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from: Commission  
dated: 20 February 2012  
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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT  
AND OF THE COUNCIL laying down the Union Customs Code  
(Recast)

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Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr. Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM(2012) 64 final



EUROPEAN COMMISSION

Brussels, 20.2.2012  
COM(2012) 64 final

2012/0027 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**laying down the Union Customs Code**

**(Recast)**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### **Grounds for and objectives of the proposal**

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)<sup>1</sup> aimed at the adaptation of customs legislation to fit, but also to govern, the electronic environment for customs and trade. By doing so, it took the opportunity to carry out a major overhaul of the customs rules in order to make them simpler and better structured.

This Regulation entered into force on 24 June 2008, but it is not yet applicable. It shall be applicable once its implementing provisions are in force and on 24 June 2013 at the latest.

The following reasons lead to the proposal to amend Regulation (EC) No 450/2008 (Modernised Customs Code or 'MCC') before it becomes applicable:

- The implementation of a major part of the processes to be introduced depends on the definition and the development, by the Commission, the national customs administrations and the economic operators, of a wide range of electronic systems. This requires a complex set up of actions between the Member states, the trade community and the Commission, notably important investments in new EU wide IT systems and supporting activities as well as an unprecedented effort from the business community to operate according to new business models. It is now apparent that only a very limited number or even no new customs IT systems may be introduced in June 2013, the latest legal date for the implementation of the MCC.
- A new task which intervened after the adoption of the Regulation (EC) No 450/2008 and is linked with the entry into force of the Lisbon Treaty is the commitment made by the Commission to propose amendments to all basic acts in order to align them with the new provisions of the Lisbon Treaty concerning delegation of powers and the conferral of implementing powers before the end of the term of the Parliament. This has an impact to the foreseen implementing provisions of the MCC which now have to be "split" between delegated acts and implementing acts in accordance with new empowerments in line with Articles 290 and 291 TFEU. Moreover, the "Community" Customs Code (Modernised Customs Code) has now to be renamed into "Union" Customs Code (UCC).
- Finally, the joint work on the implementing provisions with Member States experts and trade representatives has also revealed the need to adjust some provisions of the MCC which are either no longer in line with changes introduced since 2008 to current customs legislation or have revealed (e.g. regarding the temporary storage of goods or a customs declaration through an entry of data in the declarant's records) difficult to implement through sound measures and workable business processes. The objective was nevertheless to limit such adjustments to what is absolutely necessary to ensure coherence in the processes.

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<sup>1</sup> OJ L 145, 4.6.2008, p.1.

Consequently the Commission found it was appropriate to proceed to a recast of Regulation (EC) No 450/2008 before its currently scheduled application, due to the following technical and procedural considerations:

- the need to postpone the date of application of the MCC. That postponement shall be adopted before the ultimate deadline of 24 June 2013, currently laid down in Article 188(2) of the MCC Regulation for its application. It is appropriate to give administrations and economic operators adequate time to undertake the necessary investments and ensure a phased, binding but realistic implementation of electronic processes. The Commission will continue to work with all stakeholders with a view to ensuring that the new electronic processing environment will be operational at the latest by 31 December 2020. An agreed work programme and the Commission's proposal for the future FISCUS programme<sup>2</sup> should provide the necessary support for this process;
- the commitment to align the MCC on the requirements of the Lisbon Treaty, as regards the use by the Commission of either delegated or implementing powers to allow the MCC to be applied, in accordance with Articles 290 and 291 of the Treaty on the Functioning of the European Union and the new 'Comitology' Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>3</sup>;
- the need to adjust some provisions that have proved difficult to implement; the text of the MCC needs to be adapted, where appropriate, to the outcome of the work on implementing processes and provisions, where it reveals a lack of adequacy between certain provisions of the code and the actual functioning of customs procedures (*e.g. temporary storage*) or where it takes into account the evolution since 2008 of legislation in other policy fields (*e.g. transport safety and security*).

Policy objectives remain those of the Regulation to be recast.

All these reasons advocating for the recast of the former MCC were discussed with all parties involved, namely the Council (letter from Commissioner Šemeta of 19 May 2011 to the Hungarian Presidency) and the European Parliament (letter from Commissioner Šemeta of 19 May 2011 to the Chairman of the Committee on the Internal Market and Consumer Protection), as well as with the economic operators in the Trade Contact Group and met their agreement. Support by the European Parliament in that respect is reflected in the 'Salvini Report' on the 'modernisation of customs in the internal market'<sup>4</sup>.

## General context

The present proposal must be seen in the context of:

- a) the modernisation of customs legislation and procedures and the use of IT systems for customs clearance and procedures in view of facilitating the way of doing business with

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<sup>2</sup> Proposal for a Regulation of the European Parliament and of the Council establishing an action programme for customs and taxation in the European Union for the period 2014-2020 (FISCUS). COM(2011) 706 final, 9.11.2011. 2011/0341 (COD)

<sup>3</sup> OJ L 55, 28.2.2011, p.13.

<sup>4</sup> EP Resolution A7-0406/2011/ P7\_TA-PROV(2011)0546 of 1.12.2011.

customs and ensuring safe and secure trade of goods in the European Union;

b) the requirements of the Treaty of Lisbon;

c) the evolution of policies and legislation in other fields that might impact customs legislation such as safety and security in the transport field;

d) the evolution of business processes that require clarity and coherence in the customs rules.

### **Existing provisions in the area of the proposal**

The Regulation subject to the proposal will repeal and replace the following Regulations:

- Council Regulation (EEC) No 2913/92 of 12 October 1992, establishing the Community Customs Code<sup>5</sup>;
- Council Regulation (EEC) No 3925/91 of 19 December 1991 concerning the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing<sup>6</sup>;
- Council Regulation (EC) No 1207/2001 of 11 June 2001 on procedures to facilitate the issue or the making out in the Community of proofs of origin and the issue of certain approved exporter authorisations under the provisions governing preferential trade between the European Community and certain countries<sup>7</sup>;

as from the date of application of the recast Regulation;

and

- Regulation (EC) N° 450/2008 of the European Parliament and of the Council of 23 April 2008 laying down the Community Customs Code (Modernised Customs Code), being the Regulation subject to recast,

as from the date of entry into force of the recast Regulation.

### **Consistency with the other policies and objectives of the Union**

The proposal preserves the objectives of Regulation (EC) No 450/2008, which were fully in line with existing policies and objectives relevant to the trade of goods brought into and out of, from and to the customs territory of the Union.

## **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

### **Consultation of interested parties**

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<sup>5</sup> OJ L 302, 19.10.1992, p. 1.

<sup>6</sup> OJ L 374, 31.12.1991, p. 4.

<sup>7</sup> OJ L 165, 21.6.2001, p. 1.

### Consultation methods, main sectors targeted and general profile of respondents

Since the recast does not alter the substance of Regulation (EC) No 450/2008, the consultation of interested parties previously held before the adoption of that Regulation is still relevant.

Consultations on the adjustments to Regulation (EC) No 450/2008 were held with the Member States' customs administrations and the European trade federations, in a joint meeting of experts on 19 September 2011. The European Parliament was represented at that meeting.

Member States will also be involved in the preparation of the future Commission delegated acts through meetings of a group of experts and will give their opinion on draft Commission implementing acts in the Customs Code Committee.

Trade representatives will be involved through consultation on draft acts in the Trade Contact Group or in ad hoc experts meetings or invitations to joint meetings with Member States experts, where appropriate.

In accordance with the Common Understanding of the European Parliament, the Council and the Commission on the functioning of Article 290 TFEU<sup>8</sup>, the Commission, when preparing and drawing-up delegated acts, will ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

Information and right of scrutiny of the European Parliament and the Council on draft Commission implementing acts will be ensured in accordance with the provisions of Regulation (EU) No 182/2011.

### **Impact assessment**

The decision to do a full recast of the MCC before its currently scheduled application is the only comprehensive solution which will avoid changing Regulation (EC) N° 450/2008 twice at a very short notice and would as well allow introducing the adjustments necessary for a sound implementation of that new legal and procedural framework.

As the proposal for Regulation (EC) N° 450/2008 to be recast has already gone through an impact assessment and the proposed changes introduced by this Regulation are justified by technical and procedural considerations, there is no need for an Impact Assessment.

## **3. LEGAL ELEMENTS OF THE PROPOSAL**

The proposed Recast Regulation adjusts some provisions of Regulation (EC) N° 450/2008 to the evolution of customs and other relevant legislation, aligns it to procedural requirements resulting from the Treaty of Lisbon and postpones its application.

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<sup>8</sup> SI(2011) 123 of 26 April 2011.

Most of the provisions of the Regulation to be recast are affected by changes, because either of the impact of the alignment on the Treaty of Lisbon or of the need for adjustments because of the further evolution of relevant EU legislation.

The overall structure of the Regulation remains the same and the modifications foreseen can be classified as follows:

### **3.1. The adjustments to the text are targeted to comply with the following criteria:**

- editorial changes to the wording of the MCC such as typing errors or omissions in the published text, incorrect references, incorrect location of provisions, inconsistent use of terms, editorial alignments required by the Lisbon Treaty, e.g. 'Union' instead of 'Community';
- alignment to the evolution of EU legislation following the entry into force of the MCC (and within the deadline for the new draft MCC);
  - alignment to current customs legislation, e.g. Article 184g CCIP, as amended by Reg. 312/2009, instead of Article 88(4) MCC (arrival notification); Article 186 CCIP, as amended by Reg. 312/2009, instead of Article 151(2) MCC (disconnection of entry summary declaration and declaration for temporary storage);
  - alignment to (possible) future amendments of the Code, in anticipation of developments in other relevant policy fields e.g. related to aviation security;
  - alignment to other legislative acts, e.g. update of references in the MCC to other legislative acts;
- alignment to the results of the work carried out regarding the preliminary drafting of the implementing provisions of the Modernised Customs Code (MCCIP) and the establishment of Business Process Modelling tool (BPM), e.g. adjustment of provisions on temporary storage or introduction of a basic provision for invalidation of entry and exit summary declarations. Those adjustments are limited to what is absolutely necessary to streamline and ensure consistency between customs legislation and efficient and workable processes.

### **3.2. Alignment of the empowering provisions of the MCC on the requirements of Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU).**

That alignment was made in accordance with the procedural requirements resulting in particular from the following texts:

- Articles 290 and 291 of the Treaty on the Functioning of the European Union (TFEU);
- The Communication from the Commission to the European Parliament and the Council on the implementation of Article 290 TFEU<sup>9</sup>;

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<sup>9</sup> COM(2009)673 final of 9 December 2009.

- The Common Understanding of the European Parliament, the Council and the Commission on the functioning of Article 290 TFEU;
- Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

It has been based on a prior inventory of the existing empowering provisions in Regulation (EC) No 450/2008 and of the need for additional empowerments in order to preserve the capacity for the Commission to adopt measures as already laid down in the implementing provisions of the current Community Customs Code (CCIP of Regulation (EEC) No 2913/92) or identified in the process of preparation of the implementing provisions of the Modernised Customs Code (MCCIP of Regulation (EC) No 450/2008).

Once properly identified, those empowerments took the form of either a delegation of power or a conferral of implementing powers, in accordance with Articles 290 and 291 TFEU. In the context of conferral of implementing powers a choice between the advisory and the examination procedure was made in accordance with the criteria of Article 2 of Regulation (EU) No 182/2011 and exceptions duly justified. Justifications were also provided where the urgency procedure of Article 8 of Regulation (EU) No 182/2011 was introduced in relation to certain implementing acts.

Where appropriate, new provisions had to be introduced in Articles of the Regulation to serve as legal references for the corresponding empowering provisions.

In some cases, it was also considered appropriate to transfer some provisions initially intended to be laid down in Commission acts to the basic act, in order to avoid empowerments of a very limited scope.

Those requirements related to the alignment explain why the number of Articles in the proposal for the recast Regulation is higher (59 more) than in the original one to be recast.

Chapter 1 of Title IX of the recast Regulation (Articles 243 and 244 on ‘delegation of power and committee procedure’) reflects the new procedural context.

The recitals of the Regulation have been adjusted to reflect those changes.

### **3.3. Postponement of the date of application of the Modernised Customs Code.**

Article 245 of the recast Regulation, replacing Article 186 MCC, provides for the repeal of Regulation (EC) No 450/2008 on the date of its entry into force.

Article 246 of the recast Regulation regulates its entry into force, which shall occur on the 20<sup>th</sup> day following its publication.

Article 247 fixes new dates for the application of the recast Regulation:

- all empowering provisions shall apply from the date of entry into force of the recast Regulation (Article 247(1));

- it shall be the same for Article 46 on ‘charges and costs’, which shall replace from that date of entry into force Article 30 of Regulation (EC) No 450/2008, that already applies since 1 January 2011;
- all the other provisions shall apply from the first day of the first month after 18 months following the entry into force of the recast Regulation; that time period should allow the Commission to adopt the required delegated or implementing acts (including the time for the legislator to react) and prepare, through non legal instruments (guidelines, information, training) and in cooperation with Member States and trade representatives, the application of the complete new legal package.

In practice, the application of the provisions of the Regulation which depend on the use of electronic data-processing techniques and electronic systems may be suspended on the basis of empowering provisions allowing the Commission to adopt delegated acts providing for transitional measures for the periods pending the availability of such systems (Articles 6(2)(c) and 7 of the recast Regulation). However such transitional periods and measures should not go beyond *31 December 2020* and, based on the financial assumptions reflected in the Commission's proposal for the future FISCUS programme, a full implementation of the IT-related parts of the Regulation should therefore be ensured for that date, at the latest.

Moreover, to support that full implementation and govern the setting up of transitional periods, the Commission should produce, within 6 months of the entry into force of the recast Regulation and through a conferral of implementing powers for that purpose in Article 17(1) of the recast Regulation, a work programme related to the development and deployment of all electronic systems required for the implementation of the Regulation. Full coherence shall be ensured between that IT work programme specific to the implementation of the recast Regulation and the multi-annual strategic plan referred to in Article 8(2) of Decision No 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless environment for customs and trade<sup>10</sup> on the one hand and the annual work programme referred to in Article 6 of Decision No 624/2007/EC establishing an action programme for customs in the Community (Customs 2013)<sup>11</sup>, on the other hand.

### **Summary of the proposed action**

The proposed action is to replace Regulation (EC) No 450/2008 (Modernised Customs Code) with a recast Regulation which aligns it to the Treaty of Lisbon, adjusts it to the practical aspects and developments in customs legislation and in other policy fields relevant to the movement of goods between the EU and third countries and allows sufficient time for the development of supporting IT systems.

### **Legal basis**

Articles 33, 114 and 207 of the Treaty on the Functioning of the European Union.

Article 31 TFEU cannot serve any longer as a legal basis for a legislative act like the recast Regulation.

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<sup>10</sup> OJ L 23, 26.1.2008, p. 21.

<sup>11</sup> OJ L 154, 14.6.2007, p. 25. To be substituted by the future FISCUS programme

### **Subsidiarity principle**

Since the proposal falls under the exclusive competence of the Union, the subsidiarity principle does not apply.

### **Proportionality principle**

Since the proposal does not entail any new policy developments compared to the initial proposal and resulting legislative act, it does not imply reassessing compliance.

## **4. BUDGETARY IMPLICATION**

Budgetary implications are the same as the ones of Regulation (EC) No 450/2008 being recast. Commission, Member States and traders will have to invest in accessible, interoperable customs clearance systems. The financial implications concerning the EU share of IT developments for that purpose are set out in the proposal for the FISCUS programme.

## **5. OPTIONAL ELEMENTS**

### **Simplification**

The recast of Regulation (EC) No 450/2008 provides for better adequacy of legislation with business practices, supported by an optimal architecture and planning for IT developments, while encompassing all the advantages of the Regulation subject to the recast proposal, namely the simplification of administrative procedures for public authorities (EU or national) and private parties.

The recast of Regulation (EC) No 450/2008 will be supported by updated business process modelling (BPM) and supplemented by the future Commission delegated and implementing acts, as well as explanatory notes and guidelines. That will further ensure consistent interpretation and application of the customs rules by Member States, which will be of great benefit to economic operators.

### **Repeal of existing legislation**

The adoption of the proposal will lead to the repeal of existing legislation (see point 1).

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**laying down the ~~Community~~  Union  Customs Code**

**(Recast)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty ~~establishing the European Community~~  on the Functioning of the European Union , and in particular Articles ~~26, 95, 133 and 135~~  33, 114 and 207  thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>12</sup>,

Acting in accordance with the ordinary legislative procedure<sup>13</sup>,

Whereas:

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↓ new

- (1) A number of changes are to be made to 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)<sup>14</sup>. In the interests of clarity, that Regulation should be recast.
- (2) It is appropriate to ensure consistency of Regulation (EC) No 450/2008 with the Treaty on the Functioning of the European Union (the Treaty) in particular Articles 290 and 291 thereof to take account of the evolution of Union law and to adapt some provisions of that Regulation in order to facilitate their application.

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<sup>12</sup> OJ C [...], [...], p. [...].

<sup>13</sup> (to be completed with the acts of the European Parliament and of the Council in the OLP on the proposal for the recast Regulation)

<sup>14</sup> OJ L 145, 4.6.2008, p. 1.

- (3) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt delegated acts in accordance with Article 290 of the Treaty should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- (4) In order to ensure uniform conditions for implementation of this Regulation, implementing powers should be conferred on the Commission in respect of: the adoption within six months of the entry into force of this Regulation of a work programme relating to the development and deployment of the electronic systems; decisions allowing one or several Member States to use means of exchange and storage of data other than electronic data-processing techniques; decisions authorising Member States to test simplifications in the application of the customs legislation using electronic data-processing techniques; decisions requesting Member States to take, suspend, annul, amend or revoke a decision; common risk criteria and standards, control measures and priority control areas; the management of the tariff quota and tariff ceilings and the management of the surveillance of the release for free circulation or export of goods; the determination of the tariff classification of goods; the temporary derogation from the rules on preferential origin of goods benefiting from preferential measures adopted unilaterally by the Union; the determination of the origin of goods; the temporary prohibitions relating to the use of comprehensive guarantees; the mutual assistance between the customs authorities in case of incurrence of a customs debt; decisions on repayment or remission of an amount of import or export duty; the official opening hours of customs offices; the determination of the tariff subheading of the goods which are subject to the highest rate of import or export duty where a consignment is made of goods falling under different tariff subheadings; the verification of the customs declaration. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.<sup>15</sup>
- (5) The advisory procedure should be used for the adoption of: decisions authorising Member States to test simplifications in the application of the customs legislation using electronic data-processing techniques, given that those decisions do not affect all Member States; decisions requesting Member States to take, suspend, annul, amend or revoke a decision, given that those decisions affect only one Member State and aim at ensuring compliance with customs legislation; decisions on repayment or remission of an amount of import or export duty given that those decisions directly affect the applicant for that repayment or remission.
- (6) In duly justified cases, where imperative grounds of urgency so require, the Commission should adopt immediately applicable implementing acts relating to: decisions requesting Member States to take, suspend, annul, amend or revoke a decision; common risk criteria and standards, control measures and priority control areas; the determination of the tariff classification of goods; the determination of the

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<sup>15</sup> OJ L 55, 28.2.2011, p. 13.

origin of goods; the temporary prohibitions relating to the use of comprehensive guarantees; decisions on repayment or remission of an amount of import or export duty.

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↓ 450/2008 recital 1 (adapted)

- (7) The ~~Community~~ ☒ Union ☒ is based upon a customs union. It is advisable, in the interests both of economic operators and of the customs authorities in the ~~Community~~ ☒ Union ☒, to assemble current customs legislation in a ~~Community~~ ☒ Union ☒ Customs Code (~~hereinafter referred to as the Code~~). Based on the concept of an internal market, ~~the~~ ☒ that ☒ Code should contain the general rules and procedures which ensure the implementation of the tariff and other common policy measures introduced at ~~Community~~ ☒ Union ☒ level in connection with trade in goods between the ~~Community~~ ☒ Union ☒ and countries or territories outside the customs territory of the ~~Community~~ ☒ Union ☒, taking into account the requirements of those common policies. Customs legislation should be better aligned on the provisions relating to the collection of import charges without change to the scope of the tax provisions in force.
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↓ 450/2008 recital 2 (adapted)

- (8) In accordance with the Communication from the Commission concerning the protection of the Community's financial interests and the Action Plan for 2004-2005<sup>16</sup>, it is appropriate to adapt the legal framework for the protection of the financial interests of the ~~Community~~ ☒ Union ☒.
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↓ 450/2008 recital 3 (adapted)

- (9) Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code<sup>17</sup> was based upon integration of the customs procedures applied separately in the respective Member States during the 1980s. That Regulation has been repeatedly and substantially amended since its introduction, in order to address specific problems such as the protection of good faith or the taking into account of security requirements. Further amendments to ~~the Code are necessary~~ ☒ that Regulation were introduced by Regulation (EC) No 450/2008 ☒ as a consequence of the important legal changes which have occurred in recent years, at both ~~Community~~ ☒ Union ☒ and international level, such as the expiry of the Treaty establishing the European Coal and Steel Community and the entry into force of the 2003 and 2005 Acts of Accession, as well as the Amendment to the International Convention on the simplification and harmonisation of customs procedures (~~hereinafter referred to as~~ the revised Kyoto Convention), the accession of

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<sup>16</sup> COM (2004) 544 final, 9.8.2004.

<sup>17</sup> OJ L 302, 19.10.1992, p. 1. ~~Regulation as last amended by Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).~~

the ~~Community~~ ☒ Union ☒ to which was approved by Council Decision 2003/231/EC<sup>18</sup>. ~~The time has now come to streamline customs procedures and to take into account the fact that electronic declarations and processing are the rule and paper-based declarations and processing the exception. For all of these reasons, further amendment of the present Code is not sufficient and a complete overhaul is necessary.~~

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↓ 450/2008 recital 4 (adapted)  
⇒ new

- (10) It is appropriate to introduce in the ☒ Union Customs ☒ Code a legal framework for the application of certain provisions of the customs legislation to trade in ☒ Union ☒ goods between parts of the customs territory to which the provisions of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax<sup>19</sup> ⇒ or Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC<sup>20</sup> ⇐ apply and parts of that territory where those provisions do not apply, or to trade between parts where those provisions do not apply. Considering the fact that the goods concerned are ~~Community~~ ☒ Union ☒ goods and the fiscal nature of the measures at stake in ~~this intra-Community~~ ☒ that intra-Union ☒ trade, it is ~~justifiable~~ ☒ justified ☒ to introduce, ~~through implementing measures,~~ appropriate simplifications to the customs formalities to be applied to those goods.
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↓ new

- (11) In order to take into account the special fiscal regime of certain parts of the customs territory of the Union, the power to adopt delegated acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the customs formalities and controls to be applied to the trade in Union goods between those parts and the rest of the customs territory of the Union.
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↓ 450/2008 recital 5

- (12) The facilitation of legitimate trade and the fight against fraud require simple, rapid and standard customs procedures and processes. It is therefore appropriate, in line with the Communication from the Commission on a simple and paperless environment for customs and trade<sup>21</sup>, to simplify customs legislation, to allow the use of modern tools and technology and to promote further the uniform application of customs legislation and modernised approaches to customs control, thus helping to ensure the basis for efficient and simple clearance procedures. Customs procedures should be merged or

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<sup>18</sup> OJ L 86, 3.4.2003, p. 21. ~~Decision as amended by Decision 2004/485/EC (OJ L 162, 30.4.2004, p. 113).~~

<sup>19</sup> ~~OJ L 86, 3.4.2003, p. 21. OJ L 347, 11.12.2006, p. 1. Directive as last amended by Directive 2008/8/EC (OJ L 44, 20.2.2008, p. 11).~~

<sup>20</sup> OJ L 9, 14.1.2009, p. 12.

<sup>21</sup> COM (2003) 452 final, 24.7.2003.

aligned and the number of procedures reduced to those that are economically justified, with a view to increasing the competitiveness of business.

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↓ 450/2008 recital 6 (adapted)

- (13) The completion of the internal market, the reduction of barriers to international trade and investment and the reinforced need to ensure security and safety at the external borders of the ~~the~~ Union ~~Community~~ have transformed the role of customs authorities giving them a leading role within the supply chain and, in their monitoring and management of international trade, making them a catalyst to the competitiveness of countries and companies. Customs legislation should therefore reflect the new economic reality and the new role and mission of customs authorities.
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↓ 450/2008 recital 7 (adapted)

- (14) The use of information and communication technologies, as laid down in ~~the future~~ Decision ~~the~~ No 70/2008/EC ~~of~~ of the European Parliament and of the Council on a paperless environment for customs and trade<sup>22</sup>, is a key element in ensuring trade facilitation and, at the same time, the effectiveness of customs controls, thus reducing costs for business and risk for society. It is therefore necessary to establish in the ~~the~~ Union Customs ~~Code~~ Code the legal framework within which that Decision can be implemented, in particular the legal principle that all customs and trade transactions are to be handled electronically and that information and communication systems for customs operations are to offer, in each Member State, the same facilities to economic operators.
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↓ new

- (15) In order to ensure paperless environment for customs and trade the power to adopt delegated acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of determining customs-related data to be exchanged and stored using electronic data processing techniques, setting up electronic systems for that purpose and establishing other means for such exchange and storage. Such means could be used in particular on a transitional basis, where the necessary electronic systems are not yet operational, but not beyond *31 December 2020*.
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↓ 450/2008 recital 8 (adapted)

- (16) Such use of information and communication technologies should be accompanied by harmonised and standardised application of customs controls by the Member States, to ensure an equivalent level of customs control throughout the ~~the~~ Union ~~Code~~

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<sup>22</sup> OL L 23, 26.1.2008, p 21

~~Community~~ so as not to give rise to anti-competitive behaviour at the various  
⊗ Union ⊗ ~~Community~~ entry and exit points.

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↓ 450/2008 recital 9 (adapted)

- (17) In the interests of facilitating business, while at the same time providing for the proper levels of control of goods brought into or out of the customs territory of the  
⊗ Union ⊗ ~~Community~~, it is desirable that the information provided by economic operators be shared, taking account of the relevant data-protection provisions, between customs authorities and with other agencies involved in that control, ~~such as police, border guards, veterinary and environmental authorities, and that~~ ⊗ Those ⊗ controls ~~by the various authorities~~ ⊗ should ⊗ be harmonised, so that the economic operator need give the information only once and that goods are controlled by those authorities at the same time and at the same place.
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↓ 450/2008 recital 10 (adapted)

- (18) In the interests of facilitating ~~certain types of~~ business, all persons should continue to have the right to appoint a representative in their dealings with the customs authorities. However, it should no longer be possible for that right of representation to be reserved under a law laid down by one of the Member States. Furthermore, a customs representative who complies with the criteria for the granting of the status of authorised economic operator, should be entitled to provide his services in a Member State other than the one where he is established.
- 

↓ 450/2008 recital 11 (adapted)

- (19) Compliant and trustworthy economic operators should, as "authorised economic operators", be able to take maximum advantage of widespread use of simplification and, taking account of security and safety aspects, benefit from reduced levels of customs control. They may thus enjoy the status of ~~'customs simplifications'~~ authorised economic operator ⊗ for customs simplifications ⊗ or the status of ~~'security and safety'~~ authorised economic operator ⊗ for security and safety ⊗. They may be granted one or other status, or both together.
- 

↓ 450/2008 recital 12 (adapted)

⇒ new

- (20) ~~All~~ ~~d~~Decisions, ~~that is to say, official acts by the customs authorities pertaining to~~  
⇒ relating to the application of the ⇐ customs legislation ~~and having legal effect on~~  
~~one or more persons,~~ including ⊗ to ⊗ binding information ~~issued by those~~  
~~authorities,~~ should be covered by the same rules. Any such decisions should be valid throughout the ⊗ Union ⊗ ~~Community~~ and should be capable of being annulled,

amended except where otherwise stipulated, or revoked where they do not conform to the customs legislation or its interpretation.

---

↓ 450/2008 recital 13

- (21) In accordance with the Charter of Fundamental Rights of the European Union, it is necessary, in addition to the right of appeal against any decision taken by the customs authorities, to provide for the right of every person to be heard before any decision is taken which would adversely affect him.
- 

↓ 450/2008 recital 14

- (22) The streamlining of customs procedures within an electronic environment requires the sharing of responsibilities between the customs authorities of different Member States. It is necessary to ensure an appropriate level of effective, dissuasive and proportionate sanctions throughout the internal market.
- 

↓ 450/2008 recital 15

- (23) In order to secure a balance between, on the one hand, the need for customs authorities to ensure the correct application of customs legislation and, on the other, the right of economic operators to be treated fairly, the customs authorities should be granted extensive powers of control and economic operators a right of appeal.
- 

↓ 450/2008 recital 16 (adapted)

- (24) In order to minimise the risk to the  Union  Community, its citizens and its trading partners, the harmonised application of customs controls by the Member States should be based upon a common risk management framework and an electronic system for its implementation. The establishment of a risk management framework common to all Member States should not prevent them from controlling goods by random checks.
- 

↓ new

- (25) In order to ensure a consistent and equal treatment of persons concerned by customs formalities and controls the power to adopt delegated acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of determining the conditions relating to customs representation and to decisions taken by the customs authorities, including those relating to authorised economic operator and binding information, and relating to controls and formalities to be carried out on cabin baggage and hold baggage.

---

↓ 450/2008 recital 17 (adapted)

- (26) It is necessary to establish the factors on the basis of which import or export ~~☒~~ duty ~~☒~~ duties and other measures in respect of trade in goods are applied. It is also appropriate to lay down ~~clear~~ ~~☒~~ more detailed ~~☒~~ provisions for issuing proofs of origin in the ~~☒~~ Union ~~☒~~ Community, where the exigencies of trade so require.
- 

↓ new

- (27) In order to supplement the factors on the basis of which import or export duty and other measures are applied, the power to adopt delegated acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the determination of origin and customs value of goods.
- 

↓ 450/2008 recital 18

- (28) It is desirable to group together all cases of incurrence of a customs debt on importation, other than following the submission of a customs declaration for release for free circulation or temporary admission with partial relief, in order to avoid difficulties in determining the legal basis on which the customs debt was incurred. The same should apply in cases of incurrence of a customs debt on exportation.
- 

↓ new

- (29) It is appropriate to establish the place where the customs debt is incurred and where the import or export duty should be recovered.
- 

↓ 450/2008 recital 19

⇒ new

- (30) ~~Since the new role of customs authorities implies the sharing of responsibilities and cooperation between inland and border customs offices, the customs debt should, in most cases, be~~ ⇒ In the context of centralised clearance the customs debt should be ⇐ incurred at the place where the debtor is established, as the customs office competent for that place can best supervise the activities of the person concerned.
- 

↓ 450/2008 recital 20

- ~~(31) Furthermore, in line with the revised Kyoto Convention, it is appropriate to provide for a reduced number of cases where administrative cooperation between Member States is required in order to establish the place where the customs debt was incurred and to recover the duties.~~

---

↓ 450/2008 recital 21

- (31) The rules for special procedures should allow for the use of a single guarantee for all categories of special procedures and for that guarantee to be comprehensive, covering a number of transactions.
- 

↓ 450/2008 recital 22 (adapted)

- (32) In order to ensure better protection of the financial interests of the ~~Community~~  Union  and of the Member States, a guarantee should cover non-declared or incorrectly declared goods included in a consignment or in a declaration for which it is provided. For the same reason, the undertaking of the guarantor should also cover amounts of import or export duty which fall to be paid following post-release controls.
- 

↓ 450/2008 recital 23 (adapted)

- (33) In order to safeguard the financial interests of the ~~Community~~  Union  and of the Member States and to curb fraudulent practices, arrangements involving graduated measures for the application of a comprehensive guarantee are advisable. Where there is an increased risk of fraud it should be possible to prohibit temporarily the application of the comprehensive guarantee, taking account of the particular situation of the economic operators concerned.
- 

↓ 450/2008 recital 24

- (34) It is appropriate to take account of the good faith of the person concerned in cases where a customs debt is incurred through non-compliance with customs legislation and to minimise the impact of negligence on the part of the debtor.
- 

↓ new

- (35) In order to protect the financial interests of the Union and of the Member States and to supplement the rules concerning the customs debt and the guarantees, the power to adopt delegated acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the place of incurrence of the customs debt, the calculation of the amount of import and export duty, the guarantee of that amount and the recovery, repayment, remission and extinguishment of the customs debt.
- 

↓ 450/2008 recital 25 (adapted)

- (36) It is necessary to lay down the principle of how to determine the ~~Community~~  customs  status of ~~Community~~  Union  goods and the circumstances pertaining to the loss of

such status, and to provide a basis for determining when that status remains unaltered in cases where goods ~~are~~ temporarily brought out of the customs territory of the Union ~~Community~~.

