

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Customs Code (Modernised Customs Code) (repealed)

TITLE I

GENERAL PROVISIONS

CHAPTER 2

Rights and obligations of persons with regard to customs legislation

Section 4

Decisions relating to the application of customs legislation

Article 16

General provisions

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

A decision may also be requested by, and taken with regard to, several persons, in accordance with the conditions laid down in the customs legislation.

2 Except where otherwise provided for in the customs legislation, a decision as referred to in paragraph 1 shall be taken, and the applicant notified, without delay, and at the latest within four months of the date on which all the information required by the customs authorities in order for them to be able to take that decision is received by those authorities.

However, where the customs authorities are unable to comply with those time limits, they shall inform the applicant of that fact before the expiry of those time limits, stating the reasons and indicating the further period of time which they consider necessary in order to give a decision on the request.

3 Except where otherwise specified in the decision or in the customs legislation, the decision shall take effect from the date on which the applicant receives the decision, or is deemed to have received it. Except in the cases provided for in Article 24(2), decisions adopted shall be enforceable by the customs authorities from that date.

4 Before taking a decision which would adversely affect the person or persons to whom it is addressed, the customs authorities shall communicate the grounds on which they intend to base their decision to the person or persons concerned, who shall be given the opportunity to express their point of view within a period prescribed from the date on which the communication was made.

Following the expiry of that period, the person concerned shall be notified, in the appropriate form, of the decision, which shall set out the grounds on which it is based. The decision shall refer to the right of appeal provided for in Article 23.

5 The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the following:

- a the cases in which and conditions under which the first subparagraph of paragraph 4 shall not apply;
- b the period referred to in the first subparagraph of paragraph 4,

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

6 Without prejudice to provisions laid down in other fields which specify the cases in which, and the conditions under which, decisions are invalid or become null and void, the customs authorities who issued a decision may at any time annul, amend or revoke it where it does not conform with the customs legislation.

7 Except when a customs authority acts as a judicial authority, the provisions of paragraphs 3, 4 and 6 of this Article and of Articles 17, 18 and 19 shall also apply to decisions taken by the customs authorities without prior request from the person concerned and, in particular, to the notification of a customs debt as provided for in Article 67(3).

Article 17

Community-wide validity of decisions

Except where otherwise requested or specified, decisions taken by the customs authorities which are based upon or related to the application of customs legislation shall be valid throughout the customs territory of the Community.

Article 18

Annulment of favourable decisions

1 The customs authorities shall annul a decision favourable to the person to whom it is addressed if all the following conditions are satisfied:

- a the decision was issued on the basis of incorrect or incomplete information;
- b the applicant knew or ought reasonably to have known that the information was incorrect or incomplete;
- c if the information had been correct and complete, the decision would have been different.

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

3 Annulment shall take effect from the date on which the initial decision took effect, unless otherwise specified in the decision in accordance with the customs legislation.

4 The Commission may, in accordance with the management procedure referred to in Article 184(3), adopt measures for the implementation of this Article, in particular in respect of decisions addressed to several persons.

Article 19

Revocation and amendment of favourable decisions

1 A favourable decision shall be revoked or amended where, in cases other than those referred to in Article 18, one or more of the conditions laid down for its issue were not or are no longer fulfilled.

2 Except where otherwise specified in the customs legislation, a favourable decision addressed to several persons may be revoked only in respect of a person who fails to fulfil an obligation imposed under that decision.

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

4 Article 16(3) shall apply to the revocation or amendment of the decision.

However, in exceptional cases where the legitimate interests of the person to whom the decision was addressed so require, the customs authorities may defer the date on which revocation or amendment takes effect.

5 The Commission may, in accordance with the management procedure referred to in Article 184(3), adopt measures for the implementation of this Article, in particular in respect of decisions addressed to several persons.

Article 20

Decisions relating to binding information

1 The customs authorities shall, on formal request, issue decisions relating to binding tariff information, hereinafter referred to as 'BTI decisions', or decisions relating to binding origin information, hereinafter referred to as 'BOI decisions'.

Such a request shall be refused in any of the following circumstances:

- a where the application is made, or has already been made, at the same or another customs office, by or on behalf of the holder of a decision in respect of the same goods and, for BOI decisions, under the same circumstances determining the acquisition of origin;
- b where the application does not relate to any intended use of the BTI or BOI decision or any intended use of a customs procedure.

2 BTI or BOI decisions shall be binding only in respect of the tariff classification or determination of the origin of goods.

Those decisions shall be binding on the customs authorities, as against the holder of the decision, only in respect of goods for which customs formalities are completed after the date on which the decision takes effect.

The decisions shall be binding on the holder of the decision, as against the customs authorities, only with effect from the date on which he receives, or is deemed to have received, notification of the decision.

3 BTI or BOI decisions shall be valid for a period of three years from the date on which the decision takes effect.

4 For the application of a BTI or BOI decision in the context of a particular customs procedure, the holder of the decision must be able to prove that:

- a in the case of a BTI decision, the goods declared correspond in every respect to those described in the decision;
- b in the case of a BOI decision, the goods in question and the circumstances determining the acquisition of origin correspond in every respect to the goods and the circumstances described in the decision.

5 By way of derogation from Article 16(6) and Article 18, BTI or BOI decisions shall be annulled where they are based on inaccurate or incomplete information from the applicants.

6 BTI or BOI decisions shall be revoked in accordance with Article 16(6) and Article 19. They may not be amended.

7 The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of paragraphs 1 to 5 of this Article.

8 Without prejudice to Article 19, the measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down

- a the conditions under which, and the moment when, the BTI or BOI decision ceases to be valid;
- b the conditions under which, and the period of time for which, a decision as referred to in point (a) may still be used in respect of binding contracts based upon the decision and concluded before the expiry of its validity;
- c the conditions under which the Commission may issue decisions requesting Member States to revoke or amend a decision relating to binding information and giving different binding information compared with other decisions on the same subject,

shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

9 The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the conditions under which other decisions relating to binding information are to be issued shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).