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(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

REGULATION (EC) No 450/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 23 April 2008****laying down the Community Customs Code (Modernised Customs Code)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

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

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

(1) The Community is based upon a customs union. It is advisable, in the interests both of economic operators and of the customs authorities in the Community, to assemble current customs legislation in a Community Customs Code (hereinafter referred to as the Code). Based on the concept of an internal market, the Code should contain the general rules and procedures which ensure the implementation of the tariff and other common policy measures introduced at Community level in connection with trade in goods between the Community and countries or territories outside the customs territory of the Community, taking into account the requirements of those common policies. Customs legislation should be better aligned on the provisions relating to the collection of import charges without change to the scope of the tax provisions in force.

(2) In accordance with the Communication from the Commission concerning the protection of the Community's financial interests and the Action Plan for 2004-2005, it is appropriate to adapt the legal framework for the protection of the financial interests of the Community.

(3) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽³⁾ was based upon integration of the customs procedures applied separately in the respective Member States during the 1980s. That Regulation has been repeatedly and substantially amended since its introduction, in order to address specific problems such as the protection of good faith or the taking into account of security requirements. Further amendments to the Code are necessary as a consequence of the important legal changes which have occurred in recent years, at both Community and international level, such as the expiry of the Treaty establishing the European Coal and Steel Community and the entry into force of the 2003 and 2005 Acts of Accession, as well as the Amendment to the International Convention on the simplification and harmonisation of customs procedures (hereinafter referred to as the revised Kyoto Convention), the accession of the Community to which was approved by Council Decision 2003/231/EC ⁽⁴⁾. The time has now come to streamline customs procedures and to take into account the fact that electronic declarations and processing are the rule and paper-based declarations and processing the exception. For all of these reasons, further amendment of the present Code is not sufficient and a complete overhaul is necessary.

⁽¹⁾ OJ C 309, 16.12.2006, p. 22.

⁽²⁾ Opinion of the European Parliament of 12 December 2006, Council Common Position of 15 October 2007 (OJ C 298 E, 11.12.2007, p. 1) and Position of the European Parliament of 19 February 2008.

⁽³⁾ OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).

⁽⁴⁾ OJ L 86, 3.4.2003, p. 21. Decision as amended by Decision 2004/485/EC (OJ L 162, 30.4.2004, p. 113).

- (4) It is appropriate to introduce in the Code a legal framework for the application of certain provisions of the customs legislation to trade in goods between parts of the customs territory to which the provisions of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ⁽¹⁾ apply and parts of that territory where those provisions do not apply, or to trade between parts where those provisions do not apply. Considering the fact that the goods concerned are Community goods and the fiscal nature of the measures at stake in this intra-Community trade, it is justifiable to introduce, through implementing measures, appropriate simplifications to the customs formalities to be applied to those goods.
- (5) The facilitation of legitimate trade and the fight against fraud require simple, rapid and standard customs procedures and processes. It is therefore appropriate, in line with the Communication from the Commission on a simple and paperless environment for customs and trade, to simplify customs legislation, to allow the use of modern tools and technology and to promote further the uniform application of customs legislation and modernised approaches to customs control, thus helping to ensure the basis for efficient and simple clearance procedures. Customs procedures should be merged or aligned and the number of procedures reduced to those that are economically justified, with a view to increasing the competitiveness of business.
- (6) The completion of the internal market, the reduction of barriers to international trade and investment and the reinforced need to ensure security and safety at the external borders of the Community have transformed the role of customs authorities giving them a leading role within the supply chain and, in their monitoring and management of international trade, making them a catalyst to the competitiveness of countries and companies. Customs legislation should therefore reflect the new economic reality and the new role and mission of customs authorities.
- (7) The use of information and communication technologies, as laid down in the future Decision of the European Parliament and of the Council on a paperless environment for customs and trade, is a key element in ensuring trade facilitation and, at the same time, the effectiveness of customs controls, thus reducing costs for business and risk for society. It is therefore necessary to establish in the Code the legal framework within which that Decision can be implemented, in particular the legal principle that all customs and trade transactions are to be handled electronically and that information and communication systems for customs operations are to offer, in each Member State, the same facilities to economic operators.
- (8) Such use of information and communication technologies should be accompanied by harmonised and standardised application of customs controls by the Member States, to ensure an equivalent level of customs control throughout the Community so as not to give rise to anti-competitive behaviour at the various Community entry and exit points.
- (9) In the interests of facilitating business, while at the same time providing for the proper levels of control of goods brought into or out of the customs territory of the Community, it is desirable that the information provided by economic operators be shared, taking account of the relevant data-protection provisions, between customs authorities and with other agencies involved in that control, such as police, border guards, veterinary and environmental authorities, and that controls by the various authorities be harmonised, so that the economic operator need give the information only once and that goods are controlled by those authorities at the same time and at the same place.
- (10) In the interests of facilitating certain types of business, all persons should continue to have the right to appoint a representative in their dealings with the customs authorities. However, it should no longer be possible for that right of representation to be reserved under a law laid down by one of the Member States. Furthermore, a customs representative who complies with the criteria for the granting of the status of authorised economic operator, should be entitled to provide his services in a Member State other than the one where he is established.
- (11) Compliant and trustworthy economic operators should, as 'authorised economic operators', be able to take maximum advantage of widespread use of simplification and, taking account of security and safety aspects, benefit from reduced levels of customs control. They may thus enjoy the status of 'customs simplification' authorised economic operator or the status of 'security and safety' authorised economic operator. They may be granted one or other status, or both together.
- (12) All decisions, that is to say, official acts by the customs authorities pertaining to customs legislation and having legal effect on one or more persons, including binding information issued by those authorities, should be covered by the same rules. Any such decisions should be valid throughout the Community and should be capable of being annulled, amended except where otherwise stipulated, or revoked where they do not conform to the customs legislation or its interpretation.
- (13) In accordance with the Charter of Fundamental Rights of the European Union, it is necessary, in addition to the right of appeal against any decision taken by the customs authorities, to provide for the right of every person to be heard before any decision is taken which would adversely affect him.
- (14) The streamlining of customs procedures within an electronic environment requires the sharing of responsibilities between the customs authorities of different Member States. It is necessary to ensure an appropriate level of effective, dissuasive and proportionate sanctions throughout the internal market.

⁽¹⁾ OJ L 347, 11.12.2006, p. 1. Directive as last amended by Directive 2008/8/EC (OJ L 44, 20.2.2008, p. 11).

- (15) In order to secure a balance between, on the one hand, the need for customs authorities to ensure the correct application of customs legislation and, on the other, the right of economic operators to be treated fairly, the customs authorities should be granted extensive powers of control and economic operators a right of appeal.
- (16) In order to minimise the risk to the Community, its citizens and its trading partners, the harmonised application of customs controls by the Member States should be based upon a common risk management framework and an electronic system for its implementation. The establishment of a risk management framework common to all Member States should not prevent them from controlling goods by random checks.
- (17) It is necessary to establish the factors on the basis of which import or export duties and other measures in respect of trade in goods are applied. It is also appropriate to lay down clear provisions for issuing proofs of origin in the Community, where the exigencies of trade so require.
- (18) It is desirable to group together all cases of incurrence of a customs debt on importation, other than following the submission of a customs declaration for release for free circulation or temporary admission with partial relief, in order to avoid difficulties in determining the legal basis on which the customs debt was incurred. The same should apply in cases of incurrence of a customs debt on exportation.
- (19) Since the new role of customs authorities implies the sharing of responsibilities and cooperation between inland and border customs offices, the customs debt should, in most cases, be incurred at the place where the debtor is established, as the customs office competent for that place can best supervise the activities of the person concerned.
- (20) Furthermore, in line with the revised Kyoto Convention, it is appropriate to provide for a reduced number of cases where administrative cooperation between Member States is required in order to establish the place where the customs debt was incurred and to recover the duties.
- (21) The rules for special procedures should allow for the use of a single guarantee for all categories of special procedures and for that guarantee to be comprehensive, covering a number of transactions.
- (22) In order to ensure better protection of the financial interests of the Community and of the Member States, a guarantee should cover non-declared or incorrectly declared goods included in a consignment or in a declaration for which it is provided. For the same reason, the undertaking of the guarantor should also cover amounts of import or export duty which fall to be paid following post-release controls.
- (23) In order to safeguard the financial interests of the Community and of the Member States and to curb fraudulent practices, arrangements involving graduated measures for the application of a comprehensive guarantee are advisable.
- Where there is an increased risk of fraud it should be possible to prohibit temporarily the application of the comprehensive guarantee, taking account of the particular situation of the economic operators concerned.
- (24) It is appropriate to take account of the good faith of the person concerned in cases where a customs debt is incurred through non-compliance with customs legislation and to minimise the impact of negligence on the part of the debtor.
- (25) It is necessary to lay down the principle of how to determine the status of Community goods and the circumstances pertaining to the loss of such status, and to provide a basis for determining when that status remains unaltered in cases where goods temporarily leave the customs territory of the Community.
- (26) It is appropriate, where an economic operator has provided, in advance, the information necessary for risk-based controls on the admissibility of the goods, to ensure that quick release of goods is then the rule. Fiscal and trade policy controls should primarily be performed by the customs office competent in respect of the premises of the economic operator.
- (27) The rules for customs declarations and for the placing of goods under a customs procedure should be modernised and streamlined, in particular by requiring that customs declarations be, as a rule, made electronically and providing for only one type of simplified declaration.
- (28) Since the revised Kyoto Convention favours the lodging, registering and checking of the customs declaration prior to the arrival of the goods and, furthermore, the dissociation of the place where the declaration is lodged from the place where the goods are physically located, it is appropriate to provide for centralised clearance at the place where the economic operator is established. Centralised clearance should include the facility for the use of simplified declarations, deferment of the date of the submission of a complete declaration and required documents, periodic declaration and deferred payment.
- (29) In order to help to ensure neutral conditions for competition throughout the Community, it is appropriate to lay down at Community level the rules governing the destruction or disposal otherwise of goods by the customs authorities, these being matters which have previously required national legislation.
- (30) It is appropriate to lay down common and simple rules for the special procedures (transit, storage, specific use and processing), supplemented by a small set of rules for each category of special procedure, in order to make it simple for the operator to choose the right procedure, to avoid errors and to reduce the number of post-release recoveries and repayments.

- (31) The granting of authorisations for several special procedures with a single guarantee and a single supervising customs office should be facilitated and there should be simple rules on the incurrence of a customs debt in these cases. The basic principle should be that goods placed under a special procedure, or the products made from them, are to be assessed at the time when the customs debt is incurred. However, it should also be possible, where economically justified, to assess the goods at the time when they were placed under a special procedure. The same principles should apply to usual forms of handling.
- (32) In view of the increased security-related measures introduced into the Code under Regulation (EC) No 648/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽¹⁾, the placing of goods into free zones should become a customs procedure and the goods should be subject to customs controls at entry and with regard to records.
- (33) Given that the intention of re-exportation is no longer necessary, the inward processing suspension procedure should be merged with processing under customs control and the inward processing drawback procedure abandoned. This single inward-processing procedure should also cover destruction, except where destruction is carried out by, or under the supervision of, customs.
- (34) Security-related measures relating to Community goods brought out of the customs territory of the Community should apply equally to the re-export of non-Community goods. The same basic rules should apply to all types of goods, with the possibility of exceptions where necessary, such as for goods only transiting through the customs territory of the Community.
- (35) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedure for the exercise of implementing powers conferred on the Commission ⁽²⁾.
- (36) It is appropriate to provide for the adoption of measures implementing this Code. These measures should be adopted in accordance with the management and regulatory procedures provided for in Articles 4 and 5 of Decision 1999/468/EC.
- (37) In particular, the Commission should be empowered to define the conditions and criteria necessary for the effective application of this Code. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation or to supplement this Regulation by the addition of new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (38) It is appropriate, in order to ensure an effective decision-making process, to examine questions relating to the preparation of a position to be taken by the Community in committees, working groups and panels established by or under international agreements dealing with customs legislation.
- (39) In order to simplify and rationalise customs legislation, a number of provisions presently contained in autonomous Community acts have, for the sake of transparency, been incorporated into the Code.
- The following Regulations, together with Regulation (EEC) No 2913/92, should therefore be repealed:
- Council Regulation (EEC) No 3925/91 of 19 December 1991 concerning the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing ⁽³⁾ and Council Regulation (EC) No 1207/2001 of 11 June 2001 on procedures to facilitate the issue or the making out in the Community of proofs of origin and the issue of certain approved exporter authorisations under the provisions governing preferential trade between the European Community and certain countries ⁽⁴⁾.
- (40) Since the objectives of this Regulation, namely, to lay down rules and procedures applicable to goods brought into or out of the customs territory of the Community in order to enable the Customs Union to function effectively as a central pillar of the internal market, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

⁽¹⁾ OJ L 117, 4.5.2005, p. 13.

⁽²⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽³⁾ OJ L 374, 31.12.1991, p. 4. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽⁴⁾ OJ L 165, 21.6.2001, p. 1. Regulation as last amended by Regulation (EC) No 75/2008 (OJ L 24, 29.1.2008, p. 1).

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TITLE I

GENERAL PROVISIONS

CHAPTER 1

Scope of customs legislation, mission of customs and definitions

Article 1

Subject matter and scope

1. This Regulation establishes the Community Customs Code, hereinafter referred to as 'the Code', laying down the general rules and procedures applicable to goods brought into or out of the customs territory of the Community.

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

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

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

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the provisions referred to in the first subparagraph and simplified formalities for their implementation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4). Those measures shall also take account of particular circumstances pertaining to the trade in goods involving only one Member State.

Article 2

Mission of customs authorities

Customs authorities shall be primarily responsible for the supervision of the Community's international trade, thereby contributing to fair and open trade, to the implementation of the external aspects of the internal market, of the common trade policy and of the other common Community policies having a bearing on trade, and to overall supply chain security. Customs authorities shall put in place measures aimed, in particular, at the following:

- (a) protecting the financial interests of the Community and its Member States;
- (b) protecting the Community from unfair and illegal trade while supporting legitimate business activity;

- (c) ensuring the security and safety of the Community and its residents, and the protection of the environment, where appropriate in close cooperation with other authorities;
- (d) maintaining a proper balance between customs controls and facilitation of legitimate trade.

Article 3

Customs territory

1. The customs territory of the Community shall comprise the following territories, including their territorial waters, internal waters and airspace:

- the territory of the Kingdom of Belgium,
- the territory of the Republic of Bulgaria,
- the territory of the Czech Republic,
- the territory of the Kingdom of Denmark, except the Faeroe Islands and Greenland,
- the territory of the Federal Republic of Germany, except the Island of Heligoland and the territory of Buesingen (Treaty of 23 November 1964 between the Federal Republic of Germany and the Swiss Confederation),
- the territory of the Republic of Estonia,
- the territory of Ireland,
- the territory of the Hellenic Republic,
- the territory of the Kingdom of Spain, except Ceuta and Melilla,
- the territory of the French Republic, except New Caledonia, Mayotte, Saint-Pierre and Miquelon, Wallis and Futuna Islands, French Polynesia and the French Southern and Antarctic Territories,
- the territory of the Italian Republic, except the municipalities of Livigno and Campione d'Italia and the national waters of Lake Lugano which are between the bank and the political frontier of the area between Ponte Tresa and Porto Ceresio,
- the territory of the Republic of Cyprus, in accordance with the provisions of the 2003 Act of Accession,
- the territory of the Republic of Latvia,
- the territory of the Republic of Lithuania,
- the territory of the Grand Duchy of Luxembourg,
- the territory of the Republic of Hungary,
- the territory of Malta,
- the territory of the Kingdom of the Netherlands in Europe,
- the territory of the Republic of Austria,
- the territory of the Republic of Poland,
- the territory of the Portuguese Republic,

- the territory of Romania,
- the territory of the Republic of Slovenia,
- the territory of the Slovak Republic,
- the territory of the Republic of Finland,
- the territory of the Kingdom of Sweden,
- the territory of the United Kingdom of Great Britain and Northern Ireland and of the Channel Islands and the Isle of Man.

