

Commission Implementing Regulation (EU) 2015/2447 of 24
November 2015 laying down detailed rules for implementing
certain provisions of Regulation (EU) No 952/2013 of the European
Parliament and of the Council laying down the Union Customs Code

TITLE III

CUSTOMS DEBT AND GUARANTEES

CHAPTER 2

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***

Subsection 1

Article 165

Mutual assistance between customs authorities (Articles 101(1) and 102(1) of the Code)

1 Where a customs debt is incurred, the customs authorities competent for the recovery of the amount of import or export duty corresponding to the customs debt shall inform the other customs authorities involved of the following:

- a the fact that a customs debt was incurred;
- b the action taken against the debtor to recover the sums concerned.

2 The Member States shall assist each other in the recovery of the amount of import or export duty corresponding to the customs debt.

3 Without prejudice to Article 87(4) of the Code, where the customs authority of the Member State in which the goods were placed under a special procedure other than transit, or were in temporary storage, obtains, before the expiry of the time-limit referred to in Article 80 of Delegated Regulation (EU) 2015/2446, evidence that the events from which the customs debt arises or is deemed to arise have occurred in another Member State, that customs authority shall immediately and in any event within that time-limit send all the information available to the customs authority responsible for that place. The latter customs authority shall acknowledge receipt of the communication and indicate whether it is responsible for the recovery. If no response is received within 90 days, the sending customs authority shall immediately proceed with the recovery.

4 Without prejudice to Article 87(4) of the Code, where the customs authority of the Member State in which it has been found that the customs debt has been incurred with respect to goods which were neither placed under a customs procedure nor under temporary storage,

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obtains, before the notification of the customs debt, evidence that the events from which the customs debt arises or is deemed to arise have occurred in another Member State, that customs authority shall immediately and in any event before that notification, send all the information available to the customs authority responsible for that place. The latter customs authority shall acknowledge receipt of the communication and indicate whether it is responsible for the recovery. If no response is received within 90 days, the sending customs authority shall immediately proceed with the recovery.

Article 166

Customs office of coordination relating to ATA carnets or CPD carnets(Article 226(3)(c) of the Code)

- 1 The customs authorities shall designate a customs office of coordination responsible for any action concerning customs debts which are incurred through non-compliance with obligations or conditions relating to ATA carnets or CPD carnets under Article 79 of the Code.
- 2 Each Member State shall communicate to the Commission the customs office of coordination together with its reference number. The Commission shall make this information available on its website.

Article 167

Recovery of other charges under the Union transit procedure and transit in accordance with the TIR Convention(Article 226(3)(a) and (b) of the Code)

- 1 Where the customs authorities who notified the customs debt and the obligation to pay other charges due in connection with the import or export of goods placed under the Union transit procedure or under the transit procedure in accordance with the TIR Convention obtain evidence regarding the place where the events giving rise to the customs debt and the obligation to pay other charges occurred, those customs authorities shall suspend the recovery procedure and immediately send all the necessary documents, including an authenticated copy of the evidence, to the authorities responsible for that place. The sending authorities shall simultaneously request confirmation of the responsibility of the receiving authorities for recovery of the other charges.
- 2 The receiving authorities shall acknowledge receipt of the communication and shall indicate whether they are competent for recovery of the other charges. If no response is received within 28 days, the sending authorities shall immediately resume the recovery proceedings they initiated.
- 3 Any pending proceedings for recovery of other charges initiated by the sending authorities shall be suspended as soon as the receiving authorities have acknowledged receipt of communication and indicated that they are competent of recovering the other charges.

As soon as the receiving authorities provide proof that they have recovered the sums in question, the sending authorities shall repay any other charges already recovered or cancel the recovery proceedings.

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Article 168

Notification of recovery of duties and other charges under the Union transit procedure and transit in accordance with the TIR Convention(Article 226(3)(a) and (b) of the Code)

Where a customs debt is incurred with respect to goods placed under the Union transit procedure or under the transit procedure in accordance with the TIR Convention, the customs authorities competent for recovery shall inform the customs office of departure of the recovery of duties and other charges.

