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COMMISSION REGULATION (EEC) No 2454/93

of 2 July 1993

**laying down provisions for the implementation of Council Regulation (EEC) No 2913/92
establishing the Community Customs Code**

(OJ L 253, 11.10.1993, p. 1)

Amended by:

| | | Official Journal | | |
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| ► <u>M1</u> | Commission Regulation (EC) No 3665/93 of 21 December 1993 | L 335 | 1 | 31.12.1993 |
| ► <u>M2</u> | Commission Regulation (EC) No 655/94 of 24 March 1994 | L 82 | 15 | 25.3.1994 |
| ► <u>M3</u> | Council Regulation (EC) No 1500/94 of 21 June 1994 | L 162 | 1 | 30.6.1994 |
| ► <u>M4</u> | Commission Regulation (EC) No 2193/94 of 8 September 1994 | L 235 | 6 | 9.9.1994 |
| ► <u>M5</u> | Commission Regulation (EC) No 3254/94 of 19 December 1994 | L 346 | 1 | 31.12.1994 |
| ► <u>M6</u> | Commission Regulation (EC) No 1762/95 of 19 July 1995 | L 171 | 8 | 21.7.1995 |
| ► <u>M7</u> | Commission Regulation (EC) No 482/96 of 19 March 1996 | L 70 | 4 | 20.3.1996 |
| ► <u>M8</u> | Commission Regulation (EC) No 1676/96 of 30 July 1996 | L 218 | 1 | 28.8.1996 |
| ► <u>M9</u> | Council Regulation (EC) No 2153/96 of 25 October 1996 | L 289 | 1 | 12.11.1996 |
| ► <u>M10</u> | Commission Regulation (EC) No 12/97 of 18 December 1996 | L 9 | 1 | 13.1.1997 |
| ► <u>M11</u> | Commission Regulation (EC) No 89/97 of 20 January 1997 | L 17 | 28 | 21.1.1997 |
| ► <u>M12</u> | Commission Regulation (EC) No 1427/97 of 23 July 1997 | L 196 | 31 | 24.7.1997 |
| ► <u>M13</u> | Commission Regulation (EC) No 75/98 of 12 January 1998 | L 7 | 3 | 13.1.1998 |
| ► <u>M14</u> | Commission Regulation (EC) No 1677/98 of 29 July 1998 | L 212 | 18 | 30.7.1998 |
| ► <u>M15</u> | Commission Regulation (EC) No 46/1999 of 8 January 1999 | L 10 | 1 | 15.1.1999 |
| ► <u>M16</u> | Commission Regulation (EC) No 502/1999 of 12 February 1999 | L 65 | 1 | 12.3.1999 |
| ► <u>M17</u> | Commission Regulation (EC) No 1662/1999 of 28 July 1999 | L 197 | 25 | 29.7.1999 |
| ► <u>M18</u> | Commission Regulation (EC) No 1602/2000 of 24 July 2000 | L 188 | 1 | 26.7.2000 |
| ► <u>M19</u> | Commission Regulation (EC) No 2787/2000 of 15 December 2000 | L 330 | 1 | 27.12.2000 |
| ► <u>M20</u> | Commission Regulation (EC) No 993/2001 of 4 May 2001 | L 141 | 1 | 28.5.2001 |
| ► <u>M21</u> | Commission Regulation (EC) No 444/2002 of 11 March 2002 | L 68 | 11 | 12.3.2002 |
| ► <u>M22</u> | Commission Regulation (EC) No 881/2003 of 21 May 2003 | L 134 | 1 | 29.5.2003 |
| ► <u>M23</u> | Commission Regulation (EC) No 1335/2003 of 25 July 2003 | L 187 | 16 | 26.7.2003 |
| ► <u>M24</u> | Commission Regulation (EC) No 2286/2003 of 18 December 2003 | L 343 | 1 | 31.12.2003 |
| ► <u>M25</u> | Council Regulation (EC) No 837/2005 of 23 May 2005 | L 139 | 1 | 2.6.2005 |
| ► <u>M26</u> | Commission Regulation (EC) No 883/2005 of 10 June 2005 | L 148 | 5 | 11.6.2005 |
| ► <u>M27</u> | Commission Regulation (EC) No 215/2006 of 8 February 2006 | L 38 | 11 | 9.2.2006 |
| ► <u>M28</u> | Commission Regulation (EC) No 402/2006 of 8 March 2006 | L 70 | 35 | 9.3.2006 |
| ► <u>M29</u> | Commission Regulation (EC) No 1875/2006 of 18 December 2006 | L 360 | 64 | 19.12.2006 |
| ► <u>M30</u> | Commission Regulation (EC) No 1792/2006 of 23 October 2006 | L 362 | 1 | 20.12.2006 |
| ► <u>M31</u> | Commission Regulation (EC) No 214/2007 of 28 February 2007 | L 62 | 6 | 1.3.2007 |

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| ▶ <u>A1</u> | Act of Accession of Austria, Sweden and Finland (adapted by Council Decision 95/1/EC, Euratom, ECSC) | C 241 L 1 | 21 1 | 29.8.1994 1.1.1995 |
| ▶ <u>A2</u> | Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded | L 236 | 33 | 23.9.2003 |

Corrected by:

- ▶ C1 Corrigendum, OJ L 268, 19.10.1994, p. 32 (2454/93)
- ▶ C2 Corrigendum, OJ L 180, 19.7.1996, p. 34 (2454/93)
- ▶ C3 Corrigendum, OJ L 156, 13.6.1997, p. 59 (2454/93)
- ▶ C4 Corrigendum, OJ L 111, 29.4.1999, p. 88 (2454/93)
- ▶ C5 Corrigendum, OJ L 271, 21.10.1999, p. 47 (502/1999)
- ▶ C6 Corrigendum, OJ L 163, 20.6.2001, p. 34 (1602/2000)
- ▶ C7 Corrigendum, OJ L 20, 23.1.2002, p. 11 (2787/2000)
- ▶ C8 Corrigendum, OJ L 175, 28.6.2001, p. 27 (993/2001)
- ▶ C9 Corrigendum, OJ L 257, 26.9.2001, p. 10 (993/2001)
- ▶ C10 Corrigendum, OJ L 282, 1.9.2004, p. 10 (993/2001)
- ▶ C11 Corrigendum, OJ L 32, 5.2.2004, p. 34 (2286/2003)
- ▶ C12 Corrigendum, OJ L 360, 7.12.2004, p. 33 (2286/2003)
- ▶ C13 Corrigendum, OJ L 272, 18.10.2005, p. 33 (837/2005)
- ▶ C14 Corrigendum, OJ L 327, 13.12.2007, p. 32 (1875/2006)

NB: This consolidated version contains references to the European unit of account and/or the ecu, which from 1 January 1999 should be understood as references to the euro — Council Regulation (EEC) No 3308/80 (OJ L 345, 20.12.1980, p. 1) and Council Regulation (EC) No 1103/97 (OJ L 162, 19.6.1997, p. 1).



COMMISSION REGULATION (EEC) No 2454/93
of 2 July 1993

laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code ⁽¹⁾, hereinafter referred to as the 'Code', and in particular Article 249 thereof,

Whereas the Code assembled all existing customs legislation in a single legal instrument; whereas at the same time the Code made certain modifications to this legislation to make it more coherent, to simplify it and to plug certain loopholes; whereas it therefore constitutes complete Community legislation in this area;

Whereas the same reasons which led to the adoption of the Code apply equally to the customs implementing legislation; whereas it is therefore desirable to bring together in a single regulation those customs implementing provisions which (sic! which) are currently scattered over a large number of Community regulations and directives;

Whereas the implementing code for the Community Customs Code hereby established should set out existing customs implementing rules; whereas it is nevertheless necessary, in the light of experience:

- to make some amendments in order to adapt the said rules to the provisions of the Code,
- to extend the scope of certain provisions which currently apply only to specific customs procedures in order to take account of the Code's comprehensive application,
- to formulate certain rules more precisely in order to achieve greater legal security in their application;

Whereas the changes made relate mainly to the provisions concerning customs debt;

Whereas it is appropriate to limit the application of Article 791 (2) until 1 January 1995 and to review the subject matter in the light of experience gained before that time;

Whereas the measures provided for by this Regulation are in accordance with the opinion of the Customs Code Committee,

⁽¹⁾ OJ No L 302, 19.10.1992, p. 1.

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HAS ADOPTED THIS REGULATION:

PART I

GENERAL IMPLEMENTING PROVISIONS

TITLE I

GENERAL

CHAPTER I

*Definitions**Article 1*

For the purposes of this Regulation:

1. *Code means*: Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing a Community Customs Code ⁽¹⁾;

▼M6

2. *ATA carnet means*: the international customs document for temporary importation established by virtue of the ATA Convention or the Istanbul Convention;

▼M21

3. *Committee means*: the Customs Code Committee established by Articles 247a and 248a of the Code;

▼B

4. *Customs Cooperation Council means*: the organization set up by the Convention establishing a Customs Cooperation Council, done at Brussels on 15 December 1950;
5. *Particulars required for identification of the goods means*: on the one hand, the particulars used to identify the goods commercially allowing the customs authorities to determine the tariff classification and, on the other hand, the quantity of the goods;
6. *Goods of a non-commercial nature means*: goods whose entry for the customs procedure in question is on an occasional basis and whose nature and quantity indicate that they are intended for the private, personal or family use of the consignees or persons carrying them, or which are clearly intended as gifts;
7. *Commercial policy measures means*: non-tariff measures established, as part of the common commercial policy, in the form of Community provisions governing the import and export of goods, such as surveillance or safeguard measures, quantitative restrictions or limits and import or export prohibitions;
8. *Customs nomenclature means*: one of the nomenclatures referred to in Article 20 (6) of the Code;
9. *Harmonized System means*: the Harmonized Commodity Description and Coding System;

▼M21

10. *Treaty means*: the Treaty establishing the European Community;

▼M6

11. *Istanbul Convention means*: the Convention on Temporary Admission agreed at Istanbul on 26 June 1990;

⁽¹⁾ OJ No L 302, 19.10.1992, p. 1.

▼ M29

12. *Economic operator* means: a person who, in the course of his business, is involved in activities covered by customs legislation.

▼ M18*Article 1a*

For the purposes of applying Articles 291 to 300, the countries of the Benelux Economic Union shall be considered as a single Member State.

▼ B*CHAPTER 2**Decisions**Article 2*

Where a person making a request for a decision is not in a position to provide all the documents and information necessary to give a ruling, the customs authorities shall provide the documents and information at their disposal.

Article 3

A decision concerning security favourable to a person who has signed an undertaking to pay the sums due at the first written request of the customs authorities, shall be revoked where the said undertaking is not fulfilled.

Article 4

A revocation shall not affect goods which, at the moment of its entry into effect, have already been placed under a procedure by virtue of the revoked authorization.

However, the customs authorities may require that such goods be assigned to a permitted customs-approved treatment or use within the period which they shall set.

▼ M1*CHAPTER 3**Data-processing techniques**Article 4a*

1. Under the conditions and in the manner which they shall determine, and with due regard to the principles laid down by customs rules, the customs authorities may provide that formalities shall be carried out by a data-processing technique. For this purpose:

— ‘a data-processing technique’ means:

- (a) the exchange of EDI standard messages with the customs authorities;
- (b) the introduction of information required for completion of the formalities concerned into customs data-processing systems;

— ‘EDI’ (electronic data interchange) means, the transmission of data structured according to agreed message standards, between one computer system and another, by electronic means;

— ‘standard message’ means a predefined structure recognized for the electronic transmission of data.

▼M1

2. The conditions laid down for carrying out formalities by a data-processing technique shall include *inter alia* measures for checking the source of data and for protecting data against the risk of unauthorized access, loss, alteration or destruction.

Article 4b

Where formalities are carried out by a data-processing technique, the customs authorities shall determine the rules for replacement of the handwritten signature by another technique which may be based on the use of codes.

▼M19*Article 4c*

For test programmes using data-processing techniques designed to evaluate possible simplifications, the customs authorities may, for the period strictly necessary to carry out the programme, waive the requirement to provide the following information:

- (a) the declaration provided for in Article 178(1);
- (b) by way of derogation from Article 222(1), the particulars relating to certain boxes of the Single Administrative Document which are not necessary for the identification of the goods and which are not the factors on the basis of which import or export duties are applied.

However, the information shall be available on request in the framework of a control operation.

The amount of import duties to be charged in the period covered by a derogation granted pursuant to the first subparagraph shall not be lower than that which would be levied in the absence of a derogation.

Member States wishing to engage in such test programmes shall provide the Commission in advance with full details of the proposed test programme, including its intended duration. They shall also keep the Commission informed of actual implementation and results. The Commission shall inform all the other Member States.

▼M29*CHAPTER 4****Data exchange between customs authorities using information technology and computer networks****Article 4d*

1. Without prejudice to any special circumstances and to the provisions of the procedure concerned, which, where appropriate, shall apply *mutatis mutandis*, where electronic systems for the exchange of information relating to a customs procedure or economic operators have been developed by Member States in co-operation with the Commission, the customs authorities shall use such systems for the exchange of information between customs offices concerned.

2. Where the customs offices involved in a procedure are located in different Member States, the messages to be used for the exchange of data shall conform to the structure and particulars defined by the customs authorities in agreement with each other.

Article 4e

1. In addition to the conditions referred to in Article 4a (2), the customs authorities shall establish and maintain adequate security arrangements for the effective, reliable and secure operation of the various systems.

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2. To ensure the level of system security provided for in paragraph 1 each input, modification and deletion of data shall be recorded together with information giving the reason for, and exact time of, such processing and identifying the person who carried it out. The original data and any data so processed shall be kept for at least three calendar years from the end of the year to which such data refers, unless otherwise specified.
3. The customs authorities shall monitor security regularly.
4. The customs authorities involved shall inform each other and, where appropriate, the economic operator concerned, of all suspected breaches of security.

*CHAPTER 5**Risk management**Article 4f*

1. Customs authorities shall undertake risk management to differentiate between the levels of risk associated with goods subject to customs control or supervision and to determine whether or not, and if so where, the goods will be subject to specific customs controls.
2. The determination of levels of risk shall be based on an assessment of the likelihood of the risk-related event occurring and its impact, should the event actually materialise. The basis for the selection of consignments or declarations to be subject to customs controls shall include a random element.

Article 4g

1. Risk management at Community level, referred to in Article 13(2) of the Code, shall be carried out in accordance with an electronic common risk management framework comprised of the following elements:
 - (a) a Community customs risk management system for the implementation of risk management, to be used for the communication among the Member States customs authorities and the Commission of any risk-related information that would help to enhance customs controls;
 - (b) common priority control areas;
 - (c) common risk criteria and standards for the harmonised application of customs controls in specific cases.
2. Customs authorities shall, using the system referred to in point (a) of paragraph 1, exchange risk-related information in the following circumstances:
 - (a) the risks are assessed by a customs authority as significant and requiring customs control and the results of the control establish that the event, as referred to in Article 4(25) of the Code, has occurred;
 - (b) the control results do not establish that the event, as referred to in Article 4(25) of the Code, has occurred, but the customs authority concerned considers the threat to present a high risk elsewhere in the Community.

Article 4h

1. Common priority control areas shall cover particular customs-approved treatments or uses, types of goods, traffic routes, modes of

▼M29

transport or economic operators that are to be subject to increased levels of risk analysis and customs controls during a certain period.

2. The application of common priority control areas shall be based upon a common approach to risk analysis and, in order to ensure equivalent levels of customs controls, common risk criteria and standards for the selection of goods or economic operators for control.

3. Customs controls carried out in common priority control areas shall be without prejudice to other controls normally carried out by the customs authorities.

Article 4i

1. The common risk criteria and standards referred to in Article 4g(1)(c) shall include the following elements:

- (a) a description of the risk(s);
- (b) the factors or indicators of risk to be used to select goods or economic operators for customs control;
- (c) the nature of customs controls to be undertaken by the customs authorities;
- (d) the duration of the application of the customs controls referred to in point (c).

The information resulting from the application of the elements referred to in the first subparagraph shall be distributed by use of the Community customs risk management system referred to in Article 4g(1)(a). It shall be used by the customs authorities in their risk management systems.

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

Article 4j

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

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

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TITLE II

BINDING INFORMATION*CHAPTER 1**Definitions**Article 5*

For the purpose of this Title:

1. *binding information*: means tariff information or origin information binding on the administrations of all Community Member States when the conditions laid down in Articles 6 and 7 are fulfilled;

▼M102. *applicant*:

- tariff matters: means a person who has applied to the customs authorities for binding tariff information,
- origin matters: means a person who has applied to the customs authorities for binding origin information and has valid reasons to do so;

3. *holder*: means the person in whose name the binding information is issued.*CHAPTER 2**Procedure for obtaining binding information — Notification of information to applicants and transmission to the Commission**Article 6*

1. Applications for binding information shall be made in writing, either to the competent customs authorities in the Member State or Member States in which the information is to be used, or to the competent customs authorities in the Member State in which the applicant is established.

▼M18

Applications for binding tariff information shall be made by means of a form conforming to the specimen shown in Annex 1B.

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2. An application for binding tariff information shall relate to only one type of goods. An application for binding origin information shall relate to only one type of goods and one set of circumstances conferring origin.

3. (A) Applications for binding tariff information shall include the following particulars:

- (a) the holder's name and address;
- (b) the name and address of the applicant where that person is not the holder;
- (c) the customs nomenclature in which the goods are to be classified. Where an applicant wishes to obtain the classification of goods in one of the nomenclatures referred to in Article 20 (3) (b) and (6) (b) of the Code, the application for binding tariff information shall make express mention of the nomenclature in question;
- (d) a detailed description of the goods permitting their identification and the determination of their classification in the customs nomenclature;
- (e) the composition of the goods and any methods of examination used to determine this, where the classification depends on it;
- (f) any samples, photographs, plans, catalogues or other documents available which may assist the customs authorities in determining the correct classification of the goods in the customs nomenclature, to be attached as annexes;
- (g) the classification envisaged;
- (h) agreement to supply a translation of any attached document into the official language (or one of the official languages) of the Member State concerned if requested by the customs authorities;

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- (i) any particulars to be treated as confidential;
- (j) indication by the applicant whether, to his knowledge, binding tariff information for identical or similar goods has already been applied for, or issued in the Community;

▼M24

- (k) acceptance that the information supplied may be stored on a database of the Commission and that the particulars of the binding tariff information, including any photograph(s), sketch(es), brochure(s) etc., may be disclosed to the public via the Internet, with the exception of the information which the applicant has marked as confidential; the provisions governing the protection of information in force shall apply.

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- (B) Applications for binding origin information shall include the following particulars:
- (a) the holder's name and address;
 - (b) the name and address of the applicant where that person is not the holder;
 - (c) the applicable legal basis, for the purposes of Articles 22 and 27 of the Code;
 - (d) a detailed description of the goods and their tariff classification;
 - (e) the composition of the goods and any methods of examination used to determine this and their ex-works price, as necessary;
 - (f) the conditions enabling origin to be determined, the materials used and their origin, tariff classification, corresponding values and a description of the circumstances (rules on change of tariff heading, value added, description of the operation or process, or any other specific rule) enabling the conditions in question to be met; in particular the exact rule of origin applied and the origin envisaged for the goods shall be mentioned;
 - (g) any samples, photographs, plans, catalogues or other documents available on the composition of the goods and their component materials and which may assist in describing the manufacturing process or the processing undergone by the materials;
 - (h) agreement to supply a translation of any attached document into the official language (or one of the official languages) of the Member State concerned if requested by the customs authorities;
 - (i) any particulars to be treated as confidential, whether in relation to the public or the administrations;
 - (j) indication by the applicant whether, to his knowledge, binding tariff information or binding origin information for goods or materials identical or similar to those referred to under points (d) or (f) have already been applied for or issued in the Community;
 - (k) acceptance that the information supplied may be stored on a public-access database of the Commission; however, apart from Article 15 of the Code, the provisions governing the protection of information in force in the Member States shall apply.

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4. Where, on receipt of the application, the customs authorities consider that it does not contain all the particulars required to give an informed opinion, the customs authorities shall ask the applicant to supply the required information. The time limits of three months and 150 days referred to in Article 7 shall run from the moment when the customs authorities have all the information needed to reach a decision; the customs authorities shall notify the applicant that the application has been received and the date from which the said time limit will run.

5. The list of customs authorities designated by the Member States to receive applications for or to issue binding information shall be published in the 'C' series of the *Official Journal of the European Communities*.

Article 7

1. Binding information shall be notified to the applicant as soon as possible.

(a) Tariff matters: if it has not been possible to notify binding tariff information to the applicant within three months of acceptance of the application, the customs authorities shall contact the applicant to explain the reason for the delay and indicate when they expect to be able to notify the information.

(b) Origin matters: information shall be notified within a time limit of 150 days from the date when the application was accepted.

2. Binding information shall be notified by means of a form conforming to the specimen shown at Annex 1 (binding tariff information) or Annex 1A (binding origin information). The notification shall indicate what particulars will be treated as confidential. The right of appeal referred to in Article 243 of the Code shall be mentioned.

▼M24*Article 8*

1. In the case of binding tariff information, the customs authorities of the Member States shall, without delay, transmit to the Commission the following:

(a) a copy of the application for binding tariff information (set out in Annex 1B);

(b) a copy of the binding tariff information notified (copy No 2 set out in Annex 1);

(c) the data as given on copy No 4 set out in Annex 1.

In the case of binding origin information they shall, without delay, transmit to the Commission the relevant details of the binding origin information notified.

Such transmission shall be effected by electronic means.

2. Where a Member State so requests, the Commission shall send it without delay the particulars obtained in accordance with paragraph 1. Such transmission shall be effected by electronic means.

3. The electronically transmitted data of the application for binding tariff information, the binding tariff information notified and the data as given on copy No 4 of Annex 1 shall be stored in a central database of the Commission. The data of the binding tariff information, including any photograph(s), sketch(es), brochure(s) and so forth, may be disclosed to the public via the Internet, with the exception of the confidential information contained in boxes 3 and 8 of the binding tariff information notified.

▼M10*CHAPTER 3**Provisions applying in the event of inconsistencies in binding information**Article 9*

1. Where different binding information exists:
 - the Commission shall, on its own initiative or at the request of the representative of a Member State, place the item on the agenda of the Committee for discussion at the meeting to be held the following month or, failing that, the next meeting,
 - in accordance with the Committee procedure, the Commission shall adopt a measure to ensure the uniform application of nomenclature or origin rules, as applicable, as soon as possible and within six months following the meeting referred to in the first indent.
2. For the purpose of applying paragraph 1, binding origin information shall be deemed to be different where it confers different origin on goods which:
 - fall under the same tariff heading and whose origin was determined in accordance with the same origin rules and,
 - have been obtained using the same manufacturing process.