---

↓ new

(37) In order to ensure free movement of Union goods in the customs territory of the Union and customs treatment of non-Union goods brought into that territory, the power to adopt delegated acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the determination of the customs status of goods, the loss of the customs status of Union goods, the preservation of that status for goods temporarily leaving the customs territory of the Union, the application of commercial policy measures, prohibitions and restrictions to goods placed under a special procedure which are released for free circulation and the conditions for duty relief for returned goods and products taken from the sea.

---

↓ 450/2008 recital 26

(38) It is appropriate, where an economic operator has provided, in advance, the information necessary for risk-based controls on the admissibility of the goods, to ensure that quick release of goods is then the rule. Fiscal and trade policy controls should primarily be performed by the customs office competent in respect of the premises of the economic operator.

---

↓ 450/2008 recital 27

(39) The rules for customs declarations and for the placing of goods under a customs procedure should be modernised and streamlined, in particular by requiring that customs declarations be, as a rule, made electronically and providing for only one type of simplified declaration.

---

↓ 450/2008 recital 28

(40) Since the revised Kyoto Convention favours the lodging, registering and checking of the customs declaration prior to the arrival of the goods and, furthermore, the dissociation of the place where the declaration is lodged from the place where the goods are physically located, it is appropriate to provide for centralised clearance at the place where the economic operator is established. Centralised clearance should include the facility for the use of simplified declarations, deferment of the date of the submission of a complete declaration and required documents, periodic declaration and deferred payment.

---

↓ 450/2008 recital 29 (adapted)

- (41) ~~In order to help to ensure neutral conditions for competition throughout the Community~~ It is appropriate to lay down at  Union  Community level the rules governing the destruction or disposal otherwise of goods by the customs authorities, ~~these~~  those  being matters which have previously required national legislation.
- 

↓ new

- (42) In order to supplement the rules regarding the placing of goods under a customs procedure and ensure equal treatment of the persons concerned, the power to adopt delegated acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the competent customs offices, the rules on the procedure for lodging a customs declaration, the cases where authorisations are granted for that purpose, the rules for the release of goods, and the disposal of goods placed under a customs procedure.
- 

↓ 450/2008 recital 30 (adapted)

- (43) It is appropriate to lay down common and simple rules for the special procedures ~~(transit, storage, specific use and processing)~~, supplemented by a small set of rules for each category of special procedure, in order to make it simple for the operator to choose the right procedure, to avoid errors and to reduce the number of post-release recoveries and repayments.
- 

↓ 450/2008 recital 31

- (44) The granting of authorisations for several special procedures with a single guarantee and a single supervising customs office should be facilitated and there should be simple rules on the incurrence of a customs debt in these cases. The basic principle should be that goods placed under a special procedure, or the products made from them, are to be assessed at the time when the customs debt is incurred. However, it should also be possible, where economically justified, to assess the goods at the time when they were placed under a special procedure. The same principles should apply to usual forms of handling.
- 

↓ 450/2008 recital 32 (adapted)

- (45) In view of the increased security-related measures ~~introduced into the Code under Regulation (EC) No 648/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulation (EEC) No 2913/92 establishing the~~

~~Community Customs Code~~<sup>23</sup>, the placing of goods into free zones should become a customs procedure and the goods should be subject to customs controls at entry and with regard to records.

---

↓ 450/2008 recital 33

- (46) Given that the intention of re-exportation is no longer necessary, the inward processing suspension procedure should be merged with processing under customs control and the inward processing drawback procedure abandoned. This single inward ~~processing~~ procedure should also cover destruction, except where destruction is carried out by, or under the supervision of ~~the~~ customs.
- 

↓ new

- (47) In order to supplement the rules on special procedures and ensure equal treatment of the persons concerned, the power to adopt delegated acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the obligations of the holder of a special procedure, the cases where an authorisation relating to a special procedure is granted and the obligations of the holder of that authorisation, and the rules on the procedure to ensure customs supervision of goods placed under a special procedure.
- 

↓ 450/2008 recital 34 (adapted)

- (48) Security-related measures relating to ~~the~~ Union ~~and~~ ~~Community~~ goods brought out of the customs territory of the ~~the~~ Union ~~and~~ ~~Community~~ should apply equally to the re-export of ~~non-Community~~ ~~and~~ non-Union ~~and~~ goods. The same ~~basic~~ rules should apply to all types of goods, with the possibility of exceptions where necessary, such as for goods only transiting through the customs territory of the ~~the~~ Union ~~and~~ ~~Community~~.
- 

↓ 450/2008 recital 35

- ~~(49) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedure for the exercise of implementing powers conferred on the Commission~~<sup>24</sup>.

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<sup>23</sup> ~~OJ L 117, 4.5.2005, p. 13.~~

<sup>24</sup> ~~OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).~~

---

↓ new

(49) In order to ensure the customs supervision of goods brought into and out of the customs territory of the Union and the application of security-related measures, the power to adopt delegated acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the rules on the procedure relating to entry summary declaration, arrival of goods, pre-departure declarations, export, re-export and exit of goods.

---

↓ 450/2008 recital 36

~~(50) It is appropriate to provide for the adoption of measures implementing this Code. These measures should be adopted in accordance with the management and regulatory procedures provided for in Articles 4 and 5 of Decision 1999/468/EC.~~

---

↓ new

(50) In accordance with the principle of proportionality, it is necessary and appropriate, for the achievement of the basic objectives of enabling the customs union to function effectively and implementing the common commercial policy, to lay down the general rules and procedures applicable to goods brought into or out of the customs territory of the Union. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with the first subparagraph of Article 5(4) of the Treaty on European Union.

---

↓ 450/2008 recital 37

~~(51) In particular, the Commission should be empowered to define the conditions and criteria necessary for the effective application of this Code. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation or to supplement this Regulation by the addition of new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.~~

---

↓ 450/2008 recital 38

~~(52) It is appropriate, in order to ensure an effective decision-making process, to examine questions relating to the preparation of a position to be taken by the Community in committees, working groups and panels established by or under international agreements dealing with customs legislation.~~

---

↓ 450/2008 recital 39 (adapted)

- (51) In order to simplify and rationalise customs legislation, a number of provisions presently contained in autonomous ~~Community~~ ☒ Union ☒ acts have, for the sake of transparency, been incorporated into the ☒ Union Customs ☒ Code. ~~The following Regulations, together with Regulation (EEC) No 2913/92, should therefore be repealed:~~ Council Regulation (EEC) No 3925/91 of 19 December 1991 concerning the elimination of controls and formalities applicable to the cabin and hold baggage of persons taking an intra-Community flight and the baggage of persons making an intra-Community sea crossing<sup>25</sup>, ☒ Regulation (EEC) No 2913/92, ☒ Council Regulation (EC) No 1207/2001 of 11 June 2001 on procedures to facilitate the issue or the making out in the Community of proofs of origin and the issue of certain approved exporter authorisations under the provisions governing preferential trade between the European Community and certain countries<sup>26</sup> ☒, and Regulation (EC) No 450/2008 should therefore be repealed ☒.
- 

↓ 450/2008 recital 40

~~Since the objectives of this Regulation, namely, to lay down rules and procedures applicable to goods brought into or out of the customs territory of the Community in order to enable the Customs Union to function effectively as a central pillar of the internal market, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives,~~

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↓ new

- (52) The Articles setting out the delegation of power and the conferral of implementing powers and Article 46 on charges and costs should apply from the date of entry into force of this Regulation. The other provisions should apply from the first day of the first month after 18 months following that date.
- 

↓ 450/2008 (adapted)

⇒ new

HAVE ADOPTED THIS REGULATION:

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<sup>25</sup> ~~↗~~ OJ L 374, 31.12.1991, p. 4. ~~Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).~~

<sup>26</sup> OJ L 165, 21.6.2001, p. 1. ~~Regulation as last amended by Regulation (EC) No 75/2008 (OJ L 24, 29.1.2008, p. 1).~~

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# TITLE I GENERAL PROVISIONS

## CHAPTER 1 Scope of customs legislation, mission of customs and definitions

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↓ 450/2008 (adapted)

### *Article 1* *Subject matter and scope*

1. This Regulation establishes the  Union  Community Customs Code, ~~hereinafter referred to as "the Code"~~ laying down the general rules and procedures applicable to goods brought into or out of the customs territory of the  Union  Community.

Without prejudice to international law and conventions and  Union  Community legislation in other fields, the Code shall apply uniformly throughout the customs territory of the  Union  Community.

2. Certain provisions of the customs legislation may apply outside the customs territory of the  Union  Community within the framework of legislation governing specific fields or of international conventions.
- 

↓ 450/2008 (adapted)

⇒ new

3. Certain provisions of the customs legislation, including the simplifications for which it provides, shall apply to the trade in  Union  goods between parts of the customs territory of the  Community  Union  to which the provisions of Directive 2006/112/EC ⇒ or of Directive 2008/118/EC ⇐ apply and parts of that territory where those provisions do not apply, or to trade between parts of that territory where those provisions do not apply.
- 

↓ 450/2008

~~The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the provisions referred to in the first subparagraph and simplified formalities for their implementation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4). Those measures shall also take account of particular circumstances pertaining to the trade in goods involving only one Member State.~~

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↓ new

*Article 2*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243 specifying the provisions of the customs legislation with respect to the customs declaration, the proof of the customs status and the use of the Union internal transit procedure, which apply to the trade in Union goods referred to in Article 1(3). Those acts may address particular circumstances pertaining to the trade in Union goods involving only one Member State.

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↓ 450/2008 (adapted)

*Article ~~32~~*  
*Mission of customs authorities*

Customs authorities shall be primarily responsible for the supervision of the ~~Community's~~  Union's  international trade, thereby contributing to fair and open trade, to the implementation of the external aspects of the internal market, of the common trade policy and of the other common ~~Community~~  Union  policies having a bearing on trade, and to overall supply chain security. Customs authorities shall put in place measures aimed, in particular, at the following:

- (a) protecting the financial interests of the ~~Community~~  Union  and its Member States;
- (b) protecting the ~~Community~~  Union  from unfair and illegal trade while supporting legitimate business activity;
- (c) ensuring the security and safety of the ~~Community~~  Union  and its residents, and the protection of the environment, where appropriate in close cooperation with other authorities;

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↓ 450/2008

- (d) maintaining a proper balance between customs controls and facilitation of legitimate trade.

*Article ~~43~~*  
*Customs territory*

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↓ 450/2008 (adapted)

1. The customs territory of the  Union  ~~Community~~ shall comprise the following territories, including their territorial waters, internal waters and airspace:
- 

↓ 450/2008

- the territory of the Kingdom of Belgium,
  - the territory of the Republic of Bulgaria,
  - the territory of the Czech Republic,
  - the territory of the Kingdom of Denmark, except the Faeroe Islands and Greenland,
  - the territory of the Federal Republic of Germany, except the Island of Heligoland and the territory of Buesingen (Treaty of 23 November 1964 between the Federal Republic of Germany and the Swiss Confederation),
  - the territory of the Republic of Estonia,
  - the territory of Ireland,
  - the territory of the Hellenic Republic,
  - the territory of the Kingdom of Spain, except Ceuta and Melilla,
- 

↓ 450/2008 (adapted)  
⇒ new

- the territory of the French Republic, except ~~New Caledonia, Mayotte, Saint Pierre and Miquelon, Wallis and Futuna Islands, French Polynesia and the French Southern and Antarctic Territories~~  the French overseas countries and territories to which the provisions of Part Four of the Treaty on the Functioning of the European Union apply ,
- 

↓ 450/2008 (adapted)

- the territory of the Italian Republic, except the municipalities of Livigno and Campione d'Italia and the national waters of Lake Lugano which are between the bank and the political frontier of the area between Ponte Tresa and Porto Ceresio,

- the territory of the Republic of Cyprus, in accordance with the provisions of the 2003 Act of Accession,
- the territory of the Republic of Latvia,
- the territory of the Republic of Lithuania,
- the territory of the Grand Duchy of Luxembourg,
- the territory of the Republic of Hungary,
- the territory of Malta,
- the territory of the Kingdom of the Netherlands in Europe,
- the territory of the Republic of Austria,
- the territory of the Republic of Poland,
- the territory of the Portuguese Republic,
- the territory of Romania,
- the territory of the Republic of Slovenia,
- the territory of the Slovak Republic,
- the territory of the Republic of Finland,
- the territory of the Kingdom of Sweden,
- the territory of the United Kingdom of Great Britain and Northern Ireland and of the Channel Islands and the Isle of Man.

---

↓ 450/2008 (adapted)

2. The following territories, including their territorial waters, internal waters and airspace, situated outside the territory of the Member States shall, taking into account the conventions and treaties applicable to them, be considered to be part of the customs territory of the  Union  ~~Community~~:

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↓ 450/2008

(a) FRANCE

The territory of Monaco as defined in the Customs Convention signed in Paris on 18 May 1963 (*Journal officiel de la République française* (Official Journal of the French Republic) of 27 September 1963, p. 8679);

(b) CYPRUS

The territory of the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia as defined in the Treaty concerning the Establishment of the Republic of Cyprus, signed in Nicosia on 16 August 1960 (United Kingdom Treaty Series No 4 (1961) Cmd. 1252).

*Article ~~54~~  
Definitions*

For the purposes of the Code, the following definitions shall apply:

1. "customs authorities" means the customs administrations of the Member States responsible for applying the customs legislation and any other authorities empowered under national law to apply certain customs legislation;
2. "customs legislation" means the body of legislation made up of the following:

---

↓ 450/2008 (adapted)

- (a) the Code and the provisions adopted at ~~Community~~  Union  level and, where appropriate, at national level, to implement it;

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↓ 450/2008

- (b) the Common Customs Tariff;

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↓ 450/2008 (adapted)

- (c) the legislation setting up a ~~Community~~  Union  system of reliefs from customs  duty  duties;
  - (d) international agreements containing customs provisions, insofar as they are applicable in the  Union  ~~Community~~;
3. "customs controls" means specific acts performed by the customs authorities in order to ensure the correct application of customs legislation and other legislation governing the entry, exit, transit,  movement  ~~transfer~~, storage and end-use of goods moved between the customs territory of the ~~Community~~  Union  and other territories, and the presence and movement within the customs territory of ~~non-Community~~  non-Union  goods and goods placed under the end-use procedure;
  4. "person" means a natural person, a legal person, and any association of persons which is not a legal person but which is recognised under  Union  ~~Community~~ or national law as having the capacity to perform legal acts;

---

↓ 450/2008

5. "economic operator" means a person who, in the course of his business, is involved in activities covered by customs legislation;
6. "customs representative" means any person appointed by another person to carry out the acts and formalities required under the customs legislation in his dealings with customs authorities;
- 

↓ 450/2008 (adapted)

⇒ new

7. "risk" means the likelihood ⇒ and the impact ⇐ of an event that may occur, with regard to the entry, exit, transit, ⊗ movement ⊗ ~~transfer~~ or end-use of goods moved between the customs territory of the ~~Community~~ ⊗ Union ⊗ and countries or territories outside that territory and to the presence of goods which do not have ~~Community~~ ⊗ the customs ⊗ status ⊗ of Union goods ⊗, which would have any of the following results:
- 

↓ 450/2008 (adapted)

- (a) it would prevent the correct application of ~~Community~~ ⊗ Union ⊗ or national measures;
- (b) it would compromise the financial interests of the ~~Community~~ ⊗ Union ⊗ and its Member States;
- (c) it would pose a threat to the security and safety of the ~~Community~~ ⊗ Union ⊗ and its residents, to human, animal or plant health, to the environment or to consumers;
- 

↓ 450/2008

8. "customs formalities" means all the operations which must be carried out by the persons concerned and by the customs authorities in order to comply with the customs legislation;
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↓ 450/2008 (adapted)

9. "~~⊗~~ entry ⊗ summary declaration" ~~(entry summary declaration and exit summary declaration)~~ means the act whereby, ~~before or at the time of the event,~~ a person informs the customs authorities, in the prescribed form and manner, that goods are to be brought into ~~or out of~~ the customs territory of the ⊗ Union ⊗ ~~Community~~;

10. ☒ "exit summary declaration" means the act whereby a person informs the customs authorities, in the prescribed form and manner, that goods are to be brought out of the customs territory of the Union; ☒

↓ new

11. "declaration for temporary storage" means the act whereby a person indicates, in the prescribed form and manner, that goods are placed or intended to be placed under that procedure;

↓ 450/2008

1012. "customs declaration" means the act whereby a person indicates, in the prescribed form and manner, a wish to place goods under a given customs procedure, with an indication, where appropriate, of any specific arrangements to be applied;

↓ 450/2008 (adapted)  
⇒ new

113. "declarant" means the person lodging ☒ a customs declaration, ☒ ⇒ a declaration for temporary storage, ⇐ ☒ an entry ☒ summary declaration ☒, an exit summary declaration, ☒ ⇐ a re-export notification or ⇒ a re-export advice ⇐ ~~making a customs declaration~~ in his own name or the person in whose name such a declaration is made;

1214. "customs procedure" means any of the following procedures under which goods may be placed in accordance with ☒ the ☒ ~~this~~ Code:

↓ 450/2008

- (a) release for free circulation;
- (b) special procedures;
- (c) export;

1315. 'customs debt' means the obligation on a person to pay the amount of import or export duty which applies to specific goods under the customs legislation in force;

1416. 'debtor' means any person liable for a customs debt;

↓ 450/2008 (adapted)  
⇒ new

- ~~1517.~~ 1517. "import ~~⊗~~ duty ~~⊗~~ ~~duties~~" means customs ~~duties~~ ~~⊗~~ duty ~~⊗~~ payable on the importation of goods;
- ~~1618.~~ 1618. "export ~~⊗~~ duty ~~⊗~~ ~~duties~~" means customs ~~duties~~ ~~⊗~~ duty ~~⊗~~ payable on the exportation of goods;
- ~~1719.~~ 1719. "customs status" means the status of goods as ~~Community~~ ~~⊗~~ Union ~~⊗~~ or ~~non-Community~~ ~~⊗~~ non-Union ~~⊗~~ goods;
- ~~1820.~~ 1820. ~~Community~~ ~~⊗~~ "Union ~~⊗~~ goods" means goods which fall into any of the following categories:
- (a) goods wholly obtained in the customs territory of the ~~Community~~ ~~⊗~~ Union ~~⊗~~ and not incorporating goods imported from countries or territories outside the customs territory of the ~~⊗~~ Union ~~⊗~~ ~~Community~~. ~~Goods wholly obtained in the customs territory of the Community shall not have the customs status of Community goods if they are obtained from goods placed under the external transit procedure, a storage procedure, the temporary admission procedure or the inward processing procedure in cases determined in accordance with Article 101(2)(c);~~
- (b) goods brought into the customs territory of the ~~Community~~ ~~⊗~~ Union ~~⊗~~ from countries or territories outside that territory and released for free circulation;
- (c) goods obtained or produced in the customs territory of the ~~⊗~~ Union ~~⊗~~ ~~Community~~, either solely from goods referred to in point (b) or from goods referred to in points (a) and (b);
- ~~1921.~~ 1921. "~~non-Community~~ ~~⊗~~ non-Union ~~⊗~~ goods" means goods other than those referred to in point ~~(20)(18)~~ or which have lost their customs status as ~~⊗~~ Union ~~⊗~~ ~~Community~~ goods;
- ~~2220.~~ 2220. "risk management" means the systematic identification of risk ~~⇒~~, including through random checks, ~~⇐~~ and the implementation of all measures necessary for limiting exposure to risk. ~~This includes activities such as collecting data and information, analysing and assessing risk, prescribing and taking action and regular monitoring and review of that process and its outcomes, based on international, Community and national sources and strategies;~~

↓ 450/2008

- ~~2321.~~ 2321. "release of goods" means the act whereby the customs authorities make goods available for the purposes specified for the customs procedure under which they are placed;

2422. "customs supervision" means action taken in general by the customs authorities with a view to ensuring that customs legislation and, where appropriate, other provisions applicable to goods subject to such action are observed;

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↓ 450/2008 (adapted)  
⇒ new

2523. "repayment" means the refunding of ~~any~~ ⇒ an amount of ⇐ import or export duty that has been paid;

2624. "remission" means the waiving of the obligation to pay ⇒ an amount of ⇐ import or export ~~duties~~ ⊗ duty ⊗ which ⊗ has ⊗ ~~have~~ not been paid;

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↓ 450/2008

2725. "processed products" means goods placed under a processing procedure which have undergone processing operations;

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↓ 450/2008 (adapted)

2826. "person established in the customs territory of the ⊗ Union ⊗ ~~Community~~" means:

- (a) in the case of a natural person, any person who has his habitual residence in the customs territory of the ⊗ Union ⊗ ~~Community~~;
  - (b) in the case of a legal person or an association of persons, any person who has his registered office, central headquarters or a permanent business establishment in the customs territory of the ⊗ Union ⊗ ~~Community~~;
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↓ 450/2008

2927. "presentation of goods to customs" means the notification to the customs authorities of the arrival of goods at the customs office or at any other place designated or approved by the customs authorities and the availability of those goods for customs controls;

3028. "holder of the goods" means the person who is the owner of the goods or who has a similar right of disposal over them or who has physical control of them;

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↓ 450/2008 (adapted)

2931. "holder of the procedure" means;

(a) the person who ~~makes~~  lodges  the customs declaration, or on whose behalf  that  ~~the customs~~ declaration is ~~made~~  lodged  ~~is~~

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↓ new

(b) the person who presents the goods which are deemed to have been placed under the temporary storage procedure until the declaration for temporary storage is lodged, or the person on whose behalf the goods are presented;

(c) the person who lodges the declaration for the temporary storage procedure or on whose behalf that declaration is lodged;

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↓ 450/2008 (adapted)

~~(d) or~~ the person to whom the rights and obligations ~~of that person~~ in respect of a customs procedure have been transferred;

3230. "commercial policy measures" means non-tariff measures established, as part of the common commercial policy, in the form of  Union  ~~Community~~ provisions governing international trade in goods;

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↓ 450/2008

3331. "processing operations" means any of the following:

(a) the working of goods, including erecting or assembling them or fitting them to other goods;

(b) the processing of goods;

(c) the destruction of goods;

(d) the repair of goods, including restoring them and putting them in order;

(e) the use of goods which are not to be found in the processed products, but which allow or facilitate the production of those products, even if they are entirely or partially used up in the process (production accessories);

3432. "rate of yield" means the quantity or percentage of processed products obtained from the processing of a given quantity of goods placed under a processing procedure;

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↓ 450/2008

~~33. 'message' means a communication in a prescribed format containing data transmitted from one person, office or authority to another using information technology and computer networks.~~

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↓ 450/2008

## CHAPTER 2

### Rights and obligations of persons with regard to customs legislation

#### SECTION 1

#### PROVISION OF INFORMATION

*Article ~~65~~*  
*Exchange and storage of data*

1. All exchanges of data, accompanying documents, decisions and notifications between customs authorities and between economic operators and customs authorities required under the customs legislation, and the storage of such data as required under the customs legislation, shall be made using electronic data-processing techniques.
- 

↓ 450/2008

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

~~Those measures shall define the cases in which and the conditions under which paper or other transactions may be used in place of electronic exchanges of data, taking the following, in particular, into account:~~

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↓ new

2. Means of exchange and storage of data, other than the electronic data-processing techniques referred to in paragraph 1, may be used as follows:

- (a) on a permanent basis where duly justified by the type of traffic, where required by international agreements, or where the use of electronic data-processing techniques is not appropriate for the procedure concerned;
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↓ 450/2008 (adapted)  
⇒ new

- (~~a~~b) ~~the possibility~~ ⇒ on a temporary basis, in case ⇐ of temporary failure of the customs authorities' ~~⊗~~ or economic operators' ~~⊗~~ computerised systems; (~~b~~) ~~the possibility of temporary failure of the economic operator's computerised systems;~~
- 

↓ 450/2008

- ~~(c) international conventions and agreements which provide for the use of paper documents;~~

- ~~(d) travellers without direct access to the computerised systems and with no means of providing electronic information;~~

- ~~(e) practical requirements for declarations to be made orally or by any other act.~~

~~2. Except where these are otherwise specifically provided for in the customs legislation, the Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures laying down the following:~~

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↓ 450/2008 (adapted)  
⇒ new

- (~~a~~c) ~~the messages to be exchanged between customs offices, as required~~ ⇒ on a transitional basis, where the electronic systems which are necessary ⇐ for the application of the ⇒ provisions of the Code are not yet operational, for transitional periods ending on *31 December 2020* at the latest. ⇐ ~~customs legislation;~~
- 

↓ new

3. The Commission may adopt decisions allowing one or several Member States to use, by way of derogation from paragraph 1, means of exchange and storage of data other than electronic data-processing techniques.

#### Article 7 Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 243:

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↓ 450/2008 (adapted)  
⇒ new

(~~ea~~) ~~laying down a common data set and format of for the messages to be exchanged under the customs legislation. The data referred to in Article 6(1), including their format and code; point (b) of the first subparagraph shall contain the particulars necessary for risk analysis and the proper application of customs controls, using, where appropriate, international standards and commercial practices.~~

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↓ new

(b) specifying the rules on the exchange and storage of data to be made by the means referred to in Article 6(2).

#### Article 8

##### *Conferral of implementing powers*

The Commission shall adopt the decisions on derogations, referred to in Article 6(3), by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 244(4).

#### Article 9

##### *Registration*

1. Economic operators established in the customs territory of the Union shall be registered by the customs authorities.
2. The obligation referred to in paragraph 1 may be extended, in certain cases, to economic operators which are not established in the customs territory of the Union or to other persons.

#### Article 10

##### *Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying the cases referred to in Article 9(2), determining the Member State competent for the registration and specifying the rules on the procedure for registration and invalidation of registration.

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↓ 450/2008 (adapted)

*Article ~~116~~*

*~~☒~~ Communication of information and data ~~☒~~ ~~Data~~ protection*

1. All information acquired by the customs authorities in the course of performing their ~~☒~~ duty ~~☒~~ ~~duties~~ which is by its nature confidential or which is provided on a confidential basis shall be covered by the obligation of professional secrecy. Except as provided for under ~~Article 40(2)~~ ~~Article 26(2)~~, such information shall not be disclosed by the competent authorities without the express permission of the person or authority that provided it.

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↓ 450/2008 (adapted)

Such information may, however, be disclosed without permission where the customs authorities are obliged or authorised to do so pursuant to the provisions in force, particularly in respect of data protection, or in connection with legal proceedings.

2. Communication of confidential ~~☒~~ information ~~☒~~ ~~data~~ to the customs authorities and other competent authorities of countries or territories outside the customs territory of the ~~☒~~ Union ~~☒~~ ~~Community~~ shall be permitted only in the framework of an international agreement ~~ensuring an adequate level of data protection~~.

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↓ 450/2008 (adapted)

3. ~~☒~~ Any ~~☒~~ ~~The~~ disclosure or communication of information shall take place in full compliance with data-protection provisions in force.

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↓ 450/2008

*Article ~~127~~*

*Exchange of additional information between customs authorities and economic operators*

1. Customs authorities and economic operators may exchange any information not specifically required under the customs legislation, in particular for the purpose of mutual cooperation in the identification and counteraction of risk. That exchange may take place under a written agreement and may include access to the computer systems of economic operators by the customs authorities.
2. Any information provided by one party to the other in the course of the cooperation referred to in paragraph 1 shall be confidential unless both parties agree otherwise.

*Article 138*  
*Provision of information by the customs authorities*

1. Any person may request information concerning the application of customs legislation from the customs authorities. Such a request may be refused where it does not relate to an activity pertaining to international trade in goods that is actually envisaged.
2. Customs authorities shall maintain a regular dialogue with economic operators and other authorities involved in international trade in goods. They shall promote transparency by making the customs legislation, general administrative rulings and application forms freely available, wherever practical without charge, and through the Internet.

*Article 140*  
*Provision of information to the customs authorities*

1. Any person directly or indirectly involved in the accomplishment of customs formalities or in customs controls shall, at the request of the customs authorities and within any time-limit specified, provide those authorities with all the requisite documents and information, in an appropriate form, and all the assistance necessary for the completion of those formalities or controls.

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↓ 450/2008 (adapted) ⇒ new
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2. The lodging of a  customs declaration,   declaration for temporary storage,   entry  summary declaration ~~or customs declaration~~,  exit summary declaration,  ~~or~~  re-export  notification  or re-export advice, or any other notification by a person to the customs authorities  , or the submission of an application for an authorisation or any other decision, shall render the person concerned responsible for the following:

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↓ 450/2008 ⇒ new
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- (a) the accuracy and completeness of the information given in the declaration, notification  , advice  or application;

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↓ 450/2008 (adapted) ⇒ new
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- (b) the authenticity of any documents ~~lodged or made available~~  supporting the declaration, notification, advice or application;

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↓ 450/2008

- (c) where applicable, compliance with all of the obligations relating to the placing of the goods in question under the customs procedure concerned, or to the conduct of the authorised operations.

The first subparagraph shall apply also to the provision of any information in any other form required by or given to the customs authorities.

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↓ 450/2008 (adapted)

⇒ new

Where the declaration, ~~or~~ notification ⇒ or advice ⇐ is lodged, the application is submitted or information is provided by a customs representative of the person concerned, the customs representative shall also be bound by the obligations set out in the first subparagraph.

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↓ 450/2008 (adapted)

⇒ new

*Article 1510  
Electronic systems*

1. Member States ⊗ and the Commission <⊗ shall ~~cooperate with the Commission with a view to developing~~ maintaining and employing electronic systems for the exchange of information ⇐ the data referred to in Article 6(1) ⇐ between customs ⊗ authorities <⊗ offices and ⇐ with the Commission, ⇐ for the common registration ⇐, storage, processing ⇐ and ⊗ for ⊗ maintenance of ⊗ such data. <⊗ records relating, in particular, to the following:

~~(a) economic operators directly or indirectly involved in the accomplishment of customs formalities;~~

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↓ new

2. The Commission may authorise the Member States, on their request, to test for a limited period of time simplifications in the application of the customs legislation using electronic data-processing techniques.

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↓ 450/2008 (adapted)

~~(b) applications and authorisations concerning a customs procedure or the status of authorised economic operator;~~

~~(c) applications and special decisions granted in accordance with Article 20;~~

~~(d) common risk management, as referred to in Article 25.~~

~~2. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the following:~~

~~(a) the standard form and content of the data to be registered;~~

~~(b) maintenance of those data, by the customs authorities of Member States;~~

~~(c) the rules for access to those data by:~~

~~(i) economic operators;~~

~~(ii) other competent authorities;~~

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

↓ new

#### Article 16

##### *Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243 laying down the rules for developing, maintaining and employing the electronic systems for the exchange of the data referred to in Article 15(1).

