Section within a chapter of the MCC, the third digit is '0'.

Subsections which do not exist in the MCC, but are introduced in the preliminary draft of the MCCIP are mentioned in some parts between hyphens after the first three "key number" and before the Article number. Example: *Article 523-3-07 is the 7<sup>th</sup> Article of Subsection 3 of Section 3 of Chapter 2 of Title V.*

This numbering system would allow an easy identification of the exact place in the overall structure of the provision. Later moving and renumbering will also be easy without disturbing the numbering system of the whole provisions. A sequential numbering would be introduced only at an advanced stage of the consolidation, once the text will be "stabilised" to be voted.

2. After each Article there is a heading showing the Modernized Customs Code provision to be implemented and the empowering provision for doing so. References have been also made to the current implementing provisions, if any.

Since the consolidated preliminary draft **Rev 1.2. version two extra columns had been added for indication of possible Annexes and for the Adoption procedure.**

However all the cross references needs to be carefully checked during further analysis.

**Consolidated preliminary draft of the MCCIP**

**ONLY FOR INFORMATION PURPOSE**

**COMMISSION REGULATION (EC) No .../..**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

*Article*

Done at Brussels, [...]

*For the Commission*

[...]

*Member of the Commission*

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# TITLE I

## GENERAL PROVISIONS

### CHAPTER 1

#### *Scope of customs legislation, mission of customs and definitions*

##### Article 110-01

#### Subject matter and scope

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 1(3)	Article?	none		

**TO BE COMPLETED! – C4 + C2**

##### Article 110-02

#### Definitions

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 105	Article 105 (2)(a),	Article 1, .....		

For the purposes of this Regulation:

1. **Applicant** means a person who applies to the customs authorities for a decision;
2. **Baggage** means all goods carried by whatever means by a natural person;
3. **Centralised clearance** means: the procedure as referred to in Article 106 of the Code;

4. **Community airport** means: any airport situated in the customs territory of the Community;
5. **Community port** means: any port situated in the customs territory of the Community;
6. **Customs nomenclature** means any of the nomenclatures as referred to in Article 33(2)(a) and (b) of the Code;
7. **Customs office of departure** means: the customs office where a customs declaration placing goods under a transit procedure is accepted;
8. **Customs office of destination** means the customs office where goods placed under a transit procedure and the required information must be presented in order to end the procedure;
9. **Customs office of discharge** means the customs office or offices indicated in the authorisation for a special procedure except transit as empowered to accept customs declarations placing goods under a subsequent customs procedure or to receive the re-export notification;
10. **Customs office of entry** means: the customs office designated by the customs authorities in accordance with the customs legislation to which goods brought into the customs territory of the Community must be conveyed;
11. **Customs office of exit** means: the customs office designated by the customs authorities in accordance with the customs legislation to which goods must be presented before they leave the customs territory of the Community;
12. **Customs office of export** means: the customs office designated by the customs authorities in accordance with the customs legislation where for goods leaving the customs territory of the Community the formalities for placing them under the export procedure, outward processing procedure and where applicable, re-exportation are to be carried out;
13. **Customs office of import** means: without prejudice to the provision for special procedures, the customs office designated by the customs authorities in accordance with the customs legislation where, for goods brought into the customs territory of the Community the formalities for placing them under a customs procedure are to be carried out;
14. **Customs office of placement** means the customs office or offices indicated in the authorisation for a special procedure as empowered to accept customs declarations placing goods under the customs procedure;
15. **Customs office of transit** means:
  - (a) the customs office competent for the point of exit from the customs territory of the Community when the consignment is leaving that territory in the course of a transit operation via a frontier with a territory outside the customs territory of the Community other than a common transit country, or

- (b) the customs office competent for the point of entry into the customs territory of the Community when the goods have crossed a territory outside the customs territory of the Community in the course of a transit operation;
16. **Decision** means: any official act by the customs authorities pertaining to customs legislation giving a ruling on a particular case, such act having legal effects on the person or persons concerned;
17. **EORI number** (*Economic Operators Registration and Identification number*) means: A number, unique in the European Community, assigned by a Member State customs authority or designated authority or authorities to economic operators and to other persons in accordance with the rules laid down in Articles from 121-2-01 to 121-2-05;
18. **Holder of the decisions** means a person in whose name a decision is issued;
19. **Private persons** means natural persons other than taxable persons acting as such, i.e. within the framework of their economic activity, as defined by Articles 9 to 13 of Council Directive 2006/112/EC;
20. **Proven solvency** means a good financial standing during the past three years which is sufficient to fulfil the commitments of the economic operator, with due regard to the characteristics of the type of the business activity; if the economic operator has been established for less than three years, his financial solvency is to be established on the basis of records and information that are available;
21. **Self-assessment** means: the simplification as referred to in Article 116 of the Code;
22. **Single transport document** means a transport document issued covering the carriage of the goods from the point of departure to the point of destination under the responsibility of the person issuing the document;
23. **Supervising customs office** means the customs office indicated in an authorization for simplified declarations, centralized clearance, self assessment or a special procedure as empowered to supervise the arrangements;
24. **Traveller** means any natural person who:
1. enters the customs territory of the Community temporarily and is not normally resident there, or
  2. returns to the customs territory of the Community where he is normally resident, after having been temporarily outside it, or
  3. temporarily leaves the customs territory of the Community where he is normally resident, or
  4. leaves the customs territory of the Community after a temporary stay, without being normally resident there;
25. **Waste and scrap** means: goods or products which are classified as waste and scrap in accordance with the Combined Nomenclature; or goods or products resulting from



the working or processing or destruction of goods, which have no or low economic value and which cannot be used without further processing;

## CHAPTER 2

### *Rights and obligations of persons with regard to customs legislation*

## SECTION 1

### PROVISION OF INFORMATION

#### SUBSECTION 1

#### DATA PROTECTION

#### **Article 121-1-01**

#### **Direct access to data**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 6(1)	Article 183(2b)	Article 4q	-	

1. In each Member State the following authorities may give each other direct access on a case-by-case basis to the data processed in electronic systems (Articles xxx) that they have in their possession:
  - (a) customs authorities;
  - (b) veterinary authorities;
  - (c) sanitary authorities;
  - (d) statistical authorities;
  - (e) tax authorities;
  - (f) authorities responsible for the fight against fraud;

- (g) authorities responsible for trade policy, including agricultural authorities where relevant;
  - (h) authorities responsible for border control.
2. The authorities referred to in paragraph 1 may store the data referred to in that paragraph or exchange the data between themselves only if such processing is necessary for the purposes of meeting their legal obligations in respect of the movement of goods concerned by a customs procedure.
  3. The Member States customs authorities shall communicate to the Commission the address details of the authorities referred to in paragraph 1. The Commission shall publish this information on the Internet.

**Article 121-1-02**

**Personal data protection**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 6(1)	Article 183(2b)	Article 4s	-	

1. This Regulation leaves intact and in no way affects the level of protection of individuals with regard to the processing of personal data under the provisions of Community and national law, and in particular does not alter either the obligations of Member States relating to their processing of personal data under Directive 95/46/EC or the obligations of the Community institutions and bodies relating to their processing of personal data under Regulation (EC) No 45/2001 when fulfilling their responsibilities
2. Identification and registration data of economic operators and other persons, may be published by the Commission on the Internet only if they have freely given specific and informed written consent. Where granted, such consent shall be communicated, in accordance with the national legislation of the Member States, to the customs authorities or, where appropriate to designated authority or authorities of the Member States.
3. The rights of persons with regard to personal data processed in national systems shall be exercised in accordance with the law of the Member State which stored their personal data, and in particular, where applicable, the provisions implementing Directive 95/46/EC.

**Article 121-1-03**

**Data protection authorities**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 6(1)	Article 183(2b)	Article 4t	-	

The national supervisory data protection authorities and the European Data Protection Supervisor, each acting within the scope of their respective competences, shall cooperate actively and ensure coordinated supervision of the system referred to in Articles xxxx (electronic systems).

SUBSECTION 2

REGISTRATION OF PERSONS

**Article 121-2-01**

**EORI number**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 10(2)	Article 10(2)	Article 4k, 4n, Annex 38d	-	

1. The EORI number shall be used for the identification of economic operators and other persons in their relations with the customs authorities.

The structure of the EORI number shall comply with the criteria set out in Title III, Chapter 2.

2. If the authority responsible for assigning the EORI number is not the customs authority, each Member State shall designate the authority or authorities responsible for registering economic operators and other persons and assigning them EORI numbers.

The Member State customs authorities shall communicate to the Commission the name and the address details of the authority or authorities responsible for assigning the EORI number. The Commission shall publish this information on the Internet.

3. Subject to paragraph 1, Member States may use as an EORI number a number already assigned to an economic operator or to another person by the competent authorities for tax, statistical or other purposes.
4. The EORI number shall be used, if required, in all communications by economic operators and other persons with the customs authorities. It shall also be used for the exchange of information between customs authorities and between customs and other authorities under the conditions laid down in Articles 121-02-06 and 121-02-07.

### **Article 121-2-02**

#### **Competent customs authority for registration**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 10(2)	Article 10(2)	Article 41	Yes	

1. An economic operator established in the customs territory of the Union, shall be registered by the customs authority or the designated authority of the Member State in which he is established. Economic operators shall apply for registration before they start activities referred to in Article 110-02-(20). However, economic operators who have not applied for registration may do so during their first operation.
2. In the cases referred to in Article 121-02-01-(3), Member States may waive the obligation for an economic operator or another person to apply for an EORI number.
3. Where an economic operator not established in the customs territory of the Union does not have an EORI number, he shall be registered by the customs authority or the designated authority of the Member State where he first performs one of the following:
  - (a) he lodges in the European Union a summary or customs declaration other than:
    - (i) a customs declaration made in accordance with ex Articles 225 to 238 , or

- (ii) a customs declaration made for temporary importation or for discharging this procedure by re-exportation, or
  - (iii) a customs declaration made under the common transit procedure by an economic operator established in a contracting party to the common transit convention other than the European Union , if this declaration is not used also as an entry or exit summary declaration, or
  - (iv) a customs declaration made under the Community transit procedure by an economic operator established in Andorra or in San Marino, if this declaration is not used also as an entry or exit summary declaration.
- (b) he lodges in the European Union an exit or entry summary declaration;
  - (c) he operates a temporary storage facility pursuant to ex Article 185(1);
  - (d) he applies for an authorisation pursuant to ex-Article 324a or 372;
  - (e) he applies for an authorised economic operator certificate pursuant to ex-Article 14a.
4. Persons other than economic operators shall not be registered unless all the following conditions are met:
- (a) such registration is required by the legislation of a Member State;
  - (b) the person has not previously been assigned an EORI number;
  - (c) the person engages in operations for which an EORI number must be provided pursuant to ex Annex 37 or 38 (*ANNEX 52-01 MCCIP*).
5. In the case referred to in paragraph 4:
- (a) a person established in the customs territory of the Union, other than an economic operator referred to in paragraph 1, shall be registered by the customs authority or the designated authority of the Member State in which he is established;
  - (b) a person not established in the customs territory of the Union, other than an economic operator referred to in paragraph 3, shall be registered by the customs authority or the designated authority of the Member State in which he is involved in activities covered by customs legislation.
6. Economic operators and other persons shall have only one EORI number.

*Article 121-2-03*

**Data submission**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 10(2)	Article 10(2)	Article 4m	Yes	

1. Registration and identification data of economic operators or, where appropriate, of other persons processed in the system as referred to in Article 121-02-01 shall comprise the data listed in *ANNEX 12-01 [ex ANNEX 38d]* subject to specific conditions laid down in Article 121-02-04 (4) and (5).
2. When registering economic operators and other persons for an EORI number, Member States may require them to submit data other than the data listed in *ANNEX 12-01 [ex ANNEX 38d]* where that is necessary for purposes laid down in their national laws.
3. Member States may require economic operators or, where appropriate, other persons to submit the data referred to in paragraphs 1 and 2 by electronic means.

#### *Article 121-2-04*

#### **Electronic system**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 10(2)	Article 10(2)	Article 4o	Yes	

1. Member States shall co-operate with the Commission with a view to developing a central electronic information and communication system which contains the data listed in *ANNEX 12-01 [ex ANNEX 38d]* provided by all the Member States.
2. The customs authorities shall co-operate with the Commission to process and to exchange between customs authorities and between the Commission and customs authorities, the registration and identification data listed in *ANNEX 12-01 [ex ANNEX 38d]* of economic operators and other persons, by using the system referred to in paragraph 1.  
  
Data other than the data listed in *ANNEX 12-01 [ex ANNEX 38d]* shall not be processed in the central system.
3. Member States shall ensure that their national systems are kept up to date, and are complete and accurate.

4. Member States shall upload on a regular basis to the central system the data listed in points 1 to 5 of ANNEX 12-01 [ex ANNEX 38d] concerning economic operators and other persons whenever new EORI numbers are assigned or changes in that data occur.
5. Member States shall also upload on a regular basis to the central system, where available in the national systems, the data listed in points 6 to 13 of ANNEX 12-01 [ex ANNEX 38d] concerning economic operators and other persons whenever new EORI numbers are assigned or changes in that data occur.
6. Only EORI numbers assigned in accordance with Article 121-02-02 (1) to (5) shall be uploaded to the central system, together with other data listed in *ANNEX 12-01 [ex ANNEX 38d]*.
7. Where it is established that an economic operator or a person other than an economic operator ceases the activities referred to in Article 110-02-(20), Member States shall reflect this in the data listed in point 11 of ANNEX 12-01 [ex ANNEX 38d].
8. An EORI number and the data listed in ANNEX 12-01 [ex ANNEX 38d] shall be processed in the central system for the period of time required by the law of the Member States that uploaded the data referred to in paragraph (4) and (5).

**Article 121-2-05**

**Direct access to data**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 10(2)	Article 10(2)	Article 4p	Yes	

In each Member State the authority designated in accordance with Article 110-02-01 shall give the customs authorities of that Member State direct access to the data referred to in ANNEX 12-01 [ex ANNEX 38d].

## SECTION 2

### CUSTOMS REPRESENTATION

#### *Article 122-01*

#### **Waiver from the requirement for a customs representative to be established within the customs territory of the Community**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 11 (3)(a)	Article 11 (3)(a)	none (Article 5(3) CCC)	-	

1. Except as otherwise provided in the present Regulation, the third subparagraph of Article 11(1) of the Code shall not apply to customs representatives acting on behalf of persons which are not required to be established within the customs territory of the Community to carry out certain customs formalities of the Code.

2. The requirement laid down in the third sub-paragraph of Article 11(1) of the Code shall not preclude the application by the Community of agreements concluded with third countries under which persons established in such countries may act as customs representatives to carry out the acts and formalities required under the customs legislation.

#### *Article 122-02*

#### **Entitlement for a person to act as customs representative in a Member State other than the one where he is established**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 11 (3)(b)	Article 11 (3)(b)	none	Yes	

1. The holder of an AEO Certificate referred to in point (a) or (c) of Article ex-14a(1) is entitled, within the meaning of the second sentence of Article 11 (2) of the Code, to provide customs representation services in a Member State other than the one where he is established. The customs authorities of the Member State where the services are provided, shall not make



the access to and the exercise of this activity subject to other conditions than the ones already examined when issuing the AEO Certificate.

2. Member States shall define the procedure for conferring the entitlement referred to in the second sentence of Article 11 (2) of the Code (hereinafter 'the entitlement') to a person established in their territory and not being the holder of an AEO Certificate referred to in point (a) or (c) of Article ex-14a(1).

Before conferring the entitlement, the customs authorities of the Member State where the person concerned is established shall examine whether or not this person complies with the conditions laid down in Articles ex-14h, 14i, 14j and XX.

3. The customs authorities may require any person stating that he is acting as a customs representative, and who is not established in this Member State, to produce a proof of the entitlement referred to in the second sentence of Article 11(2) of the Code.

This proof shall be constituted:

- either by the registration of the person concerned in EORI, as a holder of an AEO Certificate referred to in point (a) or (c) of Article ex-14a(1)];

- or by the registration of the person concerned in EORI, as being entitled to provide customs representation services in a Member State other than the one where he is established [*or, when such registration is not possible, by the production of an Entitlement Certificate issued by the Member State where he is established in accordance with the specimen set out in Annex X*].

#### Article 122-03

#### Further implementing provisions

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 11 (3)(c)	Article 11 (3)(c)	none	-	

In order to facilitate the granting of the entitlement referred to in the second sentence of Article 11 (2) of the Code, Member States may rely in particular on any action achieved on a voluntary basis, at European or national level, by persons providing customs representation services within the customs territory of the Community.

This action shall aim at ensuring that these persons comply with the conditions for the entitlement and may take, in particular, the following forms:

(a) a certification or an assessment of their activities by independent or accredited bodies;

(b) the drawing up of their own quality charter or participation in quality charters or labels drawn up by professionals in different Member States or by European;

(c) a co-operation at European level between professional bodies, associations and companies in order to promote the quality of their services in the field of customs representation.

#### *Article 122-04*

### **Derogation from the obligation to produce evidence of the empowerment to act as customs representative**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 12 (2)	Article 12 (2)	none	-	

A person stating that he is acting as a customs representative to carry out acts and formalities on a non occasional basis shall not be required to produce evidence of his empowerment by the person represented where the customs authorities are satisfied that a valid empowerment exists and can be made available *a posteriori* upon request.

## SECTION 3

### AUTHORISED ECONOMIC OPERATOR

**This Section is depending on the outcome of the current discussions in the CCC GEN Section about doc TAXUD/1707/2009 Rev 2.1 (horizontal provisions)**

#### *Article 123-01*

### **Types of authorisations**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 13	Article 15	Article 14a	-	

Without prejudice to the use of simplifications otherwise provided for under the customs rules, the customs authorities may, following an application by an economic operator and in accordance with Article 14 of the Code, grant the Authorised Economic Operators' status by the means of one of the following authorizations: (hereinafter referred to as "AEO Authorizations"):

- (a) 'customs simplification authorization' – in respect of economic operators requesting to benefit from simplifications provided for under the customs rules and who fulfil the conditions laid down in Articles 123-08 to 123-11. The authorization is issued in the form of an AEO Certificate – Customs Simplifications (hereinafter referred to as AEOC Certificate);
- (b) 'security and safety authorization' - in respect of economic operators requesting to benefit from facilitations of customs controls relating to security and safety when the goods enter the customs territory of the Community, or when the goods leave the customs territory of the Community and who fulfil the conditions laid down in Articles 123-08 to 123-10 and 123-12. The authorization is issued in the form of an AEO Certificate – Security and Safety (hereinafter referred to as 'AEOS Certificate);

In respect of economic operators requesting to benefit from the simplifications described in point (a) and from facilitations described in point (b) at the same time, and who fulfil the conditions laid down in Articles 123-08 to 123-12 the authorizations are issued in the form of an AEO Certificate – Customs Simplifications/Security and Safety, (hereinafter referred to as 'AEOF Certificate).

**Article 123-02**

**Description of the benefits**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 13	Article 15	Article 14b	Yes	

1. Pursuant to Article 13 (4) of the Code if the holder of an AEOC or AEOF Certificate applies for one or more of the authorizations for simplifications provided in the customs legislation, the customs authorities shall not re-examine those conditions which have already been examined when granting the AEO certificate.
2. The holder of an AEOC or AEOF Certificate is entitled, as laid down in Article 122-02 (1), to provide customs representation services in a Member State other than the one where he is established.
3. A comprehensive guarantee waiver or reduced guarantee shall be granted, pursuant to Article 322-04(1), to holders of AEOC or AEOF Certificates.

4. Pursuant to Article 106 of the Code and to Article 521-2-04, the holder of an AEOC or AEOF Certificate mentioned shall be deemed to fulfil the conditions and criteria for the authorisation for centralised clearance.
5. Pursuant to Article 116 (2) (d) of the Code holders of an AEOC or AEOF Certificate shall be deemed to fulfil the conditions and criteria to be granted an authorization for self assessment.
6. Holders of AEOC or AEOF Certificates shall be deemed to fulfil the conditions and criteria laid down in Article 521-3-02 for granting the authorisation for entry in the records.
7. When an entry summary declaration has been lodged by the holder of an AEOS or AEOF Certificate or is available in his system as provided for in Article 87 of the Code, the competent customs office shall, unless security conditions dictate otherwise, before the arrival of the goods into the customs territory of the Community, notify the Authorised Economic Operator when, as a result of security and safety risk analysis, the consignment has been selected for further physical control. [The notice shall also be sent, where possible electronically, to the consignee and also to the carrier indicated in the entry summary declaration where he is not the person lodging the entry summary declaration, if they are holders of an AEOS or AEOF Certificate.] This notice shall only be provided where it does not jeopardise the control to be carried out.

Member States may, however, carry out a physical control even where an Authorised Economic Operator has not been notified, prior to the arrival of the goods in the customs territory of the Community, of the selection of the consignment for such control. When goods are to leave the customs territory of the Community, the first and second subparagraphs shall apply *mutatis mutandis*.

- 8.1. Exporters who lodge an export declaration and who are holders of an AEOS or AEOF Certificate are waived from the obligation to lodge the data requirements foreseen for exit summary declarations.

If the export declaration is lodged by the representative of the exporter, both the exporter and his representative shall be holders of an AEOS or AEOF Certificate.

- 8.2. Holders of an AEOS or AEOF Certificate who lodge or on whose behalf an entry or exit summary declaration or a customs declaration is lodged extended with the security data, may provide the reduced amount of data requirements as set out in section 2.5 of Annex 30A or make such reduced data available in their system as provided for in Article 87 of the Code.

Carriers, freight forwarders or customs representatives who are holders of an AEOS or AEOF Certificate may also lodge entry and exit summary declarations comprising the reduced data requirements set out in section 2.5 of Annex 30A, if all the consignees or all the consignors indicated in the entry summary declaration or in the exit summary declaration respectively are holders of AEOS or AEOF Certificate.

8.3. Holders of an AEO Certificate entitled to the waiver in accordance with paragraph 8.1. or entitled to use reduced data requirements may be required to provide additional data elements in order to ensure the proper functioning of systems set out in international agreements with third countries relating to mutual recognition of AEO Certificates and measures related to security.

9. The holder of an AEO Certificate shall be subject to fewer physical and document based controls than other economic operators. The customs authorities may decide otherwise in order to take into account a specific threat, or control obligations set out in other Community legislation.

Where, following risk analysis, the competent customs authority nevertheless selects for further examination a consignment covered by an entry or exit summary declaration or by a customs declaration lodged by an Authorised Economic Operator, it shall carry out the necessary controls as a matter of priority. If the Authorised Economic Operator so requests, and subject to agreement with the customs authority concerned, these controls may be carried out at a place which is different from the place of the customs office involved.

10. In cases of elevated threat conditions, or following an incident requiring the closing and re-opening of the customs office of entry or of exit, the customs authority shall carry out the necessary controls as a matter of priority for consignments declared by holders of an AEOS or AEOF certificate.

11. The benefits laid down in paragraphs 1 to xxx shall be subject to the economic operator concerned providing the necessary numbers identifying him as an authorized economic operator.

**Article 123-03**

**Application for an AEO certificate**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 13	Article 15	Article 14c	Yes	

1. Application for an AEO certificate shall be made in an electronic form or in writing in accordance with the specimen set out in Annex 1C.
2. Customs authorities shall, within 30 calendar days from the date of receipt of the application, check its completeness and the formal requirements referred to in Article 123-06 and take a decision for its acceptance or non-acceptance.
3. Where the customs authority establishes that the application does not contain all the particulars required, the customs authority shall, within the period specified in

paragraph 2, ask the economic operator to supply the relevant information, stating the grounds for its request and giving him a reasonable period of time to respond. Unless he asks for an extension, the applicant shall provide the information requested within the deadlines prescribed, otherwise the application shall not be accepted. Customs authorities shall take a decision for the acceptance or non-acceptance of the application within 30 calendar days from the date of receipt of all particulars required to take that decision.

4. The time-limits referred to in Articles 123-13(1) and 123-16(2) shall run from the date of acceptance of the application. The customs authorities shall inform the economic operator that the application has been accepted and the date from which the time-limits will run.

#### **Article 123-04**

#### **Identification of the customs authority to which the applications have to be sent**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 13	Article 15	Article 14d	Yes	

1. The application shall be submitted to the customs authority of the Member State where the applicant's main accounts related to the customs arrangements involved are held or are accessible, and where at least part of the operations to be covered by the AEO certificate are to be carried out.

The applicant's main accounts referred to in this Article shall include records and documentation enabling the customs authority to verify and monitor the criteria necessary for obtaining the AEO certificate.

The term "the applicant's main accounts related to the customs arrangements involved are accessible" referred to in this Article means that they are accessible in the applicant's computer system by the competent customs authority using information technology and computer networks.

2. If the competent customs authority can not be determined under paragraph 1, the application shall be submitted to the customs authority of the Member State where the applicant's main accounts related to the customs arrangements involved are held or are accessible and the general customs or logistical management activities are conducted.
3. If a part of the relevant records and documentation is kept in a Member State other than the Member State of the customs authority to which the application has been submitted pursuant to paragraph 1 or 2, the applicant shall duly complete boxes 10, 13, 14 and 15 of the application form set out in Annex 1C.

4. If the applicant maintains a storage facility or other premises with customs related activities in a Member State other than the Member State of the customs authority to which the application has been submitted pursuant to paragraph 1 or 2, this information shall be provided by the applicant in box 9 of the application form set out in Annex 1C, in order to facilitate the examination of the relevant criteria at the storage facility or other premises by the customs authorities of that Member State.
5. The consultation procedure referred to in Article 123-15 shall apply in the cases referred to in paragraphs 2, 3 and 4 of this Article.
6. The applicant shall provide a readily accessible central point or nominate a contact person within the administration of the applicant, in order to make available to the customs authorities all of the information necessary for proving compliance with the requirements for issuing the AEO Certificate.
7. Applicants shall, to the extent possible, submit necessary data to the customs authorities by electronic means.

#### **Article 123-05**

#### **Communication of the list of competent authorities**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 13	Article 15	Article 14e	-	

Member States shall communicate to the Commission a list of their competent authorities, to which applications have to be made, and any subsequent changes thereto. The Commission shall forward such information to the other Member States and make it available on the Internet.

These authorities shall also act as the issuing customs authorities of the AEO Certificates.

#### **Article 123-06**

#### **Provision on non-acceptance of the applications**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>

Article 13	Article 15	Article 14f	-	
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The application shall not be accepted in any of the following cases:

- (a) the application does not comply with Article 123-03 paragraph 1;
- (b) the application is not submitted in accordance with the conditions set out in Article 123-04 (1) or (2);
- (c) except from cases set out in points (c) to (e) of Article 123-25(1), the application is submitted within three years after revocation of the AEO Certificate as provided for in Article 123-25(4).

#### **Article 123-07**

#### **Economic operators not established in the EU**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 13	Article 15	Article 14g	-	

1. Pursuant to Article 15 (1) (h) of the Code, the status equivalent to an authorized economic operator granted in a third country shall be recognised in accordance with the provisions set out in the international agreement between the Community and that third country.

2. An applicant need not be established in the customs territory of the Community if an application for the granting of AEO status specified in an AEOS Certificate is made by an airline or a shipping company not established in the Community but which has a regional office there.

#### **Article 123-08**

#### **AEO criterion on customs and tax compliance**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 14	Article 15	Article 14h	-	



1. The record of compliance with customs and tax requirements referred to in Article 14(a) of the Code shall be considered as appropriate if over the last three years preceding the submission of the application no serious infringement or repeated infringements of customs and taxation rules have been committed by any of the following persons:

- (a) the applicant;
- (b) the persons in charge of the applicant company or exercising control over its management;
- (c) the person responsible in the applicant company for customs matters.

However, the record of compliance with customs or tax requirements shall be considered as appropriate if the competent authority considers any infringement to be of negligible importance, in relation to the number or size of the related operations, and not to create doubts concerning the good faith of the applicant.

- 2. If the persons exercising control over the applicant company are established or resident in a third country, the competent authorities shall assess their compliance with customs and tax requirements on the basis of records and information that are available to them.
- 3. If the applicant has been established for less than three years, the competent authorities shall assess his compliance with customs and tax requirements on the basis of the records and information that are available to them.

**Article 123-09**

**AEO criterion on satisfactory system of managing commercial and transport records**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 14	Article 15	Article 14i	-	

To enable the customs authorities to establish that the applicant has a satisfactory system of managing commercial and, where appropriate, transport records, as referred to in Article 14(b) of the Code, the applicant shall fulfil the following requirements:

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

- (b) allow the customs authority physical or electronic access to its customs and, where appropriate, transport records;
- (c) have a logistical system which distinguishes between Community and non-Community goods except in the cases where an applicant requests the AEOS Certificate;
- (d) have an administrative organisation which corresponds to the type and size of business and which is suitable for the management of the flow of goods, and have internal controls capable of detecting illegal or irregular transactions;
- (e) where applicable, have satisfactory procedures in place for the handling of licenses and authorisations connected to commercial policy measures or to trade in agricultural products;
- (f) have satisfactory procedures in place for the archiving of the company's records and information and for protection against the loss of information;
- (g) ensure that employees are made aware of the need to inform the customs authorities whenever compliance difficulties are discovered and establish suitable contacts to inform the customs authorities of such occurrences;
- (h) have appropriate information technology security measures in place to protect the applicant's computer system from unauthorised intrusion and to secure the applicant's documentation.

**Article 123-10**

**AEO criterion on solvency**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 14	Article 15	Article 14j	-	

1. The criterion relating to the solvency of the applicant referred to in Article 14(c) of the Code shall be deemed to be met if his solvency can be proven for the past three years.

For the purposes of this Article, solvency shall mean a good financial standing which is sufficient to fulfil the commitments of the applicant, with due regard to the characteristics of the type of the business activity.

2. If the applicant has been established for less than three years, his solvency shall be judged on the basis of records and information that are available.

### Article 123-11

#### AEO criterion on practical standards of competence and professional qualifications

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 14	Article 15	none	-	

The criterion relating to the practical standards of competence or professional qualifications directly related to the activity carried out, as referred to in Article 14(d) of the Code, shall be deemed to be met if one of the following conditions is met by the applicant or his employee(s) or the contracted person(s) responsible for customs matters:

- a) has undertaken a training or passed an examination, covering Community customs legislation, or
- b) has a minimum of 3 years practical experience on customs matters; if the applicant has been established for less than three years, his practical experience on customs matters shall be judged on the basis of records and information that are available, or
- c) has a minimum of 3 years experience in customs compliance management.

Customs authorities can also rely on the fact that the person responsible for customs matters is subject to a code of conduct, as member of a trade association or professional body having its own quality standards and whose quality of service is certified by this body and endorsed by the trade association at European level.

Customs authorities may decide to check the relevant documentation and ask for information from the entities or from institutions involved in order to check the authenticity of the documentation presented and the veracity of what is declared by the applicant.

### Article 123-12

#### AEO criterion on security and safety standards

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 14	Article 15	Article 14k	-	

1. The applicant's security and safety standards referred to in Article 14(e) of the Code shall be considered to be appropriate if the following conditions are fulfilled:
  - (a) buildings to be used in connection with the operations to be covered by the certificate are constructed of materials which resist unlawful entry and provide protection against unlawful intrusion;
  - (b) appropriate access control measures are in place to prevent unauthorised access to offices, shipping areas, loading docks, cargo areas and to other relevant places;
  - (c) measures for the handling of goods include protection against the introduction, exchange or loss of any material and tampering with cargo units;
  - (d) where applicable, procedures are in place for the handling of import and/or export licenses connected to prohibitions and restrictions and to distinguish goods subject to these licences from other goods;
  - (e) the applicant has taken measures allowing a clear identification of his business partners and contributing to the security of the international supply chain through implementation of appropriate contractual arrangements or other appropriate measures in accordance with the applicant's business model;
  - (f) the applicant conducts, in so far as legislation permits, security screening on prospective employees working in security sensitive positions and carries out periodic background checks of current employees in such positions;
  - (g) the applicant ensures that its staff concerned actively participate in security awareness programmes;
  - (h) the applicant has appointed a contact person competent for safety and security related questions.
2. If the applicant is established in the Community and is the holder of an internationally recognised security and/or safety certificate issued on the basis of international conventions, of a European security and/or safety certificate issued on the basis of Community legislation, of an International Standard of the International Organisation for Standardisation, or of a European Standard of the European Standards Organisations, the criteria provided for in paragraph 1 shall be deemed to be met to the extent that the criteria for issuing these certificates are identical or correspond to those laid down in this Regulation.
3. If the applicant is established in the Community and is a Regulated Agent as referred to in Regulation (EC) No 300/2008 and fulfils the requirements provided for in Regulation (EC) No 820/2008, the criteria laid down in paragraph 1 shall be deemed to be met in relation to the premises and the goods for which the economic operator obtained the status of a Regulated Agent and

to the extent that the criteria for issuing the Regulated Agent status are identical or correspond to those laid down in paragraph 1.

4. If an airline or shipping company which is not established in the Community, but has a regional office there, submits an application for an AEOS Certificate, it shall fulfil one of the following conditions:
  - (a) be the holder of an internationally recognised security and/or safety certificate issued on the basis of the international conventions governing the transport sectors concerned;
  - (b) for an airline company, be a Regulated Agent, as referred to in Regulation (EC) No 300/2008 of the European Parliament and of the Council, and fulfil the requirements laid down in Commission Regulation (EC) No 820/2008;
  - (c) be the holder of a certificate issued in a country outside of the customs territory of the Community, where a bilateral agreement concluded between the Community and the third country provides for acceptance of the certificate, subject to the conditions laid down in that agreement.

If the airline or shipping company is the holder of a certificate referred to in point (a) of this paragraph, it shall meet the criteria laid down in paragraph 1. The issuing customs authority shall consider the criteria laid down in paragraph 1 to be met, to the extent that the criteria for issuing the international certificate are identical or correspond to those laid down in paragraph 1.

If the airline company is a Regulated Agent as referred to in Regulation (EC) No 300/2008 and fulfils the requirements provided for in Regulation (EC) No 820/2008, the criteria laid down in paragraph 1 shall be deemed to be met in relation to the premises and goods for which the economic operator obtained the status of Regulated Agent.

### Article 123-13

#### Procedure between customs authorities to inform about new applications

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 13	Article 15	Article 14l	-	

1. The issuing customs authority shall communicate the application to the customs authorities of all other Member States within five working days from its acceptance in accordance with Article 123-03 using the communication system referred to in Article 123-27.

- Where the customs authority of any other Member State has relevant information which may prejudice the granting of the certificate, it shall communicate that information to the issuing customs authority within 35 calendar days starting from the date of the communication provided for in paragraph 1, using the communication system referred to in Article 123-27.

### Article 123-14

#### Examination of the AEO criteria

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 13	Article 15	Article 14n	-	

- The issuing customs authority shall examine whether or not the conditions and criteria described in Articles 123-08 to 123-12 for granting AEO status and issuing the relevant certificate are met. Examination of the conditions laid down in Article 123-12 shall be carried out in all the premises which are relevant to the customs related activities of the applicant. The examination as well as its results shall be documented by the customs authority.

Where, in the case of a large number of premises, the period for issuing the certificate would not allow for examination of all of the relevant premises, but the customs authority has no doubt that the applicant maintains corporate security standards which are commonly used in all its premises, it may decide only to examine a representative proportion of those premises.

- The issuing customs authority may accept conclusions provided by an expert in the relevant fields referred to in Articles 123-09, 123-10 and 123-12 in respect of the conditions referred to in those Articles respectively. The expert shall not be related to the applicant.
- The customs authorities shall take due account of the specific characteristics of economic operators, in particular of small and medium sized companies.
- In case the customs authorities have sufficient reasons to believe that an act, which gives rise to criminal court proceedings and linked to an infringement of the customs or taxation rules, has been perpetrated by the applicant, or the persons in charge of the applicant company or exercising control over its management, or by the person responsible in the applicant company for customs matters, the examination of the AEO criteria shall be suspended for the time a criminal proceeding is pending.

However, the customs authority may decide not to suspend the examination of the AEO criteria if it considers an infringement to be of negligible importance

in relation to the number or size of the related operations and not to create doubts concerning the good faith of the applicant.

### Article 123-15

#### Consultation procedure between customs authorities

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 13	Article 15	Article 14m	-	

1. Consultation between the customs authorities of the Member States shall be required in cases set out in Article 123-4 (5) and in cases where the examination of one or more of the criteria laid down in Articles 123-08 to 123-12 cannot be performed by the issuing customs authority due either to a lack of information or to the impossibility of checking it. In these cases, the customs authorities of the Member States shall carry out the consultation within 80 calendar days, starting from the date of the communication of the information by the issuing customs authority, in order to allow for the issuing of the AEO Certificate or the rejection of the application within the time-limits set out in Article 123-16(2).

If the consulted customs authority fails to respond within the 80 calendar days, the consulting authority may assume, at the responsibility of the consulted customs authority, that the criteria for which the consultation took place are met. This period may be extended:

- a) where, due to the nature of the examinations to be done, the consulted authority requires more time; or
- b) if the applicant carries out adjustments in order to satisfy those criteria and communicates them to the consulted authority, which shall inform the consulting authority accordingly.

The period will then be extended by the consulting authority.

2. Where, following the examination provided for in Article 123-14, the consulted customs authority establishes that the applicant does not fulfil one or more of the criteria, the results, duly documented, shall be transferred to the issuing customs authority which shall reject the application. Article 123-16(4), and 123-17 shall apply.

## Article 123-16

### Issuance of the AEO Certificate

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 13	Article 15	Article 14o	Yes	

1. The issuing customs authority shall issue the AEO Certificate in accordance with the specimen set out in Annex 1D.
2. The decision to issue an AEO Certificate or to reject the application shall be taken within 120 calendar days starting from the date of acceptance of the application in accordance with Article 123-03. Where the customs authority is unable to meet the deadline, this period may be extended by one further period of 60 calendar days. In such cases, the customs authority shall, before the expiry of the period of 120 calendar days, inform the applicant of the reasons for the extension.
3. The period provided for in the first sentence of paragraph 2 may be extended if, in the course of the examination of the criteria, the applicant carries out adjustments in order to satisfy those criteria and communicates them and the required extension to the competent authority. The duration of the extension has to be agreed between the applicant and the competent authority.
4. Where the result of the examination performed in accordance with Articles 123-13, 123-14 and 123-15 is likely to lead to the rejection of the application, the issuing customs authority shall communicate the findings to the applicant and provide him with the opportunity to respond within 30 calendar days, before rejecting the application. The period laid down in the first sentence of paragraph 2 shall be suspended accordingly.

## Article 123-17

### Rejection of the AEO application

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 13	Article 15	Article 14o	-	



1. The rejection of an application shall not lead to the automatic revocation of any existing authorisation issued under the customs rules.
2. If the application is rejected, the customs authority shall inform the applicant of the grounds on which the decision is based. The decision to reject an application shall be notified to the applicant within the time-limits laid down in paragraphs (2), (3) and (4) of Article 123-16.

#### **Article 123-18**

#### **Procedure between customs authorities to inform about new certificates or rejections of applications**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 13	Article 15	Article 14p	-	

The issuing customs authority shall, within five working days, inform the customs authorities of the other Member States that an AEO Certificate has been issued, using the communication system referred to in Article 123-27. Information shall also be provided within the same time-limit if the application is rejected.

#### **Article 123-19**

#### **Validity of the AEO Certificate**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 13	Article 15	Article 14q	-	

1. The AEO Certificate shall take effect on the tenth working day after the date of its issue.
2. The period of validity of the AEO Certificate shall not be limited.

### Article 123-20

#### Monitoring of compliance and re-assessment after the AEO Certificate has been issued

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 13	Article 15	Article 14q	-	

1. The customs authorities shall monitor the compliance with the criteria to be met by the Authorised Economic Operator.

In the case of an AEO Certificate issued to an applicant established for less than three years, close monitoring shall take place during the first year after issue.

2. A re-assessment of the criteria shall be carried out by the issuing customs authority in the following cases:
  - (a) major changes to the relevant Community legislation;
  - (b) reasonable indication or evidence that the relevant criteria are no longer met by the Authorised Economic Operator;
  - (c) where necessary due to the information provided by the Authorized Economic Operator pursuant to article 123-26 (1).

Where necessary, during the re-assessment process customs authorities shall carry out consultation procedure as described under Article 123-15.

Article 123-14 (2) shall apply.

The results of the re-assessment shall be made available to the customs authorities of all Member States, using the communication system referred to in Article 123-27.

### Article 123-21

#### Suspension of the status of Authorised Economic Operator by the initiative of the customs authorities

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
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Article 13	Article 15	Article 14r	-	
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1. The status of Authorised Economic Operator shall be suspended by the issuing customs authority in the following cases:

- (a) where non-compliance with the criteria for the AEO Certificate has been detected;
- (b) the customs authorities have sufficient reason to believe that an act, which gives rise to criminal court proceedings and linked to an infringement of the customs or taxation rules, has been perpetrated by any the following persons:
  - the Authorised Economic Operator;
  - the person in charge of the AEO company or exercising control over its management;
  - the person responsible in the AEO company for customs matters.

However, in the case referred to in point (b) of the first subparagraph, the customs authority may decide not to suspend the status of Authorised Economic Operator if it considers an infringement to be of negligible importance in relation to the number or size of the related operations and not to create doubts concerning the good faith of the Authorised Economic Operator.

Before taking a decision, the customs authorities shall communicate their findings to the economic operator concerned. The economic operator concerned shall be entitled to correct the situation and/or express his point of view within 30 calendar days starting from the date of communication.

However, where the nature or the level of the threat to citizens' security and safety, to public health or to the environment so requires, suspension shall take place immediately. The suspending customs authority shall immediately inform the customs authorities of the other Member States, using the communication system referred to in Article 123-27, in order to permit them to take appropriate action.

- 2. If the holder of the AEO Certificate does not regularise the situation referred to in point (a) of the first subparagraph of paragraph 1 within the period of 30 calendar days referred to in the third subparagraph of paragraph 1, the competent customs authority shall notify the economic operator concerned that the status of Authorised Economic Operator is suspended for a period of 30 calendar days, to enable the economic operator to take the required measures to regularise the situation. The notification shall also be sent to the customs authorities of the other Member States using the communication system referred to in Article 123-27.
- 3. If the holder of the AEO Certificate or any of the persons referred to in point (b) of the first subparagraph of paragraph 1 has committed an act which

gives rise to criminal court proceedings and linked to an infringement of the customs or taxation rules, the issuing customs authority shall suspend the status of Authorised Economic Operator for the duration of the court proceedings. It shall notify the holder of the certificate to that effect. Notification shall also be sent to the customs authorities of the other Member States, using the communication system referred to in Article 123-27.

4. Where the economic operator concerned has been unable to regularise the situation within 30 calendar days but can provide evidence that the conditions can be met if the suspension period is extended, the issuing customs authority shall suspend the status of Authorised Economic Operator for a further 30 calendar days.

### Article 123-22

#### Legal effects of suspension

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 13	Article 15	Article 14s	-	

1. The suspension shall not affect any customs procedure already started before the date of suspension and not yet completed.
2. The suspension shall not automatically affect any authorisation which has been granted without reference to the AEO Certificate unless the reasons for the suspension also have relevance for that authorisation.
3. The suspension shall not automatically affect any authorisation for use of a customs simplification which has been granted on the basis of the AEO Certificate and for which the conditions are still fulfilled.
4. In the case of an AEOF certificate, if the economic operator concerned fails to fulfil only the conditions laid down in Article 123-12, the status of authorised economic operator shall be partially suspended and a new AEOC certificate, may be issued at his request.
5. In the case of an AEOF certificate, if the economic operator concerned fails to fulfil only the conditions laid down in Article 123-11, the status of authorised economic operator shall be partially suspended and a new AEOS certificate, may be issued at his request.

### Article 123-23

#### Withdrawal of suspension

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 13	Article 15	Article 14t	-	

1. When the economic operator concerned has, to the satisfaction of the customs authorities, taken the necessary measures to comply with the criteria that have to be met by an Authorised Economic Operator, the issuing customs authority shall withdraw the suspension and inform the economic operator concerned and the customs authorities of the other Member States. The suspension may be withdrawn before the expiry of the time limit laid down in Article 123-21(2) or (4).

In the situation referred to in Article 123-22 (4), the suspending customs authority shall reinstate the suspended certificate. It shall subsequently revoke the AEOC certificate.

In the situation referred to in Article 123-22 (5), the suspending customs authority shall reinstate the suspended certificate. It shall subsequently revoke the AEOS certificate.

2. If the economic operator concerned fails to take the necessary measures within the suspension period provided for in Article 123-21 (2) or (4), the issuing customs authority shall revoke the AEO Certificate and immediately notify the customs authorities of the other Member States, using the communication system referred to in Article 123-27.

In the situation referred to in Article 123-22 (4), the original certificate shall be revoked and only the new AEOC certificate issued shall be valid.

In the situation referred to in Article 123-22 (5), the original certificate shall be revoked and only the new AEOS certificate issued shall be valid.

### Article 123-24

#### Suspension of the status of Authorised Economic Operator by the initiative of the economic operator

<b>MCC implemented</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
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<b>provision</b>				
Article 13	Article 15	Article 14u	-	

1. Where an Authorised Economic Operator is temporarily unable to meet any of the criteria laid down in Article 14 of the Code, he may request suspension of the status of Authorised Economic Operator. In such case, the Authorised Economic Operator shall notify the issuing customs authority, specifying the date when he will be able to meet the criteria again. He shall also notify the issuing customs authority of any planned measures and their timescale.

The notified customs authority shall send the notification to the customs authorities of the other Member States using the communication system referred to in Article 123-27.

2. If the Authorised Economic Operator fails to regularise the situation within the period set out in his notification, the issuing customs authority may grant, at his request, a reasonable prolongation. This prolongation shall be notified to the customs authorities of the other Member States using the communication system referred to in Article 123-27.

In all other cases, the AEO Certificate shall be revoked and the issuing customs authority shall immediately notify the customs authorities of the other Member States, using the communication system referred to in Article 123-27.

3. If the required measures are not taken within the suspension period, Article 123-25 shall apply.

#### **Article 123-25**

#### **Revocation of the status of authorized economic operator**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 13	Article 15	Article 14v	-	

1. The AEO status shall be revoked by the issuing customs authority in the following cases:
  - (a) where the Authorised Economic Operator fails to take the measures referred to in Article 123-23(1);

- (b) where serious infringements related to customs or taxation rules have been committed by any of the following persons and there is no further right of appeal:
- the Authorised Economic Operator;
  - the person in charge of the AEO company or exercising control over its management;
  - the person responsible in the AEO company for customs matters.
- (c) where the Authorised Economic Operator fails to take the necessary measures during the suspension period referred to in Article 123-24;
- (d) where the EORI registration of the Authorized Economic Operator is no longer valid;
- (e) upon request of the Authorised Economic Operator.

However, in the case referred to in point (b), the customs authority may decide not to revoke the AEO Certificate if it considers the infringements to be of negligible importance in relation to the number or size of the related operations and not to create doubts concerning the good faith of the Authorised Economic Operator.

2. Revocation shall take effect from the day following its notification.

In case of an AEOF certificate, where the economic operator concerned only fail to fulfil the conditions in Article 123-12, the certificate shall be revoked by the issuing customs authority and a new AEOC certificate shall be issued.

In case of an AEOF certificate, where the economic operator concerned only fail to fulfil the conditions in Article 123-11, the certificate shall be revoked by the issuing customs authority and a new AEOS certificate shall be issued.

3. The issuing customs authority shall immediately inform the customs authorities of the other Member States of the revocation of an AEO Certificate using the communication system referred to in Article 123-27.
4. Apart from cases of revocation referred to in points (c) to (e) of paragraph 1, the economic operator shall not be permitted to submit a new application for an AEO Certificate within three years from the date of revocation.

#### Article 123-26

### Information exchange

MCC implemented	MCC empowering provision	Current IP provision	Annex	Adoption procedure
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<b>provision</b>				
Article 13	Article 15	Article 14w	-	

1. The authorised economic operator and the customs authorities of the Member States shall without delay inform the issuing customs authority of all factors arising after the certificate is granted which may influence its continuation or content.
2. All relevant information at the disposal of the issuing customs authority shall be made available to the customs authorities of the other Member States where the Authorised Economic Operator carries out customs related activities.
3. If a customs authority revokes a specific authorisation granted to an Authorised Economic Operator, on the basis of his AEO certificate, for the use of a particular customs simplification, as provided for in the customs legislation, it shall notify the customs authority which issued the AEO Certificate.

#### **Article 123-27**

#### **AEO electronic information and communication system**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 13	Article 15	Article 14x	-	

1. An electronic information and communication system, defined by the Commission and the customs authorities in agreement with each other, shall be used for the information and communication process between the customs authorities and for information of the Commission and of the economic operators.
2. The Commission and the customs authorities shall, using the system referred to in paragraph 1, store and have access to the following information:
  - (a) the electronically transmitted data of the applications;
  - (b) the AEO Certificates, and where applicable, their amendment, revocation, or the suspension of the status of Authorised Economic Operator;
  - (c) all other relevant information.



3. The issuing customs authority shall notify the risk analysis offices in its own Member State of the granting, amendment, suspension and revocation of an AEO Certificate. It shall also inform all customs authorities of the other Member States.
4. The list of Authorised Economic Operators may be disclosed by the Commission and the customs authorities in the Member States to the public via the Internet with prior agreement of the Authorised Economic Operator concerned. The list shall be updated.

## SECTION 4

### DECISIONS RELATING TO THE APPLICATION OF CUSTOMS LEGISLATION

#### SUBSECTION 1

##### PROVISIONS APPLYING TO DECISIONS TAKEN BY THE CUSTOMS AUTHORITIES

**Subsection 1 & 2 & 3 are depending on the outcome of the current discussions in the CCC GEN Section about**

- doc TAXUD/1712/2008 Rev 1 (right to be heard) and
- doc TAXUD/1707/2009 Rev 2.1 (horizontal provisions)

#### I - RIGHT FOR A PERSON TO EXPRESS HIS POINT OF VIEW

##### *Article 124-1-01*

#### General provisions

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 16(4)	Article 16(5b), 183(2b)	none	-	

- (1) Where the intended decision referred to in Article 16(4) of the Code pertains to a request by the person concerned, the communication of the grounds on which the customs authorities intend to base their decision shall be made as prescribed by the relevant provisions of this Regulation. This communication shall include a reference to all the documents and information on which they intend to base their decision and to the right of the person concerned to have access to his/her file,.

The person concerned shall express his/her point of view within 15 days from the date on which he/she received that communication. In exceptional circumstances and on application from this person, the customs authorities may grant an extension of this period by one further period of 15 days.

If the person concerned does not give his/her point of view within the period prescribed, it shall be deemed that this person has waived the right to express his/her point of view.

- (2) Where the intended decision referred to in Article 16(4) of the Code pertains to:
- (a) the results of the verification of the summary declaration,
  - (b) the results of the verification of the customs declaration as referred to in Article 120 of the Code,
  - (c) the results of post-release controls as referred to in Article 27 of the Code,

the communication of the grounds may be made orally or by any other means and the person concerned may immediately express his/her point of view in the same way. In that case, if customs authorities actually intend to adopt the decision referred to in Article 16(4) of the Code, a reference to that communication shall be recorded by the customs authorities and the person concerned is deemed to have expressed his/her point of view, unless there is evidence to the contrary.

However, the person concerned may demand a communication as referred to in paragraph (1). In that case paragraph (1), 2<sup>nd</sup> and 3<sup>rd</sup> subparagraphs are applicable.

- (3) Where the intended decision referred to in Article 16(4) of the Code pertains to the control of goods for which no summary declaration or customs declaration was lodged, the communication of the grounds may be made orally or by any other means and the person concerned may immediately express his/her point of view in the same way. In that case, if customs authorities actually intend to adopt the decision referred to in Article 16(4) of the Code, a reference to that communication shall be recorded by the customs authorities and the person concerned is deemed to have expressed his/her point of view, unless there is evidence to the contrary.

However, the customs authorities may, on request of the person concerned, issue a communication as referred to in paragraph (1). In that case paragraph (1), 2<sup>nd</sup> and 3<sup>rd</sup> subparagraphs are applicable.

- (4) Without prejudice to Article 124-03, in other situations regarding application of customs legislation not covered by paragraphs (1), (2) or (3), paragraph (1) is applicable *mutatis mutandis*.

- (5) Where paragraph (1) applies, the time limit for adoption of a decision as laid down in customs legislation shall be suspended from the date on which the grounds for taking a decision were communicated to the person concerned, for the period referred to in paragraph 1, subparagraph 2.

Where the person concerned gives his/her point of view before the expiry of the period laid down in paragraph 1, subparagraph 2, the customs authorities may adopt the decision unless the person concerned expresses his/her intention to further express his/her point of view within the period prescribed.

#### *Article 124-1-02*

#### **Exceptions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 16(4)	Article 16(5)	none	-	

Article 16 (4) of the Code shall not apply in the following cases:

1. Where the request for a decision may not be accepted;
2. Where the decision at stake is a decision referred to in Article 20(1) of the code;
3. In case of refusal of the benefit of a tariff quota where the specified tariff quota volume is reached as referred to in Article 33(4), first subparagraph of the Code;
4. Where the nature or the level of the threat to the security and safety of the Community and its residents, to human, animal or plant health, to the environment or to consumers so requires;
5. Where the decision relates to measures implementing a decision for which Article 16(4) has been applied, without prejudice to the law of the Member State concerned;
6. In case of application of Article 421-1-01(2), second subparagraph, second sentence.

## II – ANNULMENT OF FAVOURABLE DECISIONS

#### *Article 124-1-03*

#### **Annulment**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 18(2)	Articles 18(4)	-	-	M

If the holder of the decision cannot be notified of the annulment because of his non existence, the annulment is deemed to take effect from the date on which the initial decision took effect.