*CHAPTER 4**Legal effect of binding information**Article 10*

1. Without prejudice to Articles 5 and 64 of the Code, binding information may be invoked only by the holder.
2. (a) Tariff matters: the customs authorities may require the holder, when fulfilling customs formalities, to inform the customs authorities that he is in possession of binding tariff information in respect of the goods being cleared through customs.

(b) Origin matters: the authorities responsible for checking the applicability of binding origin information may require the holder, when completing any formalities, to inform the said authorities that he is in possession of binding origin information covering the goods in respect of which the formalities are being completed.
3. The holder of binding information may use it in respect of particular goods only where it is established:
 - (a) tariff matters: to the satisfaction of the customs authorities that the goods in question conform in all respects to those described in the information presented;
 - (b) origin matters: to the satisfaction of the authorities referred to in paragraph 2 (b) that the goods in question and the circumstances determining their origin conform in all respect to those described in the information presented.
4. The customs authorities (for binding tariff information) or the authorities referred to in paragraph 2 (b) (for binding origin information) may ask for the information to be translated into the official language or one of the official languages of the Member State concerned.

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Article 11

Binding tariff information supplied by the customs authorities of a Member State since 1 January 1991 shall become binding on the competent authorities of all the Member States under the same conditions.

Article 12

1. On adoption of one of the acts or measures referred to in Article 12 (5) of the Code, the customs authorities shall take the necessary steps to ensure that binding information shall thenceforth be issued only in conformity with the act or measure in question.

2. (a) For binding tariff information, for the purposes of paragraph 1 above, the date to be taken into consideration shall be as follows:

- for the Regulations provided for in Article 12 (5) (a) (i) of the Code concerning amendments to the customs nomenclature, the date of their applicability,
- for the Regulations provided for in Article 12 (5) (a) (i) of the Code and establishing or affecting the classification of goods in the customs nomenclature, the date of their publication in the ‘L’ series of the *Official Journal of the European Communities*,
- for the Regulations provided for in Article 12 (5) (a) (ii) of the Code concerning amendments to the explanatory notes to the combined nomenclature, the date of their publication in the ‘C’ series of the *Official Journal of the European Communities*,
- for judgments of the Court of Justice of the European Communities provided for in Article 12 (5) (a) (ii) of the Code, the date of the judgment,
- for the measures provided for in Article 12 (5) (a) (ii) of the Code concerning the adoption of a classification opinion, or amendments to the explanatory notes to the Harmonized System Nomenclature by the World Customs Organization, the date of the Commission communication in the ‘C’ series of the *Official Journal of the European Communities*.

(b) For binding origin information, for the purposes of paragraph 1, the date to be taken into consideration shall be as follows:

- for the Regulations provided for in Article 12 (5) (b) (i) of the Code concerning the determination of the origin of goods and the rules provided for in Article 12 (5) (b) (ii), the date of their applicability,
- for the measures provided for in Article 12 (5) (b) (ii) of the Code concerning amendments to the explanatory notes and opinions adopted at Community level, the date of their publication in the ‘C’ series of the *Official Journal of the European Communities*,
- for judgments of the Court of Justice of the European Communities provided for in Article 12 (5) (b) (ii) of the Code, the date of the judgment,
- for the measures provided for in Article 12 (5) (b) (ii) of the Code concerning opinions on origin or explanatory notes adopted by the World Trade Organization, the date given in the Commission communication in the ‘C’ series of the *Official Journal of the European Communities*,
- for the measures provided for in Article 12 (5) (b) (ii) of the Code concerning the Annex to the World Trade Organiza-

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tion's Agreement on rules of origin and those adopted under international agreements, the date of their applicability.

3. The Commission shall communicate the dates of adoption of the measures and acts referred to in this Article to the customs authorities as soon as possible.

*CHAPTER 5**Provisions applying in the event of expiry of binding information**Article 13*

Where, pursuant to the second sentence of Article 12 (4) and Article 12 (5) of the Code, binding information is void or ceases to be valid, the customs authority which supplied it shall notify the Commission as soon as possible

Article 14

1. When a holder of binding information which has ceased to be valid for reasons referred to in Article 12 (5) of the Code, wishes to make use of the possibility of invoking such information during a given period pursuant to paragraph 6 of that Article, he shall notify the customs authorities, providing any necessary supporting documents to enable a check to be made that the relevant conditions have been satisfied.

2. In exceptional cases where the Commission, in accordance with the second subparagraph of Article 12 (7) of the Code, adopts a measure derogating from the provisions of paragraph 6 of that Article, or where the conditions referred to in paragraph 1 of this Article concerning the possibility of continuing to invoke binding tariff information or binding origin information have not been fulfilled, the customs authorities shall notify the holder in writing.

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TITLE IIA

AUTHORISED ECONOMIC OPERATORS*CHAPTER 1**Procedure for granting the certificates*

Section 1

General provisions*Article 14a*

1. Without prejudice to the use of simplifications otherwise provided for under the customs rules, the customs authorities may, following an application by an economic operator and in accordance with Article 5a of the Code, issue the following authorised economic operators' certificates (hereinafter referred to as 'AEO certificates'):

- (a) an AEO certificate — Customs simplifications in respect of economic operators requesting to benefit from simplifications provided for under the customs rules and who fulfil the conditions laid down in Articles 14h, 14i and 14j;
- (b) an AEO certificate — Security and safety in respect of economic operators requesting to benefit from facilitations of customs controls

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relating to security and safety when the goods enter the customs territory of the Community, or when the goods leave the customs territory of the Community and who fulfil the conditions laid down in Articles 14h to 14k;

- (c) an AEO certificate — Customs Simplifications/security and safety, in respect of economic operators requesting to benefit from the simplifications described in point (a) and from facilitations described in point (b), and who fulfil the conditions laid down in Articles 14h to 14k.

2. The customs authorities shall take due account of the specific characteristics of economic operators, in particular of small and medium-sized companies.

Article 14b

1. If the holder of an AEO certificate referred to in point (a) or (c) of Article 14a(1) applies for one or more of the authorisations referred to in Articles 260, 263, 269, 272, 276, 277, 282, 283, 313a, 313b, 324a, 324e, 372, 454a, 912g, the customs authorities shall not re-examine those conditions which have already been examined when granting the AEO certificate.

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

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

5. The benefits laid down in paragraphs 1 to 4 shall be subject to the economic operator concerned providing the necessary AEO certificate numbers.

Section 2**Application for an AEO certificate***Article 14c*

1. Application for an AEO certificate shall be made in writing or in an electronic form in accordance with the specimen set out in Annex 1C.

2. Where the customs authority establishes that the application does not contain all the particulars required, the customs authority shall, within 30 calendar days of receipt of the application, ask the economic operator to supply the relevant information, stating the grounds for its request.

The time limits referred to in Articles 14l(1) and 14o(2) shall run from the date on which the customs authority receives all the necessary information to accept the application. The customs authorities shall inform the economic operator that the application has been accepted and the date from which the time limits will run.

▼ **M29***Article 14d*

1. The application shall be submitted to one of the following customs authorities:

- (a) the customs authority of the Member State where the applicant's main accounts related to the customs arrangements involved are held, and where at least part of the operations to be covered by the AEO certificate are conducted;
- (b) the customs authority of the Member State where the applicant's main accounts related to the customs arrangements involved are accessible in the applicant's computer system by the competent customs authority using information technology and computer networks, and where the applicant's general logistical management activities are conducted, and where at least part of the operations to be covered by the AEO certificate are carried out.

The applicant's main accounts referred to in points (a) and (b) shall include records and documentation enabling the customs authority to verify and monitor the conditions and the criteria necessary for obtaining the AEO certificate.

2. If the competent customs authority can not be determined under paragraph 1, the application shall be submitted to one of the following customs authorities:

- (a) the customs authority of the Member State where the applicant's main accounts related to the customs arrangements involved are held;
- (b) the customs authority of the Member State where the applicant's main accounts related to the customs arrangements involved are accessible, as referred to in paragraph 1(b), and the applicant's general logistical management activities are conducted.

3. If a part of the relevant records and documentation is kept in a Member State other than the Member State of the customs authority to which the application has been submitted pursuant to paragraph 1 or 2, the applicant shall duly complete Boxes 13, 16, 17 and 18 of the application form set out in Annex 1C.

4. If the applicant maintains a storage facility or other premises in a Member State other than the Member State of the customs authority to which the application has been submitted pursuant to paragraph 1 or 2, this information shall be provided by the applicant in Box 13 of the application form set out in Annex 1C, in order to facilitate the examination of the relevant conditions at the storage facility or other premises by the customs authorities of that Member State.

5. The consultation procedure referred to in Article 14m shall apply in the cases referred to in paragraphs 2, 3 and 4 of this Article.

6. The applicant shall provide a readily accessible central point or nominate a contact person within the administration of the applicant, in order to make available to the customs authorities all of the information necessary for proving compliance with the requirements for issuing the AEO certificate.

7. Applicants shall, to the extent possible, submit necessary data to the customs authorities by electronic means.

Article 14e

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

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

Article 14f

The application shall not be accepted in any of the following cases:

- (a) the application does not comply with Articles 14c and 14d;
- (b) the applicant has been convicted of a serious criminal offence linked to the economic activity of the applicant or is subject to bankruptcy proceedings at the time of the submission of the application;
- (c) the applicant has a legal representative in customs matters who has been convicted of a serious criminal offence related to an infringement of customs rules and linked to his activity as legal representative;
- (d) the application is submitted within three years after revocation of the AEO certificate as provided for in Article 14v(4).

Section 3

Conditions and criteria for granting the AEO certificate*Article 14g*

An applicant need not be established in the customs territory of the Community in the following cases:

- (a) where an international agreement between the Community and a third country in which the economic operator is established provides for mutual recognition of the AEO certificates and specifies the administrative arrangements for carrying out appropriate controls on behalf of the Member State's customs authority if required;
- (b) where an application for the granting of an AEO certificate referred to in point (b) of Article 14a(1) is made by an airline or a shipping company not established in the Community but which has a regional office there and already benefits from the simplifications laid down in Articles 324e, 445 or 448.

In the case referred to in point (b) of the first paragraph, the applicant shall be deemed to have met the conditions set out in Articles 14h, 14i and 14j, but shall be required to meet the condition set out in Article 14k(2).

Article 14h

1. The record of compliance with customs requirements referred to in the first indent of Article 5a(2) of the Code shall be considered as appropriate if over the last three years preceding the submission of the application no serious infringement or repeated infringements of customs rules have been committed by any of the following persons:

- (a) the applicant;
- (b) the persons in charge of the applicant company or exercising control over its management;
- (c) if applicable, the applicant's legal representative in customs matters;
- (d) the person responsible in the applicant company for customs matters.

However, the record of compliance with customs requirements may be considered as appropriate if the competent customs authority considers any infringement to be of negligible importance, in relation to the

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

2. If the persons exercising control over the applicant company are established or resident in a third country, the customs authorities shall assess their compliance with customs requirements on the basis of records and information that are available to them.

3. If the applicant has been established for less than three years, the customs authorities shall assess his compliance with customs requirements on the basis of the records and information that are available to them.

Article 14i

To enable the customs authorities to establish that the applicant has a satisfactory system of managing commercial and, where appropriate, transport records, as referred to in the second indent of Article 5a(2) of the Code, the applicant shall fulfil the following requirements:

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

An applicant requesting the AEO certificate referred to in point (b) of Article 14a(1) shall not be required to fulfil the requirement laid down in point (c) of the first paragraph of this Article.

Article 14j

1. The condition relating to the financial solvency of the applicant referred to in the third indent of Article 5a(2) of the Code shall be deemed to be met if his solvency can be proven for the past three years.

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

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

Article 14k

1. The applicant's security and safety standards referred to in the fourth indent of Article 5a(2) of the Code shall be considered to be appropriate if the following conditions are fulfilled:

- (a) buildings to be used in connection with the operations to be covered by the certificate are constructed of materials which resist unlawful entry and provide protection against unlawful intrusion;
- (b) appropriate access control measures are in place to prevent unauthorised access to shipping areas, loading docks and cargo areas;
- (c) measures for the handling of goods include protection against the introduction, exchange or loss of any material and tampering with cargo units;
- (d) where applicable, procedures are in place for the handling of import and/or export licenses connected to prohibitions and restrictions and to distinguish these goods from other goods;
- (e) the applicant has implemented measures allowing a clear identification of his business partners in order to secure the international supply chain;
- (f) the applicant conducts, in so far as legislation permits, security screening on prospective employees working in security sensitive positions and carries out periodic background checks;
- (g) the applicant ensures that its staff concerned actively participate in security awareness programmes.

2. If an airline or shipping company which is not established in the Community, but has a regional office there and benefits from the simplifications laid down in Articles 324e, 445 or 448, submits an application for an AEO certificate referred to in point (b) of Article 14a(1), it shall fulfil one of the following conditions:

- (a) be the holder of an internationally recognised security and/or safety certificate issued on the basis of the international conventions governing the transport sectors concerned;
- (b) be a regulated agent, as referred to in Regulation (EC) No 2320/2002 of the European Parliament and of the Council ⁽¹⁾, and fulfil the requirements laid down in Commission Regulation (EC) No 622/2003 ⁽²⁾;
- (c) be the holder of a certificate issued in a country outside of the customs territory of the Community, where a bilateral agreement concluded between the Community and the third country provides for acceptance of the certificate, subject to the conditions laid down in that agreement.

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

⁽¹⁾ OJ L 355, 30.12.2002, p. 1.

⁽²⁾ OJ L 89, 5.4.2003, p. 9.

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3. If the applicant is established in the Community and is a regulated agent as referred to in Regulation (EC) No 2320/2002 and fulfils the requirements provided for in Regulation (EC) No 622/2003, the criteria laid down in paragraph 1 shall be deemed to be met in relation to the premises for which the economic operator obtained the status of regulated agent.

4. If the applicant, established in the Community, is the holder of an internationally recognised security and/or safety certificate issued on the basis of international conventions, of a European security and/or safety certificate issued on the basis of Community legislation, of an International Standard of the International Organisation for Standardisation, or of a European Standard of the European Standards Organisations, the criteria provided for in paragraph 1 shall be deemed to be met to the extent that the criteria for issuing these certificates are identical or correspond to those laid down in this Regulation.

Section 4

Procedure for issuing AEO certificates*Article 14l*

1. The issuing customs authority shall communicate the application to the customs authorities of all other Member States within five working days starting from the date on which it has received the application in accordance with Article 14c using the communication system referred to in Article 14x.

2. Where the customs authority of any other Member State has relevant information which may prejudice the granting of the certificate, it shall communicate that information to the issuing customs authority within 35 calendar days starting from the date of the communication provided for in paragraph 1, using the communication system referred to in Article 14x.

Article 14m

1. Consultation between the customs authorities of the Member States shall be required if the examination of one or more of the criteria laid down in Articles 14g to 14k cannot be performed by the issuing customs authority due either to a lack of information or to the impossibility of checking it. In these cases, the customs authorities of the Member States shall carry out the consultation within 60 calendar days, starting from the date of the communication of the information by the issuing customs authority, in order to allow for the issuing of the AEO certificate or the rejection of the application within the time limits set out in Article 14o(2).

If the consulted customs authority fails to respond within the 60 calendar days, the consulting authority may assume, at the responsibility of the consulted customs authority, that the criteria for which the consultation took place are met. This period may be extended if the applicant carries out adjustments in order to satisfy those criteria and communicates them to the consulted and the consulting authority.

2. Where, following the examination provided for in Article 14n, the consulted customs authority establishes that the applicant does not fulfil one or more of the criteria, the results, duly documented, shall be transferred to the issuing customs authority which shall reject the application. Article 14o(4), (5) and (6) shall apply.

▼M29*Article 14n*

1. The issuing customs authority shall examine whether or not the conditions and criteria for issuing the certificate described in Articles 14g to 14k are met. Examination of the criteria laid down in Article 14k shall be carried out for all the premises which are relevant to the customs related activities of the applicant. The examination as well as its results shall be documented by the customs authority.

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

2. The issuing customs authority may accept conclusions provided by an expert in the relevant fields referred to in Articles 14i, 14j and 14k in respect of the conditions and criteria referred to in those Articles respectively. The expert shall not be related to the applicant.

Article 14o

1. The issuing customs authority shall issue the AEO certificate in accordance with the specimen set out in Annex 1D.

2. The AEO certificate shall be issued within 90 calendar days starting from the date of receipt, in accordance with Article 14c, of the application. Where the customs authority is unable to meet the deadline, this period may be extended by one further period of 30 calendar days. In such cases, the customs authority shall, before the expiry of the period of 90 calendar days, inform the applicant of the reasons for the extension.

3. The period provided for in the first sentence of paragraph 2 may be extended if, in the course of the examination of the criteria, the applicant carries out adjustments in order to satisfy those criteria and communicates them to the competent authority.

4. Where the result of the examination performed in accordance with Articles 14l, 14m and 14n is likely to lead to the rejection of the application, the issuing customs authority shall communicate the findings to the applicant and provide him with the opportunity to respond within 30 calendar days, before rejecting the application. The period laid down in the first sentence of paragraph 2 shall be suspended accordingly.

5. The rejection of an application shall not lead to the automatic revocation of any existing authorisation issued under the customs rules.

6. If the application is rejected, the customs authority shall inform the applicant of the grounds on which the decision is based. The decision to reject an application shall be notified to the applicant within the time limits laid down in paragraphs (2), (3) and (4).

Article 14p

The issuing customs authority shall, within five working days, inform the customs authorities of the other Member States that an AEO certificate has been issued, using the communication system referred to in Article 14x. Information shall also be provided within the same time limit if the application is rejected.

▼ **M29***CHAPTER 2**Legal effects of AEO certificates*

Section 1

General provisions*Article 14q*

1. The AEO certificate shall take effect on the 10th working day after the date of its issue.
2. The AEO certificate shall be recognised in all Member States.
3. The period of validity of the AEO certificate shall not be limited.
4. The customs authorities shall monitor the compliance with the conditions and criteria to be met by the authorised economic operator.
5. A re-assessment of the conditions and criteria shall be carried out by the issuing customs authority in the following cases:
 - (a) major changes to the relevant Community legislation;
 - (b) reasonable indication that the relevant conditions and criteria are not any longer met by the authorised economic operator.

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

Article 14n(2) shall apply.

The results of the re-assessment shall be made available to the customs authorities of all Member States, using the communication system referred to in Article 14x.

Suspension of the status of authorised economic operator*Article 14r*

1. The status of authorised economic operator shall be suspended by the issuing customs authority in the following cases:
 - (a) where non-compliance with the conditions or criteria for the AEO certificate has been detected;
 - (b) the customs authorities have sufficient reason to believe that an act, which gives rise to criminal court proceedings and linked to an infringement of the customs rules, has been perpetrated by the authorised economic operator.

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

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

However, where the nature or the level of the threat to citizens' security and safety, to public health or to the environment so requires, suspension shall take place immediately. The suspending customs authority shall immediately inform the customs authorities of the

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other Member States, using the communication system referred to in Article 14x, in order to permit them to take appropriate action.

2. If the holder of the AEO certificate does not regularise the situation referred to in point (a) of the first subparagraph of paragraph 1 within the period of 30 calendar days referred to in the third subparagraph of paragraph 1, the competent customs authority shall notify the economic operator concerned that the status of authorised economic operator is suspended for a period of 30 calendar days, to enable the economic operator to take the required measures to regularise the situation. The notification shall also be sent to the customs authorities of the other Member States using the communication system referred to in Article 14x.

3. If the holder of the AEO certificate has committed an act referred to in point (b) of the first subparagraph of paragraph 1, the issuing customs authority shall suspend the status of authorised economic operator for the duration of the court proceedings. It shall notify the holder of the certificate to that effect. Notification shall also be sent to the customs authorities of the other Member States, using the communication system referred to in Article 14x.

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

Article 14s

1. The suspension shall not affect any customs procedure already started before the date of suspension and not yet completed.

2. The suspension shall not automatically affect any authorisation which has been granted without reference to the AEO certificate unless the reasons for the suspension also have relevance for that authorisation.

3. The suspension shall not automatically affect any authorisation for use of a customs simplification which has been granted on the basis of the AEO certificate and for which the conditions are still fulfilled.

4. In the case of an AEO certificate referred to in point (c) of Article 14a(1), if the economic operator concerned fails to fulfil only the conditions laid down in Article 14k, the status of authorised economic operator shall be partially suspended and a new AEO certificate, as referred to in point (a) of Article 14a(1) may be issued at his request.

Article 14t

1. When the economic operator concerned has, to the satisfaction of the customs authorities, taken the necessary measures to comply with the conditions and criteria that have to be met by an authorised economic operator, the issuing customs authority shall withdraw the suspension and inform the economic operator concerned and the customs authorities of the other Member States. The suspension may be withdrawn before the expiry of the time limit laid down in Article 14r(2) or (4).

In the situation referred to in Article 14s (4), the suspending customs authority shall reinstate the suspended certificate. It shall subsequently revoke the AEO certificate referred to in point (a) of Article 14a(1).

2. If the economic operator concerned fails to take the necessary measures within the suspension period provided for in Article 14r(2) or (4), the issuing customs authority shall revoke the AEO certificate

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and immediately notify the customs authorities of the other Member States, using the communication system referred to in Article 14x.

In the situation referred to in Article 14s (4), the original certificate shall be revoked and only the new AEO certificate as referred to in point (a) of Article 14a(1) issued shall be valid.

Article 14u

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

The notified customs authority shall send the notification to the customs authorities of the other Member States using the communication system referred to in Article 14x.

2. If the authorised economic operator fails to regularise the situation within the period set out in his notification, the issuing customs authority may grant a reasonable prolongation, provided that the authorised economic operator has acted in good faith. This prolongation shall be notified to the customs authorities of the other Member States using the communication system referred to in Article 14x.

In all other cases, the AEO certificate shall be revoked and the issuing customs authority shall immediately notify the customs authorities of the other Member States, using the communication system referred to in Article 14x.

3. If the required measures are not taken within the suspension period, Article 14v shall apply.

Section 3

Revocation of the AEO certificate*Article 14v*

1. The AEO certificate shall be revoked by the issuing customs authority in the following cases:

- (a) where the authorised economic operator fails to take the measures referred to in Article 14t(1);
- (b) where serious infringements related to customs rules have been committed by the authorised economic operator and there is no further right of appeal;
- (c) where the authorised economic operator fails to take the necessary measures during the suspension period referred to in Article 14u;
- (d) upon request of the authorised economic operator.

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

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

In the case of an AEO certificate as referred to in point (c) of Article 14a(1), where the economic operator concerned only fails to fulfil the conditions in Article 14k, the certificate shall be revoked by the issuing

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customs authority and a new AEO certificate as referred to in point (a) of Article 14a(1) shall be issued.

3. The issuing customs authority shall immediately inform the customs authorities of the other Member States of the revocation of an AEO certificate using the communication system referred to in Article 14x.