Articles 169

Recovery of other charges for goods placed under transit in accordance with the ATA Convention or the Istanbul Convention(Article 226(3)(c) of the Code)

1 Where the customs authorities who notified the customs debt and the obligation to pay other charges for goods placed under transit in accordance with the ATA Convention/ or the Istanbul Convention obtain evidence regarding the place where the events giving rise to the customs debt and the obligation to pay other charges occurred, those customs authorities shall immediately send all the necessary documents, including an authenticated copy of the evidence, to the authorities competent for that place. The sending authorities shall simultaneously request confirmation of the responsibility of the receiving authorities for recovery of the other charges.

2 The receiving authorities shall acknowledge receipt of the communication and shall indicate whether they are competent for recovery of the other charges. For those purposes, the receiving authorities shall use the model of discharge set out in Annex 33-05 indicating that claim proceedings have been initiated with respect to the guaranteeing association in the receiving Member State. If no response is received within 90 days, the sending authorities shall immediately resume the recovery proceedings they initiated.

3 Where the receiving authorities are competent, they shall initiate new proceedings for recovery of other charges, where appropriate after the period referred to in paragraph 2, and they shall inform the sending authorities immediately.

The receiving authorities shall where necessary collect from the guaranteeing association with which they are connected the amount of duties and other charges due at the rates applicable in the Member State where those authorities are located.

4 As soon as the receiving authorities indicate that they are competent for recovery of other charges, the sending authorities shall refund to the guaranteeing association with which they are connected any sums which that association may have deposited or provisionally paid.

5 The proceedings shall be transferred within a period of 1 year from the date of expiry of the validity of the carnet unless that payment has become definitive pursuant to Article 7(2) or (3) of the ATA Convention or Article 9(1)(b) and (c) of Annex A to the Istanbul Convention.

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Article 170

Recovery of other charges for goods placed under temporary admission in accordance with the ATA Convention or the Istanbul Convention(Article 226(3)(c) of the Code)

In case of recovery of other charges for goods placed under temporary admission in accordance with the ATA Convention or the Istanbul Convention, Article 169 shall apply *mutatis mutandis*.

Subsection 2

Notification of the customs debt and claim for payment from guaranteeing association

Article 171

Claim for payment from a guaranteeing association under the procedure of the ATA Convention and the Istanbul Convention(Article 98 of the Code)

1 Where the customs authorities establish that the customs debt has been incurred for goods covered by an ATA carnet, they shall make a claim against the guaranteeing association without delay. The coordinating customs office making the claim referred to in Article 86 of Delegated Regulation (EU) 2015/2446 shall at the same time send to the coordinating customs office in the jurisdiction of which the customs office of placement under temporary admission is situated, an information memo on the claim for payment sent to the guaranteeing association. It shall use the form set out in Annex 33-03.

2 The information memo shall be accompanied by a copy of the non-discharged voucher, if the coordinating customs office has it in its possession. The information memo may be used whenever this is deemed necessary.

3 The taxation form as referred to in Article 86 of Delegated Regulation (EU) 2015/2446 may be sent later than the claim to the guaranteeing association is made, though not more than 3 months from the claim and in any event not more than 6 months from the date on which the customs authorities initiate the recovery proceedings. The taxation form is set out in Annex 33-04.

Section 2

Repayment and remission

Article 172

Application for repayment or remission(Article 22(1) of the Code)

Applications for repayment or remission shall be submitted by the person who has paid or is liable to pay the amount of import or export duty, or by any person who has succeeded him in his rights and obligations.

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Article 173

Presentation of goods as a condition for repayment or remission(Article 116(1) of the Code)

Repayment or remission shall be subject to the presentation of the goods. Where the goods cannot be presented to the customs authorities, the customs authority competent to take the decision shall grant repayment or remission only where it has evidence showing that the goods in question are the goods in respect of which repayment or remission has been requested.

