

## II

*(Preparatory Acts)*

## COMMISSION

**Proposal for a****COUNCIL REGULATION (EEC) No.....****of .....****establishing a Community customs code***COM(90) 71 final — SYN 253**(Submitted by the Commission on 21 March 1990)**(90/C 128/01)***CONTENTS**

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#### THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 28, 100a and 113 thereof,

Having regard to the proposal from the Commission,

In cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the Community shall be based upon a customs union; whereas it is advisable, in the interests both of Community traders and the customs authorities, to assemble in a code the provisions of customs legislation that are at present contained in a large number of Community regulations and directives; whereas this task is of fundamental importance from the standpoint of the large internal market;

Whereas such a Community customs code (hereinafter called 'the code') must contain current customs legislation; whereas it is, nevertheless, advisable to amend that legislation in order to make it more consistent, to simplify it and to remedy certain omissions that still exist with a view to adopting complete Community legislation in this area;

Whereas, based on the concept of a single internal market, the code must contain the general rules and procedures which ensure the implementation of the tariff and other measures introduced at Community level in connection with trade in goods between the Community and third countries; whereas it must cover, among other things, the implementation of common agricultural and commercial policy measures taking into account the necessities of these common policies;

Whereas, in principle, this code, together with the implementing provisions which will supplement it, contains all the customs legislation in force; whereas national rules may remain operative only in so far as express provision is made to that effect;

Whereas it would appear advisable to make it clear that this code is applicable without prejudice to specific provisions laid down in other fields; whereas such specific rules may exist or be introduced in the context, *inter alia*, of legislation relating to agriculture, statistics, commercial policy or own resources;

Whereas the application of customs legislation is economic in character; whereas certain provisions of current customs legislation must be adopted to take account of this aspect in order to ensure the requisite degree of consistency; whereas the charging of import duties must consequently be linked, in general, to the integration of imported goods into the Community economy; whereas such integration takes place at the time when use may freely be made of such goods; whereas, however, any value added within the customs territory of the Community must not be taxed;

Whereas, in order to secure a balance between the needs of the customs authorities in regard to ensuring the correct application of customs legislation, on the one hand, and the right of traders to be treated fairly, on the other, the said authorities must be granted, *inter alia*, extensive powers of control and the said traders a right of appeal;

Whereas it is important to guarantee the uniform application of this code and to provide, to that end, for a

Community procedure which enables the procedures for its implementation to be adopted within a suitable time; whereas a Customs Code Committee should be set up in order to ensure close and effective coopera-

tion between the Member States and the Commission in this field,

HAS ADOPTED THIS REGULATION:

## TITLE I

### GENERAL PROVISIONS

#### CHAPTER 1

#### SCOPE AND BASIC DEFINITIONS

##### *Article 1*

1. This code contains the general rules of customs legislation. It shall, together with the implementing provisions adopted in accordance with Article 255, be applicable to trade between the Community and third countries without prejudice to special rules laid down or to be laid down in the context of the common agricultural policy and provisions laid down in other fields.

National law shall apply only in so far as Community law so provides.

2. Save as otherwise provided, customs legislation shall apply to goods covered by the Treaty establishing the European Coal and Steel Community, the Treaty establishing the European Economic Community and the Treaty establishing the European Atomic Energy Community.

##### *Article 2*

1. Save as otherwise specifically provided, either under conventions or customary practices having similar effect or under autonomous Community measures, customs legislation shall apply uniformly throughout the customs territory of the Community.

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

##### *Article 3*

1. The customs territory of the Community shall comprise:

- the territory of the Kingdom of Belgium,
- the territory of the Kingdom of Denmark, except the Faroe Islands and Greenland,
- the German territories to which the Treaty establishing the European Economic Community

applies, except the Island of Heligoland and the territory of Büsingen (Treaty of 23 November 1964 between the Federal Republic of Germany and the Swiss Confederation),

- the territory of the Kingdom of Spain, except the Canary Islands and Ceuta and Melilla,
- the territory of the Hellenic Republic,
- the territory of the French Republic, except overseas territories and 'collectivités territoriales',
- the territory of Ireland,
- the territory of the Italian Republic, except the municipalities of Livigno and Campione d'Italia and the national waters of Lake Lugano which are between the bank and the political frontier of the area between Ponte Tresa and Porto Ceresio,
- the territory of the Grand Duchy of Luxembourg,
- the territory of the Kingdom of the Netherlands in Europe,
- the territory of the Portuguese Republic,
- the territory of the United Kingdom of Great Britain and Northern Ireland and of the Channel Islands and the Isle of Man.

2. The customs territory of the Community shall include:

- (a) the territorial and inland maritime waters of seaboard Member States, with the exception of waters belonging to those parts of such Member States which are not themselves included in the said customs territory;
- (b) the airspace of each Member State, with the exception of airspace over those parts of Member States' territory which are not themselves included in the said customs territory.

3. The following territories shall also form part of the customs territory of the Community:

- the Austrian territories of Jungholz and Mittelberg as defined, respectively, in the Treaty of 3 May

1868 and the Treaty of 2 December 1890, concluded by Germany,

- the territory of the Principality of Monaco as defined in the Customs Convention of 18 May 1963 concluded by France,
- the territory of the Republic of San Marino as defined in the Convention of 31 March 1939 concluded by Italy.

#### Article 4

This code shall be without prejudice to the arrangements for German internal trade within the meaning of the Protocol on German internal trade and connected problems.

#### Article 5

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

##### 1. *Person* means:

- a natural person,
- a legal person,
- where the possibility is provided for under the legislation in force, an association of persons recognized as having the capacity to perform legal acts but lacking the legal status of a legal person.

##### 2. *Person established in the Community* means:

- in the case of a natural person, any person who is normally resident there,
- in the case of a legal person or an association of persons, any person that has in the Community its registered office, central administration or a permanent business establishment.

##### 3. *Customs authorities* means the authorities responsible for applying customs legislation.

##### 4. *Customs office* means any office at which the formalities laid down by customs legislation may be completed.

##### 5. *Decision* means any official act by a customs authority giving a ruling on a particular case, such act having legal effects on one or more specific or identifiable persons.

##### 6. *Customs status* means the status of goods as Community or non-Community goods.

##### 7. *Community goods* means goods:

- wholly obtained or produced in the customs territory of the Community under the condi-

tions referred to in Article 24 and not incorporating goods imported from countries or territories not forming part of the customs territory of the Community,

- imported from countries or territories not forming part of the customs territory of the Community which have been released for free circulation.

- obtained or produced in the customs territory of the Community, either from goods referred to in the second indent alone or from goods referred to in the first and second indents.

##### 8. *Non-Community goods* means goods other than those referred to in subparagraph 7.

Without prejudice to Article 163, Community goods shall lose their status as such when they are exported from the customs territory of the Community;

##### 9. *Customs debt* means the obligation on a person to pay the amount of the import duties (customs debt on importation) or export duties (customs debt on exportation) legally owed in respect of specific goods.

##### 10. *Import duties* means:

- customs duties and charges having an effect equivalent to customs duties payable on the importation of goods,
- agricultural levies and other import charges introduced under the common agricultural policy or under the specific arrangements applicable to certain goods resulting from the processing of agricultural products.

##### 11. *Export duties* means:

- customs duties and charges having an effect equivalent to customs duties payable on the exportation of goods,
- agricultural levies and other export charges laid down under the common agricultural policy or under the specific arrangements applicable to certain goods resulting from the processing of agricultural products.

##### 12. *Debtor* means any person liable for payment of a customs debt, with the exception of guarantors.

##### 13. *Supervision by the customs authorities* means action taken in general by those authorities with a view to

ensuring that customs legislation and, where appropriate, other provisions applicable to goods subject to customs supervision are observed.

14. *Control by the customs authorities* means the performance of specific acts such as examining goods, verifying the existence and authenticity of documents, examining the accounts of undertakings and other records, checking means of transport, checking persons and carrying out official inquiries and other similar acts with a view to ensuring that customs legislation and, where appropriate, other provisions applicable to goods subject to customs supervision are observed.

15. *Customs-approved treatment or use of goods* means:

- (a) the placing of goods under a customs procedure;
- (b) their entry into a free zone or free warehouse;
- (c) their re-exportation from the customs territory of the Community;
- (d) their destruction;
- (e) their abandonment.

16. *Customs procedure* means:

- (a) release for free circulation;
- (b) transit;
- (c) customs warehousing;
- (d) inward processing;
- (e) processing under customs control;
- (f) temporary admission;
- (g) outward processing;
- (h) exportation.

17. *Customs declaration* means the act whereby a person indicates in the prescribed form and manner the wish to place goods under a given customs procedure.

18. *Declarant* means the person making the customs declaration in his own name or the person in whose name a customs declaration is made.

19. *Release of goods* means the act whereby the customs authorities make goods available to a specific person for the purposes stipulated by the customs procedure under which they are placed.

20. *Holder of the procedure* means the declarant or the person to whom the rights and obligations of the

declarant in respect of a customs procedure have been transferred. This person is referred to as the *principal* in the context of the Community transit procedure and as the *depositor* in the context of the customs warehousing procedure.

21. *Holder of the authorization* means the person to whom an authorization has been granted.

22. *Provisions in force* means Community provisions or national provisions.

23. *Procedure of the committee* means the procedure provided for in Article 255.

## CHAPTER 2

### SUNDRY GENERAL PROVISIONS RELATING IN PARTICULAR TO THE RIGHTS AND OBLIGATIONS OF PERSONS WITH REGARD TO CUSTOMS LEGISLATION

#### Section 1

#### Right of representation

##### Article 6

1. Subject to Article 62 and the provisions adopted within the framework of Title VII Chapter 3, any person may appoint a representative in his dealings with the customs authorities to perform the acts and formalities laid down by customs legislation.

2. Such representation may be:

- direct, in which case the representative shall act in the name of and on behalf of another person, or
- indirect, in which case the representative shall act in his own name but on behalf of another person.

3. Save in the cases referred to in Article 62 (2) (b) and (3), a representative must be established within the Community.

4. A representative must state that he is acting on behalf of the person represented, specify whether the representation is direct or indirect and be empowered to act as a representative.

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

5. The customs authorities may require any person stating that he is acting in the name of or on behalf of another person to produce evidence of his powers to act as a representative.

**Section 2****Decisions***Article 7*

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

2. Such decision shall be taken at the earliest opportunity.

Where a request for a decision is made in writing, the decision shall be taken within a period of three months from the date on which the said request is received by the customs authorities.

However, that period may be exceeded where the customs authorities are unable to respect it. In that case, those authorities shall so inform the applicant before the expiry of the three-month period, stating the grounds which justify exceeding it and indicating the further period of time which they consider necessary in order to rule on the request.

3. Decisions adopted by the customs authorities in writing which either reject requests or are detrimental to the persons to whom they are addressed shall set out the grounds on which they are based. They shall refer to the right of appeal provided for in Article 241 (1).

4. Provision may be made for the first sentence of paragraph 3 to apply likewise to other decisions.

*Article 8*

Save in the cases provided for in the second subparagraph of Article 243, decisions adopted shall be immediately enforceable by the customs authorities.

*Article 9*

1. A decision shall be void if:

- (a) it clearly has no legal basis; or
- (b) it was issued by an authority which was obviously not competent to do so.

2. Any person who was notified of the decision shall be informed that it is void as soon as that fact is established by the customs authorities.

3. A decision which is void shall have no legal force.

*Article 10*

1. A decision shall be annulled if it was issued:

- (a) on the basis of incorrect or incomplete information and
  - the applicant knew or should reasonably have known that the information was incorrect or incomplete, and
  - such decision could not have been taken on the basis of correct or complete information;
- (b) by a customs authority which was not competent to do so and the applicant was aware or should reasonably have been aware of that fact.

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

3. Annulment shall take effect from the date on which the annulled decision was taken.

*Article 11*

1. A decision shall be revoked or amended where, in cases other than those referred to in Article 10, one or more of the conditions laid down for its issue were not or are no longer fulfilled.

2. A decision may be revoked where the person to whom it is addressed fails to fulfil an obligation imposed on him under that decision.

3. A decision may be revoked or amended in so far as it is no longer economically justified.

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

5. The revocation or amendment of the decision shall take effect from the date of notification. However, in exceptional cases where the legitimate interests of the person to whom the decision is addressed so require, the customs authorities may defer the date when revocation or amendment takes effect.

**Section 3****Information***Article 12*

1. Any interested person may request from the customs authorities information concerning the application of customs legislation.

Such a request may be refused where it is not based on a commercial transaction actually envisaged.

2. The information shall be supplied to the applicant free of charge. However, where costs are incurred by the customs authorities, the applicant may be charged the relevant amount.

#### Article 13

1. In cases where tariff information is supplied in writing pursuant to rules laid down in accordance with the procedure of the committee, such information shall be binding.

The holder of such information may request, when customs formalities are completed in respect of goods, that those goods be classified under the customs nomenclature in conformity with the said information.

2. Binding information shall be valid for a period of six years.

3. Binding information shall be void where it was supplied on the basis of inaccurate or incomplete information provided by the holder.

4. Binding information shall cease to be valid:

- (a) where a regulation is adopted and the information is incompatible with the law laid down thereby;
- (b) where it becomes incompatible with the interpretation adopted and published at Community level;
- (c) where the holder is notified of its revocation or amendment.

5. In the cases referred to in subparagraphs (b) and (c) of paragraph 4 the holder may seek application of that information in accordance with the second subparagraph of 1 above for a period of six months after such notification or publication in so far as he has concluded firm and definitive contracts in respect of the goods concerned on the basis of that binding information.

Provisions adopted in accordance with the procedure of the committee may restrict this right for the purposes of common commercial or agricultural policy measures.

The preceding subparagraphs shall also apply in the cases referred to in paragraph 4 (a), where the relevant provisions so provide.

#### Section 4

#### Other provisions

#### Article 14

The customs authorities may, in accordance with the conditions laid down by the provisions in force, carry

out all the controls they deem necessary to ensure that customs legislation is correctly applied.

Such controls may cover, *inter alia*, goods subject to customs supervision.

Persons who hold or are likely to hold goods subject to customs supervision shall, in particular, submit to the controls referred to in the first subparagraph.

#### Article 15

For the purposes of applying customs legislation, any person directly or indirectly involved in the operations concerned for the purposes of trade in goods shall provide the customs authorities with all the requisite documents, information and assistance at their request and by any time limit prescribed.

#### Article 16

All information which is by nature confidential or which is provided on a confidential basis shall be covered by the obligation of professional secrecy. It shall not be disclosed by the customs authorities to persons other than those within the institutions of the Community or the Member States whose duties require them to have knowledge thereof without the express permission of the person or authority providing it, except where the customs authorities may be obliged to do so pursuant to the provisions in force or in connection with legal proceedings.

#### Article 17

The persons concerned shall keep the documents relating to operations referred to in Article 15 for a period of at least three calendar years, irrespective of the medium used. That period shall run as follows:

- (a) in the case of goods released for free circulation in circumstances other than those referred to in (b) or goods declared for export, from the end of the year in which the declarations for release for free circulation or export are accepted;
- (b) in the case of goods released for free circulation at a reduced or zero rate of import duty on account of their end-use, from the end of the year in which they cease to be subject to customs supervision;
- (c) in the case of goods placed under another customs procedure, from the end of the year in which the customs procedure concerned is completed.



Where a check carried out in respect of a customs debt shows that the relevant entry in the accounts has to be corrected, the documents shall be kept beyond the time limit provided for in the first paragraph for a period sufficient to permit the correction to be made and monitored.

#### Article 18

Where a period, date or time limit is laid down pursuant to customs legislation for the purpose of applying that legislation, such period shall not be extended and such date or time limit shall not be deferred unless due specific provision is made in the legislation concerned.

However, such period may be extended and such date or time limit may be deferred where to exceed the period, date or time limit would result not only in the person concerned forfeiting a right but also in his being subject to a penalty, provided that he supplies evidence that he was unable to respect the period, date or time limit as a result of unforeseeable circumstances or *force majeure*.

#### Article 19

1. The value of the ecu in national currencies to be applied within the framework of customs legislation shall be fixed once a year. The rates to be applied shall be those obtaining on the first working day of October,

with effect from 1 January of the following calendar year. If a rate is not available for a particular national currency, the rate to be applied for that currency shall be that obtaining on the last day for which a rate was published in the *Official Journal of the European Communities*.

2. However, where a change in the bilateral central rate of one or more national currencies occurs:

- (a) during a calendar year, the amended rates shall be used for converting the ecu into national currencies for the purposes of determining the tariff classification of goods and customs duties and charges having an equivalent effect. They shall take effect from the 10th day after the date on which those rates are available;
- (b) after the first working day of October, the amended rates shall be used for converting the ecu into national currencies for the purposes of determining the tariff classification of goods and the customs duties and charges having equivalent effect and shall be applicable, by way of derogation from paragraph 1, throughout the following calendar year, except where a change in the bilateral central rate occurs during that period, in which case the provisions of subparagraph (a) shall apply.

Amended rates means the rates obtaining on the first day after a change in the bilateral central rate, where such rates are available for all Community currencies.

## TITLE II

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

#### CHAPTER 1

#### CUSTOMS TARIFF OF THE EUROPEAN COMMUNITIES AND TARIFF CLASSIFICATION OF GOODS

#### Article 20

1. Duties legally owed where a customs debt is incurred shall be calculated in accordance with the customs tariff of the European Communities.

