

Council Regulation (EEC) No 2913/92 of 12 October 1992  
establishing the Community Customs Code (repealed)

TITLE IV

**CUSTOMS-APPROVED TREATMENT OR USE**

CHAPTER 1

**GENERAL**

*Article 58*

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 or quantity, or their 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 59*

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

2 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 leave the customs territory of the Community or are destroyed or the customs declaration is invalidated.

*Article 60*

Insofar as Community 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 61*

The customs declaration shall be made:

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- (a) in writing; or
- (b) using a data-processing technique where provided for by provisions laid down in accordance with the committee procedure or where authorized by the customs authorities; or
- (c) by means of a normal 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 committee procedure.

*A.*

*Declarations in writing*

I. Normal procedure

*Article 62*

1 Declarations in writing shall be made on a form corresponding to the official specimen prescribed for that purpose. They shall be signed and 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 63*

Declarations which comply with the conditions laid down in Article 62 shall be accepted by the customs authorities immediately, provided that the goods to which they refer are presented to customs.

*Article 64*

1 Subject to Article 5, 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, together with all the documents which are required to be produced for the application of the rules governing the customs procedure in respect of which the goods were declared.

- 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 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.

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#### *Article 65*

The declaration shall, at his request, be authorized to amend one or more of the particulars of the declaration after it has been accepted by customs. 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 66*

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, except in cases defined in accordance with the committee procedure.

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

#### *Article 67*

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 68*

For the verification of declarations which they have accepted, the customs authorities may:

- (a) examine the documents covering the declaration and the documents accompanying it. The customs authorities may 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 69*

1 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.

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2 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.

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 70*

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 further 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, the particulars relating to each item shall be deemed to constitute a separate declaration.

#### *Article 71*

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 72*

1 The customs authorities shall take the measures necessary to identify the goods where identification is required in order to ensure 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 73*

1 Without prejudice to Article 74, 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, the particulars relating to each item shall be deemed to constitute a separate declaration.

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#### Article 74

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 75

Any necessary measures, including confiscation and 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 pre-scribed 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 the case may be, have not been made or provided within the period prescribed; or
  - they are subject to bans or restrictions;
- (b) are not removed within a reasonable period after their release.

#### II. Simplified procedures

#### Article 76

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 conditions laid down in accordance with the committee procedure, grant permission for:

- a the declaration referred to in Article 62 to omit certain of the particulars referred to in paragraph 1 of that Article 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 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 62;
- 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 presents 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 Except in cases to be determined in accordance with the committee procedure, the declarant shall furnish a supplementary declaration which 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

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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 62.

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

## B.

### *Other declarations*

#### *Article 77*

[<sup>F1</sup>1.] Where the customs declaration is made by means of a data-processing technique within the meaning of Article 61 (b), or by an oral declaration or any other act within the meaning of Article 61 (c), Articles 62 to 76 shall apply *mutatis mutandis* without prejudice to the principles set out therein.

[<sup>F1</sup>2] Where the customs declaration is made by means of a data-processing technique, the customs authorities may allow accompanying documents referred to in Article 62(2) not to be lodged with the declaration. In this case the documents shall be kept at the customs authorities' disposal.]

#### **Textual Amendments**

- F1** Inserted by [Regulation \(EC\) No 2700/2000 of the European Parliament and of the Council of 16 November 2000 amending Council Regulation \(EEC\) No 2913/92 establishing the Community Customs Code.](#)

## C.

### *Post-clearance examination of declarations*

#### *Article 78*

1 The customs authorities may, on their own initiative or at the request of the declarant, amend 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 document and data for business purposes. Those authorities may also examine the goods where it is still possible for them to be produced.

3 Where revision of the declaration or post-clearance examination indicates that the provisions 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.

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## Section 2

### Release for free circulation

#### Article 79

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

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

#### Article 80

1 By way of derogation from Article 67, provided that the import duty chargeable on the goods is one of the duties referred to in the first indent of Article 4 (10) and that the rate of 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 has not been possible to release the goods for reasons attributable to the declarant alone.

#### Article 81

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 for the purpose of drawing up the declaration would entail a burden of work and expense disproportionate to the import duties chargeable, the customs authorities may, at the request of the declarant, agree that import duties be charged on the whole consignment on the basis of the tariff classification of the goods which are subject to the highest rate of import duty.

#### Article 82

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. Customs supervision shall end when the conditions laid down for granting such a reduced or zero rate of duty cease to apply, where the goods are exported or destroyed or where the use of the goods for purposes other than those laid down for the application of the reduced or zero rate of duty is permitted subject to payment of the duties due.

2 Articles 88 and 90 shall apply *mutatis mutandis* to the goods referred to in paragraph 1.

#### Article 83

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 [F<sup>2</sup>], or
- (b) the imported 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 238; or

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- in situations of the type referred to in Article 239 where repayment or remission is conditional upon the goods being exported or re-exported or being assigned an equivalent customs-approved treatment or use.

**Textual Amendments**

- F2** Deleted by [Regulation \(EC\) No 82/97 of the European Parliament and of the Council of 19 December 1996](#).

## Section 3

**Suspensive arrangements and customs procedures with economic impact***A.**Provisions common to several procedures**Article 84*

- 1 In Articles 85 to 90:
  - a where the term ‘procedure’ is used, it is understood as applying, in the case of non-Community goods, to the following arrangements:
    - external transit;
    - customs warehousing;
    - inward processing in the form of a system of suspension;
    - processing under customs control;
    - temporary importation;
  - b where the term ‘customs procedure with economic impact’ is used, it is understood as applying to the following arrangements:
    - customs warehousing;
    - inward processing;
    - processing under customs control;
    - temporary importation;
    - outward processing.
- 2 ‘Import goods’ means goods placed under a suspensive 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 125.
- 3 ‘Goods in the unaltered state’ means import goods which, under the inward processing procedure or the procedures for processing under customs control, have undergone no form of processing.