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

(a) FRANCE

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

(b) CYPRUS

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

Article 4

Definitions

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

1. 'customs authorities' means the customs administrations of the Member States responsible for applying the customs legislation and any other authorities empowered under national law to apply certain customs legislation;
2. 'customs legislation' means the body of legislation made up of the following:
 - (a) the Code and the provisions adopted at Community level and, where appropriate, at national level, to implement it;
 - (b) the Common Customs Tariff;
 - (c) the legislation setting up a Community system of reliefs from customs duties;
 - (d) international agreements containing customs provisions, insofar as they are applicable in the Community;
3. 'customs controls' means specific acts performed by the customs authorities in order to ensure the correct application of customs legislation and other legislation governing the entry, exit, transit, transfer, storage and end-use of goods moved between the customs territory of the Community and other territories, and the presence and movement within the customs territory of non-Community goods and goods placed under the end-use procedure;

4. 'person' means a natural person, a legal person, and any association of persons which is not a legal person but which is recognised under Community or national law as having the capacity to perform legal acts;

5. 'economic operator' means a person who, in the course of his business, is involved in activities covered by customs legislation;

6. 'customs representative' means any person appointed by another person to carry out the acts and formalities required under the customs legislation in his dealings with customs authorities;

7. 'risk' means the likelihood of an event that may occur, with regard to the entry, exit, transit, transfer or end-use of goods moved between the customs territory of the Community and countries or territories outside that territory and to the presence of goods which do not have Community status, which would have any of the following results:

(a) it would prevent the correct application of Community or national measures;

(b) it would compromise the financial interests of the Community and its Member States;

(c) it would pose a threat to the security and safety of the Community and its residents, to human, animal or plant health, to the environment or to consumers;

8. 'customs formalities' means all the operations which must be carried out by the persons concerned and by the customs authorities in order to comply with the customs legislation;

9. 'summary declaration' (entry summary declaration and exit summary declaration) means the act whereby, before or at the time of the event, a person informs the customs authorities, in the prescribed form and manner, that goods are to be brought into or out of the customs territory of the Community;

10. 'customs declaration' means the act whereby a person indicates in the prescribed form and manner a wish to place goods under a given customs procedure, with an indication, where appropriate, of any specific arrangements to be applied;

11. 'declarant' means the person lodging a summary declaration or a re-export notification or making a customs declaration in his own name or the person in whose name such a declaration is made;

12. 'customs procedure' means any of the following procedures under which goods may be placed in accordance with this Code:

(a) release for free circulation;

- (b) special procedures;
- (c) export;
13. 'customs debt' means the obligation on a person to pay the amount of import or export duty which applies to specific goods under the customs legislation in force;
14. 'debtor' means any person liable for a customs debt;
15. 'import duties' means customs duties payable on the importation of goods;
16. 'export duties' means customs duties payable on the exportation of goods;
17. 'customs status' means the status of goods as Community or non-Community goods;
18. 'Community goods' means goods which fall into any of the following categories:
- (a) goods wholly obtained in the customs territory of the Community and not incorporating goods imported from countries or territories outside the customs territory of the Community. Goods wholly obtained in the customs territory of the Community shall not have the customs status of Community goods if they are obtained from goods placed under the external transit procedure, a storage procedure, the temporary admission procedure or the inward-processing procedure in cases determined in accordance with Article 101(2)(c);
- (b) goods brought into the customs territory of the Community from countries or territories outside that territory and released for free circulation;
- (c) goods obtained or produced in the customs territory of the Community, either solely from goods referred to in point (b) or from goods referred to in points (a) and (b);
19. 'non-Community goods' means goods other than those referred to in point (18) or which have lost their customs status as Community goods;
20. 'risk management' means the systematic identification of risk and the implementation of all measures necessary for limiting exposure to risk. This includes activities such as collecting data and information, analysing and assessing risk, prescribing and taking action and regular monitoring and review of that process and its outcomes, based on international, Community and national sources and strategies;
21. 'release of goods' means the act whereby the customs authorities make goods available for the purposes specified for the customs procedure under which they are placed;
22. 'customs supervision' means action taken in general by the customs authorities with a view to ensuring that customs legislation and, where appropriate, other provisions applicable to goods subject to such action are observed;
23. 'repayment' means the refunding of any import or export duty that has been paid;
24. 'remission' means the waiving of the obligation to pay import or export duties which have not been paid;
25. 'processed products' means goods placed under a processing procedure which have undergone processing operations;
26. 'person established in the customs territory of the Community' means:
- (a) in the case of a natural person, any person who has his habitual residence in the customs territory of the Community;
- (b) in the case of a legal person or an association of persons, any person who has his registered office, central headquarters or a permanent business establishment in the customs territory of the Community;
27. 'presentation of goods to customs' means the notification to the customs authorities of the arrival of goods at the customs office or at any other place designated or approved by the customs authorities and the availability of those goods for customs controls;
28. 'holder of the goods' means the person who is the owner of the goods or who has a similar right of disposal over them or who has physical control of them;
29. 'holder of the procedure' means the person who makes the customs declaration, or on whose behalf the customs declaration is made, or the person to whom the rights and obligations of that person in respect of a customs procedure have been transferred;
30. 'commercial policy measures' means non-tariff measures established, as part of the common commercial policy, in the form of Community provisions governing international trade in goods;
31. 'processing operations' means any of the following:
- (a) the working of goods, including erecting or assembling them or fitting them to other goods;
- (b) the processing of goods;
- (c) the destruction of goods;
- (d) the repair of goods, including restoring them and putting them in order;

- (e) the use of goods which are not to be found in the processed products, but which allow or facilitate the production of those products, even if they are entirely or partially used up in the process (production accessories);
32. 'rate of yield' means the quantity or percentage of processed products obtained from the processing of a given quantity of goods placed under a processing procedure;
33. 'message' means a communication in a prescribed format containing data transmitted from one person, office or authority to another using information technology and computer networks.

CHAPTER 2

Rights and obligations of persons with regard to customs legislation

Section 1

Provision of information

Article 5

Exchange and storage of data

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

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down exceptions to the first subparagraph, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

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

- (a) the possibility of temporary failure of the customs authorities' computerised systems;
- (b) the possibility of temporary failure of the economic operator's computerised systems;
- (c) international conventions and agreements which provide for the use of paper documents;
- (d) travellers without direct access to the computerised systems and with no means of providing electronic information;

- (e) practical requirements for declarations to be made orally or by any other act.

2. Except where these are otherwise specifically provided for in the customs legislation, the Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures laying down the following:

- (a) the messages to be exchanged between customs offices, as required for the application of the customs legislation;
- (b) a common data set and format of the messages to be exchanged under the customs legislation.

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

Article 6

Data protection

1. All information acquired by the customs authorities in the course of performing their duties which is by its nature confidential or which is provided on a confidential basis shall be covered by the obligation of professional secrecy. Except as provided for under Article 26(2), such information shall not be disclosed by the competent authorities without the express permission of the person or authority that provided it.

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

2. Communication of confidential data to the customs authorities and other competent authorities of countries or territories outside the customs territory of the Community shall be permitted only in the framework of an international agreement ensuring an adequate level of data protection.

3. The disclosure or communication of information shall take place in full compliance with data-protection provisions in force.

Article 7

Exchange of additional information between customs authorities and economic operators

1. Customs authorities and economic operators may exchange any information not specifically required under the customs legislation, in particular for the purpose of mutual cooperation in the identification and counteraction of risk. That exchange may take place under a written agreement and may include access to the computer systems of economic operators by the customs authorities.

2. Any information provided by one party to the other in the course of the cooperation referred to in paragraph 1 shall be confidential unless both parties agree otherwise.

Article 8

Provision of information by the customs authorities

1. Any person may request information concerning the application of customs legislation from the customs authorities. Such a request may be refused where it does not relate to an activity pertaining to international trade in goods that is actually envisaged.

2. Customs authorities shall maintain a regular dialogue with economic operators and other authorities involved in international trade in goods. They shall promote transparency by making the customs legislation, general administrative rulings and application forms freely available, wherever practical without charge, and through the Internet.

Article 9

Provision of information to the customs authorities

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

2. The lodging of a summary declaration or customs declaration, or notification, or the submission of an application for an authorisation or any other decision, shall render the person concerned responsible for the following:

- (a) the accuracy and completeness of the information given in the declaration, notification or application;
- (b) the authenticity of any documents lodged or made available;
- (c) where applicable, compliance with all of the obligations relating to the placing of the goods in question under the customs procedure concerned, or to the conduct of the authorised operations.

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

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

Article 10

Electronic systems

1. Member States shall cooperate with the Commission with a view to developing, maintaining and employing electronic systems for the exchange of information between customs offices

and for the common registration and maintenance of records relating, in particular, to the following:

- (a) economic operators directly or indirectly involved in the accomplishment of customs formalities;
- (b) applications and authorisations concerning a customs procedure or the status of authorised economic operator;
- (c) applications and special decisions granted in accordance with Article 20;
- (d) common risk management, as referred to in Article 25.

2. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the following:

- (a) the standard form and content of the data to be registered;
- (b) maintenance of those data, by the customs authorities of Members States;
- (c) the rules for access to those data by:
 - (i) economic operators,
 - (ii) other competent authorities,

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Section 2

Customs representation

Article 11

Customs representative

1. Any person may appoint a customs representative.

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

A customs representative shall be established within the customs territory of the Community.

2. Member States may define, in accordance with Community law, the conditions under which a customs representative may provide services in the Member State where he is established. However, without prejudice to the application of less stringent criteria by the Member State concerned, a customs representative who complies with the criteria laid down in Article 14(a) to (d) shall be entitled to provide such services in a Member State other than the one where he is established.

3. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down in particular, the following:

- (a) the conditions under which the requirement referred to in the third subparagraph of paragraph 1 may be waived;
- (b) the conditions under which the entitlement referred to in paragraph 2 may be conferred and proved;
- (c) any further measures for the implementation of this Article,

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Article 12

Empowerment

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

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

2. The customs authorities may require any person stating that he is acting as a customs representative to produce evidence of his empowerment by the person represented.

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down derogations from the first subparagraph, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Section 3

Authorised economic operator

Article 13

Application and authorisation

1. An economic operator who is established in the customs territory of the Community and who meets the conditions set out in Articles 14 and 15 may request the status of authorised economic operator.

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

2. The status of authorised economic operator shall consist in two types of authorisations: that of a 'customs simplification' authorised economic operator and that of a 'security and safety' authorised economic operator.

The first type of authorisation shall enable economic operators to benefit from certain simplifications in accordance with the customs legislation. Under the second type of authorisation the holder thereof shall be entitled to facilitations relating to security and safety.

Both types of authorisations may be held at the same time.

3. The status of authorised economic operator shall, subject to Articles 14 and 15, be recognised by the customs authorities in all Member States, without prejudice to customs controls.

4. Customs authorities shall, on the basis of the recognition of the status of authorised economic operator and provided that the requirements related to a specific type of simplification provided for in the customs legislation are fulfilled, authorise the operator to benefit from that simplification.

5. The status of authorised economic operator may be suspended or revoked in accordance with the conditions laid down pursuant to Article 15(1)(g).

6. The authorised economic operator shall notify the customs authorities of all factors arising after that status was granted which may influence its continuation or content.

Article 14

Granting of status

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

- (a) a record of compliance with customs and tax requirements;
- (b) a satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls;
- (c) proven solvency;
- (d) pursuant to Article 13(2), in cases where an authorised economic operator wishes to take advantage of the simplifications provided for in accordance with the customs legislation, practical standards of competence or professional qualifications directly related to the activity carried out;
- (e) pursuant to Article 13(2), in cases where an authorised economic operator wishes to take advantage of facilitations with regard to customs controls relating to security and safety, appropriate security and safety standards.

Article 15

Implementing measures

1. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down rules in respect of the following:

- (a) the granting of the status of authorised economic operator;

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

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

2. Those measures shall take account of the following:

- (a) the rules adopted pursuant to Article 25(3);
- (b) professional involvement in activities covered by customs legislation;
- (c) practical standards of competence or professional qualifications directly related to the activity carried out;
- (d) the economic operator as the holder of any internationally recognised certificate issued on the basis of relevant international conventions.

Section 4

Decisions relating to the application of customs legislation

Article 16

General provisions

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

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

2. Except where otherwise provided for in the customs legislation, a decision as referred to in paragraph 1 shall be taken, and the applicant notified, without delay, and at the latest within four months of the date on which all the information required by the customs authorities in order for them to be able to take that decision is received by those authorities.

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

3. Except where otherwise specified in the decision or in the customs legislation, the decision shall take effect from the date on which the applicant receives the decision, or is deemed to have received it. Except in the cases provided for in Article 24(2), decisions adopted shall be enforceable by the customs authorities from that date.

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

Following the expiry of that period, the person concerned shall be notified, in the appropriate form, of the decision, which shall set out the grounds on which it is based. The decision shall refer to the right of appeal provided for in Article 23.

5. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the following:

- (a) the cases in which and conditions under which the first subparagraph of paragraph 4 shall not apply;
- (b) the period referred to in the first subparagraph of paragraph 4,

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

6. Without prejudice to provisions laid down in other fields which specify the cases in which, and the conditions under which, decisions are invalid or become null and void, the customs authorities who issued a decision may at any time annul, amend or revoke it where it does not conform with the customs legislation.

7. Except when a customs authority acts as a judicial authority, the provisions of paragraphs 3, 4 and 6 of this Article and of Articles 17, 18 and 19 shall also apply to decisions taken by the customs authorities without prior request from the person concerned and, in particular, to the notification of a customs debt as provided for in Article 67(3).

*Article 17***Community-wide validity of decisions**

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

*Article 18***Annulment of favourable decisions**

1. The customs authorities shall annul a decision favourable to the person to whom it is addressed if all the following conditions are satisfied:

- (a) the decision was issued on the basis of incorrect or incomplete information;
- (b) the applicant knew or ought reasonably to have known that the information was incorrect or incomplete;
- (c) if the information had been correct and complete, the decision would have been different.

2. The person to whom the decision was addressed shall be notified of its annulment.

3. Annulment shall take effect from the date on which the initial decision took effect, unless otherwise specified in the decision in accordance with the customs legislation.

4. The Commission may, in accordance with the management procedure referred to in Article 184(3), adopt measures for the implementation of this Article, in particular in respect of decisions addressed to several persons.

*Article 19***Revocation and amendment of favourable decisions**

1. A favourable decision shall be revoked or amended where, in cases other than those referred to in Article 18, one or more of the conditions laid down for its issue were not or are no longer fulfilled.

2. Except where otherwise specified in the customs legislation, a favourable decision addressed to several persons may be revoked only in respect of a person who fails to fulfil an obligation imposed under that decision.

3. The person to whom the decision was addressed shall be notified of its revocation or amendment.

4. Article 16(3) shall apply to the revocation or amendment of the decision.

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

5. The Commission may, in accordance with the management procedure referred to in Article 184(3), adopt measures for the implementation of this Article, in particular in respect of decisions addressed to several persons.