#### Article 17

##### *Conferral of implementing powers*

~~1.~~ The Commission shall, within 6 months of the entry into force of this Regulation, adopt by means of implementing acts a work programme relating to the development and deployment of the electronic systems referred to in Article 15(1). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 244(4).

~~2.~~ The Commission shall adopt the decisions referred to in Article 15(2), by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 244(2).

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↓ 450/2008

## SECTION 2 CUSTOMS REPRESENTATION

### *Article ~~1811~~ Customs representative*

1. Any person may appoint a customs representative.

Such representation may be either direct, in which case the customs representative shall act in the name of and on behalf of another person, or indirect, in which case the customs representative shall act in his own name but on behalf of another person.

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↓ 450/2008 (adapted)

2. A customs representative shall be established within the customs territory of the  Union  Community.

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↓ new

That obligation may be waived in certain cases.

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↓ 450/2008 (adapted)

- ~~3.2.~~ Member States may  establish  define, in accordance with  Union  Community law, the conditions under which a customs representative may provide services in the Member State where he is established. However, without prejudice to the application of less stringent criteria by the Member State concerned, a customs representative who complies with the criteria laid down in Article ~~22(a)~~, ~~14(a)~~ to (d) shall be entitled to provide such services in a Member State other than the one where he is established.

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↓ 450/2008

~~3. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down in particular, the following:~~

~~(a) the conditions under which the requirement referred to in the third subparagraph of paragraph 1 may be waived;~~

~~(b) the conditions under which the entitlement referred to in paragraph 2 may be conferred and proved;~~

~~(c) any further measures for the implementation of this Article;~~

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

↓ 450/2008

*Article ~~1912~~  
Empowerment*

1. When dealing with the customs authorities, a customs representative shall state that he is acting on behalf of the person represented and specify whether the representation is direct or indirect.

A person who fails to state that he is acting as a customs representative or who states that he is acting as a customs representative without being empowered to do so shall be deemed to be acting in his own name and on his own behalf.

↓ 450/2008 (adapted)

2. The customs authorities may require any person stating that he is acting as a customs representative to  provide  ~~produce~~ evidence of his empowerment by the person represented.

↓ 450/2008

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

↓ new

In certain cases the customs authorities shall not require such evidence to be provided.

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↓ new

*Article 20*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the cases where the obligation referred to in the first subparagraph of Article 18(2) is waived;
- (b) the rules on the conferral and proving of the entitlement referred to in Article 18(3);
- (c) the cases where the evidence referred to in the first subparagraph of Article 19(2) is not required by the customs authorities.

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↓ 450/2008

**SECTION 3**  
**AUTHORISED ECONOMIC OPERATOR**

*Article ~~21~~<sup>22</sup>*  
*Application and authorisation*

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↓ 450/2008 (adapted)

1. An economic operator who is established in the customs territory of the  Union  Community and who meets the  criteria  conditions set out in Articles ~~14~~<sup>22</sup> and ~~15~~ may ~~request~~  apply for  the status of authorised economic operator.

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↓ new

The obligation to be established in the customs territory of the Union may be waived in certain cases.

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↓ 450/2008

The customs authorities shall, if necessary following consultation with other competent authorities, grant that status, which shall be subject to monitoring.

↓ 450/2008 (adapted)  
⇒ new

2. The status of authorised economic operator shall consist in ~~two~~  the following  types of authorisations:
- (a) ~~that of a 'customs simplification'  an  authorised economic operator and that of a "security and safety" authorised economic operator.  for customs simplifications that  The first type of authorisation shall enable  the holder thereof  economic operators to benefit from certain simplifications in accordance with the customs legislation. Under the second type of authorisation the holder thereof~~
- (b)  that of an authorised economic operator for security and safety that  shall be ~~entitled~~  entitle the holder thereof  to facilitations relating to security and safety.
3. Both types of authorisations  referred to in paragraph 2  may be held at the same time.

↓ 450/2008

- ~~4.3.~~ The status of authorised economic operator shall, subject to Articles ~~2214~~ and ~~2315~~, be recognised by the customs authorities in all Member States, without prejudice to customs controls.
- ~~5.4.~~ Customs authorities shall, on the basis of the recognition of the status of authorised economic operator and provided that the requirements related to a specific type of simplification provided for in the customs legislation are fulfilled, authorise the operator to benefit from that simplification.
- ~~5.~~ ~~The status of authorised economic operator may be suspended or revoked in accordance with the conditions laid down pursuant to Article 15(1)(g).~~
6. The authorised economic operator shall notify the customs authorities of all factors arising after that status was granted which may influence its continuation or content.

*Article ~~2214~~  
Granting of status*

The criteria for the granting of the status of authorised economic operator shall be the following:

- (a) a record of compliance with customs and tax requirements;
- (b) a satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls;
- (c) proven solvency;

↓ 450/2008 (adapted)  
⇒ new

- (d) ~~pursuant to Article 13(2), in cases where an authorised economic operator wishes to take advantage of  with regard to  the simplifications provided for in accordance with the customs legislation~~ ⇒ authorisation referred to in Article 21(2)(a) ⇐, practical standards of competence or professional qualifications directly related to the activity carried out;
- (e) ~~pursuant to Article 13(2), in cases where an authorised economic operator wishes to take advantage of facilitations with regard to customs controls relating to security and safety~~ ⇒ the authorisation referred to in Article 21(2)(b) ⇐, appropriate security and safety standards.

↓ 450/2008 (adapted)  
⇒ new

*Article ~~2315~~*  
*~~Implementing measures~~*  
 *Delegation of power*

~~The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down rules in respect of the following:~~ ⇒ The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying: ⇐

- (a) the  rules for  granting ~~of~~ the status of authorised economic operator  referred to in Article 21  ;
- (b) the cases ~~in which review of  where  the status of~~ ⇒ obligation for an ⇐ authorised economic operator ~~is to be carried out;~~

↓ 450/2008

~~(e) the granting of authorisations for the use of simplifications by authorised economic operators;~~

~~(d) identification of the customs authority competent for the granting of such status and authorisations;~~

~~(c) the type and extent of facilitations that may be granted to authorised economic operators in respect of customs controls relating to security and safety;~~

~~(f) consultation with and provision of information to other customs authorities;~~

~~(g) the conditions under which the status of authorised economic operator may be suspended or revoked;~~

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↓ 450/2008 (adapted)  
⇒ new

~~(h) the conditions under which the requirement of being established in the customs territory of the Community~~  Union  ~~may be~~  is  waived ~~for specific categories of authorised economic operators, taking into account, in particular, international agreements,~~

~~shall be adopted~~ in accordance with the ~~regulatory procedure with scrutiny~~  second subparagraph of Article 21(1)

(c) the facilitations  referred to in Article ~~21(2)(b)~~ 184(4)

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↓ 450/2008

~~2. Those measures shall take account of the following:~~

~~(a) the rules adopted pursuant to Article 25(3);~~

~~(b) professional involvement in activities covered by customs legislation;~~

~~(c) practical standards of competence or professional qualifications directly related to the activity carried out;~~

~~(d) the economic operator as the holder of any internationally recognised certificate issued on the basis of relevant international conventions.~~

## SECTION 4 DECISIONS RELATING TO THE APPLICATION OF CUSTOMS LEGISLATION

*Article ~~244~~6  
General provisions*

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↓ 450/2008 (adapted)

1. Where a person ~~requests that the customs authorities take~~  applies for  a decision relating to the application of customs legislation, that person shall supply all the information required by ~~those~~  the competent customs  authorities in order for them to be able to take that decision.

A decision may also be ~~requested~~  applied for  by, and taken with regard to, several persons, in accordance with the conditions laid down in the customs legislation.

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↓ new

In certain cases the competent customs authority shall be that of the place where the applicant's main accounts for customs purposes are held or accessible, and where at least part of the activities to be covered by the authorisation are to be carried out.

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↓ 450/2008 (adapted)  
⇒ new

2. Except where otherwise provided for in the customs legislation, a decision as referred to in paragraph 1 shall be taken, and the applicant notified, without delay, and at the latest within ~~four months~~ ⇒ 120 days ⇐ of the date on which all the information required by the customs authorities in order for them to be able to take that decision is received by those authorities.
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↓ 450/2008 (adapted)

However, where the customs authorities are unable to comply with those time-limits, they shall inform the applicant of that fact before the expiry of those time-limits, stating the reasons and indicating the further period of time which they consider necessary in order to give  take  a decision ~~on the request~~.

3. Except where otherwise specified in the decision or in the customs legislation, the decision shall take effect from the date on which the applicant receives  it  ~~the decision~~, or is deemed to have received it. Except in the cases provided for in Article ~~38(2)~~24(2), decisions adopted shall be enforceable by the customs authorities from that date.
4. Before taking a decision which would adversely affect the  applicant  ~~person or persons to whom it is addressed~~, the customs authorities shall communicate the grounds on which they intend to base their decision to the  applicant  ~~person or persons concerned~~, who shall be given the opportunity to express  his  ~~their~~ point of view within a period prescribed ~~period prescribed~~ from the date on which  he receives that  ~~the communication was made~~  or is deemed to have received it . Following the expiry of that period, the  applicant  ~~person concerned~~ shall be notified, in the appropriate form, of the decision.
- 

↓ new

In certain cases the first subparagraph shall not apply.

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↓ 450/2008 (adapted)  
⇒ new

- ⊗ 5. A decision ⊗ which ⊗ adversely affects the applicant ⊗ shall set out the grounds on which it is based. ~~The decision ⊗ and ⊗ shall refer to the right of appeal provided for in Article 37~~23~~.~~
- 

↓ 450/2008

~~5. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the following:~~

~~(a) the cases in which and conditions under which the first subparagraph of paragraph 4 shall not apply;~~

~~(b) the period referred to in the first subparagraph of paragraph 4;~~

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

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↓ 450/2008 (adapted)

6. Without prejudice to provisions laid down in other fields which specify the cases in which, ~~and the conditions under which,~~ decisions are invalid or become null and void, the customs authorities who ~~took issue~~ issued a decision may at any time annul, amend or revoke it where it does not conform with the customs legislation.

7. Except when a customs authority acts as a judicial authority, the provisions of paragraphs 3, 4, 5 and 6 ~~of this Article~~ and of Articles ~~17, 18, 27, 28 and 19, 29~~ shall also apply to decisions taken by the customs authorities without prior ~~request from~~ ⊗ application by ⊗ the person concerned ~~and, in particular, to the notification of a customs debt as provided for in Article 67(3).~~
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↓ new

Where the decision is a notification of a customs debt as referred to in Article 90(3), the customs authorities shall communicate the grounds on which they intend to base that decision to the person concerned within a specific time-limit.

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↓ new

8. In certain cases the customs authorities shall carry out the following:

(a) monitor compliance with a decision;

(b) re-assess a decision;

(c) suspend a decision which is not to be annulled, revoked or amended.

9. The Commission may adopt decisions, other than those referred to in Article 32(8), requesting Member States to take, suspend, annul, amend or revoke a decision referred to in Article 24, to ensure the uniform application of the customs legislation.

#### Article 25

##### *Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

(a) the rules on the procedure for taking the decisions referred to in Article 24;

(b) the cases where the applicant is given no opportunity to express his point of view in accordance with the first subparagraph of Article 24(4);

(c) the rules for monitoring, re-assessing and suspending decisions in accordance with Article 24(8).

#### Article 26

##### *Conferral of implementing powers*

The Commission shall adopt the decisions referred to in Article 24(9) by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 244(2).

On imperative grounds of urgency relating to such decisions, duly justified by the need to rapidly ensure the correct and uniform application of the customs legislation to which they relate, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 244(3).

Where the opinion of the committee referred to in Article 244(1) is to be obtained by written procedure, Article 244(6) shall apply.

↓ 450/2008 (adapted)

#### Article ~~17~~ 27

##### ~~Community-wide~~ Union-wide validity of decisions

Except where otherwise ~~requested or specified~~  provided  , decisions ~~taken by the customs authorities which are based upon or related~~  relating  to the application of customs legislation shall be valid throughout the customs territory of the ~~Community~~  Union  .

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↓ 450/2008

*Article ~~2818~~*  
*Annulment of favourable decisions*

1. The customs authorities shall annul a decision favourable to the person to whom it is addressed if all the following conditions are satisfied:

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↓ 450/2008 (adapted)

- (a) the decision was  taken  ~~issued~~ on the basis of incorrect or incomplete information;

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↓ 450/2008

- (b) the applicant knew or ought reasonably to have known that the information was incorrect or incomplete;
- (c) if the information had been correct and complete, the decision would have been different.

2. The person to whom the decision was addressed shall be notified of its annulment.
3. Annulment shall take effect from the date on which the initial decision took effect, unless otherwise specified in the decision in accordance with the customs legislation.

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↓ 450/2008

- ~~4. The Commission may, in accordance with the management procedure referred to in Article 184(3), adopt measures for the implementation of this Article, in particular in respect of decisions addressed to several persons.~~

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↓ 450/2008 (adapted)

*Article ~~2919~~*  
*Revocation and amendment of favourable decisions*

1. A favourable decision shall be revoked or amended where, in cases other than those referred to in Article ~~2818~~, one or more of the conditions ~~laid down~~ for ~~its issue~~  taking that decision  were not or are no longer fulfilled.

2. Except where otherwise ~~is~~ provided ~~as specified in the customs legislation~~, a favourable decision addressed to several persons may be revoked only in respect of a person who fails to fulfil an obligation imposed under that decision.
- 

↓ 450/2008

3. The person to whom the decision was addressed shall be notified of its revocation or amendment.
4. Article ~~24(3)~~~~16(3)~~ shall apply to the revocation or amendment of the decision.

However, in exceptional cases where the legitimate interests of the person to whom the decision was addressed so require, the customs authorities may defer the date on which revocation or amendment takes effect.

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↓ 450/2008

~~5. The Commission may, in accordance with the management procedure referred to in Article 184(3), adopt measures for the implementation of this Article, in particular in respect of decisions addressed to several persons.~~

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↓ new

#### *Article 30*

#### *Goods placed under a customs procedure*

Except where the person concerned requests it, the revocation, amendment or suspension of a favourable decision shall not affect goods which, at the moment where the revocation, amendment or suspension takes effect, have already been placed and still are under a customs procedure by virtue of the revoked, amended or suspended decision.

#### *Article 31*

#### *Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the decisions which are not valid throughout the customs territory of the Union;
- (b) the rules on the procedure for annulling, revoking or amending favourable decisions.

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↓ 450/2008 (adapted)

*Article ~~32~~ 20*  
*Decisions relating to binding information*

1. The customs authorities shall, ~~on formal request, issue~~  upon application, take  decisions relating to binding tariff information, ~~hereinafter referred to as~~ (BTI decisions), or decisions relating to binding origin information, ~~hereinafter referred to as~~ (BOI decisions).

Such  an application  ~~a request~~  shall not be accepted  ~~be refused~~ in any of the following circumstances:

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↓ 450/2008

- (a) where the application is made, or has already been made, at the same or another customs office, by or on behalf of the holder of a decision in respect of the same goods and, for BOI decisions, under the same circumstances determining the acquisition of origin;
- (b) where the application does not relate to any intended use of the BTI or BOI decision or any intended use of a customs procedure.
2. BTI or BOI decisions shall be binding only in respect of the tariff classification or determination of the origin of goods.

Those decisions shall be binding on the customs authorities, as against the holder of the decision, only in respect of goods for which customs formalities are completed after the date on which the decision takes effect.

The decisions shall be binding on the holder of the decision, as against the customs authorities, only with effect from the date on which he receives, or is deemed to have received, notification of the decision.

3. BTI or BOI decisions shall be valid for a period of three years from the date on which the decision takes effect.

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↓ new

A BTI or BOI decision shall cease to be valid in certain cases before the end of that period.

In such cases the BTI or BOI decision may still be used in respect of binding contracts based upon the decision and concluded before it ceases to be valid.

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↓ 450/2008 (adapted)

4. For the application of a BTI or BOI decision in the context of a particular customs procedure, the holder of the decision ~~must~~  shall  be able to prove that:

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↓ 450/2008

(a) in the case of a BTI decision, the goods declared correspond in every respect to those described in the decision;

(b) in the case of a BOI decision, the goods in question and the circumstances determining the acquisition of origin correspond in every respect to the goods and the circumstances described in the decision.

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↓ 450/2008 (adapted)

5. By way of derogation from Article ~~24(6)~~~~16(6)~~ and Article ~~2818~~, BTI ~~or~~  and  BOI decisions shall be annulled where they are based on inaccurate or incomplete information from the applicants.

6. BTI ~~or~~  and  BOI decisions shall be revoked in accordance with Article ~~24(6)~~~~16(6)~~ and Article ~~2919~~.

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↓ 450/2008

They may not be amended.

~~7. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of paragraphs 1 to 5 of this Article.~~

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↓ new

7. The Commission may notify the Member States of the following:

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↓ 450/2008

~~8. Without prejudice to Article 19, the measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down~~

~~(a) the conditions under which, and the moment when, the BTI or BOI decision ceases to be valid;~~

~~(b) the conditions under which, and the period of time for which, a decision as referred to in point (a) may still be used in respect of binding contracts based upon the decision and concluded before the expiry of its validity;~~

~~(c) the conditions under which the Commission may issue decisions requesting Member States to revoke or amend a decision relating to binding information and giving different binding information compared with other decisions on the same subject;~~

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

~~9. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the conditions under which other decisions relating to binding information are to be issued shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).~~

↓ new

(a) that the taking of BTI and BOI decisions, for goods whose uniform tariff classification or determination of origin is not ensured, is suspended;

(b) that the suspension referred to under point (a) is withdrawn.

8. The Commission may adopt decisions requesting Member States to revoke BTI or BOI decisions, to ensure a uniform tariff classification or determination of the origin of goods.

9. In certain cases the customs authorities shall, upon application, take decisions relating to binding information in areas of customs legislation other than those referred to in paragraph 1.

### Article 33

#### *Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

(a) the cases in which a BTI or BOI decision ceases to be valid in accordance with the second subparagraph of Article 32(3);

(b) the rules for using a BTI or BOI decision after it ceases to be valid in accordance with the second subparagraph of Article 32(3);

(c) the rules for the Commission to notify the Member States in accordance with Article 32(7)(a) and (b);

(d) the cases where decisions relating to binding information are taken in other areas of customs legislation in accordance with Article 32(9).

*Article 34*  
*Conferral of implementing powers*

The Commission shall adopt the decisions referred to in Article 32(8), by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 244(2).

On imperative grounds of urgency relating to such decisions, duly justified by the need to rapidly ensure the uniform application of the customs legislation to which they relate the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 244(3).

Where the opinion of the committee referred to in Article 244(1) is to be obtained by written procedure, Article 244(6) shall apply.

↓ 450/2008 (adapted)

**SECTION 5**  
**PENALTIES**

*Article ~~35~~<sup>34</sup>*  
*Application of penalties*

1. Each Member State shall provide for penalties for failure to comply with  the  ~~Community~~ customs legislation. Such penalties shall be effective, proportionate and dissuasive.

↓ 450/2008

2. Where administrative penalties are applied, they may take, inter alia, one of the following forms, or both:
- (a) a pecuniary charge by the customs authorities, including, where appropriate, a settlement applied in place of and in lieu of a criminal penalty;
  - (b) the revocation, suspension or amendment of any authorisation held by the person concerned.

↓ 450/2008  
⇒ new

3. Member States shall notify the Commission, within ~~six months~~ ⇒ 180 days ⇐ from the date of application of this Article, as determined in accordance with Article ~~247(2)~~<sup>188(2)</sup>, of the national provisions in force as envisaged in paragraph 1 and shall notify it without delay of any subsequent amendment affecting them.

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↓ 450/2008

## SECTION 6 APPEALS

### *Article ~~36~~<sup>22</sup> Decisions taken by a judicial authority*

Articles ~~37~~<sup>23</sup> and ~~38~~<sup>24</sup> shall not apply to appeals lodged with a view to the annulment, revocation or amendment of a decision relating to the application of customs legislation taken by a judicial authority, or by customs authorities acting as judicial authorities.

### *Article ~~37~~<sup>23</sup> Right of appeal*

1. Any person shall have the right to appeal against any decision taken by the customs authorities relating to the application of customs legislation which concerns him directly and individually.

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↓ 450/2008 (adapted)

Any person who has applied to the customs authorities for a decision and has not obtained a decision on that ~~request~~  application  within the time-limits referred to in Article ~~24(2)~~<sup>16(2)</sup> shall also be entitled to exercise the right of appeal.

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↓ 450/2008

2. The right of appeal may be exercised in at least two steps:
  - (a) initially, before the customs authorities or a judicial authority or other body designated for that purpose by the Member States;
  - (b) subsequently, before a higher independent body, which may be a judicial authority or an equivalent specialised body, according to the provisions in force in the Member States.

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↓ 450/2008 (adapted)

3. The appeal ~~must~~  shall  be lodged in the Member State where the decision has been taken or applied for.

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↓ 450/2008

4. Member States shall ensure that the appeals procedure enables the prompt confirmation or correction of decisions taken by the customs authorities.

*Article ~~3824~~*  
*Suspension of implementation*

1. The submission of an appeal shall not cause implementation of the disputed decision to be suspended.
2. The customs authorities shall, however, suspend implementation of such a decision in whole or in part where they have good reason to believe that the disputed decision is inconsistent with customs legislation or that irreparable damage is to be feared for the person concerned.

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↓ 450/2008 (adapted)  
⇒ new

3. In the cases referred to in paragraph 2, where the disputed decision has the effect of causing import ~~duties~~ or export ~~duties~~  duty  to be payable, suspension of  implementation of  that decision shall be conditional upon the provision of a guarantee, unless it is established, on the basis of a documented assessment, that such a guarantee would be likely to cause the debtor serious economic or social difficulties.

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↓ 450/2008

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

**SECTION 7**  
**CONTROL OF GOODS**

*Article ~~3925~~*  
*Customs controls*

1. The customs authorities may carry out all the customs controls they deem necessary.

Customs controls may in particular consist of examining goods, taking samples, verifying declaration data and the existence and authenticity of documents, examining the accounts of economic operators and other records, inspecting means of transport, inspecting luggage and other goods carried by or on persons and carrying out official enquiries and other similar acts.

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↓ 450/2008 (adapted)  
⇒ new

2. Customs controls, other than random checks, shall primarily be based on risk analysis using electronic data-processing techniques, with the purpose of identifying and evaluating the risks and developing the necessary counter-measures, on the basis of criteria developed at national, ~~Community~~  Union  and, where available, international level.

~~Member States, in cooperation with the Commission, shall develop, maintain and employ~~

- ⇒ 3. Customs controls shall be performed within  a common risk management framework, based upon the exchange of risk information and analysis between customs administrations and establishing, ~~inter alia,~~ common risk ~~evaluation~~ criteria  and standards , control measures and priority control areas.

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↓ 450/2008

Controls based upon such information and criteria shall be carried out without prejudice to other controls carried out in accordance with paragraphs ~~1 and 2~~ or with other provisions in force.

~~3. The Commission, without prejudice to paragraph 2 of this Article, shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt implementing measures laying down the following:~~

~~(a) common risk management framework;~~

↓ new

4. Customs authorities shall undertake risk management to differentiate between the levels of risk associated with goods subject to customs control or supervision and to determine whether or not, and if so where, the goods will be subject to specific customs controls.

The risk management shall include activities such as collecting data and information, analysing and assessing risk, prescribing and taking action and regular monitoring and review of that process and its outcomes, based on international, Union and national sources and strategies.

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↓ 450/2008

~~(b) common criteria and priority control areas;~~

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↓ new

5. Customs authorities shall exchange risk information and risk analysis results in the following circumstances:

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↓ 450/2008

~~(e) the risk information and analysis to be exchanged between customs administrations.~~

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↓ new

(a) the risks are assessed by a customs authority as significant and requiring customs control and the results of the control establish that the event, as referred to in Article 5(7), has occurred;

(b) the control results do not establish that the event, as referred to in Article 5(7), has occurred, but the customs authority concerned considers the threat to present a high risk elsewhere in the Union.

6. For the establishment of the common risk criteria and standards, the control measures and the priority control areas referred to in paragraph 3, account shall be taken of the following:

(a) proportionality to the risk;

(b) the urgency of the necessary application of the controls;

(c) probable impact on trade flow, on individual Member States and on control resources.

7. Priority control areas shall cover particular customs procedures, types of goods, traffic routes, modes of transport or economic operators which are subject to increased levels of risk analysis and customs controls during a certain period, without prejudice to other controls normally carried out by the customs authorities.

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↓ 450/2008

*Article ~~4026~~*  
*Cooperation between authorities*

1. Where, in respect of the same goods, controls other than customs controls are to be performed by competent authorities other than the customs authorities, customs authorities shall, in close cooperation with those other authorities, endeavour to have those controls performed, wherever possible, at the same time and place as customs

controls (one-stop-shop), with customs authorities having the coordinating role in achieving this.

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↓ 450/2008 (adapted)  
⇒ new

2. In the framework of the controls referred to in this Section, customs and other competent authorities may, where necessary for the purposes of minimising risk and combating fraud, exchange with each other and with the Commission data received in the context of the entry, exit, transit, ~~the~~ movement ~~of~~ transfer, storage and end-use of goods, including postal traffic, moved between the customs territory of the ~~Community~~ ~~the~~ Union ~~and~~ other ~~of~~ countries or ~~of~~ territories ~~of~~ outside the customs territory of the Union, ~~of~~ the presence and movement within the customs territory of non- ~~the~~ Union ~~Community~~ goods and goods placed under the end-use procedure, and the results of any control. Customs authorities and the Commission may also exchange such data with each other for the purpose of ensuring a uniform application of ~~Community~~ ~~the~~ ~~the~~ customs legislation.

*Article ~~41~~<sup>27</sup>  
Post-release control*

The customs authorities may, after releasing the goods and in order to ascertain the accuracy of the particulars contained in ~~the summary of~~ ~~of~~ a ~~of~~ customs declaration, ~~of~~ declaration for temporary storage, entry summary declaration, exit summary declaration, re-export notification or re-export advice, ~~of~~ inspect any documents and data relating to the operations in respect of the goods in question or to prior or subsequent commercial operations involving those goods. Those authorities may also examine such goods and/or take samples where it is still possible for them to do so.

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↓ 450/2008

Such inspections may be carried out at the premises of the holder of the goods or his representative, of any other person directly or indirectly involved in those operations in a business capacity or of any other person in possession of those documents and data for business purposes.

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↓ 450/2008 (adapted)

*Article ~~42~~<sup>28</sup>  
~~Intra-Community~~ ~~of~~ Intra-Union ~~of~~ flights and sea crossings*

1. Customs controls or formalities shall be carried out in respect of the cabin and hold baggage of persons either taking an ~~intra-Community~~ ~~of~~ intra-Union ~~of~~ flight, or

making an ~~intra-Community~~ ☒ intra-Union ☒ sea crossing, only where the customs legislation provides for such controls or formalities.

↓ 450/2008

2. Paragraph 1 shall apply without prejudice to either of the following:

- (a) security and safety checks;
- (b) checks linked to prohibitions or restrictions.

~~3. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of this Article, laying down the cases in which and the conditions under which customs controls and formalities may be applied to the following:~~

~~(a) the cabin and hold baggage of the following:~~

~~(i) persons taking a flight in an aircraft which comes from a non-Community airport and which, after a stopover at a Community airport, continues to another Community airport;~~

~~(ii) persons taking a flight in an aircraft which stops over at a Community airport before continuing to a non-Community airport;~~

~~(iii) persons using a maritime service provided by the same vessel and comprising successive legs departing from, calling at or terminating in a non-Community port;~~

~~(iv) persons on board pleasure craft and tourist or business aircraft;~~

~~(b) cabin and hold baggage:~~

~~(i) arriving at a Community airport on board an aircraft coming from a non-Community airport and transferred at that Community airport to another aircraft proceeding on an intra-Community flight;~~

~~(ii) loaded at a Community airport onto an aircraft proceeding on an intra-Community flight for transfer at another Community airport to an aircraft whose destination is a non-Community airport.~~

*Article 43*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying the place where formalities and controls are to be carried out on cabin and hold baggage in accordance with Article 42.

*Article 44*  
*Conferral of implementing powers*

1. The Commission shall adopt, by means of implementing acts, measures to ensure uniform application of the customs controls, including the exchange of risk information and analysis, common risk criteria and standards, the control measures and the priority control areas.
2. The implementing acts referred to in paragraph 1 shall be adopted in accordance with the examination procedure referred to in Article 244(4).

On duly justified imperative grounds of urgency relating to measures, duly justified by the need to rapidly update the common risk management framework and adapt the exchange of risk information and analysis, common risk criteria and standards, control measures and priority control areas to the evolution of risks, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 244(5).

Where the opinion of the committee referred to in Article 244(1) is to be obtained by written procedure, Article 244(6) shall apply.

**SECTION 8**  
**KEEPING OF DOCUMENTS AND OTHER INFORMATION; CHARGES AND COSTS**

*Article ~~4529~~*  
*Keeping of documents and other information*

1. The person concerned shall, for the purposes of customs controls, keep the documents and information referred to in Article ~~14(1)9(1)~~ for at least three calendar years, by any means accessible by and acceptable to the customs authorities.

In the case of goods released for free circulation in circumstances other than those referred to in the third subparagraph, or goods declared for export, that period shall run from the end of the year in which the customs declarations for release for free circulation or export are accepted.

In the case of goods released for free circulation duty-free or at a reduced rate of import duty on account of their end-use, that period shall run from the end of the year in which they cease to be subject to customs supervision.

In the case of goods placed under another customs procedure, that period shall run from the end of the year in which the customs procedure concerned has ended.

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↓ 450/2008 (adapted)

2. Without prejudice to Article ~~91(4)~~~~68(4)~~, where a customs control in respect of a customs debt shows that the relevant entry in the accounts has to be corrected and the person concerned has been notified of this, the documents and information shall be kept for three years beyond the time-limit provided for in paragraph 1 ~~of this Article~~.

Where an appeal has been lodged or where court proceedings have begun, the documents and information ~~must~~  shall  be kept for the period provided for in paragraph 1 ~~of this Article~~ or until the appeals procedure or court proceedings are terminated, whichever is the later.

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↓ 450/2008

*Article ~~4630~~*  
*Charges and costs*

Customs authorities shall not impose charges for the performance of customs controls or any other application of the customs legislation during the official opening hours of their competent customs offices.

However, the customs authorities may impose charges or recover costs where specific services are rendered, in particular the following:

- (a) attendance, where requested, by customs staff outside official office hours or at premises other than customs premises;
- (b) analyses or expert reports on goods and postal fees for the return of goods to an applicant, particularly in respect of decisions taken pursuant to Article ~~3220~~ or the provision of information in accordance with Article ~~13(1)~~~~8(1)~~;
- (c) the examination or sampling of goods for verification purposes, or the destruction of goods, where costs other than the cost of using customs staff are involved;
- (d) exceptional control measures, where these are necessary due to the nature of the goods or to potential risk.

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↓ 450/2008

~~2. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down measures for the implementation of the second subparagraph of paragraph 1, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).~~

### CHAPTER 3 CURRENCY CONVERSION AND TIME LIMITS

#### *Article ~~473~~ Currency conversion*

1. The competent authorities shall publish, and/or make available on the Internet, the rate of exchange applicable where the conversion of currency is necessary for one of the following reasons:
  - (a) because factors used to determine the customs value of goods are expressed in a currency other than that of the Member State where the customs value is determined;

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↓ 450/2008 (adapted)

- (b) because the value of the euro is required in national currencies for the purposes of determining the tariff classification of goods and the amount of import and export duty, including value thresholds in the ~~Community~~  Common  Customs Tariff.

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↓ new

2. The value of the euro, where required in national currencies for the purposes of paragraph 1, shall be fixed once a month.

The exchange rate to be used shall be the most recent rate set by the European Central Bank prior to the penultimate day of the month.