*Article 85*

The use of any customs procedure with economic impact shall be conditional upon authorization being issued by the customs authorities.



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### Article 86

Without prejudice to the additional special conditions governing the procedure in question, the authorization referred to in Article 85 and that referred to in Article 100 (1) shall be granted only:

- to persons who offer every guarantee necessary for the proper conduct of the operations;
- where the customs authorities can supervise and monitor the procedure without having to introduce administrative arrangements disproportionate to the economic needs involved.

### Article 87

1 The conditions under which the procedure in question is used 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.

### *[<sup>F3</sup>Article 87a*

In the cases referred to in the second sentence of the first indent of Article 4 (7), any products or goods obtained from goods placed under a suspensive arrangement shall be considered as being placed under the same arrangement.]

#### Textual Amendments

**F3** Inserted by [Regulation \(EC\) No 82/97 of the European Parliament and of the Council of 19 December 1996](#).

### Article 88

The customs authorities may make the placing of goods under a suspensive arrangement 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.

Special provisions concerning the provision of security may be laid down in the context of a specific suspensive arrangement.

### Article 89

1 A suspensive arrangement with economic impact shall be discharged when a new customs-approved treatment or use is assigned either to the goods placed under that arrangement or to compensating or processed products placed under it.

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 90

The rights and obligations of the holder of a customs procedure with economic impact may, on the conditions laid down by the customs authorities, be transferred successively to other persons who fulfil any conditions laid down in order to benefit from the procedure in question.

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1 The external transit procedure shall allow the movement from one point to another within the customs territory of the Community of:

a non-Community goods, without such goods being subject to import duties and other charges or to commercial policy measures;

[<sup>F4</sup>b Community goods, in cases and on conditions determined in accordance with the committee procedure, in order to prevent products covered by or benefiting from export measures from either evading or benefiting unjustifiably from such measures.]

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) provided that such movement:

(1) began or is to end outside the Community; or

(2) relates to consignments of goods which must be unloaded in the customs territory of the Community and which are conveyed with goods to be unloaded in a third country; or

(3) is effected between two points in the Community through the territory of a third country;

c under cover of an ATA carnet [<sup>F2</sup>] used as a transit document; or

d under cover of the Rhine Manifest (Article 9 of the revised Convention for the Navigation of the Rhine); or

e under cover of the form 302 provided for in the Convention between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951; or

f by post (including parcel post).

3 The external transit procedure shall apply without prejudice to the specific provisions applicable to the movement of goods placed under a customs procedure with economic impact.

**Textual Amendments**

**F2** Deleted by [Regulation \(EC\) No 82/97 of the European Parliament and of the Council of 19 December 1996](#).

**F4** Substituted by [Regulation \(EC\) No 955/1999 of the European Parliament and of the Council of 13 April 1999 amending Council Regulation \(EEC\) No 2913/92 with regard to the external transit procedure](#).

*[<sup>F4</sup>Article 92*

1 The external transit procedure shall end and the obligations of the holder shall be met when the goods placed under the procedure and the required documents are produced at the customs office of destination in accordance with the provisions of the procedure in question.

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

#### Textual Amendments

- F4** Substituted by [Regulation \(EC\) No 955/1999 of the European Parliament and of the Council of 13 April 1999 amending Council Regulation \(EEC\) No 2913/92 with regard to the external transit procedure.](#)

## II. Specific provisions relating to external Community transit

### *Article 93*

The external Community transit procedure 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; in such case the operation of that procedure shall be suspended in the territory of the third country.

### *[<sup>F4</sup> Article 94*

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

- 2 The guarantee shall be either:
- a an individual guarantee covering a single transit operation; or
  - b a comprehensive guarantee covering a number of transit operations where the principal has been authorised to use such a guarantee by the customs authorities of the Member State where he is established.

- 3 The authorisation referred to in paragraph 2(b) shall be granted only to persons who:
- a are established in the Community;
  - b are regular users of Community transit procedures or who are known to the customs authorities to have the capacity to fulfil their obligations in relation to these procedures, and
  - c have not committed serious or repeated offences against customs or tax laws.

4 Persons who satisfy the customs authorities that they meet higher standards of reliability may be authorised to use a comprehensive guarantee for a reduced amount or to have a guarantee waiver. The additional criteria for this authorisation shall include:

- a the correct use of the Community transit procedures during a given period;
- b cooperation with the customs authorities, and
- c in respect of the guarantee waiver, a good financial standing which is sufficient to fulfil the commitments of the said persons.

The detailed rules for authorisations granted under this paragraph shall be determined in accordance with the committee procedure.

5 The guarantee waiver authorised in accordance with paragraph 4 shall not apply to external Community transit operations involving goods which, as determined in accordance with the committee procedure, are considered to present increased risks.

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6 In line with the principles underlying paragraph 4, recourse to the comprehensive guarantee for a reduced amount may, in the case of external Community transit, be temporarily prohibited by the committee procedure as an exceptional measure in special circumstances.

7 In line with the principles underlying paragraph 4, recourse to the comprehensive guarantee may, in the case of external Community transit, be temporarily prohibited by the committee procedure in respect of goods which, under the comprehensive guarantee, have been identified as being subject to large-scale fraud.]

