

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Customs Code (Modernised Customs Code) (repealed)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 3

**Recovery and payment of duty and repayment and
remission of the amount of import and export duty**

Section 1

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

Article 66

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 55, as soon as they have the necessary information.

2 Without prejudice to Article 27, the customs authorities may accept the amount of import or export duty payable determined by the declarant.

Article 67

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 55.

The notification referred to in the first subparagraph shall not be made in the following situations:

- 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 20;
- 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 payable was taken on the basis of general provisions invalidated at a later date by a court decision;
- d in cases where the customs authorities are exempted under the customs legislation from notification of the customs debt.

The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of point (d) of the second subparagraph of this paragraph.

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 of this Article does not apply, the customs debt shall be notified to the debtor within 14 days of the date on which the customs authorities are in a position to determine the amount of import or export duty payable.

Article 68

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 10 years.

3 Where an appeal is lodged under Article 23, the periods laid down in paragraphs 1 and 2 of this Article shall be suspended, for the duration of the appeal proceedings, from the date on which the appeal is lodged.

4 Where liability for a customs debt is reinstated pursuant to Article 79(5), the periods laid down in paragraphs 1 and 2 of this Article shall be considered as suspended from the date on which the repayment or remission application was submitted in accordance with Article 84, until a decision on the repayment or remission is taken.

Article 69

Entry in the accounts

1 The customs authorities referred to in Article 66 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 67(1).

The customs authorities need not enter in the accounts amounts of import or export duty which, pursuant to Article 68, correspond to a customs debt which could no longer be notified to the debtor.

2 The 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 70

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 duties, 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.

4 Paragraph 3 shall apply *mutatis mutandis* 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*.

Article 71

Implementing measures

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down rules for entry in the accounts, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Section 2

Payment of the amount of import or export duty

Article 72

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 67, shall be paid by the debtor within the period prescribed by the customs authorities.

Without prejudice to Article 24(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 accounts under the conditions laid down in the second subparagraph of Article 70(1), it shall be so fixed as not to enable the debtor to obtain a longer period for payment than if he had been granted deferred payment in accordance with Article 74.

Extension of that period may be granted by the customs authorities at the request of 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 27. Without prejudice to Article 77(1), such extensions shall not exceed the time necessary for the debtor to take the appropriate steps to discharge his obligation.

2 If the debtor is entitled to any of the payment facilities laid down in Articles 74 to 77, payment shall be made within the period or periods specified in relation to those facilities.

3 The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the conditions for the suspension of the time limit for payment of the amount of import or export duty corresponding to a customs debt in the following situations:

- a where an application for remission of duty is made in accordance with Article 84;
- b where goods are to be confiscated, destroyed or abandoned to the State;
- c where the customs debt was incurred pursuant to Article 46 and there is more than one debtor,

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

Those measures shall lay down, in particular, the period of the suspension, taking into account the time which is reasonable for the conclusion of any formalities or for the recovery of the amount of import or export duty corresponding to the customs debt.

Article 73

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 has been granted for payment.

Article 74

Deferment of payment

Without prejudice to Article 79, the customs authorities shall, at the request of the person concerned and upon provision of a guarantee, permit 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 70(1), or Article 70(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 70(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 70(1).

Article 75

Time limits for deferred payment

- 1 The period for which payment is deferred under Article 74 shall be 30 days.
- 2 Where payment is deferred in accordance with Article 74(a), 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 Article 74(b), 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 Article 74(c), 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 calendar 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 calendar week in question at the latest.

If those periods are calendar 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 calendar month in question.

Article 76

Implementing measures

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the rules for deferment of payment in cases where the customs declaration is simplified in accordance with Article 109, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Article 77

Other payment facilities

1 The customs authorities may grant the debtor payment facilities other than deferred payment on condition that a guarantee is provided.

Where facilities are granted pursuant to the first subparagraph, credit interest shall be charged on the amount of import or export duty. The rate of credit interest shall be the interest rate applied by the European Central Bank to its most recent main refinancing operation carried out before the first calendar day of the half-year in question (the reference rate), plus one percentage point.

For a Member State which is not participating in the third stage of economic and monetary union, the reference rate referred to above shall be the equivalent rate set by its national central bank. In that case, the reference rate in force on the first calendar day of the half-year in question shall apply for the following six months.

2 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.

3 The Commission may, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of paragraphs 1 and 2.

Article 78

Enforcement of payment and arrears

1 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.

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down measures in respect of securing payment from guarantors within the framework of a special procedure, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

2 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.

The rate of interest on arrears shall be the interest rate applied by the European Central Bank to its most recent main refinancing operation carried out before the first calendar day of the half-year in question (the reference rate), plus two percentage points.

For a Member State which is not participating in the third stage of economic and monetary union, the reference rate referred to above shall be the equivalent rate set by its national central bank. In that case, the reference rate in force on the first calendar day of the half-year in question shall apply for the following six months.

3 Where a customs debt has been notified pursuant to Article 67(3), 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 2.

4 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.

5 The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the cases, in terms of time and amounts, in which the customs authorities may waive the collection of interest on arrears, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

Section 3

Repayment and remission of the amount of import or export duty

Article 79

Repayment and remission

1 Subject to the conditions laid down in this Section, amounts of import or export duty shall, provided that the amount to be repaid or remitted exceeds a certain amount, be repaid or remitted on 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.

In addition, where an amount of import or export duty has been paid and the corresponding customs declaration is invalidated in accordance with Article 114, that amount shall be repaid.

2 Subject to the rules of competence for a decision, where the customs authorities themselves discover within the periods referred to in Article 84(1) that an amount of import or export duty is repayable or remissible pursuant to Articles 80, 82 or 83, they shall repay or remit on their own initiative.

3 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.

4 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 77.

5 Where the competent authority has granted repayment or remission in error, the original customs debt shall be reinstated insofar as it is not time-barred under Article 68.

In such cases, any interest paid under the second subparagraph of paragraph 4 must be reimbursed.

Article 80

Repayment and remission of overcharged amounts of import or export duty

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 to the debtor contrary to points (c) or (d) of Article 67(1).

Article 81

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 Repayment or remission of import duties 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 exported from the customs territory of the Community.

3 Instead of being exported, at the request of the person concerned, the customs authorities shall permit the goods to be placed under the inward-processing procedure, including for destruction, or the external transit, the customs warehousing or the free-zone procedure.

Article 82

Repayment or remission on account of error by the competent authorities

1 In situations other than those referred to in the second subparagraph of Article 79(1) and in Articles 80, 81 and 83, 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;
- b the debtor was acting in good faith.

2 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 customs territory of the Community, 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 paragraph 1(a).

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 can demonstrate that, during the period of the trading operations concerned, he 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 83

Repayment and remission in equity

In situations other than those referred to in the second subparagraph of Article 79(1) and in Articles 80, 81 and 82, 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.

Article 84

Procedure for repayment and remission

1 Applications for repayment or remission in accordance with Article 79 shall be submitted to the appropriate customs office within the following periods:

- a in the case of overcharged duties, 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 was prevented from submitting his application within the prescribed period as a result of unforeseeable circumstances or *force majeure*.

2 Where an appeal has been lodged under Article 23 against the notification of the customs debt, the relevant period specified in the first subparagraph of paragraph 1 of this Article shall be suspended, from the date on which the appeal is lodged, for the duration of the appeal proceedings.

*Article 85***Implementing measures**

The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of this Section. Those measures shall lay down, in particular, the cases in which the Commission shall, in accordance with the management procedure referred to in Article 184(3), decide whether remission or repayment of an amount of import or export duty is justified.