4. Apart from cases of revocation referred to in points (c) and (d) of paragraph 1, the economic operator shall not be permitted to submit a new application for an AEO certificate within three years from the date of revocation. CHAPTER 3

*Information exchange**Article 14w*

1. The authorised economic operator shall inform the issuing customs authority of all factors arising after the certificate is granted which may influence its continuation or content.

2. All relevant information at the disposal of the issuing customs authority shall be made available to the customs authorities of the other Member States where the authorised economic operator carries out customs related activities.

3. If a customs authority revokes a specific authorisation granted to an authorised economic operator, on the basis of his AEO certificate, for the use of a particular customs simplification, as provided for in Articles 260, 263, 269, 272, 276, 277, 282, 283, 313a and 313b, 324a, 324e, 372, 454a, 912g, it shall so notify the customs authority which issued the AEO certificate.

Article 14x

1. An electronic information and communication system, defined by the Commission and the customs authorities in agreement with each other, shall be used for the information and communication process between the customs authorities and for information of the Commission and of the economic operators.

2. The Commission and the customs authorities shall, using the system referred to in paragraph 1, store and have access to the following information:

- (a) the electronically transmitted data of the applications;
- (b) the AEO certificates, and where applicable, their amendment, revocation, or the suspension of the status of authorised economic operator;
- (c) all other relevant information.

3. The issuing customs authority shall notify the risk analysis offices in its own Member State of the granting, amendment, revocation of an AEO certificate, or the suspension of the status of authorised economic operator. It shall also inform all issuing authorities of the other Member States.

4. The list of authorised economic operators may be disclosed by the Commission to the public via the Internet with prior agreement of the authorised economic operator concerned. The list shall be updated.

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TITLE IV

ORIGIN OF GOODS*CHAPTER 1**Non-preferential origin*

Section 1

Working or processing conferring origin*Article 35*

This chapter lays down, for textiles and textile articles falling within Section XI of the combined nomenclature, and for certain products other than textiles and textile articles, the working or processing which shall be regarded as satisfying the criteria laid down in Article 24 of the Code and shall confer on the products concerned the origin of the country in which they were carried out.

‘Country’ means either a third country or the Community as appropriate.

Subsection 1

Textiles and textile articles falling within Section XI of the combined nomenclature*Article 36*

For textiles and textile articles falling within Section XI of the combined nomenclature, a complete process, as specified in Article 37, shall be regarded as a working or processing conferring origin in terms of Article 24 of the Code.

Article 37

Working or processing as a result of which the products obtained receive a classification under a heading of the combined nomenclature other than those covering the various non-originating materials used shall be regarded as complete processes.

However, for products listed in Annex 10, only the specific processes referred to in column 3 of that Annex in connection with each product obtained shall be regarded as complete, whether or not they involve a change of heading.

The method of applying the rules in Annex 10 is described in the introductory notes in Annex 9.

Article 38

For the purposes of the preceding Article, the following shall in any event be considered as insufficient working or processing to confer the status of originating products whether or not there is a change of heading:

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

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- (b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, cutting up;
- (c) (i) changes of packing and breaking-up and assembly of consignments;
 - (ii) simple placing in bags, cases, boxes, fixing on cards or boards, etc., and all other simple packing operations;
- (d) the affixing of marks, labels or other like distinguishing signs on products or their packaging;
- (e) simple assembly of parts of products to constitute a complete product;
- (f) a combination of two or more operations specified in (a) to (e).

Subsection 2

Products other than textiles and textile articles falling within Section XI of the combined nomenclature*Article 39*

In the case of products obtained which are listed in Annex 11, the working or processing referred to in column 3 of the Annex shall be regarded as a process or operation conferring origin under Article 24 of the Code.

The method of applying the rules set out in Annex 11 is described in the introductory notes in Annex 9.

Subsection 3

Common provisions for all products*Article 40*

Where the lists in Annexes 10 and 11 provide that origin is conferred if the value of the non-originating materials used does not exceed a given percentage of the ex-works price of the products obtained, such percentage shall be calculated as follows:

- ‘value’ means the customs value at the time of import of the non-originating materials used or, if this is not known and cannot be ascertained, the first ascertainable price paid for such materials in the country of processing,
- ‘ex-works price’ means the ex-works price of the product obtained minus any internal taxes which are, or may be, repaid when such product is exported,
- ‘value acquired as a result of assembly operations’ means the increase in value resulting from the assembly itself, together with any finishing and checking operations, and from the incorporation of any parts originating in the country where the operations in question were carried out, including profit and the general costs borne in that country as a result of the operations.

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Section 2

Implementing provisions relating to spare parts*Article 41***▼M1**

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

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►M1 2. ◀ Essential spare parts for use with any piece of equipment, machine, apparatus or vehicle put into free circulation or previously exported shall be deemed to have the same origin as that piece of equipment, machine, apparatus or vehicle provided the conditions laid down in this section are fulfilled.

Article 42

The presumption of origin referred to in the preceding Article shall be accepted only:

- if this is necessary for importation into the country of destination,
- if the incorporation of the said essential spare parts in the piece of equipment, machine, apparatus or vehicle concerned at the production stage would not have prevented the piece of equipment, machine, apparatus or vehicle from having Community origin or that of the country of manufacture.

Article 43

For the purposes of Article 41:

- (a) ‘piece of equipment, machine, apparatus or vehicle’ means goods listed in Sections XVI, XVII and XVIII of the combined nomenclature;
- (b) ‘essential spare parts’ means parts which are:
 - components without which the proper operation of the goods referred to in (a) which have been put into free circulation or previously exported cannot be ensured, and
 - characteristic of those goods, and
 - intended for their normal maintenance and to replace parts of the same kind which are damaged or have become unserviceable.

Article 44

Where an application is presented to the competent authorities or authorized agencies of the Member States for a certificate of origin for essential spare parts within the meaning of Article 41, box 6 (Item number, marks, numbers, number and kind of packages, description of goods) of that certificate and the application relating thereto shall include a declaration by the person concerned that the goods mentioned therein are intended for the normal maintenance of a piece of equipment, machine, apparatus or vehicle previously exported, together with the exact particulars of the said piece of equipment, machine, apparatus or vehicle.

Whenever possible, the person concerned shall also give the particulars of the certificate of origin (issuing authority, number and date of certificate) under cover of which was exported the piece of equipment,

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machine, apparatus or vehicle for whose maintenance the parts are intended.

Article 45

Where the origin of essential spare parts within the meaning of Article 41 must be proved for their release for free circulation in the Community by the production of a certificate of origin, the certificate shall include the particulars referred to in Article 44.

Article 46

In order to ensure application of the rules laid down in this section, the competent authorities of the Member States may require additional proof, in particular:

- production of the invoice or a copy of the invoice relating to the piece of equipment, machine, apparatus or vehicle put into free circulation or previously exported,
- the contract or a copy of the contract or any other document showing that delivery is being made as part of the normal maintenance service.

Section 3

Implementing provisions relating to certificates of origin

Subsection 1

Provisions relating to universal certificates of origin*Article 47*

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

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

Article 48

1. A certificate of origin issued by the competent authorities or authorized agencies of the Member States shall comply with the conditions prescribed by Article 47 (a) and (b).

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2. The certificates and the applications relating to them shall be made out on forms corresponding to the specimens in Annex 12.

3. Such certificates of origin shall certify that the goods originated in the Community.

However, when the exigencies of export trade so require, they may certify that the goods originated in a particular Member State.

If the conditions of Article 24 of the Code are fulfilled only as a result of a series of operations or processes carried out in different Member States, the goods may only be certified as being of Community origin.

Article 49

Certificates of origin shall be issued upon written request of the person concerned.

Where the circumstances so warrant, in particular where the applicant maintains a regular flow of exports, the Member States may decide not to require an application for each export operation, on condition that the provisions concerning origin are complied with.

Where the exigencies of trade so require, one or more extra copies of an origin certificate may be issued.

Such copies shall be made out on forms corresponding to the specimen in Annex 12.

Article 50

1. The certificate shall measure 210×297 mm. A tolerance of up to minus 5 mm or plus 8 mm in the length shall be allowed. The paper used shall be white, free of mechanical pulp, dressed for writing purposes and weigh at least 64 g/m^2 or between 25 and 30 g/m^2 where air-mail paper is used. It shall have a printed guilloche pattern background in sepia such as to reveal any falsification by mechanical or chemical means.

2. The application form shall be printed in the official language or in one or more of the official languages of the exporting Member State. The certificate of origin form shall be printed in one or more of the official languages of the Community or, depending on the practice and requirements of trade, in any other language.

3. Member States may reserve the right to print the certificate of origin forms or may have them printed by approved printers. In the latter case, each certificate must bear a reference to such approval. Each certificate of origin form must bear the name and address of the printer or a mark by which the printer can be identified. It shall also bear a serial number, either printed or stamped, by which it can be identified.

Article 51

The application form and the certificate of origin shall be completed in typescript or by hand in block capitals, in an identical manner, in one of the official languages of the Community or, depending on the practice and requirements of trade, in any other languages.

Article 52

Each origin certificate referred to in Article 48 shall bear a serial number by which it can be identified. The application for the certificate and all copies of the certificate itself shall bear the same number.

In addition, the competent authorities or authorized agencies of the Member States may number such documents by order of issue.



Article 53

The competent authorities of the Member States shall determine what additional particulars, if any, are to be given in the application. Such additional particulars shall be kept to a strict minimum.

Each Member State shall inform the Commission of the provisions it adopts in pursuance of the preceding paragraph. The Commission shall immediately communicate this information to the other Member States.

Article 54

The competent authorities or authorized agencies of the Member States which have issued certificates of origin shall retain the applications for a minimum of two years.

However, applications may also be retained in the form of copies thereof, provided that these have the same probative value under the law of the Member State concerned.

Subsection 2

Specific provisions relating to certificates of origin for certain agricultural products subject to special import arrangements

Article 55

Articles 56 to 65 lay down the conditions for use of certificates of origin relating to agricultural products originating in third countries for which special non-preferential import arrangements have been established, in so far as these arrangements refer to the following provisions.

(a) *Certificates of origin*

Article 56

1. Certificates of origin relating to agricultural products originating in third countries for which special non-preferential import arrangements are established shall be made out on a form conforming to the specimen in Annex 13.

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

3. Such certificates shall also certify all necessary information provided for in the Community legislation governing the special import arrangements referred to in Article 55.

4. Without prejudice to specific provisions under the special import arrangements referred to in Article 55 the period of validity of the certificates of origin shall be ten months from the date of issue by the issuing authorities.

Article 57

1. Certificates of origin drawn up in accordance with the provisions of this subsection shall consist only of a single sheet identified by the word 'original' next to the title of the document.

If additional copies are necessary, they shall bear the designation 'copy' next to the title of the document.

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2. The competent authorities in the Community shall accept as valid only the original of the certificate of origin.

Article 58

1. The certificate of origin shall measure 210 × 297 mm; a tolerance of up to plus 8 mm or minus 5 mm in the length may be allowed. The paper used shall be white, not containing mechanical pulp, and shall weigh not less than 40 g/m². The face of the original shall have a printed yellow guilloche pattern background making any falsification by mechanical or chemical means apparent.

2. The certificates shall be printed and completed in one of the official languages of the Community.

Article 59

1. The certificate shall be completed in typescript or by means of a mechanical data-processing system, or similar procedure.

2. Entries must not be erased or overwritten. Any changes shall be made by crossing out the wrong entry and if necessary adding the correct particulars. Such changes shall be initialled by the person making them and endorsed by the issuing authorities.

Article 60

1. Box 5 of the certificates of origin issued in accordance with Articles 56 to 59 shall contain any additional particulars which may be required for the implementation of the special import arrangements to which they relate as referred to in Article 56 (3).

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

Article 61

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

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

Article 62

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

The issuing authorities may not issue retrospectively a certificate of origin provided for in Articles 56 to 61 until they have checked that the particulars in the exporter's application correspond to those in the relevant export file.

Certificates issued retrospectively shall bear one of the following:

- expedido *a posteriori*,
- udstedt efterfølgende,
- Nachträglich ausgestellt,
- Εκδοθέν εκ των υστέρων,

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- Issued retrospectively,
- Délivré *a posteriori*,
- rilasciato *a posteriori*,
- afgegeven *a posteriori*,
- emitido *a posteriori*,

▼ A1

- annettu jälkikäteen— utfärdat i efterhand,
- utfärdat i efterhand,

▼ A2

- Vystaveno dodatečně,
- Vālja antud tagasiulatuvalt,
- Izsniegts retrospektīvi,
- Retrospektyvūsis išdavimas,
- Kiadva visszamenőleges hatállyal,
- Mähruğ retrospektivament,
- Wystawione retrospektywnie,
- Izdano naknadno,

▼ M26

- Vyhotovené dodatočne,

▼ M30

- издаден впоследствие,
- eliberat ulterior,

▼ B

in the 'Remarks' box.

(b) *Administrative cooperation**Article 63*

1. Where the special import arrangements for certain agricultural products provide for the use of the certificate of origin laid down in Articles 56 to 62, the entitlement to use such arrangements shall be subject to the setting up of an administrative cooperation procedure unless specified otherwise in the arrangements concerned.

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

- the names and addresses of the issuing authorities for certificates of origin together with specimens of the stamps used by the said authorities,
- the names and addresses of the government authorities to which requests for the subsequent verification of origin certificates provided for in Article 64 below should be sent.

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

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

▼B*Article 64*

1. Subsequent verification of the certificates of origin referred to in Articles 56 to 62 shall be carried out at random and whenever reasonable doubt has arisen as to the authenticity of the certificate or the accuracy of the information it contains.

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

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

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

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

Article 65

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

The said results must make it possible to determine whether the origin certificates remitted in the conditions laid down in Article 64 above apply to the goods actually exported and whether the latter may actually give rise to application of the special importation arrangements concerned.

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

▼M18*CHAPTER 2**Preferential origin**Article 66*

For the purposes of this Chapter:

- (a) 'manufacture' means any kind of working or processing including assembly or specific operations;
- (b) 'material' means any ingredient, raw material, component or part, etc., used in the manufacture of the product;
- (c) 'product' means the product being manufactured, even if it is intended for later use in another manufacturing operation;
- (d) 'goods' means both materials and products;
- (e) 'customs value' means the value as determined in accordance with the 1994 Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade (WTO Agreement on customs valuation);

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- (f) ‘ex-works price’ in the list in Annex 15 means the price paid for the product ex-works to the manufacturer in whose undertaking the last working or processing is carried out, provided that the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the product obtained is exported;
- (g) ‘value of materials’ in the list in Annex 15 means the customs value at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the Community or the beneficiary country within the meaning of Article 67(1) or in the beneficiary republic within the meaning of Article 98(1). Where the value of the originating materials used needs to be established, this subparagraph shall be applied *mutatis mutandis*;
- (h) ‘chapters’ and ‘headings’ mean the chapters and the headings (four-digit codes) used in the nomenclature which makes up the Harmonised System;
- (i) ‘classified’ refers to the classification of a product or material under a particular heading;
- (j) ‘consignment’ means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such document, by a single invoice.

Section 1

Generalised system of preferences

Subsection 1

Definition of the concept of originating products*Article 67*

1. For the purposes of the provisions concerning generalised tariff preferences granted by the Community to products originating in developing countries (hereinafter referred to as ‘beneficiary countries’), the following products shall be considered as originating in a beneficiary country:

- (a) products wholly obtained in that country within the meaning of Article 68;
- (b) products obtained in that country in the manufacture of which products other than those referred to in (a) are used, provided that the said products have undergone sufficient working or processing within the meaning of Article 69.

2. For the purposes of this section, products originating in the Community, within the meaning of paragraph 3, which are subject in a beneficiary country to working or processing going beyond that described in Article 70 shall be considered as originating in that beneficiary country.

3. Paragraph 1 shall apply *mutatis mutandis* in order to establish the origin of the products obtained in the Community.

4. In so far as Norway and Switzerland grant generalised tariff preferences to products originating in the beneficiary countries referred to in paragraph 1 and apply a definition of the concept of origin corresponding to that set out in this section, products originating in the Community, Norway or Switzerland which are subject in a beneficiary country to working or processing going beyond that described in Article 70 shall be considered as originating in that beneficiary country.

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The provisions of the first subparagraph shall apply only to products originating in the Community, Norway or Switzerland (according to the rules of origin relative to the tariff preferences in question) which are exported direct to the beneficiary country.

The provisions of the first subparagraph shall not apply to products falling within Chapters 1 to 24 of the Harmonised System.

The Commission shall publish in the *Official Journal of the European Communities* (C series) the date from which the provisions laid down in the first and second subparagraphs shall apply.

5. The provisions of paragraph 4 shall apply on condition that Norway and Switzerland grant, by reciprocity, the same treatment to Community products.

Article 68

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

- (a) mineral products extracted from its soil or from its seabed;
- (b) vegetable products harvested there;
- (c) live animals born and raised there;
- (d) products from live animals raised there;
- (e) products obtained by hunting or fishing conducted there;
- (f) products of sea fishing and other products taken from the sea outside its territorial waters by its vessels;
- (g) products made on board its factory ships exclusively from the products referred to in (f);
- (h) used articles collected there fit only for the recovery of raw materials;
- (i) waste and scrap resulting from manufacturing operations conducted there;
- (j) products extracted from the seabed or below the seabed which is situated outside its territorial waters but where it has exclusive exploitation rights;
- (k) goods produced there exclusively from products specified in (a) to (j).

2. The terms 'its vessels' and 'its factory ships' in paragraph 1(f) and (g) shall apply only to vessels and factory ships:

- which are registered or recorded in the beneficiary country or in a Member State,
- which sail under the flag of a beneficiary country or of a Member State,
- which are at least 50 % owned by nationals of the beneficiary country or of Member States or by a company having its head office in that country or in one of those Member States, of which the manager or managers, Chairman of the Board of Directors or of the Supervisory Board, and the majority of the members of such boards are nationals of that beneficiary country or of the Member States and of which, in addition, in the case of companies, at least half the capital belongs to that beneficiary country or to the Member States or to public bodies or nationals of that beneficiary country or of the Member States,
- of which the master and officers are nationals of the beneficiary country or of the Member States, and

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- of which at least 75 % of the crew are nationals of the beneficiary country or of the Member States.
- 3. The terms ‘beneficiary country’ and ‘Community’ shall also cover the territorial waters of that country or of the Member States.
- 4. Vessels operating on the high seas, including factory ships on which the fish caught is worked or processed, shall be considered as part of the territory of the beneficiary country or of the Member State to which they belong, provided that they satisfy the conditions set out in paragraph 2.

Article 69

For the purposes of Article 67, products which are not wholly obtained in a beneficiary country or in the Community are considered to be sufficiently worked or processed when the conditions set out in the list in Annex 15 are fulfilled.

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

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

*Article 70***▼M22**

1. Without prejudice to paragraph 2, the following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 69 are satisfied:
 - (a) preserving operations to ensure that the products remain in good condition during transport and storage;
 - (b) breaking-up and assembly of packages;
 - (c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
 - (d) ironing or pressing of textiles;
 - (e) simple painting and polishing operations;
 - (f) husking, partial or total milling, polishing and glazing of cereals and rice;
 - (g) operations to colour sugar or form sugar lumps; partial or total milling of sugar;
 - (h) peeling, stoning and shelling, of fruits, nuts and vegetables;
 - (i) sharpening, simple grinding or simple cutting;
 - (j) sifting, screening, sorting, classifying, grading, matching; (including the making-up of sets of articles);
 - (k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
 - (l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
 - (m) simple mixing of products, whether or not of different kinds, where one or more components of the mixtures do not meet the conditions laid down in this section to enable them to be

▼M22

considered as originating in a beneficiary country or in the Community;

- (n) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
- (o) a combination of two or more of the operations specified in points (a) to (n);
- (p) slaughter of animals.

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

Article 70a

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

Accordingly, it follows that:

- (a) when a product composed of a group or assembly of articles is classified under the terms of the Harmonised System in a single heading, the whole constitutes the unit of qualification;
- (b) when a consignment consists of a number of identical products classified under the same heading of the Harmonised System, each product must be taken individually when applying the provisions of this section.

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

Article 71

1. By way of derogation from the provisions of Article 69, non-originating materials may be used in the manufacture of a given product, provided that their total value does not exceed 10 % of the ex-works price of the product.

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

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

Article 72

1. By way of derogation from Article 67, for the purposes of determining whether a product manufactured in a beneficiary country which is a member of a regional group originates therein with the meaning of that Article, products originating in any of the countries of that regional group and used in further manufacture in another country of the group shall be treated as if they originated in the country of further manufacture (regional cumulation).

2. The country of origin of the final product shall be determined in accordance with Article 72a.

▼M22

3. Regional cumulation shall apply to three separate regional groups of beneficiary countries benefiting from the generalised system of preferences:

- (a) Group I: Brunei-Darussalam, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, Vietnam;
- (b) Group II: Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Peru, Venezuela;
- (c) Group III: Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, Sri Lanka.

4. The expression 'regional group' shall be taken to mean Group I, Group II or Group III, as the case may be.

▼M18*Article 72a*

1. When goods originating in a country which is a member of a regional group are worked or processed in another country of the same regional group, they shall have the origin of the country of the regional group where the last working or processing was carried out, provided that:

- (a) the value added there, as defined in paragraph 3, is greater than the highest customs value of the products used originating in any one of the other countries of the regional group, and
- (b) the working or processing carried out there exceeds that set out in Article 70 and, in the case of textile products, also those operations referred to at Annex 16.

2. When the conditions of original in paragraph 1(a) and (b) are not satisfied, the products shall have the origin of the country of the regional group which accounts for the highest customs value of the originating products coming from other countries of the regional group.

3. 'Value added' means the ex-works price minus the customs value of each of the products incorporated which originated in another country of the regional group.

4. Proof of the originating status of goods exported from a country of a regional group to another country of the same group to be used in further working or processing, or to be re-exported where no further working or processing takes place, shall be established by a certificate of origin Form A issued in the first country.

5. Proof of the originating status, acquired or retained under the terms of Article 72, this Article and Article 72b, of goods exported from a country of a regional group to the Community, shall be established by a certificate of origin Form A issued or an invoice declaration made out in that country on the basis of a certificate of origin Form A issued according to the provisions of paragraph 4.

6. The country of origin shall be marked in box 12 of the certificate of origin Form A or on the invoice declaration, that country being:

- in the case of products exported without further working or processing according to paragraph 4, the country of manufacture;
- in the case of products exported after further working or processing, the country of origin as determined in accordance with paragraph 1.

Article 72b

1. Articles 72 and 72a shall apply only where:

- (a) the rules regulating trade in the context of regional cumulation, as between the countries of the regional group, are identical to those laid down in this section;

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- (b) each country of the regional group has undertaken to comply or ensure compliance with the terms of this section and to provide the administrative cooperation necessary both to the Community and to the other countries of the regional group in order to ensure the correct issue of certificates of origin Form A and the verification of certificates of origin Form A and invoice declarations.