#### Textual Amendments

**F4** Substituted by [Regulation \(EC\) No 955/1999 of the European Parliament and of the Council of 13 April 1999 amending Council Regulation \(EEC\) No 2913/92 with regard to the external transit procedure.](#)

#### *[<sup>F4</sup> Article 95*

1 Except in cases to be determined where necessary in accordance with the committee procedure, no guarantee need be furnished for:

- a journeys by air;
- b the carriage of goods on the Rhine and the Rhine waterways;
- c carriage by pipeline;
- d operations carried out by the railway companies of the Member States.

2 The cases in which the furnishing of a guarantee in respect of the carriage of goods on waterways other than those referred to in paragraph (b) may be waived shall be determined in accordance with the committee procedure.]

#### Textual Amendments

**F4** Substituted by [Regulation \(EC\) No 955/1999 of the European Parliament and of the Council of 13 April 1999 amending Council Regulation \(EEC\) No 2913/92 with regard to the external transit procedure.](#)

#### *Article 96*

1 The principal shall be the of under the external Community transit procedure. He shall be responsible for:

- a production of the goods intact at the customs office of destination by the prescribed time limit and with due observance of the measures adopted by the customs authorities to ensure identification;
- b observance of the provisions relating to the Community transit procedure.

2 Notwithstanding the principal's obligations under paragraph 1, a carrier or recipient of goods who accepts goods knowing that they are moving under Community transit shall also be responsible for production of the goods intact at the customs office of destination by the prescribed time limit and with due observance of the measures adopted by the customs authorities to ensure identification.

#### *[<sup>F4</sup> Article 97*

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

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2 Provided that the implementation of Community measures applying to goods is guaranteed:

- a Member States have the right, by bilateral or multilateral arrangement, to establish between themselves simplified procedures consistent with criteria to be set according to the circumstances and applying to certain types of goods traffic or specific undertakings;
- b each Member State shall have the right to establish simplified procedures in certain circumstances for goods not required to move in the territory of another Member State.

3 Simplified procedures established under paragraph 2 shall be communicated to the Commission.]

#### **Textual Amendments**

- F4** Substituted by [Regulation \(EC\) No 955/1999 of the European Parliament and of the Council of 13 April 1999 amending Council Regulation \(EEC\) No 2913/92 with regard to the external transit procedure.](#)

### *C.*

#### *Customs warehouses*

##### *Article 98*

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, where Community legislation governing specific fields provides that their being placed in a customs warehouse shall attract the application 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 committee procedure.

##### *Article 99*

A customs warehouse may be either a public warehouse or a private warehouse.

‘Public warehouse’ means a customs warehouse available for use by any person for the warehousing of goods;

‘private warehouse’ means a customs warehouse reserved for the warehousing of goods by the warehousekeeper.

The warehousekeeper is the person authorized to operate the customs warehouse.

The depositer shall be the person bound by the declaration placing the goods under the customs warehousing procedure or to whom the rights and obligations of such a person have been transferred.

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#### *Article 100*

1 Operation of a customs warehouse shall be subject to the issue of an authorization by the customs authorities, unless the said authorities operate the customs warehouse themselves.

2 Any person wishing to operate a customs warehouse must make a request in writing containing the information required for granting the authorization, in particular demonstrating that an economic need for warehousing exists. The authorization shall lay down the conditions for operating the customs warehouse.

3 The authorization shall be issued only to persons established in the Community.

#### *Article 101*

The warehousekeeper 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 102*

1 By way of derogation from Article 101, where the authorization concerns a public warehouse, it may provide that the responsibilities referred to in Article 101 (a) and/or (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 103*

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

#### *Article 104*

Without prejudice to Article 88, the customs authorities may demand that the warehousekeeper provide a guarantee in connection with the responsibilities specified in Article 101.

#### *Article 105*

The person designated by the customs authorities shall keep stock records of all the goods placed under the customs warehousing procedure in a form approved by those authorities. Stock records are not necessary where a public warehouse is operated by the customs authorities.

Subject to the application of Article 86 the customs authorities may dispense with stock records where the responsibilities referred to in Article 101 (a) and/or (b) lie exclusively with the depositor and the goods are placed under that procedure on the basis of a written declaration forming part of the normal procedure or an administrative document in accordance with Article 76 (1) (b).

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### *Article 106*

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 98 (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 committee procedure;
- 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 committee procedure.

2 In the cases referred to in paragraph 1, the goods shall not be subject to 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 105.

### *Article 107*

Goods placed under the customs warehousing procedure shall be entered in the stock records provided for in Article 105 as soon as they are brought into the customs warehouse.

### *Article 108*

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 98 (1) (b) covered by the common agricultural policy may be laid down in accordance with the committee procedure.

### *Article 109*

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 98 (1) (b) which are placed under the customs warehousing procedure and are covered by the common agricultural policy may 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 committee procedure.

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*Status: Point in time view as at 11/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE IV. (See end of Document for details)*

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### *Article 110*

Where circumstances so warrant, goods placed under the customs warehousing procedure may be temporarily removed from the customs warehouse. Such removal 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 109 on the conditions set out therein.

### *Article 111*

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

### *Article 112*

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 need not be included in the customs value if they are shown separately 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 109, the nature of the goods, the customs value and the quantity to be taken into account in determining the amount of import duties shall, at the request of the declarant, be those which would be taken into account for the goods, at the time referred to in Article 214, if they had not undergone such handling. However, derogations from this provision may be adopted under the committee procedure.

