

Regulation (EC) No 450/2008 of the European Parliament and  
of the Council of 23 April 2008 laying down the Community  
Customs Code (Modernised Customs Code) (repealed)

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EUROPEAN PARLIAMENT AND OF THE COUNCIL

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 26,  
95, 133 and 135 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee<sup>(1)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>(2)</sup>,

Whereas:

- (1) The Community is based upon a customs union. It is advisable, in the interests both of economic operators and of the customs authorities in the Community, to assemble current customs legislation in a Community Customs Code (hereinafter referred to as the Code). Based on the concept of an internal market, the Code should contain the general rules and procedures which ensure the implementation of the tariff and other common policy measures introduced at Community level in connection with trade in goods between the Community and countries or territories outside the customs territory of the Community, taking into account the requirements of those common policies. Customs legislation should be better aligned on the provisions relating to the collection of import charges without change to the scope of the tax provisions in force.
- (2) In accordance with the Communication from the Commission concerning the protection of the Community's financial interests and the Action Plan for 2004-2005, it is appropriate to adapt the legal framework for the protection of the financial interests of the Community.
- (3) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code<sup>(3)</sup> was based upon integration of the customs procedures applied separately in the respective Member States during the 1980s. That Regulation has been repeatedly and substantially amended since its introduction, in order to address specific problems such as the protection of good faith or the taking into account of security requirements. Further amendments to the Code are necessary as a consequence of the important legal changes which have occurred in recent years, at both Community and international level, such as the expiry of the Treaty establishing the European Coal and Steel Community and the entry into force of the 2003 and 2005 Acts of Accession,

as well as the Amendment to the International Convention on the simplification and harmonisation of customs procedures (hereinafter referred to as the revised Kyoto Convention), the accession of the Community to which was approved by Council Decision 2003/231/EC<sup>(4)</sup>. The time has now come to streamline customs procedures and to take into account the fact that electronic declarations and processing are the rule and paper-based declarations and processing the exception. For all of these reasons, further amendment of the present Code is not sufficient and a complete overhaul is necessary.

- (4) It is appropriate to introduce in the Code a legal framework for the application of certain provisions of the customs legislation to trade in goods between parts of the customs territory to which the provisions of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<sup>(5)</sup> apply and parts of that territory where those provisions do not apply, or to trade between parts where those provisions do not apply. Considering the fact that the goods concerned are Community goods and the fiscal nature of the measures at stake in this intra-Community trade, it is justifiable to introduce, through implementing measures, appropriate simplifications to the customs formalities to be applied to those goods.
- (5) The facilitation of legitimate trade and the fight against fraud require simple, rapid and standard customs procedures and processes. It is therefore appropriate, in line with the Communication from the Commission on a simple and paperless environment for customs and trade, to simplify customs legislation, to allow the use of modern tools and technology and to promote further the uniform application of customs legislation and modernised approaches to customs control, thus helping to ensure the basis for efficient and simple clearance procedures. Customs procedures should be merged or aligned and the number of procedures reduced to those that are economically justified, with a view to increasing the competitiveness of business.
- (6) The completion of the internal market, the reduction of barriers to international trade and investment and the reinforced need to ensure security and safety at the external borders of the Community have transformed the role of customs authorities giving them a leading role within the supply chain and, in their monitoring and management of international trade, making them a catalyst to the competitiveness of countries and companies. Customs legislation should therefore reflect the new economic reality and the new role and mission of customs authorities.
- (7) The use of information and communication technologies, as laid down in the future Decision of the European Parliament and of the Council on a paperless environment for customs and trade, is a key element in ensuring trade facilitation and, at the same time, the effectiveness of customs controls, thus reducing costs for business and risk for society. It is therefore necessary to establish in the Code the legal framework within which that Decision can be implemented, in particular the legal principle that all customs and trade transactions are to be handled electronically and that information and communication systems for customs operations are to offer, in each Member State, the same facilities to economic operators.
- (8) Such use of information and communication technologies should be accompanied by harmonised and standardised application of customs controls by the Member States, to

ensure an equivalent level of customs control throughout the Community so as not to give rise to anti-competitive behaviour at the various Community entry and exit points.