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

3. The customs tariff of the European Communities shall comprise:

(a) the combined nomenclature of goods;

(b) any other nomenclature which is wholly or partly based on the combined nomenclature or which adds any subdivisions to it, and which is established by Community provisions governing specific fields with a view to the application of tariff measures relating to trade in goods;

(c) the rates and other items of charge normally applicable to goods covered by the combined nomenclature as regards:

— customs duties, and,

— agricultural levies and other import charges laid down under the common agricultural policy or under the specific arrangements applicable to certain goods resulting from the processing of agricultural products;

(d) the preferential tariff measures contained in agreements which the Community has concluded with

certain countries or groups of countries and which provide for the granting of preferential tariff treatment;

- (e) preferential tariff measures adopted unilaterally by the Community in respect of certain countries, groups of countries or territories;
- (f) autonomous suspensive measures providing for a reduction in or relief from import duties chargeable on certain goods;
- (g) other tariff measures provided for by other Community legislation.

4. Without prejudice to the rules on flat-rate charges, the measures referred to in paragraph 3 (d), (e) and (f) shall apply instead of those provided for in subparagraph (c) where the customs authorities find that the goods concerned fulfil the conditions laid down by those first-mentioned measures; their application shall not be conditional upon the declarant making an express request to that effect.

5. Where application of the measures referred to in paragraph 3 (d), (e) and (f) is restricted to a certain volume of imports, it shall cease:

- (a) in the case of tariff quotas, as soon as the stipulated limit on the volume of imports is reached;
- (b) in the case of tariff ceilings, by ruling of the Commission.

6. The tariff classification of goods shall be the determination, according to the rules in force, of:

- (a) the subheading of the combined nomenclature or the subheading of any other nomenclature referred to in paragraph 3 (b), or
- (b) the subheading of any other nomenclature which is wholly or partly based on the combined nomenclature or which adds any subdivisions to it, and which is established by Community provisions governing specific fields with a view to the application of measures other than tariff measures relating to trade in goods, under which the aforesaid goods are to be classified.

#### *Article 21*

1. The favourable tariff treatment from which certain goods may benefit by reason of their nature or end-use shall be subject to conditions laid down in accordance with the procedure of the committee. Where an authorization is required, Articles 85 and 86 shall apply.

2. For the purposes of paragraph 1, the expression 'favourable tariff treatment' means a reduction in or suspension of an import duty as referred to in Article 5 (10), even within the framework of a tariff quota.

## CHAPTER 2

### ORIGIN OF GOODS

#### Section 1

#### Non-preferential origin of goods

##### *Article 22*

Articles 23 to 26 define the non-preferential origin of goods for the purposes of applying:

- (a) the customs tariff of the European Communities with the exception of the measures referred to in Article 20 (3) (d) and (e);
- (b) measures other than tariff measures established by Community provisions governing specific fields relating to trade in goods.

##### *Article 23*

1. Goods originating in a country shall be those wholly obtained or produced in that country.

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

##### *Article 24*

1. For the purposes of Article 23 (1), the expression 'goods wholly obtained or produced in a country' means:

- (a) mineral products extracted within its territory;
- (b) vegetable products harvested therein;
- (c) live animals born and raised therein;
- (d) products derived from live animals raised therein;
- (e) products of hunting or fishing carried on therein;
- (f) products of sea-fishing and other products taken from the sea outside the territorial waters of any coastal State by vessels registered or recorded in the country concerned and flying the flag of that country;

- (g) goods obtained or produced on board factory ships from the products referred to in subparagraph (f) originating in that country, provided that such factory ships are registered or recorded in that country and fly its flag;
- (h) products taken from the seabed or subsoil beneath the seabed outside the territorial sea provided that that country has exclusive rights to exploit that seabed or subsoil;
- (i) waste and scrap products derived from manufacturing operations and used articles, if they were collected therein and are fit only for the recovery of raw materials;
- (j) goods which are produced therein exclusively from goods referred to in subparagraphs (a) to (i) or from their derivatives, at any stage of production.

2. For the purposes of paragraph 1 the expressions 'country' and 'territory' also cover that country's or territory's territorial sea.

#### *Article 25*

Any processing or working in respect of which it is established, or in respect of which the facts as ascertained justify the presumption, that its sole object was to circumvent the provisions applicable in the Community or the Member States to goods from specific countries shall under no circumstances be deemed to confer on the goods thus produced the origin of the country where it is carried out within the meaning of Article 23 (2).

#### *Article 26*

1. Customs legislation or other Community legislation governing specific fields may provide that a certificate of origin must be produced as proof of the origin of goods.

2. Notwithstanding the production of a certificate of origin, the customs authorities may, in the event of serious doubts, require any additional proof to ensure that the indication of origin does comply with the rules laid down by the relevant Community legislation.

### Section 2

#### **Preferential origin of goods**

#### *Article 27*

The rules on preferential origin shall lay down the conditions governing acquisition of origin which goods

must fulfil in order to benefit from the measures referred to in Article 20 (3) (d) or (e).

Those rules shall:

- (a) in the case of goods covered by the agreements referred to in Article 20 (3) (d), be determined in those agreements;
- (b) in the case of goods benefiting from the preferential tariff measures referred to in Article 20 (3) (e), be determined in accordance with the procedure of the committee.

### CHAPTER 3

#### **VALUE OF GOODS FOR CUSTOMS PURPOSES**

#### *Article 28*

The provisions of this Chapter shall determine the customs value for the purpose of applying the customs tariff of the European Communities and non-tariff measures laid down by Community provisions governing specific fields relating to trade in goods.

#### *Article 29*

1. The customs value of imported goods shall be the transaction value, that is, the price actually paid or payable for the goods when sold for export to the customs territory of the Community, adjusted, where necessary, in accordance with Articles 32 and 33, provided:

- (a) that there are no restrictions as to the disposal or use of the goods by the buyer, other than restrictions which:
  - are imposed or required by law or by the public authorities in the Community,
  - limit the geographical area in which the goods may be resold, or
  - do not substantially affect the value of the goods;
- (b) that the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
- (c) that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with Article 32; and
- (d) that the buyer and seller are not related, or, where the buyer and seller are related, that that transaction value is acceptable for customs purposes under paragraph 2.

2. (a) In determining whether the transaction value is acceptable for the purposes of paragraph 1, the fact that the buyer and the seller are related shall not in itself be sufficient grounds for regarding the transaction value as unacceptable. Where necessary, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the declarant or otherwise, the customs authorities have grounds for considering that the relationship influenced the price, they shall communicate their grounds to the declarant and he shall be given a reasonable opportunity to respond. If the declarant so requests, the communication of the grounds shall be in writing.

- (b) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with paragraph 1 where the declarant demonstrates that such value closely approximates to one of the following occurring at or at about the same time:

- (i) the transaction value in sales, between buyers and sellers who are not related, of identical or similar goods for export to the Community;
- (ii) the customs value of identical or similar goods, as determined pursuant to Article 30 (2) (c);
- (iii) the customs value of identical or similar goods, as determined pursuant to Article 30 (2) (d).

In applying the foregoing criteria, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 32 and costs borne by the seller in sales in which he and the buyer are not related and where such costs are not borne by the seller in sales in which he and the buyer are related.

- (c) The criteria set out in subparagraph (b) shall be used at the initiative of the declarant and only for purposes of comparison. Substitute values shall not be established under the said subparagraph.
3. (a) The price actually paid or payable shall be the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods and shall include all payments made or to be made as a condition of sale of the imported goods by the buyer to the seller or by the buyer to a third party to satisfy an obli-

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

- (b) Activities, including marketing activities, undertaken by the buyer on his own account, other than those for which an adjustment is provided in Article 32, shall not be deemed to constitute indirect payment to the seller, even though they might be regarded as of benefit to the seller or have been undertaken by agreement with the seller, and their cost shall not be added to the price actually paid or payable in determining the customs value of imported goods.

#### Article 30

1. Where the customs value cannot be determined pursuant to Article 29, it shall be determined by proceeding sequentially through subparagraphs (a), (b), (c) and (d) of paragraph 2 to the first subparagraph under which it can be determined, subject to the proviso that the order of application of subparagraphs (c) and (d) shall be reversed if the declarant so requests; it is only where such value cannot be determined under a particular subparagraph that the provisions of the next subparagraph in a sequence established by virtue of this paragraph may be applied.

2. The customs value as determined pursuant to this Article shall be:

- (a) the transaction value of identical goods sold for export to the Community and exported at or at about the same time as the goods being valued;
- (b) the transaction value of similar goods sold for export to the Community and exported at or at about the same time as the goods being valued;
- (c) the value based on the unit price at which the imported goods or identical or similar imported goods are sold within the Community in the greatest aggregate quantity to persons not related to the sellers;
- (d) the computed value, consisting of the sum of:
  - the cost or value of materials and manufacturing or other processes employed in producing the imported goods,
  - an amount for profit and overheads equal to that usually reflected in sales of goods of the same class or kind as the goods being valued and made by producers in the country of exportation for export to the Community,
  - the cost or value of the items referred to in Article 32 (1) (e).

3. Any further conditions and rules for the application of paragraph 2 above shall be determined in accordance with the procedure of the committee.

#### *Article 31*

1. Where the customs value of goods cannot be determined pursuant to Articles 29 or 30, it shall be determined, on the basis of data available in the Community, using reasonable means consistent with the principles and general provisions of:

- the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade,
- Article VII of the General Agreement on Tariffs and Trade,
- the provisions of this chapter.

2. No customs value shall be determined under paragraph 1 on the basis of:

- (a) the selling price in the Community of goods produced in the Community;
- (b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
- (c) the price of goods on the domestic market of the country of exportation;
- (d) the cost of production, other than computed values which have been determined for identical or similar goods in accordance with Article 30 (2) (d);
- (e) prices for export to a country not forming part of the customs territory of the Community;
- (f) minimum customs values; or
- (g) arbitrary or fictitious values.

#### *Article 32*

1. In determining the customs value pursuant to Article 29, there shall be added to the price actually paid or payable for the imported goods:

- (a) the following items, to the extent that they are borne by the buyer but are not included in the price actually paid or payable for the goods:
  - (i) commissions and brokerage, except buying commissions;
  - (ii) the cost of containers which are treated as being one, for customs purposes, with the goods in question;
  - (iii) the cost of packing, whether for labour or materials;

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

- (i) materials, components, parts and similar items incorporated in the imported goods;
- (ii) tools, dies, moulds and similar items used in the production of the imported goods;
- (iii) materials consumed in the production of the imported goods;
- (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Community and necessary for the production of the imported goods;

(c) royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;

(d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;

(e) (i) the cost of transport and insurance of the imported goods; and

(ii) loading and handling charges associated with the transport of the imported goods

to the place at which the goods enter the customs territory of the Community.

2. Additions to the price actually paid or payable shall be made under this Article only on the basis of objective and quantifiable data.

3. No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.

4. In this Article, the term 'buying commissions' means fees paid by an importer to his agent for the service of representing him in the purchase of the goods being valued.

5. Notwithstanding paragraph 1 (c):

- (a) charges for the right to reproduce the imported goods in the Community shall not be added to the price actually paid or payable for the imported goods in determining the customs value; and

- (b) payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to the Community of the goods.

#### Article 33

1. Provided that they are distinguished from the price actually paid or payable, the following shall not be included in the customs value:

- (a) charges for the transport of goods after their arrival at the point of entry into the customs territory of the Community;
- (b) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment;
- (c) charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods, irrespective of whether the finance is provided by the seller or another person, provided that the financing arrangement has been made in writing and where required, the buyer can demonstrate that:
  - such goods are actually sold at the price declared as the price actually paid or payable, and
  - the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided;
- (d) charges for the right to reproduce imported goods in the Community;
- (e) buying commissions;
- (f) import duties or other charges payable in the Community on account of the import or sale of goods.

#### Article 34

Specific rules may be laid down in accordance with the procedure of the committee to determine the customs value of carrier media for use in data processing equipment and bearing data or instructions.

#### Article 35

Where factors used to determine the value for customs purposes of goods are expressed in a currency other than that of the Member State where the valuation is made, the rate of exchange to be used shall be that duly published by the competent authorities of the Member State concerned.

Such rate shall reflect as effectively as possible the current value of such currency in commercial transactions in terms of the currency of such Member State and shall apply during such period as may be determined in accordance with the procedure of the committee.

Where such a rate does not exist, the rate of exchange to be used shall be determined in accordance with the procedure of the committee.

#### Article 36

1. The provisions of this chapter shall be without prejudice to the specific provisions regarding the determination of the value for customs purposes of goods released for free circulation after being assigned a different customs-approved treatment or use.

2. By way of derogation from Articles 29, 30 and 31, the customs value of perishable goods usually delivered on consignment may, at the request of the declarant, be determined under simplified procedures drawn up by the Commission for the whole Community in accordance with the procedure of the committee.

### TITLE III

#### PROVISIONS APPLICABLE TO GOODS BROUGHT INTO THE CUSTOMS TERRITORY OF THE COMMUNITY UNTIL THEY ARE ASSIGNED A CUSTOMS-APPROVED TREATMENT OR USE

##### CHAPTER 1

##### ENTRY OF GOODS INTO THE CUSTOMS TERRITORY OF THE COMMUNITY

#### Article 37

1. Goods brought into the customs territory of the Community shall, from the time of their entry, be subject to customs supervision.

2. They shall remain under such supervision:

- (a) in the case of non-Community goods and without prejudice to Article 81 (1), until their customs status is changed, they enter a free zone or free warehouse or they are re-exported or destroyed in accordance with Article 180;
- (b) in the case of Community goods, until their customs status is recognized by the customs authorities.

3. Goods which have qualified for reliefs pursuant to:

- (a) the Vienna Convention of 18 April 1961 on Diplomatic Relations, the Vienna Convention of 24 April 1963 on Consular Relations or other consular conventions, or the New York Convention of 8 December 1969 on Special Missions; or
- (b) international agreements governing the situation of armed forces stationed in the territory of a Member State

and supplied to persons not entitled to benefit from such reliefs under those agreements or conventions shall be treated in the same way as goods brought into the customs territory of the Community.

*Article 38*

1. Goods brought into the customs territory of the Community shall be conveyed by the person bringing them into the Community without delay, by the route specified by the customs authorities and in accordance with their instructions, if any:

- (a) to the customs office specified by the customs authorities or to any other place specified or approved by those authorities; or,
- (b) to a free zone, if the goods are to be brought into that free zone direct:
  - by sea or air, or
  - by land without passing through another part of the customs territory of the Community, where the free zone adjoins the land frontier between a Member State and a third country.

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

3. Goods which, although still outside the customs territory of the Community, may be subject to the control of the customs authority of a Member State under the provisions in force, as a result of, *inter alia*, an agreement concluded between that Member State and a third country, shall be treated in the same way as goods brought into the customs territory of the Community.

4. Paragraph 1 (a) shall not preclude implementation of any autonomous or contractual provisions in force with respect to tourist traffic, frontier traffic or postal traffic, on condition that customs supervision and customs control possibilities are not thereby jeopardized.

5. The circumstances and conditions under which paragraphs 1 to 4 and Articles 39 to 53 shall not apply to goods which have temporarily left the customs territory of the Community while moving between two points in the Community by sea or air shall be determined in accordance with the procedure of the Committee.

6. Paragraph 1 shall not apply to goods on board vessels or aircraft crossing the territorial sea or airspace of the Member States without having as their destination a port or airport situated in those Member States.

*Article 39*

1. Where, by reason of unforeseeable circumstances or *force majeure*, the obligation laid down in Article 38 (1) cannot be complied with, the person bound by that obligation or any other person acting in his place shall inform the customs authorities of the situation without delay. Where the unforeseeable circumstances or *force majeure* do not result in total loss of the goods, the customs authorities shall also be informed of their precise location.

2. Where, by reason of unforeseeable circumstances or *force majeure*, a vessel or aircraft covered by Article 38 (6) is forced to put into port or land temporarily in the customs territory of the Community and the obligation laid down in Article 38 (1) cannot be complied with, the person bringing the vessel or aircraft into the customs territory of the Community or any other person acting in his place shall inform the customs authorities of the situation without delay.

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

CHAPTER 2

PRESENTATION OF GOODS TO CUSTOMS

*Article 40*

Goods which, pursuant to Article 38 (1) (a), arrive at the customs office or other place designated or approved by the customs authorities shall be presented to customs by the person who brought the goods into the customs territory of the Community or, if appropriate, by the person who assumes responsibility for carriage of the goods following such entry.

Presentation of goods to customs shall consist in informing the customs authorities, in the requisite manner, that the goods have arrived.

#### *Article 41*

Article 40 shall not preclude the implementation of rules governing specific fields relating to goods:

- (a) carried by travellers;
- (b) placed under a customs procedure but not presented to customs;
- (c) passing through the customs territory of the Community under a special transit procedure, determined in accordance with the procedure of the Committee.

#### *Article 42*

Goods may, once they have been presented to customs, and with the permission of the customs authorities, be examined or samples may be taken, in order that they may be assigned a customs-approved treatment or use. Such permission shall be granted, on request, to the person authorized to assign the goods such treatment or use.

### CHAPTER 3

#### **SUMMARY DECLARATION AND UNLOADING OF GOODS PRESENTED TO CUSTOMS**

#### *Article 43*

Subject to Article 45, goods presented to customs within the meaning of Article 40 shall be covered by a summary declaration.

The summary declaration shall contain the particulars necessary for identification of the goods.

The summary declaration shall be lodged once the goods have been presented to customs. The customs authorities may, however, allow a period for lodging the declaration which shall not extend beyond the first working day following the day on which the goods are presented to customs.

#### *Article 44*

The summary declaration shall be lodged by:

- (a) the person who brought the goods into the customs territory of the Community or by any person who assumes responsibility for carriage of the goods following such entry and prior to the presentation of the goods, or
- (b) the person represented by the persons referred to in subparagraph (a).