### III – AMENDMENT OF FAVOURABLE DECISIONS

#### *Article 124-1-04*

#### **Amendment**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 19(3), 19(4) 2 <sup>nd</sup> indent	Article 19(5)	-	-	M

1. The date on which the decision for amendment takes effect shall be indicated in the amending decision.

Where the decision shall be amended for economic reasons and where the legitimate interests of the person to whom the decision was addressed so require, the customs authorities may defer the date on which the amendment takes effect up to one year.

2. The amendment shall not affect goods which, at the moment of its entry into effect, have already been placed under a procedure by virtue of the amended decision.

## SUBSECTION 2

### PROVISIONS APPLYING TO DECISIONS REQUESTED BY A PERSON FROM THE CUSTOMS AUTHORITIES

#### I – GENERAL PROVISIONS

##### *Article 124-2-01*

##### **Scope of the Subsection**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 16 (1), (2)	Article 183(2c)	-	-	RS

1. Except where otherwise specified in this Regulation, the provisions of this Subsection shall apply to the following:

- the entitlement to provide customs representation services in a Member State other than the one where the customs representative is established, as referred to in Article 11(2) of the Code;
- the status of authorised economic operator, as referred to in Article 13 of the Code;
- the decisions relating to binding information, as referred to in Article 20 of the Code;
- the individual guarantee furnished in the form of individual guarantee vouchers, as referred to in Article 323-102(3) of the implementing provisions of the Code;
- the comprehensive guarantee, as referred to in Article 56(5) of the Code;
- the deferment of the payment of the duty payable, as referred to in Article 74 of the Code;
- the other payment facilities, as referred to in Article 77 of the Code;
- the repayment and remission of amounts of import or export duty, as referred to in Article 79 of the Code;
- the amendment of one or more particulars of an entry summary declaration, as referred to in Article 89 of the Code;

- the status of the authorised consignor as referred to in Article 513-12 of the implementing provisions of the Code;
- the regular shipping service as referred to in Article 512-01 of the implementing provisions of the Code;
- the centralised clearance, as referred to in Article 106(1) of the Code;
- the making of a customs declaration through an entry of data in the declarant's records, as referred to in Article 107(1) of the Code;
- the simplified customs declaration, as referred to in Article 109(1) of the Code;
- the amendment of one or more of the particulars of a customs declaration, as referred to in Article 113(1) of the Code;
- the invalidation of a customs declaration after the goods have been released, as referred to in Article 524-04 of the implementing provisions of the Code;
- the agreement that import duties be charged on the basis of the tariff subheadings of the goods which are subject to the highest rate of duty, as referred to in Article 115 of the Code;
- the self-assessment, as referred to in Article 116 (2d) of the Code;
- the examination of goods in places or during hours other than those referred to in Article 531-01(1) of the implementing provisions of the Code;
- the inward processing or outward-processing procedure, the temporary admission procedure or the end-use procedure, as referred to in Article 136(1), sub-paragraph 1, 1st indent of the Code;
- the operation of storage facilities for the temporary storage or customs warehousing of goods, as referred in Article 136(1), sub-paragraph 2, 2nd indent of the Code;
- the status of authorised consignor and authorised consignee as referred to in Article 722-26 (1b) and (1b) of the implementing provisions of the Code;
- the presentation at the customs office of destination as referred to in Article 722-18 (1) 2<sup>nd</sup> indent of the implementing provisions of the Code;
- the use of special seals as referred to in Article 722-38(1) of the implementing provisions of the Code
- the simplified transit declaration as referred to in Article 722-26(1d) of the implementing provisions of the Code;

2. The provisions of this Subsection lay down the rules concerning the following:

- the application procedure for a decision;
- the issuing procedure of a decision;

- the suspension procedure of a decision, either by the customs authorities or at the request of the decision holder, including the withdrawal of the suspension;
- the revocation procedure of a decision, either by the customs authorities or at the request of the decision holder, without prejudice of Article 19 of the Code.

*Article 124-2-02*

**Information exchange**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article	Article	Article	-	RS

1. The issuing customs authority shall, within 7 calendar days, inform the customs authorities of the other Member States concerned that a decision has been issued, amended, suspended or revoked.
2. The holder of the decision shall inform the customs authorities without delay of any factor arising after the decision was issued, which may influence its continuation or content.
3. The results of the re-assessment shall be made available to the customs authorities of the other Member States concerned.
4. Member State shall nominate a single contact point responsible for the information exchange between Member States and between the Member State and the Commission, and enter the data in the database established for that purpose.

*Article 124-2-03*

**Electronic system concerning decisions involving more than one Member State**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 10	Article 10	Article	-	RS

1. An electronic information and communication system, defined by the Commission and the customs authorities in agreement with each other, shall be used for the implementation of the procedures referred in Article 124-2-01(2).
2. The Commission and the customs authorities shall, using the system referred to in paragraph 1, store and have access to the following information:
  - (a) the electronically transmitted data of the application and decision;
  - (b) the application, the decision and where applicable, their amendment, revocation, or suspension;
  - (c) all other relevant information.
3. The list of decision holder may be disclosed by the Commission to the public via the Internet with prior agreement of the person concerned. The list shall be updated.

## II – APPLICATION PROCEDURE

### *Article 124-2-04*

#### Conditions for acceptance

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article	Article	Article	-	

1. The applicant shall have an EORI number assigned, where required, according to Title I Chapter 1 Subsection 2.
2. Except where otherwise provided in the Code or in this Regulation, the applicant has to be established in the customs territory of the Community.

By way of derogation airlines and shipping companies need not be established in the customs territory of the Community, if they have a regional office there.

3. The application shall be submitted in the form prescribed for the application and contain all the information required to enable customs authorities to take the decision. It has to be submitted to the competent customs authority as defined in Article 124-2-06, which shall act as the issuing customs authority for the decision concerned.



*Article 124-2-05*

**Permanent business establishment**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 4(26b)	Article	Article	-	

1. For the purpose of this Regulation, the term ‘permanent business establishment’ means a fixed place of business through which the customs related operations of an enterprise is wholly or partly carried on.
2. The establishment may be regarded as a fixed place only if it entails the permanent presence of both the human and technical resources necessary for the customs related operations.
3. The establishment shall be of a certain minimum size.

*Article 124-2-06*

**Competent customs authority**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article	Article	Article	-	

1. The application shall be submitted to the customs authorities of one of the following Member States:
  - (a) where the applicant's main account related to his customs activities are held or accessible, and where at least part of the operation to be covered by the decision are carried out;
  - (b) where the applicant's general logistical management activities are conducted, and where at least part of the operation to be covered by the decision are carried out.

The applicant's main account referred to in points (a) shall include records and documentation enabling the customs authority to verify the conditions and the criteria necessary for issuing a decision.

2. Member State shall communicate to the Commission a list of their competent authorities, to which applications have to be submitted, and any subsequent changes thereto.

The Commission shall make this information available on the Internet.

*Article 124-2-07*

**Acceptance of the application**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article	Article	Article	-	

1. The customs authorities shall check the application for its completeness and formal requirements.

2. Where the customs authority establishes that the application does not contain all the particulars required, the customs authority shall, within 30 calendar days of receipt of the application, ask the applicant to supply the relevant information and giving him a reasonable period of time to respond. Unless he asks for an extension, the applicant has to provide the relevant information within the prescribed time period, otherwise the application shall not be accepted.

3. The customs authorities shall inform the applicant that the application has been accepted and the date from which the time limits will run.

4. All time-limits regarding a decision shall run from the date of acceptance of the application.

5. The application shall be rejected in any of the following cases:

(a) it does not comply with Articles 124-2-04 and 124-2-06;

(b) it does not comply with Article 124-2-19(4).

6. Where the holder of a decision holds an AEO Certificate referred to in points (a) and (b) of Article 123-01, the following requirements shall be deemed to be met by application for further decisions:

- no serious or repeated offences against customs or tax legislation have been committed;

- appropriate records keeping, which enables the customs authorities to carry out effective controls.

### III – ISSUE OF DECISIONS

#### *Article 124-2-08*

##### Conditions and criteria

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article	Article	Article	-	

1. If the application concerns more than one Member State, the applicant has to comply with the criteria laid down in points a-c) of Article 14 of the Code for the granting of the status of authorised economic operator.
2. If the applicant has been already granted an AEO status the criteria referred to in paragraph 1 are deemed to be fulfilled.
3. If the applicant has been established for less than three years, the competent authorities shall assess the compliance with the criteria on the basis of the records and information that are available to them.
4. Where an applicant wishes to contract out part of the formalities or controls to another person, that person shall also fulfil the conditions and criteria for issuing the decision, which may be controlled by the customs authorities. The person, to whom a part of the formalities or controls has been contracted out, shall be included in the decision.
5. The customs authorities shall take due account of the specific characteristics of the economic operators, in particular of small and medium sized companies.

#### *Article 124-2-09*

##### Formalities

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article	Article	Article	-	

1. The decision shall take the form prescribed by the customs legislation.
2. The decision shall contain all the necessary particulars for its implementation indicating which particulars shall be treated as confidential.
3. The decision shall be authenticated by the issuing customs authority.

*Article 124-2-10*

**Time-limits to issue decisions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 16(2)	Article	Article	-	

1. Where the customs authorities are unable to meet the prescribed time-limit for issuing a decision, this period may be extended by a period of 30 calendar days.

The issuing customs authority shall, before the expiry of the original time-limit, inform the applicant of the reasons for the extension.

2. The time-limits referred to in paragraph 1 may be extended if, in the course of the examination of the criteria, the applicant carries out adjustment in order to satisfy those criteria and communicates them together with the required extension to the issuing customs authority. The duration of the extension has to be agreed between the applicant and the issuing customs authority.

*Article 124-2-11*

**Consultation between the customs authorities**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article	Article	Article		

1. If consultation between the customs authorities of the Member States is required in cases where the examination of one or more criteria cannot be performed by the issuing customs authority this should be performed within the period prescribed for

the decision concerned, starting from the date of communication of the acceptance of the application by the issuing customs authority.

Where, following the examination referred to in subparagraph 1, the consulted customs authority establishes that the applicant does not fulfil one or more of the criteria, the results, duly documented and justified, shall be transferred to the issuing customs authority, which shall refuse to issue the decision.

Where, following the consultation referred to in subparagraph 1, no agreement can be reached between the customs authorities within the period prescribed for the decision concerned, the issuing customs authority shall refuse to issue the decision to the extent to which objections were raised.

2. If the consulted customs authority fails to respond within the period prescribed for the decision concerned, the criteria for which the consultation took place are deemed to be met.
3. The consultation period may be extended if the applicant carries out adjustments in order to satisfy the criteria referred to in paragraph 1 and communicates them to the consulted authority, which informs the consulting authority accordingly.
4. The Member States shall provide mutual assistance to enable the issuing customs authority to take the necessary decision.

*Article 124-2-12*

**Validity of decisions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 17	Article	Article	-	

1. The date on which the decision takes effect and its period of validity shall be indicated in the decision.

The decision however may be valid without limitation of its period of validity.

2. The decision can be issued with a retroactive effect in the interest of the person, which shall not extend a 3 years period beginning from the date on which the favourable decision was taken.

In exceptional circumstances the retroactive effect of the decision may be extended but not to more than 3 years before the date on which the application was submitted.

*Article 124-2-13*

**Refusal to issue a decision**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article	Article	Article	-	

1. The issuing customs authority shall refuse to issue a decision in the following cases:

- the applicant has been convicted of a serious criminal offence linked to the economic activity of the applicant or is subject to bankruptcy proceedings at the time of the issuing procedure;
- the applicant has a legal representative in customs matters, who has been convicted of a serious criminal offence related to an infringement of customs rules and linked to his activity as legal representative;
- in the cases as referred to in Article 124-2-11(1) second and third subparagraphs.

*Article 124-2-14*

**Monitoring and re-assessment**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article	Article	Article	-	

1. The customs authorities shall monitor the compliance with the conditions and criteria to be met by the decision holder.
2. Where a decision is issued to an applicant established for less than three years, close monitoring shall take place during the first year after issue.
3. A re-assessment of the decision shall be carried out by the issuing customs authority in the case of major changes to the relevant Community legislation.

## IV – SUSPENSION

### *Article 124-2-15*

#### **Suspension of decisions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article	Article	Article	-	

1. The suspension shall not affect any customs procedure already started before the date of entry into effect of the suspension and not yet completed.
2. The suspension shall not automatically affect any decision without reference to the AEO Certificate unless the reasons for the suspension also have relevance for that decision.
3. The suspension shall not automatically affect any decision for use of a customs simplification which has been issued on the basis of the AEO Certificate and for which the conditions are still fulfilled.

### *Article 124-2-16*

#### **Suspension by the initiative of the customs authorities**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article	Article	Article	-	

1. The decision shall be suspended by the issuing customs authority in the following cases:
  - (a) reasonable indication that the relevant conditions and criteria may not any longer be met by the decision holder;
  - (b) the customs authorities have sufficient reason to believe that an act, which gives rise to criminal court proceedings and linked to an infringement of the customs or taxation rules, has been perpetrated by the decision holder.

In the case referred to in point (b) of the first paragraph, the customs authority may decide not to suspend the decision, if it considers an infringement to be of negligible importance in relation to the number or size of the related operations and not to create doubts concerning the good faith of the decision holder.

However, where the nature or the level of the threat to citizens' security and safety, to public health or to the environment so requires, suspension shall take place immediately. The issuing customs authority shall immediately inform the customs authorities of the other Member States concerned to permit them to take appropriate action.

2. If the decision holder does not settle the situation referred to in point a) of the first paragraph within 30 calendar days starting from the date of communication by the issuing customs authority, he shall be notified about the suspension period of 30 calendar days by the issuing customs authority, to enable him to take the required measures to settle the situation.

3. If the decision holder has committed an act referred to in point (b) of the first paragraph, the decision shall be suspended by the issuing customs authority for the duration of the court proceedings.

4. Where the decision holder has been unable to settle the situation within 30 calendar days but can provide evidence that the conditions can be met if the suspension period is extended, the issuing customs authority shall suspend the decision for another 30 calendar days.

*Article 124-2-17*

**Suspension by the initiative of the decision holder**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article	Article	Article	-	

1. Where the decision holder temporarily is unable to meet any or some of the criteria laid down for the decision concerned, he may request the suspension of the decision by the issuing customs authority specifying the date when he will be able to meet the criteria again. The issuing customs authority shall be also notified of any planned measures and their timescale.

2. If the decision holder fails to settle the situation within the period set out in his notification, the issuing customs authority may grant a reasonable prolongation, provided that the decision holder has acted in good faith.

*Article 124-2-18*

**Withdrawal of the suspension**



<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article	Article	Article	-	

1. When the decision holder has, to the satisfaction of the customs authorities, taken the necessary measures to comply with the criteria laid down in the decision, the issuing customs authority shall withdraw the suspension.

The suspension may be withdrawn before the expiry of the time limit laid down in Article 124-2-16(2) or (4).

2. By withdrawal of the suspension the issuing customs authority shall reinstate the suspended decision.

## V – REVOCATION

### *Article 124-2-19*

#### **Revocation of decisions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 19	Article	Article	-	

1. For the implementation of Article 19 of the Code a decision shall be revoked by the issuing customs authority in the following cases:

- (a) non-compliance with the issuing criteria;
- (b) the decision holder fails to take the measures referred to in Article 124-2-18(1);
- (c) the decision holder fails to take the necessary measures during the suspension period referred to in Article 124-2-17(1) and (2);
- (d) serious infringements related to customs or taxation rules have been committed by the decision holder and there is no further right of appeal;
- (e) upon request of the decision holder.

2. In the case referred to in point (d) of the first paragraph, the customs authority may decide not to revoke the decision if it considers the infringements to be of negligible importance

in relation to the number or size of the related operations and not to create doubts concerning the good faith of the decision holder.

3. The revocation shall not affect goods which, at the moment of its entry into effect, have already been placed under a customs procedure by virtue of the revoked decision.
4. The decision holder shall not be permitted to submit a new application for the same authorisation within three years from the date of revocation, apart from cases referred to in points (c) and (e) of the first paragraph.
5. Where the decision shall be revoked for economic reasons and where the legitimate interests of the person to whom the decision was addressed so require, the customs authorities may defer the date on which the revocation takes effect up to one year. The date on which the decision for revocation takes effect shall be indicated in the revoking decision.

### SUBSECTION 3

#### DECISIONS RELATING TO BINDING INFORMATION

#### *Article 124-3-01*

##### **General provisions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 20(1)	Article 20(7)	Article 5	-	

For the purpose of this Subsection the applicant and the holder of the decision shall be a person who is established in the customs territory of the Community.

#### *Article 124-3-02*

##### **Procedure for obtaining decisions relating to binding information**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 20(1)	Article 20(7)	Article 6	Yes	

1. An application for a decision relating to binding information shall be made either to the competent customs authority in the Member State in which the applicant is established, or to the competent customs authority in the Member State in which the information is to be used.

Applications for a decision relating to binding information shall be authenticated by the person making it.

The customs authorities may allow the lodgement of a paper-based application for a decision relating to binding information only in one of the following circumstances:

(a) the customs authorities' computerised system is not functioning; This may also include the connection with the database referred to in Article 124-3-04 (2);

(b) the computerised system of the applicant is not functioning.

2. An application for a BTI decision shall relate to only one specific commodity. An application for a BOI decision shall relate to only one type of goods and one set of circumstances conferring origin.

One specific commodity shall mean goods representing a single product denomination and branding (marking), producer or manufacturer, composition, structure or any other identical customs nomenclature related characteristics.

3. Applications for BTI decisions shall contain the particulars laid down for such applications in Annex X and shall be completed in accordance with that Annex.

4. Applications for BOI decisions shall include the following particulars:

(a) the name and details of the applicant;

(b) the name and address of the customs representative if any;

(c) the applicable legal basis, for the purposes of Articles 35 and 39 of the Code;

(d) a detailed description of the goods and their tariff classification;

(e) the composition of the goods and any methods of examination used to determine this and their ex-works price, as necessary;

(f) the conditions enabling origin to be determined, the materials used and their origin, tariff classification, corresponding values and a description of the circumstances (rules on change of tariff heading, value added, description of the operation or process, or any other specific rule) enabling the conditions in question to be met; in particular the exact rule of origin applied and the origin envisaged for the goods shall be mentioned;

(g) any samples, photographs, plans, catalogues or other documents available on the composition of the goods and their component materials and which may assist in describing the manufacturing process or the processing undergone by the materials;

- (h) agreement to supply a translation of any attached document into the official language (or one of the official languages) of the Member State concerned if requested by the customs authorities;
  - (i) any particulars to be treated as confidential;
  - (j) indication by the applicant whether he has applied for or received a BTI decision or a BOI decision, to his knowledge, for goods or materials identical or similar to those referred to under points (d) or (f) and indication by the applicant whether, to his knowledge, a BTI decision or a BOI decision for identical or similar goods has already been applied for or issued in the Community;
  - (k) indication by the applicant whether, to his knowledge, the goods he has described at (d) and (f) are the subject of any legal or administrative proceedings pending concerning origin or a court ruling on origin within the Community already handed down;
  - (l) indication by the applicant whether the application relates to an import or export transaction specifying the envisaged customs procedure the BOI decision is intended to be used for.
5. Where, on receipt of the application, the customs authorities consider that it does not contain all the particulars required to take a decision, the customs authorities shall ask the applicant to supply the required information. The provisions of Article 16(2) of the Code shall run from the moment when the customs authorities have all the information needed to reach a decision. The customs authorities shall notify the applicant that the application has been received and the date from which the said time limit will run.
6. The list of customs authorities designated by the Member States to receive applications for decisions relating to binding information or to issue decisions relating to binding information shall be published in the ‘C’ series of the *Official Journal of the European Union*.

**Article 124-3-03**

**Issuing of decisions relating to binding information**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 20(1)	Article 20(7)	Article 7	Yes	

1. The decisions relating to binding information shall be authenticated by the customs authority issuing it.

2. Decisions relating to binding information shall contain the particulars laid down in Annex 2X (BTI decisions) or Annex Y (BOI decisions) and shall be completed in accordance with these Annexes

The decision shall indicate what particulars shall be treated as confidential.

3. The customs authorities may issue paper-based decisions relating to binding information only in one of the following circumstances:

(a) the customs authorities' computerised system is not functioning. This may also include the connection with the database referred to in Article 124-3-04 (2);

(b) the computerised system of the applicant is not functioning.

#### **Article 124-3-04**

#### **Exchange of data on decisions relating to binding information between the Member States and the Commission**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 20(1)	Articles 5(1), 20(7)	Articles 8, 13	Yes	

1. The customs authorities of the Member States shall, without delay, transmit to the Commission the following:

(A) In the case of BTI decisions:

- (a) the application for a BTI decision (set out in Annex X) as soon as the application has been submitted and all mandatory data elements have been provided;
- (b) any changes they have made in the status of the application, including rejection of applications, if any;
- (c) the BTI decision issued (set out in Annex 2X);
- (d) notification and details where a BTI decision is annulled, revoked or ceases to be valid;
- (e) notification if a period of extended use of the BTI decision is granted indicating the end date of the period of extended use and the quantities of the goods covered by this period;
- (f) notification of the quantities of any goods cleared under cover of a period of extended use of a BTI decision.

The customs authorities of the Member State that has received the application and has issued the BTI decision shall transmit the data referred to in subparagraphs (a) to (e) above.

The customs authorities of each of the Member States in which goods are cleared under cover of a period of extended use of a BTI decision shall transmit the data referred to in subparagraph (f) above.

(B) In the case of BOI decisions:

the relevant details of the binding origin decision notified. Such transmission shall be effected by electronic means.

2. All transmissions referred to in paragraph 1(A) shall be stored in a central database of the Commission.
3. The Commission shall make the particulars obtained in accordance with paragraph 1 available to the customs authorities in an electronic form.
4. The data of the BTI decisions, including any photograph(s), image(s), brochure(s) and so forth, with the exception of the confidential information of the BTI decisions notified, shall be disclosed to the public via the Internet; the provisions governing the protection of information in force shall apply.

#### **Article 124-3-05**

#### **Validity of decisions relating to binding information**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 20(2), (6), (8)(a),(c)	Articles 19(5) 20(7)-(8)	CCIP 13, CC Article 12(5),	-	

1. Decisions relating to binding information shall take effect from the start date of validity as specified in the decision.
2. Without prejudice to Article 20(6) of the Code BTI decisions shall cease to be valid on the date of applicability in the case of
  - (a) regulations amending the customs nomenclature, and
  - (b) measures within the meaning of Article 9 (1)(a) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, other than explanatory notes,

and where, as a result, BTI decisions no longer conform to the law.

3. Without prejudice to Article 20(6) of the Code the customs authorities shall revoke BTI decisions which are no longer compatible with the interpretation of the customs nomenclature as provided:

- (a) at Community level,
  - i. with effect from the date of publication in the case of explanatory notes referred to in Article 9 (1)(a) of Council Regulation (EEC) No 2658/87;
  - ii. with effect from the date of publication of the operative part of the judgment in Official Journal of the European Union in the case of a judgment of the Court of Justice of the European Union,
  - iii. with effect from the date of notification to the holder of the customs authority's intention to revoke the relevant BTI decision in the case of a guidance on the interpretation of the customs nomenclature issued by the Committee and published on the Internet Site of the European Commission,
- (b) at international level, with effect from the date of the Commission communication in the 'C' series of the *Official Journal of the European Union* in the case of classification decisions, classification opinions or amendments of the explanatory notes to the Nomenclature of the Harmonized Commodity Description and Coding System, adopted by the World Customs Organization.

4. Without prejudice to Article 20(6) of the Code BOI decisions shall cease to be valid:

- (a) where a regulation is adopted or an agreement is concluded by and becomes applicable in, the Community and the information no longer conforms to the law thereby laid down;
- (b) where they are no longer compatible with:
  - (i) at Community level, the explanatory notes and opinions adopted for the purposes of interpreting the rules or with a judgment of the Court of Justice of the European Union,
  - (ii) at international level, the Agreement on Rules of Origin established in the World Trade Organization (WTO) or with the explanatory notes or an origin opinion adopted for the interpretation of that Agreement;

5. In case the customs authorities do not revoke decisions relating to binding information in accordance with the provisions of paragraphs 3 or 4, the Commission may issue decisions requesting Member States to revoke the decisions relating to binding information and giving different binding information compared with other decisions on the same subject.

6. Without prejudice to paragraphs 2 to 5, decisions relating to binding information shall not cease to be valid with a retroactive effect.

#### **Article 124-3-06**

### **Provisions applying in the event of inconsistencies in decisions relating to binding information**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 20 (1)	Articles 20(7), (8c)	Article 9	-	

1. Where differing decisions relating to binding information exist or another Member States Customs authority disagrees with an existing binding decision:
  - (a) the Member States concerned shall endeavour to agree on the uniform classification or origin of the goods and if successful shall take appropriate measures. The time for completing consultation shall not exceed three months from the time they are initiated,
  - (b) the Member States shall submit to the Commission without delay cases where they have failed after three months of consultations to resolve their differences of opinion,
  - (c) the Commission shall notify the Member States when such a submission has been received and no decision related to binding information shall be issued for goods under consideration as from the date when the Commission has notified Member States until the uniform interpretation is ensured,
  - (d) the Commission shall, on its own initiative or at the request of the representative of a Member State, place the item on the agenda of the Committee at the earliest possible meeting and at the latest within 6 months,
  - (e) the Commission shall ensure uniform application of the customs nomenclature or origin rules as quickly as possible and within 6 months following the meeting at which the issue was first discussed,
  - (f) once the uniform application is ensured inconsistent decisions relating to binding information shall be revoked in accordance with Article 20(6) of the Code; without prejudice to Article 20(6) of the Code the Commission may issue decisions requesting Member States to revoke inconsistent binding information decisions.
  
2. For the purpose of applying paragraph 1, BOI decisions shall be deemed to be differing where they confer different origin on goods which:
  - fall under the same tariff heading and whose origin was determined in accordance with the same origin rules and,
  - have been obtained using the same manufacturing process.

**Article 124-3-07**

**Legal effect of decisions relating to binding information**



<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 20(1)-(2)	Article 20(7)	Articles 10, 12	Box 44 of the Single Administrative Document	

1. Without prejudice to Articles 11, 12, 16 and 20 of the Code, a decision relating to binding information may be invoked only by the holder of that decision.
2.
  - (a) Tariff classification matters: the holder of the decision, when fulfilling customs formalities or having them fulfilled, shall inform the customs authorities that he is in possession of a BTI decision in respect of the goods being cleared through customs. This information shall be indicated on the customs declaration, and shall include the reference number of the BTI decision concerned.
  - (b) Origin matters: the holder of the decision, when fulfilling customs formalities or having them fulfilled, shall inform the customs authorities that he is in possession of a BOI decision in respect of the goods being cleared through customs. This information shall be indicated on the customs declaration, and shall include the reference number of the BOI decision concerned.
- 3 The customs authorities of a Member State may request the holder of a decision relating to binding information to provide a translation of that decision into the official language or one of the official languages of the Member State concerned.
4. The customs authorities shall take the necessary steps to ensure that decisions relating to binding information shall be issued only in conformity with the act or measure referred to in paragraph 5 as from the date specified therein.
5. (A) For BTI decisions, the date to be taken into consideration for the following acts or measures shall be as follows:
  - (a) for the Regulations concerning the customs nomenclature and any amendments thereto, the date of their applicability,
  - (b) for measures within the meaning of Article 9 (1)(a) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, other than explanatory notes, the date of their applicability,
  - (c) for explanatory notes within the meaning of Article 9 (1)(a) of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, the date of their publication,

- (d) for judgments of the Court of Justice of the European Union, the date of publication of the operative part of the judgment in Official Journal of the European Union,
  - (e) for the measures concerning the classification decisions, classification opinions or amendments to the explanatory notes to the Harmonized System Nomenclature by the World Customs Organization, the date of the Commission communication in the 'C' series of the *Official Journal of the European Union*,
  - (f) for a guidance on the interpretation of the customs nomenclature issued by the Committee, the date of its publication on the Internet Site of the European Commission.
- (B) For BOI decisions, the date to be taken into consideration for the following acts or measures shall be as follows:
- (a) for the Regulations concerning the determination of the origin of goods, the date of their applicability,
  - (b) for the measures concerning amendments to the explanatory notes and opinions adopted at Community level, the date of their publication in the 'C' series of the *Official Journal of the European Union*,
  - (c) for judgments of the Court of Justice of the European Union, the date of the judgment,
  - (d) for the measures concerning opinions on origin or explanatory notes adopted by the World Trade Organization, the date given in the Commission communication in the 'C' series of the *Official Journal of the European Union*,
  - (e) for the measures adopted in conformity with Article 9 of the World Trade Organization's Agreement on rules of origin and those adopted under international agreements, the date of their applicability.
6. The Commission shall communicate the dates of adoption of the measures and acts referred to in this Article to the customs authorities as soon as possible.
7. Without prejudice to paragraph 4 decisions relating to binding information cannot be issued with a retroactive effect.

**Article 124-3-08**

**Provisions applying in the event of period of extended use of decisions relating to binding information**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>

Article 20(1)	Article 20(8)	Article 14	-	
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1. Under the conditions set out in this Article, the holder of decisions relating to binding information which cease to be valid pursuant to Article 124-3-05 (2)(b), (3), or (4)(b), or which are revoked in accordance with Article 19 of the Code, may still use those decisions for a period of up to six months provided that binding contracts for the purchase or sale of the goods in question have been concluded, on the basis of the decision relating to binding information, before the expiry its validity.
2. When the holder of a decision relating to binding information wishes to make use of the possibility referred to in paragraph 1, he shall lodge within one month following the invalidation or revocation a request with the customs authority of the Member State that issued the decision, indicating the quantities for which a period of extended use is requested and providing any necessary supporting documents to enable to check that the relevant conditions have been satisfied.
3. The customs authorities referred to in paragraph 2 shall, as soon as possible, take a decision on the request referred to in that paragraph and shall notify the holder of the decision. The request shall be refused in exceptional cases where the Commission adopts a measure derogating from the provisions of paragraph 1 or where the conditions of this Article concerning the possibility of continuing to use decisions relating to binding information have not been fulfilled.
4. The period of extended use of a decision shall start on the date referred to in Article 124-3-05(2)(b), (3) or (4)(b), or from the date referred to in Article 16(3) of the Code.

In the case of Article 124-3-05(2)(b) and (4)(b), the relevant measure, regulation or agreement may lay down a period within which the first paragraph shall apply.

However, in the case of products for which an import, export or advance-fixing certificate is submitted when customs formalities are carried out, the period of six months is replaced by the period of validity of the certificate.

5. In the case of BTI decisions:
  - (a) the customs authorities which decide to grant a period of extended use shall specify in the database referred to in Article 124-3-04 (2) the new end date of validity of the decision concerned, as well as the quantities of the goods that may be cleared under cover of that period of extended use;
  - (b) the customs authorities of the Member State in which goods are cleared under cover of a period of extended use shall update the database referred to in Article 124-3-04 (2) by drawing a quantity corresponding to the quantity being cleared there. Within that database, details of such drawings shall be treated as confidential;
  - (c) the use of a decision for which a period of extended use has been granted shall cease as soon as the quantities referred to in subparagraph (b) are reached. These quantities shall be managed in accordance with the chronological order of dates of acceptance of the relevant customs declarations. If the quantities cleared are greater than

the balance available, the use of that decision shall be allowed on a pro rata basis with respect to the quantities cleared.

## SECTION 5

### PENALTIES

**Disclaimer:** NO IPs foreseen.

## SECTION 6

### APPEALS

**Disclaimer:** NO IPs foreseen.

## SECTION 7

### CONTROL OF GOODS

#### SUBSECTION 1

#### CUSTOMS CONTROLS AND RISK MANAGEMENT

##### *Article 127-1-01*

#### **General information on risk management and risk assessment**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 25(2)	Article 25(3)	Article 4(f)	-	

1. 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 or not, and if so where, the goods will be subject to specific customs controls.

2. The determination of levels of risk shall be based on an assessment of the likelihood of the risk related event occurring and its impact, should the event actually materialise. The basis for the selection of consignments or declarations to be subject to customs controls shall include a random element.

*Article 127-1-02*

**Elements of the electronic common risk management framework**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 25(2)	Article 25(3)	Article 4(g)	-	

1. Risk management at Community level, referred to in Article 25(2) of the Code, shall be carried out in accordance with an electronic common risk management framework comprised of the following elements:
  - (a) a Community Customs Risk Management System for the implementation of risk management, to be used for the communication among the Member States customs authorities and the Commission of any risk related information that would help to enhance customs controls;
  - (b) common priority control areas;
  - (c) common risk criteria and standards for the harmonised application of customs controls in specific cases.
2. Customs authorities shall, using the system referred to in point (a) of paragraph 1, exchange risk related information in the following circumstances:
  - (a) the risks are assessed by a customs authority as significant and requiring customs control and the results of the control establish that the event, as referred to in Article 4(7) of the Code, has occurred;
  - (b) the control results do not establish that the event, as referred to in Article 4(7) of the Code, has occurred, but the customs authority concerned considers the threat to present a high risk elsewhere in the Community.

*Article 127-1-03*

**Requirements for the Common priority control areas**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 25(2)	Article 25(3)	Article 4(h)	-	

1. Common priority control areas shall cover particular customs-approved treatments or uses, types of goods, traffic routes, modes of transport or economic operators that are to be subject to increased levels of risk analysis and customs controls during a certain period.
2. The application of common priority control areas shall be based upon a common approach to risk analysis and, in order to ensure equivalent levels of customs controls, common risk criteria and standards for the selection of goods or economic operators for control.
3. Customs controls carried out in common priority control areas shall be without prejudice to other controls normally carried out by the customs authorities.

*Article 127-1-04*

**Elements of the common risk criteria and standards**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 25(2)	Article 25(3)	Article 4(i)	-	

1. The common risk criteria and standards referred to in Article 127-1-02 (1)(c) shall include the following elements:
  - (a) a description of the risk(s);
  - (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).

The information resulting from the application of the elements referred to in the first subparagraph shall be distributed by use of the Community Customs

Risk Management System referred to in Article 127-1-02 (1)(a). It shall be used by the customs authorities in their risk management systems.

2. Customs authorities shall inform the Commission of the results of customs controls carried out in accordance with paragraph 1.

*Article 127-1-05*

**Elements to take into account for the establishment of common priority control areas and application of the common risk criteria and standards**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 25(2)	Article 25(3)	Article 4(j)	-	

For the establishment of common priority control areas and the application of common risk criteria and standards account shall be taken of the following elements:

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

SUBSECTION 2

SPECIAL PROVISIONS APPLICABLE TO THE CABIN BAGGAGE AND HOLD BAGGAGE OF TRAVELLERS

**Article 127-2-01**

**Definitions used in the context of this Subsection**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 28	Article ?	Articles 190,191	-	

- (a) *International Community airport* means any Community airport which, having been so authorized by the competent authorities, is approved for air traffic with third countries;
- (b) *Intra-Community flight* means the movement of an aircraft between two Community airports, without any stopover, which does not start from or end at a non-Community airport;
- (c) *Tourist or business aircraft* means private aircraft intended for journeys whose itinerary depends on the wishes of the user;
- (d) In the case of air travel, baggage shall be considered as hold baggage if it has been checked in at the airport of departure and is not accessible to the person during the flight nor, where relevant, during any stopovers of the kind referred to in Articles 127-2-02 and in Articles 127-2-04 and 127-2-05,
- (e) In the case of air travel, cabin baggage shall be considered as baggage that the person takes with him into the aircraft cabin.

**Article 127-2-02**

**Procedure for transit flights**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article ?	Article ?	Articles 192	-	

Any controls and any formalities applicable to:

1. the cabin and hold baggage of persons taking a flight in an aircraft which comes from a non-Community airport and which, after a stopover at a Community airport, continues to another Community airport, shall be carried out at this last airport provided it is an international Community airport; in this case, baggage shall be subject to the rules applicable to the baggage of persons coming from a third country when the person carrying such baggage cannot prove the Community status of the goods contained therein to the satisfaction of the competent authorities;

2. the cabin and hold baggage of persons taking a flight in an aircraft which stops over at a Community airport before continuing to a non-Community airport, shall be carried out at the airport of departure provided it is an international Community airport; in this case, cabin baggage may be subject to control at the Community airport where the aircraft stops over, in order to ascertain that the goods it contains conform to the conditions for free movement within the Community.



**Article 127-2-03**

**Procedure for business aircrafts**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article ?	Article ?	Articles 193	-	

Any controls and any formalities applicable to the baggage of persons on board tourist or business aircraft, shall be carried out:

- at the first airport of arrival which must be an international Community airport, for flights coming from a non-Community airport, where the aircraft, after a stopover, continues to another Community airport,
- at the last international Community airport, for flights coming from a Community airport where the aircraft, after a stopover, continues to a non-Community airport.

**Article 127-2-04**

**Procedure for inbound transfer flights**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article ?	Article ?	Articles 193	-	

Where baggage arriving at a Community airport on board an aircraft coming from a non-Community airport is transferred at that Community airport, to another aircraft proceeding on an intra-Community flight:

- any controls and any formalities applicable to hold baggage shall be carried out at the airport of arrival of the intra-Community flight, provided the latter airport is an international Community airport,
- all controls on cabin baggage shall be carried out in the first international Community airport; additional controls may be carried out at the airport of arrival of an intra-Community flight, only in exceptional cases where they prove necessary following controls on hold baggage,

- controls on hold baggage may be carried out at the first Community airport only in exceptional cases where they prove necessary following controls on cabin baggage.

**Article 127-2-05**

**Procedure for outbound transfer flights**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article ?	Article ?	Articles ?	-	

Where baggage is loaded at a Community airport onto an aircraft proceeding on an intra-Community flight for transfer at another Community airport, to an aircraft whose destination is a non-Community airport:

- any controls and any formalities applicable to hold baggage shall be carried out at the airport of departure of the intra-Community flight, provided that airport is an international Community airport,
- all controls on cabin baggage shall be carried out in the last international Community airport; prior controls on such baggage may be carried out in the airport of departure of an intra-Community flight only in exceptional cases where they prove necessary following controls on hold baggage,
- additional controls on hold baggage may be carried out in the last Community airport only in exceptional cases where they prove necessary following controls on cabin baggage.

**Article 127-2-06**

**Procedure for transfer to a tourist or business aircraft**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article ?	Article ?	Articles ?	-	

1. Any controls and any formalities applicable to baggage arriving at a Community airport on board a scheduled or charter flight from a non-Community airport and transferred, at that

Community airport, to a tourist or business aircraft proceeding on an intra-Community flight shall be carried out at the airport of arrival of the scheduled or charter flight.

2. Any controls and any formalities applicable to baggage loaded at a Community airport onto a tourist or business aircraft proceeding on an intra-Community flight for transfer, at another Community airport, to a scheduled or charter flight whose destination is a non-Community airport, shall be carried out at the airport of departure of the scheduled or charter flight.

#### **Article 127-2-07**

#### **Measures for transfers between airports on the territory of the same Member State**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article ?	Article ?	Articles ?	-	

The Member States may carry out controls at the international Community airport where the transfer of hold baggage takes place on baggage:

- coming from a non-Community airport and transferred in an international Community airport to an aircraft bound for an international Community airport in the same national territory,
- having been loaded on an aircraft in an international Community airport for transfer in another international Community airport in the same national territory to an aircraft bound for a non-Community airport.

#### **Article 127-2-08**

#### **Measures to be taken by Member States to prevent fraud**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article ?	Article ?	Articles 195	-	

The Member States shall take the necessary measures to ensure that:

- on arrival, persons cannot transfer goods before controls have been carried out on the cabin baggage covered by Article 28 of the Code,

- on departure, persons cannot transfer goods after controls have been carried out on the cabin baggage covered by Article 28 of the Code,
- on arrival, the appropriate arrangements have been made to prevent any transfer of goods before controls have been carried out on the hold baggage covered by Article 28 of the Code,
- on departure, the appropriate arrangements have been made to prevent any transfer of goods after controls have been carried out on the hold baggage covered by Article 28 of the Code.

#### Article 127-2-09

#### Green-edged tag

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Article ?	Article ?	Articles 196	Yes	

Hold baggage registered in a Community airport shall be identified by a tag affixed in the airport concerned. A specimen tag and the technical characteristics are shown in Annex 127-08

#### Article 127-2-10

#### List of international Community airports

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Article ?	Article ?	Articles 197	-	

Each Member State shall provide the Commission with a list of airports corresponding to the definition of ‘international Community airport’. The Commission shall publish this list in the *Official Journal of the European Communities, C Series*.

## SUBSECTION 3

### SPECIAL PROVISIONS APPLICABLE TO THE BAGGAGE OF TRAVELLERS BY SEA

#### *Article 127-3-01*

##### Definitions used in the context of this Subsection

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article ?	Article ?	Articles 197	-	

- (a) Community port means any sea port situated in Community customs territory;
- (b) Intra-Community sea crossing means the movement between two Community ports without any intermediate calls, of a vessel plying regularly between two or more specified Community ports;
- (c) Pleasure craft means private boats intended for journeys whose itinerary depends on the wishes of the user.

#### *Article 127-3-02*

##### Procedure for pleasure crafts

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article ?	Article ?	Articles 197	-	

Any controls and any formalities applicable to the baggage of persons on board pleasure craft, shall be carried out in any Community port, whatever the origin or destination of these craft.

#### *Article 127-3-03*

##### Procedure for transfer crossings

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article ?	Article ?	Articles 197	-	

The baggage of persons using a maritime service provided by the same vessel and comprising successive legs departing from, calling at or terminating in a non-Community port shall be carried out at the port at which the baggage in question is loaded or unloaded as the case may be.

## SECTION 8

### KEEPING OF DOCUMENTS AND OTHER INFORMATION; CHARGES AND COSTS

**Disclaimer:** NO IPs foreseen.

## CHAPTER 3

### *Currency conversion and time limits*

## SECTION 1

### PROVISIONS ON TARIFF EXCHANGE RATE

#### *Article 131-01*

### **NAME OF THE ARTICLE TO BE INTRODUCED**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 31(1b)	Article 31(3)	none  (Article 18 of the CC + OJ C 50 (2006))	-	

1. The value of the euro, where 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 Community Customs Tariff, shall be fixed once a month.

The exchange rate to be used shall be the most recent rate set by the European Central Bank prior to the penultimate day of the month.

This rate shall apply throughout the following month.

However, where the rate applicable at the start of the month differs by more than 5 % from the rate set by the European Central Bank prior to the 15th of that same month, the latter rate shall apply from the 15th until the end of the month in question.

2. Where the conversion of currency is necessary for reasons other than those referred to in paragraphs 2 to 4 of Article 131-01, in paragraph 1 of Article 132-01, the value of the euro in national currencies to be applied within the framework of the customs legislation shall be the most recent rate set by the European Central Bank before 15 December, with effect from 1 January of the following year.

## TITLE II

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

#### CHAPTER 1

##### *Common customs tariff and tariff classification of goods*

#### PART I

##### MANAGEMENT OF TARIFF QUOTAS DESIGNED TO BE USED FOLLOWING THE CHRONOLOGICAL ORDER OF DATES OF ACCEPTANCE OF CUSTOMS DECLARATIONS

##### **Article 210-01**

##### **General rules on the management of tariff quotas**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
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Article 33(4)	Article 33(5)	Article 308a	-	
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1. Save as otherwise provided, where tariff quotas are opened by a Community provision, those tariff quotas shall be managed in accordance with the chronological order of dates of acceptance of declarations for release for free circulation.
2. Where a declaration for release for free circulation incorporating a valid request by the declarant to benefit from a tariff quota is accepted, the Member State concerned shall draw from the tariff quota, through the Commission, a quantity corresponding to its needs.
3. Member States shall not present any request for drawing until the conditions laid down in Articles 522-1-09(3) and (4) [Current IP provision: Article 256 (2) and (3)] are satisfied.
4. The management of tariff quotas in accordance with the chronological order of dates of acceptance of declarations for release for free circulation is underpinned by computerised means implemented by the Commission.
5. Subject to paragraph 9, allocations shall be granted by the Commission on the basis of the date of acceptance of the relevant declaration for release for free circulation, and to the extent that the balance of the relevant tariff quota so permits. Priority shall be established in accordance with the chronological order of these dates.
6. The Member States shall communicate electronically to the Commission all valid requests for drawing without delay. Those communications shall include the date referred to in paragraph 5, and the exact quantity applied for on the relevant customs declaration.
7. For the purposes of management of tariff quotas, the Commission shall fix order numbers where none are provided by the Community provision opening the tariff quota.
8. If the quantities requested for drawing from a tariff quota are greater than the balance available, allocation shall be made on a pro rata basis with respect to the requested quantities.
9. For the purposes of this Article, acceptance of a declaration by the customs authorities on 1, 2 or 3 January shall be regarded as acceptance on 3 January. However, if one of those days falls on a Saturday or a Sunday, such acceptance shall be regarded as having taken place on 4 January.
10. Where a new tariff quota is opened, drawings shall not be granted by the Commission before the 11<sup>th</sup> working day following the date of publication of the provision which created that tariff quota. Subject to Article 210-02(2) [Current IP provision: Article 308b (2)], the first allocation on a new tariff quota shall take into account all unanswered requests which relate to declarations for release for free circulation accepted since the first day of the validity period of the tariff quota and which have been communicated to the Commission. Priority shall be established in accordance with the chronological order of the dates of acceptance of the customs declarations.
11. Member States shall immediately return to the Commission the quantities drawn which they do not use. However, where an erroneous drawing representing a customs debt of



10 euro or less is discovered after the first month following the end of the period of validity of the tariff quota concerned, Member States do not need to make a return.

12. If the customs authorities invalidate a declaration for release for free circulation in respect of goods which are the subject of a request for benefit of a tariff quota, the complete request shall be cancelled in respect of those goods. The Member States concerned shall immediately return to the Commission any quantity drawn, in respect of those goods, from the tariff quota.

13. Details of drawings requested by individual Member States shall be treated by the Commission and other Member States as confidential.

#### **Article 210-02**

#### **Allocation of tariff quotas**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 33(4)	Article 33(5)	Article 308b	-	

1. The Commission shall make an allocation each working day, except:

- days which are holidays for the Community institutions in Brussels, or
- in exceptional circumstances, any other day, provided that the competent authorities of the Member States have been informed in advance.

2. Subject to Article 210-01(9) [Current IP provision: Article 308a (8)], any allocation shall take into account all unanswered requests which relate to declarations for release for free circulation accepted up to and including the second previous working day, and which have been communicated to the Commission.

#### **Article 210-03**

#### **Critical status of tariff quotas**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 33(4)	Article 33(5)	Article 308c	-	

1. For the application of the provisions of Article 532-01 [Current IP provision: Article 248], a tariff quota shall be considered as critical as soon as 90 % of the initial volume has been used, or at the discretion of the competent authorities.

2. By way of derogation from paragraph 1, a tariff quota shall be considered from the date of its opening as critical in any of the following cases:

- (a) it is opened for less than three months;
- (b) tariff quotas having the same product coverage and origin and an equivalent quota period as the tariff quota in question (equivalent tariff quotas) have not been opened in the previous two years;
- (c) an equivalent tariff quota opened in the previous two years had been exhausted on or before the last day of the third month of its quota period or had a higher initial volume than the tariff quota in question.

3. A tariff quota whose sole purpose is the application, under the rules of the WTO, of either a safeguard measure or a retaliatory measure shall be considered as critical as soon as 90 % of the initial volume has been used irrespective of whether or not equivalent tariff quotas were opened in the previous two years.

## PART II

### COMMUNITY SURVEILLANCE OF GOODS

#### Article 210-04

#### General rules on Community surveillance of goods

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 33(1) and (4)	Article 33(5)	Article 308d	-	

1. For the purpose of this Article ‘Community surveillance’ means the collection of statistical data on import and export of specific products to provide valuable and precise information which is used in fields like fight against fraud, market analysis, trade defence measures and preparation or follow-up of trade agreements and tariff legislation.

2. Where Community surveillance is to be carried out, the Member States shall provide to the Commission at least once every week data on customs declarations for release for free circulation or on export declarations. The Member States shall send the data to the Commission electronically.

The Commission shall inform the Member States in due time before the start date of any new Community surveillance.

The Member States shall cooperate with the Commission to determine which data are required from customs declarations for release for free circulation or from export declarations.

3. The data provided under paragraph 2 by individual Member States shall be treated as restricted.

However, aggregate data for each Member State shall be available for authorised users in all Member States.

The Member States shall cooperate with the Commission to set up the practical rules on authorised access to the aggregate data.

4. In respect of certain goods surveillance shall be carried out on a confidential basis.

5. Where goods are placed under a customs procedure on the basis of simplified declarations referred to in Articles 523-1-01 to 523-3-07 [Current IP provisions: Articles 253 to 267 and Articles 280 to 289] and the data referred to in paragraph 2 of this Article are not available, the Member States shall provide to the Commission the data available at the date of acceptance of the complete or supplementary declaration.

## CHAPTER 2

### *Origin of goods*

#### SECTION 1

#### NON-PREFERENTIAL ORIGIN

#### **Article 221-01**

#### **Definitions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
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Article 36,37	Article 38	Articles 35, 40, 43	-	
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For the purposes of this Section the following definitions shall apply:

- (1) ‘country ’ means either a third country or territory, or the Community as appropriate and covers its territorial sea;
- (2) ‘value’ means the customs value at the time of import of the non-originating materials used or, if this is not known and cannot be ascertained, the first ascertainable price paid for such materials in the country of processing;
- (3) ‘ex-works price’ means the ex-works price of the product obtained minus any internal taxes which are, or may be, repaid when such product is exported;
- (4) ‘value acquired as a result of assembly operations’ means the increase in value resulting from the assembly itself, together with any finishing and checking operations, and from the incorporation of any parts originating in the country where the operations in question were carried out, including profit and the general costs borne in that country as a result of the operations;
- (5) ‘piece of equipment, machine, apparatus or vehicle’ means any of the goods listed in Sections XVI, XVII and XVIII of the combined nomenclature;
- (6) ‘essential spare parts’ means parts which are:
  - components without which the proper operation of the goods referred to in paragraph 5 which have been put into free circulation or previously exported cannot be ensured, and
  - characteristic of those goods, and
  - intended for their normal maintenance and to replace parts of the same kind which are damaged or have become unserviceable.

## SUBSECTION 1

### RULES OF ORIGIN

#### **Article 221-1-01**

#### **Goods wholly obtained in a country**

<b>MCC</b>	<b>MCC empowering</b>	<b>Current IP</b>	<b>Annex</b>	<b>Adoption</b>
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<b>implemented provision</b>	<b>provision</b>	<b>provision</b>		<b>procedure</b>
Article 36(1)	Article 38	none	-	

Pursuant to Article 36(1) of the Modernised Customs Code the following goods are to be considered as being wholly obtained in a single country:

- (1) mineral products extracted within that country,
- (2) vegetable products harvested therein;
- (3) live animals born and raised therein;
- (4) products derived from live animals raised therein;
- (5) products of hunting or fishing carried on therein;
- (6) products of sea fishing and other products taken from the sea outside a country's territorial sea by vessels registered or recorded in the country concerned and flying the flag of that country;
- (7) goods obtained or produced on board factory ships from the products referred to in subparagraph (f) originating in that country, provided that such factory ships are registered or recorded in that country and fly its flag;
- (8) products taken from the seabed or subsoil beneath the seabed outside the territorial sea provided that that country has exclusive rights to exploit that seabed or subsoil;
- (9) waste and scrap products derived from manufacturing operations and used articles, if they were collected therein and are fit only for recovery of raw materials;
- (10) goods which are produced therein exclusively from goods referred to in subparagraphs (1) to (9) or from their derivatives, at any stage of production.

#### **Article 221-1-02**

#### **Textiles and textile articles falling within Section XI of the Combined Nomenclature**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 36(2)	Article 38	Articles 36-38	Yes	

1. For textiles and textile articles falling within Section XI of the Combined Nomenclature, working or processing as a result of which the products obtained receive a classification under

a heading of the Combined Nomenclature other than those covering the various non-originating materials used shall be regarded as the last substantial transformation conferring origin in terms of Article 36 (2) of the Modernised Customs Code.

2. However, for products listed in Annex X (A), only the specific processes referred to in column 3 of that Annex in connection with each product obtained shall be regarded as last substantial transformation, whether or not they involve a change of heading.

3. The method of applying the rules in Annex X (A) is described in the Introductory Notes in Annex X.

4. For the purposes of paragraph 1 and 2, the following shall in any event not be considered as last substantial transformation conferring the status of originating products whether or not there is a change of heading:

- (1) operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying, removal of damaged parts and like operations);
- (2) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, cutting up;
- (3) changes of packing and breaking-up and assembly of consignments; simple placing in bags, cases, boxes, fixing on cards or boards, etc., and all other simple packing operations;
- (4) the affixing of marks, labels or other like distinguishing signs on products or their packaging;
- (5) simple assembly of parts of products to constitute a complete product;
- (6) a combination of two or more operations specified in (1) to (5).

**Article 221-1-03**

**Products other than textiles and textile articles falling within Section XI of the Combined Nomenclature**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 36(2)	Article 38	Article 39	Yes	

In the case of products obtained which are listed in Annex X (B), the working or processing referred to in column 3 of the Annex shall be regarded as a process or operation conferring origin under Article 36 (2) of the Modernised Customs Code.

2. The method of applying the rules set out in Annex X (B) is described in the Introductory Notes in Annex X.

**Article 221-1-04**

**Accessories, spare parts or tools**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 36(2)	Article 38	Articles 41, 42, 46	-	

1. Accessories, spare parts or tools, delivered with any piece of equipment, machine, apparatus or vehicle which form part of its standard equipment shall be deemed to have the same origin as that piece of equipment, machine, apparatus or vehicle.