This rate shall apply throughout the following month.

However, where the rate applicable at the start of the month differs by more than 5 % from the rate set by the European Central Bank prior to the 15th of that same month, the latter rate shall apply from the 15th until the end of the month in question.

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↓ 450/2008

32 Where the conversion of currency is necessary for reasons other than those referred to in paragraph 1, the value of the euro in national currencies to be applied within the framework of the customs legislation shall be fixed at least once a year.

~~3. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of this Article.~~

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↓ new

The value of the euro in national currencies to be applied shall be the most recent rate set by the European Central Bank before 15 December, with effect from 1 January of the following year.

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↓ 450/2008 (adapted)

*Article ~~4832~~*

*~~⊗~~ Periods, dates and ~~⊗~~ time-limits*

1. Where a period, ~~⊗~~ a ~~⊗~~ date or ~~⊗~~ a ~~⊗~~ time-limit is laid down in the customs legislation, such period shall not be extended or reduced and such date or time-limit shall not be deferred or brought forward unless specific provision is made in the provisions concerned.
2. The rules applicable to periods, dates and time-limits set out in Regulation (EEC, Euratom) No 1182/71 ~~of the Council of 3 June 1971 determining the rules applicable to periods, dates and time-limits<sup>27</sup>~~ shall apply, except where otherwise specifically provided for in ~~Community~~ customs legislation.

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<sup>27</sup> OJ L 124, 8.6.1971, p. 1.

**TITLE II**  
**FACTORS ON THE BASIS OF WHICH IMPORT OR EXPORT ~~DUTIES~~**  
**~~⊗~~ DUTY ~~⊗~~ AND OTHER MEASURES IN RESPECT OF TRADE IN**  
**GOODS ARE APPLIED**

**CHAPTER 1**  
**Common Customs Tariff and tariff classification of goods**

*Article ~~4933~~*  
*Common Customs Tariff*

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

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

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↓ 450/2008 (adapted)

2. The Common Customs Tariff shall comprise the following:
- (a) the Combined Nomenclature of goods as laid down in Council Regulation (EEC) No 2658/87 of 23 July 1987 ~~on the tariff and statistical nomenclature and on the Common Customs Tariff~~<sup>28</sup>;
  - (b) any other nomenclature which is wholly or partly based on the Combined Nomenclature or which provides for further subdivisions to it, and which is established by ~~Community~~ ~~⊗~~ Union ~~⊗~~ provisions governing specific fields with a view to the application of tariff measures relating to trade in goods;
  - (c) the conventional or normal autonomous customs ~~duties~~ ~~⊗~~ duty ~~⊗~~ applicable to goods covered by the Combined Nomenclature;
  - (d) the preferential tariff measures contained in agreements which the ~~Community~~ ~~⊗~~ Union ~~⊗~~ has concluded with certain countries or territories outside the customs territory of the ~~Community~~ ~~⊗~~ Union ~~⊗~~ or groups of such countries or territories;
  - (e) preferential tariff measures adopted unilaterally by the ~~Community~~ ~~⊗~~ Union ~~⊗~~ in respect of certain countries or territories outside the customs territory of the ~~Community~~ ~~⊗~~ Union ~~⊗~~ or groups of such countries or territories;

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<sup>28</sup> OJ L 256, 7.9.1987, p. 1. ~~Regulation as last amended by Regulation (EC) No 275/2008 (OJ L 85, 27.3.2008, p. 3).~~

- (f) autonomous measures providing for a reduction in or exemption from customs duties  duty  on certain goods;
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↓ 450/2008

- (g) favourable tariff treatment specified for certain goods, by reason of their nature or end-use, in the framework of measures referred to under points (c) to (f) or (h);
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↓ 450/2008 (adapted)

- (h) other tariff measures provided for by agricultural or commercial or other ~~Community~~  Union  legislation.

3. Where the goods concerned fulfil the conditions included in the measures laid down in points (d) to (g) of paragraph 2, the measures referred to in those provisions shall apply, ~~at the request of~~  upon application by  the declarant, instead of those provided for in point (c) of that paragraph. Such application may be made retrospectively, provided that the time-limits and conditions laid down in the relevant measure or in the Code are complied with.
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↓ 450/2008

4. Where application of the measures referred to in points (d) to (g) of paragraph 2, or the exemption from measures referred to in point (h) thereof, is restricted to a certain volume of imports or exports, such application or exemption shall, in the case of tariff quotas, cease as soon as the specified volume of imports or exports is reached.
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↓ 450/2008 (adapted)

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

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↓ 450/2008

- ~~5. The Commission shall, in accordance with the management procedure referred to in Article 184(3), adopt measures for the implementation of paragraphs 1 and 4 of this Article.~~

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↓ new

5. The release for free circulation or the export of goods, to which the measures referred to in paragraphs 1 and 2 apply, may be made subject to surveillance.
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↓ 450/2008

*Article ~~5034~~*  
*Tariff classification of goods*

1. For the application of the Common Customs Tariff, tariff classification of goods shall consist in the determination of one of the subheadings or further subdivisions of the Combined Nomenclature under which those goods are to be classified.
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↓ 450/2008 (adapted)

2. For the application of non-tariff measures, tariff classification of goods shall consist in the determination of one of the subheadings or further subdivisions of the Combined Nomenclature, or of any other nomenclature which is established by ~~Community~~  Union  provisions and which is wholly or partly based on the Combined Nomenclature or which provides for further subdivisions to it, under which those goods are to be classified.
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↓ 450/2008

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

4. The Commission may adopt measures to determine the tariff classification of goods in application of the Combined Nomenclature.

*Article 51*  
*Conferral of implementing powers*

1. The Commission shall adopt measures on the uniform management of the tariff quotas and the tariff ceilings referred to in Article 49(4) and the management of the surveillance of the release for free circulation or export of goods, referred to in Article 49(5) by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 244(4).

2. The Commission shall adopt the measures referred to in Article 50(4), by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 244(4).

On imperative grounds of urgency relating to such measures, duly justified by the need to rapidly ensure the correct and uniform application of the combined nomenclature, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 244(5).

Where the opinion of the committee referred to in Article 244(1) is to be obtained by written procedure, Article 244(6) shall apply.

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↓ 450/2008 (adapted)

## CHAPTER 2 Origin of goods

### SECTION 1 NON-PREFERENTIAL ORIGIN

#### *Article ~~52~~<sup>35</sup> Scope*

Articles ~~36~~<sup>37</sup>~~53~~ and ~~38~~<sup>54</sup>  shall  lay down rules for the determination of the non-preferential origin of goods for the purposes of applying the following:

(a) the Common Customs Tariff with the exception of the measures referred to in Article ~~49(2)~~<sup>33(2)</sup>(d) and (e);

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↓ 450/2008 (adapted)

(b) measures, other than tariff measures, established by ~~Community~~  Union  provisions governing specific fields relating to trade in goods;

(c) other ~~Community~~  Union  measures relating to the origin of goods.

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↓ 450/2008

*Article ~~5336~~*  
*Acquisition of origin*

1. Goods wholly obtained in a single country or territory shall be regarded as having their origin in that country or territory.
2. Goods the production of which involved more than one country or territory shall be deemed to originate in the country or territory where they underwent their last substantial transformation.

*Article ~~5437~~*  
*Proof of origin*

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

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↓ 450/2008 (adapted)

2. Where proof of origin of goods is provided pursuant to customs legislation or other ~~Community~~  Union  legislation governing specific fields, the customs authorities may, in the event of reasonable doubt, require any additional evidence needed in order to ensure that the indication of origin does comply with the rules laid down by the relevant ~~Community~~  Union  legislation.
3. A document proving origin may be issued in the ~~Community~~  Union  where the exigencies of trade so require.

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↓ 450/2008 (adapted)  
⇒ new

*Article ~~5538~~*  
*~~Implementing measures~~  Delegation of power*

The Commission shall ~~be~~  be empowered to adopt delegated acts  in accordance with ~~the~~  the regulatory procedure referred to in Article 184(2), ~~adopt measures for the implementation of~~  Articles 36 and 37.  Article 243, specifying:

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↓ new

- (a) the rules under which goods are considered as wholly obtained in a single country or territory or to have undergone their last substantial transformation in a country or territory, in accordance with Article 53;
- (b) the requirements on the proof of origin referred to in Article 54.
- 

↓ 450/2008 (adapted)

## SECTION 2 PREFERENTIAL ORIGIN

### *Article ~~56~~<sup>39</sup> Preferential origin of goods*

1. In order to benefit from the measures referred to in points (d) or (e) of Article ~~33~~<sup>49</sup>(2) or from non-tariff preferential measures, goods shall comply with the rules on preferential origin referred to in paragraphs 2 to 5 ~~of this Article~~.
  2. In the case of goods benefiting from preferential measures contained in agreements which the ~~Community~~  Union  ~~Community~~ has concluded with certain countries or territories outside the customs territory of the ~~Community~~  Union  ~~Community~~ or with groups of such countries or territories, the rules on preferential origin shall be laid down in those agreements.
  3. In the case of goods benefiting from preferential measures adopted unilaterally by the ~~Community~~  Union  in respect of certain countries or territories outside the customs territory of the ~~Community~~  Union  or groups of such countries or territories, other than those referred to in paragraph 5, the Commission shall, ~~in accordance with the regulatory procedure referred to in Article 184(2)~~, adopt measures laying down the rules on preferential origin.
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↓ new

The Commission may grant a beneficiary country, on its request and for certain goods, a temporary derogation from the rules on preferential origin referred to in the first subparagraph.

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↓ 450/2008 (adapted)  
⇒ new

4. In the case of goods benefiting from preferential measures applicable in trade between the customs territory of the ~~Community~~ ☒ Union ☒ and Ceuta and Melilla, as contained in Protocol 2 to the 1985 Act of Accession, the rules on preferential origin shall be adopted in accordance with Article 9 of that Protocol.
5. In the case of goods benefiting from preferential measures contained in preferential arrangements in favour of the overseas countries and territories associated with the ~~Community~~ ☒ Union ☒, the rules on preferential origin shall be adopted in accordance with Article ~~203~~<sup>187</sup> of the Treaty.

#### Article 57

#### ☒ *Delegation of power* ☒

~~6. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures necessary for the implementation of the rules referred to in paragraphs 2 to 5 of this Article.~~ ⇒ Article 243, specifying: ⇐

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↓ new

- (a) the rules on the procedure regarding preferential origin referred to in Article 56(1);
- (b) the rules on preferential origin referred to in the first subparagraph of Article 56(3);
- (c) the rules for the Commission to grant the temporary derogation referred to in the second subparagraph of Article 56(3).

#### Article 58

#### *Conferral of implementing powers*

The Commission shall adopt a measure granting a beneficiary country the temporary derogation referred to in the second subparagraph of Article 56(3) by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 244(4).

### **SECTION 3**

### **DETERMINATION OF ORIGIN OF GOODS**

#### Article 59

#### *Decisions by the Commission*

The Commission may adopt measures to determine the origin of goods.

*Article 60*  
*Conferral of implementing powers*

The Commission shall adopt the measures referred to in Article 59 by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 244(4).

On imperative grounds of urgency relating to such decisions, duly justified by the need to rapidly ensure the correct and uniform application of rules of origin, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 244(5).

Where the opinion of the committee referred to in Article 244(1) is to be obtained by written procedure, Article 244(6) shall apply.

↓ 450/2008 (adapted)  
⇒ new

**CHAPTER 3**  
**VALUE OF GOODS FOR CUSTOMS PURPOSES**

*Article ~~61~~<sup>40</sup>*  
*Scope*

The customs value of goods, for the purposes of applying the Common Customs Tariff and non-tariff measures laid down by ~~Community~~  Union  provisions governing specific fields relating to trade in goods, shall be determined in accordance with Articles ~~62 and 63~~<sup>41</sup> ~~to 43~~<sup>42</sup>.

*Article ~~62~~<sup>41</sup>*  
*Method of customs valuation based on the transaction value*

1. The primary basis for the customs value of goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the customs territory of the  Union  Community, adjusted, where necessary, ~~in accordance with measures adopted pursuant to Article 43.~~
2. The price actually paid or payable ~~is~~  shall be  the total payment made or to be made by the buyer to the seller or by the buyer to a third party for the benefit of the seller for the imported goods and includes all payments made or to be made as a condition of sale of the imported goods.

↓ 450/2008

3. The transaction value shall apply provided that the following conditions are satisfied:

- (a) there are no restrictions as to the disposal or use of the goods by the buyer, other than any of the following:

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↓ 450/2008 (adapted)

- (i) restrictions imposed or required by a law or by the public authorities in the ~~Community~~ ☒ Union ☒;

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↓ 450/2008

- (ii) limitations of the geographical area in which the goods may be resold;
- (iii) restrictions which do not substantially affect the customs value of the goods;
- (b) the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
- (c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made ~~in accordance with measures adopted pursuant to Article 43;~~
- (d) the buyer and seller are not related or the relationship did not influence the price.

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↓ new

4. Special rules shall apply to determine the customs value of goods based on the transaction value.

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↓ 450/2008 (adapted)

*Article ~~624~~<sup>6342</sup>*  
*Secondary methods of customs valuation*

1. Where the customs value of goods cannot be determined under Article ~~624~~, it shall be determined by proceeding sequentially from point (a) ~~to point (d)~~ of paragraph 2 ~~(d) of this Article~~, until the first point under which the customs value of goods can be determined.

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↓ 450/2008

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

2. The customs value, pursuant to paragraph 1, shall be:

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↓ 450/2008 (adapted)

- (a) the transaction value of identical goods sold for export to the customs territory of the ~~Community~~ ☒ Union ☒ and exported at or about the same time as the goods being valued;
- (b) the transaction value of similar goods sold for export to the customs territory of the ~~Community~~ ☒ Union ☒ and exported at or about the same time as the goods being valued;
- (c) the value based on the unit price at which the imported goods, or identical or similar imported goods, are sold within the customs territory of the ☒ Union ☒ ~~Community~~ in the greatest aggregate quantity to persons not related to the sellers;

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↓ 450/2008

- (d) the computed value.

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↓ 450/2008 (adapted)

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

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↓ 450/2008

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

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↓ 450/2008 (adapted)

⇒ new

*Article ~~644~~*

*~~Implementing measures~~ ☒ Delegation of power ☒*

The Commission shall ~~be~~ ⇒ be empowered to adopt delegated acts ⇐ in accordance with ~~the regulatory procedure referred to in Article 184(2), adopt the measures laying down the following~~ ⇒ Article 243, specifying ⇐ :

(a) ~~the rules for elements which, for the purposes of determining the customs value in accordance with Articles 62 and 63, must be added to the price actually paid or payable, or which may be excluded;~~

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↓ new

(b) the rules for adjusting the price actually paid or payable in accordance with Article 62(1);

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↓ 450/2008

~~(b) elements which are to be used to determine the computed value;~~

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↓ new

(c) the conditions referred to in Article 62(3);

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↓ 450/2008

~~(e) the method of determination of the customs value in specific cases, and with regard to goods for which a customs debt is incurred after the use of a special procedure;~~

~~(d) any further conditions, provisions and rules necessary for the application of Articles 41 and 42;~~

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↓ new

(d) the special rules for determining the customs value referred to in Article 62(4).

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↓ 450/2008 (adapted)

**TITLE III  
CUSTOMS DEBT AND GUARANTEES**

**CHAPTER 1  
Incurrence of a customs debt**

**SECTION 1  
CUSTOMS DEBT ON IMPORTATION**

*Article ~~65~~44*

*Release for free circulation and temporary admission*

1. A customs debt on importation shall be incurred through the placing of ~~non-Community~~  non-Union  goods liable to import  duty  ~~duties~~ under either of the following customs procedures:

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↓ 450/2008

- (a) release for free circulation, including under the end-use provisions;

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↓ 450/2008 (adapted)

- (b) temporary admission with partial relief from import  duty  ~~duties~~.

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↓ 450/2008

2. A customs debt shall be incurred at the time of acceptance of the customs declaration.
3. The declarant shall be the debtor. In the event of indirect representation, the person on whose behalf the customs declaration is made shall also be a debtor.

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↓ 450/2008 (adapted)

Where a customs declaration in respect of one of the procedures referred to in paragraph 1 is drawn up on the basis of information which leads to all or part of the import ~~duties~~  duty  not being collected, the person who provided the information required to draw up

the declaration and who knew, or who ought reasonably to have known, that such information was false shall also be a debtor.

*Article ~~6645~~*

*Special provisions relating to non-originating goods*

1. Where a prohibition of drawback of, or exemption from, import ~~duties~~  duty  applies to non-originating goods used in the manufacture of products for which a proof of origin is issued or made out in the framework of a preferential arrangement between the  Union  ~~Community~~ and certain countries or territories outside the customs territory of the  Union  ~~Community~~ or groups of such countries or territories, a customs debt on importation shall be incurred in respect of those non-originating goods, through the acceptance of the re-export notification relating to the products in question.

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450/2008

2. Where a customs debt is incurred pursuant to paragraph 1, the amount of import duty corresponding to that debt shall be determined under the same conditions as in the case of a customs debt resulting from the acceptance, on the same date, of the customs declaration for release for free circulation of the non-originating goods used in the manufacture of the products in question for the purpose of ending the inward ~~processing~~ procedure.

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450/2008 (adapted)

3. Article ~~65(2)~~~~44(2)~~ and (3) shall apply ~~mutatis mutandis~~. However, in the case of ~~non-Community~~  non-Union  goods as referred to in Article ~~235~~~~179~~ the person who lodges the re-export notification shall be the debtor. In the event of indirect representation, the person on whose behalf the notification is lodged shall also be a debtor.

*Article ~~6746~~*

*Customs debt incurred through non-compliance*

1. For goods liable to import ~~duties~~  duty  , a customs debt on importation shall be incurred through non-compliance with any of the following:
  - (a) one of the obligations laid down in customs legislation concerning the introduction of ~~non-Community~~  non-Union  goods into the customs territory of the ~~Community~~  Union  , their removal from customs supervision, or the movement, processing, storage, temporary admission or disposal of such goods within that territory;
  - (b) one of the obligations laid down in customs legislation concerning the end-use of goods within the customs territory of the ~~Community~~  Union  ;

- (c) a condition governing the placing of ~~non-Community~~  non-Union  goods under a customs procedure or the granting, by virtue of the end-use of the goods, of duty exemption or a reduced rate of import duty.
- 

↓ 450/2008

2. The time at which the customs debt is incurred shall be either of the following:
- (a) the moment when the obligation the non-fulfilment of which gives rise to the customs debt is not met or ceases to be met;
  - (b) the moment when a customs declaration is accepted for the placing of goods under a customs procedure where it is established subsequently that a condition governing the placing of the goods under that procedure or the granting of a duty exemption or a reduced rate of import duty by virtue of the end-use of the goods was not in fact fulfilled.
3. In cases referred to under points (a) and (b) of paragraph 1, the debtor shall be any of the following:
- (a) any person who was required to fulfil the obligations concerned;
  - (b) any person who was aware or should reasonably have been aware that an obligation under the customs legislation was not fulfilled and who acted on behalf of the person who was obliged to fulfil the obligation, or who participated in the act which led to the non-fulfilment of the obligation;
  - (c) any person who acquired or held the goods in question and who was aware or should reasonably have been aware at the time of acquiring or receiving the goods that an obligation under the customs legislation was not fulfilled.
4. In cases referred to under point (c) of paragraph 1, the debtor shall be the person who is required to comply with the conditions governing the placing of the goods under a customs procedure or declaring the goods concerned under that procedure or the granting of a duty exemption or reduced rate of import duty by virtue of the end-use of the goods.
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↓ 450/2008 (adapted)

Where a customs declaration in respect of one of the procedures referred to in paragraph 1 is drawn up, or any information required under the customs legislation relating to the conditions governing the placing of the goods under a customs procedure is given to the customs authorities, which leads to all or part of the import ~~duties~~  duty  not being collected, the person who provided the information required to draw up the declaration and who knew, or who ought reasonably to have known, that such information was false shall also be a debtor.

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↓ 450/2008 (adapted)

*Article ~~6847~~*

*Deduction of an amount of import duty already paid*

1. Where a customs debt is incurred, pursuant to Article ~~67(1)46(1)~~ in respect of goods released for free circulation at a reduced rate of import duty on account of their end-use, the amount of import duty paid when the goods were released for free circulation shall be deducted from the amount of ~~the~~ import duty corresponding to the customs debt.

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↓ 450/2008 (adapted)

The first subparagraph shall apply ~~mutatis mutandis~~ where a customs debt is incurred in respect of scrap and waste resulting from the destruction of such goods.

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↓ 450/2008 (adapted)

2. Where a customs debt is incurred, pursuant to Article ~~67(1)46(1)~~ in respect of goods placed under temporary admission with partial relief from import  duty  ~~duties~~, the amount of import duty paid under partial relief shall be deducted from the amount of ~~the~~ import duty corresponding to the customs debt.

**SECTION 2**

**CUSTOMS DEBT ON EXPORTATION**

*Article ~~6948~~*

*Export and outward processing*

1. A customs debt on exportation shall be incurred through the placing of goods liable to export ~~duties~~  duty  under the export procedure or the outward ~~processing~~ procedure.

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↓ 450/2008

2. The customs debt shall be incurred at the time of acceptance of the customs declaration.
3. The declarant shall be the debtor. In the event of indirect representation, the person on whose behalf the customs declaration is made shall also be a debtor.

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↓ 450/2008 (adapted)

Where a customs declaration is drawn up on the basis of information which leads to all or part of the export ~~duties~~  duty  not being collected, the person who provided the information required for the declaration and who knew, or who should reasonably have known, that such information was false shall also be a debtor.

*Article ~~70~~ 49  
Customs debt incurred through non-compliance*

1. For goods liable to export ~~duties~~  duty , a customs debt on exportation shall be incurred through non-compliance with either of the following:

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↓ 450/2008

- (a) one of the obligations laid down in customs legislation for the exit of the goods;

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↓ 450/2008 (adapted)

- (b) the conditions under which the goods were allowed to ~~leave~~  be brought out of  the customs territory of the ~~Community~~  Union  with total or partial relief from export ~~duties~~  duty .

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↓ 450/2008

2. The time at which the customs debt is incurred shall be one of the following:

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↓ 450/2008 (adapted)

- (a) the moment at which the goods  are  actually  brought out of  ~~leave~~ the customs territory of the ~~Community~~  Union  without a customs declaration;

- (b) the moment at which the goods reach a destination other than that for which they were allowed to ~~leave~~  be brought out of  the customs territory of the ~~Community~~  Union  with total or partial relief from export ~~duties~~  duty .

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↓ 450/2008

- (c) should the customs authorities be unable to determine the moment referred in point (b), the expiry of the time-limit set for the production of evidence that the conditions entitling the goods to such relief have been fulfilled.

3. In cases referred to under point (a) of paragraph 1, the debtor shall be any of the following:
- (a) any person who was required to fulfil the obligation concerned;
  - (b) any person who was aware or should reasonably have been aware that the obligation concerned was not fulfilled and who acted on behalf of the person who was obliged to fulfil the obligation;
  - (c) any person who participated in the act which led to the non-fulfilment of the obligation and who was aware or should reasonably have been aware that a customs declaration had not been lodged but should have been.
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↓ 450/2008 (adapted)

4. In cases referred to under point (b) of paragraph 1, the debtor shall be any person who is required to comply with the conditions under which the goods were allowed to ~~leave~~  be brought out of  the customs territory of the ~~Community~~  Union  with total or partial relief from export ~~duties~~  duty .
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↓ 450/2008

### SECTION 3

#### PROVISIONS COMMON TO CUSTOMS DEBTS INCURRED ON IMPORTATION AND EXPORTATION

##### *Article ~~7150~~* *Prohibitions and restrictions*

- 1. The customs debt on importation or exportation shall be incurred even if it relates to goods which are subject to measures of prohibition or restriction on importation or exportation of any kind.
  - 2. However, no customs debt shall be incurred on either of the following:
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↓ 450/2008 (adapted)

- (a) the unlawful introduction into the customs territory of the ~~Community~~  Union  of counterfeit currency;
- (b) the introduction into the customs territory of the ~~Community~~  Union  of narcotic drugs and psychotropic substances other than where strictly supervised by the competent authorities with a view to their use for medical and scientific purposes.

3. For the purposes of penalties as applicable to customs offences, the customs debt shall nevertheless be deemed to have been incurred where, under the law of a Member State, ~~customs duties~~  import or export duty  or the existence of a customs debt provide the basis for determining penalties.

*Article ~~7251~~  
Several debtors*

Where several persons are liable for payment of the amount of import or export duty corresponding to one customs debt, they shall be jointly and severally liable for  payment of that  ~~the full amount of the debt~~.

*Article ~~7352~~  
General rules for calculation of the amount of import or export duty*

1. The amount of ~~the~~ import or export duty shall be determined on the basis of those rules for calculation of duty which were applicable to the goods concerned at the time at which the customs debt in respect of them was incurred.

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450/2008

2. Where it is not possible to determine precisely the time at which the customs debt is incurred, that time shall be deemed to be the time at which the customs authorities conclude that the goods are in a situation in which a customs debt has been incurred.

However, where the information available to the customs authorities enables them to establish that the customs debt had been incurred prior to the time at which they reached that conclusion, the customs debt shall be deemed to have been incurred at the earliest time that such a situation can be established.

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450/2008 (adapted)

*Article ~~7453~~  
Special rules for calculation of the amount of import duty*

1. Where costs for storage or usual forms of handling have been incurred within the customs territory of the ~~Community~~  Union  in respect of goods placed under a customs procedure, such costs or the increase in value shall not be taken into account for the calculation of the amount of import duty where satisfactory proof of those costs is provided by the declarant.

However, the customs value, quantity, nature and origin of ~~non-Community~~  non-Union  goods used in the operations shall be taken into account for the calculation of the amount of import duty.

2. Where the tariff classification of goods placed under a customs procedure changes as a result of usual forms of handling within the customs territory of the ~~Union~~ ~~Community~~, the original tariff classification for the goods placed under the procedure shall be applied at the request of the declarant.

↓ 450/2008

3. Where a customs debt is incurred for processed products resulting from the inward ~~processing~~ procedure, the amount of import duty corresponding to such debt shall, at the request of the declarant, be determined on the basis of the tariff classification, customs value, quantity, nature and origin of the goods placed under the inward ~~processing~~ procedure at the time of acceptance of the customs declaration relating to those goods.

↓ new

However, in certain cases the amount of import duty shall be determined in accordance with the first subparagraph without a request of the declarant in order to avoid the circumvention of tariff measures referred to in Article 49(2)(h).

4. Where a customs debt is incurred for processed products resulting from the outward processing procedure or replacement products as referred to in Article 226(1), the amount of import duty shall be calculated on the basis of the cost of the processing operation undertaken outside the customs territory of the Union.

↓ 450/2008 (adapted)

⇒ new

5. Where customs legislation provides for a favourable tariff treatment of goods, or for relief or total or partial exemption from import or export ~~duty~~ ~~duties~~, pursuant to Article ~~49(2)33(2)~~ (d) to (g), Articles ~~130 to 133~~ 174, 175, 176 and 178 or Articles ~~171 224 to 174, 227~~ or pursuant to ~~Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty~~<sup>29</sup> Council Regulation (EC) No 1186/2009 such favourable tariff treatment, relief or exemption shall also apply in cases where a customs debt is incurred pursuant to Articles ~~67 or 7046 or 49~~ of this Regulation, on condition that the failure which led to the incurrance of a customs debt did not constitute an attempt at deception.

<sup>29</sup> ~~OLL 105, 23.4.1983, p. 1. Regulation as last amended by Regulation (EC) No 274/2008 (OLL 85, 27.3.2008, p. 1).~~

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↓ 450/2008

~~Article 54~~

~~Implementing measures~~

~~The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the following:~~

~~(a) the rules for the calculation of the amount of import or export duty applicable to goods;~~

~~(b) further special rules for specific procedures;~~

~~(c) derogations from Articles 52 and 53, in particular to avoid the circumvention of the tariff measures referred to in Article 33(2)(h);~~

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

~~Article 55~~<sup>75</sup>

*Place where the customs debt is incurred*

1. A customs debt shall be incurred at the place where the customs declaration or the re-export notification referred to in Articles ~~65, 66 and 69~~<sup>44, 45 and 48</sup> is lodged ~~or where the supplementary declaration referred to in Article 110(3) is to be lodged.~~

In all other cases, the place where a customs debt is incurred shall be the place where the events from which it arises occur.

If it is not possible to determine that place, the customs debt shall be incurred at the place where the customs authorities conclude that the goods are in a situation in which a customs debt is incurred.

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↓ 450/2008 (adapted)

2. If the goods have been ~~entered for~~  placed under  a customs procedure which has not been discharged, and the place cannot be determined, pursuant to the second or third subparagraphs of paragraph 1, within a ~~specified period of time~~  specific time-limit  the customs debt shall be incurred at the place where the goods were either placed under the procedure concerned or were introduced into the customs territory of the ~~Community~~  Union  under that procedure.

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↓ 450/2008

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

3. Where the information available to the customs authorities enables them to establish that the customs debt may have been incurred in several places, the customs debt shall be deemed to have been incurred at the place where it was first incurred.
4. If a customs authority establishes that a customs debt has been incurred under Article ~~6746~~ or Article ~~7049~~ in another Member State and the amount of import or export duty corresponding to that debt is lower than EUR 10000, the customs debt shall be deemed to have been incurred in the Member State where the finding was made.

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↓ new

*Article 76*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the rules for the calculation of the amount of import or export duty applicable to goods for which a customs debt is incurred in the context of a special procedure, supplementing the ones laid down in Articles 73 and 74;
- (b) the cases referred to in the second subparagraph of Article 74(3);
- (c) the time-limit referred to in Article 75(2).

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↓ 450/2008

**CHAPTER 2**  
**Guarantee for a potential or existing customs debt**

*Article ~~7756~~*  
*General provisions*

1. This Chapter shall apply to guarantees both for customs debts which have been incurred and for those which may be incurred, unless otherwise specified.

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↓ 450/2008 (adapted)

2. ~~Customs authorities may require a guarantee to be provided in order to ensure payment of the amount of import or export duty corresponding to a customs debt. Where the relevant provisions so provide~~  In certain cases,  the guarantee required may also cover other charges as provided for under other relevant provisions in force.
- 

↓ 450/2008

3. Where the customs authorities require a guarantee to be provided, it shall be required from the debtor or the person who may become the debtor. They may also permit the guarantee to be provided by a person other than the person from whom it is required.
4. Without prejudice to Article ~~8564~~, the customs authorities shall require only one guarantee to be provided in respect of specific goods or a specific declaration.

The guarantee provided for a specific declaration shall apply to the amount of import or export duty corresponding to the customs debt and other charges in respect of all goods covered by or released against that declaration, whether or not that declaration is correct.

If the guarantee has not been released, it may also be used, within the limits of the secured amount, for the recovery of amounts of import or export duty and other charges payable following post-release control of those goods.

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↓ 450/2008 (adapted)

5. ~~At the request of~~  Upon application by  the person referred to in paragraph 3 ~~of this Article~~, the customs authorities may, in accordance with Article ~~83(1)62(1)~~ and (2), authorise the provision of a comprehensive guarantee to cover the amount of import or export duty corresponding to the customs debt in respect of two or more operations, declarations or customs procedures.
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↓ 450/2008 (adapted)

⇒ new

6. No guarantee shall be required from States, regional and local government authorities or other bodies governed by public law, in respect of the activities in which they engage as public authorities , or in other specific cases .