#### *Article 45*

Without prejudice to the provisions applicable to goods imported by travellers and consignments by letter and parcel post, the customs authorities may waive the lodging of a summary declaration, on condition that this does not jeopardize customs supervision of the goods, where, prior to the expiry of the period referred to in Article 43, the said goods are declared for a customs procedure, are covered by an application for their re-exportation, destruction or abandonment or are placed in a free zone or free warehouse.

#### *Article 46*

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

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

2. For the purpose of inspecting goods and the means of transport carrying them, the customs authorities may at any time require goods to be unloaded.

#### *Article 47*

Goods shall not be removed from their original position without the permission of the customs authorities.

### CHAPTER 4

#### **OBLIGATION TO ASSIGN GOODS PRESENTED TO CUSTOMS A CUSTOMS-APPROVED TREATMENT OR USE**

#### *Article 48*

Non-Community goods presented to customs shall be assigned a customs-approved treatment or use authorized for such non-Community goods.

#### *Article 49*

1. Where goods are covered by a summary declaration, they must be declared for a customs procedure, covered by an application for their re-exportation, destruction or abandonment or placed in a free zone or free warehouse within the periods determined by the customs authorities. The said periods shall not exceed:

- (a) 45 days from the date on which the summary declaration is lodged in the case of goods carried by sea;



- (b) 20 days from the date on which the summary declaration is lodged in the case of goods carried otherwise than by sea.

2. Where circumstances so warrant, the customs authorities may authorize an extension of the periods referred to in paragraph 1.

Such extension shall not, however, exceed the genuine requirements which are justified by the circumstances.

#### CHAPTER 5

##### TEMPORARY STORAGE OF GOODS

###### *Article 50*

Until such time as they are assigned a customs-approved treatment or use, goods presented to customs shall, following such presentation, have the status of goods in temporary storage. Such goods shall hereinafter be described as 'goods in temporary storage'.

###### *Article 51*

1. Goods in temporary storage shall be stored only in places approved by the customs authorities under the conditions laid down by those authorities.

2. The customs authorities may require the person holding the goods to provide security with a view to ensuring payment of any customs debt which may arise pursuant to Article 200 or 201.

###### *Article 52*

Without prejudice to the provisions of Article 42, goods in temporary storage shall be subject only to such forms of handling as are designed to ensure their pres-

ervation in an unaltered state without modifying their appearance or technical characteristics.

###### *Article 53*

1. The customs authorities shall without delay take all measures necessary, including the sale of the goods, to regularize the situation of goods in respect of which the formalities necessary for them to be assigned a customs-approved treatment or use are not initiated within the periods determined in accordance with Article 49.

2. The customs authorities may, at the risk and expense of the person holding them, have the goods in question transferred to a special place, which is under their supervision, until the situation of the goods is regularized.

#### CHAPTER 6

##### PROVISIONS APPLICABLE TO NON-COMMUNITY GOODS WHICH HAVE MOVED UNDER A TRANSIT PROCEDURE

###### *Article 54*

Article 38, with the exception of paragraph 1 (a) thereof, and Articles 39 to 53 shall not apply when goods already placed under a transit procedure are brought into the customs territory of the Community.

###### *Article 55*

Once non-Community goods which have moved under a transit procedure reach their destination in the customs territory of the Community and have been presented to customs in accordance with the rules governing transit, the provisions of Articles 43 to 54 shall apply.

#### TITLE IV

##### CUSTOMS-APPROVED TREATMENT OR USE

#### CHAPTER 1

##### GENERAL

###### *Article 56*

1. Save as otherwise provided, goods may at any time, under the conditions laid down, be assigned any customs-approved treatment or use irrespective of their nature, quantity, country of origin, consignment or destination.

2. Paragraph 1 shall not preclude the imposition of prohibitions or restrictions justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals or

plants, the protection of national treasures possessing artistic, historic or archaeological value or the protection of industrial and commercial property.

#### CHAPTER 2

##### CUSTOMS PROCEDURES

###### Section 1

##### Placing of goods under a customs procedure

###### *Article 57*

1. All goods intended to be placed under a customs procedure shall be covered by a declaration for that customs procedure.

2. Without prejudice to Articles 37 and 175, Community goods declared for an export, outward processing, transit or customs warehousing procedure shall be subject to customs supervision from the time of acceptance of the customs declaration until such time as they are exported or destroyed or the customs declaration is invalidated.

#### *Article 58*

In so far as customs legislation lays down no rules on the matter, Member States shall determine the competence of the various customs offices situated in their territory, account being taken, where applicable, of the nature of the goods and the customs procedure under which they are to be placed.

#### *Article 59*

The customs declaration shall be made:

- (a) in writing; or
- (b) using a data-processing technique where provided by provisions laid down in accordance with the procedure of the committee or where authorized by the customs authorities; or
- (c) by means of an oral declaration or any other act whereby the holder of the goods expresses his wish to place them under a customs procedure, where such a possibility is provided for by the rules adopted in accordance with the procedure of the committee.

#### **A. Declarations in writing**

##### **1. Normal procedure**

#### *Article 60*

1. Declarations in writing shall be made on a form corresponding to the official specimen prescribed for that purpose. They shall contain all the particulars necessary for implementation of the provisions governing the customs procedure for which the goods are declared.

2. The declaration shall be accompanied by all the documents required for implementation of the provisions governing the customs procedure for which the goods are declared.

#### *Article 61*

Declarations which comply with the conditions laid down in Article 60 shall be accepted by the customs authorities immediately provided that the goods to which they refer are presented to customs.

#### *Article 62*

1. A customs declaration may be made by any person who is able to present the goods in question or to have them presented to the competent customs authority, in accordance with the provisions laid down to that effect, together with all the documents which are required to be produced by the rules governing the customs procedure requested for those goods.

2. However:

- (a) where acceptance of a customs declaration imposes particular obligations on a specific person, the declaration must be made by that person or on his behalf;
- (b) the declarant must be established in the Community.

However, the condition regarding establishment in the Community shall not apply to persons who:

- make a declaration for Community transit or temporary importation,
- declare goods on an occasional basis, provided that the customs authorities consider this to be justified.

3. Paragraph 2 (b) shall not preclude the application by the Member States of bilateral agreements concluded with third countries, or customary practices having similar effect, under which nationals of such countries may make customs declarations in the territory of the Member States in question, subject to reciprocity.

#### *Article 63*

The declarant may, at his request, be authorized to amend one or more of the particulars of the declaration. The amendment shall not have the effect of rendering the declaration applicable to goods other than those it originally covered.

However, no amendment shall be permitted where authorization is requested after the customs authorities:

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

#### *Article 64*

1. The customs authorities shall, at the request of the declarant, invalidate a declaration already accepted where the declarant furnishes proof that goods were declared in error for the customs procedure covered by

that declaration or that, as a result of special circumstances, the placing of the goods under the customs procedure for which they were declared is no longer justified.

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

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

However,

(a) where goods are declared in error for a customs procedure entailing the payment of import duties instead of being placed under another customs procedure, the customs authorities shall invalidate the declaration if a request to that effect is made within three months of the date of acceptance of the declaration provided that:

- any use of the goods has not contravened the conditions of the customs procedure under which they should have been placed,
- when the goods were declared, they were intended to be placed under another customs procedure, all the requirements of which they fulfilled, and
- the goods are immediately entered for the customs procedure for which they were actually intended.

The declaration placing the goods under the last mentioned customs procedure shall take effect from the date of acceptance of the invalidated declaration.

The customs authorities may permit the three-month period to be exceeded in duly justified exceptional cases;

(b) where the goods have been declared for export or for the outward processing procedure, the declaration shall be invalidated provided that the declarant:

- provides the customs authorities with evidence that the goods have not left the customs territory of the Community,
- returns to the said authorities all copies of the customs declaration, together with any other documents issued to him on acceptance of the declaration,
- where appropriate, provides the customs authorities with evidence that the refunds and other amounts granted on the strength of the export declaration for the goods in question have been repaid or that the necessary measures

have been taken by the departments concerned to ensure that they are not paid, and

- where appropriate, and in accordance with the provisions in force, complies with any other obligations laid down by the customs authorities to regularize the position of the goods.

Invalidation of the declaration shall, where appropriate, entail cancellation of adjustments made on any export licence or advance-fixing certificate presented in support of the declaration.

Where the goods declared for export are required to leave the customs territory of the Community within a specified period, failure to respect that period shall entail invalidation of the relevant declaration;

(c) where Community goods have been placed under the customs warehousing procedure within the meaning of Article 95 (1) (b), invalidation of the declaration relating to that procedure may be requested and effected provided that the measures laid down in the relevant legislation governing specific fields in respect of failure to comply with the treatment or use prescribed have been taken. Cases in which the declaration cannot be invalidated may be determined in accordance with the procedure of the committee.

If, on the expiry of the period laid down for the abovementioned goods to remain under the customs warehousing procedure, no application has been made for their assignment to a treatment or use provided for in the relevant legislation governing specific fields, the customs authorities shall take the measures provided for in that legislation.

3. Invalidation of the declaration shall be without prejudice to the application of the penal provisions in force.

#### *Article 65*

Save as otherwise expressly provided, the date to be used for the purposes of all the provisions governing the customs procedure for which the goods are declared shall be the date of acceptance of the declaration by the customs authorities.

#### *Article 66*

For the purposes of applying the provisions governing the customs procedure in question, account shall be taken, where appropriate, of binding information in accordance with Article 13.

#### *Article 67*

The customs authorities may verify declarations which they have accepted.

For that purpose the customs authorities may:

- (a) examine the documents covering the declaration and the documents accompanying it. The customs authorities may, where appropriate, require the declarant to present other documents for the purpose of verifying the accuracy of the particulars contained in the declaration;
- (b) examine the goods and take samples for analysis or for detailed examination.

#### Article 68

1. The declarant shall be entitled to be present when the goods are examined and when samples are taken. Where they deem it appropriate, the customs authorities shall require the declarant to be present or represented when the goods are examined or samples are taken in order to provide them with the assistance necessary to facilitate such examination or taking of samples.

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

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

#### Article 69

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

However, the declarant may request a fuller examination of the goods if he considers that the results of the partial examination are not valid as regards the remainder of the goods declared.

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

#### Article 70

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

2. Where the declaration is not verified, the provisions referred to in paragraph 1 shall be applied on the basis of the particulars contained in the declaration.

#### Article 71

1. The customs authorities shall take the measures necessary to identify the goods where identification is required in order to guarantee compliance with the conditions governing the customs procedure for which the said goods have been declared.

2. Means of identification affixed to the goods or means of transport shall be removed or destroyed only by the customs authorities or with their permission unless, as a result of unforeseeable circumstances or *force majeure*, their removal or destruction is essential to ensure the protection of the goods or means of transport.

#### Article 72

1. Without prejudice to Article 73, where the conditions for placing the goods under the procedure in question are fulfilled and provided the goods are not subject to any prohibitive or restrictive measures, the customs authorities shall release the goods as soon as the particulars in the declaration have been verified or accepted without verification. The same shall apply where such verification cannot be completed within a reasonable period of time and the goods are no longer required to be present for verification purposes.

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

For the purposes of this paragraph, where a declaration form covers two or more items, each item shall be deemed to constitute a separate declaration.

#### Article 73

1. Where acceptance of a customs declaration gives rise to a customs debt, the goods covered by the declaration shall not be released unless the customs debt has been paid or secured. However, without prejudice to paragraph 2, this provision shall not apply to the temporary importation procedure with partial relief from import duties.

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

*Article 74*

Any necessary measures, including sale, shall be taken to deal with goods which:

- (a) cannot be released because:
  - it has not been possible to undertake or continue examination of the goods within the period prescribed by the customs authorities for reasons attributable to the declarant, or,
  - the documents which must be produced before the goods can be placed under the customs procedure requested have not been produced, or,
  - payments or security which should have been made or provided in respect of import duties or export duties, as appropriate, have not been made or provided within the period prescribed;
- (b) are not removed within a reasonable period after their release.

## II. Simplified procedures

*Article 75*

1. In order to simplify completion of formalities and procedures as far as possible while ensuring that operations are conducted in a proper manner, the customs authorities shall, under the conditions laid down in accordance with the procedure of the committee, grant permission for:

- (a) the declaration referred to in Article 60 to omit certain of the particulars referred to in paragraph 1 of that Article or for some of the documents referred to in paragraph 2 of that Article not to be attached thereto;
- (b) a commercial or administrative document, accompanied by a request for the goods to be placed under the customs procedure in question, to be lodged in place of the declaration referred to in Article 60;
- (c) the goods to be entered for the procedure in question by means of an entry in the records; in this case, the customs authorities may waive the requirement that the declarant present the goods to customs.

The simplified declaration, commercial or administrative document or entry in the records must contain at least the particulars necessary for identification of the goods. Where the goods are entered in the records, the date of such entry must be included.

2. The declarant shall furnish or insert at a later date the omitted particulars or documents in a supplementary declaration. Such supplementary declaration may be of a general, periodic or recapitulative nature.

3. Supplementary declarations and the simplified declarations referred to in subparagraphs 1 (a), (b) and (c), shall be deemed to constitute a single, indivisible instrument taking effect on the date of acceptance of the simplified declarations; in the cases referred to in subparagraph 1 (c), entry in the records shall have the same legal force as acceptance of the declaration referred to in Article 60.

4. Special simplified procedures for the Community transit procedure shall be laid down in accordance with the procedure of the committee.

**B. Other declarations***Article 76*

Where the customs declaration is made by means of a data-processing technique, oral declaration or any other act within the meaning of Article 59 (c), Articles 60 to 75 shall apply *mutatis mutandis* without prejudice to the principles set out therein.

**C. Post-clearance examination of declarations***Article 77*

1. The customs authorities may, on their own initiative or at the request of the declarant, revise the declaration after release of the goods.

2. The customs authorities may, after releasing the goods and in order to satisfy themselves as to the accuracy of the particulars contained in the declaration, inspect the commercial documents and data relating to the import or export operations in respect of the goods concerned or to subsequent commercial operations involving those goods. Such inspections may be carried out at the premises of the declarant, of any other person directly or indirectly involved in the said operations in a business capacity or of any other person in possession of the said documents for business purposes. Those authorities may also examine the goods where it is still possible for them to be presented.

3. Where revision of the declaration or post-clearance examination indicates that the rules governing the customs procedure concerned have been applied on the basis of incorrect or incomplete information, the customs authorities shall, in accordance with any provisions laid down, take the measures necessary to regularize the situation, taking account of the new information available to them.

## Section 2

**Release for free circulation***Article 78*

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

It shall entail application of the commercial policy measures, completion of the other formalities laid down in respect of the importation of goods and the charging of any duties legally owed.

#### Article 79

1. In derogation from Article 65, provided that the import duty chargeable on the goods is one of the duties referred to in the first indent of Article 5 (10) and that the rate of that duty is reduced after the date of acceptance of the declaration for release for free circulation but before the goods are released, the declarant may request application of the more favourable rate.

2. Paragraph 1 shall not apply where it is not possible to release the goods for reasons attributable to the declarant alone.

#### Article 80

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

#### Article 81

1. Where goods are released for free circulation at a reduced or zero rate of duty on account of their end-use, they shall remain under customs supervision as long as the conditions laid down for granting such a reduced or zero rate of duty apply, the goods are neither exported nor destroyed and the amount of import duties payable as a result of failure to fulfil one of the conditions laid down for granting that reduced or zero rate of duty remains unpaid.

2. Articles 87 and 89 shall apply *mutatis mutandis* to the goods referred to in paragraph 1.

#### Article 82

Goods released for free circulation shall lose their customs status as Community goods where:

- (a) the declaration for release for free circulation is invalidated after release in accordance with Article 64, or

- (b) the import duties payable on those goods are repaid or remitted:

- under the inward processing procedure in the form of the drawback system, or
- in respect of defective goods or goods which fail to comply with the terms of the contract, pursuant to Article 236, or
- in situations of the type referred to in Article 237 where repayment or remission is conditional upon the goods being re-exported or being assigned an equivalent customs-approved treatment or use.

This provision shall apply without prejudice to:

- Article 5 (8) as regards exported goods,
- Article 112 (3) as regards the system of equivalence under the inward processing procedure, and
- the last subparagraph of Article 203 (1) as regards waste and scrap resulting from the destruction of goods referred to in Article 81 in respect of which no customs debt on importation is deemed to have been incurred.

### Section 3

#### Conditional relief procedures and customs procedures with economic impact

##### A. Provisions common to several procedures

#### Article 83

1. 'Conditional relief procedures' means the following procedures when applied to non-Community goods:

- external transit,
- customs warehousing,
- inward processing in the form of the conditional relief procedure,
- processing under customs control,
- temporary importation.

2. 'Customs procedures with economic impact' means:

- customs warehousing,
- inward processing,
- processing under customs control,
- temporary importation,
- outward processing.

3. 'Import goods' means goods placed under a conditional relief procedure and goods which, under the

inward processing procedure in the form of the drawback system, have undergone the formalities for release for free circulation and the formalities provided for in Article 122.

4. 'Goods in the unaltered state' means import goods which, under the inward processing arrangements or the arrangements for processing under customs control, have undergone no form of processing.

#### *Article 84*

The use of any customs procedure with economic impact, with the exception of the customs warehousing procedure, shall be conditional upon authorization being granted by the customs authorities.

The operation of a customs warehouse shall be conditional upon such authorization being granted unless undertaken by the customs authorities themselves.

#### *Article 85*

Without prejudice to the special conditions governing the procedure in question, the authorization referred to in Article 84 shall be granted only:

- to persons who offer every guarantee necessary for the proper conduct of the operations,
- where the customs authorities can supervise the procedure without having to introduce administrative arrangements that are incommensurate with the economic requirements involved.