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This undertaking shall be transmitted to the Commission through the following Secretariats, as the case may be:

- (i) Group I: the General Secretariat of the Association of South-East Asian Nations (ASEAN);
- (ii) Group II: the Andean Community — Central American Common Market and Panama Permanent Joint Committee on Origin (Comité Conjunto Permanente de Origen Comunidad Andina - Mercado Común Centroamericano y Panamá);
- (iii) Group III: the Secretariat of the South Asian Association for Regional Cooperation (SAARC).

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2. The Commission shall inform the Member States when the conditions set out in paragraph 1 have been satisfied, in the case of each regional group.

3. Article 78(1)(b) shall not apply to products originating in any of the countries of the regional group when they pass through the territory of any of the other countries of the regional group, whether or not further working or processing take place there.

Article 73

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

Article 74

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

Article 75

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

- (a) energy and fuel;
- (b) plant and equipment;
- (c) machines and tools;
- (d) goods which do not enter, and which are not intended to enter, into the final composition of the product.

Article 76

1. Derogations from the provisions of this section may be made in favour of the least-developed beneficiary countries benefiting from the

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generalised system of preferences when the development of existing industries or the creation of new industries justifies them. The least-developed beneficiary countries are listed in the Council Regulations and the ECSC Decision concerning the application of generalised tariff preferences. For this purpose, the country concerned shall submit to the Community a request for a derogation together with the reasons for the request in accordance with paragraph 3.

2. The examination of requests shall, in particular, take into account:

- (a) cases where the application of existing rules of origin would affect significantly the ability of an existing industry in the country concerned to continue its exports to the Community, with particular reference to cases where this could lead to business closures;
- (b) specific cases where it can be clearly demonstrated that significant investment in an industry could be deterred by the rules of origin and where a derogation encouraging implementation of the investment programme would enable the rules to be satisfied by stages;
- (c) the economic and social impact of the decision to be taken especially in respect of employment in the beneficiary countries and the Community.

3. In order to facilitate the examination of requests for derogation, the country making the request shall furnish in support of its request the fullest possible information, covering in particular the points listed below:

- description of the finished product,
- nature and quantity of materials originating in a third country,
- manufacturing process,
- value added,
- the number of employees in the enterprise concerned,
- the anticipated volume of the exports to the Community,
- other possible sources of supply for raw materials,
- reasons for the duration requested,
- other observations.

4. The Commission shall present the derogation-request to the Committee. ► **M22** It shall be decided on in accordance with the committee procedure. ◀

5. Where use is made of a derogation, the following phrase must appear in box 4 of the certificate of origin Form A, or on the invoice declaration laid down in Article 89:

‘Derogation - Regulation (EC) No .../...’.

6. The provisions of paragraphs 1 to 5 shall apply to any prolongations.

Article 77

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

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

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- the products returned are the same as those which were exported, and
- they have not undergone any operations beyond that necessary to preserve them in good condition while in that country or while being exported.

Article 78

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

- (a) products transported without passing through the territory of any other country, except in the case of the territory of another country of the same regional group where Article 72 is applied;
- (b) products constituting one single consignment transported through the territory of countries other than the beneficiary country or the Community, with, should the occasion arise, trans-shipment or temporary warehousing in those countries, provided that the products remain under the surveillance of the customs authorities in the country of transit or of warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition;
- (c) products transported through the territory of Norway or Switzerland and subsequently re-exported in full or in part to the Community or to the beneficiary country, provided that the products remain under the surveillance of the customs authorities of the country of transit or of warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition;
- (d) products which are transported by pipeline without interruption across a territory other than that of the exporting beneficiary country or of the Community.

2. Evidence that the conditions specified in paragraph 1(b) and (c) have been fulfilled shall be supplied to the competent customs authorities by the production of:

- (a) a single transport document covering the passage from the exporting country through the country of transit; or
- (b) a certificate issued by the customs authorities of the country of transit:
 - giving an exact description of the products,
 - stating the dates of unloading and reloading of the products and, where applicable, the names of the ships, or the other means of transport used, and
 - certifying the conditions under which the products remained in the country of transit;
- (c) or, failing these, any substantiating documents.

Article 79

1. Originating products sent from a beneficiary country for exhibition in another country and sold after the exhibition for importation into the Community shall benefit, on importation, from the tariff preferences referred to in Article 67, provided that the products meet the requirements of this section entitling them to be recognised as originating in the beneficiary country and provided that it is shown to the satisfaction of the competent Community customs authorities that:

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- (a) an exporter has consigned these products from the beneficiary country directly to the country in which the exhibition is held and has exhibited them there;
- (b) the products have been sold or otherwise disposed of by that exporter to a person in the Community;
- (c) the products have been consigned during the exhibition or immediately thereafter to the Community in the state in which they were sent for exhibition;
- (d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

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

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

Subsection 2

Proof of origin*Article 80*

Products originating in the beneficiary country shall benefit from the ►C6 tariff preferences ◀ referred to in Article 67, on submission of either:

- (a) a certificate of origin Form A, a specimen of which appears in Annex 17; or
- (b) in the cases specified in Article 89(1), a declaration, the text of which appears in Annex 18, given by the exporter on an invoice, a delivery note or any other commercial document which describes the products concerned in sufficient detail to enable them to be identified (hereinafter referred to as the 'invoice declaration').

(a) **CERTIFICATE OF ORIGIN FORM A***Article 81*

1. Originating products within the meaning of this section shall be eligible, on importation into the Community, to benefit from the tariff preferences referred to in Article 67, provided that they have been transported directly within the meaning of Article 78, on submission of a certificate of origin Form A, issued by the customs authorities or by other competent governmental authorities of the beneficiary country, provided that the latter country:

- has communicated to the Commission the information required by Article 93, and
- assists the Community by allowing the customs authorities of Member States to verify the authenticity of the document or the accuracy of the information regarding the true origin of the products in question.

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2. A certificate of origin Form A may be issued only where it can serve as the documentary evidence required for the purposes of the tariff preferences referred to in Article 67.
3. A certificate of origin Form A shall be issued only on written application from the exporter or his authorised representative.
4. The exporter or his authorised representative shall submit with his application any appropriate supporting documents proving that the products to be exported qualify for the issue of a certificate of origin Form A.
5. The certificate shall be issued by the competent governmental authorities of the beneficiary country if the products to be exported can be considered as products originating in that country within the meaning of Subsection 1. The certificate shall be made available to the exporter as soon as the export has taken place or is ensured.
6. For the purposes of verifying whether the conditions set out in paragraph 5 have been met, the competent governmental authorities shall have the right to call for any documentary evidence or to carry out any check which they consider appropriate.
7. It shall be the responsibility of the competent governmental authorities of the beneficiary country to ensure that certificates and applications are duly completed.
8. The completion of box 2 of the certificate of origin Form A shall be optional. Box 12 shall be duly completed by indicating 'European Community' or one of the Member States.
9. The date of issue of the certificate of origin Form A shall be indicated in box 11. The signature to be entered in that box, which is reserved for the competent governmental authorities issuing the certificate, shall be handwritten.

Article 82

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing country, dismantled or non-assembled products within the meaning of general rule 2(a) of the Harmonised System and falling within Section XVI or XVII or heading No 7308 or 9406 of the Harmonised System are imported by instalments, a single proof of origin for such products shall be submitted to the customs authorities on importation of the first instalment.

Article 83

Since the certificate of origin Form A constitutes the documentary evidence for the application of provisions concerning the tariff preferences referred to in Article 67, it shall be the responsibility of the competent governmental authorities of the exporting country to take any steps necessary to verify the origin of the products and to check the other statements on the certificate.

Article 84

Proofs of origin shall be submitted to the customs authorities of the Member States of importation in accordance with the procedures laid down in Article 62 of the Code. The said authorities may require a translation of a proof of origin and may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the conditions required for the application of this section.

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Article 85

1. By way of derogation from Article 81(5), a certificate of origin Form A may exceptionally be issued after exportation of the products to which it relates, if:

- (a) it was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or
- (b) it is demonstrated to the satisfaction of the competent governmental authorities that a certificate of origin Form A was issued but was not accepted at importation for technical reasons.

2. The competent governmental authorities may issue a certificate retrospectively only after verifying that the information supplied in the exporter's application agrees with that in the corresponding export file and that a certificate of origin Form A satisfying the provisions of this section was not issued when the products in question were exported.

3. Box 4 of certificates of origin Form A issued retrospectively must contain the endorsement 'Issued retrospectively' or 'Délivré a posteriori'.

Article 86

1. In the event of the theft, loss or destruction of a certificate of origin Form A, the exporter may apply, to the competent governmental authorities which issued it, for a duplicate to be made out on the basis of the export documents in their possession. Box 4 of a duplicate Form A issued in this way must be endorsed with the word 'Duplicate' or 'Duplicata', together with the date of issue and the serial number of the original certificate.

2. For the purposes of Article 90b, the duplicate shall take effect from the date of the original.

Article 87

1. When originating products are placed under the control of a customs office in the Community, it shall be possible to replace the original proof of origin by one or more certificates of origin Form A for the purpose of sending all or some of these products elsewhere within the Community or to Switzerland or Norway. The replacement certificate(s) of origin Form A shall be issued by the customs office under whose control the products are placed.

2. The replacement certificate issued in application of paragraph 1 or Article 88 shall be regarded as the definitive certificate of origin for the products to which it refers. The replacement certificate shall be made out on the basis of a written request by the re-exporter.

3. The top right-hand box of the replacement certificate shall indicate the name of the intermediary country where it is issued.

Box 4 shall contain the words 'Replacement certificate' or ►C6 'Certi-fi-cat de remplacement', ◀ as well as the date of issue of the original certificate of origin and its serial number.

The name of the re-exporter shall be given in box 1.

The name of the final consignee may be given in box 2.

►C6 All particulars of ◀ the re-exported products appearing on the original certificate shall be transferred to boxes 3 to 9.

►C6 References to the ◀ re-exporter's invoice shall be given in box 10.

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The customs authorities which issued the replacement certificate shall endorse box 11. The responsibility of the authorities is confined to the issue of the replacement certificate. The particulars in box 12 concerning the country of origin and the country of destination shall be taken from the original certificate. This box shall be signed by the re-exporter. A re-exporter who signs this box in good faith shall not be responsible for the accuracy of the particulars entered on the original certificate.

4. The customs office which is requested to perform the operation referred to in paragraph 1 should note on the original certificate the weights, numbers and nature of the products forwarded and indicate thereon the serial numbers of the corresponding replacement certificate or certificates. It shall keep the original certificate for at least three years.

5. A photocopy of the original certificate may be annexed to the replacement certificate.

6. In the case of products which benefit from the tariff preferences referred to in Article 67, under a derogation granted in accordance with the provisions of Article 76, the procedure laid down in this Article shall apply only when such products are intended for the Community.

Article 88

Originating products within the meaning of this section shall be eligible on importation into the Community to benefit from the tariff preferences referred to in Article 67 on production of a replacement certificate of origin Form A issued by the customs authorities of Norway or Switzerland on the basis of a certificate of origin Form A issued by the competent governmental authorities of the beneficiary country, provided that the conditions laid down in Article 78 have been satisfied and provided that Norway or Switzerland assists the Community by allowing its customs authorities to verify the authenticity and accuracy of the certificates issued. The verification procedure laid down in Article 94 shall apply *mutatis mutandis*. The time limit laid down in Article 94(3) shall be extended to eight months.

(b) INVOICE DECLARATION*Article 89*

1. The invoice declaration may be made out:
 - (a) by an approved Community exporter within the meaning of Article 90, or
 - (b) by any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed EUR 6 000, and provided that the assistance referred to in Article 81(1) shall apply to this procedure.
2. An invoice declaration may be made out if the products concerned can be considered as originating in the Community or in a beneficiary country, and fulfil the other requirements of this section.
3. The exporter making out an invoice declaration shall be prepared to submit at any time, at the request of the customs or other competent governmental authorities of the exporting country, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this section.
4. An invoice declaration shall be made out by the exporter in either French or English by typing, stamping or printing on the invoice, the delivery note or any other commercial document, the declaration, the text of which appears in Annex 18. If the declaration is handwritten, it shall be written in ink in printed characters.

▼M18

5. Invoice declarations shall bear the original signature of the exporter in manuscript. However, an approved exporter within the meaning of Article 90 shall not be required to sign such declarations provided that he gives the customs authorities a written undertaking that he accepts full responsibility for any invoice declaration which identifies him as if it had been signed in manuscript by him.

6. In the cases referred to in paragraph 1(b), the use of an invoice declaration shall be subject to the following special conditions:

- (a) one invoice declaration shall be made out for each consignment;
- (b) if the goods contained in the consignment have already been subject to verification in the exporting country by reference to the definition of 'originating products', the exporter may refer to this check in the invoice declaration.

The provisions of the first subparagraph shall not exempt exporters from complying with any other formalities required under customs or postal regulations.

Article 90

1. The customs authorities of the Community may authorise any exporter, hereinafter referred to as an 'approved exporter', who makes frequent shipments of products originating in the Community within the meaning of Article 67(2), and who offers, to the satisfaction of the customs authorities, all guarantees necessary to verify the originating status of the products as well as the fulfilment of the other requirements of this section, to make out invoice declarations, irrespective of the value of the products concerned.

2. The customs authorities may grant the status of approved exporter subject to any conditions which they consider appropriate.

3. The customs authorities shall grant ►C6 to the approved exporter ◀ a customs authorisation number which shall appear on the invoice declaration.

4. The customs authorities shall monitor the use of the authorisation by the approved exporter.

5. The customs authorities may withdraw the authorisation at any time. They shall do so where the approved exporter no longer offers the guarantees referred to in paragraph 1, does not fulfil the conditions referred to in paragraph 2 or otherwise makes improper use of the authorisation.

Article 90a

1. Evidence of the originating status of Community products within the meaning of Article 67(2) shall be furnished by either:

- (a) the production of ►C6 a movement certificate EUR.1 ◀, a specimen of which is set out in Annex 21; or
- (b) the production of a declaration as referred to in Article 89.

2. The exporter or his authorised representative shall enter 'GSP beneficiary countries' and 'EC', or 'Pays bénéficiaires du SPG' and 'CE', in box 2 of the movement certificate EUR.1.

3. The provisions of this section concerning the issue, use and subsequent verification of certificates of origin Form A shall apply *mutatis mutandis* to ►C6 movement certificates EUR.1 ◀ and, with the exception of the provisions concerning their issue, to invoice declarations.

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Article 90b

1. A proof of origin shall be valid for 10 months from the date of issue in the exporting country, and shall be submitted within the said period to the customs authorities of the importing country.
2. Proofs of origin which are submitted to the customs authorities of the importing country after the final date for presentation specified in paragraph 1 may be accepted for the purpose of applying the tariff preferences referred to in Article 67, where the failure to submit these documents by the final date set is due to exceptional circumstances.
3. In other cases of belated presentation, the customs authorities of the importing country may accept the proofs of origin where the products have been submitted before the said final date.
4. At the request of the importer and having regard to the conditions laid down by the customs authorities of the importing Member State, a single proof of origin may be submitted to the customs authorities at the importation of the first consignment when the goods:
 - (a) are imported within the framework of frequent and continuous trade flows of a significant commercial value;
 - (b) are the subject of the same contract of sale, the parties of this contract established in the exporting country or in the Community;
 - (c) are classified in the same code (eight digits) of the Combined Nomenclature;
 - (d) come exclusively from the same exporter, are destined for the same importer, and are made the subject of entry formalities at the same customs office in the Community.

This procedure shall be applicable for the quantities and a period determined by the competent customs authorities. This period cannot, in any circumstances, exceed three months.

Article 90c

1. Products sent as small packages from private persons to private persons or forming part of travellers' personal luggage shall be admitted as originating products benefiting from the tariff preferences referred to in Article 67 without requiring the presentation of a certificate of origin Form A or an invoice declaration, provided that such products are not imported by way of trade and have been declared as meeting the conditions required for the application of this section and where there is no doubt as to the veracity of such a declaration.
2. Imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families shall not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view.

Furthermore, the total value of these products shall not exceed EUR 500 in the case of small packages or EUR 1 200 in the case of products forming part of travellers' personal luggage.

Article 91

1. When Article 67(2), (3) or (4) applies, the competent governmental authorities of the beneficiary country called on to issue a certificate of origin Form A for products in the manufacture of which materials originating in the Community, Norway or Switzerland are used shall rely on the ►C6 movement certificate EUR.1 ◀ or, where necessary, the invoice declaration.

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2. Box 4 of certificates of origin Form A issued in the cases set out in paragraph 1 shall contain the remark ‘EC cumulation’, ‘Norway cumulation’, ‘Switzerland cumulation’, or ‘Cumul CE’, ‘Cumul Norvège’, ‘Cumul Suisse’.

Article 92

The discovery of slight discrepancies between the statements made in the certificate of origin Form A, in the ►C6 movement certificate EUR.1 ◀ or in an invoice declaration, and those made in the documents submitted to the customs office for the purpose of carrying out the formalities for importing the products shall not *ipso facto* render the certificate or declaration null and void if it is duly established that that document does correspond to the products submitted.

Obvious formal errors such as typing errors on a certificate of origin Form A, ►C6 a movement certificate EUR.1 ◀ or an invoice declaration should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in that document.

Subsection 3

Methods of administrative cooperation*Article 93*

1. The beneficiary countries shall inform the Commission of the names and addresses of the governmental authorities situated in their territory which are empowered to issue certificates of origin Form A, together with specimen impressions of the stamps used by those authorities, and the names and addresses of the relevant governmental authorities responsible for the control of the certificates of origin Form A and the invoice declarations. The stamps shall be valid as from the date of receipt by the Commission of the specimens. The Commission shall forward this information to the customs authorities of the Member States. When these communications are made within the framework of an amendment of previous communications, the Commission shall indicate the date of entry into use of those new stamps according to the instructions given by the competent governmental authorities of the beneficiary countries. This information is for official use; however, when goods are to be released for free circulation, the customs authorities in question may allow the importer or his duly authorised representative to consult the specimen impressions of the stamps mentioned in this paragraph.

2. The Commission shall publish, in the *Official Journal of the European Communities* (‘C’ series), the date on which the new beneficiary countries referred to in Article 97 met the obligations set out in paragraph 1.

3. The Commission shall send, to the beneficiary countries, specimen impressions of the stamps used by the customs authorities of the Member States for the issue of ►C6 movement certificates EUR.1 ◀.

Article 93a

For the purposes of the provisions concerning the tariff preferences referred to in Article 67, every beneficiary country shall comply or ensure compliance with the rules concerning the origin of the products, the completion and issue of certificates of origin Form A, the conditions for the use of invoice declarations and those concerning methods of administrative cooperation.

▼ **M18***Article 94*

1. Subsequent verifications of certificates of origin Form A and invoice declarations shall be carried out at random or whenever the customs authorities in the Community have reasonable doubts as to the authenticity of such documents, the originating status of the products concerned or the fulfilment of the other requirements of this section.

2. For the purposes of implementing the provisions of paragraph 1, the customs authorities in the Community shall return the certificate of origin Form A and the invoice, if it has been submitted, the invoice declaration, or a copy of these documents, to the competent governmental authorities in the exporting beneficiary country giving, where appropriate, the reasons for the enquiry. Any documents and information obtained suggesting that the information given on the proof of origin is incorrect shall be forwarded in support of the request for verification.

If the said authorities decide to suspend the granting of the tariff preferences referred to in Article 67 while awaiting the results of the verification, release of the products shall be offered to the importer subject to any precautionary measures judged necessary.

3. When an application for subsequent verification has been made in accordance with paragraph 1, such verification shall be carried out and its results communicated to the customs authorities in the Community within a maximum of six months. The results shall be such as to establish whether the proof of origin in question applies to the products actually exported and whether these products can be considered as products originating in the beneficiary country or in the Community.

4. In the case of certificates of origin Form A issued in accordance with Article 91, the reply shall include a copy (copies) of the ► **C6** movement certificate(s) EUR.1 ◀ or, where necessary, of the corresponding invoice declaration(s).

5. If in cases of reasonable doubt there is no reply within the six months specified in paragraph 3 or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products, a second communication shall be ► **C6** sent to ◀ the competent authorities. If after the second communication the results of the verification are not communicated to the requesting authorities within four months, or if these results do not allow the authenticity of the document in question or the real origin of the products to be determined, the requesting authorities shall, except in exceptional circumstances, refuse entitlement to the tariff preferences.

The provisions of the first subparagraph shall apply between the countries of the same regional group for the purposes of the subsequent verification of the certificates of origin Form A issued in accordance with this section.

6. Where the verification procedure or any other available information appears to indicate that the provisions of this section are being contravened, the exporting beneficiary country shall, on its own initiative or at the request of the Community, carry out appropriate inquiries or arrange for such inquiries to be carried out with due urgency to identify and prevent such contraventions. For this purpose, the Community may participate in the inquiries.

▼M18

7. For the purposes of the subsequent verification of certificates of origin Form A, copies of the certificates, as well as any export documents referring to them, shall be kept for at least three years by the competent governmental authorities of the exporting beneficiary country.

Article 95

Article 78(1)(c) and Article 88 shall apply only in so far as Norway and Switzerland, in the context of tariff preferences granted by them to certain products originating in developing countries, apply provisions similar to those of the Community.

The Commission shall inform the Member States' customs authorities of the adoption by Norway and Switzerland of such provisions and shall notify them of the date from which the provisions of Article 78(1)(c) and Article 88, and the similar provisions adopted by Norway and Switzerland, are applied.

These provisions shall apply on condition that the Community, Norway and Switzerland have concluded an agreement stating, among other things, that they shall provide each other with the necessary mutual assistance in matters of administrative cooperation.

Subsection 4

Ceuta and Melilla*Article 96*

1. The term 'Community' used in this section shall not cover Ceuta and Melilla. The term 'products originating in the Community' shall not cover products originating in Ceuta and Melilla.

2. This Section shall apply *mutatis mutandis* in determining whether products may be regarded as originating in the exporting beneficiary country benefiting from the generalised system of preferences when imported into Ceuta and Melilla or as originating in Ceuta and Melilla.

3. Ceuta and Melilla shall be regarded as a single territory.

4. The provisions of this section concerning the issue, use and subsequent verification of certificates of origin Form A shall apply *mutatis mutandis* to products originating in Ceuta and Melilla.

5. The Spanish customs authorities shall be responsible for the application of this section in Ceuta and Melilla.

Subsection 5

Final provision*Article 97*

When a country or territory is admitted or readmitted as a beneficiary country in respect of products referred to in the relevant Council Regulations or the ECSC Decision, goods originating in that country or territory may benefit from the generalised system of preferences on condition that they were exported from the beneficiary country or territory on or after the date referred to in Article 93(2).