*Article 20***Decisions relating to binding information**

1. The customs authorities shall, on formal request, issue decisions relating to binding tariff information, hereinafter referred to as 'BTI decisions', or decisions relating to binding origin information, hereinafter referred to as 'BOI decisions'.

Such a request shall be refused in any of the following circumstances:

- (a) where the application is made, or has already been made, at the same or another customs office, by or on behalf of the holder of a decision in respect of the same goods and, for BOI decisions, under the same circumstances determining the acquisition of origin;

- (b) where the application does not relate to any intended use of the BTI or BOI decision or any intended use of a customs procedure.

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

Those decisions shall be binding on the customs authorities, as against the holder of the decision, only in respect of goods for which customs formalities are completed after the date on which the decision takes effect.

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

3. BTI or BOI decisions shall be valid for a period of three years from the date on which the decision takes effect.

4. For the application of a BTI or BOI decision in the context of a particular customs procedure, the holder of the decision must be able to prove that:

- (a) in the case of a BTI decision, the goods declared correspond in every respect to those described in the decision;

- (b) in the case of a BOI decision, the goods in question and the circumstances determining the acquisition of origin correspond in every respect to the goods and the circumstances described in the decision.

5. By way of derogation from Article 16(6) and Article 18, BTI or BOI decisions shall be annulled where they are based on inaccurate or incomplete information from the applicants.

6. BTI or BOI decisions shall be revoked in accordance with Article 16(6) and Article 19.

They may not be amended.

7. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of paragraphs 1 to 5 of this Article.

8. Without prejudice to Article 19, the measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down

(a) the conditions under which, and the moment when, the BTI or BOI decision ceases to be valid;

(b) the conditions under which, and the period of time for which, a decision as referred to in point (a) may still be used in respect of binding contracts based upon the decision and concluded before the expiry of its validity;

(c) the conditions under which the Commission may issue decisions requesting Member States to revoke or amend a decision relating to binding information and giving different binding information compared with other decisions on the same subject,

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

9. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the conditions under which other decisions relating to binding information are to be issued shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Section 5

Penalties

Article 21

Application of penalties

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

2. Where administrative penalties are applied, they may take, inter alia, one of the following forms, or both:

(a) a pecuniary charge by the customs authorities, including, where appropriate, a settlement applied in place of and in lieu of a criminal penalty;

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

3. Member States shall notify the Commission, within six months from the date of application of this Article, as determined in accordance with Article 188(2), of the national provisions in force as envisaged in paragraph 1 and shall notify it without delay of any subsequent amendment affecting them.

Section 6

Appeals

Article 22

Decisions taken by a judicial authority

Articles 23 and 24 shall not apply to appeals lodged with a view to the annulment, revocation or amendment of a decision relating to the application of customs legislation taken by a judicial authority, or by customs authorities acting as judicial authorities.

Article 23

Right of appeal

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

Any person who has applied to the customs authorities for a decision and has not obtained a decision on that request within the time limits referred to in Article 16(2) shall also be entitled to exercise the right of appeal.

2. The right of appeal may be exercised in at least two steps:

(a) initially, before the customs authorities or a judicial authority or other body designated for that purpose by the Member States;

(b) subsequently, before a higher independent body, which may be a judicial authority or an equivalent specialised body, according to the provisions in force in the Member States.

3. The appeal must be lodged in the Member State where the decision has been taken or applied for.

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

*Article 24***Suspension of implementation**

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

The Commission may, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of the first subparagraph of this paragraph.

*Section 7***Control of goods***Article 25***Customs controls**

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

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

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

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

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

3. The Commission, without prejudice to paragraph 2 of this Article, shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt implementing measures laying down the following:

- (a) common risk management framework;
- (b) common criteria and priority control areas;
- (c) the risk information and analysis to be exchanged between customs administrations.

*Article 26***Cooperation between authorities**

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

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

*Article 27***Post-release control**

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

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

Article 28

Intra-Community flights and sea crossings

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

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

- (a) security and safety checks;
- (b) checks linked to prohibitions or restrictions.

3. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of this Article, laying down the cases in which and the conditions under which customs controls and formalities may be applied to the following:

- (a) the cabin and hold baggage of the following:
 - (i) 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;
 - (ii) persons taking a flight in an aircraft which stops over at a Community airport before continuing to a non-Community airport;
 - (iii) 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;
 - (iv) persons on board pleasure craft and tourist or business aircraft;
- (b) cabin and hold baggage:
 - (i) arriving at a Community airport on board an aircraft coming from a non-Community airport and transferred at that Community airport to another aircraft proceeding on an intra-Community flight;
 - (ii) 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.

Section 8

Keeping of documents and other information; charges and costs

Article 29

Keeping of documents and other information

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

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

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

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

2. Without prejudice to Article 68(4), where a customs control in respect of a customs debt shows that the relevant entry in the accounts has to be corrected and the person concerned has been notified of this, the documents and information shall be kept for three years beyond the time limit provided for in paragraph 1 of this Article.

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

Article 30

Charges and costs

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

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

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

- (b) analyses or expert reports on goods and postal fees for the return of goods to an applicant, particularly in respect of decisions taken pursuant to Article 20 or the provision of information in accordance with Article 8(1);
- (c) the examination or sampling of goods for verification purposes, or the destruction of goods, where costs other than the cost of using customs staff are involved;
- (d) exceptional control measures, where these are necessary due to the nature of the goods or to potential risk.
2. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down measures for the implementation of the second subparagraph of paragraph 1, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

CHAPTER 3

Currency conversion and time limits

Article 31

Currency conversion

1. The competent authorities shall publish, and/or make available on the Internet, the rate of exchange applicable where the conversion of currency is necessary for one of the following reasons:
- (a) because factors used to determine the customs value of goods are expressed in a currency other than that of the Member State where the customs value is determined;
- (b) because the value of the euro is required in national currencies for the purposes of determining the tariff classification of goods and the amount of import and export duty, including value thresholds in the Community Customs Tariff.
2. Where the conversion of currency is necessary for reasons other than those referred to in paragraph 1, the value of the euro in national currencies to be applied within the framework of the customs legislation shall be fixed at least once a year.
3. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of this Article.

Article 32

Time limits

1. Where a period, date or time limit is laid down in the customs legislation, such period shall not be extended or reduced and such date or time limit shall not be deferred or brought forward unless specific provision is made in the provisions concerned.
2. The rules applicable to periods, dates and time limits set out in Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits ⁽¹⁾ shall apply, except where otherwise specifically provided for in Community customs legislation.

(1) OJ L 124, 8.6.1971, p. 1.

TITLE II

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

CHAPTER 1

Common Customs Tariff and tariff classification of goods

Article 33

Common Customs Tariff

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

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

2. The Common Customs Tariff shall comprise the following:
- (a) the Combined Nomenclature of goods as laid down in Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff ⁽²⁾;
- (b) any other nomenclature which is wholly or partly based on the Combined Nomenclature or which provides for further subdivisions to it, and which is established by Community provisions governing specific fields with a view to the application of tariff measures relating to trade in goods;
- (c) the conventional or normal autonomous customs duties applicable to goods covered by the Combined Nomenclature;
- (d) the preferential tariff measures contained in agreements which the Community has concluded with certain countries or territories outside the customs territory of the Community or groups of such countries or territories;
- (e) preferential tariff measures adopted unilaterally by the Community in respect of certain countries or territories outside the customs territory of the Community or groups of such countries or territories;
- (f) autonomous measures providing for a reduction in or exemption from customs duties on certain goods;
- (g) favourable tariff treatment specified for certain goods, by reason of their nature or end-use, in the framework of measures referred to under points (c) to (f) or (h);

(2) OJ L 256, 7.9.1987, p. 1. Regulation as last amended by Regulation (EC) No 275/2008 (OJ L 85, 27.3.2008, p. 3).

(h) other tariff measures provided for by agricultural or commercial or other Community legislation.

3. Where the goods concerned fulfil the conditions included in the measures laid down in points (d) to (g) of paragraph 2, the measures referred to in those provisions shall apply, at the request of the declarant, instead of those provided for in point (c) of that paragraph. Such application may be made retrospectively, provided that the time limits and conditions laid down in the relevant measure or in the Code are complied with.

4. Where application of the measures referred to in points (d) to (g) of paragraph 2, or the exemption from measures referred to in point (h) thereof, is restricted to a certain volume of imports or exports, such application or exemption shall, in the case of tariff quotas, cease as soon as the specified volume of imports or exports is reached.

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

5. The Commission shall, in accordance with the management procedure referred to in Article 184(3), adopt measures for the implementation of paragraphs 1 and 4 of this Article.

Article 34

Tariff classification of goods

1. For the application of the Common Customs Tariff, 'tariff classification' of goods shall consist in the determination of one of the subheadings or further subdivisions of the Combined Nomenclature under which those goods are to be classified.

2. For the application of non-tariff measures, 'tariff classification' of goods shall consist in the determination of one of the subheadings or further subdivisions of the Combined Nomenclature, or of any other nomenclature which is established by Community provisions and which is wholly or partly based on the Combined Nomenclature or which provides for further subdivisions to it, under which those goods are to be classified.

3. The subheading or further subdivision determined in accordance with paragraphs 1 and 2 shall be used for the purpose of applying the measures linked to that subheading.

CHAPTER 2

Origin of goods

Section 1

Non-preferential origin

Article 35

Scope

Articles 36, 37 and 38 lay down rules for the determination of the non-preferential origin of goods for the purposes of applying the following:

(a) the Common Customs Tariff with the exception of the measures referred to in Article 33(2)(d) and (e);

(b) measures, other than tariff measures, established by Community provisions governing specific fields relating to trade in goods;

(c) other Community measures relating to the origin of goods.

Article 36

Acquisition of origin

1. Goods wholly obtained in a single country or territory shall be regarded as having their origin in that country or territory.

2. Goods the production of which involved more than one country or territory shall be deemed to originate in the country or territory where they underwent their last substantial transformation.

Article 37

Proof of origin

1. Where an origin has been indicated in the customs declaration pursuant to customs legislation, the customs authorities may require the declarant to prove the origin of the goods.

2. Where proof of origin of goods is provided pursuant to customs legislation or other Community legislation governing specific fields, the customs authorities may, in the event of reasonable doubt, require any additional evidence needed in order to ensure that the indication of origin does comply with the rules laid down by the relevant Community legislation.

3. A document proving origin may be issued in the Community where the exigencies of trade so require.

Article 38

Implementing measures

The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of Articles 36 and 37.

Section 2

Preferential origin

Article 39

Preferential origin of goods

1. In order to benefit from the measures referred to in points (d) or (e) of Article 33(2) or from non-tariff preferential measures, goods shall comply with the rules on preferential origin referred to in paragraphs 2 to 5 of this Article.

2. In the case of goods benefiting from preferential measures contained in agreements which the Community has concluded with certain countries or territories outside the customs territory of the Community or with groups of such countries or territories, the rules on preferential origin shall be laid down in those agreements.

3. In the case of goods benefiting from preferential measures adopted unilaterally by the Community in respect of certain countries or territories outside the customs territory of the Community or groups of such countries or territories, other than those referred to in paragraph 5, the Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures laying down the rules on preferential origin.

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

5. In the case of goods benefiting from preferential measures contained in preferential arrangements in favour of the overseas countries and territories associated with the Community, the rules on preferential origin shall be adopted in accordance with Article 187 of the Treaty.

6. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures necessary for the implementation of the rules referred to in paragraphs 2 to 5 of this Article.

CHAPTER 3

Value of goods for customs purposes

Article 40

Scope

The customs value of goods, for the purposes of applying the Common Customs Tariff and non-tariff measures laid down by Community provisions governing specific fields relating to trade in goods, shall be determined in accordance with Articles 41 to 43.

Article 41

Method of customs valuation based on the transaction value

1. The primary basis for the customs value of goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the customs territory of the Community, adjusted, where necessary, in accordance with measures adopted pursuant to Article 43.

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

3. The transaction value shall apply provided that the following conditions are satisfied:

- (a) there are no restrictions as to the disposal or use of the goods by the buyer, other than any of the following:
 - (i) restrictions imposed or required by a law or by the public authorities in the Community;
 - (ii) limitations of the geographical area in which the goods may be resold;
 - (iii) restrictions which do not substantially affect the customs value of the goods;
- (b) the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
- (c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with measures adopted pursuant to Article 43;
- (d) the buyer and seller are not related or the relationship did not influence the price.

Article 42

Secondary methods of customs valuation

1. Where the customs value of goods cannot be determined under Article 41, it shall be determined by proceeding sequentially from point (a) to paragraph 2(d) of this Article, until the first point under which the customs value of goods can be determined.

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

2. The customs value, pursuant to paragraph 1, shall be:

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

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

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

Article 43

Implementing measures

The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt the measures laying down the following:

- (a) the elements which, for the purposes of determining the customs value, must be added to the price actually paid or payable, or which may be excluded;
- (b) elements which are to be used to determine the computed value;
- (c) the method of determination of the customs value in specific cases, and with regard to goods for which a customs debt is incurred after the use of a special procedure;
- (d) any further conditions, provisions and rules necessary for the application of Articles 41 and 42.

TITLE III

CUSTOMS DEBT AND GUARANTEES

CHAPTER I

Incurrence of a customs debt

Section 1

Customs debt on importation

Article 44

Release for free circulation and temporary admission

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

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

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

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

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

Article 45

Special provisions relating to non-originating goods

1. Where a prohibition of drawback of, or exemption from, import duties applies to non-originating goods used in the manufacture of products for which a proof of origin is issued or made out in the framework of a preferential arrangement between the Community and certain countries or territories outside the customs territory of the Community or groups of such countries or territories, a customs debt on importation shall be incurred in respect of those non-originating goods, through the acceptance of the re-export notification relating to the products in question.

2. Where a customs debt is incurred pursuant to paragraph 1, the amount of import duty corresponding to that debt shall be determined under the same conditions as in the case of a customs debt resulting from the acceptance, on the same date, of the customs declaration for release for free circulation of the non-originating goods used in the manufacture of the products in question for the purpose of ending the inward-processing procedure.

3. Article 44(2) and (3) shall apply *mutatis mutandis*. However, in the case of non-Community goods as referred to in Article 179, the person who lodges the re-export notification shall be the debtor. In the event of indirect representation, the person on whose behalf the notification is lodged shall also be a debtor.

Article 46

Customs debt incurred through non-compliance

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

- (a) one of the obligations laid down in customs legislation concerning the introduction of non-Community goods into the customs territory of the Community, their removal from customs supervision, or the movement, processing, storage, temporary admission or disposal of such goods within that territory;
- (b) one of the obligations laid down in customs legislation concerning the end-use of goods within the customs territory of the Community;
- (c) a condition governing the placing of non-Community goods under a customs procedure or the granting, by virtue of the end-use of the goods, of duty exemption or a reduced rate of import duty.

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

- (a) the moment when the obligation the non-fulfilment of which gives rise to the customs debt is not met or ceases to be met;
- (b) the moment when a customs declaration is accepted for the placing of goods under a customs procedure where it is established subsequently that a condition governing the placing of the goods under that procedure or the granting of a duty exemption or a reduced rate of import duty by virtue of the end-use of the goods was not in fact fulfilled.

3. In cases referred to under points (a) and (b) of paragraph 1, the debtor shall be any of the following:

- (a) any person who was required to fulfil the obligations concerned;
- (b) any person who was aware or should reasonably have been aware that an obligation under the customs legislation was not fulfilled and who acted on behalf of the person who was obliged to fulfil the obligation, or who participated in the act which led to the non-fulfilment of the obligation;
- (c) any person who acquired or held the goods in question and who was aware or should reasonably have been aware at the time of acquiring or receiving the goods that an obligation under the customs legislation was not fulfilled.