[<sup>F33</sup> Where import goods are released for free circulation in accordance with Article 76 (1) (c), the nature of the goods, the customs value and the quantity to be taken into account for the purposes of Article 214 shall be those applicable to the goods at the time when they were placed under the customs-warehousing procedure.

The first subparagraph shall apply provided that the rules of assessment relating to those goods were ascertained or accepted at the time when the goods were placed under the customs-warehousing procedure, unless the declarant requests their application at the time when the customs debt is incurred.

The first subparagraph shall apply without prejudice to a post-clearance examination within the meaning of Article 78.]

#### **Textual Amendments**

**F3** Inserted by [Regulation \(EC\) No 82/97 of the European Parliament and of the Council of 19 December 1996](#).

### *Article 113*

Community goods referred to in Article 98 (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.



*Status: Point in time view as at 11/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE IV. (See end of Document for details)*

*D.*

*Inward processing*

I.General

*Article 114*

1 Without prejudice to Article 115, 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;
- b goods released for free circulation with repayment or remission of the import duties chargeable on such goods if they are exported from the customs territory of the Community in the form of compensating products.

2 The following expressions shall have the following meanings:

- a suspension system: the inward processing relief arrangements as provided for in paragraph 1 (a);
- b drawback system: the inward processing relief arrangements as provided for in paragraph 1 (b);
- c processing operations:
  - the working of goods, including erecting or assembling them or fitting them to other goods;
  - the processing of goods;
  - and
  - the repair of goods, including restoring them and putting them in order;
  - the use of certain goods defined in accordance with the committee procedure 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.
- d compensating products: all products resulting from processing operations;
- e equivalent goods: Community goods which are used instead of the import goods for the manufacture of compensating products;
- f rate of yield: the quantity or percentage of compensating products obtained from the processing of a given quantity of import goods.

*Article 115*

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

- 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 be of the same quality and have the same characteristics as the import goods. However, in specific cases determined in accordance with the committee procedure, equivalent goods may be allowed to be at a more advanced stage of manufacture than the import goods.

3 Where paragraph 1 applies, the import goods shall be regarded for customs purposes as equivalent goods and the latter as import goods.

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**Changes to legislation:** There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE IV. (See end of Document for details)

[<sup>F54</sup> Measures aimed at prohibiting, imposing certain conditions for or facilitating recourse to paragraph 1 may be adopted in accordance with the committee procedure.]

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

#### Textual Amendments

**F5** Substituted by [Regulation \(EC\) No 2700/2000 of the European Parliament and of the Council of 16 November 2000 amending Council Regulation \(EEC\) No 2913/92 establishing the Community Customs Code.](#)

### II. Grant of the authorization

#### *Article 116*

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

#### *Article 117*

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 114 (2) (c) final indent, the import goods can be identified in the compensating products or, in the case referred to in Article 115, 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 favorable conditions for the export or re-export of compensating products, provided that the essential interests of Community producers are not adversely affected (economic conditions). [<sup>F1</sup>The cases in which the economic conditions are deemed to have been fulfilled may be determined in accordance with the committee procedure.]

#### Textual Amendments

**F1** Inserted by [Regulation \(EC\) No 2700/2000 of the European Parliament and of the Council of 16 November 2000 amending Council Regulation \(EEC\) No 2913/92 establishing the Community Customs Code.](#)

### III. Operation of the procedure

#### *Article 118*

1 The customs authorities shall specify the period within which the compensating products must have been exported or re-exported or assigned another 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.

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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 115 (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 committee procedure for certain processing operations or for certain import goods.

#### *Article 119*

1 The customs authorities shall set either the rate of yield of the operation or where appropriate, the method of determining such rate. 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 operation 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 set in accordance with the committee procedure on the basis of actual data previously ascertained.

#### *Article 120*

The cases in which and the conditions under which goods in the unaltered state or compensating products shall be considered to have been released for free circulation may be determined in accordance with the committee procedure.

#### *Article 121*

1 Subject to Article 122, where a customs debt is incurred, the amount of such debt shall be determined on the basis of the taxation elements appropriate to the import goods at the time of acceptance of the declaration of placing of these goods under the inward processing procedure.

2 If at the time referred to in paragraph 1 the import goods fulfilled the conditions to qualify for preferential tariff treatment within tariff quotas or ceilings, they shall be eligible for any preferential tariff treatment existing in respect of identical goods at the time of acceptance of the declaration of release for free circulation.

#### *Article 122*

By way of derogation from Article 121, 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 committee procedure, to the extent that they are in proportion to the exported part of the compensating products not included in that list. However, the holder of the authorization may ask for the duty on those products to be assessed in the manual referred to in Article 121;

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- they are subject to charges established under the common agricultural policy, and provisions adopted in accordance with the committee procedure 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 suspensive arrangement or in a free zone or free warehouse;
 

However,

  - the person concerned may request that duty be assessed in accordance with Article 121;
  - 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 duty levied shall be at least equal to the amount calculated in accordance with Article 121;
- (c) may be made subject to the rules governing assessment of duty laid down under the procedure for processing under customs control where the import goods could have been placed under that procedure;
- (d) shall enjoy favourable tariff treatment owing to the special use for which they are intended, where provision is made for such treatment in the case of identical imported goods;
- (e) shall be admitted free of import duty where such duty-free provision is made in the case of identical goods imported in accordance with Article 184.

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

##### *Article 123*

1 Some or all 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 121 and 122; 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 procedure been released for free circulation before such export took place.