▼M18

Section 2

▼M21

Beneficiary countries or territories to which preferential tariff measures adopted unilaterally by the Community for certain countries or territories apply

▼M18

Subsection 1

Definition of the concept of originating products*Article 98***▼M21**

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

▼M18

- (a) products wholly obtained in that ►**M21** beneficiary country or territory ◀ with the meaning of Article 99;
 - (b) products obtained in that ►**M21** beneficiary country or territory ◀, in the manufacture of which products other than those referred to in (a) are used, provided that the said products have undergone sufficient working or processing within the meaning of Article 100.
2. For the purposes of this section, products originating in the Community, within the meaning of paragraph 3, which are subject in a ►**M21** beneficiary country or territory ◀ to working or processing going beyond that described in Article 101 shall be considered as originating in that ►**M21** beneficiary country or territory ◀.
3. Paragraph 1 shall apply *mutatis mutandis* in establishing the origin of the products obtained in the Community.

Article 99

1. The following shall be considered as wholly obtained in a ►**M21** beneficiary country or territory ◀ or in the Community:
- (a) mineral products extracted ►**C6** from its soil or ◀ from its seabed;
 - (b) vegetable products harvested there;
 - (c) live animals born and raised there;
 - (d) products from live animals raised there;
 - (e) products obtained by hunting or fishing conducted there;
 - (f) products of sea-fishing and other products taken from the sea outside the territorial waters by its vessels;
 - (g) products made on board its factory ships exclusively from the products referred to in (f);
 - (h) used articles collected there, fit only for the recovery of raw materials;
 - (i) waste and scrap resulting from manufacturing operations conducted there;

▼M18

- (j) products extracted from the seabed or below the seabed which is situated outside its territorial waters but where it has exclusive exploitation rights;
- (k) goods produced there exclusively from products specified in (a) to (j).
2. The terms ‘its vessels’ and ‘its factory ships’ in paragraph 1(f) and (g) shall apply only to vessels and factory ships:
- which are registered or recorded in the ►**M21** beneficiary country or territory ◀ or in a Member State,
 - which sail under the flag of a ►**M21** beneficiary country or territory ◀ or of a Member State,
 - which are owned to the extent of at least 50 % by nationals of the ►**M21** beneficiary country or territory ◀ or of Member States or by a company with its head office in that republic or in one of the Member States, of which the manager or managers, Chairman of the Board of Directors or of the Supervisory Board, and the majority of the members of such boards are nationals of that ►**M21** beneficiary country or territory ◀ or of the Member States and of which, in addition, in the case of companies, at least half the capital belongs to that ►**M21** beneficiary country or territory ◀ or to the Member States or to public bodies or nationals of that ►**M21** beneficiary country or territory ◀ or of the Member States,
 - of which the master and officers are nationals of the ►**M21** beneficiary country or territory ◀ or of the Member States, and
 - of which at least 75 % of the crew are nationals of the ►**M21** beneficiary country or territory ◀ or of the Member States.
3. The terms ‘►**M21** beneficiary country or territory ◀’ and ‘Community’ shall also cover the territorial waters of that republic or of the Member States.
4. Vessels operating on the high seas, including factory ships on which the fish caught is worked or processed, shall be considered as part of the territory of the ►**M21** beneficiary country or territory ◀ or of the Member State to which they belong, provided that they satisfy the conditions set out in paragraph 2.

Article 100

For the purposes of Article 98, products which are not wholly obtained in a ►**M21** beneficiary country or territory ◀ or in the Community are considered to be sufficiently worked or processed when the conditions set out in the list in Annex 15 are fulfilled.

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

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

*Article 101***▼M22**

1. Without prejudice to paragraph 2, the following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 100 are satisfied:

▼M22

- (a) preserving operations to ensure that the products remain in good condition during transport and storage;
- (b) breaking-up and assembly of packages;
- (c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
- (d) ironing or pressing of textiles;
- (e) simple painting and polishing operations;
- (f) husking, partial or total milling, polishing and glazing of cereals and rice;
- (g) operations to colour sugar or form sugar lumps; partial or total milling of sugar;
- (h) peeling, stoning and shelling, of fruits, nuts and vegetables;
- (i) sharpening, simple grinding or simple cutting;
- (j) sifting, screening, sorting, classifying, grading, matching; (including the making-up of sets of articles);
- (k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
- (m) simple mixing of products, whether or not of different kinds, where one or more components of the mixtures do not meet the conditions laid down in this section to enable them to be considered as originating in a beneficiary country or territory or in the Community;
- (n) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
- (o) a combination of two or more of the operations specified in points (a) to (n);
- (p) slaughter of animals.

▼M18

2. All the operations carried out in either a ►**M21** beneficiary country or territory ◀ or the Community on a given product shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.

Article 101a

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

Accordingly, it follows that:

- (a) when a product composed of a group or assembly of articles is classified under the terms of the Harmonised System in a single heading, the whole constitutes the unit of qualification;
- (b) when a consignment consists of a number of identical products classified under the same heading of the Harmonised System, each product must be taken individually when applying the provisions of this Section.

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

▼**M18***Article 102*

1. By way of derogation from the provisions of Article 100, non-originating materials may be used in the manufacture of a given product, provided that their total value does not exceed 10 % of the ex-works price of the product.

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

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

Article 103

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment and included in the price thereof or which are ►**C6** not separately invoiced, shall be regarded ◀ as one with the piece of equipment, machine, apparatus or vehicle in question.

Article 104

Sets, as defined in general rule 3 of the Harmonised System, shall be regarded as originating when all the ►**C6** component products are originating products ◀. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating provided that the value of the non-originating products does not exceed 15 % of the ex-works price of the set.

Article 105

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

- (a) energy and fuel;
- (b) plant and equipment;
- (c) machines and tools;
- (d) goods which do not enter, and which are not intended to enter, into the final composition of the product.

Article 106

The conditions set out in this section for acquiring originating status must continue to be fulfilled at all times in the ►**M21** beneficiary country or territory ◀ or in the Community.

If originating products exported from the ►**M21** beneficiary country or territory ◀ or from the Community to another country are returned, they shall be considered as non-originating unless it can be demonstrated to the satisfaction of the competent authorities that:

- the products returned are the same as those which were exported, and
- they have not undergone any operation beyond that necessary to preserve them in good condition while in that country or while being exported.

▼M18

Article 107

1. The following shall be considered as transported directly from the ►M21 beneficiary country or territory ◀ to the Community or from the Community to the ►M21 beneficiary country or territory ◀:

- (a) products transported without passing through the territory of any other country;
- (b) products constituting one single consignment transported through the territory of countries other than the ►M21 beneficiary country or territory ◀ or the Community, with, should the occasion arise, trans-shipment or temporary warehousing in those countries, provided that the products remain under the surveillance of the customs authorities in the country of transit or of warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition;
- (c) products which are transported by pipeline without interruption across a territory other than that of the exporting ►M21 beneficiary country or territory ◀ or of the Community.

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

- (a) a single transport document covering the passage from the exporting country through the country of transit; ►C6 or ◀
- (b) a certificate issued by the customs authorities of the country of transit:
 - giving an exact description of the products,
 - stating the dates of unloading and reloading of the products and, where applicable, the names of the ships, or the other means of transport used, and
 - certifying the conditions under which the products remained in the country of transit;
- (c) or, failing these, any substantiating documents.

Article 108

1. Originating products, sent from a ►M21 beneficiary country or territory ◀ for exhibition in another country and sold after the exhibition for importation into the Community, shall benefit on importation from the tariff preferences referred to in Article 98, provided that they meet the requirements of this section entitling them to be recognised as originating in that ►M21 beneficiary country or territory ◀ and provided that it is shown to the satisfaction of the competent Community customs authorities that:

- (a) an exporter has consigned the products from the ►M21 beneficiary country or territory ◀ directly to the country in which the exhibition is held and has exhibited them there;
- (b) the products have been sold or otherwise disposed of by that exporter to a person in the Community;
- (c) the products have been consigned during the exhibition or immediately thereafter to the Community in the state in which they were sent for exhibition;
- (d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. ►C6 A movement certificate EUR.1 ◀ shall be submitted to the Community customs authorities in the normal manner. The name and address of the exhibition must be indicated thereon. Where necessary,

▼M18

additional documentary evidence of the nature of the products and the conditions under which they have been exhibited may be required.

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

Subsection 2

Proof of origin*Article 109*

Products originating in the ►**M21** beneficiary country or territory ◀ shall benefit from the tariff preferences referred to in Article 98, on submission of either:

- (a) ►**C6** a movement certificate EUR.1 ◀, a specimen of which appears in Annex 21, or
- (b) in the cases specified in Article 116(1), a declaration, the text of which appears in Annex 22, given by the exporter on an invoice, a delivery note or any other commercial document which describes the products concerned in sufficient detail to enable them to be identified (hereinafter referred to as the 'invoice declaration').

(a) ►**C6** *MOVEMENT CERTIFICATE EUR.1* ◀

*Article 110***▼M21**

1. Originating products within the meaning of this section shall be eligible, on importation into the Community, to benefit from the tariff preferences referred to in Article 98, provided that they have been transported direct to the Community within the meaning of Article 107, on submission of an EUR.1 movement certificate issued by the customs or other competent governmental authorities of a beneficiary country or territory, on condition 87 beneficiary country or territory:

▼M18

— have communicated to the Commission the information required by Article 121, and

— assist the Community by allowing the customs authorities of Member States to verify the authenticity of the document or the accuracy of the information regarding the true origin of the products in question.

2. ►**C6** A movement certificate EUR.1 ◀ may be issued only where it can serve as the documentary evidence required for the purposes of the tariff preferences ►**C6** referred to in ◀ Article 98.

3. ►**C6** A movement certificate EUR.1 ◀ shall be issued only on written application from the exporter or his authorised representative. Such application shall be made on a form, a specimen of which appears in Annex 21, which shall be completed in accordance with the provisions of this subsection.

Applications for ►**C6** movement certificates EUR.1 ◀ shall be kept for at least three years by the competent authorities of the exporting ►**M21** beneficiary country or territory ◀ or Member State.

▼M18

4. The exporter or his authorised representative shall submit with his application any appropriate supporting documents proving that the products to be exported qualify for the issue of ►**C6** a movement certificate EUR.1 ◀.

The exporter shall undertake to submit, at the request of the competent authorities, any supplementary evidence they may require for the purpose of establishing the correctness of the originating status of the products eligible for preferential treatment and shall undertake to agree to any inspection of their accounts and to any check by the said authorities on the circumstances in which the products were obtained.

5. The ►**C6** movement certificate EUR.1 ◀ shall be issued by the competent governmental authorities of the ►**M21** beneficiary country or territory ◀ or by the customs authorities of the exporting Member State, if the products to be exported can be considered as originating products within the meaning of this section.

6. Since the ►**C6** movement certificate EUR.1 ◀ constitutes the documentary evidence for the application of the preferential arrangements set out in Article 98, it shall be the responsibility of the competent governmental authorities of the ►**M21** beneficiary country or territory ◀ or of the customs authorities of the exporting Member State to take any steps necessary to verify the origin of the products and to check the other statements on the certificate.

7. For the purpose of verifying whether the conditions set out in paragraph 5 have been met, the competent governmental authorities of the ►**M21** beneficiary country or territory ◀ or the customs authorities of the exporting member State shall have the right to call for any documentary evidence or to carry out any check which they consider appropriate.

8. It shall be the responsibility of the competent governmental authorities of the ►**M21** beneficiary country or territory ◀ or of the customs authorities of the exporting Member State to ensure that the forms referred to in paragraph 1 are duly completed.

9. The date of issue of the ►**C6** movement certificate EUR.1 ◀ shall be indicated in that part of the certificate reserved for the customs authorities.

10. ►**C6** A movement certificate EUR.1 ◀ shall be issued by the competent authorities of the ►**M21** beneficiary country or territory ◀ or by the customs authorities of the exporting Member State when the products to which it relates are exported. It shall be made available to the exporter as soon as the export has taken place or is ensured.

Article 111

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing country, dismantled or non-assembled products within the meaning of general rule 2(a) of the Harmonised System and falling within Section XVI or XVII or within heading No 7308 or 9406 of the Harmonised System are imported by instalments, a single proof of origin for such products shall be submitted to the customs authorities on importation of the first instalment.

Article 112

Proofs of origin shall be submitted to the customs authorities of the Member State of importation in accordance with the procedures laid down in Article 62 of the Code. The said authorities may require a translation of a proof of origin and may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the conditions required for the application of this section.

▼M18*Article 113*

1. By way of derogation from Article 110(10), ►**C6** a movement certificate EUR.1 ◀ may exceptionally be issued after exportation of the products to which it relates if:

- (a) it was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or
- (b) it is demonstrated to the satisfaction of the competent authorities that ►**C6** a movement certificate EUR.1 ◀ was issued but was not accepted at importation for technical reasons.

2. The competent authorities may issue ►**C6** a movement certificate EUR.1 ◀ retrospectively only after verifying that the information supplied in the exporter's application agrees with that in the corresponding export file and that ►**C6** a movement certificate EUR.1 ◀ satisfying the provisions of this section was not issued when the products in question were exported.

3. ►**C6** Movement certificates EUR.1 ◀ issued retrospectively shall be endorsed with one of the following phrases:

- ‘EXPEDIDO A POSTERIORI’,
- ‘UDSTEDT EFTERFØLGENDE’,
- ‘NACHTRÄGLICH AUSGESTELLT’,
- ‘ΕΚΔΟΘΕΝ ΕΚ ΤΩΝ ΥΣΤΕΡΩΝ’,
- ‘ISSUED RETROSPECTIVELY’,
- ‘DÉLIVRÉ A POSTERIORI’,
- ‘RILASCIATO A POSTERIORI’,
- ‘AFGEGEVEN A POSTERIORI’,
- ‘EMITIDO A POSTERIORI’,
- ‘ANNETTU JÄLKIKÄTEEN’,
- ‘UTFÄRDAT I EFTERHAND’,

▼A2

- ‘VYSTAVENO DODATEČNĚ’,
- ‘VÄLJA ANTUD TAGASIULATUVALT’,
- ‘IZSNIEGTS RETROSPEKTĪVI’,
- ‘RETROSPEKTYVUSIS IŠDAVIMAS’,
- ‘KIADVA VISSZAMENŐLEGES HATÁLLYAL’,
- ‘MAħRUĠ RETROSPETTIVAMENT’,
- ‘WYSTAWIONE RETROSPEKTYWNIE’,
- ‘IZDANO NAKNADNO’,

▼M26

- ‘VYHOTOVENÉ DODATOČNE’,

▼M30

- ‘ИЗДАДЕН ВПОСЛЕДСТВИЕ’,
- ‘ELIBERAT ULTERIOR’.

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4. The endorsement referred to in paragraph 3 shall be inserted in the ‘Remarks’ box of the ►**C6** movement certificate EUR.1 ◀.

▼M18*Article 114*

1. In the event of the theft, loss or destruction of ►**C6** a movement certificate EUR.1 ◀, the exporter may apply to the competent authorities which issued it, for a duplicate to be made out on the basis of the export documents in their possession.

2. The duplicate issued in this way shall be endorsed with one of the following words:

- ‘DUPLICADO’,
- ‘DUPLIKAT’,
- ‘DUPLIKAT’,
- ‘АНТИГРАФО’,
- ‘DUPLICATE’,
- ‘DUPLICATA’,
- ‘DUPLICATO’,
- ‘DUPLICAAT’,
- ‘SEGUNDA VIA’,
- ‘KAKSOISKAPPALE’,
- ‘DUPLIKAT’,

▼A2

- ‘DUPLIKÁT’,
- ‘DUPLIKAAT’,
- ‘DUBLIKĀTS’,
- ‘DUBLIKATAS’,
- ‘MÁSODLAT’,
- ‘DUPLIKAT’,
- ‘DUPLIKAT’,
- ‘DVOJNIK’,
- ‘DUPLIKÁT’,

▼M30

- ‘ДУБЛИКАТ’,
- ‘DUPLICAT’.

▼M18

3. The endorsement referred to in paragraph 2 shall be inserted in the ‘Remarks’ box of the ►**C6** movement certificate EUR.1 ◀.

4. The duplicate, which shall bear the date of issue of the original ►**C6** movement certificate EUR.1 ◀, shall take effect as from that date.

Article 115

When originating products are placed under the control of a customs office in the Community, it shall be possible to replace the original proof of origin by one or more ►**C6** movement certificates EUR.1 ◀ for the purpose of sending all or some of those products elsewhere in the Community. The replacement ►**C6** movement certificate(s) EUR.1 ◀ shall be issued by the customs office under whose control the products are placed.

▼ **M18****(b) INVOICE DECLARATION***Article 116*

1. The invoice declaration may be made out:
 - (a) by an approved Community exporter within the meaning of Article 117, or
 - (b) by any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed EUR 6 000, and on condition that the assistance referred to in Article 110(1) shall apply to this procedure.
2. An invoice declaration may be made out if the products concerned can be considered as originating in the Community or in a ► **M21** beneficiary country or territory ◀ and fulfil the other requirements of this section.
3. The exporter making out an invoice declaration shall be prepared to submit at any time, at the request of the customs or other competent governmental authorities of the exporting country, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this section.
4. An invoice declaration shall be made out by the exporter by typing, stamping or printing on the invoice, the delivery note or any other commercial document, the declaration, the text of which appears in Annex 22, using one of the linguistic versions set out in that Annex and in accordance with the provisions of the domestic law of the exporting country. If the declaration is handwritten, it shall be written in ink, in printed characters.
5. Invoice declarations shall bear the original signature of the exporter in manuscript. However, an approved exporter within the meaning of Article 117 shall not be required to sign such declarations provided that he gives the customs authorities a written undertaking that he accepts full responsibility for any invoice declaration which identifies him as if it had been signed in manuscript by him.
6. In the cases referred to in paragraph 1(b), the use of an invoice declaration shall be subject to the following special conditions:
 - (a) an invoice declaration shall be made out for each consignment;
 - (b) if the goods contained in the consignment have already been subject to verification in the exporting country by reference to the definition of 'originating products', the exporter may refer to this check in the invoice declaration.

The provisions of the first subparagraph shall not exempt exporters from complying with any other formalities required under customs or postal regulations.

Article 117

1. The customs authorities in the Community may authorise any exporter, hereinafter referred to as an 'approved exporter', who makes frequent shipments of products originating in the Community within the meaning of Article 98(2), and who offers, to the satisfaction of the customs authorities, all guarantees necessary to verify the originating status of the products as well as the fulfilment of the other requirements of this section, to make out invoice declarations, irrespective of the value of the products concerned.
2. The customs authorities may grant the status of approved exporter subject to any conditions which they consider appropriate.

▼M18

3. The customs authorities shall assign the approved exporter a customs authorisation number which shall appear on the invoice declaration.
4. The customs authorities shall monitor the use of the authorisation by the approved exporter.
5. The customs authorities may withdraw the authorisation at any time. They shall do so where the approved exporter no longer offers the guarantees referred to in paragraph 1, does not fulfil the conditions referred to in paragraph 2, or otherwise makes improper use of the authorisation.

Article 118

1. A proof of origin shall be valid for four months from the date of issue in the exporting country, and shall be submitted within the said period to the customs authorities of the importing country.
2. Proofs of origin which are submitted to the customs authorities of the importing country after the final date for presentation specified in paragraph 1 may be accepted for the purpose of applying the tariff preferences referred to in Article 98, where the failure to submit these documents by the final date set is due to exceptional circumstances.
3. In other cases of belated presentation, the customs authorities of the importing country may accept the proofs of origin where the products have been submitted before the said final date.
4. At the request of the importer and having regard to the conditions laid down by the customs authorities of the importing Member State, a single proof of origin may be submitted to the customs authorities at the importation of the first consignment when the goods:
 - (a) are imported within the framework of frequent and continuous trade flows of a significant commercial value;
 - (b) are the subject of the same contract of sale, the parties of this contract established in the exporting country or in the Community;
 - (c) are classified in the same code (eight digits) of the Combined Nomenclature;
 - (d) come exclusively from the same exporter, are destined for the same importer, and are made the subject of entry formalities at the same customs office in the Community.

This procedure shall be applicable for the quantities and a period determined by the competent customs authorities. This period cannot, in any circumstances, exceed three months.

Article 119

1. Products sent as small packages from private person to private persons or forming part of travellers' personal luggage shall be admitted as originating products benefiting from the tariff preferences referred to in Article 98 without requiring the submission of ►C6 a movement certificate EUR.1 ◀ or an invoice declaration, provided that such products are not imported by way of trade and have been declared as meeting the conditions required for the application of this section, and where there is no doubt as to the veracity of such a declaration.
2. Imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families shall not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view.

Furthermore, the total value of the products shall not exceed EUR 500 in the case of small packages or EUR 1 200 in the case of products forming part of traveller's personal luggage.

▼ **M18***Article 120*

The discovery of slight discrepancies between the statements made in the proof of origin and those made in the documents submitted to the customs office for the purpose of carrying out the formalities for importing the products shall not *ipso facto* render the proof of origin null and void if it is duly established that that document does correspond to the products submitted.

Obvious formal errors such as typing errors on a proof of origin should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in that document.

Subsection 3

Methods of administrative cooperation*Article 121*

1. The ► **M21** beneficiary countries or territories ◀ shall inform the Commission of the names and addresses of the governmental authorities situated in their territory which are empowered to issue ► **C6** movement certificates EUR.1 ◀, together with specimen impressions of the stamps used by those authorities, and the names and addresses of the relevant governmental authorities responsible for the control of the ► **C6** movement certificates EUR.1 ◀ and the invoice declarations. The stamps shall be valid as from the date of receipt by the Commission of the specimens. The Commission shall forward this information to the customs authorities of the Member States. When these communications are made within the framework of an amendment of previous communications, the Commission shall indicate the date of entry into use of those new stamps according to the instructions given by the competent governmental authorities of the ► **M21** beneficiary countries or territories ◀. This information is for official use; however, when goods are to be released for free circulation, the customs authorities in question may allow the importer or his duly-authorised representative to consult the specimen impressions of stamps mentioned in this paragraph.

2. The Commission shall send, to the ► **M21** beneficiary countries or territories ◀, the specimen impressions of the stamps used by the customs authorities of the Member States for the issue of ► **C6** movement certificates EUR.1 ◀.

Article 122

1. Subsequent verifications of ► **C6** movement certificates EUR.1 ◀ and of invoice declarations shall be carried out at random or whenever the customs authorities in the importing Member State or the competent governmental authorities of the ► **M21** beneficiary countries or territories ◀ have reasonable doubts as to the authenticity of such documents, the originating status of the products concerned or the fulfilment of the other requirements of this section.

2. For the purposes of implementing the provisions of paragraph 1, the competent authorities in the importing Member State or ► **M21** beneficiary country or territory ◀ shall return the EUR. 1 movement certificate and the invoice, if it has been submitted, the invoice declaration, or a copy of these documents, to the competent authorities in the exporting ► **M21** beneficiary country or territory ◀ or Member State, giving, where appropriate, the reasons for the enquiry. Any documents and information obtained suggesting that the information given on the proof of origin is incorrect shall be forwarded in support of the request for verification.