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↓ 450/2008 (adapted)  
⇒ new

7. The customs authorities may waive the requirement for provision of a guarantee where the amount of import or export duty to be secured does not exceed the statistical  value  threshold for declarations laid down in ~~accordance with Article 3(4)<sup>12</sup> of Council Regulation (EC) 471/2009<sup>11</sup> No 1172/95 of 22 May 1995 of the European Parliament and of the Council on the statistics relating to the trading of goods by the Community and its Member States with non-member countries~~<sup>30</sup>.
8. ⇒ Except where otherwise provided, ⇐ ~~▲~~ a guarantee accepted or authorised by the customs authorities shall be valid throughout the customs territory of the  Union  Community, for the purposes for which it is given.

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↓ 450/2008

~~9. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the following:~~

~~conditions for the implementation of this Article,~~

~~cases, other than those laid down in paragraph 6 of this Article, in which no guarantee is to be required,~~

~~exceptions to paragraph 8 of this Article,~~

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

*Article ~~78~~<sup>57</sup>*  
*Compulsory guarantee*

1. Where it is compulsory for a guarantee to be provided, ~~and subject to the rules adopted pursuant to paragraph 3,~~ the customs authorities shall fix the amount of such guarantee at a level equal to the precise amount of import or export duty corresponding to the customs debt and of other charges where that amount can be established with certainty at the time when the guarantee is required.

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↓ 450/2008

Where it is not possible to establish the precise amount, the guarantee shall be fixed at the maximum amount, as estimated by the customs authorities, of import or export duty corresponding to the customs debt and of other charges which have been or may be incurred.

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<sup>30</sup> OJ L 152, 16.6.2009, p. 23, ~~118, 25.5.1995, p. 10. Regulation as last amended by Regulation (EC) No 1882/2002.~~

2. Without prejudice to Article ~~8362~~ where a comprehensive guarantee is provided for the amount of import or export duty corresponding to customs debts and other charges which vary in amount over time, the amount of such guarantee shall be set at a level enabling the amount of import or export duty corresponding to customs debts and other charges to be covered at all times.

~~3. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of paragraph 1 of this Article.~~

*Article ~~7958~~*  
*Optional guarantee*

Where the provision of a guarantee is optional, such guarantee shall in any case be required by the customs authorities if they consider that the amount of import or export duty corresponding to a customs debt and other charges are not certain to be paid within the prescribed period. Its amount shall be fixed by those authorities so as not to exceed the level referred to in Article ~~7857~~.

~~The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down when a guarantee is optional shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).~~

*Article ~~8059~~*  
*Provision of a guarantee*

1. A guarantee may be provided in one of the following forms:
  - (a) by a cash deposit or by any other means of payment recognised by the customs authorities as being equivalent to a cash deposit, made in euro or in the currency of the Member State in which the guarantee is required;
  - (b) by an undertaking given by a guarantor;
  - (c) by another form of guarantee which provides equivalent assurance that the amount of import or export duty corresponding to the customs debt and other charges will be paid.

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↓ 450/2008

~~The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the forms of guarantee referred in point (c) of the first subparagraph of this paragraph, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).~~

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↓ 450/2008

2. A guarantee in the form of a cash deposit or payment deemed equivalent to a cash deposit shall be given in accordance with the provisions in force in the Member State in which the guarantee is required.

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↓ new

3. Where guarantee is given by making a cash deposit, no interest thereon shall be payable by the customs authorities.

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↓ 450/2008

*Article ~~8160~~  
Choice of guarantee*

The person required to provide a guarantee may choose between the forms of guarantee laid down in Article ~~80(1)59(1)~~

However, the customs authorities may refuse to accept the form of guarantee chosen where it is incompatible with the proper functioning of the customs procedure concerned.

The customs authorities may require that the form of guarantee chosen be maintained for a specific period.

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↓ 450/2008 (adapted)

*Article ~~8261~~  
Guarantor*

1. The guarantor referred to in Article ~~80(1)(b)59(1)(b)~~ ~~must~~  shall  be a third person established in the customs territory of the  Union  ~~Community~~. The guarantor ~~must~~  shall  be approved by the customs authorities requiring the guarantee, unless the guarantor is a credit institution, financial institution or insurance company accredited in the ~~Community~~  Union  in accordance with ~~Community~~  Union  provisions in force.

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↓ 450/2008

2. The guarantor shall undertake in writing to pay the secured amount of import or export duty corresponding to a customs debt and other charges.

3. The customs authorities may refuse to approve the guarantor or the type of guarantee proposed where either does not appear certain to ensure payment within the prescribed period of the amount of import or export duty corresponding to the customs debt and of other charges.

↓ 450/2008 (adapted)

*Article ~~836~~  
Comprehensive guarantee*

1. The authorisation referred to in Article ~~77(5)~~~~56(5)~~ shall be granted only to persons who satisfy the following conditions:
- (a) they are established in the customs territory of the  Union  ~~Community~~;

↓ 450/2008

- ~~(b) they have a record of compliance with customs and tax requirements;~~

↓ new

- (b) they fulfil the criteria laid down in Article 22(a);

↓ 450/2008  
⇒ new

- (c) they are regular users of the customs procedures involved or ~~are known to the customs authorities to have capacity to fulfil their obligation in relation to those procedures~~ ⇒ they fulfil the criteria laid down in Article 22(d) ⇐.

2. Where a comprehensive guarantee is to be provided for customs debts and other charges which may be incurred, an economic operator may be authorised to use a comprehensive guarantee with a reduced amount or to have a guarantee waiver provided that he fulfils the ~~following~~ criteria ⇒ laid down in Article 22(b) and (c) ⇐:

~~(a) a satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate customs controls;~~

~~(b) proven solvency.~~

~~3. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures governing the procedure for granting authorisations under paragraphs 1 and 2 of this Article.~~

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↓ 450/2008 (adapted)  
⇒ new

*Article 846~~3~~*  
~~Additional provisions~~ ☒ Temporary prohibitions ☒ relating to the use of  
☒ comprehensive ☒ guarantees

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↓ 450/2008

1. ~~In cases where a customs debt may be incurred in the framework of special procedures, paragraphs 2 and 3 shall apply.~~
  2. ~~The guarantee waiver authorised in accordance with Article 62(2) shall not apply to goods which are considered to present increased risks of fraud.~~
  3. ~~The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures:~~
    - (a) ~~implementing paragraph 2 of this Article;~~
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↓ 450/2008 (adapted)  
⇒ new

- ~~(b)~~ ☒ In the context of special procedures, the Commission may ☒ temporarily prohibiting ☒ recourse to: ☒
    - (a) the ~~use of a~~ comprehensive guarantee ☒ for ☒ ~~with~~ a reduced amount ⇒ or a guarantee waiver ⇐ referred to in Article ~~62~~83(2);
    - ~~(b)(c)~~ ~~as an exceptional measure in special circumstances, temporarily prohibiting the use of a~~ comprehensive guarantee ☒ referred to in Article 83, ☒ in respect of goods which have been identified as being subject to large-scale fraud ~~while under a comprehensive guarantee.~~
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↓ new

2. The prohibitions referred to in paragraph 1 shall not apply to persons fulfilling certain conditions.

*Article ~~8564~~*  
*Additional or replacement guarantee*

Where the customs authorities establish that the guarantee provided does not ensure, or is no longer certain or sufficient to ensure, payment within the prescribed period of the amount of import or export duty corresponding to the customs debt and other charges, they shall require any of the persons referred to in Article ~~7756~~(3) either to provide an additional guarantee or to replace the original guarantee with a new guarantee, according to his choice.

*Article ~~8665~~*  
*Release of the guarantee*

1. The customs authorities shall release the guarantee immediately when the customs debt or liability for other charges is extinguished or can no longer arise.
2. Where the customs debt or liability for other charges has been extinguished in part, or may arise only in respect of part of the amount which has been secured, a corresponding part of the guarantee shall be released accordingly at the request of the person concerned, unless the amount involved does not justify such action.

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

*Article 87*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the cases where the guarantee covers other charges in accordance with Article 77(2);
- (b) the specific cases where no guarantee is required in accordance with Article 77(6);
- (c) the rules for a guarantee to be valid only in one Member States as an exception to Article 77(8);
- (d) the rules for determining the amount of the guarantee;
- (e) the rules on the form of the guarantee and the guarantor;

- (f) the rules on the procedure for the granting of an authorisation to use a comprehensive guarantee with a reduced amount or to have a guarantee waiver referred to in Article 83(2);
- (g) the rules on the procedure regarding individual and comprehensive guarantees, including the revocation and cancellation of the undertaking given by the guarantor and the monitoring of the amount of the guarantee and the release of the guarantee;
- (h) the rules on the procedure regarding the temporary prohibitions referred to in Article 84.

#### Article 88

#### *Conferral of implementing powers*

The Commission shall adopt the measures referred to in Article 84 by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 244(4).

On imperative grounds of urgency relating to such measures, duly justified by the need to rapidly enhance the protection of the financial interests of the Union and of its Member States, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 244(5).

Where the opinion of the committee referred to in Article 244(1) is to be obtained by written procedure, Article 244(6) shall apply.

↓ 450/2008 (adapted)

### CHAPTER 3

### **Recovery ~~and payment of duty and~~ repayment and remission of the amount of import ~~or~~ ~~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 ~~8966~~*

#### *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 ~~7555~~, as soon as they have the necessary information.

2. Without prejudice to Article ~~4127~~, the customs authorities may accept the amount of import or export duty payable determined by the declarant.
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↓ new

3. In certain cases the amount of import or export duty determined may be rounded.
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↓ 450/2008

*Article ~~9067~~  
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 ~~7555~~.
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↓ 450/2008 (adapted)

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

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↓ 450/2008

- (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 ~~3220~~;
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↓ 450/2008 (adapted)

- (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) ~~in cases~~ where the customs authorities are exempted under the customs legislation from notification of the customs debt.

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↓ 450/2008

⇒ new

~~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 ⇒ and that amount is covered by a guarantee, ⇐ release of the goods by the customs authorities shall be equivalent to notifying the debtor of the customs debt.

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↓ 450/2008 (adapted)

⇒ new

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. ⇒ However, in specific situations the notification of the customs debt may be deferred. ⇐

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↓ 450/2008

#### *Article ~~9168~~*

#### *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 ~~ten~~10 years.

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↓ 450/2008 (adapted)

3. Where an appeal is lodged under Article ~~3723~~, 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 ~~103(6)/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 ☒ application for ☒ repayment or remission ~~application~~ was submitted in accordance with Article ~~10884~~, until a ☒ the date on which ☒ the decision on the repayment or remission ☒ was ☒ is taken.

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↓ 450/2008

*Article ~~9269~~*  
*Entry in the accounts*

1. The customs authorities referred to in Article ~~8966~~ 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 ~~90(1)67(1)~~.

The customs authorities need not enter in the accounts amounts of import or export duty which, pursuant to Article ~~9168~~, correspond to a customs debt which could no longer be notified to the debtor.

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↓ 450/2008 (adapted)

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 ~~9370~~*  
*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  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.

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↓ 450/2008 (adapted)

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*.

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↓ 450/2008

~~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).~~

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↓ new

Article 94

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the cases where Member States round the amount of import or export duty determined in accordance with Article 89(3);
- (b) the cases referred to Article 90(1)(d) where the customs authorities are exempted from notification of the customs debt;

- (c) the time-limit to be respected before the notification of the customs debt and the cases where that notification is deferred in accordance with the second sentence of Article 90(3).

*Article 95*

*Conferral of implementing powers*

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↓ 450/2008 (adapted)  
⇒ new

⇒ The Commission shall adopt measures by means of implementing acts 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 ~~regulatory~~ examination procedure ~~with scrutiny~~ referred to in Article ~~244(4)~~ ~~184(4)~~.

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↓ 450/2008

**SECTION 2**

**PAYMENT OF THE AMOUNT OF IMPORT OR EXPORT DUTY**

*Article ~~96~~ ~~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 ~~90~~ ~~67~~, shall be paid by the debtor within the period prescribed by the customs authorities.

Without prejudice to Article ~~38(2)~~ ~~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 ~~93(1)~~ ~~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 ~~98~~ ~~74~~.

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↓ 450/2008 (adapted)

Extension of that period may be granted by the customs authorities ~~at the request of~~ 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 ~~41~~ ~~27~~. Without prejudice to Article ~~100(1)~~ ~~77(1)~~, such extensions shall not exceed the time necessary for the debtor to take the appropriate steps to discharge his obligation.

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↓ 450/2008

2. If the debtor is entitled to any of the payment facilities laid down in Articles ~~9874~~ to ~~10077~~, payment shall be made within the period or periods specified in relation to those facilities.
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↓ 450/2008 (adapted)  
⇒ new

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~~  shall be suspended  in the following  cases  ~~situations~~:
- 

↓ 450/2008

- (a) where an application for remission of duty is made in accordance with Article ~~10884~~;
- (b) where goods are to be confiscated, destroyed or abandoned to the State;
- (c) where the customs debt was incurred pursuant to Article ~~6746~~ 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 ~~9773~~  
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.

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↓ 450/2008 (adapted)

*Article ~~9874~~*  
*Deferment of payment*

~~Without prejudice to Article 79, (1)~~ The customs authorities shall, ~~at the request of the~~  upon application by the  person concerned and upon provision of a guarantee, ~~permit~~  authorise  deferment of payment of the duty payable in any of the following ways:

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↓ 450/2008 (adapted)

- (a) separately in respect of each amount of import or export duty entered in the accounts in accordance with the first subparagraph of Article ~~93(1)70(1)~~, or Article ~~93(4);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 ~~93(1)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 ~~93(1)70(1)~~.

*Article ~~9975~~*

~~Time limits for deferred~~  *Periods for which*  *payment*  *is deferred*

1. The period for which payment is deferred under Article ~~9874~~ shall be 30 days.
2. Where payment is deferred in accordance with Article ~~98(a)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 ~~98(b)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 ~~98(c)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~~100

#### 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 ~~the first subparagraph~~, credit interest shall be charged on the amount of import or export duty.

↓ 450/2008 (adapted)  
⇒ new

⊗ For a Member State whose currency is the euro, ⊗ ~~the~~ rate of credit interest shall be equal to ⊗ the interest rate ~~applied by~~ ⊗ as published in the *Official Journal of the European Union*, C series, which ⊗ the European Central Bank ⊗ applied ⊗ to its ~~most recent~~ main refinancing operations ~~carried out before~~ ⊗, on ⊗ the first ~~calendar~~ day of the ~~half-year~~ ⇒ month ⇐ in question (which the ~~reference rate~~), plus ⊗ due date fell, increased by ⊗ one percentage point.

For a Member State ~~which~~ ⊗ whose currency ⊗ is not ~~participating in the third stage of economic and monetary union~~ ⊗ the euro, ⊗ the ~~reference~~ rate ⊗ of credit interest ⊗ referred to above shall be the equivalent ⊗ equal to the ⊗ rate ~~set by its national central bank~~. In that case, the reference rate in force on the ⊗ applied on the ⊗ first ~~calendar~~ day of the ~~half-year~~ ⇒ month ⇐ in question ⇒ by the Central Bank for its main refinancing operations, increased by one percentage point, or, for a Member State for which the 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 ⇐ ~~shall apply for the following six months~~.

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↓ 450/2008

~~3.2.~~ 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.~~

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↓ new

4. In certain cases the customs authorities shall refrain from charging credit interest in cases other than those referred to in paragraph 3.

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↓ 450/2008

*Article ~~1017g~~  
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.

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↓ 450/2008 (adapted)  
⇒ new

☒ For a Member State whose currency is the euro, ☒ ~~the~~ rate of interest on arrears shall be ☒ equal to ☒ the interest rate ~~applied by~~ ☒ as published in the *Official Journal of the European Union*, C series, which ☒ the European Central Bank ☒ applied ☒ to its ~~most recent~~ main refinancing operations ~~carried out before~~ ☒, on ☒ the first ~~calendar~~ day of the ~~half-year~~ ⇒ month ⇐ ☒ in which the due date fell, increased by ☒ ~~in question (the reference rate)~~, plus two percentage points.

For a Member State ~~which~~ ☒ whose currency ☒ is not ~~participating in the third stage of economic and monetary union~~ ☒ the euro, ☒ the ~~reference rate referred to above~~ ☒ of interest on arrears ☒ shall be ☒ equal to ☒ the ~~equivalent rate set by its national central~~

~~bank. In that case, the reference rate in force~~  applied  on the first calendar day of the half-year  month  in question  by the Central Bank for its main refinancing operations, increased by two percentage points, or, for a Member State for which the 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  shall apply for the following six months.

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↓ 450/2008

⇒ new

3. Where a customs debt has been notified pursuant to Article ~~90(3)~~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,  except where goods were released on the basis of a customs declaration lodged in accordance with Articles 143, 154 or 156 .
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↓ 450/2008

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.
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↓ 450/2008 (adapted)

⇒ new

5. ~~The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the~~  In certain  cases, in terms of time and amounts, in which the customs authorities may waive the collection of  shall refrain from charging  interest on arrears  in cases other than those referred to in paragraph 4  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~~

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↓ new

**Article 102**  
**Delegation of power**

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the rules for the suspension of the time-limit for payment of the amount of import or export duty corresponding to a customs debt referred to in Article 96(3) and the period of suspension;
  - (b) the cases where the obligation to charge credit interest is waived in accordance with Article 100(4);
  - (c) the cases where the obligation to charge interest on arrears is waived in accordance with Article 101(5).
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↓ 450/2008 (adapted)  
⇒ new

**SECTION 3**  
**REPAYMENT AND REMISSION**

*Article ~~103~~<sup>79</sup>*  
⊗ *General provisions* ⊗

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 ⇒ equals or ⇐ exceeds a certain amount, be repaid or remitted on the following grounds:
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↓ 450/2008

- (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.

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↓ 450/2008 (adapted)

~~In addition, W~~ where an amount of import or export duty has been paid and the corresponding customs declaration is invalidated in accordance with Article ~~150~~~~114~~, that amount shall be repaid.

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↓ new

2. In certain cases where the competent authority considers that repayment or remission should be granted, that authority shall transmit the case to the Commission for decision.

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↓ 450/2008

~~32~~ Subject to the rules of competence for a decision, where the customs authorities themselves discover within the periods referred to in Article ~~108(1)~~~~84(1)~~ that an amount of import or export duty is repayable or remissible pursuant to Articles ~~104, 106 or 107~~~~80, 82 or 83~~, they shall repay or remit on their own initiative.

~~4.3~~ 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.

~~54~~. 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 ~~100~~~~77~~.

~~65~~. 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 ~~91~~~~68~~.

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↓ 450/2008 (adapted)

In such cases, any interest paid under the second subparagraph of paragraph ~~54~~ ~~must~~  shall  be reimbursed.

*Article ~~10480~~*

*~~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 ~~90(1)67(1)~~.

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↓ 450/2008

*Article ~~10581~~*

*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.

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↓ 450/2008 (adapted)

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~~  brought out of  the customs territory of the  Union  . ~~Community~~
3. Instead of being ~~exported~~,  brought out of the customs territory of the Union  , ~~at the request~~  and upon application by  of the person concerned, the customs authorities shall ~~permit~~  authorise that  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 ~~10682~~*

*~~Repayment or remission on account of Error by the competent authorities~~*

1. In ~~situations~~  cases  other than those referred to in the second subparagraph of Article ~~103(1)79(1)~~ and in Articles ~~104,105 and 10780, 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:

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↓ 450/2008

- (a) the debtor could not reasonably have detected that error;
  - (b) the debtor was acting in good faith.
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↓ 450/2008 (adapted)

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  Union  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).
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↓ 450/2008

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.

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↓ 450/2008 (adapted)

*Article ~~10783~~*  
*~~Repayment and remission in~~ Equity*

In ~~situations~~  cases  other than those referred to in the second subparagraph of Article ~~103(1)79(1)~~ and in Articles ~~104,105 and 10680, 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.

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↓ 450/2008

*Article ~~10884~~*  
*Procedure for repayment and remission*

1. Applications for repayment or remission in accordance with Article ~~10379~~ shall be submitted to the appropriate customs office within the following periods:

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↓ 450/2008 (adapted)

- (a) in the case of overcharged ~~duties~~,  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;

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↓ 450/2008

- (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*.

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↓ 450/2008 (adapted)

2. Where an appeal has been lodged under Article ~~3723~~ 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.

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↓ new

3. In certain cases where a customs authority grants repayment or remission in accordance with Articles 106 and 107, the Member State concerned shall inform the Commission thereof.

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↓ 450/2008 (adapted)  
⇒ new

*Article ~~109~~<sup>109a</sup>*  
~~Implementing measures~~ ☒ *Delegation of power* ☒

The Commission shall ~~be~~ ⇒ be empowered to adopt delegated acts ⇐ in accordance with Article 243, specifying: ⇐ ~~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.~~

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↓ new

- (a) the rules on the procedure for repayment and remission, including the specification of the amount referred in Article 103(1), the content of the application for repayment or remission and the formalities to be completed, where necessary, before the amount of duty concerned is actually repaid or remitted;
- (b) the rules on the procedure for the competent authority to transmit the file to the Commission;
- (c) the competent authorities responsible for an error referred to in Article 106;
- (d) the special circumstances referred to in Article 107;
- (e) the rules on the procedure for informing the Commission and the information to be provided to the Commission in accordance with Article 108(3).

*Article 110*  
*Conferral of implementing powers*

The Commission shall adopt the decision referred to in Article 103(2) by implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 244(2).

On imperative grounds of urgency relating to such decision, duly justified by the right for the applicant to rapidly be notified of it, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 244(3).

Where the opinion of the committee referred to in Article 244(1) is to be obtained by written procedure, Article 244(6) shall apply.

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↓ 450/2008 (adapted)

## CHAPTER 4

### Extinguishment of a customs debt

*Article ~~11186~~*  
*Extinguishment*

1. Without prejudice to ~~Article 68 and~~ the provisions in force relating to non-recovery of the amount of import or export duty corresponding to a customs debt in the event of the judicially established insolvency of the debtor, a customs debt on importation or exportation shall be extinguished in any of the following ways:

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↓ new

- (a) where the debtor can no longer be notified of the customs debt, in accordance with Article 91;

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↓ 450/2008

~~(b)(a)~~ by payment of the amount of import or export duty;

~~(c)(b)~~ subject to paragraph 54, by remission of the amount of import or export duty;

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↓ 450/2008 (adapted)

~~(d)(c)~~ where, in respect of goods declared for a customs procedure entailing the obligation to pay ~~duties~~,  import or export duty,  the customs declaration is invalidated;

~~(e)(d)~~ where goods liable to import or export ~~duties~~  duty  are confiscated;

~~(e)~~ where goods liable to import or export ~~duties~~ are seized and simultaneously or subsequently confiscated;

(f) where goods liable to import and export ~~duties~~  duty  are destroyed under customs supervision or abandoned to the State;

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↓ 450/2008

(g) where the disappearance of the goods or the non-fulfilment of obligations arising from the customs legislation results from the total destruction or irretrievable loss of

those goods as a result of the actual nature of the goods or unforeseeable circumstances or *force majeure*, or as a consequence of instruction by the customs authorities; for the purpose of this point, goods shall be considered as irretrievably lost when they have been rendered unusable by any person;

- (h) where the customs debt was incurred pursuant to Article ~~6746~~ or ~~7049~~ and where the following conditions are fulfilled:
- (i) the failure which led to the incurrance of a customs debt had no significant effect on the correct operation of the customs procedure concerned and did not constitute an attempt at deception;
  - (ii) all of the formalities necessary to regularise the situation of the goods are subsequently carried out;
- (i) where goods released for free circulation duty-free, or at a reduced rate of import duty by virtue of their end-use, have been exported with the permission of the customs authorities;
- (j) where it was incurred pursuant to Article ~~6645~~ and where the formalities carried out in order to enable the preferential tariff treatment referred to in that Article to be granted are cancelled;

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↓ 450/2008 (adapted)

- (k) where, subject to paragraph ~~6~~ ~~5~~ of this Article, the customs debt was incurred pursuant to Article ~~4667~~ and evidence is provided to the satisfaction of the customs authorities that the goods have not been used or consumed and have been ~~exported from~~  brought out of  the customs territory of the  Union  Community.
2. In the ~~event of confiscation~~,  cases  as referred to in paragraph ~~1(e)(d)~~, the customs debt shall, nevertheless, for the purposes of penalties applicable to customs offences, be deemed not to have been extinguished where, under the law of a Member State, ~~customs duties~~  import or export duty  or the existence of a customs debt provide the basis for determining penalties.
3. Where, in accordance with paragraph 1(g), a customs debt is extinguished in respect of goods released for free circulation duty-free or at a reduced rate of import duty on account of their end-use, any scrap or waste resulting from their destruction shall be deemed to be ~~non-Community~~  non-Union  goods.

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↓ new

4. The provisions of the customs legislation in force pertaining to standard rates for irretrievable loss due to the nature of goods shall apply where the person concerned fails to show that the real loss exceeds that calculated by application of the standard rate for the goods in question.

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↓ 450/2008

54 Where several persons are liable for payment of the amount of import or export duty corresponding to the customs debt and remission is granted, the customs debt shall be extinguished only in respect of the person or persons to whom the remission is granted.

65 In the case referred to in paragraph 1(k), the customs debt shall not be extinguished in respect of any person or persons who attempted deception.

76 Where the customs debt was incurred pursuant to Article 6746, it shall be extinguished with regard to the person whose behaviour did not involve any attempt at deception and who contributed to the fight against fraud.

~~7 The Commission may, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of this Article.~~

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↓ new

#### *Article 112*

##### *Application of penalties*

Where the customs debt is extinguished on the basis of Article 111(1)(h), Member States shall not be precluded from the application of penalties for failure to comply with customs legislation.

#### *Article 113*

##### *Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying the list of failures with no significant effect on the correct operation of the customs procedure concerned, supplementing the provisions of Article 111(1)(h)(i).

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↓ 450/2008 (adapted)

**TITLE IV**  
**GOODS BROUGHT INTO THE CUSTOMS TERRITORY OF THE**  
 **UNION  ~~COMMUNITY~~**

**CHAPTER 1**  
**Entry summary declaration**

*Article ~~11487~~*

~~**Obligation to lodge**~~  Lodging of  an entry summary declaration

1. Goods brought into the customs territory of the  Union  ~~Community~~ shall be covered by an entry summary declaration, ~~with the exception of means of transport temporarily imported and~~

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↓ new

2. The obligation referred to in paragraph 1 shall be waived:
- (a) for means of transport and containers placed under the temporary admission procedure;

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↓ 450/2008 (adapted)

- (b) for  means of transport and the goods carried thereon only passing through the territorial waters or the airspace of the customs territory of the ~~Community~~  Union  without a stop within that territory;

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↓ new

- (c) in other cases where duly justified by the type of traffic or required by international agreements.

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↓ 450/2008 (adapted)

⇒ new

23. ~~Except where otherwise specified in the customs legislation, an~~  The  entry summary declaration shall be lodged  by the person responsible  at the

competent customs office ⇒ within a specific time-limit, ⇐ before the goods are brought into the customs territory of the ~~Community~~ ☒ Union ☒ .

↓ new

4. Commercial, port or transport information may be used as an entry summary declaration provided it contains the necessary particulars for such declaration and is available within a specific time-limit, before the goods are brought into the customs territory of the Union.

↓ 450/2008 (adapted)

5. Customs authorities may accept, instead of the lodging of the entry summary declaration, the lodging of a notification and access to the ☒ particulars of an ☒ entry summary declaration ~~data~~ in the economic operator's computer system.

↓ 450/2008

~~5. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the following:~~

~~(a) the cases, other than those referred to in paragraph 1 of this Article, in which the requirement for an entry summary declaration may be waived or adapted and the conditions under which it may be so waived or adapted;~~

~~(b) the deadline by which the entry summary declaration is to be lodged or made available before the goods are brought into the customs territory of the Community;~~

~~(c) the rules for exceptions from and variations to the deadline referred to in point (b);~~

~~(d) the rules for determining the competent customs office at which the entry summary declaration is to be lodged or made available and where risk analysis and risk-based entry controls are to be carried out;~~

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

~~In adopting these measures, account shall be taken of the following:~~

~~(a) special circumstances;~~

~~(b) the application of those measures to certain types of goods traffic, modes of transport or economic operators;~~

~~(c) international agreements which provide for special security arrangements.~~

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↓ new

*Article 115*  
*Risk analysis*

The customs office referred to in Article 114(3) shall, within a specific time-limit, carry out risk analysis, primarily for safety and security purposes, on the basis of the entry summary declaration and take the necessary measures based on the results of that risk analysis.

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↓ 450/2008

~~*Article 88*~~  
~~*Lodgement and responsible person*~~

~~1. The entry summary declaration shall be lodged using an electronic data processing technique. Commercial, port or transport information may be used provided it contains the necessary particulars for an entry summary declaration.~~

~~Customs authorities may, in exceptional circumstances, accept paper-based entry summary declarations, provided that they apply the same level of risk management as that applied to entry summary declarations made using an electronic data processing technique and that the requirements for the exchange of such data with other customs offices can be met.~~

~~2. The entry summary declaration shall be lodged by the person who brings the goods into the customs territory of the Community or who assumes responsibility for the carriage of the goods into that territory.~~

~~3. Notwithstanding the obligations of the person referred to in paragraph 2, the entry summary declaration may be lodged instead by one of the following persons:~~

~~(a) the importer or consignee or other person in whose name or on whose behalf the person referred to in paragraph 2 acts;~~

~~(b) any person who is able to present the goods in question or to have them presented to the competent customs authority.~~

~~4. Where the entry summary declaration is lodged by a person other than the operator of the means of transport by which the goods are brought on to Community customs territory, that operator shall lodge with the appropriate customs office a notification of arrival in the form of a manifest, a dispatch note or a load sheet containing the information required in order to enable all the goods transported which are to be covered by an entry summary declaration to be identified.~~

~~The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures stipulating the information which must appear on the notification of arrival.~~

~~Paragraph 1 shall apply, *mutatis mutandis*, to the notification of arrival mentioned in the first subparagraph of this paragraph.~~

↓ 450/2008 (adapted)

*Article ~~89~~116*

*Amendment  and expiry  of  an  entry summary declaration*

1. The ~~person who lodges the entry summary declaration shall, at his request, be permitted~~  declarant may, upon application, be authorised  to amend one or more particulars of ~~that~~  the entry summary  declaration after it has been lodged.

↓ 450/2008

~~However, no such amendment shall be possible after any of the following events:~~

~~(a) the customs authorities have informed the person who lodged the entry summary declaration that they intend to examine the goods;~~

~~(b) the customs authorities have established that the particulars in question are incorrect;~~

~~(c) the customs authorities have allowed the removal of the goods from the place where they were presented.~~

~~2. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down exceptions to paragraph 1(c) of this Article, defining, in particular, the following:~~

~~(a) criteria for establishing grounds for amendments after removal;~~

~~(b) the data elements which may be amended;~~

~~(c) the time limit after removal within which amendment may be permitted;~~

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

↓ new

2. The entry summary declaration shall be deemed not to have been lodged when the goods declared have not been brought into the customs territory of the Union within a specific time-limit after the declaration has been lodged.

*Article ~~90~~117*  
*Customs declaration replacing entry summary declaration*

The competent customs office may waive the lodging of an entry summary declaration in respect of goods for which, prior to the expiry of the ~~deadline referred to in point (b) of the first subparagraph of Article 87(3)~~  time-limit for lodging that declaration,  a customs declaration is lodged. In that case, the customs declaration shall contain at least the particulars necessary for the entry summary declaration. Until such time as the customs declaration is accepted in accordance with Article ~~148~~112, it shall have the status of an entry summary declaration.

*Article 118*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the rules on the procedure for lodging an entry summary declaration;
- (b) the time-limit within which risk analysis is to be carried out and the necessary measures to be taken, in accordance with Article 115;
- (c) the rules on the procedure for amending the entry summary declaration, as referred to in Article 116(1);
- (d) the time-limit referred to in Article 116(2), within which an entry summary declaration, is deemed not to have been lodged.

