

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establishing the Community Customs Code (repealed)

TITLE VII

CUSTOMS DEBT

CHAPTER 1

SECURITY TO COVER CUSTOMS DEBT

Article 189

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

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

Where security is provided under a customs procedure which may be used for specific goods in several Member States, that security shall, as laid down in the provisions adopted under the committee procedure, be valid in the Member States concerned.

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

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

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

Article 190

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

Where the security referred to in the preceding subparagraph is not required, the customs authorities may nevertheless require from the person referred to in Article 189 (1) an undertaking to comply with the obligations which that person is legally obliged to fulfil.

2 The security referred to in the first subparagraph of paragraph 1 shall be required:
— at the time of application of the rules requiring such security to be provided, or
— at any subsequent time when the customs authorities find that the customs debt which has been or may be incurred is not certain to be paid within the prescribed period.

Status: Point in time view as at 11/05/2005.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EEC) No 2913/92 (repealed), TITLE VII.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

Article 191

At the request of the person referred to in Article 189 (1) or (3), the customs authorities shall allow comprehensive security to be provided to cover two or more operations in respect of which a customs debt has been or may be incurred.

Article 192

[^{F1} Where customs legislation makes it compulsory for security to be provided, and subject to the specific provisions laid down for transit in accordance with the committee procedure, the customs authorities shall fix the amount of such security at a level equal to:]

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

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

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

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

Textual Amendments

- F1** 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 193

Security may be provided by either:

- a cash deposit, or
- a guarantor.

Article 194

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

The following shall be deemed equivalent to a cash deposit:

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

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

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 VII. (See end of Document for details)*

Article 195

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

The guarantor must be a third person established in the Community and approved by the customs authorities of the Member State.

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

Article 196

The person required to provide security shall be free to choose between the types of security laid down in Article 193.

However, the customs authorities may refuse to accept the type of security proposed where it is incompatible with the proper functioning of the customs procedure concerned. The same shall apply as regards the security proposed. The customs authorities may require that the type of security chosen be maintained for a specific period.

Article 197

1 Where the rules adopted in accordance with the committee procedure so provide, the customs authorities may accept types of security other than those referred to in Article 193 where they provide equivalent assurance that the customs debt will be paid.

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

2 Subject to the reservation referred to in the second subparagraph of paragraph 1, the customs authorities may accept a cash deposit without the conditions laid down in Article 194 (1) being fulfilled.

Article 198

Where the customs authorities establish that the security provided does not ensure, or is no longer certain or sufficient to ensure, payment of the customs debt within the prescribed period, they shall require the person referred to in Article 189 (1), at his option, to provide additional security or to replace the original security with a new security.

Article 199

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

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

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

Article 200

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

CHAPTER 2

INCURRENCE OF A CUSTOMS DEBT

Article 201

- 1 A customs debt on importation shall be incurred through:
 - a the release for free circulation of goods liable to import duties, or
 - b the placing of such goods under the temporary importation procedure with partial relief from import duties.
- 2 A customs debt shall be incurred at the time of acceptance of the customs declaration in question.
- 3 The debtor shall be the declarant. In the event of indirect representation, the person on whose behalf the customs declaration is made shall also be a debtor.

Where a customs declaration in respect of one of the procedures referred to in paragraph 1 is drawn up on the basis of information which leads to all or part of the duties legally owed not being collected, the persons who provided the information required to draw up the declaration and who knew, or who ought reasonably to have known that such information was false, may also be considered debtors in accordance with the national provisions in force.

Article 202

- 1 A customs debt on importation shall be incurred through:
 - a the unlawful introduction into the customs territory of the Community of goods liable to import duties, or
 - b the unlawful introduction into another part of that territory of such goods located in a free zone or free warehouse.

For the purpose of this Article, unlawful introduction means any introduction in violation of the provisions of Articles 38 to 41 and the second indent of Article 177.

- 2 The customs debt shall be incurred at the moment when the goods are unlawfully introduced.
- 3 The debtors shall be:
 - the person who introduced such goods unlawfully,
 - any persons who participated in the unlawful introduction of the goods and who were aware or should reasonably have been aware that such introduction was unlawful, and
 - any persons who acquired or held the goods in question and who were aware or should reasonably have been aware at the time of acquiring or receiving the goods that they had been introduced unlawfully.

