

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 III

CUSTOMS DEBT AND GUARANTEES

CHAPTER 3

Recovery, payment, repayment and remission of the amount of import or export duty

Section 1

Determination of the amount of import or export duty, notification of the customs debt and entry in the accounts

Article 101

Determination of the amount of import or export duty

- 1 The amount of import or export duty payable shall be determined by the customs authorities responsible for the place where the customs debt is incurred, or is deemed to have been incurred in accordance with Article 87, as soon as they have the necessary information.
- 2 Without prejudice to Article 48, the customs authorities may accept the amount of import or export duty payable determined by the declarant.
- 3 Where the amount of import or export duty payable does not result in a whole number, that amount may be rounded.

Where the amount referred in the first subparagraph is expressed in euros, rounding may not be more than a rounding up or down to the nearest whole number.

A Member State whose currency is not the euro may either apply *mutatis mutandis* the provisions of the second subparagraph or derogate from that subparagraph, provided that the rules applicable on rounding do not have a greater financial impact than the rule set out in the second subparagraph.

Article 102

Notification of the customs debt

- 1 The customs debt shall be notified to the debtor in the form prescribed at the place where the customs debt is incurred, or is deemed to have been incurred in accordance with Article 87.

The notification referred to in the first subparagraph shall not be made in any of the following cases:

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- a where, pending a final determination of the amount of import or export duty, a provisional commercial policy measure taking the form of a duty has been imposed;
- b where the amount of import or export duty payable exceeds that determined on the basis of a decision made in accordance with Article 33;
- c where the original decision not to notify the customs debt or to notify it with an amount of import or export duty at a figure less than the amount of import or export duty payable was taken on the basis of general provisions invalidated at a later date by a court decision;
- d where the customs authorities are exempted under the customs legislation from notification of the customs debt.

2 Where the amount of import or export duty payable is equal to the amount entered in the customs declaration, release of the goods by the customs authorities shall be equivalent to notifying the debtor of the customs debt.

3 Where paragraph 2 does not apply, the customs debt shall be notified to the debtor by the customs authorities when they are in a position to determine the amount of import or export duty payable and take a decision thereon.

However, where the notification of the customs debt would prejudice a criminal investigation, the customs authorities may defer that notification until such time as it no longer prejudices the criminal investigation.

4 Provided that payment has been guaranteed, the customs debt corresponding to the total amount of import or export duty relating to all the goods released to one and the same person during a period fixed by the customs authorities may be notified at the end of that period. The period fixed by the customs authorities shall not exceed 31 days.

Article 103

Limitation of the customs debt

1 No customs debt shall be notified to the debtor after the expiry of a period of three years from the date on which the customs debt was incurred.

2 Where the customs debt is incurred as the result of an act which, at the time it was committed, was liable to give rise to criminal court proceedings, the three-year period laid down in paragraph 1 shall be extended to a period of a minimum of five years and a maximum of 10 years in accordance with national law.

3 The periods laid down in paragraphs 1 and 2 shall be suspended where:

- a an appeal is lodged in accordance with Article 44; such suspension shall apply from the date on which the appeal is lodged and shall last for the duration of the appeal proceedings; or
- b the customs authorities communicate to the debtor, in accordance with Article 22(6), the grounds on which they intend to notify the customs debt; such suspension shall apply from the date of that communication until the end of the period within which the debtor is given the opportunity to express his or her point of view.

4 Where a customs debt is reinstated pursuant to Article 116(7), the periods laid down in paragraphs 1 and 2 shall be considered as suspended from the date on which the application for repayment or remission was submitted in accordance with Article 121, until the date on which the decision on the repayment or remission was taken.

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Article 104

Entry in the accounts

1 The customs authorities referred to in Article 101 shall enter in their accounts, in accordance with the national legislation, the amount of import or export duty payable as determined in accordance with that Article.

The first subparagraph shall not apply in cases referred to in the second subparagraph of Article 102(1).

2 The customs authorities need not enter in the accounts amounts of import or export duty which, pursuant to Article 103, correspond to a customs debt which could no longer be notified to the debtor.

3 Member States shall determine the practical procedures for the entry in the accounts of the amounts of import or export duty. Those procedures may differ according to whether, in view of the circumstances in which the customs debt was incurred, the customs authorities are satisfied that those amounts will be paid.