Article 174

Restriction on the transfer of goods(Article 116(1) of the Code)

Without prejudice to Article 176(4) of this Regulation and until a decision has been taken on an application for repayment or remission, the goods in respect of which repayment or remission has been requested shall not be transferred to a location other than that specified in the application unless the applicant notifies in advance the customs authority referred to in Article 92(1) of Delegated Regulation (EU) 2015/2446, which shall inform the customs authority competent to take the decision.

Article 175

Mutual assistance between the customs authorities(Articles 22 and 116(1) of the Code)

1 Where for the purposes of repayment or remission supplementary information must be obtained from the customs authority of a Member State other than that in which the customs debt has been notified or where the goods must be examined by that authority in order to ensure that the conditions for repayment or remission are fulfilled, the customs authority competent to take the decision shall request the assistance of the customs authority of the Member State where the goods are located, specifying the nature of the information to be obtained or the checks to be carried out.

The request for information shall be accompanied by the particulars of the application and all documents necessary to enable the customs authority of the Member State where the goods are located to obtain the information or carry out the checks requested.

2 Where the customs authority competent to take the decision sends the request referred to in paragraph 1 by means other than electronic data-processing techniques in accordance with Article 93 of Delegated Regulation (EU) 2015/2446, it shall send to the customs authority of the Member State where the goods are located two copies of the request made out in writing using the form set out in Annex 33-06.

3 The customs authority of the Member State where the goods are located shall comply promptly with the request referred to in paragraph 1.

The customs authority of the Member State where the goods are located shall obtain the information or carry out the checks requested by the customs authority competent to take the decision, within 30 days of the date of receipt of the request. It shall enter the results obtained in the relevant part of the original of the request referred to in paragraph

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1 and shall return that document to the customs authority competent to take the decision together with all the documents referred to in the second subparagraph of paragraph 1.

Where the customs authority of the Member State where the goods are located is unable to obtain the information or carry out the checks requested within the period laid down in the second subparagraph, it shall return the request, duly annotated, within 30 days of the date of receipt of the request.

Article 176

Completion of customs formalities(Article 116(1) of the Code)

1 Where repayment or remission is subject to the completion of customs formalities, the holder of the decision for repayment or remission shall inform the monitoring customs office that he has completed those formalities. Where the decision specifies that the goods may be exported or placed under a special procedure, and the debtor avails himself of that opportunity, the monitoring customs office shall be the customs office where the goods are placed under that procedure.

2 The monitoring customs office shall notify the customs authority competent to take the decision of the completion of the customs formalities to which the repayment or remission is subject by means of a reply referred to in Article 95 of Delegated Regulation (EU) 2015/2446 using the form set out in Annex 33-07 of this Regulation.

3 Where the customs authority competent to take the decision has decided that repayment or remission is justified, the amount of duty shall be repaid or remitted only after that customs authority has received the information referred to in paragraph 2.

4 The customs authority competent to take the decision may authorise completion of the customs formalities to which any repayment or remission may be subject, before it takes a decision. Such authorisation shall be without prejudice to that decision. In these cases, paragraphs 1 to 3 shall be applicable *mutatis mutandis*.

5 For the purposes of this article, monitoring customs office shall mean the customs office which ensures, where appropriate, that the formalities or requirements to which repayment or remission of the amount of import and export duty is subject, are fulfilled.

Article 177

Formalities related to the decision on repayment or remission(Article 116(2) of the Code)

1 When taking a decision on repayment or remission of the import or export duties subject to the prior completion of certain customs formalities, the customs authority shall set a time-limit, which shall not exceed 60 days from the date of the notification of that decision, for completion of those customs formalities.

2 Failure to observe the time-limit referred to in paragraph 1 shall result in loss of entitlement to repayment or remission except where person concerned proves that he was prevented from meeting that time-limit due to unforeseeable circumstances or *force majeure*.

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Article 178

Parts or components of a single article(Article 116(1) of the Code)

Where repayment or remission is subject to destruction, abandonment to the State or placement under a special procedure or the export procedure of goods, but the corresponding formalities are completed only for one or more parts or components of those goods, the amount to be repaid or remitted shall be the difference between the amount of import or export duty on the goods and the amount of import or export duty which would have been applicable on the remainder of the goods if they had been placed in an unaltered state under a customs procedure involving the incurrance of a customs debt, on the date on which the goods were so placed.