Article 203

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

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

- the unlawful removal from customs supervision of goods liable to import duties.
- 2 The customs debt shall be incurred at the moment when the goods are removed from customs supervision.
- 3 The debtors shall be:
- the person who removed the goods from customs supervision,
 - any persons who participated in such removal and who were aware or should reasonably have been aware that the goods were being removed from customs supervision,
 - any persons who acquired or held the goods in question and who were aware or should reasonably have been aware at the time of acquiring or receiving the goods that they had been removed from customs supervision, and
 - where appropriate, the person required to fulfil the obligations arising from temporary storage of the goods or from the use of the customs procedure under which those goods are placed.

Article 204

- 1 A customs debt on importation shall be incurred through:
- a non-fulfilment of one of the obligations arising, in respect of goods liable to import duties, from their temporary storage or from the use of the customs procedure under which they are placed, or
 - b non-compliance with a condition governing the placing of the goods under that procedure or the granting of a reduced or zero rate of import duty by virtue of the end-use of the goods,

in cases other than those referred to in Article 203 unless it is established that those failures have no significant effect on the correct operation of the temporary storage or customs procedure in question.

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

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

Article 205

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

Where goods disappear and where their disappearance cannot be explained to the satisfaction of the customs authorities, those authorities may regard the goods as having been consumed or used in the free zone or the free warehouse.

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

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

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

Where customs authorities regard goods which have disappeared as having been consumed or used in the free zone or the free warehouse and it is not possible to apply the preceding paragraph, the person liable for payment of the customs debt shall be the last person known to these authorities to have been in possession of the goods.

Article 206

1 By way of derogation from Articles 202 and 204 (1) (a), no customs debt on importation shall be deemed to be incurred in respect of specific goods where the person concerned proves that the non-fulfilment of the obligations which arise from:

- the provisions of Articles 38 to 41 and the second indent of Article 177, or
- keeping the goods in question in temporary storage, or
- the use of the customs procedure under which the goods have been placed,

results from the total destruction or irretrievable loss of the said goods as a result of the actual nature of the goods or unforeseeable circumstances or *force majeure*, or as a consequence of authorization by the customs authorities.

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

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

Article 207

Where, in accordance with Article 206 (1), no customs debt is deemed to be incurred in respect of goods released for free circulation at a reduced or zero rate of import duty on account of their end-use, any scrap or waste resulting from such destruction shall be deemed to be non-Community goods.

Article 208

Where in accordance with Article 203 or 204 a customs debt is incurred in respect of goods released for free circulation at a reduced rate of import duty on account of their end-use, the amount paid when the goods were released for free circulation shall be deducted from the amount of the customs debt.

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

Article 209

1 A customs debt on exportation shall be incurred through:

- the exportation from the customs territory of the Community, under cover of a customs declaration, of goods liable to export duties.

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

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

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

Article 210

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

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

3 The debtor shall be:
— the person who removed the goods, and
— any persons who participated in such removal and who were aware or should reasonably have been aware that a customs declaration had not been but should have been lodged.

Article 211

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

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

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

Article 212

The customs debt referred to in Articles 201 to 205 and 209 to 211 shall be incurred even if it relates to goods subject to measures of prohibition or restriction on importation or exportation of any kind whatsoever. However, no customs debt shall be incurred on the unlawful introduction into the customs territory of the Community of counterfeit currency or of narcotic drugs and psychotropic substances which do not enter into the economic circuit strictly supervised by the competent authorities with a view to their use for medical and scientific purposes. For the purposes of criminal law as applicable to customs offences, the customs debt shall nevertheless be deemed to have been incurred where, under a Member State's criminal law, customs duties provide the basis for determining penalties, or the existence of a customs debt is grounds for taking criminal proceedings.

[^{F2}Article 212a

Where customs legislation provides for favourable tariff treatment of goods by reason of their nature or end-use or for relief or total or partial exemption from import or export duties pursuant to Articles 21, 82, 145 or 184 to 187, such favourable tariff treatment, relief or exemption shall also apply in cases where a customs debt is incurred pursuant to Articles 202 to 205, 210 or 211, on condition that the behaviour of the person concerned involves neither fraudulent dealing nor obvious negligence and he produces evidence

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that the other conditions for the application of favourable treatment, relief or exemption have been satisfied.]

Textual Amendments

- F2** 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 213

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

Article 214

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

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

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

3 Compensatory interest shall be applied, in the circumstances and under the conditions to be defined in the provisions adopted under the committee procedure, in order to prevent the wrongful acquisition of a financial advantage through deferment of the date on which the customs debt was incurred or entered in the accounts.

[^{F1}Article 215

1 A customs debt shall be incurred:

- at the place where the events from which it arises occur,
- if it is not possible to determine that place, at the place where the customs authorities conclude that the goods are in a situation in which a customs debt is incurred,
- if the goods have been entered for a customs procedure which has not been discharged, and the place cannot be determined pursuant to the first or second indent within a period of time determined, if appropriate, in accordance with the committee procedure, at the place where the goods were either placed under the procedure concerned or were introduced into the Community customs territory under that procedure.

