

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Customs Code (Modernised Customs Code) (repealed)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 VII

**SPECIAL PROCEDURES**

CHAPTER 1

**General provisions**

*Article 135*

**Scope**

Goods may be placed under any of the following categories of special procedures:

- (a) transit, which shall comprise external and internal transit;
- (b) storage, which shall comprise temporary storage, customs warehousing and free zones;
- (c) specific use, which shall comprise temporary admission and end-use;
- (d) processing, which shall comprise inward and outward processing.

*Article 136*

**Authorisation**

- 1 An authorisation from the customs authorities shall be required for the following:
- the use of the inward or outward-processing procedure, the temporary admission procedure or the end-use procedure,
  - the operation of storage facilities for the temporary storage or customs warehousing of goods, except where the storage facility operator is the customs authority itself.

The conditions under which the use of one or more of the procedures referred to above or the operation of storage facilities is permitted shall be set out in the authorisation.

- 2 The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down in particular rules in respect of the following:
- a the granting of the authorisation referred to in paragraph 1;
  - b the cases in which review of the authorisation is to be carried out;
  - c the conditions under which the authorisation is granted;
  - d identification of the customs authority competent for the granting of the authorisation;
  - e consultation with and provision of information to other customs authorities, where appropriate;
  - f the conditions under which the authorisation may be suspended or revoked;

g the specific role and responsibilities of the competent customs offices involved, particularly in respect of the controls to be applied;

h the form of, and any time limit for, the completion of formalities,

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

Those measures shall take account of the following:

a with regard to point (c) of the first subparagraph, where more than one Member State is involved, compliance by the applicant with the criteria laid down in Article 14 for the granting of the status of authorised economic operator,

b with regard to point (d) of the first subparagraph, the place where the applicant's main accounts for customs purposes are held or accessible, facilitating audit-based controls, and where at least part of the activities to be covered by the authorisation are to be carried out.

3 Except where otherwise provided for in the customs legislation, the authorisation referred to in paragraph 1 shall be granted only to the following persons:

a persons who are established in the customs territory of the Community;

b persons who provide the necessary assurance of the proper conduct of the operations and, in cases where a customs debt or other charges may be incurred for goods placed under a special procedure, provide a guarantee in accordance with Article 56;

c in the case of the temporary admission or inward-processing procedure, the person who uses the goods or arranges for their use or who carries out processing operations on the goods or arranges for them to be carried out, respectively.

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

4 Except where otherwise provided for and in addition to paragraph 3, the authorisation referred to in paragraph 1 shall be granted only where the following conditions are fulfilled:

a where the customs authorities are able to exercise customs supervision without having to introduce administrative arrangements disproportionate to the economic needs involved;

b where the essential interests of Community producers would not be adversely affected by an authorisation for a processing procedure (economic conditions).

The essential interests of Community producers shall be deemed not to be adversely affected, as referred to in point (b) of the first subparagraph, except where evidence to the contrary exists or where the customs legislation provides that the economic conditions are deemed to be fulfilled.

Where evidence exists that the essential interests of Community producers are likely to be adversely affected, an examination of the economic conditions shall take place in accordance with Article 185.

The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures governing the following:

a examination of the economic conditions;

b the determination of cases in which the essential interests of Community producers are likely to be adversely affected, taking into account commercial and agricultural policy measures;

c the determination of cases in which the economic conditions are deemed to be fulfilled.

5 The holder of the authorisation shall notify the customs authorities of all factors arising after the authorisation was granted which may influence its continuation or content.

#### *Article 137*

##### **Records**

1 Except for the transit procedure, or where otherwise provided for under the customs legislation, the holder of the authorisation, the holder of the procedure, and all persons carrying on an activity involving the storage, working or processing of goods, or the sale or purchase of goods in free zones, shall keep records in a form approved by the customs authorities.

The records must enable the customs authorities to supervise the procedure concerned, in particular with regard to identification of the goods placed under that procedure, their customs status and their movements.

