

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Customs Code (Modernised Customs Code) (repealed)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 III

CUSTOMS DEBT AND GUARANTEES

CHAPTER 1

Incurrence of a customs debt

Section 1

Customs debt on importation

Article 44

Release for free circulation and temporary admission

1 A customs debt on importation shall be incurred through the placing of non-Community goods liable to import duties under either of the following customs procedures:

- a release for free circulation, including under the end-use provisions;
- b temporary admission with partial relief from import duties.

2 A customs debt shall be incurred at the time of acceptance of the customs declaration.

3 The declarant shall be the debtor. 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 import duties not being collected, the person 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 shall also be a debtor.

Article 45

Special provisions relating to non-originating goods

1 Where a prohibition of drawback of, or exemption from, import duties applies to non-originating goods used in the manufacture of products for which a proof of origin is issued or made out in the framework of a preferential arrangement between the Community and certain countries or territories outside the customs territory of the Community or groups of such countries or territories, a customs debt on importation shall be incurred in respect of those non-originating goods, through the acceptance of the re-export notification relating to the products in question.

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2 Where a customs debt is incurred pursuant to paragraph 1, the amount of import duty corresponding to that 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 customs declaration for release for free circulation of the non-originating goods used in the manufacture of the products in question for the purpose of ending the inward-processing procedure.

3 Article 44(2) and (3) shall apply *mutatis mutandis*. However, in the case of non-Community goods as referred to in Article 179, the person who lodges the re-export notification shall be the debtor. In the event of indirect representation, the person on whose behalf the notification is lodged shall also be a debtor.

Article 46

Customs debt incurred through non-compliance

1 For goods liable to import duties, a customs debt on importation shall be incurred through non-compliance with any of the following:

- a one of the obligations laid down in customs legislation concerning the introduction of non-Community goods into the customs territory of the Community, their removal from customs supervision, or the movement, processing, storage, temporary admission or disposal of such goods within that territory;
- b one of the obligations laid down in customs legislation concerning the end-use of goods within the customs territory of the Community;
- c a condition governing the placing of non-Community goods under a customs procedure or the granting, by virtue of the end-use of the goods, of duty exemption or a reduced rate of import duty.

2 The time at which the customs debt is incurred shall be either of the following:

- a the moment when the obligation the non-fulfilment of which gives rise to the customs debt is not met or ceases to be met;
- b the moment when a customs declaration is accepted for the placing of goods under a customs procedure where it is established subsequently that a condition governing the placing of the goods under that procedure or the granting of a duty exemption or a reduced rate of import duty by virtue of the end-use of the goods was not in fact fulfilled.

3 In cases referred to under points (a) and (b) of paragraph 1, the debtor shall be any of the following:

- a any person who was required to fulfil the obligations concerned;
- b any person who was aware or should reasonably have been aware that an obligation under the customs legislation was not fulfilled and who acted on behalf of the person who was obliged to fulfil the obligation, or who participated in the act which led to the non-fulfilment of the obligation;
- c any person who acquired or held the goods in question and who was aware or should reasonably have been aware at the time of acquiring or receiving the goods that an obligation under the customs legislation was not fulfilled.

4 In cases referred to under point (c) of paragraph 1, the debtor shall be the person who is required to comply with the conditions governing the placing of the goods under a customs procedure or declaring the goods concerned under that procedure or the granting of a duty exemption or reduced rate of import duty by virtue of the end-use of the goods.

Where a customs declaration in respect of one of the procedures referred to in paragraph 1 is drawn up, or any information required under the customs legislation

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relating to the conditions governing the placing of the goods under a customs procedure is given to the customs authorities, which leads to all or part of the import duties not being collected, the person 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 shall also be a debtor.

Article 47

Deduction of an amount of import duty already paid

1 Where a customs debt is incurred, pursuant to Article 46(1), in respect of goods released for free circulation at a reduced rate of import duty on account of their end-use, the amount of import duty paid when the goods were released for free circulation shall be deducted from the amount of the import duty corresponding to the customs debt.

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

2 Where a customs debt is incurred, pursuant to Article 46(1), in respect of goods placed under temporary admission with partial relief from import duties, the amount of import duty paid under partial relief shall be deducted from the amount of the import duty corresponding to the customs debt.

Section 2

Customs debt on exportation

Article 48

Export and outward processing

1 A customs debt on exportation shall be incurred through the placing of goods liable to export duties under the export procedure or the outward-processing procedure.

2 The customs debt shall be incurred at the time of acceptance of the customs declaration.

3 The declarant shall be the debtor. 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 is drawn up on the basis of information which leads to all or part of the export duties not being collected, the person who provided the information required for the declaration and who knew, or who should reasonably have known, that such information was false shall also be a debtor.

Article 49

Customs debt incurred through non-compliance

1 For goods liable to export duties, a customs debt on exportation shall be incurred through non-compliance with either of the following:

- a one of the obligations laid down in customs legislation for the exit of the goods;

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- b 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 time at which the customs debt is incurred shall be one of the following:
 - a the moment at which the goods actually leave the customs territory of the Community without a customs declaration;
 - b the moment at which 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;
 - c should the customs authorities be unable to determine the moment referred in point (b), 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 In cases referred to under point (a) of paragraph 1, the debtor shall be any of the following:
 - a any person who was required to fulfil the obligation concerned;
 - b any person who was aware or should reasonably have been aware that the obligation concerned was not fulfilled and who acted on behalf of the person who was obliged to fulfil the obligation;
 - c any person who participated in the act which led to the non-fulfilment of the obligation and who was aware or should reasonably have been aware that a customs declaration had not been lodged but should have been.
 - 4 In cases referred to under point (b) of paragraph 1, the debtor shall be any person who is required 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.