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

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

3 The customs authorities referred to in Article 217(1) are those of the Member State where the customs debt is incurred or is deemed to have been incurred in accordance with this Article.

[^{F3}4 If a customs authority finds that a customs debt has been incurred under Article 202 in another Member State and the amount of that debt is lower than EUR 5 000, the debt shall be deemed to have been incurred in the Member State where the finding was made.]]

Textual Amendments

- F1** 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.
- F3** 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 216

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

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

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

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

CHAPTER 3

RECOVERY OF THE AMOUNT OF THE CUSTOMS DEBT

Section 1

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

Article 217

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

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

The first subparagraph shall not apply:

- a where a provisional anti-dumping or countervailing duty has been introduced;
- [^{F4}b where the amount of duty legally due exceeds that determined on the basis of binding information;]
- c where the provisions adopted in accordance with the committee procedure waive the requirement for the customs authorities to enter in the accounts amounts of duty below a given level.

The customs authorities may discount amounts of duty which, under Article 221 (3), could not be communicated to the debtor after the end of the time allowed.

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

Textual Amendments

- F4** Inserted by [Regulation \(EC\) No 82/97 of the European Parliament and of the Council of 19 December 1996](#).

Article 218

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

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

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

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

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

- a calculate the amount of duty in question, and
- b determine the debtor.

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 VII. (See end of Document for details)

Article 219

- 1 The time limits for entry in the accounts laid down in Article 218 may be extended:
 - a for reasons relating to the administrative organization of the Member States, and in particular where accounts are centralized, or
 - b where special circumstances prevent the customs authorities from complying with the said time limits.

Such extended time limit shall not exceed 14 days.

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

Article 220

- 1 Where the amount of duty resulting from a customs debt has not been entered in the accounts in accordance with Articles 218 and 219 or has been entered in the accounts at a level lower than the amount legally owed, the amount of duty to be recovered or which remains to be recovered shall be entered in the accounts within two days of the date on which the customs authorities become aware of the situation and are in a position to calculate the amount legally owed and to determine the debtor (subsequent entry in the accounts). That time limit may be extended in accordance with Article 219.

- 2 Except in the cases referred to in the second and third subparagraphs of Article 217 (1), subsequent entry in the accounts shall not occur where:

- a the original decision not to enter duty in the accounts or to enter it in the accounts at a figure less than the amount of duty legally owed was taken on the basis of general provisions invalidated at a later date by a court decision;
- [^{F2}b] the amount of duty legally owed was not entered in the accounts as a result of an error on the part of the customs authorities which could not reasonably have been detected by the person liable for payment, the latter for his part having acted in good faith and complied with all the provisions laid down by the legislation in force as regards the customs declaration.

Where the preferential status of the goods is established on the basis of a system of administrative cooperation involving the authorities of a third country, the issue of a certificate by those authorities, should it prove to be incorrect, shall constitute an error which could not reasonably have been detected within the meaning of the first subparagraph.

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

The person liable may plead good faith when he can demonstrate that, during the period of the trading operations concerned, he has taken due care to ensure that all the conditions for the preferential treatment have been fulfilled.

The person liable may not, however, plead good faith if the European Commission has published a notice in the *Official Journal of the European Communities*, stating that there are grounds for doubt concerning the proper application of the preferential arrangements by the beneficiary country;]

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- c the provisions adopted in accordance with the committee procedure exempt the customs authority from the subsequent entry in the accounts of amounts of duty less than a certain figure.

Textual Amendments

- F2** 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 221

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

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

Without prejudice to the application of the second subparagraph of Article 218 (1), where use is made of the possibility provided for in the preceding subparagraph, release of the goods by the customs authorities shall be equivalent to communication to the debtor of the amount of duty entered in the accounts.

[^{F23} Communication to the debtor shall not take place after the expiry of a period of three years from the date on which the customs debt was incurred. This period shall be suspended from the time an appeal within the meaning of Article 243 is lodged, for the duration of the appeal proceedings.

4 Where the customs debt is the result of an act which, at the time it was committed, was liable to give rise to criminal court proceedings, the amount may, under the conditions set out in the provisions in force, be communicated to the debtor after the expiry of the three-year period referred to in paragraph 3.]

Textual Amendments

- F2** 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.](#)

Section 2

Time limit and procedures for payment of the amount of duty

Article 222

1 Amounts of duty communicated in accordance with Article 221 shall be paid by debtors within the following periods:

- a if the person is not entitled to any of the payment facilities laid down in Articles 224 to 229, payment shall be made within the period prescribed.