2 The measures designed to amend non-essential elements of this Regulation, by supplementing it, relating to the implementation of this Article, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

#### *Article 138*

##### **Discharge of a procedure**

1 In cases other than the transit procedure and without prejudice to Article 166, a special procedure shall be discharged when the goods placed under the procedure, or the processed products, are placed under a subsequent customs procedure, have left the customs territory of the Community, or have been destroyed with no waste remaining, or are abandoned to the State in accordance with Article 127.

2 The transit procedure shall be discharged by the customs authorities when they are in a position to establish, on the basis of a comparison of the data available to the customs office of departure and those available to the customs office of destination, that the procedure has ended correctly.

3 The customs authorities shall take all the measures necessary to regularise the situation of the goods in respect of which a procedure has not been discharged under the conditions prescribed.

#### *Article 139*

##### **Transfer of rights and obligations**

The rights and obligations of the holder of a procedure with regard to goods which have been placed under a special procedure other than transit may, under the conditions laid down by the customs authorities, be fully or partially transferred to other persons who fulfil the conditions laid down for the procedure concerned.

### *Article 140*

#### **Movement of goods**

1 Goods placed under a special procedure other than transit or in a free zone may be moved between different places in the customs territory of the Community, insofar as this is provided for in the authorisation or under the customs legislation.

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

### *Article 141*

#### **Usual forms of handling**

Goods placed under customs warehousing or a processing procedure or in a free zone may undergo usual forms of handling intended to preserve them, improve their appearance or marketable quality or prepare them for distribution or resale.

### *Article 142*

#### **Equivalent goods**

1 Equivalent goods shall consist in Community goods which are stored, used or processed instead of the goods placed under a special procedure.

Under the outward-processing procedure, equivalent goods shall consist in non-Community goods which are processed instead of Community goods placed under the outward-processing procedure.

Equivalent goods shall have the same eight-digit Combined Nomenclature code, the same commercial quality and the same technical characteristics as the goods which they are replacing.

The measures designed to amend non-essential elements of this Regulation, by supplementing it, providing for derogations from the third subparagraph of this paragraph, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

2 The customs authorities shall authorise the following, provided that the proper conduct of the procedure, in particular as regards customs supervision, is ensured:

- a the use of equivalent goods under a special procedure other than the transit, temporary admission and temporary storage procedure;
- b in the case of the inward-processing procedure, the exportation of processed products obtained from equivalent goods before the importation of the goods they are replacing;
- c in the case of the outward-processing procedure, the importation of processed products obtained from equivalent goods before the exportation of the goods they are replacing.

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the cases in which the customs authorities may authorise the use of equivalent goods under temporary admission, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

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- 3 The use of equivalent goods shall not be permitted in any of the following cases:
- a where only usual forms of handling as defined in Article 141 are carried out under inward processing;
  - b where a prohibition of drawback of, or exemption from, import duties applies to non-originating goods used in the manufacture of processed products under inward processing, for which a proof of origin is issued or made out in the framework of a preferential arrangement between the Community and certain countries or territories outside the customs territory of the Community or groups of such countries or territories; or
  - c where it would lead to an unjustified import duty advantage.

The measures designed to amend non-essential elements of this Regulation, by supplementing it, specifying additional cases where equivalent goods may not be used, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

- 4 In the case referred to in paragraph 2(b) of this Article, and where the processed products would be liable to export duties if they were not being exported in the context of the inward-processing procedure, the holder of the authorisation shall provide a guarantee to ensure payment of the duties should the non-Community goods not be imported within the period referred to in Article 169(3).

#### *Article 143*

### **Implementing measures**

The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the operation of the procedures under this Title.

## CHAPTER 2

### **Transit**

#### Section 1

### **External and internal transit**

#### *Article 144*

### **External transit**

1 Under the external transit procedure, non-Community goods may be moved from one point to another within the customs territory of the Community without being subject to any of the following:

- a import duties;
- b other charges as provided for under other relevant provisions in force;
- c commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Community.

2 The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down cases in which and the conditions under which Community goods are to be placed under external transit, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

3 Movement as referred to in paragraph 1 shall take place in one of the following ways:

- a under the external Community transit procedure;
- b in accordance with the TIR Convention, provided that such movement:
  - (i) began or is to end outside the customs territory of the Community; or
  - (ii) is effected between two points in the customs territory of the Community through the territory of a country or territory outside the customs territory of the Community;
- c in accordance with the ATA Convention/Istanbul Convention, where a transit movement takes place;
- d under cover of the Rhine Manifest (Article 9 of the Revised Convention for the Navigation of the Rhine);
- e under cover of form 302 provided for in the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951;
- f under the postal system in accordance with the acts of the Universal Postal Union, when the goods are carried by or for holders of rights and obligations under such acts.