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

##### *<sup>F5</sup>Article 124*

1 The drawback system may be used for all goods. It shall not, however, be usable where, at the time the declaration of release for free circulation is accepted:

- the import goods are subject to quantitative import restrictions,
- a tariff measure within quotas is applied to the import goods,
- the import goods are subject to presentation of an import or export licence or certificate in the framework of the common agricultural policy, or
- an export refund or tax has been set for the compensating products.

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**Changes to legislation:** There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE IV. (See end of Document for details)

2 Moreover, no reimbursement of import duties under the drawback system shall be possible if, at the time the export declaration for the compensating products is accepted, these products are subject to presentation of an import or export licence or certificate in the framework of the common agricultural policy or an export refund or tax has been set for them.

3 Derogations from paragraphs 1 and 2 may be laid down in accordance with the committee procedure.]

#### Textual Amendments

**F5** Substituted by [Regulation \(EC\) No 2700/2000 of the European Parliament and of the Council of 16 November 2000 amending Council Regulation \(EEC\) No 2913/92 establishing the Community Customs Code.](#)

#### Article 125

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

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

#### Article 126

Under the drawback system, Article 115 (1) (b), (3) and (5), Article 118 (3), Articles 120 and 121, Article 122 (a), second indent, and (c), and Article 129 shall not apply.

#### Article 127

Temporary exportation of compensating products carried out as provided for in Article 123 (1) shall not be considered to be exportation within the meaning of Article 128 except where such products are not reimported into the Community within the period prescribed.

#### Article 128

[<sup>F31</sup> The holder of the authorization may ask for the import duty to be repaid or remitted where he can establish to the satisfaction of the customs authorities that import goods released for free circulation under the drawback system in the form of compensating products or goods in the unaltered state have been either:

- exported, or]
- placed, with a view to being subsequently re-exported, under the transit procedure, the customs-warehousing procedure, the temporary importation procedure or the inward-processing procedure (suspensive arrangement), or in a free zone or free warehouse,

provided that all conditions for use of the procedure have also been fulfilled.

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

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

[<sup>F34</sup> Without prejudice to point (b) of Article 122, where compensating products or goods in the unaltered state placed under a customs procedure or in a free zone or free warehouse in

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accordance with paragraph 1 are released for free circulation, the amount of import duties repaid or remitted shall be considered to constitute the amount of the customs debt.]

5 For the purpose of determining the amount of import duties to be repaid or remitted, the first indent of Article 122 (a) shall apply *mutatis mutandis*.

**Textual Amendments**

**F3** Inserted by [Regulation \(EC\) No 82/97 of the European Parliament and of the Council of 19 December 1996](#).

VI. Other provisions

*Article 129*

The inward processing procedure, applying the suspension system shall also apply 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 130*

The procedure for processing under customs control shall allow non-Community goods to be used in the customs territory of the Community in operations which alter their nature or state, without their being subject to import duties or commercial policy measures, and shall allow the products resulting from such operations to be released for free circulation at the rate of import duty appropriate to them. Such products shall be termed processed products.

*[<sup>F5</sup> Article 131*

The cases in and specific conditions under which the procedure for processing under customs control may be used shall be determined in accordance with the committee procedure.]

**Textual Amendments**

**F5** Substituted by [Regulation \(EC\) No 2700/2000 of the European Parliament and of the Council of 16 November 2000 amending Council Regulation \(EEC\) No 2913/92 establishing the Community Customs Code](#).

*Article 132*

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

*Article 133*

Authorization shall be granted only:

- (a) to persons established in the Community;

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**Changes to legislation:** *There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE IV. (See end of Document for details)*

- (b) where the import goods can be identified in the processed products;
- (c) where the goods cannot be economically restored after processing to their description 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 necessary conditions for 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.<sup>F1</sup>The cases in which the economic conditions are deemed to have been fulfilled may be determined in accordance with the committee procedure.]

#### Textual Amendments

- F1** Inserted by [Regulation \(EC\) No 2700/2000 of the European Parliament and of the Council of 16 November 2000 amending Council Regulation \(EEC\) No 2913/92 establishing the Community Customs Code.](#)

#### Article 134

Article 118 (1), (2) and (4) and Article 119 shall apply *mutatis mutandis*.

#### Article 135

Where a customs debt is incurred in respect of goods in the unaltered state or 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 determined on the basis of the items of charge elements appropriate to the import goods at the time of acceptance of the declaration relating to the placing of the goods under the procedure for processing under customs control.

#### Article 136

1 Where the import goods qualified for preferential tariff treatment when they were placed under the procedure for processing under customs control, 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 the preferential tariff treatment referred to in paragraph 1 in respect of the import goods is subject to tariff quotas or tariff ceilings, the application of the rate of duty referred to in paragraph 1 in respect of the processed products shall also be subject to the condition that the said preferential tariff treatment is applicable to the import goods at the time of acceptance of the declaration of release for free circulation. In this case, the quantity of import goods actually used in the manufacture of the processed products released for free circulation shall be charged against the tariff quotas or ceilings in force at the time of acceptance of the declaration of 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.

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*Status: Point in time view as at 11/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE IV. (See end of Document for details)*

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*F.*

*Temporary importation*

*Article 137*

The temporary importation procedure shall allow the use in the customs territory of the Community, with total or partial relief from import duties and without their being subject to commercial policy measures, of non-Community goods intended for re-export without having undergone any change except normal depreciation due to the use made of them.

*Article 138*

Authorization for temporary importation shall be granted at the request of the person who uses the goods or arranges for them to be used.