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

Without prejudice to the second paragraph of Article 244, that period shall not exceed ten days following communication to the debtor of the amount of duty owed and, in the case of aggregation of entries in the accounts under the conditions laid down in the second subparagraph of Article 218 (1), it shall be so fixed as not to enable the debtor to obtain a longer period for payment than if he had been granted deferred payment.

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

Extension of the period may also be granted by the customs authorities at the request of the debtor where the amount of duty to be paid results from action for post-clearance recovery. Without prejudice to Article 229 (a), such extensions shall not exceed the time necessary for the debtor to take the appropriate steps to discharge his obligation;

- b if the person is entitled to any of the payment facilities laid down in Articles 224 to 229, payment shall be made no later than the expiry of the period or periods specified in relation to those facilities.

[^{F2} The cases and conditions in which the debtor's obligation to pay duty shall be suspended may also be provided for in accordance with the committee procedure:

- where an application for remission of duty is made in accordance with Article 236, 238 or 239, or
- where goods are seized with a view to subsequent confiscation in accordance with the second indent of point (c) or with point (d) of Article 233, or
- where the customs debt was incurred under Article 203 and there is more than one debtor.]

Textual Amendments

- F2** 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 223

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

Article 224

Provided the amount of duty payable by the person concerned relates to goods declared for a customs procedure which entails the obligation to pay such duty, the customs authorities shall, at that person's request, grant deferment of payment of that amount under the conditions laid down in Articles 225, 226 and 227.

Article 225

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

In addition, the granting of deferment of payment may give rise to the charging of incidental expenses for the opening of files or for services rendered.

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

Article 226

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

- (a) separately in respect of each amount of duty entered in the accounts under the conditions laid down in the first subparagraph of Article 218 (1) or in Article 220 (1);
or
- (b) globally in respect of all amounts of duty entered in the accounts under the conditions laid down in the first subparagraph of Article 218 (1) during a period fixed by the customs authorities not exceeding 31 days; or
- (c) globally in respect of all amounts of duty forming a single entry in accordance with the second subparagraph of Article 218 (1).

Article 227

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

- a where payment is deferred in accordance with Article 226 (a), the period shall be calculated from the day following the date on which the amount of duty is entered in the accounts by the customs authorities.

Where Article 219 is applied, the period of 30 days calculated in accordance with the first subparagraph shall be reduced by the number of days corresponding to the period in excess of two days used to enter the amount in the accounts;

- b where payment is deferred in accordance with Article 226 (b), the period shall be calculated from the day following the date on which the aggregation period expires. It shall be reduced by the number of days corresponding to half the number of days in the aggregation period;
- c where payment is deferred in accordance with Article 226 (c), the period shall be calculated from the day following the expiry date of the period during which the goods in question were released. It shall be reduced by the number of days corresponding to half the number of days in the period concerned.

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

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

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

Article 228

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

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for customs purposes or has not supplied the particulars or the document missing when the incomplete declaration was accepted.

2 However, deferment of payment may be granted in the cases referred to in paragraph 1 where the amount of duty to be recovered is entered in the accounts before the expiry of a period of 30 days from the date on which the amount originally charged was entered in the accounts or, if it was not entered in the accounts, from the date on which the declaration relating to the goods in question was accepted. The duration of the deferment of payment granted in such circumstances shall not extend beyond the date of expiry of the period which, pursuant to Article 227, was granted in respect of the amount of duty originally fixed, or which would have been granted had the amount of duty legally due been entered in the accounts when the goods in question were declared.

Article 229

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

The granting of such payment facilities shall:

- (a) be conditional on the provision of security. However, such security need not be required where to require it would, because of the situation of the debtor, create serious economic or social difficulties;
- (b) result in credit interest being charged over and above the amount of duty. The amount of such interest shall be calculated in such a way that it is equivalent to the amount which would be charged for this purpose on the national money or financial market of the currency in which the amount is payable.

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

Article 230

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

Article 231

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

Article 232

- 1 Where the amount of duty due has not been paid within the prescribed period:
 - a the customs authorities shall avail themselves of all options open to them under the legislation in force, including enforcement, to secure payment of that amount.