4 External transit shall apply without prejudice to Article 140.

#### *Article 145*

#### **Internal transit**

1 Under the internal transit procedure, and under the conditions laid down in paragraphs 2 and 3, Community goods may be moved from one point to another within the customs territory of the Community, and pass through another territory outside that territory, without any change in their customs status.

2 The movement referred to in paragraph 1 shall take place in one of the following ways:

- a under the internal Community transit procedure provided that such a possibility is provided for in an international agreement;
- b in accordance with the TIR Convention;
- c in accordance with the ATA Convention/Istanbul Convention, where a transit movement takes place;
- d under cover of a Rhine Manifest (Article 9 of the Revised Convention for the Navigation of the Rhine);
- e under cover of form 302 as provided for in the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951;
- f under the postal system in accordance with the acts of the Universal Postal Union, when the goods are carried by or for holders of rights and obligations under such acts.

3 In the cases referred to in points (b) to (f) of paragraph 2, goods shall keep their customs status as Community goods only if that status is established under certain conditions and by means laid down in the customs legislation.

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the conditions under which and the means by which that customs status may be established, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

## Section 2

### Community transit

#### *Article 146*

#### **Obligations of the holder of the Community transit procedure and of the carrier and recipient of goods moving under the Community transit procedure**

- 1 The holder of the Community transit procedure shall be responsible for the following:
  - a presentation of the goods intact and the required information at the customs office of destination within the prescribed time limit and in compliance with the measures taken by the customs authorities to ensure their identification;
  - b observance of the customs provisions relating to the procedure;
  - c unless otherwise provided for in the customs legislation, provision of a guarantee in order to ensure payment of the amount of import or export duty corresponding to any customs debt or other charges, as provided for under other relevant provisions in force, which may be incurred in respect of the goods.
- 2 The obligation of the holder of the procedure shall be met and the transit procedure shall end when the goods placed under the procedure and the required information are available at the customs office of destination in accordance with the customs legislation.
- 3 A carrier or recipient of goods who accepts goods knowing that they are moving under the Community transit procedure shall also be responsible for presentation of the goods intact at the customs office of destination within the prescribed time limit and in compliance with the measures taken by the customs authorities to ensure their identification.

#### *Article 147*

#### **Goods passing through the territory of a country outside the customs territory of the Community under the external Community transit procedure**

- 1 The external Community transit procedure shall apply to goods passing through a territory outside the customs territory of the Community if one of the following conditions is satisfied:
  - a provision is made to that effect under an international agreement;
  - b carriage through that territory is effected under cover of a single transport document drawn up in the customs territory of the Community.
- 2 In the case referred to in paragraph 1(b), the operation of the external Community transit procedure shall be suspended while the goods are outside the customs territory of the Community.

## CHAPTER 3

### Storage

#### Section 1

#### Common provisions

##### *Article 148*

##### **Scope**

1 Under a storage procedure, non-Community goods may be stored in the customs territory of the Community without being subject to any of the following:

- a import duties;
- b other charges as provided for under other relevant provisions in force;
- c commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Community.

2 Community goods may be placed under the customs warehousing or free-zone procedure in accordance with the customs legislation or Community legislation governing specific fields, or in order to benefit from a decision granting repayment or remission of import duties.

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down cases in which, and the conditions under which, Community goods may be placed under the customs warehousing or free-zone procedures, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

##### *Article 149*

#### **Responsibilities of the holder of the authorisation or procedure**

1 The holder of the authorisation and the holder of the procedure shall be responsible for the following:

- a ensuring that goods under the temporary storage or customs warehousing procedures are not removed from customs supervision;
- b fulfilling the obligations arising from the storage of goods covered by the temporary storage or customs warehousing procedures;
- c complying with the particular conditions specified in the authorisation for the operation of a customs warehouse or temporary storage facilities.

