

Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (recast)

TITLE II

FACTORS ON THE BASIS OF WHICH IMPORT OR EXPORT DUTY AND OTHER MEASURES IN RESPECT OF TRADE IN GOODS ARE APPLIED

CHAPTER I

Common Customs Tariff and tariff classification of goods

Article 56

Common Customs Tariff and surveillance

1 Import and export duty due shall be based on the Common Customs Tariff.

Other measures prescribed by Union provisions governing specific fields relating to trade in goods shall, where appropriate, be applied in accordance with the tariff classification of those goods.

2 The Common Customs Tariff shall comprise all of the following:

- a the Combined Nomenclature of goods as laid down in Regulation (EEC) No 2658/87;
- b any other nomenclature which is wholly or partly based on the Combined Nomenclature or which provides for further subdivisions to it, and which is established by Union provisions governing specific fields with a view to the application of tariff measures relating to trade in goods;
- c the conventional or normal autonomous customs duty applicable to goods covered by the Combined Nomenclature;
- d the preferential tariff measures contained in agreements which the Union has concluded with certain countries or territories outside the customs territory of the Union or groups of such countries or territories;
- e preferential tariff measures adopted unilaterally by the Union in respect of certain countries or territories outside the customs territory of the Union or groups of such countries or territories;
- f autonomous measures providing for a reduction in, or exemption from, customs duty on certain goods;
- g favourable tariff treatment specified for certain goods, by reason of their nature or end-use, in the framework of measures referred to under points (c) to (f) or (h);
- h other tariff measures provided for by agricultural or commercial or other Union legislation.

3 Where the goods concerned fulfil the conditions included in the measures laid down in points (d) to (g) of paragraph 2, the measures referred to in those provisions shall apply, upon application by the declarant, instead of those provided for in point (c) of that paragraph. Such application may be made retrospectively, provided that the time-limits and conditions laid down in the relevant measure or in the Code are complied with.

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Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) No 952/2013 of the European Parliament and of the Council, TITLE II. (See end of Document for details)

4 Where application of the measures referred to in points (d) to (g) of paragraph 2, or the exemption from measures referred to in point (h) thereof, is restricted to a certain volume of imports or exports, such application or exemption shall, in the case of tariff quotas, cease as soon as the specified volume of imports or exports is reached.

In the case of tariff ceilings such application shall cease by virtue of a legal act of the Union.

5 The release for free circulation or the export of goods, to which the measures referred to in paragraphs 1 and 2 apply, may be made subject to surveillance.

Article 57

Tariff classification of goods

1 For the application of the Common Customs Tariff, tariff classification of goods shall consist in the determination of one of the subheadings or further subdivisions of the Combined Nomenclature under which those goods are to be classified.

2 For the application of non-tariff measures, tariff classification of goods shall consist in the determination of one of the subheadings or further subdivisions of the Combined Nomenclature, or of any other nomenclature which is established by Union provisions and which is wholly or partly based on the Combined Nomenclature or which provides for further subdivisions to it, under which those goods are to be classified.

3 The subheading or further subdivision determined in accordance with paragraphs 1 and 2 shall be used for the purpose of applying the measures linked to that subheading.

4 The Commission may adopt measures to determine the tariff classification of goods in accordance with paragraphs 1 and 2.

Article 58

Conferral of implementing powers

1 The Commission shall adopt, by means of implementing acts, measures on the uniform management of the tariff quotas and the tariff ceilings referred to in Article 56(4) and on the management of the surveillance of the release for free circulation or export of goods, referred to in Article 56(5).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

2 The Commission shall adopt, by means of implementing acts, the measures referred to in Article 57(4).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

On imperative grounds of urgency relating to such measures, duly justified by the need to rapidly ensure the correct and uniform application of the Combined Nomenclature, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 285(5).

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Where the opinion of the committee referred to in Article 285(1) is to be obtained by written procedure, Article 285(6) shall apply.

CHAPTER 2

Origin of goods

Section 1

Non-preferential origin

Article 59

Scope

Articles 60 and 61 shall lay down rules for the determination of the non-preferential origin of goods for the purposes of applying the following:

- (a) the Common Customs Tariff, with the exception of the measures referred to in points (d) and (e) of Article 56(2);
- (b) measures, other than tariff measures, established by Union provisions governing specific fields relating to trade in goods; and
- (c) other Union measures relating to the origin of goods.

Article 60

Acquisition of origin

1 Goods wholly obtained in a single country or territory shall be regarded as having their origin in that country or territory.

2 Goods the production of which involves more than one country or territory shall be deemed to originate in the country or territory where they underwent their last, substantial, economically-justified processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture.

Article 61

Proof of origin

1 Where an origin has been indicated in the customs declaration pursuant to the customs legislation, the customs authorities may require the declarant to prove the origin of the goods.