Special provisions may be adopted, in accordance with committee procedure, in respect of guarantors within the framework of the transit procedure;
 - b interest on arrears shall be charged over and above the amount of duty. The rate of interest on arrears may be higher than the rate of credit interest. It may not be lower than that rate.
- 2 The customs authorities may waive collection of interest on arrears:

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- a where, because of the situation of the debtor, it would be likely to create serious economic or social difficulties;
 - b where the amount does not exceed a level fixed in accordance with the committee procedure, or
 - c if the duty is paid within five days of the expiry of the period prescribed for payment.
- 3 The customs authorities may fix:
- a minimum periods for calculation of interest;
 - b minimum amounts payable as interest on arrears.

CHAPTER 4

EXTINCTION OF CUSTOMS DEBT

Article 233

Without prejudice to the provisions in force relating to the time-barring of a customs debt and non-recovery of such a debt in the event of the legally established insolvency of the debtor, a customs debt shall be extinguished:

- (a) by payment of the amount of duty;
- (b) by remission of the amount of duty;
- (c) where, in respect of goods declared for a customs procedure entailing the obligation to pay duties:
 - the customs declaration is invalidated [^{F5}],
 - the goods, before their release, are either seized and simultaneously or subsequently confiscated, destroyed on the instructions of the customs authorities, destroyed or abandoned in accordance with Article 182, or destroyed or irretrievably lost as a result of their actual nature or of unforeseeable circumstances or force majeure;
- (d) where goods in respect of which a customs debt is incurred in accordance with Article 202 are seized upon their unlawful introduction and are simultaneously or subsequently confiscated.

In the event of seizure and confiscation, the customs debt shall, nonetheless for the purposes of the criminal law applicable to customs offences, be deemed not to have been extinguished where, under a Member State's criminal law, customs duties provide the basis for determining penalties or the existence of a customs debt is grounds for taking criminal proceedings.

Textual Amendments

F5 Deleted by [Regulation \(EC\) No 82/97 of the European Parliament and of the Council of 19 December 1996](#).

Article 234

A customs debt, as referred to in Article 216, shall also be extinguished where the formalities carried out in order to enable the preferential tariff treatment referred to in Article 216 to be granted are cancelled.

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CHAPTER 5

REPAYMENT AND REMISSION OF DUTY

Article 235

The following definitions shall apply:

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

Article 236

1 Import duties or export duties shall be repaid in so far as it is established that when they were paid the amount of such duties was not legally owed or that the amount has been entered in the accounts contrary to Article 220 (2).

Import duties or export duties shall be remitted in so far as it is established that when they were entered in the accounts the amount of such duties was not legally owed or that the amount has been entered in the accounts contrary to Article 220 (2).

No repayment or remission shall be granted when the facts which led to the payment or entry in the accounts of an amount which was not legally owed are the result of deliberate action by the person concerned.

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

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

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

Article 237

Import duties or export duties shall be repaid where a customs declaration is invalidated and the duties have been paid. Repayment shall be granted upon submission of an application by the person concerned within the periods laid down for submission of the application for invalidation of the customs declaration.

Article 238

1 Import duties shall be repaid or remitted in so far as it is established that the amount of such duties entered in the accounts relates to goods placed under the customs procedure in question and rejected by the importer because at the point in time referred to in Article 67 they are defective or do not comply with the terms of the contract on the basis of which they were imported.

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

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

At the request of the person concerned, the customs authorities shall permit the goods to be destroyed [^{XI}or to be placed, with a view to re-export, under the] external transit procedure or the customs warehousing procedure or in a free zone or free warehouse, instead of being exported.

For the purposes of being assigned one of the customs-approved treatments or uses provided for in the preceding subparagraph, the goods shall be deemed to be non-Community goods.

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

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

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

Editorial Information

XI Inserted by [Corrigendum](#), OJ No L 152, 11. 6. 1997, p. 34 (2913/92).

Article 239

- 1 Import duties or export duties may be repaid or remitted in situations other than those referred to in Articles 236, 237 and 238:

- to be determined in accordance with the procedure of the committee;
- resulting from circumstances in which no deception or obvious negligence may be attributed to the person concerned. The situations in which this provision may be applied and the procedures to be followed to that end shall be defined in accordance with the committee procedure. Repayment or remission may be made subject to special conditions.

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

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

Article 240

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

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

Article 241

Repayment by the competent authorities of amounts of import duties or export duties or of credit interest or interest on arrears collected on payment of such duties shall not give rise to the payment of interest by those authorities. However, interest shall be paid:

- where a decision to grant a request for repayment is not implemented within three months of the date of adoption of that decision,
- where national provisions so stipulate.

The amount of such interest shall be calculated in such a way that it is equivalent to the amount which would be charged for this purpose on the national money or financial market.

Article 242

Where a customs debt has been remitted or the corresponding amount of duty repaid in error, the original debt shall again become payable. Any interest paid under Article 241 must be reimbursed.

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