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↓ 450/2008 (adapted)  
⇒ new

## CHAPTER 2 ARRIVAL OF GOODS

### SECTION 1 ENTRY OF GOODS INTO THE CUSTOMS TERRITORY OF THE UNION ~~COMMUNITY~~

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↓ new

#### *Article 119*

#### *Notification of arrival of a sea-going vessel or of an aircraft*

1. The operator of a sea-going vessel or of an aircraft entering the customs territory of the Union shall notify the arrival to the customs office of first entry upon arrival of the means of transport.

Where information on arrival of a sea-going vessel or of an aircraft is available to the customs authorities they may waive the notification referred to in the first subparagraph.

2. Port or airport systems or other available methods of information shall be used to notify the arrival of the means of transport where acceptable to the customs authorities.
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↓ 450/2008 (adapted)

#### *Article 120 ~~91~~* *Customs supervision*

1. Goods brought into the customs territory of the ~~Community~~  Union  shall, from the time of their entry, be subject to customs supervision and may be subject to customs controls. Where applicable, they shall be subject to such prohibitions and restrictions as are justified on grounds of, inter alia, public morality, public policy or public security, the protection of the health and life of humans, animals or plants, the protection of the environment, the protection of national treasures possessing artistic, historic or archaeological value and the protection of industrial or commercial property, including controls on drug precursors, goods infringing certain intellectual property rights and cash ~~entering the Community~~, as well as to the implementation of fishery conservation and management measures and of commercial policy measures.

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↓ 450/2008

They shall remain under such supervision for as long as is necessary to determine their customs status and shall not be removed therefrom without the permission of the customs authorities.

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↓ 450/2008 (adapted)

Without prejudice to Article ~~218~~~~166~~, ~~Community~~ ☒ Union ☒ goods shall not be subject to customs supervision once their customs status is established.

~~Non-Community~~ ☒ Non-Union ☒ goods shall remain under customs supervision until their customs status is changed, or they are ~~re-exported~~ ☒ brought out of the customs territory of the Union ☒ or destroyed.

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↓ 450/2008

2. The holder of goods under customs supervision may, with the permission of the customs authorities, at any time examine the goods or take samples, in particular in order to determine their tariff classification, customs value or customs status.

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↓ 450/2008 (adapted)

*Article ~~121~~ 92*

*Conveyance to the appropriate place*

1. The person who brings goods into the customs territory of the ☒ Union ☒ ~~Community~~ shall convey them without delay, by the route specified by the customs authorities and in accordance with their instructions, if any, to the customs office designated by the customs authorities, or to any other place designated or approved by those authorities, or into a free zone.
2. Goods brought into a free zone shall be brought into that free zone directly, either by sea or air or, if by land, without passing through another part of the customs territory of the ☒ Union ☒ ~~Community~~, where the free zone adjoins the land frontier between a Member State and a third country.

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↓ 450/2008

~~The goods shall be presented to the customs authorities in accordance with Article 95.~~

- ~~32.~~ Any person who assumes responsibility for the carriage of goods after they have been brought into the customs territory of the ~~Community~~ ☒ Union ☒ shall become responsible for compliance with the obligation laid down in paragraphs 1 and 2.
- ~~43.~~ Goods which, although still outside the customs territory of the ☒ Union ☒ ~~Community~~, may be subject to customs controls by the customs authority of a Member State as a result of an agreement concluded with the relevant country or territory outside the customs territory of the ☒ Union ☒ ~~Community~~, shall be treated in the same way as goods brought into the customs territory of the ☒ Union ☒ ~~Community~~.
- ~~54.~~ Paragraphs 1 and 2 shall not preclude application of ~~any~~ special ☒ rules ☒ ~~provisions~~ with respect to ☒ goods transported within frontier zones or in pipelines and wires as well as for traffic of negligible economic importance such as ☒ letters, postcards and printed matter and their electronic equivalents held on other media or to goods carried by travellers, ~~goods transported within frontier zones or in pipelines and wires as well as any other traffic of negligible economic importance~~, provided that customs supervision and customs control possibilities are not thereby jeopardised.
- ~~65.~~ Paragraph 1 shall not apply to means of transport and goods carried thereon only passing through the territorial waters or the airspace of the customs territory of the ~~Community~~ ☒ Union ☒ without a stop within that territory.

*Article ~~12293~~*

*~~Intra-Community~~ ☒ Intra-Union ☒ air and sea services*

1. Articles 114 to 119, 121 (1) and 123 to 126~~87 to 90, 92(1) and 94 to 97~~ shall not apply to goods which have temporarily left the customs territory of the ☒ Union ☒ ~~Community~~ while moving between two points in that territory by sea or air, provided that carriage has been effected by a direct route and by an air or ~~regular~~ shipping service without a stop outside the customs territory of the ☒ Union ☒ ~~Community~~.

- ~~2.~~ ~~The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down special provisions for air and regular shipping services, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).~~

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↓ new

2. In certain cases the customs authorities shall authorise shipping services for the purposes of paragraph 1 and of Article 132(2).
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↓ 450/2008

*Article ~~123~~<sup>94</sup>  
Conveyance under special circumstances*

1. Where, by reason of unforeseeable circumstances or *force majeure*, the obligation laid down in Article ~~121(1)92(1)~~ cannot be complied with, the person bound by that obligation or any other person acting on that person's behalf shall inform the customs authorities of the situation without delay. Where the unforeseeable circumstances or *force majeure* do not result in total loss of the goods, the customs authorities shall also be informed of their precise location.
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↓ 450/2008 (adapted)

2. Where, by reason of unforeseeable circumstances or *force majeure*, a vessel or aircraft covered by Article ~~121(6)92(5)~~ is forced to put into port or to land temporarily in the customs territory of the ~~Community~~  Union  and the obligation laid down in Article ~~121(1)92(1)~~ cannot be complied with, the person who brought the vessel or aircraft into the customs territory of the  Union  ~~Community~~, or any other person acting on that person's behalf, shall inform the customs authorities of the situation without delay.
- 

↓ 450/2008

3. The customs authorities shall determine the measures to be taken in order to permit customs supervision of the goods referred to in paragraph 1, or of the vessel or aircraft and any goods thereon in the circumstances specified in paragraph 2, and to ensure, where appropriate, that they are subsequently conveyed to a customs office or other place designated or approved by the authorities.

## SECTION 2 PRESENTATION, UNLOADING AND EXAMINATION OF GOODS

*Article ~~12495~~  
Presentation of goods to customs*

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↓ 450/2008 (adapted)

1. Goods brought into the customs territory of the  Union  ~~Community~~ shall be presented to customs immediately upon their arrival at the designated customs office or any other place designated or approved by the customs authorities or in the free zone by one of the following persons:
- (a) the person who brought the goods into the customs territory of the  Union  ~~Community~~;
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↓ 450/2008

- (b) the person in whose name or on whose behalf the person who brought the goods into that territory acts;
- 

↓ 450/2008 (adapted)

- (c) the person who assumed responsibility for carriage of the goods after they were brought into the customs territory of the  Union  ~~Community~~.
- 

↓ 450/2008

2. Notwithstanding the obligations of the person described in paragraph 1, presentation of the goods may be effected instead by one of the following persons:
- (a) any person who immediately places the goods under a customs procedure;
- (b) the holder of an authorisation for the operation of storage facilities or any person who carries out an activity in a free zone.

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↓ 450/2008

⇒ new

3. The person presenting the goods shall make a reference to the entry summary declaration or customs declaration which has been lodged in respect of the goods ⇒ , except where the lodging of such declaration is not required ⇐ .
- 

↓ new

4. Where non-Union goods presented to customs are not covered by an entry summary declaration, and except where the lodging of such declaration is not required, the holder of the goods shall lodge such a declaration or a customs declaration replacing it immediately.
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↓ 450/2008 (adapted)

- 5.4. Paragraph 1 shall not preclude application of ~~any special~~ ☒ rules ☒ ~~provisions~~ with respect to ☒ goods transported within frontier zones or in pipelines and wires as well as for traffic of negligible economic importance such as ☒ letters, postcards and printed matter and their electronic equivalents held on other media or to goods carried by travellers, ~~goods transported within frontier zones or in pipelines and wires as well as any other traffic of negligible economic importance~~, provided that customs supervision and customs control possibilities are not thereby jeopardised.
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↓ new

6. Goods presented to customs shall not be removed from the place where they have been presented without the permission of the customs authorities.
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↓ 450/2008 (adapted)

*Article ~~12596~~*

*Unloading and examination of goods*

1. Goods shall be unloaded or trans-shipped from the means of transport carrying them solely with the ~~permission~~ ☒ authorisation ☒ of the customs authorities in places designated or approved by those authorities.

However, such ~~permission~~ ☒ authorisation ☒ shall not be required in the event of an imminent danger necessitating the immediate unloading of all or part of the goods. In that case, the customs authorities shall immediately be informed accordingly.

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↓ 450/2008

2. The customs authorities may at any time require goods to be unloaded and unpacked for the purpose of examining them, taking samples or examining the means of transport carrying them.

~~3. Goods presented to customs shall not be removed from the place where they have been presented without the permission of the customs authorities.~~

### SECTION 3 FORMALITIES AFTER PRESENTATION

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↓ 450/2008 (adapted)  
⇒ new

#### *Article ~~126~~<sup>127</sup>*

*Obligation to place ~~non-Community~~  non-Union  goods under a customs procedure*

1. Without prejudice to Articles ~~167, 168 and 169~~ <sup>125 to 127</sup>, ~~non-Community~~  non-Union  goods presented to customs shall be placed under a customs procedure.
- 

↓ 450/2008

2. Except as otherwise provided, the declarant shall be free to choose the customs procedure under which he wishes to place the goods, under the conditions for that procedure, irrespective of their nature or quantity, or their country of origin, consignment or destination.
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↓ 450/2008

#### ~~Article 98~~

#### ~~Goods deemed to be placed in temporary storage~~

~~1. Except where goods are immediately placed under a customs procedure for which a customs declaration has been accepted, or have been placed in a free zone, non-Community goods presented to customs shall be deemed to have been placed under temporary storage, in accordance with Article 151.~~

~~2. Without prejudice to the obligation laid down in Article 87(2) and the exceptions or waiver provided for by the measures adopted under Article 87(3), where it is found that non-Community goods presented to customs are not covered by an entry~~

~~summary declaration, the holder of the goods shall lodge such a declaration immediately.~~

## SECTION 4

### GOODS MOVED UNDER A TRANSIT PROCEDURE

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↓ 450/2008 (adapted)  
⇒ new

#### *Article ~~127~~99*

##### *Waiver for goods arriving under transit*

Article ~~121(2) to (6) 92~~, with the exception of the first subparagraph of paragraph 1 thereof ~~and~~ Articles ~~95 to 98~~ ~~124, 125, 126~~ ⇒ and 203 ⇐ shall not apply when goods already under a transit procedure are brought into the customs territory of the ☒ Union. ☒ ~~Community~~.

#### *Article ~~128~~100*

##### *~~Provisions applicable to non-Community goods after a transit procedure has ended~~* *☒ Non-Union goods not presented immediately upon arrival ☒*

Articles ~~125, 126 and 203~~ ~~96, 97 and 98~~ shall apply to ☒ non-Union ☒ ~~non-Community~~ goods moving under a transit procedure, once such goods have been presented to the customs office of destination in the customs territory of the ☒ Union ☒ ~~Community~~, in accordance with the rules governing ☒ the ☒ transit ☒ procedure ☒.

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↓ new

#### *Article 129*

##### *Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the rules on the notification of arrival referred to in Article 119;
- (b) special rules for the entry into the customs territory of the Union and the presentation to customs of goods in accordance with Articles 121(5) and 124(5);
- (c) the rules for the granting of the authorisation referred to in Article 122(2).

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↓ 450/2008

**TITLE V**  
**GENERAL RULES ON CUSTOMS STATUS, PLACING GOODS UNDER**  
**A CUSTOMS PROCEDURE, VERIFICATION, RELEASE AND**  
**DISPOSAL OF GOODS**

**CHAPTER 1**  
**Customs status of goods**

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↓ 450/2008 (adapted)

*Article ~~130~~101*  
*Presumption of customs status of  Union  ~~Community~~ goods*

1. ~~Without prejudice to Article 161, All~~ goods in the customs territory of the  Union  ~~Community~~ shall be presumed to have the customs status of  Union  ~~Community~~ goods, unless it is established that they are not  Union  ~~Community~~ goods.
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↓ 450/2008

- ~~2. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down:~~
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↓ 450/2008 (adapted)  
⇒ new

2. ~~(a) the~~  In certain  cases ~~in which the presumption referred to~~  laid down  in paragraph 1 ~~of this Article does~~  shall  not apply ;

~~(b) the means by which~~  and  the customs status of  Union  ~~Community~~ goods ~~may~~ ⇒ shall ⇐ be  proven.  ~~established~~;

~~(c) the~~

3.  In certain  cases ~~in which~~ goods wholly obtained in the customs territory of the  Union  ~~Community~~ do not have the customs status of  Union  ~~Community~~ goods if they are obtained from goods placed under the external transit procedure, a storage procedure, the temporary admission procedure or the inward ; processing procedure ;

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↓ 450/2008

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

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↓ 450/2008 (adapted)

*Article ~~131~~<sup>102</sup>*

*Loss of customs status of  Union  ~~Community~~ goods*

~~Community~~  Union  goods shall become ~~non-Community~~  non-Union  goods in the following cases:

- (a) where they are ~~moved~~  brought  out of the customs territory of the  Union  ~~Community~~, insofar as the rules on internal transit ~~or the measures laid down in accordance with Article 103~~ do not apply;
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↓ 450/2008

- (b) where they have been placed under the external transit procedure, a storage procedure or the inward ~~processing~~ procedure, insofar as the customs legislation so allows;
- (c) where they have been placed under the end-use procedure and are either subsequently abandoned to the State, or are destroyed and waste remains;
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↓ 450/2008 (adapted)

- (d) where the declaration for release ~~of goods~~ for free circulation is invalidated after release ~~in accordance with measures adopted pursuant to~~ of the  goods  ~~second subparagraph of Article 114(2).~~
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*Article ~~132~~<sup>103</sup>*

*~~Community~~  Union  goods leaving the customs territory  of the Union  temporarily*

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↓ new

1. In the cases referred to in Article 194(2)(b) to (f), goods shall keep their customs status as Union goods only if that status is established under certain conditions and by means laid down in the customs legislation.

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↓ 450/2008 (adapted)  
⇒ new

~~The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the conditions under which Community~~

- ⊗ 2. In certain cases Union ⊗ goods may move, without being subject to a customs procedure, from one point to another within the customs territory of the ⊗ Union ⊗ Community and temporarily out of that territory without alteration of their customs status, ~~shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).~~

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↓ new

*Article 133*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the cases where the presumption laid down in Article 130(1) does not apply;
- (b) the rules on the proof of customs status of Union goods;
- (c) the cases where the goods referred to in Article 130(3) do not have the customs status of Union goods;
- (d) the cases where the customs status of goods referred to in Article 132(2) is not altered.

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↓ 450/2008

## CHAPTER 2

### Placing goods under a customs procedure

#### SECTION 1

#### GENERAL PROVISIONS

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↓ 450/2008 (adapted)  
⇒ new

##### *Article ~~134~~104*

*Customs declaration of goods and customs supervision of  Union  ~~Community~~ goods*

1. All goods intended to be placed under a customs procedure, except for the free ~~zone~~ ~~procedure~~, ⇒ and the temporary storage procedures, ⇐ shall be covered by a customs declaration appropriate for the particular procedure.
- 

↓ new

2. In certain cases persons other than economic operators shall lodge a customs declaration using means other than electronic data-processing techniques.
- 

↓ 450/2008 (adapted)

- 3.2 ~~Community~~  Union  goods declared for export, internal ~~Community~~  Union  transit or outward processing shall be subject to customs supervision from the time of acceptance of the declaration referred to in paragraph 1 until such time as they ~~leave~~  are brought out of  the customs territory of the ~~Community~~  Union  or are abandoned to the State or destroyed or the customs declaration is invalidated.

##### *Article ~~135~~105*

*Competent customs offices*

1. Except where ~~Community~~  Union  legislation provides otherwise, Member States shall determine the location and competence of the various customs offices situated in their territory.

2. Member States shall ensure that official opening hours are fixed for those offices that are reasonable and appropriate, taking into account the nature of the traffic and of the goods and the customs procedures under which they are to be placed, so that the flow of international traffic is neither hindered nor distorted.

~~2. The Commission shall in accordance with the regulatory procedure referred to in Article 184(2), adopt measures defining the various roles and responsibilities of competent customs offices, and notably of the following~~

~~(a) the customs offices of entry, import, export or exit;~~

~~(b) the customs offices carrying out the formalities for the placing of goods under a customs procedure;~~

~~(c) the customs offices granting authorisations and supervising customs procedures.~~

*Article 136*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

(a) the cases where the persons other than economic operators lodge a customs declaration in accordance with Article 134(2) and the means to be used for that purpose;

(b) the competent customs office for placing goods under a customs procedure

*Article 137*  
*Conferral of implementing powers*

The Commission shall adopt measures on the official opening hours referred to in Article 135(2) by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 244(4).

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↓ 450/2008 (adapted)

*Article ~~138~~ 106*  
*Centralised clearance*

1.  The  ~~c~~Customs authorities may authorise a person to lodge, ~~or make available,~~ at the customs office responsible for the place where he is established a customs declaration for goods which are presented to customs at another customs office. In such cases, the customs debt shall be deemed to be incurred at the customs office at which the customs declaration is lodged ~~or made available.~~
2. The customs office at which the customs declaration is lodged ~~or made available~~ shall carry out the formalities for the verification of the declaration,  and  the recovery of the amount of import or export duty corresponding to any customs debt ~~and for granting release of the goods.~~
3. The customs office at which the goods are presented shall, without prejudice to its own controls ~~for security and safety purposes,~~ carry out any examination justifiably requested by the customs office at which the customs declaration  has been  ~~is~~ lodged ~~or made available and shall allow release of the goods, taking into account information received from that office.~~

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↓ new

Those customs offices shall exchange information necessary for the release of the goods. The customs office at which the goods are presented shall allow the release of the goods.

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↓ 450/2008

~~4. 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:~~

~~with regard to point (c), 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;~~

~~with regard to point (d), 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.~~

↓ new

#### *Article 139* *Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the rules for the granting of the authorisation referred to in Article 138(1);
- (b) the rules on the procedure on centralised clearance.

↓ 450/2008

#### ~~Article 109~~

##### ~~Types of customs declaration~~

~~1. The customs declaration shall be lodged using an electronic data-processing technique. The customs authorities may allow the customs declaration to take the form of an entry in the declarant's records, provided that the customs authorities have access to those data in the declarant's electronic system and that the requirements for any necessary exchange of such data between customs offices are met.~~

~~2. Where this is provided for in the customs legislation, the customs authorities may accept a paper-based customs declaration, or a customs declaration made orally or by any other act whereby goods can be placed under a customs procedure.~~

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↓ 450/2008

~~3. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of this Article.~~

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↓ 450/2008 (adapted)

## SECTION 2 STANDARD CUSTOMS DECLARATIONS

### *Article ~~140~~108*

#### *Content of a declaration ~~and supporting documents~~*

~~1. Standard  Customs declarations shall contain all the particulars necessary for application of the provisions governing the customs procedure for which the goods are declared.  Customs declarations made using an electronic data processing technique shall contain an electronic signature or other means of authentication. Paper-based declarations shall be signed.~~

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↓ 450/2008

~~The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures laying down the specifications to which customs declarations must correspond.~~

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↓ 450/2008 (adapted)

### *Article 141*

#### *Supporting documents*

~~1. The supporting documents required for  the  application of the provisions governing the customs procedure for which the goods are declared shall be ~~made available to the~~  in the declarant's possession and at the disposal of the  customs authorities at the time when the  customs  declaration is lodged.~~

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↓ 450/2008

~~3. When a customs declaration is lodged using an electronic data processing technique, the customs authorities may also allow supporting documents to be lodged using that technique.~~

~~Customs authorities may accept, instead of the lodging of those documents, access to the relevant data in the economic operator's computer system.~~

~~However, upon request by the declarant, the customs authorities may allow those documents to be made available after release of the goods.~~

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↓ new

2. Supporting documents shall be provided to the customs authorities where Union legislation so requires or where necessary for customs controls.

3. In specific cases customs authorities may authorise economic operators to establish supporting documents.

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↓ 450/2008

~~4. The Commission shall in accordance with the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of paragraphs 2 and 3 of this Article.~~

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↓ new

#### *Article 142* *Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the rules on the procedure for lodging the standard customs declaration referred to in Article 140;
- (b) the rules on the supporting documents referred to in Articles 141(1);
- (c) the rules for the granting of the authorisation referred to in Article 141(3).

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↓ 450/2008 (adapted)  
⇒ new

### SECTION 3 SIMPLIFIED CUSTOMS DECLARATIONS

#### *Article ~~143109~~* *Simplified declaration*

~~(1)~~ The customs authorities ~~shall, provided that the conditions of paragraphs 2 and 3 of this Article are fulfilled,~~ ⇒ may ⇐ authorise ☒ a ~~any~~ person to have goods placed under a customs procedure on the basis of a simplified declaration which may omit certain of the particulars ☒ referred to in Article 140 ☒ and ☒ the ☒ supporting documents referred to in Article ~~141108~~.

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↓ 450/2008

~~2.~~ ~~The measures designed to amend non-essential elements of this Regulation, by supplementing it, relating to the conditions under which the authorisation referred to in paragraph 1 of this Article is to be given, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).~~

~~3.~~ ~~The Commission may, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures concerning the specifications to which the simplified declarations must correspond.~~

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↓ 450/2008 (adapted)  
⇒ new

#### *Article ~~144110~~* *Supplementary declaration*

1. In the case of a simplified declaration pursuant to Article ~~143109(1)~~ ⇒ or of an entry in the declarant's records pursuant to Article 154 ⇐, the declarant shall ~~furnish~~ ☒ lodge ☒ a supplementary declaration containing the ~~further~~ particulars necessary ~~to complete the customs declaration~~ for the customs procedure concerned ⇒ at the competent customs office within a specific time-limit ⇐.

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↓ 450/2008

The supplementary declaration may be of a general, periodic or recapitulative nature.

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

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↓ new

2. In certain cases the obligation to lodge a supplementary declaration shall be waived.

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↓ 450/2008 (adapted)

⇒ new

~~3.2.~~ The ~~supplementary declaration and the~~ simplified declaration referred to in Article ~~143(1)~~ ~~143(1)~~ ⇒ or the entry in the declarant's records referred to in Article 154, and the supplementary declaration ⇐ shall be deemed to constitute a single, indivisible instrument taking effect ⊗ , respectively, ⊗ on the date on which the simplified declaration is accepted in accordance with Article ~~142~~ 148 ⊗ and on the date on which the goods are entered in the declarant's records ⊗ .

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↓ 450/2008

~~4.3.~~ The place where the supplementary declaration is to be lodged in accordance with the authorisation shall be deemed, for the purposes of Article ~~755~~, to be the place where the customs declaration has been lodged.

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↓ new

#### *Article 145* *Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the rules for the granting of the authorisation referred to in Article 143;
- (b) the rules on procedure for lodging the simplified declaration referred to in Article 143;
- (c) the rules on procedure for lodging the supplementary declaration referred to in Article 144;
- (d) the cases where the obligation to lodge a supplementary declaration is waived in accordance with Article 144(2).

**SECTION 4**  
**PROVISIONS APPLYING TO ALL CUSTOMS DECLARATIONS**

*Article ~~146~~*

*Person lodging a  customs  declaration*

1. Without prejudice to Article ~~144(1)~~~~140(1)~~, a customs declaration may be ~~made~~  lodged  by any person who is able to ~~present or make available~~  provide  all of the documents which are required for the application of the provisions governing the customs procedure in respect of which the goods are declared. That person shall also be able to present the goods in question or to have them presented to ~~the competent customs office~~.

However, where acceptance of a customs declaration imposes particular obligations on a specific person,  that  the declaration ~~must~~  shall  be made by that person or by his representative.

2. The declarant shall be established in the customs territory of the  Union  ~~Community~~.

- ~~3. However, the~~ The following declarants shall not be required to be established  in that customs territory  : ~~within the Community~~:

- ~~(a)~~ persons who lodge a  customs  declaration for transit or temporary admission;

- ~~(b)~~ persons who declare goods occasionally, provided that the customs authorities deem this to be justified.

~~3. 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 requirements referred to in paragraph 2 may be waived, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).~~

4. The requirement to be established in the customs territory of the Union may be waived in cases other than those laid down in paragraph 3.

Article 147

*Lodging a customs declaration prior to the presentation of the goods*

A customs declaration may be lodged prior to the expected presentation of the goods to customs. If the goods are not presented within 30 calendar days following the lodging of the customs declaration, the customs declaration shall be deemed not to have been lodged.

↓ 450/2008 (adapted)

Article ~~148~~<sup>112</sup>

*Acceptance of a ~~customs~~  declaration*

1. ~~Customs declarations~~  ~~Declarations~~ which comply with the conditions laid down in this Chapter shall be accepted by the customs authorities immediately, provided that the goods to which they refer have been presented to customs ~~or, to the satisfaction of the customs authorities, are made available for customs controls.~~

↓ 450/2008

~~Where the declaration takes the form of an entry in the declarant's records and access to those data by the customs authorities, the declaration shall be deemed to have been accepted at the moment at which the goods are entered in the records. The customs authorities may, without prejudice to the legal obligations of the declarant or to the application of security and safety controls, waive the obligation for the goods to be presented or to be made available for customs control.~~

~~2. Without prejudice to Article 110(2) or the second subparagraph of paragraph 1 of this Article, where a customs declaration is lodged at a customs office other than the office at which the goods are presented, the declaration shall be accepted when the office at which the goods are presented confirms the availability of the goods for customs controls.~~

↓ 450/2008

~~2.3.~~ The date of acceptance of the customs declaration by the customs authorities shall, except where otherwise provided, be the date to be used for the application of the provisions governing the customs procedure for which the goods are declared and for all other import or export formalities.

~~4. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures laying down detailed rules for the implementation of this Article.~~

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↓ 450/2008 (adapted)

*Article ~~149~~<sup>143</sup>  
Amendment of a  customs  declaration*

1. The declarant shall,  upon application  ~~at his request~~, be ~~permitted~~  authorised  to amend one or more of the particulars of the  customs  declaration after  that  ~~the~~ declaration has been accepted by customs. The amendment shall not render the  customs  declaration applicable to goods other than those which it originally covered.
2. No such amendment shall be permitted where it is ~~requested~~  applied for  after any of the following events:

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↓ 450/2008

- (a) the customs authorities have informed the declarant that they intend to examine the goods;

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↓ 450/2008 (adapted)

- (b) the customs authorities have established that the particulars ~~in question~~  of the customs declaration  are incorrect;

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↓ 450/2008

- (c) the customs authorities have released the goods.

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

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↓ new

3. Upon application, within a specific time-limit, the amendment of the customs declaration may be authorised after release of the goods.

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↓ 450/2008 (adapted)

*Article ~~150~~<sup>144</sup>*  
*Invalidation of a  customs  declaration*

1. The customs authorities shall, ~~at the request of~~  upon application by  the declarant, invalidate a  customs  declaration already accepted in the following cases:

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↓ 450/2008

- (a) where they are satisfied that the goods are immediately to be placed under another customs procedure;
- (b) where they are satisfied that, as a result of special circumstances, the placing of the goods under the customs procedure for which they were declared is no longer justified.

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↓ 450/2008 (adapted)  
⇒ new

However, where the customs authorities have informed the declarant of their intention to examine the goods, ~~a request~~  an application  for invalidation of the  customs  declaration shall not be accepted before the examination has taken place.

2. The  customs  declaration shall not be invalidated after the goods have been released ⇒ unless where otherwise provided ⇐.

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↓ 450/2008

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

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↓ new

*Article 151*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the cases where the requirement for the declarant to be established in the customs territory of the Union is waived in accordance with Article 146(4);
  - (b) the acceptance of a customs declaration referred to in Article 148;
  - (c) the rules on the procedure for amending the customs declaration after the release of the goods as referred to in Article 149(2)(c);
  - (d) the rules for invalidating the customs declaration after the release of the goods, as referred to in Article 150(2).
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↓ 450/2008 (adapted)

## SECTION 5 OTHER SIMPLIFICATIONS

### *Article ~~152~~<sup>115</sup>*

*Facilitation of the drawing-up of customs declarations for goods falling under different tariff subheadings*

1. Where a consignment is made up of goods falling within different tariff subheadings, and dealing with each of those goods in accordance with its tariff subheadings~~s~~ for the purpose of drawing-up the customs declaration would entail a burden of work and expense disproportionate to the import duties  and export duty  chargeable, the customs authorities may, at the request of  upon application by  the declarant, agree that import duties  and export duty  be charged on the whole consignment on the basis of the tariff subheadings~~s~~ of the goods which are subject to the highest rate of import or export duty.
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↓ 450/2008

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

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↓ new

2. Paragraph 1 shall not apply for goods subject to prohibitions or restrictions or excise duty.

*Article 153*  
*Conferral of implementing powers*

The Commission shall adopt measures for the determination of the tariff subheading for the application of Article 152(1) by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 244(4).

↓ new

~~*Article 116*~~

~~*Simplification of customs formalities and controls*~~

~~1. Customs authorities may authorise simplifications, other than as referred to under Section 3 of this Chapter, of the customs formalities and controls.~~

~~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 authorisations referred to in paragraph 1;~~

~~(b) the cases in which review of the authorisations is to be carried out and the conditions under which their use is to be monitored by the customs authorities;~~

~~(c) the conditions under which the authorisations are granted;~~

~~(d) the conditions under which an economic operator may be authorised to carry out certain customs formalities which should in principle be carried out by the customs authorities, including the self-assessment of import and export duties, and to perform certain controls under customs supervision;~~

~~(e) identification of the customs authority competent for the granting of the authorisations;~~

~~(f) consultation with and provision of information to other customs authorities, where appropriate;~~

~~(g) the conditions under which the authorisations may be suspended or revoked;~~

~~(h) the specific role and responsibilities of the competent customs offices involved, particularly in respect of the controls to be applied;~~

~~(i) 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:~~

~~the customs formalities to be completed and customs controls to be performed for security and safety purposes on goods brought into or leaving the customs territory of the Community,~~

~~the rules adopted pursuant to Article 25(3),~~

~~with regard to point (d), where more than one Member State is involved, the applicant shall hold the status of authorised economic operator in accordance with Article 14,~~

~~with regard to point (e), 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.~~

↓ new

#### *Article 154*

##### *Entry in the declarant's records*

1. The customs authorities may, upon application, authorise a person to lodge a customs declaration in the form of an entry in the declarant's records, provided that the customs authorities have access to those data in the declarant's electronic system.
2. The customs authorities may, upon application, waive the obligation for the goods to be presented.
3. The customs declaration shall be deemed to have been accepted at the moment at which the goods are entered in the records.
4. The customs authority shall take the necessary measures to ensure that the holder of the authorisation complies with his obligations.

#### *Article 155*

##### *Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the rules for the granting of the authorisation referred to in Article 154 (1) and (2);
- (b) the rules on the procedure for lodging a customs declaration in the form of an entry in the declarant's records in accordance with Article 154(1);
- (c) the obligations of the holder of the authorisation referred to in Article 154(4);
- (d) the rules on the procedure for taking the necessary measures laid down in Article 154(4).