2 Where proof of origin of goods is provided pursuant to the customs legislation or other Union legislation governing specific fields, the customs authorities may, in the event of reasonable doubt, require any additional evidence needed in order to ensure that the indication of origin complies with the rules laid down by the relevant Union legislation.

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3 Where the exigencies of trade so require, a document proving origin may be issued in the Union in accordance with the rules of origin in force in the country or territory of destination or any other method identifying the country where the goods were wholly obtained or underwent their last substantial transformation.

Article 62

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 284, laying down the rules under which goods, whose determination of non-preferential origin is required for the purposes of applying the Union measures referred to in Article 59, are considered as wholly obtained in a single country or territory or to have undergone their last, substantial, economically-justified processing or working, in an undertaking equipped for that purpose, resulting in the manufacture of a new product or representing an important stage of manufacture in a country or territory, in accordance with Article 60.

Article 63

Conferral of implementing powers

The Commission shall adopt, by means of implementing acts, the procedural rules for the provision and verification of the proof of origin referred to in Article 61.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

Section 2

Preferential origin

Article 64

Preferential origin of goods

1 In order to benefit from the measures referred to in points (d) or (e) of Article 56(2) or from non-tariff preferential measures, goods shall comply with the rules on preferential origin referred to in paragraphs 2 to 5 of this Article.

2 In the case of goods benefiting from preferential measures contained in agreements which the Union has concluded with certain countries or territories outside the customs territory of the Union or with groups of such countries or territories, the rules on preferential origin shall be laid down in those agreements.

3 In the case of goods benefiting from preferential measures adopted unilaterally by the Union in respect of certain countries or territories outside the customs territory of the Union or groups of such countries or territories, other than those referred to in paragraph 5, the Commission shall adopt measures laying down the rules on preferential origin.

Those rules shall be based either on the criterion that goods are wholly obtained or on the criterion that goods result from sufficient processing or working.

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4 In the case of goods benefiting from preferential measures applicable in trade between the customs territory of the Union and Ceuta and Melilla, as contained in Protocol 2 to the 1985 Act of Accession, the rules on preferential origin shall be adopted in accordance with Article 9 of that Protocol.

5 In the case of goods benefiting from preferential measures contained in preferential arrangements in favour of the overseas countries and territories associated with the Union, the rules on preferential origin shall be adopted in accordance with Article 203 TFEU.

6 Upon its own initiative or at the request of a beneficiary country or territory, the Commission may, for certain goods, grant that country or territory a temporary derogation from the rules on preferential origin referred to in paragraph 3.

The temporary derogation shall be justified by one of the following reasons:

- a internal or external factors temporarily deprive the beneficiary country or territory of the ability to comply with the rules on preferential origin;
- b the beneficiary country or territory requires time to prepare itself to comply with those rules.

A request for derogation shall be made in writing to the Commission by the beneficiary country or territory concerned. The request shall state the reasons, as indicated in the second subparagraph, why derogation is required and shall contain appropriate supporting documents.

The temporary derogation shall be limited to the duration of the effects of the internal or external factors giving rise to it or the length of time needed for the beneficiary country or territory to achieve compliance with the rules.

Where a derogation is granted, the beneficiary country or territory concerned shall comply with any requirements laid down as to information to be provided to the Commission concerning the use of the derogation and the management of the quantities for which the derogation is granted.

Article 65

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 284, laying down the rules on preferential origin referred to in Article 64(3).

Article 66

Conferral of implementing powers

The Commission shall adopt by means of implementing acts:

- (a) the procedural rules, referred to in Article 64(1), to facilitate the establishment in the Union of the preferential origin of goods;
- (b) a measure granting a beneficiary country or territory the temporary derogation referred to in Article 64(6).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

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Section 3

Determination of origin of specific goods

Article 67

Measures taken by the Commission

The Commission may adopt measures to determine the origin of specific goods in accordance with the rules of origin applicable to those goods.

Article 68

Conferral of implementing powers

The Commission shall adopt, by means of implementing acts, the measures referred to in Article 67. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

On imperative grounds of urgency relating to such measures, duly justified by the need to rapidly ensure the correct and uniform application of rules of origin, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 285(5).

Where the opinion of the committee referred to in Article 285(1) is to be obtained by written procedure, Article 285(6) shall apply.

CHAPTER 3

Value of goods for customs purposes

Article 69

Scope

The customs value of goods, for the purposes of applying the Common Customs Tariff and non-tariff measures laid down by Union provisions governing specific fields relating to trade in goods, shall be determined in accordance with Articles 70 and 74.

Article 70

Method of customs valuation based on the transaction value

1 The primary basis for the customs value of goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the customs territory of the Union, adjusted, where necessary.