Section 3

Provisions common to customs debts incurred on importation and exportation

Article 50

Prohibitions and restrictions

- 1 The customs debt on importation or exportation shall be incurred even if it relates to goods which are subject to measures of prohibition or restriction on importation or exportation of any kind.
- 2 However, no customs debt shall be incurred on either of the following:
 - a the unlawful introduction into the customs territory of the Community of counterfeit currency;
 - b the introduction into the customs territory of the Community of narcotic drugs and psychotropic substances other than where strictly supervised by the competent authorities with a view to their use for medical and scientific purposes.
- 3 For the purposes of penalties as applicable to customs offences, the customs debt shall nevertheless be deemed to have been incurred where, under the law of a Member State, customs duties or the existence of a customs debt provide the basis for determining penalties.

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Article 51

Several debtors

Where several persons are liable for payment of the amount of import or export duty corresponding to one customs debt, they shall be jointly and severally liable for the full amount of the debt.

Article 52

General rules for calculation of the amount of import or export duty

1 The amount of the import or export duty shall be determined on the basis of those rules for calculation of duty which were applicable to the goods concerned at the time at which the customs debt in respect of them was incurred.

2 Where it is not possible to determine precisely the time at which the customs debt is incurred, that time shall be deemed to be the time at which the customs authorities conclude that the goods are in a situation in which a customs debt has been incurred.

However, where the information available to the customs authorities enables them to establish that the customs debt had been incurred prior to the time at which they reached that conclusion, the customs debt shall be deemed to have been incurred at the earliest time that such a situation can be established.

Article 53

Special rules for calculation of the amount of import duty

1 Where costs for storage or usual forms of handling have been incurred within the customs territory of the Community in respect of goods placed under a customs procedure, such costs or the increase in value shall not be taken into account for the calculation of the amount of import duty where satisfactory proof of those costs is provided by the declarant.

However, the customs value, quantity, nature and origin of non-Community goods used in the operations shall be taken into account for the calculation of the amount of import duty.

2 Where the tariff classification of goods placed under a customs procedure changes as a result of usual forms of handling within the customs territory of the Community, the original tariff classification for the goods placed under the procedure shall be applied at the request of the declarant.

3 Where a customs debt is incurred for processed products resulting from the inward-processing procedure, the amount of import duty corresponding to such debt shall, at the request of the declarant, be determined on the basis of the tariff classification, customs value, quantity, nature and origin of the goods placed under the inward-processing procedure at the time of acceptance of the customs declaration relating to those goods.

4 Where customs legislation provides for a favourable tariff treatment of goods, or for relief or total or partial exemption from import or export duties, pursuant to Article 33(2)(d) to (g), Articles 130 to 133 or Articles 171 to 174, or pursuant to Council Regulation (EEC)

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No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty⁽¹⁾, such favourable tariff treatment, relief or exemption shall also apply in cases where a customs debt is incurred pursuant to Articles 46 or 49 of this Regulation, on condition that the failure which led to the incurrence of a customs debt did not constitute an attempt at deception.

Article 54

Implementing measures

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

- (a) the rules for the calculation of the amount of import or export duty applicable to goods;
- (b) further special rules for specific procedures;
- (c) derogations from Articles 52 and 53, in particular to avoid the circumvention of the tariff measures referred to in Article 33(2)(h),

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

Article 55

Place where the customs debt is incurred

1 A customs debt shall be incurred at the place where the customs declaration or the re-export notification referred to in Articles 44, 45 and 48 is lodged or where the supplementary declaration referred to in Article 110(3) is to be lodged.

In all other cases, the place where a customs debt is incurred shall be the place where the events from which it arises occur.

If it is not possible to determine that place, the customs debt shall be incurred at the place where the customs authorities conclude that the goods are in a situation in which a customs debt is incurred.

2 If the goods have been entered for a customs procedure which has not been discharged, and the place cannot be determined, pursuant to the second or third subparagraphs of paragraph 1, within a specified period of time, the customs debt shall be incurred at the place where the goods were either placed under the procedure concerned or were introduced into the customs territory of the Community under that procedure.

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the period of time referred to in the first subparagraph of this paragraph shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

3 Where the information available to the customs authorities enables them to establish that the customs debt may have been incurred in several places, the customs debt shall be deemed to have been incurred at the place where it was first incurred.

4 If a customs authority establishes that a customs debt has been incurred under Article 46 or Article 49 in another Member State and the amount of import or export duty

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corresponding to that debt is lower than EUR 10 000, the customs debt shall be deemed to have been incurred in the Member State where the finding was made.

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- (1) [OJ L 105, 23.4.1983, p. 1](#). Regulation as last amended by Regulation (EC) No 274/2008 ([OJ L 85, 27.3.2008, p. 1](#)).

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