4. In cases referred to under point (c) of paragraph 1, the debtor shall be the person who is required to comply with the conditions governing the placing of the goods under a customs procedure or declaring the goods concerned under that procedure or the granting of a duty exemption or reduced rate of import duty by virtue of the end-use of the goods.

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

Article 47

Deduction of an amount of import duty already paid

1. Where a customs debt is incurred, pursuant to Article 46(1), in respect of goods released for free circulation at a reduced rate of import duty on account of their end-use, the amount of import duty paid when the goods were released for free circulation shall be deducted from the amount of the import duty corresponding to the customs debt.

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

2. Where a customs debt is incurred, pursuant to Article 46(1), in respect of goods placed under temporary admission with partial relief from import duties, the amount of import duty paid under partial relief shall be deducted from the amount of the import duty corresponding to the customs debt.

Section 2

Customs debt on exportation

Article 48

Export and outward processing

1. A customs debt on exportation shall be incurred through the placing of goods liable to export duties under the export procedure or the outward-processing procedure.

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

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

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

Article 49

Customs debt incurred through non-compliance

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

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

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

- (a) the moment at which the goods actually leave the customs territory of the Community without a customs declaration;
- (b) the moment at which the goods reach a destination other than that for which they were allowed to leave the customs territory of the Community with total or partial relief from export duties;
- (c) should the customs authorities be unable to determine the moment referred in point (b), the expiry of the time limit set for the production of evidence that the conditions entitling the goods to such relief have been fulfilled.

3. In cases referred to under point (a) of paragraph 1, the debtor shall be any of the following:

- (a) any person who was required to fulfil the obligation concerned;
- (b) any person who was aware or should reasonably have been aware that the obligation concerned was not fulfilled and who acted on behalf of the person who was obliged to fulfil the obligation;
- (c) any person who participated in the act which led to the non-fulfilment of the obligation and who was aware or should reasonably have been aware that a customs declaration had not been lodged but should have been.

4. In cases referred to under point (b) of paragraph 1, the debtor shall be any person who is required to comply with the conditions under which the goods were allowed to leave the customs territory of the Community with total or partial relief from export duties.

Section 3

Provisions common to customs debts incurred on importation and exportation

Article 50

Prohibitions and restrictions

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

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

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

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

Article 51

Several debtors

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

Article 52

General rules for calculation of the amount of import or export duty

1. The amount of the import or export duty shall be determined on the basis of those rules for calculation of duty which

were applicable to the goods concerned at the time at which the customs debt in respect of them was incurred.

2. Where it is not possible to determine precisely the time at which the customs debt is incurred, that time shall be deemed to be the time at which the customs authorities conclude that the goods are in a situation in which a customs debt has been incurred.

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

Article 53

Special rules for calculation of the amount of import duty

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

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

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

3. Where a customs debt is incurred for processed products resulting from the inward-processing procedure, the amount of import duty corresponding to such debt shall, at the request of the declarant, be determined on the basis of the tariff classification, customs value, quantity, nature and origin of the goods placed under the inward-processing procedure at the time of acceptance of the customs declaration relating to those goods.

4. Where customs legislation provides for a favourable tariff treatment of goods, or for relief or total or partial exemption from import or export duties, pursuant to Article 33(2)(d) to (g), Articles 130 to 133 or Articles 171 to 174, or pursuant to Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty ⁽¹⁾, such favourable tariff treatment, relief or exemption shall also apply in cases where a customs debt is incurred pursuant to Articles 46 or 49 of this Regulation, on condition that the failure which led to the incurrance of a customs debt did not constitute an attempt at deception.

⁽¹⁾ OJ L 105, 23.4.1983, p. 1. Regulation as last amended by Regulation (EC) No 274/2008 (OJ L 85, 27.3.2008, p. 1).

Article 54

Implementing measures

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the following:

- (a) the rules for the calculation of the amount of import or export duty applicable to goods;
- (b) further special rules for specific procedures;
- (c) derogations from Articles 52 and 53, in particular to avoid the circumvention of the tariff measures referred to in Article 33(2)(h),

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Article 55

Place where the customs debt is incurred

1. A customs debt shall be incurred at the place where the customs declaration or the re-export notification referred to in Articles 44, 45 and 48 is lodged or where the supplementary declaration referred to in Article 110(3) is to be lodged.

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

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

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

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the period of time referred to in the first subparagraph of this paragraph shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

3. Where the information available to the customs authorities enables them to establish that the customs debt may have been incurred in several places, the customs debt shall be deemed to have been incurred at the place where it was first incurred.

4. If a customs authority establishes that a customs debt has been incurred under Article 46 or Article 49 in another Member State and the amount of import or export duty corresponding to that debt is lower than EUR 10 000, the customs debt shall be deemed to have been incurred in the Member State where the finding was made.

CHAPTER 2

Guarantee for a potential or existing customs debt

Article 56

General provisions

1. This Chapter shall apply to guarantees both for customs debts which have been incurred and for those which may be incurred, unless otherwise specified.

2. Customs authorities may require a guarantee to be provided in order to ensure payment of the amount of import or export duty corresponding to a customs debt. Where the relevant provisions so provide, the guarantee required may also cover other charges as provided for under other relevant provisions in force.

3. Where the customs authorities require a guarantee to be provided, it shall be required from the debtor or the person who may become the debtor. They may also permit the guarantee to be provided by a person other than the person from whom it is required.

4. Without prejudice to Article 64, the customs authorities shall require only one guarantee to be provided in respect of specific goods or a specific declaration.

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

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

5. At the request of the person referred to in paragraph 3 of this Article, the customs authorities may, in accordance with Article 62(1) and (2), authorise the provision of a comprehensive guarantee to cover the amount of import or export duty corresponding to the customs debt in respect of two or more operations, declarations or customs procedures.

6. No guarantee shall be required from States, regional and local government authorities or other bodies governed by public law, in respect of the activities in which they engage as public authorities.

7. The customs authorities may waive the requirement for provision of a guarantee where the amount of import or export duty to be secured does not exceed the statistical threshold for declarations laid down in accordance with Article 12 of Council Regulation (EC) No 1172/95 of 22 May 1995 on the statistics relating to the trading of goods by the Community and its Member States with non-member countries ⁽¹⁾.

⁽¹⁾ OJ L 118, 25.5.1995, p. 10. Regulation as last amended by Regulation (EC) No 1882/2003.

8. A guarantee accepted or authorised by the customs authorities shall be valid throughout the customs territory of the Community, for the purposes for which it is given.

9. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the following:

- conditions for the implementation of this Article,
- cases, other than those laid down in paragraph 6 of this Article, in which no guarantee is to be required,
- exceptions to paragraph 8 of this Article,

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Article 57

Compulsory guarantee

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

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

2. Without prejudice to Article 62, where a comprehensive guarantee is provided for the amount of import or export duty corresponding to customs debts and other charges which vary in amount over time, the amount of such guarantee shall be set at a level enabling the amount of import or export duty corresponding to customs debts and other charges to be covered at all times.

3. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of paragraph 1 of this Article.

Article 58

Optional guarantee

Where the provision of a guarantee is optional, such guarantee shall in any case be required by the customs authorities if they consider that the amount of import or export duty corresponding to a customs debt and other charges are not certain to be paid within the prescribed period. Its amount shall be fixed by those authorities so as not to exceed the level referred to in Article 57.

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down when a guarantee is optional shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Article 59

Provision of a guarantee

1. A guarantee may be provided in one of the following forms:
 - (a) by a cash deposit or by any other means of payment recognised by the customs authorities as being equivalent to a cash deposit, made in euro or in the currency of the Member State in which the guarantee is required;
 - (b) by an undertaking given by a guarantor;
 - (c) by another form of guarantee which provides equivalent assurance that the amount of import or export duty corresponding to the customs debt and other charges will be paid.

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the forms of guarantee referred in point (c) of the first subparagraph of this paragraph, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

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

Article 60

Choice of guarantee

The person required to provide a guarantee may choose between the forms of guarantee laid down in Article 59(1).

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

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

Article 61

Guarantor

1. The guarantor referred to in Article 59(1)(b) must be a third person established in the customs territory of the Community. The guarantor must be approved by the customs authorities requiring the guarantee, unless the guarantor is a credit institution, financial institution or insurance company accredited in the Community in accordance with Community provisions in force.

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

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

Article 62

Comprehensive guarantee

1. The authorisation referred to in Article 56(5) shall be granted only to persons who satisfy the following conditions:

- (a) they are established in the customs territory of the Community;
- (b) they have a record of compliance with customs and tax requirements;
- (c) they are regular users of the customs procedures involved or are known to the customs authorities to have the capacity to fulfil their obligation in relation to those procedures.

2. Where a comprehensive guarantee is to be provided for customs debts and other charges which may be incurred, an economic operator may be authorised to use a comprehensive guarantee with a reduced amount or to have a guarantee waiver provided that he fulfils the following criteria:

- (a) a satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls;
- (b) proven solvency.

3. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures governing the procedure for granting authorisations under paragraphs 1 and 2 of this Article.

Article 63

Additional provisions relating to the use of guarantees

1. In cases where a customs debt may be incurred in the framework of special procedures, paragraphs 2 and 3 shall apply.

2. The guarantee waiver authorised in accordance with Article 62(2) shall not apply to goods which are considered to present increased risks of fraud.

3. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures:

- (a) implementing paragraph 2 of this Article;

(b) temporarily prohibiting the use of a comprehensive guarantee with a reduced amount referred to in Article 62(2);

(c) as an exceptional measure in special circumstances, temporarily prohibiting the use of a comprehensive guarantee in respect of goods which have been identified as being subject to large-scale fraud while under a comprehensive guarantee.

Article 64

Additional or replacement guarantee

Where the customs authorities establish that the guarantee provided does not ensure, or is no longer certain or sufficient to ensure, payment within the prescribed period of the amount of import or export duty corresponding to the customs debt and other charges, they shall require any of the persons referred to in Article 56(3) either to provide an additional guarantee or to replace the original guarantee with a new guarantee, according to his choice.

Article 65

Release of the guarantee

1. The customs authorities shall release the guarantee immediately when the customs debt or liability for other charges is extinguished or can no longer arise.

2. Where the customs debt or liability for other charges has been extinguished in part, or may arise only in respect of part, of the amount which has been secured, a corresponding part of the guarantee shall be released accordingly at the request of the person concerned, unless the amount involved does not justify such action.

3. The Commission may, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of this Article.

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

Article 66

Determination of the amount of import or export duty

1. The amount of import or export duty payable shall be determined by the customs authorities responsible for the place where the customs debt is incurred, or is deemed to have been incurred in accordance with Article 55, as soon as they have the necessary information.

2. Without prejudice to Article 27, the customs authorities may accept the amount of import or export duty payable determined by the declarant.

Article 67

Notification of the customs debt

1. The customs debt shall be notified to the debtor in the form prescribed at the place where the customs debt is incurred, or is deemed to have been incurred in accordance with Article 55.

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

- (a) where, pending a final determination of the amount of import or export duty, a provisional commercial policy measure taking the form of a duty has been imposed;
- (b) where the amount of import or export duty payable exceeds that determined on the basis of a decision made in accordance with Article 20;
- (c) where the original decision not to notify the customs debt or to notify it with an amount of import or export duty at a figure less than the amount of import or export payable was taken on the basis of general provisions invalidated at a later date by a court decision;
- (d) in cases where the customs authorities are exempted under the customs legislation from notification of the customs debt.

The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of point (d) of the second subparagraph of this paragraph.

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

3. Where paragraph 2 of this Article does not apply, the customs debt shall be notified to the debtor within 14 days of the date on which the customs authorities are in a position to determine the amount of import or export duty payable.

Article 68

Limitation of the customs debt

1. No customs debt shall be notified to the debtor after the expiry of a period of three years from the date on which the customs debt was incurred.

2. Where the customs debt is incurred as the result of an act which, at the time it was committed, was liable to give rise to criminal court proceedings, the three year period laid down in paragraph 1 shall be extended to a period of 10 years.

3. Where an appeal is lodged under Article 23, the periods laid down in paragraphs 1 and 2 of this Article shall be suspended, for the duration of the appeal proceedings, from the date on which the appeal is lodged.

4. Where liability for a customs debt is reinstated pursuant to Article 79(5), the periods laid down in paragraphs 1 and 2 of this Article shall be considered as suspended from the date on which the repayment or remission application was submitted in accordance with Article 84, until a decision on the repayment or remission is taken.

Article 69

Entry in the accounts

1. The customs authorities referred to in Article 66 shall enter in their accounts, in accordance with the national legislation, the amount of import or export duty payable as determined in accordance with that Article.

The first subparagraph shall not apply in cases referred to in the second subparagraph of Article 67(1).

The customs authorities need not enter in the accounts amounts of import or export duty which, pursuant to Article 68, correspond to a customs debt which could no longer be notified to the debtor.

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

Article 70

Time of entry in the accounts

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

However, provided that payment has been guaranteed, the total amount of import or export duty relating to all the goods released to one and the same person during a period fixed by the customs authorities, which may not exceed 31 days, may be covered by a single entry in the accounts at the end of that period. Such entry in the accounts shall take place within 14 days of the expiry of the period concerned.

2. Where goods may be released subject to certain conditions which govern either the determination of the amount of import or export duty payable or its collection, entry in the accounts shall take place within 14 days of the day on which the amount of import or export duty payable is determined or the obligation to pay that duty is fixed.

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

3. Where a customs debt is incurred in circumstances not covered by paragraph 1, the amount of import or export duty payable shall be entered in the accounts within 14 days of the date on which the customs authorities are in a position to determine the amount of import or export duty in question and take a decision.

4. Paragraph 3 shall apply *mutatis mutandis* with regard to the amount of import or export duty to be recovered or which remains to be recovered where the amount of import or export duty payable has not been entered in the accounts in accordance with paragraphs 1, 2 and 3, or has been determined and entered in the accounts at a level lower than the amount payable.

5. The time limits for entry in the accounts laid down in paragraphs 1, 2 and 3 shall not apply in unforeseeable circumstances or in cases of *force majeure*.

Article 71

Implementing measures

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down rules for entry in the accounts, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Section 2

Payment of the amount of import or export duty

Article 72

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

1. Amounts of import or export duty, corresponding to a customs debt notified in accordance with Article 67, shall be paid by the debtor within the period prescribed by the customs authorities.

Without prejudice to Article 24(2), that period shall not exceed 10 days following notification to the debtor of the customs debt. In the case of aggregation of entries in the accounts under the conditions laid down in the second subparagraph of Article 70(1), it shall be so fixed as not to enable the debtor to obtain a longer period for payment than if he had been granted deferred payment in accordance with Article 74.

Extension of that period may be granted by the customs authorities at the request of the debtor where the amount of import or export duty payable has been determined in the course of post-release control as referred to in Article 27. Without prejudice to Article 77(1), such extensions shall not exceed the time necessary for the debtor to take the appropriate steps to discharge his obligation.

2. If the debtor is entitled to any of the payment facilities laid down in Articles 74 to 77, payment shall be made within the period or periods specified in relation to those facilities.

3. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the conditions for the suspension of the time limit for payment of the amount of import or export duty corresponding to a customs debt in the following situations:

- (a) where an application for remission of duty is made in accordance with Article 84;
- (b) where goods are to be confiscated, destroyed or abandoned to the State;
- (c) where the customs debt was incurred pursuant to Article 46 and there is more than one debtor,

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Those measures shall lay down, in particular, the period of the suspension, taking into account the time which is reasonable for the conclusion of any formalities or for the recovery of the amount of import or export duty corresponding to the customs debt.