- (9) In the interests of facilitating business, while at the same time providing for the proper levels of control of goods brought into or out of the customs territory of the Community, it is desirable that the information provided by economic operators be shared, taking account of the relevant data-protection provisions, between customs authorities and with other agencies involved in that control, such as police, border guards, veterinary and environmental authorities, and that controls by the various authorities be harmonised, so that the economic operator need give the information only once and that goods are controlled by those authorities at the same time and at the same place.
- (10) In the interests of facilitating certain types of business, all persons should continue to have the right to appoint a representative in their dealings with the customs authorities. However, it should no longer be possible for that right of representation to be reserved under a law laid down by one of the Member States. Furthermore, a customs representative who complies with the criteria for the granting of the status of authorised economic operator, should be entitled to provide his services in a Member State other than the one where he is established.
- (11) Compliant and trustworthy economic operators should, as ‘authorised economic operators’, be able to take maximum advantage of widespread use of simplification and, taking account of security and safety aspects, benefit from reduced levels of customs control. They may thus enjoy the status of ‘customs simplification’ authorised economic operator or the status of ‘security and safety’ authorised economic operator. They may be granted one or other status, or both together.
- (12) All decisions, that is to say, official acts by the customs authorities pertaining to customs legislation and having legal effect on one or more persons, including binding information issued by those authorities, should be covered by the same rules. Any such decisions should be valid throughout the Community and should be capable of being annulled, amended except where otherwise stipulated, or revoked where they do not conform to the customs legislation or its interpretation.
- (13) In accordance with the Charter of Fundamental Rights of the European Union, it is necessary, in addition to the right of appeal against any decision taken by the customs authorities, to provide for the right of every person to be heard before any decision is taken which would adversely affect him.
- (14) The streamlining of customs procedures within an electronic environment requires the sharing of responsibilities between the customs authorities of different Member States. It is necessary to ensure an appropriate level of effective, dissuasive and proportionate sanctions throughout the internal market.
- (15) In order to secure a balance between, on the one hand, the need for customs authorities to ensure the correct application of customs legislation and, on the other, the right of economic operators to be treated fairly, the customs authorities should be granted extensive powers of control and economic operators a right of appeal.

- (16) In order to minimise the risk to the Community, its citizens and its trading partners, the harmonised application of customs controls by the Member States should be based upon a common risk management framework and an electronic system for its implementation. The establishment of a risk management framework common to all Member States should not prevent them from controlling goods by random checks.
- (17) It is necessary to establish the factors on the basis of which import or export duties and other measures in respect of trade in goods are applied. It is also appropriate to lay down clear provisions for issuing proofs of origin in the Community, where the exigencies of trade so require.
- (18) It is desirable to group together all cases of incurrence of a customs debt on importation, other than following the submission of a customs declaration for release for free circulation or temporary admission with partial relief, in order to avoid difficulties in determining the legal basis on which the customs debt was incurred. The same should apply in cases of incurrence of a customs debt on exportation.
- (19) Since the new role of customs authorities implies the sharing of responsibilities and cooperation between inland and border customs offices, the customs debt should, in most cases, be incurred at the place where the debtor is established, as the customs office competent for that place can best supervise the activities of the person concerned.
- (20) Furthermore, in line with the revised Kyoto Convention, it is appropriate to provide for a reduced number of cases where administrative cooperation between Member States is required in order to establish the place where the customs debt was incurred and to recover the duties.
- (21) The rules for special procedures should allow for the use of a single guarantee for all categories of special procedures and for that guarantee to be comprehensive, covering a number of transactions.
- (22) In order to ensure better protection of the financial interests of the Community and of the Member States, a guarantee should cover non-declared or incorrectly declared goods included in a consignment or in a declaration for which it is provided. For the same reason, the undertaking of the guarantor should also cover amounts of import or export duty which fall to be paid following post-release controls.
- (23) In order to safeguard the financial interests of the Community and of the Member States and to curb fraudulent practices, arrangements involving graduated measures for the application of a comprehensive guarantee are advisable. Where there is an increased risk of fraud it should be possible to prohibit temporarily the application of the comprehensive guarantee, taking account of the particular situation of the economic operators concerned.
- (24) It is appropriate to take account of the good faith of the person concerned in cases where a customs debt is incurred through non-compliance with customs legislation and to minimise the impact of negligence on the part of the debtor.
- (25) It is necessary to lay down the principle of how to determine the status of Community goods and the circumstances pertaining to the loss of such status, and to provide a basis

for determining when that status remains unaltered in cases where goods temporarily leave the customs territory of the Community.