*Article 156*  
*Self-assessment*

1. Customs authorities may, upon application, authorise an economic operator to carry out certain customs formalities which are to be carried out by the customs authorities, to determine the amount of import and export duty payable, and to perform certain controls under customs supervision.
2. The applicant for the authorisation referred to in paragraph 1 shall be an authorised economic operator for customs simplifications.
3. The competent customs office shall take the necessary measures to ensure that the holder of the authorisation referred to in paragraph 1 complies with his obligations.

*Article 157*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the rules for the granting of the authorisation referred to in Article 156(1);
- (b) the customs formalities and the controls to be carried out by the holder of the authorisation in accordance with Article 156(1);
- (c) the obligations of the holder of the authorisation referred to in Article 156(3);
- (d) the rules on the procedure for taking the necessary measures laid down in Article 156(3).

↓ 450/2008 (adapted)

## CHAPTER 3 Verification and release of goods

### SECTION 1 VERIFICATION

*Article ~~158~~117*  
*Verification of a customs declaration*

The customs authorities may, for the purpose of verifying the accuracy of the particulars contained in a customs declaration which ~~they have~~  has been  accepted:

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↓ 450/2008

- (a) examine the declaration and all of the supporting documents;

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↓ 450/2008 (adapted)

- (b) require the declarant to ~~present~~  provide  other documents;

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↓ 450/2008

- (c) examine the goods;  
(d) take samples for analysis or for detailed examination of the goods.

*Article ~~159~~118*  
*Examination and sampling of goods*

1. Transport of the goods to the places where they are to be examined and where samples are to be taken, and all the handling necessitated by such examination or taking of samples, shall be carried out by or under the responsibility of the declarant. The costs incurred shall be borne by the declarant.
2. The declarant shall have the right to be present or represented when the goods are examined and when samples are taken. Where the customs authorities have reasonable grounds for so doing, they may require the declarant to be present or represented when the goods are examined or samples are taken or to provide them with the assistance necessary to facilitate such examination or taking of samples.
3. Provided that samples are taken in accordance with the provisions in force, the customs authorities shall not be liable for payment of any compensation in respect thereof but shall bear the costs of their analysis or examination.

*Article ~~160~~119*  
*Partial examination and sampling of goods*

1. Where only part of the goods covered by a customs declaration is examined, or samples are taken, the results of the partial examination, or of the analysis or examination of the samples, shall be taken to apply to all the goods covered by the same declaration.

However, the declarant may request a further examination or sampling of the goods if he considers that the results of the partial examination, or of the analysis or examination of the samples taken, are not valid as regards the remainder of the goods declared. The request shall be granted, provided that the goods have not been released or that, if they have been released, the declarant proves that they have not been altered in any way.

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↓ 450/2008 (adapted)

2. For the purposes of paragraph 1, where a customs declaration covers  goods falling under  two or more  tariff subheadings  ~~items~~, the particulars relating to  goods falling under  each ~~item~~  tariff subheading  shall be deemed to constitute a separate declaration.

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↓ 450/2008

- ~~3. The Commission shall, in accordance with the management procedure referred to in Article 184(3), adopt measures laying down the procedure to be followed in the event of divergent results of examinations pursuant to paragraph 1 of this Article.~~

*Article ~~161~~120*  
*Results of the verification*

1. The results of verifying the customs declaration shall be used for the application of the provisions governing the customs procedure under which the goods are placed.

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↓ 450/2008 (adapted)

2. Where the customs declaration is not verified, paragraph 1 shall apply on the basis of the particulars contained in  that  ~~the~~ declaration.

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↓ 450/2008 (adapted)

3. The results of the verification made by the customs authorities shall have the same conclusive force throughout the customs territory of the  Union  ~~Community~~.

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↓ 450/2008

*Article ~~162~~121*  
*Identification measures*

1. The customs authorities or, where appropriate, economic operators authorised to do so by the customs authorities, shall take the measures necessary to identify the goods where identification is required in order to ensure compliance with the provisions governing the customs procedure for which those goods have been declared.

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↓ 450/2008 (adapted)

Those identification measures shall have the same legal effect throughout the customs territory of the  Union  ~~Community~~.

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↓ 450/2008

2. Means of identification affixed to the goods or means of transport shall be removed or destroyed only by the customs authorities or, where they are authorised to do so by the customs authorities, by economic operators, unless, as a result of unforeseeable circumstances or *force majeure*, their removal or destruction is essential to ensure the protection of the goods or the means of transport.
- 

↓ 450/2008 (adapted)

~~Article 163~~<sup>122</sup>  
~~Implementing measures~~  *Conferral of implementing powers*

---

↓ 450/2008  
⇒ new

The Commission ~~may~~ <sup>⇒</sup> shall adopt by means of implementing acts measures on the verification of the customs declaration, the examination and sampling of goods and the results of the verification. Those implementing acts shall be adopted <sup>⇐</sup> in accordance with the ~~regulatory~~ <sup>⇒</sup> examination <sup>⇐</sup> procedure referred to in Article ~~244(4)~~<sup>184(2)</sup> ~~, adopt measures for the implementation of this Section.~~

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## SECTION 2 RELEASE

~~Article 164~~<sup>123</sup>  
*Release of the goods*

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↓ 450/2008 (adapted)

1. ~~Without prejudice to Article 117,~~  Where  ~~where~~ the conditions for placing the goods under the procedure concerned are fulfilled and provided that any restriction has been applied and the goods are not subject to any prohibition, the customs authorities shall release the goods as soon as the particulars in the customs declaration have been verified or are accepted without verification.

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↓ 450/2008

The first subparagraph shall also apply where verification as referred to in Article ~~158~~<sup>117</sup> cannot be completed within a reasonable period of time and the goods are no longer required to be present for verification purposes.

2. All the goods covered by the same declaration shall be released at the same time.
- 

↓ 450/2008 (adapted)  
⇒ new

For the purposes of the first subparagraph, where a customs declaration covers  goods falling under  two or more  tariff sub-headings  ~~items~~, the particulars relating to  goods falling under  each ~~item~~  tariff sub-heading  shall be deemed to constitute a separate customs declaration.

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↓ 450/2008

~~3. Where the goods are presented at a customs office other than the office at which the customs declaration has been accepted, the customs authorities involved shall exchange the information necessary for the release of the goods, without prejudice to appropriate controls.~~

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↓ 450/2008

*Article ~~165~~<sup>124</sup>*

*Release dependent upon payment of the amount of import or export duty corresponding to the customs debt or provision of a guarantee*

1. Where the placing of goods under a customs procedure gives rise to a customs debt, the release of the goods shall be conditional upon the payment of the amount of import or export duty corresponding to the customs debt or the provision of a guarantee to cover that debt.
- 

↓ 450/2008 (adapted)

However, without prejudice to the third subparagraph, the first subparagraph shall not apply to temporary admission with partial relief from import  duty  ~~duties~~.

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↓ 450/2008

Where, pursuant to the provisions governing the customs procedure for which the goods are declared, the customs authorities require the provision of a guarantee, those goods shall not be released for the customs procedure in question until such guarantee is provided.

~~2. The Commission may, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures laying down exceptions to the first and third subparagraphs of paragraph 1 of this Article.~~

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↓ new

2. In certain cases, the release of the goods shall not be conditional upon the payment of the amount of import or export duty corresponding to the customs debt or to the provision of a guarantee to cover that debt.

*Article 166*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying the cases referred to in Article 165(2).

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↓ 450/2008

## **CHAPTER 4**

### **Disposal of goods**

*Article ~~167~~<sup>125</sup>*  
*Destruction of goods*

Where the customs authorities have reasonable grounds for so doing, they may require goods which have been presented to customs to be destroyed and shall inform the holder of the goods accordingly. The costs of destruction shall be borne by the holder of the goods.

*Article ~~168~~<sup>126</sup>*  
*Measures to be taken by the customs authorities*

1. The customs authorities shall take any necessary measures, including confiscation and sale, or destruction, to dispose of goods in the following cases:

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↓ 450/2008 (adapted)

- (a) where one of the obligations laid down in customs legislation concerning the introduction of ~~non-Community~~  non-Union  goods into the customs territory of the  Union  ~~Community~~ has not been fulfilled, or the goods have been withheld from customs supervision;

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↓ 450/2008

- (b) where the goods cannot be released for any of the following reasons:
- (a) it has not been possible, for reasons attributable to the declarant, to undertake or continue examination of the goods within the period prescribed by the customs authorities;

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↓ 450/2008 (adapted)

- (i) the documents which must be ~~produced~~  provided  before the goods can be placed under, or released for, the customs procedure requested have not been  provided  ~~made available~~;
- (ii) payments or a guarantee which should have been made or provided in respect of import or export  duty  ~~duties~~, as the case may be, have not been made or provided within the period prescribed;
- (iii) ~~they~~  the goods  are subject to prohibitions or restrictions;

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↓ 450/2008

- (c) where the goods have not been removed within a reasonable period after their release;
- (d) where, after their release, the goods are found not to have fulfilled the conditions for that release;
- (e) where goods are abandoned to the State in accordance with Article ~~169~~127.

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↓ 450/2008 (adapted)

2. ~~Non-Community~~  Non-Union  goods which have been abandoned to the State, seized or confiscated shall be deemed to be placed under the temporary storage procedure.

*Article 169~~127~~*  
*Abandonment*

1. ~~Non-Community~~ ☒ Non-Union ☒ goods and goods placed under the end-use procedure may with prior permission of the customs authorities be abandoned to the State by the holder of the procedure or, where applicable, the holder of the goods.
- 

↓ 450/2008

2. Abandonment shall not entail any expense for the State. The holder of the procedure or, where applicable, the holder of the goods, shall bear the costs of any destruction or other disposal of goods.

~~Article 128~~

~~Implementing measures~~

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

---

↓ new

*Article 170*

*Invalidation of a customs declaration*

Where goods to be destroyed, abandoned to the State, seized or confiscated are already subject to a customs declaration, customs authorities shall invalidate that customs declaration.

*Article 171*

*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the rules on the procedure for taking the necessary measures for disposal of goods;
- (b) the rules on abandonment of goods to the State in accordance with Article 169.

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↓ 450/2008 (adapted)

**TITLE VI**  
**RELEASE FOR FREE CIRCULATION AND RELIEF FROM IMPORT**  
**☒ DUTY ☒ DUTIES**

**CHAPTER 1**  
**Release for free circulation**

*Article ~~172~~<sup>172+29</sup>*  
*Scope and effect*

1. ~~Non-Community~~ ☒ Non-Union ☒ goods intended to be put on the ☒ Union ☒ ~~Community~~ market or intended for private use or consumption within the ☒ customs territory of the Union ☒ ~~Community~~ shall be placed under release for free circulation.

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↓ 450/2008

2. Release for free circulation shall entail the following:

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↓ 450/2008 (adapted)

- (a) the collection of any import ~~duties~~ ☒ duty ☒ due;

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↓ 450/2008

- (b) the collection, as appropriate, of other charges, as provided for under relevant provisions in force relating to the collection of those charges;
- (c) the application of commercial policy measures and prohibitions and restrictions insofar as they do not have to be applied at an earlier stage;
- (d) completion of the other formalities laid down in respect of the importation of the goods.

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↓ 450/2008 (adapted)

3. Release for free circulation shall confer on ~~non-Community~~ ☒ non-Union ☒ goods the customs status of ☒ Union ☒ ~~Community~~ goods.

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↓ new

*Article 173*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying the rules on the application of the commercial policy measures, prohibitions and restrictions referred to in Article 172(2)(c) to goods placed under a special procedure prior to their release for free circulation.

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↓ 450/2008 (adapted)

**CHAPTER 2**  
**Relief from import  duty  duties**

**SECTION 1**  
**RETURNED GOODS**

*Article ~~174~~<sup>130</sup>*  
*Scope and effect*

1. ~~Non-Community~~  Non-Union  goods which, having originally been exported as  Union  ~~Community~~ goods from the customs territory of the  Union  ~~Community~~, are returned to that territory within a period of three years and declared for release for free circulation shall, ~~at the request of~~  upon application by  the person concerned, be granted relief from import  duty  ~~duties~~.
- 

↓ new

The first subparagraph shall apply even where the returned goods represent only a part of the goods previously exported from the customs territory of the Union.

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↓ 450/2008

2. The three-year period referred to in paragraph 1 may be exceeded in order to take account of special circumstances.

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↓ 450/2008 (adapted)

3. Where, prior to their export from the customs territory of the ~~Community~~  Union  ~~Community~~, the returned goods had been released for free circulation duty-free or at a reduced rate of import duty because of a particular end-use, relief from duty under paragraph 1 shall be granted only if they are to be released for free circulation for the same end-use.

---

↓ 450/2008

Where the end-use for which the goods in question are to be released for free circulation is no longer the same, the amount of import duty shall be reduced by any amount collected on the goods when they were first released for free circulation. Should the latter amount exceed that levied on the release for free circulation of the returned goods, no repayment shall be granted.

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↓ 450/2008 (adapted)

4. Where ~~Community~~  Union  goods have lost their customs status as  Union  ~~Community~~ goods pursuant to Article ~~131+102(b)~~ and are subsequently released for free circulation, paragraphs 1, 2 and 3 ~~of this Article~~ shall apply ~~mutatis mutandis~~.
5. The relief from import ~~duties~~  duty  shall be granted only if goods are reimported in the state in which they were exported.

---

↓ new

6. The relief from import duty shall be granted for returned goods provided that the person requesting such relief provides information establishing that the conditions for the relief are fulfilled.

That information shall be provided to the customs office where the customs declaration for release for free circulation is lodged.

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↓ 450/2008

~~Article 134~~

~~Cases in which no relief from import duties is granted~~

~~Relief from import duties provided for in Article 130 shall not be granted in the following cases:~~

~~(a) goods exported from the customs territory of the Community under the outward processing procedure, unless one of the following applies:~~

~~(i) those goods remain in the state in which they were exported;~~

~~(ii) the rules adopted in accordance with Article 134 allow for this;~~

~~(b) goods which have benefited from measures laid down under the common agricultural policy involving their export out of the customs territory of the Community, except where the rules adopted in accordance with Article 134 allow for this~~

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↓ new

#### Article 175

##### *Goods which benefited from measures laid down under the common agricultural policy*

Relief from import duty provided for in Article 174 shall not be granted to goods which have benefited from measures laid down under the common agricultural policy involving their export out of the customs territory of the Union, except where otherwise provided in specific cases.

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↓ 450/2008 (adapted)

#### Article ~~176~~<sup>132</sup>

##### *Goods previously placed under the inward ~~processing~~ procedure*

1. Article ~~174~~<sup>130</sup> shall apply ~~mutatis mutandis~~ to processed products which were originally re-exported from the customs territory of the  Union  ~~Community~~ subsequent to an inward ~~processing~~ procedure.
2. ~~At the request of~~  Upon application by  the declarant and provided he submits the necessary information, the amount of import duty on the goods covered by paragraph 1 ~~of this Article~~ shall be determined in accordance with Article ~~74(3)~~<sup>53(3)</sup>. The date of acceptance of the re-export notification shall be regarded as the date of release for free circulation.
3. The relief from import ~~duties~~  duty  provided for in Article ~~174~~<sup>130</sup> shall not be granted for processed products which were exported in accordance with Article ~~191(2)(c), 142(2)(b)~~<sup>191(2)(c), 142(2)(b)</sup> unless it is ensured that no goods will be placed under the inward ~~processing~~ procedure.

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↓ new

*Article 177*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the cases where goods are considered to be reimported in the state in which they were exported;
- (b) the rules on the information referred to in Article 174(6);
- (c) the specific cases referred to in Article 175.

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↓ 450/2008 (adapted)

**SECTION 2**  
**SEA-FISHING AND PRODUCTS TAKEN FROM THE SEA**

*Article ~~178~~<sup>133</sup>*  
*Products of sea-fishing and other products taken from the sea*

1. Without prejudice to Article ~~53(1)~~<sup>36(1)</sup>, the following shall be exempt from import  duty  duties when they are released for free circulation:

- (a) products of sea-fishing and other products taken from the territorial sea of a country or territory outside the customs territory of the  Union  Community by vessels solely registered or recorded in a Member State and flying the flag of that state;

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↓ 450/2008

- (b) products obtained from products referred to in point (a) on board factory-ships fulfilling the conditions laid down in that point.

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↓ new

2. The person concerned shall provide evidence that the conditions laid down in paragraph 1 are fulfilled.

*Article 179*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying the rules on the evidence referred to in Article 178(2).

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↓ 450/2008

~~SECTION 3~~  
~~IMPLEMENTING MEASURES~~

~~Article 134~~

~~Implementing measures~~

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

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↓ 450/2008

**TITLE VII**  
**SPECIAL PROCEDURES**

**CHAPTER 1**  
**General provisions**

*Article ~~180~~<sup>135</sup>*  
*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 ~~181~~<sup>136</sup>  
Authorisation*

1. An authorisation from the customs authorities shall be required for the following:
  - ~~(a)~~ the use of the inward or outward ~~u~~processing procedure, the temporary admission procedure or the end-use procedure,
  - ~~(b)~~ 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.

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↓ 450/2008 (adapted)

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

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↓ 450/2008

~~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 (e) 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.~~

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↓ new

2. In certain cases the authorisation may be granted with retroactive effect

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↓ 450/2008 (adapted)

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  who satisfy the following conditions:
- (a) ~~persons who~~  they  are established in the customs territory of the  Union  Community;
  - (b) ~~persons who~~  they  provide the necessary assurance of the proper conduct of the operations ~~and, in cases~~ ;
  - (c) where a customs debt or other charges may be incurred for goods placed under a special procedure,  they  provide a guarantee in accordance with Article ~~77~~56;
  - (d) ~~(e)~~ in the case of the temporary admission or inward processing procedure, ~~the person who uses~~  they use  the goods or arranges for their use or ~~who carries~~  they carry  out processing operations on the goods or arranges for them to be carried out, respectively.
- 

↓ 450/2008

~~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).~~

---

↓ new

An authorised economic operator for customs simplifications shall be deemed to fulfil the condition laid down in point (b), insofar as the activity pertaining to the special procedure concerned was taken into account when granting that authorisation.

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↓ 450/2008 (adapted)

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:

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↓ 450/2008

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

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↓ 450/2008 (adapted)

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

5. The essential interests of ~~Community~~  Union  producers shall be deemed not to be adversely affected, as referred to in paragraph 4(b) 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.

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

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↓ 450/2008

~~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.~~

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↓ new

7. The customs authorities shall ensure that the holder of the authorisation complies with his obligations.

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↓ 450/2008

8.5 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.

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↓ new

*Article 182*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying :

- (a) the rules for granting the authorisation for the procedures referred to in Article 181(1);
  - (b) the cases where an authorisation is granted with retroactive effect in accordance with Article 181(2);
  - (c) the exceptions from the conditions referred to in Article 181(3) and (4);
  - (d) the cases in which the economic conditions are deemed to be fulfilled as referred to in Article 181(5);
  - (e) the rules for examining the economic conditions referred to in Article 181(6);
  - (f) the obligations of the holder of the authorisation referred to in Article 181(7);
  - (g) the rules on the procedure to ensure that the holder of the authorisation complies with his obligation in accordance with Article 181(7).
- 

↓ 450/2008 (adapted)

*Article ~~183~~<sup>137</sup>*  
*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 appropriate records in a form approved by the customs authorities.

---

↓ 450/2008 (adapted)

⇒ new

The records shall ~~must~~ contain the information and the particulars which 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.

---

↓ 450/2008

~~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).~~

---

↓ new

2. An authorised economic operator for customs simplifications shall be deemed to comply with the obligation laid down in paragraph 1 insofar as his records are appropriate for the purpose of the special procedure concerned.

#### *Article 184* *Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying the type of information and the particulars that are to be contained in the records in order to enable the customs authorities to supervise the procedure concerned, as referred to in Article 183.

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↓ 450/2008 (adapted)

#### *Article ~~185~~<sup>138</sup>* *Discharge of a procedure*

1. In cases other than the transit procedure and without prejudice to Article ~~218~~<sup>166</sup>, 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 been brought out of ~~the~~ customs territory of the Union ~~Community~~, or have been destroyed with no waste remaining, or are abandoned to the State in accordance with Article ~~169~~<sup>127</sup>.

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↓ 450/2008

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.

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↓ new

4. The discharge of the procedure shall take place within a certain time-limit, unless otherwise provided.

*Article 186*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243 specifying the rules for the discharge referred to in Article 185.

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↓ 450/2008 (adapted)

*Article ~~187~~<sup>139</sup>*  
*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~~  another person  who fulfils the conditions laid down for the procedure concerned.

*Article ~~188~~<sup>140</sup>*  
*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  Union  Community, ~~in so far as this is provided for in the authorisation or under the customs legislation.~~

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↓ 450/2008

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

---

↓ 450/2008

*Article ~~189~~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.

---

↓ new

*Article 190*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the rules for transferring the rights and obligations of the holder of the procedure with regard to goods which have been placed under a special procedure other than transit in accordance with Article 187;
- (b) the rules for the movement of goods placed under a special procedure other than transit or in a free zone in accordance with Article 188;
- (c) the usual forms of handling for goods placed under customs warehousing or a processing procedure or in a free zone as referred to in Article 189.

---

↓ 450/2008 (adapted)

*Article ~~191~~142*  
*Equivalent goods*

1. Equivalent goods shall consist in  Union  ~~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-Union  ~~non-Community~~ goods which are processed instead of  Union  ~~Community~~ goods placed under the outward ~~processing~~ procedure.

~~Equivalent~~  Except where otherwise provided, 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.

---

↓ 450/2008

~~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).~~

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↓ 450/2008 (adapted)

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

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↓ 450/2008  
⇒ new

(a) the use of equivalent goods under ~~a special procedure other than the transit, temporary admission~~ ⇒ customs warehousing, free zones, end-use ⇐ and ~~temporary storage~~ a ⇒ processing ⇐ procedure;

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↓ new

(b) the use of equivalent goods under the temporary admission procedure, in specific cases;

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↓ 450/2008 (adapted)

(~~bc~~) 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;

(~~ed~~) 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.

---

↓ 450/2008

~~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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↓ new

An authorised economic operator for customs simplifications shall be deemed to fulfil the condition that the proper conduct of the procedure is ensured, insofar as the activity pertaining to the special procedure concerned was taken into account when granting that authorisation.

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↓ 450/2008

3. The use of equivalent goods shall not be permitted in any of the following cases:

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↓ 450/2008 (adapted)

- (a) where only usual forms of handling as defined in Article ~~189~~141 are carried out under the inward processing  procedure  ;
- (b) where a prohibition of drawback of, or exemption from, import ~~duties~~  duty  applies to non-originating goods used in the manufacture of processed products under the inward processing  procedure , for which a proof of origin is issued or made out in the framework of a preferential arrangement between the  Union  ~~Community~~ and certain countries or territories outside the customs territory of the  Union  ~~Community~~ or groups of such countries or territories;  
~~or~~
- (c) where it would lead to an unjustified import duty advantage  or where provided for in Union legislation.
- 

↓ 450/2008

~~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).~~

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↓ 450/2008 (adapted)

4. In the case referred to in paragraph ~~2(c)~~2(b) of this Article, and where the processed products would be liable to export  duty  ~~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~~  export duty  should the  non-Union  ~~non-Community~~ goods not be imported within the period referred to in Article ~~222(3)~~169(3).

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↓ 450/2008

~~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.~~

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↓ new

Article 192

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the exceptions from the third subparagraph of Article 191(1);
- (b) the rules on the procedure for the use of equivalent goods authorised in accordance with Article 191(2);
- (c) the cases where equivalent goods are used under the temporary admission procedure, in accordance with Article 191(2)(b);
- (d) the cases where the use of equivalent goods is not permitted in accordance with Article 191(3)(c);
- (e) the time-limit referred to in Article 222(3).

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↓ 450/2008 (adapted)

## CHAPTER 2 Transit

### SECTION 1 EXTERNAL AND INTERNAL TRANSIT

*Article ~~193~~144  
External transit*

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

(a) import ☒ duty ☒ ~~duties~~;

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↓ 450/2008

(b) other charges as provided for under other relevant provisions in force;

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↓ 450/2008 (adapted)

(c) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the ☒ Union ☒ ~~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~~

2. ☒ In certain cases ☒ ~~Community~~ ☒ Union ☒ goods ~~are to~~ ☒ shall ☒ be placed under the external transit, ~~shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).~~

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↓ 450/2008

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

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↓ 450/2008 (adapted)

(a) under the external  Union  ~~Community~~ transit procedure;

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↓ 450/2008

(b) in accordance with the TIR Convention, provided that such movement:

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↓ 450/2008 (adapted)

(i) began or is to end outside the customs territory of the  Union  ~~Community~~;  
~~or~~

(ii) is effected between two points in the customs territory of the  Union  ~~Community~~ through the territory of a country or territory outside the customs territory of the  Union  ~~Community~~;

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↓ 450/2008

(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.

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↓ 450/2008

~~3. External transit shall apply without prejudice to Article 140.~~

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↓ 450/2008 (adapted)

*Article ~~194~~145*  
*Internal transit*

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

---

↓ 450/2008

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

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↓ 450/2008 (adapted)

- (a) under the internal  Union  ~~Community~~ transit procedure provided that such a possibility is provided for in an international agreement;

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↓ 450/2008

- (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.

---

↓ 450/2008

~~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).~~

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↓ new

#### Article 195 Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the cases where Union goods are to be placed under the external transit procedure in accordance with Article 193(2);
  - (b) the rules for adjusting the provisions of the international instruments referred to in Articles 193(3)(b) to (f) and 194(2)(b) to (f) to the needs of the Union.
- 

↓ 450/2008 (adapted)

## SECTION 2 ~~COMMUNITY~~ UNION TRANSIT

#### Article ~~196~~146

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

1. The holder of the  Union  ~~Community~~ transit procedure shall be responsible for the following:
- 

↓ 450/2008

- (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.

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↓ 450/2008 (adapted)

3. A carrier or recipient of goods who accepts goods knowing that they are moving under the  Union  ~~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.

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↓ new

4. Upon application, the customs authorities may authorise a person to use simplifications regarding the placement of goods under the Union transit procedure and regarding the end of that procedure.
5. The customs authorities shall ensure that the persons referred to in paragraphs 1, 3 and 4 comply with their obligations.

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↓ 450/2008 (adapted)

*Article ~~197~~147*

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

1. The external  Union  ~~Community~~ transit procedure shall apply to goods passing through a  country or a  territory outside the customs territory of the  Union  ~~Community~~ if one of the following conditions is satisfied:
- (a) provision is made to that effect under an international agreement;
  - (b) carriage through that  country or  territory is effected under cover of a single transport document drawn up in the customs territory of the  Union  ~~Community~~.

2. In the case referred to in paragraph 1(b), the operation of the external  Union  ~~Community~~ transit procedure shall be suspended while the goods are outside the customs territory of the  Union  ~~Community~~.
- 

↓ new

*Article 198*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the obligations of the persons referred to in Article 196(1), (3) and (4);
  - (b) the rules for the granting of the authorisation referred to in Article 196(4);
  - (c) the rules on the procedure to ensure that the obligations referred to in Article 196(5) are complied with.
- 

↓ 450/2008 (adapted)

**CHAPTER 3**  
**Storage**

**SECTION 1**  
**COMMON PROVISIONS**

*Article ~~199~~48*  
*Scope*

1. Under a storage procedure, ~~non-Community~~  non-Union  goods may be stored in the customs territory of the ~~Community~~  Union  without being subject to any of the following:
- (a) import  duty  ~~duties~~;
- 

↓ 450/2008

- (b) other charges as provided for under other relevant provisions in force;

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↓ 450/2008 (adapted)

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

↓ 450/2008

~~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).~~

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↓ new

3. The customs authorities may, where an economic need exists and customs supervision will not be adversely affected, authorise the storage of Union goods in a storage facility for temporary storage or customs warehousing. Those goods shall not be regarded as being under the temporary storage or customs warehousing procedure.
4. The customs authorities shall ensure the customs supervision of goods under a storage procedure.
- 

↓ 450/2008

*Article ~~200~~49*

*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 ~~201~~<sup>50</sup>*  
*Duration of a storage procedure*

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

↓ 450/2008 (adapted)

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

↓ 450/2008

- (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).~~

↓ new

*Article 202*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the cases where Union goods are placed under the customs warehousing or free zone procedure as referred to in Article 199(2);

- (b) the rules on the procedure to ensure the customs supervision referred to in Article 199(4);
- (c) the obligations of the holder of the authorisation and the holder of the procedure referred to in Article 200;
- (d) the rules for the customs authorities to set a time-limit by which the storage procedure is to be discharged, in accordance with Article 201(2);
- (e) the rules for lodging the declaration for temporary storage referred to in Article 203(2) and the rules on its amendment, invalidation or verification.

↓ 450/2008 (adapted)  
⇒ new

## SECTION 2 TEMPORARY STORAGE

### *Article ~~203~~<sup>451</sup>*

~~Placing~~  Placement  of goods ~~in~~  under the  temporary storage  procedure

1. ~~Where not otherwise declared for a customs procedure, the following~~  Except where  ~~non-Community~~  non-Union  ~~⇒ goods are placed under another customs procedure, they~~  ~~shall be deemed to be declared for~~  have been placed under  the temporary storage procedure ~~by the holder of the goods at the moment of their presentation to customs~~  in the following cases  :
- (a)  where  goods ~~which are~~ brought into the customs territory of the  Union  ~~⇒ are presented to customs immediately upon their arrival in accordance with Article 124~~  ~~Community, other than directly into a free zone;~~

↓ new

- (b) where goods are presented to the customs office of destination in the customs territory of the Union in accordance with the rules governing the transit procedure;

↓ 450/2008 (adapted)

- ~~(b)~~  where goods are  ~~goods which are~~ brought from a free zone into another part of the customs territory of the  Union  ~~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.~~

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↓ new

2. A declaration for temporary storage shall be lodged by the holder of the goods at the latest at the time of their presentation to customs in accordance with paragraph 1.

That declaration may be amended or invalidated and verified by the customs authorities.

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↓ 450/2008 (adapted)

*Article ~~204~~152*  
*Goods in temporary storage*

1. Goods  placed  under the temporary storage procedure shall be stored only in  facilities  ~~places~~ authorised for temporary storage.
2. Without prejudice to the provisions of Article ~~120(2)~~91(2), goods  placed  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.

---

↓ new

3. Where, for any reason, goods cannot 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 167, 168 and 169 shall apply.

**SECTION 3**  
**CUSTOMS WAREHOUSING**

*Article ~~205~~153*

*Storage in customs warehouses*

1. Under the customs warehousing procedure, ~~non-Community~~  non-Union  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  customs  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  shall  ~~must~~, except in case of *force majeure*, be authorised in advance by the customs authorities.

*Article ~~206~~154*

*~~Community goods, end-use and Processing activities~~*

1. The customs authorities may, where an economic need exists and customs supervision ~~will not be~~  is not  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 to take place in a customs warehouse  , subject to the conditions provided for by  those  ~~these~~ procedures.
2.  The goods  ~~In the cases~~ referred to in paragraph 1, ~~the goods~~ shall not be regarded as being under the customs warehousing procedure.

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↓ 450/2008 (adapted)

## SECTION 4 FREE ZONES

### *Article ~~207~~<sup>455</sup>* *Designation of free zones*

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

↓ 450/2008

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

---

↓ new

2. Member States shall communicate to the Commission information on their free zones which are in operation.
- 

↓ 450/2008

- ~~32~~ 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.

- ~~43~~ Persons, goods and means of transport entering or leaving free zones may be subject to customs controls.

### *Article ~~208~~<sup>456</sup>* *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 ~~209~~<sup>157</sup>*

*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:

↓ 450/2008 (adapted)

- (a) where they are brought into the free zone directly from outside the customs territory of the  Union  ~~Community~~;

↓ 450/2008

- (b) where they have been placed under a customs procedure which is ended or discharged when they are placed under the free zone procedure;

↓ 450/2008 (adapted)

- (c) where they are placed under the free zone procedure in order to benefit from a decision granting repayment or remission of import  duty  ~~duties~~;

↓ 450/2008

- (d) where legislation other than customs legislation provides for such formalities.