Article 73

Payment

1. Payment shall be made in cash or by any other means with similar discharging effect, including by adjustment of a credit balance, in accordance with national legislation.

2. Payment may be made by a third person instead of the debtor.

3. The debtor may in any case pay all or part of the amount of import or export duty without awaiting expiry of the period he has been granted for payment.

Article 74

Deferment of payment

Without prejudice to Article 79, the customs authorities shall, at the request of the person concerned and upon provision of a guarantee, permit deferment of payment of the duty payable in any of the following ways:

- (a) separately in respect of each amount of import or export duty entered in the accounts in accordance with the first subparagraph of Article 70(1), or Article 70(4);
- (b) globally in respect of all amounts of import or export duty entered in the accounts in accordance with the first subparagraph of Article 70(1) during a period fixed by the customs authorities and not exceeding 31 days;
- (c) globally in respect of all amounts of import or export duty forming a single entry in accordance with the second subparagraph of Article 70(1).

*Article 75***Time limits for deferred payment**

1. The period for which payment is deferred under Article 74 shall be 30 days.
2. Where payment is deferred in accordance with Article 74(a), the period shall begin on the day following that on which the customs debt is notified to the debtor.
3. Where payment is deferred in accordance with Article 74(b), the period shall begin on the day following that on which the aggregation period ends. It shall be reduced by the number of days corresponding to half the number of days covered by the aggregation period.
4. Where payment is deferred in accordance with Article 74(c), the period shall begin on the day following the end of the period fixed for release of the goods in question. It shall be reduced by the number of days corresponding to half the number of days covered by the period concerned.
5. Where the number of days in the periods referred to in paragraphs 3 and 4 is an odd number, the number of days to be deducted from the 30-day period pursuant to those paragraphs shall be equal to half the next lowest even number.
6. Where the periods referred to in paragraphs 3 and 4 are calendar weeks, Member States may provide that the amount of import or export duty in respect of which payment has been deferred is to be paid on the Friday of the fourth week following the calendar week in question at the latest.

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

*Article 76***Implementing measures**

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the rules for deferment of payment in cases where the customs declaration is simplified in accordance with Article 109, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

*Article 77***Other payment facilities**

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

Where facilities are granted pursuant to the first subparagraph, credit interest shall be charged on the amount of import or export duty. The rate of credit interest shall be the interest rate applied

by the European Central Bank to its most recent main refinancing operation carried out before the first calendar day of the half-year in question (the reference rate), plus one percentage point.

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

2. The customs authorities may refrain from requiring a guarantee or from charging credit interest where it is established, on the basis of a documented assessment of the situation of the debtor, that this would create serious economic or social difficulties.

3. The Commission may, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of paragraphs 1 and 2.

*Article 78***Enforcement of payment and arrears**

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

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down measures in respect of securing payment from guarantors within the framework of a special procedure, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

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

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

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

3. Where a customs debt has been notified pursuant to Article 67(3), interest on arrears shall be charged over and above the amount of import or export duty, from the date on which the customs debt was incurred until the date of its notification.

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

4. The customs authorities may refrain from charging interest on arrears where it is established, on the basis of a documented assessment of the situation of the debtor, that to charge it would create serious economic or social difficulties.

5. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the cases, in terms of time and amounts, in which the customs authorities may waive the collection of interest on arrears, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Section 3

Repayment and remission of the amount of import or export duty

Article 79

Repayment and remission

1. Subject to the conditions laid down in this Section, amounts of import or export duty shall, provided that the amount to be repaid or remitted exceeds a certain amount, be repaid or remitted on the following grounds:

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

In addition, where an amount of import or export duty has been paid and the corresponding customs declaration is invalidated in accordance with Article 114, that amount shall be repaid.

2. Subject to the rules of competence for a decision, where the customs authorities themselves discover within the periods referred to in Article 84(1) that an amount of import or export duty is repayable or remissible pursuant to Articles 80, 82 or 83, they shall repay or remit on their own initiative.

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

4. Repayment shall not give rise to the payment of interest by the customs authorities concerned.

However, interest shall be paid where a decision granting repayment is not implemented within three months of the date on which that decision was taken, unless the failure to meet the deadline was outside the control of the customs authorities.

In such cases, the interest shall be paid from the date of expiry of the three-month period until the date of repayment. The rate of interest shall be established in accordance with Article 77.

5. Where the competent authority has granted repayment or remission in error, the original customs debt shall be reinstated insofar as it is not time-barred under Article 68.

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

Article 80

Repayment and remission of overcharged amounts of import or export duty

An amount of import or export duty shall be repaid or remitted insofar as the amount corresponding to the customs debt initially notified exceeds the amount payable, or the customs debt was notified to the debtor contrary to points (c) or (d) of Article 67(1).

Article 81

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

1. An amount of import duty shall be repaid or remitted if the notification of the customs debt relates to goods which have been rejected by the importer because, at the time of release, they were defective or did not comply with the terms of the contract on the basis of which they were imported.

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

2. Repayment or remission of import duties shall be granted provided the goods have not been used, except for such initial use as may have been necessary to establish that they were defective or did not comply with the terms of the contract and provided they are exported from the customs territory of the Community.

3. Instead of being exported, at the request of the person concerned, the customs authorities shall permit the goods to be placed under the inward-processing procedure, including for destruction, or the external transit, the customs warehousing or the free-zone procedure.

Article 82

Repayment or remission on account of error by the competent authorities

1. In situations other than those referred to in the second subparagraph of Article 79(1) and in Articles 80, 81 and 83, an amount of import or export duty shall be repaid or remitted where, as a result of an error on the part of the competent authorities, the amount corresponding to the customs debt initially notified was lower than the amount payable, provided the following conditions are met:

- (a) the debtor could not reasonably have detected that error;
- (b) the debtor was acting in good faith.

2. Where the preferential treatment of the goods is granted on the basis of a system of administrative cooperation involving the authorities of a country or territory outside the customs territory of the Community, the issue of a certificate by those authorities, should it prove to be incorrect, shall constitute an error which could not reasonably have been detected within the meaning of paragraph 1(a).

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

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

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

Article 83

Repayment and remission in equity

In situations other than those referred to in the second subparagraph of Article 79(1) and in Articles 80, 81 and 82, an amount of import or export duty shall be repaid or remitted in the interest of equity where a customs debt is incurred under special circumstances in which no deception or obvious negligence may be attributed to the debtor.

Article 84

Procedure for repayment and remission

1. Applications for repayment or remission in accordance with Article 79 shall be submitted to the appropriate customs office within the following periods:

- (a) in the case of overcharged duties, error by the competent authorities or equity, within three years of the date of notification of the customs debt;
- (b) in the case of defective goods or goods not complying with the terms of the contract, within one year of the date of notification of the customs debt;
- (c) in the case of invalidation of a customs declaration, within the period specified in the rules applicable to invalidation.

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

2. Where an appeal has been lodged under Article 23 against the notification of the customs debt, the relevant period specified in the first subparagraph of paragraph 1 of this Article shall be suspended, from the date on which the appeal is lodged, for the duration of the appeal proceedings.

Article 85

Implementing measures

The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of this Section. Those measures shall lay down, in

particular, the cases in which the Commission shall, in accordance with the management procedure referred to in Article 184(3), decide whether remission or repayment of an amount of import or export duty is justified.

CHAPTER 4

Extinguishment of customs debt

Article 86

Extinguishment

1. Without prejudice to Article 68 and the provisions in force relating to non-recovery of the amount of import or export duty corresponding to a customs debt in the event of the judicially established insolvency of the debtor, a customs debt on importation or exportation shall be extinguished in any of the following ways:

- (a) by payment of the amount of import or export duty;
- (b) subject to paragraph 4, by remission of the amount of import or export duty;
- (c) where, in respect of goods declared for a customs procedure entailing the obligation to pay duties, the customs declaration is invalidated;
- (d) where goods liable to import or export duties are confiscated;
- (e) where goods liable to import or export duties are seized and simultaneously or subsequently confiscated;
- (f) where goods liable to import and export duties are destroyed under customs supervision or abandoned to the State;
- (g) where the disappearance of the goods or the non-fulfilment of obligations arising from the customs legislation results from the total destruction or irretrievable loss of those goods as a result of the actual nature of the goods or unforeseeable circumstances or *force majeure*, or as a consequence of instruction by the customs authorities; for the purpose of this point, goods shall be considered as irretrievably lost when they have been rendered unusable by any person;
- (h) where the customs debt was incurred pursuant to Article 46 or 49 and where the following conditions are fulfilled:
 - (i) the failure which led to the incurrance of a customs debt had no significant effect on the correct operation of the customs procedure concerned and did not constitute an attempt at deception;
 - (ii) all of the formalities necessary to regularise the situation of the goods are subsequently carried out;

- (i) where goods released for free circulation duty-free, or at a reduced rate of import duty by virtue of their end-use, have been exported with the permission of the customs authorities;
- (j) where it was incurred pursuant to Article 45 and where the formalities carried out in order to enable the preferential tariff treatment referred to in that Article to be granted are cancelled;
- (k) where, subject to paragraph 5 of this Article, the customs debt was incurred pursuant to Article 46 and evidence is provided to the satisfaction of the customs authorities that the goods have not been used or consumed and have been exported from the customs territory of the Community.

2. In the event of confiscation, as referred to in paragraph 1(d), the customs debt shall, nevertheless, for the purposes of penalties applicable to customs offences, be deemed not to have been extinguished where, under the law of a Member State, customs duties or the existence of a customs debt provide the basis for determining penalties.

3. Where, in accordance with paragraph 1(g), a customs debt is extinguished in respect of goods released for free circulation duty-free or at a reduced rate of import duty on account of their end-use, any scrap or waste resulting from their destruction shall be deemed to be non-Community goods.

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

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

6. Where the customs debt was incurred pursuant to Article 46, it shall be extinguished with regard to the person whose behaviour did not involve any attempt at deception and who contributed to the fight against fraud.

7. The Commission may, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of this Article.

TITLE IV

GOODS BROUGHT INTO THE CUSTOMS TERRITORY OF THE COMMUNITY

CHAPTER 1

Entry summary declaration

Article 87

Obligation to lodge an entry summary declaration

1. Goods brought into the customs territory of the Community shall be covered by an entry summary declaration, with the exception of means of transport temporarily imported and means

of transport and the goods carried thereon only passing through the territorial waters or the airspace of the customs territory of the Community without a stop within that territory.

2. Except where otherwise specified in the customs legislation, an entry summary declaration shall be lodged at the competent customs office before the goods are brought into the customs territory of the Community.

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

3. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the following:

- (a) the cases, other than those referred to in paragraph 1 of this Article, in which the requirement for an entry summary declaration may be waived or adapted and the conditions under which it may be so waived or adapted;
- (b) the deadline by which the entry summary declaration is to be lodged or made available before the goods are brought into the customs territory of the Community;
- (c) the rules for exceptions from and variations to the deadline referred to in point (b);
- (d) the rules for determining the competent customs office at which the entry summary declaration is to be lodged or made available and where risk analysis and risk-based entry controls are to be carried out,

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

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

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

Article 88

Lodgement and responsible person

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

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

2. The entry summary declaration shall be lodged by the person who brings the goods into the customs territory of the Community or who assumes responsibility for the carriage of the goods into that territory.

3. Notwithstanding the obligations of the person referred to in paragraph 2, the entry summary declaration may be lodged instead by one of the following persons:

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

4. Where the entry summary declaration is lodged by a person other than the operator of the means of transport by which the goods are brought on to Community customs territory, that operator shall lodge with the appropriate customs office a notification of arrival in the form of a manifest, a dispatch note or a load sheet containing the information required in order to enable all the goods transported which are to be covered by an entry summary declaration to be identified.

The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures stipulating the information which must appear on the notification of arrival.

Paragraph 1 shall apply, *mutatis mutandis*, to the notification of arrival mentioned in the first subparagraph of this paragraph.

Article 89

Amendment of entry summary declaration

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

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

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

(c) the customs authorities have allowed the removal of the goods from the place where they were presented.

2. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down exceptions to paragraph 1(c) of this Article, defining, in particular, the following:

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

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Article 90

Customs declaration replacing entry summary declaration

The competent customs office may waive the lodging of an entry summary declaration in respect of goods for which, prior to the expiry of the deadline referred to in point (b) of the first subparagraph of Article 87(3), a customs declaration is lodged. In that case, the customs declaration shall contain at least the particulars necessary for the entry summary declaration. Until such time as the customs declaration is accepted in accordance with Article 112, it shall have the status of an entry summary declaration.

CHAPTER 2

Arrival of goods

Section 1

Entry of goods into the customs territory of the Community

Article 91

Customs supervision

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

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

Without prejudice to Article 166, Community goods shall not be subject to customs supervision once their customs status is established.

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

2. The holder of goods under customs supervision may, with the permission of the customs authorities, at any time examine the goods or take samples, in particular in order to determine their tariff classification, customs value or customs status.

Article 92

Conveyance to the appropriate place

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

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

The goods shall be presented to the customs authorities in accordance with Article 95.

2. Any person who assumes responsibility for the carriage of goods after they have been brought into the customs territory of the Community shall become responsible for compliance with the obligation laid down in paragraph 1.

3. Goods which, although still outside the customs territory of the Community, may be subject to customs controls by the customs authority of a Member State as a result of an agreement concluded with the relevant country or territory outside the customs territory of the Community, shall be treated in the same way as goods brought into the customs territory of the Community.

4. Paragraph 1 shall not preclude application of any special provisions with respect to letters, postcards and printed matter and their electronic equivalents held on other media or to goods carried by travellers, goods transported within frontier zones or in pipelines and wires as well as any other traffic of negligible

economic importance, provided that customs supervision and customs control possibilities are not thereby jeopardised.

5. Paragraph 1 shall not apply to means of transport and goods carried thereon only passing through the territorial waters or the airspace of the customs territory of the Community without a stop within that territory.

Article 93

Intra-Community air and sea services

1. Articles 87 to 90, 92(1) and 94 to 97 shall not apply to goods which have temporarily left the customs territory of the Community while moving between two points in that territory by sea or air, provided that carriage has been effected by a direct route and by an air or regular shipping service without a stop outside the customs territory of the Community.

2. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down special provisions for air and regular shipping services, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Article 94

Conveyance under special circumstances

1. Where, by reason of unforeseeable circumstances or *force majeure*, the obligation laid down in Article 92(1) cannot be complied with, the person bound by that obligation or any other person acting on that person's behalf shall inform the customs authorities of the situation without delay. Where the unforeseeable circumstances or *force majeure* do not result in total loss of the goods, the customs authorities shall also be informed of their precise location.

2. Where, by reason of unforeseeable circumstances or *force majeure*, a vessel or aircraft covered by Article 92(5) is forced to put into port or to land temporarily in the customs territory of the Community and the obligation laid down in Article 92(1) cannot be complied with, the person who brought the vessel or aircraft into the customs territory of the Community, or any other person acting on that person's behalf, shall inform the customs authorities of the situation without delay.

3. The customs authorities shall determine the measures to be taken in order to permit customs supervision of the goods referred to in paragraph 1, or of the vessel or aircraft and any goods thereon in the circumstances specified in paragraph 2, and to ensure, where appropriate, that they are subsequently conveyed to a customs office or other place designated or approved by the authorities.

Section 2

Presentation, unloading and examination of goods

Article 95

Presentation of goods to customs

1. Goods brought into the customs territory of the Community shall be presented to customs immediately upon their arrival at the designated customs office or any other place designated or approved by the customs authorities or in the free zone by one of the following persons:

- (a) the person who brought the goods into the customs territory of the Community;
- (b) the person in whose name or on whose behalf the person who brought the goods into that territory acts;
- (c) the person who assumed responsibility for carriage of the goods after they were brought into the customs territory of the Community.