2. Essential spare parts for use with any piece of equipment, machine, apparatus or vehicle put into free circulation or previously exported shall be deemed to have the same origin as that piece of equipment, machine, apparatus or vehicle provided the following conditions are fulfilled:

- this is necessary for importation into the country of destination;
  - the incorporation of the said essential spare parts in the piece of equipment, machine, apparatus or vehicle concerned at the production stage would not have prevented the piece of equipment, machine, apparatus or vehicle from having the origin of the country of its manufacture.
3. In order to ensure fulfilment of the conditions laid down in paragraph 2, the competent authorities of the Member States may require additional proof, in particular:
- production of the invoice or a copy of the invoice relating to the piece of equipment, machine, apparatus or vehicle put into free circulation or previously exported;
  - the contract or a copy of the contract or any other document showing that delivery is being made as part of the normal maintenance service.

## SUBSECTION 2

### PROOF OF ORIGIN

#### Article 221-2-01

##### Form of presentation

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 37	Article 38	none	-	

By way of derogation from Article 5 paragraph 1 first subparagraph of the Modernised Customs Code and until the necessary structures are put in place through agreements with the third countries concerned, proofs of origin referred to in Article 37 of the Modernised Customs Code shall comply with the provisions in this Subsection.

#### Article 221-2-02

##### Universal certificate issued in third countries

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 37	Article 38	Articles 45, 47	-	

1. When the origin of a product has to be proved on importation by the production of a certificate of origin, that certificate shall fulfil the following conditions:

- it shall be made out by a reliable authority or agency duly authorized for that purpose by the country of issue;
- it shall contain all the particulars necessary for identifying the product to which it relates, in particular the number of packages, their nature, and the marks and numbers they bear, the type of product, the gross and net weight of the product; these particulars may, however, be replaced by others, such as the number or volume, when the product is subject to appreciable changes in weight during carriage or when its weight cannot be ascertained or when it is normally identified by such other particulars, the name of the consignor;



- it shall certify unambiguously that the product to which it relates originated in a specific country.
2. Where the origin of essential spare parts within the meaning of Article 221-05 must be proved for their release for free circulation in the Community by the production of a certificate of origin, the certificate shall include a declaration by the person concerned that the goods mentioned therein are intended for the normal maintenance of a piece of equipment, machine, apparatus or vehicle previously exported, together with the exact particulars of the said piece of equipment, machine, apparatus or vehicle.

**Article 221-2-03**

**Certificate issued in a Member State**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 37(3)	Article 38	Articles 44, 48-52, 54	Yes	

1. A certificate of origin may be issued in a Member State in accordance with the conditions prescribed by the third country concerned.
2. If the third country does not provide any conditions, the certificate of origin issued in a Member State shall comply with the conditions prescribed by Article 221-2-02. Such certificate and the application relating to it shall be made out on forms corresponding to the specimens in Annex Y. The certificate shall measure 210x297 mm. A tolerance of up to minus 5 mm or plus 8 mm in the length shall be allowed. The paper used shall be white, free of mechanical pulp, dressed for writing purposes and weight at least 64 g/m<sup>2</sup> or between 25 and 30 g/m<sup>2</sup> where air-mail paper is used. It shall have a printed guilloche pattern background in sepia such as to reveal any falsification by mechanical or chemical means. A serial number, by which the certificate can be identified, shall be either printed or stamped. In addition, the competent authority or authorized agency of a Member State may number certificates of origin by order of issue.
3. Without prejudice to Article 221-01, when the exigencies of trade so require, certificate of origin may certify that the goods originated in a particular Member State. If the conditions of Article 36 (2) of the Modernized Customs Code are fulfilled only as a result of a series of operations or processes carried out in different MS, the goods may only be certified as being of Community origin.

**Article 221-2-04**

**Certificate of origin for certain agricultural products subject to special import arrangements**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 37	Article 38	Articles 55-62	Yes	

1. Certificate of origin relating to agricultural products originating in third countries for which special non-preferential import arrangements are established, in so far as these arrangements refer to the following provisions, shall be made out on a form conforming to the specimen in Annex Z.

2. Such certificate shall be issued by the competent governmental authorities of the third country concerned, hereinafter referred to as the issuing authorities, if the products to which the certificate relates can be considered as products originating in this country within the meaning of the rules in force in the Community.

3. Without prejudice to specific provisions provided in the Community legislation governing the special import arrangements, the period of validity of the certificates of origin shall be twelve months from the date of issue by the issuing authorities.

4. Certificates of origin shall consist only of a single sheet identified by the word 'original' next to the title of the document. If additional copies are necessary, they shall bear the designation 'copy' next to the title of the document. The competent authorities in the Community shall accept as valid only the original of the certificate of origin.

5. The certificate of origin shall measure 210 × 297 mm; a tolerance of up to plus 8 mm or minus 5 mm in the length may be allowed. The paper used shall be white, not containing mechanical pulp, and shall weigh not less than 40 g/m<sup>2</sup>. The face of the original shall have a printed yellow guilloche pattern background making any falsification by mechanical or chemical means apparent.

6. The certificates shall be printed and completed in typescript in one of the official languages of the Community. Entries must not be erased or overwritten. Any changes shall be made by crossing out the wrong entry and, if necessary, adding the correct particulars. Such changes shall be initialled by the person making them and endorsed by the issuing authorities.

All the additional particulars required for implementation of the Community legislation governing the special import arrangements shall be entered in box 5 of the certificate.

Unused spaces in boxes 5, 6 and 7 shall be struck through in such a way that nothing can be added at a later stage.

7. Each certificate of origin shall bear a serial number, whether or not printed, by which it can be identified, and shall be stamped by the issuing authority and signed by the person or persons empowered to do so.

8. The certificate shall be issued when the products to which it relates are exported, and the issuing authority shall keep a copy of each certificate issued.

9. Exceptionally, the certificates of origin referred to above may be issued after the export of the products to which they relate, where the failure to issue them at the time of such export was a result of involuntary error or omission or special circumstances.

The issuing authorities may not issue retrospectively a certificate of origin provided for in paragraph 1 until they have checked that the particulars in the exporter's application correspond to those in the relevant export file.

Certificates issued retrospectively shall bear in Box 5 one of the following:

- expedido *a posteriori*,
- udstedt efterfølgende,
- Nachträglich ausgestellt,
- Εκδοθέν εκ των υστέρων,
- Issued retrospectively,
- Délivré *a posteriori*,
- rilasciato *a posteriori*,
- afgegeven *a posteriori*,
- emitido *a posteriori*,
- annettu jälkikäteen
- utfärdat i efterhand,
- utfärdat i efterhand,
- Vystaveno dodatečně,
- Vālja antud tagasiulatuvalt,
- Izsniegts retrospektīvi,
- Retrospektyvūsis išdavimas,
- Kiadva visszamenőleges hatállyal,
- Maħruġ retrospectivament,
- Wystawione retrospektywnie,
- Izdano naknadno,
- Vyhotovené dodatočne,
- издаден впоследствие,

– liberat ulterior

### SUBSECTION 3

#### ADMINISTRATIVE COOPERATION

##### **Article 221-3-01**

#### **Exchange of information**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 37(2)	Article 38	Article 63	-	

1. Where the special import arrangements for certain agricultural products provide for the use of the certificate of origin laid down in Article 221-2-04, the entitlement to use such arrangements shall be subject to the setting up of an administrative cooperation procedure unless specified otherwise in the arrangements concerned.

To this end the third countries concerned shall send the European Commission:

- the names and addresses of the issuing authorities for certificates of origin together with specimens of the stamps used by the said authorities;
- the names and addresses of the government authorities to which requests for the subsequent verification of origin certificates provided for in Article 221-3-02 should be sent.

The Commission shall transmit all the above information to the competent authorities of the Member States.

2. Where the third countries in question fail to send the Commission the information specified in paragraph 1, the competent authorities in the Community shall refuse access entitlement to the special import arrangements.

##### **Article 221-3-02**

#### **Subsequent verification of the certificates of origin**

<b>MCC</b>	<b>MCC empowering</b>	<b>Current IP</b>	<b>Annex</b>	<b>Adoption</b>
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<b>implemented provision</b>	<b>provision</b>	<b>provision</b>		<b>procedure</b>
Article 37	Article 38	Articles 64-65	-	

1. Subsequent verification of the certificates of origin referred to in Article 221-2-04 shall be carried out at random and whenever reasonable doubt has arisen as to the authenticity of the certificate or the accuracy of the information it contains.

For origin matters the verification shall be carried out on the initiative of the customs authorities.

For the purposes of agricultural rules, the verification may be carried out, where appropriate, by other competent authorities.

2. For the purposes of paragraph 1, the competent authorities in the Community shall return the certificate of origin or a copy thereof to the governmental authority designated by the exporting country, giving, where appropriate, the reasons of form or substance for an enquiry. If the invoice has been produced, the original or a copy thereof shall be attached to the returned certificate. The authorities shall also provide any information that has been obtained suggesting that the particulars given on the certificates are inaccurate or that the certificate is not authentic.

Should the customs authorities in the Community decide to suspend the application of the special import arrangements concerned pending the results of the verification they shall grant release of the products subject to such precautions as they consider necessary.

3. The results of subsequent verifications shall be communicated to the competent authorities in the Community as soon as possible.

The said results must make it possible to determine whether the origin certificates remitted in the conditions laid down in paragraph 2 apply to the goods actually exported and whether the latter may actually give rise to application of the special importation arrangements concerned.

4. If there is no reply within a maximum time limit of six months to requests for subsequent verification, the competent authorities in the Community shall definitively refuse to grant entitlement to the special import arrangements.

## SECTION 2

### PREFERENTIAL ORIGIN

#### SUBSECTION 1

##### PROCEDURES TO FACILITATE THE ISSUE OF PROOFS OF ORIGIN AND CERTAIN APPROVED EXPORTER AUTHORISATIONS

###### **Article 222-01**

###### Scope

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 39(1)	Article 39(6)	-	-	

The measures laid down in this Subsection intend to facilitate:

- (a) the issue or the making-out in the Community of proofs of origin under the provisions governing preferential trade between the Community and certain countries;
- (b) the issue of approved-exporter authorizations valid in several Member States;
- (c) the functioning of the methods of administrative cooperation between the Member States.

###### **Article 222-02**

###### Supplier's declarations and their use

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 39(1)	Article 39(6)	-	-	

1. Where an exporter has no direct access to all appropriate records and documents concerning the originating status of products to be exported, he shall use supplier's declarations as evidence in support of applications for the issue or the making out in the Community of proofs of origin under the provisions governing preferential trade between the Community and certain countries.
2. For the purpose of paragraph 1, supplier shall provide, by means of a declaration, information concerning the status of products with regard to the Community's preferential rules of origin.
3. Except in the cases provided for in Article 222-03, the supplier shall provide the consignee with a separate declaration for each consignment of goods.
4. The supplier shall include that declaration on the commercial invoice relating to that consignment or on a delivery note or any other commercial document which describes the goods concerned in sufficient detail to enable them to be identified.
5. The supplier may furnish the declaration at any time, even after the goods have been delivered.

**Article 222-03**

**Long-term supplier's declaration**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 39(1)	Article 39(6)	-	-	

1. When a supplier regularly supplies a particular consignee with goods whose status in respect of the rules of preferential origin is expected to remain constant for considerable period of time, he may provide a single declaration to cover subsequent shipments of those goods, hereinafter referred to as 'a long-term supplier's declaration'. A long-term supplier's declaration may be issued for a period of up to one year from the date of issue of the declaration.
2. A long-term supplier's declaration may be issued with retroactive effect. In such cases, its validity may not exceed the period of one year from the date on which it came into effect.
3. The supplier shall inform the consignee immediately when the long-term supplier's declaration is no longer valid in relation to the goods supplied.

#### Article 222-04

##### Making-out of supplier's declarations

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 39(1)	Article 39(6)	-	Yes	

1. For products having obtained preferential originating status, the supplier's declarations shall be given in the form prescribed in Annex Y1 or, for long-term suppliers' declarations, in that prescribed in Annex Y2.

2. For products which have undergone working or processing in the Community without having obtained preferential originating status, the supplier's declarations shall be given in the form prescribed in Annex Y3 or, for long-term supplier's declarations, in that prescribed in Annex Y4.

3. The supplier's declaration shall be made using electronic data processing techniques or in writing.

#### Article 222-05

##### Information certificates INF 4

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 39(1)	Article 39(6)	-	Yes	

1. To verify the accuracy or authenticity of a supplier's declaration, the customs authorities may call upon on the exporter to obtain from the supplier an information certificate INF 4, using the form shown in Annex Y5.

2. The information certificate INF 4 shall be issued by the customs authorities of the Member State in which the supplier's declaration has been issued. The said authorities shall have the right to call for any evidence and to carry out any inspection of the supplier's accounts or any other check that they consider necessary.



3. The customs authorities shall issue the information certificate INF 4 within three months of receipt of the application submitted to them by the supplier, indicating whether or not the declaration given by the supplier was correct.

4. The completed certificate shall be given to the supplier to forward to the exporter for transmission to the relevant customs authority.

#### Article 222-06

##### Approved exporter authorisation

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 39(1)	Article 39(6)	-	-	

1. An exporter who frequently exports goods from a Member State other than the one in which he is established may obtain approved exporter status covering such exports.

For that purpose, he shall submit an application to the competent customs authorities of the Member State in which he is both established and keeps the records containing the evidence of origin.

2. When the authorities referred to in paragraph 1 are satisfied that the conditions set out in the origin Protocols to the relevant Agreements or in the Community legislation concerning the autonomous preferential regimes are fulfilled, and issue the authorisation, they shall notify the Customs administrations of the Member States concerned.

#### Article 222-07

##### Mutual administrative assistance

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 39(1)	Article 39(6)	-	-	

The Member States' customs authorities shall assist each other in checking the accuracy of the information given in suppliers' declarations and in ensuring that the system of approved exporter authorisations operates correctly.

**Article 222-08**

**Checking supplier's declarations**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 39(1)	Article 39(6)	-	-	

1. Where an exporter is unable to present an information certificate INF4 within four months of the request of the customs authorities, the customs authorities of the Member State of export may directly ask the authorities of the Member State in which the supplier's declaration has been issued to confirm the status of the products concerned in respect of the rules of preferential origin.

2. For the purpose of paragraph 1, the customs authorities of the Member State of export shall send the customs authorities of the Member State in which the supplier's declaration has been issued all available information and give the reasons of form or substance for their enquiry.

In support of their request, they shall provide all documents or information they have obtained which suggested that the supplier's declaration is inaccurate.

3. The verification shall be carried out by the customs authorities of the Member State in which the supplier's declaration has been issued. The authorities in question may call for any evidence, carry out any inspection of the supplier's accounts or conduct any other verification considered appropriate.

4. The customs authorities requesting the verification shall be informed of the results as soon as possible by means of the information certificate INF4.

5. Where there is no reply within five months of the date of the verification request or where the reply does not contain sufficient information to determine the origin of the products, the customs authorities of the country of export shall declare invalid the proof of origin established on the basis of the documents in question.

## CHAPTER 3

### *Value of goods for customs purposes*

#### **Article 230-01**

##### **Definitions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 41-43	Article 43(d)	Articles 142-143, 149, Annex 24  (Art 3 (4) CCC)	Yes	

1. For the purposes of this Title:

(a) 'identical goods' means goods produced in the same country which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance shall not preclude goods otherwise conforming to the definition from being regarded as identical;

(b) 'similar goods' means goods produced in the same country which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable; the quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar;

(c) 'goods of the same class or kind' means goods which fall within a group or range of goods produced by a particular industrial sector, and includes identical or similar goods;

(d) 'buying commissions' means fees paid by a buyer to his agent for the service of representing him in the purchase of the goods being valued;

(e) 'marketing activities' means all activities relating to advertising or marketing and promoting the sale of the goods in question and all activities relating to warranties or guarantees in respect of them;

(f) 'Generally accepted accounting principles' refers to the recognised consensus or substantial authoritative support within a country at a particular time as to which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be

measured, what information should be disclosed and how it should be disclosed, and which financial statements should be prepared.

2. For the purposes of Title II, Chapter 3 of the Code and of this Title, persons shall be deemed to be related only if:

- (a) they are officers or directors of one another's businesses;
- (b) they are legally recognised partners in business;
- (c) they are employer and employee;
- (d) any person directly or indirectly owns, controls or holds 5% or more of the outstanding voting stock or shares of both of them;
- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person;
- (g) together they directly or indirectly control a third person; or
- (h) they are members of the same family.

For the purposes of this Title, persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related only if they fall within the above criteria.

#### **Article 230-02**

#### **Sale for export**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 41	Article 43(d)	Article 147	-	

1. For the purposes of Article 41(1), the customs value is determined under the transaction value method if the goods have been the subject of a sale for export to the customs territory of the Union at the time of acceptance of the declaration for free circulation.:

[As a general rule, the last sale in the commercial chain, before introduction of the goods into the customs territory, meets this requirement :

to be completed].

2. In the case of resale in the customs territory before release for free circulation, either the sale applicable under paragraph 1, or the last sale before the release of the goods for free circulation shall apply.

### Article 230-03

#### Price actually paid or payable

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 41	Article 43(d)	Articles 149 (2), Annex 23, note to Art. 29, (Article 29 (3) a) and b) of the CC)	Yes	

1. The price actually paid or payable within the meaning of Article 41(2) of the Code includes all payments, actually made or to be made as a condition of sale of the imported goods by the buyer to

- the seller,
- a person related to the seller or
- a third party to satisfy an obligation of the seller.

Such payment need not necessarily take the form of a transfer of money. Payment may be made by way of letters of credit or negotiable instruments and may be made directly or indirectly.

2. Activities, including marketing activities, undertaken by the buyer or an undertaking related to the buyer on his or its own account, other than those for which an adjustment is provided in Article 9, are not considered to be an indirect payment to the seller.

When determining the customs value, the costs of these activities are not added to the price actually paid or payable, even if

- they might be regarded as of benefit to the seller or
- they are undertaken by agreement with the seller.

### Article 230-04

#### Discounts

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
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Article 41	Article 43(d)	Article 144 (1)	-	
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For the purposes of determining the customs value under Article 41 of the Code:

- discounts shall as a general rule be accepted if, at the time of acceptance of the customs declaration, the sales contract provides for their application and their amount;
- discounts for early payment shall be taken into account in regard to goods for which the price has not actually been paid at the time of acceptance of the customs declaration. The price payable for settlement at the said time shall be taken as the basis for the customs value.

#### Article 230-05

#### Apportionment

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 41	Article 43(d)	Article 145(1)	-	

Where goods declared for free circulation are part of a larger quantity of the same goods purchased in one transaction, the price actually paid or payable shall be that price represented by the proportion of the total price which the quantity so declared bears to the total quantity purchased.

Apportioning the price actually paid or payable shall also apply in the case of the loss of part of a consignment or when the goods being valued have been damaged before entry into free circulation.

#### Article 230-06

#### Warranty

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 41	Article 43(d)	Articles 145(2) and (3)	-	

1. After release of the goods for free circulation, an adjustment made by the seller, to the benefit of the buyer, of the price actually paid or payable for the goods may be taken into

consideration for the determination of the customs value in accordance with Article 41 of the Code, if it is demonstrated to the satisfaction of the customs authorities that:

(a) the goods were defective at the time of acceptance of the customs declaration for release for free circulation;

(b) the seller made the adjustment in performance of a warranty arising from

- a contractual obligation, concluded before release for free circulation of the goods, or

- a statutory obligation applicable to the goods sold for export to the customs territory of the Union.

(c) the defective nature of the goods has not already been taken into account in the relevant sales contract.

2. The price actually paid or payable for the goods, adjusted in accordance with paragraph 1, may be taken into account only if that adjustment was made within a period of 12 months following the date of acceptance of the customs declaration.

#### Article 230-07

#### Valuation of conditions and considerations

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 41 (3b)	Article 43(d)	Article 148	-	

1. Where, in applying Article 41(3)(b) of the Code, it is established that the sale or price of imported goods is subject to a condition or consideration the value of which can be determined with respect to the goods being valued, such value shall be regarded as an indirect payment by the buyer to the seller and part of the price actually paid or payable.

2. Conditions and considerations within the meaning of this Article do not relate to either:

a) an activity to which Article 230-03(2) applies or

b) an element of the customs value under Article 230-09.

#### Article 230-08

#### Relationship

MCC	MCC empowering	Current IP	Annex	Adoption

<b>implemented provision</b>	<b>provision</b>	<b>provision</b>		<b>procedure</b>
Article 41 (3b)	Article 43(d)	none (CC Article 29(2))	Yes	

1. In determining whether the transaction value is acceptable for the purposes of Article 41(3)(d) of the Code, the fact that the buyer and the seller are related shall not in itself be sufficient grounds for regarding the transaction value as unacceptable. Where necessary, the circumstances surrounding the sale may be examined and the transaction value shall be accepted provided that the relationship did not influence the price.

2. In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with Article 41 of the Code wherever the declarant demonstrates that such value closely approximates to one of the following occurring at or about the same time:

(a) the transaction value in sales, between buyers and sellers who are not related in any particular case, of identical or similar goods for export to the Union;

(b) the customs value of identical or similar goods, as determined under Article 42(2)(c) of the Code;

(c) the customs value of identical or similar goods, as determined under Article 42(2)(d) of the Code.

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 230-09 and costs incurred by the seller in sales in which he and the buyer are not related and where such costs are not incurred by the seller in sales in which he and the buyer are related.

3. The tests set forth in paragraph 2 are to be used at the initiative of the declarant and only for comparison purposes. Substitute values may not be established under paragraph 2.

#### **Article 230-09**

#### **Elements of the customs value**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 41	Article 43(a)	none (CC Article 32 (1)- (2), Article 33)	-	



1. The following elements shall be added to the price paid or payable for the purposes of the determination of the customs value and in accordance with Art. 41 and 43(a) of the Code, if they have not been included already:

(a) the following costs to the extent that they are incurred by the buyer:

- commissions and brokerage, except buying commissions, which are not part of the customs value,

- the cost of containers which are treated as being one, for customs purposes, with the goods in question,

- 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:

- materials, components, parts and similar items incorporated in the imported goods,

- tools, dies, moulds and similar items used in the production of the imported goods,

- materials consumed in the production of the imported goods,

- 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;

(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;

(e) the following costs up to the place of introduction into the customs territory of the Union:

- the cost of transport of the imported goods, incurred by the buyer (+*guidelines*),

- loading and handling charges associated with the transport of the imported goods.

(f) insurance costs, related to the transport of the goods. On request of the declarant only the insurance costs relating to the transport costs until the place of introduction of the goods into the European Union may be included in the customs value. Evidence must be provided to customs that the insurance costs only relate to the transport of the goods until the point of introduction in the European Union.

2. Adjustments shall be made under this Article only on the basis of objective and quantifiable data. If such data does not exist, the transaction value cannot be determined under Article 41 of the Code.

### Article 230-10

#### Assists

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 41	Article 43(a)	Articles 155, Annex 23, (note to Art. 32(1)(b)(ii) CC)  (CC Article 32)	Yes	

1. If a buyer purchases any of the goods or services listed in Article 230-09 (1)(b) the value of these goods and services shall be deemed to be equal to their sales price. The sales price includes all the payments which the buyer must make to the seller to acquire the goods

If the goods or services were not sold, but produced by the buyer or a person related to him, their value shall be the cost of producing them.

2. If the value of the goods and services cannot be determined according to paragraph 1, it shall be determined on the basis of objective and quantifiable data.

3. If the goods have been used by the buyer, the value shall be adjusted to take account of depreciation.

4. The value established in accordance with paragraph 1 shall be apportioned among the imported goods. It shall be apportioned according to the documentation submitted by the buyer.

5. The costs of the services referred to in the fourth indent of Article 230-09 (1)(b) shall also include the costs of unsuccessful development activities insofar as these were incurred in respect of projects or orders relating to the imported goods.

6. For the purposes of the fourth indent of Article 230-09 (1)(b), the costs of research and preliminary design sketches shall not be included in the customs value.

### Article 230-11

#### Royalties and licence fees

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
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Article 41	Article 43(a)	Articles 157-162 (Art. 32 CC)	-	
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1. For the purposes of Article 230-09 (1)(c), royalties and licence fees shall be taken to mean payment for the use of rights relating to, inter alia, know-how, trade marks, copyright, patents, designs and models.

2. Royalties and licence fees are related to the imported goods where, in particular, the rights transferred under the licence or royalties agreement are embodied in the goods. The method of calculation of the amount of the royalty or licence fee is not the decisive factor.

However, where the method of calculation of the amount of a royalty or licence fee derives from the price of the imported goods, it may be assumed in the absence of evidence to the contrary that the payment of that royalty or licence fee is related to the goods to be valued.

3. Royalties and licence fees are considered to be paid as a condition of sale for the imported goods

a) if the seller or a person related to the seller requires the buyer to make this payment, or

b) if the payment is made to satisfy an obligation of the seller, or

c) if the goods cannot be sold to, or purchased by the buyer without the royalties or license fees being paid.

4. The country in which the recipient of the royalty or licence payment is established is not a material consideration.

#### **Article 230-12**

#### **Place of introduction**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 41	Article 43(d)	Articles 163	-	

1. For the purposes of Article 230-9 (1)(e), the place of introduction into the customs territory of the Union shall be:

(a) for goods carried by sea, the first port of entry;

(b) for goods carried by sea and then, without transshipment, by inland waterway, the first port where unloading can take place either at the mouth of the river or canal or further inland;

(c) for goods carried by rail, inland waterway, or road, the place where the first customs office is situated;

(d) for goods carried by other modes of transport, the place where the land frontier of the customs territory of the Union is crossed.

2. The customs value of goods introduced into the customs territory of the Union and then carried to a destination in another part of that territory through territories outside of the customs territory of the Union shall be determined by reference to the first place of introduction into the customs territory of the Union, provided the goods are carried directly through those territories by a usual route across such territory to the place of destination.

3. The customs value of goods introduced into the customs territory of the Union and then carried by sea to a destination in another part of that territory shall be determined by reference to the first place of introduction into the customs territory of the Union, provided the goods are carried direct by a usual route to the place of destination.

4. Paragraphs 2 and 3 shall also apply where the goods have been unloaded, transhipped or temporarily immobilised in territories outside of the customs territory of the Union for reasons relating solely to their transport.

*Par. 5 will be reflected in Guidelines (ccc val 1.12.09)*

5. When the conditions specified in paragraphs 2 and 3 are not fulfilled, the place of introduction shall be for goods carried:

- by sea, the port of unloading;

- by other modes of transport the place specified in paragraph 1 (b), (c) or (d) situated in that part of the customs territory of the Union to which the goods are consigned.

### Article 230-13

#### Transport costs

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 41	Article 43(a)	Articles 164, 166	Yes	

In applying Article 230-09(1)(e):

(a) where goods are carried to a point beyond the place of introduction into the customs territory of the Union, transport costs may be assessed in proportion to the distance covered outside and inside the customs territory of the Union, unless evidence is produced to the customs authorities to show the costs that would have been incurred under a **standard schedule** of freight rates for the carriage of the goods to the place of introduction into the customs territory of the Union.

(b) The air transport costs, including air express delivery costs, to be included in the customs value of goods, shall be determined by applying the rules and percentages shown in Annex "XX" (ex25).

(c) Where transport is free or provided by the buyer, transport costs to the place of introduction, calculated in accordance with the schedule of freight rates normally applied for the same modes of transport, shall be included in the customs value.

#### **Article 230-14**

#### **Charges levied on postal consignments**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 41	Article 43(a)	Article 165 (1)	-	

As a simplification, postal charges shall be included in the customs value of goods if they are levied up to the place of destination, with the exception of any supplementary postal charge levied in the country of importation. [On specific request of the declarant only the postal charges relating to the transport until the point of introduction in the Union may be included in the customs value.]

#### **Article 230-15**

#### **Simplification**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 41	Article 43(d)	Article 156 (a) (1) 1. sentence	-	

1. The customs authorities may, at the request of the person concerned, authorize that the following amounts to be determined on the basis of specific and appropriate criteria, where these amounts are not quantifiable on the date on which the customs declaration is accepted:

- amounts which are to be included in the customs value in accordance with Article 41(2) of the Code,

- amounts which have to be added to the price paid or payable in accordance with Article 43(a) of the Code and Article 230-09 of this Regulation.

### **Article 230-16**

#### **Rejection of the transaction value**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 41	Article 43(d)	Article 181a	-	

1. If the customs authorities have any doubts with regard to the truth or accuracy of the declared value, they may ask for additional information and documents in accordance with Article 9(1) of the Code.

2. The customs authorities need not determine the customs value of the imported goods on the basis of the transaction value method in accordance with Article 41 of the Code if they have reasons to doubt the truth or accuracy of the declared customs value, including its particulars, or related documents.

3. The provisions of Article 16(3) and (7) of the Code shall apply to the decision of the customs authority to reject the transaction value.

Second alternative:

1. The customs authorities need not determine the customs valuation of imported goods on the basis of the transaction value method if, in accordance with the procedure set out in paragraph 2, they have reasonable doubts, that the declared value represents the total amount paid or payable as referred to in Article 41 of the Code.

2. Where the customs authorities have reasons to doubt the truth or accuracy of the declared value they may ask for additional information in accordance with Article 9 (1) of the Code. If those doubts may not be dispelled, the customs authorities, in accordance with article 16(4) of the Code, shall communicate the grounds on which they intend to base their decision to the person concerned and give this person the opportunity to express his point of view. The final decision and the grounds on which it is based shall be communicated in writing to the person concerned.

3. In accordance with Article 16(7) of the Code, the provisions of article 16(3), (4) and (6) shall apply to the decision taken by the customs authorities without prior request from the person concerned.

#### Article 230-17

#### Customs value of identical or similar goods

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 42 (2) (a)-(b)	Article 43(d)	Articles 150-151	-	

1. To determine the customs value of the goods in accordance with Article 42(2)(a) or (b) of the Code, the transaction value of identical or similar goods in a sale at the same commercial level and in substantially the same quantities as the goods being valued shall be used.

2. Where no such sale is found in accordance with paragraph 1, the transaction value of identical or similar goods sold at a different commercial level and/or in different quantities shall be used. This transaction value should be adjusted to take account of differences attributable to commercial level and/or quantity.

3. Where the costs referred to in Article 230-09 are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical or similar goods in question arising from differences in distances and modes of transport.

4. If, in applying this Article, more than one transaction value of identical or similar goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

#### Article 230-18

#### Deductive method

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 42 (2) (c)	Article 43(d)	Article 152	Yes	

1. The unit price used to determine the customs value under Article 42(2)(c) of the Code shall be the price at which the imported goods or imported identical or similar goods are sold in an unaltered state in the Union at or about the time of importation of the goods being valued.

2. If no unit price can be determined under paragraph 1, the unit price used shall be the price at which the imported goods or imported identical or similar goods are sold in an unaltered state in the Union at the earliest time after the importation of the goods to be valued and in any case within 90 days of that importation.

3. If no unit price can be determined under either paragraph 1 or paragraph 2, upon application by the importer the unit price at which the imported goods are sold in the Union after further working or processing shall be used. In this case account shall be taken of the increase in value resulting from the working or processing.

4. The following sales are not taken into account for the purposes of determining customs value under Article 42(2)(c) of the Code:

(a) sales of goods at a commercial level other than the first after importation;

(b) sales to related persons;

(c) sales to persons who directly or indirectly supply, free of charge or at reduced cost, the goods or services listed in Article 9(1)(b) for use in connection with the production and sale for export of the imported goods;

(d) sales in quantities which are not sufficient to allow the unit price to be determined.

5. Where there is more than one relevant unit price, the unit price at which the greatest aggregate quantity is sold shall be used.

6. In determining the customs value, the following should be deducted from the unit price determined under the above paragraphs:

- either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses (including the direct and indirect costs of marketing the goods in question) in connection with sales in the Union of imported goods of the same class or kind;

- the usual costs of transport and insurance and associated costs incurred within the Union and

- the import duties and other charges payable in the Union by reason of the importation or sale of the goods.

7. The customs value of certain perishable goods imported on consignment may be directly determined in accordance with Article 42(2)(c) of the Code. For this purpose the unit prices shall be notified to the Commission by the Member States and disseminated by the Commission via TARIC in accordance with Article 6 of Council Regulation (EEC) No 2658/87.

The unit prices shall be calculated and notified as follows:

(a) After the deductions provided for in paragraph 6, a unit price per 100 kg net for each category of goods shall be notified by the Member States to the Commission. The Member



States may fix standard amounts for the costs referred to in paragraph 6, second indent, which shall be made known to the Commission.

(b) The unit price may be used to determine the customs value of the imported goods for periods of 14 days, each period beginning on a Friday.

(c) The reference period for determining the unit prices shall be the preceding period of 14 days which ends on the Thursday preceding the week during which new unit prices are to be established.

(d) The unit prices shall be notified by the Member States to the Commission in euro not later than 12 noon on the Monday of the week in which they are disseminated by the Commission. If that day is a non-working day, notification shall be made on the working day immediately preceding that day. Unit prices shall only apply if this notification is disseminated by the Commission.

The goods referred to in the first subparagraph of this paragraph are set out in Annex XX.

### **Article 230-19**

#### **Computed value**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 42 (2) (d)	Article 43(d)	none  (CC Article 30 (2d))	-	

The customs value of imported goods determined under Article 42(2)(d) of the Code shall be based on a computed value. The computed value shall consist of the sum of:

(a) the cost or value of materials and fabrication and other working or processing employed in producing the imported goods;

(b) 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 exportation for export to the Union;

(c) the cost or value of the elements referred to in Article 230-09(1)(e).

### **Article 230-20**

#### **Fall-back method**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 42 (3)	Article 43(d)	none  Annex 23, Note to Art. 31 (1) CC  (CC Article 31 (2))	-	

1. When determining the customs value under Article 42(3) of the Code, the methods provided for in Article 41 and Article 42(2) of the Code shall be applied flexibly, and should, to the greatest extent possible, be based on previously determined customs values.

2. If no customs value can be determined under paragraph 1, other appropriate methods shall be used. In this case the customs value shall not be determined on the basis of:

- the selling price within the Union of goods produced in the Union;
- a system whereby the higher of two alternative values is used for customs valuation;
- the price of goods on the domestic market of the country of exportation;
- the cost of production, other than computed values which have been determined for identical or similar goods under Article 42(2)(d) of the Code;
- prices for export to a country not forming part of the customs territory of the Union;
- minimum customs values or
- arbitrary or fictitious values.

#### **Article 230-21**

#### **Declaration of particulars regarding customs value**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 41	Article 43(d)	Article 178	-	

*This article will be dealt with separately.*

**Article 230-22**

**Currency conversion**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 31, 41	Article 43(d)	Articles 168-170	-	

1. In accordance with Article 31 of the Code, the following rate of exchange is used for customs valuation purposes:

the rate of exchange published every working day

- by the European Central Bank, for the EURO Member States;

- by the competent national authorities, or private banks as designated by the national authorities, for the non-EURO Member States.

(b) 'currency' means any monetary unit used as a means of settlement between monetary authorities or on the international market.

2. The rate of exchange serving as the basis for implementation of Article 31(1)(a) of the Code shall be the reference rate published on the [Wednesday] of each week.

If no rate of exchange has been published on that day, the most recently published rate shall apply.

3. The rate of exchange shall apply for seven days, beginning on the Monday of the following week.

4. Where a rate of exchange has not been published, the rate to be used for the application of Article 31(1)(a) of the Code shall be designated by the Member State concerned. The value must reflect the value of the currency of the Member State concerned as closely as possible.

# TITLE III

## CUSTOMS DEBT AND GUARANTEES

### CHAPTER 1

#### *Incurrence of a customs debt*

##### SECTION 1

###### CUSTOMS DEBT ON IMPORTATION

**Disclaimer:** NO IPs foreseen.

##### SECTION 2

###### CUSTOMS DEBT ON EXPORTATION

**Disclaimer:** NO IPs foreseen.

##### SECTION 3

###### PROVISIONS COMMON TO CUSTOMS DEBTS INCURRED ON IMPORTATION AND EXPORTATION

##### SUBSECTION 1

###### RULES FOR CALCULATION OF THE AMOUNT OF IMPORT OR EXPORT DUTY

#### *Article 313-1-01*

#### **Proportion of goods incorporated in processed products resulting from the inward and outward-processing procedures**

<b>MCC implemented</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
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provision				
Article 54 (b)	Articles 54 (b)	Article 518	-	

1. In order to determine the amount of import duty to be charged on processed products in the cases referred to in Articles 53(3) and 171(3) of the Code, the proportion of goods placed under inward or outward processing incorporated in the processed products shall be calculated in accordance with the quantitative scale method, or the value scale method as appropriate, or any other method giving similar results.

2. The quantitative scale method shall be applicable where:

(a) only one kind of processed product is derived from the processing operations; in this case the quantity of goods placed under the procedure deemed to be present in the quantity of processed products for which a customs debt is incurred shall be proportional to the latter category of products as a percentage of the total quantity of processed products;

(b) several kinds of processed product are derived from the processing operations and all elements of the goods placed under the procedure are found in each of those processed products; in this case the quantity of goods placed under the procedure deemed to be present in the quantity of a given processed product for which a customs debt is incurred shall be proportional to:

(i) the ratio between this specific kind of processed product, irrespective of whether a customs debt is incurred, and the total quantity of all processed products, and

(ii) the ratio between the quantity of processed products for which a customs debt is incurred and the total quantity of processed products of the same kind.

In deciding whether the conditions for applying the methods described in (a) or (b) are fulfilled, losses shall not be taken into account. Without prejudice to Article 341-01, losses means the proportion of the goods placed under the procedure destroyed and lost during the processing operation, in particular by evaporation, desiccation, venting as gas or leaching.

3. The value scale method shall be applied where the quantitative scale method is not applicable.

The quantity of the goods placed under the procedure deemed to be present in the quantity of a given processed product incurring a customs debt shall be proportional to:

(a) the value of this specific kind of processed product, irrespective of whether a customs debt is incurred, as a percentage of the total value of all the processed products; and

(b) the value of the processed products for which a customs debt is incurred, as a percentage of the total value of processed products of that kind.

The value of each of the different processed products to be used for applying the value scale method shall be the recent ex-works price in the Community, or the recent selling price in the

Community of identical or similar products, provided that these have not been influenced by the relationship between buyer and seller.

4. Where the value cannot be ascertained pursuant to paragraph 3, it shall be determined by any reasonable method.

*Article 313-1-02*

**Calculation of the amount of import duty in case of a duty exemption or a reduced rate of duty on account of the specific use of the goods placed under the inward-processing procedure**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 54 (b)	Articles 54 (b)	Article 547(a)	-	

In the case referred to in Article 53(3) of the Code, the amount of import duty corresponding to the customs debt on processed products resulting from the inward-processing procedure, shall be determined by applying to the goods placed under the inward-processing procedure a duty exemption or a reduced rate of duty on account of their specific use. This shall be allowed only if an authorisation to place those goods under the end-use procedure could have been granted and if the conditions for the duty exemption or the reduced rate of duty on account of their specific use would have been fulfilled at the time of acceptance of the customs declaration of their entry for the inward-processing procedure.

*Article 313-1-03*

**Calculation of the amount of the import duty on processed products resulting from the outward-processing procedure, where specific duties are involved**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 171(3), sub-par. 2	Article 171(3), sub-par. 2	none	-	

In cases of outward-processing operations not covered by Articles 172 and 173 of the Code and where specific duties are involved, the amount of the import duty shall be calculated on the basis of the cost of the processing operation undertaken outside the customs territory of the Community, multiplied by the amount of import duty applicable to the processed products divided by the customs value of the processed products.

## SUBSECTION 2

### PLACE WHERE THE CUSTOMS DEBT IS INCURRED

#### *Article 313-2-01*

#### **Time-limit – Community transit**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 55(2)	Article 55(2)	Article 450a (as amended by Regulation 1192/2008)	-	

For goods placed under the Community transit procedure, the specific time limit referred to in Article 55(2) of the Code shall be:

(a) seven months from the latest date on which the goods should have been presented at the customs office of destination, unless a request for recovery in accordance with ex-Article 365a was sent, in which case this period is extended with a maximum of one month, or

(b) one month from the expiry of the time limit referred to in ex-Article 365(5), in case the holder of the procedure has provided insufficient or no information.

#### *Article 313-2-02*

#### **Time-limit – TIR**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 55(2)	Article 55(2)	Article 456(1) 2 <sup>nd</sup> subparagraph (as amended by R. 1192/2008)	-	

For goods placed under the TIR procedure, the time limit referred to in Article 55(2) of the Code shall be seven months from the latest date on which the goods should have been presented at the customs office of destination or exit.

*Article 313-2-03*

**Time-limit – ATA/CPD**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 55(2)	Article 55(2)	Article 456(2)	-	

For goods placed under the ATA transit procedure, the time limit referred to in Article 55(2) of the Code shall be [ months] from the date on which the goods should have been presented at the customs office of destination.

*Article 313-2-04*

**Time-limit – Movement of goods referred to in Article 140 of the Code**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 55(2)	Article 55(2)	none	-	

For goods referred to in Article 140 of the Code, the time limit referred to in Article 55(2) of the Code shall be [7 months] from the date on which it has been established that the special procedure under which the goods were placed was not discharged in accordance with Article 138 of the Code following a movement of those goods between different places in the customs territory of the Community.

[Comment: the reference to Article 138 of the Code serves the purpose of covering special procedures where there is no time limit for discharging the procedure but an obligation to discharge it ‘under the conditions prescribed’; which means that in case of non compliance with these conditions, a customs debt shall be incurred on the basis of Article 46 of the Code and the procedure will not be discharged in accordance with Article 138.

The setting up of a time limit will necessarily imply that an enquiry procedure, similar to the one applicable to the transit procedure, is defined in Title VII in case of movement, in order to offer the possibility to the holder of the procedure to prove the ‘regularity’ or the place of the



‘irregularity’ and/or to confirm the non-compliance and try identifying the place where the customs debt has been incurred.]

## CHAPTER 2

### *Guarantee for a potential or existing customs debt*

#### SECTION 1

#### GENERAL PROVISIONS

##### *Article 321-01*

##### **Other charges**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 56(2)	Article 56(9)	Article 341 for Community transit	-	

The provisions of this Chapter shall apply mutatis mutandis to other charges referred to in Article 56(2) of the Code.

However, without prejudice to other legislation, the customs authorities may require a guarantee covering only the amount of import or export duty in the following situations:

- where the guarantee is provided for customs debts which have been incurred,
- where the guarantee is provided for customs debts which may be incurred, in case where the goods placed under the relevant procedure remain in the Member State where the guarantee is provided.

##### *Article 321-02*

##### **Cases where no guarantee is to be required**

<b>MCC</b>	<b>MCC empowering</b>	<b>Current IP</b>	<b>Annex</b>	<b>Adoption</b>
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<b>implemented provision</b>	<b>provision</b>	<b>provision</b>		<b>procedure</b>
Article 56(9), 2 <sup>nd</sup> indent	Article 56(9), 2 <sup>nd</sup> indent	Article 581(1) (CC Article 95(1b))	Yes	

No guarantee is to be required in the following situations:

- for goods carried on the Rhine and the Rhine waterways and on the Danube and the Danube waterways,
- for goods carried by fixed transport installations, including electricity supply lines,
- for goods listed in Annex ex-77 placed under the temporary admission procedure,
- for goods placed under the temporary admission procedure by means of oral declaration or declared for the procedure by any other act.

#### *Article 321-03*

#### **Optional guarantee**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 58(1)	Article 183(2b)	none	-	

Where the guarantee is optional and the customs authorities decide to require a guarantee, Articles 321-04 to 322-05 shall apply.

#### *Article 321-04*

#### **Other forms of guarantee**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 59(1), subpara 1 (c)	Article 59(1), subpara. 2	Article 857	-	

1. The forms of guarantee referred to in Article 59(1)(c) of the Code, shall be as follows:

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

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

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

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

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

2. The customs authorities shall determine the circumstances in which and the conditions under which the forms of guarantee referred to in paragraph 1 shall be accepted.

However, these forms of guarantee shall not be accepted where the goods are to be placed under a Community transit procedure or are to be moved, processed, stored or used outside the Member State where the guarantee is provided.

#### *Article 321-05*

#### **Cash deposit**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 59(2)	Article 183(2b)	Article 858	-	

Where guarantee is given by making a cash deposit, no interest thereon shall be payable by the customs authorities.

#### *Article 321-06*

#### **GRN and access code**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
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Article 59	Article 183(2b)	Article 342 for Community transit	-	
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Where the guarantee is furnished by a guarantor at an office of guarantee or is a comprehensive guarantee:

- (a) a "guarantee reference number" is allocated to the holder of the procedure for the use of the guarantee and to identify each undertaking of the guarantor;
- (b) an access code associated with the "guarantee reference number" is allocated and is communicated to the holder of the procedure.

## SECTION 2

### COMPREHENSIVE GUARANTEE

#### *Article 322-01*

#### **Conditions for being granted a comprehensive guarantee**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 56(5), 62(1)	Article 56(9), 62(3)	Article 373(1a) for Community transit	-	

1. The authorisation referred to in Article 56(5) of the Code shall be granted only to persons who are established in the Member State where the guarantee is furnished.

2. The condition referred to in Article 62(1)(b) of the Code shall be fulfilled where the person concerned fulfils the requirements of ex-Article 14h [*Article 14h of Regulation 2454/93 as amended by Regulation 1875/2006*].

#### *Article 322-02*

#### **Reference amount**

<b>MCC implemented</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>

<b>provision</b>				
Article 56(5)	Article 56(9)	Article 379(1), 1 <sup>st</sup> subpara., (2),(3),(4) for Community transit	-	

1. The comprehensive guarantee may be used up to a reference amount.
2. Where the comprehensive guarantee is provided for customs debts which have been incurred, the reference amount shall correspond to the amount of import or export duty which is payable.
3. Where the comprehensive guarantee is provided for customs debts which may be incurred, the reference amount shall correspond to the amount of import or export duty which may become payable in the period between the placing of the goods under the relevant customs procedure and the moment where the procedure is discharged.

In establishing the reference amount, account shall be taken of the highest rates of duty and charges applicable to the goods in the Member State of the office of guarantee. Community goods carried or to be carried in accordance with the Convention on a common transit procedure shall be treated as non-Community goods.

For the application of the preceding subparagraphs, a calculation is made of the amount of the customs debt which may be incurred for each operation. When the necessary data is not available the amount is presumed to be EUR 7 000 unless other information known to the customs authorities leads to a different figure.

4. The office of guarantee shall establish the reference amount in collaboration with the holder of the procedure on the basis of the information on goods placed under the procedure in the past and an estimate of the volume of intended operations as shown, *inter alia*, by his commercial documentation and accounts.

The office of guarantee shall review the reference amount in particular on the basis of a request from the holder of the procedure and shall adjust it if necessary.

5. The holder of the procedure shall inform the office of guarantee when the reference amount falls below a level sufficient to cover his operations.

The reference amounts shall be handled and may be monitored by means of the computerised system of the customs authorities for each operation.

*Article 322-03*

**Level of the comprehensive guarantee**

<b>MCC implemented</b>	<b>MCC empowering</b>	<b>Current IP</b>	<b>Annex</b>	<b>Adoption</b>

provision	provision	provision		procedure
Article 56(5)	Article 56(9), 1 <sup>st</sup> indent	Article 380	-	

The amount to be covered by the comprehensive guarantee shall be the same as the reference amount referred to in Article 322-02.

#### *Article 322-04*

#### **Reduction of the level of the comprehensive guarantee and guarantee waiver**

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 56(5)	Article 56(9), 1 <sup>st</sup> indent	Article 380 for Community transit	-	

1. In cases referred to in Article 62(2) of the Code, a guarantee waiver may be granted where the person required to provide a guarantee demonstrates that he fulfils the requirements of ex-Articles 14i and 14j [*Articles 14i and 14j of Regulation 2454/93 as amended by Regulation 1875/2006*].

2. Where the person required to provide a guarantee does not fulfil all the requirements referred to in paragraph (1), the amount to be covered by the comprehensive guarantee may be reduced to 30 % of the reference amount where the person required to provide a guarantee demonstrates that he fulfils the conditions of ex-Article 14j and of ex-Article 14i, 1<sup>st</sup> subparagraph, letters (a), (d) and (g).

#### *Article 322-05*

#### **Prohibition of the use of a comprehensive guarantee**

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 63(2))	Article 63(3)(b) and (c)	Article 381 for Community transit	Yes	

The implementing rules concerning the temporary prohibition of the use of the comprehensive guarantee for a reduced amount or the comprehensive guarantee, as provided for in Article 63(2) of the Code are set out in ex-Annex 47a.

SECTION 3

SPECIFIC PROVISIONS FOR GOODS PLACED UNDER THE COMMUNITY TRANSIT AND TIR PROCEDURE

SUBSECTION 1

COMMUNITY TRANSIT

*Article 323-1-01*

**Scope of this Subsection**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
none	none	none		

Articles 323-1-02 to 323-1-09 shall apply where a guarantee is provided in the framework of Community transit.

I - INDIVIDUAL GUARANTEE

*Article 323-1-02*

**General provision**

<b>MCC implemented</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>

<b>provision</b>				
Article 59(1), subpara1 (c)	Article 59(1), subpara 2	Article 345	Yes	

1. The individual guarantee shall cover the amount of import or export duty corresponding to the customs debt which may be incurred, calculated on the basis of the highest rates of duty applicable to goods of the same kind in the Member State of departure. For the purposes of that calculation, Community goods carried in accordance with the Convention on a common transit procedure shall be treated as non-Community goods.

2. Individual guarantees in the form of a cash deposit shall be lodged at the office of departure. They shall be repaid when the procedure has been discharged.

3. An individual guarantee furnished by a guarantor may be in the form of individual guarantee vouchers for an amount of EUR 7 000, issued by the guarantor to persons who intend to act as holder of the procedure.

The guarantor shall be liable for up to EUR 7 000 per voucher.

4. Where the individual guarantee is furnished by a guarantor, the access code associated with the "Guarantee Reference Number" cannot be modified by the holder of the procedure except when ex-Annex 47a, point 3, is applicable.

#### *Article 323-1-03*

#### **Individual guarantee furnished by a guarantor**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 59	Article 183(2)(b)	Article 346	Yes	

1. Without prejudice to Article 323-1-04, an individual guarantee furnished by a guarantor shall correspond to the specimen in ex-Annex 49.

The guarantee instrument shall be retained at the office of guarantee.

2. Where required by national law, regulation or administrative provision, or by common practice, each Member State may allow the undertaking referred to in paragraph 1 to take a different form provided it has the same legal effect as the undertaking shown in the specimen.



*Article 323-1-04*

**Individual guarantee in the form of vouchers**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 59	Article 183(2)(b)	Article 347	Yes	

1. In the case referred to in Article 323-1-02(3), the individual guarantee in the form of vouchers shall correspond to the specimen in ex-Annex 50.

Article 323-1-03(2) shall apply *mutatis mutandis*.

2. The guarantor shall provide the office of guarantee with any required details about the individual guarantee vouchers that he has issued, in the manner decided by the customs authorities.

The last date on which the voucher may be used cannot be later than one year from the date of issue.

3. A "Guarantee Reference Number" shall be communicated by the guarantor to the holder of the procedure for each individual guarantee voucher which is allocated to him. The associated access code cannot be modified by the holder of the procedure.

4. For the purposes of implementing ex-Article 353(2)(b) the guarantor shall issue the holder of the procedure with individual guarantee vouchers drawn up on a paper form corresponding to the specimen in ex-Annex 54, including the identification number.

5. The holder of the procedure shall lodge at the office of departure the number of individual guarantee vouchers corresponding to the multiple of EUR 7 000 required to cover the total amount referred to in Article 323-1-02. For the implementation of ex-Article 353(2)(b) the individual vouchers in paper form shall be delivered and retained by the office of departure which shall communicate the identification number of each voucher to the office of guarantee indicated on the voucher.

*Article 323-1-05*

**Revocation and cancellation of the guarantor's undertaking in case of individual guarantee in the form of vouchers**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
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Article 59	Article 183(2)(b)	Article 348	-	
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1. The office of guarantee shall revoke its decision accepting the guarantor's undertaking if the conditions laid down at the time of issue are no longer fulfilled.

Equally, the guarantor may cancel his undertaking at any time.

2. The revocation or cancellation shall become effective on the 16<sup>th</sup> day following the date on which the guarantor or the office of guarantee, as appropriate, is notified.

From the date on which the revocation or cancellation becomes effective, no individual guarantee vouchers issued earlier may be used for placing goods under the Community transit procedure.

3. The customs authorities of the Member State responsible for the relevant office of guarantee shall introduce into the computerised system the information of any such revocation or cancellation and the date when either becomes effective.

## II - COMPREHENSIVE GUARANTEE

### *Article 323-1-06*

#### General provisions

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article?	Article?	Article 382	Yes	

1. The comprehensive guarantee shall be furnished by a guarantor.

2. The guarantee instrument shall conform to the specimen in ex-Annex 48. The guarantee instrument shall be retained at the office of guarantee.

3. Article 323-1-03(2) shall apply *mutatis mutandis*.

### *Article 323-1-07*

#### Certificates

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article?	Article?	Article 383	Yes	

1. On the basis of the authorisation, the customs authorities shall issue the holder of the procedure with one or more comprehensive guarantee certificates or guarantee waiver certificates, hereinafter referred to as certificates, drawn up as appropriate on a form corresponding to the specimen in ex-Annex 51 or ex-Annex 51a and supplemented in accordance with ex-Annex 51b, to enable the holder of the procedure to provide proof of the comprehensive guarantee or guarantee waiver.

2. The period of validity of a certificate shall not exceed two years. However, that period may be extended by the office of guarantee for one further period not exceeding two years.

#### *Article 323-1-08*

#### **Revocation and cancellation**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article?	Article?	Article 384	-	

1. Article 323-1-05(1), the first subparagraph of Article 323-1-05(2) and Article 323-1-05(3) shall apply *mutatis mutandis* to the revocation and cancellation of the comprehensive guarantee.

2. From the effective date of revocation or cancellation any certificates issued for the application of ex-Article 353(2)(b) may not be used to place goods under the Community transit procedure and shall be returned by the holder of the procedure to the office of guarantee without delay.