2 By way of derogation from paragraph 1, where the authorisation concerns a public customs warehouse, it may provide that the responsibilities referred to in points (a) or (b) of paragraph 1 devolve exclusively upon the holder of the procedure.

3 The holder of the procedure shall be responsible for fulfilling the obligations arising from the placing of the goods under the temporary storage or customs warehousing procedures.



## Article 150

### Duration of a storage procedure

1 There shall be no limit to the length of time goods may remain under a storage procedure.

2 However, the customs authorities may set a time limit by which a storage procedure must be discharged in one of the following cases:

- a where a storage facility is operated by the customs authorities and available for use by any person for the temporary storage of goods under Article 151;
- b in exceptional circumstances, in particular where the type and nature of the goods may, in the case of long-term storage, pose a threat to human, animal or plant health or to the environment.

3 The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the cases referred to in paragraph 2, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

## Section 2

### Temporary storage

## Article 151

### Placing of goods in temporary storage

1 Where not otherwise declared for a customs procedure, the following non-Community goods shall be deemed to be declared for the temporary storage procedure by the holder of the goods at the moment of their presentation to customs:

- a goods which are brought into the customs territory of the Community, other than directly into a free zone;
- b goods which are brought from a free zone into another part of the customs territory of the Community;
- c goods for which the external transit procedure is ended.

The customs declaration shall be regarded as having been lodged and accepted by the customs authorities at the moment of presentation of the goods to customs.

2 The entry summary declaration, or a transit document replacing it, shall constitute the customs declaration for the temporary storage procedure.

3 The customs authorities may require the holder of the goods to provide a guarantee with a view to ensuring payment of the amount of import or export duty corresponding to any customs debt or other charges, as provided for under other relevant provisions in force, which may be incurred.

4 Where, for any reason, goods cannot be placed or can no longer be maintained under the temporary storage procedure, the customs authorities shall without delay take all measures necessary to regularise the situation of the goods. Articles 125 to 127 shall apply *mutatis mutandis*.

5 The Commission may, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of this Article.

#### *Article 152*

### **Goods in temporary storage**

1 Goods under the temporary storage procedure shall be stored only in places authorised for temporary storage.

2 Without prejudice to the provisions of Article 91(2), goods under the temporary storage procedure shall be subject only to such forms of handling as are designed to ensure their preservation in an unaltered state without modifying their appearance or technical characteristics.

#### Section 3

### **Customs warehousing**

#### *Article 153*

### **Storage in customs warehouses**

1 Under the customs warehousing procedure, non-Community goods may be stored in premises or any other location authorised for that procedure by the customs authorities and under customs supervision, hereinafter referred to as ‘customs warehouses’.

2 Customs warehouses may be available for use by any person for the warehousing of goods (public customs warehouse), or for the storage of goods by the holder of an authorisation for customs warehousing (private customs warehouse).

3 Goods placed under the customs warehousing procedure may be temporarily removed from the customs warehouse. Such removal must, except in case of *force majeure*, be authorised in advance by the customs authorities.

#### *Article 154*

### **Community goods, end-use and processing activities**

1 The customs authorities may, where an economic need exists and customs supervision will not be adversely affected, authorise the following to take place in a customs warehouse:

- a storage of Community goods;
- b processing of goods under the inward processing or end-use procedure, subject to the conditions provided for by these procedures.

2 In the cases referred to in paragraph 1, the goods shall not be regarded as being under the customs warehousing procedure.

## Section 4

### Free zones

#### *Article 155*

#### **Designation of free zones**

1 Member States may designate parts of the customs territory of the Community as free zones.

For each free zone the Member State shall determine the area covered and define the entry and exit points.

2 Free zones shall be enclosed.

The perimeter and the entry and exit points of the area of free zones shall be subject to customs supervision.

3 Persons, goods and means of transport entering or leaving free zones may be subject to customs controls.

#### *Article 156*

#### **Buildings and activities in free zones**

1 The construction of any building in a free zone shall require the prior approval of the customs authorities.

2 Subject to customs legislation, any industrial, commercial or service activity shall be permitted in a free zone. The carrying on of such activities shall be subject to notification, in advance, to the customs authorities.