- (26) It is appropriate, where an economic operator has provided, in advance, the information necessary for risk-based controls on the admissibility of the goods, to ensure that quick release of goods is then the rule. Fiscal and trade policy controls should primarily be performed by the customs office competent in respect of the premises of the economic operator.
- (27) The rules for customs declarations and for the placing of goods under a customs procedure should be modernised and streamlined, in particular by requiring that customs declarations be, as a rule, made electronically and providing for only one type of simplified declaration.
- (28) Since the revised Kyoto Convention favours the lodging, registering and checking of the customs declaration prior to the arrival of the goods and, furthermore, the dissociation of the place where the declaration is lodged from the place where the goods are physically located, it is appropriate to provide for centralised clearance at the place where the economic operator is established. Centralised clearance should include the facility for the use of simplified declarations, deferment of the date of the submission of a complete declaration and required documents, periodic declaration and deferred payment.
- (29) In order to help to ensure neutral conditions for competition throughout the Community, it is appropriate to lay down at Community level the rules governing the destruction or disposal otherwise of goods by the customs authorities, these being matters which have previously required national legislation.
- (30) It is appropriate to lay down common and simple rules for the special procedures (transit, storage, specific use and processing), supplemented by a small set of rules for each category of special procedure, in order to make it simple for the operator to choose the right procedure, to avoid errors and to reduce the number of post-release recoveries and repayments.
- (31) The granting of authorisations for several special procedures with a single guarantee and a single supervising customs office should be facilitated and there should be simple rules on the incurrance of a customs debt in these cases. The basic principle should be that goods placed under a special procedure, or the products made from them, are to be assessed at the time when the customs debt is incurred. However, it should also be possible, where economically justified, to assess the goods at the time when they were placed under a special procedure. The same principles should apply to usual forms of handling.
- (32) In view of the increased security-related measures introduced into the Code under 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<sup>(6)</sup>, the placing of goods into free zones should become a customs procedure and the goods should be subject to customs controls at entry and with regard to records.

- (33) Given that the intention of re-exportation is no longer necessary, the inward processing suspension procedure should be merged with processing under customs control and the inward processing drawback procedure abandoned. This single inward-processing procedure should also cover destruction, except where destruction is carried out by, or under the supervision of, customs.
- (34) Security-related measures relating to Community goods brought out of the customs territory of the Community should apply equally to the re-export of non-Community goods. The same basic rules should apply to all types of goods, with the possibility of exceptions where necessary, such as for goods only transiting through the customs territory of the Community.
- (35) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedure for the exercise of implementing powers conferred on the Commission<sup>(7)</sup>.
- (36) It is appropriate to provide for the adoption of measures implementing this Code. These measures should be adopted in accordance with the management and regulatory procedures provided for in Articles 4 and 5 of Decision 1999/468/EC.
- (37) In particular, the Commission should be empowered to define the conditions and criteria necessary for the effective application of this Code. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation or to supplement this Regulation by the addition of new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (38) It is appropriate, in order to ensure an effective decision-making process, to examine questions relating to the preparation of a position to be taken by the Community in committees, working groups and panels established by or under international agreements dealing with customs legislation.
- (39) In order to simplify and rationalise customs legislation, a number of provisions presently contained in autonomous Community acts have, for the sake of transparency, been incorporated into the Code.  
The following Regulations, together with Regulation (EEC) No 2913/92, should therefore be repealed:  
Council Regulation (EEC) No 3925/91 of 19 December 1991 concerning the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing<sup>(8)</sup> and Council Regulation (EC) No 1207/2001 of 11 June 2001 on procedures to facilitate the issue or the making out in the Community of proofs of origin and the issue of certain approved exporter authorisations under the provisions governing preferential trade between the European Community and certain countries<sup>(9)</sup>.
- (40) Since the objectives of this Regulation, namely, to lay down rules and procedures applicable to goods brought into or out of the customs territory of the Community in order to enable the Customs Union to function effectively as a central pillar of the internal market, cannot be sufficiently achieved by the Member States and can

therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,

HAVE ADOPTED THIS REGULATION:

- (1) [OJ C 309, 16.12.2006, p. 22.](#)
- (2) Opinion of the European Parliament of 12 December 2006, Council Common Position of 15 October 2007 ([OJ C 298 E, 11.12.2007, p. 1](#)) and Position of the European Parliament of 19 February 2008.
- (3) [OJ L 302, 19.10.1992, p. 1.](#) Regulation as last amended by Regulation (EC) No 1791/2006 ([OJ L 363, 20.12.2006, p. 1](#)).
- (4) [OJ L 86, 3.4.2003, p. 21.](#) Decision as amended by Decision 2004/485/EC ([OJ L 162, 30.4.2004, p. 113](#)).
- (5) [OJ L 347, 11.12.2006, p. 1.](#) Directive as last amended by Directive 2008/8/EC ([OJ L 44, 20.2.2008, p. 11](#)).
- (6) [OJ L 117, 4.5.2005, p. 13.](#)
- (7) [OJ L 184, 17.7.1999, p. 23.](#) Decision as amended by Decision 2006/512/EC ([OJ L 200, 22.7.2006, p. 11](#)).
- (8) [OJ L 374, 31.12.1991, p. 4.](#) Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council ([OJ L 284, 31.10.2003, p. 1](#)).
- (9) [OJ L 165, 21.6.2001, p. 1.](#) Regulation as last amended by Regulation (EC) No 75/2008 ([OJ L 24, 29.1.2008, p. 1](#)).