#### *Article 86*

1. The conditions under which the procedure in question is used or the customs warehouse is operated shall be set out in the authorization.

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

#### *Article 87*

Without prejudice to the particular rules laid down within the framework of a specific procedure, the customs authorities may make the placing of goods under a conditional relief procedure conditional upon the provision of security in order to ensure that any customs debt which may be incurred in respect of those goods will be paid.

#### *Article 88*

1. A conditional relief procedure shall end when the goods placed under that procedure are assigned a new customs-approved treatment or use.

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

#### *Article 89*

The rights and obligations of the person on whose behalf the declaration placing goods under a procedure with economic impact or a conditional relief procedure is made and which derive from that procedure may, on the conditions laid down by the customs authorities, be transferred successively to other persons who fulfil the conditions laid down, where necessary, in order to benefit from the procedure in question.

### **B. External Community transit procedure**

#### *Article 90*

1. The external Community transit procedure shall allow the movement between two points within the customs territory of the Community of:

- (a) non-Community goods, without such goods being subject to import duties and other charges or commercial policy measures;
- (b) Community goods which are subject to a Community measure involving their export to third countries and in respect of which the corresponding customs formalities for export have been carried out.

2. Movement, as referred to in paragraph 1, shall take place:

- (a) under the external Community transit procedure; or,
- (b) under cover of a TIR carnet (TIR Convention) on condition that the goods are transported through the territory of a third country; or,
- (c) under cover of an ATA carnet (ATA Convention) used solely as a transit document on condition that the goods are transported through the territory of a third country; or,
- (d) under cover of a Rhine manifest (Article 9 of the revised Convention for the Navigation of the Rhine); or,
- (e) by post (including parcel post); or,
- (f) under a special transit procedure referred to in Article 41 (c).

3. Paragraphs 1 (a) and 2 shall not apply where movement, as referred to in paragraph 1 (a), takes place under a conditional relief procedure other than the

external Community transit procedure in accordance with the rules laid down under the procedure in question.

#### *Article 91*

1. The procedure for external Community transit shall apply to goods passing through the territory of a third country only if:

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

2. With the exception of cases in which use of the external Community transit procedure is required to ensure application of Community legislation governing specific fields, it shall not be compulsory for goods carried by travellers, including goods contained in their luggage, provided that the goods concerned are not intended for commercial use.

#### *Article 92*

1. The principal shall provide a security in order to ensure payment of any customs debt or other charges which may be incurred in respect of the goods.

2. The following shall be exempt from the requirement to provide a security:

- (a) the railway authorities of the Member States,
- (b) the carriage of goods on the Rhine and the Rhine waterways;
- (c) the carriage of goods by sea;
- (d) the carriage of goods by air;
- (e) the carriage of goods by pipeline.

#### *Article 93*

The principal shall present the goods intact to customs at their destination within the period prescribed and with due observance of the measures adopted by the customs authorities to ensure identification.

#### *Article 94*

The detailed rules for the operation of the procedure shall be determined in accordance with the procedure of the committee.

### **C. Customs warehouse**

#### *Article 95*

1. The customs warehousing procedure shall allow the storage in a customs warehouse of:

- (a) non-Community goods, without such goods being subject to import duties or commercial policy measures;
- (b) Community goods for which Community legislation governing specific fields provides, as a result of their being placed in a customs warehouse, the benefit of measures normally attaching to the export of such goods.

2. Customs warehouse means any place approved by and under the supervision of the customs authorities where goods may be stored under the conditions laid down.

3. Cases in which the goods referred to in paragraph 1 may be placed under the customs warehousing procedure without being stored in a customs warehouse shall be determined in accordance with the procedure of the committee.

#### *Article 96*

A customs warehouse may be:

- available for use by any person for the warehousing of goods (public warehouse), or
- reserved for the warehousing of goods by the warehousekeeper (private warehouse).

#### *Article 97*

1. Authorization to operate a customs warehouse shall be granted at the request of the person wishing to operate such a warehouse.

2. Authorization shall be granted only to persons established in the Community.

#### *Article 98*

The warehousekeeper shall be the person authorized to operate the warehouse. He shall be responsible for:

- (a) ensuring that while the goods are in the customs warehouse they are not removed from customs supervision;
- (b) fulfilling the obligations that arise from the storage of goods covered by the customs warehousing procedure; and
- (c) complying with the particular conditions specified in the authorization.



*Article 99*

1 By way of derogation from Article 98, where the authorization concerns a public warehouse, it may provide that the responsibilities referred to in Article 98 (a) and (b) devolve exclusively upon the depositor

2 The depositor shall at all times be responsible for fulfilling the obligations arising from the placing of goods under the customs warehousing procedure

*Article 100*

The rights and obligations of a warehousekeeper may, with the agreement of the customs authorities, be transferred to another person

*Article 101*

Without prejudice to Article 87 or the security provided for within the framework of the common agricultural policy, the customs authorities may request the warehousekeeper to provide security in connection with the responsibilities specified in Article 98

*Article 102*

The person designated by the customs authorities shall keep, in a form approved by those authorities, stock records of all the goods placed under the customs warehousing procedure. This shall not apply to public warehouses in the cases referred to in Article 99

*Article 103*

1 Where an economic need exists and customs supervision is not adversely affected thereby, the customs authorities may allow

- (a) Community goods other than those referred to in Article 95 (1) (b) to be stored on the premises of a customs warehouse
- (b) non-Community goods to be processed on the premises of a customs warehouse under the inward processing procedure, subject to the conditions provided for by that procedure. The formalities which may be dispensed with in a customs warehouse shall be determined in accordance with the procedure of the committee
- (c) non-Community goods to be processed on the premises of a customs warehouse under the procedure for processing under customs control, subject to the conditions provided for by that procedure. The formalities which may be dispensed with in a customs warehouse shall be determined in accordance with the procedure of the committee

2 In the cases referred to in paragraph 1, goods shall not be deemed to have been placed under the customs warehousing procedure

3 The customs authorities may require the goods referred to in paragraph 1 to be entered in the stock records provided for in Article 102

*Article 104*

Goods placed under the customs warehousing procedure shall be entered in the stock records provided for in Article 102 as soon as they are deposited in the customs warehouse

*Article 105*

1 There shall be no limit to the length of time goods may remain under the customs warehousing procedure

However, in exceptional cases, the customs authorities may set a time limit by which the depositor must assign the goods a new customs-approved treatment or use

2 Specific time limits for certain goods referred to in Article 95 (1) (b) covered by the common agricultural policy may be laid down in accordance with the procedure of the committee

*Article 106*

1 Import goods may undergo the usual forms of handling intended to preserve them, improve their appearance or marketable quality or prepare them for distribution or resale

A list of cases in which those forms of handling shall be prohibited for goods covered by the common agricultural policy may be drawn up if this is necessary to ensure the smooth operation of the common organization of markets

2 Community goods referred to in Article 95 (1) (b) which are placed under the customs warehousing procedure and are covered by the common agricultural policy shall undergo only the forms of handling expressly stipulated for such goods

3 The forms of handling provided for in the first subparagraph of paragraph 1 and in paragraph 2 must be authorized in advance by the customs authorities, which shall lay down the conditions under which they may take place

4 The lists of the forms of handling referred to in paragraphs 1 and 2 shall be established in accordance with the procedure of the committee

*Article 107*

Where circumstances so warrant, goods placed under the customs warehousing procedure may be temporarily removed from the customs warehouse. Such remo-

val must be authorized in advance by the customs authorities, who shall stipulate the conditions on which it may take place.

While they are outside the customs warehouse the goods may undergo the forms of handling referred to in Article 106 on the conditions set out therein.

#### *Article 108*

The customs authorities may allow goods placed under the customs warehousing procedure to be transferred from one customs warehouse to another.

#### *Article 109*

1. Where a customs debt is incurred in respect of import goods and the customs value of such goods is based on a price actually paid or payable which includes the cost of warehousing and of preserving goods while they remain in the warehouse, such costs shall not be included in the customs value if they are distinguished from the price actually paid or payable for the goods.

2. Where the said goods have undergone the usual forms of handling within the meaning of Article 106, the nature of the goods, the customs value and the quantity to be taken into consideration in determining the amount of import duties shall, at the request of the declarant, be those which would be taken into consideration for the goods, at the moment referred to in Article 211, if they had not undergone such handling.

#### *Article 110*

Community goods referred to in Article 95 (1) (b) which are covered by the common agricultural policy and are placed under the customs warehousing procedure must be exported or be assigned a treatment or use provided for by the Community legislation governing specific fields referred to in that Article.

### **D. Inward processing**

#### *1. General*

#### *Article 111*

1. Without prejudice to Article 112, the inward processing procedure shall allow the following goods to be used in the customs territory of the Community in one or more processing operations:

- (a) non-Community goods intended for re-export from the customs territory of the Community in the form of compensating products, without such goods

being subject to import duties or commercial policy measures (conditional relief system);

- (b) goods released for free circulation with repayment or remission of the import duties levied on such goods if they are re-exported from the customs territory of the Community in the form of compensating products (drawback system).

#### *2. Processing operations means:*

- (a) the working of goods, including fitting or assembling them or adapting them to other goods;
- (b) the processing of goods;
- (c) the repair of goods, including their restoration and putting them in order; and
- (d) the use of certain goods defined in accordance with the procedure of the Committee which are not to be found in the compensating products, but which allow or facilitate the production of those products, even if they are entirely or partially used up in the process.

3. Compensating products means all products resulting from processing operations.

#### *Article 112*

1. Where the conditions laid down in paragraph 2 are fulfilled and subject to paragraph 4, the customs authorities shall authorize:

- (a) compensating products to be obtained from equivalent goods;
- (b) compensating products obtained from equivalent goods to be exported from the Community before importation of the import goods.

2. Equivalent goods must have the customs status of Community goods and be of the same quality and have the same characteristics as the import goods. However, in specific cases determined in accordance with the procedure of the Committee, equivalent goods may be permitted to have reached a more advanced stage of manufacture than the import goods.

3. Where paragraph 1 applies, the import goods shall enjoy the customs status of equivalent goods and the latter the customs status of import goods.

4. Measures designed to prohibit or limit recourse to paragraph 1 may be adopted in accordance with the procedure of the Committee.

5. Where paragraph 1 (b) is applied and the compensating products would be liable to export duties if they were not exported under an inward processing opera-

tion, the holder of the authorization shall provide a security to ensure payment of the duties should the import goods not be imported within the period prescribed.

## II. Granting authorization

### *Article 113*

The authorization shall be granted at the request of the person who carries out processing operations or who arranges for them to be carried out.

### *Article 114*

The authorization shall be granted only:

- (a) to persons established in the Community. However, the authorization may be granted to persons established outside the Community in respect of imports of a non-commercial nature;
- (b) where, without prejudice to the use of the goods referred to in the last indent of Article 111 (2) (d), the import goods can be identified in the compensating products or, in the case referred to in Article 112, where compliance with the conditions laid down in respect of equivalent goods can be verified;
- (c) where the inward processing procedure can help create the most favourable conditions for the export of compensating products, provided that the essential interests of Community producers are not adversely affected (economic conditions).

## III. Operation of the procedure

### *Article 115*

1. The customs authorities shall specify the period within which the compensating products must be assigned a new customs-approved treatment or use. That period shall take account of the time required to carry out the processing operations and dispose of the compensating products.

2. The period shall run from the date on which the non-Community goods are placed under the inward processing procedure. The customs authorities may grant an extension on submission of a duly substantiated request by the holder of the authorization.

For reasons of simplification, it may be decided that a period which commences in the course of a calendar month or quarter shall end on the last day of a subsequent calendar month or quarter respectively.

3. Where Article 112 (1) (b) applies, the customs authorities shall specify the period within which the non-Community goods must be declared for the procedure.

That period shall run from the date of acceptance of the export declaration relating to the compensating products obtained from the corresponding equivalent goods.

4. Specific time limits may be laid down in accordance with the procedure of the Committee, for certain processing operations or for certain import goods.

### *Article 116*

1. The customs authorities shall fix either the rate of yield of the operation or, where necessary, the method of determining such rate. Rate of yield means the quantity or percentage of compensating products obtained from the processing of a given quantity of import goods. The rate of yield shall be determined on the basis of the actual circumstances in which the processing operation is, or is to be, carried out.

2. Where circumstances so warrant and, in particular, in the case of processing operations customarily carried out under clearly defined technical conditions involving goods of substantially uniform characteristics and resulting in the production of compensating products of uniform quality, standard rates of yield may be fixed in accordance with the procedure of the committee on the basis of actual data previously ascertained.

### *Article 117*

1. Goods in the unaltered state and compensating products must be re-exported. However, they may be released for free circulation, placed under the procedure for processing under customs control, destroyed or abandoned where authorized by the customs authorities, who shall grant such authorization where circumstances so warrant.

2. Paragraph 1 shall also apply where compensating products must be assigned a customs-approved treatment or use referred to in the said paragraph after being placed under the customs warehousing procedure, the temporary importation procedure or a transit procedure or in a free zone or free warehouse.

3. The cases in which and the conditions under which goods in the unaltered state or compensating products covered by an authorization for release for free circulation shall be deemed to have been released for free circulation may be determined in accordance with the procedure of the committee.

### *Article 118*

Subject to Article 119, where a customs debt is incurred in respect of compensating products, the amount of such debt shall be determined on the basis of the items of charge appropriate to the import goods incorporated

in the said compensating products as assessed at the time referred to in Article 211.

#### *Article 119*

By way of derogation from Article 118, compensating products:

(a) shall be subject to the import duties appropriate to them where:

- they are released for free circulation and appear on the list adopted in accordance with the procedure of the committee and to the extent that they correspond proportionally to the exported part of the compensating products not included in that list. However, the holder of the authorization may ask for the products to be assessed to duty under the conditions referred to in Article 118,
- they are subject to charges established under the common agricultural policy and where provisions adopted in accordance with the procedure of the committee so provide;

(b) shall be subject to import duties calculated in accordance with the rules applicable to the customs procedure in question or to free zones or free warehouses where they have been placed under a conditional relief procedure or in a free zone or free warehouse.

However,

- the person concerned may request that duty be assessed in accordance with Article 118,
- in cases where the compensating products have been assigned a customs-approved treatment or use referred to above other than processing under customs control, the amount of the import duties shall be at least equal to the amount calculated in accordance with Article 118;

(c) may be made subject to the rules governing assessment of duty laid down within the framework of the procedure for processing under customs control where the import goods could have been placed under that procedure.

#### IV. Processing operations outside the customs territory of the Community

#### *Article 120*

1. All or part of the compensating products or goods in the unaltered state may be temporarily exported for the purpose of further processing outside the customs

territory of the Community if the customs authority so authorizes, in accordance with the conditions laid down in the outward processing provisions.

2. Where a customs debt is incurred in respect of reimported products, the following shall be charged:

- (a) import duties on the compensating products or goods in the unaltered state referred to in paragraph 1, calculated in accordance with Articles 118 and 119; and
- (b) import duties on products reimported after processing outside the customs territory of the Community, the amount of which shall be calculated in accordance with the provisions relating to the outward processing procedure, on the same conditions as would have applied had the products exported under the latter system been released for free circulation before such export took place.

#### V. Special provisions relating to the drawback system

#### *Article 121*

The drawback system may be used for all goods, with the exception of those which, at the time the declaration for release for free circulation is accepted:

- are subject to quantitative import restrictions,
- might qualify for a preferential tariff measure or an autonomous suspensive measure within the meaning of Article 20 (3) (d) to (f) within quotas,
- are subject to an agricultural levy or any other import charge provided for under the common agricultural policy or under specific arrangements applicable to certain goods resulting from the processing of agricultural products.

Moreover, the drawback system shall be used only if no export refund is determined for the compensating products at the time the declaration for release for free circulation of the import goods is accepted.

Permission to use the drawback system shall be granted only if, at the time the declaration of exportation of the compensating products is accepted:

- the import goods are not subject to one of the charges referred to in the third indent of the first paragraph,
- no export refund is determined for the compensating products.

#### *Article 122*

1. The declaration for release for free circulation shall indicate that the drawback system is being used and shall provide a reference to the authorization.

2. At the request of the customs authorities, this authorization must be attached to the declaration for release for free circulation.

#### Article 123

Under the drawback system, Article 112 (1) (b), (3) and (5), Article 115 (3), Articles 117 and 118, Article 119 (a), second indent, and (c) and Article 126 shall not apply.

#### Article 124

Temporary exportation of compensating products carried out as provided for in Article 120 (1), shall not be deemed to be exportation within the meaning of Article 125 except where such products are not reimported into the Community within the period prescribed.

#### Article 125

1. The holder of the authorization may ask for the import duty to be repaid or remitted in so far as he can establish to the satisfaction of the customs authorities that compensating products obtained from import goods released for free circulation under the drawback system have been either:

- exported under customs supervision from the customs territory of the Community, or
- placed, with a view to being subsequently exported, under the Community transit procedure, customs warehousing procedure, temporary importation procedure or inward processing procedure (conditional relief system), or in a free zone or free warehouse,

all conditions for use of the procedure having also been met.

2. For the purposes of being assigned a customs-approved treatment or use referred to in paragraph 1, compensating products shall be deemed to be non-Community goods.

3. The period within which the application for repayment must be made shall be determined in accordance with the procedure of the committee.

4. Compensating products placed under a customs procedure or in a free zone in accordance with the provisions of paragraph 1 shall be released for free circulation only where authorized by the customs authorities, who shall grant such authorization where circumstances so warrant.

In this case, and without prejudice to Article 119 (b), the amount of the import duties repaid or remitted shall be deemed to constitute the amount of the customs debt.