3 The customs authorities may impose prohibitions or restrictions on the activities referred to in paragraph 2, having regard to the nature of the goods in question, or the requirements of customs supervision, or security or safety requirements.

4 The customs authorities may prohibit persons who do not provide the necessary assurance of compliance with the customs provisions from carrying on an activity in a free zone.

#### *Article 157*

#### **Presentation of goods and their placement under the procedure**

1 Goods brought into a free zone shall be presented to customs and undergo the prescribed customs formalities in the following cases:

- a where they are brought into the free zone directly from outside the customs territory of the Community;
- b where they have been placed under a customs procedure which is ended or discharged when they are placed under the free-zone procedure;
- c where they are placed under the free-zone procedure in order to benefit from a decision granting repayment or remission of import duties;
- d where legislation other than customs legislation provides for such formalities.

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2 Goods brought into a free zone in circumstances other than those covered by paragraph 1 need not be presented to customs.

3 Without prejudice to Article 158, goods brought into a free zone are deemed to be placed under the free-zone procedure:

- a at the moment of their entry into a free zone, unless they have already been placed under another customs procedure;
- b at the moment when a transit procedure is ended, unless they are immediately placed under a subsequent customs procedure.

#### *Article 158*

### **Community goods in free zones**

1 Community goods may be entered, stored, moved, used, processed or consumed in a free zone. In such cases the goods shall not be regarded as being under the free-zone procedure.

2 At the request of the person concerned, the customs authorities shall certify the customs status as Community goods of the following goods:

- a Community goods which enter a free zone;
- b Community goods which have undergone processing operations within a free zone;
- c goods released for free circulation within a free zone.

#### *Article 159*

### **Non-Community goods in free zones**

1 Non-Community goods may, while they remain in a free zone, be released for free circulation or be placed under the inward processing, temporary admission or end-use procedure, under the conditions laid down for those procedures.

In such cases the goods shall not be regarded as being under the free-zone procedure.

2 Without prejudice to the provisions applicable to supplies or to victualling storage, where the procedure concerned so provides, paragraph 1 of this Article shall not preclude the use or consumption of goods of which the release for free circulation or temporary admission would not entail application of import duties or measures laid down under the common agricultural or commercial policies.

In the case of such use or consumption, no customs declaration for the release for free circulation or temporary admission procedure shall be required.

Such declaration shall, however, be required if such goods are subject to a tariff quota or ceiling.

#### *Article 160*

### **Bringing goods out of a free zone**

Without prejudice to legislation in fields other than customs, goods in a free zone may be exported or re-exported from the customs territory of the Community, or brought into another part of the customs territory of the Community.

Articles 91 to 98 shall apply *mutatis mutandis* to goods brought into other parts of the customs territory of the Community.

#### *Article 161*

#### **Customs status**

Where goods are brought out of a free zone into another part of the customs territory of the Community or placed under a customs procedure, they shall be regarded as non-Community goods unless their customs status as Community goods has been proven by the certificate referred to in Article 158(2) or by any other status document provided for in Community customs legislation.

However, for the purposes of applying export duties and export licences or export control measures laid down under the common agricultural or commercial policies, such goods shall be regarded as Community goods, unless it is established that they do not have the customs status of Community goods.

### CHAPTER 4

#### **Specific use**

##### Section 1

#### **Temporary admission**

#### *Article 162*

#### **Scope**

1 Under the temporary admission procedure non-Community goods intended for re-export may be used in the customs territory of the Community, with total or partial relief from import duties, and without being subject to any of the following:

- a other charges as provided for under other relevant provisions in force;
- b commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Community.

2 The temporary admission procedure may only be used provided that the following conditions are met:

- a the goods are not intended to undergo any change, except normal depreciation due to the use made of them;
- b it is possible to ensure that the goods placed under the procedure can be identified, except where, in view of the nature of the goods or of the intended use, the absence of identification measures is not liable to give rise to any abuse of the procedure or, in the case referred to in Article 142, where compliance with the conditions laid down in respect of equivalent goods can be verified;
- c the holder of the procedure is established outside the customs territory of the Community, except where otherwise provided for in the customs legislation;

- d the requirements for total or partial duty relief laid down in the Community customs legislation are met.