Each Member State shall forward to the Commission the means by which certificates that remain valid and have not yet been returned or that have been declared as stolen, lost or falsified may be identified. The Commission shall inform the other Member States.

### III - RELEASE OF THE GUARANTEE

#### *Article 323-1-09*

#### **Release of the guarantor's obligations – Community transit**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 65	Article 183(2)(b)	Article 450c	-	

1. For the purpose of goods placed under the Community transit procedure, the guarantor shall be released from his obligations if either of the notifications provided for in paragraphs 2 and 3 has not been issued to him before the expiry of the time limit.

2. Where the procedure has not been discharged, the customs authorities of the Member State of departure shall, within nine months of the prescribed time limit for presentation of the goods at the office of destination, notify the guarantor that the procedure has not been discharged.

3. Where the procedure has not been discharged, the customs authorities competent for the place where the customs debt is incurred, shall, within three years of the date of acceptance of the transit declaration, notify the guarantor that he is or might be required to pay the amount of the customs debt for which he is liable in respect of the Community transit operation in question; the notification shall state the number and date of the declaration, the name of the office of departure, the name of the holder of the procedure and the amount involved.

4. Where either of the notifications has been issued, the guarantor shall be informed of the recovery of the debt or the discharge of the procedure.

#### SUBSECTION 2

#### TIR

#### *Article 323-2-01*

#### **TIR Carnet**

<b>MCC</b>	<b>MCC empowering</b>	<b>Current IP</b>	<b>Annex</b>	<b>Adoption</b>
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<b>implemented provision</b>	<b>provision</b>	<b>provision</b>		<b>procedure</b>
Article 59(1), subpara 1 (a), (c)	Article 59(1), subpara 2	Article 457(1)-(2)	-	

For the purposes of Article 8(3) of the TIR Convention, when a TIR operation is carried out on the customs territory of the Community, any guaranteeing association established in the customs territory of the Community may become liable for the payment of the secured amount relating to the goods concerned in the TIR operation up to a limit per TIR carnet of EUR 60000 or the national currency equivalent thereof.

### CHAPTER 3

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

#### SECTION 1

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

#### SUBSECTION 1

#### DETERMINATION OF THE AMOUNT OF IMPORT OR EXPORT DUTY AND GENERAL PROVISIONS

#### *Article 331-01*

#### **Rounding**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 66	Article 183(2) (b)	none	-	

1. Where the amount of import or export duty determined by the customs authorities does not result in a whole number, that amount may be rounded.
2. Where the amount mentioned in paragraph (1) is expressed in euros, rounding may not be more than a rounding up or down to the nearest whole number.
3. A Member State which is not participating in the third stage of economic and monetary union may either apply mutatis mutandis the provision of paragraph (2) or derogate from paragraph 2, provided the rules applicable on rounding have not a financial impact superior to the application of the rule of paragraph (2).

*Article 331-02*

**ATA – coordinating customs office**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 67	Article 183(2)(b)	Article 458	-	

The customs authorities shall designate a coordinating customs office in each Member State for any action concerning customs debts which are incurred, on the basis of Article 46 or Article 49 of the Code, through non-compliance with obligations or conditions relating to ATA carnets.

The Member States shall inform the Commission of the designation of the coordinating customs offices together with their full address. The Commission shall communicate this information to the other Member States via the official website of the European Union on the internet.

*Article 331-03*

**Mutual assistance**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 66(1), 67(1), 2(d), 144(3)(c), 145(2)(c)	Article 183(2)(b)	Articles 450d, 456(2)	-	

1. The Member States shall assist each other in determining the authorities competent for the recovery of the amount of import or export duty resulting from the customs debt and of other charges.

2. Where a customs debt is incurred and other charges are due for goods placed under the Community transit procedure, the authorities competent for the recovery of the amount of import or export duty resulting from the customs debt and of other charges shall inform the office of departure and the office of guarantee of all cases in which a customs debt was incurred and other charges were due in connection with Community transit declarations accepted by the office of departure, and of the action taken against the debtor to recover the sums concerned. Furthermore, they shall inform the office of departure of the collection of import or export duties and other charges, in order to enable this office to discharge the transit operation.

3. Paragraph 2 shall apply *mutatis mutandis* to the recovery procedure relating to goods placed under transit in accordance with the TIR Convention.

#### Articles 331-04

#### Specific case – Consequences for the recovery of other charges

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Articles 140, 145	Articles 140(2), 143 OR 183(2)(b)	Articles 450b-456(2)	-	

1. Where, following initiation of recovery proceedings for other charges, for goods placed under the Community transit procedure, under the transit procedure in accordance with the TIR Convention, and for goods referred to in Article 140 of the Code, the customs authorities who notified the customs debt and the liability for other charges (hereinafter referred to as ‘the requesting authorities’) obtain evidence by whatever means regarding the place where the events giving rise to the customs debt and liability for other charges occurred, they shall immediately send all the necessary documents, including an authenticated copy of the evidence, to the authorities competent for that place (hereinafter referred to as ‘the requested authorities’).

The requested authorities shall acknowledge receipt of the communication and indicate whether they are responsible for recovery. If no response is received within three months, the requesting authorities shall immediately resume the recovery proceedings they initiated.

2. Where the requested authorities are competent, they shall initiate new proceedings for recovery of other charges, where appropriate after the three months period referred to in paragraph 1, second subparagraph, and on condition that the requesting authorities are immediately informed.

Any uncompleted proceedings for recovery of other charges initiated by the requesting authorities shall be suspended as soon as the requested authorities inform them that they have decided to take action for recovery.

As soon as the requested authorities provide proof that they have recovered the sums in question, the requesting authorities shall repay any other charges already collected or cancel the recovery proceedings.

*Articles 331-04a*

**ATA Convention/Istanbul Convention- Specific provisions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article ?	Article 183(2)(b)	Articles 457c, 461	Yes	

1. For goods placed under transit in accordance with the ATA Convention/Istanbul Convention, where following initiation of recovery proceedings for other charges, the customs authorities who notified the customs debt and the liability for other charges (hereinafter referred to as ‘the requesting authorities’) obtain evidence by whatever means regarding the place where the events giving rise to the customs debt and liability for other charges occurred, those authorities shall immediately send all the necessary documents, including an authenticated copy of the evidence, to the authorities competent for that place (hereinafter referred to as ‘the requested authorities’).

The requested authorities shall acknowledge receipt of the communication and indicate whether they are responsible for recovery. This acknowledgement shall be drawn up in accordance with the model in ex-Annex 61. If no response is received within three months, the requesting authorities shall immediately resume the recovery proceedings they initiated.

2. Where the requested authorities are competent, they shall initiate new proceedings for recovery of other charges, where appropriate after the three months period referred to in paragraph 1, second subparagraph, and on condition that the requesting authorities are immediately informed.

The requested authorities shall where necessary collect from the guaranteeing association with which they are connected the amount of duties and other charges due at the rates in force in the Member State where this office is situated.

3. As soon as the requested authorities indicate that they are competent for recovery, the requesting authorities shall refund to the guaranteeing association with which they are connected any sums which that association may have deposited or provisionally paid.



4. The proceedings must be transferred within a period of one year counting from the expiry of the carnet on condition that payment has not become definitive pursuant to Article 7 (2) or (3) of the ATA Convention or Article 9(1)(b) and (c) of Annex A to the Istanbul Convention.

## SUBSECTION 2

### NOTIFICATION OF THE CUSTOMS DEBT AND CLAIM FOR PAYMENT FROM GUARANTEERING ASSOCIATION

#### Articles 331-05

#### Form of the notification

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 67(1)	Article 5(1), subpara 3	none	-	

*[The question of the form of the notification will have to be reviewed taking into account cases where it proves impossible to notify electronically, where no system is available or where use of a data-processing technique would be counterproductive.]*

#### Article 331-06

#### Exemption from notification of the customs debt

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 67(1), subpara 2(d)	Article 67(1), subpara 3	Articles 869-870	-	

1. The customs authorities shall not notify the customs debt in the following cases:

a) where the amount of import or export duty concerned is less than 10 euros;

b) in cases in which preferential tariff treatment has been applied in the context of a tariff quota, a tariff ceiling or other preferential arrangements when entitlement to this treatment had been ended at the time of acceptance of the customs declaration without that fact having been published in the Official Journal of the European Union before the release for free circulation of the goods in question or, where such fact is not published, having been made known in an appropriate manner in the Member State concerned, the person liable for payment for his part having acted in good faith.

2. There shall be no post-clearance recovery of an amount of import or export duty where the amount payable per recovery action is less than 10 euros. A recovery action refers to each declaration.

3. Each Member State shall hold at the disposal of the Commission a list of the cases in which the provisions of paragraph 1, letter b) have been applied.

**Article 331-07**

**ATA - Claim for payment from the guaranteeing association**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article ?	Article 78(1), 2 <sup>nd</sup> subpara	Articles 459-460	Yes	

1. Where the customs authorities of a Member State establish that a customs debt has been incurred for goods placed under ATA/CPD arrangements, a claim for payment shall be sent to the guaranteeing association with which that Member State is linked as soon as possible.

2. However, where the incurrence of the customs debt is due to the fact that the goods covered by the ATA carnet have not been re-exported or have not been placed under a customs procedure, destroyed or abandoned to the State within the periods laid down by the ATA Convention or the Istanbul Convention, the claim referred to in paragraph (1) shall be sent at the earliest three months after the date of expiry of the carnet.

3. For the purpose of goods placed under ATA/CPD arrangements, the coordinating office making the claim shall at the same time, as far as possible, send to the coordinating office in the jurisdiction of which the office of temporary admission is situated, an information memo drawn up in accordance with the model shown in ex-Annex 59.

The information memo shall be accompanied by a copy of the undischarged voucher, if the coordinating office has it in its possession. The information memo may also be used whenever this is deemed necessary.

The amount of import duty and other charges arising from the claim shall be calculated by means of the model taxation form set out in ex-Annex 60 completed in accordance with the instructions attached to it.

The taxation form may be sent later than the claim, though not more than three months from the claim and in any event not more than six months from the date on which the customs authorities initiate the recovery proceedings.

The taxation form shall be completed in duplicate or triplicate, as necessary. The first copy shall be for the guaranteeing association connected with the customs authority of the Member State in which the claim is made. The second copy shall be retained by the issuing coordinating office. Where necessary the issuing coordinating office shall send the third copy to the coordinating office in whose jurisdiction the office of temporary admission is situated.

*Article 331-08*

**Customs debt incurred in a different Member State - Consequences with regard to the guaranteeing association**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article ?	Article 78(1), subpara 2	Articles 457(3)-460(2)	-	

A valid notification of non-discharge of a transit procedure in accordance with the TIR Convention or with the ATA Convention/Istanbul Convention made by the customs authorities of the Member State identified as competent for recovery under Article 55 of the Code to the guaranteeing association authorised by those authorities shall also be valid where the customs authorities of another Member State, identified as competent in accordance with Article 331-04, later proceed with recovery from the guaranteeing association authorised by those latter authorities.

SECTION 2

PAYMENT OF THE AMOUNT OF IMPORT OR EXPORT DUTY

*Article 332-01*

**Simplified declarations and deferred payment**

<b>MCC implemented</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>

<b>provision</b>				
Article 76	Article 76	None (CCC Article 228)	-	

1. Where, by the time of expiry of the period set in accordance with ex-Article 256, the declarant has not provided the information necessary for the definitive valuation of the goods for customs purposes or has not supplied the particulars or the document or information missing when the simplified declaration was accepted, deferment of payment shall not be granted in respect of the amounts of duty concerned.

2. However, deferment of payment may be granted in the cases referred to in paragraph 1:

- where the amount of duty to be recovered is notified before the expiry of the periods referred to in Article 75(2)(3) or (4), granted for payment of the amount originally charged or,

- if it was not notified, before the expiry of a period of thirty days from the date on which the declaration relating to the goods in question was accepted.

The duration of the deferment of payment granted in such circumstances shall not extend beyond the date of expiry of the period which, pursuant to Article 75 of the Code, was granted in respect of the amount of duty originally notified, or which would have been granted had the amount of duty payable been notified when the goods in question were declared.

#### *Article 332-02*

### **Suspension of payment**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 72(3)	Articles 72(3), 183(2)(b)	Article 876a	-	

1. The customs authorities shall suspend the debtor's obligation to pay the amount of import or export duty until such time as they have taken a decision on the application for remission of duty made in accordance with Article 84 of the Code, provided that, where the goods are no longer under customs supervision, guarantee is lodged for this amount, and that:

(a) in cases where a request for invalidation of a declaration has been presented, this request is likely to be met;

(b) in cases where a request has been presented for remission pursuant to Article 81, 82 or 83 of the Code, the customs authorities consider that the conditions laid down in the relevant provision may be regarded as having been fulfilled;

(c) in cases where a request has been presented for remission pursuant to Article 80 of the Code and the customs authorities have good reason to believe that the conditions for such remission are fulfilled or that irreparable damage is to be feared for the person concerned.

It shall not be necessary to require a guarantee if it is established, on the basis of a documented assessment, that it would be likely to cause the debtor serious economic or social difficulties.

2. Where goods are to be confiscated, destroyed or abandoned to the State, the customs authorities shall suspend the debtor's obligation to pay the amount of import or export duty if they consider that the conditions for confiscation, destruction or abandonment are likely to be met.

3. Where goods are removed from customs supervision and a customs debt is incurred under Article 46 of the Code, the customs authorities shall suspend the obligation of the person referred to in point (a) of paragraph 3 of that Article to pay the amount of import or export duty where at least one other debtor has been identified and the amount concerned has also been notified to him in accordance with Article 67 of the Code.

The suspension shall be granted only on the condition that the person referred to in point (a) of paragraph (3) of Article 46 of the Code is not also covered by one of the other points of the said paragraph and no deception or obvious negligence may be attributed to that person.

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

The suspension shall be conditional on the lodging by the person for whose benefit it is granted of a valid guarantee for the amount of the import or export duty at stake, except where such a guarantee covering the whole amount of import or export duty at stake already exists and the guarantor has not been released from his undertakings. It shall not be necessary to require such a guarantee if it is established, on the basis of a documented assessment, that it would be likely to cause the debtor serious economic or social difficulties.

*Article 332-03*

**Credit interest and interest on arrears**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 77(1), 78(2)	Articles 77(3), 78(5)	none	-	

There shall be no collection of credit interest and interest on arrears where their amount per recovery action is less than 10 euros.

### SECTION 3

#### REPAYMENT AND REMISSION OF THE AMOUNT OF IMPORT OR EXPORT DUTY

#### SUBSECTION 1

#### GENERAL PROVISION, DEFINITIONS AND PROCEDURE

##### *Article 333-01*

##### **Amount referred to in Article 79(1), sub-paragraph 1 of the Code**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 79(1), subpara 1	Article 85	Article 898	-	

There shall be no repayment or remission of an amount of import or export duty where the amount concerned is less than 10 euros.

##### *Article 333-02*

#### **Definitions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 84	Article 85	Article 877	-	

1. For the purposes of this Section:

(a) *customs office of notification* means the customs office where the customs debt was notified;

(b) *decision-making customs authority* means the customs authority competent to decide on an application for repayment or remission of an amount of import or export duty in the Member State where the customs debt was notified;

(c) *supervising customs office* means the customs office having jurisdiction over the goods which gave rise to the notification of the customs debt whose repayment or remission is requested, the said office carrying out certain checks required for appraisal of the application;

(d) *implementing customs office* means the customs office which adopts the measures necessary to ensure that the decision to repay or remit the amount of import or export duty is correctly implemented.

2. The functions of customs office of notification, decision-making customs authority, supervising customs office and implementing customs office may be carried out wholly or in part by the same customs office.

#### Article 333-03

### Application

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 84	Article 85	Articles 878, 879, 881	Yes	

1. Application for repayment or remission of an amount of import or export duty, hereinafter referred to as 'application', shall be made by the person who paid or is liable to pay that amount, or the persons who have taken over his rights and obligations.

2. Application shall be made in accordance with Article 5(1) of the Code, in accordance with the specimen and provisions in Annex 111.

*[The question of the form of the application will have to be fixed for all procedures/application... A comprehensive approach should be followed.]*

3. Applications must be lodged with the customs office of notification, unless the customs authorities designate another office for this purpose; the said office shall transmit it immediately after acceptance to the decision-making customs authority if it is not itself designated as such.

4. The customs office referred to in paragraph 3 may accept an application not containing all the information provided for on the form referred to in paragraph 2. However, the application must contain at least the information to be entered in boxes 1 to 3 and 7.

Where subparagraph 1 is applied, the said customs office shall set a time limit for the supply of any missing particulars and/or documents.

5. The customs office referred to in paragraph 3 shall enter the date of receipt on the application.

6. Where the time limit set by the customs office pursuant to paragraph 4, second subparagraph is not observed, the application shall be considered to have been withdrawn.

The applicant shall be informed of this immediately.

**Article 333-04**

**Agricultural goods in respect of which a licence was produced**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 84	Article 85	Articles 880-896	-	

Without prejudice to any specific provisions adopted in this connection under the common agricultural policy, an application relating to goods in respect of which an import or export license was produced when the relevant customs declaration was lodged must be accompanied by certification issued by the authorities responsible for issuing such license attesting that the necessary steps have been taken to cancel the effects of the said license.

Such certification shall not be required, however:

- where the customs authority to which the application is submitted itself issued the licence in question,
- where the ground relied upon in support of the application is a substantive error that has no effect on the attribution of the license in question.

**Article 333-05**

**Prior completion of formalities**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 84	Article 85	Article 883	-	



The decision-making customs authority may authorize completion of the customs formalities to which any repayment or remission may be subject before it has ruled on the application. Such authorization shall be entirely without prejudice to its decision on the application.

*Article 333-06*

**Transfer**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 84	Article 85	Article 884	-	

Without prejudice to Article 333-05 and until a decision has been taken on the application, the goods in respect of which repayment or remission of an amount of duty has been requested may not be transferred to a location other than that specified in the said application unless the applicant notifies in advance the customs office referred to in Article 333-03(3), which shall in turn inform the decision-making customs authority.

*Article 333-07*

**Supplementary information**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 84	Article 85	Articles 885, 899(4), 910-911	Yes	

1. Where an application relates to a case where supplementary information must be obtained or where the goods must be examined in order to ensure that the conditions for repayment or remission are satisfied, the decision-making customs authority shall adopt the measures necessary to that end, if necessary by requesting the assistance of the supervising customs office, specifying the nature of the information to be obtained or of the checks to be carried out.

The supervising customs office shall comply promptly with this request and shall forward the information obtained and the results of the checks carried out to the decision-making customs authority.

The Member States shall give each other mutual assistance, particularly where an error by the customs authorities of a Member State other than that responsible for taking the decision is concerned.

2. Where the application relates to goods which are situated in a Member State other than that in which the customs debt was notified, the decision-making customs authority shall send the supervising customs office a copy of its request for information made out in writing on a form conforming to the model in ex-Annex 112. The request for information shall be accompanied by originals or copies of the application for repayment or remission and of all documents necessary to enable the supervising customs office to obtain the information or carry out the checks requested.

Within one month of the date of receipt of the request the supervising customs office shall obtain the information or carry out the checks requested by the decision-making customs authority. It shall enter the results obtained in the relevant part of the original of the request for information and shall return the said document to the decision-making customs authority together with all the documents forwarded to it.

Where it is unable to obtain the information or carry out the checks requested within the one month period referred to in the second subparagraph, the supervising customs office shall acknowledge receipt of the request for information submitted to it within that period by returning to the decision-making customs authority the copy of the request for information duly annotated.

*Article 333-08*

**Content of the decision**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 84	Article 85	Articles 886, 893, 899(2) 2 <sup>nd</sup> subpara (Case C-48/98)	-	

1. When the decision-making customs authority possesses all the necessary particulars, it shall give its decision on the application in accordance with Article 16 (2) and (4) of the Code.

However, where Article 333-24(1) or (2), third indent, is applicable, the decision-making customs authority may not decide on the case until the end of the procedure initiated in accordance with Articles 333-25 to 333-28.

2. Where the decision-making customs authority is 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 of its own motion the merits of that application in the light of the other grounds for repayment or remission referred to in Article 79(1) of the Code.

3. Where the application is approved, the decision shall include all the particulars necessary for its implementation.

*[Need for a comprehensive approach throughout the MCCIP on acceptance, rejection, approval, etc.]*

Depending on the circumstances, some or all of the following particulars shall appear in the decision:

- (a) the information necessary for identifying the goods to which it applies;
- (b) the grounds for repayment or remission of the amount of import or export duty and a reference to the corresponding article of the Code and, where appropriate, the corresponding article of this Section;
- (c) the formalities to which repayment or remission of the amount of import or export duty is subject, depending on the possibilities available in the particular case under the Code and where appropriate on the basis of a specific authorization by the decision-making customs authority;
- (d) the time limit for completion of the formalities referred to under letter (c);
- (e) a statement indicating that the amount of import or export duty will not be repaid or remitted until the implementing customs office has informed the decision-making customs authority that the formalities to which repayment or remission is subject have been completed;
- (f) particulars of any requirements to which the goods remain subject pending implementation of the decision;
- (g) a notice informing the recipient that he must give the original of the decision to the implementing customs office when presenting the goods.

4. Without prejudice to the second paragraph and Article 333-20(2)(a), the time-limit referred to in point (3)(d) shall be no later than two months from the date of notification of the decision to repay or remit the amount of import or export duty.

Failure to observe that deadline shall result in loss of entitlement to repayment or remission except where the person concerned by the decision proves that he was prevented from meeting this deadline by unforeseeable circumstances or force majeure.

#### *Article 333-09*

### **Agricultural goods**

*Deleted. See also Art 333-04.*

**Implementation of the decision**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 84	Article 85	Articles 887, 912	Yes	

1. The implementing customs office shall take steps to ensure, where appropriate:

- that the requirements referred to in Article 333-08 (3) (f) are met,
- that in all cases the formalities referred to in Article 333-08(3)(c) are fulfilled.

2. Where the decision specifies that the goods may be placed in a customs warehouse or a free zone, and the recipient avails himself of this opportunity, the necessary formalities must be carried out with the implementing customs office.

3. Where the fulfillment of the formalities can be established only in a Member State other than that in which the implementing customs office is located, proof of compliance shall be furnished by production of a control copy T 5 issued and used in accordance with the provisions of ex-Articles 912a to 912g, and of this Article.

The control copy T 5 must contain the following:

- (a) box 33 shall contain the combined nomenclature code of the goods;
- (b) box 103 shall indicate in words the net quantity of the goods;
- (c) box 104 shall contain, as appropriate, either the words 'exit from the customs territory of the Community', or one of the following under the heading 'other':
  - Delivery free of charge to the following charity . . . ,
  - Destruction under customs supervision,
  - Entry for the following customs procedure . . . ;
- (d) box 106 shall contain reference particulars of the decision granting repayment or remission of duties;
- (e) box 107 shall contain the words 'ex-Articles 877 to 912 of Regulation (EEC) No 2454/93'.

4. The supervising customs office which establishes or on whose responsibility it is established that the goods have actually been used for the purpose specified or have arrived at the prescribed destination shall complete the box entitled 'Control of use and/or destination'

of the control document by entering a cross against 'have received the use and/or destination declared overleaf' and giving the relevant date.

5. When the implementing customs office has satisfied itself that the conditions set out in paragraph 1 are fulfilled, it shall send a certificate to the decision-making customs authority on a form conforming to the specimen in ex-Annex 113.

#### *Article 333-11*

##### **Actual repayment or remission**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 84	Article 85	Article 888	-	

A decision-making customs authority having approved an application shall repay or remit the amount of duty only after receiving the certificate referred to in Article 333-10 (5).

#### *Article 333-12*

##### **Parts or components of a single article**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 84	Article 85	Article 897	-	

Where it is not the complete article that is exported, re-exported, destroyed, abandoned to the State or placed under a special procedure, but one or more parts or components of that article, the amount to be repaid or remitted shall be the difference between the amount of import duty on the complete article and the amount of import duty which would have been chargeable on the remainder of the article if the latter had been entered in the unaltered state for a customs procedure involving the obligation to pay such duties on the date on which the complete article was so entered.

#### *Article 333-13*

##### **Waste and scrap**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 84	Article 85	Article 894	-	

Where destruction of the goods authorized by the decision-making customs authority produces waste or scrap, such waste or scrap shall be regarded as non-Community goods once a decision has been taken accepting the application.

## SUBSECTION 2

### SPECIFIC PROVISIONS RELATING TO THE APPLICATION OF ARTICLE 80 OF THE CODE

#### *Article 333-14*

#### **Tariff quota, tariff ceiling and other preferential tariff arrangements**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 80	Article 85	Article 889	-	

1. Where the application 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 preferential tariff arrangements, repayment or remission shall be granted under Article 80 of the Code only on condition that, at the time of lodging the application accompanied by the necessary documents:

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

If the conditions laid down in the preceding subparagraph are not fulfilled, repayment or remission shall nevertheless be granted where the failure to apply the reduced or zero rate of duty was the result of an error on the part of the customs authorities themselves and the 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.

2. Each Member State shall hold at the disposal of the Commission a list of the cases in which the provisions of the second subparagraph of paragraph 1 have been applied.

*Article 333-15*

**Specific cases**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 80	Article 85	Article 890	-	

The decision-making customs authority shall grant repayment or remission under Article 80 of the Code when:

(a) the application is accompanied with a certificate of origin, a movement certificate, a certificate of authenticity, an internal Community transit document or with any other appropriate document, indicating that the imported goods were eligible, at the time of acceptance of the declaration for release for free circulation, for Community treatment, preferential tariff treatment or favourable tariff treatment by reason of the nature of goods;

(b) the document thus produced refers specifically to the goods in question;

(c) all the conditions relating to acceptance of the said document are fulfilled;

(d) all the other conditions for the granting of the Community treatment, a preferential tariff treatment or of a favourable tariff treatment by reason of the nature of goods are fulfilled.

Repayment or remission shall take place upon presentation of the goods. Where the goods cannot be presented to the implementing customs office, the decision-making customs authority shall grant repayment or remission only where it has information showing unequivocally that the certificate or document produced post-release applies to the said goods.

**SUBSECTION 3**

**SPECIFIC PROVISIONS RELATING TO THE APPLICATION OF ARTICLE 81 OF THE CODE**

*Article 333-16*

**Case where Article 81 of the Code is not applicable**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 81	Article 85	Article 892 (CCIP ex Article 238(3))	-	

Import duties shall not be repaid or remitted under Article 81 of the Code:

- in respect of goods which, before being declared to customs, were imported temporarily 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,
- where the defective nature of the goods was taken into consideration in drawing up the terms of the contract, in particular the price, under which the goods were entered for a customs procedure involving the obligation to pay import duties,
- where the goods are sold by the importer after it has been ascertained that they are defective or do not comply with the terms of the contract.

*Article 333-17*

**Application of Article 81(3)**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 81	Article 85	Article 895	-	

Where the permission referred to in Article 81 (3) of the Code is granted, the customs authorities shall take all necessary steps to ensure that goods placed under the inward processing procedure, the external transit, the customs warehousing or a free zone procedure may subsequently be recognized as non-Community goods.



## SUBSECTION 4

### SPECIFIC PROVISIONS RELATING TO THE APPLICATION OF ARTICLES 82 AND 83 OF THE CODE

#### *Article 333-18*

#### **Competent authority within the meaning of Article 82 of the Code**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 82	Article 85	none	-	

Any authority which, acting within the scope of its powers, furnishes information relevant to the recovery of an amount of import or export duty and which may thus cause the person liable for payment to entertain legitimate expectations shall be regarded as a competent authority within the meaning of Article 82 of the Code.

#### *Article 333-19*

#### **Error which could be detected and obvious negligence**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 82-83	Article 85	none	-	

In order to determine whether an error within the meaning of Article 82 of the Code, made by the competent authorities could reasonably have been detected by the debtor or not, regard must be given in particular to the nature of the error, the professional experience of the debtor and the degree of care which he exercised.

Paragraph 1 is applicable mutatis mutandis when examining whether the debtor acted with obvious negligence within the meaning of Article 83 of the Code.

**Special circumstances**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 83	Article 85	Articles 900-901	-	

1. The existence of special circumstances within the meaning of Article 83 of the Code is established 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 would not have suffered disadvantage caused by the collection of the amount of import or export duty.

2. The existence of an exceptional situation is established where:

(a) it is impossible to operate the mechanism for opening the means of transport on which goods previously released for free circulation are located and accordingly to unload them on arrival at their destination, provided that they are immediately re-exported;

(b) goods originally released for free circulation are subsequently returned to their non-Community supplier, under the outward processing procedure, to enable him - free of charge - to eliminate defects existing prior to the release of the goods (even if found after release of the goods) or to bring them into line with the provisions of the contract under which they were released for free circulation, and the said supplier decides to keep the goods permanently because he is unable to remedy the defects or because it would not be economic to do so;

(c) it is found, when the customs authorities decide on post-release notification of a customs debt on goods released for free circulation with full relief from import duties, that the goods in question have been re-exported from the customs territory of the Community without customs supervision, provided it is established that the substantive conditions laid down in the Code for the repayment or remission of the amount of import duty actually due would have been met at the time of re-exportation if the amount had been levied when the goods were released for free circulation;

(d) the goods have been addressed to the consignee in error by the consignor;

(e) the goods are found to be unsuitable for the use for which the consignee intended them because of an obvious factual error in his order;

(f) after having been released for a customs procedure involving the obligation to pay an amount of import duty, the goods are found not to have complied, at the time of their release, with the rules in force concerning their use or marketing and therefore cannot be used for the purpose intended by the consignee;

(g) the use of the goods or their marketing by the consignee for the purpose intended is prevented or substantially restricted as a result of a judicial decision or of measures of general scope taken, after the date of release for a customs procedure involving the obligation to pay import duties, by an authority or other body having the appropriate power of decision; the goods in question may not actually have been used in the Community;

(i) the goods reached the consignee after the binding delivery dates stipulated in the contract under which they were entered for a customs procedure involving the obligation to pay import duties;

(j) it has not been possible to sell the goods in the customs territory of the Community and they are delivered free of charge to charities:

- carrying out their activities in a third country, provided that they are represented in the Community,

or

- carrying out their activities in the customs territory of the Community, provided that they are eligible for relief in the case of importation for free circulation of similar goods from third countries.

3. Repayment or remission of an amount of import duty in the cases referred to in paragraph 2(a) and (d) to (j) shall, except where the goods are destroyed by order of a public authority or delivered free of charge to charities carrying out their activities in the Community, be conditional upon their re-export from the customs territory of the Community under the supervision of the customs authorities.

If requested, the decision-making authority shall permit re-export of the goods to be replaced by placing them under inward processing procedure, including for destruction, or the external transit, the customs warehousing or free zone procedure.

In this case, the customs authorities shall take all requisite measures to ensure that the goods may later be recognised as non-Community goods.

In addition, the supervising customs office must be satisfied that the goods have been neither used nor sold before their re-exportation.

*Article 333-21*

**Re-exportation or destruction without customs supervision**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 83	Article 85	Articles 901-902	-	

1. Where in situations covered by Article 79(1), last subparagraph or 81 of the Code or in special circumstances referred to in Article 333-20(2)(a) and (d) to (j), re-exportation or destruction was made without customs supervision, repayment or remission of an amount of import duty on the basis of Article 83 of the Code shall be conditional on:

(a) production of all the evidence needed to enable the decision-making customs authority to satisfy itself that the goods in respect of which repayment or remission is requested:

- have actually been re-exported from the customs territory of the Community, or
- have been destroyed under the supervision of authorities or persons empowered to certify such destruction officially;

(b) the return to the decision-making customs authority of any document certifying the Community status of the goods in question under cover of which the said goods may have left the customs territory of the Community, or the presentation of whatever evidence the said authority considers necessary to satisfy itself that the document in question cannot be used subsequently in connection with any importation of goods into the Community.

2. For the purposes of paragraph (1):

(a) the evidence needed to enable the decision-making customs authority to satisfy itself that the goods in respect of which repayment or remission is requested have actually been re-exported from the customs territory of the Community shall consist of the presentation by the applicant of:

- the original or a certified copy of the declaration for export of the goods from the customs territory of the Community,

and

- certification by the customs office through which the goods actually left the customs territory of the Community.

Where such certification cannot be produced, proof that the goods have left the customs territory of the Community may be presented in the form of:

- certification by the customs office in the third country of destination confirming that the goods have arrived, or
- the original or a certified copy of the customs declaration for the goods made in the third country of destination.

These documents must be accompanied by administrative and commercial documentation enabling the decision-making customs authority to check that the goods exported from the customs territory of the Community are the same as those which had been declared for a customs procedure involving the obligation to pay import duties, namely:

- the original or a certified copy of the declaration for the said procedure,

and

- where this is considered necessary by the decision-making customs authority, commercial or administrative documents (such as invoices, dispatch details, transit documents or health certificates) containing a full description of the goods (trade description, quantities, marks and other identifying particulars) which were presented with the declaration for the said procedure or with the declaration for export from the customs territory of the Community or the customs declaration made for the goods in the third country of destination, as the case may be;

(b) the evidence needed to enable the decision-making customs authority to satisfy itself that the goods in respect of which repayment or remission is requested have actually been destroyed under the supervision of authorities or persons authorized to certify officially such destruction shall consist of the presentation by the applicant of:

- a report or declaration of destruction drawn up by the authorities under whose supervision the goods were destroyed, or a certified copy thereof, or

- a certificate drawn up by the person authorized to certify destruction, accompanied by evidence of his authority.

These documents shall contain a sufficiently full description of the destroyed goods (trade description, quantities, marks and other identifying particulars) to enable the customs authorities to satisfy themselves, by means of comparison with the particulars given in the declaration for a customs procedure involving the obligation to pay import duties and the accompanying commercial documents (invoices, dispatch details, etc.), that the destroyed goods are those which had been declared for the said procedure.

3. Where the evidence referred to in paragraph 2 is insufficient to allow the decision-making customs authority to take a decision on the case submitted to it in full knowledge of the facts, or where certain evidence is not available, such evidence may be supplemented or replaced by any other documents considered necessary by the said authority.

#### *Article 333-22*

#### **Exclusions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 82-83	Article 85	Articles 904	-	

An amount of import duty shall not be repaid or remitted where the only grounds relied on in the application are, as the case may be:

(a) re-export from the customs territory of the Community of goods previously entered for a customs procedure involving the obligation to pay import duties, for reasons other than those referred to in Article 79(1), first subparagraph, letter (b) and second subparagraph of the Code or in Article 333-20, notably failure to sell;

(b) destruction, for any reason whatsoever, save in the cases expressly provided for by Community legislation, of goods entered for a customs procedure involving the obligation to pay import duties after their release by the customs authorities;

(c) presentation, for the purpose of obtaining preferential tariff treatment of goods declared for free circulation, of documents subsequently found to be forged, falsified or not valid for that purpose, even where such documents were presented in good faith.

**Article 333-23**

**Communication to the Commission**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 82-83	Article 85	Articles 870(2), 904a	-	

1. Each Member State shall communicate to the Commission a list of the cases in which the provisions of Article 82 or 83 of the Code have been applied (except where the special circumstances correspond to a situation listed in Article 333-20 or 333-21) and the amount repaid or remitted in respect of one or more import or export operations but in consequence of a single error or special situation is more than EUR 50000.

This communication shall be forwarded during the first and third quarters of each year for all cases in which it was decided to repay or remit duties during the preceding half-year.

Where a Member State has not taken any such decision during the six months in question, it shall send the Commission a communication with the entry “Not applicable”.

2. When no communication is required under paragraph 1, each Member State shall hold at the disposal of the Commission a list of the cases in which the following provisions have been applied:

- Article 82 of the Code,

- Article 83 of the Code, except where the special circumstances correspond to a situation listed in Article 333-20 or 333-21.

## SUBSECTION 5

### DECISIONS TO BE TAKEN BY THE COMMISSION

#### *Article 333-24*

#### **Cases and procedure**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 82-83	Article 85	Articles 871, 905	-	

1. Where the Member State to which the decision-making customs authority belongs considers that the conditions for repayment or remission under Article 82 or 83 of the Code are fulfilled, it shall transmit the case to the Commission to be settled under the procedure laid down in Articles 333-25 to 333-28 where:

- the authority considers that a special situation is the result of the Commission failing in its obligations,

- it considers that the Commission has committed an error within the meaning of Article 82(1) of the Code,

- the circumstances of the case are related to the findings of a Community investigation carried out under Regulation (EC) No 515/97, or under any other Community legislation or any agreement concluded by the Community with countries or groups of countries in which provision is made for carrying out such Community investigations, or

- the amount for which the person concerned may be liable in respect of one or more import or export operations but in consequence of a single error or special situation is EUR 500000 or more.

2. However, the cases referred to in paragraph 1 shall not be transmitted where:

- the case is based on grounds corresponding to one of the circumstances referred to in Articles 333-20 or 333-21,

- the Commission or the Council has already adopted a decision under the procedure provided for in Articles 333-25 to 333-28 on a case involving comparable issues of fact and of law,

- the Commission is already considering a case involving comparable issues of fact and of law.

3. The dossier submitted to the Commission shall contain all the information required for full consideration. It shall include detailed information on the behaviour of the operator concerned, and in particular on his professional experience, good faith and diligence. This assessment shall be accompanied by all information that may demonstrate that the operator acted in good faith. The dossier shall also include a statement, signed by the applicant for repayment or remission, certifying that he has read the dossier and either stating that he has nothing to add or listing all the additional information that he considers should be included.

4. As soon as it receives the dossier the Commission shall inform the Member State concerned accordingly.

5. Should it be found that the information supplied by the Member State is not sufficient to enable a decision to be taken on the case concerned in full knowledge of the facts, the Commission may request that additional information be supplied.

6. Where one of the following situations occurs the Commission shall return the dossier to the customs authority and the procedure referred to in Articles 333-25 to 333-28 shall be deemed never to have been initiated:

- the dossier shows that there is a disagreement between the customs authority that has transmitted the dossier and the person who signed the statement referred to in paragraph 3 as regards the account of the facts,
- the dossier is obviously incomplete since it contains nothing that would justify its consideration by the Commission,
- under paragraphs 1 and 2, the dossier should not be transmitted,
- new information relating to the dossier and of a nature to alter substantially its presentation of the facts or legal assessment has been transmitted by the customs authority to the Commission while it is considering the dossier.

*Article 333-25*

**Information of the Member States**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 82-83	Article 85	Articles 872,906	-	

The Commission shall forward to the Member States a copy of the dossier referred to in Article 333-24(3) within 15 days of the date on which it received that dossier.

Consideration of the case in question shall be included as soon as possible on the agenda of the Committee.



*Article 333-25a*

**Right for the applicant to express his point of view**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 82-83	Article 85	Articles 872a, 906a	-	

Where, at any time in the procedure provided for in Articles 333-25 and 333-26, the Commission intends to take a decision unfavourable towards the applicant, it shall communicate its objections to him in writing, together with a reference to all the documents and information on which it intends to base its decision and to the right of the applicant to have access to his file. The applicant shall express his point of view in writing within one month from the date on which he received that communication. If he does not give his point of view within that period, it shall be deemed that he has waived the right to express his point of view.

*Article 333-26*

**Time-limits**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 82-83	Article 85	Articles 873,907	-	

Within nine months of the date on which the dossier referred to in Article 333-24(3) is received by the Commission, the Commission shall decide whether or not the situation which has been considered justifies repayment or remission.

However, where the declaration or detailed assessment of the operator's behaviour referred to in Article 333-24(3) is not included in the dossier, the nine months shall be counted only from the date of receipt of these documents by the Commission. The customs authority and the person applying for repayment or remission shall be notified accordingly.

Where the Commission has found it necessary to ask for additional information from the Member State in order to reach its decision, the nine months shall be extended by a period equivalent to that between the date the Commission sent the request for additional information and the date it received that information. The Commission shall notify the person applying for repayment or remission of the extension.

Where the Commission conducts investigations itself in order to reach its decision, the nine months shall be extended by the time necessary to complete the investigations. Such an extension shall not exceed nine months. The customs authority and the person applying for repayment or remission shall be notified of the dates on which investigations are opened and closed.

Where the draft decision of the Commission is not in accordance with the opinion of the Committee, the nine months shall be extended by a period equivalent to that between the date on which the Committee gave its opinion and the expiry of the period referred to in Article 4(3) last sentence of Council Decision 1999/468/EC. The Commission shall notify the person applying for repayment or remission of the extension.

**Article 333-27**

**Notification of the decision**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 82-83	Article 85	Articles 874-875, 908	-	

1. The Member State concerned shall be notified of the decision referred to in Article 333-26 as soon as possible and in any event within one month of the expiry of the period specified in that Article.

The Commission shall communicate the decisions it has adopted to the Member States, via the official website of the European Union on the internet, in order to help customs authorities to reach decisions on cases involving comparable issues of fact and of law.

2. The decision-making customs authority shall decide on the application on the basis of the Commission's decision notified in accordance with paragraph 1.

The Member State to which the decision-making customs authority belongs shall inform the Commission accordingly.

3. Where the decision referred to in Article 333-26 establishes the existence of a special situation or of an error by the competent authorities, the Commission may specify the conditions under which the Member States may repay or remit duties in cases involving comparable issues of fact and of law.

**Article 333-28**

**Consequences of a failure to take a decision or notify**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 82-83	Article 85	Articles 876,909	-	

If the Commission, fails to take a decision within the time limit set in Article 333-26, or fails to notify a decision to the Member State in question within the time limit set in Article 333-27, the decision-making customs authority shall take a decision favorable to the applicant.

## CHAPTER 4

### *Extinguishment of customs debt*

#### SECTION 1

#### NATURAL WASTAGE

##### *Article 341-01*

#### **Standard rates**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 86(1g)	Article 86(7)	Article 864	-	

The national provisions in force in the Member States concerning standard rates for irretrievable loss due to the nature of the goods themselves shall be applied where the person concerned fails to show that the real loss exceeds that calculated by application of the standard rate for the goods in question.

## SECTION 2

### FAILURES WHICH HAVE NO SIGNIFICANT EFFECT ON THE CORRECT OPERATION OF THE CUSTOMS PROCEDURE CONCERNED

#### *Article 342-01*

#### **List of failures**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 86(1h)	Article 86(7)	Articles 859, 865(2), 865a, 900(1(a)-(b))	-	

1. The following failures shall be considered to have no significant effect on the correct operation of the customs procedure in question within the meaning of Article 86(1)(h) of the Code:

(a) exceeding a time limit, where the time limit would have been extended had an extension been applied for in time;

(b) in the case of goods placed under a transit procedure, failure to fulfil one of the obligations entailed by the use of that procedure, where one of the following conditions is fulfilled:

- (i) the goods entered for the procedure were actually presented intact at the office of destination within the time limit set under ex-Article 356;
- (ii) the office of destination has been able to ensure that the goods were assigned a customs procedure, destroyed or abandoned to the State at the end of the transit operation;
- (iii) where the time limit set under ex-Article 356 has not been complied with, the goods have nevertheless been presented at the office of destination within a reasonable time.

(c) where goods were initially not placed under a transit procedure but the person concerned informs the customs authorities of the irregularity and the following conditions are fulfilled:

- (i) the goods were part of a consignment placed under the said procedure;
- (ii) for the part of the consignment which was placed under the transit procedure, the holder of the procedure fulfilled his obligations or one of the conditions prescribed under point b) is fulfilled.

(d) in the case of goods placed under the temporary admission procedure, use of the goods otherwise than as provided for in the authorization, provided such use would have been authorized under that procedure if applied for;

(e) in the case of goods placed under a special procedure other than transit, unauthorized movement of the goods, provided the goods can be presented to the customs authorities at their request;

(f) in the case of goods entered for a special procedure, entry of the goods into a free zone without completion of the necessary formalities;

(g) in the case of goods or products referred to in Article 140 of the Code, failure to fulfill one of the conditions under which the movement takes place, where the following conditions are fulfilled:

- (i) the person concerned can demonstrate, to the satisfaction of the customs authorities, that the goods or products arrived at the specified premises or destination and that they have been duly entered in the records of the specified premises or destination, where such entry in the records is required;
- (ii) where a time limit set in the authorisation was not observed, the goods or products nevertheless arrived at the specified premises or destination within a reasonable time.

(h) in the case of goods eligible on release for free circulation for the total or partial relief from import duties referred to in Article 171(1) of the Code, the existence of one of the situations referred to in Article 46 (1) (a) or (c) of the Code while the goods concerned are under a customs procedure before being released for free circulation;

(i) in the case of airline companies authorised to use a simplified transit procedure with the use of an electronic manifest, where the declaration had the effect of wrongly conferring on the goods the customs status of Community goods if, at the initiative or on behalf of the person concerned, these goods are treated in accordance with their status as non-Community goods before the customs authorities find the existence of an irregular situation;

(j) where goods were initially not declared or not correctly declared in the entry summary declaration and the entry summary declaration is amended by the declarant; [*ex Article 865a*]

(k) non-Community goods placed under a customs procedure involving total or partial relief from import duties or goods released for free circulation with favourable tariff treatment by reason of their end-use are stolen, provided that the goods are recovered promptly and placed again in their original customs situation in the state they were in when they were stolen; [*ex-Article 900(1)(a)*]

(l) non-Community goods are inadvertently withdrawn from the customs procedure involving total or partial relief from the said duties under which they had been placed, provided that, as soon as the error is found, they are placed again in their original customs situation in the state they were in when they were withdrawn; [*ex-Article 900(1)(b)*]

(m) any error concerning the data to be provided in the summary declaration or customs declaration provided this error has no impact on the application of import duties or export duties.

2. Where the conditions set out in Article 86(1)(h) of the Code are fulfilled, the goods shall be deemed not to have left the customs procedure under which they were placed at the time when the failure occurred or, in the case of paragraph 1, letter (c) of this Article are deemed to have been placed under a transit procedure.

*Article 342-02*

**Application of penalties**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 86(1h)	Article 86(7)	Article 861	-	

The fact that the customs debt shall be extinguished on the basis of Article 86(1)(h) of the Code shall not preclude the application by Member States of penalties for failure to comply with customs legislation, in accordance with Article 21 of the Code.

**TITLE IV**

**GOODS BROUGHT INTO THE CUSTOMS TERRITORY OF THE COMMUNITY**

CHAPTER 1

*Entry summary declaration*

*Article 410-01*

**Competent customs office, use of a transit declaration**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 87 (3) (d)	Articles 87(3), 105(2)	Articles 183a, 184c, 184d	-	

1. The entry summary declaration referred to in Article 87(1) of the Code shall be lodged at the customs office of entry.

For the purpose of this Title 'customs office of entry' means the customs office where means of transport carrying the goods arrives first in the customs territory of the Community.

2. The customs office entry shall carry out appropriate risk analysis prior to the arrival of the goods, and – in the case of Article 410-03(1)(a) – prior to the time limit laid down therein.
3. The data provided in a transit declaration may be used as an entry summary declaration if the following conditions are met:
  - (a) the goods are brought into the customs territory of the Community under a transit procedure or the transit procedure starts at the customs office of entry;
  - (b) the transit data is exchanged using information technology and computer networks;
  - (c) the data comprises all of the particulars required for an entry summary declaration and
  - (d) the information arrives at the customs office of entry within the deadlines laid down in Article 410-03.

#### **Article 410-02**

#### **Lodging of an entry summary declaration**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 88	Article 183 (2) (b)	Articles 181b, 183, 183b, 183c	Yes	

1. The entry summary declaration shall contain the particulars laid down in Annex 52-01 [ex Annex 30A] and shall be completed in accordance with the explanatory note in that Annex.

The entry summary declaration shall be authenticated by the person making it.

2. The customs authorities shall, under the conditions laid down in paragraph 3, accept a paper-based entry summary declaration in the following cases :
  - (a) where the customs authorities' computerised system is not functioning;

(b) where the electronic application of the person lodging an entry summary declaration is not functioning.

The paper-based entry summary declaration shall be signed by the person making it.

3. In the cases referred to in points (a) and (b) of paragraph 2, the paper-based entry summary declaration shall be made using the Security and Safety Document form, corresponding to the specimen set out in Annex 52-09 [ex Annex 45i]. Where the consignment for which an entry summary declaration is made consists of more than one item of goods, the Security and Safety Document shall be supplemented by a list of items corresponding to the specimen set out in Annex 52-10 [ex Annex 45j]. The list of items shall form an integral part of the Security and Safety Document. In the cases referred to in points (a) and (b) of paragraph 2, the customs authorities may allow the Security and Safety Document to be replaced by, or complemented by, commercial documents provided the documents submitted to the customs authorities contain the particulars laid down for entry summary declarations in Annex 52-01 [ex Annex 30A].
4. The use of a paper-based entry summary declaration referred to in point (b) of paragraph 2 shall be subject to the approval of the customs authorities.

The paper-based entry summary declaration shall be signed by the person making it.

5. Entry summary declarations shall be registered by the customs authorities immediately upon their receipt.
6. The customs authorities shall notify immediately the person who lodged the entry summary declaration of its registration. Where the entry summary declaration is lodged by a person referred to in Article 88(3) of the Code, the customs authorities shall also notify the carrier of the registration, provided that the carrier is connected to the customs system.
7. Where an entry summary declaration is lodged by a person referred to in Article 88(3) of the Code, the customs authorities may assume, except where there is evidence to the contrary, that the carrier has given his consent under contractual arrangements and that the lodging has been made with his knowledge.
8. The customs authorities shall notify immediately the person who lodged amendments to the entry summary declaration of the registration of such amendments. Where the amendments to the entry summary declaration are lodged by a person referred to in Article 88(3) of the Code, the customs authorities shall also notify the carrier, provided that the carrier has requested the customs authorities to send such notifications and is connected to the customs system.
9. In the case of combined transportation, where the active means of transport entering the customs territory of the Community is only transporting another means of transport which, after entry into the customs territory of the Community, will move by itself as an active means of transport, the obligation to lodge the entry summary declaration shall lie with the operator of that other means of transport. The time limit for lodging the entry summary declaration shall correspond to the time limit applicable to the active means of transport entering the customs territory of the Community, as specified in Article 410-03.
10. In the case of maritime or air traffic where a vessel sharing or contracting arrangement is in place, the obligation to lodge the entry summary declaration shall lie with the person



who has undertaken a contract, and issued a bill of lading or air waybill, for the actual carriage of the goods on the vessel or aircraft subject to the arrangement.

11. For the purposes of this Title :

Carrier means: the person who brings the goods, or who assumes responsibility for the carriage of the goods, into the customs territory of the Community, as referred to in Article 88(2) of the Code. However,

- (a) in the case of combined transportation, as referred to in paragraph 9, carrier means the person who will operate the means of transport which, after having been brought into the customs territory of the Community, will move by itself as an active means of transport,
- (b) in the case of maritime or air traffic under a vessel sharing or contracting arrangement, as referred to in paragraph 10, carrier means the person who has concluded a contract, and issued a bill of lading or air waybill, for the actual carriage of the goods into the customs territory of the Community.

#### **Article 410-03**

#### **Deadlines**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 87 (3) (b)	Article 87 (3)	Articles 184a, 184c	-	

1. In the case of maritime traffic the entry summary declaration shall be lodged at the customs office of entry by the following deadlines:
  - (a) for containerised cargo, other than where point (c) or (d) applies, at least 24 hours before loading at the port of departure;
  - (b) for bulk/break bulk cargo, at least four hours before arrival at the first port in the customs territory of the Community;
  - (c) for movement between Greenland, the Faeroe Islands, Ceuta, Melilla, Norway, Iceland or ports on the Baltic Sea, the North Sea, the Black Sea or the Mediterranean, all ports of Morocco, and the customs territory of the Community with the exception of the French overseas departments, the Azores, Madeira and the Canary Islands, at least two hours before arrival at the first port in the customs territory of the Community;
  - (d) for movement, other than where point (c) applies, between a territory outside the customs territory of the Community and the French overseas departments, the Azores, Madeira or the Canary Islands, where the duration of the voyage is less than 24 hours,

at least two hours before arrival at the first port in the customs territory of the Community.

2. In the case of air traffic the entry summary declaration shall be lodged at the customs office of entry by the following deadlines:

(a) for short haul flights, at least by the time of the actual take off of the aircraft;

(b) for long haul flights, at least four hours prior to arrival at the first airport in the customs territory of the Community;

For the purposes of this paragraph, 'short haul flight' means a flight the duration of which is less than four hours from the last airport of departure in a third country till the arrival to the first Community airport. All other flights are considered to be long haul flights.

3. In the case of road, rail and inland waters traffic, the entry summary declaration shall be lodged at the customs office of entry at least two hours prior to arrival at the customs office of entry in the customs territory of the Community.

4. The deadlines referred to in paragraphs 1 to 3 shall not apply where international agreements between the Community and third countries provide otherwise and in cases of force majeure.

5. If the entry summary declaration or the customs declaration replacing is lodged after the deadlines provided for in paragraphs 1 to 3, penalties laid down in the national legislation may be applied.