5. For the purpose of determining the amount of the import duties to be repaid or remitted, the first indent of Article 119 (a) shall apply *mutatis mutandis*.

#### VI. Other provision

#### Article 126

Non-Community goods may be placed under the inward processing procedure, applying the conditional exemption system, in order that the compensating products may qualify for exemption from the export duties to which identical products obtained from Community goods instead of import goods would be liable.

#### E. Processing under customs control

#### Article 127

The procedure for processing under customs control shall allow the processing of non-Community goods in the customs territory of the Community for the purpose of their undergoing operations which alter their classification or state, without their being subject to import duties or commercial policy measures, and the release for free circulation of the products resulting from such operations (processed products), subject to the appropriate import duties.

#### Article 128

The list of cases in which the procedure for processing under customs control may be used shall be determined in accordance with the procedure of the committee.

#### Article 129

Authorization for processing under customs control shall be granted at the request of the person who carries out the processing or who arranges for it to be carried out on his behalf.

#### Article 130

Authorization shall be granted only:

- (a) to persons established in the Community;
- (b) where the import goods can be identified in the processed products;

- (c) where the goods cannot be economically restored after processing to their classification or state as it was when they were placed under the procedure;
- (d) where use of the procedure cannot result in circumvention of the effect of the rules concerning origin and quantitative restrictions applicable to the imported goods;
- (e) where the conditions that are necessary to enable the procedure to help create or maintain a processing activity in the Community without adversely affecting the essential interests of Community producers of similar goods (economic conditions) are fulfilled.

#### Article 131

The customs authorities may permit the holder of an authorization to arrange for a third person to carry out the processing on his behalf.

#### Article 132

Articles 115 and 116 shall apply *mutatis mutandis*.

#### Article 133

Where a customs debt is incurred in respect of products that are at an intermediate stage of processing as compared with that provided for in the authorization, the amount of that debt shall be calculated on the basis of the items of charge appropriate to the goods in the unaltered state at the moment referred to in Article 211.

#### Article 134

1. Where, at the time when they were released for free circulation, the import goods complied with the conditions for receiving preferential tariff treatment and such preferential tariff treatment is applicable to products identical to the processed products released for free circulation, the import duties to which the processed products are subject shall be calculated by applying the rate of duty applicable under that treatment.
2. If provision is made for the preferential tariff treatment referred to in paragraph 1 in respect of the import goods under tariff quotas or tariff ceilings, the quantity of import goods actually used in the manufacture of the processed products released for free circulation shall be counted against the tariff quotas or ceilings in force at the time of acceptance of the declaration for release for free circulation and no quantities shall be counted against tariff quotas or ceilings opened in respect of products identical to the processed products.

### F. Temporary importation

#### Article 135

The temporary importation procedure shall allow non-Community goods intended for re-export in the unaltered state to be used in the customs territory of the Community with total or partial relief from import duties and without their being subject to commercial policy measures.

#### Article 136

Authorization for temporary importation shall be granted by the customs authorities at the request of the person who uses the goods or arranges for them to be used on his responsibility.

#### Article 137

The customs authorities shall refuse to authorize use of the temporary importation procedure where they consider it impossible to ensure that the import goods can be identified.

However, the customs authorities may authorize use of the temporary importation procedure without ensuring that the goods can be identified where they consider that, in view of the nature of the goods or of the operations to be carried out, the absence of identification measures is not liable to give rise to any abuse of the procedure.

#### Article 138

1. The customs authorities shall determine the period within which import goods must be assigned a new customs-approved treatment or use. Such period shall take account of the duration of the authorization for use.
2. Without prejudice to the special periods laid down in Article 139, the maximum period during which goods may remain under the temporary importation procedure shall be 24 months.
3. However, where exceptional circumstances so warrant, the customs authorities may, at the request of the person concerned, and within reasonable limits and subject to the conditions laid down, extend the periods referred to in paragraph 1 in order to permit the authorized use.

#### Article 139

The cases and the special conditions under which the temporary importation procedure may be used with

total relief from import duties shall be determined by the Council, acting by a qualified majority on a proposal from the Commission.

#### *Article 140*

1. Use of the temporary importation procedure with partial relief from import duties shall be granted in respect of goods which, while remaining the property of a person established outside the customs territory of the Community, are not covered by the provisions adopted by the Council in accordance with Article 139 or which are covered by such provisions but do not fulfil all the conditions provided for therein for the grant of temporary importation with total relief.

2. The list of goods in respect of which the temporary importation procedure with partial relief from import duties may not be used shall be drawn up in accordance with the procedure of the committee.

#### *Article 141*

1. The amount of import duties payable in respect of goods placed under the temporary importation procedure with partial relief from import duties shall be fixed at 3 %, for every month or fraction of a month during which the goods have been placed under the temporary importation procedure with partial relief, of the amount of duties which would have been payable on the said goods had they been released for free circulation on the date on which they were placed under the temporary importation procedure.

2. The amount of import duties to be collected shall not exceed that which would have been collected if the goods concerned had been released for free circulation on the date on which they were placed under the temporary importation procedure.

3. Transfer of the rights and obligations deriving from the temporary importation procedure pursuant to Article 89 shall not mean that the same relief arrangements must be applied to each of the periods of use to be taken into consideration.

4. Where the transfer referred to in paragraph 3 is made with partial relief for both persons authorized to use the procedure during the same month, the holder of the initial authorization shall be liable to pay the amount of import duties due for that month.

#### *Article 142*

1. Save as otherwise provided, import goods shall be released for free circulation, placed under the proce-

cedure for processing under customs control, destroyed or abandoned only where authorized by the customs authorities.

2. Paragraph 1 shall also apply where the said goods must be assigned a customs-approved treatment or use referred to in that paragraph after having been placed under the customs warehousing procedure, or a transit procedure or in a free zone or free warehouse.

#### *Article 143*

Where, for a reason other than the placing of goods under the temporary importation procedure with partial relief from import duties, a customs debt is incurred in respect of goods placed under the said procedure, the amount of that debt shall be equal to the difference between the amount of duties calculated pursuant to Article 211 and that payable pursuant to Article 141.

#### G. Outward processing

##### I. General

#### *Article 144*

1. The outward processing procedure shall, without prejudice to the provisions governing specific fields relating to the standard exchange system laid down in Articles 153 to 159 or to Article 120, allow Community goods to be exported temporarily from the customs territory of the Community in order to undergo processing operations and the products resulting from those operations (compensating products) to be released for free circulation in the customs territory of the Community with total or partial relief from import duties.

2. The operations referred to in Article 111 (2) (a), (b) and (c) shall be deemed to be processing operations within the meaning of the outward processing procedure.

#### *Article 145*

1. The outward processing procedure shall not be used in the case of Community goods:

- whose export gives rise to repayment or remission of import duties,
- which, prior to export, were released for free circulation with total relief from import duties by virtue of their nature or end-use, for as long as the conditions for granting such relief continue to apply,
- whose export gives rise to the granting of export refunds or in respect of which a financial advantage other than such refunds is granted under the

common agricultural policy by virtue of the export of the said goods.

2. However, derogations from the second indent of paragraph 1 may be determined in accordance with the procedure of the committee.

3. Goods placed under the outward processing procedure shall be referred to as temporary export goods.

## II. Granting authorization

### *Article 146*

1. Authorization to use the outward processing procedure shall be granted at the request of the person who arranges for the processing operations to be carried out.

2. By way of derogation from paragraph 1, authorization to use the outward processing procedure may be granted to another person in respect of goods of Community origin where the processing operation consists in incorporating those goods into goods obtained outside the Community and imported as compensating products, provided that use of the procedure helps promote the sale for export of these goods without adversely affecting the essential interests of Community producers of products identical or similar to the imported compensating products.

The cases in which and the conditions under which the preceding subparagraph 1 shall apply shall be determined in accordance with the procedure of the committee.

### *Article 147*

Authorization shall be granted only:

- (a) to persons established in the Community;
- (b) where it is considered that it will be possible to establish that the compensating products have resulted from processing of the temporary export goods.

The cases in which derogations from this subparagraph may apply and the conditions under which such derogations shall apply be determined in accordance with the procedure of the committee:

- (c) where authorization to use the outward processing procedure is not liable seriously to harm the essential interests of Community processors (economic conditions).

## III. Operation of the procedure

### *Article 148*

1. The customs authorities shall specify the period within which the compensating products must be reim-

ported into the customs territory of the Community. They may extend that period on submission of a duly substantiated request by the holder of the authorization.

2. The customs authorities shall fix either the rate of yield of the operation or, where necessary, the method of determining that rate. Rate of yield means the quantity or percentage of compensating products obtained from the processing of a given quantity of temporary export goods.

### *Article 149*

The total or partial relief from import duties provided for in Article 150 (1) shall be granted only where the compensating products are declared for release for free circulation in the name of or on behalf of:

- (a) the holder of the authorization; or
- (b) any other person established in the Community provided that that person has obtained the consent of the holder of the authorization.

### *Article 150*

1. The total or partial relief from import duties provided for in Article 144 shall be calculated by deducting from the amount of the import duties applicable to the compensating products released for free circulation the amount of the import duties that would be applicable on the same date to the temporary export goods if they were imported into the customs territory of the Community from the country in which they underwent the processing operation or last processing operation.

2. The amount to be deducted pursuant to paragraph 1 shall be calculated on the basis of the quantity and classification of the goods in question on the date of acceptance of the declaration placing them under the outward processing procedure and on the basis of the other items of charge applicable to them on the date of acceptance of the declaration for release for free circulation of the compensating products.

The value of the temporary export goods shall be that taken into account for such goods in calculating the customs value of the compensating products in accordance with Article 32 (1) (b) (i) or, if the value cannot be calculated in that way, the difference between the customs value of the compensating products and the processing costs determined by reasonable means.

However,

- certain charges determined in accordance with the procedure of the committee shall not be taken into account in calculating the amount to be deducted,
- where, prior to being placed under the outward processing procedure, the temporary export goods



were released for free circulation at a reduced rate by virtue of their end-use, and for such time as the conditions for granting the reduced rate continue to apply, the amount to be deducted shall be the amount of import duties actually levied when the goods were released for free circulation.

3. Where temporary export goods could qualify on their release for free circulation for a reduced or zero rate of duty by virtue of their end-use, that rate shall be taken into account provided that the goods underwent operations consistent with such an end-use in the country where the processing operation or last such operation took place.

4. Where compensating products qualify for a preferential tariff measure within the meaning of Article 20 (3) (d) or (e) and that measure exists for goods falling within the same tariff classification as the temporary export goods, the rate of import duty to be taken into account in establishing the amount to be deducted pursuant to paragraph 1 shall be that which would apply if the temporary export goods fulfilled the conditions under which that preferential measure may be applied.

5. This Article shall be without prejudice to the application of provisions adopted or liable to be adopted in the context of trade between the Community and third countries and which provide for relief from import duties in respect of certain compensating products.

#### *Article 151*

1. Where the purpose of the processing operation is the repair of the temporary export goods, they shall be released for free circulation with total relief from import duties where it is established, to the satisfaction of the customs authorities, that the goods were repaired free of charge, either by virtue of a contractual or statutory obligation arising from a guarantee or because of a manufacturing defect.

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

#### *Article 152*

Where the purpose of the processing operation is the repair of temporary export goods and such repair is carried out in return for payment, the partial relief from import duties provided for in Article 144 shall be granted by establishing the amount of the duties appli-

cable on the basis of the items of charge pertaining to the compensating products on the date of acceptance of the declaration for the release for free circulation of those products and taking into account as the customs value an amount equal to the repair costs, provided that those costs represent the only consideration provided by the holder of the authorization and are not influenced by any links between that holder and the operator.

### *IV. Standard exchange*

#### *Article 153*

1. Under the conditions laid down in this Title which are applicable in addition to the preceding provisions, the standard exchange system shall allow an imported product, hereinafter referred to as a 'replacement', to replace a compensating product.

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

3. The customs authorities shall permit replacements to be imported, under the conditions laid down by them, before the temporary export goods are exported (prior importation).

In the event of prior importation of a replacement, security shall be provided to cover the amount of the import duties.

#### *Article 154*

1. Replacements shall be of the same quality and possess the same characteristics as the temporary export goods had the latter undergone the repair in question.

2. Where the temporary export goods have been used before export, the replacements must also have been used and must not be new products.

The customs authorities may, however, grant derogations from this rule if the replacement has been supplied free of charge either by reason of a contractual or statutory obligation deriving from a guarantee or because of a manufacturing defect.

#### *Article 155*

Standard exchange shall be authorized only where it is possible to verify that the conditions laid down in Article 154 are fulfilled.

*Article 156*

Without prejudice to Article 159, the provisions applicable to compensating products shall also apply to replacements.

*Article 157*

1. In the event of prior importation, the export goods shall be exported within a period of two months from the date of acceptance by the customs authorities of the declaration for release of the replacements for free circulation.

2. However, where exceptional circumstances so warrant, the customs authorities may, at the request of the person concerned, extend within reasonable limits the period referred to in paragraph 1.

*Article 158*

In the event of prior importation and where Article 150 is applied, the amount to be deducted shall be determined on the basis of the items of charge pertaining to the temporary export goods on the date of acceptance of the declaration placing them under the procedure.

*Article 159*

Articles 146 (2) and 147 (b) shall not apply in the context of standard exchange.

**V. Other provision***Article 160*

The procedures provided for within the framework of outward processing shall also be applicable for the purposes of implementing non-tariff common commercial policy measures.

**Section 4****Export***Article 161*

1. The export procedure shall allow Community goods to leave the customs territory of the Community.

Exportation shall entail the application of export duties, commercial policy measures and other export formalities.

2. Goods shall be treated in the same way as exports where they are supplied to:

(a) persons in third countries who are eligible for relief pursuant to either the Vienna Convention of 18

April 1961 on Diplomatic Relations, the Vienna Convention of 24 April 1963 on Consular Relations or other consular conventions, or the New York Convention of 16 December 1969 on Special Missions;

(b) armed forces of third countries stationed in the territory of a Member State who are eligible for relief under international agreements.

3. Without prejudice to the provisions applicable to goods exported by travellers and goods placed under the outward processing procedure or a transit procedure pursuant to Article 163, all Community goods intended for export shall be placed under the export procedure.

4. The cases in which and the conditions under which goods leaving the customs territory of the Community are not deemed to be exports or are not subject to an export declaration shall be determined in accordance with the procedure of the committee.

5. The export declaration may be required to be lodged at the customs office responsible for supervising the place where the exporter is established or where the goods are packed or loaded for export shipment.

The relevant cases and conditions shall be determined in accordance with the procedure of the committee.

*Article 162*

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

**Section 5****Internal transit***Article 163*

1. The internal transit procedure shall allow Community goods other than those referred to in Article 90 (1) (b) which are dispatched from one point within the Community to another to move temporarily outside the customs territory of the Community during the period laid down by the customs authorities for transit purposes and to be reimported as goods having Community status, on condition that the movement outside the said customs territory is covered by a single transport document drawn up within the customs territory of the Community.

2. The movement referred to in paragraph 1 may take place:

- (a) under the internal Community transit procedure;
- (b) under cover of a TIR carnet (TIR Convention);
- (c) under cover of an ATA carnet (ATA Convention);
- (d) by post (including parcel post).

3. In the case referred to in paragraph 2 (a):

- (a) Articles 93 and 94 shall apply *mutatis mutandis*;
- (b) special conditions shall, where necessary, be laid down in accordance with the procedure of the committee to take account of international conventions.

4. In the cases referred to in paragraph 2 (b) and (c), goods placed under the internal transit procedure may be reimported as goods having the customs status of Community goods provided that the said status is established in the form prescribed by the provisions adopted in accordance with the procedure of the committee.

#### CHAPTER 3

#### OTHER TYPES OF CUSTOMS-APPROVED TREATMENT OR USE

##### Section 1

##### Free zones and free warehouses

###### A. General

###### Article 164

Free zones and free warehouses are parts of the customs territory of the Community or premises situated in that territory and separated from the rest of it in which:

- (a) non-Community goods are subject neither to import duties nor to commercial policy measures;
- (b) Community goods for which such provision is made under Community legislation governing specific fields qualify, by virtue of being placed in a free zone or free warehouse, for measures normally attaching to the export of goods.

###### Article 165

1. Member States may designate parts of the customs territory of the Community as free zones or authorize the establishment of free warehouses.

2. Member States shall determine the area covered by each zone. Premises which are to be designated as free warehouses must be approved by Member States.

3. Free zones and free warehouses shall be separated from the rest of the customs territory of the Community. Their entry and exit points shall be defined.

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

###### Article 166

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

2. Persons and means of transport entering or leaving a free zone for free warehouse may be subjected to a customs check.

3. Access to a free zone or free warehouse may be denied to persons who do not provide every guarantee necessary for compliance with the rules provided for in this section.

4. The customs authorities may check goods entering, leaving or remaining in a free zone or free warehouse. To enable such checks to be carried out, a copy of the transport document, which shall accompany goods entering or leaving, shall be handed to, or kept at the disposal of, the customs authority by any person designated for this purpose by such authorities. Where such checks are required, the goods shall be made available to the customs authorities.

###### B. Placing of goods in free zones or free warehouses

###### Article 167

Both Community and non-Community goods may be placed in a free zone or free warehouse.

However, the customs authorities may require that goods which present a danger or are likely to spoil other goods or which, for other reasons, require special facilities be placed in premises specially equipped to receive them.

###### Article 168

1. Without prejudice to Article 166 (4), goods entering a free zone or free warehouse need not be presented to the customs authorities, nor need a customs declaration be lodged.