Article 105

Time of entry in the accounts

1 Where a customs debt is incurred as a result of the acceptance of the customs declaration of goods for a customs procedure, other than temporary admission with partial relief from import duty, or of any other act having the same legal effect as such acceptance, the customs authorities shall enter the amount of import or export duty payable in the accounts within 14 days of the release of the goods.

However, provided that payment has been guaranteed, the total amount of import or export 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 that period. Such entry in the accounts shall take place within 14 days of the expiry of the period concerned.

2 Where goods may be released subject to certain conditions which govern either the determination of the amount of import or export duty payable or its collection, entry in the accounts shall take place within 14 days of the day on which the amount of import or export duty payable is determined or the obligation to pay that duty is fixed.

However, where the customs debt relates to a provisional commercial policy measure taking the form of a duty, the amount of import or export duty payable shall be entered in the accounts within two months of the date of publication in the *Official Journal of the European Union* of the Regulation establishing the definitive commercial policy measure.

3 Where a customs debt is incurred in circumstances not covered by paragraph 1, the amount of import or export duty payable shall be entered in the accounts within 14 days of the date on which the customs authorities are in a position to determine the amount of import or export duty in question and take a decision.

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4 Paragraph 3 shall apply with regard to the amount of import or export duty to be recovered or which remains to be recovered where the amount of import or export duty payable has not been entered in the accounts in accordance with paragraphs 1, 2 and 3, or has been determined and entered in the accounts at a level lower than the amount payable.

5 The time-limits for entry in the accounts laid down in paragraphs 1, 2 and 3 shall not apply in unforeseeable circumstances or in cases of force majeure.

6 The entry in the accounts may be deferred in the case referred to in the second subparagraph of Article 102(3), until such time as the notification of the customs debt no longer prejudices a criminal investigation.

Article 106

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, [^{X1}in order to determine the cases referred to in point (d) of the second subparagraph of Article 102(1)] where the customs authorities are exempted from notification of the customs debt.

Editorial Information

- X1** Substituted by [Corrigendum to Regulation \(EU\) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code \(Official Journal of the European Union L 269 of 10 October 2013\)](#).

Article 107

Conferral of implementing powers

The Commission shall adopt, by means of implementing acts, measures to ensure mutual assistance between the customs authorities in case of incurrence of a customs debt.

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

Section 2

Payment of the amount of import or export duty

Article 108

General time-limits for payment and suspension of the time-limit for payment

1 Amounts of import or export duty, corresponding to a customs debt notified in accordance with Article 102, shall be paid by the debtor within the period prescribed by the customs authorities.

Without prejudice to Article 45(2), that period shall not exceed 10 days following notification to the debtor of the customs debt. In the case of aggregation of entries in the

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accounts under the conditions laid down in the second subparagraph of Article 105(1), it shall be so fixed as not to enable the debtor to obtain a longer period for payment than if he or she had been granted deferred payment in accordance with Article 110.

The customs authorities may extend that period upon application by the debtor where the amount of import or export duty payable has been determined in the course of post-release control as referred to in Article 48. Without prejudice to Article 112(1), such extensions shall not exceed the time necessary for the debtor to take the appropriate steps to discharge his or her obligation.

2 If the debtor is entitled to any of the payment facilities laid down in Articles 110 to 112, payment shall be made within the period or periods specified in relation to those facilities.

3 The time-limit for payment of the amount of import or export duty corresponding to a customs debt shall be suspended in any of the following cases:

- a where an application for remission of duty is made in accordance with Article 121;
- b where goods are to be confiscated, destroyed or abandoned to the State;
- c where the customs debt was incurred pursuant to Article 79 and there is more than one debtor.

Article 109

Payment

1 Payment shall be made in cash or by any other means with similar discharging effect, including by adjustment of a credit balance, in accordance with national legislation.

2 Payment may be made by a third person instead of the debtor.

3 The debtor may in any case pay all or part of the amount of import or export duty without awaiting expiry of the period he or she has been granted for payment.

Article 110

Deferment of payment

The customs authorities shall, upon application by the person concerned and upon provision of a guarantee, authorise deferment of payment of the duty payable in any of the following ways:

- (a) separately in respect of each amount of import or export duty entered in the accounts in accordance with the first subparagraph of Article 105(1), or Article 105(4);
- (b) globally in respect of all amounts of import or export duty entered in the accounts in accordance with the first subparagraph of Article 105(1) during a period fixed by the customs authorities and not exceeding 31 days;
- (c) globally in respect of all amounts of import or export duty forming a single entry in accordance with the second subparagraph of Article 105(1).