↓ 450/2008 (adapted)

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

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↓ 450/2008

3. Without prejudice to Article ~~210158~~, 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.
- 

↓ 450/2008 (adapted)

*Article ~~210158~~*

~~Community~~ ☒ Union ☒ goods in free zones

- 1. ~~Community~~ ☒ Union ☒ 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. ☒ Upon application by ☒ ~~At the request of~~ the person concerned, the customs authorities shall ~~certify~~ ☒ establish ☒ the customs status as ☒ Union ☒ ~~Community~~ goods of the following goods:
    - (a) ~~Community~~ ☒ Union ☒ goods which enter a free zone;
    - (b) ~~Community~~ ☒ Union ☒ goods which have undergone processing operations within a free zone;
- 

↓ 450/2008

- (c) goods released for free circulation within a free zone.
- 

↓ 450/2008 (adapted)

*Article ~~211459~~*

~~Non-Community~~ ☒ Non-Union ☒ goods in free zones

- 1. ~~Non-Community~~ ☒ Non-Union ☒ 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~~  duty  or measures laid down under the common agricultural or commercial policies.

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↓ 450/2008

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.

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↓ 450/2008 (adapted)

*Article ~~212~~216*  
*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  Union  ~~Community~~, or brought into another part of the customs territory of the  Union  ~~Community~~.

---

↓ 450/2008 (adapted)

⇒ new

Articles ~~1209~~1201 to ~~1269~~1268 ⇒ and 203 ⇐ shall apply *mutatis mutandis* to goods brought into other parts of the customs territory of the  Union  ~~Community~~.

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↓ 450/2008 (adapted)

*Article ~~213~~216*  
*Customs status*

Where goods are brought out of a free zone into another part of the customs territory of the  Union  ~~Community~~ or placed under a customs procedure, they shall be regarded as  non-Union  ~~non-Community~~ goods unless their customs status as  Union  ~~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  duty  duties and export licences or export control measures laid down under the common agricultural or commercial policies, such goods shall be regarded as  Union  Community goods, unless it is established that they do not have the customs status of  Union  Community goods.

## CHAPTER 4

### Specific use

#### SECTION 1

#### TEMPORARY ADMISSION

##### *Article ~~214462~~*

##### *Scope*

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

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450/2008

- (a) other charges as provided for under other relevant provisions in force;

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450/2008 (adapted)

- (b) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the  Union  Community.

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

---

450/2008

- (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 ~~191442~~, where compliance with the conditions laid down in respect of equivalent goods can be verified;

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↓ 450/2008 (adapted)

- (c) the holder of the procedure is established outside the customs territory of the  Union  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.
- 

↓ new

3. The customs authority shall ensure the customs supervision of goods under a temporary admission procedure.
- 

↓ 450/2008 (adapted)

*Article ~~215~~<sup>163</sup>*

~~Period~~  Time-limit  during which goods may remain under the temporary admission procedure

1. The customs authorities shall determine the ~~period~~  time-limit  within which goods placed under the temporary admission procedure must be re-exported or placed under a subsequent customs procedure. Such ~~period must be~~  time-limit shall be  long enough for the objective of authorised use to be achieved.
2. ~~The~~  Except where otherwise provided, the  maximum ~~period~~  time-limit  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.
- 

↓ 450/2008 (adapted)

⇒ new

3. Where, in exceptional circumstances, the authorised use cannot be achieved within the  time-limit  ~~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~~ ⇒ grant an extension, of ⇐ reasonable duration ⇒ of that time-limit, upon justified application by the holder of the authorisation ⇐.

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↓ 450/2008

~~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.~~

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↓ 450/2008 (adapted)

~~Article 216~~<sup>165</sup>

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

~~duty~~  ~~duties~~

1. The amount of import ~~duties~~  duty  in respect of goods placed under the temporary admission procedure with partial relief from import  duty  ~~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 the temporary admission  procedure  with partial relief from import duty.

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↓ 450/2008

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.

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↓ new

*Article 217*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the specific use referred to in Article 214(1);
  - (b) the requirements referred to in Article 214(2)(d);
  - (c) the rules on the procedure to ensure customs supervision in accordance with Article 214(3);
  - (d) the time-limits referred to in Article 215(2).
- 

↓ 450/2008

**SECTION 2**  
**END-USE**

*Article ~~218~~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.
- 

↓ 450/2008 (adapted)

~~They~~  The customs authorities  shall  ensure that the goods placed under the end-use procedure  remain under customs supervision.

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↓ 450/2008

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;

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↓ 450/2008 (adapted)

- (b) where the goods ~~are exported~~  have been brought out of the customs territory of the Union  ~~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  duty   has  ~~have~~ been paid.
3. Where a rate of yield is required, Article ~~220~~167 shall apply ~~mutatis mutandis~~ to the end-use procedure.
- 

↓ new

4. Waste and scrap which result from the working or processing of goods according to the prescribed end-use and losses due to natural wastage shall be considered as goods assigned to the prescribed end-use.
5. Waste and scrap resulting from destruction of goods placed under the end-use procedure shall be deemed to be placed under the temporary storage procedure.

*Article 219*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243 specifying the rules on the procedure to ensure customs supervision in accordance with Article 218(1).

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↓ 450/2008 (adapted)

## **CHAPTER 5**

### **Processing**

#### **SECTION 1**

#### **GENERAL PROVISIONS**

*Article ~~220~~167*  
*Rate of yield*

Except where a rate of yield has been specified in ~~Community~~  Union  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.

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↓ 450/2008

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 ~~2818~~ and ~~2919~~

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↓ 450/2008 (adapted)

## SECTION 2 INWARD PROCESSING

### *Article ~~221468~~* *Scope*

1. Without prejudice to Article ~~191442~~, under the inward ~~=~~processing procedure ~~non-Community~~  non-Union  goods may be used in the customs territory of the  Union  ~~Community~~ in one or more processing operations without such goods being subject to any of the following:
    - (a) import  duty  ~~duties~~;
- 

↓ 450/2008

- (b) other charges as provided for under other relevant provisions in force;
- 

↓ 450/2008 (adapted)

- (c) commercial policy measures, insofar as they do not prohibit the entry or exit of goods into or from the customs territory of the  Union  ~~Community~~.
- 

↓ 450/2008 (adapted)

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 ~~191442~~, 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 189+41.

↓ 450/2008 (adapted)  
⇒ new

*Article ~~222+69~~*

*~~Period~~ ☒ ~~Time-limit~~ ☒ for discharge*

1. The customs authorities shall specify the ~~period~~ ☒ ~~time-limit~~ ☒ within which the inward ~~processing~~ procedure is to be discharged, in accordance with Article 185+38.

That ~~period~~ ☒ ~~time-limit~~ ☒ shall run from the date on which the ~~non-Community~~ ☒ non-Union ☒ 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 ☒ ~~time-limit~~ ☒ ~~period~~ specified pursuant to paragraph 1, ~~on submission of a duly~~ ☒ upon ☒ justified ~~request~~ ☒ application ☒ by the holder of the authorisation.

The authorisation may specify that a ~~period~~ ☒ ~~time-limit~~ ☒ 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 191(2)(c)+42(2)(b), the ~~customs authorities shall specify the period within which the non-Community~~ ☒ non-Union ☒ goods ~~must~~ ☒ shall ☒ be declared for ⇒ the inward processing ⇐ procedure ☒ within a specific ~~time-limit~~ ☒. That ~~period~~ ☒ ~~time-limit~~ ☒ shall run from the date of acceptance of the export declaration relating to the processed products obtained from the corresponding equivalent goods.

*Article ~~223+70~~*

*Temporary re-export for further processing*

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

## SECTION 3 OUTWARD PROCESSING

### *Article ~~224~~<sup>171</sup>* *Scope*

1. Under the outward ~~processing~~ procedure ~~Community~~ ☒ Union ☒ goods may be temporarily exported from the customs territory of the ~~Community~~ ☒ Union ☒ 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~~ ☒ duty upon application by ☒ the holder of the authorisation or any other person established in the customs territory of the ~~Community~~ ☒ Union ☒ 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~~ ☒ Union ☒ goods:
  - (a) goods the export of which gives rise to repayment or remission of import ☒ duty ☒ ~~duties~~;

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↓ 450/2008

- (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.

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↓ 450/2008

~~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).~~

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↓ 450/2008 (adapted)

- 3.4. The customs authorities shall specify the ~~period~~ ☒ time-limit ☒ within which goods temporarily exported must be reimported into the customs territory of the ☒ Union ☒ ~~Community~~ in the form of processed products, and ~~placed under release~~ ☒ released ☒ for free circulation, in order to be able to benefit from total or partial relief from import ☒ duty ☒ ~~duties~~. They may, ~~extend that period, for a~~ ☒ grant an extension, of ☒ reasonable duration, ~~on submission of a duty~~ ☒ of that time-limit, upon ☒ justified ~~request~~ ☒ application ☒ by the holder of the authorisation.

*Article ~~225~~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 ☒ duty ☒ ~~duties~~.

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↓ 450/2008

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.

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↓ 450/2008 (adapted)

*Article ~~226~~173  
Standard exchange system*

1. Under the standard exchange system an imported product, ~~hereinafter referred to as a~~ (replacement product)<sup>2</sup>, may, in accordance with paragraphs 2 to 5, replace a processed product.
2. The customs authorities shall ☒, upon application ☒ authorise the standard exchange system to be used where the processing operation involves the repair of defective ☒ Union ☒ ~~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.

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↓ 450/2008

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.

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↓ 450/2008 (adapted)

*Article ~~227~~174  
Prior importation of replacement products*

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

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↓ 450/2008

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.

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.

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↓ 450/2008 (adapted)

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~~  grant an extension, of a  reasonable duration,  of that period, upon justified application by the holder of the authorisation.

**TITLE VIII**  
**~~DEPARTURE OF GOODS~~  **BROUGHT OUT OF**  **FROM THE****  
**CUSTOMS TERRITORY OF THE  UNION  COMMUNITY**

**~~CHAPTER 1~~**  
**~~GOODS LEAVING THE CUSTOMS TERRITORY~~**

*Article ~~228~~<sup>475</sup>*

*~~Obligation to lodge~~  **Lodging**  **a pre-departure declaration***

1. Goods destined to ~~leave~~  be brought out of  the customs territory of the ~~Community~~  ~~Union~~  shall be covered by a pre-departure declaration ~~lodged or made available at the competent customs office before the goods are to be brought out of the customs territory of the Community.~~

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~~However, the first subparagraph shall not apply to goods carried on~~

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2. The obligation referred to in paragraph 1 shall be waived:
- (a) ~~for means of transport and containers placed under the temporary admission procedure;~~

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- (b) for means of transport ~~which~~  and the goods carried thereon  only passing through the territorial waters or the airspace of the customs territory of the  ~~Union~~  ~~Community~~ without a stop  within that territory;  ~~therein~~.

---

- (c) ~~in other cases where duly justified by the type of traffic or required by international agreements.~~

3. The pre-departure declaration shall be lodged by the person responsible at the competent customs office within a specific time-limit, before the goods are brought out of the customs territory of the Union.

↓ 450/2008

4.2. The pre-departure declaration shall take the form of one of the following:

↓ 450/2008 (adapted)

(a) where goods ~~leaving~~ ⇨ brought out of ⇨ the customs territory of the ⇨ Union ⇨ Community are placed under a customs procedure for the purpose of which a customs declaration is required, the appropriate customs declaration;

↓ 450/2008

(b) a re-export notification, in accordance with Article ~~235~~179;

↓ 450/2008

(c) ~~where neither a customs declaration nor a re-export notification is required,~~ the exit summary declaration referred to in Article ~~236~~180;

⇩ new

(d) the re-export advice referred to in Article 239.

↓ 450/2008 (adapted)

⇨ new

5.3. The pre-departure ⇨ declarations in the form referred to in points (a) and (b) of paragraph 4 ⇨ ~~declaration~~ shall contain at least the particulars necessary for the exit summary declaration.

#### ~~Article 176~~

#### ~~Measures establishing certain details~~

~~1. The measures designed to amend non-essential elements of this Regulation, by supplementing it, concerning the following:~~

~~(a) the cases in which, and the conditions under which, goods leaving the customs territory of the Community are not subject to a pre-departure declaration;~~

~~(b) the conditions under which the requirement for a pre-departure declaration may be or adapted;~~

~~(e) the deadline by which the pre-departure declaration is to be lodged or made available before the goods are brought out of the customs territory of the Community;~~

~~(d) any exceptions from and variations to the deadline referred to in point (e);~~

~~(e) the determination of the competent customs office at which the pre-departure declaration is to be lodged or made available and where risk analysis and risk-based export and exit controls are to be carried out;~~

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

~~2. In adopting those measures, account shall be taken of the following:~~

~~(a) special circumstances;~~

~~(b) the application of those measures to certain types of goods traffic, modes of transport or economic operators;~~

~~(c) international agreements which provide for special security arrangements.~~

↓ new

#### *Article 229* *Risk analysis*

The customs office referred to in Article 228(3) shall, within a specific time-limit, carry out risk analysis, primarily for safety and security purposes, on the basis of the pre-departure declaration and take the necessary measures based on the results of that risk analysis.

#### *Article 230* *Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the cases where the obligation to lodge a pre-departure declaration is waived in accordance with Article 228(2)(c);
- (b) the time-limit within which the pre-departure declaration is to be lodged before the goods are brought out of the customs territory of the Union;
- (c) the time-limit within which risk analysis is to be carried out, in accordance with Article 229.

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↓ 450/2008 (adapted)

*Article ~~231~~<sup>477</sup>  
Customs supervision ~~on~~<sup>and</sup> exit formalities*

1. Goods ~~leaving~~  to be brought out of  the customs territory of the ~~Community~~  Union  shall be subject to customs supervision and may be subject to customs controls. Where appropriate, the customs authorities may, ~~in accordance with the measures adopted under paragraph 5,~~ determine the route to be used, and the time-limit to be respected when goods are to  be brought out of  ~~leave~~ the customs territory of the  Union  ~~Community~~.
2. Goods destined to ~~leave the customs territory~~  be brought out  of the  Union  ~~Community~~ shall be presented to customs  by the person responsible  at the  competent  customs office ~~competent for the place where the goods leave the customs territory of the Community~~ and shall be subject to ~~the application of exit formalities, which shall~~, as appropriate,  to  ~~include~~ the following:
  - (a) the repayment or remission of import ~~duties or~~  duty;

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↓ 450/2008

- (b) the payment of export refunds;

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↓ 450/2008 (adapted)

- ~~(c)(b)~~ the collection of export  duty  ~~duties~~;

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↓ 450/2008

- ~~(d)(e)~~ the formalities required under provisions in force with regard to other charges;

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↓ 450/2008 (adapted)

- ~~(e)(d)~~ the application of prohibitions and restrictions justified on grounds of, inter alia, public morality, public policy or public security, the protection of the health and life of humans, animals or plants, the protection of the environment, the protection of national treasures possessing artistic, historic or archaeological value and the protection of industrial or commercial property, including controls against drug precursors, goods infringing certain intellectual property rights and cash ~~leaving the Community~~, as well as the implementation of fishery conservation and management measures and of commercial policy measures.

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↓ 450/2008

~~3. Goods leaving the customs territory of the Community shall be presented to customs by one of the following persons:~~

~~(a) the person who exports the goods from the customs territory of the Community;~~

~~(b) the person in whose name or on whose behalf the person who exports the goods from that territory acts;~~

~~(c) the person who assumed responsibility for carriage of the goods prior to their export from the customs territory of the Community.~~

---

↓ 450/2008 (adapted)

3.4. Release for exit shall be granted on condition that the goods in question ~~leave~~ ☒ will be brought out of ☒ the customs territory of the ~~Community~~ ☒ Union ☒ in the same condition as when the pre-departure declaration was accepted.

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↓ 450/2008  
⇒ new

⇒ Article 232  
*Delegation of power* ⇐

5. The Commission shall ~~be~~ ⇒ be empowered to adopt delegated acts ⇐ in accordance with ⇒ Article 243, specifying: ⇐ ~~the regulatory procedure referred to in Article 184(2), adopt measures for the implementation of paragraphs 1, 2 and 3 of this Article.~~

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↓ new

(a) the rules on the procedure regarding exit;

(b) the rules on the procedure to ensure customs supervision on exit.

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↓ 450/2008 (adapted)  
⇒ new

**CHAPTER 2**  
**Export and re-export**

*Article ~~233~~<sup>178</sup>*  
*~~Community~~ ⊗ Export of Union ⊗ goods*

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↓ 450/2008 (adapted)

1. ~~Community~~ ⊗ Union ⊗ goods destined to ~~leave~~ ⊗ be brought out of ⊗ the customs territory of the ~~Community~~ ⊗ Union ⊗ shall be placed under the export procedure.

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↓ 450/2008

2. Paragraph 1 shall not apply to the following goods:
- (a) goods placed under the end-use or outward ~~processing~~ procedure;

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↓ 450/2008 (adapted)

- (b) goods placed under the internal transit procedure or ~~leaving the customs territory~~ ⊗ to be brought out ⊗ of the ~~Community~~ ⊗ customs territory of the Union ⊗ temporarily, in accordance with Article ~~132~~<sup>103</sup>.

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↓ 450/2008

- ~~3. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt measures laying down the export formalities applicable to goods placed under the export procedure, under the end-use procedure or the outward processing procedure.~~

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↓ new

3. In certain cases export formalities shall apply to goods brought out of the customs territory of the Union referred to in paragraph 2(a).

*Article 234*  
*Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying the cases where the export formalities apply in accordance with Article 233(3).

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↓ 450/2008 (adapted)  
⇒ new

*Article ~~235~~179*  
*~~Non-Community~~ ☒ Re-export of non-Union ☒ goods*

1. ~~Non-Community~~ ☒ Non-Union ☒ goods destined to ~~leave~~ ☒ be brought out of ☒ the customs territory of the ~~Community~~ ☒ Union ☒ shall be subject to a re-export notification to be lodged at the competent customs office and to the exit formalities.
2. Articles ~~134~~104 to ~~165~~124 shall apply *mutatis mutandis* to the re-export notification.
3. Paragraph 1 shall not apply to the following goods:
  - (a) goods placed under the external transit procedure which only pass through the customs territory of the ☒ Union ☒ ~~Community~~;
  - (b) goods trans-shipped within, or directly re-exported from, a free zone;
  - (c) goods under the temporary storage procedure which are directly re-exported from ~~an authorised~~ ☒ a ☒ temporary storage facility.

*Article ~~236~~180*  
*~~Exit~~ ☒ Lodging an exit ☒ summary declaration*

1. Where goods are destined to ~~leave~~ ☒ be brought out of ☒ the customs territory of the ~~Community~~ ☒ Union ☒ and a customs declaration or a re-export notification is not required, an exit summary declaration shall be lodged ☒ by the person responsible ☒ at the competent customs office, ~~in accordance with Article 175~~.
2. ~~The exit summary declaration shall be made using an electronic data processing technique.~~ Commercial, port or transport information may be used ☒ as an exit summary declaration ☒, provided that it contains the necessary particulars for ~~an exit summary~~ ☒ such ☒ declaration ⇒ and is available within a specific time-limit, before the goods are brought out of the customs territory of the Union. ⇐

↓ 450/2008

- ~~3. In exceptional circumstances, customs authorities may accept paper-based exit summary declarations, provided that they apply the same level of risk management~~

~~as that applied to exit summary declarations made using an electronic data processing technique and that the requirements for the exchange of such data with other customs offices can be met.~~

↓ 450/2008 (adapted)

⇒ new

3. Customs authorities may accept, instead of the lodging of the exit summary declaration, the lodging of a notification and access to ~~data~~ ⇒ the particulars of an exit ⇐ summary declaration ~~data~~ in the economic operator's computer system.

↓ 450/2008

~~4. The exit summary declaration shall be lodged by one of the following persons:~~

~~(a) the person who brings the goods, or who assumes responsibility for the carriage of the goods, out of the customs territory of the Community;~~

~~(b) the exporter or consignor or other person in whose name or on whose behalf the persons referred to in point (a) act;~~

~~(c) any person who is able to present the goods in question or to have them presented to the competent customs authority.~~

↓ 450/2008 (adapted)

⇒ new

*Article ~~237~~<sup>237A</sup>*

*Amendment  and expiry  of the exit summary declaration*

1. The declarant ~~shall, at his request,~~  may, upon application , be ~~permitted~~  authorised  to amend one or more particulars of the exit summary declaration after it has been lodged.

↓ 450/2008

~~However, no amendment shall be possible after any of the following events:~~

~~(a) the customs authorities have informed the person who lodged the summary declaration that they intend to examine the goods;~~

~~(b) the customs authorities have established that the particulars in question are incorrect;~~

~~(e) the customs authorities have already allowed the removal of the goods.~~

~~The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down exceptions to point (e) of the second subparagraph of this Article, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 184(4).~~

↓ new

2. The exit summary declaration shall be deemed not to have been lodged when the goods declared have not been brought out of the customs territory of the Union within a specific time-limit after the declaration has been lodged.

#### *Article 238*

#### *Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying :

- (a) the rules on the procedure for lodging an exit summary declaration;
- (b) the cases where an amendment to the exit summary declaration, as referred to in Article 237(1), is authorised;
- (c) the time-limit referred to in Article 237(2), within which an exit summary declaration, is deemed not to have been lodged.

↓ 450/2008

### ~~CHAPTER 3~~

### ~~Relief from export duties~~

↓ new

#### *Article 239*

#### *Lodging a re-export advice*

1. Where non-Union goods are brought out of the customs territory of the Union directly from a temporary storage facility or a free zone and no re-export notification or exit summary declaration is required, a re-export advice shall be lodged by the person responsible at the competent customs office.

2. Commercial, port or transport information may be used as a re-export advice, provided that it contains the necessary particulars for such advice and is available before the goods are brought out of the customs territory of the Union.
3. Customs authorities may accept, instead of the lodging of the re-export advice, the lodging of a notification and access to the particulars of a re-export advice in the economic operator's computer system.

#### *Article 240*

##### *Amendment and expiry of the re-export advice*

1. The declarant may, upon application, be authorised to amend one or more particulars of the re-export advice after it has been lodged.
2. The re-export advice shall be deemed not to have been lodged when the goods declared have not been brought out of the customs territory of the Union within the time-limit laid down in the customs legislation.

#### *Article 241*

##### *Delegation of power*

The Commission shall be empowered to adopt delegated acts in accordance with Article 243, specifying:

- (a) the rules on the procedure for lodging a re-export advice;
- (b) the cases where an amendment to the re-export advice is authorised;
- (c) the time-limits referred to in Article 240(2) within which a re-export advice is deemed not to have been lodged.

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↓ 450/2008

~~Article 182~~  
~~Temporary export~~

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↓ new

Article 242  
*Relief from export duty for Union goods temporarily exported*

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↓ 450/2008 (adapted)  
⇒ new

Without prejudice to Article ~~224171~~, ~~Community goods may be~~ ☒ Union goods which are ☒ temporarily exported from the customs territory of the ☒ Union ☒ ~~Community~~ ☒ shall ☒ ~~and~~ benefit from export duty relief, conditional upon ☒ their ☒ re-importation.

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↓ 450/2008

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

**TITLE IX**  
**~~CUSTOMS CODE~~ ☒ DELEGATION OF POWER, ☒ COMMITTEE**  
**☒ PROCEDURE ☒ AND FINAL PROVISIONS**

**CHAPTER 1**  
**☒ Delegation of power and ☒ ~~Customs Code~~ Committee**  
**☒ procedure ☒**

*Article ~~243~~183*  
*~~Further implementing measures~~ ☒ Exercise of the delegation of power ☒*

~~1. The Commission shall, in accordance with the regulatory procedure referred to in Article 184(2), adopt rules for the interoperability of Member States' electronic customs systems as well as for the relevant Community components to bring about improved cooperation based upon electronic data exchange between customs authorities, between customs authorities and the Commission and between customs authorities and economic operators.~~

~~2. The measures designed to amend non-essential elements of this Regulation, by supplementing it, laying down the following:~~

~~(a) the conditions under which the Commission may issue decisions requesting Member States to revoke or amend a decision other than those referred to in Article 20(8)(e) issued within the framework of the customs legislation which deviates from comparable decisions of other competent authorities and thereby compromises the uniform application of customs legislation;~~

~~(b) any other implementing measures, where necessary, including where the Community has accepted commitments and obligations in relation to international agreements which require the adaptation of provisions of the Code;~~

~~(c) further cases and conditions under which the application of this Code may be simplified;~~

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

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↓ new

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Articles 2, 7, 10, 16, 20, 23, 25, 31, 33, 43, 55, 57, 64, 76, 87, 94, 102, 109, 113, 118, 129, 133, 136, 139, 142, 145, 151, 155, 157, 166, 171, 173, 177, 179, 182, 184, 186, 190, 192, 195, 198, 202, 217, 219, 230, 232, 234, 238, 241 shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.
3. The delegations of power referred to in paragraph 2 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to the Articles listed in paragraph 2 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

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↓ 450/2008 (adapted)  
⇒ new

*Article ~~244~~<sup>184</sup>  
Committee  procedure*

1. The Commission shall be assisted by the Customs Code Committee, ~~hereinafter referred to as 'the Committee'~~. ⇒ That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. ⇐
2. Where reference is made to this paragraph, ~~Articles 5 and 7 of Decision 1999/468/EC~~ ⇒ Article 4 of Regulation (EU) No 182/2011 ⇐ shall apply, ~~having regard to the provisions of Article 8 thereof.~~

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↓ 450/2008

~~The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.~~

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↓ new

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011 in conjunction with Article 4 thereof shall apply.

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↓ 450/2008  
⇒ new

~~4.3.~~ Where reference is made to this paragraph, ~~Articles 4 and 7 of Decision 1999/468/EC~~ ⇒ Article 5 of Regulation (EU) No 182/2011 ⇐ shall apply, ~~having regard to the provisions of Article 8 thereof.~~

~~The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.~~

~~5.4.~~ ⇒ Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011 in conjunction with Article 5 thereof shall apply. ⇐ ~~Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.~~

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↓ new

6. Where the opinion of the committee is to be obtained by written procedure and reference is made to this paragraph, that procedure shall be terminated without result only when, within the time-limit for delivery of the opinion, the chair of the committee so decides.

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↓ 450/2008

#### ~~Article 185~~

#### ~~Further matters~~

~~The Committee may examine any question concerning the customs legislation which is raised by its chairman, either on the initiative of the Commission or at the request of a representative of a Member State, and which concerns, in particular, the following:~~

~~(a) any problems arising from the application of customs legislation;~~

~~(b) any position to be taken by the Community in committees, working groups and panels established by or under international agreements dealing with customs legislation.~~

## CHAPTER 2 FINAL PROVISIONS

### Article 245~~186~~ *Repeal*

↓ new

1. Regulation (EC) No 450/2008 is repealed.

↓ 450/2008 (adapted)  
⇒ new

2. Regulations (EEC) No 3925/91, ~~⊗~~ Regulation ~~⊗~~ (EEC) No 2913/92 and ~~⊗~~ Regulation ~~⊗~~ (EC) No 1207/2001 are hereby repealed ⇒ from the date referred to in Article 247(2) ⇐ .
3. References to the repealed Regulations shall be construed as references to this Regulation and shall be read in accordance with the correlation tables set out in the Annex.

### Article 246~~187~~

#### Entry into force

This Regulation shall enter into force on the ~~20th~~ ~~⊗~~ twentieth ~~⊗~~ day following ~~⊗~~ that of ~~⊗~~ its publication in the *Official Journal of the European Union*.

### Article 247~~188~~ *Application*

~~1. The second subparagraph of Article 1(3), second subparagraph of Article 5(1), first subparagraph of Article 5(2), Article 10(2), Article 11(3), second subparagraph of Article 12(2), Article 15(1), Article 16(5), Article 18(4), Article 19(5), Article 20(7), Article 20(8), Article 20(9), second subparagraph of Article 24(3), Article 25(3), Article 28(3), Article 30(2), Article 31(3), Article 33(5), Article 38, Article 39(3), Article 39(6), Article 43, Article 54, second subparagraph of Article 55(2), Article 56(9), Article 57(3), second subparagraph of Article 58, second subparagraph of Article 59(1), Article 62(3), Article 63(3), Article 65(3), third subparagraph of Article 67(1), Article 71, first subparagraph of Article 72(3), Article 76, Article 77(3), second subparagraph of Article 78(1), Article 78(5), Article 85, Article 86(7), first subparagraph of Article 87(3), second subparagraph of Article 88(4), Article 89(2), Article 93(2), Article 101(2), Article 103, Article 105(2), first subparagraph of Article 106(4), Article 107(3), second subparagraph of Article 108(1), Article 108(4), Article 109(2), Article 109(3), third subparagraph of~~

~~Article 110(1), Article 111(3), Article 112(4), Article 113(3), second subparagraph of Article 114(2), second subparagraph of Article 115, first subparagraph of Article 116(2), Article 119(3), Article 122, Article 124(2), Article 128, Article 134, first subparagraph of Article 136(2), second subparagraph of Article 136(3), fourth subparagraph of Article 136(4), Article 137(2), Article 140(2), fourth subparagraph of Article 142(1), second subparagraph of Article 142(2), second subparagraph of Article 142(3), Article 143, Article 144(2), second subparagraph of Article 145(3), second subparagraph of Article 148(2), Article 150(3), Article 151(5), first subparagraph of Article 164, second subparagraph of Article 171(3), Article 176(1), Article 177(5), Article 178(3), third subparagraph of Article 181, Article 182(2), Article 183(1) and Article 183(2) shall be applicable from 24 June 2008.~~

↓ new

1. Articles 2, 7, 8, 10, 16, 17, 20, 23, 25, 26, 31, 33, 34, 43, 44, 46, 51, 55, 57, 58, 60, 64, 76, 87, 88, 94, 95, 102, 109, 110, 113, 118, 129, 133, 136, 137, 139, 142, 145, 151, 153, 155, 157, 163, 166, 171, 173, 177, 179, 182, 184, 186, 190, 192, 195, 198, 202, 217, 219, 230, 232, 234, 238, 241 and 245 shall apply from [date of entry into force of the recast Regulation, as resulting from Article 246].

↓ 450/2008 (adapted)

⇒ new

2. ~~All other provisions shall be applicable once the implementing provisions adopted on the basis of the Articles ☒ other than those ☒ referred to in the paragraph 1 are applicable. The implementing provisions shall enter into force on 24 June 2009 at the earliest.~~

~~Notwithstanding the entry into force of the implementing provisions, the provisions of this Regulation referred to in this paragraph shall be applicable on 24 June 2013 at the latest.~~

3. ~~Article 30(1) shall apply on from ⇒ the first day of the first month after 18 months following the date referred to in that paragraph ⇐ 1 January 2011.~~

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 20.2.2012

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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↓ 450/2008 (adapted)

**ANNEX**  
**CORRELATION TABLES**

1. Regulation (EEC) No 2913/92

Regulation No 2913/92	(EEC)	Regulation <input checked="" type="checkbox"/> (EC) No 450/2008 <input checked="" type="checkbox"/>
Article 1		Article 4
Article 2		Article 1
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Article 4, points (4a) to (4d)		—
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Article 44	—
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Article 79	Article 129
Article 80	—
Article 81	Article 115
Article 82	Article 166
Article 83	Article 102
Article 84	Article 135
Article 85	Article 136
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Article 116	Article 136
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## 2. REGULATIONS (EEC) NO 3925/91 AND (EC) NO 1207/2001

Repealed Regulation	Regulation (EC) No 450/2008
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Regulation (EC) No 1207/2001	Article 39



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