*Article 139*

The customs authorities shall refuse to authorize use of the temporary importation procedure where it is 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, 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 140*

1 The customs authorities shall determine the period within which import goods must have been re-exported or assigned a new customs-approved treatment or use. Such period must be long enough for the objective of authorized use to be achieved.

2 Without prejudice to the special periods laid down in accordance with Article 141, the maximum period during which goods may remain under the temporary importation procedure shall be 24 months. The customs authorities may, however, determine shorter periods with the agreement of the person concerned.

3 However, where exceptional circumstances so warrant, the customs authorities may, at the request of the person concerned and within reasonable limits, extend the periods referred to in paragraphs 1 and 2 in order to permit the authorized use.

*Article 141*

The case and the special conditions under which the temporary importation procedure may be used with total relief from import duties shall be determined in accordance with the committee procedure.

*[<sup>F5</sup>Article 142*

1 Use of the temporary importation procedure with partial relief from import duties shall be granted in respect of goods which are not covered by the provisions adopted in accordance with Article 141 or which are covered by such provisions but do not fulfil all the conditions laid down 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 and the conditions subject to which the procedure may be used shall be determined in accordance with the committee procedure.]



*Status: Point in time view as at 11/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE IV. (See end of Document for details)*

#### **Textual Amendments**

- F5** Substituted by [Regulation \(EC\) No 2700/2000 of the European Parliament and of the Council of 16 November 2000 amending Council Regulation \(EEC\) No 2913/92 establishing the Community Customs Code.](#)

#### *Article 143*

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 set 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 charged shall not exceed that which would have been charged if the goods concerned had been released for free circulation on the date on which they were placed under the temporary importation procedure, leaving out of account any interest which may be applicable.

3 Transfer of the rights and obligations deriving from the temporary importation procedure pursuant to Article 90 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 the whole of that month.

#### *Article 144*

1 Where a customs debt is incurred in respect of import goods, the amount of such debt shall be determined on the basis of the taxation elements appropriate to those goods at the time of acceptance of the declaration of their placing under the temporary importation procedure. However, where the provisions of Article 141 so provide, the amount of the debt shall be determined on the basis of the taxation elements appropriate to the goods in question at the time referred to in Article 214.

2 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 paragraph 1 and that payable pursuant to Article 143.

#### *G.*

#### *Outward processing*

#### **I.General**

#### *Article 145*

1 The outward processing procedure shall, without prejudice to the provisions governing specific fields relating to the standard exchange system laid down in Articles 154 to 159 or to Article 123, 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 to be released for free circulation with total or partial relief from import duties.

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*Status: Point in time view as at 11/05/2005.*

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2 Temporary exportation of Community goods shall entail the application of export duties, commercial policy measures and other formalities for the exit of Community goods from the customs territory of the Community.

3 The following definitions shall apply:

- a 'temporary export goods' means goods placed under the outward processing procedure;
- b 'processing operations' means the operations referred to in Article 114 (2) (c), first, second and third indents;
- c 'compensating products' means all products resulting from processing operations;
- d 'rate of yield' means the quantity or percentage of compensating products obtained from the processing of a given quantity of temporary export goods.

#### *Article 146*

1 The outward processing procedure shall not be open to 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 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 committee procedure.

#### II. Grant of the authorization

#### *Article 147*

1 Authorization to use the outward processing procedure shall be issued 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 within the meaning of Title II, Chapter 2, Section 1, 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 to promote the sale of export 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 arrangements under which the preceding subparagraph shall apply shall be determined in accordance with the committee procedure.

#### *Article 148*

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 shall be determined in accordance with the committee procedure;

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*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE IV. (See end of Document for details)*

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- (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 149*

1 The customs authorities shall specify the period within which the compensating products must be reimported 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 set either the rate of yield of the operation or, where necessary, the method of determining that rate.

#### *Article 150*

1 The total or partial relief from import duties provided for in Article 151 (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 and the conditions of the authorization are fulfilled.

2 The total or partial relief from import duties provided for in Article 151 shall not be granted where one of the conditions or obligations relating to the outward processing procedure is not fulfilled, unless it is established that the failures have no significant effect on the correct operation of the said procedure.

#### *Article 151*

1 The total or partial relief from import duties provided for in Article 145 shall be effected 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 nature 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 relating to the release for free circulation of the compensating products.

The value of the temporary export goods shall be that taken into account for those goods in determining the customs value of the compensating products in accordance with Article 32 (1) (b) (i) or, if the value cannot be determined 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 committee procedure 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 as long as the conditions for granting the reduced rate continue to apply,

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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 the 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, which provide for relief from import duties in respect of certain compensating products.

#### *Article 152*

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 because 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 153*

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 145 shall be granted by establishing the amount of the duties applicable on the basis of the taxation elements pertaining to the compensating products on the date of acceptance of the declaration of 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.

[<sup>F1</sup>By way of derogation from Article 151, the committee procedure may be used to determine the cases in and specific conditions under which goods may be released for free circulation following an outward-processing operation, with the cost of the processing operation being taken as the basis for assessment for the purpose of applying the Customs Tariff of the European Communities.]

#### **Textual Amendments**

- F1** Inserted by [Regulation \(EC\) No 2700/2000 of the European Parliament and of the Council of 16 November 2000 amending Council Regulation \(EEC\) No 2913/92 establishing the Community Customs Code.](#)

#### IV.Outward-processing with use of the standard exchange system

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*Status: Point in time view as at 11/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE IV. (See end of Document for details)*

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#### *Article 154*

1 Under the conditions laid down in this Section IV which are applicable in addition to the preceding provisions, the standard exchange system shall permit an imported product, hereinafter referred to as a 'replacement product', 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 Without prejudice to Article 159, the provisions applicable to compensating products shall also apply to replacement products.