#### Article 410-04

### Exemption from an entry summary declaration

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 87 (3) (a)	Article 87 (3)	Article 181c	-	

An entry summary declaration shall not be required in respect of the following goods:

(a) electrical energy;

(b) goods entering by pipeline;

(c) letters, postcards, printed matter, including on electronic medium;

(d) goods moved under the rules of the Universal Postal Union Convention;

- (e) goods for which an oral declaration is permitted in accordance with Article 522-4-02 and goods covered by a customs declaration made by any other act in accordance with Articles 522-4-04; this exception does not apply to household effects as defined in Article 2(d) of council Regulation (EC) No 1186/2009, pallets, containers, and means of road, rail, air, sea and inland waterway transport carried under a transport contract;
- (f) goods contained in travellers' personal luggage;
- (g) goods covered by ATA and CPD Carnets;
- (h) goods moved under cover of the form 302 provided for under the Convention between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951;
- (i) goods carried on board authorised regular shipping services;
- (j) weapons and military equipment brought out of the customs territory of the Community by the authorities in charge of the military defence of a Member State, in military transport or transport operated for the sole use of the military authorities;
- (k) the following goods brought into the customs territory of the Community directly from drilling or production platforms operated by a person established in the customs territory of the Community:
  - (i) goods which were incorporated in such platforms, for the purposes of their construction, repair, maintenance or conversion;
  - (ii) goods which were used to fit or equip the said platforms,
  - (iii) provisions used or consumed on the said platforms; and
  - (iv) non-hazardous waste from the said platforms;
- (l) goods in a consignment the intrinsic value of which does not exceed 22 EUR provided that the customs authorities accept, with the agreement of the economic operator, to carry out risk analysis using the information contained in, or provided by, the system used by the economic operator;
- (m) goods entitled to relief pursuant to the Vienna Convention on diplomatic relations of 18 April 1961, the Vienna Convention on consular relations of 24 April 1963 or other consular conventions, or the New York Convention of 16 December 1969 on special missions;
- (n) goods which are supplied for incorporation as parts of or accessories in vessels and aircrafts, motor fuels, lubricants and gas necessary for the operation of the vessels or aircraft, foodstuffs, and other items to be consumed or sold on board;
- (o) goods dispatched from Helgoland, San Marino and the Vatican to the customs territory of the Community.

**Article 410-05**

**Expiry of the entry summary declaration**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 89	Article 89 (2)	Article 183(9)	-	

1. Where goods subject to an entry summary declaration have, after a period of 150 days from the date of lodging the said entry summary declaration, not been presented to customs, the entry summary declaration shall be deemed to be invalid.
2. Where goods covered by such an invalid entry summary declaration arrive nevertheless in the customs territory of the Community, a new entry summary declaration shall be lodged. In such a case the deadline of Article 410-03 (1) (a) shall not apply.

CHAPTER 2

*Arrival of goods*

SECTION 1

ENTRY OF GOODS INTO THE CUSTOMS TERRITORY OF THE COMMUNITY

**Article 421-01**

**Notification of arrival of a vessel or aircraft**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 92	Articles 88 (4), 183(2)(c)	Articles 183d, 184g	Yes	

1. The operator of a vessel or aircraft entering the customs territory of the Community shall notify to the customs office of entry the arrival of the means of transport. The notification of arrival shall contain the particulars necessary for the identification of the entry summary declaration lodged in respect of all the goods carried on that means of transport. Wherever possible, available methods of notification shall be used.
2. Where an active means of transport entering the customs territory of the Community is to arrive first at a customs office located in a Member State that was not declared in the entry summary declaration, the operator of this means of transport or his representative shall inform the declared customs office of entry by way of a 'diversion request' message. This message shall contain the particulars laid down in Annex 52-01 [ex Annex 30A] and shall be completed in accordance with the explanatory notes in that Annex.

The declared customs office of entry shall immediately notify the actual customs office of entry of the diversion and of the results of the safety and security risk analysis.

3. Where, in case of diversion, a primary means of transport does not arrive first at the customs office of entry originally foreseen, the operator of this means of transport shall inform the declared customs office of entry by way of a "diversion request" message. This message shall conform to the structure and the particulars defined in Annex XXX. A "diversion request" message is not required in cases where a vessel or aircraft first calls at a port or airport initially declared as a subsequent port or airport.

## SECTION 2

### PRESENTATION, UNLOADING AND EXAMINATION OF GOODS

#### *Article 422-01*

#### **Presentation of goods to customs, when the goods are brought into the customs territory of the Community by sea or air**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 95	Article 183 (2) (b)	Article 189	-	

Where goods are brought into the customs territory of the Community by sea or air, they shall be presented to customs, within the meaning of Article 95 of the Code, only at the port or airport where they are unloaded or transhipped.

However, such presentation shall not be required where goods are unloaded and reloaded onto the same vessel or aircraft during its current voyage in order to enable the unloading or loading of other goods.

SECTION 3

FORMALITIES AFTER PRESENTATION

**Disclaimer:** NO IPs foreseen.

SECTION 4

GOODS MOVED UNDER A TRANSIT PROCEDURE

**Disclaimer:** NO IPs foreseen.

TITLE V

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

CHAPTER 1

*Customs status of goods*

SECTION 1

GENERAL PROVISIONS

**Article 511-01**

**Definitions**

MCC	MCC empowering	Current IP	Annex	Adoption
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<b>implemented provision</b>	<b>provision</b>	<b>provision</b>		<b>procedure</b>
Articles 101, 103	Articles 101(2)(b), 103	Articles 313a, 314	-	

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

1. *'single transport document'* means a transport document issued in a Member State covering the carriage of the goods from the point of departure in the Community to the point of destination in the Community under the responsibility of the carrier issuing the document,
2. *'regular shipping service'* means a duly authorised regular service which carries goods in vessels that ply only between ports situated in the customs territory of the Community and may not come from, go to or call at any points outside this territory or in a free zone of a port in this territory,
3. *'territory'* means the territory of a country including the internal waters but excluding its territorial waters or airspace.

#### **Article 511-02**

#### **Presumption of Community status**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 101	Articles 93(2), 101, 103	Article 313	-	

1. The following shall not be deemed to be Community goods unless it is established in accordance with Section 3 that they do have Community status:

(a) goods brought into the customs territory of the Community in accordance with Article 92 of the Code;

(b) goods placed under any of the special procedures with the exception of the internal transit and the end-use procedures.

2. By way of derogation from point (a) of paragraph 1, goods brought into the customs territory of the Community shall be deemed to be Community goods unless it is established that they do not have Community status:

- where, if carried by air, the goods have been loaded or transhipped at an airport in the Community customs territory, for consignment to another airport in the customs territory of

the Community, provided that they are carried under cover of a single transport document drawn up in a Member State,

- where, if carried by sea, the goods have been shipped between ports in the Community customs territory by a regular shipping service authorized in accordance with Article 512-01.

### **Article 511-03**

#### **Conditions for establishing Community status**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 101	Articles 101	Article 314	-	

11. Where goods are not deemed to be Community goods within the meaning of Article 511-02, their Community status may be established in accordance with Article 513-02 (1) provided that one of the following conditions is met:

(a) they have been brought from another Member State without crossing a territory outside the customs territory of the Community on the way;

(b) they have been brought from another Member State through a territory outside the customs territory of the Community, and are carried under cover of a single transport document;

(c) they have been transhipped outside the customs territory of the Community on a means of transport other than that onto which they were initially loaded and a new transport document has been issued, provided that the new document is accompanied by a copy of the original single transport document.

### **Article 511-04**

#### **Administrative assistance**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 122	Articles 122	Article 314a	-	



The customs authorities of the Member States shall assist one another in checking the authenticity and accuracy of the proofs referred to in Article 513-02 and in verifying that the procedures used in accordance with the provisions of this Title to prove the Community status of goods have been correctly applied.

## SECTION 2

### REGULAR SHIPPING SERVICE

#### Article 512-01

#### Authorisation

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 103	Articles 103	Article 313b	-	

1. A shipping company may be authorized to establish regular shipping services following an application to the customs authorities of the Member State in whose territory that company is established or, failing this, in whose territory it has a regional office, provided that the conditions of this Article are fulfilled.

2. An authorization shall be granted only to shipping companies which:

(a) whose records will be available to the competent customs authorities;

(b) fulfills the conditions laid down in Article 14h, with the exception of paragraph (c), and Article 14(i);

(c) define the regular shipping service, i.e. determine the vessel(s) to be used for the regular shipping service and specify the ports of call;

(d) undertake:

- that on the routes of the regular shipping service, no calls will be made at any port in a territory outside the customs territory of the Community or at any free zone in a port in the customs territory of the Community, and that no transhipments will be made on the high seas;

- to register the names of the vessels assigned to the regular shipping service and the ports concerned with the authorizing authority.

3. Where the shipping company holds an AEO certificate referred to in point (a) or (c) of Article 14a(1), the requirements in paragraph 2 letters (a) and (b) shall be deemed to be met.

4. When they receive an application for authorization, the customs authorities of the Member State to whom the application has been made (the authorizing authorities) shall notify the customs authorities of the other Member States (the corresponding authorities) through the electronic information and communication system referred to in Article 14x once it is available for this purpose.

Within 45 days of receipt of such notification, the corresponding authorities may refuse the application on the basis that the condition of paragraph 2 letter b is not met and communicate the refusal through the electronic information and communication system referred to in Article 14x once it is available for this purpose. The corresponding authority shall indicate the grounds and corresponding legal provisions relating to the offence committed. In that case, the authorizing authority shall not issue the authorization and shall state the reasons for the refusal.

Where no reply is received, the authorizing authority shall issue an authorization which shall be accepted by the other Member States concerned. The authorization shall be stored in the electronic information and communication system referred to in Article 14x once it is available for this purpose.

5. Once a regular shipping service has been authorized, the shipping company concerned shall be required to use it for the vessels that he registered for that purpose.

6. The shipping company shall inform the authorizing authority of any factor arising after the authorisation was granted which may influence its continuation or content.

Where an authorisation is withdrawn by the authorizing authority or at the request of the shipping company, the authorizing authority shall notify the corresponding authorities using the electronic information and communication system referred to in Article 14x once it is available for this purpose..

7. When a vessel registered to a regular shipping service is forced by circumstances beyond its control to tranship at sea or temporarily put into a port outside the customs territory of the Community or a free zone of a port in the customs territory of the Community, the shipping company shall immediately inform the customs authorities of the subsequent ports of call along the vessel's scheduled route.

#### **Article 512-02**

#### **Vessel registration**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 103	Articles 103	Article 313b	-	

1. The shipping company authorized to establish regular shipping services shall communicate to the authorizing authority:

- (a) the names of the vessels assigned to the regular shipping service;
- (b) the ports concerned;
- (c) any amendments to the information referred to under points (a) and (b).

2. The authorizing authority registers the regular shipping service and the information provided in accordance with paragraph 1 in the [electronic information and communication system referred to in Article 14x] [database XX] accessible to all customs authorities operating in ports located in the customs territory of the Community.

The registration becomes effective immediately.

**Article p.m.**

**Certificate**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 103	Articles 103	Article 313b	Yes	

Until the electronic information and communication system referred to in Article 14x is available for the purposes of Articles 512-01 and 512-02 the authorizing authority shall issue an authorization certificate, in one or more copies as required and conforming to the model set out in Annex ex-42 A and shall inform the corresponding authorities of the other Member States concerned. Each authorization certificate shall bear a serial number by which it can be identified. All copies of each certificate shall bear the same number.

**Article 512-03**

**Verification and administrative assistance**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 103	Articles 103	Article 313a	-	

The customs authorities may require proof that the provisions on authorized regular shipping services have been observed.

Where the customs authorities establish that these provisions have not been observed, they shall immediately inform all the customs authorities concerned, through the electronic information and communication system referred to in Article 14x, so that they can take the measures required.

### SECTION 3

#### PROOF OF COMMUNITY STATUS

##### SUBSECTION 1

##### GENERAL PROVISIONS

##### *Article 513-01*

##### **Definition**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 101(2)(b)	Article 101(2)(b)	Article 314b	-	

For the purposes of this Section, 'competent office' means the customs authorities responsible for certifying the Community status of goods.

##### *Article 513-02*

##### **Means of proof of Community status**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>

Articles 101, 145	Articles 101, 145	Articles 314, 314c	-	
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1. Proof that the goods have Community status may be established solely by one of the following means:

(a) by the transit declaration data of goods placed under internal transit. In that case Article 511-03 does not apply;

(b) by the proof provided for in Article 513-03, Article 513-07 or 513-16;

(c) in accordance with the rules laid down in Articles 513-08 to 513-11;

(d) by the excise declaration data referred to in Commission Regulation (EEC) No 2719/92;

(e) by the label provided for in Article 721-24;

(f) by the data provided for in Article 812 certifying the Community status of the goods;

2. Where the proof referred to in paragraph 1 is used for Community goods with packaging not having Community status, the proof certifying the Community status of the goods shall include the following:

- N packaging – [code xxxxx]

3. Subject to the conditions for issuing the proof being met, the proof referred to in Articles 513-03 to 513-11 may be issued retroactively. Where this is the case, it shall include the following phrase:

- Issued retroactively – [code xxxxxx]

4. The means referred to in paragraph 1 shall not be used in respect of goods for which a declaration placing the goods under the export or outward processing procedure has been lodged.

### **Article 513-03**

#### **Contents of proof of Community status**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 101	Article 101	Articles 315-317	Yes	

1. A proof of Community status shall contain the symbol 'T2L', or, for Community goods consigned between parts of the customs territory of the Community where Council Directive

2006/112/EC does not apply or between parts of the customs territory of the Community where these provisions apply in one part but not in the other part, the symbol 'T2LF'.

2. The request for a proof shall be made by means of a data-processing technique and shall comply with the structure and particulars set out in Annex xx, letter A. It shall contain an electronic signature or other means of authentication of the consignor or of the person concerned.

3. The competent office shall endorse the proof by communicating the registration number of the proof to the consignor or the person concerned.

4. The proof shall be valid for 90 days from the date of endorsement by the competent authorities. At the request of the consignor or of the person concerned, and for duly justified reasons, the competent authorities may set a longer period of validity when they endorse the proof or, on request, subsequently.

5. Endorsement of the proof by the competent office is not required provided that:

- the total value of the Community goods covered by the proof does not exceed EUR 10 000;
- contains the data referred to in paragraph 1 and 2;
- includes the particulars of the competent office;
- the proof relates exclusively to Community goods.

#### Article 513-04

#### Status accompanying document

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Articles 101	Articles 101	none	Yes	

1. [The consignor or the person concerned shall communicate the registration number of the proof to the customs office requiring a proof for the goods presented.] (*first option*)

[The competent office where the proof is endorsed shall transmit the proof to the declared customs office where the goods are to be presented.] (*second option*)

2. At his request, a status accompanying document corresponding to the specimen and particulars in Annex x may be given by the competent office to the consignor or the person concerned, or, where authorised by the competent authorities, it is printed out from the computer system of the consignor or the person concerned.

3. Where appropriate, the status accompanying document shall be supplemented by a list of items corresponding to the specimen and notes in Annex x. That list shall form an integral part of the status accompanying document.

[4. Where the goods are presented at another customs office than that declared initially in the proof, the new customs office shall retrieve the proof on the basis of the registration number. (*second option*)]

#### Article 513-05

#### Proof of Community status made in writing

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Articles 101	Articles 101	none	Yes	

1. The customs authorities shall accept a proof made in writing on a form corresponding to the specimen set out in Annex ex-31 or ex-Annex 43, *as appropriate*, where the fallback procedure is implemented, under the conditions and according to the methods defined in Annex [new].

2. The use of a written proof by persons other than travellers shall be subject to the approval of the customs authorities.

#### Article 513-06

#### Proof of Community status for travellers

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Articles 101	Articles 101	none	Yes	

1. The traveller shall either:

- request a proof in accordance with Article 513-03 (1) and (2);

- submit for endorsement a proof made in writing on a form corresponding to the specimen set out in Annex ex-31 when he has no direct access to the customs' computerised system.

2. The competent authorities shall ensure that the data of the proof are [transmitted to the declared customs office where the goods are to be presented using information technology and computer networks] [entered in the computerised system and shall communicate the registration number of the proof to the traveller].

3. The competent authorities shall give the traveller a status accompanying document.

**Article 513-07**

**Proof of Community status in TIR or ATA carnets**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 101	Articles 101,145	Article 319	-	

Where goods are transported in accordance with the TIR Convention or the ATA Convention/Istanbul Convention, the declarant may, with a view to proving the Community status of goods, include the symbol 'T2L' or 'T2LF', as appropriate, in the TIR or ATA carnet data for the description of goods and in the TIR carnet or the ATA carnet in the space reserved for the description of goods, together with his signature, on all the relevant vouchers of the carnet used before presenting it to the office of departure for authentication.

On all the vouchers in the TIR carnet or the ATA carnet where it has been entered, the symbol 'T2L' or 'T2LF', as appropriate, shall be authenticated with the stamp of the office of departure accompanied by the signature of the competent official.

Where the TIR carnet or the ATA carnet cover both Community goods and non-Community goods, those two categories of goods shall be shown separately, and the symbol 'T2L' or 'T2LF', as appropriate, shall be entered in the description of goods in such a way that it clearly relates only to the Community goods.

**Article 513-08**

**Proof of Community status of motorized road vehicles**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 101	Articles 101	Article 320	-	



If it is necessary to establish the Community status of motorized road vehicles registered in a Member State, such vehicles shall be considered to have Community status:

(a) where they are accompanied by their registration plates and documents and the registration particulars shown on the said plates and documents unambiguously establish their Community status;

(b) in other cases, in accordance with Articles 513-03 to 513-07.

#### **Article 513-09**

#### **Proof of Community status of railroad wagons**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 101	Articles 101	Article 321	-	

If it is necessary to establish the Community status of goods wagons belonging to a railway company established in a Member State, such wagons shall be considered to have Community status:

(a) where the code number and Member State country code number displayed on them unambiguously establish their Community status;

(b) in other cases, on presentation of one of the documents referred to in Articles 513-03 to 513-07.

#### **Article 513-10**

#### **Proof of Community status of packaging**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 101	Articles 101	Article 322	-	

1. If it is necessary to establish the Community status of packaging used for the transport of goods which can be identified as belonging to a person established in a Member State; the packaging shall be considered to have Community status:

(a) where they are declared as Community goods and there is no doubt as to the veracity of the declaration;

(b) in other cases, in accordance with Articles 513-03 to 513-07.

2. The facility provided for in paragraph 1 shall be granted for receptacles, packings, pallets and other similar equipment, excluding containers.

#### **Article 513-11**

#### **Proof of Community status of goods in passenger-accompanied baggage**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 101	Articles 101	Article 323	-	

If it is necessary to establish the Community status of goods in passenger-accompanied baggage, the goods, provided that they are not intended for commercial use, shall be considered to have Community status:

(a) where they are declared as Community goods and there is no doubt as to the truthfulness of the declaration;

(b) in other cases, in accordance with Articles 513-03 to 513-07.

### SUBSECTION 2

#### PROOF OF COMMUNITY STATUS OF GOODS PROVIDED BY AN AUTHORISED CONSIGNOR

#### **Article 513-12**

#### **Authorised consignor**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 101	Articles 101	Article 324a	-	

1. Any person, hereinafter referred to as ‘authorised consignor’, who satisfies the requirements of Article 722-27 may be authorised by the competent office to establish the proof of Community status of goods referred to in Article 513-03 without having to request an endorsement of the proof from the competent office.

2. He shall transmit that proof to the customs office where he is established which will forward that proof to the declared customs office where the goods are to be presented.

3. The provisions of Articles 722-28 to 722-32 shall apply, *mutatis mutandis*, to the authorisation referred to in paragraph 1.

### **Article 513-13**

#### **Authorisation**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 101	Articles 101	Article 324b	-	

The authorisation referred to in Article 513-12 (1) shall specify, in particular:

- (a) the office assigned for controlling the authorised consignor;
- (b) the manner in which the authorised consignor shall establish that the proofs have been properly established;
- (c) the excluded categories or movements of goods;
- (d) the period within which and the manner in which the authorised consignor shall notify the competent office in order to enable it to carry out any necessary controls before departure of the goods.

### **Article 513-14**

#### **Additional content of the proof**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 101	Articles 101	Article 324c	-	

The authorisation shall stipulate that the proof must contain the name of the competent office, the date of issue of the proof, the authorisation number of the authorised consignor and the mention:

- Authorised consignor [code xxxx]

#### **Article 513-15**

#### **Records**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 101	Articles 101	Article 324d	-	

The authorised consignor shall keep for at least three years a copy in electronic form [or a copy of the status accompanying document] of each proof established by him. The customs authorities shall specify the conditions under which the copy shall be presented for purposes of customs control.

### SUBSECTION 3

#### SPECIFIC PROVISIONS CONCERNING PRODUCTS OF SEA-FISHING AND OTHER PRODUCTS TAKEN FROM THE SEA BY BOATS

#### **Article 513-16**

#### **Definitions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 101	Articles 101	Article 325	-	

For the purposes of this Subsection:

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

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

**Article 513-17**

**Scope**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 101	Articles 101	Article 325	-	

1. A proof of Community status containing the symbol 'T2M', made out in accordance with Article 513-19 shall be produced to prove the Community status:

(a) of the products of sea-fishing caught by a Community fishing vessel, in waters other than the territorial waters of a country or territory outside the customs territory of the Community;

(b) of the goods obtained from such products on board that vessel or a Community factory ship, in the production of which other products having Community status may have been used,

which may be in packaging having Community status and are to be brought into the customs territory of the Community in the circumstances set out in Article 513-18.

2. The customs authorities which are responsible for the port where products and/or goods are landed from the Community fishing vessel which caught the products and, where applicable, processed them may waive the requirement of a proof 'T2M' where;

(a) there is no doubt about the origin of those products and/or goods;

(b) the Master of the vessel has submitted the necessary landing declaration as required by Article 8 (1) of Council Regulation (EEC) No 2847/93, where applicable

3. Proof of the Community status must be provided by means of the logbook or any other means which establishes the said status for:

(a) the products of sea-fishing and other products taken or caught in waters other than the territorial waters of a country or territory outside the customs territory of the Community by vessels, other than defined in Article 513-16(1), flying the flag of a Member State and listed

or registered in a part of a Member State's territory forming part of the customs territory of the Community;

(b) the sea-fishing products and other products taken or caught in the territorial waters within the customs territory of the Community by vessels of a non-member country.

#### **Article 513-18**

##### **Presentation**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 101	Articles 101	Article 326	-	

The proof 'T2M' shall be presented in respect of the products and goods referred to in Article 513-17(1) which are transported directly to the customs territory of the Community:

(a) by the Community fishing vessel which caught the products and, where applicable, processed them; or

(b) by another Community fishing vessel or by the Community factory ship which processed the products following their transshipment from the vessel referred to in point (a); or

(c) by any other vessel onto which the said products and goods were transhipped from the vessels referred to in points (a) and (b), without any further changes being made; or

(d) by a means of transport covered by a single transport document made out in the country or territory not forming part of the customs territory of the Community where the products or goods were landed from the vessels referred to in points (a), (b) and (c).

Thereafter the proof may no longer be used as proof of the Community status of the products or goods to which it refers.

#### **Article 513-19**

##### **Proof of Community status**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article ?	Article ?	Article ?	-	

1. The proof of Community status referred to in Article 513-17(1) shall be provided by means of the logbook and transshipment data transmitted by electronic means in accordance with Commission Regulation (EC) No 1077/2008.

The logbook and transshipment data shall include the symbol 'T2M', the products of sea-fishing (name and type) and their gross mass (kg) and, where appropriate, the goods obtained from the products of sea-fishing (kind) with their CN code and gross mass (kg).

2. In case of transshipment the logbook shall record the name, flag, registration number and full name of the master of the vessel onto which the products and/or goods were transhipped (receiving vessel) and indicate where the logbook of the receiving vessel has recorded the transshipment.

The receiving vessel shall present either a proof referred to in Article 513-17(1) or 517-17(3), as appropriate. The proof will include a reference to the name, flag, registration number and full name of the master of the vessel from which the products and/or goods were transhipped.

3. Where the catch or goods have gone to a country or territory not forming part of the customs territory of the Community before being shipped to that territory, a certification by the customs authority of the country or territory not forming part of the customs territory of the Community must be presented for the catch or goods on their entry into the customs territory of the Community.

The certification referred to in the first subparagraph must be endorsed by the customs authority and contain the date of arrival in and of departure from the country or territory not forming part of the customs territory of the Community of the products/goods, the means of transport used for reconsignment to the customs territory of the Community and the full address of the customs office.

## CHAPTER 2

### *Placing goods under a customs procedure*

#### SECTION 1

##### GENERAL PROVISIONS

##### SUBSECTION 1

##### COMPETENT CUSTOMS OFFICES

##### **Article 521-1-01**

##### **Competent customs office for lodging a customs declaration**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 105	Article 105(2)(b)	Articles 201, 789, 790, 791, 794 IP (Article 161(5) CC)		

1. Without prejudice to paragraph 5, the customs declaration shall be lodged with the customs office responsible for the place where the goods were, or are to be, presented to customs in accordance with the customs legislation.

2. The customs declaration for release for free circulation or for a special procedure, with the exception of transit or outward processing, shall be lodged with the customs office of import.

3. The customs declaration for transit shall be lodged at the customs office of departure.

4. The customs declaration for export or outward processing shall be lodged with the customs office responsible for supervising the place where the exporter is established or where the goods are packed or loaded for export shipment, except in the following cases:

- in duly justified circumstances, in which case the declaration may be lodged at another customs office;



- where, for administrative reasons, the declaration must be lodged at a different customs office in the Member State concerned which is competent for the operation in question;
- in cases involving sub-contracting, the declaration may be lodged at the customs office responsible for the place where the subcontractor is established;
- in cases where the exporter has been authorised to lodge the customs declaration at the customs office of exit;
- for goods not exceeding 3000 Euros in value per consignment and per declarant which are not subject to prohibitions or restrictions, the declaration may be lodged at the customs office of exit;
- in cases of oral declarations, the declaration shall be made at the customs office of exit.

5. If the declarant or his representative is holder of an authorisation for centralised clearance, entry in the records or self-assessment, the customs declaration shall be lodged or made available at the supervising customs office.

6. The declaration for temporary admission or re-exportation for goods covered by an ATA or CPD Carnet may be lodged with the customs office of entry or exit, respectively.

7. In cases of oral declarations and customs declarations made by any other act in accordance with [Articles 522-4-01 to 522-4-05], the customs office responsible for supervising the place where that act occurs shall be competent.

8. For postal traffic the competent customs offices for lodging a customs declaration are determined by the Member States.

## SUBSECTION 2

### CENTRALISED CLEARANCE

#### *Article 521-2-01*

#### **Application for, and granting of, an authorisation**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 106	Articles 106(4)(a)-(h)	-	Yes	

1. The data elements to be furnished by the applicant for the granting of the authorisation are those in [ex Annex 67].

2. Without prejudice to the conditions relating to the application for customs procedures:

(a) the authorisation for centralised clearance shall be granted provided that the conditions and criteria laid down for AEOC or AEOF Certificates referred to in [Article 123-01] are fulfilled;

(b) where the applicant holds an AEOC or AEOF Certificate referred to in [Article 123-01], the conditions and criteria referred to in point (a) are deemed to be fulfilled.

3. The holder of the authorisation shall comply with the conditions, criteria and obligations resulting from the authorisation, without prejudice to the obligations of the declarant, and the rules governing the incurrance of a customs debt. Any other procedural provision applicable to the authorisation of AEOC Certificate referred to in [Article 123-01] shall apply mutatis mutandis to the authorisation for centralised clearance.

#### **Article 521-2-02**

#### **Procedures for which centralised clearance may be authorised**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 106 (4a)	Article 106 (4)	-		

Centralised clearance may be authorised for the following:

- release for free circulation,
- end-use,
- export,
- re-export, in cases where the provisions concerning the lodging of a customs declaration are applicable,
- outward processing,
- inward processing,
- customs warehousing,
- temporary admission.

**Article 521-2-03**

**Information exchange**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 10 and 106	Articles 10 (1) and 106 (4) (g)	-	Yes	

1. An electronic system for the exchange of information between the supervising customs office and the customs office at which the goods are presented, hereafter "the presentation customs office", shall be used.

2. The supervising customs office accepts the customs declaration in accordance with Article 112 (1) of the Code and inform the presentation customs office either that the goods can be released for the procedure concerned or of any control required, as well as the data referred to in [ex-Annex 30A, Table 7].

3. The presentation customs office shall inform the supervising customs office and the holder of the goods that the goods have been released. The supervising customs office shall inform the declarant.

4. In case the supervising customs office requests an examination or when the presentation customs office decides, in accordance with Article 106 (3) of the Code, to carry on its own controls for security and safety purposes, the presentation customs office shall inform the supervising customs office of the results of the examination. Based on these results, the supervising customs office shall either grant release of the goods or request measures to be taken. Where an examination is required, the customs office that decided such examination shall inform the declarant.

**SUBSECTION 3**

**ENTRY INTO THE RECORDS**

**Article 521-3-01**

**Application for, and granting of, an authorisation for entry in the records**

<b>MCC implemented</b>	<b>MCC empowering</b>	<b>Current IP</b>	<b>Annex</b>	<b>Adoption</b>
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<b>provision</b>	<b>provision</b>	<b>provision</b>		<b>procedure</b>
Article 107 (1)	Article 107(3)	-	Yes	

1. The data elements to be furnished by the applicant for the granting of the authorisation are in [ex-Annex 67].

2. Without prejudice to the conditions relating to the application for customs procedures:

(a) the authorisation for entry in the records shall be granted provided that the conditions and criteria laid down for AEOC or AEOF Certificates referred to in [Article 123-01] are fulfilled;

(b) where the applicant holds an AEOC or AEOF Certificate referred to in [Article 123-01], the conditions and criteria referred to in point (a) are deemed to be fulfilled.

3. The holder of the authorisation shall comply with the conditions, criteria and obligations resulting from the authorisation, without prejudice to the obligations of the declarant, and the rules governing the incurrance of a customs debt. Any other procedural provision applicable to the authorisation of AEOC Certificate mentioned in [Article 123-01] shall apply mutatis mutandis to the authorisation for entry in the records.

4. The holder of the authorisation shall make available to the supervising customs office the particulars of the customs declaration in the form and within the time-limits prescribed in the authorisation. Article 9 (2) of the Code shall apply.

#### **Article 521-3-02**

### **Guarantee**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 107 (1)	Article 107(3)	-		

The granting of an authorisation for entry in the records shall be conditional on the provision of a comprehensive guarantee in accordance with Article 62 of the Code insofar as import or export duties and other charges are at stake.

#### **Article 521-3-03**

### **Conditions and procedure**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 107 (1)	Article 107(3)	-		

1. Entry in the records may be authorised for the following:

- release for free circulation,
- transit by pipeline and wires,
- customs warehousing,
- temporary storage,
- specific use,
- processing,
- export,
- re-export in cases where the provisions concerning the lodging of a customs declaration are applicable.

2. The authorisation holder shall:

- (a) enter the particulars of a standard or simplified customs declaration and any supporting documents in the records;
- (b) enter the place and the date at which the goods are available for controls;
- (c) notify the supervising customs authorities, where requested, of the availability of the goods for controls;
- (d) have a secure system showing who has accessed the records, when, and what operations were performed.

3. Except where the authorisation has specified that entry in the records shall be deemed be equivalent to the release of the goods, the supervising customs office shall notify the authorization holder of the release of the goods.

4. The authorisation shall specify:

- (a) the supervising customs office;
- (b) the arrangements for the presentation of the goods;
- (c) the arrangements for the notification of release and for the practical release of the goods;

(d) if applicable, the conditions for a waiver of the obligation for the goods to be presented or to be made available for customs control;

(e) if applicable, the arrangements whereby the notification of release mentioned in point b) is considered have been issued after the expiry of a time-limit counted from the moment of the notification of the arrival or forthcoming departure of the goods;

(f) if applicable, the goods covered by the authorisation;

(g) if applicable, the way of transmission of all information to the customs authorities to enable the exchange of data between customs offices;

(h) the conditions for access to the declarant's records by the customs authorities;

(i) if applicable, the recapitulative data that the declarant must send to the supervising customs office and its periodicity.

5. On request of the supervising customs office, the authorisation holder shall make available to that office a customs declaration entered in the records

#### **Article 521-3-04**

#### **Cases where entry in the records is excluded**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 107 (1)	Article 107(3)	-		

Customs authorities may not authorise applications for entry in the records in the following situations:

- customs declarations which contain an application for a special procedure according to **[Article 710-02]** or for a tariff quota,

- customs declarations for which the Customs authorities must check restrictions and prohibitions prior to the release of the goods in accordance with specific provisions related to international trade in goods,

- where centralised clearance is used, if the supervising and presentation customs office are in two different Member States and it is not possible for the supervising customs office to inform the presentation customs office of the data referred to in **[Article 521-2-03 (2)]**.

## SECTION 2

### STANDARD CUSTOMS DECLARATIONS

#### SUBSECTION 1

#### GENERAL PROVISIONS AND REQUIREMENTS

##### *Article 522-1-01*

##### General provisions

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 108, 151	Articles 108(1),(4), 151	Articles 198, 202(1), 205(5), 213, 271, 290c	-	

1. Where in Community legislation, reference is made to a customs declaration, Member States may not require any electronic messages or administrative documents other than those which are:
  - expressly created by Community acts or provided for by such acts,
  - required under the terms of international conventions compatible with the Treaty,
  - required from operators to enable them to qualify, at their request, for an advantage or specific facility,
  - required, with due regard for the provisions of the Treaty, for the implementation of specific provisions which cannot be implemented solely by the use of the standard customs declaration.
2. The customs declaration shall be lodged with the relevant national computer system during the time periods appointed by Member States for its operation. The customs authorities shall determine the means of providing electronic signatures or other means of authentication of the person lodging the declaration.
3. Where a customs declaration covers two or more items, the data requirements relating to each item shall be regarded as constituting a separate declaration, except where goods are classified under a single CN or TARIC code, in particular in the case of

- component parts of industrial plant classified under a single CN Code;
- removals of household effects classified under a single CN code, and
- consignments declared in accordance with Article 115 of the Code.

This exception does not apply to cases where specific goods contained in a consignment covered by a single CN or TARIC code require a separate customs treatment.

4. No customs declaration for temporary storage shall be required in cases where at the latest two hours following presentation of the goods, a customs declaration for another customs procedure is lodged or as proof of Community status is presented.

#### **Article 522-1-02**

#### **Data requirements**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 108 (1)	Article 108 (1) (4)	Article 213	Yes	

1. The information and codes to be entered in the customs declaration are listed in Annex 52-01 [ex Annexes 37 and 38].
2. The Member States shall notify the Commission of the list of data they require for each of the procedures referred to in [ex Annex 37] and of the list of national procedure codes, national documents, certificates and additional information codes and national tax type codes. The Commission shall publish the list of those data requirements and codes on its website.

#### **Article 522-1-03**

#### **Language**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 108 (1)	Article 108 (1),(4)	Article 211	-	

1. The non-coded parts of the customs declaration may be drawn up in a language which is acceptable to the Member State of the customs office with whom the customs declaration is lodged.
2. If necessary for the purposes of a control of the goods, the customs authorities of the Member State of destination may require from the declarant or his representative in that



Member State a translation of the non-coded parts of the declaration into a language which is acceptable to the latter. The translation shall replace the corresponding data in the declaration in question.

**Article 522-1-04**

**Special fiscal territories**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 108	Article 180 1(3)	Article 206	-	

The electronic messages for standard customs declarations and the fallback rules referred to in Articles 522-3-01 to 522-3-06 shall also be used in cases where customs formalities are required in trade in Community goods between parts of the customs territory of the Community to which the provisions of Council Directive 2006/112/EC apply and parts of that territory where those provisions do not apply, or in trade between parts of that territory where those provisions do not apply.

**SUBSECTION 2**

**SUPPORTING DOCUMENTS**

**Article 522-2-01**

**Supporting documents**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 108 (2)	Article 108 (4)	Articles 200, 218	-	

1. In cases where documents are required in accordance with the provisions of the customs procedure indicated in the customs declaration or in accordance or by any other provisions in force, such documents shall be available for submission, on request, to the customs authorities at the time of lodgement of the customs declaration.

2. Without prejudice to provisions laid down for specific customs procedures, documents needed in support of the customs declaration shall be referred to in that declaration and kept on file by the declarant. For the purpose of customs controls resulting from risk analysis, including random selection, or where they are required to be authenticated or processed by the customs authorities, they shall be made available to the customs authorities either by access to the economic operator's computer system, or, where this is not possible, by submission in a way acceptable by the customs authorities. Such access or submission may take place after the release of the goods.

**Article 522-2-02**

**Non-availability of the supporting documents**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 108 (3) (2nd subparagraph)	Article 108 (4)	Article 253-289	-	

1. In duly justified circumstances, the customs authorities may, in accordance with Article 108 (3), second subparagraph, of the Code, accept a standard customs declaration for which one or more of the supporting documents are not available at the time when the declaration is lodged. Any supporting document that is not available shall be indicated in the customs declaration by referring to the respective identification code.
2. If the supporting document in question is required by the provisions in force for the release of the goods for the procedure concerned, the standard customs declaration shall only be accepted once it is established, to the satisfaction of the customs authorities, that:
  - (a) the document concerned exists and is valid,
  - (b) it could not be made available to customs for reasons beyond the declarant's control, and
  - (c) the number of the supporting document concerned is referred to in the customs declaration.
3. Where the future communication of the availability of the supporting documents cannot affect the amount of duties to which the goods covered by the customs declaration are liable, the customs authorities shall immediately determine the amount of duties payable in the usual manner. Otherwise, Article 523-2-02 shall apply *mutatis mutandis*.
4. Where the customs declaration, for which one or more of the supporting documents are not available at the time when the declaration is lodged, contains a provisional indication of the customs value, the customs authorities shall:
  - immediately determine the amount of duties on the basis of this indication, and
  - request, if necessary, the lodging of a guarantee adequate to cover the difference between that amount and the amount to which the goods may ultimately be liable.
5. The declarant may, instead of lodging a guarantee, request the immediate notification of the amount of duties to which the goods may ultimately be liable.
6. If, at the expiry of the time limit referred to in Article 522-2-03, the missing supporting document has not been communicated or made available, the customs authorities shall

immediately notify as duties to which the goods in question are subject the amount of the guarantee provided in accordance with the paragraph 4.

**Article 522-2-03**

**Time limit for the communication of the availability of the supporting documents**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 108 (3) (2nd subparagraph)	Article 108 (4)	Articles 253-289	-	

1. In the cases referred in Article 522-2-02, the customs authorities shall, in accordance with the following paragraphs, determine the time limit for the communication of the availability of the supporting documents.
2. The time limit for the communication referred in paragraph 1 shall not exceed one month from the date of acceptance of the standard customs declaration.

Where the supporting document concerned is necessary for the application of a reduced or zero rate of duty or a duty exemption and the customs authorities have good reason to believe that the goods covered by the standard customs declaration may qualify for such duty benefit, a time limit longer than provided for in the first subparagraph may, at the declarant request, be granted for the communication of the availability of the supporting document if justified by the circumstances. That time limit shall not exceed four months from the date of acceptance of the customs declaration.

3. Where a reduced rate of duty or duty exemption is applicable to goods released for free circulation within a tariff quota or, provided that the levying of normal duties is not re-introduced, within a tariff ceiling or other preferential tariff measure, the benefit of the tariff quota or preferential tariff measure shall only be granted after the communication of the availability of the supporting document on which the granting of the reduced rate of duty or duty exemption is conditional.

The communication of the availability of the supporting document must, in any case, be made:

- (a) before the tariff quota has been exhausted, or
- (b) in other cases, before the date on which a Community measure re-introduces the levying of normal duties.

4. Where the supporting document in question concerns the customs value, the customs authorities may, where this proves necessary and without prejudice of Article 68 (1) and (2) of the Code, set a time limit of up to one year from the date of acceptance of the customs declaration or extend the one previously set.

## SUBSECTION 3

### PAPER-BASED CUSTOMS DECLARATIONS

#### *Article 522-3-01*

#### **Lodgement of paper-based customs declaration**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 107 (2)	Article 107 (3)	Articles 198, 202, 217, 353, 787	Yes	

1. The customs authorities shall accept a paper-based customs declaration using a form corresponding to the specimen set out in [Annexes ex 31 to 34] in the following situations:
  - (a) the customs authorities' computerised system is not functioning;
  - (b) the electronic application of the person lodging a declaration is not functioning and the competent customs office approves the lodging of a paper-based customs declaration;
  - (c) specific provisions of the customs legislation provide for the use of paper-based customs declarations;
  - (d) the declaration is made by a traveller who has no direct access to the customs authorities' computerised system.
2. In cases referred to under point (a) and (b) of paragraph 1, the customs authorities shall accept a paper-based export declaration provided that it is made in one of the following ways:
  - (a) using a form corresponding to the specimen set out in Annex 52-02 [ex Annexes 31 to 34] complemented by a Security and Safety Document corresponding to the specimen set out in Annex 52-09 [ex Annex 45i] and a Security and safety List of Items corresponding to the specimen set out in Annex 52-10 [ex Annex 45j];
  - (b) using an Export/Security Single Administrative Document corresponding to the specimen set out in Annex 52-11 [ex Annex 45k] and an Export/Security List of Items corresponding to the specimen set out in Annex 52-12 [ex Annex 45l].
3. In cases referred to under points (a) and (b) of paragraph, the customs authorities shall accept a paper-based import declaration using a form corresponding to the specimen set out in Annex 52-02 [ex Annexes 31 to 34]. Where the customs declaration replaces the

entry summary declaration data in accordance with Article 90 of the Code, the customs declaration shall be complemented by a Security and Safety Document corresponding to the specimen set out in Annex 52-09 [ex Annex 45i] and, where appropriate, by a Security and safety List of Items corresponding to the specimen set out in Annex 52-10 [ex Annex 45j].

4. The paper-based customs declaration shall be lodged with the competent customs office during the days and hours appointed for opening. However, the customs authorities may, at the request of the declarant and at his expense, authorize the declaration to be lodged outside the appointed days and hours.
5. Any paper-based customs declaration lodged with the officials of a customs office in any other place duly designated for that purpose by agreement between the customs authorities and the person concerned shall be considered to have been lodged in the said office.
6. The date of acceptance of the declaration shall be noted thereon.
7. Articles 522-01-01 to 522-02-03 shall apply *mutatis mutandis* in cases where a paper-based customs declaration has been lodged.

**Article 522-3-02**

**Data requirements of paper-based customs declaration and supporting documents**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 107 (2)	Article 107 (3)	Article 205	-	

The paper-based customs declaration shall contain the data set out in Annex 52-01 and shall be supported by the documents as laid down in Subsection 1.

**Article 522-3-03**

**Forms to be used for paper-based customs declaration**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 107 (2)	Article 107 (3)	Article 205	Yes	

The paper-based customs declaration shall take the form of the Single Administrative Document set out in Annex 52-02 [ex Annexes 31 to 34].

**Article 522-3-04**

**Use of paper-based customs declaration**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 107 (2)	Article 107 (3)	Articles 205	Yes	

1. The paper-based customs declaration shall be presented in subsets containing the number of copies required for the completion of formalities relating to the customs procedure under which the goods are to be placed.
2. Where the Community transit procedure or the common transit procedure is preceded or followed by another customs procedure, a subset containing the number of copies required for the completion of formalities relating to the transit procedure and the preceding or following procedure may be presented.
3. The subsets referred to in paragraphs 1 and 2 shall be taken from:
  - either the full set of eight copies, in accordance with the specimen contained in Annex 52-02 Title II [ex Annex 31],
  - or, particularly in the event of production by means of a computerized system for processing declarations, two successive sets of four copies, in accordance with the specimen contained in Annex 52-02 Title III [ex Annex 32].
4. Without prejudice to Articles 522-4-01 to 522-5-03, the declaration forms may be supplemented, where appropriate, by one or more continuation forms presented in subsets containing the declaration copies needed to complete the formalities relating to the customs procedure under which the goods are to be placed. Those copies needed in order to complete the formalities relating to preceding or subsequent customs procedures may be attached where appropriate.

The continuation subsets shall be taken from:

- either a set of eight copies, in accordance with the specimen contained in Annex 52-02 Title IV [ex Annex 33],
- or two sets of four copies, in accordance with the specimen contained in Annex 52-02 Title V [ex Annex 34].

The continuation forms shall be an integral part of the Single Administrative Document to which they relate.

**Article 522-3-05**

**Use of paper-based customs declaration for successive procedures**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 107 (2)	Article 107 (3)	Articles 208-210	Single Administrative Document	

1. Where Article 522-3-04 (2) is applied, each party involved shall be liable only as regards the data relating to the procedure for which he applied as declarant, holder of the procedure or as the representative of one of these.
2. For the purposes of paragraph 1, where the declarant uses a Single Administrative Document issued during the preceding customs procedure, he shall be required, prior to lodging his declaration, to verify the accuracy of the existing data for the boxes for which he is responsible and their applicability to the goods in question and the procedure applied for, and to supplement them as necessary.

In the cases referred to in the first subparagraph, the declarant shall immediately inform the customs office where the declaration is lodged of any discrepancy found between the goods in question and the existing data. In this case the declarant shall then draw up his declaration on fresh copies of the Single Administrative Document.

3. Where the Single Administrative Document is used to cover several successive customs procedures, the customs authorities shall satisfy themselves that the data given in the declarations relating to the various procedures in question all agree.

**Article 522-3-06**

**Exceptions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 107 (2)	Article 107 (3)	Article 205 (3) (6 <sup>th</sup> )	-	

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The provisions of this Subsection shall not preclude printing of paper-based customs declarations and documents certifying the Community status of goods not being moved under internal Community transit procedure by means of data-processing systems, on plain paper, on conditions laid down by the Member States.

#### SUBSECTION 4

#### ORAL CUSTOMS DECLARATIONS AND CUSTOMS DECLARATIONS MADE BY ANY OTHER ACT

#### *Article 522-4-01*

#### Common provisions

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 107 (2)	Article 107 (3)	Articles 225-236	-	

1. The provisions of this Subsection shall not apply to goods in respect of which the payment of refunds or other amounts or the repayment of duties is sought, or which are subject to a prohibition or restriction or to any other special formality.

2. Where the customs office is not satisfied that the particulars declared orally are accurate or that they are complete, or where the value of the goods is above 1000 EUR it may require an electronic or paper-based customs declaration.

#### *Article 522-4-02*

#### Situations where the customs declaration may be made orally and receipt of payment

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>



Article 107 (2)	Article 107 (3)	Articles 226,228	-	
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1. Customs declarations may be made orally for the release for free circulation or for the export of goods:

- (a) contained in travellers' baggage of a non-commercial nature, or
- (b) sent to and declared by a private person, or
- (c) contained in travellers' baggage of a commercial nature and not exceeding the statistical threshold.

2. Where goods declared to customs orally in accordance with paragraph 1 are subject to import or export duty, the customs office shall issue a receipt to the person concerned against payment of the duty due.

The receipt shall include at least the following information:

- (a) a description of the goods which is sufficiently precise to enable them to be identified; this may include the tariff heading,
- (b) the invoice value and/or quantity of the goods, as appropriate,
- (c) a breakdown of the import or export duties and other charges collected,
- (d) the date on which it was made out, and
- (e) the name of the customs office which issued it..

**Article 522-4-03**

**Oral declaration for temporary admission**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 107 (2)	Article 107 (3)	Article 229	-	

1. Customs declarations may be made orally for temporary admission of the following goods:

- (a) animals for transhumance or grazing or for the performance of work or transport and other goods satisfying the conditions laid down in [ex Article 567, second subparagraph, point (a)],

(b) packings referred to in [ex Article 571(a)], bearing the permanent, indelible markings of a person established outside the customs territory of the Community,

(c) radio and television production and broadcasting equipment and vehicles specially adapted for use for the above purpose and their equipment imported by public or private organizations established outside the customs territory of the Community and approved by the customs authorities issuing the authorization for the temporary admission of such equipment and vehicles,

(d) instruments and apparatus necessary for doctors to provide assistance for patients awaiting an organ transplant pursuant to [ex Article 569],

(e) personal effects and goods for sports purposes imported by travellers in accordance with [ex Article 563],

(f) the means of transport referred to in [ex Articles 556 to 561],

(g) welfare materials for seafarers used on a vessel engaged in international maritime traffic pursuant to [ex Article 564(a)],

(h) other goods, where this is authorized by the customs authorities.

2. The goods referred to in paragraph 1 may also be the subject of an oral re-export notification discharging a temporary admission procedure.

#### Article 522-4-04

#### Situations where goods shall be considered have been declared for a customs procedure

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 107 (2)	Article 107 (3)	Articles 230, 231, 232	-	

1. The following, where not expressly declared to customs, shall be considered to have been declared for release for free circulation by the act referred to in Article 522-4-05:

(a) goods referred in Article 522-4-02 (1), provided they are entitled to duty relief where they are subject to import duty,

(b) goods entitled to relief under Chapter I, Titles IX and X of Council Regulation (EC) No 1186/2009,

(c) means of transport entitled to relief as returned goods,

(d) other goods in cases of negligible economic importance.

2. The following, where not expressly declared to customs, shall be considered to have been declared for export or notified for re-export by the act referred to in Article 522-4-05:
  - (a) goods contained in travellers' baggage of a non-commercial nature;
  - (b) means of transport registered in the customs territory of the Community and intended to be re-imported;
  - (c) goods referred to in Chapter II of Council Regulation (EC) No 116/2009;
  - (d) other goods in cases of negligible economic importance.
3. The goods referred to in points (e) to (g) of Article 522-4-03 (1), where not expressly declared to customs for a customs procedure, shall be considered to have been declared for temporary admission by the act referred to in Article 522-4-05.
4. Where they are not expressly declared to customs for a customs procedure, the goods referred to in paragraph 3 shall be considered to have been notified for re-export discharging the temporary admission procedure by the act referred to in Article 522-4-05.

**Article 522-4-05**

**Acts considered to be a customs declaration**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 107 (2)	Article 107 (3)	Article 233	Yes	

1. For the purposes of Article 522-4-04, the act which is considered to be a customs declaration may take the following forms:
  - (a) in the case of goods conveyed to a customs office or to any other place designated or approved in accordance with Article 92 (1) or Article 177 of the Code:
    - (i) going through the green or 'nothing to declare' channel in customs offices where the two-channel system is in operation;
    - (ii) going through a customs office which does not operate the two-channel system without spontaneously making a customs declaration;
    - (iii) affixing a 'nothing to declare' sticker or customs declaration disc to the windscreen of passenger vehicles where this possibility is provided for in national provisions;
  - (b) in the other cases: the sole act of crossing the frontier of the customs territory of the Community. In these cases the obligation to convey goods to customs and to present them, in accordance with Articles 92 and 95 of the Code, shall be deemed to have been met.

2. Where goods of a non commercial nature and goods entitled to duty relief contained in a traveller's baggage are carried unaccompanied by the traveller and are declared to customs without the passenger being present in person, the information referred to in [Annex ex 38a] may be used within the terms and limitations set out in it.

## SUBSECTION 5

### POSTAL TRAFFIC

#### Article 522-5-01

#### Definitions

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 107 (2)	Article 107 (3)	Articles 237-238	-	

For the purposes of this Subsection

- an 'item of correspondence' means a communication in written form on any kind of physical medium to be conveyed and delivered at the address indicated by the sender on the item itself or on its wrapping. Postcards, letters containing personal messages only, braille letters or printed matter not liable to import or export duties shall be regarded as items of correspondence,
- a 'postal consignment' means a postal parcel or package containing goods other than items of correspondence, conveyed under the responsibility of or by a postal service in accordance with the provisions of the Universal Postal Union Convention,
- a 'postal service' means a designated operator established in and authorised by a Member State to provide the international services governed by the Universal Postal Union Convention currently in force.

#### Article 522-5-02

#### Items of correspondence

<b>sMCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>

Article 107 (2)	Article 107 (3)	Articles 237-238	-	
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1. Items of correspondence shall be considered to have been declared to customs:

- (a) for release for free circulation or for transit, at the time when they are introduced into the customs territory of the Community by, or on behalf of, a postal service;
- (b) for export or re-export, at the time when they are accepted by, or on behalf of, a postal service in the customs territory of the Community.

2. The customs declaration for items of correspondence shall be considered to have been accepted and release granted:

- (a) in the case of transit, at the time when they are introduced into the customs territory of the Community;
- (b) in the case of release for free circulation, when they are delivered to the consignee by a postal service;
- (c) in the case of exports, when they are accepted by a postal service.

**Article 522-5-03**

**Postal consignments**

<b>sMCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 107 (2)	Article 107 (3)	Articles 237-238	-	

1. Postal consignments containing only goods:

- which are not liable to import or export duties or taxes,
- which are not subject to prohibitions and restrictions,
- for which no repayment or remission of import or export duties is sought, and
- which are not liable to charges other than import or export duties,

shall be considered to have been declared to customs when they are presented to customs, provided they are accompanied by CN22 and/or CN23 form or its electronic equivalent.

2. For consignments containing goods described under paragraph 1, without prejudice to Article 25 of the Code:

- a) the customs declaration shall be considered to have been accepted and release granted:
- in the case of release for free circulation, when the postal consignment is delivered by or for postal service to the consignee,
  - in the case of exports, when the postal consignment is accepted by a postal service,
- b) in the case of transit, the provisions of [ex Article 462a] shall apply.
3. For consignments containing goods other than those described under paragraph 1, a customs declaration shall be lodged or made available.
  4. The postal service concerned may declare goods contained in postal consignments as a representative; where the postal service acts as a direct representative it shall provide a guarantee for duties and other charges at stake. The postal service may act as a representative of the consignee or consignor without an explicit power to act as a representative, except when, for release for free circulation, the consignee has made known in advance his intention to declare such consignments himself.
  5. Where prior to departure or arrival, particulars of goods contained in postal consignments are not provided electronically to the customs authorities for risk-analysis purposes, CN22 and/or CN23 forms or their electronic equivalent shall be made available to the customs office of import or export for such purposes before or upon presentation of the goods contained in the postal consignment.
  6. Where the information on a postal consignment is insufficient or where doubts as to its accuracy exist, the postal service shall use all information available and may scan or open the postal consignment in order to examine the goods and establish the particulars required for the customs declaration.

## SECTION 3

### SIMPLIFIED DECLARATIONS

#### *Article 523-01*

#### General provisions

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 109-110	Articles 109 (2)-(3)	Articles 253-289	Yes	

1. At the request of the declarant, the customs authorities shall, in accordance with Articles 109 and 110 of the Code, authorise the lodgement of a simplified declaration with the data referred to in [ex-Annex 30A, Table 7] which may omit one or several supporting documents referred to in Article 108.