2. Goods shall be presented to the customs authorities and undergo the prescribed customs formalities only where:

- (a) they have been placed under a customs procedure which is discharged when they enter a free zone or free warehouse; however, where the customs procedure in question permits exemption from the obligation to present goods, such presentation shall not be required;
  - (b) they are placed in a free zone or free warehouse on the authority of a decision to grant repayment or remission of import duties;
  - (c) a request has been made for advance payment of export refunds on the goods under the common agricultural policy.
3. At the request of the party concerned, the customs authorities shall certify that goods placed in a free zone or free warehouse are either Community goods or non-Community goods.

### C. Operation of free zones and free warehouses

#### *Article 169*

1. There shall be no limit to the length of time goods may remain in free zones or free warehouses.
2. For certain goods referred to in Article 164 (b) which are covered by the common agricultural policy, specific time limits may be imposed in accordance with the procedure of the committee.

#### *Article 170*

1. Any industrial, commercial or service activity shall, under the conditions laid down in this code, be authorized in a free zone or free warehouse.
2. The customs authorities may impose certain prohibitions or restrictions on the activities referred to in paragraph 1, having regard to the nature of the goods concerned or the requirements of customs supervision.
3. The customs authorities may prohibit persons who do not provide the necessary guarantees for the correct application of the provisions laid down in this Code from carrying on an activity in a free zone or free warehouse.

#### *Article 171*

Non-Community goods placed in a free zone or free warehouse may, while they remain in a free zone or free warehouse:

- (a) be released for free circulation under the conditions laid down by that procedure and by Article 176;

- (b) undergo the usual forms of handling referred to in Article 112 (1) without authorization;
- (c) be placed under the inward processing procedure under the conditions laid down by that procedure.

However, processing operations within the territory of the Old Free Port of Hamburg shall not be subject to conditions of an economic nature.

However, if conditions of competition in a specific economic sector in the Community are affected as a result of this derogation, the Council, acting by a qualified majority on a proposal from the Commission, shall decide that conditions of an economic nature shall apply to the corresponding economic activity within the territory of the Old Free Port of Hamburg;

- (d) be placed under the procedure for processing under customs control under the conditions laid down by that procedure;
- (e) be placed under the temporary importation procedure under the conditions laid down by that procedure;
- (f) be abandoned in accordance with Article 180;
- (g) be destroyed, provided that the person concerned provides the customs authorities with all the information they deem necessary.

Where goods are placed under one of the procedures referred to in (c), (d) or (e), the relevant methods of control may be adapted.

#### *Article 172*

The Community goods referred to in Article 164 (b) which are covered by the common agricultural policy shall undergo only the forms of handling expressly prescribed for such goods in conformity with Article 106 (2). Such handling may be undertaken without authorization.

#### *Article 173*

1. Where Articles 171 and 172 are not applied, non-Community goods and the Community goods referred to in Article 164 (b) shall not be consumed or used in free zones or in free warehouses.

2. Without prejudice to the provisions applicable to supplies of stores, where the procedure concerned so provides, paragraph 1 shall not preclude the use or consumption of goods the release for free circulation or temporary importation of which would not entail appli-

cation of import duties or measures under the common agricultural policy or commercial policy. In that event, no declaration for release for free circulation or temporary importation shall be required.

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

#### *Article 174*

1. All persons carrying on an activity involving the storage, working or processing, or sale or purchase, of goods in a free zone or free warehouse shall keep stock accounts in a form approved by the customs authorities. Goods shall be entered in the stock accounts as soon as they are brought on to such persons' premises. The stock accounts must enable the customs authorities to identify the goods, and must record their movements.

2. Where goods are transhipped within a free zone, the documents relating to the operation shall be kept at the disposal of the customs authorities. The short-term storage of goods in connection with such transshipment shall be deemed to be an integral part of the operation.

#### **D. Removal of goods from free zones or free warehouses**

#### *Article 175*

Without prejudice to special provisions adopted under customs legislation governing specific fields, goods leaving a free zone or free warehouse may be:

- exported or re-exported from the customs territory of the Community, or
- brought into another part of the customs territory of the Community.

The provisions of Title III, with the exception of Articles 48 to 54 where Community goods are concerned, shall apply to goods brought into other parts of that territory except in the case of goods which leave that zone by sea or air without being placed under a transit or other customs procedure.

#### *Article 176*

1. Where a customs debt is incurred in respect of non-Community goods and the customs value of such goods is based on a price actually paid or payable which includes the cost of warehousing or of preserving goods while they remain in the free zone or free warehouse, such costs shall not be included in the customs value if they are distinguished from the price actually paid or payable for the goods.

2. Where the said goods have undergone, in a free zone or free warehouse, one of the usual forms of handling within the meaning of Article 106 (1), the nature of the goods, the customs value and the quantity to be taken into consideration in determining the amount of import duties shall, at the request of the declarant and provided that such handling was covered by an authorization granted in accordance with paragraph 3 of that Article, be those which would be taken into account in respect of those goods, at the moment referred to in Article 211 had they not undergone such handling.

#### *Article 177*

1. Community goods referred to in Article 164 (b) which are covered by the common agricultural policy and are placed in a free zone or free warehouse shall be assigned a treatment or use provided for by the rules under which they are eligible, by virtue of their being placed in a free zone or free warehouse, for measures normally attaching to the export of such goods.

2. Should such goods be returned to another part of the customs territory of the Community, or if no application for their assignment to a treatment or use referred to in paragraph 1 has been made by the expiry of the period prescribed pursuant to Article 169 (2), the customs authorities shall take the measures laid down by the relevant legislation governing specific fields relating to failure to comply with the specified treatment or use.

#### *Article 178*

1. Where goods are brought into or returned to another part of the customs territory of the Community or placed under a customs procedure, the certificate referred to in Article 168 (3) may be used to prove that such goods are either Community or non-Community goods.

2. Where no certificate or other evidence of the Community or non-Community status of the goods is available, the goods shall be deemed to be:

- Community goods, for the purposes of applying export duties and export licences or export measures laid down under the commercial policy,
- non-Community goods in all other cases.

#### *Article 179*

The customs authorities shall ensure that the rules governing exportation are respected where goods are exported from a free zone or free warehouse.

## Section 2

**Re-exportation, destruction and abandonment***Article 180*

1. Non-Community goods may be:

- re-exported from the customs territory of the Community,
- destroyed,
- abandoned to the exchequer where national legislation makes provision to that effect.

2. In the case of re-exportation, Article 161 (2) shall apply *mutatis mutandis*.

3. Re-exportation, destruction and abandonment shall be subject to authorization by the customs authorities, which shall be granted at the request of the person concerned. Where application is made to re-export goods placed under a customs procedure other than a transit procedure, a customs declaration within the meaning of Articles 58 to 77 shall be lodged.

4. Destruction or abandonment shall not entail any expense for the exchequer.

5. Any waste or scrap resulting from destruction shall be assigned a customs-approved treatment or use prescribed for non-Community goods.

It shall remain under customs supervision until the time laid down in Article 37 (2) (a).

## TITLE V

**PRIVILEGED OPERATIONS**

## CHAPTER 1

**RELIEFS FROM CUSTOMS DUTY***Article 181*

The Council shall, acting by a qualified majority on a proposal from the Commission, determine the cases in which, on account of special circumstances, relief from import duties or export duties shall be granted where goods are released for free circulation or exported.

were released for free circulation at a reduced or zero rate of import duty by virtue of their end-use and were subject to customs supervision at the time of exportation, the amount of import duty chargeable upon them shall be reduced by the amount, if any, levied on the goods when they were first released for free circulation.

2. The relief from import duties provided for in paragraph 1 shall not be granted in the case of:

## CHAPTER 2

**RETURNED GOODS***Article 182*

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

(a) goods exported from the customs territory of the Community under the outward processing procedure unless those goods remain in the state in which they were exported;

(b) goods which have been the subject of a Community measure involving their exportation to third countries. The circumstances in which and the conditions under which this provision may be waived shall be determined in accordance with the procedure of the committee.

However:

- the three-year period may be exceeded in order to take account of special circumstances,
- where, prior to their exportation from the customs territory of the Community, the returned goods

*Article 183*

Goods must be reimported in the state in which they were exported. The circumstances in which and the conditions under which this requirement may be

waived shall be determined in accordance with the procedure of the committee.

#### *Article 184*

Articles 182 and 183 shall apply *mutatis mutandis* to compensating products originally exported subsequent to an inward processing procedure where circumstances justify their release for free circulation.

The amount of import duty legally owed shall be determined on the basis of the rules applicable under the inward processing procedure.

### CHAPTER 3

#### **PRODUCTS OF SEA-FISHING AND OTHER PRODUCTS TAKEN FROM THE SEA**

#### *Article 185*

Without prejudice to Article 24 (1) (f), the following shall be exempt from import duties when they are released for free circulation:

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

### TITLE VI

#### **CUSTOMS DEBT**

#### CHAPTER 1

##### **SECURITY TO COVER A CUSTOMS DEBT**

#### *Article 186*

1. Where, in accordance with customs legislation, the customs authorities require security to be provided in order to ensure payment of a customs debt, such security shall be provided by the person who is liable or who may become liable for that debt.

2. The customs authorities shall require only one security to be provided in respect of one customs debt.

3. The customs authorities may authorize the security to be provided by a person other than the person from whom it is required.

4. Where the person who has incurred or who may incur a customs debt is a public authority, no security shall be required.

5. The customs authorities may waive the requirement for provision of security where the amount to be secured does not exceed ECU 500.

#### *Article 187*

1. Where customs legislation provides that the provision of security is optional, the customs authorities shall require such security in so far as they consider that a customs debt which has been or may be incurred is not certain to be paid within the prescribed period.

Where the security referred to in the preceding subparagraph is not required, the customs authorities may nevertheless require from the person referred to in Article 186 (1) an undertaking setting out the obligations which that person is legally obliged to fulfil.

2. The security referred to in the first subparagraph of paragraph 1 shall be required:

- at the time of application of the rules requiring such security to be provided, or
- at any subsequent time when the customs authorities find that the customs debt which has been or may be incurred is not certain to be paid within the prescribed period.

#### *Article 188*

At the request of the person referred to in Article 186 (1), the customs authorities shall allow comprehensive security to be provided to cover one or more operations in respect of which a customs debt has been or may be incurred.

#### *Article 189*

1. Where customs legislation makes it compulsory for security to be provided, the customs authorities shall fix the amount of such security at a level equal to:

- the precise amount of the customs debt or debts in question where that amount can be established with certainty at the time when the security is required,
- the maximum amount, as estimated by the customs authorities, of the customs debt or debts which have been or may be incurred in other cases.

Where comprehensive security is required for customs debts which vary in amount over time, the amount of such security shall be set at a level enabling the customs debts in question to be covered at all times.

2. Where customs legislation provides that the provision of security is optional and the customs authorities require security to be provided, the amount of the security shall be fixed by those authorities so as not to exceed the level provided for in paragraph 1.

3. The circumstances in which and the conditions under which a flat-rate security may be provided shall be determined in accordance with the procedure of the committee.

#### *Article 190*

Security may be provided by either:

- a cash deposit, or
- a guarantor.

#### *Article 191*

1. A cash deposit shall be made in the currency of the Member State in which the security is required.

The following shall be deemed equivalent to a cash deposit;

- submission of a cheque the payment of which is guaranteed by the institution on which it is drawn in any manner acceptable to the customs authorities,
- submission of any other instrument recognized by those authorities as a means of payment.

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

#### *Article 192*

The guarantor shall undertake to pay jointly and severally with the debtor the secured amount of a customs debt which falls to be paid.

The guarantor must be:

- either a credit institution or an insurance undertaking authorized to provide guarantees, which have

been approved in accordance with Community provisions, or

- a third person established in the Community and approved by the customs authorities of the Member State in which the security is provided.

The customs authorities may refuse to approve the proposed guarantor where the latter does not appear certain to ensure payment of the customs debt within the prescribed period.

#### *Article 193*

The person required to provide security shall be free to choose between the types of security laid down in Article 190.

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

#### *Article 194*

1. Where the rules adopted in accordance with the procedure of the committee so provide, the customs authorities may accept types of security other than those referred to in Article 190 where they provide equivalent assurance that the customs debt will be paid.

The customs authorities shall refuse the security proposed by the debtor where they do not consider that such security is certain to ensure payment of the customs debt.

2. Subject to the reservation referred to in the second subparagraph of paragraph 1, the customs authorities may accept a cash deposit without the conditions laid down in Article 191 (1) being fulfilled.

#### *Article 195*

Where the customs authorities establish that the security provided does not ensure, or is no longer certain or sufficient to ensure, payment of the customs debt within the prescribed period, they shall require the person referred to in Article 186 (1), at his option, to provide additional security or to replace the original security with a new security.

#### *Article 196*

1. The security shall not be released until such time as the customs debt in respect of which it was given is extinguished or can no longer arise. Once the customs debt is extinguished or can no longer arise, the security shall be released forthwith.



2. Once the customs debt has been extinguished in part or may arise only in respect of part of the amount which has been secured, part of the security shall be released accordingly at the request of the person concerned, unless the amount involved does not justify such action.

#### *Article 197*

Provisions derogating from those contained in this chapter shall, where necessary, be adopted in accordance with procedure of the committee in order to take account of international conventions.

### CHAPTER 2

#### INCURRENCE OF A CUSTOMS DEBT

#### *Article 198*

1. A customs debt on importation shall be incurred through:

- (a) the release for free circulation of goods liable to import duties; or
- (b) the placing of such goods under the temporary importation procedure with partial relief from import duties.

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

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

#### *Article 199*

1. A customs debt on importation shall be incurred through:

- (a) the unlawful introduction into the customs territory of the Community of goods liable to import duties; or
- (b) the unlawful introduction into another part of that territory of such goods located in a free zone or free warehouse.

For the purpose of this Article, unlawful introduction means any introduction in violation of the provisions of Articles 38 to 41 and the second indent of Article 175.

2. The customs debt shall be incurred at the moment when the goods are unlawfully introduced.

3. The debtors shall be:

- the person who introduced such goods unlawfully,

- any persons who participated in the unlawful introduction of the goods and who were aware or should reasonably have been aware that such introduction was unlawful, and

- any persons who acquired or held the goods in question and who were aware or should reasonably have been aware at the time of acquiring or receiving the goods that they had been introduced unlawfully.

#### *Article 200*

1. A customs debt on importation shall be incurred through the unlawful removal from customs supervision of goods liable to import duties.

2. The customs debt shall be incurred at the moment when the goods are removed from customs supervision.

3. The debtors shall be:

- the person who removed the goods from customs supervision,

- any persons who participated in such removal and who were aware or should reasonably have been aware that the goods were being removed from customs supervision,

- any persons who acquired or held the goods in question and who were aware or should reasonably have been aware at the time of acquiring or receiving the goods that they had been removed from customs supervision, and

- where appropriate, the person required to fulfil the obligations arising from temporary storage of the goods or from the use of the customs procedure under which those goods are placed.

#### *Article 201*

1. A customs debt on importation shall be incurred through:

- (a) the non-fulfilment of one of the obligations arising, in respect of goods liable to import duties, from their temporary storage or from the use of the customs procedure under which they are placed, or
- (b) non-compliance with a condition governing the placing of the goods under that procedure or the granting of a reduced or zero rate of import duty by virtue of the end-use of the goods,

in cases other than those referred to in Article 200 unless it is established that those failures have no significant effect on the correct operation of the temporary storage or customs procedure in question.

2. The customs debt shall be incurred either at the moment when the obligation whose non-fulfilment gives rise to the customs debt ceases to be met or at the moment when the goods are placed under the customs procedure concerned where it is established subsequently that a condition governing the placing of the goods under the said procedure or the granting of a reduced or zero rate of import duty by virtue of the end-use of the goods was not in fact fulfilled.

3. The debtor shall be the person who is required, according to the circumstances, either to fulfil the obligations arising, in respect of goods liable to import duties, from their temporary storage or from the use of the customs procedure under which they have been placed, or to comply with the conditions governing the placing of the goods under that procedure.

#### Article 202

1. A customs debt on importation shall be incurred through the consumption or use, in a free zone or a free warehouse, of goods liable to import duties, under conditions other than those laid down by the legislation in force.

2. The debt shall be incurred at the moment when the goods are consumed or are first used under conditions other than those laid down by the legislation in force.

3. The debtor shall be the person who consumed or used the goods and any persons who participated in such consumption or use and who were aware or should reasonably have been aware that the goods were being consumed or used under conditions other than those laid down by the legislation in force.

#### Article 203

1. By way of derogation from Articles 199 and 201 (1) (a), no customs debt on importation shall be deemed to be incurred in respect of specific goods where the person concerned proves that the non-fulfilment of the obligations which arise from:

- the provisions of Articles 38 to 41 and the second indent of Article 175, or
- keeping the goods in question in temporary storage, or
- the use of the customs procedure under which the goods have been placed,

results from the total destruction or irretrievable loss of the said goods as a result of the actual nature of the

goods or unforeseeable circumstances or *force majeure*, or as a consequence of authorization by the customs authorities.

For the purposes of this paragraph, goods shall be irretrievably lost when they are rendered unusable by any person.

2. Nor shall a customs debt on importation be deemed to be incurred in respect of goods released for free circulation at a reduced or zero rate of import duty by virtue of their end-use, where such goods are re-exported with the permission of the customs authorities.

#### Article 204

Where, in accordance with Article 203 (1), no customs debt is deemed to be incurred in respect of goods released for free circulation at a reduced or zero rate of import duty on account of their end-use, any scrap or waste resulting from such destruction shall be deemed to be non-Community goods.