2. Notwithstanding the obligations of the person described in paragraph 1, presentation of the goods may be effected instead by one of the following persons:

- (a) any person who immediately places the goods under a customs procedure;
- (b) the holder of an authorisation for the operation of storage facilities or any person who carries out an activity in a free zone.

3. The person presenting the goods shall make a reference to the entry summary declaration or customs declaration which has been lodged in respect of the goods.

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

Article 96

Unloading and examination of goods

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

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

2. The customs authorities may at any time require goods to be unloaded and unpacked for the purpose of examining them, taking samples or examining the means of transport carrying them.

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

Section 3

Formalities after presentation

Article 97

Obligation to place non-Community goods under a customs procedure

1. Without prejudice to Articles 125 to 127, non-Community goods presented to customs shall be placed under a customs procedure.

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

Article 98

Goods deemed to be placed in temporary storage

1. Except where goods are immediately placed under a customs procedure for which a customs declaration has been accepted, or have been placed in a free zone, non-Community goods presented to customs shall be deemed to have been placed under temporary storage, in accordance with Article 151.

2. Without prejudice to the obligation laid down in Article 87(2) and the exceptions or waiver provided for by the measures adopted under Article 87(3), where it is found that non-Community goods presented to customs are not covered by an entry summary declaration, the holder of the goods shall lodge such a declaration immediately.

Section 4

Goods moved under a transit procedure

Article 99

Waiver for goods arriving under transit

Article 92, with the exception of the first subparagraph of paragraph 1 thereof, and Articles 95 to 98 shall not apply when goods already under a transit procedure are brought into the customs territory of the Community.

Article 100

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

Articles 96, 97 and 98 shall apply to non-Community goods moving under a transit procedure, once such goods have been presented to the customs office of destination in the customs territory of the Community, in accordance with the rules governing transit.

TITLE V

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

CHAPTER 1

Customs status of goods

Article 101

Presumption of customs status of Community goods

1. Without prejudice to Article 161, all goods in the customs territory of the Community shall be presumed to have the customs status of Community goods, unless it is established that they are not Community goods.
2. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down:
 - (a) the cases in which the presumption referred to in paragraph 1 of this Article does not apply;
 - (b) the means by which the customs status of Community goods may be established;
 - (c) the cases in which goods wholly obtained in the customs territory of the Community do not have the customs status of Community goods if they are obtained from goods placed under the external transit procedure, a storage procedure, the temporary admission procedure or the inward-processing procedure,

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Article 102

Loss of customs status of Community goods

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

- (a) where they are moved out of the customs territory of the Community, insofar as the rules on internal transit or the measures laid down in accordance with Article 103 do not apply;
- (b) where they have been placed under the external transit procedure, a storage procedure or the inward-processing procedure, insofar as the customs legislation so allows;
- (c) where they have been placed under the end-use procedure and are either subsequently abandoned to the State, or are destroyed and waste remains;

- (d) where the declaration for release of goods for free circulation is invalidated after release in accordance with measures adopted pursuant to the second subparagraph of Article 114(2).

Article 103

Community goods leaving the customs territory temporarily

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the conditions under which Community goods may move, without being subject to a customs procedure, from one point to another within the customs territory of the Community and temporarily out of that territory without alteration of their customs status, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

CHAPTER 2

Placing goods under a customs procedure

Section 1

General provisions

Article 104

Customs declaration of goods and customs supervision of Community goods

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

Article 105

Competent customs offices

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

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

2. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures defining the various roles and responsibilities of competent customs offices, and notably of the following:

- (a) the customs offices of entry, import, export or exit;
- (b) the customs offices carrying out the formalities for the placing of goods under a customs procedure;
- (c) the customs offices granting authorisations and supervising customs procedures.

Article 106

Centralised clearance

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

2. The customs office at which the customs declaration is lodged or made available shall carry out the formalities for the verification of the declaration, the recovery of the amount of import or export duty corresponding to any customs debt and for granting release of the goods.

3. The customs office at which the goods are presented shall, without prejudice to its own controls for security and safety purposes, carry out any examination justifiably requested by the customs office at which the customs declaration is lodged or made available and shall allow release of the goods, taking into account information received from that office.

4. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down in particular, rules in respect of the following:

- (a) the granting of the authorisation referred to in paragraph 1;
- (b) the cases in which review of the authorisation is to be carried out;
- (c) the conditions under which the authorisation is granted;
- (d) identification of the customs authority competent for the granting of the authorisation;
- (e) consultation with and provision of information to other customs authorities, where appropriate;
- (f) the conditions under which the authorisation may be suspended or revoked;

(g) the specific role and responsibilities of the competent customs offices involved, particularly in respect of the controls to be applied;

(h) the form of, and any time limit for, the completion of formalities,

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Those measures shall take account of the following:

- with regard to point (c), where more than one Member State is involved, compliance by the applicant with the criteria laid down in Article 14 for the granting of the status of authorised economic operator,
- with regard to point (d), the place where the applicant's main accounts for customs purposes are held or accessible, facilitating audit-based controls, and where at least part of the activities to be covered by the authorisation are to be carried out.

Article 107

Types of customs declaration

1. The customs declaration shall be lodged using an electronic data-processing technique. The customs authorities may allow the customs declaration to take the form of an entry in the declarant's records, provided that the customs authorities have access to those data in the declarant's electronic system and that the requirements for any necessary exchange of such data between customs offices are met.

2. Where this is provided for in the customs legislation, the customs authorities may accept a paper-based customs declaration, or a customs declaration made orally or by any other act whereby goods can be placed under a customs procedure.

3. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of this Article.

Section 2

Standard customs declarations

Article 108

Content of a declaration and supporting documents

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

The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures laying down the specifications to which customs declarations must correspond.

2. The supporting documents required for application of the provisions governing the customs procedure for which the goods are declared shall be made available to the customs authorities at the time when the declaration is lodged.

3. When a customs declaration is lodged using an electronic data-processing technique, the customs authorities may also allow supporting documents to be lodged using that technique. Customs authorities may accept, instead of the lodging of those documents, access to the relevant data in the economic operator's computer system.

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

4. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of paragraphs 2 and 3 of this Article.

Section 3

Simplified customs declarations

Article 109

Simplified declaration

1. The customs authorities shall, provided that the conditions of paragraphs 2 and 3 of this Article are fulfilled, authorise any person to have goods placed under a customs procedure on the basis of a simplified declaration which may omit certain of the particulars and supporting documents referred to in Article 108.

2. The measures designed to amend non-essential elements of this Regulation, by supplementing it, relating to the conditions under which the authorisation referred to in paragraph 1 of this Article is to be given, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

3. The Commission may, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures concerning the specifications to which the simplified declarations must correspond.

Article 110

Supplementary declaration

1. In the case of a simplified declaration pursuant to Article 109(1), the declarant shall furnish a supplementary declaration containing the further particulars necessary to complete the customs declaration for the customs procedure concerned.

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

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down exceptions to the first subparagraph of this paragraph, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

2. The supplementary declaration and the simplified declaration referred to in Article 109(1) shall be deemed to constitute a single, indivisible instrument taking effect on the date on which the simplified declaration is accepted in accordance with Article 112.

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

3. The place where the supplementary declaration is to be lodged in accordance with the authorisation shall be deemed, for the purposes of Article 55, to be the place where the customs declaration has been lodged.

Section 4

Provisions applying to all customs declarations

Article 111

Person lodging a declaration

1. Without prejudice to Article 110(1), a customs declaration may be made by any person who is able to present or make available all of the documents which are required for the application of the provisions governing the customs procedure in respect of which the goods are declared. That person shall also be able to present the goods in question or to have them presented to the competent customs office.

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

2. The declarant shall be established in the customs territory of the Community. However, the following declarants shall not be required to be established within the Community:

- persons who lodge a declaration for transit or temporary admission,
- persons who declare goods occasionally, provided that the customs authorities deem this to be justified.

3. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the cases in which, and the conditions under which, the requirements referred to in paragraph 2 may be waived, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Article 112

Acceptance of a declaration

1. Declarations which comply with the conditions laid down in this Chapter shall be accepted by the customs authorities immediately, provided that the goods to which they refer have been presented to customs or, to the satisfaction of the customs authorities, are made available for customs controls.

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

2. Without prejudice to Article 110(2) or the second subparagraph of paragraph 1 of this Article, where a customs declaration is lodged at a customs office other than the office at which the goods are presented, the declaration shall be accepted when the office at which the goods are presented confirms the availability of the goods for customs controls.

3. The date of acceptance of the customs declaration by the customs authorities shall, except where otherwise provided, be the date to be used for the application of the provisions governing the customs procedure for which the goods are declared and for all other import or export formalities.

4. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures laying down detailed rules for the implementation of this Article.

Article 113

Amendment of a declaration

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

2. No such amendment shall be permitted where it is requested after any of the following events:

- (a) the customs authorities have informed the declarant that they intend to examine the goods;
- (b) the customs authorities have established that the particulars in question are incorrect;
- (c) the customs authorities have released the goods.

3. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down exceptions to paragraph 2(c) of this Article, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Article 114

Invalidation of a declaration

1. The customs authorities shall, at the request of the declarant, invalidate a declaration already accepted in the following cases:

- (a) where they are satisfied that the goods are immediately to be placed under another customs procedure;

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

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

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

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down exceptions to the first subparagraph of this paragraph, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Section 5

Other simplifications

Article 115

Facilitation of the drawing-up of customs declarations for goods falling under different tariff subheadings

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

The Commission may, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of this Article.

Article 116

Simplification of customs formalities and controls

1. Customs authorities may authorise simplifications, other than as referred to under Section 3 of this Chapter, of the customs formalities and controls.

2. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down in particular rules in respect of the following:

- (a) the granting of the authorisations referred to in paragraph 1;
- (b) the cases in which review of the authorisations is to be carried out and the conditions under which their use is to be monitored by the customs authorities;
- (c) the conditions under which the authorisations are granted;

- (d) the conditions under which an economic operator may be authorised to carry out certain customs formalities which should in principle be carried out by the customs authorities, including the self-assessment of import and export duties, and to perform certain controls under customs supervision;
- (e) identification of the customs authority competent for the granting of the authorisations;
- (f) consultation with and provision of information to other customs authorities, where appropriate;
- (g) the conditions under which the authorisations may be suspended or revoked;
- (h) the specific role and responsibilities of the competent customs offices involved, particularly in respect of the controls to be applied;
- (i) the form of, and any time limit for, the completion of formalities,

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Those measures shall take account of the following:

- the customs formalities to be completed and customs controls to be performed for security and safety purposes on goods brought into or leaving the customs territory of the Community,
- the rules adopted pursuant to Article 25(3),
- with regard to point (d), where more than one Member State is involved, the applicant shall hold the status of authorised economic operator in accordance with Article 14,
- with regard to point (e), the place where the applicant's main accounts for customs purposes are held or accessible, facilitating audit-based controls, and where at least part of the activities to be covered by the authorisation are to be carried out.

CHAPTER 3

Verification and release of goods

Section 1

Verification

Article 117

Verification of a customs declaration

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

- (a) examine the declaration and all of the supporting documents;

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

Article 118

Examination and sampling of goods

1. Transport of the goods to the places where they are to be examined and where samples are to be taken, and all the handling necessitated by such examination or taking of samples, shall be carried out by or under the responsibility of the declarant. The costs incurred shall be borne by the declarant.

2. The declarant shall have the right to be present or represented when the goods are examined and when samples are taken. Where the customs authorities have reasonable grounds for so doing, they may require the declarant to be present or represented when the goods are examined or samples are taken or to provide them with the assistance necessary to facilitate such examination or taking of samples.

3. Provided that samples are taken in accordance with the provisions in force, the customs authorities shall not be liable for payment of any compensation in respect thereof but shall bear the costs of their analysis or examination.

Article 119

Partial examination and sampling of goods

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

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

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

3. The Commission shall, in accordance with the management procedure referred to in Article 184(3), adopt measures laying down the procedure to be followed in the event of divergent results of examinations pursuant to paragraph 1 of this Article.

Article 120

Results of the verification

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

Article 121

Identification measures

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

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

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

Article 122

Implementing measures

The Commission may, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of this Section.

Section 2

Release

Article 123

Release of the goods

1. Without prejudice to Article 117, where the conditions for placing the goods under the procedure concerned are fulfilled and provided that any restriction has been applied and the goods are not subject to any prohibition, the customs authorities shall

release the goods as soon as the particulars in the customs declaration have been verified or are accepted without verification.

The first subparagraph shall also apply where verification as referred to in Article 117 cannot be completed within a reasonable period of time and the goods are no longer required to be present for verification purposes.

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

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

3. Where the goods are presented at a customs office other than the office at which the customs declaration has been accepted, the customs authorities involved shall exchange the information necessary for the release of the goods, without prejudice to appropriate controls.

Article 124

Release dependent upon payment of the amount of import or export duty corresponding to the customs debt or provision of a guarantee

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

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

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

2. The Commission may, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures laying down exceptions to the first and third subparagraphs of paragraph 1 of this Article.

CHAPTER 4

Disposal of goods

Article 125

Destruction of goods

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

Article 126

Measures to be taken by the customs authorities

1. The customs authorities shall take any necessary measures, including confiscation and sale, or destruction, to dispose of goods in the following cases:

- (a) where one of the obligations laid down in customs legislation concerning the introduction of non-Community goods into the customs territory of the Community has not been fulfilled, or the goods have been withheld from customs supervision;
- (b) where the goods cannot be released for any of the following reasons:
 - (i) it has not been possible, for reasons attributable to the declarant, to undertake or continue examination of the goods within the period prescribed by the customs authorities;
 - (ii) the documents which must be produced before the goods can be placed under, or released for, the customs procedure requested have not been made available;
 - (iii) payments or a guarantee which should have been made or provided in respect of import or export duties, as the case may be, have not been made or provided within the period prescribed;
 - (iv) they are subject to prohibitions or restrictions;
- (c) where the goods have not been removed within a reasonable period after their release;
- (d) where, after their release, the goods are found not to have fulfilled the conditions for that release;
- (e) where goods are abandoned to the State in accordance with Article 127.

Article 127

Abandonment

1. Non-Community goods and goods placed under the end-use procedure may with prior permission of the customs authorities be abandoned to the State by the holder of the procedure or, where applicable, the holder of the goods.

2. Abandonment shall not entail any expense for the State. The holder of the procedure or, where applicable, the holder of goods, shall bear the costs of any destruction or other disposal of goods.

Article 128

Implementing measures

The measures designed to amend non-essential elements of this Regulation, by supplementing it, relating to the implementation of this Chapter, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

TITLE VI

RELEASE FOR FREE CIRCULATION AND RELIEF FROM IMPORT DUTIES

CHAPTER 1

Release for free circulation

Article 129

Scope and effect

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

CHAPTER 2

Relief from import duties

Section 1

Returned goods

Article 130

Scope and effect

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

2. The three-year period referred to in paragraph 1 may be exceeded in order to take account of special circumstances.

3. Where, prior to their export from the customs territory of the Community, the returned goods had been released for free circulation duty-free or at a reduced rate of import duty because of a particular end-use, relief from duty under paragraph 1 shall be granted only if they are to be released for free circulation for the same end-use.

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

4. Where Community goods have lost their customs status as Community goods pursuant to Article 102(b) and are subsequently released for free circulation, paragraphs 1, 2 and 3 of this Article shall apply *mutatis mutandis*.

