

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establishing the Community Customs Code (repealed)

TITLE VII

CUSTOMS DEBT

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).

The first subparagraph shall not apply:

- a where a provisional anti-dumping or countervailing duty has been introduced;
- [^{F1}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

- F1** 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

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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.

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;

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[^{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;]

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.

[^{F2}3] Communication to the debtor shall not take place after the expiry of a period of three years from the date on which the customs debt was incurred. 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.

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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.

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.

[^{F22} 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.]

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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.

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

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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 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.

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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:
 - 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.

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