#### *Article 163*

#### **Period during which goods may remain under the temporary admission procedure**

1 The customs authorities shall determine the period within which goods placed under the temporary admission procedure must be re-exported or placed under a subsequent customs procedure. Such period must be long enough for the objective of authorised use to be achieved.

2 The maximum period during which goods may remain under the temporary admission procedure for the same purpose and under the responsibility of the same authorisation holder shall be 24 months, even where the procedure was discharged by placing the goods under another special procedure and subsequently placing them under the temporary admission procedure again.

3 Where, in exceptional circumstances, the authorised use cannot be achieved within the periods referred to in paragraphs 1 and 2, the customs authorities may, at the duly justified request of the authorisation holder, extend those periods for a reasonable duration.

#### *Article 164*

#### **Situations covered by temporary admission**

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the cases in which, and the conditions under which, the temporary admission procedure may be used and total or partial relief from import duties may be granted, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

In adopting those measures, account shall be taken of international agreements and of the nature and the use of the goods.

#### *Article 165*

#### **Amount of import duty in case of temporary admission with partial relief from import duties**

1 The amount of import duties in respect of goods placed under the temporary admission procedure with partial relief from import duties shall be set at 3 % of the amount of import duty which would have been payable on those goods had they been released for free circulation on the date on which they were placed under the temporary admission procedure.

That amount shall be payable for every month or fraction of a month during which the goods have been placed under temporary admission with partial relief from import duty.

2 The amount of import duty shall not exceed that which would have been payable if the goods in question had been released for free circulation on the date on which they were placed under the temporary admission procedure.

## Section 2

### **End-use**

#### *Article 166*

### **End-use procedure**

- 1 Under the end-use procedure, goods may be released for free circulation under a duty exemption or at a reduced rate of duty on account of their specific use. They shall remain under customs supervision.
- 2 Customs supervision under the end-use procedure shall end in the following cases:
  - a where the goods have been used for the purposes laid down for the application of the duty exemption or reduced rate of duty;
  - b where the goods are exported, destroyed or abandoned to the State;
  - c where the goods have been used for purposes other than those laid down for the application of the duty exemption or reduced duty rate and the applicable import duties have been paid.
- 3 Where a rate of yield is required, Article 167 shall apply *mutatis mutandis* to the end-use procedure.

## CHAPTER 5

### **Processing**

#### Section 1

### **General provisions**

#### *Article 167*

### **Rate of yield**

Except where a rate of yield has been specified in Community legislation governing specific fields, the customs authorities shall set either the rate of yield or average rate of yield of the processing operation or where appropriate, the method of determining such rate.

The rate of yield or average rate of yield shall be determined on the basis of the actual circumstances in which processing operations are, or are to be, carried out. That rate may be adjusted, where appropriate, in accordance with Articles 18 and 19.

## Section 2

### **Inward processing**

#### *Article 168*

##### **Scope**

1 Without prejudice to Article 142, under the inward-processing procedure non-Community goods may be used in the customs territory of the Community in one or more processing operations without such goods being subject to any of the following:

- a import duties;
- b other charges as provided for under other relevant provisions in force;
- c commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the Community.

2 The inward-processing procedure may be used in cases other than repair and destruction only where, without prejudice to the use of production accessories, the goods placed under the procedure can be identified in the processed products.

In the case referred to in Article 142, the procedure may be used where compliance with the conditions laid down in respect of equivalent goods can be verified.

3 In addition to paragraphs 1 and 2, the inward-processing procedure may also be used for the following goods:

- a goods intended to undergo operations to ensure their compliance with technical requirements for their release for free circulation;
- b goods which have to undergo usual forms of handling in accordance with Article 141.

#### *Article 169*

##### **Period for discharge**

1 The customs authorities shall specify the period within which the inward-processing procedure is to be discharged, in accordance with Article 138.

That period shall run from the date on which the non-Community goods are placed under the procedure and shall take account of the time required to carry out the processing operations and to discharge the procedure.

2 The customs authorities may grant an extension, of reasonable duration, of the period specified pursuant to paragraph 1, on submission of a duly justified request by the holder of the authorisation.