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

Article 131

Cases in which no relief from import duties is granted

Relief from import duties provided for in Article 130 shall not be granted in the following cases:

- (a) goods exported from the customs territory of the Community under the outward-processing procedure, unless one of the following applies:
 - (i) those goods remain in the state in which they were exported;
 - (ii) the rules adopted in accordance with Article 134 allow for this;
- (b) goods which have benefited from measures laid down under the common agricultural policy involving their export out of the customs territory of the Community, except where the rules adopted in accordance with Article 134 allow for this.

Article 132

Goods previously placed under the inward-processing procedure

1. Article 130 shall apply *mutatis mutandis* to processed products which were originally re-exported from the customs territory of the Community subsequent to an inward-processing procedure.

2. At the request of the declarant and provided he submits the necessary information, the amount of import duty on the goods covered by paragraph 1 of this Article shall be determined in accordance with Article 53(3). The date of acceptance of the re-export notification shall be regarded as the date of release for free circulation.

3. The relief from import duties provided for in Article 130 shall not be granted for processed products which were exported in accordance with Article 142(2)(b), unless it is ensured that no goods will be placed under the inward-processing procedure.

Section 2

Sea-fishing and products taken from the sea

Article 133

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

Without prejudice to Article 36(1), the following shall be exempt from import duties when they are released for free circulation:

- (a) products of sea-fishing and other products taken from the territorial sea of a country or territory outside the customs territory of the Community by vessels solely registered or recorded in a Member State and flying the flag of that state;
- (b) products obtained from products referred to in point (a) on board factory-ships fulfilling the conditions laid down in that point.

Section 3

Implementing measures

Article 134

Implementing measures

The measures designed to amend non-essential elements of this Regulation, by supplementing it, relating to the implementation of this Chapter, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

TITLE VII

SPECIAL PROCEDURES

CHAPTER 1

General provisions

Article 135

Scope

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

- (a) transit, which shall comprise external and internal transit;

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

Article 136

Authorisation

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

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

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

2. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down in particular rules in respect of the following:

- (a) the granting of the authorisation referred to in paragraph 1;
- (b) the cases in which review of the authorisation is to be carried out;
- (c) the conditions under which the authorisation is granted;
- (d) identification of the customs authority competent for the granting of the authorisation;
- (e) consultation with and provision of information to other customs authorities, where appropriate;
- (f) the conditions under which the authorisation may be suspended or revoked;
- (g) the specific role and responsibilities of the competent customs offices involved, particularly in respect of the controls to be applied;
- (h) the form of, and any time limit for, the completion of formalities,

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Those measures shall take account of the following:

- (a) with regard to point (c) of the first subparagraph, where more than one Member State is involved, compliance by the applicant with the criteria laid down in Article 14 for the granting of the status of authorised economic operator,
- (b) with regard to point (d) of the first subparagraph, the place where the applicant's main accounts for customs purposes are held or accessible, facilitating audit-based controls, and where at least part of the activities to be covered by the authorisation are to be carried out.

3. Except where otherwise provided for in the customs legislation, the authorisation referred to in paragraph 1 shall be granted only to the following persons:

- (a) persons who are established in the customs territory of the Community;
- (b) persons who provide the necessary assurance of the proper conduct of the operations and, in cases where a customs debt or other charges may be incurred for goods placed under a special procedure, provide a guarantee in accordance with Article 56;
- (c) in the case of the temporary admission or inward-processing procedure, the person who uses the goods or arranges for their use or who carries out processing operations on the goods or arranges for them to be carried out, respectively.

The measures designed to amend non-essential elements of this Regulation, by supplementing it, providing for derogations from the first subparagraph of this paragraph, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

4. Except where otherwise provided for and in addition to paragraph 3, the authorisation referred to in paragraph 1 shall be granted only where the following conditions are fulfilled:

- (a) where the customs authorities are able to exercise customs supervision without having to introduce administrative arrangements disproportionate to the economic needs involved;
- (b) where the essential interests of Community producers would not be adversely affected by an authorisation for a processing procedure (economic conditions).

The essential interests of Community producers shall be deemed not to be adversely affected, as referred to in point (b) of the first subparagraph, except where evidence to the contrary exists or where the customs legislation provides that the economic conditions are deemed to be fulfilled.

Where evidence exists that the essential interests of Community producers are likely to be adversely affected, an examination of the economic conditions shall take place in accordance with Article 185.

The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures governing the following:

- (a) examination of the economic conditions;
- (b) the determination of cases in which the essential interests of Community producers are likely to be adversely affected, taking into account commercial and agricultural policy measures;
- (c) the determination of cases in which the economic conditions are deemed to be fulfilled.

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

Article 137

Records

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

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

2. The measures designed to amend non-essential elements of this Regulation, by supplementing it, relating to the implementation of this Article, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Article 138

Discharge of a procedure

1. In cases other than the transit procedure and without prejudice to Article 166, a special procedure shall be discharged when the goods placed under the procedure, or the processed products, are placed under a subsequent customs procedure, have left the customs territory of the Community, or have been destroyed with no waste remaining, or are abandoned to the State in accordance with Article 127.

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

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

Article 139

Transfer of rights and obligations

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

Article 140

Movement of goods

1. Goods placed under a special procedure other than transit or in a free zone may be moved between different places in the customs territory of the Community, insofar as this is provided for in the authorisation or under the customs legislation.

2. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of this Article.

Article 141

Usual forms of handling

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

Article 142

Equivalent goods

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

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

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

The measures designed to amend non-essential elements of this Regulation, by supplementing it, providing for derogations from the third subparagraph of this paragraph, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

2. The customs authorities shall authorise the following, provided that the proper conduct of the procedure, in particular as regards customs supervision, is ensured:

- (a) the use of equivalent goods under a special procedure other than the transit, temporary admission and temporary storage procedure;
- (b) in the case of the inward-processing procedure, the exportation of processed products obtained from equivalent goods before the importation of the goods they are replacing;
- (c) in the case of the outward-processing procedure, the importation of processed products obtained from equivalent goods before the exportation of the goods they are replacing.

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the cases in which the customs authorities may authorise the use of equivalent goods under temporary admission, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

3. The use of equivalent goods shall not be permitted in any of the following cases:

- (a) where only usual forms of handling as defined in Article 141 are carried out under inward processing;
- (b) where a prohibition of drawback of, or exemption from, import duties applies to non-originating goods used in the manufacture of processed products under inward processing, for which a proof of origin is issued or made out in the framework of a preferential arrangement between the Community and certain countries or territories outside the customs territory of the Community or groups of such countries or territories; or
- (c) where it would lead to an unjustified import duty advantage.

The measures designed to amend non-essential elements of this Regulation, by supplementing it, specifying additional cases where equivalent goods may not be used, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

4. In the case referred to in paragraph 2(b) of this Article, and where the processed products would be liable to export duties if they were not being exported in the context of the inward-processing procedure, the holder of the authorisation shall provide a guarantee to ensure payment of the duties should the non-Community goods not be imported within the period referred to in Article 169(3).

Article 143

Implementing measures

The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the operation of the procedures under this Title.

CHAPTER 2

Transit

Section 1

External and internal transit

Article 144

External transit

1. Under the external transit procedure, non-Community goods may be moved from one point to another within the customs territory of the Community without being subject to any of the following:

- (a) import duties;
- (b) other charges as provided for under other relevant provisions in force;
- (c) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Community.

2. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down cases in which and the conditions under which Community goods are to be placed under external transit, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

3. Movement as referred to in paragraph 1 shall take place in one of the following ways:

- (a) under the external Community transit procedure;
 - (b) in accordance with the TIR Convention, provided that such movement:
 - (i) began or is to end outside the customs territory of the Community; or
 - (ii) is effected between two points in the customs territory of the Community through the territory of a country or territory outside the customs territory of the Community;
 - (c) in accordance with the ATA Convention/Istanbul Convention, where a transit movement takes place;
 - (d) under cover of the Rhine Manifest (Article 9 of the Revised Convention for the Navigation of the Rhine);
 - (e) under cover of form 302 provided for in the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951;
 - (f) under the postal system in accordance with the acts of the Universal Postal Union, when the goods are carried by or for holders of rights and obligations under such acts.
4. External transit shall apply without prejudice to Article 140.

*Article 145***Internal transit**

1. Under the internal transit procedure, and under the conditions laid down in paragraphs 2 and 3, Community goods may be moved from one point to another within the customs territory of the Community, and pass through another territory outside that territory, without any change in their customs status.

2. The movement referred to in paragraph 1 shall take place in one of the following ways:

- (a) under the internal Community transit procedure provided that such a possibility is provided for in an international agreement;
- (b) in accordance with the TIR Convention;
- (c) in accordance with the ATA Convention/Istanbul Convention, where a transit movement takes place;
- (d) under cover of a Rhine Manifest (Article 9 of the Revised Convention for the Navigation of the Rhine);
- (e) under cover of form 302 as provided for in the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951;
- (f) under the postal system in accordance with the acts of the Universal Postal Union, when the goods are carried by or for holders of rights and obligations under such acts.

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

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the conditions under which and the means by which that customs status may be established, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Section 2

Community transit*Article 146***Obligations of the holder of the Community transit procedure and of the carrier and recipient of goods moving under the Community transit procedure**

1. The holder of the Community transit procedure shall be responsible for the following:

- (a) presentation of the goods intact and the required information at the customs office of destination within the prescribed time limit and in compliance with the measures taken by the customs authorities to ensure their identification;

(b) observance of the customs provisions relating to the procedure;

(c) unless otherwise provided for in the customs legislation, provision of a guarantee in order to ensure payment of the amount of import or export duty corresponding to any customs debt or other charges, as provided for under other relevant provisions in force, which may be incurred in respect of the goods.

2. The obligation of the holder of the procedure shall be met and the transit procedure shall end when the goods placed under the procedure and the required information are available at the customs office of destination in accordance with the customs legislation.

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

*Article 147***Goods passing through the territory of a country outside the customs territory of the Community under the external Community transit procedure**

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

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

2. In the case referred to in paragraph 1(b), the operation of the external Community transit procedure shall be suspended while the goods are outside the customs territory of the Community.

CHAPTER 3

Storage

Section 1

Common provisions*Article 148***Scope**

1. Under a storage procedure, non-Community goods may be stored in the customs territory of the Community without being subject to any of the following:

- (a) import duties;

- (b) other charges as provided for under other relevant provisions in force;
- (c) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Community.

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

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down cases in which, and the conditions under which, Community goods may be placed under the customs warehousing or free-zone procedures, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Article 149

Responsibilities of the holder of the authorisation or procedure

1. The holder of the authorisation and the holder of the procedure shall be responsible for the following:
 - (a) ensuring that goods under the temporary storage or customs warehousing procedures are not removed from customs supervision;
 - (b) fulfilling the obligations arising from the storage of goods covered by the temporary storage or customs warehousing procedures;
 - (c) complying with the particular conditions specified in the authorisation for the operation of a customs warehouse or temporary storage facilities.
2. By way of derogation from paragraph 1, where the authorisation concerns a public customs warehouse, it may provide that the responsibilities referred to in points (a) or (b) of paragraph 1 devolve exclusively upon the holder of the procedure.
3. The holder of the procedure shall be responsible for fulfilling the obligations arising from the placing of the goods under the temporary storage or customs warehousing procedures.

Article 150

Duration of a storage procedure

1. There shall be no limit to the length of time goods may remain under a storage procedure.
2. However, the customs authorities may set a time limit by which a storage procedure must be discharged in one of the following cases:
 - (a) where a storage facility is operated by the customs authorities and available for use by any person for the temporary storage of goods under Article 151;

- (b) in exceptional circumstances, in particular where the type and nature of the goods may, in the case of long-term storage, pose a threat to human, animal or plant health or to the environment.

3. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the cases referred to in paragraph 2, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Section 2

Temporary storage

Article 151

Placing of goods in temporary storage

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

The customs declaration shall be regarded as having been lodged and accepted by the customs authorities at the moment of presentation of the goods to customs.

2. The entry summary declaration, or a transit document replacing it, shall constitute the customs declaration for the temporary storage procedure.
3. The customs authorities may require the holder of the goods to provide a guarantee with a view to ensuring payment of the amount of import or export duty corresponding to any customs debt or other charges, as provided for under other relevant provisions in force, which may be incurred.
4. Where, for any reason, goods cannot be placed or can no longer be maintained under the temporary storage procedure, the customs authorities shall without delay take all measures necessary to regularise the situation of the goods. Articles 125 to 127 shall apply *mutatis mutandis*.
5. The Commission may, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of this Article.

Article 152

Goods in temporary storage

1. Goods under the temporary storage procedure shall be stored only in places authorised for temporary storage.

2. Without prejudice to the provisions of Article 91(2), goods under the temporary storage procedure shall be subject only to such forms of handling as are designed to ensure their preservation in an unaltered state without modifying their appearance or technical characteristics.

Section 3

Customs warehousing

Article 153

Storage in customs warehouses

1. Under the customs warehousing procedure, non-Community goods may be stored in premises or any other location authorised for that procedure by the customs authorities and under customs supervision, hereinafter referred to as 'customs warehouses'.

2. Customs warehouses may be available for use by any person for the warehousing of goods (public customs warehouse), or for the storage of goods by the holder of an authorisation for customs warehousing (private customs warehouse).

3. Goods placed under the customs warehousing procedure may be temporarily removed from the customs warehouse. Such removal must, except in case of *force majeure*, be authorised in advance by the customs authorities.

Article 154

Community goods, end-use and processing activities

1. The customs authorities may, where an economic need exists and customs supervision will not be adversely affected, authorise the following to take place in a customs warehouse:

- (a) storage of Community goods;
- (b) processing of goods under the inward processing or end-use procedure, subject to the conditions provided for by these procedures.

2. In the cases referred to in paragraph 1, the goods shall not be regarded as being under the customs warehousing procedure.

Section 4

Free zones

Article 155

Designation of free zones

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

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

2. Free zones shall be enclosed.

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

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

Article 156

Buildings and activities in free zones

1. The construction of any building in a free zone shall require the prior approval of the customs authorities.

2. Subject to customs legislation, any industrial, commercial or service activity shall be permitted in a free zone. The carrying on of such activities shall be subject to notification, in advance, to the customs authorities.

3. The customs authorities may impose prohibitions or restrictions on the activities referred to in paragraph 2, having regard to the nature of the goods in question, or the requirements of customs supervision, or security or safety requirements.

4. The customs authorities may prohibit persons who do not provide the necessary assurance of compliance with the customs provisions from carrying on an activity in a free zone.

Article 157

Presentation of goods and their placement under the procedure

1. Goods brought into a free zone shall be presented to customs and undergo the prescribed customs formalities in the following cases:

- (a) where they are brought into the free zone directly from outside the customs territory of the Community;
- (b) where they have been placed under a customs procedure which is ended or discharged when they are placed under the free-zone procedure;
- (c) where they are placed under the free-zone procedure in order to benefit from a decision granting repayment or remission of import duties;
- (d) where legislation other than customs legislation provides for such formalities.

2. Goods brought into a free zone in circumstances other than those covered by paragraph 1 need not be presented to customs.

3. Without prejudice to Article 158, goods brought into a free zone are deemed to be placed under the free-zone procedure:

- (a) at the moment of their entry into a free zone, unless they have already been placed under another customs procedure;
- (b) at the moment when a transit procedure is ended, unless they are immediately placed under a subsequent customs procedure.

Article 158

Community goods in free zones

1. Community goods may be entered, stored, moved, used, processed or consumed in a free zone. In such cases the goods shall not be regarded as being under the free-zone procedure.