#### Article 205

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

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

#### Article 206

1. A customs debt on exportation shall be incurred through the exportation from the customs territory of the Community, under cover of a customs declaration, of goods liable to export duties.

2. The customs debt shall be incurred at the moment when such customs declaration is accepted.

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

#### Article 207

1. A customs debt on exportation shall be incurred through the removal from the customs territory of the Community of goods liable to export duties without a customs declaration.

2. The customs debt shall be incurred at the moment when the said goods actually leave that territory.

3. The debtor shall be:

- the person who removed the goods, and
- any persons who participated in such removal and who were aware or should reasonably have been aware that a customs declaration had not been but should have been lodged.

*Article 208*

1. A customs debt on exportation shall be incurred through a failure to comply with the conditions under which the goods were allowed to leave the customs territory of the Community with total or partial relief from export duties.

2. The debt shall be incurred at the moment when the goods reach a destination other than that for which they were allowed to leave the customs territory of the Community with total or partial relief from export duties or, should the customs authorities be unable to determine that moment, the moment of expiry of the time limit set for the production of evidence that the conditions entitling the goods to such relief have been fulfilled.

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

*Article 209*

The customs debt referred to in Articles 198 to 202 and 206 to 208 shall be incurred even if it relates to goods subject to measures of prohibition or restriction on importation or exportation of any kind whatsoever.

*Article 210*

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

*Article 211*

1. Save as otherwise expressly provided by this code and without prejudice to paragraph 2, the amount of the import duty or export duty applicable to goods shall be determined on the basis of the rules of assessment appropriate to those goods at the moment when the customs debt in respect of them is incurred.

2. Where it is not possible to determine precisely when the customs debt is incurred, the time to be taken into account in determining the rules of assessment appropriate to the goods concerned shall be the moment when the customs authorities conclude that

the goods are in a situation in which a customs debt is incurred.

However, where the information available to the customs authorities enables them to establish that the customs debt was incurred prior to the time when they reached that conclusion, the amount of the import duty or export duty payable on the goods in question shall be determined on the basis of the rules of assessment appropriate to the goods at the earliest time when existence of the customs debt arising from the situation may be establishing from the information available.

*Article 212*

1. A customs debt shall be incurred at the place where the events from which it arises occur.

2. Where it is not possible to determine the place referred to in paragraph 1, the customs debt shall be deemed to have been incurred at the place where the customs authorities conclude that the goods are in a situation in which a customs debt is incurred.

However, where the information available to the customs authorities enables them to establish that the customs debt was already incurred when the goods were in another place at an earlier date, the customs debt shall be deemed to have been incurred at the place which may be established as the location of the goods at the earliest time when existence of the customs debt may be established.

*Article 213*

1. In so far as agreements concluded between the Community and certain third countries provide for the granting on importation into those countries of preferential tariff treatment for goods originating in the Community within the meaning of such agreements, on condition that, where they have been obtained under the inward processing procedure, non-Community goods incorporated in the said originating goods are subject to payment of the import duties payable thereon, the validation of the documents necessary to enable such preferential tariff treatment to be obtained in third countries shall cause a customs debt on importation to be incurred.

2. The moment when such customs debt is incurred shall be deemed to be the moment when the customs authorities accept the export declaration relating to the goods in question.

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

4. The amount of the import duties corresponding to this customs debt shall be determined under the same conditions as in the case of a customs debt resulting from the acceptance, on the same date, of the declaration for release for free circulation of the goods concerned for the purpose of terminating the inward processing procedure.

### CHAPTER 3

## RECOVERY OF THE AMOUNT OF THE CUSTOMS DEBT

### Section 1

#### Entry in the accounts and communication to the debtor of the amount of duty

##### Article 214

1. Each and every amount of import duty or export duty resulting from a customs debt, hereinafter called 'amount of duty', shall be calculated by the customs authorities as soon as they have the necessary data, and entered by those authorities in the accounting records or on any other equivalent medium (entry in the accounts).

The first subparagraph shall not apply:

- (a) where a provisional anti-dumping or countervailing duty has been introduced;
- (b) in the cases referred to in Article 217 (2);
- (c) where the provisions adopted in accordance with the procedure of the committee waive the requirement for the customs authorities to enter in the accounts amounts of duty below a given level.

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

##### Article 215

1. Where a customs debt is incurred as a result of the acceptance of the declaration of goods for a customs procedure other than temporary importation with partial relief from import duties, the amount corresponding to such customs debt shall be entered in the accounts as soon as it has been calculated and, at the latest, on the second day following that on which the goods were released.

However, provided that payment has been secured, the total amount of duty relating to all the goods released

to one and the same person during a period fixed by the customs authorities, which may not exceed 31 days, may be covered by a single entry in the accounts at the end of the period. Such entry in the accounts shall take place within five days of the expiry of the period in question.

2. Where it is provided that goods may be released subject to meeting certain conditions laid down by Community legislation which govern either determination of the amount of the debt or its collection, entry in the accounts shall take place no later than two days following the day on which the amount of the debt or the obligation to pay the duties resulting from that debt is determined or fixed.

However, where the customs debt relates to a provisional anti-dumping or countervailing duty, that duty shall be entered in the accounts no later than two months following publication in the *Official Journal of the European Communities* of the regulation establishing a definitive anti-dumping or countervailing duty.

3. Where a customs debt is incurred under conditions other than those referred to in paragraph 1, the relevant amount of duty shall be entered in the accounts within two days of the date on which the customs authorities are in a position to:

- (a) calculate the amount of duty in question; and
- (b) determine the person liable for payment of that amount.

##### Article 216

1. The time limits for entry in the accounts laid down in Article 215 may be extended:

- (a) for reasons relating to the administrative organization of the Member States, and in particular where accounts are centralized; or
- (b) where special circumstances prevent the customs authorities from complying with the said time limits.

Such extension shall not exceed 14 days.

2. The time limits laid down in paragraph 1 shall not apply in unforeseeable circumstances or in cases of *force majeure*.

##### Article 217

1. Where the amount of duty resulting from a customs debt has not been entered in the accounts in accordance with Articles 215 and 216 or has been entered in the accounts at a level lower than the amount legally owed, the amount of duty to be recovered or which

remains to be recovered shall be entered in the accounts within two days of the date on which the customs authorities become aware of the situation and are in a position to calculate the amount legally owed and to determine the debtor (subsequent entry in the accounts). That time limit may be extended in accordance with Article 216.

2. Subsequent entry in the accounts shall not occur where:

- the amount of duty legally owed was not entered in the accounts on the basis of general provisions invalidated at a later date by a court decision,
- the amount of duty legally owed failed to be entered in the accounts as a result of an error on the part of the customs authorities which could not reasonably have been detected by the person liable for payment, the latter for his part having acted in good faith and complied with all the provisions laid down by the legislation on force as regards the customs declaration.

3. Where the second indent of paragraph 2 applies, the amount of duty legally owed and not recovered shall be entered by the customs authorities in the accounting records or on any other equivalent medium.

#### *Article 218*

1. As soon as it has been entered in the accounts, the amount of duty shall be communicated to the debtor in accordance with appropriate procedures.

2. Where the amount of duty payable has been entered, for guidance, in the customs declaration, the customs authorities may specify that it shall not be communicated in accordance with paragraph 1 unless the amount of duty indicated does not correspond to the amount determined by the authorities.

Without prejudice to the application of the second subparagraph of Article 215 (1), where use is made of the possibility provided for in the preceding subparagraph, release of the goods by the customs authorities shall be equivalent to communication to the debtor of the amount of duty entered in the accounts.

3. Communication to the debtor shall not take place after the expiry of a period of three years from the date on which the customs debt was incurred. However, where a customs debt is incurred as a result of an act which may give rise to criminal proceedings, such communication may, in so far as the provisions in force so allow, be made after the expiry of such three-year period.

4. Where Article 217 (3) applies, the said entry shall be equivalent to communication to the debtor of the amount of duty payable within the meaning of Article

2 of Council Regulation (EEC, Euratom) No 1552/89 of 29 May 1989 implementing Decision 88/376/EEC, Euratom on the system of the Communities' own resources <sup>(1)</sup>.

### Section 2

#### **Time limit and procedures for payment of the amount of duty**

##### *Article 219*

Each and every amount of duty communicated in accordance with Article 218 shall be paid by the debtor within the following periods:

- (a) if the person is not entitled to any of the payment facilities laid down in Articles 221 to 226, payment shall be made within the period prescribed.

Without prejudice to the second paragraph of Article 243, that period shall not exceed 10 days following communication to the debtor of the amount of duty owed and, in the case of aggregation of entries in the accounts under the conditions laid down in the second subparagraph of Article 215 (1), it shall be so fixed as not to enable the debtor to obtain a longer period for payment than if he had been granted deferred payment.

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

Extension of the period may also be granted by the customs authorities at the request of the debtor where the amount of duty to be paid results from action for post-clearance recovery. Such extension shall not exceed the time necessary for the debtor to take the appropriate steps to discharge his obligation;

- (b) if the person is entitled to any of the payment facilities laid down in Articles 221 to 226, payment shall be made before expiry of the period or periods specified in connection with those facilities.

##### *Article 220*

Payment shall be made in cash or by any other means with similar discharging effect in accordance with the provisions in force (cash payment). It may also be made by adjustment of credit balance where the provisions in force so allow.

##### *Article 221*

In so far as the amount of duty payable by the person concerned relates to goods declared for a customs

<sup>(1)</sup> OJ No L 155, 7. 6. 1989, p. 1.

procedure which entails the obligation to pay such duty, the customs authorities shall, at that person's request, grant deferment of payment of that amount under the conditions laid down in Articles 222, 223 and 224.

#### *Article 222*

The granting of deferment of payment shall be conditional on the provision of security by the applicant.

#### *Article 223*

The customs authorities shall decide which of the following procedures must be used when granting deferment of payment:

- (a) separately in respect of each amount of duty entered in the accounts under the conditions laid down in the first subparagraph of Article 215 (1); or
- (b) globally in respect of all amounts of duty entered in the accounts under the conditions laid down in the first subparagraph of Article 215 (1) during a period not exceeding 31 days to be fixed by the customs authorities; or
- (c) globally in respect of all amounts of duty forming a single entry in accordance with the second subparagraph of Article 215 (1).

#### *Article 224*

1. The period for which payment is deferred shall be 30 days. It shall be calculated as follows:

- (a) where payment is deferred in accordance with Article 219 (a), the period shall be calculated from the day following the date on which the amount of duty is entered in the accounts by the customs authorities.

Where Article 216 is applied, the period of 30 days calculated in accordance with the first subparagraph shall be reduced by the number of days corresponding to the period in excess of two days used to enter the amount in the accounts;

- (b) where payment is deferred in accordance with Article 223 (b), the period shall be calculated from the day following the date on which the aggregation period expires. It shall be reduced by the number of days corresponding to half the number of days in the aggregation period;
- (c) where payment is deferred in accordance with Article 223 (c), the period shall be calculated from the day following the expiry date of the period during which the goods in question were released. It shall be reduced by the number of days corresponding to half the number of days in the period concerned.

2. Where the number of days in the periods referred to in paragraph 1 (b) and (c) is an odd number, the number of days to be deducted from the 30-day period pursuant to paragraph 1 (b) and (c) shall be equal to half the next lowest even number.

3. To simplify matters, where the periods referred to in paragraph 1 (b) and (c) are a calendar week or a calendar month, Member States may provide that the amount of duty in respect of which payment has been deferred shall be paid:

- (a) if the period is a calendar week, on the Friday of the fourth week following that calendar week;
- (b) if the period is a calendar month, by the 16th day of the month following that calendar month.

#### *Article 225*

1. Deferment of payment shall not be granted in respect of amounts of duty which, although relating to goods entered for a customs procedure which entails the obligation to pay such duty, are entered in the accounts in accordance with the provisions in force concerning acceptance of incomplete declarations, because the declarant has not, by the time of expiry of the period set, provided the information necessary for the definitive valuation of the goods for customs purposes or has not supplied the particulars or the document missing when the incomplete declaration was accepted.

2. However, deferment of payment may be granted in the cases referred to in paragraph 1 where the amount of duty to be recovered is entered in the accounts before the expiry of a period of 30 days from the date on which the amount originally charged was entered in the accounts or, if it was not entered in the accounts, from the date on which the declaration relating to the goods in question was accepted. The duration of the deferment of payment granted in such circumstances shall not extend beyond the date of expiry of the period which, pursuant to Article 224, was granted in respect of the amount of duty originally fixed, or which would have been granted had the amount of duty legally due been entered in the accounts when the goods in question were declared.

#### *Article 226*

The customs authorities may grant the debtor payment facilities other than deferred payment.

The granting of such payment facilities shall:

- (a) be conditional on the provision of security. However, such security need not be required where to require it would, because of the situation of the debtor, create serious economic or social difficulties;

- (b) result in credit interest being charged over and above the amount of duty. The amount of such interest shall be calculated in such a way that it is equivalent to the amount which would be charged for this purpose on the money market or financial market of the currency in which the amount is payable.

The customs authorities may refrain from claiming credit interest where to claim it would, because of the situation of the debtor, create serious economic or social difficulties.

#### Article 227

Whatever the payment facilities granted to the debtor, the latter may in any case pay all or part of the amount of duty without awaiting expiry of the period he has been granted for payment.

#### Article 228

Any amount of duty may be paid by a third person instead of the debtor.

#### Article 229

1. Where the amount of duty has not been paid within the prescribed period:

- (a) the customs authorities shall avail themselves of all options open to them under the legislation in force, including enforcement, to secure payment of that amount.

Special provisions may be adopted, in accordance with the procedure of the committee, in respect of guarantors within the framework of the transit procedure;

- (b) interest on arrears shall be charged over and above the amount of duty. The rate of interest on arrears shall not be lower than the rate of credit interest.

2. The customs authorities may waive collection of interest on arrears:

- (a) where, because of the situation of the debtor, it would be likely to create serious economic or social difficulties;
- (b) where the amount does not exceed a level fixed in accordance with the procedure of the committee; or
- (c) if the duty is paid within five days of the expiry of the period prescribed for payment.

3. The customs authorities may fix:

- (a) minimum periods for calculation of interest;

- (b) minimum amounts payable as interest on arrears.

#### Article 230

Without prejudice to the application of any provisions connected with the contravention of customs legislation, no interest other than the interest provided for in Articles 226 and 229 shall be charged on amounts of duty.

### CHAPTER 4

#### EXTINCTION OF CUSTOMS DEBT

##### Article 231

1. Without prejudice to the provisions in force relating to the time-barring of a customs debt, a customs debt shall be extinguished:

- (a) by payment of the amount of duty;
- (b) by remission of the amount of duty;
- (c) where, in respect of goods declared for a customs procedure entailing the obligation to pay duties:
- the customs declaration is invalidated in accordance with Article 64,
  - the goods, before their release, are either seized and subsequently confiscated or are destroyed on the instructions of the customs authorities or are destroyed or abandoned in accordance with Article 180 or are destroyed or irretrievably lost as a result of their actual nature or of unforeseeable circumstances or *force majeure*;
- (d) where goods in respect of which a customs debt is incurred in accordance with Article 199 are seized upon their unlawful introduction and are subsequently confiscated.

##### Article 232

Article 231 (a), (b) and (c) shall apply *mutatis mutandis* to the extinction of a customs debt, as referred to in Article 213. Such debt shall also be extinguished where the formalities carried out in order to enable the preferential tariff treatment referred to in Article 213 to be granted are cancelled.

### CHAPTER 5

#### REPAYMENT AND REMISSION OF DUTY

##### Article 233

The following definitions shall apply:

- (a) repayment means the refund of import duties or export duties which have been paid;
- (b) remission means a decision to extinguish a customs debt or render void an entry in the accounts of an amount of duty which has not been paid.

*Article 234*

1. Import duties or export duties shall be repaid or remitted in so far as it is established that the amount of such duties was not or is not legally owed or has been entered in the accounts contrary to Article 217 (2).

2. Import duties or export duties shall be repaid or remitted upon submission of an application to the appropriate customs office within a period of three years from the date on which the amount of those duties was communicated to the debtor.

That period shall be extended if the person concerned provides evidence that he was prevented from submitting his application within the said period as a result of unforeseeable circumstances or *force majeure*.

Where the customs authorities themselves discover within this period that one or other of the situations described in paragraph 1 exists, they shall repay or remit on their own initiative.

*Article 235*

Import duties or export duties shall be repaid or remitted where a customs declaration is invalidated in accordance with Article 64 and the duties have been paid. Repayment shall be granted upon submission of an application by the person concerned within the periods referred to in Article 64 (2).

*Article 236*

1. Import duties shall be repaid or remitted in so far as it is established that the amount of such duties entered in the accounts relates to goods placed under the customs procedure in question and rejected by the importer because they are defective or do not comply with the terms of the contract on the basis of which they were imported.

Defective goods, within the meaning of the first subparagraph, shall be deemed to include goods damaged before their release.

2. Repayment or remission of import duties shall be granted on condition that:

- (a) the goods have not been used, except for such initial use as may have been necessary to establish that they were defective or did not comply with the terms of the contract;
- (b) the goods are re-exported from the customs territory of the Community.

At the request of the person concerned, the customs authorities shall permit the goods to be destroyed or to

be placed, for the purposes of their re-exportation, under the procedure for external Community transit or the customs warehousing procedure or in a free zone or free warehouse, instead of being re-exported.

For the purposes of being assigned such customs-approved treatment or use, the goods shall be deemed to be non-Community goods.

3. Import duties shall not be repaid or remitted in respect of goods which, before being the subject of a customs declaration, were imported temporarily for testing, unless it is established that the fact that the goods were defective or did not comply with the terms of the contract could not normally have been detected in the course of such tests.