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Article 111

Periods for which payment is deferred

- 1 The period for which payment is deferred under Article 110 shall be 30 days.
- 2 Where payment is deferred in accordance with point (a) of Article 110, the period shall begin on the day following that on which the customs debt is notified to the debtor.
- 3 Where payment is deferred in accordance with point (b) of Article 110, the period shall begin on the day following that on which the aggregation period ends. It shall be reduced by the number of days corresponding to half the number of days covered by the aggregation period.
- 4 Where payment is deferred in accordance with point (c) of Article 110, the period shall begin on the day following the end of the period fixed for release of the goods in question. It shall be reduced by the number of days corresponding to half the number of days covered by the period concerned.
- 5 Where the number of days in the periods referred to in paragraphs 3 and 4 is an odd number, the number of days to be deducted from the 30-day period pursuant to those paragraphs shall be equal to half the next lowest even number.
- 6 Where the periods referred to in paragraphs 3 and 4 are weeks, Member States may provide that the amount of import or export duty in respect of which payment has been deferred is to be paid on the Friday of the fourth week following the week in question at the latest.

If those periods are months, Member States may provide that the amount of import or export duty in respect of which payment has been deferred is to be paid by the 16th day of the month following the month in question.

Article 112

Other payment facilities

- 1 The customs authorities may grant the debtor payment facilities other than deferred payment on condition that a guarantee is provided.
- 2 Where facilities are granted pursuant to paragraph 1, credit interest shall be charged on the amount of import or export duty.

For a Member State whose currency is the euro, the rate of credit interest shall be equal to the interest rate as published in the *Official Journal of the European Union*, C series, which the European Central Bank applied to its main refinancing operations, on the first day of the month in which the due date fell, increased by one percentage point.

For a Member State whose currency is not the euro, the rate of credit interest shall be equal to the rate applied on the first day of the month in question by the National Central Bank for its main refinancing operations, increased by one percentage point, or, for a Member State for which the National Central Bank rate is not available, the most equivalent rate applied on the first day of the month in question on the Member State's money market, increased by one percentage point.

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3 The customs authorities may refrain from requiring a guarantee or from charging credit interest where it is established, on the basis of a documented assessment of the situation of the debtor, that this would create serious economic or social difficulties.

4 The customs authorities shall refrain from charging credit interest where the amount for each recovery action is less than EUR 10.

Article 113

Enforcement of payment

Where the amount of import or export duty payable has not been paid within the prescribed period, the customs authorities shall secure payment of that amount by all means available to them under the law of the Member State concerned.

Article 114

Interest on arrears

1 Interest on arrears shall be charged on the amount of import or export duty from the date of expiry of the prescribed period until the date of payment.

For a Member State whose currency is the euro, the rate of interest on arrears shall be equal to the interest rate as published in the *Official Journal of the European Union*, C series, which the European Central Bank applied to its main refinancing operations, on the first day of the month in which the due date fell, increased by two percentage points.

For a Member State whose currency is not the euro, the rate of interest on arrears shall be equal to the rate applied on the first day of the month in question by the National Central Bank for its main refinancing operations, increased by two percentage points, or, for a Member State for which the National Central Bank rate is not available, the most equivalent rate applied on the first day of the month in question on the Member State's money market, increased by two percentage points.

2 Where the customs debt is incurred on the basis of Article 79 or 82, or where the notification of the customs debt results from a post-release control, interest on arrears shall be charged over and above the amount of import or export duty, from the date on which the customs debt was incurred until the date of its notification.

The rate of interest on arrears shall be set in accordance with paragraph 1.

3 The customs authorities may refrain from charging interest on arrears where it is established, on the basis of a documented assessment of the situation of the debtor, that to charge it would create serious economic or social difficulties.

4 The customs authorities shall refrain from charging interest on arrears where the amount for each recovery action is less than EUR 10.

Article 115

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the rules for the suspension of the time-limit for payment

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of the amount of import or export duty corresponding to a customs debt referred to in Article 108(3) and the period of suspension.

Section 3

Repayment and remission

Article 116

General provisions

1 Subject to the conditions laid down in this Section, amounts of import or export duty shall be repaid or remitted on any of the following grounds:

- a overcharged amounts of import or export duty;
- b defective goods or goods not complying with the terms of the contract;
- c error by the competent authorities;
- d equity.