4 The customs authorities shall, under the conditions they lay down, permit replacement products to be imported 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 155*

1 Replacement products shall have the same tariff classification, be of the same commercial quality and possess the same technical 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 replacement products must also have been used and may not be new products.

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

#### *Article 156*

Standard exchange shall be authorized only where it is possible to verify that the conditions laid down in Article 155 are fulfilled.

#### *Article 157*

1 In the case of prior importation, the export goods shall be temporarily exported within a period of two months from the date of acceptance by the customs authorities of the declaration relating to the release of the replacement products 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 case of prior importation and where Article 151 is applied, the amount to be deducted shall be determined on the basis of the items of charge applicable to the temporary export goods on the date of acceptance of the declaration placing them under the procedure.

#### *Article 159*

Article 147 (2) and Article 148 (b) shall not apply in the context of standard exchange.  
V.Other provision

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*Status: Point in time view as at 11/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE IV. (See end of Document for details)*

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### *Article 160*

The procedures provided for within the framework of out-ward 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 exit formalities including commercial policy measures and, where appropriate, export duties.

2 With the exception of goods placed under the out-ward processing procedure or a transit procedure pursuant to Article 163, and without prejudice to Article 164, all Community goods intended for export shall be placed under the export procedure.

3 Goods dispatched to Helgoland shall not be considered to be exports from the customs territory of the Community.

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

5 The export declaration must 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. Derogations shall be determined in accordance with the committee procedure.

### *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, under the conditions laid down in paragraphs 2 to 4, allow the movement of Community goods from one point to another within the customs territory of the Community passing through the territory of a third country without any change in their customs status. This provision shall be without prejudice to the application of Article 91 (1) (b).

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

- a under the internal Community transit procedure, provided that such a possibility is provided for in an international agreement;

*Status: Point in time view as at 11/05/2005.*

**Changes to legislation:** *There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE IV. (See end of Document for details)*

- b under cover of a TIR carnet (TIR Convention);
- c under cover of an ATA carnet [F<sup>2</sup>] used as a transit document;
- d under cover of a Rhine Manifest (Article 9 of the Revised Convention for the Navigation of the Rhine);
- e under cover of form 302 as provided for in the agreement between the States party to the North Atlantic Treaty on the status of their forces, signed in London on 19 June 1951, or
- f by post (including parcel post).

3 In the case referred to in paragraph 2 (a), Articles 92, 94, 95, 96 and 97 shall apply *mutatis mutandis*.

4 In the cases referred to in paragraph 2 (b) to (f) goods shall keep their customs status only if that status is established under the conditions and in the form prescribed by the provisions adopted in accordance with the committee procedure.

#### **Textual Amendments**

- F2** Deleted by [Regulation \(EC\) No 82/97 of the European Parliament and of the Council of 19 December 1996](#).

#### *Article 164*

The conditions under which Community goods may move, without being subject to a customs procedure, from one point to another within the customs territory of the Community and temporarily out of that territory without alteration of their customs status shall be determined in accordance with the committee procedure.

#### *Article 165*

The internal Community transit procedure shall also apply where a Community provision makes express provision for its application.

### CHAPTER 3

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

### Section 1

#### **Free zones and free warehouses**

##### *A.*

##### *General*

#### *Article 166*

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

- (a) Community goods are considered, for the purpose of import duties and commercial policy import measures, as not being on Community customs territory, provided they

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are not released for free circulation or placed under another customs procedure or used or consumed under conditions other than those provided for in customs regulations;

- (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 167*

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.

[<sup>F53</sup> Free zones with the exception of those designated in accordance with Article 168a, shall be enclosed. The Member States shall define the entry and exit points of each free zone or free warehouse.]

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

#### **Textual Amendments**

- F5** Substituted by [Regulation \(EC\) No 2700/2000 of the European Parliament and of the Council of 16 November 2000 amending Council Regulation \(EEC\) No 2913/92 establishing the Community Customs Code.](#)

#### *Article 168*

[<sup>F51</sup> The perimeter and the entry and exit points of free zones, except the free zones designated in accordance with Article 168a, and of free warehouses shall be subject to supervision by the customs authorities.]

2 Persons and means of transport entering or leaving a free zone or 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 Code.

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.

#### **Textual Amendments**

- F5** Substituted by [Regulation \(EC\) No 2700/2000 of the European Parliament and of the Council of 16 November 2000 amending Council Regulation \(EEC\) No 2913/92 establishing the Community Customs Code.](#)



*Status: Point in time view as at 11/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE IV. (See end of Document for details)*

### *[<sup>F1</sup>Article 168a*

1 The customs authorities may designate free zones in which customs checks and formalities shall be carried out and the provisions concerning customs debt applied in accordance with the requirements of the customs warehousing procedure.

Articles 170, 176 and 180 shall not apply to the free zones thus designated.

2 References to free zones in Articles 37, 38 and 205 shall not apply to free zones referred to in paragraph 1.]

#### **Textual Amendments**

- F1** Inserted by [Regulation \(EC\) No 2700/2000 of the European Parliament and of the Council of 16 November 2000 amending Council Regulation \(EEC\) No 2913/92 establishing the Community Customs Code.](#)

### *B.*

#### *Placing of goods in free zones or free warehouses*

##### *Article 169*

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 170*

1 Without prejudice to Article 168 (4), goods entering a free zone or free warehouse need not be presented to the customs authorities, nor need a customs declaration be lodged.