2. At the request of the person concerned, the customs authorities shall certify the customs status as Community goods of the following goods:

- (a) Community goods which enter a free zone;
- (b) Community goods which have undergone processing operations within a free zone;
- (c) goods released for free circulation within a free zone.

Article 159

Non-Community goods in free zones

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

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

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

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

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

Article 160

Bringing goods out of a free zone

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

Articles 91 to 98 shall apply *mutatis mutandis* to goods brought into other parts of the customs territory of the Community.

Article 161

Customs status

Where goods are brought out of a free zone into another part of the customs territory of the Community or placed under a customs procedure, they shall be regarded as non-Community goods unless their customs status as Community goods has been proven by the certificate referred to in Article 158(2) or by any other status document provided for in Community customs legislation.

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

CHAPTER 4

Specific use

Section 1

Temporary admission

Article 162

Scope

1. Under the temporary admission procedure non-Community goods intended for re-export may be used in the customs territory of the Community, with total or partial relief from import duties, and without being subject to any of the following:

- (a) other charges as provided for under other relevant provisions in force;
- (b) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Community.

2. The temporary admission procedure may only be used provided that the following conditions are met:

- (a) the goods are not intended to undergo any change, except normal depreciation due to the use made of them;
- (b) it is possible to ensure that the goods placed under the procedure can be identified, except where, in view of the nature of the goods or of the intended use, the absence of identification measures is not liable to give rise to any abuse of the procedure or, in the case referred to in Article 142, where compliance with the conditions laid down in respect of equivalent goods can be verified;

- (c) the holder of the procedure is established outside the customs territory of the Community, except where otherwise provided for in the customs legislation;
- (d) the requirements for total or partial duty relief laid down in the Community customs legislation are met.

Article 163

Period during which goods may remain under the temporary admission procedure

1. The customs authorities shall determine the period within which goods placed under the temporary admission procedure must be re-exported or placed under a subsequent customs procedure. Such period must be long enough for the objective of authorised use to be achieved.

2. The maximum period during which goods may remain under the temporary admission procedure for the same purpose and under the responsibility of the same authorisation holder shall be 24 months, even where the procedure was discharged by placing the goods under another special procedure and subsequently placing them under the temporary admission procedure again.

3. Where, in exceptional circumstances, the authorised use cannot be achieved within the periods referred to in paragraphs 1 and 2, the customs authorities may, at the duly justified request of the authorisation holder, extend those periods for a reasonable duration.

Article 164

Situations covered by temporary admission

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the cases in which, and the conditions under which, the temporary admission procedure may be used and total or partial relief from import duties may be granted, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

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

Article 165

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

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

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

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

Section 2

End-use

Article 166

End-use procedure

1. Under the end-use procedure, goods may be released for free circulation under a duty exemption or at a reduced rate of duty on account of their specific use. They shall remain under customs supervision.

2. Customs supervision under the end-use procedure shall end in the following cases:

- (a) where the goods have been used for the purposes laid down for the application of the duty exemption or reduced rate of duty;
- (b) where the goods are exported, destroyed or abandoned to the State;
- (c) where the goods have been used for purposes other than those laid down for the application of the duty exemption or reduced duty rate and the applicable import duties have been paid.

3. Where a rate of yield is required, Article 167 shall apply *mutatis mutandis* to the end-use procedure.

CHAPTER 5

Processing

Section 1

General provisions

Article 167

Rate of yield

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

The rate of yield or average rate of yield shall be determined on the basis of the actual circumstances in which processing operations are, or are to be, carried out. That rate may be adjusted, where appropriate, in accordance with Articles 18 and 19.

Section 2

Inward processing

Article 168

Scope

1. Without prejudice to Article 142, under the inward-processing procedure non-Community goods may be used in the customs territory of the Community in one or more processing operations without such goods being subject to any of the following:

- (a) import duties;
- (b) other charges as provided for under other relevant provisions in force;
- (c) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Community.

2. The inward-processing procedure may be used in cases other than repair and destruction only where, without prejudice to the use of production accessories, the goods placed under the procedure can be identified in the processed products.

In the case referred to in Article 142, the procedure may be used where compliance with the conditions laid down in respect of equivalent goods can be verified.

3. In addition to paragraphs 1 and 2, the inward-processing procedure may also be used for the following goods:

- (a) goods intended to undergo operations to ensure their compliance with technical requirements for their release for free circulation;
- (b) goods which have to undergo usual forms of handling in accordance with Article 141.

Article 169

Period for discharge

1. The customs authorities shall specify the period within which the inward-processing procedure is to be discharged, in accordance with Article 138.

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

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

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

3. In cases of prior exportation in accordance with Article 142(2)(b), the customs authorities shall specify the period within which the non-Community goods must be declared for the procedure. That period shall run from the date of acceptance of the export declaration relating to the processed products obtained from the corresponding equivalent goods.

Article 170

Temporary re-export for further processing

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

Section 3

Outward processing

Article 171

Scope

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

2. Outward processing shall not be allowed for the following Community goods:

- (a) goods the export of which gives rise to repayment or remission of import duties;
- (b) goods which, prior to exportation, were released for free circulation under a duty exemption or at a reduced rate of duty by virtue of their end-use, for as long as the purposes of such end-use have not been fulfilled, unless those goods have to undergo repair operations;
- (c) goods the export of which gives rise to the granting of export refunds;

(d) goods in respect of which a financial advantage other than refunds referred to in point (c) is granted under the common agricultural policy by virtue of the exportation of those goods.

3. In cases not covered by Articles 172 and 173 and where *ad valorem* duties are involved, the amount of the import duty shall be calculated on the basis of the cost of the processing operation undertaken outside the customs territory of the Community.

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the rules for such calculation and the rules where specific duties are involved, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

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

Article 172

Goods repaired free of charge

1. Where it is established to the satisfaction of the customs authorities that goods have been repaired free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing or material defect, they shall be granted total relief from import duties.

2. Paragraph 1 shall not apply where account was taken of the manufacturing or material defect at the time when the goods in question were first released for free circulation.

Article 173

Standard exchange system

1. Under the standard exchange system an imported product, hereinafter referred to as a 'replacement product', may, in accordance with paragraphs 2 to 5, replace a processed product.

2. The customs authorities shall authorise the standard exchange system to be used where the processing operation involves the repair of defective Community goods other than those subject to measures laid down under the common agricultural policy or to the specific arrangements applicable to certain goods resulting from the processing of agricultural products.

3. Replacement products shall have the same eight-digit Combined Nomenclature code, the same commercial quality and the same technical characteristics as the defective goods had the latter undergone repair.

4. Where the defective goods have been used before export, the replacement products must also have been used.

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

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

Article 174

Prior importation of replacement products

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

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

2. The defective goods shall be exported within a period of two months from the date of acceptance by the customs authorities of the declaration for the release for free circulation of the replacement products.

3. Where, in exceptional circumstances, the defective goods cannot be exported within the period referred to in paragraph 2, the customs authorities may, at the duly justified request of the person concerned, extend that period for a reasonable duration.

TITLE VIII

DEPARTURE OF GOODS FROM THE CUSTOMS TERRITORY OF THE COMMUNITY

CHAPTER 1

Goods leaving the customs territory

Article 175

Obligation to lodge a pre-departure declaration

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

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

2. The pre-departure declaration shall take the form of one of the following:

(a) where goods leaving the customs territory of the Community are placed under a customs procedure for the purpose of which a customs declaration is required, the appropriate customs declaration;

- (b) a re-export notification, in accordance with Article 179;
 - (c) where neither a customs declaration nor a re-export notification is required, the exit summary declaration referred to in Article 180.
3. The pre-departure declaration shall contain at least the particulars necessary for the exit summary declaration.

Article 176

Measures establishing certain details

1. The measures designed to amend non-essential elements of this Regulation, by supplementing it, concerning the following:

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

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

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

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

Article 177

Customs supervision and exit formalities

1. Goods leaving the customs territory of the Community shall be subject to customs supervision and may be subject to customs controls. Where appropriate, the customs authorities may, in accordance with the measures adopted under paragraph 5, determine the route to be used, and the time limit to be respected when goods are to leave the customs territory of the Community.

2. Goods destined to leave the customs territory of the Community shall be presented to customs at the customs office competent for the place where the goods leave the customs territory of the Community and shall be subject to the application of exit formalities, which shall, as appropriate, include the following:

- (a) the repayment or remission of import duties or the payment of export refunds;
- (b) the collection of export duties;
- (c) the formalities required under provisions in force with regard to other charges;
- (d) the application of prohibitions and restrictions justified on grounds of, inter alia, public morality, public policy or public security, the protection of the health and life of humans, animals or plants, the protection of the environment, the protection of national treasures possessing artistic, historic or archaeological value and the protection of industrial or commercial property, including controls against drug precursors, goods infringing certain intellectual property rights and cash leaving the Community, as well as the implementation of fishery conservation and management measures and of commercial policy measures.

3. Goods leaving the customs territory of the Community shall be presented to customs by one of the following persons:

- (a) the person who exports the goods from the customs territory of the Community;
- (b) the person in whose name or on whose behalf the person who exports the goods from that territory acts;
- (c) the person who assumed responsibility for carriage of the goods prior to their export from the customs territory of the Community.

4. Release for exit shall be granted on condition that the goods in question leave the customs territory of the Community in the same condition as when the pre-departure declaration was accepted.

5. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of paragraphs 1, 2 and 3 of this Article.

CHAPTER 2

Export and re-export

Article 178

Community goods

1. Community goods destined to leave the customs territory of the Community shall be placed under the export procedure.

2. Paragraph 1 shall not apply to the following goods:
- (a) goods placed under the end-use or outward-processing procedure;
 - (b) goods placed under the internal transit procedure or leaving the customs territory of the Community temporarily, in accordance with Article 103.
3. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures laying down the export formalities applicable to goods placed under the export procedure, under the end-use procedure or the outward-processing procedure.

Article 179

Non-Community goods

1. Non-Community goods destined to leave the customs territory of the Community shall be subject to a re-export notification to be lodged at the competent customs office and to the exit formalities.
2. Articles 104 to 124 shall apply *mutatis mutandis* to the re-export notification.
3. Paragraph 1 shall not apply to the following goods:
 - (a) goods placed under the external transit procedure which only pass through the customs territory of the Community;
 - (b) goods trans-shipped within, or directly re-exported from, a free zone;
 - (c) goods under the temporary storage procedure which are directly re-exported from an authorised temporary storage facility.

Article 180

Exit summary declaration

1. Where goods are destined to leave the customs territory of the Community and a customs declaration or a re-export notification is not required, an exit summary declaration shall be lodged at the competent customs office, in accordance with Article 175.
2. The exit summary declaration shall be made using an electronic data-processing technique. Commercial, port or transport information may be used, provided that it contains the necessary particulars for an exit summary declaration.
3. In exceptional circumstances, customs authorities may accept paper-based exit summary declarations, provided that they apply the same level of risk management as that applied to exit summary declarations made using an electronic data-processing technique and that the requirements for the exchange of such data with other customs offices can be met.

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

4. The exit summary declaration shall be lodged by one of the following persons:
 - (a) the person who brings the goods, or who assumes responsibility for the carriage of the goods, out of the customs territory of the Community;
 - (b) the exporter or consignor or other person in whose name or on whose behalf the persons referred to in point (a) act;
 - (c) any person who is able to present the goods in question or to have them presented to the competent customs authority.

Article 181

Amendment of the exit summary declaration

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

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

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

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down exceptions to point (c) of the second subparagraph of this Article, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

CHAPTER 3

Relief from export duties

Article 182

Temporary export

1. Without prejudice to Article 171, Community goods may be temporarily exported from the customs territory of the Community and benefit from export duty relief, conditional upon reimportation.

2. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of this Article.

TITLE IX

CUSTOMS CODE COMMITTEE AND FINAL PROVISIONS

CHAPTER 1

Customs Code Committee

Article 183

Further implementing measures

1. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt rules for the interoperability of Member States' electronic customs systems as well as for the relevant Community components to bring about improved cooperation based upon electronic data exchange between customs authorities, between customs authorities and the Commission and between customs authorities and economic operators.

2. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the following:

- (a) the conditions under which the Commission may issue decisions requesting Member States to revoke or amend a decision — other than those referred to in Article 20(8)(c) issued within the framework of the customs legislation which deviates from comparable decisions of other competent authorities and thereby compromises the uniform application of customs legislation;
- (b) any other implementing measures, where necessary, including where the Community has accepted commitments and obligations in relation to international agreements which require the adaptation of provisions of the Code;
- (c) further cases and conditions under which the application of this Code may be simplified,

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Article 184

Committee

1. The Commission shall be assisted by the Customs Code Committee, hereinafter referred to as 'the Committee'.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

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

4. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 185

Further matters

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

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

CHAPTER 2

Final provisions

Article 186

Repeal

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

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

Article 187

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

*Article 188***Application**

1. The second subparagraph of Article 1(3), second subparagraph of Article 5(1), first subparagraph of Article 5(2), Article 10(2), Article 11(3), second subparagraph of Article 12(2), Article 15(1), Article 16(5), Article 18(4), Article 19(5), Article 20(7), Article 20(8), Article 20(9), second subparagraph of Article 24(3), Article 25(3), Article 28(3), Article 30(2), Article 31(3), Article 33(5), Article 38, Article 39(3), Article 39(6), Article 43, Article 54, second subparagraph of Article 55(2), Article 56(9), Article 57(3), second subparagraph of Article 58, second subparagraph of Article 59(1), Article 62(3), Article 63(3), Article 65(3), third subparagraph of Article 67(1), Article 71, first subparagraph of Article 72(3), Article 76, Article 77(3), second subparagraph of Article 78(1), Article 78(5), Article 85, Article 86(7), first subparagraph of Article 87(3), second subparagraph of Article 88(4), Article 89(2), Article 93(2), Article 101(2), Article 103, Article 105(2), first subparagraph of Article 106(4), Article 107(3), second subparagraph of Article 108(1), Article 108(4), Article 109(2), Article 109(3), third subparagraph of Article 110(1), Article 111(3), Article 112(4), Article 113(3), second subparagraph of Article 114(2), second subparagraph of

Article 115, first subparagraph of Article 116(2), Article 119(3), Article 122, Article 124(2), Article 128, Article 134, first subparagraph of Article 136(2), second subparagraph of Article 136(3), fourth subparagraph of Article 136(4), Article 137(2), Article 140(2), fourth subparagraph of Article 142(1), second subparagraph of Article 142(2), second subparagraph of Article 142(3), Article 143, Article 144(2), second subparagraph of Article 145(3), second subparagraph of Article 148(2), Article 150(3), Article 151(5), first subparagraph of Article 164, second subparagraph of Article 171(3), Article 176(1), Article 177(5), Article 178(3), third subparagraph of Article 181, Article 182(2), Article 183(1) and Article 183(2) shall be applicable from 24 June 2008.

2. All other provisions shall be applicable once the implementing provisions adopted on the basis of the Articles referred to in the paragraph 1 are applicable. The implementing provisions shall enter into force on 24 June 2009 at the earliest.

Notwithstanding the entry into force of the implementing provisions, the provisions of this Regulation referred to in this paragraph shall be applicable on 24 June 2013 at the latest.

3. Article 30(1) shall apply from 1 January 2011.

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

Done at Strasbourg, 23 April 2008.

For the European Parliament
The President
H.-G. PÖTTERING

For the Council
The President
J. LENARČIČ

ANNEX

CORRELATION TABLES

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2. **Regulations (EEC) No 3925/91 and (EC) No 1207/2001**

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