2 The price actually paid or payable shall be the total payment made or to be made by the buyer to the seller or by the buyer to a third party for the benefit of the seller for the imported goods and include all payments made or to be made as a condition of sale of the imported goods.

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3 The transaction value shall apply provided that all of the following conditions are fulfilled:

- a there are no restrictions as to the disposal or use of the goods by the buyer, other than any of the following:
 - (i) restrictions imposed or required by a law or by the public authorities in the Union;
 - (ii) limitations of the geographical area in which the goods may be resold;
 - (iii) restrictions which do not substantially affect the customs value of the goods;
- b the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
- c no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made;
- d the buyer and seller are not related or the relationship did not influence the price.

Article 71

Elements of the transaction value

1 In determining the customs value under Article 70, the price actually paid or payable for the imported goods shall be supplemented by:

- a the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:
 - (i) commissions and brokerage, except buying commissions;
 - (ii) the cost of containers which are treated as being one, for customs purposes, with the goods in question; and
 - (iii) the cost of packing, whether for labour or materials;
- b the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:
 - (i) materials, components, parts and similar items incorporated into the imported goods;
 - (ii) tools, dies, moulds and similar items used in the production of the imported goods;
 - (iii) materials consumed in the production of the imported goods; and
 - (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Union and necessary for the production of the imported goods;
- c royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;
- d the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller; and

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- e the following costs up to the place where goods are brought into the customs territory of the Union:
- (i) the cost of transport and insurance of the imported goods; and
 - (ii) loading and handling charges associated with the transport of the imported goods.
- 2 Additions to the price actually paid or payable, pursuant to paragraph 1, shall be made only on the basis of objective and quantifiable data.
- 3 No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.

Article 72

Elements not to be included in the customs value

In determining the customs value under Article 70, none of the following shall be included:

- (a) the cost of transport of the imported goods after their entry into the customs territory of the Union;
- (b) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after the entry into the customs territory of the Union of the imported goods such as industrial plants, machinery or equipment;
- (c) charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of the imported goods, irrespective of whether the finance is provided by the seller or another person, provided that the financing arrangement has been made in writing and, where required, the buyer can demonstrate that the following conditions are fulfilled:
 - (i) such goods are actually sold at the price declared as the price actually paid or payable;
 - (ii) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided;
- (d) charges for the right to reproduce the imported goods in the Union;
- (e) buying commissions;
- (f) import duties or other charges payable in the Union by reason of the import or sale of the goods;
- (g) notwithstanding point (c) of Article 71(1), payments made by the buyer for the right to distribute or resell the imported goods, if such payments are not a condition of the sale for export to the Union of the goods.

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Article 73

Simplification

The customs authorities may, upon application, authorise that the following amounts be determined on the basis of specific criteria, where they are not quantifiable on the date on which the customs declaration is accepted:

- (a) amounts which are to be included in the customs value in accordance with Article 70(2); and
- (b) the amounts referred to in Articles 71 and 72.

Article 74

Secondary methods of customs valuation

1 Where the customs value of goods cannot be determined under Article 70, it shall be determined by proceeding sequentially from points (a) to (d) of paragraph 2, until the first point under which the customs value of goods can be determined.

The order of application of points (c) and (d) of paragraph 2 shall be reversed if the declarant so requests.

- 2 The customs value, pursuant to paragraph 1, shall be:
- a the transaction value of identical goods sold for export to the customs territory of the Union and exported at or about the same time as the goods being valued;
 - b the transaction value of similar goods sold for export to the customs territory of the Union and exported at or about the same time as the goods being valued;
 - c the value based on the unit price at which the imported goods, or identical or similar imported goods, are sold within the customs territory of the Union in the greatest aggregate quantity to persons not related to the sellers; or
 - d the computed value, consisting of the sum of:
 - (i) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
 - (ii) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of export for export to the Union;
 - (iii) the cost or value of the elements referred to in point (e) of Article 71(1).

3 Where the customs value cannot be determined under paragraph 1, it shall be determined on the basis of data available in the customs territory of the Union, using reasonable means consistent with the principles and general provisions of all of the following:

- a the agreement on implementation of Article VII of the General Agreement on Tariffs and Trade;
- b Article VII of the General Agreement on Tariffs and Trade;
- c this Chapter.

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Article 75

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the conditions for granting the authorisation referred to in Article 73.

Article 76

Conferral of implementing powers

The Commission shall specify, by means of implementing acts, the procedural rules for:

- (a) determining the customs value in accordance with Articles 70(1) and (2) and Articles 71 and 72, including those for adjusting the price actually paid or payable;
- (b) the application of the conditions referred to in Article 70(3);
- (c) determining the customs value referred to in Article 74.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 285(4).

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