[<sup>F62</sup> Goods shall be presented to the customs authorities and undergo the prescribed customs formalities 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 have been placed in a free zone or free warehouse on the basis of a decision to grant repayment or remission of import duties;
- c they qualify for the measures referred to in Article 166(b);
- d they enter a free zone or free warehouse directly from outside the customs territory of the Community.]

3 Customs authorities may require goods subject to export duties or to other export provisions to be notified to the customs department.

4 At the request of the party concerned, the customs authorities shall certify the Community or non-Community status of goods placed in a free zone or free warehouse.

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**Changes to legislation:** There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE IV. (See end of Document for details)

### Textual Amendments

- F6** Substituted by Regulation (EC) No 648/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code.

## C.

### *Operation of free zones and free warehouses*

#### *Article 171*

- 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 166 (b) which are covered by the common agricultural policy, specific time limits may be imposed in accordance with the committee procedure.

#### *Article 172*

- 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. The carrying on of such activities shall be notified in advance to the customs authorities.
- 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 of compliance with the provisions laid down in this Code from carrying on an activity in a free zone or free warehouse.

#### *Article 173*

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 178;
- (b) undergo the usual forms of handling referred to in Article 109 (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, in the free zones of the Canary Islands, Azores, Madeira and overseas departments shall not be subject to economic conditions.

However, with regard to the old free port of Hamburg, 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 economic conditions shall apply to the corresponding economic activity within the territory of the old free port of Hamburg;

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- (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 182;
- (g) be destroyed, provided that the person concerned supplies the customs authorities with all the information they judge necessary.

Where goods are placed under one of the procedures referred to in (c), (d) or (e), the Member States may, in so far as is necessary to take account of the operating and customs supervision conditions of the free zones or free warehouses, adapt the control arrangements laid down.

#### *Article 174*

The Community goods referred to in Article 166 (b) which are covered by the common agricultural policy shall under-go only the forms of handling expressly prescribed for such goods in conformity with Article 109 (2). Such handling may be undertaken without authorization.

#### *Article 175*

1 Where Articles 173 and 174 are not applied, non-Community goods and the Community goods referred to in Article 166 (b) shall not be consumed or used in free zones or in free warehouses.

2 Without prejudice to the provisions applicable to supplies or 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 application of import duties or measures under the common agricultural policy or commercial policy. In that event, no declaration of 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 176*

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 records in a form approved by the customs authorities. Goods shall be entered in the stock records as soon as they are brought into the premises of such person. The stock records must enable the customs authorities to identify the goods, and must record their movements.

[<sup>F62</sup> Where goods are transhipped within a free zone, the records relating to the operation shall be kept at the disposal of the customs authorities. The short-term storage of goods in connection with such transhipment shall be considered to be an integral part of the operation.

For goods brought into a free zone directly from outside the customs territory of the Community or out of a free zone directly leaving the customs territory of the Community, a summary declaration shall be lodged in accordance with Articles 36a to 36c or 182a to 182d, as appropriate.]

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**Changes to legislation:** *There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE IV. (See end of Document for details)*

#### Textual Amendments

- F6** Substituted by [Regulation \(EC\) No 648/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulation \(EEC\) No 2913/92 establishing the Community Customs Code.](#)

#### D.

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

##### *Article 177*

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 53 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 178*

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 shown separately 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 109 (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 time referred to in Article 214, had they not undergone such handling. Derogations from this provision may, however, be determined in accordance with the committee procedure.

##### *Article 179*

1 Community goods referred to in Article 166 (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 171 (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.

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**Changes to legislation:** *There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE IV. (See end of Document for details)*

### Article 180

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 170 (4) may be used as proof of the Community or non-Community status of such goods.

2 Where it is not proved by the certificate or other means that the goods have Community or non-Community status, the goods shall be considered 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.

### <sup>F6</sup>Article 181

The customs authorities shall satisfy themselves that the rules governing exportation, outward processing, re-exportation, suspensive procedures or the internal transit procedure, as well as the provisions of Title V, are respected where goods are to leave the customs territory of the Community from a free zone or free warehouse.]

#### Textual Amendments

- F6** Substituted by [Regulation \(EC\) No 648/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulation \(EEC\) No 2913/92 establishing the Community Customs Code.](#)

## Section 2

### Re-exportation, destruction and abandonment

#### Article 182

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 Re-exportation shall, where appropriate, involve application of the formalities laid down for goods leaving, including commercial policy measures.

Cases in which non-Community goods may be placed under a suspensive arrangement with a view to non-application of commercial policy measures on exportation may be determined in accordance with the committee procedure.

3 [<sup>F3</sup>Save in cases determined in accordance with the committee procedure, [<sup>F7</sup>re-exportation or] destruction shall be the subject of prior notification of the customs authorities.] The customs authorities shall prohibit re-exportation should the formalities or measures referred to in the first subparagraph of paragraph 2 so provide. Where goods are placed under an economic customs procedure when on Community customs territory are intended for re-exportation, a customs declaration within the meaning of Articles 59 to 78 shall be lodged. In such cases, Article 161 (4) and (5) shall apply.

Abandonment shall be put into effect in accordance with national provisions.

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

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*Status: Point in time view as at 11/05/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE IV. (See end of Document for details)*

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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).

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**Textual Amendments**

- F3** Inserted by Regulation (EC) No 82/97 of the European Parliament and of the Council of 19 December 1996.
- F7** Deleted by Regulation (EC) No 648/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code.

**Status:**

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**Changes to legislation:**

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