2. Where the supplementary customs declaration does not have a general, periodic or recapitulative nature, [Articles 522-2-01 to 522-2-03] shall apply mutatis mutandis. The communication mentioned in [Article 522-2-03 (5)] shall be in the form of a supplementary declaration containing the particulars and supporting documents necessary to complete the customs declaration for the customs procedure concerned.

3. Where the supplementary customs declaration has a general, periodic or recapitulative nature, provisions of [Articles 523-02] shall apply.

4. The requirement of a supplementary declaration may be waived in the authorisation, except where the simplified declaration is made by entry in the declarant's records.

**Article 523-02**

**Authorisation for a simplified customs declaration**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 109-110	Article 109 (2)-(3)	Articles 253-267	Yes	

1. Without prejudice to the conditions relating to the application for special customs procedures:

(a) the authorisation to use a simplified declaration which omits certain of the particulars and supporting documents referred to in Article 108 and a supplementary declaration of a general, periodic or recapitulative nature containing the particulars and supporting documents necessary to complete the customs declaration for the customs procedure concerned shall be granted provided that the conditions and criteria laid down for AEOC or AEOF Certificates referred to in [Article 123-01] are fulfilled;

(b) where the applicant holds an AEOC or AEOF Certificate referred to in [Article 123-01], the conditions and criteria referred to in point (a) are deemed to be fulfilled.

2. The holder of the authorisation shall comply with the conditions, criteria and obligations resulting from the authorisation, without prejudice to the obligations of the declarant, and the rules governing the incurrance of a customs debt. Any other procedural provision applicable to the authorisation of AEOC Certificate referred to in [Article 123-01] shall apply mutatis mutandis to the authorisation to use a simplified declaration which omits certain of the particulars and supporting documents referred to in Article 108 and a supplementary declaration of a general, periodic or recapitulative nature containing the particulars and supporting documents necessary to complete the customs declaration for the customs procedure concerned.

3. The data elements to be furnished by the applicant for the granting of the authorisation are those in [ex -Annex 67].

4. The granting of an authorisation for the use of simplified declarations entry in the records shall be conditional on the provision of a comprehensive guarantee in accordance with Article 62 of the Code insofar as import or export duties and other charges are at stake.

## SECTION 4

### PROVISIONS APPLYING TO ALL CUSTOMS DECLARATIONS

#### Article 524-01

##### Lodging a customs declaration prior to the presentation of the goods

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 112	Article 112 (4)	Article 201		

A customs declaration may be lodged four working days prior to the expected presentation of the goods. If the goods are not presented or made available within this time limit, the customs declaration shall be deemed not to have been lodged. The same applies where the customs declaration is lodged by entry in the declarant's records and the goods are not available for control at the expiry of that deadline.

#### Article 524-02

##### Derogation from the requirement to be established in the customs territory of the Community

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 111	Article 111 (3)	Article 201 (2)		

By way of derogation from Article 111 (2) of the Code, the declarant shall not be required to be established in the customs territory of the Community when the declaration is lodged at a



border customs office of an adjacent country, subject to the condition that this country allows a reciprocal benefit to persons established in the customs territory of the Community

**Article 524-03**

**Amendment of a customs declaration after the release of the goods**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 113	Article 113 (4)	Article 65 (Article 78 CC)		

1. The customs office may allow the declarant to amend particulars of the customs declaration after the release of the goods in the following cases:

- (a) the declarant receives additional information requiring an amendment,
- (b) the results of a verification or audit require an amendment.

2. In the cases referred to in paragraph 1, the relevant date for determination of any duties and other charges payable and for the application of any other provisions governing the customs procedure and commercial policy measures in question shall be the date of the acceptance of the original customs declaration.

**Article 524-04**

**Invalidation of a customs declaration after release of the goods**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 114	Article 114 (4)	Article 251		

1. By way of derogation from the first sub-paragraph of Article 114 (2) of the Code, a customs declaration may be invalidated after the goods have been released, as provided below:

- (a) where it is established that the goods have been declared in error for a customs procedure for which a customs debt on importation is incurred instead of being placed

under another customs procedure or re-exported, if a request to that effect is made within three months of the date of acceptance of the declaration, provided that:

- (i) any use of the goods has not contravened the conditions of the customs procedure under which they will be placed;
- (ii) when the goods were declared, they could have been placed under another customs procedure or re-exported, provided all the requirements for this have been fulfilled;
- (iii) the goods are immediately placed under the customs procedure or re-exported or have already been re-exported;
- (iv) where the goods which ought to have been declared for the customs procedure or re-exported have been presented to customs either when the original declaration was lodged, or when they are, or were, placed under another customs procedure or re-exported.

The declaration placing the goods under the latter customs procedure shall take effect from the date of acceptance of the invalidated declaration.

(b) In the case of declarations for release for free circulation where a repayment or remission request is granted in accordance with Article 81 of the Code.

(c) Where a retroactive authorisation is granted in accordance with [ex Article 508] for a special procedure.

(d) In the case of goods which are subject to export duty, an application for the repayment of import duty, export refunds or to other special measures on export have been made and the declarant provides the customs office of export with evidence that any export refunds granted or other special measure applied on the strength of the export declaration for the goods in question have been repaid or that the necessary measures have been taken by the authorities concerned to ensure that they are not paid or applied, and complies with any other obligations requested by the customs office of export to regularize the situation of the goods.

Invalidation of the declaration shall entail cancellation of any adjustments made on an export licence or advance-fixing certificate presented in support of the declaration.

(e) Where the customs office of export has been informed, in accordance with [ex Article 792a], that the goods declared have not left the customs territory of the Community.

(f) Where the exit of the goods has not been confirmed in accordance with [ex Article 792b(2)].

2. Where customs controls after the release of the goods reveal that particulars of a customs declaration were incorrect and no amendment is made in accordance with [Article 524-03], the original declaration shall be invalidated and replaced by a new declaration or by the customs decision reflecting the results of the control.

## SECTION 5

### OTHER SIMPLIFICATIONS

#### SUBSECTION 1

##### GOODS FALLING UNDER DIFFERENT TARIFF SUB-HEADINGS

###### *Article 525-1-01*

###### **Goods falling within different tariff subheadings declared under a single commodity code**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 115	Article 115 (2)	-		

1. In the cases referred to in Article 115 of the Code, the declarant needs only to indicate the tariff subheading of the goods subject to the highest ad valorem rate of import or export duty and the total customs value of the consignment.

2. Where a consignment made up of goods falling within tariff subheadings subject to ad-valorem and specific duties or only specific duties, the highest specific duty shall be converted into an ad-valorem duty in order to determine the highest rate of import or export duty. The highest rate of duty so established shall then be applied to the value of the whole consignment.

3. Where all the tariff subheadings are subject to the same rate of import or export duty or where no import or export duty is to be paid, the declarant needs only to indicate the tariff subheading of the goods which occurs last in numerical order.

#### SUBSECTION 2

##### SELF-ASSESSMENT

###### *Article 525-2-01*

###### **General provisions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 116	Article 116 (2)	-	Yes	

1. The customs authorities may authorise an economic operator, in accordance with Article 116 (2) (d) of the Code, to take responsibility for and perform certain formalities and controls normally carried out by the customs authorities (self assessment). In accordance with this authorisation, evidence of the accomplishment of formalities and controls performed by the economic operator shall be demonstrated in the form of entries and information held in the business records.

2. An authorisation for self-assessment may include the following formalities and controls:

- (a) determination of the amount of import or export duty payable;
- (b) establishing proof of Community status of goods;
- (c) formalities and controls related to storing, moving and processing goods;
- (d) confirming the exit of goods from the customs territory of the Community;
- (e) ensuring compliance with prohibitions and restrictions, as specified in the authorisation;
- (f) verifying and providing information to other agencies.

3. An authorisation for self-assessment may cover declarations for the following:

- (a) release for free circulation;
- (b) customs warehousing;
- (c) temporary admission;
- (d) end-use;
- (e) inward processing;
- (f) outward processing;
- (g) export;
- (h) re-export in cases where the provisions concerning the lodging of a customs declaration are applicable. In the cases referred to under points (g) and (h) the authorisation holder shall make available to the customs office of exit the information referred to in [ex-Annex 30A, Table 1-5].

**Authorisation**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 116	Article 116 (2)	-		

1. Without prejudice to the conditions relating to the application for customs procedures:

(a) the authorisation for self-assessment shall be granted provided that the conditions and criteria laid down for AEOC or AEOF Certificates referred to in [Article 123-01] are fulfilled;

(b) where the applicant holds an AEOC or AEOF Certificate referred to in [Article 123-01], the conditions and criteria referred to in point (a) are deemed to be fulfilled;

(c) the authorisation for self-assessment mentioned in (a) and (b) shall be granted provided that:

(i) the customs authorities have access, on request, to the business records of the applicant,

(ii) the customs authorities are satisfied that the applicant will be able to manage and monitor the customs formalities covered by the authorisation and to ensure compliance with the relevant legislation,

(iii) the applicant holds the information required for controls and payment of the customs debt,

(iv) the applicant has a secure system showing who has accessed the records, when, and what operations were performed in the system, and

(v) a comprehensive guarantee has been provided for in accordance with Article 62 of the Code insofar as import and export duties and other charges are at stake.

2. The holder of the authorisation shall comply with the conditions, criteria and obligations resulting from the authorisation. Any other procedural provision applicable to the authorisation of AEOC Certificate referred to in [Article 123-01] shall apply mutatis mutandis to the authorisation for self-assessment.

3. The authorisation shall specify the following:

(a) the supervising customs office;

(b) the formalities and controls to which it applies, in a precise and detailed way;

- (c) if applicable, the type of goods covered by the authorisation;
- (d) any notifications that have to be made to the customs authorities or other agencies;
- (e) the manner in which goods transferred to other authorisation holders or goods moved to authorised locations are entered in the records, allowing traceability of the goods;
- (f) the means of accounting for and paying the customs duties and other charges;
- (g) the means by which other customs formalities are to be fulfilled, and the information to be held to evidence that those formalities have been fulfilled;
- (h) the conditions for access to the business records of the authorisation holder;
- (i) the means of making available to the customs authorities the business records and the time limits to do so;
- (j) if the legislation provides for the use of paper originals of documents, the place where these documents are to be stored;
- (k) the details and procedures of the levying of customs duties;
- (l) the details and procedures of the taking and analysis of samples on the basis of Community standardised procedures as well as the type and method of record management;
- (m) if applicable, the form and way of transmission of all information to the customs authorities to enable the exchange of data between customs offices;
- (n) the manner in which risk analysis and controls are to be performed;
- (o) the manner in which constant availability of skilled staff allowing compliance with customs and tax requirements is ensured.

**Article 525-2-03**

**Entry in the records and access to the system under self assessment**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 116	Article 116 (2)	-	Yes	

1. The holder of the authorisation shall enter in his business records the particulars defined in Annex [XX]. The provisions laid down in Articles 9 (2), 69 and 70 of the Code shall apply.

2. Entry in the business records shall have the same legal force as acceptance of the customs declaration referred to in Article 112 of the Code.

3. The holder of the authorisation shall make available to the customs authorities the particulars referred to in Annex [XXX-I – data needed for the entry in the accounts], at the latest on the 15<sup>th</sup> day of the following month.

**Article 525-2-04**

**Provisions relating to the customs debt**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 116	Article 116 (2)	-	Yes	

1. The holder of the authorisation shall establish, account for and pay import and export duties as well as other charges by the 15<sup>th</sup> day of the of the month following the calendar month in which the customs debt was incurred.

2. The customs debt shall become due at the time goods are entered in the business records for the procedure concerned and at the place where the authorisation holder is established.

3. The holder of an authorisation for self assessment combined with centralised clearance shall identify the customs debt and other charges incurred under centralised clearance for transactions involving other Member State, indicating the Member State concerned as well as the individual amounts related to import of goods released in that Member State. In this case, the holder of the authorisation shall make available to the supervising customs office the particulars referred to in Annex [XXX-II – data related to the customs debt and other charges incurred under centralised clearance for transactions involving other Member States], on the 15<sup>th</sup> day of the following month.

## CHAPTER 3

### *Verification and release of goods*

#### SECTION 1

#### VERIFICATION

##### **Article 531-01**

#### **Place of examination of the goods**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 118	Article 122	Article 239		

1. Where the competent customs office has decided to examine the goods, or take a sample thereof, the goods shall be examined in the places designated and during the hours appointed for that purpose by the customs authorities. The premises of the declarant or his representative can be such designated places. The customs office shall inform the declarant or his representative accordingly.

2. However, the customs office may, at the request of the declarant, authorize the examination of goods in places or during hours other than those referred to in paragraph 1.

##### **Article 531-02**

#### **Examination of the goods**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 119	Article 122	Articles 240-241		

1. Without prejudice of otherwise provided in relation with different facilitations or simplifications, where the customs authorities elects to examine goods it shall so inform the



declarant or his representative and the holder of the goods provided that this person is indicated in the customs declaration and is connected to the customs system.

2. Where the customs authorities decide to examine the goods or a part of the goods, they shall inform the declarant or his representative accordingly and invite him to be present at the time limit set which may be prolonged on request of the declarant or his representative.

3. Where the declarant decides, without reasonable grounds, not to be present at the examination of the goods or to designate a person able to give the assistance which the customs authorities requests in accordance with Article 118 (2) of the Code, the customs authorities, for the purpose of applying Article 126 (1) (b) (i) of the Code, shall proceed with the examination of the goods, at the declarant's risk and expense, calling if necessary on the services of an expert or any other person designated in accordance with national provisions in force in the Member State concerned in so far as no Community provisions exist.

4. The findings made by the customs authorities during the examination carried out under the conditions referred to in the preceding paragraph shall have the same validity as if the examination had been carried out in the presence of the declarant.

5. Instead of the measures laid down in paragraphs 3 and 4, the customs authorities may invalidate a customs declaration where it is clear that the declarant's refusal to be present at the examination of the goods or to designate a person able to give the necessary assistance neither prevents, nor seeks to prevent, the customs authorities from finding that the rules governing the placing of the goods under the customs procedure concerned have been breached.

### **Article 531-03**

#### **Taking of samples**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 118-119	Article 122	Articles 242, 245		

1. Samples shall be taken by the customs authorities. However, they may ask that this be done under their supervision by the declarant or a person designated by him.

2. Samples shall be taken in accordance with the methods laid down in the provisions in force.

3. The quantities taken as samples should not exceed what is needed for analysis or more detailed examination, including possible check analysis.

4. The quantities taken by the customs authorities as samples shall not be deducted from the quantity declared.

5. Methods of analysis of samples specified in the community legislation shall be used. Other methods may also be used provided they are compatible with the community legislation.

6. Where an export, outward processing declaration or re-exportation notification is concerned, the declarant shall be authorized, where circumstances permit, to replace the quantities of goods taken as samples by identical goods, in order to make up the consignment.

**Article 531-04**

**Samples leading to different results**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 119	Article 119 (3)	none		

1. Where the examination of a sample leads to different results, due to classification under two different tariff sub-headings, within the same sample, another sample shall be taken, where possible.

2. Where the results of the examination of the second sample confirm different results within the second sample, the results of both samples taken together shall be deemed to apply to the whole consignment.

3. Where these results require different customs treatment, the customs treatment of the goods shall be split in the proportion established through the two samples. The same shall apply where it is not possible to take another sample.

**Article 531-05**

**Return, keeping and destruction of samples**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 119	Article 122	Article 246		

1. Unless destroyed by the analysis or more detailed examination, the samples taken shall be returned to the declarant at his request once they no longer need to be kept by the customs authorities, in particular after all the declarant's means of appeal against the decision taken by

the customs authorities on the basis of the results of that analysis or more detailed examination have been exhausted.

2. Where the declarant does not ask for samples to be returned, they may either be destroyed or kept by the customs authorities. In specific cases, however, the customs authorities may require the declarant to remove or accept any samples that remain.

**Article 531-06**

**Results of the examination of the goods and the verification of the customs declaration and supporting documents**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 120-121	Articles 122, 128	Articles 247, 250 (2)		

1. Where the customs authorities verify the customs declaration or supporting particulars or documents, or examine the goods, they shall register the basis and results of any such verification or examination, and, if that is the case, an indication that the declarant or his representative was absent. In the case of partial examination of the goods, particulars of the consignment examined shall also be given.

2. The customs authorities shall inform the declarant or his representative of the results of such verification or examination. Should the result of the verification of the customs declaration and supporting particulars or documents or examination of the goods not be in accordance with the particulars given in the declaration, the customs authorities shall specify the particulars to be taken into account for the purposes of the application of import or export duties and other charges on the goods in question and, where appropriate, calculating any refunds or other amounts payable on exportation, and for applying the other provisions governing the customs procedure under which the goods are placed.

3. The findings of the customs authorities shall indicate, where appropriate, the means of identification adopted. They shall be dated and bear the particulars needed to identify the official issuing them.

## SECTION 2

### RELEASE

#### **Article 532-01**

##### **Release pending the results of an examination**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 123	Article 124 (2)	Article 244		

Where the customs authorities have taken samples for analysis or more detailed examination, they shall authorize the release of the goods in question without waiting for the results of the analysis or examination, unless there are other grounds for not doing so, and provided that, where a customs debt has been or is likely to be incurred, the import or export duties in question have already been paid or guaranteed, without prejudice to specific provisions related to a tariff quota..

#### **Article 532-02**

##### **Notification of the customs debt, provision of a guarantee**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 124	Article 124 (2)	Article 248		

1. Where the customs authorities considers that the checks which they have undertaken may enable an amount of import or export duties higher than that resulting from the particulars made in the declaration to be assessed, they shall further require a guarantee sufficient to cover the difference between the amount according to the particulars in the declaration and the amount which may finally be incurred for the goods, except where a guarantee waiver applies.

2. Where the customs authorities have doubts about whether or not a prohibition or restriction applies and this cannot be resolved until the results of the checks the authorities have carried out are available, the goods in question cannot be released

### Article 532-03

#### Form of the release

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 124	Article 124 (2)	Article 249		

1. The customs authorities shall determine the form of release, taking due account of the place in which the goods are located and of the special arrangements for their supervision.
2. The release of the goods for the procedure concerned shall be recorded by the customs authorities and communicated to the declarant or his representative, and, where different, the holder of the goods, provided that the latter is indicated in the customs declaration and is connected to the customs system, indicating at least the reference of the customs declaration and the date of release, except where the goods are deemed to have been released in accordance with the customs legislation.

### Article 532-04

#### Regularising the situation for unreleased goods

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 126 (1) (b)	Article 128	Article 250		

1. Where the customs authorities has been unable to grant release of the goods, they shall give the declarant a time limit to regularize the situation of the goods.
2. Where the declarant
  - has neither paid nor guaranteed the import or export duties due within the stipulated time limit, or
  - has not provided the necessary information to the customs authorities enabling them to take a decision related to possible prohibitions or restrictions,the customs authorities may take the measures laid down in Article 126 of the Code.

The customs authorities shall inform the declarant or his representative and, where different, the holder of the goods, provided that the latter is indicated in the customs declaration and is connected to the customs system.

The customs authorities may, at the risk and expense of the declarant, transfer the goods in question to special premises under the customs authorities' supervision..

## CHAPTER 4

### *Disposal of goods*

#### **Article 540-01**

#### **Sale and other measures to regularise the situation at the initiative of customs authorities**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 125-127	Article 128	Articles 252, 842		

1. Where the customs authorities sell goods or take other measures in accordance with Article 126 of the Code, this shall be done in accordance with the procedures in force in the Member State concerned, in so far as no Community provisions exist.

2. Goods deemed to be placed under the temporary storage procedure in accordance with 126 (2) of the Code, shall be entered in the records of the temporary storage facility operator, or, where they are held by the customs authorities, by the latter.

3. Where goods to be destroyed in accordance with Article 125 of the Code are already the subject of a customs declaration accepted by the customs authorities, they shall enter a reference to the customs declaration in the records referred to in paragraph 2. Where the goods have not been released for the procedure, the customs authorities shall also invalidate the customs declaration and inform the declarant or his representative and, where different, the holder of the goods, provided that the latter is indicated in the customs declaration and is connected to the customs system.

4. The customs authorities shall specify in the electronic system the type and quantity of any waste or scrap resulting from the destruction in order to determine any customs duty and other charges applicable to them and to be used when they are placed under a customs procedure or re-exported.

#### Article 540-02

##### Abandonment of goods on request of the holder of the goods

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 125-127	Article 128	Articles 252, 842		

When the holder of the goods or of a procedure covering such goods, requests abandonment to the State, the customs authorities may reject the request in the following cases:

- (a) when the goods cannot be put on the European Union market;
- (b) when the goods are required to be destroyed in accordance with Community or national provisions;
- (c) when the goods cannot be sold within the customs territory of the Community;
- (d) when the cost of a sale is disproportionate to the value of the goods.

#### Article 540-03

##### Abandonment where the holder of the goods is unknown

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 125-127	Article 128	Articles 252, 842		

Where the holder of the goods is unknown to the customs authorities and has not been identified within a period of 6 months from the date when the goods were found, the customs authorities may consider that a request for the abandonment to the State has been made in accordance Article 127 of the Code.

#### Article 540-04

##### Treatment of goods abandoned to the State

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 125-127	Article 128	Articles 867a		

1. Goods abandoned to the State, deemed to be placed under the temporary storage procedure in accordance with 126 (2) of the Code, shall be entered in the records of the customs authorities or of the temporary storage facility operator.
2. Where goods abandoned to the State are already the subject of a customs declaration accepted by the customs authorities, they shall enter a reference to the declaration in the records referred to in paragraph 1. Where the goods have not been released for the procedure, the customs authorities shall also invalidate the customs declaration.
3. Goods abandoned to the State may be sold by the customs authorities only on the condition that the buyer immediately carries out the formalities to assign them to a customs procedure.
4. Where the sale is at a price inclusive of import duties and other charges, the sale shall be considered the equivalent to release for free circulation, and the customs authorities shall calculate the duties and enter them in the accounts. In these cases, the sale shall be conducted according to the procedures in force in the Member State concerned.
5. Where the customs authorities decide to deal with the goods referred to in [Articles 540-02 and 540-03] otherwise than by sale, they shall immediately carry out the formalities to assign them to a customs procedure.

**Article 540-05**

**Confiscation of goods**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 125-126	Article 128	Articles 842, 867a		

1. Where goods seized or confiscated are to be destroyed and have already been the subject of a customs declaration accepted by the customs authorities, they shall invalidate the customs declaration and enter a reference to the customs declaration in the records of the customs authorities or of the temporary storage facility operator.
2. Without prejudice of the provisions of Council Regulation (EC) No 1383/2003 of 22 July 2003 concerning customs action against goods suspected of infringing certain intellectual



property rights and the measures to be taken against goods found to have infringed such rights, the cost of destruction shall be borne by the holder of the goods.

3. Goods seized or confiscated by the customs authorities that can not be sold by auction may be allocated to the services that are in charge of prosecuting smuggling, in accordance with the Member State's provisions on this subject.

## **TITLE VI**

### **RELEASE FOR FREE CIRCULATION AND RELIEF FROM IMPORT DUTIES**

#### CHAPTER 1

##### *Release for free circulation*

**Disclaimer:** NO IPs foreseen.

#### CHAPTER 2

##### *Relief from import duties*

#### SECTION 1

#### RETURNED GOODS

##### *Article 621-01*

##### **Conditions for relief for returned goods**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 130	Article 134	Article 844		

1. Goods previously exported from the customs territory of the Community, in respect of which the formalities have been completed with a view to obtaining refunds or other amounts or financial advantages provided for on exportation under the common agricultural policy, shall be exempt from import duties when it is established that:

(a) the refunds or other amounts paid have been repaid, or that the necessary steps have been taken by the competent authorities for such sums to be withheld, or that the other financial advantages granted have been cancelled, and

(b) the goods:

(i) could not be put on the market of the country to which they were sent on account of laws in force in that country;

(ii) were returned by the consignee as being defective or not in accordance with the provisions of the contract relating to them;

(iii) were re-imported into the customs territory of the Community because they could not be used for the purposes intended owing to other circumstances outside the exporter's control.

2. The circumstances referred to in paragraph 1 (b) (iii) shall include the following:

(a) goods returned to the customs territory of the Community following damage occurring before delivery to the consignee, either to the goods themselves or to the means of transport on which they were carried;

(b) goods originally exported for the purposes of consumption or sale in the course of a trade fair or similar occasion which have not been so consumed or sold;

(c) goods which could not be delivered to the consignee on account of his physical or legal incapacity to honour the contract under which the goods were exported;

(d) goods which, because of natural, political or social disturbances, could not be delivered to their consignee or which reached him after the mandatory delivery date stipulated in the contract under which the goods were exported;

(e) fruit and vegetables, covered by the common organization of the market, exported and sent for sale on consignment, but which were not sold in the market of the country of destination.

3. Goods exported under the common agricultural policy with an export licence or an advance fixing certificate shall not be exempt from import duties unless it is established that the relevant Community provisions have been complied with.

4. The goods referred to in paragraph 1 shall not be exempt from import duties unless they are declared for release for free circulation in the customs territory of the Community within twelve months of the date of completion of the customs formalities relating to their exportation.

However, where the goods are declared for free circulation after expiry of the period referred to in the first sub-paragraph, the customs authorities of the Member State of re-importation may allow the period to be exceeded where circumstances justify this.

**Article 621-02**

**Conditions for exemption from import duties for returned goods**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 130	Article 134	Article 845		

Community goods exported and returned to the customs territory of the Community shall be exempt from import duties, even where they represent only a part of the goods previously exported from the customs territory of the Community.

**Article 621-03**

**Exemption from import duties for returned goods**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 131	Article 134	Article 846		

1. By way of derogation from Article 131 (1) (a) (i) of the Code, returned goods shall be exempt from import duties in one of the following situations:

(a) goods which, after having been exported from the customs territory of the Community, have received no treatment other than that necessary to maintain them in good condition or handling which alters their appearance only;

(b) goods which, after having been exported from the customs territory of the Community, received treatment other than that necessary to maintain them in good condition or handling other than that altering their appearance, but which proved to be defective or unsuitable for their intended use, provided that one of the following conditions is fulfilled:

- such treatment or handling was applied to the goods solely with a view to repairing them or restoring them to good condition,

- their unsuitability for their intended use became apparent only after such treatment or handling had commenced.

2. Where returned goods have undergone treatment or handling permitted under paragraph 1 (b) and such treatment would have rendered them liable to import duties if they had been placed under the outward processing procedure, the provisions for charging import duties in accordance with the said procedure shall apply.

However, if goods have undergone an operation consisting of repair or restoration to good condition which became necessary as a result of unforeseen circumstances which arose outside the customs territory of the Community, this being established to the satisfaction of the customs office of import, relief from import duties shall be granted provided that the value of the returned goods is not higher, as a result of such operation, than their value at the time of export from the customs territory of the Community.

3. For the purposes of the second sub-paragraph of paragraph 2:

(a) repair or restoration to good condition which became necessary means: any operation to remedy operating defects or material damage suffered by goods while they were outside the customs territory of the Community, without which the goods could no longer be used in the normal way for the purposes for which they were intended;

(b) the value of returned goods shall be considered not to be higher, as a result of the operation which they have undergone, than their value at the time of export from the customs territory of the Community, when the operation does not exceed that which is strictly necessary to enable them to continue to be used in the same way as at that time. When the repair or restoration to good condition of goods necessitates the incorporation of spare parts, such incorporation shall be limited to those parts strictly necessary to enable the goods to be used in the same way as at the time of export.

#### **Article 621-04**

#### **Information required for returned goods**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 130	Article 134	Articles 847-856		

Relief for returned goods shall be authorised when the declarant provides to the customs authorities information showing that the conditions for the relief are fulfilled

## SECTION 2

### FISHING AND PRODUCTS TAKEN FROM THE SEA

#### *Article 622-01*

#### **Duty relief in the cases referred to in Article 133**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 133	Article 134	Article 856a		

For the purposes of granting duty relief in the cases referred to in Article 133 of the Code, [Articles 513-16 to 513-19] shall apply mutatis mutandis.

## SECTION 3

### IMPLEMENTING MEASURES

**Disclaimer:** NO IPs foreseen.

## TITLE VII

### SPECIAL PROCEDURES

#### CHAPTER 1

##### *General provisions*

##### **Article 710-01**

##### **Definitions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 135-174	Article 143	Articles 496, 536(b)	-	

For the purposes of this Title:

- (a) *deleted (triangular traffic)*
- (b) 'main processed products' means processed products for the production of which a processing procedure was authorised;
- (c) 'secondary processed products' means processed products which are a by-product of the processing operation other than the main processed products specified in the authorisation;
- (d) 'period for discharge' means the time by which goods under a special procedure or processed products must be placed under a subsequent customs procedure, must be destroyed, must have left the customs territory of the Community or must be assigned to their prescribed end-use. In case of outward processing the period for discharge means the period within which goods temporarily exported may be re-imported into the customs territory of the Community in the form of processed products, and placed under release for free circulation, in order to be able to benefit from total or partial relief from import duties.;
- (e) 'agricultural policy measures' means provisions governing export refunds or import or export licences relating to agricultural products which are covered by the Common Agricultural Policy;

- (f) *deleted (usual forms of handling)*
- (g) ‘job processing’ means any processing of goods placed under inward processing directly or indirectly put at the disposal of the holder of the authorisation which is carried out according to specifications on behalf of a person established outside of the customs territory of the Community, generally against payment of processing costs alone;
- (h) ‘prior exportation of processed products’ means the exportation of processed products obtained from equivalent goods under inward processing before the importation of the goods they are replacing;
- (i) ‘Prior importation of processed products’ means the importation of processed products obtained from equivalent goods before the exportation of the goods they are replacing.

**Article 710-02**

**How an application for authorisation can be made**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 136	Article 136	Article 497	Yes	

1. Without prejudice to paragraphs 2 to 5, an application for an authorisation referred to in Article 136 of the Code shall be made in accordance with Annex 67.
2. Customs authorities shall require applications for temporary admission with total relief from the import duties in accordance with Article 741-3-19 to be made in accordance with paragraph 1 unless a natural person is involved in a non-commercial operation.
3. Applications for an authorisation which involves more than one Member State, except for temporary admission concerning goods which are declared orally or by any other act in accordance with Articles 522-3-03 and 522-3-04, shall be made in accordance with paragraph 1.
4. In the following cases, the application for an authorisation may be made by means of an electronic customs declaration other than simplified declaration and without centralised clearance or entry in the declarant's records:
  - (a) for temporary admission;
  - (b) for end-use except where the use of equivalent goods is applied for and provided that:
    - the applicant intends to wholly assign the goods to the prescribed end-use;
    - and

- the customs authorities do not require an application in accordance with paragraph 1.
  - (c) for inward processing except where:
    - the use of equivalent goods is applied for;
    - the case is covered by Article **710-07(1)(a)(xviii)**; or
    - an examination of the economic conditions must take place in the Committee;
  - (d) for outward processing except where:
    - the use of equivalent goods is applied for;
    - the processing operations concern repairs with prior importation of replacement products; or
    - an examination of the economic conditions must take place in the Committee.
  - (e) after outward processing, in the context of release for free circulation,
    - using the standard exchange system with or without prior importation of replacement products, where the existing authorisation does not cover such a system and the customs authorities permit its modification, or if the processing operation concerns goods of a non-commercial nature.
- 4a. ATA carnets and CPD carnets may be used as an application for temporary admission.
5. The application for an authorisation may be made by means of an oral customs declaration for temporary admission in accordance with Article 522-3-03, subject to the presentation of a document made out in accordance with Article **710-04 (3)**, second subparagraph.
6. The application for authorisation may be made by means of a customs declaration for temporary admission by any other act in accordance with Article 522-3-04.

[EOS must be used]

**Article 710-03**

**Place for submitting an application**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>



Article 136	Article 136	Article 498	Yes	
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1. Where the application for an authorisation referred to in Article 136 of the Code is made in accordance with Annex 67, this application shall be submitted to the competent customs office as referred to in *Article XX*.

2. Where the application for an authorisation referred to in Article 136 of the Code is not made in accordance with Annex 67, this application shall be submitted to the competent customs office for lodging a customs declaration as referred to in *Article 521-1-01* without prejudice to Article 741-4-02(3).

#### Article 710-04

#### Information given in the application

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 136	Article 136	Article 499	Yes	

1. Without prejudice to paragraphs 3 and 4, an application for an authorisation referred to in Article 136 of the Code shall contain at least the information which is mandatory in accordance with Annex 67.

2. Where the customs authorities consider any of the information given in the application inadequate, they may require additional details from the applicant.

3. The application for an authorisation for temporary admission may be made by means of an oral customs declaration in accordance with Article 522-3-03, subject to the presentation of a document which shall contain at least the following information about:

- (a) name and address of the applicant;
- (b) description of the goods including their value and quantity;
- (c) place of use of the goods and means of identifying them;
- (d) estimated period for discharge;
- (e) proposed office of discharge;

Such document shall be made out in duplicate and one copy shall be endorsed by the customs authorities and given to the declarant.

4. Where goods are covered by ATA carnets or CPD carnets, paragraphs 1 to 3 shall not apply.

**Article 710-05**

**An authorisation which involves more than one Member State – consultation procedure**

*Deleted.*

[The consultation procedure will be determined in Title I.]

**Article 710-06**

**Simplifications concerning an authorisation which involves more than one Member State**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 136	Article 136	Article 501	-	

1. The prior agreement in accordance with Article [X] shall be replaced by simple notification in cases.
  - (a) where an authorisation ,which involves more than one Member State, is renewed, subject to modifications of a minor nature, annulled, suspended or revoked; or
  - (b) where two or more Member States have agreed between themselves to use this simplification.
2. Neither prior agreement nor notification shall be needed where:
  - (a) the only activity involving different Member States is the movement of goods from the office of placement or to the office of discharge under inward or outward processing.
  - (b) ATA or CPD carnets are used;
  - (c) the authorisation for temporary admission is granted by accepting an oral declaration or a declaration by any other act in accordance with Articles 522-3-03 and 522-3-04 respectively ;

- (d) where two or more Member States have agreed between themselves to use this simplification;
  - (e) the authorisation is amended in accordance with *Article 710-19*.
3. Where Member States have agreed between themselves to use the simplification in accordance with paragraph (1)(c) or paragraph (2)(d) the Commission shall be notified accordingly by the concerned Member States.

**Article 710-07**

**Economic conditions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 136(4)	Article 136(4)	Article 502	Yes	

1. Without prejudice to paragraph 2, the economic conditions are deemed to be fulfilled and no examination of the economic conditions shall take place in the following cases:

- (a) the application or authorisation concerns:

*Inward or outward processing*

- (i) the processing of goods which are not covered by Annex 73,
- (ii) the processing of goods to ensure their compliance with technical requirements for their release for free circulation,
- (iii) the processing of goods of a non-commercial nature,
- (iv) the processing of goods obtained under a previous authorisation the granting of which was subject to an examination of the economic conditions,
- (v) the processing of solid and fluid fractions of palm oil, coconut oil, fluid fractions of coconut oil, palm kernel oil, fluid fractions of palm kernel oil, babassu oil or castor oil into products which are not destined for the food sector,
- (vi) the processing into products to be incorporated in or used for civil aircraft for which an airworthiness certificate is issued,
- (vii) the processing into products which may benefit from the autonomous suspension of import duties on certain weapons and military equipment,
- (viii) the processing of goods into samples,
- (ix) the processing of any electronic type of components, parts, assemblies or any other materials into information technology products,

- (x) the processing of goods falling within CN codes 2707 and 2710 into products falling within CN codes 2707, 2710 and 2902,
- (xi) the reduction to waste and scrap, destruction, recovery of parts or components,
- (xii) denaturing,
- (xiii) usual forms of handling referred to in Article 141 of the Code,

*Inward processing*

- (xiv) repair under inward processing with subsequent permanent re-exportation of the processed products,
- (xv) a job processing under inward processing with subsequent permanent re-exportation of the processed products,
- (xvi) the processing of durum wheat into pasta under inward processing with subsequent permanent re-exportation of the processed products,
- (xvii) a document issued by a competent authority permitting the placement under inward processing with subsequent permanent re-exportation of the processed products in the limits of the quantity determined on the basis of a supply balance in accordance with Article 11 of Council Regulation (EC) No 3448/93,
- (xviii) the processing of goods under inward processing with subsequent permanent re-exportation of the processed products which are covered by Annex 73 and the economic conditions are identified by one of the following codes:

18: Unavailability of goods produced in the Community falling within the same eight-digit CN code, which are of the same commercial quality

and which have the same technical characteristics (comparable goods)

as the goods to be placed under inward processing referred to in the application or authorisation. The unavailability covers the total absence of Community production of comparable goods, the unavailability of a sufficient quantity of those goods in order to carry out the processing operations envisaged or the fact that comparable Community goods cannot be made available to the applicant in time for the proposed commercial operation to be carried out, despite a request having been made in good time.

19: Although available, comparable goods cannot be used because their price would make the proposed commercial operation economically

unviable. In deciding whether the price of comparable goods produced in the Community would make the proposed commercial operation economically unviable, it shall be necessary to take account, *inter alia* of the impact that the use of Community-produced goods would have on the cost price of the processed product and hence on the disposal of the product on the third-country market, having regard to:

— the price before duty of the goods for processing and the price of comparable goods produced in the Community less domestic taxes

refunded or refundable on export, taking into account the conditions of sale and any refunds or other amounts applying under the common agricultural policy,

— the price obtainable for the processed products on the third-country market, as ascertained from commercial correspondence or other information.

20: Comparable goods which do not conform to the expressly stated

requirements of the third-country purchaser of the processed products or the processed products must be obtained from goods intended to be placed under inward processing in order to comply with provisions concerning the protection of industrial or commercial property rights (contractual obligations),

or

(b) the aggregate amount of import duties of the goods placed under the processing procedure, if they were released for free circulation and the *erga omnes* import duty rate was applied, per applicant and per calendar year for each eight-digit CN code, does not exceed 150 000 EUR with regard to goods which are covered by Annex 73 and 300 000 EUR for other goods.

2. The essential interests of Community producers are likely to be adversely affected and an examination of the economic conditions shall take place for all goods intended to be placed under inward processing which are subject to a commercial or an agricultural policy measure or a(n) anti-dumping duty, countervailing duty, safeguard duty, retaliation duty or similar duty and which are not covered by paragraph 1 (a) (ii) to (xvii) or (b).

However, the first subparagraph shall not apply where the calculation of the amount of import duty, if any, is made in accordance with Article 53(3) of the Code. Where for that reason the first subparagraph was not applied, such calculation shall be made also if the relevant processed products are imported within a period of one year after their re-exportation.

For the purposes of the second subparagraph, customs authorities shall establish in the authorisation for the use of inward processing that the calculation of the amount of import duty shall be made in accordance with Article 53(3) of the Code and that the relevant processed products may not be imported directly or indirectly by the holder of the authorisation within a period of one year after their re-exportation.

3. In cases not covered by paragraph 1 and where evidence exists that the essential interests of Community producers are likely to be adversely affected, or in cases covered by paragraph 2, an examination of the economic conditions shall take place in

the Committee at the request of a customs administration which shall send the case to the Commission. Such request may also be made after granting an authorisation where such evidence becomes available after the granting.

The burden of proof lies with Community producers whether evidence exists that their essential interests are likely to be adversely affected before or after granting an authorisation.

An examination of the economic conditions in the Committee may also take place at the initiative of the Commission.

4. Where the economic conditions have to be examined by the Committee, the customs authorities shall inform the applicant, or holder of the authorisation, that such a procedure has been initiated and, if the authorisation has not yet been issued, that the time limits laid down in Article 1xx have been suspended.
5. The Committee shall conclude whether the economic conditions are fulfilled or not. The Committee's conclusion shall be taken into account by the customs authorities concerned and by any other customs authorities dealing with similar applications or authorisations.

Where an application was treated as a unique case in the view of the Committee its conclusion in this specific case cannot be considered as a precedent because the conclusion is valid only with regard to the specific case.

6. Where an authorisation shall be revoked or amended for economic reasons and where the legitimate interests of the person to whom the decision was addressed so require, the customs authorities may defer the date on which revocation or amendment takes effect up to one year in accordance with Article 19(4), second subparagraph, of the Code..

### *Article 710-08*

#### **Granting an authorisation**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 136	Article 136(2)	Article 505	Yes	

The customs authorities shall grant the authorisation as referred in Article 136 of the Code as follows:

- (a) for an application under Article 710-02(1) to (3), in accordance with Annex 67;
- (b) for an application under Article 710-02(4) to (6), by acceptance of the customs declaration;

- (c) for an application for renewal or modification, by any appropriate act.

**Article 710-09**

**Periods within which the applicant has to be informed**

*Deleted.*

[Periods within which the applicant has to be informed will be determined in Title I]

**Article 710-10**

**Period of validity of an authorisation**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 136	Article 143	Article 507	Yes	

1. Without prejudice to Article 710-11, an authorisation as referred in Article 136 of the Code shall take effect on the date of issue or at any later date given in the authorisation. In the case of a private customs warehouse, the customs authorities may exceptionally communicate their agreement to use the procedure prior to the actual issuing of the authorisation.
2. No limit on the period of validity shall be fixed for authorisations for the operation of storage facilities for the temporary storage or customs warehousing of goods.
3. For the specific use and the processing procedure the period of validity shall not exceed five years from the date the authorisation takes effect, except where there are duly justified good reasons.

However, the period of validity referred to in the first subparagraph shall not exceed three years where goods are covered by Annex 73.

**Article 710-11**

**Suspension, revocation, amendment and review of an authorisation**

*Deleted.*

[Suspension, revocation, amendment and review of an authorisation will be determined in Title I.].

### Article 710-12

#### Authorisation with retroactive effect

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 136	Article 136	Article 508	-	

1. Except for the operation of storage facilities for the temporary storage or customs warehousing of goods, the customs authorities shall issue a retroactive authorisation provided that:
  - (a) a proven economic need exists;
  - (b) the application is not related to an attempt of deception;
  - (c) the applicant has proven on the basis of accounts or records that all the requirements of the procedure are met and, where appropriate, the goods can be identified for the period involved, and such accounts or records allow the procedure 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 retroactive authorisation as referred to in Article 136 of the Code has been granted to the applicant within the preceding 1 year; and
  - (f) an examination of the economic conditions is not required.

Without prejudice to paragraphs 2 and 3, a retroactive authorisation shall take effect at the earliest on the date on which the application was submitted.

2. If an application concerns renewal of an authorisation for the same kind of operation and goods, an authorisation may be granted with retroactive effect from the date the original authorisation expired even in cases where an examination of the economic conditions is required. However the retroactive effect of such an authorisation shall not extend a three years period beginning from the date on which the favourable decision was taken.
3. In exceptional circumstances, the retroactive effect of an authorisation may be extended but not to more than three years before the date on which the application was submitted.



4. Customs authorities may issue a retroactive authorisation in accordance with paragraphs 1 to 3 also where the goods which were placed under a customs procedure are not available anymore at the time when the application for an authorisation with retroactive effect was lodged.

**Article 710-13**

**Records**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 137	Article 137	Articles 516, 806(c),(d),(f),(g)	-	

1. Without prejudice to Article 732-01, the records referred to in Article 137 of the Code and, where they are required, under Article 741-4-03 for temporary admission shall contain the following information about:
- (a) where appropriate, the authorisation necessary for placing the goods under a special procedure;
  - (b) particulars of the customs declarations, which include the entry summary declaration in case of temporary storage, by means of which the goods are placed under the special procedure and particulars about the corresponding discharge of the procedure;
  - (c) the date and reference particulars of other customs documents and any other documents relating to the placement of goods under a special procedure and the corresponding discharge of the procedure;
  - (d) particulars of marks, identifying numbers, number and kind of packages, the quantity and usual commercial or technical description of the goods and, where relevant, the identification marks of the container necessary to identify the goods;
  - (e) location and particulars of any movement of goods;
  - (f) customs status of goods;
  - (g) particulars of usual forms of handling, temporary use or the nature of the processing operations or end-use;
  - (h) where Article 53(1) of the Code applies, the costs for storage or usual forms of handling;

- (i) in the case of free zones, reference particulars of transport documents concerning goods entering or leaving free zones;
- (j) in the case of free zones, particulars concerning the use or consumption of goods of which the release for release for free circulation or temporary admission would not entail application of import duties or measures laid down under the common agricultural or commercial policies in accordance with Article 159(2) of the Code;
- (k) the rate of yield or its method of calculation where appropriate;
- (l) particulars enabling customs supervision and controls of the use of equivalent goods which include, where accounting segregation is carried out in accordance with *Article 710-18(3)*, information about type of goods, customs status and, where appropriate, origin of the goods; and
- (m) as the case may be, one of the indications referred to in Articles 742-01, 752-05, or 741-4-05.

The customs authorities may waive the requirement for some of this information where this does not adversely affect the customs supervision and controls of the use of a special procedure.

2. The customs authorities may approve existing accounts containing the relevant particulars as records.

#### **Article 710-14**

#### **Discharge of a procedure**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 138	Article 143	Article 520	-	

1. Where goods have been placed under two or more declarations for a special procedure by virtue of one authorisation the placement or assignment of such goods or products obtained therefrom under a subsequent customs procedure or to their prescribed end-use shall be considered to discharge the procedure for the goods in question placed under the earliest of the declarations (first in first out principle).

Where a special procedure is discharged by goods leaving the customs territory of the Community or by the destruction in accordance with Article 138(1) of the Code the first in first out principle shall also apply.

Application of the first or second subparagraph shall not lead to unjustified import duty advantages.

However, the holder of the procedure may request the discharge to be made in relation to specific goods placed under the procedure.

2. Where the goods under the procedure are placed together with other goods and there is total destruction or irretrievable loss, the customs authorities may accept evidence produced by the holder of the procedure indicating the actual quantity of goods under the procedure which was destroyed or lost. Where it is not possible for the holder of the procedure to produce such evidence, the amount of goods which has been destroyed or lost shall be established by reference to the proportion of goods of that type under the procedure at the time when the destruction or loss occurred.

#### **Article 710-15**

#### **Period for discharge**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 138	Article 143	Articles 293(3d), 542	-	

1. The authorisation for the use of the end-use, temporary admission and processing procedure shall specify the period for discharge.

At the request of the holder of the authorisation, the period referred to in the first subparagraph may be extended by customs authorities even when those originally set have expired.

2. Where the period for discharge expires on a specific date for all the goods placed under the procedure in a given period, the authorisation may provide that the period for discharge shall be automatically extended for all goods still under the procedure on this date. However, the customs authorities may require that such goods must be placed under a subsequent customs procedure, must be destroyed, must have left the customs territory of the Community or must be assigned to their prescribed end-use, within the period which they shall set.

#### **Article 710-16**

#### **Bill of discharge**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 136	Article 136	Article 521	-	

1. The holder of the authorisation for the use of the end-use or inward processing procedure shall supply the bill of discharge to the supervising office within the period established in the authorisation for all goods which were placed under end-use or inward processing, unless such bill of discharge is deemed unnecessary in the opinion of the supervising office.

At the request of the holder of the authorisation, the customs authorities may extend the period referred to in the first subparagraph even if it has expired.

2. The bill of discharge shall provide the following information, unless otherwise determined by the supervising office:
  - (a) reference particulars of the authorisation;
  - (b) the quantity of each type of goods placed under the procedure in respect of which discharge is claimed;
  - (c) the Combined Nomenclature code of the goods placed under the procedure;
  - (d) the rate of import duties to which the goods placed under the procedure or the processed products are liable and, where applicable, their customs value;
  - (e) the particulars of the declarations placing the non-Community goods under the procedure;
  - (f) the type and quantity of the processed products or the goods placed under the procedure and the subsequent customs procedure to which they have been declared, including particulars of the corresponding declarations, other customs documents or any other document relating to discharge and periods for discharge. In case of end-use information about the assignment of the prescribed end-use shall be provided;
  - (g) the value of the processed products if the value scale method is used for the purpose of discharge;
  - (h) the rate of yield;
  - (i) the amount of import duties to be paid. Where this amount refers to the application of Article **752-03**, it shall be specified;
  - (j) the request for application of Article 53(3) of the Code, and the provision of the necessary particulars.
3. The supervising office may make out the bill of discharge.

**Article 710-17**

**Movement of goods**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 140	Article 140	Article 511	-	

1. Without prejudice to Article **710-13(1)(e)**, the provisions about guarantees and paragraphs 2 to 6, goods can be moved between different places in the customs territory of the Community in accordance with Article 140 of the Code without any additional customs formalities.
2. Movement of goods under temporary storage or customs warehousing may be authorised by customs authorities. If so, such movement must end within the time limits set by customs authorities.

Movement of goods under temporary storage, if authorised by customs authorities, with a view to directly re-export the goods from an authorised temporary storage facility shall be carried out under cover of the exit summary declaration.

3. Movement of goods under temporary admission from one holder of the authorisation to another can take place only where the first holder of the authorisation provides, within the time limits set by customs authorities, to his supervising office the particulars of the subsequent customs declaration by means of which the relevant temporary admission procedure was discharged.
4. Movement of goods to the office of exit with a view to discharge a special procedure other than end-use and outward processing by leaving the customs territory of the Community shall be carried out under cover of the re-export notification. Such movement of goods under temporary storage or customs warehousing must be authorised in accordance with paragraph 2.
5. Movement of goods to the office of exit with a view to discharge end-use by leaving the customs territory of the Community shall be carried out under cover of the exit summary declaration.
6. Movement of goods to the office of exit with a view to temporarily export Community goods under outward processing shall be carried out under cover of the customs declaration placing the temporary export goods under outward processing.

*Article 710-17a*

**Usual forms of handling**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 141	Article 143	Articles 531, 809	Yes	

Usual forms of handling referred to in Article 141 of the Code are specified in Annex 72.

### **Article 710-18**

#### **Equivalent goods**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 142	Article 142	Articles 541 and 545	Yes	

- 1a (new). The use of equivalent goods shall be authorized in accordance with Article 142(2) of the Code irrespective of whether the use is systematic or not.
- 1b (new). The use of equivalent goods shall not be permitted in accordance with Article 142(3)(c) of the Code where the non-Community goods would be subject to anti-dumping duty, countervailing duty, safeguard duty, retaliation duty or similar duty if they were declared for release for free circulation.
1. The use of equivalent goods may be authorised where the equivalent goods are:
- (a) at a more advanced stage of manufacture than the non-Community goods where the essential part of the processing with regard to these equivalent goods is carried out in the undertaking of the holder of the authorisation or in the undertaking where the operation is being carried out on his behalf;
  - (b) in case of repair, new goods instead of used goods or goods in a better condition than the non-Community goods; or
  - (c) by way of derogation from Article 142(1), third subparagraph, of the Code, goods which have the same eight-digit Combined Nomenclature code, the same commercial quality and technical characteristics similar to the goods they are replacing under the condition that such use would not:
    - (i) have an impact on customs supervision;
    - (ii) likely increase the risk of fraud; and

(iii) lead to an unjustified import duty advantage.

2. Special provisions, set out in Annex 74, shall apply in respect of the goods referred to in that Annex.
3. Equivalent goods may be stored together with other Community goods or non-Community goods. In such cases specific methods of identifying the equivalent goods may be laid down with a view, in particular, to distinguishing them from other Community goods or non-Community goods. Where it is impossible or would only be possible at disproportionate expenditure to identify at all times each type of goods, accounting segregation shall be carried out with regard to each type of goods, customs status and, where appropriate, origin of the goods.
4. Use of equivalent goods shall not be subject to the formalities for placing goods under a procedure.
5. In case of customs warehousing and temporary admission the equivalent goods shall become non-Community goods and the goods which they are replacing shall become Community goods at the time of acceptance of the customs declaration discharging the procedure or at the time when the equivalent goods have left the customs territory of the Community.
6. In the case of end-use, the goods which are replaced by equivalent goods are not under customs supervision anymore at the moment in which the equivalent goods:
  - (i) have been used for the purposes laid down for the application of the duty exemption or reduced rate of duty;
  - (ii) are exported, destroyed or abandoned to the state; or
  - (iii) have been used for purposes other than those laid down for the application of the duty exemption or reduced duty rate and the applicable import duties have been paid.
7. In case of inward processing the equivalent goods and the processed products made therefrom shall become non-Community goods and the goods which they are replacing shall become Community goods at the time of acceptance of the customs declaration discharging the procedure or at the time when the processed products have left the customs territory of the Community. However, where the goods which they are replacing are put on the market before the procedure is discharged, they shall change their status at the time they are put on the market. In exceptional cases, where the equivalent goods are expected not to be present at that time, the customs authorities may allow, at the request of the holder of the procedure, the equivalent goods to be present at a later time, to be determined by them and within a reasonable time.
8. In case of prior exportation of processed products under inward processing:
  - the equivalent goods and the processed products made therefrom shall become non-Community goods with retroactive effect on acceptance of the export declaration if the goods to be imported are placed under that procedure;

— the goods to be imported shall become Community goods at the time of their placement under that procedure.

9. In case of prior importation of processed products under outward processing the processed products obtained from equivalent goods shall not become Community goods and the goods which they are replacing shall not become non-Community goods at the time of acceptance of the customs declaration placing Community goods under the outward processing procedure.

**Article 710-19**

**Customs declaration lodged at another customs office**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 143	Article 143	Article 510	-	

The supervising customs office may allow the customs declaration to be lodged at a customs office other than those specified in the authorisation. In this case the relevant authorisation shall be amended with retroactive effect without delay.

**Article 710-20**

*[Deleted, because the common IT system/database in accordance with Annex 67 provides detailed information.]*

**Article 710-20a**

**Supervising customs office**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 143	Article 143	Articles 510, 515, 528, 885	Yes	

1. The supervising customs office shall carry out in particular the following formalities:



(a) for the calculation of the amount of import or export duty corresponding to any customs debt incurred for goods which were or are under a special procedure other than transit; and

(b) where appropriate, concerning guarantees and commercial policy measures with regard to goods which were under a special procedure other than transit.

Details are laid down in Annex 67, part V (INF).

2. At the request of the supervising customs office the holder of the authorisation has to provide any information which is necessary for carrying out the formalities as described in the first paragraph.