The authorisation may specify that a period which commences in the course of a calendar month, quarter or semester shall end on the last day of a subsequent calendar month, quarter or semester respectively.

3 In cases of prior exportation in accordance with Article 142(2)(b), the customs authorities shall specify the period within which the non-Community goods must be declared for the procedure. That period shall run from the date of acceptance of the export declaration relating to the processed products obtained from the corresponding equivalent goods.



## Article 170

### Temporary re-export for further processing

Subject to authorisation by the customs authorities, some or all of the goods placed under the inward-processing procedure, or the processed products, may be temporarily re-exported for the purpose of further processing outside the customs territory of the Community, in accordance with the conditions laid down for the outward-processing procedure.

## Section 3

### Outward processing

## Article 171

### Scope

1 Under the outward-processing procedure Community goods may be temporarily exported from the customs territory of the Community in order to undergo processing operations. The processed products resulting from those goods may be released for free circulation with total or partial relief from import duties at the request of the holder of the authorisation or any other person established in the customs territory of the Community provided that that person has obtained the consent of the holder of the authorisation and the conditions of the authorisation are fulfilled.

2 Outward processing shall not be allowed for the following Community goods:

- a goods the export of which gives rise to repayment or remission of import duties;
- b goods which, prior to exportation, were released for free circulation under a duty exemption or at a reduced rate of duty by virtue of their end-use, for as long as the purposes of such end-use have not been fulfilled, unless those goods have to undergo repair operations;
- c goods the export of which gives rise to the granting of export refunds;
- d goods in respect of which a financial advantage other than refunds referred to in point (c) is granted under the common agricultural policy by virtue of the exportation of those goods.

3 In cases not covered by Articles 172 and 173 and where *ad valorem* duties are involved, the amount of the import duty shall be calculated on the basis of the cost of the processing operation undertaken outside the customs territory of the Community.

The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the rules for such calculation and the rules where specific duties are involved, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).

4 The customs authorities shall specify the period within which goods temporarily exported must be reimported into the customs territory of the Community in the form of processed products, and placed under release for free circulation, in order to be able to benefit

from total or partial relief from import duties. They may, extend that period, for a reasonable duration, on submission of a duly justified request by the holder of the authorisation.

#### *Article 172*

### **Goods repaired free of charge**

1 Where it is established to the satisfaction of the customs authorities that goods have been repaired free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing or material defect, they shall be granted total relief from import duties.

2 Paragraph 1 shall not apply where account was taken of the manufacturing or material defect at the time when the goods in question were first released for free circulation.

#### *Article 173*

### **Standard exchange system**

1 Under the standard exchange system an imported product, hereinafter referred to as a 'replacement product', may, in accordance with paragraphs 2 to 5, replace a processed product.

2 The customs authorities shall authorise the standard exchange system to be used where the processing operation involves the repair of defective Community goods other than those subject to measures laid down under the common agricultural policy or to the specific arrangements applicable to certain goods resulting from the processing of agricultural products.

3 Replacement products shall have the same eight-digit Combined Nomenclature code, the same commercial quality and the same technical characteristics as the defective goods had the latter undergone repair.

4 Where the defective goods have been used before export, the replacement products must also have been used.

The customs authorities shall, however, waive the requirement set out in the first subparagraph if the replacement product has been supplied free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a material or manufacturing defect.

5 The provisions which would be applicable to the processed products shall apply to the replacement products.

#### *Article 174*

### **Prior importation of replacement products**

1 The customs authorities shall, under the conditions they lay down, and at the request of the person concerned, authorise replacement products to be imported before the defective goods are exported.

In the event of such prior importation of a replacement product, a guarantee shall be provided covering the amount of the import duty that would be payable should the defective goods not be exported in accordance with paragraph 2.

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*Status: This is the original version (as it was originally adopted).*

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2 The defective goods shall be exported within a period of two months from the date of acceptance by the customs authorities of the declaration for the release for free circulation of the replacement products.

3 Where, in exceptional circumstances, the defective goods cannot be exported within the period referred to in paragraph 2, the customs authorities may, at the duly justified request of the person concerned, extend that period for a reasonable duration.