4. Import duties shall be repaid or remitted for the reasons set out in paragraph 1 upon submission of an application to the appropriate customs office within 12 months from the date on which the amount of those duties was communicated to the debtor.

However, the customs authorities may permit this period to be exceeded in duly justified exceptional cases.

*Article 237*

1. Import duties or export duties may be repaid or remitted in special situations other than those referred to in Articles 234, 235 and 236 resulting from circumstances in which no deception or obvious negligence may be attributed to the person concerned.

The situations in which the first subparagraph may be applied and the procedures to be followed to that end shall be defined in accordance with the procedure of the committee. Repayment or remission may be made subject to special conditions.

2. Duties shall be repaid or remitted for the reasons set out in paragraph 1 upon submission of an application to the appropriate customs office within 12 months from the date on which the amount of the duties was communicated to the debtor.

However, the customs authorities may permit this period to be exceeded in duly justified exceptional cases.

*Article 238*

Import or export duties shall be repaid or remitted under the conditions laid down in this chapter only if the amount to be repaid or remitted exceeds an amount fixed in accordance with the procedure of the



committee, unless an application for repayment or remission is made in accordance with Article 234.

However, the customs authorities may also grant an application for repayment or remission in respect of a lower amount.

#### *Article 239*

Repayment by the customs authorities of amounts of import duty or export duty and any credit interest or interest on arrears charged at the time of payment of such amounts shall not result in the payment of interest by those authorities. However, interest shall be paid:

- where a decision to grant a request for repayment is not implemented within one month of the date of issue of that decision,
- where a decision not to grant repayment is subsequently invalidated following an appeal by the person concerned. Interest shall be paid from the date on which the appeal was lodged.

#### *Article 240*

Where a customs debt has been remitted or the corresponding amount of duty repaid in error, the debt shall again become payable.

## TITLE VII

### APPEALS

#### CHAPTER 1

##### RIGHT OF APPEAL

#### *Article 241*

1. Any person who considers that his rights have been encroached upon by a decision relating to the application of customs legislation shall be entitled to apply for the decision to be annulled or amended provided that it concerns him directly and individually, even if it is not addressed to him.

2. Any person who has applied to the customs authorities for a decision relating to the application of customs legislation and has not obtained a ruling on that request within the period referred to in Article 7 (2) shall also be entitled to exercise the right of appeal.

3. The right of appeal referred to in paragraphs 1 and 2 may be exercised:

- (a) initially, before the customs authority designated for that purpose, under the conditions laid down in Articles 242 to 247;
- (b) subsequently, before the authority referred to in Article 249 (1).

#### CHAPTER 2

##### INITIAL STAGE OF THE EXERCISE OF THE RIGHT OF APPEAL

#### *Article 242*

1. An appeal shall be lodged within two months of the date of notification of the customs authorities' decision.

2. The period laid down in paragraph 1 shall be extended to six months where the person entitled to lodge an appeal was not informed or was misinformed, as to his right of appeal, by the customs authorities who took the decision.

3. The period laid down in paragraph 1 shall be increased to two years where the decision has not been published or communicated to the person entitled to lodge an appeal. In such case the period shall run from the date on which the decision is taken by the customs authorities.

4. In the cases referred to in Article 241 (2), the right of appeal must be exercised within six months of the date of expiry of the period laid down for the customs authorities to take a decision.

5. The periods referred to in paragraphs 1, 2 and 3 shall be extended if the person concerned provides evidence that he was prevented from lodging the appeal as a result of unforeseeable circumstances or *force majeure*.

6. An appeal shall be lodged by means of a written request addressed to the customs authorities within the periods prescribed. Where circumstances so warrant, an appeal may also be made orally to the customs authorities, who shall record it in writing.

#### *Article 243*

The lodging of an appeal shall not cause implementation of the disputed decision to be suspended.

The customs authorities shall, however, suspend implementation of such decision in whole or in part where

they have good reason to believe that the disputed decision is inconsistent with customs legislation.

Where the disputed decision has the effect of causing import duties or export duties to be charged, suspension of implementation of that decision shall be subject to the lodging of security.

#### *Article 244*

The customs authorities who are competent to give a ruling on the appeal shall conduct such investigations as are necessary to enable them to give their decision and may, if they deem it appropriate, submit the case to experts who are independent of the customs administration with a view to obtaining their opinion.

The appellant shall be required to assist the said authorities in their investigation of the facts in accordance with the provisions in force.

#### *Article 245*

The appellant may withdraw his appeal as long as no decision has been taken on it. Notice of withdrawal shall be given in writing.

Save as otherwise provided in Article 247, withdrawal shall be final.

#### *Article 246*

1. The customs authorities competent to give a ruling on the appeal shall give their decision in writing.

That decision may in some respects be less favourable to the appellant than the decision which was the subject of the appeal. Before adopting such decision, the customs authorities shall inform the appellant of it in order to enable him to submit his observations.

2. The appellant shall be notified of the decision.

Where the decision goes against him, the appellant shall be informed of his right to initiate the second stage of his right of appeal.

#### *Article 247*

Where, after withdrawing his appeal under the conditions referred to in Article 245, the appellant is able to put forward new arguments or furnish further evidence, he may request the customs authorities with whom he lodged the appeal to resume their examination of it.

Such request shall be admissible only if it is submitted before the expiry of the periods prescribed for lodging the appeal itself.

#### *Article 248*

There shall be no charge for lodging an appeal.

### CHAPTER 3

#### SECOND STAGE OF THE EXERCISE OF THE RIGHT OF APPEAL

#### *Article 249*

1. Where an appeal which has been lodged with the customs authorities is rejected in whole or in part or results in a decision which is in some respects less favourable than the decision which was the subject of the appeal, the appellant may lodge a fresh appeal with an authority which is independent of the customs authorities and which is empowered, by virtue of its structure, to refer the matter to the Court of Justice of the European Communities pursuant to Article 177 of the Treaty.

The independent authority referred to in paragraph 1 may be a judicial authority or an equivalent specialized body, according to the provisions in force in the Member States.

2. Any person who has lodged an appeal in accordance with Article 241 on which the customs authorities have not issued a ruling by the expiry of an appropriate period shall also be entitled to lodge a fresh appeal with the authority referred to in paragraph 1.

### CHAPTER 4

#### OTHER PROVISIONS RELATING TO THE RIGHT OF APPEAL

#### *Article 250*

1. The provisions of this Title shall be without prejudice to:

- (a) the right of any person who considers himself to be adversely affected by a decision relating to the application of customs legislation to refer that decision at any time to the authority referred to in Article 249 in accordance with the provisions in force; that person shall then be deemed to have waived his right of appeal before the customs authorities;
- (b) the provisions in force laying down that, in certain cases, an appeal must be lodged directly with the authority referred to in Article 249;
- (c) the right conferred by Italian law on persons whose appeal has been rejected by the customs authorities to refer the matter to the Head of State in accordance with the provisions of that law.

2. The submission of an application for repayment or remission in accordance with Article 234 shall be

deemed to be equivalent to lodging in appeal. In such cases, neither the periods laid down for lodging an appeal nor paragraph 1 (b) shall apply.

#### *Article 251*

Where customs legislation grants the customs authorities the discretionary power to assess the factual circumstances on which they base their decisions, the

detailed rules for exercising the right of appeal against such decisions may be different from those laid down in this Title.

#### *Article 252*

This Title shall not apply to appeals lodged with a view to the annulment or revision of a decision taken by the customs authorities on the basis of criminal law.

## TITLE VIII

### FINAL PROVISIONS

#### CHAPTER 1

##### CUSTOMS CODE COMMITTEE

#### *Article 253*

1. A Customs Code Committee, hereinafter called 'the committee', composed of representatives of the Member States with a representative of the Commission as chairman, is hereby established.

2. The committee shall adopt its rules of procedure.

#### *Article 254*

1. The committee may examine any question concerning customs legislation which is raised by its chairman either on his own initiative or at the request of a Member State's representative.

2. The committee shall, on the initiative of its chairman, be consulted as to the position to be adopted by the Community with regard to the work of international organizations on the application, in fields falling within the sphere of competence of the Community relating to customs legislation, of international agreements to which the Community is a Contracting Party.

3. Member States shall consult one another, within the committee, with a view to defining the common position to be adopted with regard to other work of international organizations, in areas relating to customs legislation, which is in the initial stages of negotiation.

#### *Article 255*

1. The provisions required for the implementation of this Code, including implementation of the regulations referred to in Articles 139 and 181 shall be adopted in accordance with the procedure defined in paragraphs 2 and 3, in compliance with international commitments entered into by the Community.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

3. The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

#### CHAPTER 2

##### LEGAL EFFECTS IN A MEMBER STATE OF MEASURES TAKEN, DOCUMENTS ISSUED AND FINDINGS MADE IN ANOTHER MEMBER STATE

#### *Article 256*

Individual measures taken, documents issued and findings made by the customs authorities of one Member State in applying customs legislation shall have the same legal effects in other Member States as such measures taken, documents issued and findings made by the customs authorities of each of those Member States for the purposes of applying customs legislation.

#### CHAPTER 3

##### OTHER FINAL PROVISIONS

#### *Article 257*

1. The following Regulations and Directives are hereby repealed:

— Council Regulation (EEC) No 802/68 of 27 June 1968 on the common definition of the concept of

the origin of goods <sup>(1)</sup>, as last amended by the Act of Accession of Spain and Portugal,

- Council Regulation (EEC) No 757/76 of 25 March 1976 on the customs treatment applicable to goods returned to the customs territory of the Community <sup>(2)</sup>, as last amended by Regulation (EEC) No 1147/86 <sup>(3)</sup>,
- Council Regulation (EEC) No 222/77 of 13 December 1976 on Community transit <sup>(4)</sup>, as last amended by Regulation (EEC) No 1674/87 <sup>(5)</sup>,
- Council Regulation (EEC) No 2779/78 of 23 November 1978 on the procedure for applying the European unit of account (EUA) to legal acts adopted in the customs sphere <sup>(6)</sup>, as amended by Regulation (EEC) No 289/84 <sup>(7)</sup>,
- Council Regulation (EEC) No 1430/79 of 2 July 1979 on the repayment or remission of import or export duties <sup>(8)</sup>, as last amended by Regulation (EEC) No 3069/86 <sup>(9)</sup>,
- Council Regulation (EEC) No 1697/79 of 24 July 1979 on the post-clearance recovery of import duties or export duties which have not been required of the person liable for payment on goods entered for a customs procedure involving the obligation to pay such duties <sup>(10)</sup>, as last amended by Regulation (EEC) No 918/83 <sup>(11)</sup>,
- Council Directive 79/695/EEC of 24 July 1979 on the harmonization of procedures for the release of goods for free circulation <sup>(12)</sup>, as last amended by the Act of Accession of Spain and Portugal,
- Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes <sup>(13)</sup>, as last amended by the Act of Accession of Spain and Portugal,
- Council Directive 81/177/EEC of 24 February 1981 on the harmonization of procedures for the export of Community goods <sup>(14)</sup>,
- Council Regulation (EEC) No 3599/82 of 21 December 1982 on temporary importation arrangements <sup>(15)</sup>, as last amended by Regulation (EEC) No 1620/85 <sup>(16)</sup>,
- Council Regulation (EEC) No 2763/83 of 26 September 1983 on arrangements permitting goods to be processed under customs control before being put into free circulation <sup>(17)</sup>, as last amended by Regulation (EEC) No 4032/88 <sup>(18)</sup>,
- Council Regulation (EEC) No 2151/84 of 23 July 1984 on the customs territory of the Community <sup>(19)</sup>, as last amended by the Act of Accession of Spain and Portugal,
- Council Regulation (EEC) No 1900/85 of 8 July 1985 introducing Community export and import declaration forms <sup>(20)</sup>, as amended by Regulation (EEC) No 1059/86 <sup>(21)</sup>,
- Council Regulation (EEC) No 1999/85 of 16 July 1985 on inward processing relief arrangements <sup>(22)</sup>,
- Council Regulation (EEC) No 3632/85 of 12 December 1985 defining the conditions under which a person may be permitted to make a customs declaration <sup>(23)</sup>,
- Council Regulation (EEC) No 2473/86 of 24 July 1986 on outward processing relief arrangements and the standard exchange system <sup>(24)</sup>,
- Council Regulation (EEC) No 2144/87 of 13 July 1987 on customs debt <sup>(25)</sup>, as amended by Regulation (EEC) No 4108/88 <sup>(26)</sup>,
- Council Regulation (EEC) No 1031/88 of 18 April 1988 determining the persons liable for payment of a customs debt <sup>(27)</sup>, as amended by Regulation (EEC) No . . . . <sup>(28)</sup>,
- Council Regulation (EEC) No 1970/88 of 30 June 1988 concerning triangular traffic under the outward processing relief arrangements and the standard exchange system <sup>(29)</sup>,
- Council Regulation (EEC) No 2503/88 of 25 July 1988 on customs warehouses <sup>(30)</sup>,
- Council Regulation (EEC) No 2504/88 of 25 July 1988 on free zones and free warehouses <sup>(31)</sup>,
- Council Regulation (EEC) No 4151/88 of 21 December 1988 laying down the provisions applicable to goods brought into the customs territory of the Community <sup>(32)</sup>,

<sup>(1)</sup> OJ No L 148, 28. 6. 1968, p. 1.

<sup>(2)</sup> OJ No L 89, 2. 4. 1976, p. 1.

<sup>(3)</sup> OJ No L 105, 22. 4. 1986, p. 1.

<sup>(4)</sup> OJ No L 38, 9. 2. 1977, p. 1.

<sup>(5)</sup> OJ No L 157, 17. 6. 1987, p. 1.

<sup>(6)</sup> OJ No L 333, 30. 11. 1978, p. 5.

<sup>(7)</sup> OJ No L 33, 4. 2. 1984, p. 2.

<sup>(8)</sup> OJ No L 175, 12. 7. 1979, p. 1.

<sup>(9)</sup> OJ No L 286, 9. 10. 1986, p. 1.

<sup>(10)</sup> OJ No L 197, 3. 8. 1979, p. 1.

<sup>(11)</sup> OJ No L 105, 23. 4. 1983, p. 1.

<sup>(12)</sup> OJ No L 205, 13. 8. 1979, p. 19.

<sup>(13)</sup> OJ No L 134, 31. 5. 1980, p. 1.

<sup>(14)</sup> OJ No L 83, 30. 3. 1981, p. 40.

<sup>(15)</sup> OJ No L 376, 31. 12. 1982, p. 1.

<sup>(16)</sup> OJ No L 155, 14. 6. 1985, p. 54.

<sup>(17)</sup> OJ No L 272, 5. 10. 1983, p. 1.

<sup>(18)</sup> OJ No L 355, 23. 12. 1988, p. 36.

<sup>(19)</sup> OJ No L 197, 27. 7. 1984, p. 1.

<sup>(20)</sup> OJ No L 179, 11. 7. 1985, p. 4.

<sup>(21)</sup> OJ No L 97, 12. 4. 1986, p. 7.

<sup>(22)</sup> OJ No L 188, 20. 7. 1985, p. 1.

<sup>(23)</sup> OJ No L 350, 27. 12. 1985, p. 1.

<sup>(24)</sup> OJ No L 212, 2. 8. 1986, p. 1.

<sup>(25)</sup> OJ No L 201, 22. 7. 1987, p. 15.

<sup>(26)</sup> OJ No L 361, 29. 12. 1988, p. 2.

<sup>(27)</sup> OJ No L 102, 21. 4. 1988, p. 5.

<sup>(28)</sup> OJ No L . . . . , p. . . .

<sup>(29)</sup> OJ No L 174 6. 7. 1988, p. 1.

<sup>(30)</sup> OJ No L 225 15. 8. 1988, p. 1.

<sup>(31)</sup> OJ No L 225, 15. 8. 1988, p. 8.

<sup>(32)</sup> OJ No L 367, 31. 12. 1988, p. 1.

- Council Regulation (EEC) No 1854/89 of 14 June 1989 on the entry in the accounts and terms of payment of the amounts of the import duties or export duties resulting from a customs debt <sup>(1)</sup>;
- Council Regulation (EEC) No 1855/89 of 14 June 1989 on the temporary importation of means of transport <sup>(2)</sup>;
- Council Regulation (EEC) No 3312/89 of 30 October 1989 on the temporary importation of containers <sup>(3)</sup>.

2. In all Community acts where reference is made to the Regulations or Directives referred to in paragraph 1, that reference shall be deemed to refer to this Code.

#### *Article 258*

1. Articles 141, 142 and 143 of Council Regulation (EEC) No 918/83 <sup>(4)</sup> are hereby repealed.

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

2. Council Regulation (EEC) No 2658/87 <sup>(5)</sup> is hereby amended as follows:

- (a) Article 8 is hereby amended as follows:

The following is inserted after the word 'committee'

'provided for in Article 253 of the Community Customs Code (\*).

(\*) OJ No L . . . , . . . . . p. . . '

- (b) Article 9 (1) is hereby amended as follows:

'1. Measures relating to the matters set out below shall be adopted in accordance with the procedure of the committee provided for in the Community Customs Code.';

- (c) Articles 7, 10 and 11 are hereby repealed.

#### *Article 259*

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

It shall apply from 1 January 1993.

<sup>(1)</sup> OJ No L 186, 30. 6. 1989, p. 1.

<sup>(2)</sup> OJ No L 186, 30. 6. 1989, p. 8.

<sup>(3)</sup> OJ No L 321, 4. 11. 1989, p. 5.

<sup>(4)</sup> OJ No L 105, 23. 4. 1983, p. 1.

<sup>(5)</sup> OJ No L 256, 7. 9. 1987, p. 1.