Where an amount of import or export duty has been paid and the corresponding customs declaration is invalidated in accordance with Article 174, that amount shall be repaid.

2 The customs authorities shall repay or remit the amount of import or export duty referred to in paragraph 1 where it is EUR 10 or more, except where the person concerned requests the repayment or remission of a lower amount.

3 Where the customs authorities consider that repayment or remission should be granted on the basis of Article 119 or 120, the Member State concerned shall transmit the file to the Commission for decision in any of the following cases:

- a where the customs authorities consider that the special circumstances are the result of the Commission failing in its obligations;
- b where the customs authorities consider that the Commission committed an error within the meaning of Article 119;
- c where the circumstances of the case relate to the findings of a Union investigation carried out under Council Regulation (EC) No 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters⁽¹⁾, or under any other Union legislation or any agreement concluded by the Union with countries or groups of countries in which provision is made for carrying out such Union investigations;
- d where the amount for which the person concerned may be liable in respect of one or more import or export operations equals or exceeds EUR 500 000 as a result of an error or special circumstances.

Notwithstanding the first subparagraph, files shall not be transmitted in either of the following situations:

- a where the Commission has already adopted a decision on a case involving comparable issues of fact and of law;
- b where the Commission is already considering a case involving comparable issues of fact and of law.

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4 Subject to the rules of competence for a decision, where the customs authorities themselves discover within the periods referred to in Article 121(1) that an amount of import or export duty is repayable or remissible pursuant to Articles 117, 119 or 120 they shall repay or remit on their own initiative.

5 No repayment or remission shall be granted when the situation which led to the notification of the customs debt results from deception by the debtor.

6 Repayment shall not give rise to the payment of interest by the customs authorities concerned.

However, interest shall be paid where a decision granting repayment is not implemented within three months of the date on which that decision was taken, unless the failure to meet the deadline was outside the control of the customs authorities.

In such cases, the interest shall be paid from the date of expiry of the three-month period until the date of repayment. The rate of interest shall be established in accordance with Article 112.

7 Where the customs authorities have granted repayment or remission in error, the original customs debt shall be reinstated insofar as it is not time-barred under Article 103.

In such cases, [^{X1}any interest paid under the second subparagraph of paragraph 6 shall be reimbursed.]

Editorial Information

- X1** Substituted by [Corrigendum to Regulation \(EU\) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code \(Official Journal of the European Union L 269 of 10 October 2013\)](#).

Article 117

Overcharged amounts of import or export duty

1 An amount of import or export duty shall be repaid or remitted insofar as the amount corresponding to the customs debt initially notified exceeds the amount payable, or the customs debt was notified [^{X1}to the debtor contrary to point (c) or (d) of the second subparagraph of Article 102(1).]

2 Where the application for repayment or remission is based on the existence, at the time when the declaration for release for free circulation was accepted, of a reduced or zero rate of import duty on the goods under a tariff quota, a tariff ceiling or other favourable tariff measures, repayment or remission shall be granted provided that, at the time of lodging the application accompanied by the necessary documents, either of the following conditions are fulfilled:

- a in the case of a tariff quota, its volume has not been exhausted;
- b in other cases, the rate of duty normally due has not been re-established.

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- X1** Substituted by [Corrigendum to Regulation \(EU\) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code \(Official Journal of the European Union L 269 of 10 October 2013\)](#).

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Article 118

Defective goods or goods not complying with the terms of the contract

1 An amount of import duty shall be repaid or remitted if the notification of the customs debt relates to goods which have been rejected by the importer because, at the time of release, they were defective or did not comply with the terms of the contract on the basis of which they were imported.

Defective goods shall be deemed to include goods damaged before their release.

2 Notwithstanding paragraph 3, repayment or remission shall be granted provided the goods have not been used, except for such initial use as may have been necessary to establish that they were defective or did not comply with the terms of the contract and provided they are taken out of the customs territory of the Union.

3 Repayment or remission shall not be granted where:

- a the goods, before being released for free circulation, were placed under a special procedure for testing, unless it is established that the fact that the goods were defective or did not comply with the terms of the contract could not normally have been detected in the course of such tests;
- b the defective nature of the goods was taken into consideration in drawing up the terms of the contract, in particular the price, before the goods were placed under a customs procedure involving the incurrance of a customs debt; or
- c the goods are sold by the applicant after it has been ascertained that they are defective or do not comply with the terms of the contract.