#### **Article 710-21**

#### **Animals under a special procedure**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 135	Article 143	Article 553	-	

Animals, unless of negligible commercial value, born of animals placed under a special procedure are considered to be non-Community goods and placed themselves under the relevant procedure.

#### **Article 710-21a**

#### **Commercial policy measures**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 136	Article 136	Article 509	-	

1. Where processed products other than waste and scrap obtained under inward processing are released for free circulation and the calculation of the amount of import duty is made in accordance with Article 53(3) of the Code, 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. 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 52(1) of the Code, the commercial policy measures applicable to those products shall be applied only where the goods which were placed under inward processing are subject to such measures.
3. Where Community acts provide for commercial policy measures on release for free circulation, such measures shall not apply to processed products released for free circulation following outward processing:
  - (a) that have retained Community origin within the meaning of Article 36 of the Code;
  - (b) involving repair, including the standard exchange system;
  - (c) following further processing operations in accordance with Article 170 of the Code.

## CHAPTER 2

### *Transit*

#### SECTION 1

#### EXTERNAL AND INTERNAL TRANSIT

#### **Article 721-01**

#### **Definition**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 105(2), 144(3)(a), 145(2)(a)	Articles 105(2), 143	Article 340b	Yes	

For the purposes of this Chapter, the following definition shall apply:

(a) '*transit accompanying document*' (TAD) means the document printed by the computerised system to accompany the goods and based on the data of the transit declaration. It corresponds

to the specimen and particulars in Annex ex-45a. Where appropriate it shall be supplemented by a list of items corresponding to the specimen and notes in Annex ex-45b. That list shall form an integral part of the transit accompanying document.

(b) '*transit/security accompanying document*' (TSAD) means the document printed by the computerised system to accompany the goods and based on the data of the transit declaration and the entry or exit summary declaration. It corresponds to the specimen and particulars in Annex ex-45e and the *transit/security* list of items corresponding to the specimen and notes in Annex ex-45f.

## SUBSECTION 1

### GENERAL PROVISIONS FOR THE TRANSPORT UNDER THE TIR, ATA OR FORM 302 PROCEDURE

#### Article 721-02

#### Single territory

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(b), (c), (e), 145(2)(b), (c), (e)	Article 143	Article 451	-	

Where goods are transported from one point in the customs territory of the Community to another in accordance with the TIR Convention, the ATA Convention /Istanbul Convention or under cover of form 302, the customs territory of the Community shall, for the purposes of such transport, be considered to form a single territory.

#### Article 721-03

#### Controls and formalities on re-entry

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>

Articles 144(3)(b), (c), (e), 145(2)(b), (c), (e)	Article 143	Article 452	-	
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Where, in the course of transport from one point in the customs territory of the Community to another, goods pass through a territory outside of the customs territory of the Community, the controls and formalities associated with the TIR, ATA or form 302 procedure shall be carried out at the points where the goods temporarily leave the customs territory of the Community and where they re-enter that territory.

#### **Article 721-04**

#### **Presumption and form of customs status**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(b), (c), 145(2)(b), (c)	Article 143	Article 453	-	

1. Goods transported under cover of TIR or ATA declarations within the customs territory of the Community shall be deemed to be non-Community goods, unless their Community status is duly established.

2. The Community status of the goods referred to in paragraph 1 shall be determined in accordance with Articles 511-01 to 513-15, or, where appropriate, with Articles 513-16 to 513-19 within the limits laid down in Article 513-17.

### SUBSECTION 2

#### THE TIR PROCEDURE

#### **Article 721-05**

#### **Scope**

<b>MCC</b>	<b>MCC empowering</b>	<b>Current IP</b>	<b>Annex</b>	<b>Adoption</b>
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<b>implemented provision</b>	<b>provision</b>	<b>provision</b>		<b>procedure</b>
Articles 144(3)(b), 145(2)(b)	Article 143	Article 454	-	

This Subsection shall apply to the transport of goods under cover of TIR carnets within the customs territory of the Community.

#### **Article 721-06**

#### **Exclusion of persons from the TIR procedure**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(b), 145(2)(b)	Article 143	Article 457a	-	

Where customs authorities of a Member State decide to exclude a person from the TIR procedure under the provisions of Article 38 of the TIR Convention, this decision shall apply throughout the customs territory of the Community.

To that end, the Member State shall communicate its decision, together with the date of application, to the other Member States and the Commission.

This decision shall apply to all TIR carnets and TIR carnet data presented to a customs office for acceptance.

#### **Article 721-07**

#### **Prescribed itinerary**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(b), 145(2)(b)	Article 143	Article 457b	-	

1. The customs office of departure or entry may prescribe an itinerary for a consignment of goods transported in accordance with the TIR Convention within the customs territory of the Community.

2. The customs authorities of the Member State in which the consignment is located shall record the relevant details on the transit accompanying document and the TIR carnet counterfoil No 1 in cases where:

- (a) the itinerary is changed on application by the TIR carnet holder;
- (b) the carrier has diverged from the prescribed itinerary in the case of *force majeure*.

The customs office of destination or exit shall enter the relevant information into the computerized system.

3. In cases referred in point (b) of paragraph 2 the consignment, the transit accompanying document and the TIR carnet shall be presented without delay to the nearest customs authorities.

#### Article 721-08

#### Lodging the TIR carnet data

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(b), 145(2)(b)	Article 143	Article 454	Yes	

1. The messages referred to in this subsection shall conform to the structure and particulars defined by the customs authorities in agreement with each other.

2. The TIR carnet holder shall lodge the TIR carnet data by means of a data-processing technique in accordance with the structure and corresponding particulars set out in Annexes ex-37a and ex-37c at the customs office of departure or entry. The data shall contain an electronic signature or other means of authentication of the holder or his representative.

3. On release of the goods for the TIR operation, the customs office of departure or entry shall print a transit accompanying document to be kept with Voucher No 2 and shall transmit the electronic data to the declared customs office of destination or exit using the "Anticipated Arrival Record" message.

4. In case of a discrepancy between the TIR carnet electronic data and the particulars in the TIR carnet the latter shall be used for the purpose of the TIR operation.

5. The obligation to lodge the TIR carnet data by means of a data-processing technique may only be waived in the following exceptional cases:

- (a) the customs authorities' computerised transit system is not functioning,
  - (b) the application for lodging the TIR carnet data by means of a data-processing technique is not functioning,
  - (c) the network between the application for lodging the TIR carnet data by means of a data-processing technique and the customs authorities is not functioning.
6. The waiver provided for in point (b) and (c) of paragraph 5 shall be subject to the approval of the customs authorities.

**Article 721-09**

**Presentation at the customs office of destination or exit**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(c), 145(2)(c)	Article 143	none	-	

1. The goods, the TIR carnet, the transit accompanying document and any required documents shall be presented at the office of destination or exit during the days and hours appointed for opening.

However, the said customs office may, at the request and expense of the party concerned, allow the documents and the goods to be presented outside the appointed days and hours or to be presented in any other place.

2. A TIR operation may end at an customs office other than that declared in the transit declaration. That customs office shall then become the new customs office of destination or exit.

Where the new customs office comes under the jurisdiction of a Member State other than the one originally designated, it shall request the ‘Anticipated Arrival Record" message from the customs office of departure or entry.

**Article 721-10**

**Formalities at the customs office of destination or exit**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>

Articles 144(3)(b), 145(2)(b)	Article 143	Article 455	-	
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1. The customs office of destination or exit shall complete counterfoil No 2, retain Voucher No 2 and the transit accompanying document and shall use the "Arrival Advice" message to notify the customs office of departure or entry of the arrival of the goods on the day the goods and documents are presented at the customs office of destination or exit.

2. Where the TIR operation is terminated at another customs office than that declared initially, the new customs office of destination or exit shall notify the arrival to the customs office of departure or entry by the "Arrival Advice" message on the day the goods are presented at the new customs office of destination or exit.

The customs office of departure or entry shall notify the arrival to the initially declared customs office of destination or exit with the "Forwarded Arrival Advice" message.

3. The "Arrival Advice" message referred to in paragraphs 1 and 2 may not be used as proof of the procedure having been terminated within the meaning of Article 721-12.

4. Except where justified, the customs office of destination or exit shall forward the "Control Results" message to the customs office of departure or entry at the latest on the third day following the day the goods are presented at the customs office of destination or exit. However, where Article 721-13 applies, the customs office of destination shall forward the "Control results" message to the customs office of departure or entry at the latest on the sixth day following the arrival of the goods to the premises of the authorised consignee.

The customs authorities shall also send the data foreseen in Annex 10 of the TIR Convention.

5. Where Article 721-08(5) applies the customs authorities of the Member State of destination or exit shall return the appropriate part of Voucher No 2 of the TIR carnet to the customs authorities of the Member State of entry or departure without delay and at the latest within eight days from the date when the TIR operation was terminated.

#### **Article 721-11**

#### **Enquiry procedure**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(b), 145(2)(b)	Article 143	Article 455a	-	



1. When the customs authorities of the Member State of departure or entry have not received the "Arrival Advice" message by the time limit within which the goods must be presented at the customs office of destination or exit, or have not received the "Control Results" message within six days after the "Arrival Advice" message has been received, those authorities shall consider initiating the enquiry procedure in order to obtain information needed to discharge the TIR operation or, where this is not possible:

- to establish whether a customs debt has been incurred,
- to identify the debtor, and
- to determine the customs authorities responsible for entry in the accounts.

2. The enquiry procedure is initiated at the latest seven days after the expiry of one of the time limits referred to in paragraph 1, except in exceptional cases defined by the Member States in agreement with each other. If the customs authorities receive information earlier that the TIR operation has not been terminated, or suspect that to be the case, they shall initiate the enquiry procedure forthwith.

2a. The enquiry procedure shall also be initiated if information comes to light subsequently that the "Arrival Advice" message or "Control Results" message was sent in error and the enquiry procedure is necessary to achieve the objectives of paragraph 1.

3. If the customs authorities of the Member State of departure or entry have only received the "Arrival Advice" message, they shall initiate the enquiry procedure by requesting the customs office of destination or exit which has sent the "Arrival Advice" message, to transmit the "Control Results" message.

4. If the customs authorities at the customs office of departure or entry have not received the "Arrival Advice" message, they shall initiate the enquiry procedure by requesting the information needed to discharge the TIR operation from the customs office of destination or exit. This office shall reply to the request within twenty-eight days.

5. The holder of the TIR carnet shall be requested to provide the information needed to discharge the procedure at the latest twenty-eight days after the start of the enquiry procedure with the customs office of destination or exit when the TIR operation cannot be discharged. The holder of the TIR carnet shall reply to the request within twenty-eight days. At the request of the holder of the TIR carnet this period can be extended for a further twenty-eight days.

The customs authorities of the Member State of departure or entry shall also inform the guaranteeing association concerned, without prejudice to the notification to be made in accordance with Article 11(1) of the TIR Convention, and invite it to furnish proof that the TIR operation has been terminated.

6. Where Article 721-08(5) applies, the customs authorities of the Member State of departure or entry shall initiate the enquiry procedure referred to in paragraph 1 whenever they have not received proof that the TIR operation has been terminated within two months of the date of the acceptance of the TIR carnet. To that end these authorities send the customs authorities of the Member State of destination or exit a request together with all necessary information. If the authorities receive information earlier that the TIR operation has not been terminated, or suspect that to be the case, they shall initiate the enquiry procedure forthwith.

The enquiry procedure shall also be initiated if it transpires subsequently that proof of the termination of the TIR operation was falsified and the enquiry procedure is necessary to achieve the objectives of paragraph 1.

The procedure laid down in paragraph 5 shall apply *mutatis mutandis*.

The customs authorities of the Member State of destination or exit shall respond within twenty-eight days.

7. Where an enquiry procedure establishes that the TIR operation was terminated correctly, the customs authorities of the Member State of departure or entry shall discharge the procedure and shall immediately inform the guaranteeing association and the holder of the TIR carnet and, where appropriate, any customs authorities that may have initiated a recovery procedure in accordance with Articles 66 to 78 of the Code.

### **Article 721-12**

#### **Alternative proof**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(b), 145(2)(b)	Article 143	Article 455b	-	

1. The proof that the TIR operation has been terminated within the time limit prescribed in the TIR carnet may be furnished to the satisfaction of the customs authorities in the form of a document certified by the customs authorities of the Member State of destination or exit identifying the goods and establishing that the goods have been presented at the customs office of destination or exit, or to an authorised consignee within the meaning of Article 721-13.

2. The TIR operation shall also be considered as having been terminated where the TIR carnet holder or the guaranteeing association presents, to the satisfaction of the customs authorities, one of the following documents identifying the goods:

- (a) a copy of a customs record, certified by customs, showing that the goods have left the customs territory of the Community;
- (b) a customs document issued in a country outside the customs territory of the Community placing the goods under a customs procedure;
- (c) a document issued in a country outside the customs territory of the Community, stamped by the customs authorities of this country and certifying that goods are considered to be in free circulation in the country concerned.

3. The documents mentioned in paragraph 2 may be replaced by their copies or photocopies certified as being true copies by the body which certified the original documents, by the authorities of the country concerned or by the authorities of the Member State.

**Article 721-13**

**Authorised consignee**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(b), 145(2)(b)	Article 143	Article 454a	-	

1. Following an application by the consignee, the customs authorities may grant him the status of authorised consignee, thereby authorising him to receive at his premises or at any other specified place goods transported under the TIR procedure.

2. The authorisation referred to in paragraph 1 shall be granted only to persons who:

- (a) are established in the customs territory of the Community;
- (b) regularly receive goods placed under the TIR procedure, or whose customs authorities know that they can meet the obligations under that procedure;
- (c) have not committed any serious or repeated offences against customs or tax legislation;
- (d) use a data processing technique to communicate with the customs office of destination.

Article 722-27(2) shall apply *mutatis mutandis*.

The authorisation shall apply solely in the Member State where the authorisation was granted.

The authorisation shall apply only to TIR operations that have as the final place of unloading the premises specified in the authorisation.

3. Articles 722-28 and 722-29, Article 722-30(1) and (2), and Articles 722-31 and 722-32 shall apply *mutatis mutandis* to the procedure relating to the application referred to in paragraph 1.

4. Article 722-35(2) and (3) shall apply *mutatis mutandis* with respect to the procedure laid down in the authorisation referred to in paragraph 1.

5. Where the person concerned holds an AEO certificate referred to in point (a) or (c) of Article 14a(1), the requirements set out in point (c) of the first subparagraph of paragraph 2 of this Article and in Article 722-27(2)(b) shall be deemed to be met.

**Formalities for goods arriving at an authorised consignee**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(b), 145(2)(b)	Article 143	Article 454b	-	

1. In respect of goods arriving at his premises, or at the place specified in the authorisation referred to in Article 721-13, the authorised consignee shall comply with the following obligations, in accordance with the procedure laid down in the authorisation:

(a) he shall immediately inform the customs office of destination of the arrival of the goods by the "Arrival Notification" message, including information concerning any irregularities or incidents that occurred during transport;

(b) he shall wait for the "Unloading Permission" message before unloading;

(c) he shall without delay, enter the results of the unloading into his records;

(d) he shall send at the latest on the third day following the arrival of the goods the "Unloading Remarks" message including information concerning any irregularities or incidents to the customs office of destination.

2. The authorised consignee shall ensure that the TIR carnet and the transit accompanying document are presented, without delay, at the customs office of destination. Those authorities shall complete counterfoil No 2 of the TIR carnet and shall ensure that the TIR carnet is returned to the TIR carnet holder or to the person acting on his behalf. Voucher No 2 shall be retained by the customs office of destination.

3. The date of termination of the TIR operation shall be the date of the entry into the records referred to in point (c) of paragraph 1.

However, in the cases where any irregularity or incident has occurred during transport, the date of termination of the TIR operation shall be the date of the "Controls Results" message referred to in Article 721-10(4).

4. At the request of the TIR carnet holder, the authorised consignee shall issue a receipt, certifying the arrival of the goods at his premises or at the places specified in the authorisation and containing a reference to the transit accompanying document and the TIR carnet. The receipt shall not be used as proof of termination of the TIR operation within the meaning of point (d) of Article 1 of the TIR Convention or of Article 721-12.

5. The customs office of destination shall introduce the "Control Results" message in the computerised system.

The customs authorities shall also send the data foreseen in Annex 10 of the TIR Convention.

6. Where the authorised consignee's data processing application is not functioning, the competent authorities may permit other methods of communication with the customs authorities at the customs office of destination.

**Article 721-15**

**Termination of the TIR operation**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(b), 145(2)(b)	Article 143	Article 454c	-	

1. The TIR carnet holder shall have fulfilled his obligations under point (o) of Article 1 of the TIR Convention when the TIR carnet together with the road vehicle, the combination of vehicles or the container and the goods have been delivered intact to the authorised consignee at his premises or at the place specified in the authorisation.

2. The termination of the TIR operation, within the meaning of point (d) of Article 1 of the TIR Convention, shall have occurred when the requirements of Article 721-14(1) and (2) first sentence have been met.

SUBSECTION 3

THE ATA PROCEDURE

**Article 721-16**

**Scope**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(c), 145(2)(c)	Article 143	Article 451(2)	-	

This Subsection shall apply to the transport of goods under cover of ATA carnets within the customs territory of the Community.

**Article 721-17**

**Definition**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(c), 145(2)(c)	Article 143	Article 451(2)	-	

For the purposes of using the ATA Convention/Istanbul Convention for transit, 'transit' shall mean the transport of goods from a customs office situated in the customs territory of the Community to another customs office situated within the same territory ('ATA transit operation').

**Article 721-18**

**Alternative proof**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(c), 145(2)(c)	Article 143	Articles 457c(3), 457d	-	

1. The proof that the ATA transit operation has been ended shall be furnished within the period prescribed in Article 7(1) and (2) of the ATA Convention or in Article 9(1)(a) and (b) of Annex A to the Istanbul Convention.

2. The proof referred to in paragraph 1 shall be furnished to the satisfaction of the customs authorities using one of the following methods:

(a) by the evidence referred to in Article 8 of the ATA Convention or in Article 10 of Annex A to the Istanbul Convention;

(b) by production of a document certified by the customs authorities establishing that the goods in question have been presented at the customs office of destination or exit.

The documents shall contain information identifying the goods in question.

#### SUBSECTION 4

#### TRANSPORT UNDER THE FORM 302 PROCEDURE

#### Article 721-19

#### Designated customs offices

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(e), 145(2)(e)	Article 143	none	-	

The customs authority in each member of the North Atlantic Treaty Organisation, in agreement with each NATO unit stationed on its territory, designates a customs office (or a central customs office) to be responsible for customs formalities and controls concerning the movement of goods carried out by or on behalf of each NATO unit.

#### Article 721-20

#### Procedure

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(c), 145(2)(c)	Article 143	none	Yes	

1. At the time of consignment the competent NATO authority may either:

- completes form 302, a specimen of which is shown in Annex [ ], with a signed and dated authenticated statement certifying that the goods are being moved under its control; or,

– lodge the form 302 data by means of a data-processing technique in accordance with the structure and corresponding particulars set out in Annexes 37a and 37c at the customs office of departure or entry.

2. Where the competent NATO authority proceeds in accordance with the first indent of paragraph 1 a copy of the form is given, without delay, to the customs office responsible for the NATO unit which dispatches the goods or on whose behalf the goods are being dispatched. The other copies of the form accompany the consignment to the NATO unit of destination where they are stamped and signed by the competent NATO authorities. Two copies of the form are given to the customs office, or central customs office, which controls the NATO unit of destination. This customs office retains one copy and returns the second copy to the appropriate customs office in the country of departure.

3. Where the competent NATO authority proceeds in accordance with the second indent of paragraph 1, Articles 722-06 to 722-24 shall apply *mutatis mutandis*.

## SUBSECTION 5

### PROCEDURE FOR POSTAL CONSIGNMENTS

#### Article 721-21

#### Carriage of non-Community goods

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(f), 145(2)(f)	Article 143	Article 462a(1)	Yes	

Where non-Community goods are carried under the transit procedure by post (including parcel post) as referred to in Article 144(3)(f) of the Code from one point to another in the customs territory of the Community, the package and any accompanying documents shall bear a yellow label of the type shown in Annex ex-42.

#### Article 721-22

#### Mixed consignments



<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(c), 145(2)(c)	Article 143	none	-	

If the package contains both Community goods and non-Community goods, the Community goods shall be covered by a proof of Community status. A status document may either be sent separately to the addressee for presentation to the customs authority or it may be enclosed in the package. In the latter case, the exterior of the package should be clearly marked to show that the status document is enclosed.

**Article 721-23**

**Special situations**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(c), 145(2)(c)	Article 143	Article 462a(2)	Yes	

1. Where Community goods are carried under the transit procedure by post (including parcel post) as referred to in Article 145(2)(f) of the Code to or from a part or between parts of the customs territory of the Community where Council Directive 2006/112/EC does not apply, the package and any accompanying documents shall bear a yellow label of the type shown in Annex ex-42B.

2. Where Community goods are sent by post from the customs territory of the Community to a common transit country for onward transmission to the customs territory of the Community the goods shall be covered by a proof of Community status for presentation on entry in that customs territory.

## SECTION 2

### COMMUNITY TRANSIT

#### SUBSECTION 1

#### GENERAL PROVISIONS

##### Article 722-01

##### Scope

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 342a (new)	-	

The provisions of this Section shall apply to external and internal Community transit except if provided otherwise in the customs legislation.

##### Article 722-02

##### Definitions

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 105(2), 144(3)(a), 145(2)(a)	Articles 105(2), 143	Article 340b	-	

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

- (a) ‘*customs office of departure*’ means the customs office where the declaration placing goods under the transit procedure is accepted;

- (b) *'customs office of transit'* means
- (i) the customs office competent for the point of exit from the customs territory of the Community when the consignment is leaving that territory in the course of a transit operation via a frontier with a territory outside the customs territory of the Community other than a common transit country, or
  - (ii) the customs office competent for the point of entry into the customs territory of the Community when the goods have crossed a territory outside the customs territory of the Community in the course of a transit operation;
- (c) *'customs office of destination'* means the customs office where the goods placed under the transit procedure must be presented in order to end the procedure;
- (d) *'customs office of guarantee'* means the customs office where the customs authorities of each Member State decide that guarantees furnished by a guarantor shall be lodged;
- (e) *'common transit country'* means any country, other than a Member State of the Community, that has acceded to the Convention of 20 May 1987 on a common transit procedure;
- (f) *'fallback procedure'* means the paper-based procedure established to allow the lodging and the control of the transit declaration and the following of the transit operation when it is not possible to implement the standard procedure by electronic means;
- (g) *'holder'* means the holder of the transit procedure.

**Article 722-03**

**Verification and administrative assistance**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 122	Article 314a	-	

The customs authorities of the Member States shall assist one another in checking the authenticity and accuracy of information and documents and in verifying that the procedures used in accordance with the provisions of this Title have been correctly applied.

## SUBSECTION 2

### USE OF THE COMMUNITY TRANSIT PROCEDURE FOR COMMUNITY GOODS

#### Article 722-04

#### Use of the Community transit procedure for Community goods

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 340c(1)	-	

1. Community goods shall be placed under the internal Community transit procedure if they are consigned between parts of the customs territory of the Community where the provisions of Council Directive 2006/112/EC do not apply or between parts of the customs territory of the Community where these provisions apply in one part but not in the other part.

2. When the holder has opted to use the Convention on a common transit procedure, the following rules shall apply in accordance with Article 1 paragraph 2 of that Convention:

[(a) Without prejudice to point (b),] Community goods shall be placed under the internal Community transit procedure when they are consigned from one point in the customs territory of the Community to another through the territory of one or more common transit countries, provided the goods are not placed under the export or outward processing procedure.

Goods covered by the first subparagraph which are carried entirely by sea or air shall not be required to be placed under the internal Community transit procedure.

[(b) Where Community goods are exported to an EFTA country or where they are exported and transit the territory of one or more EFTA countries and the provisions of the Convention on a common transit procedure apply, they shall be placed under the external Community transit procedure under the following conditions:

(a) if they have undergone customs export formalities with a view to refunds being granted on export to third countries under the common agricultural policy; or

(b) if they have come from intervention stocks, are subject to measures of control as to use and/or destination, and have undergone customs formalities on export to third countries under the common agricultural policy; or

(c) if they are eligible for the repayment or remission of import duties on condition that they are exported from the customs territory of the Community; or

(d) if in the form of compensating products or goods in the unaltered state, they have undergone customs formalities on export to third countries in order to discharge the inward processing procedure, drawback system, with a view to obtaining repayment or remission of customs duty.]

### SUBSECTION 3

#### USE OF THE COMMUNITY TRANSIT PROCEDURE FOR GOODS TRANSPORTED BY PIPELINE

#### **Article 722-05**

#### **Transport by pipeline**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 450	-	

Goods transported by pipeline shall be deemed to be placed under the Community transit procedure:

- (7) on entry into the customs territory of the Community for those goods which enter that territory by pipeline,
- (2) on placing into the pipeline system for those goods which are already within the customs territory of the Community.

Where necessary, the Community status of the goods shall be established in accordance with Articles 511-03 to 513-07.

## SUBSECTION 4

### DECLARATIONS AND MEANS OF TRANSPORT

#### Article 722-06

##### Transit declaration

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 353	Yes	

1. The transit declaration shall be made by means of a data-processing technique and shall comply with the structure and particulars set out in Annexes ex-37a and ex-37c.

2. The customs authorities shall accept a transit declaration made in writing on a form corresponding to the specimen set out in Annex ex-31 where the fallback procedure is implemented, under the conditions and according to the methods defined in Annex ex-37d.

3. The use of a written transit declaration when the holder's application and/or network is/are unavailable shall be subject to the approval of the customs authorities.

4. The written transit declaration under paragraph 2(b) may be supplemented by one or more continuation sheets corresponding to the specimen set out in Annex ex-33. The forms shall be an integral part of the declaration.

5. Loading lists complying with Annex ex-44a and drawn up in accordance with the specimen in Annex ex-45 may be used instead of continuation sheets as the descriptive part of a written transit declaration, of which they shall be an integral part.

#### Article 722-07

##### Transit declaration for travellers

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 353a	Yes	

1. The traveller shall:

- lodge a transit declaration in accordance with Article 722-06; or
- draw up the transit declaration in accordance with Article ex-208 and Annex ex-37 when he has no direct access to the customs' computerised system.

2. The competent authorities shall ensure that the transit data is exchanged between the competent authorities using information technology and computer networks.

**Article 722-08**

**Mixed consignments**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 351	-	

In the case of consignments comprising both goods which must be placed under the external Community transit procedure and goods which must be placed under the internal Community transit procedure, the transit declaration bearing the 'T' symbol shall be supplemented by the attribute "T1", "T2" or "T2F" for each item of goods.

**Article 722-09**

**Transit declaration for a means of transport**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 349	-	

1. Each transit declaration shall include only the goods that are transported from one customs office of departure to one customs office of destination in a single container, a package or on a single means of transport.

2. For the purposes of this Article, the following shall be regarded as constituting a single means of transport, on condition that the goods carried are to be dispatched together:

- (a) a road vehicle accompanied by its trailer(s) or semi-trailer(s);
- (b) a set of coupled railway carriages or wagons;
- (c) boats constituting a single chain;
- (d) containers loaded on a single means of transport within the meaning of this Article.

3. If goods are loaded on a single means of transport at more than one office of departure, a transit declaration must be made at each office of departure, to cover the goods loaded at that office.

**Article 722-10**

**Suitability for sealing**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 357(3)	-	

The means of transport or a container may be recognised as suitable for sealing on condition that:

- (a) seals can be simply and effectively affixed to them;
- (b) they are so constructed that no goods can be removed or introduced without leaving visible traces or without breaking or tampering with the seals or registration by electronic monitoring systems;
- (c) they contain no concealed spaces where goods may be hidden;
- (d) the spaces reserved for the load are readily accessible for inspection by the customs authorities.

Any road vehicle, trailer, semi-trailer or container approved for the carriage of goods under customs seal in accordance with an international agreement to which the European Community is a Contracting Party shall be regarded as suitable for sealing.



## SUBSECTION 5

### FORMALITIES AT THE CUSTOMS OFFICE OF DEPARTURE

#### Article 722-11

##### Route

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 355(1)	-	

Goods placed under the transit procedure shall be carried to the customs office of destination along an economically justified route.

#### Article 722-12

##### Time-limit

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 356	-	

The customs office of departure shall set a time limit within which the goods must be presented at the customs office of destination, taking into account the itinerary, the means of transport, any current transport or other legislation and, where appropriate, the details communicated by the holder.

#### Article 722-13

##### Prescribed itinerary

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 355(2)	-	

When the customs authorities or the holder consider it necessary, the customs office of departure shall prescribe an itinerary and enter in box 44 of the transit declaration at least the Member States to be transited, taking into account any details communicated by the holder.

#### **Article 722-14**

#### **Sealing**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 121, 122	Article 143	Articles 357(1), 417, 420	Yes	

1. Without prejudice to paragraphs 3 and 4, goods to be placed under the Community transit procedure shall not be released unless they are sealed. The customs office of departure shall take the identification measures it considers necessary and shall introduce the relevant details in the transit declaration.

2. The following shall be sealed:

(a) the space containing the goods, where the means of transport has been approved under other rules or recognised by the customs office of departure as suitable for sealing;

(b) each individual package, in other cases.

Seals must have the characteristics set out in Annex ex-46a.

3. The customs office of departure may dispense with sealing if, having regard to other possible measures for identification, the description of the goods in the data of the transit declaration or in the supplementary documents make them readily identifiable.

A goods description shall be deemed to permit identification of the goods where it is sufficiently precise to permit easy identification of the quantity and nature of the goods.

4. As a general rule the customs office of departure shall not seal the means of transport or the packages when:

- in the case of goods carried by air, labels are affixed to each consignment, bearing the number of the accompanying airway bill. If a consignment constitutes a load unit, the number of the load unit is to be indicated;

- in the case of goods carried by rail labels are used bearing a pictogram, a specimen of which is shown in Annex ex-58, or by a stamp reproducing this pictogram in green ink.

In that case, the labels or stamps shall appear both on the [transport document] [transit accompanying document] and the relevant railway wagons in the case of a full load or, in other cases, to the package or packages or the large containers concerned.

In case customs seals are affixed, the relevant particulars shall be indicated in the transit declaration.

**Article 722-15**

**Release and transit accompanying document**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 358	-	

1. On release of the goods, the customs office of departure shall transmit details of the Community transit operation:

(a) to the declared customs office of destination using the ‘Anticipated Arrival Record’ message,

(b) to each declared customs office of transit using the ‘Anticipated Transit Record’ message.

These messages shall be based on data derived from the transit declaration, as amended where appropriate.

2. Following the release of goods, the Transit accompanying document – Transit/security accompanying document shall accompany the goods placed under the Community transit procedure.

3. The transit accompanying document is made available to the holder or his representative in one of the following ways:

a) it is given to the holder or his representative by the customs office of departure, or, where authorised by the customs authorities, it is printed out from his computer system,

b) it is printed by the authorised consignor's computer system after receipt of the message allowing the release of goods sent by the customs office of departure.

4. By way of derogation of paragraph 3 point (a) the Transit accompanying document – Transit/security accompanying document need not accompany the goods placed under the Community transit procedure by the authorised consignor if he can produce the document on request by the competent authorities.

## SUBSECTION 6

### FORMALITIES EN ROUTE

#### Article 722-16

#### Presentation at the customs office of transit

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 359(1)	-	

1. The goods and the Transit accompanying document – Transit/security accompanying document shall be presented at each customs office of transit except when the goods are carried by rail.

2. The customs office of transit shall record the passage against the "Anticipated Transit Record" message received from the customs office of departure. The passage shall be notified to the customs office of departure using the "Notification Crossing Frontier" message.

3. Where goods are carried via a customs office of transit other than that declared and shown in the Transit accompanying document – Transit/security accompanying document, the actual customs office of transit shall request the "Anticipated Transit Record" message from the customs office of departure and notify the passage to the customs office of departure using the "Notification Crossing Frontier" message.

4. The customs offices of transit shall inspect the goods if they consider it necessary to do so. Any inspection of the goods shall be carried out using in particular the "Anticipated Transit Record" message as a basis for such inspection.

#### Article 722-17

#### Incidents en route

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 360(1)	-	

1. The carrier shall be required to make the necessary entries in the Transit accompanying document – Transit/security accompanying document and present it with the goods to the customs authorities of the Member State in whose territory the means of transport is located:

- (a) if the prescribed itinerary is changed and the provisions of Article 722-13 apply;
- (b) if seals are broken or tampered with in the course of a transport operation for reasons beyond the carrier's control;
- (c) if goods are transferred from a sealed means of transport to another means of transport, any such transfer must be made under the supervision of the customs authorities ;
- (d) in the event of imminent danger necessitating immediate partial or total unloading of the sealed means of transport;
- (e) in the event of any incident or accident capable of affecting the ability of the holder or the carrier to comply with his obligations.

2. Where the customs authorities consider that the transit operation concerned may continue in the normal way they shall take any steps that may be necessary and then endorse the Transit accompanying document – Transit/security accompanying document.

Relevant information concerning the transfer or any other incident shall be lodged in the computerised system by the customs authorities, as the case may be, at the customs office of transit or of destination.

## SUBSECTION 7

### FORMALITIES AT THE CUSTOMS OFFICE OF DESTINATION

#### *Article 722-18*

#### **Presentation at the customs office of destination**

<b>MCC</b>	<b>MCC empowering</b>	<b>Current IP</b>	<b>Annex</b>	<b>Adoption</b>

<b>implemented provision</b>	<b>provision</b>	<b>provision</b>		<b>procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 361	-	

1. The goods, The transit accompanying document – Transit/security accompanying document and any required documents shall be presented at the customs office of destination during the days and hours appointed for opening.

However, the said customs office may, at the request and expense of the party concerned, allow the documents and the goods to be presented outside the appointed days and hours or to be presented in any other place.

2. A transit operation may end at a customs office other than that declared in the transit declaration. That customs office shall then become the customs office of destination.

Where the new customs office comes under the jurisdiction of a Member State other than that originally declared, it shall request the 'Anticipated Arrival Record" message from the customs office of departure.

**Article 722-19**

**Notification of arrival of goods**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 363	-	

1. The customs office of destination, using the "Arrival Advice" message, shall notify the customs office of departure of the arrival of the goods on the day they are presented at the customs office of destination.

2. Where the transit operation is ended at another customs office than that declared initially, the new customs office of destination shall notify the arrival to the customs office of departure using the "Arrival Advice" message.

The customs office of departure shall notify the arrival to the initially declared customs office of destination using the "Forwarded Arrival Advice" message.

3. The "Arrival Advice" message referred to in paragraphs 1 and 2 may not be used as proof of the procedure having ended for the purposes of Article 722-25.

**Article 722-20**

**Compliance with time-limit**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 361	-	

Where the goods are presented at the customs office of destination after expiry of the time limit prescribed by the customs office of departure and where this failure to comply with the time limit is due to circumstances which are explained to the satisfaction of the customs office of destination and are not attributable to the carrier or the holder, the latter shall be deemed to have complied with the time limit prescribed.

**Article 722-21**

**Controls and issuing alternative proof**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 361(3)	-	

1. The customs office of destination shall keep the Transit accompanying document – Transit/security accompanying document and shall rely in particular on the ‘Anticipated Arrival Record’ message received from the customs office of departure when an inspection of the goods is carried out.

2. At the request of the holder, and to provide evidence of the procedure having ended correctly, the customs office of destination shall endorse a copy of the Transit accompanying document – Transit/security accompanying document with its stamp, the official's signature, the date and the following,

- Alternative proof – 99202

This shall be done at the time the goods, the Transit accompanying document – Transit/security accompanying document and any required documents are presented at the customs office of destination and no irregularity has been found.

**Article 722-22**

**Sending the control results**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 363(4)	-	

Except where justified, the customs office of destination shall forward the "Control Results" message to the customs office of departure at the latest on the third day following the day the goods are presented, or, where Article 722-36 applies, at the latest on the sixth day following the day the goods have been delivered.

**SUBSECTION 8**

**ENQUIRY PROCEDURE**

**Article 722-23**

**Enquiry procedure**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Articles 365(1), 366(2)	-	

1. When the customs authorities of the Member State of departure have not received the 'Arrival Advice' message by the time limit within which the goods must be presented at the customs office of destination or have not received the 'Control Results' message within six days after the 'Arrival Advice' message has been received, those authorities shall consider launching the enquiry procedure in order to obtain the information needed to discharge the procedure or, where this is not possible:

- to establish whether a customs debt has been incurred



- to identify the debtor, and
- to determine the customs authorities responsible for entry in the accounts

2. The enquiry procedure is started at the latest seven days after the expiry of one of the time limits referred in paragraph 1, except in exceptional cases defined by the Member States in agreement with each other. If the customs authorities receive information earlier that the transit procedure has not ended, or suspect that to be the case, the enquiry procedure shall be initiated forthwith.

2a. The enquiry procedure shall also be initiated if information comes to light subsequently that the 'Arrival Advice' message or 'Control Results' message was sent in error and the enquiry procedure is necessary to achieve the objectives of paragraph 1.

3. If the customs authorities of the Member State of departure have only received the "Arrival Advice" message, they shall initiate the enquiry procedure by requesting the customs office of destination, which has sent the 'Arrival Advice' message, for the 'Control Results' message.

4. If the customs authorities of the Member State of departure have not received the 'Arrival Advice' message, they shall initiate the enquiry procedure by requesting the information needed to discharge the procedure from the holder or, where sufficient particulars are available for the enquiry at destination, from the customs office of destination.

The holder shall be requested to provide the information needed to discharge the procedure at the latest twenty-eight days after the start of the enquiry procedure with the customs office of destination when the transit operation cannot be discharged.

5. The customs office of destination and the holder of the procedure shall reply to the request referred to in paragraph 4 within twenty-eight days. If the holder provides sufficient information within this period, the customs authorities of the Member State of departure shall take into account such information or shall discharge the procedure if the information provided so permits.

6. If the information received from the holder is not sufficient to discharge the procedure, but is sufficient to continue the enquiry procedure according to the customs authorities of the Member State of departure, it shall immediately initiate a request to the customs office involved.

7. Where an enquiry establishes that the transit procedure ended correctly, the customs authorities of the Member State of departure shall discharge the procedure and shall immediately inform the holder and, where appropriate, any customs authorities that may have initiated a recovery procedure in accordance with Articles 72 to 78 of the Code.

**Article 722-24**

**Transfer of recovery of the customs debt**

<b>MCC</b>	<b>MCC empowering</b>	<b>Current IP</b>	<b>Annex</b>	<b>Adoption</b>
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<b>implemented provision</b>	<b>provision</b>	<b>provision</b>		<b>procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 365a(1)	-	

1. When the customs authorities of the Member State of departure, herein after referred to as the "requesting authorities", during the enquiry procedure, and before the time limit referred to in Article ex-450a first indent expires, obtain evidence by whatever means regarding the place where the events from which the customs debt arises occur, and this place is in another Member State, the requesting authorities shall immediately send all the information available to the authorities responsible for that place, herein after referred to as the "authorities addressed".

2. The authorities addressed shall acknowledge receipt of the communication and indicate whether they are responsible for the recovery. If no response is received within twenty-eight days, the requesting authorities shall immediately proceed with the enquiry procedure.

**Article 722-25**

**Alternative proof**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 366(1)	-	

1. The proof that the procedure has ended within the time limit prescribed in the declaration may be furnished by the holder to the satisfaction of the customs authorities by a document certified by the customs authorities of the Member State of destination identifying the goods and establishing that they have been presented at the customs office of destination or, where Article 722-36 applies, to an authorised consignee.

2. The transit procedure shall also be considered as having ended where the holder presents, to the satisfaction of the customs authorities of the Member State of departure, one of the following documents identifying the goods:

- (a) a customs record, certified by customs, showing that the goods have physically left the customs territory of the Community;
- (b) a customs document issued in a country outside the customs territory of the Community placing the goods under a customs procedure;

(c) a document issued in a country outside the customs territory of the Community, stamped by the customs authorities of this country and certifying that goods are considered to be in free circulation in this country.

3. The documents referred to in paragraph 2 can be replaced by their copies or photocopies certified as being true copies by the body which certified the original documents, by the authorities of the country outside the customs territory of the Community or by the authorities of a Member State.

## SUBSECTION 9

### GENERAL PROVISIONS CONCERNING SIMPLIFICATIONS

#### Article 722-26

#### Simplifications

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 372(1)	-	

1. The customs authorities may authorise the following simplifications on request of the person concerned:

- (a) Authorised consignor status;
- (b) Authorised consignee status;
- (c) Use of seals of a special type;
- (d) Use of a simplified transit declaration.

2. Except where otherwise provided in this Section or in the authorisation, where an authorisation to use a simplification referred to in paragraph 1, point (d) is granted, the simplification shall apply in all Member States. Where authorisation to use the simplification referred to in paragraph 1, points (a) and (c) is granted, the simplification shall apply only to Community transit operations beginning in the Member State where the authorisation was granted. Where authorisation to use the simplification referred to in paragraph 1, point (b) is granted, the simplification shall apply only in the Member State where the authorisation was granted.

## Article 722-27

### Authorisation

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 373	-	

1. The authorisations referred to in Article 722-26(1) shall be granted only to persons who:

(a) are established in the Community,

(b) regularly use the Community transit arrangements, or whose customs authorities know that they can meet the obligations under the arrangements or, in connection with the simplification referred to in Article 722-26(1)(b), regularly receive goods that have been entered for the Community transit procedure, and

(c) have not committed any serious or repeated offences against customs or tax legislation.

2. To ensure the proper management of the simplifications, authorisations shall be granted only where:

(a) the customs authorities are able to supervise the procedure and carry out controls without an administrative effort disproportionate to the requirements of the person concerned, and

(b) the persons concerned keep records which enable the customs authorities to carry out effective controls.

3. Where the person concerned holds an AEO certificate referred to in point (a) or (c) of Article ex-14a(1), the requirements set out in paragraph 1(c) and 2(b) of this Article shall be deemed to be met.

## Article 722-28

### Application

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 374	-	

1. An application for authorisation to use simplifications, hereinafter referred to as ‘the application’, shall be dated and signed. Under the conditions and in the manner which they shall determine the competent authorities shall provide that the application shall be [made in writing or] lodged using an electronic data-processing technique.

2. The application must include all the facts which will allow the customs authorities to check that the conditions subject to which use of the simplifications may be granted have been met.

**Article 722-29**

**Place of application and time-limit**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 375	-	

1. The application shall be lodged with the customs authorities of the Member State in which the applicant is established.

2. The authorisation shall be issued or the application rejected within [three] months at most of the date on which the application is lodged.

**Article 722-30**

**Issuing the authorisation**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 376	-	

1. The dated and signed original of the authorisation and one or more copies thereof shall be given to the holder.

2. The authorisation shall specify the conditions for use of the simplifications and lay down the operating and control methods. It shall be valid from the date of issue.

3. In the case of the simplification referred to in Article 722-26(1)(c) authorisations shall be presented whenever the office of departure so requires.

#### **Article 722-31**

#### **Factors affecting the authorisation**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 377	-	

1. The holder of an authorisation shall inform the customs authorities of any factor arising after the authorisation was granted which may influence its continuation or content.

2. The date on which the decision takes effect shall be indicated in a decision revoking or amending authorisation.

#### **Article 722-32**

#### **Records**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 378	-	

1. The customs authorities shall keep applications and attached supporting documents, together with a copy of any authorisations issued.

2. Where an application is rejected or an authorisation is annulled or revoked, the application and the decision rejecting or annulling or revoking the application, as the case may be, and all attached supporting documents shall be kept for at least three years from the end of the calendar year in which the application was rejected or the authorisation was annulled or revoked.

## SUBSECTION 10

### AUTHORISED CONSIGNOR

#### *Article 722-33*

#### **Authorisation for authorised consignor**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 398	Yes	

1. Persons wishing to carry out Community transit operations without presenting the goods which are the subject of the transit declaration at the customs office of departure or in any other authorised place may be granted the status of authorised consignor.

2. This simplification shall be granted solely to persons which are authorised to use a comprehensive guarantee or are authorised to use a guarantee waiver referred to in Article 62(2) and 63 of the Code.

3. The authorisation shall specify in particular:

- (a) the customs office or offices of departure responsible for forthcoming Community transit operations;
- (b) that the authorised consignor shall lodge a transit declaration at a customs office of departure before the release of goods;
- (c) the time limit available to the customs authorities after the lodging of the transit declaration by the authorised consignor in order, if necessary, that the office may carry out any necessary controls before the departure of the goods;
- (d) the identification measures to be taken, in which case the customs authorities may prescribe that the means of transport or the package or packages shall bear special seals, approved by the customs authorities as complying with the characteristics set out in Annex ex-46a and affixed by the authorised consignor;
- (e) the excluded categories or movements of goods.

**Article 722-34**

**Transit declaration by an authorised consignor**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 402	-	

The authorised consignor shall enter into the computerised system, where appropriate, the itinerary prescribed in accordance with Article 722-13, the period prescribed in accordance with Article 722-12 within which the goods must be presented at the customs office of destination, the number, the type and the mark of the seals.

**SUBSECTION 11**

**AUTHORISED CONSIGNEE**

**Article 722-35**

**Authorisation for authorised consignee**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Articles 406(1), 407	-	

1. Persons wishing to receive at their premises or at any other authorised place goods placed under the Community transit procedure without presenting them and the Transit accompanying document – Transit/security accompanying document and any other required information at the customs office of destination may be granted the status of authorised consignee.

2. The authorisation shall specify in particular:



- (a) the customs office or offices of destination responsible for the place where the goods are received by the authorised consignee;
- (b) when, for the purpose of carrying out any inspection of the goods, the authorised consignee receives, via the "Unloading permission" message, the relevant data of the "Anticipated Arrival Record" message data from the customs office of destination;
- (c) the excluded categories or movements of goods.

3. The customs authorities shall specify in the authorisation whether any action by the customs office of destination is required before the authorised consignee may dispose of goods received.

**Article 722-36**

**Formalities for goods arriving at an authorised consignee**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 408	-	

1. When the goods arrive at his premises or at the places specified in the authorisation, the authorised consignee shall:

- (a) immediately inform the customs office of destination competent for the place of the arrival of the goods by the "Arrival Notification" message including all incidents during transport;
- (b) wait for the "Unloading Permission" message before starting the unloading;
- (c) after having received the "Unloading permission" message, send at the latest by the third day following the arrival of the goods, the "Unloading Remarks" message including all differences to the customs office of destination, in accordance with the procedure laid down in the authorisation;
- (d) make available or send to the customs office of destination the transit accompanying document – Transit/security accompanying document which accompanied the goods according to the arrangement provided in the authorisation.

2. The customs office of destination shall introduce the data constituting the “Control Results” message in the computerised system.

**Article 722-37**

**Presentation at an authorised consignee**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 406(2)	-	

The holder shall have fulfilled his obligations under the procedure, and the transit procedure shall be deemed to have ended in accordance with Article 138(2) of the Code, when the transit accompanying document – Transit/security accompanying document which accompanied the consignment, together with the intact goods, have been delivered within the prescribed period to the authorised consignee at his premises or at the place specified in the authorisation, the identification measures having been duly observed.

**SUBSECTION 12**

**USE OF SEALS OF A SPECIAL TYPE**

**Article 722-38**

**Authorisation and formalities**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	Article 386	Yes	

1. The customs authorities may authorise the holder to use special types of seals on means of transport or packages provided the customs authorities approve the seals as complying with the characteristics set out in Annex ex-46a.

2. The holder of the procedure shall enter the type, number and make of the seals used in the transit declaration.

3. The holder of the procedure shall affix seals no later than when the goods are released.

## SUBSECTION 13

### SIMPLIFIED TRANSIT DECLARATION

#### Article 722-39

#### Authorisation to make a simplified transit declaration

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a), 145(2)(a)	Article 143	none	-	

1. In accordance with Article 722-26 (1)(d) [the holder] [a railway company, an airline, a shipping company or road transport company] may be authorized to lodge a transit declaration containing the data elements provided for the transport mode in annex [new].

2. By way of derogation from Article 722-27 airlines or shipping companies need not be established in the customs territory of the Community if they have a regional office there.

## SUBSECTION 14

### SPECIAL PROVISIONS FOR TRANSPORT BY PIPELINE

#### Article 722-40

#### Operation of the procedure

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 144(3)(a),	Article 143	Article 450	-	

145(2)(a)				
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1. The holder shall be the operator of the pipeline established in the Member State through the territory of which the goods enter the customs territory of the Community or the operator of the pipeline in the Member State in which the movement starts.

The holder shall hold an authorisation setting out how the transport by pipeline is to be supervised for the purposes of customs controls.

2. For the purposes of Article 146(3) of the Code, the operator of a pipeline established in a Member State through the territory of which the goods are transported by pipeline shall be regarded as the carrier.

3. The Community transit operation shall be deemed to end when the appropriate entry is made in the records of the consignee or operator certifying that the goods transported by pipeline:

- have arrived at the consignee's plant;
- are accepted into the distribution network of a consignee;
- have left the customs territory of the Community.

## CHAPTER 3

### *Storage*

#### SECTION 1

#### COMMON PROVISIONS

#### **Article 731-01**

#### **Retail sale**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 151-152	Article 143	Article 527	-	

1. Storage facilities authorised for the temporary storage of goods shall not be used for the purpose of retail sale.
2. Storage facilities authorised for the customs warehousing of goods shall also not be used for the purpose of retail sale, unless goods are:
  - (a) retailed with relief from import duties to travellers in traffic to third countries, to members of international organisations or to NATO forces or under diplomatic or consular arrangements; or
  - (b) retailed remotely, for instance via internet.

**Article 731-02**

**Specially equipped storage facilities**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 148	Article 143	Article 526	-	

Where goods present a danger or are likely to spoil other goods or require special facilities for other reasons, authorisations may specify that they may only be stored in storage facilities specially equipped to receive them.

**Article 731-03**

**Operation of storage facilities**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 148, 151	Article 143	none	-	

Where a person is authorized to operate storage facilities for temporary storage and for customs warehousing of goods, these facilities cannot be operated in addition by a third person.

## SECTION 2

### TEMPORARY STORAGE

#### Article 732-01

##### Records

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 137, 151	Article 143	none	-	

The records which shall be kept by the holder of the authorisation for the operation of storage facilities for the temporary storage of goods shall at any time indicate the person who is the holder of the goods in accordance with Article 151(1) of the Code or the person to whom the rights and obligations have been transferred in accordance with Article 139 of the Code.

#### Article 732-01a

##### Community goods

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 152	Article 143	none	-	

1. The customs authorities may, where an economic need exists and customs supervision will not be adversely affected, authorise the storage of Community goods in places authorised for temporary storage.
2. In the cases referred to in paragraph 1, the goods shall not be regarded as being under the temporary storage procedure.

## SECTION 3

### CUSTOMS WAREHOUSING

#### Article 733-01

##### Definitions

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 153-154	Article 143	Article 507	-	

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

*'public customs warehouse type I'* means a public customs warehouse where the responsibilities referred to in Article 149 (1) of the Code lie with the holder of the authorisation and with the holder of the procedure;

*'public customs warehouse type II'* means a public customs warehouse where the responsibilities referred to in Article 149 (2) of the Code lie with the holder of the procedure;

*'public customs warehouse type III'* means a public customs warehouse which is operated by the customs authorities.

#### Article 733-02

##### Types of customs warehouses

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 153	Article 143	Article 526	-	

When granting the authorisation the customs authorities shall define the premises or any other location approved as one of the following:

public customs warehouse type I;

public customs warehouse type II; or  
private customs warehouse.

## SECTION 4

### FREE ZONES

#### *Article 734-01*

#### Exchange of information

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 5, 155	Article 143	Article 802	-	

The customs authorities of the Member States shall communicate to the Commission the information on the free zones in existence and in operation on their territory. The Commission shall make this information available on its website.

#### *Article 734-02*

#### Controls

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 155(3)	Article 143	Article 805	-	

The fence or wall enclosing free zones shall be such as to facilitate supervision by the customs authorities outside the free zone and prevent any goods being removed irregularly from the free zone. The area immediately outside the fence or wall shall be such as to permit adequate supervision by the customs authorities. Access to the said area shall require the consent of the said authorities.



## CHAPTER 4

### *Specific use*

## SECTION 1

### TEMPORARY ADMISSION

#### SUBSECTION 1

#### GENERAL PROVISIONS

#### *Article 741-1-01*

#### **General provisions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 163	Article 143	Article 553	-	

1. At the request of the holder of the authorisation, customs authorities may extend the period referred to in Article 163(2) of the Code for the time during which the goods are not used, in accordance with the conditions laid down by them. Without prejudice to the second paragraph of this Article and to *Article 741-1-02*, the overall period during which goods may remain under the temporary admission procedure shall not exceed ten years.
2. For the purposes of Article 163(3) of the Code, exceptional circumstances means any unforeseeable event as a result of which the goods must be used for a further period in order to fulfil the purpose of the temporary admission operation.
3. Goods placed under the procedure must remain in the same state. Repairs and maintenance, including overhaul and adjustments or measures to preserve the goods or to ensure their compliance with the technical requirements for their use under the procedure are admissible.

**Article 741-1-02**

**Temporary admission with partial relief from import duties**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 162	Article 143	Article 554	-	

1. Use of the temporary admission procedure with partial relief from import duties shall be granted in respect of goods which are not covered by the following Articles on total relief from import duties because not all conditions laid down therein are fulfilled. These goods may be temporarily imported for a period not exceeding 24 months.
2. The temporary admission with partial relief from import duties shall not be granted for consumable goods.

**SUBSECTION 2**

**MEANS OF TRANSPORT, PALLETS AND CONTAINERS INCLUDING THEIR ACCESSORIES AND EQUIPMENT**

**Article 741-2-01**

**General provisions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 162-165	Article 143	Article 555	-	

1. For the purposes of this Subsection:
  - (a) ‘commercial use’ means the use of means of transport for the transport of persons for remuneration or the industrial or commercial transport of goods, whether or not for remuneration;
  - (b) ‘private use’ means the use other than commercial.