▼M18

If the customs authorities in the importing Member State decide to suspend the granting of the tariff preferences referred to in Article 98 while awaiting the results of the verification, release of the products shall be offered to the importer subject to any precautionary measures judged necessary.

3. When an application for subsequent verification has been made in accordance with paragraph 1, such verification shall be carried out and its results communicated to the customs authorities of the importing Member States or to the competent governmental authorities of the importing ►**M21** beneficiary country or territory ◀ within a maximum of six months. The results shall be such as to establish whether the proof of origin in question applies to the products actually exported and whether these products can be considered as originating in the ►**M21** beneficiary country or territory ◀ or in the Community.

4. If in cases of reasonable doubt there is no reply within the six months specified in paragraph 3 or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products, a second communication shall be sent to the competent authorities. If after the second communication the results of the verification are not communicated to the requesting authorities within four months, or if these results do not allow the authenticity of the document in question or the real origin of the products to be determined, the requesting authorities shall, except in exceptional circumstances, refuse entitlement to the tariff preferences.

5. Where the verification procedure or any other available information appears to indicate that the provisions of this section are being contravened, the exporting ►**M21** beneficiary country or territory ◀ shall, on its own initiative or at the request of the Community, carry out appropriate inquiries or arrange for such inquiries to be carried out with due urgency to identify and prevent such contraventions. For this purpose, the Community may participate in the inquiries.

6. For the purposes of the subsequent verification of ►**C6** movement certificates EUR.1 ◀, copies of the certificates as well as any export documents referring to them shall be kept for at least three years by the competent governmental authorities of the exporting ►**M21** beneficiary country or territory ◀ or by the customs authorities of the exporting Member State.

Subsection 4

Ceuta and Melilla*Article 123*

1. The term 'Community' used in this section shall not cover Ceuta and Melilla. The term 'products originating in the Community' ►**C6** shall not cover ◀ products originating in Ceuta and Melilla.

2. This section shall apply *mutatis mutandis* in determining whether products may be regarded as originating in the exporting ►**M21** beneficiary countries or territories ◀ benefiting from the preferences when imported into Ceuta and Melilla or as originating in Ceuta and Melilla.

3. Ceuta and Melilla shall ►**C6** be regarded as ◀ a single territory.

4. The provisions of this section concerning the issue, use and subsequent verification of ►**C6** movement certificates EUR.1 ◀ shall apply *mutatis mutandis* to products originating in Ceuta and Melilla.

5. The Spanish customs authorities shall be responsible for the application of this section in Ceuta and Melilla.



TITLE V

CUSTOMS VALUE

CHAPTER 1

General provisions

Article 141

1. In applying the provisions of Articles 28 to 36 of the Code and those of this title, Member States shall comply with the provisions set out in Annex 23.

The provisions as set out in the first column of Annex 23 shall be applied in the light of the interpretative note appearing in the second column.

2. If it is necessary to make reference to generally accepted accounting principles in determining the customs value, the provisions of Annex 24 shall apply.

Article 142

1. For the purposes of this title:

- (a) ‘the Agreement’ means the Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade concluded in the framework of the multilateral trade negotiations of 1973 to 1979 and referred to in the first indent of Article 31 (1) of the Code;
- (b) ‘produced goods’ includes goods grown, manufactured and mined;
- (c) ‘identical goods’ means goods produced in the same country which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance shall not preclude goods otherwise conforming to the definition from being regarded as identical;
- (d) ‘similar goods’ means goods produced in the same country which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable; the quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar;
- (e) ‘goods of the same class or kind’ means goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods.

2. ‘Identical goods’ and ‘similar goods’, as the case may be, do not include goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has been made under Article 32 (1) (b) (iv) of the Code because such elements were undertaken in the Community.

Article 143

1. ►**M15** For the purposes of Title II, Chapter 3 of the Code and of this Title, persons shall be deemed to be related only if: ◀

- (a) they are officers or directors of one another's businesses;
- (b) they are legally recognized partners in business;
- (c) they are employer and employee;

▼B

- (d) any person directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them;
- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person;
- (g) together they directly or indirectly control a third person; or
- (h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another:
 - husband and wife,
 - parent and child,
 - brother and sister (whether by whole or half blood),
 - grandparent and grandchild,
 - uncle or aunt and nephew or niece,
 - parent-in-law and son-in-law or daughter-in-law,
 - brother-in-law and sister-in-law.

2. For the purposes of this title, persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related only if they fall within the criteria of paragraph 1.

Article 144

1. For the purposes of determining customs value under Article 29 of the Code of goods in regard to which the price has not actually been paid at the material time for valuation for customs purposes, the price payable for settlement at the said time shall as a general rule be taken as the basis for customs value.
2. The Commission and the Member States shall consult within the Committee concerning the application of paragraph 1.

▼M21*Article 145*

1. Where goods declared for free circulation are part of a larger quantity of the same goods purchased in one transaction, the price actually paid or payable for the purposes of Article 29(1) of the Code shall be that price represented by the proportion of the total price which the quantity so declared bears to the total quantity purchased.

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

2. After release of the goods for free circulation, an adjustment made by the seller, to the benefit of the buyer, of the price actually paid or payable for the goods may be taken into consideration for the determination of the customs value in accordance with Article 29 of the Code, if it is demonstrated to the satisfaction of the customs authorities that:

- (a) the goods were defective at the moment referred to by Article 67 of the Code;
- (b) the seller made the adjustment in performance of a warranty obligation provided for in the contract of sale, concluded before release for free circulation of the goods;
- (c) the defective nature of the goods has not already been taken into account in the relevant sales contract.

▼M21

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

▼B*Article 146*

Where the price actually paid or payable for the purposes of Article 29 (1) of the Code includes an amount in respect of any internal tax applicable within the country of origin or export in respect of the goods in question, the said amount shall not be incorporated in the customs value provided that it can be demonstrated to the satisfaction of the customs authorities concerned that the goods in question have been or will be relieved therefrom for the benefit of the buyer.

Article 147

1. For the purposes of Article 29 of the Code, the fact that the goods which are the subject of a sale are declared for free circulation shall be regarded as adequate indication that they were sold for export to the customs territory of the Community. ►**M6** In the case of successive sales before valuation, only the last sale, which led to the introduction of the goods into the customs territory of the Community, or a sale taking place in the customs territory of the Community before entry for free circulation of the goods shall constitute such indication. ◀

▼M6

Where a price is declared which relates to a sale taking place before the last sale on the basis of which the goods were introduced into the customs territory of the Community, it must be demonstrated to the satisfaction of the customs authorities that this sale of goods took place for export to the customs territory in question.

The provisions of Articles 178 to 181a shall apply.

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2. ►**M6** ————— ◀ Where goods are used in a third country between the time of sale and the time of entry into free circulation the customs value need not be the transaction value.

3. The buyer need satisfy no condition other than that of being a party to the contract of sale.

Article 148

Where, in applying Article 29 (1) (b) of the Code, it is established that the sale or price of imported goods is subject to a condition or consideration the value of which can be determined with respect to the goods being valued, such value shall be regarded as an indirect payment by the buyer to the seller and part of the price actually paid or payable provided that the condition or consideration does not relate to either:

- (a) an activity to which Article 29 (3) (b) of the Code applies; or
- (b) a factor in respect of which an addition is to be made to the price actually paid or payable under the provisions of Article 32 of the Code.

Article 149

1. For the purposes of Article 29 (3) (b) of the Code, the term 'marketing activities' means all activities relating to advertising and

▼B

promoting the sale of the goods in question and all activities relating to warranties or guarantees in respect of them.

2. Such activities undertaken by the buyer shall be regarded as having been undertaken on his own account even if they are performed in pursuance of an obligation on the buyer following an agreement with the seller.

Article 150

1. In applying Article 30 (2) (a) of the Code (the transaction value of identical goods), the customs value shall be determined by reference to the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued. Where no such sale is found, the transaction value of identical goods sold at a different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

2. Where the costs and charges referred to in Article 32 (1) (e) of the Code are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical goods in question arising from differences in distances and modes of transport.

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

4. In applying this Article, a transaction value for goods produced by a different person shall be taken into account only when no transaction value can be found under paragraph 1 for identical goods produced by the same person as the goods being valued.

5. For the purposes of this Article, the transaction value of identical imported goods means a customs value previously determined under Article 29 of the Code, adjusted ► **C1** as provided for in paragraphs 1 and 2 ◀ of this Article.

Article 151

1. In applying Article 30 (2) (b) of the Code (the transaction value of similar goods), the customs value shall be determined by reference to the transaction value of similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued. Where no such sale is found, the transaction value of similar goods sold at a different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

2. Where the costs and charges referred to in Article 32 (1) (e) of the Code are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the similar goods in question arising from differences in distances and modes of transport.

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

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4. In applying this Article, a transaction value for goods produced by a different person shall be taken into account only when no transaction value can be found under paragraph 1 for similar goods produced by the same person as the goods being valued.

5. For the purposes of this Article, the transaction value of similar imported goods means a customs value previously determined under Article 29 of the Code, adjusted ► **C1** as provided for in paragraphs 1 and 2 of ◀ this Article.

Article 152

1. (a) If the imported goods or identical or similar imported goods are sold in the Community in the condition as imported, the customs value of imported goods, determined in accordance with Article 30 (2) (c) of the Code, shall be based on the unit price at which the imported goods or identical or similar imported goods are so sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to deductions for the following:
 - (i) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses (including the direct and indirect costs of marketing the goods in question) in connection with sales in the Community of imported goods of the same class or kind;
 - (ii) the usual costs of transport and insurance and associated costs incurred within the Community;
 - (iii) the import duties and other charges payable in the Community by reason of the importation or sale of the goods.

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- (a) The customs value of certain perishable goods imported on consignment may be directly determined in accordance with Article 30(2)(c) of the Code. For this purpose the unit prices shall be notified to the Commission by the Member States and disseminated by the Commission via TARIC in accordance with Article 6 of Council Regulation (EEC) No 2658/87 ⁽¹⁾.

The unit prices shall be calculated and notified as follows:

- (i) After the deductions provided for in point (a), a unit price per 100 kg net for each category of goods shall be notified by the Member States to the Commission. The Member States may fix standard amounts for the costs referred to in point (a)(ii) which shall be made known to the Commission.
- (ii) The unit price may be used to determine the customs value of the imported goods for periods of 14 days, each period beginning on a Friday.
- (iii) The reference period for determining the unit prices shall be the preceding period of 14 days which ends on the Thursday preceding the week during which new unit prices are to be established.
- (iv) The unit prices shall be notified by the Member States to the Commission in euro not later than 12 noon on the Monday of the week in which they are disseminated by the Commission. If that day is a non-working day, noti-

⁽¹⁾ OJ L 256, 7.9.1987, p. 1.

▼M27

fication shall be made on the working day immediately preceding that day. Unit prices shall only apply if this notification is disseminated by the Commission.

The goods referred to in the first subparagraph of this point are set out in Annex 26.

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- (b) If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the customs value of imported goods determined under this Article shall, subject otherwise to the provisions of paragraph 1 (a), be based on the unit price at which the imported goods or identical or similar imported goods are sold in the Community in the condition as imported at the earliest date after the importation of the goods being valued but before the expiration of 90 days after such importation.

2. If neither the imported goods nor identical nor similar imported goods are sold in the Community in the condition as imported, then, if the importer so requests, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in the Community who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in paragraph 1 (a).

3. For the purposes of this Article, the unit price at which imported goods are sold in the greatest aggregate quantity is the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.

4. Any sale in the Community to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods any of the elements specified in Article 32 (1) (b) of the Code should not be taken into account in establishing the unit price for the purposes of this Article.

5. For the purposes of paragraph 1 (b), the 'earliest date' shall be the date by which sales of the imported goods or of identical or similar imported goods are made in sufficient quantity to establish the unit price.

Article 153

1. In applying Article 30 (2) (d) of the Code (computed value), the customs authorities may not require or compel any person not resident in the Community to produce for examination, or to allow access to, any account or other record for the purposes of determining this value. However, information supplied by the producer of the goods for the purposes of determining the customs value under this Article may be verified in a non-Community country by the customs authorities of a Member State with the agreement of the producer and provided that such authorities give sufficient advance notice to the authorities of the country in question and the latter do not object to the investigation.

2. The cost or value of materials and fabrication referred to in the first indent of Article 30 (2) (d) of the Code shall include the cost of elements specified in Article 32 (1) (a) (ii) and (iii) of the Code.

It shall also include the value, duly apportioned, of any product or service specified in Article 32 (1) (b) of the Code which has been supplied directly or indirectly by the buyer for use in connection with the production of the imported goods. The value of the elements specified in Article 32 (1) (b) (iv) of the Code which are undertaken in the Community shall be included only to the extent that such elements are charged to the producer.

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3. Where information other than that supplied by or on behalf of the producer is used for the purposes of determining a computed value, the customs authorities shall inform the declarant, if the latter so requests, of the source of such information, the data used and the calculations based on such data, subject to Article 15 of the Code.

4. The 'general expenses' referred to in the second indent of Article 30 (2) (d) of the Code, cover the direct and indirect costs of producing and selling the goods for export which are not included under the first indent of Article 30 (2) (d) of the Code.

Article 154

Where containers referred to in Article 32 (1) (a) (ii) of the Code are to be the subject of repeated importations, their cost shall, at the request of the declarant, be apportioned, as appropriate, in accordance with generally accepted accounting principles.

Article 155

For the purposes of Article 32 (1) (b) (iv) of the Code, the cost of research and preliminary design sketches is not to be included in the customs value.

Article 156

Article 33 (c) of the Code shall apply *mutatis mutandis* where the customs value is determined by applying a method other than the transaction value.

▼M8*Article 156a*

1. The customs authorities may, at the request of the person concerned, authorize:

- by derogation from Article 32 (2) of the Code, certain elements which are to be added to the price actually paid or payable, although not quantifiable at the time of incurrence of the customs debt,
- by derogation from Article 33 of the Code, certain charges which are not to be included in the customs value, in cases where the amounts relating to such elements are not shown separately at the time of incurrence of the customs debt,

to be determined on the basis of appropriate and specific criteria.

In such cases, the declared customs value is not to be considered as provisional within the meaning of the second indent of Article 254.

2. The authorization shall be granted under the following conditions:

- (a) the carrying out of the procedures provided for by Article 259 would, in the circumstances, represent disproportionate administrative costs;
- (b) recourse to an application of Articles 30 and 31 of the Code appears to be inappropriate in the particular circumstances;
- (c) there are valid reasons for considering that the amount of import duties to be charged in the period covered by the authorization will not be lower than that which would be levied in the absence of an authorization;
- (d) competitive conditions amongst operators are not distorted.

▼B*CHAPTER 2**Provisions concerning royalties and licence fees**Article 157*

1. For the purposes of Article 32 (1) (c) of the Code, royalties and licence fees shall be taken to mean in particular payment for the use of rights relating:

- to the manufacture of imported goods (in particular, patents, designs, models and manufacturing know-how), or
- to the sale for exportation of imported goods (in particular, trade marks, registered designs), or
- to the use or resale of imported goods (in particular, copyright, manufacturing processes inseparably embodied in the imported goods).

2. Without prejudice to Article 32 (5) of the Code, when the customs value of imported goods is determined under the provisions of Article 29 of the Code, a royalty or licence fee shall be added to the price actually paid or payable only when this payment:

- is related to the goods being valued, and
- constitutes a condition of sale of those goods.

Article 158

1. When the imported goods are only an ingredient or component of goods manufactured in the Community, an adjustment to the price actually paid or payable for the imported goods shall only be made when the royalty or licence fee relates to those goods.

2. Where goods are imported in an unassembled state or only have to undergo minor processing before resale, such as diluting or packing, this shall not prevent a royalty or licence fee from being considered related to the imported goods.

3. If royalties or licence fees relate partly to the imported goods and partly to other ingredients or component parts added to the goods after their importation, or to post-importation activities or services, an appropriate apportionment shall be made only on the basis of objective and quantifiable data, in accordance with the interpretative note to Article 32 (2) of the Code in Annex 23.

Article 159

A royalty or licence fee in respect of the right to use a trade mark is only to be added to the price actually paid or payable for the imported goods where:

- the royalty or licence fee refers to goods which are resold in the same state or which are subject only to minor processing after importation,
- the goods are marketed under the trade mark, affixed before or after importation, for which the royalty or licence fee is paid, and
- the buyer is not free to obtain such goods from other suppliers unrelated to the seller.

Article 160

When the buyer pays royalties or licence fees to a third party, the conditions provided for in Article 157 (2) shall not be considered as

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met unless the seller or a person related to him requires the buyer to make that payment.

Article 161

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

However, where the amount of a royalty or licence fee is calculated regardless of the price of the imported goods, the payment of that royalty or licence fee may nevertheless be related to the goods to be valued.

Article 162

In applying Article 32 (1) (c) of the Code, the country of residence of the recipient of the payment of the royalty or licence fee shall not be a material consideration.

*CHAPTER 3**Provisions concerning the place of introduction into the Community**Article 163*

1. For the purposes of Article 32 (1) (e) and Article 33 (a) of the Code, the place of introduction into the customs territory of the Community shall be:

- (a) for goods carried by sea, the port of unloading, or the port of transshipment, subject to transshipment being certified by the customs authorities of that port;
- (b) for goods carried by sea and then, without transshipment, by inland waterway, the first port where unloading can take place either at the mouth of the river or canal or further inland, subject to proof being furnished to the customs office that the freight to the port of unloading is higher than that to the first port;
- (c) for goods carried by rail, inland waterway, or road, the place where the first customs office is situated;
- (d) for goods carried by other means, the place where the land frontier of the customs territory of the Community is crossed.

▼M30

2. The customs value of goods introduced into the customs territory of the Community and then carried to a destination in another part of that territory through the territories of Belarus, Russia, Switzerland, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia or the former Yugoslav Republic of Macedonia shall be determined by reference to the first place of introduction into the customs territory of the Community, provided that goods are carried direct through the territories of those countries by a usual route across such territory to the place of destination.

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

▼M30

4. Paragraphs 2 and 3 of this Article shall also apply where the goods have been unloaded, transhipped or temporarily immobilised in the territories of Belarus, Russia, Switzerland, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia or the former Yugoslav Republic of Macedonia for reasons related solely to their transport.

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5. For goods introduced into the customs territory of the Community and carried directly from one of the French overseas departments to another part of the customs territory of the Community or vice versa, the place of introduction to be taken into consideration shall be the place referred to in paragraphs 1 and 2 situated in that part of the customs territory of the Community from which the goods came, if they were unloaded or transhipped there and this was certified by the customs authorities.

6. When the conditions specified at paragraphs 2, 3 and 5 are not fulfilled, the place of introduction to be taken into consideration shall be the place specified in paragraph 1 situated in that part of the customs territory of the Community to which the goods are consigned.

*CHAPTER 4**Provisions concerning transport costs**Article 164*

In applying Article 32 (1) (e) and 33 (a) of the Code:

- (a) where goods are carried by the same mode of transport to a point beyond the place of introduction into the customs territory of the Community, transport costs shall be assessed in proportion to the distance covered outside and inside the customs territory of the Community, unless evidence is produced to the customs authorities to show the costs that would have been incurred under a general compulsory schedule of freight rates for the carriage of the goods to the place of introduction into the customs territory of the Community;
- (b) where goods are invoiced at a uniform free domicile price which corresponds to the price at the place of introduction, transport costs within the Community shall not be deducted from that price. However, such deduction shall be allowed if evidence is produced to the customs authorities that the free-frontier price would be lower than the uniform free domicile price;
- (c) where transport is free or provided by the buyer, transport costs to the place of introduction, calculated in accordance with the schedule of freight rates normally applied for the same modes of transport, shall be included in the customs value.

Article 165

- 1. All postal charges levied up to the place of destination in respect of goods sent by post shall be included in the customs value of these goods, with the exception of any supplementary postal charge levied in the country of importation.
- 2. No adjustment to the declared value shall, however, be made in respect of such charges in determining the value of consignments of a non-commercial nature.
- 3. Paragraphs 1 and 2 are not applicable to goods carried by the express postal services known as EMS-Datapost (in Denmark, EMS-Jetpost, in Germany, EMS-Kurierpostsendungen, in Italy, CAI-Post).

▼B*Article 166*

The air transport costs to be included in the customs value of goods shall be determined by applying the rules and percentages shown in Annex 25.

▼M21**▼B***CHAPTER 6**Provisions concerning rates of exchange**Article 168*

►C2 For the purposes of Articles 169 to 172 ◀ of this chapter:

- (a) ‘rate recorded’ shall mean:
- the latest selling rate of exchange recorded for commercial transactions on the most representative exchange market or markets of the Member State concerned, or
 - some other description of a rate of exchange so recorded and designated by the Member State as the ‘rate recorded’ provided that it reflects as effectively as possible the current value of the currency in question in commercial transactions;
- (b) ‘published’ shall mean made generally known in a manner designated by the Member State concerned;
- (c) ‘currency’ shall mean any monetary unit used as a means of settlement between monetary authorities or on the international market.

Article 169

1. Where factors used to determine the customs value of goods are expressed at the time when that value is determined in a currency other than that of the Member State where the valuation is made, the rate of exchange to be used to determine that value in terms of the currency of the Member State concerned shall be the rate recorded on the second-last Wednesday of a month and published on that or the following day.
2. The rate recorded on the second-last Wednesday of a month shall be used during the following calendar month unless it is superseded by a rate established under Article 171.
3. Where a rate of exchange is not recorded on the second-last Wednesday indicated in paragraph 1, or, if recorded, is not published on that or the following day, the last rate recorded for the currency in question published within the preceding 14 days shall be deemed to be the rate recorded on that Wednesday.

Article 170

Where a rate of exchange cannot be established under the provisions of Article 169, the rate of exchange to be used for the application of Article 35 of the Code shall be designated by the Member State concerned and shall reflect as effectively as possible the current value of the currency in question in commercial transactions in terms of the currency of that Member State.

Article 171

1. Where a rate of exchange recorded on the last Wednesday of a month and published on that or the following day differs by 5 % or

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more from the rate established in accordance with Article 169 for entry into use the following month, it shall replace the latter rate from the first Wednesday of that month as the rate to be applied for the application of Article 35 of the Code.

2. Where in the course of a period of application as referred to in the preceding provisions, a rate of exchange recorded on a Wednesday and published on that or the following day differs by 5 % or more from the rate being used in accordance with this Chapter, it shall replace the latter rate and enter into use on the Wednesday following as the rate to be used for the application of Article 35 of the Code. The replacement rate shall remain in use for the remainder of the current month, provided that this rate is not superseded due to operation of the provisions of the first sentence of this paragraph.