4 Instead of being taken out of the customs territory of the Union, and upon application by the person concerned, the customs authorities shall authorise that the goods be placed under the inward processing procedure, including for destruction, or the external transit, the customs warehousing or the free zone procedure.

Article 119

Error by the competent authorities

1 In cases other than those referred to in the second subparagraph of Article 116(1) and in Articles 117, 118 and 120, an amount of import or export duty shall be repaid or remitted where, as a result of an error on the part of the competent authorities, the amount corresponding to the customs debt initially notified was lower than the amount payable, provided the following conditions are met:

- a the debtor could not reasonably have detected that error; and
- b the debtor was acting in good faith.

2 Where the conditions laid down in Article 117(2) are not fulfilled, repayment or remission shall be granted where failure to apply the reduced or zero rate of duty was as a result of an error on the part of the customs authorities and the customs declaration for release for free circulation contained all the particulars and was accompanied by all the documents necessary for application of the reduced or zero rate.

3 Where the preferential treatment of the goods is granted on the basis of a system of administrative cooperation involving the authorities of a country or territory outside the

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customs territory of the Union, 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 point (a) of paragraph 1.

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 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 debtor shall be considered to be in good faith if he or she can demonstrate that, during the period of the trading operations concerned, he or she has taken due care to ensure that all the conditions for the preferential treatment have been fulfilled.

The debtor may not rely on a plea of good faith if the Commission has published a notice in the *Official Journal of the European Union* stating that there are grounds for doubt concerning the proper application of the preferential arrangements by the beneficiary country or territory.

Article 120

Equity

1 In cases other than those referred to in the second subparagraph of Article 116(1) and in Articles 117, 118 and 119 an amount of import or export duty shall be repaid or remitted in the interest of equity where a customs debt is incurred under special circumstances in which no deception or obvious negligence may be attributed to the debtor.

2 The special circumstances referred to in paragraph 1 shall be deemed to exist where it is clear from the circumstances of the case that the debtor is in an exceptional situation as compared with other operators engaged in the same business, and that, in the absence of such circumstances, he or she would not have suffered disadvantage by the collection of the amount of import or export duty.

Article 121

Procedure for repayment and remission

1 Applications for repayment or remission in accordance with Article 116 shall be submitted to the customs authorities within the following periods:

- a in the case of overcharged, amounts of import or export duty, error by the competent authorities or equity, within three years of the date of notification of the customs debt;
- b in the case of defective goods or goods not complying with the terms of the contract, within one year of the date of notification of the customs debt;
- c in the case of invalidation of a customs declaration, within the period specified in the rules applicable to invalidation.

The period specified in points (a) and (b) of the first subparagraph shall be extended where the applicant provides evidence that he or she was prevented from submitting an application within the prescribed period as a result of unforeseeable circumstances or force majeure.

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2 Where the customs authorities are not in a position, on the basis of the grounds adduced, to grant repayment or remission of an amount of import or export duty, it is required to examine the merits of an application for repayment or remission in the light of the other grounds for repayment or remission referred to in Article 116.

3 Where an appeal has been lodged under Article 44 against the notification of the customs debt, the relevant period specified in the first subparagraph of paragraph 1 shall be suspended, from the date on which the appeal is lodged, for the duration of the appeal proceedings.

4 Where a customs authority grants repayment or remission in accordance with Articles 119 and 120, the Member State concerned shall inform the Commission thereof.

Article 122

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, laying down the rules with which it has to comply when taking a decision referred to in Article 116(3) and in particular on the following:

- (a) the conditions for the acceptance of the file;
- (b) the time-limit to take a decision and the suspension of that time-limit;
- (c) the communication of the grounds on which the Commission intends to base its decision, before taking a decision which would adversely affect the person concerned;
- (d) the notification of the decision;
- (e) the consequences of a failure to take a decision or to notify such decision.

Article 123

Conferral of implementing powers

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

- a repayment and remission, as referred to in Article 116;
- b informing the Commission in accordance with Article 121(4) and the information to be provided.

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

2 The Commission shall adopt the decision referred to in Article 116(3) by means of implementing acts.

Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 285(2).

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

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- (1) [OJ L 82, 22.3.1997, p. 1.](#)

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