2. The term 'means of transport' includes normal spare parts, accessories and equipment accompanying them.
3. Where means of transport are declared and accepted for temporary admission by any other act in accordance with Article 522-3-04, the holder of the authorisation is the person who has the physical control of the goods at the moment in which the goods have been placed under the procedure. If that person acts on behalf of another person the latter person is the holder of the authorisation.

**Article 741-2-02**

**Pallets**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Article 164	Article 556	-	

Total relief from import duties shall be granted for pallets.

**Article 741-2-03**

**Pallets accessories and equipment**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Article 164	none	-	

Without prejudice to Article 741-2-01(2), pallets accessories and normal pallets equipment may be imported either with a pallet for subsequent re-export separately or with another pallet, or separately for subsequent re-export with a pallet.

**Article 741-2-04**

**Containers**

<b>MCC implemented</b>	<b>MCC empowering</b>	<b>Current IP</b>	<b>Annex</b>	<b>Adoption</b>

<b>provision</b>	<b>provision</b>	<b>provision</b>		<b>procedure</b>
Article 164	Article 164	Article 557	-	

Total relief from import duties shall be granted for containers where they have been durably marked in an appropriate and clearly visible place with the following information:

- (a) the identity of the owner or operator shown by either his full name or an established identification; symbols such as emblems or flags being excluded;
- (b) with the exception of swap bodies used for combined rail-road transport, the identification marks and numbers of the container, given by the owner or operator; its tare weight, including all its permanently fixed equipment;
- (c) with the exception of containers used for transport by air, the country to which the container belongs, shown either in full or by means of the ISO alpha-2 country code provided for in International Standards ISO 3166 or 6346 or by the distinguishing initials used to indicate the country of registration of motor vehicles in international road traffic, or in numbers, in the case of swap bodies used for combined rail-road transport.

Where the application for authorisation is made in accordance with Article 710-02(2)(a), the containers shall be monitored by a person established or represented in the customs territory of the Community being able to communicate at all times their location and particulars of entry and discharge.

#### **Article 741-2-05**

### **Container accessories and equipment**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Article 164	none	-	

Without prejudice to Article 741-2-01(2), container accessories and normal container equipment may be imported either with a container for subsequent re-export separately or with another container, or separately for subsequent re-export with a container.

#### **Article 741-2-06**

### **Conditions for granting total relief from import duties for means of road, rail, air, sea and inland waterway transport**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Article 164	Article 558	Annex C to Istanbul Convention	

Total relief from import duties shall be granted for means of road, rail, air, sea and inland waterway transport where they:

- (a) are registered outside the customs territory of the Community in the name of a person established outside that territory; however, if the means of transport are not registered, the above condition may be deemed to be met where they are owned by a person established outside the customs territory of the Community; and
- (b) are used by a person established outside that territory, without prejudice to Articles 741-2-07, 741-2-08 and 741-2-09.

Where these means of transport are used privately by third persons established outside the customs territory of the Community, this person must be duly authorised in writing by the holder of the authorisation. (*Article 7(b) first sentence of Annex C to IC*)

**Article 741-2-07**

**Conditions for granting total relief from import duties to persons established in the customs territory of the Community**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 136(3)	Articles 136(3), 164	Article 559	-	

Persons established in the customs territory of the Community shall benefit from total relief from import duties where:

- (a) means of rail transport are put at the disposal of such persons under an agreement whereby each network may use the rolling stock of the other networks as its own;
- (b) a trailer is coupled to a means of road transport registered in the customs territory of the Community;
- (c) means of transport are used in connection with an emergency situation; or

(d) means of transport are used by a professional hire firm for the purpose of re-exportation.

**Article 741-2-08**

**Private use of means of transport by natural persons established in the customs territory of the Community**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 136(3)	Articles 136(3), 164	Article 560	-	

1. Total relief from import duties shall be granted where means of transport are used privately by a natural person established in the customs territory of the Community, on the instructions of the registration holder, this holder being in the customs territory at the time of use.
2. Total relief from import duties shall be granted where means of transport hired under a written contract are used privately by a natural person established in the customs territory of the Community:
  - (a) to return to his or her place of residence in the Community;
  - (b) to leave the Community; or
  - (c) in special situations agreed between the customs administrations after consultation of the Committee.
3. Total relief from import duties shall be granted where means of transport are used privately by a natural person established in the customs territory of the Community and employed by the owner of the means of transport established outside that territory. The private use must have been provided for in the contract of employment. (*Article 7(b) second sentence of Annex C to IC*)

**Article 741-2-09**

**Other cases in which total relief from import duties shall be granted**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>

Articles 164	136(3), Articles 164	Article 561	-	
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1. Total relief from import duties shall be granted where means of transport are used privately by a natural person established in the customs territory of the Community, on the instructions of the registration holder, this holder being in the customs territory at the time of use.
2. Total relief from import duties shall be granted where means of transport hired under a written contract are used privately by a natural person established in the customs territory of the Community:
  - (a) to return to his or her place of residence in the Community;
  - (b) to leave the Community; or
  - (c) in special situations agreed between the customs administrations after consultation of the Committee.
3. Total relief from import duties shall be granted where means of transport are used privately by a natural person established in the customs territory of the Community and employed by the owner of the means of transport established outside that territory. The private use must have been provided for in the contract of employment. (*Article 7(b) second sentence of Annex C to IC*)

**Article 741-2-10**

**Periods for discharge**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 163	Articles 164	Article 562	-	

1. Without prejudice to paragraphs 2 and 3, the periods for discharge are the following:
  - (a) for means of rail transport: 12 months;
  - (b) for commercially used means of transport other than rail transport: the time required for carrying out the transport operations;
  - (c) for means of road transport privately used:

— by students: the period the student stays in the customs territory of the Community for the sole purpose of pursuing his studies;

— by persons fulfilling assignments of a specified duration: the period this person stays in the customs territory of the Community for the sole purpose of fulfilling their assignment;

— in other cases, including saddle or draught animals and the vehicles drawn by them: six months;

(d) for privately used means of air transport: six months;

(e) for privately used means of sea and inland waterway transport: 18 months.

2. Where the means of transport referred to in Article **741-2-06** are rehired by a professional hire service established in the customs territory of the Community to a person established outside that territory or to a natural person established in the customs territory of the Community, they must be re-exported within three weeks of entry into force of the contract. The same period applies where means of transport which were returned to the said professional hire service and subsequently used by that service for the purpose of re-exportation.

The re-exportation operation of the means of transport has to be carried out within six months beginning with the entry of the means of transport into the customs territory of the Community. The means of transport shall be deemed to have been entered into the said territory on the date of entry into force of the contract under which the means of transport have been entered into that territory unless the actual date of entry has been proven.

The use of the means of transport for other purposes than re-exportation is not permitted within the framework period of 6 months.

3. In the case covered by Article **741-2-08(2)** the means of transport shall be returned to the hire service established in the customs territory of the Community or shall be re-exported within three weeks of the entry into force of the contract.

#### **Article 741-2-11**

#### **Discharge of the procedure in certain cases concerning means of rail transport, pallets and containers**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 138, 164	Articles 164	Article 584	-	



1. For means of rail transport used jointly under an agreement, the procedure shall also be discharged when means of rail transport of the same type or the same value as those which were put at the disposal of a person established in the customs territory of the Community are exported or re-exported.
2. The procedure shall also be discharged when pallets of the same type and substantially the same value are exported or re-exported.
3. Under the conditions of the Convention of Geneva of 21 January 1994 on Customs Treatment of Pool Containers used in International Transport, as approved by Council Decision 95/137/EC, the customs authorities shall permit the procedure to be discharged where containers of the same type or the same value are exported or re-exported.

### SUBSECTION 3

#### GOODS OTHER THAN MEANS OF TRANSPORT, PALLETS AND CONTAINERS INCLUDING THEIR ACCESSORIES AND EQUIPMENT

#### *Article 741-3-01*

#### General provisions

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	none	-	

The holder of the procedure may be established inside or outside of the customs territory of the Community where the use of the temporary admission procedure is granted in accordance with Articles 741-2-02 to 741-2-05, 741-3-04 to 08, 741-3-10 to 19.

#### *Article 741-3-02*

#### Personal effects and goods for sports purposes imported by travellers

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>

Article 164	Articles 164	Article 563	-	
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Total relief from import duties shall be granted where personal effects reasonably required for the journey and goods for sports purposes are imported by a traveller as defined in *Article 236(A)(1)*.

**Article 741-3-03**

**Welfare material for seafarers**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 564	-	

Total relief from import duties shall be granted for welfare materials for seafarers in the following cases:

- (a) where they are used on a vessel engaged in international maritime traffic;
- (b) where they are unloaded from such a vessel and temporarily used ashore by the crew;
- (c) where they are used by the crew of such a vessel in cultural or social establishments managed by non-profit-making organisations or in places of worship where services for seafarers are regularly held.

**Article 741-3-04**

**Disaster relief material**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 565	-	

Total relief from import duties shall be granted for disaster relief material where it is used in connection with measures taken to counter the effects of disasters or similar situations

affecting the customs territory of the Community and intended for state bodies or bodies approved by the competent authorities.

**Article 741-3-05**

**Medical, surgical and laboratory equipment**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 566	-	

Total relief from import duties shall be granted where medical, surgical and laboratory equipment is dispatched on loan at the request of a hospital or other medical institution which has urgent need of such equipment to make up for the inadequacy of its own facilities and where it is intended for diagnostic or therapeutic purposes.

**Article 741-3-06**

**Animals**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 567(1)	-	

Total relief from import duties shall be granted for animals owned by a person established outside the customs territory of the Community.

**Article 741-3-07**

**Goods for use in frontier zones**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 567(2)	-	

Total relief from import duties shall be granted for the following goods intended for activities in keeping with the particularities of the frontier zone as defined by the provisions in force:

- (a) equipment owned by a person established in the frontier zone adjacent to the frontier of the customs territory of the Community and to be used in the adjacent frontier zone and used by a person established in that zone;
- (b) goods used for the building, repair or maintenance of infrastructure in such a frontier zone under the responsibility of public authorities.

**Article 741-3-08**

**Sound, image or data carrying media, publicity material**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 568	-	

Total relief from import duties shall be granted for goods:

- (a) carrying sound, image or data processing information for the purpose of presentation prior to commercialisation, or free of charge, or for provision with a sound track, dubbing or copying; or
- (b) exclusively used for publicity purposes which includes means of transport specially equipped for those purposes.

**Article 741-3-09**

**Professional equipment**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 569	-	

1. Total relief from import duties shall be granted where professional equipment is:

- (a) owned by a person established outside the customs territory of the Community;
  - (b) imported either by a person established outside the customs territory of the Community or by an employee of the owner; the employee may be established in the customs territory of the Community; and
  - (c) used by the importer or under their supervision, except in cases of audiovisual co-productions.
2. Total relief shall not be granted where equipment is to be used for the industrial manufacture or packaging of goods or, except in the case of hand tools, for the exploitation of natural resources, for the construction, repair or maintenance of buildings or for earth moving and like projects.

**Article 741-3-10**

**Pedagogic material and scientific equipment**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 570	-	

Total relief from import duties shall be granted where pedagogic material and scientific equipment are:

- (a) owned by a person established outside the customs territory of the Community;
- (b) imported by public or private scientific, teaching or vocational training establishments which are essentially non-profit making and exclusively used in teaching, vocational training or scientific research under their responsibility;
- (c) imported in reasonable numbers, having regard to the purpose of the importation; and
- (d) not used for purely commercial purposes.

**Article 741-3-11**

**Packings**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>

Article 164	Articles 164	Article 571	-	
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Total relief from import duties shall be granted where packings:

- (a) if imported filled, are intended for re-exportation whether empty or filled;
- (b) if imported empty, are intended for re-exportation filled.

**Article 741-3-12**

**Moulds, dies, blocks, drawings, sketches, measuring, checking and testing instruments and other similar articles**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 572(1)	-	

Total relief from import duties shall be granted where moulds, dies, blocks, drawings, sketches, measuring, checking and testing instruments and other similar articles are:

- (a) owned by a person established outside the customs territory of the Community; and
- (b) used in manufacturing by a person established in the customs territory of the Community and more than 50 % of the production resulting from their use is exported.

**Article 741-3-13**

**Special tools and instruments**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 572(2)	-	

Total relief from import duties shall be granted for special tools and instruments where the goods are:

- (a) owned by a person established outside the customs territory of the Community; and
- (b) made available to a person established in the customs territory of the Community for the manufacture of goods and more than 50 % of the production resulting from their manufacturing is exported .

**Article 741-3-14**

**Goods to carry out tests or subject to tests**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 573	-	

Total relief from import duties shall be granted for the following goods:

- (a) goods subjected to tests, experiments or demonstrations;
- (b) goods imported, subject to satisfactory acceptance tests in connection with a sales contract containing the provisions of the satisfactory acceptance tests and subjected to those tests;
- (c) goods used to carry out tests, experiments or demonstrations without financial gain.

**Article 741-3-15**

**Samples**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 574	-	

Total relief from import duties shall be granted where samples are imported in reasonable quantities and solely used for being shown or demonstrated in the customs territory of the Community.

**Article 741-3-16**

**Replacement means of production**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 575	-	

Total relief from import duties shall be granted where replacement means of production are temporarily made available to a customer by a supplier or repairer, pending the delivery or repair of similar goods.

**Article 741-3-17**

**Goods for events or for sale**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 576	Yes (Council Directive)	

1. Total relief from import duties shall be granted for goods to be exhibited or used at a public event not purely organised for the commercial sale of the goods, or obtained at such events from goods placed under the procedure.

In exceptional cases, the competent customs authorities may authorise the procedure for other events.

2. Total relief from import duties shall be granted for goods for approval where they cannot be imported as samples and the consignor for his part wishes to sell the goods and the consignee may decide to purchase them after inspection.
3. Total relief from import duties shall be granted for the following:
  - (a) works of art, collectors' items and antiques as defined in 'Annex IX' of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, imported for the purposes of exhibition, with a view to possible sale;



- (b) goods other than newly manufactured ones imported with a view to their sale by auction.

**Article 741-3-18**

**Spare parts, accessories and equipment**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 577	-	

Total relief from import duties shall be granted where spare parts, accessories and equipment are used for repair and maintenance, including overhaul, adjustments and preservation of goods entered for the procedure.

**Article 741-3-19**

**Other goods**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 578	-	

Total relief from import duties may be granted where goods other than those listed in Articles 741-2-02 to 741-3-18 or not complying with the conditions of these Articles, are imported:

- (a) for a period not exceeding three months; or  
 (b) in particular situations having no economic effect.

**Article 741-3-20**

**Special period for discharge**

<b>MCC implemented</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>

<b>provision</b>				
Article 164	Articles 164	none	-	

For the goods referred to in Articles 741-3-14 point (b), 741-3-16 and 741-3-17(2) the period for discharge is six months.

#### SUBSECTION 4

#### PROVISIONS CONCERNING THE OPERATION OF THE PROCEDURE

##### *Article 741-4-01*

#### Goods declared orally or by any other act

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 107(2)	Articles 164	Article 579	-	

Where personal effects, goods imported for sports purposes or means of transport are declared orally or by any other act in accordance with Articles 522-3-03 and 522-3-04 for temporary admission, customs authorities may require a customs declaration other than oral or by any other act when a high amount of import duties is at stake or a serious risk of non-compliance with obligations of the procedure exists.

##### *Article 741-4-02*

#### ATA/CPD carnets

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 580	-	

1. Declarations for placing goods under temporary admission using ATA/CPD carnets shall be accepted if they are issued in a participating country and endorsed and guaranteed by an association forming part of an international guarantee chain. Unless otherwise provided for by bilateral or multilateral agreements, ‘participating country’ means a contracting party to the ATA Convention, or to the Istanbul Convention having accepted the Customs Cooperation Council recommendations of 25 June 1992 concerning acceptance of the ATA Carnet and the CPD Carnet for the temporary admission procedure.
2. Paragraph 1 shall apply only if the ATA/CPD carnets:
  - (a) relate to goods and uses covered by those Conventions or agreements;
  - (b) are certified by the customs authorities in the appropriate section of the cover page; and
  - (c) are valid throughout the customs territory of the Community.
3. The ATA/CPD carnet shall be presented at the customs office of entry into the customs territory of the Community, except where this office is unable to check the fulfilment of the conditions for the procedure.

**Article 741-4-03**

**Records**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 137	Articles 164	Article 581	-	

In order to facilitate control of the procedure, the customs authorities may require records to be kept.

**Article 741-4-04**

**Special discharge for goods for events or for sale**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 582	-	

1. Where goods placed under the procedure in accordance with Article 741-3-17 are put on the market, they shall be considered as presented to customs when they are declared for release for free circulation before the end of the period for discharge.
2. For the purposes of discharging the procedure in respect of goods referred to in Article 741-3-17(1), their consumption, destruction or distribution free of charge to the public at the event shall be considered as re-exportation, provided their quantity corresponds to the nature of the event, the number of visitors and the extent of the holder of the procedure's participation therein.

The first subparagraph shall not apply to alcoholic beverages, tobacco goods or fuels.

**Article 741-4-05**

**Indication**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 164	Articles 164	Article 583	-	

Where the goods placed under the procedure are placed subsequently under a customs procedure enabling the temporary admission procedure to be discharged, the documents other than ATA/CPD carnets or records used for the said procedure or any documents replacing them, shall contain the following indication:

TA

Where the goods placed under the procedure are re-exported, the re-export notification shall contain also such indication.

SECTION 2

END-USE

**Article 742-01**

**Exportation of the goods**

<b>MCC</b>	<b>MCC empowering</b>	<b>Current IP</b>	<b>Annex</b>	<b>Adoption</b>
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<b>implemented provision</b>	<b>provision</b>	<b>provision</b>		<b>procedure</b>
Article 166	Articles 143	Article 298	-	

Where goods under end-use are exported, the exit summary declaration shall contain the following indication:

E-U

**Article 742-02**

**Waste and scrap**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 166	Articles 143	Article 300	-	

1. Waste and scrap which result from the working or processing of goods and losses due to natural wastage shall be considered as goods having been assigned to the prescribed end-use.
2. Any waste or scrap resulting from destruction shall be deemed to be placed under the temporary storage procedure.

**Article 742-03**

**End of customs supervision in certain cases**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 166(2)(a)	Articles 143	Article 300(1)	-	

1. Customs authorities may establish in the end-use authorisation under which conditions goods are deemed to have been used for the purposes laid down for the application of the duty exemption or reduced rate of duty if the goods are at a production stage which would allow economically the prescribed end-use only.

2. 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 the application of the duty exemption or reduced rate of duty.

## CHAPTER 5

### *Processing*

#### SECTION 1

#### GENERAL PROVISIONS

#### **Article 751-01**

#### **Authorisation**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 136	Article 136	Articles 538, 540, 586	Yes	

1. The authorisation shall specify the means and methods to establish that the processed products have resulted from processing of goods placed under the procedure or to verify that the conditions for using the equivalent or standard exchange system are met. Such means and methods may include the exchange of information in accordance with Annex 104. Records may be used as a proof that the goods placed under the procedure are identifiable in the processed products.
2. An authorisation may also be granted for production accessories, with the exception of:
  - (a) fuels and energy sources other than those needed for the testing of processed products or for the detection of faults in the goods placed under the procedure needing repair;
  - (b) lubricants other than those needed for the testing, adjustment or withdrawal of processed products;
  - (c) equipment and tools.

## SECTION 2

### INWARD PROCESSING

#### Article 752-01

##### Prior exportation of processed products

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 142(2)	Article 142(2)	Article 543	-	

1. In the case of prior exportation of processed products the authorisation shall specify the period within which the non-Community goods may be declared for inward processing, taking account of the time required for procurement and transport to the customs territory of the Community.
2. The period referred to in paragraph 1 shall be set in months and shall not exceed six months.

At the request of the holder of the authorisation, the period of six months may even after its expiry be extended, provided that the total period does not exceed twelve months.

#### Article 752-02

##### Special cases for discharge of the procedure

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 138	Article 136	Article 544	-	

For the purposes of discharging the procedure, the following shall be regarded as re-exportation:

- (a) the delivery of processed products to persons who are eligible for relief from import duties pursuant to the Vienna Convention of 18 April 1961 on Diplomatic Relations, or to the Vienna Convention of 24 April 1963 on Consular Relations or other consular conventions, or the New York Convention of 16 December 1969 on Special Missions;
- (b) the delivery of processed products to the armed forces of other countries stationed in the territory of a Member State, where that Member State grants special relief from import duties in accordance with Article 136 of Regulation (EEC) No 918/83;
- (c) the delivery of civil aircraft; however, the supervising office shall allow the procedure to be discharged once the goods placed under the procedure have been used for the first time for the manufacture, repair, modification or conversion of civil aircraft or parts thereof, on condition that the records of the holder of the procedure are such as to make it possible to verify that the procedure is being correctly applied and operated;
- (d) the delivery of spacecraft and related equipment; however, the supervising office shall allow the procedure to be discharged once the goods placed under the procedure have been used for the first time for the manufacture, repair, modification or conversion of satellites, their launch vehicles and ground station equipment and parts thereof that are an integral part of the systems, on condition that the records of the holder of the procedure are such as to make it possible to verify that the procedure is being correctly applied and operated;
- (e) disposal in accordance with the relevant provisions of secondary processed products whose destruction under customs supervision is prohibited on environmental grounds; for these purposes, the holder of the procedure shall prove that discharge of the procedure in accordance with the normal rules is either impossible or uneconomic.

**Article 752-03**

**Released for free circulation by use of the bill of discharge**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 112,123	Articles 136,143	Article 546	-	

The customs authorities may authorise that processed products or goods placed under the procedure, without prejudice to prohibitive or restrictive measures, shall be considered to have been released for free circulation, where they have not been declared for a subsequent customs procedure on expiry of the period for discharge.

For the purposes of the first subparagraph of Article 70(1) of the Code, the declaration for release for free circulation shall be considered to have been lodged and accepted and release



granted at the time of presentation of the bill of discharge. The products or the goods placed under the procedure shall become Community goods when they are put on the market.

**Article 752-04**

*[Deleted, because of Articles 710-13(1)(b) and 710-20a.]*

**Article 752-05**

**Indications**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 136	Article 136,143	Article 549	-	

1. Where the processed products or goods placed under the procedure are placed subsequently under a customs procedure enabling the inward processing to be discharged, the documents or records used for the said procedure or any documents replacing them, shall contain the following indication:

IP

Where the goods placed under the procedure are re-exported, the re-export notification shall contain also such indication.

2. Where goods placed under the procedure are subject to specific commercial policy measures and such measures continue to be applicable at the time when the goods also in the form of processed products, are placed under a subsequent customs procedure, the indication referred to in paragraph 1 shall be supplemented by the following:

CPM

Where the goods placed under the procedure are re-exported, the re-export notification shall contain also such indication.

## SECTION 3

### OUTWARD PROCESSING

#### Article 753-01a

##### Definition

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 171(3)	Article 143	none	-	

'Cost of the processing operation undertaken outside the customs territory of the Community' as referred to in the first subparagraph of Article 171(3) of the Code means the customs value of the processed products at the time of declaration for release for free circulation less the value of the corresponding temporary export goods at the time when they were placed under outward processing.

#### Article 753-01

##### Prior importation of processed products

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 136,143	Article 136,143	none	-	

1. In the case of prior importation of processed products the authorisation shall specify the period within which the Community goods, which are replaced by equivalent goods, must be placed under outward processing.
2. The period referred to in paragraph 1 shall not exceed six months.

At the request of the holder of the authorisation, the period of six months may be extended even after its expiry provided that the total period does not exceed twelve months.

3. In the event of prior importation of processed products, a guarantee shall be provided covering the amount of the import duty that would be payable should the replaced Community goods not be placed under outward processing in accordance with paragraph 1.

**Article 753-02**

**Repair**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 136,143	Article 136,143	Article 587	-	

Where the procedure is requested for repair, the temporary export goods must be capable of being repaired and the procedure shall not be used to improve the technical performance of the goods.

**Article 753-03**

**Declaration**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 136,143	Article 136,143	Article 589	-	

The customs declaration placing the temporary export goods under the procedure shall be made *mutatis mutandis* in accordance with the provisions laid down for exportation.

## TITLE VIII

### DEPARTURE OF GOODS FROM THE CUSTOMS TERRITORY OF THE COMMUNITY

#### CHAPTER 1

##### *Goods leaving the customs territory*

##### **Article 810-01**

##### **Specific deadlines for lodging an export declaration, a re-export notification or an exit summary declaration**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 176 (1) (c)	Article 176 (1)	Article 592b	-	

1. Without prejudice to the provisions concerning the presentation of goods at the competent customs office, the export declaration, re-export notification or exit summary declaration shall be lodged at the competent customs office by the following deadlines:
  - (a) in the case of maritime traffic:
    - (i) for containerised cargo, other than where point (iii) or (iv) applies, at least 24 hours before the goods are loaded onto the vessel on which they are to leave the customs territory of the Community;
    - (ii) for bulk/break bulk cargo, other than where point (iii) or (iv) applies, at least four hours before the goods are loaded onto the vessel on which they are to leave the customs territory of the Community;
    - (iii) for movement between the customs territory of the Community with the exception of the French overseas departments, the Azores, Madeira or the Canary Islands and Greenland, the Faeroe Islands, Ceuta, Melilla, Norway, Iceland, ports on the Baltic Sea, the North Sea, the Black Sea, the Mediterranean or all ports of Morocco, at least two hours before the goods are loaded onto the vessel on which they are to leave the customs territory of the Community;
    - (iv) for movement, in cases other than those covered under point (iii), between the French overseas departments, the Azores, Madeira, the Canary Islands

and territories outside the customs territory of the Community, where the duration of the voyage is less than 24 hours, at least two hours before the goods are loaded onto the vessel on which they are to leave the customs territory of the Community;

- (b) in the case of air traffic, at least 30 minutes before the goods are loaded onto the aircraft on which they are to leave the customs territory of the Community;
  - (c) in the case of road, rail and inland waters traffic, at least one hour before the goods are loaded onto the means of transport on which they are to leave the customs territory of the Community;
  - (d) in cases where Regulation (EC) No 612/2009 applies, according to the rules of that Regulation.
2. Where the declaration or notification referred to in paragraph 1 is not lodged by use of a data processing technique, the deadlines laid down in points (a)(iii) and (iv), (b), (c) and (d) of paragraph 1 shall be at least four hours.
  3. If the customs authorities' computerised system is temporarily not functioning, the deadlines provided for in paragraph 1 shall still apply.
  4. The deadlines referred to in paragraphs 1 to 3 shall not apply where international agreements between the Community and third countries provide otherwise and in cases of force majeure.
  5. If an economic operator lodges a declaration or notification after the deadlines provided for in paragraphs 1 to 3, penalties laid down in the national legislation may be applied.

#### **Article 810-02**

#### **Exemption from the deadlines referred to in Article 810-01**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 176 (1) (a)	Article 176 (1)	Article 592a	-	

In accordance with Article 176 (1) (a) of the Code, the following goods are not subject to the deadlines referred to in Article 810-01:

- (a) electrical energy;
- (b) goods leaving by pipeline;
- (c) letters, postcards, printed matter, including on electronic medium;

- (d) goods moved under the rules of the Universal Postal Union Convention;
- (e) goods for which an oral declaration is permitted in accordance with [(ex)Articles 226, 227 and 229 (2)] and goods covered by a customs declaration made by any other act in accordance with [(ex)Articles 231, 232 (2) and 233]; this exception does not apply to household effects as defined in Article 2(d) of Council Regulation (EC) No 1186/2009, pallets, containers, and means of road, rail, air, sea and inland waterway transport carried under a transport contract;
- (f) goods contained in travellers' personal luggage;
- (g) goods covered by ATA and CPD Carnets;
- (h) goods moved under cover of the form 302 provided for under the Convention between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951;
- (i) goods carried on board authorised regular shipping services;
- (j) weapons and military equipment brought out of the customs territory of the Community by the authorities in charge of the military defence of a Member State, in military transport or transport operated for the sole use of the military authorities;
- (k) the following goods brought out of the customs territory of the Community directly to drilling or production platforms operated by a person established in the customs territory of the Community:
  - (i) goods to be used for construction, repair, maintenance or conversion of such platforms,
  - (ii) goods to be used to fit or equip the said platforms,
  - (iii) other provisions to be used or consumed on the said platforms;
- (l) goods in a consignment the intrinsic value of which does not exceed 22 EUR provided that the customs authorities accept, with the agreement of the economic operator, to carry out risk analysis using the information contained in, or provided by, the system used by the economic operator;
- (m) goods entitled to relief pursuant to the Vienna Convention on diplomatic relations of 18 April 1961, the Vienna Convention on consular relations of 24 April 1963 or other consular conventions, or the New York Convention of 16 December 1969 on special missions;
- (n) goods exported by authorised exporters lodging a simplified customs declaration for which the requirement of Article 810-01 has been waived;
- (o) goods which are supplied for incorporation as parts of or accessories in vessels and aircrafts, motor fuels, lubricants and gas necessary for the operation of the vessels or aircraft, foodstuffs, and other items to be consumed or sold on board;

- (p) goods destined to territories within the customs territory of the Community where the provisions of Council Directive 2006/112/EC do not apply, and goods dispatched from these territories to another destination in the customs territory of the Community;
- (q) goods dispatched from the customs territory of the Community to Helgoland, San Marino and the Vatican.
- (r) goods for which the retrospective lodgement of an export declaration or re-export notification has been authorised in accordance with Article 820-05;
- (s) cases in which Article 820-13(2) applies.

## CHAPTER 2

### *Export and re-export*

#### I - EXPORT

#### **Article 820-01**

#### **Goods to be declared for export**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 178	Article 178 (3)	Article 786	Yes	

1. Without prejudice to the rules on outward processing, Community goods to be brought to a destination outside the customs territory of the Community shall be declared for export.
2. An export declaration shall also be lodged in the following cases:
  - (a) where Community goods are to move to, or from, territories within the customs territory of the Community where the provisions of Council Directive 2006/112/EC and Council Directive 2008/118/EC do not apply;
  - (b) where Community goods are delivered tax exempt as aircraft and ship supplies, regardless of the destination of the aircraft or ship.

However the security data referred to in Annex 52-01 [(ex) Annex 30A] do not need to be provided.

3. No export declaration shall be required for goods to be brought to Helgoland.

**Article 820-02**

**Customs office at which the export declaration must be lodged**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Articles 178,179	Article 178 (3)	Articles 289, 788 to 791, 794 and Article 2(3) of Regulation (EC) No 428/2009	-	

1. The export declaration shall be lodged at the customs office responsible for supervising the place
  - (a) where the exporter is established, or
  - (b) where the goods are packed or loaded for export shipment.
2. For the purposes of point (a) of paragraph 1, 'exporter' shall mean the person who holds the contract with the consignee outside the customs territory of the Community. If no contract has been concluded with a consignee outside the customs territory of the Community, 'exporter' shall mean the person who takes the decision that the goods are to be brought out of the customs territory of the Community. However, if that decision is taken by a person established outside the customs territory of the Community, 'exporter' shall mean the holder of the goods established in the customs territory of the Community.
3. In cases involving sub-contracting, the export declaration may also be lodged at the customs office responsible for the place where the subcontractor is established.
4. Oral export declarations may be made only at the customs office of exit referred to in Article 820-15(2).
5. The following goods may be declared for export at the customs office of exit as defined in Article 820-15(2):
  - (a) goods not subject to prohibitions and restrictions and not exceeding EUR 3 000 in value per consignment and per declarant. This provision shall not apply when the person making the export declaration is acting as a professional customs representative on behalf of others;
  - (b) cases in which the exporter as defined in paragraph 2, has been authorised to lodge the export declaration at the customs office of exit, provided the whole export operation takes place in one single Member State.



6. An export declaration may be lodged at a customs office other than those referred to in the preceding paragraphs in the following cases:
  - (a) where an ATA carnet is used for re-exportation of the goods under temporary importation;
  - (b) in duly justified circumstances.

**Article 820-03**

**Formalities of the export declaration**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 178	Article 178 (3)	Article 787	Yes	

1. The export declaration shall comply with the provisions relating to structure and particulars set out in this Section and Annex 52-01.
2. The customs authorities shall accept a paper-based export declaration in the form laid down in paragraph 3
  - (a) where the customs authorities' computerised system is not functioning; or
  - (b) where the electronic application of the person lodging an export declaration is not functioning; or
  - (c) where the goods are exported by travellers who have no means of lodging the export declaration using a data processing technique.
3. In the cases referred to in paragraph 3, the export declaration may be made in one of the following ways:
  - (a) using a form corresponding to the specimen set out in [(ex)Annexes 31 to 34] complemented by a Security and Safety Document corresponding to the specimen set out in Annex 52-09 and a Security and safety List of Items corresponding to the specimen set out in Annex 52-10;
  - (b) using an Export/Security Single Administrative Document corresponding to the specimen set out in Annex 52-11 and an Export/Security List of Items corresponding to the specimen set out in Annex 52-12.
4. The forms mentioned under point (a) and (b) shall contain the minimum list of data set out in [(ex)Annex 37] and in Annex 52-01 for the export procedure.

5. The use of a paper-based export declaration referred to in the cases of the second and third indent of paragraph 2 are subject to the approval of the customs authorities.
6. Articles 820-10 and 820-11 shall apply mutatis mutandis in cases where a paper-based export declaration has been lodged.

**Article 820-04**

**Formalities at the customs office of export**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 178	Article 178 (3)	Article 793a, 796a	Yes	

1. The customs office of export shall perform risk analysis and random checks and shall authorise release of the goods by issuing the Export Accompanying Document to the declarant or by communicating release in another way. The Export Accompanying Document shall correspond to the specimen and notes in Annex 52-07.
2. Where an export consignment consists of more than one item, the Export Accompanying Document shall be supplemented by a list of items corresponding to the specimen and notes in Annex 52-08. It shall form an integral part of the Export Accompanying Document.
3. Where authorised, the Export Accompanying Document may be printed out from the computerised system of the declarant.
4. At the request of the exporter or declarant the customs office of export shall issue a document containing the particulars necessary for granting duty relief for returned goods.

**Article 820-05**

**Retrospective lodgement of an export declaration**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 178	Article 178 (3)	Articles 289, 795	-	

1. In cases where the whole of an export operation takes place on the territory of a single Member State and where Article 810-02 applies, the customs office responsible for supervising the place where the exporter is established may authorise an economic operator to enter in his records immediately each export operation and to report all of them to the authorising customs office on a monthly basis after the goods have left the customs territory of the Community. Such authorisation may be granted under the following conditions:
  - (a) the economic operator is established in the customs territory of the Community;
  - (b) the goods to be exported present a low risk and are not subject to prohibitions and restrictions;
  - (c) the economic operator regularly uses these arrangements;
  - (d) the economic operator has not committed any serious or repeated offences against customs or tax legislation;
  - (e) the economic operator keeps records which enable the customs authorities to carry out effective controls;
  - (f) the economic operator provides to the customs office of export all the information this office considers necessary to enable it perform controls of the goods. In cases where the customs office of export is different from the customs office of exit, such information shall also be available to the customs office of exit.
2. Where the arrangements referred to in the paragraph 1 are used, entry in the records of the goods brought out of the customs territory of the Community shall be equivalent to release for export.
3. The customs authorities shall perform regular audits in order to confirm that the holder of an authorisation for these arrangements complies with fiscal, customs and external trade rules. The customs office of export shall, if the declarant requests, provide the exit certification referred to in Article 820-11 (1).
4. In the cases where no retrospective export declaration has been authorised but goods have been brought out of the customs territory of the Community, the exporter shall lodge a retrospective export declaration.
5. For the purpose of this Article the definition of 'exporter' in Article 820-02(2) shall apply.

**Article 820-06**

**Communication between the customs offices of export and exit**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>

Article 178	Article 178 (3)	Article 796b	-	
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1. On release of the goods, the customs office of export shall transmit particulars of the export movement to the declared customs office of exit using the "Anticipated export record" message. This message shall be based on data derived from the export declaration and supplemented as appropriate by the customs office of export.
2. Where goods are to be moved to more than one customs office of exit as more than one consignment, each individual consignment shall be covered by an individual "Anticipated export record" message and an individual Export Accompanying Document.

#### **Article 820-07**

#### **Presentation of the goods to the customs offices of exit**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 178	Article 178 (3)	Article 793	-	

1. The goods released for export shall be presented to customs at the customs office of exit.
2. For the purposes of this chapter, 'customs office of exit' shall mean the last customs office before the goods leave the customs territory of the Community for a destination outside that territory.
3. By way of derogation from paragraph 2, 'customs office of exit' shall mean one of the following:
  - (a) in the case of goods leaving the customs territory of the Community by pipeline and cable for electrical energy, the customs office of export as defined in Article 820-02(1)(a);
  - (b) the customs office competent for the place where the goods are loaded to the vessel or the aircraft on which they will leave the customs territory of the Community by air or sea to a destination outside that territory.

#### **Article 820-08**

#### **Procedure before the exit of the goods**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 178	Article 178 (3)	Article 796d (1)	-	

1. The customs office of exit shall satisfy itself on the basis of risk analysis and random checks that the goods presented correspond to those declared and supervise the physical exit of the goods from the customs territory of the Community.
2. Where, following presentation at the customs office of exit, goods are unloaded from a means of transport, handed over to another person holding the goods and loaded to another means of transport that will carry the goods the following provisions shall apply:
  - (a) At the latest when handing over the goods, the first person shall advise the next holder of the goods the unique consignment reference number or transport document number, and number of packages or, if containerised, the equipment identification number and, if one has been issued, the Movement Reference Number of the export declaration. This advice may be made electronically and/or using commercial, port or transport information systems and processes or in any other form. At the latest upon handover of the goods, the person to whom they are handed over shall record the advice provided by the immediately preceding holder of the goods.
  - (b) A carrier may not load goods for carriage out of the customs territory of the Community unless the information referred to under point (a) has been provided to the carrier or its representative.
  - (c) The carrier or its representative shall notify the exit of the goods to the customs office of exit of, including the information referred to under point (a). Wherever possible this notification shall form part of existing manifest or other transport reporting requirements and may be made using existing commercial; port or transport information system or processes.
3. For the purposes of paragraph 2 'carrier' means the person who brings the goods, or who assumes responsibility for the carriage of the goods, out of the customs territory of the Community. However:
  - (a) in the case of combined transportation, where the active means of transport leaving the customs territory of the Community 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 Community has arrived at its destination;
  - (b) in the case of maritime or air traffic under a vessel sharing or contracting arrangement, 'carrier' means the person who has concluded a contract, and issued a

bill of lading or air waybill, for the actual carriage of the goods out of the customs territory of the Community.

4. Without prejudice to Articles 820-12(1), where goods declared for export are no longer destined to be brought out of the customs territory of the Community, the person who removes the goods from the customs office of exit for carriage to a place within the customs territory of the Community, or its representative, shall provide to the customs office of exit the information referred to under point (a) of paragraph 2. This information may be provided in any form.

**Article 820-09**

**Notification of arrival at the customs office of exit**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 178	Article 178 (3)	Article 796c	-	

The customs authorities may require notification of the arrival of the goods at the customs office of exit to be communicated to them electronically. In this case it shall not be necessary for the Export Accompanying Document be submitted to the customs authorities. Such notification shall contain the Movement Reference Number of the export declaration.

**Article 820-10**

**Procedure at the customs office of exit**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 178	Article 178 (3)	Article 796d (2) (3)	-	

1. The customs office of exit shall forward the "Exit results" message to the customs office of export at the latest on the working day following the day the goods leave the customs territory of the Community. In cases justified by special circumstances the customs office of exit may forward that message at a later date.
2. Where goods covered by one "Anticipated export record" message are moved to a customs office of exit as one consignment but subsequently exit the customs territory of the Community from that office of exit as more than one consignment, the customs office

of exit shall control the physical exit of the goods and send the "Exit results" message only when all of the goods have left the customs territory of the Community.

3. In exceptional circumstances, where goods covered by one "Anticipated export record" message are moved to a customs office of exit as one consignment but subsequently exit the customs territory of the Community as more than one consignment and through more than one customs office of exit, the customs office of exit where the consignment was first presented shall, upon receiving a duly substantiated request, certify a copy of the Export Accompanying Document for each part of the goods.
4. The certification mentioned in paragraph 3 shall only be granted by the customs authorities if the data contained in the Export Accompanying Document corresponds to the data in the "Anticipated export record" message.
5. In the circumstances of paragraph 3, the relevant copy of the Export Accompanying Document and the goods shall be presented together to the customs office of exit concerned. Each customs office of exit shall certify the physical exit of the goods by means of an endorsement on the back of a copy of the Export Accompanying Document. The endorsement shall take the form of a stamp showing the name of the customs office of exit and the date of exit of the goods. Each customs office of exit shall return the copy to the customs office of exit where the consignment was first presented. This customs office shall send the "Exit results" message only when all of the goods have left the customs territory of the Community.
6. The customs office of exit may also, upon duly justified request and according to Article 820-10 (4) (d), certify the physical exit of the goods in the form indicated in paragraph 5 on the back of a copy of the Export Accompanying Document, without prejudice to Article 820-11 (5)

#### **Article 820-11**

#### **Certification of exit**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 178	Article 178 (3)	Articles 796da,796e	-	

1. The customs office of export shall certify the export to the exporter or declarant when it has received an 'Exit result' message from the customs office of exit.
2. Where, after 90 days from the release of goods for export, the customs office of export has not received the "Exit results" message, the customs office of export may, where needed, request the exporter or declarant to indicate the date at which and the customs office from where the goods have left the customs territory of the Community.

3. The exporter or declarant may, on his own initiative or following a request made in accordance with paragraph 2, inform the customs office of export that the goods have left the customs territory of the Community indicating the date at which and the customs office of exit from where the goods have left the customs territory of the Community and request from the customs office of export that the exit be certified. In this case, the customs office of export shall request the “Exit results” message from the customs office of exit, which shall respond within 10 days.
4. Where, in the cases referred to in paragraph 3, the customs office of exit does not confirm the exit of the goods within the time limit referred to in paragraph 2, the customs office of export shall inform the exporter or declarant who may provide to the customs office of export evidence that the goods have left the customs territory of the Community.
5. The evidence referred to in paragraph 4 may be provided in particular by one of the following means or a combination thereof:
  - (a) a copy of the delivery note signed or authenticated by the consignee outside the customs territory of the Community,
  - (b) the proof of payment or the invoice or the delivery note duly signed or authenticated by the economic operator which brought the goods out of the customs territory of the Community,
  - (c) a declaration signed or authenticated by the company which brought the goods out of the customs territory of the Community,
  - (d) a document certified by the customs authorities of a Member State or a country outside the customs territory of the Community, or
  - (e) economic operators records of goods supplied to oil and gas drilling and production platforms.
6. Where goods declared for export are moved under a transit procedure, the certification of exit shall only be issued where the customs office of export has received the information that the goods left the customs territory of the Community.

**Article 820-12**

**Goods released for export that do not leave the customs territory of the Community**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 178	Article 178 (3)	Articles 792a,796e	-	



1. Where goods released for export do not leave the customs territory of the Community, the person who lodged the export declaration shall immediately inform the customs office of export.
2. Where the customs office of export has, after a period of 150 days from the date of release of the goods for export, received neither an "Exit results" message from the customs office of exit nor satisfactory evidence in accordance with Article 820-11 (5), the customs office of export may consider this as information that the goods have not left the customs territory of the Community.
3. The customs office of export shall inform the declared customs office of exit where it has accepted evidence in accordance with Article 820-11(5).
4. Where the goods have not left the customs territory of the Community, the customs office of export shall invalidate the export declaration.
5. The customs office of export shall inform the person who lodged the export declaration and the declared customs office of exit of the invalidation of the export declaration.

## II – RE-EXPORT NOTIFICATION

### Article 820-13

#### Re-export notification

MCC implemented provision	MCC empowering provision	Current IP provision	Annex	Adoption procedure
Article 179	Articles 183 (2) (b)-(c)	Articles 841, 841a	Yes	

1. Articles 820-01 to 820-12 shall apply *mutatis mutandis* to the re-export notification referred to in Article 179 of the Code.
2. Where goods under temporary storage or in a free zone are re-exported and no customs or exit summary declaration is required, re-exportation shall be notified to the customs office of exit prior to the exit of the goods in the form referred to in Annex XXX.

The person referred to in subparagraph 1 shall at its request, be authorised to amend one or more particulars of the notification. This amendment is no longer possible after the goods mentioned in the notification have left the customs territory of the Community.

3. The notification referred to under paragraph 2 shall be made by the carrier or its representative. However, such notification may be lodged by the holder of the temporary

storage facility or the holder of a storage facility in a free zone, or any other person able to present the goods, or its representative, where

- (a) the carrier or its representative has been informed, and given its consent that the person referred to in the second sentence of this paragraph lodges the notification; the customs office of exit may assume, except where there is evidence to the contrary, that the carrier has given its consent under contractual arrangements and that the notification has been lodged with its knowledge; and
- (b) the customs office of exit is in a position to notify the carrier electronically that it has accepted the notification lodged by another person.

### III –EXPORT AND RE-EXPORT UNDER AN ATA CARNET

#### Article 820-14

#### Use of an ATA carnet

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 178	Article 178 (3)	Articles 797-798	Yes	

1. An ATA carnet may be used as an export declaration where the ATA carnet is issued in a Member State of the Community and endorsed and guaranteed by an association established in the Community forming part of an international guarantee chain.
2. The ATA carnet shall be applicable only to Community goods which are not under the following circumstances:
  - (a) they have undergone customs export formalities with a view to refunds being granted on export to third countries under the common agricultural policy; or
  - (b) they have come from intervention stocks, are subject to measures of control as to use and/or destination, and have undergone customs formalities on export to third countries under the common agricultural policy; or
  - (c) they are eligible for the repayment or remission of import duties on condition that they are exported from the customs territory of the Community.
3. Where goods covered by an ATA carnet are entered for the purposes of temporary exportation, the customs office of export shall carry out the following formalities:

- (a) verify the information given in boxes A to G of the exportation voucher against the goods under cover of the carnet;
  - (b) complete, where appropriate, the box on the cover page of the carnet headed ‘Certificate by customs authorities’;
  - (c) complete the counterfoil and box H of the exportation voucher;
  - (d) enter its name in box H (b) of the re-importation voucher;
  - (e) retain the exportation voucher.
4. If the customs office of export is not the customs office of exit, the customs office of export shall carry out the formalities referred to in paragraph 2, but it shall not complete box 7 of the exportation counterfoil, which must be completed by the customs office of exit.
  5. The time limit for re-importation of the goods laid down by the customs office of export in box H (b) of the exportation voucher may not exceed the validity of the carnet.
  6. Where Community goods which left the customs territory of the Community under cover of an ATA carnet are no longer intended to be re-imported, an export declaration containing the particulars referred to in Annex 52-01 shall be presented to the customs office of export.
  7. On presentation of the carnet in question, the latter shall, upon request, certify a copy of the Export Accompanying Document and invalidate the re-importation voucher and counterfoil.

#### IV –EXIT SUMMARY DECLARATION

##### Article 820-15

#### Lodging and registration of an exit summary declaration

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 180	Article 183 (2) (b)-(c)	Articles 842a-842d	Yes	

1. Without prejudice to paragraphs 3 and 4, where bringing goods out of the customs territory of the Community does not require customs declaration or a re-export notification

referred to in Article 179 of the Code, the exit summary declaration referred to in Article 180 of the Code shall be lodged at the customs office of exit.

2. For the purpose of this Chapter, the 'customs office of exit' shall mean:
  - (a) the customs office competent for the place from where the goods will leave the customs territory of the Community; or
  - (b) where the goods are to leave the customs territory of the Community by air or sea, the customs office competent for the place where the goods are loaded onto the vessel or aircraft on which they will be brought to a destination outside the customs territory of the Community.
3. The exit summary declaration, where required, shall be lodged by the carrier or its representative. However, such declaration may be lodged by the holder of the temporary storage facility or the holder of a storage facility in a free zone, or its representative, where
  - (a) the carrier or its representative has been informed, and given its consent that the person referred to in the second sentence of this paragraph lodges the declaration; the customs office of exit may assume, except where there is evidence to the contrary, that the carrier has given its consent under contractual arrangements and that the declaration has been lodged with his knowledge; and
  - (b) the customs office of exit is in a position to notify the carrier electronically that it has accepted the declaration lodged by the holder of the temporary storage facility or the storage facility in a free zone or its representative.
4. The exit summary declaration shall contain the particulars set out in Annex 52-01 and shall be completed in accordance with the explanatory note in that Annex. The exit summary declaration shall be authenticated by the person making it.
5. Exit summary declarations which comply with the conditions set out in paragraph 1 shall be registered by the customs authorities immediately upon their receipt.

**Article 820-16**

**Content of an exit summary declaration, fallback provisions**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 180	MCC Article 5.2 b) (Paragraph 1 of Article 823-02)  MCC Article 5.1 (Paragraphs 2 to 4 of Article 823-02)	Article 842b	Yes	

1. The exit summary declaration shall contain the data for such declaration set out in Annex 52-01 [ex Annex 30A] and shall be completed in accordance with the explanatory note in that Annex.

The exit summary declaration shall be authenticated by the person making it.

2. The customs office of exit shall allow the lodging of a paper-based exit summary declaration only in one of the following circumstances:
  - (a) the customs authorities' computerised system is not functioning;
  - (b) the electronic application of the person lodging the exit summary declaration is not functioning.

In the cases referred to in points (a) and (b) of the first subparagraph, the paper-based exit summary declaration shall be made using the Security and Safety Document corresponding to the specimen set out in Annex 52-09 [ex Annex 45i]. Where the consignment for which an exit summary declaration is made consists of more than one item, the Security and Safety Document shall be supplemented by a list of items corresponding to the specimen set out in Annex 52-10 [ex Annex 45j]. The list of items shall form an integral part of the Security and Safety Document.

In the cases referred to in points (a) and (b) of the first subparagraph, customs authorities may allow the Security and Safety Document to be replaced by, or complemented by, commercial documents provided the documents submitted to customs authorities contain the data laid down for exit summary declarations in Annex 52-01 [ex Annex 30A].

3. The use of a paper-based exit summary declaration referred to in point (b) of the first subparagraph of paragraph 2 shall be subject to the approval of the customs authorities.

The paper-based exit summary declaration shall be signed by the person making it.

4. Exit summary declaration shall be registered by customs authorities immediately upon their receipt.

#### **Article 820-17**

#### **Exemption from an exit summary declaration**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 180	Article 183 (2) (c)	Articles 842a	-	

1. No exit summary declaration shall be required when an electronic transit declaration contains the exit summary declaration data provided the office of destination is also the

customs office of exit or the office of destination is outside the customs territory of the Community.

2. An exit summary declaration shall not be required in the following cases:

- (a) the exemptions listed in Article 810-02;
- (b) where goods are loaded at a port or airport in the customs territory of the Community for discharge at another Community port or airport, provided that, upon request, evidence in the form of a commercial, port or transport manifest or loading list is made available to the customs office of exit regarding the intended place of unloading. The same applies when the vessel or aircraft that transports the goods is to call at a port or airport outside the customs territory of the Community and those goods are to remain loaded on board the vessel or aircraft during the call at the port or airport outside the customs territory of the Community;
- (c) where, in a port or airport, the goods are not unloaded from the means of transport which carried them into the customs territory of the Community and which will carry them out of that territory;
- (d) where the goods were loaded at a previous port or airport in the customs territory of the Community and remain on the means of transport that will carry them out of the customs territory of the Community;
- (e) where goods in temporary storage or in a free zone are transhipped or loaded onto a vessel, airplane or railway that will carry them out of customs territory of the Community with a destination outside that territory, provided that the transhipment or loading is undertaken
  - (i) at the place from which the means of transport is to depart for a destination outside the customs territory of the Community;
  - (ii) within fourteen working days from when the goods were presented for a temporary storage or at a free zone; in exceptional circumstances, the customs authorities may prolong the period for the time necessary to face the exceptional circumstances present; and
  - (iii) provided that information about the goods is available to the customs authorities.

In the cases referred to in point (a) to (e), the control measures shall take into account the special nature of the situation.

#### **Article 820-18**

#### **Expiry of the exit summary declaration**

<b>MCC implemented</b>	<b>MCC empowering</b>	<b>Current IP</b>	<b>Annex</b>	<b>Adoption</b>
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provision	provision	provision		procedure
Article 180	Article 183 (2) (b)- (c)	Articles 842f	-	

Where goods subject to an exit summary declaration have, after a period of 150 days from the date of lodging the declaration, not left the customs territory of the Community, the exit summary declaration shall be deemed not to have been lodged.

### CHAPTER 3

#### *Relief from export duties*

**Disclaimer:** NO IPs foreseen.

# TITLE IX

## CUSTOMS CODE COMMITTEE AND FINAL PROVISIONS

### CHAPTER 1

#### *Customs Code Committee*

**Disclaimer:** NO IPs foreseen.

### CHAPTER 2

#### *Final provisions*

##### *Article 920-01*

#### **Validity of decisions for the transitional period**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article	Article	Article		

Decisions granting authorisation before the application of the present provisions, are valid until the end of their validity and at the latest one year after entering into force of this Regulation, whichever is earlier.

or:

1. The AEO certificates, issued before the present provisions are applicable, continue to be valid unless there is evidence that the criteria on the basis of which the AEO status has been granted are no longer met.
2. Where appropriate, within a transitional period of 24 months starting from the date of application of this Regulation, customs authorities shall examine the compliance of the Authorized Economic Operators with the new criteria and conditions laid down in this Regulation.



**Fallback procedure**

<b>MCC implemented provision</b>	<b>MCC empowering provision</b>	<b>Current IP provision</b>	<b>Annex</b>	<b>Adoption procedure</b>
Article 5(1), subparagraph 3	Article	Article		

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