3. Where, in a Member State, a rate of exchange is not recorded on a Wednesday or, if recorded, is not published on that or the following day, the rate recorded shall, for the application in that Member State of paragraphs 1 and 2, be the rate most recently recorded and published prior to that Wednesday.

Article 172

When the customs authorities of a Member State authorize a declarant to furnish or supply at a later date certain details concerning the declaration for free circulation of the goods in the form of a periodic declaration, this authorization may, at the declarant's request, provide that a single rate be used for conversion into that Member State's currency of elements forming part of the customs value as expressed in a particular currency. In this case, the rate to be used shall be the rate, established in accordance with this Chapter, which is applicable on the first day of the period covered by the declaration in question.

*CHAPTER 7**Simplified procedures for certain perishable goods***▼M27****▼B***CHAPTER 8**Declarations of particulars and documents to be furnished**Article 178*

1. Where it is necessary to establish a customs value for the purposes of Articles 28 to 36 of the Code, a declaration of particulars relating to customs value (value declaration) shall accompany the customs entry made in respect of the imported goods. The value declaration shall be drawn up on a form D.V. 1 corresponding to the specimen in Annex 28, supplemented where appropriate by one or more forms D.V. 1 *bis* corresponding to the specimen in Annex 29.

▼M14

2. The value declaration provided for in paragraph 1 shall be made only by a person established in the Community and in possession of the relevant facts.

The second indent of Article 64(2)(b) and Article 64(3) of the Code shall apply *mutatis mutandis*.

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3. The customs authorities may waive the requirement of a declaration on the form referred to in paragraph 1 where the customs value of

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the goods in question cannot be determined under the provisions of Article 29 of the Code. In such cases the person referred to in paragraph 2 shall furnish or cause to be furnished to the customs authorities such other information as may be requested for the purposes of determining the customs value under another Article of the said Code; and such other information shall be supplied in such form and manner as may be prescribed by the customs authorities.

4. The lodging with a customs office of a declaration required by paragraph 1 shall, without prejudice to the possible application of penal provisions, be equivalent to the engagement of responsibility by the person referred to in paragraph 2 in respect of:

- the accuracy and completeness of the particulars given in the declaration,
- the authenticity of the documents produced in support of these particulars, and
- the supply of any additional information or document necessary to establish the customs value of the goods.

5. This Article shall not apply in respect of goods for which the customs value is determined under the simplified procedure system established in accordance with the provisions of Articles 173 to 177.

Article 179

1. Except where it is essential for the correct application of import duties, the customs authorities shall waive the requirement of all or part of the declaration provided for in Article 178 (1):

- (a) where the customs value of the imported goods in a consignment does not exceed ►**M21** EUR 10 000 ◀, provided that they do not constitute split or multiple consignments from the same consignor to the same consignee; or
- (b) where the importations involved are of a non-commercial nature; or
- (c) where the submission of the particulars in question is not necessary for the application of the Customs Tariff of the European Communities or where the customs duties provided for in the Tariff are not chargeable pursuant to specific customs provisions.

2. The amount in ecu referred to in paragraph 1 (a) shall be converted in accordance with Article 18 of the Code. The customs authorities may round-off upwards or downwards the sum arrived at after conversion.

The customs authorities may maintain unamended the exchange value in national currency of the amount determined in ecu if, at the time of the annual adjustment provided for in Article 18 of the Code, the conversion of this amount, before the rounding-off provided for in this paragraph, leads to an alteration of less than 5 % in the exchange value expressed in national currency or to a reduction thereof.

3. In the case of continuing traffic in goods supplied by the same seller to the same buyer under the same commercial conditions, the customs authorities may waive the requirement that all particulars under Article 178 (1) be furnished in support of each customs declaration, but shall require them whenever the circumstances change and at least once every three years.

4. A waiver granted under this Article may be withdrawn and the submission of a D.V. 1 may be required where it is found that a condition necessary to qualify for that waiver was not or is no longer met.

▼B*Article 180*

Where computerized systems are used, or where the goods concerned are the subject of a general, periodic or recapitulative declaration, the customs authorities may authorize variations in the form of presentation of data required for the determination of customs value.

Article 181

1. The person referred to in Article 178 (2) shall furnish the customs authorities with a copy of the invoice on the basis of which the value of the imported goods is declared. Where the customs value is declared in writing this copy shall be retained by the customs authorities.
2. In the case of written declarations of the customs value, when the invoice for the imported goods is made out to a person established in a Member State other than that in which the customs value is declared, the declarant shall furnish the customs authorities with two copies of the invoice. One of these copies shall be retained by the customs authorities; the other, bearing the stamp of the office in question and the serial number of the declaration at the said customs office shall be returned to the declarant for forwarding to the person to whom the invoice is made out.
3. The customs authorities may extend the provisions of paragraph 2 to cases where the person to whom the invoice is made out is established in the Member State in which the customs value is declared.

▼M5*Article 181a*

1. The customs authorities need not determine the customs valuation of imported goods on the basis of the transaction value method if, in accordance with the procedure set out in paragraph 2, they are not satisfied, on the basis of reasonable doubts, that the declared value represents the total amount paid or payable as referred to in Article 29 of the Code.
2. Where the customs authorities have the doubts described in paragraph 1 they may ask for additional information in accordance with Article 178 (4). If those doubts continue, the customs authorities must, before reaching a final decision, notify the person concerned, in writing if requested, of the grounds for those doubts and provide him with a reasonable opportunity to respond. A final decision and the grounds therefor shall be communicated in writing to the person concerned.

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TITLE VI

INTRODUCTION OF GOODS INTO THE CUSTOMS TERRITORY

CHAPTER 1

*Examination of the goods and taking of samples by the person concerned**Article 182*

1. Permission to examine the goods under Article 42 of the Code shall be granted to the person empowered to assign the goods a customs-approved treatment or use at his oral request, unless the customs authorities consider, having regard to the circumstances, that a written request is required.

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The taking of samples may be authorized only at the written request of the person concerned.

2. A written request as referred to in paragraph 1 shall be signed by the person concerned and lodged with the relevant customs authorities. It shall include the following particulars:

- name and address of the applicant,
- the location of the goods,
- number of the summary declaration, where it has already been presented, save where the customs office undertakes to enter such information, or indication of the previous customs procedure, or the particulars for identifying the means of transport on which the goods are located,
- all other particulars necessary for identifying the goods.

The customs authorities shall indicate their authorization on the request presented by the person concerned. Where the request is for the taking of samples, the said authorities shall indicate the quantity of goods to be taken.

3. Prior examination of goods and the taking of samples shall be carried out under the supervision of the customs authorities, which shall specify the procedures to be followed in each particular case.

The person concerned shall bear the risk and the cost of unpacking, weighing, repacking and any other operation involving the goods. He shall also pay any costs in connection with analysis.

4. The samples taken shall be the subject of formalities with a view to assigning them a customs-approved treatment or use. Where examination of the samples results in their destruction or irretrievable loss, no debt shall be deemed to have been incurred. Article 182 (5) of the Code shall apply to waste and scrap.

CHAPTER 2

Summary declaration

Article 183

1. The summary declaration shall be signed by the person making it.
2. The summary declaration shall be endorsed by the customs authorities and retained by them for the purpose of verifying that the goods to which it relates are assigned a customs-approved treatment or use within the period laid down in Article 49 of the Code.
3. The summary declaration for goods which have been moved under a transit procedure before being presented to customs shall take the form of the copy of the transit document intended for the customs office of destination.
4. The customs authorities may allow the summary declaration to be made in computerized form. In that case, the rules laid down ► **M1** in paragraphs 1 and 2 ◀ shall be adapted accordingly.

Article 184

1. Goods covered by a summary declaration which have not been unloaded from the means of transport carrying them shall be re-presented intact by the person referred to in Article 183 (1) whenever the customs authorities so require, until such time as the goods in question are assigned a customs-approved treatment or use.

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2. Any person who holds goods after they have been unloaded in order to move or store them shall become responsible for compliance with the obligation to re-present all the goods intact at the request of the customs authorities.

*CHAPTER 3**Temporary storage**Article 185*

1. Where the places referred to in Article 51 (1) of the Code have been approved on a permanent basis for the placing of goods in temporary storage, such places shall be called 'temporary storage facilities'.

2. In order to ensure the application of customs rules, the customs authorities may, where they do not themselves manage the temporary storage facility, require that:

- (a) temporary storage facilities be double-locked, one key being held by the said customs authorities;
- (b) the person operating the temporary storage facility keep stock accounts which enable the movements of goods to be traced.

Article 186

Goods shall be placed in a temporary storage facility on the basis of the summary declaration. However, the customs authorities may require the lodging of a specific declaration made out on a form corresponding to the model they have determined.

Article 187

Without prejudice to Article 56 of the Code or to the provisions applicable to the sale of goods by the customs authorities, the person who has made the summary declaration or, where such a declaration has not yet been lodged, the persons referred to in Article 44 (2) of the Code, shall be responsible for giving effect to the measures taken by the customs authorities pursuant to Article 53 (1) of the Code and for bearing the costs of such measures.

▼M1**▼B***CHAPTER 4**Special provisions applicable to goods consigned by sea or air*

Section 1

General provision*Article 189*

Where goods are brought into the customs territory of the Community from a third country by sea or air and are consigned under cover of a single transport document by the same mode of transport, without transhipment, to another port or airport in the Community, they shall be presented to customs, within the meaning of Article 40 of the Code, only at the port or airport where they are unloaded or transhipped.



Section 2

Special provisions applicable to the cabin baggage and hold baggage of travellers

Article 190

For the purposes of this section:

- (a) *Community airport* means any airport situated in Community customs territory;
- (b) *international Community airport* means any Community airport which, having been so authorized by the competent authorities, is approved for air traffic with third countries;
- (c) *intra-Community flight* means the movement of an aircraft between two Community airports, without any stopovers, which does not start from or end at a non-Community airport;
- (d) *Community port* means any sea port situated in Community customs territory;
- (e) *intra-Community sea crossing* means the movement between two Community ports without any intermediate calls, of a vessel plying regularly between two or more specified Community ports;
- (f) *pleasure craft* means private boats intended for journeys whose itinerary depends on the wishes of the user;
- (g) *tourist or business aircraft* means private aircraft intended for journeys whose itinerary depends on the wishes of the user;
- (h) *baggage* means all objects carried, by whatever means, by the person in the course of his journey.

Article 191

For the purposes of this section, in the case of air travel, baggage shall be considered as:

- hold baggage if it has been checked in at the airport of departure and is not accessible to the person during the flight nor, where relevant, during the stopovers referred to in Articles 192 (1) and (2) and 194 (1) and (2) of this chapter,
- cabin baggage if the person takes it into the cabin of the aircraft.

Article 192

Any controls and any formalities applicable to:

1. the cabin and hold baggage of persons taking a flight in an aircraft which comes from a non-Community airport and which, after a stopover at a Community airport, continues to another Community airport, shall be carried out at this last airport provided it is an international Community airport; in this case, baggage shall be subject to the rules applicable to the baggage of persons coming from a third country when the person carrying such baggage cannot prove the Community status of the goods contained therein to the satisfaction of the competent authorities;
2. the cabin and hold baggage of persons taking a flight in an aircraft which stops over at a Community airport before continuing to a non-Community airport, shall be carried out at the airport of departure provided it is an international Community airport; in this case, cabin baggage may be subject to control at the Community airport where the aircraft stops over, in order to ascertain that the goods it contains conform to the conditions for free movement within the Community;

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

Article 193

Any controls and any formalities applicable to the baggage of persons on board:

1. pleasure craft, shall be carried out in any Community port, whatever the origin or destination of these craft;
2. tourist or business aircraft, shall be carried out:
 - at the first airport of arrival which must be an international Community airport, for flights coming from a non-Community airport, where the aircraft, after a stopover, continues to another Community airport,
 - at the last international Community airport, for flights coming from a Community airport where the aircraft, after a stopover, continues to a non-Community airport.

Article 194

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

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

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

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

▼B

3. Any controls and any formalities applicable to baggage arriving at a Community airport on board a scheduled or charter flight from a non-Community airport and transferred, at that Community airport, to a tourist or business aircraft proceeding on an intra-Community flight shall be carried out at the airport of arrival of the scheduled or charter flight.

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

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

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

Article 195

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

- on arrival, persons cannot transfer goods before controls have been carried out on the cabin baggage not covered by Article 1 of Council Regulation (EEC) No 3925/91 ⁽¹⁾,
- on departure, persons cannot transfer goods after controls have been carried out on the cabin baggage not covered by Article 1 of Council Regulation (EEC) No 3925/91,
- on arrival, the appropriate arrangements have been made to prevent any transfer of goods before controls have been carried out on the hold baggage not covered by Article 1 of Council Regulation (EEC) No 3925/91,
- on departure, the appropriate arrangements have been made to prevent any transfer of goods after controls have been carried out on the hold baggage not covered by Article 1 of Council Regulation (EEC) No 3925/91.

Article 196

Hold baggage registered in a Community airport shall be identified by a tag affixed in the airport concerned. A specimen tag and the technical characteristics are shown in Annex 30.

Article 197

Each Member State shall provide the Commission with a list of airports corresponding to the definition of 'international Community airport' given in Article 190 (b). The Commission shall publish this list in the *Official Journal of the European Communities*, C Series.

⁽¹⁾ OJ No L 374, 31.12.1994, p. 4.

▼B

TITLE VII

CUSTOMS DECLARATIONS - NORMAL PROCEDURE

CHAPTER I

Customs declarations in writing

Section 1

General provisions*Article 198*

1. Where a customs declaration covers two or more articles, the particulars relating to each article shall be regarded as constituting a separate declaration.
2. Component parts of industrial plant coming under a single CN Code shall be regarded as constituting a single item of goods.

Article 199

► **M1** 1. ◀ Without prejudice to the possible application of penal provisions, the lodging with a customs office of a declaration signed by the declarant or his representative shall render him responsible under the provisions in force for:

- the accuracy of the information given in the declaration,
- the authenticity of the documents attached,
- and
- compliance with all the obligations relating to the entry of the goods in question under the procedure concerned.

▼M1

2. Where the declarant uses data-processing systems to produce his customs declarations, the customs authorities may provide that the handwritten signature may be replaced by another identification technique which may be based on the use of codes. This facility shall be granted only if the technical and administrative conditions laid down by the customs authorities are complied with.

The customs authorities may also provide that declarations produced using customs data-processing systems may be directly authenticated by those systems, in place of the manual or mechanical application of the customs office stamp and the signature of the competent official.

3. Under the conditions and in the manner which they shall determine, the customs authorities may allow some of the particulars of the written declaration referred to in Annex 37 to be replaced by sending these particulars to the customs office designated for that purpose by electronic means, where appropriate in coded form.

▼B*Article 200*

Documents accompanying a declaration shall be kept by the customs authorities unless the said authorities provide otherwise or unless the declarant requires them for other operations. In the latter case the customs authorities shall take the necessary steps to ensure that the documents in question cannot subsequently be used except in respect of the quantity or value of goods for which they remain valid.

▼M29*Article 201*

1. The customs declaration shall be lodged at one of the following customs offices:

- (a) the customs office responsible for the place where the goods were or are to be presented to customs in accordance with the customs rules;
- (b) the customs office responsible for supervising the place where the exporter is established or where the goods are packed or loaded for export shipment, except in cases provided for in Articles 789, 790, 791 and 794.

The customs declaration may be lodged as soon as the goods are presented or available to the customs authorities for control.

2. The customs authorities may allow the customs declaration to be lodged before the declarant is in a position to present the goods, or make them available for control, at the customs office where the customs declaration is lodged or at another customs office or place designated by the customs authorities.

The customs authorities may set a time limit, to be determined according to the circumstances, within which the goods shall be presented or made available. If the goods are not presented or made available within this time limit, the customs declaration shall be deemed not to have been lodged.

The customs declaration may be accepted only after the goods in question have been presented to the customs authorities or have, to the satisfaction of the customs authorities, been made available for control.

▼B*Article 202*

1. The declaration shall be lodged with the competent customs office during the days and hours appointed for opening.

However, the customs authorities may, at the request of the declarant and at his expense, authorize the declaration to be lodged outside the appointed days and hours.

2. Any declaration lodged with the officials of a customs office in any other place duly designated for that purpose by agreement between the customs authorities and the person concerned shall be considered to have been lodged in the said office.

Article 203

The date of acceptance of the declaration shall be noted thereon.

Article 204

The customs authorities may allow or require the corrections referred to in Article 65 of the Code to be made by the lodging of a new declaration intended to replace the original declaration. In that event, the relevant date for determination of any duties payable and for the application of any other provisions governing the customs procedure in question shall be the date of the acceptance of the original declaration.

▼B

Section 2

Forms to be used*Article 205*

1. The official model for written declarations to customs by the normal procedure, for the purposes of placing goods under a customs procedure or re-exporting them in accordance with Article 182 (3) of the Code, shall be the Single Administrative Document.
2. Other forms may be used for this purpose where the provisions of the customs procedure in question permit.
3. The provisions of paragraphs 1 and 2 shall not preclude:
 - waiver of the written declaration prescribed in Articles 225 to 236 for release for free circulation, export or temporary importation,
 - waiver by the Member States of the form referred to in paragraph 1 where the special provisions laid down in Articles 237 and 238 with regard to consignments by letter or parcel-post apply,
 - use of special forms to facilitate the declaration in specific cases, where the customs authorities (SIC! authorities) so permit,
 - waiver by the Member States of the form referred to in paragraph 1 in the case of existing or future agreements or arrangements concluded between the administrations of two or more Member States with a view to greater simplification of formalities in all or part of the trade between those Member States,
 - use by the persons concerned of loading lists for the completion of Community transit formalities in the case of consignments composed of more than one kind of goods,
 - printing of export, transit or import declarations and documents certifying the Community status of goods not being moved under internal Community transit procedure by means of official or private-sector data-processing systems, if necessary on plain paper, on conditions laid down by the Member States,
 - provision by the Member States to the effect that where a computerized declaration-processing system is used, the declaration, within the meaning of paragraph 1, may take the form of the Single Administrative Document printed out by that system.

▼M1**▼B**

5. Where in Community legislation, reference is made to an export, re-export or import declaration or a declaration placing goods under another customs procedure, Member States may not require any administrative documents other than those which are:
 - expressly created by Community acts or provided for by such acts,
 - required under the terms of international conventions compatible with the Treaty,
 - required from operators to enable them to qualify, at their request, for an advantage or specific facility,
 - required, with due regard for the provisions of the Treaty, for the implementation of specific regulations which cannot be implemented solely by the use of the document referred to in paragraph 1.



Article 206

The Single Administrative Document form shall, where necessary, also be used during the transitional period laid down in the Act of Accession of Spain and Portugal in connection with trade between the Community as constituted on 31 December 1985 and Spain or Portugal and between those two last-mentioned Member States in goods still liable to certain customs duties and charges having equivalent effect or which remain subject to other measures laid down by the Act of Accession.

For the purposes of the first paragraph, copy 2 or where applicable copy 7 of the forms used for trade with Spain and Portugal or trade between those Member States shall be destroyed.

It shall also be used in trade in Community goods between parts of the customs territory of the Community to which the provisions of Council Directive 77/388/EEC ⁽¹⁾ apply and parts of that territory where those provisions do not apply, or in trade between parts of that territory where those provisions do not apply.

Article 207

Without prejudice to Article 205 (3), the customs administrations of the Member States may in general, for the purpose of completing export or import formalities, dispense with the production of one or more copies of the Single Administrative Document intended for use by the authorities of that Member State, provided that the information in question is available on other media.

Article 208

1. The Single Administrative Document shall be presented in subsets containing the number of copies required for the completion of formalities relating to the customs procedure under which the goods are to be placed.

2. Where the Community transit procedure or the common transit procedure is preceded or followed by another customs procedure, a subset containing the number of copies required for the completion of formalities relating to the transit procedure and the preceding or following procedure may be presented.

3. The subsets referred to in paragraphs 1 and 2 shall be taken from:

- either the full set of eight copies, in accordance with the specimen contained in Annex 31,
- or, particularly in the event of production by means of a computerized system for processing declarations, two successive sets of four copies, in accordance with the specimen contained in Annex 32.

4. Without prejudice to Articles 205 (3), 222 to 224 or 254 to 289, the declaration forms may be supplemented, where appropriate, by one or more continuation forms presented in subsets containing the declaration copies needed to complete the formalities relating to the customs procedure under which the goods are to be placed. Those copies needed in order to complete the formalities relating to preceding or subsequent customs procedures may be attached where appropriate.

The continuation subsets shall be taken from:

- either a set of eight copies, in accordance with the specimen contained in Annex 33,
- ► **C1** or two sets of four copies ◀, in accordance with the specimen contained in Annex 34.

⁽¹⁾ OJ No L 145, 13.6.1977, p. 1.

▼B

The continuation forms shall be an integral part of the Single Administrative Document to which they relate.

5. By way of derogation from paragraph 4, the customs authorities may provide that continuation forms shall not be used where a computerized system is used to produce such declarations.

Article 209

1. Where Article 208 (2) is applied, each party involved shall be liable only as regards the particulars relating to the procedure for which he applied as declarant, principal or as the representative of one of these.

2. For the purposes of paragraph 1, where the declarant uses a Single Administrative Document issued during the preceding customs procedure, he shall be required, prior to lodging his declaration, to verify the accuracy of the existing particulars for the boxes for which he is responsible and their applicability to the goods in question and the procedure applied for, and to supplement them as necessary.

In the cases referred to in the first subparagraph, the declarant shall immediately inform the customs office where the declaration is lodged of any discrepancy found between the goods in question and the existing particulars. In this case the declarant shall then draw up his declaration on fresh copies of the Single Administrative Document.

Article 210

Where the Single Administrative Document is used to cover several successive customs procedures, the customs authorities shall satisfy themselves that the particulars given in the declarations relating to the various procedures in question all agree.

Article 211

The declaration must be drawn up in one of the official languages of the Community which is acceptable to the customs authorities of the Member State where the formalities are carried out.

If necessary, the customs authorities of the Member State of destination may require from the declarant or his representative in that Member State a translation of the declaration into the official language or one of the official languages of the latter. The translation shall replace the corresponding particulars in the declaration in question.

By way of derogation from the preceding subparagraph, the declaration shall be drawn up in an official language of the Community acceptable to the Member State of destination in all cases where the declaration in the latter Member State is made on copies other than those initially presented to the customs office of the Member State of departure.

Article 212

1. The Single Administrative Document must be completed in accordance with the explanatory note in Annex 37 and any additional rules laid down in other Community legislation.

2. The customs authorities shall ensure that users have ready access to copies of the explanatory note referred to in paragraph 1.

3. The customs administrations of each Member State may, if necessary, supplement the explanatory note.

▼M24

4. The Member States shall notify the Commission of the list of particulars they require for each of the procedures referred to in Annex 37. The Commission shall publish the list of those particulars.