Article 179

Waste and scrap(Article 116(1) of the Code)

Where destruction of goods authorised by the customs authority competent to take the decision produces waste or scrap, such waste or scrap shall be deemed to be non-Union goods once a decision granting repayment or remission has been taken.

Article 180

Export or destruction without customs supervision(Article 116(1) of the Code)

1 In cases covered by the second subparagraph of Article 116(1), Article 118 or in Article 120 of the Code, where export or destruction took place without customs supervision, repayment or remission on the basis of Article 120 of the Code shall be conditional on the following:

- a the applicant submitting to the customs authority competent to take the decision evidence needed to establish whether the goods in respect of which repayment or remission is requested fulfil one of the following conditions:
 - (a) the goods have been exported from the customs territory of the Union;
 - (b) the goods have been destroyed under the supervision of authorities or persons authorised by those authorities to certify such destruction;
- b the applicant returning to the customs authority competent to take the decision any document certifying or containing information confirming the customs status of Union goods of the goods in question, under cover of which the said goods may have left the customs territory of the Union, or the presentation of whatever evidence the said authority considers necessary to satisfy itself that the document in question cannot be used subsequently in connection with goods brought into the customs territory of the Union.

2 The evidence establishing that the goods in respect of which repayment or remission is requested have been exported from the customs territory of the Union shall consist of the following documents:

- a the certification of exit referred to in Article 334 of this Regulation;
- b the original or a certified copy of the customs declaration for the procedure involving the incurrance of the customs debt;

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- c where necessary, commercial or administrative documents containing a full description of the goods which were presented with the customs declaration for the said procedure or with the customs declaration for export from the customs territory of the Union or with the customs declaration made for the goods in the third country of destination.

3 The evidence establishing that the goods in respect of which repayment or remission is requested have been destroyed under the supervision of authorities or persons authorised to certify officially such destruction shall consist of either of the following documents:

- a a report or declaration of destruction drawn up by the authorities under whose supervision the goods were destroyed, or a certified copy thereof;
- b a certificate drawn up by the person authorised to certify destruction, accompanied by evidence of his authority.

Those documents shall contain a full description of the destroyed goods to establish, by means of comparison with the particulars given in the customs declaration for a customs procedure involving the incurrence of the customs debt and the supporting documents, that the destroyed goods are those which had been placed under the said procedure.

4 Where the evidence referred to in paragraphs 2 and 3 is insufficient for the customs authority to take a decision on the case submitted to it, or where certain evidence is not available, such evidence may be supplemented or replaced by any other documents considered necessary by the said authority.

Article 181

Information to be provided to the Commission(Article 121(4) of the Code)

1 Each Member State shall communicate to the Commission a list of the cases where repayment or remission has been granted on the basis of Article 119 or Article 120 of the Code and where the amount repaid or remitted to a certain debtor with respect to one or more import or export operations but as a result of a single error or special situation is more than EUR 50 000, except cases referred to in Article 116(3) of the Code.

2 The communication shall be made during the first and third quarters of each year for all cases in which it was decided to repay or remit duties during the preceding half-year.

3 Where a Member State has not taken any decision on cases referred to in paragraph 1 during the half-year in question, it shall send the Commission a communication with the entry 'Not applicable'.

4 Each Member State shall hold at the disposal of the Commission a list of the cases where repayment or remission has been granted on the basis of Article 119 or Article 120 of the Code and where the amount repaid or remitted is equal to or less than EUR 50 000.

5 For each of the cases referred to in this Article, the following information shall be provided:

- a the reference number of the customs declaration or of the document notifying the debt;
- b the date of the customs declaration or of the document notifying the debt;
- c the type of the decision;
- d the legal basis for the decision;
- e the amount and currency;
- f the case particulars (including a brief explanation as to why the customs authorities consider the conditions for remission/repayment of the relevant legal basis fulfilled).

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Changes and effects yet to be applied to :

- Recital 61 replacement by [EUR 2017/989](#) Regulation