▼B*Article 213*

The codes to be used in completing the forms referred to in Article 205 (1) are listed in Annex 38.

▼M24

The Member States shall notify the Commission of the list of national codes used for boxes 37 (second subdivision), 44 and 47 (first subdivision). The Commission shall publish the list of those codes.

▼B*Article 214*

In cases where the rules require supplementary copies of the form referred to in Article 205 (1), the declarant may use additional sheets or photocopies of the said form for this purpose.

Such additional sheets or photocopies must be signed by the declarant, presented to the customs authorities and endorsed by the latter under the same conditions as the Single Administrative Document. They shall be accepted by the customs authorities as if they were original documents provided that their quality and legibility are considered satisfactory by the said authorities.

Article 215

1. The forms referred to in Article 205 (1) shall be printed on self-copying paper dressed for writing purposes and weighing at least 40 g/m². The paper must be sufficiently opaque for the information on one side not to affect the legibility of the information on the other side and its strength should be such that in normal use it does not easily tear or crease.

The paper shall be white for all copies. However, on the copies used for Community transit ►**M19** (1, 4 and 5) ◀, boxes 1 (first and third subdivisions), 2, 3, 4, 5, 6, 8, 15, 17, 18, 19, 21, 25, 27, 31, 32, 33 (first subdivision on the left), 35, 38, 40, 44, 50, 51, 52, 53, 55 and 56 shall have a green background.

The forms shall be printed in green ink.

2. The boxes are based on a unit of measurement of one tenth of an inch horizontally and one sixth of an inch vertically. The subdivisions are based on a unit of measurement of one-tenth of an inch horizontally.

3. A colour marking of the different copies shall be effected in the following manner:

(a) on forms conforming to the specimens shown in Annexes 31 and 33:

— copies 1, 2, 3 and 5 shall have at the right hand edge a continuous margin, coloured respectively red, green, yellow and blue,

— copies 4, 6, 7 and 8 shall have at the right hand edge a broken margin coloured respectively blue, red, green and yellow;

(b) on forms conforming to the specimens shown in Annexes 32 and 34, copies 1/6, 2/7, 3/8 and 4/5 shall have at the right hand edge a continuous margin and to the right of this a broken margin coloured respectively red, green, yellow and blue.

▼B

The width of these margins shall be approximately 3 mm. The broken margin shall comprise a series of squares with a side measurement of 3 mm each one separated by 3 mm.

4. The copies on which the particulars contained in the forms shown in Annexes 31 and 33 must appear by a self-copying process are shown in Annex 35.

The copies on which the particulars contained in the forms shown in Annexes 32 and 34 must appear by a self-copying process are shown in Annex 36.

5. The forms shall measure 210 × 297 mm with a maximum tolerance as to length of 5 mm less and 8 mm more.

6. The customs administrations of the Member States may require that the forms show the name and address of the printer or a mark enabling the printer to be identified. They may also make the printing of the forms conditional on prior technical approval.

Section 3

Particulars required according to the customs procedure concerned**▼M24***Article 216*

The list of boxes to be used for declarations for placing goods under a particular customs procedure using the single administrative document is set out in Annex 37.

▼B*Article 217*

The particulars required when one of the forms referred to in Article 205 (2) is used depend on the form in question. They shall be supplemented where appropriate by the provisions relating to the customs procedure in question.

Section 4

Documents to accompany the customs declaration*Article 218*

1. The following documents shall accompany the customs declaration for release for free circulation:

- (a) the invoice on the basis of which the customs value of the goods is declared, as required under Article 181;
- (b) where it is required under Article 178, the declaration of particulars for the assessment of the customs value of the goods declared, drawn up in accordance with the conditions laid down in the said Article;
- (c) the documents required for the application of preferential tariff arrangements or other measures derogating from the legal rules applicable to the goods declared;
- (d) all other documents required for the application of the provisions governing the release for free circulation of the goods declared.

2. The customs authorities may require transport documents or documents relating to the previous customs procedure, as appropriate, to be produced when the declaration is lodged.

▼B

Where a single item is presented in two or more packages, they may also require the production of a packing list or equivalent document indicating the contents of each package.

▼M7

3. Where goods qualify for the flat rate of duty referred to in Section II (D) of the preliminary provisions of the combined nomenclature or where goods qualify for relief from import duties, the documents referred to in paragraph 1 (a), (b) and (c) need not be required unless the customs authorities consider it necessary for the purposes of applying the provisions governing the release of the goods in question for free circulation.

▼B*Article 219*

1. The transit declaration shall be accompanied by the transport document. The office of departure may dispense with the presentation of this document at the time of completion of the formalities. However, the transport document shall be presented at the request of the customs office or any other competent authority in the course of transport.

2. Without prejudice to any applicable simplification measures, the customs document of export/dispatch or re-exportation of the goods from the customs territory of the Community or any document of equivalent effect shall be presented to the office of departure with the transit declaration to which it relates.

3. The customs authorities may, where appropriate, require production of the document relating to the preceding customs procedure.

▼M10*Article 220*

1. Without prejudice to specific provisions, the documents to accompany the declaration of entry for a customs procedure with economic impact, shall be as follows:

(a) for the customs warehousing procedure:

- type D; the documents laid down in Article 218 (1) (a) and (b),
- other than type D; no documents;

(b) for the inward-processing procedure:

- drawback system; the documents laid down in Article 218 (1),
- suspension system; the documents laid down in Article 218 (1) (a) and (b),

and, where appropriate, the written authorization for the customs procedure in question or a copy of the application for authorization where ►**M20** Article 508(1) ◀ applies;

(c) for processing under customs control the documents laid down in Article 218 (1) (a) and (b), and, where appropriate, the written authorization for the customs procedure in question ►**M20** or a copy of the application for authorisation where Article 508(1) applies ◀;

(d) for the temporary importation procedure:

- with partial relief from import duties; the documents laid down in Article 218 (1),
- with total relief from import duties; the documents laid down in Article 218 (1) (a) and (b),

and, where appropriate, the written authorization for the customs procedure in question ►**M20** or a copy of the application for authorisation where Article 508(1) applies ◀;

▼M10

- (e) for the outward-processing procedures, the documents laid down in Article 221 (1) and, where appropriate, the written authorization of the procedure or a copy of the application for authorization where ►**M20** Article 508(1) ◀ applies.
2. Article 218 (2) shall apply to declarations of entry for any customs procedure with economic impact.
3. The customs authorities may allow the written authorization of the procedure or a copy of the application for authorization to be kept at their disposal instead of accompanying the declaration.

▼B*Article 221*

1. The export or re-export declaration shall be accompanied by all documents necessary for the correct application of export duties and of the provisions governing the export of the goods in question.
2. Article 218 (2) shall apply to export or re-export declarations.

▼M1*CHAPTER 2**Customs declarations made using a data-processing technique**Article 222*

1. Where the customs declaration is made by a data-processing technique, the particulars of the written declaration referred to in Annex 37 shall be replaced by sending to the customs office designated for that purpose, with a view to their processing by computer, data in codified form or data made out in any other form specified by the customs authorities and corresponding to the particulars required for written declarations.
2. A customs declaration made by EDI shall be considered to have been lodged when the EDI message is received by the customs authorities.
- Acceptance of a customs declaration made by EDI shall be communicated to the declarant by means of a response message containing at least the identification details of the message received and/or the registration number of the customs declaration and the date of acceptance.
3. Where the customs declaration is made by EDI, the customs authorities shall lay down the rules for implementing the provisions laid down in Article 247.
4. Where the customs declaration is made by EDI, the release of the goods shall be notified to the declarant, indicating at least the identification details of the declaration and the date of release.
5. Where the particulars of the customs declaration are introduced into customs data-processing systems, paragraphs 2, 3 and 4 shall apply *mutatis mutandis*.

Article 223

Where a paper copy of the customs declaration is required for the completion of other formalities, this shall, at the request of the declarant, be produced and authenticated, either by the customs office concerned, or in accordance with the second subparagraph of Article 199 (2).

▼M1*Article 224*

Under the conditions and in the manner which they shall determine, the customs authorities may authorize the documents required for the entry of goods for a customs procedure to be made out and transmitted by electronic means.

▼B*CHAPTER 3**Customs declarations made orally or by any other act*

Section 1

Oral declarations*Article 225*

Customs declarations may be made orally for the release for free circulation of the following goods:

- (a) goods of a non-commercial nature:
 - contained in travellers' personal luggage, or
 - sent to private individuals, or
 - in other cases of negligible importance, where this is authorized by the customs authorities;
- (b) goods of a commercial nature provided:
 - the total value per consignment and per declarant does not exceed the statistical threshold laid down in the Community provisions in force, and
 - the consignment is not part of a regular series of similar consignments, and
 - the goods are not being carried by an independent carrier as part of a larger freight movement;
- (c) the goods referred to in Article 229, where these qualify for relief as returned goods;
- (d) the goods referred to in Article 230 (b) and (c).

Article 226

Customs declarations may be made orally for the export of:

- (a) goods of a non-commercial nature:
 - contained in travellers' personal luggage, or
 - sent by private individuals;
- (b) the goods referred to in Article 225 (b);
- (c) the goods referred to in Article 231 (b) and (c);
- (d) other goods in cases of negligible economic importance, where this is authorized by the customs authorities.

Article 227

1. The customs authorities may provide that Articles 225 and 226 shall not apply where the person clearing the goods is acting on behalf of another person in his capacity as customs agent.

▼B

2. Where the customs authorities are not satisfied that the particulars declared are accurate or that they are complete, they may require a written declaration.

Article 228

Where goods declared to customs orally in accordance with Articles 225 and 226 are subject to import or export duty the customs authorities shall issue a receipt to the person concerned against payment of the duty owing.

▼M10

The receipt shall include at least the following information:

- (a) a description of the goods which is sufficiently precise to enable them to be identified; this may include the tariff heading;
- (b) the invoice value and/or quantity of the goods, as appropriate;
- (c) a breakdown of the charges collected;
- (d) the date on which it was made out;
- (e) the name of the authority which issued it.

The Member States shall inform the Commission of any standard receipts introduced pursuant to this Article. The Commission shall forward any such information to the other Member States.

▼B*Article 229*

1. Customs declarations may be made orally for the temporary importation of the following goods, in accordance with the conditions laid down in ►**M20** Article 497(3), second subparagraph ◀:

- (a) ►**M20** — animals for transhumance or grazing or for the performance of work or transport and other goods satisfying the conditions laid down in ►**C9** Article 567, second subparagraph, point (a) ◀,
 - packings referred to in Article 571(a), bearing the permanent, indelible markings of a person established outside the customs territory of the Community, ◀
 - radio and television production and broadcasting equipment and vehicles specially adapted for use for the above purpose and their equipment imported by public or private organizations established (SIC! established) outside the customs territory of the Community and approved by the customs authorities issuing the authorization for the procedure to import such equipment and vehicles,
 - instruments and apparatus necessary for doctors to provide assistance for patients awaiting an organ transplant pursuant to ►**M20** Article 569 ◀;
- (b) the goods referred to in Article 232;
- (c) other goods, where this is authorized by the customs authorities.

2. The goods referred to in paragraph 1 may also be the subject of an oral declaration for re-exportation discharging a temporary importation procedure.

▼B

Section 2

Customs declarations made by any other act*Article 230*

The following, where not expressly declared to customs, shall be considered to have been declared for release for free circulation by the act referred to in Article 233:

- (a) goods of a non-commercial nature contained in travellers' personal luggage entitled to relief either under Chapter I, Title XI of Council Regulation (EEC) No 918/83 ⁽¹⁾, or as returned goods;
- (b) goods entitled to relief under Chapter I, Titles IX and X of Council Regulation (EEC) No 918/83;
- (c) means of transport entitled to relief as returned goods;
- (d) goods imported in the context of traffic of negligible importance and exempted from the requirement to be conveyed to a customs office in accordance with Article 38 (4) of the Code, provided they are not subject to import duty.

Article 231

The following, where not expressly declared to customs, shall be considered to have been declared for export by the act referred to in Article 233 (b):

- (a) goods of a non-commercial nature not liable for export duty contained in travellers' personal luggage;
- (b) means of transport registered in the customs territory of the Community and intended to be re-imported;
- (c) goods referred to in Chapter II of Council Regulation (EEC) No 918/83;
- (d) other goods in cases of negligible economic importance, where this is authorized by the customs authorities.

*Article 232***▼M20**

1. The following, where not declared to customs in writing or orally, shall be considered to have been declared for temporary importation by the act referred to in Article 233, subject to Article 579:

- (a) personal effects and goods for sports purposes imported by travellers in accordance with Article 563;
- (b) the means of transport referred to in Articles 556 to 561;
- (c) welfare materials for seafarers used on a vessel engaged in international maritime traffic pursuant to Article 564(a).

▼B

2. Where they are not declared to customs in writing or orally, the goods referred to in paragraph 1 shall be considered to have been declared for re-exportation discharging the temporary importation procedure by the act referred to in Article 233.

⁽¹⁾ OJ No L 105, 23.4.1983, p. 1.

▼B*Article 233*

► **M6** 1. ◀ For the purposes of Articles 230 to 232, the act which is considered to be a customs declaration may take the following forms:

- (a) in the case of goods conveyed to a customs office or to any other place designated or approved in accordance with Article 38 (1) (a) of the Code:
- going through the green or ‘nothing to declare’ channel in customs offices where the two-channel system is in operation,
 - going through a customs office which does not operate the two-channel system without spontaneously making a customs declaration,
 - affixing a ‘nothing to declare’ sticker or customs declaration disc to the windscreen of passenger vehicles where this possibility is provided for in national provisions;
- (b) in the case of exemption from the obligation to convey goods to customs in accordance with the provisions implementing Article 38 (4) of the Code, in the case of export in accordance with Article 231 and in the case of re-exportation in accordance with Article 232 (2):
- the sole act of crossing the frontier of the customs territory of the Community.

▼M6

2. Where goods covered by point (a) of Article 230, point (a) of Article 231, point (a) of Article 232 (1) or Article 232 (2) contained in a passenger's baggage are carried by rail unaccompanied by the passenger and are declared to customs without the passenger being present in person, the document referred to in Annex 38a may be used within the terms and limitations set out in it.

▼B*Article 234*

1. Where the conditions of Articles 230 to 232 are fulfilled, the goods shall be considered to have been presented to customs within the meaning of Article 63 of the Code, the declaration to have been accepted and release to have been granted, at the time when the act referred to in Article 233 is carried out.

2. Where a check reveals that the act referred to in Article 233 has been carried out but the goods imported or taken out do not fulfil the conditions in Articles 230 to 232, the goods concerned shall be considered to have been imported or exported unlawfully.

Section 3

Provisions common to Sections 1 and 2*Articles 235*

The provisions of Articles 225 to 232 shall not apply to goods in respect of which the payment of refunds or other amounts or the repayment of duties is sought, or which are subject to a prohibition or restriction or to any other special formality.

▼B*Article 236*

For the purposes of Sections 1 and 2, 'traveller' means:

- A. on import:
1. any person temporarily entering the customs territory of the Community, not normally resident there, and
 2. any person returning to the customs territory of the Community where he is normally resident, after having been temporarily in a third country;
- B. on export:
1. any person temporarily leaving the customs territory of the Community where he is normally resident, and
 2. any person leaving the customs territory of the Community after a temporary stay, not normally resident there.

Section 4

Postal traffic*Article 237*

1. The following postal consignments shall be considered to have been declared to customs:

- A. for release for free circulation:
- (a) at the time when they are introduced into the customs territory of the Community:
 - postcards and letters containing personal messages only,
 - braille letters,
 - printed matter not liable for import duties, and
 - all other consignments sent by letter or parcel post which are exempt from the obligation to be conveyed to customs in accordance with provisions pursuant to Article 38 (4) of the Code;
 - (b) at the time when they are presented to customs:
 - consignments sent by letter or parcel post other than those referred to at (a), provided they are accompanied by a ►**M18** CN22 ◀ and/or ►**M18** CN23 ◀ declaration;
- B. for export:
- (a) at the time when they are accepted by the postal authorities, in the case of consignments by letter and parcel post which are not liable to export duties;
 - (b) at the time of their presentation to customs, in the case of consignments sent by letter or parcel post which are liable to export duties, provided they are accompanied by a ►**M18** CN22 ◀ and/or a ►**M18** CN23 ◀ declaration.

2. The consignee, in the cases referred to in paragraph 1A, and the consignor, in the cases referred to in paragraph 1B, shall be considered to be the declarant and, where applicable, the debtor. The customs authorities may provide that the postal administration shall be considered as the declarant and, where applicable, as the debtor.

3. For the purposes of paragraph 1, goods not liable to duty shall be considered to have been presented to customs within the meaning of Article 63 of the Code, the customs declaration to have been accepted and release granted:

▼B

- (a) in the case of imports, when the goods are delivered to the consignee;
- (b) in the case of exports, when the goods are accepted by the postal authorities.

4. Where a consignment sent by letter or parcel post which is not exempt from the obligation to be conveyed to customs in accordance with provisions pursuant to Article 38 (4) of the Code is presented without a ►**M18** CN22 ◀ and/or ►**M18** CN23 ◀ declaration or where such declaration is incomplete, the customs authorities shall determine the form in which the customs declaration is to be made or supplemented.

Article 238

Article 237 shall not apply:

- to consignments containing goods for commercial purposes of an aggregate value exceeding the statistical threshold laid down by the Community provisions in force; the customs authorities may lay down higher thresholds,
- to consignments containing goods for commercial purposes which form part of a regular series of like operations,
- where a customs declaration is made in writing, orally or using a data-processing technique,
- to consignments containing the goods referred to in Article 235.

TITLE VIII

EXAMINATION OF THE GOODS, FINDINGS OF THE CUSTOMS OFFICE AND OTHER MEASURES TAKEN BY THE CUSTOMS OFFICE*Article 239*

1. The goods shall be examined in the places designated and during the hours appointed for that purpose by the customs authorities.
2. However, the customs authorities may, at the request of the declarant, authorize the examination of goods in places or during hours other than those referred to in paragraph 1.

Any costs involved shall be borne by the declarant.

Article 240

1. Where the customs authorities elect to examine goods they shall so inform the declarant or his representative.
2. Where they decide to examine a part of the goods only, the customs authorities shall inform the declarant or his representative which items they wish to examine. The customs authorities' choice shall be final.

Article 241

1. The declarant or the person designated by him to be present at the examination of the goods shall render the customs authorities the assistance required to facilitate their work. Should the customs authorities consider the assistance rendered unsatisfactory, they may require the declarant to designate another person able to give the necessary assistance.

▼B

2. Where the declarant refuses to be present at the examination of the goods or to designate a person able to give the assistance which the customs authorities consider necessary, the said authorities shall set a deadline for compliance, unless they consider that such an examination may be dispensed with.

If, on expiry of the deadline, the declarant has not complied with the requirements of the customs authorities, the latter, for the purpose of applying Article 75 (a) of the Code, shall proceed with the examination of the goods, at the declarant's risk and expense, calling if necessary on the services of an expert or any other person designated in accordance with the provisions in force.

3. The findings made by the customs authorities during the examination carried out under the conditions referred to in the preceding paragraph shall have the same validity as if the examination had been carried out in the presence of the declarant.

4. Instead of the measures laid down in paragraphs 2 and 3, the customs authorities shall have the option of deeming a declaration invalid where it is clear that the declarant's refusal to be present at the examination of the goods or to designate a person able to give the necessary assistance neither prevents, nor seeks to prevent, those authorities from finding that the rules governing the entry of the goods for the customs procedure concerned have been breached, and neither evades, nor seeks to evade, the provisions of Article 66 (1) or Article 80 (2) of the Code.

Article 242

1. Where the customs authorities decide to take samples, they shall so inform the declarant or his representative.

2. Samples shall be taken by the customs authorities themselves. However, they may ask that this be done under their supervision by the declarant or a person designated by him.

Samples shall be taken in accordance with the methods laid down in the provisions in force.

3. The quantities taken as samples should not exceed what is needed for analysis or more detailed examination, including possible check analysis.

Article 243

1. The declarant or the person designated by him to be present at the taking of samples shall render the customs authorities all the assistance needed to facilitate the operation.

▼M7

2. Where the declarant refuses to be present at the taking of samples or to designate a person to attend, or where he fails to render the customs authorities all the assistance needed to facilitate the operation, the provisions of the second sentence of Article 241 (1) and of Article 241 (2), (3) and (4) shall apply.

▼B*Article 244*

Where the customs authorities take samples for analysis or more detailed examination, they shall authorize the release of the goods in question without waiting for the results of the analysis or examination, unless there are other grounds for not doing so, and provided that, where a customs debt has been or is likely to be incurred, the duties in question have already been entered in the accounts and paid or secured.

▼B*Article 245*

1. The quantities taken by the customs office as samples shall not be deducted from the quantity declared.
2. Where an export or outward processing declaration is concerned, the declarant shall be authorized, where circumstances permit, to replace the quantities of goods taken as samples by identical goods, in order to make up the consignment.

Article 246

1. Unless destroyed by the analysis or more detailed examination, the samples taken shall be returned to the declarant at his request and expense once they no longer need to be kept by the customs authorities, in particular after all the declarant's means of appeal against the decision taken by the customs authorities on the basis of the results of that analysis or more detailed examination have been exhausted.
2. Where the declarant does not ask for samples to be returned, they may either be destroyed or kept by the customs authorities. In specific cases, however, the customs authorities may require the declarant to remove any samples that remain.

Article 247

1. Where the customs authorities verify the declarations and accompanying documents or examine the goods, they shall indicate, at least in the copy of the declaration retained by the said authorities, or in a document attached thereto, the basis and results of any such verification or examination. In the case of partial examination of the goods, particulars of the consignment examined shall also be given.

Where appropriate, the customs authorities shall also indicate in the declaration that the declarant or his representative was absent.

2. Should the result of the verification of the declaration and accompanying documents or examination of the goods not be in accordance with the particulars given in the declaration, the customs authorities shall specify, at least in the copy of the declaration retained by the said authorities, or in a document attached thereto, the particulars to be taken into account for the purposes of the application of charges on the goods in question and, where appropriate, calculating any refunds or other amounts payable on exportation, and for applying the other provisions governing the customs procedure for which the goods are entered.
3. The findings of the customs authorities shall indicate, where appropriate, the means of identification adopted. They shall be dated and bear the particulars needed to identify the official issuing them.
4. Where the customs authorities neither verify the declaration nor examine the goods, they need not endorse the declaration or attached document referred to in paragraph 1.

Article 248

1. The granting of release shall give rise to the entry in the accounts of the import duties determined according to the particulars in the declaration. Where the customs authorities consider that the checks which they have undertaken ►C2 may enable an amount of import duties higher than that ◀ resulting from the particulars made in the declaration to be assessed, they shall further require the lodging of a security sufficient to cover the difference between the amount according to the particulars in the declaration and the amount which may finally be payable on the goods. However, the declarant may request the